STATE OF CALIFORNIA GAVIN NEWSOM, *Governor*

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298

Patrick Vanbeek
Commercial Energy of California
7677 Oakport Street, Suite 525
Oakland, CA 94621

CITATION FOR VIOLATION OF RESOURCE ADEQUACY (RA) REPORTING REQUIREMENTS UNDER RESOLUTION E-4195, AS MODIFIED BY DECISIONS 10-06-036, 11-06-022 AND 14-06-050

Citation No. E-4195-61 Revised **Issued: September 4, 2019**

Re: 2019 Year Ahead Local Resource Adequacy Compliance Filing

Dear Mr. Patrick Vanbeek:

Pursuant to Resolution E-4195, subsequently modified by Decisions 10-06-036, 11-06-022 and 14-06-050, Commercial Energy of California is hereby cited for the following specified violation:

1. Failure to file Historic Load Data at the time and manner required.	☐
2. Failure to file a Preliminary Load Forecast at the time and manner required.	☐
3. Failure to file a Month-Ahead System Resource Adequacy Compliance Filing at the time and manner required.	☐
4. Failure to file a Preliminary Local Resource Adequacy Compliance Filing, or a Year-Ahead System Resource Adequacy Compliance Filing at the time and manner required.	☐
5. Failure to comply with a request for information from Energy Division that is reasonably related to implementation of the resource adequacy requirements in the time and manner required.	☐
6. Deficiency cured within five business days from the date of notification by Energy Division.	☒
7. Deficiency remedied after five business days from the date of Energy Division notification or not remedied at all.	☒

Evidence of Violation

A. Summary

Commercial Energy of California (Commercial Energy) failed to meet its 2019 Year Ahead (YA) Local Resource Adequacy ("RA") obligations. Specifically, Commercial Energy is deficient in [redacted]. On September 27, 2018, Energy Division (ED) staff provided Commercial Energy their 2019 YA RA allocations. On October 31, 2018, Commercial Energy filed its 2019 YA Local RA compliance showing. On November 9, 2018, Commercial Energy revised its 2019 YA Local RA compliance showing. On January 16, 2019, ED staff issued a deficiency notice to Commercial Energy for deficiencies in its 2019 YA Local RA compliance filing. Specifically, Commercial Energy needs:

- 2.88 megawatts (MW) of Local RA per month for January through March and May through December 2019 for [redacted]
- 1.92 MW of Local RA per month for January through October and December 2019 for the [redacted]; and
- 0.88 MW of Local RA per month for June through December 2019 for the [redacted]

Table 1 provides a detailed summary of Commercial Energy's Local RA obligations and compliance by month for [redacted]

Table 1: Summary of Commercial Energy's Local Requirement and Compliance in [redacted] (MW)

Month	Local Requirement in [redacted]	Total Local RA Procured in [redacted]	Deficiency in [redacted]	Total Local RA Procured in [redacted] in Revised Filing	Deficiency in [redacted] in Revised Filing
January	[redacted]	[redacted]	**2.88**	[redacted]	**2.88**
February	[redacted]	[redacted]	**2.88**	[redacted]	**0.88**
March	[redacted]	[redacted]	**2.88**	[redacted]	**0.00**
April	[redacted]	[redacted]	0.00	[redacted]	0.00
May	[redacted]	[redacted]	**2.88**	[redacted]	**0.88**
June	[redacted]	[redacted]	**2.88**	[redacted]	**0.88**

July	[redacted]	[redacted]	**2.88**	[redacted]	**2.88**
August	[redacted]	[redacted]	**2.88**	[redacted]	**2.88**
September	[redacted]	[redacted]	**2.88**	[redacted]	**2.88**
October	[redacted]	[redacted]	**2.88**	[redacted]	**0.88**
November	[redacted]	[redacted]	**2.88**	[redacted]	**2.88**
December	[redacted]	[redacted]	**2.88**	[redacted]	**2.88**

Table 2 provides a detailed summary of Commercial Energy's Local RA obligations and compliance by month for the [redacted]

