AGENDA

Regular Meeting of the Board of Directors of San Diego Community Power (SDCP)

March 23, 2023
5:00 p.m.

City of San Diego Metropolitan Operations Complex (MOC II) Auditorium
9192 Topaz Way, San Diego, CA 92123

The meeting will be held in person at the above date, time and location. Board of Directors Members and members of the public may attend in person. Under certain circumstances, Directors may also attend and participate in the meeting virtually pursuant to the Brown Act (Gov. Code § 54953). As a convenience to the public, SDCP provides a call-in option and internet-based option for members of the public to virtually observe and provide public comments at its meetings. Additional details on in-person and virtual public participation are below. Please note that, in the event of a technical issue causing a disruption in the call-in option or internet-based option, the meeting will continue unless otherwise required by law, such as when a Board Member is attending the meeting virtually pursuant to certain provisions of the Brown Act.

Note: Any member of the public may provide comments to the Board of Directors on any agenda item. When providing comments to the Board, it is requested that you provide your name and city of residence for the record. Commenters are requested to address their comments to the Board of Directors as a whole through the Chair. Comments may be provided in one of the following manners:

1. Providing Oral Comments During Meeting. Anyone attending in person desiring to address the Board of Directors is asked to fill out a speaker's slip and present it to the Clerk of the Board or the Secretary. To provide remote comments during the meeting, join the Zoom meeting by computer, mobile phone, or dial-in number. On Zoom video conference by computer or mobile phone, use the "Raise Hand" feature. This will notify the moderator that you wish to speak during a specific item on the agenda or during non-agenda Public Comment. Members of the public will not be shown on video but will be able to speak when called upon. If joining the meeting using the Zoom dial-in number, you can raise your hand by pressing *9. Comments will be limited to three (3) minutes.

2. Written Comments. Written public comments must be submitted prior to the start of the meeting by using this Web Comment Form. Please indicate a specific agenda item when submitting your comment. All written comments received prior to the meeting will be provided to the Board members in writing. In the discretion of the Chair, the first ten (10) submitted comments shall be stated into the record of the meeting. Comments read at the meeting will be limited to the first 400 words. Comments received after the start of the meeting will be collected, sent to the Board members in writing, and be part of the public record.

If you have anything that you wish to be distributed to the Board, please provide it via info@sdcommunitypower.org and it will be distributed to the Members.

The public may participate using the following remote options:

Teleconference Meeting Webinar https://zoom.us/j/94794075133

Telephone (Audio Only) (669) 900-6833 or (346) 248-7799 | Webinar ID: 947 9407 5133

Welcome

Call to Order

Roll Call

Pledge of Allegiance

Special Presentations and Introductions

Report from Closed Session (If held)

Items to be Added, Withdrawn, or Reordered on the Agenda

Public Comments
Opportunity for members of the public to address the Board on any items not on the agenda but within the jurisdiction of the Board. Members of the public may provide a comment in either manner described above.

Consent Calendar
All matters are approved by one motion without discussion unless a member of the Board of Directors requests a specific item to be removed from the Consent Calendar for discussion. A member of the public may comment on any item on the Consent Calendar in either manner described above.

1. **Receive and File Treasurer's Report for Period Ending January 31, 2023**
2. **Receive and File Update on Back Office Operations**
3. **Receive and File Update on Marketing and Public Relations**
4. **Receive and File Update on Community Advisory Committee**
5. **Receive and File Update on Regulatory and Legislative Affairs**
6. **Receive and File Update on Power Services**
7. **Receive and File Update on Human Resources**
8. **Approval of Teleconferencing Policy**
9. **Approval of Second and Fifth Amendments to Legal Services Agreement with Keyes and Fox LLP for up to $184,752.07 for Legal and Regulatory Services through June 30, 2024.**
10. **Approval of Energy Consulting Services Agreement with Pacific Energy Advisors, Inc. up to $733,567.50 for Energy Consulting Services through March 31, 2025.**

11. **Approval of Fifth Amendment to Professional Services Agreement with NewGen Strategies and Solutions, LLC for up to $846,250 for Regulatory Support and Rate-Related Analysis through June 30, 2024.**

Director Initiated Items

(Consideration of a Request by Vice Chair Lawson-Remer and Director Aguirre)

12. **Consider Adoption of Resolution Approving the 100 Percent Renewable Energy by 2035 Policy**

    Recommended Action: Adopt Resolution 2023-___ "A Resolution of the San Diego Community Power Board of Directors Committing San Diego Community Power to 100 Percent Renewable Energy by 2035".

Regular Agenda

The following items call for discussion or action by the Board of Directors. The Board may discuss and/or take action on any item listed below if the Board is so inclined.

13. **Approval of Amendment to Renewable Power Purchase Agreement with JVR Energy Park, LLC**

    Recommendation: Approve amendment to Long-Term Renewable Power Purchase Agreement with JVR Energy Park, LLC, and authorize the CEO to execute the amendment.

14. **Approval of the San Diego Community Power Sponsorship Policy**

    Recommendation: Approve the San Diego Community Power Sponsorship Policy.

15. **Approval of the Staff Compensation Policy**

    Recommendation: Approve the Staff Compensation Policy

16. **Approval of Support for Senate Bill 411**

    Recommendation: Adopt a support position for Senate Bill 411 (Portantino).

17. **Approval of Community Advisory Committee (CAC) Appointment for La Mesa.**

    Recommendation: Approve the Community Advisory Committee (CAC) Appointment for La Mesa.

18. **Update on Phase 4 Enrollment**

    Recommendation: Receive and File the Phase 4 Enrollment Update

Reports by Chief Executive Officer and General Counsel

SDCP Management and General Counsel may briefly provide information to the Board and the public. The Board may engage in discussion if the specific subject matter of the report is identified below, *but the Board may not take any action other than to place the matter on a future agenda. Otherwise, there is to be no discussion or action taken unless authorized by law.*

Director Comments

Board Members may briefly provide information to other members of the Board and the public, ask questions of staff, request an item to be placed on a future agenda, or report on conferences, events, or activities related to SDCP business. There is to be no discussion or action taken on comments made by Directors unless authorized by law.

Public Comments on Closed Session Items

Closed Session

1. **PUBLIC EMPLOYEE PERFORMANCE EVALUATION PURSUANT TO GOVERNMENT CODE SECTION 54957**
   Title: Chief Executive Officer

2. **CONFERENCE WITH LABOR NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54957.6**
   Agency designated representative(s): Ryan Baron, General Counsel
   Unrepresented employee: Chief Executive Officer

Report from Closed Session

Adjournment

Compliance with the Americans with Disabilities Act

SDCP Board of Directors meetings comply with the protections and prohibitions of the Americans with Disabilities Act. Individuals with a disability who require a modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting may contact (888) 382-0169 or info@sdcommunitypower.org. Requests for disability-related modifications or accommodations require different lead times and should be provided at least 72-hours in advance of the public meeting.

Availability of Board Documents

Copies of the agenda and agenda packet are available at https://sdcommunitypower.org/resources/meeting-notes/. Late-arriving documents related to a Board meeting item which are distributed to a majority of the Members prior to or during the Board meeting are available for public review as required by law. Public records, including agenda-related documents, can be requested electronically at info@sdcommunitypower.org or by mail to SDCP, PO BOX 12716, San Diego, CA 92112. The documents may also be posted at the above website. Such public records are also available for inspection, by appointment, at San Diego Community Power, 2488 Historic Decatur Road, Suite 250, San Diego, CA 92106. Please contact info@sdcommunitypower.org to arrange an appointment.

SAN DIEGO COMMUNITY POWER

SAN DIEGO COMMUNITY POWER
Staff Report – Item 1

To: San Diego Community Power Board of Directors

From: Eric W. Washington, Chief Financial Officer

Via: Karin Burns, Chief Executive Officer

Subject: Treasurer's Report –Presentation of Financial Results for Fiscal Year 2023 Period ended 01/31/23

Date: March 23, 2023

RECOMMENDATIONS
Receive and File the Treasurer's Report.

BACKGROUND
San Diego Community Power (SDCP) maintains its accounting records on a full accrual basis in accordance with Generally Accepted Accounting Principles (GAAP) as applicable to governmental enterprise funds.

SDCP has prepared its year-to-date financial statements for the period ended January 31, 2023, along with budgetary comparisons.

ANALYSIS AND DISCUSSION
Actual financial results for the period ended 01/31/23: $491.13 million in net operating revenues were reported compared to $456.97 million budgeted for the period. $476.02 million in total expenses were reported (including $461.97 million in energy costs) compared to $448.83 million budgeted for the period (including $428.66 million budgeted for energy costs). After expenses, SDCP's change in net position of $15.12 million was reported for Fiscal Year 2023. The following is a summary of the actual results compared to the Fiscal Year 2023 Budget.

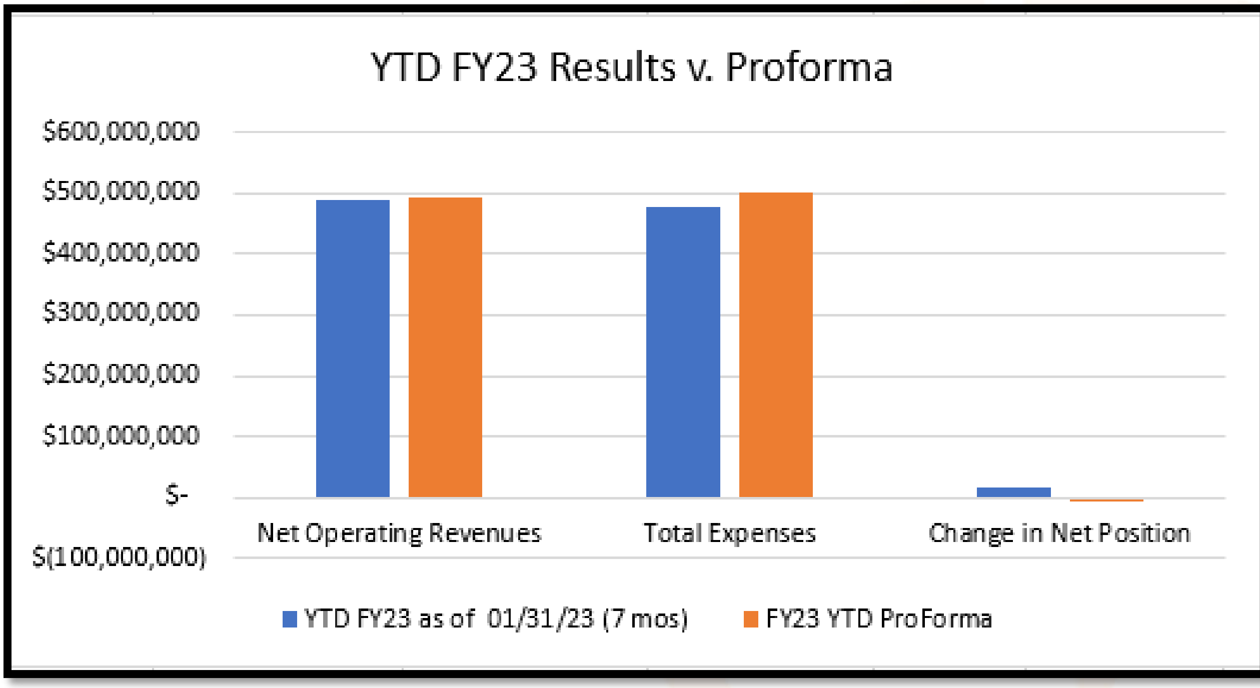
Budget Comparison				
	YTD FY23 as of 01/31/23 (7 mos)	FY23 YTD Budget	Budget Variance ($)	Budget (%)
Net Operating Revenues	$ 491,133,709	$ 456,974,905	$ 34,158,804	107
Total Expenses	$ 476,018,090	$ 448,829,094	$ 27,188,996	106
Change in Net Position	$ 15,115,619	$ 8,145,811	$ 6,969,808	

- Net operating revenues finished $34.16 million (or 7.0 percentage points) over the budget primarily due to opt outs performing better than projected and due to higher demand from non-residential customers.
- Operating expenses finished $27.19 million (or 6.0 percentage points) over the budget primarily due to higher-than-expected energy costs.

Financial results for the period performed over the projections presented in the year-to-date proforma. SDCP's change in net position was 291.23% over the projection primarily due to large CAISO Collateral Credits.

The following is a summary to actual results compared to the fiscal year-to-date proforma.

Proforma Comparison				
	YTD FY23 as of 01/31/23 (7 mos)	FY23 YTD ProForma	ProForma Variance ($)	Proforma (%)
Net Operating Revenues	$ 491,133,709	$ 492,211,784	$ (1,078,075)	-0.22%
Total Expenses	$ 476,018,090	$ 500,116,145	$ (24,098,055)	-4.82%
Change in Net Position	$ 15,115,619	$ (7,904,361)	$ 23,019,980	-291.23%



For the period ending 01/31/23, SDCP contributed $15,115,619 to its reserves but was expecting to lose $7,904,361 per the FY 2022-23 adopted budget. Total SDCP reserves at the end of the period were $47,424,864 and total available liquidity (including lines of credit) was $73,904,782. SDCP has a total FY 2022-23 year-end reserve target of $171,276,631, which is equivalent to 90-days of total operating expenses.

COMMITTEE REVIEW
The report was reviewed by the Finance and Risk Management Committee (FRMC) on March 16, 2023.

FISCAL IMPACT
N/A

ATTACHMENTS
Attachment A: 2023 Year-to-Date Period Ended 01/31/23 Financial Statements

MAHER
ACCOUNTANCY

ACCOUNTANTS' COMPILATION REPORT

Management
San Diego Community Power

Management is responsible for the accompanying financial statements of San Diego Community Power (a California Joint Powers Authority) which comprise the statement of net position as of January 31, 2023, and the related statement of revenues, expenses, and changes in net position, and the statement of cash flows for the period then ended in accordance with accounting principles generally accepted in the United States of America. We have performed a compilation engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. We did not audit or review the accompanying statements nor were we required to perform any procedures to verify the accuracy or completeness of the information provided by management. Accordingly, we do not express an opinion, conclusion, nor provide any assurance on these financial statements.

Management has elected to omit substantially all of the note disclosures required by accounting principles generally accepted in the United States of America in these interim financial statements. San Diego Community Power's annual audited financial statements include the note disclosures omitted from these interim statements. If the omitted disclosures were included in these financial statements, they might influence the user's conclusions about the Authority's financial position, results of operations, and cash flows. Accordingly, these financial statements are not designed for those who are not informed about such matters.

We are not independent with respect to the Authority because we performed certain accounting services that impaired our independence.

Maher Accountancy

San Rafael, CA
February 23, 2023

1101 Fifth Avenue, Suite 200 San Rafael, CA 94901 415 459 1249 mahercpa.com

SAN DIEGO COMMUNITY POWER
STATEMENT OF NET POSITION
As of January 31, 2023

ASSETS	
Current assets	
Cash and cash equivalents	$ 47,424,864
Accounts receivable, net of allowance	68,237,296
Accrued revenue	27,424,388
Prepaid expenses	6,576,201
Other receivables	49,300
Deposits	10,481,677
Total current assets	160,193,726
Noncurrent assets	
Restricted cash	7,500,000
Deposits	4,005,000
Total noncurrent assets	11,505,000
Total assets	171,698,726
LIABILITIES	
Current liabilities	
Accrued cost of electricity	85,704,049
Accounts payable	1,051,991
Other accrued liabilities	2,321,002
State surcharges payable	182,579
Security deposits	614,873
Interest payable	139,838
Total current liabilities	90,014,332
Noncurrent liabilities	
Other noncurrent liabilities	517,741
Bank note payable	23,520,082
Total noncurrent liabilities	24,037,823
Total liabilities	114,052,155
NET POSITION	
Restricted for collateral	2,500,000
Unrestricted	55,146,571
Total net position	$ 57,646,571

SAN DIEGO COMMUNITY POWER
STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
Seven Months Ended January 31, 2023

OPERATING REVENUES	
Electricity sales, net	$ 491,133,709
Total operating revenues	491,133,709
OPERATING EXPENSES	
Cost of energy	461,968,740
Contract services	8,449,368
Staff compensation	3,471,478
Other operating expenses	1,508,144
Total operating expenses	475,397,730
Operating income (loss)	15,735,979
NON-OPERATING REVENUES (EXPENSES)	
Investment income	210,445
Interest and financing expense	(830,805)
Nonoperating revenues (expenses)	(620,360)
CHANGE IN NET POSITION	15,115,619
Net position at beginning of period	42,530,952
Net position at end of period	$ 57,646,571

SAN DIEGO COMMUNITY POWER
STATEMENT OF CASH FLOWS
Seven Months Ended January 31, 2023

CASH FLOWS FROM OPERATING ACTIVITIES	
Receipts from customers	$ 494,042,973
Receipts of security deposits	52,958,210
Other operating receipts	10,332,595
Payments to suppliers for electricity	(445,846,030)
Payments for goods and services	(8,327,803)
Payments to employees for services	(3,240,110)
Payments for deposits and collateral	(99,762,956)
Payments for state surcharges	(1,394,349)
Net cash provided (used) by operating activities	(1,237,470)
CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES	
Proceeds from loans	20,180,000
Principal payments - loans	(28,000,000)
Principal payments - note	(5,000,000)
Interest and related expense payments	(804,829)
Net cash provided (used) by non-capital financing activities	(13,624,829)
CASH FLOWS FROM INVESTING ACTIVITIES	
Interest income received	210,445
Net change in cash and cash equivalents	(14,651,854)
Cash and cash equivalents at beginning of period	69,576,718
Cash and cash equivalents at end of period	$ 54,924,864
Reconciliation to the Statement of Net Position	
Cash and cash equivalents (unrestricted)	$ 47,424,864
Restricted cash	7,500,000
Cash and cash equivalents	$ 54,924,864

SAN DIEGO COMMUNITY POWER
STATEMENT OF CASH FLOWS (continued)
Seven Months Ended January 31, 2023

RECONCILIATION OF OPERATING INCOME TO NET CASH PROVIDED (USED) BY OPERATING ACTIVITIES

Operating income	$ 15,735,979
Adjustments to reconcile operating income (loss) to net cash provided (used) by operating activities	
Provision for uncollectible accounts	4,960,947
(Increase) decrease in:	
Accounts receivable	(22,811,253)
Accrued revenue	19,515,227
Other receivables	(49,300)
Prepaid expenses	(2,114,893)
Deposits	(4,795,620)
Increase (decrease) in:	
Accrued cost of electricity	28,472,545
Accounts payable	427,036
Other accrued liabilities	1,580,996
State surcharges payable	(150,007)
Supplier security deposits	(42,009,127)
Net cash provided (used) by operating activities	$ (1,237,470)

MAHER
ACCOUNTANCY

ACCOUNTANTS' COMPILATION REPORT

Board of Directors
San Diego Community Power

Management is responsible for the accompanying special purpose budgetary comparison schedule of San Diego Community Power (SDCP), a California Joint Powers Authority, for the period ended January 31, 2023, and for determining that the budgetary basis of accounting is an acceptable financial reporting framework. We have performed a compilation engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. We did not audit or review the accompanying statement nor were we required to perform any procedures to verify the accuracy or completeness of the information provided by management. Accordingly, we do not express an opinion, a conclusion, nor provide any assurance on this special purpose budgetary comparison statement.

The special purpose statement is prepared in accordance with the budgetary basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America. This report is intended for the information of the Board of Directors of SDCP.

Management has elected to omit substantially all of the note disclosures required by accounting principles generally accepted in the United States of America in these interim financial statements. SDCP's annual audited financial statements will include the note disclosures omitted from these interim statements. If the omitted disclosures were included in these financial statements, they might influence the user's conclusions about the Authority's financial position, results of operations, and cash flows. Accordingly, these financial statements are not designed for those who are not informed about such matters.

We are not independent with respect to SDCP because we performed certain accounting services that impaired our independence.

Maher Accountancy

San Rafael, CA
February 23, 2023

1101 Fifth Avenue, Suite 200 San Rafael, CA 94901 415 459 1249 mahercpa.com

SAN DIEGO COMMUNITY POWER
BUDGETARY COMPARISON SCHEDULE
Seven Months Ended January 31, 2023

	2022/23 YTD Budget	2022/23 YTD Actual	2022/23 YTD Budget Variance (Under) Over	2022/23 YTD Actual/ Budget %	2022/23 Annual Budget	2022/23 Budget Remaining
REVENUES AND OTHER SOURCES						
Gross Ratepayer Revenues	461,590,813	$ 496,094,656	34,503,843	107%	$ 716,146,107	$ 220,051,451
Less Uncollectible Customer Accounts	(4,615,908)	(4,960,947)	(345,039)	107%	(7,161,461)	(2,200,514)
Total Revenues and Other Sources	456,974,905	491,133,709	34,158,804		708,984,646	217,850,937
OPERATING EXPENSES						
Cost of Energy	428,663,690	461,968,741	33,305,051	108%	661,638,828	199,670,087
Professional Services and Consultants	9,488,028	8,205,616	(1,282,412)	86%	16,881,036	8,675,420
Personnel Costs	4,297,290	3,471,478	(825,812)	81%	7,951,499	4,480,021
Marketing and Outreach	2,640,958	1,060,270	(1,580,688)	40%	4,164,167	3,103,897
General and Administrative	2,063,970	691,625	(1,372,345)	34%	2,591,363	1,899,738
Programs	901,250	-	(901,250)	0%	1,395,000	1,395,000
Total Operating Expenses	448,055,186	475,397,730	27,342,544		694,621,893	219,224,163
Operating Income (Loss)	8,919,719	15,735,979	6,816,260		14,362,753	(1,373,226)
NON-OPERATING REVENUES (EXPENSES)						
Investment income	-	210,445	210,445		-	(210,445)
Debt Service and Bank Fees	(773,908)	(830,805)	(56,897)	107%	(1,314,922)	(484,117)
Total Non-Operating Revenues (Expenses)	(773,908)	(620,360)	153,548		(1,314,922)	(694,562)
CHANGE IN NET POSITION	$ 8,145,811	$ 15,115,619	$ 6,969,808		$ 13,047,831	$ (2,067,788)

See accountants' compilation report.

SAN DIEGO COMMUNITY POWER
Staff Report – Item 2

To: San Diego Community Power Board of Directors

From: Lucas Utouh, Director of Data Analytics and Account Services

Via: Karin Burns, Chief Executive Officer

Subject: Update on Back-Office Operations

Date: March 23, 2023

RECOMMENDATION

Receive and file update on various back-office operations.

