

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



February 12, 2020

Scott Adair
Director – West Power
Direct Energy Business, LLC
12 Greenway Plaza, Suite 250
Houston, TX 77046

Dear Mr. Adair,

On October 31, 2018, Direct Energy Business (Direct Energy) filed a waiver request for its 2019 year-ahead local Resource Adequacy (RA) requirement in the Other PG&E local area. Direct Energy seeks relief from its remaining 2019 year-ahead local RA obligation and any potential Commission-imposed penalties for deficiencies. Direct Energy's waiver request demonstrates that it pursued all commercially reasonable efforts in procuring local capacity to meet its local RA obligations. The Energy Division of the California Public Utilities Commission (Commission) approves Direct Energy's request for a penalty waiver.

Commission Decision (D.) 06-06-064 established waiver provisions for local Resource Adequacy (RA) procurement. D.18-06-030 established 2019 compliance year obligations for all Load Serving Entities (LSEs). On October 31, 2018, Direct Energy submitted its year-ahead local RA compliance filing, showing a deficiency in the Other PG&E local area. Direct Energy also submitted a request for penalty waiver for this deficiency pursuant to D.06-06-064.

Section 3.3.12 of D.06-06-064 describes a standard that an LSE may use to demonstrate that it could not reasonably achieve its LCR obligations:

- (1) a demonstration that the LSE reasonably and in good faith solicited bids for its RAR capacity needs along with accompanying information about the terms and conditions of the Request for Offer or other form of solicitation, and*
- (2) a demonstration that despite having actively pursued all commercially reasonable efforts to acquire the resources needed to meet the LSE's local procurement obligation, it either*
 - (a) received no bids, or*
 - (b) received no bids for an unbundled RA capacity contract of under \$40 per kW-year or for a bundled capacity and energy product of under \$73 per kW-year, or*
 - (c) received bids below these thresholds but such bids included what the LSE believes are unreasonable terms and/or conditions, in which case the waiver*

request must demonstrate why such terms and/or conditions are unreasonable.

An LSE's waiver request that meets these requirements is a necessary but not a sufficient condition for the grant of such waiver. The Commission will also consider other information brought to its attention regarding the reasonableness of the waiver request.

Energy Division has reviewed Direct Energy's actions and finds them reasonable considering the capacity available to meet Direct Energy's local RA obligation. In this case, Energy Division finds that Direct Energy held solicitations and pursued all commercially reasonable efforts to acquire the resources needed to meet the LSE's local procurement obligation. Direct Energy's waiver request includes confidential market-sensitive information supporting this finding. Thus, Energy Division grants Direct Energy's request for a waiver of Commission penalties related to its year-ahead 2019 local RA procurement.

Sincerely,

A handwritten signature in black ink, appearing to read "ERandolph (for)", is written over a faint, illegible typed name.

Edward Randolph
Deputy Executive Director for Energy and Climate Policy /
Director, Energy Division

Cc: EDComplianceReports@cpuc.ca.gov