Table 2: Summary of Commercial Energy's Local Requirement and Compliance in [redacted] (MW)					
Month	Local Requirement in [redacted]	Total Local RA Procured in [redacted]	Deficiency in [redacted]	Total Local RA Procured [redacted] in Revised Filing	Deficiency in [redacted] in Revised Filing
January	[redacted]	[redacted]	**1.92**	[redacted]	**1.92**
February	[redacted]	[redacted]	**1.92**	[redacted]	**0.00**
March	[redacted]	[redacted]	**1.92**	[redacted]	**0.00**
April	[redacted]	[redacted]	**1.92**	[redacted]	**1.92**
May	[redacted]	[redacted]	**1.92**	[redacted]	**0.00**
June	[redacted]	[redacted]	**1.92**	[redacted]	**0.00**
July	[redacted]	[redacted]	**1.92**	[redacted]	**1.92**
August	[redacted]	[redacted]	**1.92**	[redacted]	**1.92**
September	[redacted]	[redacted]	**1.92**	[redacted]	**1.92**
October	[redacted]	[redacted]	**1.92**	[redacted]	**0.00**
November	[redacted]	[redacted]	0.00	[redacted]	0.00
December	[redacted]	[redacted]	**1.92**	[redacted]	**1.92**

Table 3 provides a detailed summary of Commercial Energy's Local RA obligations and compliance for the [redacted]

Table 3: Summary of Commercial Energy's Local Requirement and Compliance in [redacted] (MW)					
Month	Local Requirement in [redacted]	Total Local RA Procured in [redacted]	Deficiency in [redacted]	Total Local RA Procured in [redacted] in Revised Filing	Deficiency in [redacted] in Revised Filing
January	[redacted]	[redacted]	0.00	[redacted]	0.00

February	[redacted]	[redacted]	0.00	[redacted]	0.00
March	[redacted]	[redacted]	0.00	[redacted]	0.00
April	[redacted]	[redacted]	0.00	[redacted]	0.00
May	[redacted]	[redacted]	0.00	[redacted]	0.00
June	[redacted]	[redacted]	**0.88**	[redacted]	**0.88**
July	[redacted]	[redacted]	**0.88**	[redacted]	**0.88**
August	[redacted]	[redacted]	**0.88**	[redacted]	**0.88**
September	[redacted]	[redacted]	**0.88**	[redacted]	**0.88**
October	[redacted]	[redacted]	**0.88**	[redacted]	**0.00**
November	[redacted]	[redacted]	**0.88**	[redacted]	**0.00**
December	[redacted]	[redacted]	**0.88**	[redacted]	**0.00**

On January 23, 2019, Commercial Energy submitted a revised 2019 YA Local compliance showing, indicating they procured additional Local RA for [redacted], the [redacted], and the [redacted] Specifically, Commercial Energy procured an additional:

- 2.00 MW of Local RA each month for February, May, June, and October, and 3.00 MW in March 2019 in [redacted];
- 3.00 MW of Local RA each month for February, March, May, June, and October 2019 for the [redacted] and
- 1.00 MW of Local RA per month for October, November, and December 2019 for the [redacted]

Therefore, Commercial Energy still needs:

- 2.88 MW of Local RA each month for January, July, August, September, November and December, and 0.88 MW each month for February, May, June, and October 2019 in [redacted]
- 1.92 MW of Local RA each month for January, April, July, August, September, and December 2019 in the [redacted] and
- 0.88 MW of Local RA each month for June, July, August, and September 2019 in the [redacted]

Table 4 provides a detailed summary of Commercial Energy's total 2019 YA Local RA deficiency.