BACKGROUND

Staff will provide regular updates to the Board of Directors regarding San Diego Community Power's (SDCP) back-office activities centered around tracking opt actions (i.e., opt outs, opt ups and opt downs) as well as customer engagement metrics. The following is a brief overview of items pertaining to back-office operations.

ANALYSIS AND DISCUSSION

A) Mass Enrollment Update

Phase 4:

Mass enrollment for our customers in National City and Unincorporated County of San Diego is slated to commence in April 2023. Customers on Net Energy Metering (NEM) will enroll as of their true up month starting in April of 2023 through March 2024.
The first of four enrollment notices were delivered on the first week of February to notify relevant customers of their upcoming April enrollment into SDCP service. The 2nd round of enrollment notices were delivered to customers during the first week of March.
Consistent with Phase 3 in 2022, we are seeing a spike in opt outs after the 2nd round of enrollment notices and we are tracking the opt outs very closely and doing a lot more engagement, marketing and outreach campaigns to equip customers with the right information to make well informed decisions.

B) Customer Participation Tracking

Staff and Calpine have worked together to create a reporting summary of customer actions to opt out of SDCP service, opt up to Power100, or opt down from Power100 to PowerOn. The below charts summarize these actions accordingly as of March 12th, 2023:

I. Opt Outs

Opt Outs by Jurisdiction	CY 2021 Total	CY 2022 Total	Jan-23	Feb-23	Mar-23 MTD	2023 YTD Total	Grand Total
CITY OF CHULA VISTA	266	3472	122	45	38	205	3943
CITY OF ENCINITAS	66	1886	53	15	12	80	2032
CITY OF IMPERIAL BEACH	32	345	16	1	3	20	397
CITY OF LA MESA	85	1272	43	7	9	59	1416
CITY OF NATIONAL CITY	0	0	0	24	69	93	93
CITY OF SAN DIEGO	1077	19283	492	249	123	864	21224
COUNTY OF SAN DIEGO	0	0	0	1061	2256	3317	3317
Grand Total	**1526**	**26258**	**726**	**1402**	**2510**	**4638**	**32422**

Opt Outs by Class Code	CY 2021 Total	CY 2022 Total	Jan-23	Feb-23	Mar-23 MTD	2023 YTD Total	Grand Total
Residential	36	25722	714	1247	2325	4286	30044
Commercial/Industrial	1490	536	12	155	185	352	2378
Grand Total	**1526**	**26258**	**726**	**1402**	**2510**	**4638**	**32422**

Opt Outs by Reason	CY 2021 Total	CY 2022 Total	Jan-23	Feb-23	Mar-23 MTD	2023 YTD Total	Grand Total
Rate or Cost Concerns	239	7755	11	81	152	244	8238
Dislike being automatically enrolled	202	7215	1	5	11	17	7434
Decline to Provide	228	3596	50	209	454	713	4537
Other	812	2653	187	475	848	1510	4975
Existing relationship with the utility	2	2394	3	22	43	68	2464
Concerns about Government-Run Power Agency	24	1496	51	107	212	370	1890
Service or Billing Concerns	6	725	317	297	448	1062	1793
Have renewable Energy Reliability Concerns	13	292	38	31	87	156	461
Concerns about lack of equivalent CCA programs	0	132	68	175	255	498	630
Grand Total	**1526**	**26258**	**726**	**1402**	**2510**	**4638**	**32422**

Opt Outs by Method	CY 2021 Total	CY 2022 Total	Jan-23	Feb-23	Mar-23 MTD	2023 YTD Total	Grand Total
Website	327	14354	330	858	1605	2793	17474
Customer Service Rep (CSR)	1098	7005	233	326	448	1007	9110
Interactive Voice Response (IVR)	101	4899	163	218	457	838	5838
Grand Total	**1526**	**26258**	**726**	**1402**	**2510**	**4638**	**32422**

II. Opt Ups to Power100

Opt Ups by Jurisdiction	CY 2021 Total	CY 2022 Total	Jan-23	Feb-23	Mar-23 MTD	2023 YTD Total	Grand Total
CITY OF CHULA VISTA	702	168	5	4	6	15	885
CITY OF ENCINITAS	18	1	0	0	0	0	19
CITY OF IMPERIAL BEACH	60	29	0	0	0	0	89
CITY OF LA MESA	148	120	3	2	0	5	273
CITY OF NATIONAL CITY	0	0	0	1	0	1	1
CITY OF SAN DIEGO	3163	2874	109	49	15	173	6210
COUNTY OF SAN DIEGO	0	0	0	3	22	25	25
Grand Total	**4091**	**3192**	**117**	**59**	**43**	**219**	**7502**

Opt Ups by Class Code	CY 2021 Total	CY 2022 Total	Jan-23	Feb-23	Mar-23 MTD	2023 YTD Total	Grand Total
Residential	3	2875	65	51	33	149	3027
Commercial/Industrial	4088	317	52	8	10	70	4475
Grand Total	**4091**	**3192**	**117**	**59**	**43**	**219**	**7502**

Opt Ups by Method	CY 2021 Total	CY 2022 Total	Jan-23	Feb-23	Mar-23 MTD	2023 YTD Total	Grand Total
Customer Service Rep (CSR)	4060	1375	54	12	22	88	5523
Interactive Voice Response (IVR)	4	78	9	7	2	18	100
Web	27	1739	54	40	19	113	1879
Grand Total	**4091**	**3192**	**117**	**59**	**43**	**219**	**7502**

Cumulative Power 100 Dashboard

Opt Ups by Jurisdiction	Grand Total
CITY OF CHULA VISTA	881
CITY OF ENCINITAS	25979
CITY OF IMPERIAL BEACH	88
CITY OF LA MESA	271
CITY OF NATIONAL CITY	1
CITY OF SAN DIEGO	6179
COUNTY OF SAN DIEGO	24
Grand Total	**33423**

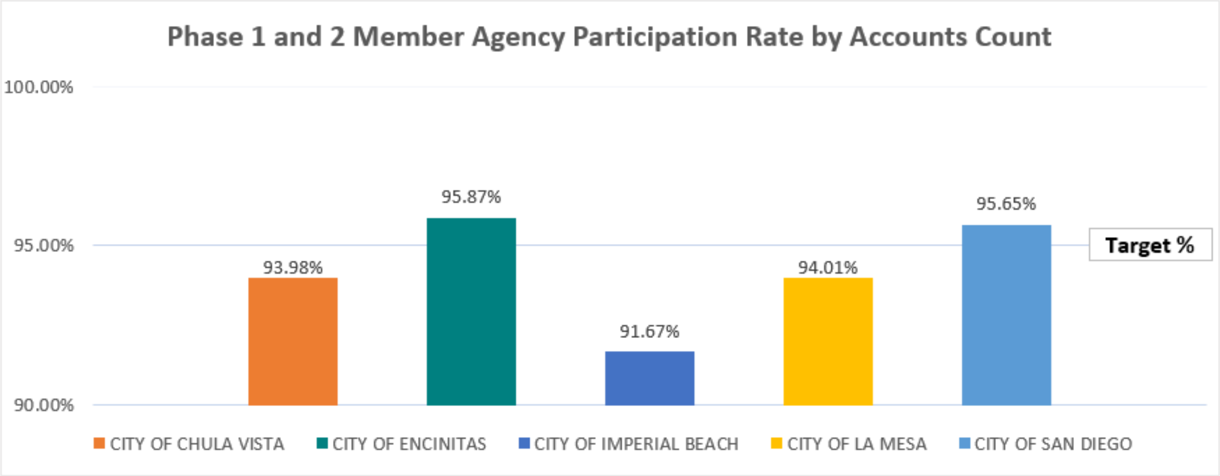
III.Opt Downs from Power100

Opt Downs by Jurisdiction	CY 2021 Total	CY 2022 Total	Jan-23	Feb-23	Mar-23 MTD	2023 YTD Total	Grand Total
CITY OF CHULA VISTA	0	1	0	3	0	3	4
CITY OF ENCINITAS	35	423	8	15	0	23	481
CITY OF IMPERIAL BEACH	0	1	0	0	0	0	1
CITY OF LA MESA	0	2	0	0	0	0	2
CITY OF NATIONAL CITY			0	0	0	0	0
CITY OF SAN DIEGO	0	28	2	0	1	3	31
COUNTY OF SAN DIEGO			0	0	1	1	1
Grand Total	**35**	**455**	**10**	**18**	**2**	**29**	**520**

Opt Downs by Class Code	CY 2021 Total	CY 2022 Total	Jan-23	Feb-23	Mar-23 MTD	2023 YTD Total	Grand Total
Residential	0	432	10	18	2	30	462
Commercial/Industrial	35	23	0	0	0	0	58
Grand Total	**35**	**455**	**10**	**18**	**2**	**30**	**520**

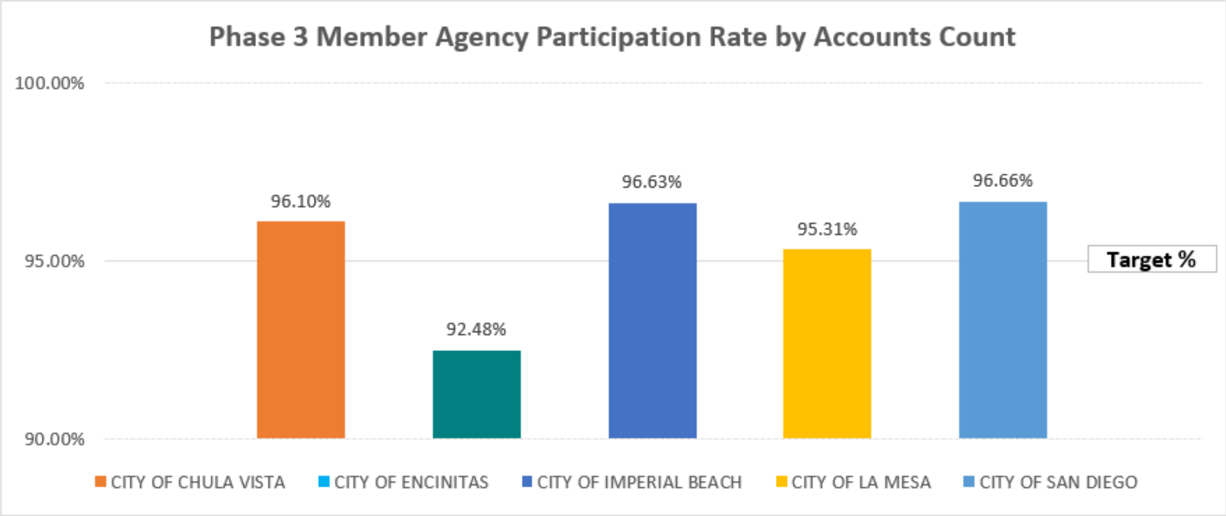
Opt Downs by Method	CY 2021 Total	CY 2022 Total	Jan-23	Feb-23	Mar-23 MTD	2023 YTD Total	Grand Total
Customer Service Rep (CSR)	31	305	5	14	0	19	355
Interactive Voice Response (IVR)	4	26	0	2	0	2	32
Web	0	124	5	2	2	9	133
Grand Total	**35**	**455**	**10**	**18**	**2**	**30**	**520**

I. Participation Rate



Phase 1 and 2

Town or Territory	Active	Eligible	Total Opt Outs	Participation Rate by Accounts Count
CITY OF CHULA VISTA	7685	8177	492	93.98%
CITY OF ENCINITAS	3154	3290	136	95.87%
CITY OF IMPERIAL BEACH	539	588	49	91.67%
CITY OF LA MESA	2700	2872	172	94.01%
CITY OF SAN DIEGO	57338	59947	2609	95.65%
Grand Total	**71416**	**74874**	**3458**	**95.38%**



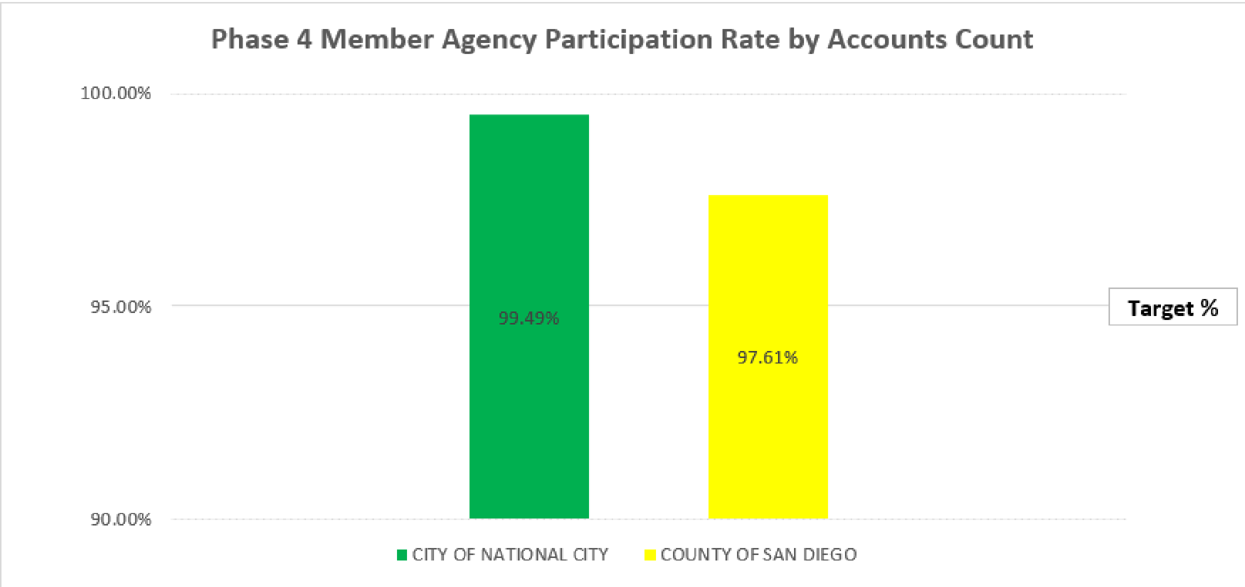
Phase 3

Town or Territory	Active	Eligible	Total Opt Outs	Participation Rate by Accounts Count
CITY OF CHULA VISTA	85044	88498	3454	96.10%
CITY OF ENCINITAS	23287	25180	1893	92.48%
CITY OF IMPERIAL BEACH	9980	10328	348	96.63%
CITY OF LA MESA	25263	26507	1244	95.31%
CITY OF SAN DIEGO	538058	556673	18615	96.66%
Grand Total	**681632**	**707186**	**25554**	**96.39%**

With our first enrollment notices for Phase 4 dropped into customers' mailboxes the first week of February and our 2nd enrollment notices dropping during the first week of March, our mass enrollment process in National City and Unincorporated County of San Diego is officially underway. The participation rate for this new phase is fluid and will change as we ramp up enrollment in April 2023 through March 2024 for NEM customers. The true participation rate will be computed once customers across all months from April are fully enrolled. In the interim, we are reporting on the opt outs and eligible accounts associated with the phase on a rolling basis as of the reporting month:

Phase 4

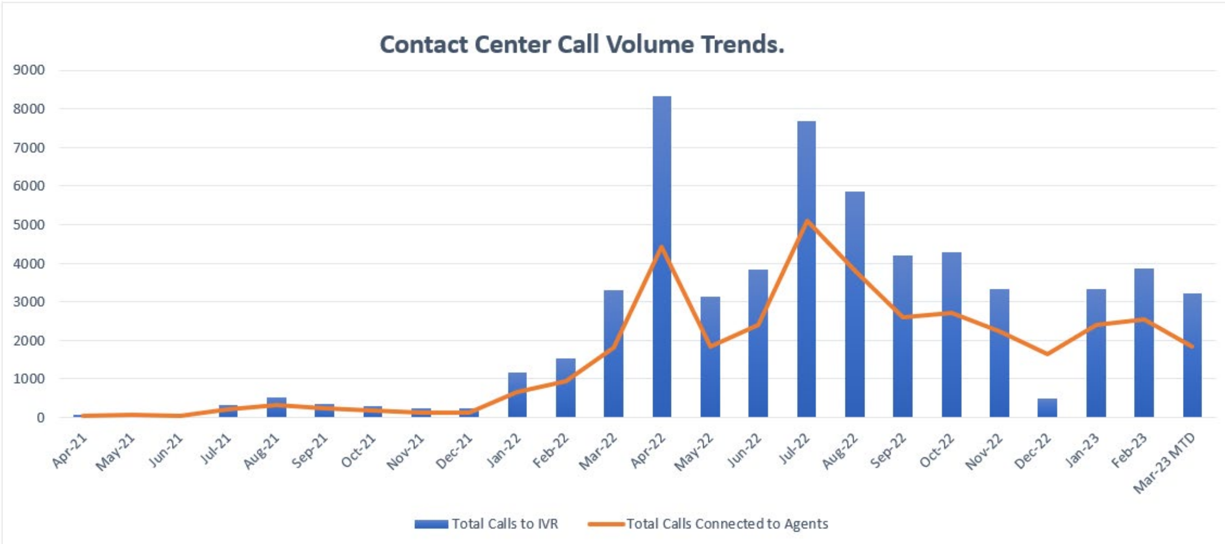
Town or Territory	Active	Eligible	Total Opt Outs	Participation Rate by Accounts Count
CITY OF NATIONAL CITY	0	18138	93	99.49%
COUNTY OF SAN DIEGO	0	138919	3317	97.61%
Grand Total	**0**	**157057**	**3410**	**97.83%**



C) Contact Center Metrics

Call volumes in February 2023 increased by **17%** compared to January mostly due to National City and Unincorporated County customers calling in with inquiries pertaining to their first enrollment notices that they received earlier in the month along with concerns and inquiries about the higher-than-normal bills driven primarily by high gas prices and the electricity rate hike by SDG&E that went into effect as of 1/1/2023.

The chart below summarizes contact made by customers into our Contact Center broken down by month through March 12th, 2023:

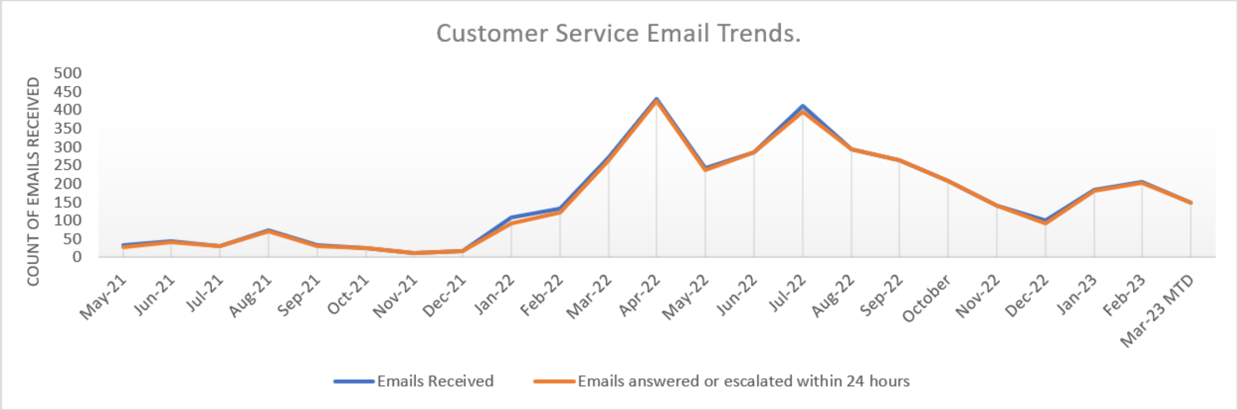


Interactive Voice Response (IVR) and Service Level Agreement (SLA) Metrics

IVR and SLA Details	CY 2021	CY 2022	Jan-23	Feb-23	Mar-23 MTD	Grand Total
Total Calls to IVR	**2289**	**47118**	3317	3870	3219	**59813**
Total Calls Connected to Agents	**1401**	**30174**	2392	2537	1848	**38352**
Average Seconds to Answer	**0:00:20**	**0:00:11**	0:00:04	0:00:05	0:00:21	**0:00:14**
Average Call Duration	**0:08:27**	**0:09:49**	0:09:08	0:09:58	0:09:25	**0:09:16**
Calls Answered within 60 Seconds (75% SLA)	**96.23%**	**95.50%**	98.91%	98.94%	87.71%	**95.73%**
Abandon Rate	**0.57%**	**0.36%**	0.08%	0.04%	1.23%	**0.45%**

Similar to other mass enrollments in other CCAs' service territories, we are anticipating the trend of our customers calling into our Contact Center's Interactive Voice Response (IVR) system tree and being able to self-serve their opt actions using the recorded prompts as well as utilizing our website for processing opt actions to continue accounting for over 65% of all instances. The remaining portion of customer calls are connected to our Customer Service Representatives to answer additional questions, assist with account support, or submit opt actions.

Email Details	CY 2021 Total	CY 2022 Total	Jan-23	Feb-23	Mar-23 MTD	Grand Total
Emails Received	272	2894	183	204	150	**3703**
Emails answered or escalated within 24 hours	257	2821	181	202	149	**3610**
Completion %	94%	97%	99%	99%	99%	**97%**



As of this latest reporting month, we still have a total of 13 Dedicated Customer Service Representatives staffed at our Contact Center and 2 Supervisors. Our robust Quality Assurance (QA) procedures are firmly in place to ensure that our customers are getting a world-class customer experience when they contact us.

COMMITTEE REVIEW

N/A

FISCAL IMPACT

N/A

ATTACHMENTS

N/A

SAN DIEGO COMMUNITY POWER
Staff Report – Item 3

To: San Diego Community Power Board of Directors

From: Jen Lebron, Director of Public Affairs

Via: Karin Burns, Chief Executive Officer

Subject: Marketing and Public Relations Update

Date: March 23, 2023

RECOMMENDATION
Receive and file update on Marketing and Public Relations activities for San Diego Community Power.

BACKGROUND
San Diego Community Power (SDCP) has engaged in a variety of public relations, marketing, and community outreach activities to drive awareness, spark engagement, and minimize opt-outs.

ANALYSIS AND DISCUSSION
SDCP has increased its focus on community engagement as it prepares for the enrollment of customers in National City and the unincorporated areas of San Diego County, as well as develops its Community Power Plan, which will be a roadmap for the selection, development, and investment of local programs based on community needs and gaps in program offerings.