Table 4: Summary of Commercial Energy's Total Local RA Deficiency (MW)				
Month	Deficiency in [redacted]	Deficiency in Greater [redacted]	Deficiency in [redacted]	Total Local RA Deficiency
January	**2.88**	**1.92**	**0.00**	**4.80**
February	**0.88**	**0.00**	**0.00**	**0.88**
March	**0.00**	**0.00**	**0.00**	**0.00**
April	**0.00**	**1.92**	**0.00**	**1.92**
May	**0.88**	**0.00**	**0.00**	**0.88**
June	**0.88**	**0.00**	**0.88**	**1.76**
July	**2.88**	**1.92**	**0.88**	**5.68**
August	**2.88**	**1.92**	**0.88**	**5.68**
September	**2.88**	**1.92**	**0.88**	**5.68**
October	**0.88**	**0.00**	**0.00**	**0.88**
November	**2.88**	**0.00**	**0.00**	**2.88**
December	**2.88**	**1.92**	**0.00**	**4.80**

This citation is for:

1. Local RA deficiency cured within five business days from the date of ED's notification for the months of February, March, May, June, October through December 2019;
2. Local RA deficiency remedied after five business days from the date of ED's notification or not remedied at all for the months of January, February, and April through December 2019.

Scheduled penalties prescribe a $10,000.00 per filing for Local RA deficiency cured within five business days from the date of notification by ED if the deficiency is over 10 MW. Accordingly, Commercial Energy is being cited $10,000.00 for its 23.12 MW (10.88 MW in [redacted],[1] 9.60 MW in [redacted],[2] and 2.64 MW in [redacted][3]) of Local RA deficiency cured within five business days from the date of notification by ED.

In addition, scheduled penalties prescribe a $3.33/kW-month for a Local RA deficiency remedied after five business days from the date of ED notification or not

[1] 2.00 MW in February, 2.88 MW in March, 2.00 MW in May, 2.00 MW in June and 2.00 MW in October.
[2] 1.92 MW each month for February, March, May, June and October.
[3] 0.88 MW each month for October, November and December.

remedied at all. Commercial Energy's total Local RA deficiency is 4.80 MW for January, 0.88 MW for February, 1.92 MW for April, 0.88 MW for May, 1.76 MW for June, 5.68 MW for July, 5.68 MW for August, 5.68 MW for September, 0.88 MW for October, 2.88 MW for November and 4.80 MW for December. On March 5, 2019, the California Public Utilities Commission (Commission) issued citation E-4195-55 to Commercial energy for failure to meet its 2019 Year-Ahead (YA) System and Flexible RA obligations.[4] Citation E-4195-55 includes penalties for 0.49 MW System RA deficiency for May, 11.51 MW of System RA deficiency for July, 12.51 MW of System RA deficiency for August, and 14.46 MW of System RA deficiency for September. Accordingly, Commercial Energy is being cited $60,972.30 for its 18.31 MW of YA Local RA deficiency.[5]

The total penalty for Local RA deficiency is $70,972.30 ($60,972.30 plus $10,000.00)

B. Commercial Energy of California's 2019 YA Local RA Deficiency

On January 16, 2019 ED staff emailed Commercial Energy a deficiency notice. ED indicated that Commercial Energy was deficient with their 2019 YA Local RA obligations in the [redacted]

Commercial Energy had a YA Local RA requirement of [redacted] each month from January through December in the [redacted]. Commercial Energy procured [redacted] each month from January through March and May through December, and [redacted] for April. The deficiency notice was to procure 2.88 MW [redacted] of Local RA each month for January through March, and May through December 2019 in [redacted] and file with the Commission by January 23, 2019. On January 23, 2019, Commercial Energy sent revised filing showing that they procured an additional 2.00 MW of Local RA each month for February, May, June, and October, 3.00 MW in March in the [redacted]. The revised deficiency is 2.88 MW each month for January, July, August, September, November and December, and 0.88 MW (2.88 minus 2.00) each month for February, May, June, and October.

[4] The Commission received payment for Citation E-4195-55 on April 2, 2019.
[5] 4.80 MW in January, 0.88 MW in February, 1.92 MW in April, 0.39 MW [redacted] in May, 1.76 MW in June, 0.88 MW in October, 2.88 MW in November, and 4.80 MW in December 2019.

Commercial Energy had a YA Local RA requirement of [redacted] each month from January through December in the [redacted]. Commercial Energy procured [redacted] each month from January through October and December, and [redacted] for November. The deficiency notice was to procure 1.92 MW [redacted] of Local RA each month for January through October and December 2019 in the [redacted] and file with the CPUC by January 23, 2019. On January 23, 2019, Commercial Energy sent revised filing showing that they procured an additional 3.00 MW of Local RA each month in February, March, May, June and October in the [redacted] The revised deficiency is 1.92 MW each month for January, April, July, August, September and December.

Commercial Energy had a YA Local RA requirement of [redacted] each month from January through December in the [redacted] Commercial Energy procured [redacted] in January, [redacted] each month from February through May, and [redacted] each month from June through December. The deficiency notice was to procure 0.88 MW [redacted] of Local RA each month for June through December 2019 in the [redacted] and file with the CPUC by January 23, 2019. On January 23, 2019, Commercial Energy sent revised filing showing that they procured an additional 1.00 MW of Local RA each month for October through December in the [redacted]. The revised deficiency is 0.88 MW each month for June through September.

Commercial Energy cured 23.12 MW (10.88 MW in [redacted],[6] 9.60 MW in [redacted],[7] and 2.64 MW in [redacted][8]) of Local RA deficiency within five business days from the date of notification by ED.

Commercial Energy's total YA Local RA deficiency is 4.80 MW for January, 0.88 MW for February, 1.92 MW for April, 0.88 MW for May, 1.76 MW for June, 5.68 MW for July, 5.68 MW for August, 5.68 MW for September, 0.88 MW for October, 2.88 MW for November, and 4.80 MW for December. On March 5, 2019, the Commission issued citation E-4195-55 to Commercial energy for failure to meet its 2019 YA System and Flexible RA obligations.[9] Citation E-4195-55 includes penalties for 0.49 MW

[6] 2.00 MW in February, 2.88 MW in March, 2.00 MW in May, 2.00 MW in June and 2.00 MW in October.
[7] 1.92 MW each month for February, March, May, June and October.
[8] 0.88 MW each month for October, November and December.
[9] The Commission received payment for Citation E-4195-55 on April 2, 2019.

System RA deficiency for May, 11.51 MW for July, 12.51 MW for August and 14.46 MW for September. Accordingly, Commercial Energy is being cited for its 18.31 MW of YA Local RA deficiency.[10]

C. Scheduled Penalty for Commercial Energy of California's Deficiency

Resolution E-4195, as modified by Decisions 10-06-036, 11-06-022 and 14-06-050, specifies that the penalty is $10,000.00 per filing for Local RA deficiency cured within five business days from the date of notification by ED if the deficiency is over 10 MW. Accordingly, Commercial Energy is being cited $10,000.00 for its 23.12 MW (10.88 MW in [redacted],[11] 9.60 MW in [redacted],[12] and 2.64 MW in [redacted][13]) of Local RA deficiency cured within five business days from the date of notification by ED.

The penalty for a Local RA deficiency remedied after five business days from the date of ED notification or not remedied at all is $3.33/kW-month. Commercial Energy's total Local RA deficiency is 4.80 MW for January, 0.88 MW for February, 1.92 MW for April, 0.88 MW for May, 1.76 MW for June, 5.68 MW for July, 5.68 MW for August, 5.68 MW for September, 0.88 MW for October, 2.88 MW for November and 4.80 MW for December. On March 5, 2019, the Commission issued citation E-4195-55 to Commercial energy for failure to meet its 2019 Year-Ahead (YA) System and Flexible RA obligations.[14] Citation E-4195-55 includes penalties for 0.49 MW System RA deficiency for May, 11.51 MW of System RA deficiency for July, 12.51 MW of System RA deficiency for August, and 14.46 MW of System RA deficiency for September. Accordingly, Commercial Energy is being cited $60,972.30 (18.31 MW X ($3.33/kW-month) X 1,000 kW/MW) for its 18.31 MW of YA Local RA deficiency.[15]

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[10] 4.80 MW in January, 0.88 MW in February, 1.92 MW in April, 0.39 MW [redacted] in May, 1.76 MW in June, 0.88 MW in October, 2.88 MW in November, and 4.80 MW in December 2019.
[11] 2.00 MW in February, 2.88 MW in March, 2.00 MW in May, 2.00 MW in June and 2.00 MW in October.
[12] 1.92 MW each month for February, March, May, June and October.
[13] 0.88 MW each month for October, November and December.
[14] The Commission received payment for Citation E-4195-55 on April 2, 2019.
[15] 4.80 MW in January, 0.88 MW in February, 1.92 MW in April, 0.39 MW ([redacted]) in May, 1.76 MW in June, 0.88 MW in October, 2.88 MW in November, and 4.80 MW in December 2019.