Public Engagement Events

March 9, 2023 – Encinitas Environmental Commission
March 13, 2023 – Fallbrook Library
March 16, 2023 – Building Electrification Coalition
March 16, 2023 - Alpine Library
March 15, 2023 – Rainbow Planning Group
March 18, 2023 – National City Swap Meet
March 19, 2023 – Spring Valley Swap Meet
March 25, 2023 – Bee and Butterfly Sustainability Festival
March 26, 2023 – National City Mobile Farmers Market
March 28, 2023 – Chula Vista City Council
April 2, 2023 – Santa Ysabel Farmers Market

April 3, 2023 – San Diego State University Sustainable Career Fair
April 4, 2023 – Borrego Springs
April 12, 2023 – Rancho San Diego Library
April 15, 2023 – South Bay Earth Day
April 16, 2023 – National City Swap Meet
April 22, 2023 – La Mesa Earth Day
April 23, 2023 – Fallbrook Avocado Festival
April 25, 2023 – Jacumba Community Service District Board

Communications and Outreach Strategy

SDCP is in regular communication with regional media in the spirit of transparency and openness as well as provide factual, timely information to the public at large.

SDCP and Civilian, its marketing and communications contractor, have worked together to develop a high-impact campaign that will include multiple mailers sent directly to customers, targeted marketing in local publications, advertising on billboards in high-traffic areas and sending members of its staff to outreach events. Radio and online advertisement campaigns began earlier this month as well.

Over the next several weeks, SDCP will be participating in local news programs and stories to spread the word about Phase 4 enrollment.

The Public Affairs team will be staffing up over the next several months to conduct more outreach, expand marketing efforts, and more efficiently provide timely, factual information across traditional and social media.

COMMITTEE REVIEW

N/A

FISCAL IMPACT

N/A

ATTACHMENTS

N/A

SAN DIEGO COMMUNITY POWER
Staff Report – Item 4

To:	San Diego Community Power Board of Directors
From:	Victoria Abrenica, Public Outreach Associate
Via:	Karin Burns, Chief Executive Officer
Subject:	Receive and File Community Advisory Committee (CAC) Monthly Report
Date:	March 23, 2023

RECOMMENDATION
Receive and file CAC monthly report.

BACKGROUND
According to Section 5.10.3 of the SDCP Joint Powers Authority (JPA) Agreement:

> The Board shall establish a Community Advisory Committee comprised of non-Board members. The primary purpose of the Community Advisory Committee shall be to advise the Board of Directors and provide for a venue for ongoing citizen support and engagement in the strategic direction, goals, and programs of the Authority.

At the direction of the CEO, the CAC provides quarterly presentations to the Board of Directors in the regular agenda, and monthly reports in the consent agenda.

ANALYSIS AND DISCUSSION

At the March 10, 2023, meeting of the CAC, several items took place.

1. The committee recognized outgoing CAC members Charles Summers (Imperial Beach) and Jen Derks (La Mesa).
2. The advisory committee approved their February CAC meeting minutes.
3. The CAC received an update on SDCP's Community Power Plan and the launch of the public comment window of the Public Draft of the Community Power plan.

4. The committee received an update on SDCP's FY 22-23 Community Clean Energy Innovation Grant Program and nominated Matthew Vasilakis (City of San Diego) and Gary L. Jahns (Encinitas) to participate on the Evaluation Committee.
5. Staff provided updates to the CAC on the recent public relations and back-office operations. They focused on Phase 4 Enrollment as well as the latest opt-up, opt-out, and opt-down metrics.
6. The group reviewed and provided input on San Diego Community Power's Sponsorship Policy.
7. Staff provided a monthly update on the CAC FY 22-23 Work Plan and will be returning monthly.

The CAC still has three openings available to represent the city of Imperial Beach, city of La Mesa, and unincorporated San Diego County. Members of the public must be residents and/or business owners of the respective jurisdictions and may submit their applications here.

COMMITTEE REVIEW
N/A

FISCAL IMPACT
N/A

ATTACHMENTS
N/A

SAN DIEGO COMMUNITY POWER
Staff Report – Item 5

To: San Diego Community Power Board of Directors

From: Laura Fernandez, Director of Regulatory & Legislative Affairs

Via: Karin Burns, Chief Executive Officer

Subject: Update on Regulatory and Legislative Affairs

Date: March 23, 2023

RECOMMENDATIONS
Receive and file update on regulatory and legislative affairs.

BACKGROUND
Staff will provide regular updates to the Board of Directors regarding SDCP's regulatory and legislative engagement.

ANALYSIS AND DISCUSSION

A) Regulatory Updates

Integrated Resource Planning

On February 23, 2023, the California Public Utilities Commission (CPUC) issued a *Final Decision Ordering Supplemental Mid-Term Reliability Procurement (2026-2027) And Transmitting Electric Resource Portfolios To California Independent System Operator For 2023-2024 Transmission Planning Process* within the Integrated Resource Planning (IRP) proceeding. The Decision (D.23-02-040) requires supplemental mid-term reliability procurement of a total of 4,000 megawatts (MW) of net qualifying capacity (NQC) in addition to the 11,500 MW ordered previously in D.21-06-035 for 2026 and 2027. SDCP's total allocation is 160 MW (80 MW in 2026 and 2027).

The Decision also adopts various party proposals to aid incremental procurement by load serving entities (LSE), including adopting a "swap" process for baseline resources, amendments to the long-lead time resource requirement, and modifications and clarifications to penalty calculations, enforcement, and compliance rules. Lastly, the Decision recommends electricity resource portfolios to the California Independent System Operator (CAISO) to study in its 2023-2024 Transmission Planning Process.

Disadvantaged Communities Green Tariff (DAC-GT) and Community Solar Green Tariff (CSGT)

On March 16, 2023, the California Public Utilities Commission (CPUC) voted to adopt *Resolution E-5246 on SDCP's DAC-GT and CSGT Implementation Advice Letter.* As noted in the regulatory and legislative staff report for the February 2023 meeting of the Board of Directors (see page 35), the Resolution approves SDCP's Tier 3 Implementation Advice Letter to become a Program Administrator of the DAC-GT and CSGT programs. SDCP had filed comments (Attachment A) on the Draft Resolution on March 2, 2023, seeking clarification on the 2024 Annual Budget Advice Letter requirements and the process for seeking resolution on disagreements about billing and discount calculation issues with SDG&E. The final Resolution addresses these concerns and confirms the processes suggested by SDCP.

As a next step, SDCP is required to submit a Tier 2 Advice Letter with its solicitation documents for its first DAC-GT and CSGT Request For Offers (RFO) within 60 days of issuance of the Resolution.

Resource Adequacy (RA)

RA Reform Track Phase 2 Proposed Decision
On March 3, 2023, the CPUC issued Proposed Decision (PD) on Phase 2 issues in the Resource Adequacy (RA) Reform Track. The PD details the necessary compliance tools, resource counting methodologies, and coordination with CAISO required to implement the “Slice of Day” framework adopted in a July 2021 decision (D.21-07-014). As outlined in the regulatory and legislative staff report for the June 2022 meeting of the Board of Directors (see page 33), the Slice of Day framework requires each load-serving entity (LSE) to demonstrate it has enough capacity to satisfy its specific gross load profile, including a planning reserve margin (PRM), in all 24 hours on the CAISO’s “worst day” in that month.

SDCP is coordinating with CalCCA to file opening comments on the PD, which are due March 23, 2023. Notably, CalCCA’s comments will address the PD’s exclusion of a system-wide study to determine whether LSEs can meet the hourly requirement with current RA fleet under the new accounting rules as well as reiterate the importance of allowing hourly transactability and urging the CPUC to study this need during the 2024 Test Year.

RA Implementation Track Phase 3 Proposals

As detailed in the regulatory and legislative staff report for the February 2023 meeting of the Board of Directors (see page 36), on January 20, 2023, eight parties submitted proposals in Phase 3 of the Implementation Track on Resource Adequacy ("RA"). SDCP worked with CalCCA to file opening comments on February 24 and reply comments on March 3 addressing several problematic elements in CPUC Energy Division Staff's proposal.

Resolution on SDCP's Appeal of Month-Ahead Resource Adequacy Citation

On March 16, 2023, the California Public Utilities Commission (CPUC) voted to adopt Resolution ALJ-432 on SDCP's appeal of a citation for a procurement deficiency in its September 2021 month-ahead system RA showing (see page 36 regulatory and legislative staff report for the February 2023 meeting of the Board of Directors). Unfortunately, the final Resolution only noted SDCP's comments (Attachment B) on the draft resolution filed on February 21, 2023, and did not remove all references that SDCP "deliberately" failed to meet its obligation, nor make other recommended changes. As previously reported to the Board, SDCP will be required to pay the full amount of the penalty of $581,817.60.

General Order 156 Supplier Diversity Report

Background

The purpose of CPUC General Order 156 (GO 156), originally adopted in April 1988, is to promote and increase contracting opportunities for diverse suppliers with California utilities. GO 156 defines the Utility Supplier Diversity Program, its definitions, objectives, and reporting requirements. GO 156 requires utilities to "submit annual detailed and verifiable plans for increasing women-owned, minority-owned, disabled veteran-owned, and LGBT-owned business enterprises' (WMDVLGBTBEs) procurement in all categories."

Until 2021, Community Choice Aggregators (CCAs) were not required to submit reports. This changed when Senate Bill 255 (2019, Bradford) passed, therefore requiring CCAs with "gross annual revenues exceeding $15 million to annually submit a detailed and verifiable plan to the commission" on their procurements with certified diverse suppliers per the CPUC's Supplier Clearinghouse. In 2021, SDCP was not required to submit a 2020 report because it did not meet the revenue threshold for that calendar year. However, in 2022, SDCP did submit the inaugural 2021 Annual Report and 2022 Annual Plan on March 1, 2022.

2022 Annual Report and 2023 Annual Plan

On March 1, 2023, SDCP submitted the [2022 Annual Report and 2023 Annual Plan](). SDCP is proud that in 2022, 31% of SDCP's non-power expenses came from local and small businesses (see report at page 13).

As a California local government entity bound by California Proposition (Prop) 209 (1996), SDCP is prohibited from considering race, sex, color, ethnicity, or national origin in its contracting. Accordingly, and in contrast to California's electrical corporations, SDCP does not consider Supplier Clearinghouse certification nor eligibility in procurement decisions of any kind, nor does SDCP set supplier diversity targets or goals. Given the limitations of Proposition 209, SDCP developed creative solutions for increasing its supplier diversity and amended its procurement policy for non-power contracts to provide preferential treatment to small businesses, persons with disabilities, disabled veterans, and local business enterprises. Specifically, bidders may apply for two out of the four categories when submitting their proposals as outlined in the procurement policy.

SDCP also participated in the California Public Utilities Commission's (CPUC) virtual "Doing Business with Community Choice Aggregators" event on November 10, 2022. This gave SDCP an opportunity demonstrate early efforts as a young agency that is growing and expanding its vendor base. SDCP was joined by Clean Power Alliance, Marin Clean Energy, and Valley Clean Energy.

San Diego Community Power has a dedicated webpage for its supplier diversity program. That webpage can be found at https://sdcommunitypower.org/supplier-diversity/ and any questions can be sent to Lee Friedman, Senior Manager of Strategic Partnerships, at contracting@sdcommunitypower.org or 1-888-382-0169.

General Rate Case Phase 1 and Phase 2

SDCP is a party to SDG&E General Rate Case Phase 1 as well as Phase 2. SDCP filed a protest to Phase 1 last year, and on February 27, 2023 filed a protest to Phase 2. In the most recently filed protest, SDCP along with Clean Energy Alliance urges the Commission to require SDG&E to address the following three issues in the proceeding: Schedule S: Standby Service tariff, the PCIA charge captured on customer bills, and SDG&E's customer data transfer processes.

B) Legislative Update

Lobby Day

On March 9, 2023, SDCP's Director of Regulatory and Legislative Affairs and the SDCP Executive Team traveled to Sacramento to meet with members of SDCP's legislative delegation as a part of SDCP's inaugural lobby day. SDCP had meetings with Assemblyman Chris Ward, staff in the Governor's Office, Senator Padilla's staff, Kip Lipper, Chief Policy Advisor for Senate President Pro Tem Toni Atkins as well as staff for Assemblyman Garcia. During these meetings, SDCP representatives discussed SDCP's priorities for the legislative session. In particular, SDCP discussed how affordability for customers is top of mind, and urged our lawmakers to ensure that policy changes don't impact rates for customers.

COMMITTEE REVIEW

N/A

FISCAL IMPACT

N/A

ATTACHMENTS

Attachment A: SDCP Comments on Draft Resolution E-5246
Attachment B: SDCP Comments on Draft Resolution ALJ-432

Braun Blaising & Wynne, P.C.

Attorneys at Law

March 2, 2023

Via Electronic Mail

Energy Division
Attention: Tariff Unit
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Via E-Mail: EDTariffUnit@cpuc.ca.gov

Re: San Diego Community Power Comments on Draft Resolution E-5246

Dear Energy Division Tariff Unit:

Pursuant to Rule 14.5 of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission") and the notice accompanying the Draft Resolution, San Diego Community Power ("SDCP") submits these comments on Draft Resolution E-5246 ("Draft Resolution") approving, with modifications, SDCP's Advice Letter ("AL") 10-E to create tariffs to implement the Disadvantaged Communities Green Tariff ("DAC-GT") and Community Solar Green Tariff ("CSGT") Programs in compliance with Decision ("D") 18-06-027.

SDCP appreciates the Draft Resolution's disposition of SDCP AL 10-E, and thanks the Commission for its consideration of SDCP's DAC-GT and CSGT programs. SDCP supports the conclusions reached in the Draft Resolution. These comments are intended to address a minor error contained in the Draft Resolution, and to request two additional clarifications regarding implementation of the programs.

Correction of Minor Error

SDCP notes that the Draft Resolution inadvertently refers to SDCP as "SDP" on page 8 of the Resolution: "If the ERRA Forecast is not approved by January 1 of a given program year, SDG&E will transfer all past due funds to SDP within no more than thirty days of issuance of ERRA Forecast approval."[1] SDCP requests that this be amended in the Final Resolution to accurately reflect SDCP's name.

Clarification of 2024 Annual Budget Advice Letter

On page 8, the Draft Resolution provides the procedural steps San Diego Gas & Electric Company ("SDG&E") and SDCP shall take regarding ERRA compliance and cost recovery.

[1] Draft Resolution at 8.

SDCP appreciates this inclusion but requests that the language be clarified to provide that SDCP does not have an obligation to submit an Annual Budget Advice Letter for the 2024 program year ("PY"). As noted in the Draft Resolution, SDCP AL 10-E included all the necessary information that would be included in a 2023 and 2024 PY budget advice letter, and SDCP will, therefore, begin submission of Annual Budget Advice Letters beginning in 2024 for PY 2025.[2] SDCP believes this is covered in the first procedural step which states: "SDG&E will include SDCP's PY 2024 budget estimate in its 2024 ERRA Forecast filing in early June or its 2024 ERRA Forecast update in November."[3] However, the second procedural step notes that SDG&E will include the total budget estimate for the upcoming program year "[i]f the CPUC approves SDCP's Annual Budget Advice Letter."[4] SDCP requests that this be clarified to note that the second procedural step is applicable for program years subsequent to PY 2024, and approval of an Annual Budget Advice Letter is not required for SDCP's PY 2024 budget estimate, as this information was included in SDCP AL 10-E.

In light of this, SDCP recommends the following language replace the second procedural step in the Draft Resolution:

> Beginning with the PY 2025 budget to be submitted in 2024, if the CPUC approves SDCP's Annual Budget Advice Letter, SDG&E will then include the total budget estimate for the upcoming program year in the ERRA Forecast filing in early June of the next year.

Clarification of Specific Advice Letter Review

As noted in SDCP AL 10-E, SDCP has been working with SDG&E to coordinate the best approach to apply the 20 percent bill discount associated with the programs.[5] To date, SDCP and SDG&E have yet to come to an agreement addressing this issue. At the time SDCP submitted AL 10-E, it was unclear in which venue disagreements about billing and discount calculation issues would, or should, be resolved. As a result, SDCP, together with the Joint Community Choice Aggregators ("Joint CCAs"), raised the issue of billing and calculation in the Joint CCA's Opening Testimony in the Green Access Programs proceeding ("GAP Proceeding").[6]

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2 *See* Draft Resolution at 6; *See also* SDCP Implementation Plan for the DAC-GT and CSGT Programs at 19, note 47.

3 Draft Resolution at 8.

4 *Id*.

5 *See, e.g.,* SDCP Implementation Plan for the DAC-GT and CSGT Programs at 13.

6 *See* Prepared Testimony on Behalf of the Joint Community Choice Aggregators and City and County of San Francisco A-22-05-022 et al., at 43. ("SDCP and SDG&E have not yet been able to come to a mutually agreeable billing solution for customers in SDCP's future DAC-GT and CSGT programs…Unless SDCP and SDG&E are able to come to an agreement on an alternative process, the Commission should require, as a default, that SDG&E calculate the transmission and distribution portion of the 20 percent discount only with the CCA calculating the 20 percent discount on the generation portion, as SDCP is not responsible for the transmission and distribution portion of customer bills. Additionally, the Commission should establish a standard location on the SDCP customer bills to indicate that the 20 percent discount is reflected on the full portion of the bill.")

However, SDCP understands that inclusion of this issue as a placeholder in the GAP Proceeding does not preclude SDCP from continuing to work with SDG&E and the Energy Division to resolve billing issues outside of the GAP Proceeding. As such, SDCP appreciates the clarification provided in the Draft Resolution that, to the extent there are disagreements over issues such as costs, billing, data sharing, or application of the 20 percent bill discount between SDG&E and SDCP, that SDCP "may utilize the Annual Budget Advice Letter process or request that the issue be discussed during a Billing Working Group meeting, facilitated by Energy Division staff."[7] However, SDCP believes that additional clarification is needed.

As noted in the Draft Resolution, SDCP had planned to submit a "supplemental" advice letter to address the application of the bill discount upon coordination and agreement with SDG&E on the best approach.[8] If SDCP is unable to reach agreement with SDG&E, the Draft Resolution currently only expressly refers to the "Annual Budget" Advice letter process.[9] SDCP believes it would be best to have the Energy Division mediate and resolve billing and discount calculation disagreements, and that the advice letter process provides the proper forum for resolving these disagreements. However, it is unclear under the Draft Resolution whether the "Annual Budget" advice letter is the only advice letter that could be used as the forum for addressing a billing and discount calculation disagreement. Therefore, SDCP requests that the Draft Resolution be clarified to acknowledge that SDCP may utilize any advice letter as the means by which disagreements over billing issues may be mediated and addressed by the Energy Division. For example, the "supplemental compliance Advice Letter" ordered in the Draft Resolution may provide a convenient and timely forum to address any remaining disagreement, should SDCP and SDG&E fail to come to an agreement through informal discussions.[10]

Therefore, SDCP recommends that the following clarification be incorporated in the Final Resolution:

> We clarify here that if there is any disagreement over issues such as costs, billing, data sharing, or application of the 20% discount between IOUs and participating CCAs, the CCA may utilize the ~~**Annual Budget**~~ Advice Letter process or request that the issue be discussed during a Billing Working Group meeting, facilitated by Energy Division staff.

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[7] Draft Resolution at 11.

[8] *See* Draft Resolution at 11.

[9] *Id*.

[10] *See* Draft Resolution at 13-14; Ordering Paragraph 1.

SDCP appreciates the Commission's consideration of these matters and further thanks the Commission for the opportunity to submit these comments.

Respectfully,

/s/ *Brittany Iles*

Brittany Iles
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On behalf of San Diego Community Power

Copy (via e-mail): Joshua Litwin, Regulatory Analyst, Energy Division
Tory Francisco, Supervisor, Energy Division
Service Lists: R.14-07-002, A.16-07-015, A.22-05-022

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Appeal of San Diego Community Power from Citation No. E-4195-0107 issued October 4, 2021, by Consumer Protection and Enforcement Division	K. 21-11-001

[PUBLIC] COMMENTS OF SAN DIEGO COMMUNITY POWER
ON DRAFT RESOLUTION ALJ-432

Ty Tosdal
Tosdal, APC
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San Diego, CA 92101
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E-mail: ty@tosdalapc.com

February 21, 2023

Attorney for San Diego Community Power

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Appeal of San Diego Community Power from Citation No. E-4195-0107 issued October 4, 2021, by Consumer Protection and Enforcement Division	K. 21-11-001

**COMMENTS OF SAN DIEGO COMMUNITY POWER
ON DRAFT RESOLUTION ALJ-432**

I. INTRODUCTION

San Diego Community Power ("SDCP") files these comments on Draft Resolution ALJ-432 ("Draft Resolution"), resolving SDCP's appeal from Citation No. E-4195-0107, issued by the California Public Utilities Commission's ("Commission's") Consumer Protection and Enforcement Division ("CPED") on October 4, 2021, for a deficiency in SDCP's September 2021 Month Ahead ("MA") System Resource Adequacy ("RA") requirements. Draft Resolution ALJ-432 denies SDCP's appeal and cites and fines SDCP for failing to procure its September 2021 MA RA obligation. Draft Resolution ALJ-432 incorrectly concludes that SDCP "deliberately" violated its requirements, a conclusion that is not supported by the record, and SDCP requests that the Commission correct this factual error by eliminating references to "deliberate" violations as proposed in Attachment A: Draft Resolution ALJ-432 Redline. Furthermore, in its analysis of the five-factor test adopted in D. 98-12-075, Draft Resolution ALJ-432 fails to acknowledge and give weight to the scarcity of available RA resources in the market during the compliance period. Finally, the Draft Resolution ignores a legal question that has arisen repeatedly in this case and similar types of cases: Does the Commission's broad alternative dispute resolution policy contained in Resolution ALJ-185 apply to enforcement proceedings? This case puts that question squarely before the Commission.

II. THE COMMISSION INCORRECTLY DETERMINED THAT SDCP DELIBERATELY FAILED TO PROCURE SUFFICIENT RA CAPACITY TO MEET ITS OBLIGATIONS

SDCP went beyond reasonable efforts to meet its RA obligations and undertook a robust and sustained procurement effort to secure RA resources and meet its requirements.[1] The program was willing to pay market prices well in excess of the penalty price of $8.88/kW-month, but SDCP could not meet its full obligation even after many procurement attempts.[2] In addition, SDCP reasonably believed it would be in compliance because SDCP was in contract negotiations with the Bonneville Power Administration ("BPA") for [redacted][3] This deal alone would have cured SDCP's [redacted] MW deficiency, but BPA was forced to withdraw at the last minute due to unexpected dry conditions that made hydro generation impossible. Despite SDCP's good faith efforts, SDCP could not procure enough RA to make up for this deal that fell through due to conditions outside SDCP's control.

Further, the Commission erred in relying on the fact that SDCP did not participate in Southern California Edison Company's ("SCE") request for offer ("RFO")

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[1] See SDCP Opening Brief at 8-15

[2] See SDCP Opening Brief at 8-15.

[3] SDCP Opening Brief at 24-26.

solicitation.[4] SDCP reasonably anticipated that a large portion, if not all, of its RA requirements would be met via SDG&E's solicitation that was taking place at that same time.[5] SDCP's customers were departing from SDG&E and SDG&E's RA obligations were to be reduced by an amount equal to SDCP's obligations.[6] Accordingly, SDCP's participation in SCE's solicitation would have resulted in either a) withdrawal from a transaction with SCE after being awarded in its solicitation, which SCE's solicitation protocol prohibits, or b) unreasonable and unnecessary costs, and potentially double procurement, which would harm SDCP's customers and further shorten an already insufficient RA market.[7] SDCP reasonably believed it was acting within the best interests of its customers, and therefore the Commission should use this fact only as evidence that SDCP did not take an unreasonable effort to procure RA from SCE when it logically made sense to procure that resource from SDG&E.

Despite the evidence presented on the record in this appeal, Draft Resolution ALJ-432 ignores SDCP's extensive efforts to comply with its RA obligations and falsely concludes that SDCP "deliberately" failed to comply.[8] The Commission should

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[4] Draft Resolution ALJ-432 at 4.
[5] Exhibit SDCP_02, Reply Testimony of Byron Vosburg, May 20, 2022, at 3, L: 16-18.
[6] Exhibit SDCP_02, Reply Testimony of Byron Vosburg, May 20, 2022, at 3, L: 13-16.
[7] Exhibit SDCP_02, Reply Testimony of Byron Vosburg, May 20, 2022, at 3, L: 18-21.
[8] Draft Resolution ALJ-432 at 7, 9, 10.

reevaluate this issue and amend Draft Resolution ALJ-432 to remove any reference to SDCP's "deliberate" violation.

III. DRAFT RESOLUTION ALJ-432 FAILS TO ACKNOWLEDGE THE SCARCITY OF RA RESOURCES AND ERRONEOUSLY APPLIES THE FIVE-FACTOR TEST ADOPTED IN D. 98-12-075

In Draft Resolution ALJ-432, the Commission fails to acknowledge and give weight to the scarcity of available RA resources in the market during the compliance period and applies the five-factor test adopted in D. 98-12-075 in error. Draft Resolution ALJ-432 is superficial at best when dismissing SDCP's argument that it relied to its detriment on a contract with BPA that was cancelled near the compliance deadline, with a broad general statement: "A bilateral contract dispute between two private parties has no bearing on the Commission's enforcement of an LSE's RA obligations."[9] In fact, the record shows there was no contract dispute, and instead the contract was canceled because of resource scarcity. According to BPA, the reason for the cancellation was "a decrease in projected hydrolecric generation output of the Federal Columbia River Power System …" caused by deteriorating water supply conditions.[10] The Commission's discussion mischaracterizes the facts and draws the incorrect conclusion as a result.

Specifically with respect to the fifth factor, totality of the circumstances, the Commission not only fails to adequately consider market conditions, but in doing so, it

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[9] Resolution ALJ-432 at 12.

[10] SDCP Opening Brief at 13 (quoting Ex. SDCP-09 *June 4, 2021 Letter from Suzanne Cooper to SDCP*).

confuses the analysis under the five-factor test with prior analysis of whether SDCP had demonstrated it was impossible to procure the necessary resources.[11] These are different analyses, and they should not be comingled or mistaken for one another. The Commission's analysis of the fifth factor also contains a policy discussion regarding whether the current penalty structure is adequate to provide proper incentives to LSEs, an issue that is wholly irrelevant to application of the five-factor test.[12]

At a minimum, SDCP urges the Commission to revisit its consideration of market conditions in Draft Resolution ALJ-432 and acknowledge that scarce resources were a factor in totality of the circumstances. In addition, SDCP requests that the Commission revise its application of the fifth factor to eliminate factual errors and irrelevant analysis.

IV. DRAFT RESOLUTION ALJ-432 FAILS TO ADDRESS THE COMMISSION'S POLICY AGAINST SETTLEMENT IN ENFORCEMENT ACTIONS

The Commission endorsed wide application of alternative dispute resolution ("ADR") when it adopted Resolution ALJ-185, stating that "[w]e envision that ADR may be used in all types of proceedings before the Commission."[13] When SDCP stated that it was interested in ADR in this appeal, CPED stated that it was not interested because it "does not have the authority to issue citations that deviate from the Scheduled Penalties

[11] Resolution ALJ-432 (compare discussion in Section 2 with discussion in Section 3.5).
[12] Resolution ALJ-432 at 12.
[13] SDCP Opening Brief at 29; Resolution ALJ-185 at 5-6.

for Specified Violations . . . ."[14] CPED's policy against settlement in enforcement actions conflicts with the broad policy in favor of ADR adopted in Resolution ALJ-185. This policy against settlement deprives the parties and the Commission of benefits of ADR that have already been recognized, including producing results that better serve the parties' interest and the public, and conserving Commission resources for more important priorities.[15] SDCP seeks Commission clarification as to whether CPED is authorized to pursue settlement agreements in enforcement actions. If not, the Commission should revisit the policy in light of ALJ-185 as settlement should be available in at least some circumstances in these actions.

V. CONCLUSION

SDCP has offered extensive evidence into the record of this appeal showing that it took every reasonable effort to comply with its September 2021 RA obligations. The Commission should revise Draft Resolution ALJ-432 to reflect these efforts, and remove any reference that SDCP "deliberately" failed to meet its obligation as reflected in Attachment A: Draft Resolution ALJ-432 Redline. Specifically, the Commission should revisit its consideration of market conditions and acknowledge that scarce resources were a factor in totality of the circumstances. Finally, SDCP requests that the Commission clarify the law and state whether settlements are available in enforcement actions or not.

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[14] SDCP Opening Brief at 30; CPED Response Pursuant to Administrative Law Judge's November 29, 2021 Email Ruling, K. 21-11-001 (December 30, 2021) at 3.

[15] Resolution ALJ-185 at 2.

Respectfully submitted,

/s/ Ty Tosdal

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February 21, 2023

Attorney for San Diego Community Power

ATTACHMENT A:
DRAFT RESOLUTION ALJ-432 REDLINE

STATE OF CALIFORNIA GAVIN NEWSOM., *Governor*

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

January 30, 2023 **Agenda ID #21314**

TO PARTIES OF RECORD IN DRAFT RESOLUTION ALJ-432:

This is the draft Resolution of Administrative Law Debbie Chiv Resolving K.21-11-001. It will not appear on the Commission's agenda sooner than 30 days from the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft resolution, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own order. Only when the Commission acts does the resolution become binding on the parties.

You may serve comments on the draft resolution. Comments shall be served (but not filed) within 20 days of the date that the draft Resolution was mailed and published on the Commission's website [link], as provided in Rule 14.5 of the Commission's Rules of Practice and Procedure. Comments shall be served upon all persons on this proceeding's service list and on ALJ Chiv at DBB@cpuc.ca.gov.

/s/ MICHELLE COOKE
Michelle Cooke
Acting Chief Administrative Law Judge

MLC:sgu

Attachment

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-432
Administrative Law Judge Division
[Date]

RESOLUTION

RESOLUTION ALJ-432. Resolves the Appeal K.21-11-001 of Citation E-4195-0107 by San Diego Community Power.

SUMMARY

This resolution resolves San Diego Community Power's (SDCP or Appellant) appeal of Citation No. E-4195-0107 by the California Public Utilities Commission's Consumer Protection and Enforcement Division. Citation E-4195-0107 cites and fines SDCP for failing to procure its September 2021 month-ahead system Resource Adequacy obligation. This Resolution denies the appeal, and this proceeding is closed.

BACKGROUND

On July 15, 2021, San Diego Community Power (SDCP or Appellant) filed its September 2021 month-ahead system Resource Adequacy (RA) compliance filing.[1] On July 26, 2021, the California Public Utilities Commission's (Commission) Energy Division sent SDCP a deficiency notice, indicating a need to procure additional megawatts of system RA and provided a deadline of August 2, 2021 to come into compliance. On August 3, 2021, Energy Division confirmed that SDCP had not cured its September 2021 month-ahead system RA deficiencies.

On October 4, 2021, the Commission's Consumer Protection and Enforcement Division (CPED) issued Citation E-4195-0107 to SDCP. A penalty of $581,817.60 was assessed in accordance with the schedule of penalties in Resolution E-4195, as modified. On November 3, 2021, SDCP filed a notice of appeal of Citation E-4195-0107.

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[1] We note that while CPED and SDCP submitted filings that redacted the deficiency month and RA type for this citation appeal, SDCP's November 3, 2021 Notice of Appeal disclosed this information.

On November 17, 2021, CPED filed its Compliance Filing pursuant to Resolution ALJ-377. On December 30, 2021, CPED and SDCP filed a Response to the Administrative Law Judge's (ALJ) ruling requesting responses. On January 10, 2022, the ALJ issued a ruling setting the proceeding schedule. Prepared testimony was served by parties on April 26, 2022, and reply testimony was served on May 20, 2022.

On June 17, 2022, CPED and SDCP filed a Joint Submission pursuant to the ALJ's ruling requesting information. In the Joint Submission, CPED and SDCP stated that while there are disputed facts, any additional evidence elicited at a hearing is unlikely to be probative or materially important in resolving the appeal. CPED and SDCP therefore agreed to waive cross-examination and that there was no need for a hearing.

Opening briefs were submitted on September 19, 2022, and reply briefs were submitted on October 11, 2022. On December 9, 2022, the ALJ granted parties' joint motion to admit evidence based on parties' stipulation.

STANDARD OF REVIEW

1. Applicable Rules and Decisions on RA Enforcement and Citation Appeals

Public Utilities (Pub. Util.) Code § 380 governs California's Resource Adequacy program. Section 380(e) addresses enforcement of the RA requirements and provides that:

> The commission shall implement and enforce the resource adequacy requirements established in accordance with this section in a nondiscriminatory manner. Each load-serving entity shall be subject to the same requirements for resource adequacy and the renewables portfolio standard program that are applicable to electrical corporations pursuant to this section, or otherwise required by law, or by order or decision of the commission. The commission shall exercise its enforcement powers to ensure compliance by all load-serving entities.

In Decision (D.) 05-10-042, the Commission adopted a penalty regime for load-serving entities (LSEs) that fail to procure sufficient system RA capacity.[2] Resolution E-4017 established a citation program to enforce the Commission's RA program requirements and included a schedule of penalties. Resolution E-4195, adopted on November 6, 2008, superseded and replaced Resolution E-4017 in its entirety, and updated the schedule of penalties for violations of the RA requirements. Resolution E-4195 has been modified by several decisions, including D.10-06-036, D.11-06-022, D.14-06-050, and D.19-06-026.

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[2] D.05-10-042 at Conclusion of Law (COL) 21.

Resolution ALJ-377 established a standardized appeal process for citation appeals and applies here. Pursuant to Resolution ALJ-377, Commission staff has the burden to prove by a preponderance of evidence the case supporting issuance of a citation. If that initial burden is met, the burden shifts to the appellant "to demonstrate that a violation did not occur and the citation should not issue or that the amount of the penalty is inappropriate."[3]

Lastly, in D.98-12-075, the Commission identified five factors to consider in determining the appropriate level of a fine: (1) the severity of the offense, (2) the entity's conduct, (3) the entity's financial resources, (4) the role of precedent, and (5) the totality of the circumstances in the public interest.[4] The five-factor test is applicable in reviewing this citation appeal.

DISCUSSION

1. The Citation Correctly Identified and Calculated Appellant's September 2021 Month-Ahead System RA Deficiencies

The parties agree that the citation correctly identified Appellant's September 2021 month-ahead system RA deficiencies and that the citation correctly applied the RA penalty schedule to those deficiencies when calculating the penalty amount.[5] As such, CPED has met its burden to demonstrate that Appellant's September 2021 month-ahead system RA procurement was deficient by the amount shown on the citation and that the penalty amount was correctly calculated based on the established penalty schedule.

Under Resolution ALJ-377, once Commission staff has met its initial burden, the burden shifts to Appellant to demonstrate that a violation did not occur and the citation should not issue, or that the amount of the penalty is inappropriate. Appellant also has the burden to prove any affirmative defenses.

2. Appellant Failed to Meet its Burden to Prove that It Was "Impossible" to Procure RA Resources

SDCP asserts an affirmative defense that it was "impossible" for it to obtain the necessary RA resources. Specifically, SDCP alleges that "the lack of available resources made it impossible" for SDCP to meets its September 2021 system RA obligations and

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3 ALJ-377, Appendix A.

4 *See* D.98-12-075, 1998 Cal. PUC LEXIS 1018, at 52-59.

5 SDCP Response to ALJ's E-mail Ruling, December 30, 2021, at 2; CPED Response to ALJ's E-mail Ruling, December 30, 2021, at 1.

that "it was impossible for SDCP to procure the necessary resources at any price."[6] For the reasons discussed below, we find that SDCP failed to meet its burden to prove an impossibility defense.

First, September 2021 system RA resources were available for procurement in 2020 through investor-owned utilities' (IOU) requests for offer (RFO) solicitations; however, SDCP opted not to participate in all IOU solicitations. San Diego Gas & Electric Company (SDG&E) issued a solicitation on June 15, 2020 and Southern California Edison Company (SCE) issued a solicitation on September 17, 2020, both of which included September 2021 RA resources.[7] Yet, SDCP only bid into SDG&E's solicitation.[8] SDCP argues that it chose not to participate in SCE's solicitation because it was waiting for SDG&E to respond to its pending bids and that if SDCP bid into SCE's solicitation and was selected, this "could have resulted in double procurement…."[9]

We are not persuaded by SDCP's argument. SDCP provides no evidence that its offer in SDG&E's solicitation was binding or could not have been withdrawn, if selected by SDG&E. Rather, if SDCP was notified of a "shortlist" selection by SDG&E, SDCP could have withdrawn a selected offer in SCE's solicitation. By voluntarily choosing not to participate in SCE's solicitation for available RA resources, SDCP fails to demonstrate that it was "impossible" to procure September 2021 system resources.

Second, when SDCP participated in SDG&E's 2021 RFO solicitations, SDCP submitted bids that were far below what it knew, or should have known, was necessary to procure RA resources, which resulted in rejected offers.[10] Prior to bidding into SDG&E's solicitations, SDCP received several RA "market updates" that included current bidding/trading prices for September 2021 system RA. After receiving a "market update" on March 30, 2021,[11] however, SDCP submitted an offer in SDG&E's April 13, 2021 solicitation that was well below the "market update" bidding price for

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6 SDCP Opening Brief, September 19, 2022, at 17, 19.

7 CPED Opening Brief, September 19, 2022, at 5 (citing Exhibit CPED-2C, Prepared Testimony of Stephanie Wu at 3-4, Attachment 4 (April 13, 2021 SDCP Response to March 16, 2021 CPED data request DR-ELE-00174-1, Declaration of John Dalessi at Paragraph 18)). We note that Pacific Gas and Electric Company held RFO solicitations in 2019 for September 2021 system RA. However, SDCP did not submit its implementation plan and statement of intent to serve customers to the Commission until December 2019. *See* Exhibit SDCP_02, Reply Testimony of Byron Vosburg, May 20, 2022, at 2.

8 *Id*.

9 Exhibit SDCP_02, Reply Testimony of B. Vosburg, at 3.

10 CPED Opening Brief at 6 (citing Exhibit CPED-2C, Testimony of S. Wu, at 8).

11 *See* Exhibit CPED-2C, Testimony of S. Wu, Attachment 12 (March 30, 2021, E-mail Exchange between SDCP and Tullett Prebon).

September 2021 system RA.[12] SDG&E rejected SDCP's bid days later.[13] Similarly, after receiving multiple "market updates" on May 4, June 7, June 9, and June 15, 2021 with current bidding/trading prices,[14] SDCP submitted an offer in SDG&E's June 25, 2021 solicitation that fell well below each of the "market update" bidding prices for September 2021 system RA.[15] SDG&E rejected SDCP's bid three days later.[16]

SDCP's pattern of bidding below the "market update" bidding price continued with several other 2021 solicitations offering September 2021 RA products: three solicitations from Electricite de France in June and July 2021 and The Energy Authority's (TEA) July 8, 2021 solicitation.[17] SDCP's offers in all of these solicitations were rejected.[18] In numerous solicitations in 2021, SDCP repeatedly bid below the known bidding price for September 2021 system RA and SDCP's offers were repeatedly rejected. Based on this evidence, SDCP fails to demonstrate that it was "impossible" to procure September 2021 system resources. SDCP merely demonstrates that it was not possible to procure system RA resources at the below-market price that SDCP was willing to pay.

Third, despite SDCP's claims that system RA prices were not excessive, SDCP rejected available RA resources that it deemed were too expensive. In SDCP's Notice of Appeal, SDCP attests that it "is not claiming that the cost of System RA was excessive, or that the program was financially constrained in its procurement efforts."[19] Yet, in SDCP's testimony, Byron Vosburg testifies that a "major contributing factor" of SDCP's inability to meet its RA obligations was due to a "lack of incentives for LSEs, generators, and marketers to timely sell excess RA at reasonable prices."[20] SDCP's assessment that RA prices were not "reasonable" is confirmed in an October 28, 2020 email between SDCP's broker, Pacific Energy Advisors, Inc., and a third-party broker, Tullett Prebon, in which Tullett Prebon informs that September 2021 system RA is available at a specific starting

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[12] Exhibit SDCP_01, Prepared Testimony of B. Vosburg, April 26, 2022, at 13.

[13] *Id*.

[14] Exhibit CPED-2C, Testimony of S. Wu, Attachment 14 (May 4, 2021 E-mail Exchange between SDCP and Tullett Prebon), Attachment 15 (June 7, 2021 E-mail Exchange between SDCP and Equus Energy Group), Attachment 16 (June 9, 2021 E-mail Exchange between SDCP and Tullett Prebon), Attachment 17 (June 15, 2021 E-mail Exchange between SDCP and Tullett Prebon).

[15] Exhibit SDCP_01, Testimony of B. Vosburg, at 14.

[16] *Id*.

[17] *Id*. at 16-17.

[18] *Id*.

[19] Notice of Appeal of SDCP from Citation No. E-4195-0107, at 14.

[20] Exhibit SDCP_01, Testimony of B. Vosburg, at 10.

price.[21] John Dalessi of Pacific Energy Advisors rejects the RA product outright, indicating that the price is unreasonable.[22]

By declining available September 2021 RA products that SDCP considered too expensive, SDCP fails to demonstrate that it was "impossible" to procure September 2021 system RA resources. Rather, SDCP merely shows that it was not possible to procure system RA resources at what SDCP deemed to be "reasonable prices."

The evidence clearly demonstrates that September 2021 system RA products were available to SDCP for procurement. However, SDCP failed to participate in SCE's RFO solicitation for available resources, consistently bid into solicitations at well below the known bid prices, and declined available RA resources that it deemed were too expensive. SDCP has therefore failed to meet its burden to prove that it was "impossible" to procure September 2021 system RA resources to meet its obligations.

3. Application of the Five-Factor Test Warrants Affirming the Citation and the Penalty

We next consider whether SDCP has otherwise satisfied its burden to demonstrate that the citation should not issue or that the amount of the penalty is inappropriate.

In D.98-12-075, the Commission identified five factors to consider in assessing the appropriate level of a fine: (1) the severity of the offense, (2) the entity's conduct, (3) the entity's financial resources, (4) the role of precedent, and (5) the totality of the circumstances in the public interest. We address each factor in turn.

3.1. Severity of the Offense

In D.98-12-075, the Commission stated that this factor includes several considerations:

> Economic harm reflects the amount of expense which was imposed upon the victims, as well as any unlawful benefits gained by the public utility. Generally, the greater of these two amounts will be used in establishing the fine. In comparison, violations which caused actual physical harm to people or property are generally considered the most severe, with violations that threatened such harm closely following.[23]

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[21] Exhibit CPED-2C, Testimony of S. Wu, at 5 (citing Attachment 9, October 21-28, 2020, E-mail Exchange between SDCP and Tullett Prebon).

[22] *Id*.

[23] D.98-12-075 at 54.

The Commission further observed:

> Many potential penalty cases before the Commission do not involve any harm to consumers but are instead violations of reporting or compliance requirements. In these cases, the harm may not be to consumers but rather to the integrity of the regulatory processes. For example, compliance with Commission directives is required of all California public utilities: [citing Pub. Util. Code Section 702].[24]

The Commission noted that "[s]uch compliance is absolutely necessary to the proper functioning of the regulatory process. For this reason, disregarding a statutory or Commission directive, regardless of the effects on the public, will be accorded a high level of severity."[25]

Based on the evidence, we find that SDCP ~~deliberately~~ failed to procure sufficient system RA capacity to meet the Commission's RA requirements. SDCP does not argue that it inadvertently failed to procure sufficient RA capacity.

As we stated in Resolution ALJ-424, "the RA program was established in the wake of the 2000 Western energy crisis and was designed to ensure that LSEs secure sufficient electrical capacity to maintain grid reliability."[26] SDCP's ~~deliberate~~ failure to procure sufficient RA capacity, as required of an LSE participating in the RA program, threatened the reliability of the electrical grid. As the Commission has previously held, "the deliberate failure to meet RA requirements is accorded a high level of severity."[27]

Moreover, SDCP's ~~deliberate~~ violations harmed the integrity of the Commission's regulatory processes. In establishing the RA penalty program, the Commission underscored the importance of holding LSEs that participate in the RA program accountable for non-compliance: "A regulatory program that imposes significant procurement obligations upon LSEs cannot be expected to succeed unless those LSEs have reason to believe there are consequences for noncompliance that outweigh the

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[24] *Id*. at 55.

[25] *Id*.

[26] Resolution ALJ-424, *Resolves the Appeal K.21-08-001 of Citation E-4195-100 by Commercial Energy*, at 8.

[27] *Id*. *See also* Resolution ALJ-406, *Resolves K.20-04-005, the Appeal of City of San Jose, an administrator of San Jose Clean Energy,* at 5.

costs of compliance."[28] Thus, we find that disregarding a Commission directive is accorded a high level of severity.[29]

SDCP argues that because its deficiency was "small relative to its overall requirement," the violation should be treated as a "minor" offense.[30] However, the RA penalty structure, as SDCP acknowledges, applies a volumetric formula based on the amount of the deficiency to determine the penalty amount.[31] Therefore, the formula already accounts for a "small" deficiency and applies a corresponding penalty.