The total penalty for Local RA deficiency is $70,972.30 ($60,972.30 plus $10,000.00)

You are hereby called upon to answer this citation within **30** days from the date of the citation by completing the attached form. By way of such answer you may either:

(1) Comply with this Citation and pay the fine, by check or money order, payable to the California Public Utilities Commission, in the amount of $70,972.30 pursuant to the Specified Violations and Scheduled Penalties (D.11-06-022, Appendix B). This will be deemed a waiver of your rights to a hearing and to a formal disposition by the Commission.

OR

(2) Appeal this citation. In such event, you must file a Notice of Appeal with the Commission's Docket Office within 30 days of the date of this citation, in addition to the appeals procedures outlined below.

The Notice of Appeal must be concurrently served on the delegate of Consumer Protection and Enforcement Division's (CPED's) Director at the following address:

CALIFORNIA PUBLIC UTILITIES COMMISSION
Consumer Protection and Enforcement Division
ATTN: Jeanette Lo, Utility Enforcement Branch Chief
505 Van Ness Avenue, Room 2205
San Francisco, CA 94102

The Notice of Appeal must also be served on the Chief Administrative Law Judge (with an electronic copy to: ALJ_Div_Appeals_Coordinator@cpuc.ca.gov). No later than seven business days after the Notice of Appeal is filed, Staff issuing the citation will file a Compliance Filing with the Commission's Docket Office which includes a complete copy of the citation and all attachments. Appeals will be heard in the Commission's San Francisco courtrooms on regularly scheduled days. You may order a transcript of the hearing and must pay the cost of the transcript in accordance with the Commission's specified procedures. An attorney or other representative may represent you at the hearing, but any such representation will be at your expense.

If you fail to notify CPED of acceptance of the Scheduled Penalty and pay the full amount within 30 days or file a Notice of Appeal within 30 days, you will be in default. Upon default, CPED may take any action provided by law to recover unpaid penalties and ensure compliance with applicable statutes and Commission orders, decisions, rules, directions, demands, or requirements. Any unpaid balance of a Scheduled Penalty shall accrue interest at the legal rate of interest for judgments.

_____

Jeanette Lo
Utility Enforcement Branch Chief
Consumer Protection and Enforcement Division

STATE OF CALIFORNIA GAVIN NEWSOM, *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

☐ I hereby state that I will comply with Citation No. E-4195-61, dated September 4, 2019, and herewith pay a fine in the amount of $70,972.30.

- Please make check payable to the California Public Utilities Commission and send, along with a copy of this form, to:

CALIFORNIA PUBLIC UTILITIES COMMISSION
Fiscal Office
505 Van Ness Ave., Room 3000
San Francisco, CA 94102

- Please PDF a copy of this form to Nate Christo at [nathan.christo@cpuc.ca.gov].
- You may direct all questions regarding this citation to Nate Christo at [415-703-1069] or [nathan.christo@cpuc.ca.gov].

I hereby acknowledge that if I do not appeal the citation, and do not pay the full amount within 30 days, any unpaid balance shall accrue interest at the legal rate of interest for judgments, and Commission Staff and the Commission may take action provided by law to recover unpaid penalties and ensure compliance with applicable statutes and Commission orders, decisions, rules, directions, demands or requirements.

☐ I hereby appeal Citation No. E-4195-61, dated September 4, 2019.

- To appeal this citation, follow the directions described in this citation, and described in detail in Appendix A of Resolution ALJ-299 (both attached herein).
- Please PDF a copy of this form to Nate Christo at [nathan.christo@cpuc.ca.gov].