3.2. The Entity's Conduct

As stated in D.98-12-075, this factor "recognizes the important role of the public utility's conduct in (1) preventing the violation, (2) detecting the violation, and (3) disclosing and rectifying the violation."[32] In considering a utility's actions to prevent a violation, the Commission states that "[p]rudent practice requires that all public utilities take reasonable steps to ensure compliance with Commission directives" and that the Commission "will consider the utility's past record of compliance with Commission directives."[33] In considering a utility's actions to detect a violation, the Commission states that "[d]eliberate, as opposed to inadvertent wrong-doing, will be considered an aggravating factor."[34]

SDCP argues that its deficiencies were "not a result of SDCP's conduct" but due to lack of availability of system RA and a last-minute contract cancellation.[35] The Commission disagrees. As discussed in Section 2, SDCP failed to demonstrate that RA resources were not available for procurement during the relevant time period. Rather, the evidence shows that SDCP chose not to participate in certain available procurement opportunities, such as bidding in SCE's solicitation, and that SDCP repeatedly submitted offers that were well below known market bid prices, resulting in rejected bids. As such, we find that SDCP did not take all reasonable steps to ensure compliance with Commission directives.

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[28] D.05-10-042 at 93.

[29] *See* D.98-12-075 at 56; Resolution ALJ-406 at 5; Resolution ALJ-424 at 8.

[30] SDCP Opening Brief at 18.

[31] *Id*.

[32] D.98-12-075 at 56.

[33] *Id*.

[34] *Id*. at 57.

[35] SDCP Opening Brief at 7.

The Commission has previously determined that where appellant's "failure to meet its regulatory requirements was deliberate, as opposed to inadvertent," this is considered an aggravating factor.[36] ~~As such, SDCP's deliberate failure to meet its RA obligations is an aggravating factor.~~

Under this factor, we consider a utility's "past record of compliance with Commission directives."[37] SDCP acknowledges that in addition to the instant citation, it received a citation from CPED for deficiencies for its 2021 year-ahead RA obligations.[38] CPED contends that this reflects a "pattern" of "deliberately falling short of its compliance obligations and then blaming market conditions."[39] SDCP disputes CPED's contention and asserts that the same market conditions prevented SDCP from meeting its year-ahead and month-ahead obligations for the same time period.[40]

We note that year-ahead and month-ahead RA obligations are distinct requirements and penalties for year-ahead and month-ahead violations are assessed separately. SDCP's year-ahead RA filing required only 90 percent of its RA obligation and was due on October 31, 2020. By contrast, SDCP's month-ahead RA filing required 100 percent of its RA obligation and was due on July 15, 2021 (over eight months later). Although SDCP received citations for both its year-ahead and month-ahead RA filings, SDCP's year-ahead RA citation does not inform this factor this time, as it is currently pending on appeal.

We observe, however, that since the issuance of the instant citation, SDCP received another citation in the RA program on April 8, 2022 from CPED.[41] However, CPED did not submit any information about this citation and as such, that citation does not inform this factor.

3.3. Financial Resources

Under this factor, D.98-12-075 states that "[e]ffective deterrence also requires that the Commission recognize the financial resources of the public utility in setting a fine which balances the need for deterrence with the constitutional limitations on excessive

36 Resolution ALJ-424 at 8; Resolution ALJ-406 at 5.

37 *See* D.98-12-075 at 56.

38 SDCP Opening Brief at 9.

39 CPED Opening Brief at 12.

40 SDCP Reply Brief, October 11, 2022, at 8.

41 Commission's Recent Citations Issued via Energy Division Citation Programs, available at: UEB Citations-Fines-Restitutions -- Active.xlsx (ca.gov)

fines."[42] The Commission "intends to adjust fine levels to achieve the objective of deterrence, without becoming excessive, based on each utility's financial resources."[43]

SDCP argues that it "did not willfully decline to purchase system RA because it lacked financial resources."[44] CPED counters that this factor considers the financial resources of the LSE in relation to its ability to pay the fine, not the LSE's financial ability to procure RA.[45] We agree with CPED that whether an LSE had the financial resources to purchase RA does not inform our consideration of this factor. Rather, D.98-12-075 states that this factor considers "the financial resources of the public utility in setting a fine."

As SDCP does not argue that it lacks the financial resources to pay the penalty, this factor is neither a mitigating nor aggravating factor in our analysis.

3.4. Role of Precedent

D.98-12-075 provides that: "In future decisions which impose sanctions, the parties and, in turn the Commission will be expected to explicitly address those previously issued decisions which involve the most reasonably comparable factual circumstances and explain any substantial differences in outcome."[46]

SDCP states that prior Commission decisions are not relevant because the schedule of penalties is based on the amount of deficiency.[47] The Commission disagrees. In several recent Commission resolutions addressing RA citation appeals, the Commission determined that: (1) the appellant deliberately failed to procure sufficient RA capacity to meet its obligations, and (2) upheld the citation and penalty based on the penalty schedule tied to the size of the deficiency.[48] SDCP has provided no Commission precedent that adjusted an RA citation penalty downward or upward, or otherwise deviated from the RA penalty schedule.

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42 *See* D.98-12-075 at 56.

43 *Id*.

44 SDCP Opening Brief at 21.

45 CPED Opening Brief at 12.

46 D.98-12-075 at 60.

47 SDCP Opening Brief at 21.

48 *See* Resolution ALJ-424; Resolution ALJ-406; Resolution ALJ-356, *Resolving Citation Appeal K.18-05-018 and affirming the penalty assessed against Pilot Power Group, Inc.*; Resolution ALJ-298, *Affirming the Penalty Assessed Against 3 Phase Renewables*; Resolution ALJ-382, *Resolves the Appeal K.19-03-024 of Citation E-4195-0052 by San Jose Clean Energy.*

In addition, several Commission resolutions have made clear that market conditions do not excuse non-compliance with the RA requirements. SDCP's argument that it was unable to procure RA resources because resources could not be found in the market has been repeatedly denied by the Commission as a basis for mitigating or excusing an LSE's failure to comply with its RA requirements.[49] In Resolution ALJ-406, which affirmed San Jose Clean Energy's citation for RA deficiencies, the Commission stated:

> [N]one of these [cited] decisions endorse the principle that commercial impracticability due to market conditions alone excuses compliance with RA requirements. Rather, the decisions uniformly emphasize that, while the Commission will act to protect ratepayers from the failure of the market due to market power, tight market conditions alone are not reason to excuse compliance with RA compliance.[50]

Similarly, in Resolution ALJ-424, affirming Commercial Energy's citation for RA deficiencies, the Commission stated that "LSEs are not excused from providing service due to market conditions."[51] We stated that the "the cost of operating as an LSE as required by law is not a mitigating factor for failure to meet those [RA] requirements. Pub. Util. Code § 380(c) and the RA program require that, in order to operate as an LSE, the entity must meet its procurement obligations."[52] Further, in Resolution ALJ-298, affirming 3 Phase Renewables' citation for RA deficiencies, the Commission held that "[f]ines under Resolution E-4195 need not take market conditions into account."[53]

Based on the Commission precedent addressing RA citation appeals, this factor favors affirming the citation penalty based on the penalty schedule tied to the size of the deficiency.

3.5. Totality of the Circumstances

D.98-12-075 provides that:

> Setting a fine at a level which effectively deters further unlawful conduct by the subject utility and others requires that the Commission specifically tailor the package of sanctions, including

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[49] SDCP Opening Brief at 17.

[50] Resolution ALJ-406 at 3.

[51] Resolution ALJ-424 at 16 (quoting Resolution ALJ-382 at 5).

[52] *Id*.

[53] Resolution ALJ-298 at COL 3.

> any fine, to the unique facts of the case. The Commission will review facts which tend to mitigate the degree of wrongdoing as well as any facts which exacerbate the wrongdoing. In all cases, the harm will be evaluated from the perspective of the public interest.[54]

SDCP claims that "no penalty amount could effectively deter noncompliance since it was impossible for SDCP to procure the necessary resources at any price."[55] However, as discussed in Section 2, SDCP failed to satisfy its burden to prove that it was impossible to procure the necessary RA resources at any price. Despite the prospect of the penalty amount, SDCP was not incentivized to attempt to procure available RA resources and to bid into third-party solicitations at market-competitive prices. If anything, SDCP's actions suggest that the RA penalty amounts are not sufficiently high to incentivize an LSE to comply with the RA requirements.

SDCP also argues that the penalty should be eliminated because SDCP detrimentally relied on a contract with Bonneville Power Administration (BPA) that was cancelled at the last minute by BPA due to a lack of water resources.[56] SDCP cites to the doctrine of promissory estoppel to ostensibly argue that it would be unjust for the Commission to penalize SDCP for the failure of BPA to fulfill its contractual obligations.[57] CPED responds that a promissory estoppel argument would be appropriate if SDCP was bringing an action against BPA. SDCP's argument is without merit. A bilateral contract dispute between two private parties has no bearing on the Commission's enforcement of an LSE's RA obligations.

SDCP further argues that the penalty should be reduced because in D.19-11-016, the Commission stated that a modified cost allocation mechanism (MCAM) would be developed through a workshop process.[58] SDCP argues that the MCAM was not adopted for new departing load until D.22-05-015, and that if it had been adopted earlier, SDCP estimates that it would have been able to procure additional capacity.

This argument is without merit. SDCP failed to meet its RA requirements on July 15, 2021, and D.22-05-015 was issued ten months later on May 23, 2022. Each LSE participating in the RA program is required to comply with its RA obligations, pursuant to Pub. Util. Code § 380. SDCP's failure to meet its RA obligations is not excused or mitigated simply because SDCP believes the Commission should have taken an action one year prior.

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54 D.98-12-075 at 59.

55 SDCP Opening Brief at 21.

56 *Id*. at 24.

57 *Id*.

58 *Id*. at 26.

Based on the totality of the circumstances, including the previous four factors, we find no mitigating factors and several aggravating factors. Despite the aggravating factors, the Commission finds that the established RA penalty schedule should apply to SDCP's deficiency amount. As such, SDCP's assessed citation shall not be excused and the penalty shall not be reduced.

CONCLUSION

Based on the five-factor test in D.98-12-075, SDCP failed to meet its burden to rebut CPED's demonstration that the violations occurred and SDCP failed to meet its burden of persuasion that the citation penalty should be reduced or excused. The citation appeal is hereby denied.

COMMENTS

Pub. Util. Code § 311(g)(1) requires that a draft resolution be served on all parties and be subject to a public review and comment period of 30 days or more, prior to a vote of the Commission on the resolution. A draft of today's resolution was distributed for comment to the service list.

FINDINGS OF FACT

1. On October 4, 2021, CPED issued Citation E-4195-0107 to SDCP. A penalty of $581,817.60 was assessed in accordance with the schedule of penalties in Resolution E-4195, as modified.
2. On November 3, 2021, SDCP filed a Notice of Appeal of Citation E-4195-0107.
3. Citation E-4195-0107 correctly identifies SDCP's deficiencies in procurement of its September 2021 month-ahead system RA obligations.
4. Citation E-4195-0107 correctly calculates the penalties pursuant to the penalty schedule adopted in Resolution E-4195, as modified.

CONCLUSIONS OF LAW

1. SDCP has not met its burden of rebutting CPED's demonstration that the violation occurred and failed to meet its burden of persuasion that the citation penalty should be reduced or excused.
2. Based on review of the evidence and testimony, the citation and penalty amount were appropriately issued.
3. The citation should be affirmed.
4.

Therefore**, IT IS ORDERED** that:

1. Citation E-4195-0107 is affirmed.
2. San Diego Community Power shall pay a fine of $581,817.60 by check or money order payable to the California Public Utilities Commission and mailed or delivered to the Commission's Fiscal Office at 505 Van Ness Avenue, San Francisco, California 94102 within 30 days of the effective date of this resolution.
3. K.21-11-001 is closed.

This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on _______________, the following Commissioners voting favorably thereon:

____

Rachel Peterson
Executive Director

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RESOLUTION ALJ-432. Resolves the Appeal K.21-11-001 of Citation E-4195-0107 by San Diego Community Power.

INFORMATION REGARDING SERVICE

I have electronically served all persons on the attached official service list who have provided an e-mail address for K.21-11-001.

Upon confirmation of this document's acceptance for filing, I will cause a copy of the filed document to be served by U.S. mail on all parties listed in the "Party" category of the official service list for whom no e-mail address is provided.

Dated January 30, 2023, at San Francisco, California.

/s/ SHANE GUTTO

Shane Gutto

N O T I C E

Persons should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

* *

The Commission’s policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TDD# (415) 703-2032 five working days in advance of the event.

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SAN DIEGO COMMUNITY POWER
Staff Report – Item 6

To: San Diego Community Power Board of Directors

From: Byron Vosburg, Director of Power Services

Via: Karin Burns, Chief Executive Officer

Subject: Update on Power Resources

Date: March 23, 2022

RECOMMENDATION

Recommendation: Receive and file update on Power Resources

BACKGROUND

Staff provides the updates below to the Board of Directors regarding SDCP's power energy procurement activities.

ANALYSIS AND DISCUSSION

Vikings Energy Farm Ground-Breaking

Along with Arevon Energy, the lead project developer, SDCP broke ground on the Vikings Energy Farm in Imperial County on Thursday, February 23. While pandemic and supply chain delays have impacted this facility, SDCP and Arevon have creatively and strategically partnered to ensure that the facility remains viable and will be online to provide California with reliable, renewable capacity as soon as possible. The energy storage portion is expected to be online in spring of 2024, while the solar components should follow by fall.

Power Services Staffing

With the recent addition of Morgan Adam as a Senior Local Development Manager, the SDCP Power Services team is now 8 people strong – capping a period of significant growth from 2 as recently as August 2022. Building out a team of experienced, knowledgeable energy professionals has long been a top priority and will allow SDCP not only to solicit, negotiate, and administer contracts for energy supply more effectively, but also to monitor market activity, manage risk, bring in-house a number of activities that have historically been completed by consultants, and to dedicate additional resources to local and distributed energy procurement and development efforts. SDCP expects additional openings to be posted for roles, likely in the areas of load forecasting, risk management, and compliance, to be filled in Q2 2023 and FY 2023-2024.

Long-term Renewable Energy RFPs

As SDCP strives to meet its environmental, financial, and regulatory compliance goals and requirements, long-term power purchase agreements (PPAs) are becoming integral components of its energy supply portfolio. Long-term PPAs provide renewable generation facility developers with the certain revenue stream against which they can finance up-front capital requirements, so each long-term PPA that SDCP signs with a developing facility will underpin a new, incremental renewable energy project. In addition, long-term PPAs lock in renewable energy supply around which SDCP can build its power supply portfolio while also providing power supply cost certainty around which SDCP can develop its pro forma financial model. Moreover, the California Renewable Portfolio Standard (RPS), as modified in 2015 by Senate Bill 350, requires that SDCP provide 65% of its RPS-required renewable energy from contracts of at least ten years in length. Finally, in D.21-06-025, the California Public Utilities Commission (CPUC) required each Load Serving Entity (LSE) in California to make significant long-term purchase commitments for resource adequacy from new, incremental generation facilities that will achieve commercial operation during 2023 through 2026 for purposes of "Mid Term Reliability" (MTR). These requirements have been augmented and extended into 2026 and 2027 via D.23-02-040.

In pursuit of long-term contracts for renewable energy, staff have released two RFPs for eligible resources. Staff are deep in negotiations with several respondents for resource that are expected to be online between 2024 and 2026, while staff and consultants are also reviewing recently received proposals to be online in 2027 and 2028. Staff and the Energy Contracts Working Group (ECWG) evaluate all RFP submissions prior to entering negotiations with selected participants. Assuming that Staff and shortlisted developer(s) are able to agree to mutually agreeable contracts consistent with terms authorized by the ECWG, Staff then review draft agreements with the SDCP Board for approval and authorization to execute the relevant documents.

Long-term Energy Storage RFP

In addition to the two aforementioned Renewable Energy RFPs, staff are preparing to launch an RFP for stand-alone energy storage resources – with four-hour or eight-hour duration – in the coming weeks.

Local Development

SDCP continues to engage with local developers that have submitted project proposals and hopes to present handful of resulting PPAs to the Board in the coming months. With a Local Developer now on staff, SDCP expects to kick off a planning process over the coming months to outline potential opportunities and programs related to local renewable energy resource development and, with the Board's input and direction, to design a "local power plan," which will prioritize and guide these efforts.

Market Update

Due to lingering effects of the COVID-19 pandemic, namely inflation and heavily impacted commodity supply chains that have delayed development of new-build energy resources expected to be online over the last two years, the market for renewable energy and resource adequacy (RA) resources continues to be exceptionally tight and expensive. Staff are working with developers, industry groups, the CPUC, and CA Governor's Office and legislators to brainstorm near-term solutions while also actively procuring short-term energy and capacity products and long-term energy resources i) to meet SDCP's portfolio needs practically and cost-effectively and ii) to establish a portfolio of resources that will provide value to SDCP and California's clean, reliable energy needs into the future.

Volatility, which was largely prompted by unrest in Eastern Europe in 2022, in gas and power markets has continued, exacerbated recently in California by limited gas storage and a colder-than-average winter. Luckily, recent "atmospheric river" storms have provided a solid snowpack that should provide significant hydroelectric capacity deep into this summer, suppressing CA energy market prices in spring and summer of 2023.

COMMITTEE REVIEW
N/A

FISCAL IMPACT
N/A

ATTACHMENTS
N/A

SAN DIEGO COMMUNITY POWER
Staff Report – Item 7

To: San Diego Community Power Board of Directors

From: Chandra Pugh, Director of People

Via: Karin Burns, Chief Executive Officer

Subject: Update on Human Resources

Date: March 23, 2023

RECOMMENDATION

Receive and File the Update on Human Resources

BACKGROUND

Human Resources (HR) has been working on the following priorities:

JEDI Council: HR is in the process of formalizing an organizational JEDI council which will ensure staff participation in our Diversity Equity and Inclusion strategic goals. Creation of the council is an action item takeaway from our onsite training. It will place at the forefront our core values of Justice, Equity, Diversity, Inclusion, and Togetherness so that we are not only working externally towards these goals but also offering our team the opportunity to learn in a safe space with one another.

Event Planning Committee: Our goal is to ensure employees are represented in a process of scheduled team building and engagement activities which will allow for greater collaboration and promote workplace satisfaction and cultural cohesiveness.

Performance Management: This process is well underway. Employees received access to LinkedIn Learning to assist with performance review conversations and have submitted self-evaluations if eligible for review this cycle. Managers are in the process of finalizing their reviews and scheduling feedback conversations with their team members.

Compensation Policy: The goal of the policy is to standardize our processes related to job titling, salary adjustments, merit increases and COLA increases. The policy will provide transparent guidelines for our organization which we hope will in turn allow us to attract and retain employees. The compensation policy has been developed and reviewed by the executive team, directors, legal counsel, and staff and is being submitted for board approval today under a separate agenda item.

Hiring: this month we will onboard our new COO, a Sr. Marketing Manager in our Public Affairs department, as well as a Sr. Local Development Manager on our Power Services team. Additionally, we have a new HR Analyst starting this month and have also onboarded a new administrative assistant. We are currently interviewing for a Community Engagement Manager and two Sr. Policy Managers which we hope to bring on board next month.

DISCUSSION AND ANALYSIS
N/A

COMMITTEE REVIEW
N/A

FISCAL IMPACT
N/A

ATTACHMENTS:
N/A

SAN DIEGO COMMUNITY POWER
Staff Report – Item 8

To: San Diego Community Power Board of Directors

From: Ryan Baron, General Counsel
Nicholaus Norvell, Assistant General Counsel

Subject: Approval of Teleconferencing Policy

Date: March 23, 2023

RECOMMENDATION

Approve a Teleconferencing Policy for SDCP's legislative bodies, including the Board, Board committees, and Community Advisory Committee.

BACKGROUND

At the February 23, 2023 Board meeting, the Board received a report regarding recent updates to the Ralph M. Brown Act (Brown Act), including the authorization of a new teleconferencing option under AB 2449 (2022). As presented at the February meeting, AB 2449 teleconferencing can be used when a member of a legislative body has to attend a meeting remotely due to "emergency circumstances" or other "just cause," each of which are specifically defined in the Brown Act. Another longstanding teleconferencing option, known as the "Standard Brown Act Teleconferencing Rules" remain in place. Both AB 2449 teleconferencing and the Standard Brown Act Teleconferencing Rules are subject to various, differing limitations and procedures that are described in more detail in the February staff report.

After receiving an update on available teleconferencing options, the Board provided direction that members of SDCP's legislative bodies should be authorized to use any teleconferencing option available under the Brown Act, including AB 2449 teleconferencing or the Standard Brown Act Teleconferencing Rules.

Because use of teleconferencing under AB 2449 or the Standard Brown Act Teleconferencing Rules generally requires careful coordination and communication between SDCP and a member of a legislative body desiring to use teleconferencing (and because prior notice may be required by law), staff is recommending the adoption of a Teleconferencing Policy.

ANALYSIS AND DISCUSSION

The proposed Teleconferencing Policy is intended to generally authorize the use of teleconferencing under the options available in the Brown Act and to facilitate coordination between members of SDCP's legislative bodies and SDCP staff to ensure that the various legal requirements related to teleconferencing—which often have agenda language implications or practical or technological considerations—can be met.

The proposed Teleconferencing Policy would:

- Authorize members of SDCP legislative bodies, including the Board, Board committees, and the Community Advisory Committee, to attend meetings using teleconferencing, subject to the requirements of the Brown Act and the Policy.

- Require legislative body members to notify the Board Secretary or CAC staff liaison as soon as possible of their request to use teleconferencing to attend an upcoming meeting in order to ensure that the applicable Brown Act teleconferencing requirements can be met. The requirements may vary depending on the type of teleconferencing the legislative body member desires to use. For example:

    - The legislative body member may have reached the maximum number of times they are legally eligible to use AB 2449 teleconferencing for that year;

    - SDCP may be required to comply with certain time-sensitive agenda posting requirements to use the Standard Brown Act Teleconferencing Rules;

    - Due to a change in meeting location or other circumstances, SDCP may be unable to comply with requirements for remote public participation applicable to AB 2449 teleconferencing (although this is generally not expected to occur); or

    - Multiple other legislative body members may have already requested to participate via teleconference and a quorum may be required to participate in person.

- Provide that if a legislative body member's request is not timely provided to meet legal requirements, or SDCP is otherwise unable to ensure compliance with all applicable Brown Act requirements, the requesting legislative body member may be unable to participate in a meeting via teleconference.