Signature: _____

Name and Title: _____

Name of Company: _____

Citation No.: E-4195-61

Date: _____

EXPLANATION OF HOW TO APPEAL A CITATION

You (Respondent) may appeal the citation pursuant to the following process:

Appeal of Citation. In lieu of accepting the Scheduled Penalty, a Respondent may appeal the citation and request a hearing. In the event of an appeal, any remedy available may be imposed, and the remedy shall not be mandated by or limited to the Scheduled Penalty.

Notice of Appeal. To appeal a citation, the Respondent must file a written Notice of Appeal with the Commission's Docket Office. The Notice of Appeal must state the grounds for appeal, the date of the citation, and must be served on both the Chief Administrative Law Judge (with an electric copy to: ALJ_Div_Appeals_Coordinator@cpuc.ca.gov), and the Director of CPED, within thirty (30) days of the date of the citation. The appellant must file a proof of service at the same time appellant files the Notice of Appeal. The title page of the appeal must comply with Rule 1.6 of the Commission's Rules of Practice and Procedure. The caption of the appeal shall read: "Appeal of [party name] from [Citation ####] issued by [Commission Division which issued the citation]."

Compliance Filing. No later than seven business days after the notice of appeal is filed, Commission staff must file with the Commission's Docket Office a compliance filing which includes the complete citation, including all attachments, and simultaneously serve the Chief Judge (with an electronic copy to: ALJ_Div_Appeals_Coordinator@cpuc.ca.gov). Staff must also provide a proof of service when filing the compliance filing.

Service of Rules and Resolution. Staff shall provide a copy of Resolution ALJ-299 and the Rules adopted pursuant to that Resolution (Appendix A), with all citations issued.

Time of Hearing. No less than ten (10) days after the Notice of Appeal is filed, the assigned Administrative Law Judge shall set the matter for hearing promptly. The Administrative Law Judge, may, for good cause shown or upon agreement of the parties, grant a reasonable continuance of the hearing.

Location of Hearing. Appeals of citations shall be heard in the Commission's San Francisco courtroom on regularly scheduled days.

Exchange of Information. In order to expedite citation appeals and to eliminate potential delay, no later than three business days prior to the schedule hearing, the parties must exchange all information they intend to introduce into the record at the hearing which is not included in the citation and Compliance Filing already filed with the Commission, unless otherwise directed by the Judge.

Transcripts. The Respondent may order a transcript of the hearing and shall pay the cost of the transcript in accordance with the Commission's specified procedures.

Representation at Hearing. The Respondent may be represented at the hearing by an attorney or other representative, but any such representation shall be at the Respondent's expense.

Evidentiary Hearing. At an evidentiary hearing, CPED bears the burden of proof and, accordingly, shall open and close. The Administrative Law Judge may, in his or her discretion to better ascertain the truth, alter the order of presentation. Rule 13.6 of the Commission's Rules of Practice and Procedure provides the rules of evidence.

Interpreter. Upon a good faith showing of language difficulty and written request to the assigned Judge and Commission's Public Advisor's Office not less than five business days prior to date of hearing.

Submission. Ordinarily, the matter shall be submitted at the close of the hearing. The Administrative Law Judge, upon a showing of good cause, may keep the record open for a reasonable period to permit a party to submit additional evidence or argument.

Decision. The Administrative Law Judge will issue a draft resolution resolving the Citation Appeal expeditiously and no later than 60 days after the Citation Appeal is submitted. The draft resolution will be placed on the first available agenda consistent with the Commission's applicable rules.

Communications. From the date that a citation is issued to and including the date when the final order is issued, neither the Respondent nor CPED, or any agent or other person on behalf of the Respondent or CPED, may communicate regarding the appeal, orally or in writing, with a Commissioner, Commissioner's advisor, or Administrative Law Judge, except as expressly permitted under these procedures.

Rehearing. A resolution resolving a Citation Appeal approved by the Commission is subject to rehearing pursuant to Pub. Util. Code § 1731 and to judicial review pursuant to Pub. Util. Code § 1756.