- Provide that if a legislative body member is participating in a meeting using AB 2449 teleconferencing and SDCP staff has verified that the applicable Brown Act requirements can be met, the legislative body member (or SDCP staff on their behalf) will notify the chair and other members of the legislative body that the member intends to participate via teleconference and provide a general description of the circumstances relating to their need to appear remotely. The Policy also contains a provision noting that use of AB 2449's "emergency circumstances" provision is subject to approval of a majority of the legislative body at the meeting.

- Remind members of legislative bodies that AB 2449 teleconferencing requires: (1) disclosure of whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals; and (2) participation through both audio and visual technology throughout the meeting (cameras on).

- Provide that the Teleconferencing Policy is intended to supplement, and not conflict with, the Brown Act or other applicable laws, and that in the event of any conflict, the Brown Act or other applicable law will control.

COMMITTEE REVIEW
N/A

FISCAL IMPACT
N/A

ATTACHMENTS
Proposed Teleconferencing Policy

San Diego Community Power

Teleconferencing Policy

Effective Date: ____________, 2023

PURPOSE

This policy ("Policy") is intended to authorize members of SDCP's legislative bodies, including the Board of Directors, standing committees of the Board, and the Community Advisory Committee, to attend meetings remotely under the teleconferencing provisions of the Ralph M. Brown Act (Government Code Section 54950, *et seq.*) ("Brown Act"), and to establish general procedures to ensure Brown Act compliance by SDCP and members of its legislative bodies.

POLICY

1. **General Authorization for Use of Teleconferencing.** Members of legislative bodies of SDCP ("Legislative Body Members") may attend meetings using teleconferencing, subject to the requirements of the Brown Act and terms and conditions of this Policy. For purposes of this Policy, "legislative body" shall have the meaning provided under the Brown Act.

2. **Procedures.**

   a. Legislative Body Members shall notify the Board Secretary or CAC staff liaison as soon as possible of a request to attend an upcoming meeting via teleconference. The Legislative Body Member shall provide a general description of the circumstances relating to their need to appear remotely.

   b. The Board Secretary and/or CAC staff liaison will work with the requesting Legislative Body Member and the General Counsel to verify that the applicable Brown Act teleconferencing requirements can be met. Such requirements may vary depending on the type of teleconferencing the Legislative Body Member desires to use, or is eligible to use, under the Brown Act. For example: (1) the Legislative Body Member may have reached the maximum number of times they are eligible to use a particular method of teleconferencing for that year; (2) SDCP may be required to comply with certain time-sensitive agenda posting requirements for the member to use a particular method of teleconferencing; (3) SDCP may be unable to comply with requirements for remote public participation applicable to a particular method of teleconferencing; or (4) multiple other Legislative Body Members may have already requested to participate via teleconference and a quorum may be required to participate in person, etc.

      If a Legislative Body Member's request is not timely provided, or SDCP is otherwise unable to ensure compliance with all applicable Brown Act requirements, the requesting Legislative Body Member may be unable to participate in a meeting via teleconference.

   c. If a Legislative Body Member is participating in a meeting using either the "just cause" or individual "emergency circumstances" provisions of the Brown Act, the following provisions shall apply:

      i. After SDCP staff has verified that the applicable Brown Act teleconferencing requirements can be met, the Legislative Body Member (or the Board Secretary or

CAC staff liaison, acting on their behalf) will notify the chair and other members of the legislative body that the Legislative Body Member intends to participate via teleconference and the general description of the circumstances relating to their need to appear remotely.

ii. If a Legislative Body Member is requesting to participate in a meeting using the "emergency circumstances" teleconferencing provisions of the Brown Act, the request shall be subject to approval by a majority of the legislative body at the meeting before any other action is taken. If the request does not allow sufficient time to place the proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting.

iii. During the meeting, the Legislative Body Member participating via teleconference shall:

1. Before any action is taken, disclose whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

2. Participate through both audio and visual technology throughout the meeting (cameras on).

3. **Interpretation and Severability.** This Policy is intended to supplement the provisions of the Brown Act and shall be interpreted in accordance therewith. In the event of any conflict between the provisions of this Policy and the Brown Act or any other applicable law, the Brown Act or applicable law shall control.

SAN DIEGO COMMUNITY POWER
Staff Report – Item 9

To:	San Diego Community Power Board of Directors
From:	Laura Fernandez, Director of Regulatory and Legislative Affairs
Via:	Karin Burns, Chief Executive Officer
Subject:	Approval of Second and Fifth Amendments to Legal Services Agreement with Keyes and Fox LLP for up to $184,752.07 for Legal and Regulatory Services through June 30, 2024
Date:	March 23, 2023

RECOMMENDATIONS

Approve the second and fifth amendment to the Joint Representation Agreement with Keyes & Fox LLP to increase the not-to-exceed amount by $106,250.00 to $184,752.07, extend the agreement term through FY2024 and authorize the Chief Executive Officer to execute the agreement.

BACKGROUND

Keyes & Fox LLP has extensive experience supporting community choice aggregators in Energy Resource Recovery Account (ERRA) forecast proceedings.

On May 3, 2022, San Diego Community Power (SDCP) entered into a joint representation agreement (JRA) with Keyes & Fox LLP regarding San Diego Gas & Electric Company's 2021 ERRA Compliance Proceeding and 2023 ERRA Forecast Proceeding. This JRA was subsequently amended on December 16, 2022, as the first amendment to the May 2022 JRA.

Further, on November 12, 2020, SDCP entered into a JRA with Keyes & Fox LLP regarding Application 20-04-014 (November 2020 JRA). This JRA was amended on January 20, 2021, as the first amendment to the November 2020 JRA. Next, on February 9, 2021, the second amendment to the November 2020 JRA was executed followed by the third amendment on May 20, 2022 and the fourth amendment on May 31, 2022.

ANALYSIS AND DISCUSSION

Staff recommends executing the second amendment to the May 2022 JRA and fifth amendment to the November 2020 JRA with Keyes & Fox LLP that would supersede and replace in its entirety both the May 2022 JRA and the November 2020 JRA including all prior amendments. This will also simplify the agreements with Keyes & Fox LLP to only one combined JRA.

The proposed amendment would increase the combined not-to-exceed amount by $106,250.00 to $184,752.07.

The included scope of work in the JRA includes:

- San Diego Gas & Electric Company's (SDG&E's) 2021 Energy Resource Recovery Account (ERRA) Compliance Proceeding (Application (A.) 22-06-001) and 2023 ERRA Forecast Proceeding (A.22-05-025) (Not-to-exceed of $52,500)
- SDG&E's 2024 Test Year Phase I General Rate Case (A.22-05-016) (Not-to-exceed of $51,002.07)
- SDG&E's 2025 Phase II General Rate Case (A.23-01-008) (Not-to-exceed of $40,000)
- SDG&E's 2022 ERRA Compliance Proceeding and 2024 ERRA Forecast Proceeding (Docket numbers TBD) (Not-to-exceed of $41,250)

The additional funding is needed to support additional work in the SDG&E 2024 Test Year Phase 1 General Rate Case, the SDG&E Phase II General Rate Case and the SDG&E 2022 ERRA Compliance Proceeding and 2024 ERRA Forecast Proceeding.

COMMITTEE REVIEW

N/A

FISCAL IMPACT

Cost of this action includes a total amount not-to-exceed $184,752.07 through June 30, 2024. Partial funding is included in the FY23 amended budget and the remaining funding will be proposed for inclusion in the FY24 budget.

ATTACHMENTS

Attachment A: Joint Representation Agreement Between Keyes & Fox LLP, San Diego Community Power and Clean Energy Alliance

KEYES&FOX LLP

March 13, 2023

Karin Burns
Chief Executive Officer
San Diego Community Power
PO Box 12716
San Diego, CA 92101

Barbara Boswell, Chief Executive Officer
Clean Energy Alliance
5857 Owens Ave, 3rd Floor
Carlsbad, CA 92008

RE: Joint Representation Agreement Between Keyes & Fox LLP, San Diego Community Power and Clean Energy Alliance re San Diego Gas & Electric Company's 2021 and 2022 Energy Resource Recovery Account Compliance Proceedings, 2023 and 2024 Energy Resource Recovery Account Forecast Proceedings, and Phase I and Phase II General Rate Cases

Keyes & Fox LLP ("K&F") is delighted San Diego Community Power ("SDCP") and Clean Energy Alliance ("CEA") (collectively, the "Joint Clients") have decided to engage K&F to provide legal representation before the California Public Utilities Commission ("Commission") with regard to dockets and proceedings listed in Attachment A, which is hereby incorporated herein, and any other matters K&F and the Joint Clients mutually agree to undertake (the "Legal Services"). This Joint Representation Agreement describes the basis of the attorney-client relationship between K&F and the Joint Clients with respect to the Legal Services.

1. **Joint Representation**

K&F will represent each of the Joint Clients with respect to the Legal Services, and all appearances and filings made in connection with the Legal Services shall be made in the name of both the Joint Clients. By executing this Joint Representation Agreement, each of the Joint Clients agrees that K&F will take direction from each of them jointly in this matter. In addition, each of the Joint Clients agrees that if any of the Joint Clients requests in writing – for any reason or for no reason – to withdraw from this Joint Representation Agreement, that withdrawal would be effective immediately, and from that point forward, K&F would not have an attorney-client relationship or further attorney-client obligations with the withdrawn party with respect to the Legal Services.

K&F will coordinate projects with Laura Fernandez, as the designated representative of SDCP, and Barbara Boswell, as the designated representative of CEA, or with whomever Ms. Fernandez or Ms. Boswell, respectively, may specifically delegate that authority. We understand that Ms. Fernandez and Ms. Boswell have the authority to make decisions on behalf of the Joint Clients in connection with the Legal Services, and we are relying on that understanding.

Because K&F will be representing multiple clients in this engagement, the applicable rules of professional conduct require that we inform you, as a Joint Client, of actual and potential conflicts of interest with respect to joint representation, and that we obtain informed, written consent from each of the Joint Clients agreeing to the joint representation.

K&F has run a conflict check as it relates to the Legal Services. Based on the information we have been provided, we do not believe representation of the Joint Clients with respect to the Legal Services involves an actual conflict of interest between either of the Joint Clients. If either of the Joint Clients is aware of an actual conflict of interest as between them, please let K&F know immediately.

Even though there may be no actual conflict, there are potential conflicts. K&F currently represents numerous community choice aggregators and other organizations and companies in California's energy industry in matters that do not pertain to the Legal Services.

Differences in respective financial resources, prior experience, interests, and objectives of the Joint Clients could make one approach to K&F's responsibilities more favorable to one of the Joint Clients than to the other, or could lead to disputes among the Joint Clients. For example, if K&F was to represent only one client, rather than both of the Joint Clients, K&F might be able to obtain more favorable treatment for that one. Because K&F will be representing both of the Joint Clients, it will be necessary to balance the interests of the Joint Clients rather than prioritizing the interests of only one client.

If either of the Joint Clients becomes concerned with any relationship K&F may have with particular clients, companies, or individuals, we encourage that Joint Client to bring those concerns to our attention. If a potential conflict arises, either among the Joint Clients or between one or more of the Joint Clients and other K&F clients that may impact our ability to fully represent the Joint Clients with respect to the Legal Services, we will promptly bring that conflict to the attention of the Joint Clients.

In the event the Joint Clients become adverse to each other with respect to the Legal Services, each of the Joint Clients agree that they shall not seek disqualification of K&F from representation of the other Joint Client with respect to the Legal Services on the basis of this Joint Representation Agreement, K&F's access to confidential information obtained from the Joint Clients in connection with the Legal Services, or K&F's separate representation of either of the Joint Clients on matters unrelated to the Legal Services; provided, however, that nothing in this Joint Representation Agreement authorizes K&F to represent either of the Joint Clients in any action brought by or against either of the other Joint Clients.

2. Confidentiality of Communications and Work Product

It is in the Joint Clients' interest to preserve confidentiality of all communications and work product related to the Legal Services. If either of the Joint Clients discloses such communications or work product to persons or entities that are not a party to this Joint Representation Agreement, it jeopardizes the privileged and confidential nature of that communication or work product. Accordingly, we advise the Joint Clients to take care not to disclose privileged information or work product to any person or entity that is not a party to this Joint Representation Agreement.

The Joint Clients understand and acknowledge that any communications between each of the Joint Clients and K&F regarding the Legal Services may not be kept confidential from the other Joint Clients. In addition, should any future dispute among the Joint Clients concerning the matter on which the Joint Clients have engaged us to represent you lead to litigation, the attorney-client privilege may not protect communications that were commonly shared.

If either of the Joint Clients wishes to communicate confidentially with K&F about matters outside the scope of the Legal Services, that client should: 1) exclude all third parties from the communication, including the other member of the Joint Clients, and 2) ensure K&F is aware the correspondence is on behalf of the individual agency, company or organization and is not related to the Legal Services subject to this Joint Representation Agreement.

Through this Joint Representation Agreement, the Joint Clients authorize K&F to engage in confidential communications with EQ Research, LLC to obtain litigation support with respect to the Legal Services. K&F understands it is the intent of the Joint Clients that all communications and work product that are developed by, or shared with, EQ Research LLC related to the Legal Services shall be confidential and subject to attorney-client privilege.

3. Fees, Costs, and Invoicing

By signing this Joint Representation Agreement, the Joint Clients agree to pay for time and out-of-pocket expenses according to the terms set forth below.

a. Professional Fees

K&F will keep an hourly total of time spent on the Legal Services matters. Work will be performed at hourly rates according to the rates set forth in Attachment B to this Engagement Letter, which is incorporated by reference herein. It is K&F's policy to adjust hourly rates for all attorneys and staff at the beginning of the calendar year. Historically, rate increases have been between 5-8% per year. Rates quoted in Attachment B are 2023 rates. Our firm's practice is to charge for travel time, as discussed in Attachment B.

Tim Lindl will be the lead K&F attorney providing the Legal Services to the Joint Clients. Mr. Lindl may utilize services of other K&F attorneys and support staff in connection with this matter. By executing this Joint Representation Agreement, you consent to Mr. Lindl serving as lead attorney in providing the Legal Services and to his assignment, as necessary, of work on this matter to the attorneys or support staff listed in Attachment A.

b. Expenses

Expenses may be incurred in performing the Legal Services. K&F will bill for all costs, disbursements, and expenses in addition to our hourly fees. Costs and expenses include costs for travel including mileage and parking, and similar expenses. Expenses shall be billed at actual cost.

c. Invoices and payments

K&F will invoice SDCP and CEA separately at the beginning of each month for all Legal Services provided to both SDCP and CEA during the prior calendar month for the Legal Services. Each invoice shall be allocated 50% to SDCP and 50% to CEA. SDCP and CEA shall each be responsible for payment of the total amount from each of their respective invoices for the Legal Services. Each of Joint Parties shall be responsible for paying their respective invoices. Unless otherwise agreed to in writing, neither of the Joint Clients will be obligated to pay for fees and expenses that cause each Joint Client's share of total invoices for the Legal Services to exceed the amounts listed in Attachment A.

Invoices are due and payable within thirty (30) calendar days. Any unpaid amounts after thirty days will accrue interest at a rate of nine percent (9%) per annum. Fees for Legal Services will be earned as of the time of invoicing. Invoices shall list the matter worked on and provide information on the dates of service, time involved, attorney responsible, and activities undertaken.

4. Termination of K&F's Representation

Either of the Joint Clients may terminate K&F's representation of that individual Joint Client at any time and for any reason. K&F may terminate its representation of the Joint Clients or one of the Joint Clients at any time and for any reason, subject to the California State Bar Rules of Professional Conduct.

5. Miscellaneous

This letter is the entire agreement between the Joint Clients and K&F concerning the joint representation of the Joint Clients in the provision of Legal Services. It supersedes and replaces in its entirety that specific May 3, 2022 joint representation agreement between K&F and the Joint Clients regarding San Diego Gas & Electric Company's 2021 Energy Resource Recovery Account Compliance Proceeding and 2023 Energy Resource Recovery Account Forecast Proceeding (May 2022 JRA) as well as the December 16, 2022, First Amendment to the May 2022 JRA.

It also supersedes and replaces in its entirety that specific November 12, 2020 joint representation agreement between K&F and the Joint Clients regarding Application 20-04-014 (November 2020 JRA) as well as the January 20, 2021 First Amendment to the November 2020 JRA, the February 9, 2021 Second Amendment to the November 2020 JRA, the May 20, 2022 Third Amendment to the November 2020 JRA, and the May 31, 2022, Fourth Amendment to the November 2020 JRA.

It does not supersede or replace any other prior agreement between K&F and the Joint Clients. This Joint Representation Agreement and the scope of Legal Services provided under it may be amended from time to time by mutual agreement among K&F and the then-current Joint

Clients. Amendments shall be in writing and signed by all parties. California law will govern this agreement and any subsequent amendments.

6. Conclusion

If the terms of K&F's representation as explained in this Joint Representation Agreement are satisfactory, please execute a copy of this letter as indicated and return it to me. Please feel free to contact me if you have any questions. We look forward to our representation of the Joint Clients.

Sincerely,

Tim Lindl, Partner
Keyes & Fox LLP

Each of the Joint Clients authorize K&F to represent their interests with respect to the Legal Services. Each of the Joint Clients also acknowledge, by signing this letter, that they have had the opportunity to consult with other counsel about the consequences of joint representation and that K&F recommends that they do so. By signing this letter, the signatory affirms that he or she understands and agrees to bind his or her agency, company or organization to the terms set forth in this Joint Representation Agreement. This Joint Representation Agreement shall not take effect, and K&F shall have no obligation to provide the Legal Service described herein, until each of the Joint Clients have returned a signed copy of this letter.

SAN DIEGO COMMUNITY POWER

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of San Diego Community Power.

By:______________________

Karin Burns

Chief Executive Officer

Date: ____________________

CLEAN ENERGY ALLIANCE

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Clean Energy Alliance.

By:______________________

Barbara Boswell

Chief Executive Officer

Date: ____________________

Attachment A: Dockets and Proceedings Within the Scope of the Joint Representation Agreement and Per-Docket Do-Not-Exceed Amounts

Docket or Proceeding	Existing Do-Not-Exceed (DNE) Amount (May 2022 Joint Representation Agreement (JRA) and First Amendment)	Existing DNE Amount (November 2020 JRA and Four Subsequent Amendments)	**New Incremental DNE**	Final DNE	**Final DNE Per Docket Per CCA**
San Diego Gas & Electric Company's (SDG&E's) 2021 Energy Resource Recovery Account (ERRA) Compliance Proceeding (Application (A.) 22-06-001) and 2023 ERRA Forecast Proceeding (A.22-05-025)	$105,000	--	--	$105,000	**SDCP: $52,500** **CEA: $52,500**
SDG&E's 2024 Test Year Phase I General Rate Case (A.22-05-016)	--	$51,300.14 (remaining from prior amendments)	**$50,000**	$101,300.14	**SDCP: $51,002.07** **CEA: $50,298.07**
SDG&E's 2025 Phase II General Rate Case (A.23-01-008)	--	--	**$80,000**	$80,000	**SDCP: $40,000** **CEA: $40,000**
SDG&E's 2022 ERRA Compliance Proceeding and 2024 ERRA Forecast Proceeding (Docket numbers TBD)	--	--	**$82,500**	$82,500	**SDCP: $41,250** **CEA: $41,250**
Total DNE			**SDCP: $106,250** **CEA: $106,250**		**SDCP: $184,752.07** **CEA: $184,048.07**

<u>Attachment B</u>: Keyes & Fox LLP 2023 Hourly Rate Sheet

<u>Attorneys</u>

Kevin Fox	$480
Jason Keyes	$370
Tim Lindl	$420
Jake Schlesinger	$365
Scott Dunbar	$335
Sheridan Pauker	$430
Mark Valentine	$350
Beren Argetsinger	$310
Nikhil Vijaykar	$340
Lee Ewing	$280
Julia Kantor	$300
Lucas Fykes	$260
Ann Springgate	$380
David Wooley	$280

<u>EQ Research, LLC Analysts and Experts (Non-Keyes & Fox LLP Personnel)</u>

Miriam Makhyoun	$250/$275**
Amanda Vanega	$220
Justin Barnes	$220/$275**
Jason Hoyle	$170/$210**
Blake Elder	$170/$210**
Heather DePouw	$130
Jeremy Abcug	$125
Alicia Zaloga	$120
Corey Cochran	$100

* Asterisked rates for EQ personnel are expert witness rates

Travel Policy: Unless special arrangements are made, travel time is billed at the full hourly rate. Every effort will made to work productively on the Joint Clients matters during travel. If work is performed for another client during travel, the Joint Clients will not be billed for that time. All reasonable travel expenses are billable – hotel, airfare, car rental, meals, taxi, public transit, etc.

Work Policy: Reasonable time for filing and service is billed at regular billable rates.

Miscellaneous Expenses Policy: Expenses for postage, photocopying, printing, faxing and other minor expenses directly related to a matter are billable at cost to the Joint Clients.

SAN DIEGO COMMUNITY POWER

SAN DIEGO COMMUNITY POWER
Staff Report – Item 10

To:	San Diego Community Power Board of Directors
From:	Byron Vosburg, Director of Power Services
Via:	Karin Burns, Chief Executive Officer
Subject:	Approval of Energy Consulting Services Agreement with Pacific Energy Advisors, Inc. up to $733,567.50 for Energy Consulting Services through March 31, 2025
Date:	March 23, 2023

RECOMMENDATION
Approve the Energy Consulting Services Agreement with Pacific Energy Advisors, Inc. and authorize the CEO to execute the Agreement in substantially the form attached hereto, with such changes as are approved by the CEO and reviewed and approved as to form by the General Counsel.

BACKGROUND
In November 2019, SDCP issued Request for Proposal (RFP) 19-001 for wholesale power services to provide energy planning and procurement support, power contract negotiation, rate design assistance, risk management, schedule coordination, integrated resource planning and long-term renewables procurement.

Pacific Energy Advisors was selected for Task 1 (project planning, portfolio management, and advisory services) and Task 3 (Integrated Resource Plan, long-term renewable energy procurement, and distributed energy resource planning) services from five shortlisted and interviewed participants (of 13 total respondents). Accordingly, the SDCP Board approved an initial Energy Consulting Services Agreement PEA in February 2020, and it was executed in May of 2020.

Throughout pre-launch and early-stage procurement and planning efforts, PEA has provided critical analysis, guidance, and support in a number of areas, namely load forecasting, rate-setting, resource planning, energy procurement, and financial modeling. Three years on, SDCP and PEA see mutual value in continuing to work together, but given changes in the energy market and regulatory requirements and in light of the maturity of SDCP as an established CCA and the considerable growth of SDCP's team, it's appropriate to revisit the Energy Consulting Services Agreement to align it with the services that PEA continues to provide, to add additional services that SDCP expects PEA to provide going forward, and to remove services that are no longer relevant.

ANALYSIS AND DISCUSSION

Staff and PEA have reviewed line-by-line the scope of services included in the previous Energy Consulting Services to determine which services SDCP still requires, which additional services have become necessary since the original agreement was negotiated in 2020, and which are no longer relevant. Most notably, SDCP staff has grown significantly over the last three years, allowing SDCP to bring in house most of the direct energy procurement and distributed energy resource planning responsibilities, as well as some of the customer data analysis and communication activities. On the other hand, in addition to continuation of many foundational, data and reporting services related to energy procurement, financial modeling, load forecasting, rate-setting, and regulatory compliance, additional services have been incorporated to accommodate: i) administration and data reporting related to SDCP's ever-expanding portfolio of energy contracts and data request from regulatory agencies become more frequent and more complex; ii) more robust risk modeling and load forecasting, especially with respect to SDCP's growth into unincorporated San Diego County and the increase in weather and energy market volatility; and iii) analysis for recently established, more complicated rate structures.

By right-sizing the scope of services provided by PEA, and despite a significant increase in labor, services, and economy-wide inflation since February 2020, SDCP's costs associated with the Energy Consulting Services Agreement will be reduced by over $4,000 per month once the new agreement takes effect.

COMMITTEE REVIEW
N/A

FISCAL IMPACT
The costs associated with this Energy Consulting Services Agreement will not exceed $733,567.50 between April 1, 2023 and March 31, 2025. By revising the scope of services, SDCP will save at least $96,000 over the two-year term when compared to extension of the previous agreement without modification.

ATTACHMENTS
Attachment A: AGREEMENT BETWEEN SAN DIEGO COMMUNITY POWER AND PACIFIC ENERGY ADVISORS, INC. FOR ENERGY CONSULTING SERVICES

AGREEMENT BETWEEN SAN DIEGO COMMUNITY POWER AND PACIFIC ENERGY ADVISORS, INC. FOR ENERGY CONSULTING SERVICES

This Energy Consulting Services Agreement ("**Agreement**") is made and entered into on April 1, 2023 ("**Effective Date**"), by and between SAN DIEGO COMMUNITY POWER, a California joint powers authority ("**SDCP**") and PACIFIC ENERGY ADVISORS, INC., a California corporation ("**Consultant**")**.** SDCP and Consultant are sometimes individually referred to as a "**Party**" and collectively as "**Parties**."

RECITALS

A. Consultant desires to perform and assumes responsibility for the provision of certain professional services required by SDCP as part of its community choice aggregation program on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing wholesale energy services and is familiar with the plans of SDCP.

B. SDCP desires to engage Consultant to render such professional services for SDCP's community choice aggregation program ("**Project**"), as set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Scope of Services and Term.

1.1. General Scope of Services. Consultant promises and agrees to furnish to SDCP all services, and incidental and customary work necessary to fully and adequately provide the services described in Exhibit A ("Services"). All Services shall be subject to, and performed in accordance with, this Agreement, the schedules and/or exhibits attached hereto, and all applicable local, state and federal laws, rules and regulations.

1.2. Term. This Agreement shall be effective on the Effective Date. Unless earlier terminated as provided herein, this Agreement shall remain in effect through March 31, 2025 ("**Initial Term**"). At the end of the Initial Term, the Agreement shall renew on an annual basis for successive one (1) year terms (each, a "**Renewal Term**"), unless a Party provides three (3) months prior written notice of its intent not to extend the term of the Agreement. Consultant shall provide the Services within the term of this Agreement, and shall meet any other established schedules and deadlines, as mutually agreed by the Parties.

2. Responsibilities of Consultant.

2.2. Control and Payment of Subordinates: Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this

Agreement. SDCP retains Consultant on an independent contractor basis and not as an employee. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall also not be employees of SDCP and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

2.2. Schedule of Services. Consultant shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the terms of Exhibit A. Consultant represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant's timely performance under this Agreement, SDCP shall respond to Consultant's submittals in a timely manner.

2.3 Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of SDCP.

2.4. Sub-Consultants. Consultant shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of SDCP. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

3. Conditions to Consultant's Performance.

3.1 Information and Assistance. Upon Consultant's reasonable request, SDCP shall provide such information and assistance as is reasonably required for Consultant to provide the Services. If SDCP fails to provide Consultant with such requested information or assistance, then Consultant shall continue to provide in a timely manner any such portion(s) of the affected Services that Consultant can reasonably provide to the extent possible in the absence of such information or assistance.

3.2 Notification. SDCP shall notify all other relevant parties, including, but not limited to, its data manager ("**Data Manager**"), the Utility Distribution Company ("**UDC**"), which is currently San Diego Gas & Electric, the California Independent System Operator ("**CAISO**") and SDCP's lender(s), as necessary, of the existence of this Agreement and Consultant's role as contemplated in this Agreement.

3.3. SDCP's Representative. SDCP hereby designates **the Chief Executive Officer**, or her designee, to act as its representative for the performance of this Agreement ("**SDCP's Representative**"). SDCP's Representative shall have the power to act on behalf of SDCP for all purposes under this Agreement. Consultant shall not accept direction or orders from any person other than SDCP's Representative, or designee.

3.4 Consultant's Representatives. Consultant hereby designates **Kirby Dusel and John Dalessi,** or their noted designee(s), to act as Consultant's Representatives for the performance of this Agreement ("**Consultant's Representatives**"). Consultant's Representatives shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representatives shall supervise and direct the Services, using their best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.5 Coordination of Services. Consultant agrees to work closely with SDCP staff in the performance of Services and shall be available to SDCP's staff, consultants and other staff at mutually agreeable times.

3.6 Standard of Care; Performance of Employees. Consultant shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Consultant represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Consultant shall perform, at its own cost and expense and without reimbursement from SDCP, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein. Any employee of the Consultant or its sub-consultants who is determined by SDCP to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to SDCP, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

3.7 Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with pertinent local, state and federal laws, rules and regulations in any manner affecting the performance of the Services, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with the Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to SDCP, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold SDCP, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

4. Insurance

4.1 Time for Compliance. Consultant shall not commence the Services under this Agreement until it has provided evidence satisfactory to SDCP that it has secured all insurance required under this section, in a form and with insurance companies acceptable to SDCP.

4.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives, employees or subcontractors. Consultant shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(A) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001 or exact equivalent); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage (form CA 0001, code 1 (any auto) or exact equivalent); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(B) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) *General Liability:* \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability:* \$1,000,000 per accident for bodily injury and property damage; and (3) *Workers' Compensation and Employer's Liability:* Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of \$1,000,000 per accident for bodily injury or disease.

1.3.8.3 Professional Liability. Consultant shall procure and maintain, and require its sub-consultants to procure and maintain, for a period of two (2) years following completion of the Services, errors and omissions liability insurance appropriate to their profession. Such insurance shall be in an amount not less than \$2,000,000 per claim. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

4.3 Insurance Endorsements. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms supplied or approved by SDCP to add the following provisions to the insurance policies:

(A) General Liability.

(i) Commercial General Liability Insurance must include coverage for (1) Bodily Injury and Property Damage; (2) Personal Injury/Advertising Injury; (3) Premises/Operations Liability; (4) Products/Completed Operations Liability; (5) Aggregate Limits that Apply per Project; (6) Explosion, Collapse and Underground (UCX) exclusion deleted; (7) Contractual Liability with respect to this Agreement; (8) Broad Form Property Damage; and (9) Independent Consultants Coverage.

(ii) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to the Agreement.

(iii) The policy shall give SDCP, its directors, officials, officers, employees, and agents insured status using ISO endorsement forms 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(iv) The additional insured coverage under the policy shall be "primary and non-contributory" and will not seek contribution from SDCP's insurance or self-insurance and shall be at least as broad as CG 20 01 04 13, or endorsements providing the exact same coverage.

(B) Automobile Liability.

(i) The automobile liability policy shall be endorsed to state that: (1) SDCP, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; and (2) the insurance coverage shall be primary insurance as respects SDCP, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by SDCP, its directors, officials, officers, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.

(C) Workers' Compensation and Employers Liability Coverage.

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) The insurer shall agree to waive all rights of subrogation against SDCP, its directors, officials, officers, employees, agents and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

(D) All Coverages.

(i) Defense costs shall be payable in addition to the limits set forth hereunder.

(ii) Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits set forth herein shall be available to SDCP, its directors, officials, officers, employees and agents as additional insureds under said policies. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any Insurance policy or proceeds available to the named insured; whichever is greater.

(iii) The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of SDCP (if agreed to in a written contract or agreement) before SDCP's own insurance or self-insurance shall be called upon to protect it as a named insured. The umbrella/excess policy shall be provided on a "following form" basis with coverage at least as broad as provided on the underlying policy(ies).

(iv) Consultant shall provide SDCP at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to SDCP at least ten (10) days prior to the effective date of cancellation or expiration.

(v) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(vi) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by SDCP, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(vii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, SDCP has the right but not the duty to obtain the insurance it deems necessary and any premium paid by SDCP will be promptly reimbursed by Consultant or SDCP will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, SDCP may cancel this Agreement. SDCP may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(viii) Neither SDCP nor any of its directors, officials, officers, employees or agents shall be personally responsible for any liability arising under or by virtue of this Agreement.

4.3. Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to SDCP, its directors, officials, officers, employees, agents and volunteers.

4.4. Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by SDCP. Consultant shall guarantee that, at the option of SDCP, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects SDCP, its directors, officials, officers, employees, agents and volunteers; or (2) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

4.5. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VII, licensed to do business in California, and satisfactory to SDCP.

4.6. Verification of Coverage. Consultant shall furnish SDCP with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to SDCP. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by SDCP if requested. All certificates and endorsements must be received and approved by SDCP before work commences. SDCP reserves the right to require complete, certified copies of all required insurance policies, at any time.

4.7. Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to SDCP that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name SDCP as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, SDCP may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

5. Fees and Payments.

5.1. Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement as set forth in Exhibit A. Extra Work may be authorized, as described in Section 5.4 below; and if authorized, said Extra Work will be compensated at the rates and manner set forth in this Agreement.

5.2 Payment of Compensation. Consultant shall submit to SDCP a monthly itemized invoice which shall include all fees and authorized expenses related to Services during the previous month. SDCP shall, within 30 days of Consultant's invoice submittal, review the invoice and pay all approved charges thereon.

5.3. Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by SDCP. For all authorized expenses, Consultant shall reflect such items, on an itemized basis, in its monthly invoices as noted in Section 5.2.

5.4. Extra Work. At any time during the term of this Agreement, SDCP may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by SDCP to be necessary for the proper completion of the Project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, or be compensated for, Extra Work without written authorization from SDCP's Representative.

6. Accounting Records.

Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. No more than once per year, Consultant shall allow a representative of SDCP, at SDCP's sole cost and expense, during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement. Any audit or inspection shall, at Consultant's exclusive option, take place off of Consultant's premises.

7. Termination and Expiration of Agreement: Meet and Confer.

7.1. Termination for Convenience. SDCP may, by providing three (3) months written notice to Consultant, terminate this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof. Upon termination, Consultant shall be compensated in accordance with this section. Consultant may also terminate this Agreement for cause or upon three (3) months written notice to SDCP; the written notice shall specify the effective date of such termination.

7.2. Termination for Cause. If any one of the following events (each an "**Event of Default**") occurs with respect to a Party, then the other Party may terminate this Agreement (inclusive of Schedules, Exhibits and Addenda) upon written notice to the defaulting Party: (i) with respect to SDCP, SDCP fails to pay amounts due hereunder, and such failure continues for fifteen (15) business days following written notice from Consultant; (ii) either Party defaults in the observance or performance of any of its material covenants or agreements in this Agreement and such default continues uncured for twenty (20) business days following written notice to the defaulting Party; (iii) either Party makes an assignment for the benefit of creditors (other than a collateral assignment to an entity providing financing to such Party), files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause under any bankruptcy or similar law for the protection of creditors or has such a petition filed against it or otherwise becomes bankrupt or insolvent (however evidenced), or is unable to pay its debts as they become due; or (iv) with respect to SDCP, SDCP fails to satisfy UDC's credit-worthiness requirements set forth in the UDC tariffs and such failure continues uncured for twenty (20) business days following written notice to SDCP from UDC.

7.3. Effect of Termination. Upon the date of expiration or notice of termination of this Agreement (whether terminated for convenience or for cause, or whether expiring at the end of a term): (i) Consultant shall cease providing Services and Extra Work hereunder except as required or authorized in Section 3.6.1.4 below; (ii) Consultant shall issue an invoice (the "**Termination Invoice**") to SDCP for (a) all outstanding fees for Services rendered by Consultant through and including the date of expiration or termination, (b) all authorized expenses outstanding and unpaid as of the date of expiration or termination,; and (iii) SDCP shall pay the Termination Invoice within thirty (30) days of Consultant's invoice submittal.

7.4. Transition of Services Upon Termination or Expiration. Upon such expiration or termination, and upon request of SDCP, Consultant shall reasonably cooperate with SDCP to ensure a prompt and efficient transfer of all SDCP data, documents and other materials to SDCP or a new services provider, in an industry standard format or formats, and in a manner such as to attempt to minimize the impact of expiration or termination on SDCP's customers. Consultant and SDCP shall mutually agree on transition activities requiring completion and a reasonable schedule of completion associated therewith. Consultant shall provide to SDCP data and documentation, and other Consultant non-proprietary information reasonably requested by SDCP in connection with the transition. Consultant shall provide transition assistance, subject to a mutually agreeable schedule, in such a manner as to attempt to reasonably: (a) ensure the uninterrupted performance of the services, (b) with no degradation in quality, and (c) to avoid disruption in the operation. If SDCP is the defaulting Party or terminates for convenience, SDCP agrees to pay Consultant reasonable compensation for additional services performed in connection with such transfer, to the extent not otherwise provided for or contemplated in the Agreement. Consultant shall (1) return all documents and other materials received from SDCP and all copies (if any) of such documents and tangible materials, and (ii) destroy all other documents or materials in Consultant's possession that contain SDCP customer data; provided, however, that Consultant may retain copies of information necessary for Consultant's tax, billing or other financial purposes, to be used solely for such purposes.

(A) Under no circumstances, except for any event of default by SDCP, shall Consultant cease providing Services to SDCP under this Agreement until clear and unequivocal arrangements for (i) SDCP to assume provision of the Services under this Agreement, (ii) a third party provided to assume provision of the Services under this Agreement, or (iii) a return to Utility electric procurement, is established.

7.5. Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, SDCP may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

7.6. Dispute Resolution. The Parties shall meet and confer together in good faith regarding any dispute, controversy or claim (each, a "**Dispute**") arising out of or relating to this

Agreement, or any breach or alleged breach hereof, prior to either Party declaring a breach of the Agreement. A meet and confer shall occur within ten (10) business days of any Dispute whereby the Parties agree to cooperate in good faith to resolve the Dispute, and may use a mutually agreeable third party to resolve such Dispute. In no event shall either Party be delayed or impeded from exercising any of its rights at law or equity, including, without limitation, petitioning a court for provisional relief, including injunctive relief, prior to invoking the meet and confer resolution process.

8. Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective Parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Consultant: Pacific Energy Advisors, Inc.
Attn: Kirby Dusel
1839 Iron Point Road, Suite 120
Folsom CA 95630

SDCP: San Diego Community Power
Attn: Byron Vosburg
815 E Street, PO Box 12716
San Diego, CA 92112

Such notice shall be deemed made when personally delivered or delivered by nationally recognized courier that renders a receipt for delivery.

9. **Intellectual Property and Confidentiality.**

SDCP owns all right, title and interest in and to all SDCP Materials. Upon the expiration of this Agreement, or in the event of termination, SDCP Materials and all SDCP customer data, in whatever form and in any state of completion, shall remain the property of SDCP and shall be promptly returned to SDCP. Upon termination, Consultant may make and retain a copy of such contract materials if permitted by law. SDCP Materials shall mean any and all data created by Consultant specifically for SDCP in the performance of the Services and Extra Work pursuant to this Agreement ("**SDCP Materials**").

For the avoidance of doubt, Consultant's intellectual property, including, but not limited to, Consultant's trademarks, service marks, trade names and other designations, web site(s), web design(s), internal systems, computer systems, programs, software (including software code), ideas, know-how, work product, copyrights, patents, trade secrets and other proprietary and/or intellectual property shall remain the exclusive property of Consultant.

10. Confidentiality. All memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other documents and data either created by or provided to Consultant specifically in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of SDCP, be used by Consultant for any purposes other than the performance

of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use SDCP's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of SDCP.

11. Cooperation: Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

12. Attorney's Fees. If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

13. Indemnification. Consultant (including its officials, officers, employees, agents, sub-consultants and contractors, collectively the "Indemnifying Party") shall, to the extent of its own willful, reckless or negligent misconduct, defend, indemnify and hold SDCP, its officials, officers, consultants, employees, and volunteers ("**Indemnified Party**") free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident, arising out of or in connection with the performance of the Services, the Project or this Agreement, including reasonable attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by SDCP, its directors, officials, officers, consultants, employees, agents or volunteers. Consultant's indemnification obligations herein are conditioned upon the Indemnified Party: (i) promptly notifying the Consultant of any claim in writing; and (ii) cooperating with Consultant in the defense of the claim.

14. Entire Agreement. This Agreement contains the entire Agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both Parties.

15. Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be governed by a court of competent jurisdiction in San Diego County.

17. SDCP's Right to Employ Other Consultants. SDCP reserves right to employ other consultants in connection with this Project.

18. Successors and Assigns. This Agreement shall be binding on the successors and assigns of the Parties.

19. Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of SDCP. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. Notwithstanding the foregoing, the Parties agree that in the absence of a merger, the

sale or transfer of all or substantially all of the shares of the Consultant shall not constitute an assignment or transfer of this Agreement.

20. Construction: References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all personnel, employees, agents, and subcontractors of Consultant, except as otherwise specified in this Agreement. All references to SDCP include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

21. Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

22. Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

23. No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

24. Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

25. Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, SDCP shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of SDCP, during the term of his or her service with SDCP, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

26. Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

27. Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

28. Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

29. Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereby have made and executed this Agreement as of the date first written above.

SAN DIEGO COMMUNITY POWER	**PACIFIC ENERGY ADVISORS, INC.[*]**
By : ________________________________	By : ________________________________
Name: ______________________________	Name: Kirby Dusel
Title: _______________________________	Title: Vice President & Secretary
ATTEST:	By : ________________________________
	Name: John Dalessi
	Title: President & Chief Executive Officer

____
Secretary, SDCP Board of Directors

APPROVED AS TO FORM:

____
SDCP General Counsel

* A corporation requires the signatures of two corporate officers.

One signature shall be that of the chairman of board, the president or any vice president and the second signature (on the attest line) shall be that of the secretary, any assistant secretary, the chief financial officer or any assistant treasurer of such corporation.

If the above persons are not the intended signators, evidence of signature authority shall be provided to SDCP.

EXHIBIT A

SERVICES/TERMS AND CONDITIONS

Consultant and SDCP agree that the following services ("**CCA Services**") shall be provided by Consultant for the benefit of SDCP under the terms and conditions as described herein.

1) Power Resources Support

(a) Maintain Annual and Long-Term Sales Forecast:

- Prepare and maintain SDCP customer and electric sales forecasts, including: 1) monthly enrolled accounts, megawatt hours (MWh) and megawatts (MW) by load profile group; 2) monthly coincident peak MW and hourly MW; and 3) clear delineation of all inputs and assumptions for 1) and 2).
- Update long-term sales forecasts quarterly or more frequently as necessary, to maintain accuracy; monitor accuracy of load forecasts on a monthly basis; consider adjustments to such forecasts if observed variance exceeds threshold of 5% forecast error. Include sensitivity analysis which provide "high" and "low" bounds (eg. p05 and p95) for each forecast based on historical weather and load fluctuations.

(b) Energy Trading and Risk Management System:

- Maintain an energy trading and risk management system (ETRM) for purposes of tracking and reporting all energy and capacity transactions completed by SDCP.
- Receive fully executed transaction documents from SDCP for purposes of entering such transactions in the ETRM system.
- Within 2 days of receipt, enter energy, renewable energy and capacity transactions within such ETRM system and maintain long-term forecasts for generation and energy storage resources.
- Produce periodic reports, as readily available within the deal capture system, to assist with SDCP's ongoing resource planning and position monitoring efforts. Such reports shall include:
    - Monthly Position Extract (monthly)
    - Monthly Realized Unrealized Detail (monthly)
    - Contracts Entered Within Past 30-Days (monthly and ad-hoc)
    - Deal Settlement Extract (monthly)
    - Monthly load and resource balance (monthly)

- Market exposure and stochastic risk assessment, including projected load and generation volumetric and price risk (monthly)
- Mark-to-market valuation by counterparty (monthly)
- Hourly Inter-Scheduling Coordinator trades for n + 90 days (monthly and upon new trades)
- Hourly Position Extract (Monthly and Ad-Hoc)
-

2) Rate Setting and Financial Modeling

(a) Rate-setting

- Annually, develop proposed SDCP rate schedules; perform SDG&E rate benchmarking and cost of service feasibility studies as needed; prepare forecast of billing determinants (e.g., Time-of-Use energy, dynamic Real Time or Day Ahead rate designs, etc.); prepare, present, and propose rate revenue forecast.
- Collaborate with staff regarding rate changes, including necessary new rate designs or options.
- Monitor realized rate revenue vs. projections to identify necessary rate changes.

(b) Financial Model (pro forma)

- Maintain pro forma financial model of monthly income/expense projections, cash flow and cash balances.
- Update pro forma model monthly and as necessary to incorporate current load, resource and market data; monitor accuracy of financial projections on a monthly basis; assist in reconciling budget variances.
- Prepare forecast of power supply and other expenses for annual budget.
- As necessary, coordinate with SDCP and its financial advisors with regard to matters that may impact SDCP's financial standing, debt levels, electric rates, annual budget, resource planning and other key concerns.

3) Regulatory Compliance Support

- Assist in preparing annual RPS compliance reports, regular RPS data requests, including the RPS-PCIA Quarterly Data Report, and CEC's RPS compliance verification process.

- Manage SDCP's WREGIS account and various subaccounts, including report preparation, certificate transfer review and retirement, as-needed generator registration (example: Feed-In Tariff projects under contract with SDCP) and other account management activities.
- Assist in preparing compliance filings for the Resource Adequacy program, including submission of peak demand forecasts to the CPUC and CEC, compliance template preparation and submission to the CPUC and CEC, RA plan preparation and coordination with SDCP's Scheduling Coordinator for submission to CAISO, assistance with cross-validation trouble shooting and error correction, and submission of historical load data to the CPUC and CEC.
- Assistance in preparing IRP compliance filings and procurement data requests resulting from CPUC procurement orders.
- Assist in preparing annual reports related to California's Power Source Disclosure Program, including technical elements of Power Content Label development.
- Assistance in preparing demand forecast and resource plan submissions pursuant to the Integrated Energy Policy Report (IEPR) process.
- Prepare compliance filings pursuant to the CEC's Quarterly Fuels and Energy Report and the U.S. Energy Information Agency monthly EIA-826 and annual EIA-861 reports.
- Assistance in preparing Joint Rate Comparisons.
- Assistance in preparing the California Air Resources Board's (CARB) Mandatory Reporting Regulation (MRR) annual reporting requirement.
- Preparation of data to assist to accompany data request responses, such as those periodically distributed by the CPUC, CAISO, CEC or CalCCA. Examples include the semi-annual PCIA RPS data request, the quarterly PCIA RA data request, the CAISO's annual flexible capacity needs assessment, etc.
- Assistance in preparing RPS Procurement plan data templates and relevant portions of narrative based upon requirements as of the Effective Date.
- Assistance in preparing Integrated Resource Plan data templates and relevant portions of narrative based upon requirements as of the Effective Date.

4) Other Procurement and Regulatory Support

On an as-requested basis, PEA will provide support to SDCP in completing certain regulatory compliance and reporting activities. All services under this Task 4 will be completed in consideration of mutually agreeable schedules for completion and shall be billed on a time-and-materials basis at the hourly rates noted below. Other Regulatory Support may include the following non-exhaustive list of tasks:

- <u>Assistance in preparation, administration, and evaluation of offers submitted in response to solicitations for energy-related projects and products.</u>

- Assistance in preparing RPS Procurement plan data templates and relevant portions of narrative that are responsive to any requirements that are implemented after the Effective Date..
- Assistance in preparing Integrated Resource Plan data templates and relevant portions of narrative that are responsive to any requirements that are implemented after the Effective Date.
- Support for responding to data requests from regulatory bodies, trade associations, etc., not otherwise specified in Task 3 above.

<u>Fee for Performance of Services under Tasks 1, 2 and 3:</u>

April 1, 2023 through December 31, 2023: $25,000/month, not inclusive of direct travel costs

January 1, 2024 through December 31, 2024: $25,750/month, not inclusive of direct travel costs

January 1, 2025 through March 31, 2025: $26,522.50/month, not inclusive of direct travel costs

The noted monthly fee will annually increase by three percent (3%) on January 1st of each subsequent year.

<u>Fee for Performance of Task 4 Services:</u>

PEA will provide the services described in Task 4 on a time-and-materials basis, billed monthly to SDCP, which fees shall not exceed $40,000 in any calendar year. For all such work, the following hourly rates will apply:

Staff	Hourly Rate
Senior Executive Staff	$360
Managing Director	$340
Director	$320
Associate Director	$300
Managing Consultant	$280
Senior Consultant	$260
Consultant	$240
Analyst	$220

Hourly rates will annually increase by three percent (3%) on January 1st of each year.

Travel and related expenses will be billed monthly at cost with no markup. Examples of such expenses will likely include airfare, rental vehicles, airport parking and hotels (if meeting attendance is requested over a multi-day period). If desired, PEA will coordinate with SDCP in developing a mutually agreeable budget for such expenses – note that such budget would be additive to the monthly fees for services, as noted above, and may impact the frequency of travel by PEA to attend on-site meetings.

SAN DIEGO COMMUNITY POWER
Staff Report – Item 11

To: San Diego Community Power Board of Directors

From: Laura Fernandez, Director of Regulatory and Legislative Affairs

Via: Karin Burns, Chief Executive Officer

Subject: Approval of Fifth Amendment to Professional Services Agreement with NewGen Strategies and Solutions, LLC for up to $846,250 for Regulatory Support and Rate-Related Analysis through June 30, 2024

Date: March 23, 2023

RECOMMENDATIONS

Approve fifth amendment to professional services agreement with NewGen Strategies and Solutions, LLC to increase the not-to-exceed amount by $211,250 to $846,250, extend the agreement term through FY2024 and authorize the Chief Executive Officer to execute the agreement.

BACKGROUND

In December 2020, SDCP approved a contract with NewGen Strategies and Solutions, LLC for services related to reviewing SDG&E's 2021 Energy Resource Recovery Account (ERRA) forecast proceeding, the 2021 Power Charge Indifference Adjustment (PCIA) proceeding and the 2020 forecasted year-end Portfolio Allocation Balancing Account (PABA).

All of these proceedings impact the cost competitiveness of SDCP's service. In May of 2021, SDCP amended the professional services agreement to expand the scope of work to include the 2022 ERRA Forecast and 2020 ERRA Compliance proceedings as well as support for SDCP programs, such as the Disadvantaged Community-Green Tariff/Community Solar-Green Tariff program and other regulatory and analytical support as requested by SDCP.

Further, in April 2022, SDCP amended the professional services agreement to expand the scope of work to include the 2023 ERRA Forecast, 2021 ERRA Compliance, continuing support of development of SDCP programs, such as the Disadvantaged Community-Green Tariff/Community Solar-Green Tariff program, and additional regulatory and analytical support as requested by SDCP

Finally, in September 2022, the professional services agreement was amended to include SDG&E's 2024 Phase 1 General Rate Case filed in May 2022 and Green Tariff Shared Renewable program review, including review of SDG&E's respective applications, issuance and review of discovery, and filing of expert witness testimony as required and mutually agreed by SDCP and NewGen.

ANALYSIS AND DISCUSSION

Staff recommends increasing NewGen Strategies and Solutions, LLC contract by $211,250 to a total not-to-exceed amount of $846,250 for services through June 30, 2024.

The reasons for this increase include expanded scope of work to include the following:

- SDG&E 2024 ERRA Forecast
- SDG&E 2022 ERRA Compliance

SDCP intends to conduct a Request for Proposals for these services in the future.

COMMITTEE REVIEW

N/A

FISCAL IMPACT

Cost of this action includes a total amount not to exceed $846,250 through June 30, 2024. Partial funding is included in the FY 2022-23 amended budget and the remaining funding will be proposed for inclusion in the FY 2023-24 budget.

ATTACHMENTS

Attachment A: Fifth Amendment to Professional Services Agreement Between San Diego Community Power and NewGen Strategies and Solutions, LLC

FIFTH AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT BETWEEN SAN DIEGO COMMUNITY POWER AND NEWGEN STRATEGIES AND SOLUTIONS, LLC

THIS FIFTH AMENDMENT ("**Fifth Amendment**") is entered into as of this March 23, 2023 by and between SAN DIEGO COMMUNITY POWER, a California joint powers authority ("**SDCP**") and NEWGEN STRATEGIES AND SOLUTIONS, LLC, a Colorado limited liability company, ("**Consultant**"). SDCP and Consultant are sometimes individually referred to herein as the "**Party**" and collectively as the "**Parties**."

RECITALS

WHEREAS, the Parties entered into that certain Professional Services Agreement, dated July 16, 2020, a First Amendment to the Professional Services Agreement, dated December 23, 2020, a Second Amendment to the Professional Services Agreement, dated June 8, 2021, a Third Amendment to the Professional Services Agreement, dated April 28, 2022, and a Fourth Amendment to the Professional Services Agreement, dated September 20, 2022 (collectively, the "**Agreement**"); and

WHEREAS, pursuant to the Agreement, Consultant provides certain Services that include community choice aggregation regulatory filing review and analysis services to SDCP for certain California Public Utilities Commission proceedings; and

WHEREAS, the Parties desire to amend the Agreement for Consultant to provide additional regulatory Services for 2023 and 2024 and receive compensation for the additional services.

AGREEMENT

NOW, THEREFORE, it is agreed by and between the Parties as follows:

1. Recitals. The Recitals set forth above are true and correct and are incorporated into the body of this Amendment as though expressly set forth herein.

2. Amendment of Section 1.1. Consultant will provide additional Services related to SDG&E 2024 ERRA Forecast and SDG&E 2022 ERRA Compliance.

3. Amendment of Section 1.2. Section 1.2 of the Agreement is amended to extend the term of the agreement to June 30, 2024 for all Services.

4. Additional Compensation. Because compensation for work performed by Consultant under the Agreement and Amendments 1 through 4 is not expected to reach the total cumulative not-to-exceed amount authorized therein, no change to the authorized not-to-exceed amount is required. Consultant shall be entitled to compensation for the additional Services provided under this Fifth Amendment in an amount not to exceed $211,250.

5. Effect of Amendment. Except as expressly set forth in this Amendment, all other sections, provisions, exhibits and commitments of the Agreement remain unchanged and in full force and effect.

6. Capitalized Terms: Any capitalized terms not defined herein shall have the meanings set forth in the Agreement.

7. Counterparts. This Amendment may be executed in one or more counterparts, including facsimile counterparts, each of which shall, for all purposes, be deemed an original and all such counterparts, taken together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Fifth Amendment to the Professional Services Agreement between San Diego Community Power and NewGen Strategies and Solutions, LLC, as of the date first set forth above.

SAN DIEGO COMMUNITY POWER	NEWGEN STRATEGIES AND SOLUTIONS, LLC
By : ____________________	By : ____________________
Name: Karin Burns	Name: Brian Dickman
Title: Chief Executive Officer	Title: Partner
Date: ____________________	Date: ____________________

SAN DIEGO COMMUNITY POWER
Staff Report – Item 12

To: San Diego Community Power Board of Directors

From: Terra Lawson-Remer, Vice Chair and Paloma Aguirre, Director

Subject: Committing SDCP to 100 Percent Renewable Energy by 2035

Date: March 23, 2023

RECOMMENDATION
Adopt Resolution No. 2023-XXX committing San Diego Community Power (SDCP) to achieving 100 percent renewable energy by 2035.

BACKGROUND
As a community-owned organization, it is imperative that the SDCP makes a firm commitment to achieve 100% renewable energy by 2035. Decarbonizing our energy sector is the most important action we can take to address the urgent climate crisis, catalyze local job creation in the green economy, and transition our communities to clean, healthy, and sustainable power. This effort furthers SDCP's mission and vision to provide 100% clean affordable energy while prioritizing equity, sustainability, and high-quality jobs.

The San Diego Community Power Amended and Restated JPA Agreement (December 16, 2021) states that SDCP's objective shall be to achieve and sustain a renewable energy portfolio with 100 percent renewable energy availability and usage at competitive rates, within SDCP's service territory by no later than 2035 (Recitals, Section 7(c)).

This board policy and resolution move San Diego Community Power from an objective to a firm legal **commitment** to providing 100 percent renewable energy by 2035.

DISCUSSION AND ANALYSIS
The proposed board policy and resolution would **commit** San Diego Community Power to transitioning the energy provided to their customers to 100% renewable energy by 2035. The resolution and board policy would further direct the Chief Executive Officer to take all operational actions necessary, within the delegated authority of the CEO, to achieve 100 percent renewable energy by 2035. In addition, On an annual basis, SDCP shall at a regular meeting of the SDCP Board of Directors review progress towards 100 percent renewable energy by 2035 and other relevant information. Annual reporting on progress toward this commitment is necessary to ensure transparency and accountability to the public.

COMMITTEE REVIEW
N/A

FISCAL IMPACT
SDCP staff is currently in the process of analyzing the fiscal implications of achieving 100 percent renewable energy by 2035 and will be providing a report to the Board in 3rd quarter of 2023.

ATTACHMENTS
Attachment A: Resolution No. 2023-002 "A RESOLUTION OF THE BOARD OF DIRECTORS OF SAN DIEGO COMMUNITY POWER COMMITTING SAN DIEGO COMMUNITY POWER TO 100 PERCENT RENEWABLE ENERGY BY 2035"

Attachment B: SDCP 100% Renewable Energy by 2035 Policy

RESOLUTION NO. 2023-XXX

A RESOLUTION OF THE BOARD OF DIRECTORS OF SAN DIEGO COMMUNITY POWER COMMITTING SAN DIEGO COMMUNITY POWER TO 100 PERCENT RENEWABLE ENERGY BY 2035

WHEREAS, climate change is one of the greatest threats of our time, prompting dramatic and harmful impacts to San Diego County such as more severe heat waves, more frequent wildfires, and sea level rise;

WHEREAS, the local impacts of climate change impact everyone in the San Diego region, with some of the most extreme effects concentrated in historically marginalized communities affecting some of our most vulnerable residents;

WHEREAS, the United Nations states that renewable energy use from sources such as wind and solar generate extensive economic and health benefits, and are key to mitigating our climate challenge;

WHEREAS, On September 16, 2022, Governor Newsom signed California State Senate Bill (SB) 1020 into law, which requires renewable energy and zero-carbon sources to supply 90 percent of all retail electricity sales by 2035;

WHEREAS, San Diego Community Power (SDCP) is a community-owned organization and joint powers authority that aims to invest in the community by creating an equitable and sustainable future for the San Diego region;

WHEREAS, consistent with its *Inclusive and Sustainable Workforce Policy*, SDCP also supports the creation of sustainable union jobs in our transition to a greener economy, requiring prevailing wages as defined in California Labor Code section 1770 *et seq.*, and a skilled and trained workforce as defined in California Public Contract Code section 2601, while expanding access to apprenticeship programs through pre-apprenticeship programs in communities of concern;

WHEREAS, through SDCP's commitment to investing in clean energy, the organization will continue to empower local residents and communities to reduce their carbon footprint, leaving a positive legacy for generations to come;

WHEREAS, the SDCP Joint Powers Agreement states that the "ultimate objective" of the organization "is achieving and sustaining--100 percent renewable energy availability and usage, at competitive rates, within SDCP service territory no later than 2035, and beyond" (Recitals, Section 7(c));

WHEREAS, on March 24, 2022, SDCP adopted its Legislative Platform, which included the prioritization of deep decarbonization and movement to 100 percent renewable energy by 2035; and

WHEREAS, given these facts, the increasing severity of climate change, and its harmful effects on the San Diego region, it is imperative that San Diego Community Power advances from aspiring to 100 percent renewable energy by 2035 and instead firmly commits to this goal.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of San Diego Community Power as follows:

Section 1. Commitment to 100 Percent Renewable Energy by 2035. The SDCP Board of Directors hereby establishes its firm commitment to achieve 100 percent renewable energy by 2035 and adopts the *100 Percent Renewable Energy by 2035 Policy* as provided in Exhibit A, attached hereto.

Section 2. Chief Executive Officer Implementation. The SDCP Board of Directors directs the Chief Executive Officer to take all operational actions necessary, within the CEO's delegated authority, to achieve 100 percent renewable energy by 2035.

Section 3. Annual Review. On an annual basis, SDCP shall at a regular meeting of the SDCP Board of Directors review progress towards 100 percent renewable energy by 2035 and other relevant information. At that time, the SDCP Board of Directors may also review market conditions to determine whether this policy should be modified in light of financial or ratepayer implications.

Section 4. Effective Date. This resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED at a meeting of the Board of Directors of San Diego Community Power held on March 23, 2023.

____
Chair, Board of Directors
San Diego Community Power

ATTEST:

____
Secretary, Board of Directors
San Diego Community Power

San Diego Community Power

100 Percent Renewable Energy by 2035 Policy

Effective Date: March 23, 2023
Adopted by Resolution 2023-XXX

PURPOSE

It is the intent of this policy to firmly commit San Diego Community Power ("SDCP") to achieving 100 percent renewable energy by 2035.

POLICY

1. **Commitment to 100 Percent Renewable Energy by 2035.**

   Pursuant to Resolution 2023-002, the SDCP Board of Directors hereby establishes SDCP's firm commitment to achieve 100 percent renewable energy by 2035.

2. **Chief Executive Officer Implementation.**

   The Chief Executive Officer ("CEO") shall take all operational actions necessary, within the CEO's delegated authority, to achieve 100 percent renewable energy by 2035.

3. **Annual Review.**

   On an annual basis, SDCP shall at a regular meeting of the SDCP Board of Directors review progress towards 100 percent renewable energy by 2035 and other relevant information. At that time, the SDCP Board of Directors may also review market conditions to determine whether this policy should be modified in light of financial or ratepayer implications.

SAN DIEGO COMMUNITY POWER

SAN DIEGO COMMUNITY POWER
Staff Report – Item 13

To: San Diego Community Power Board of Directors

From: Byron Vosburg, Director of Power Services

Via: Karin Burns, Chief Executive Officer

Subject: Amendment to Renewable Power Purchase Agreement with JVR Energy Park, LLC.

Date: March 23, 2023

RECOMMENDATION

Approve the Amendment to the Long-term Renewable Power Purchase Agreement with JVR Energy Park, LLC and authorize the CEO to execute the Amendment.

BACKGROUND

As SDCP strives to meet its environmental, financial, and regulatory compliance goals and requirements, long-term power purchase agreements (PPAs) of at least 10 years in duration will become integral components of its energy supply portfolio. Long-term PPAs provide renewable generation facility developers with the certain revenue stream against which they can finance up-front capital requirements, so each long-term PPA that SDCP signs with a developing facility will underpin a new, incremental renewable energy project. In addition, long-term PPAs lock in renewable energy supply around which SDCP can build its power supply portfolio while also providing power supply cost certainty around which SDCP can develop its pro forma financial model.

In May 2021, SDCP's board approved a PPA with BayWa, the project developer of the JVR Energy Park ("JVR") project. The parties entered into a PPA, dated as of June 4, 2021. In June 2022, BayWa sent Development Cure Period notice due to litigation of the project's MUP. In October 2022 a final ruling was in favor of JVR on all 40 disputes raised in litigation of the MUP. Unfortunately, the opposing party filed an appeal, which further delayed the construction of the project. Even though a settlement could not be reached with the counterparty, in September 2022, Baywa filed for a minor deviation to its MUP to increase the setbacks of the project from the approved 400' to 943'.

SDCP staff worked with BayWa and the two parties entered into a Letter Agreement on November 18, 2022, which, among other things, waived damages until March 2023 and contemplated an Amendment to the PPA. Without an executed Amendment in early 2023, the project would owe the damages to SDCP and the project viability would be at risk.

Contract Overview – JVR Energy Park, LLC

- Project:
  - 90 MW Solar
  - 70 MW/280 MWh – Battery Energy Storage System (BESS)
    - The capacity from this project is especially valuable given the project's proximity to SDCP communities and eligibility for San Diego-Imperial Valley (SD-IV) Local Resource Adequacy ("RA").
- Project location: Jacumba Hot Springs, San Diego County, CA
- Contract term: 20 years
- Expected annual energy production: approximately 260,000 MWh (equivalent power for approximately 52,000 homes)
- Energy price:
  - Solar – Fixed energy price applicable to the full term of the agreement
  - Battery Energy Storage System – Fixed capacity price adjusted for efficiency, availability and verified capacity
- No credit or collateral obligations for SDCP
- SDCP would receive financial compensation in the event of seller's failure to successfully achieve certain development milestones

Community Benefits:

- BayWa has committed $4M in cash contributions to the community
  - $450k has already been allocated to San Ysidro Health, Jacumba Community Services District, and the Imperial Valley Desert Museum Society
  - $3.5M+ still open for allocation
- Construction will create 350 jobs using local unions and a Project Labor Agreement. Very substantial direct spending and indirect spending will occur with local merchants.
- The NREL Jobs and Economic Impact Model (JEDI) projects $46MM of local spending
- Project will create $264MM in tax revenues, including roughly $8.7MM in real estate taxes for San Diego County
- BayWa has committed 435 acres of land for conservation will remain untouched in perpetuity and managed by the San Diego Foundation.

ANALYSIS AND DISCUSSION

Staff and outside procurement counsel at Keyes & Fox negotiated the attached First Amendment to the JVR PPA for the purchase of renewable energy and resource adequacy from JVR, which is a solar-plus-battery-storage project to be developed just outside of Jacumba Hot Springs, CA in San Diego County.

While staff is disappointed in the litigation and delays, the project's value to SDCP's customers and to the SDCP portfolio warrants consideration of the Amendment. SDCP staff believes the project's benefits to the community and in meeting California's need for significant development of reliable, renewable energy generation capacity outweigh the concerns raised by a single litigant and a few well-organized local opposition groups. Additionally, further engineering work on the project has allowed for an increased expected energy production even with the increased setback.

Item	Original PPA	Amended PPA
Expected Energy Production	~260,000 MWh	~275,000 MWh
MUP	4/30/2022	11/30/2024
Expected Construction Start Date	5/31/2022	12/31/2025
Expected Commercial Operation Date	3/31/2023	10/31/2026

- Additional items:
    - The competitive, fixed energy and capacity pricing of the Amended PPA are confidential. Both were increased in the Amendment due to increased cost to the project, including increased EPC pricing, caused by the litigation delay on the project's construction timeline. The increased rates are still competitive to market rates for projects with 2026 expected commercial operation dates.

SDCP can set itself apart from other renewable energy purchasers by working closely and collaboratively with local and regional developers. Flexibility in portfolio management and contracting will allow SDCP to access more market opportunities but needs to be balanced with sound procurement planning and risk management. The JVR project is a local project, the only one in the portfolio in San Diego County, with an established relationship with SDCP. As such, staff recommends adopting the First Amendment to the PPA to allow the project to move forward.

COMMITTEE REVIEW

The terms of this amendment were reviewed with the Energy Contract Working Group (ECWG) on March 7th, 2023, and the ECWG recommended to move forward in negotiations with BayWa.

FISCAL IMPACT

The competitive energy and capacity pricing of the PPA are confidential, but the long-term purchase of renewable energy and capacity will provide SDCP with significant value and cost certainty over the term of this PPA.

ATTACHMENTS

Attachment A: First Amendment to Renewable Power Purchase Agreement with JVR Energy Park, LLC

FIRST AMENDMENT TO
RENEWABLE POWER PURCHASE AGREEMENT

THIS FIRST AMENDMENT TO RENEWABLE POWER PURCHASE AGREEMENT (this "**Amendment**") is entered into as of March [●], 2023, by and between JVR Energy Park LLC, a California limited liability company ("**Seller**"), and San Diego Community Power, a California joint powers authority ("**Buyer**"). Seller and Buyer are each referred to as a "**Party**" and together as the "**Parties**."

WHEREAS, the Parties entered into that certain Renewable Power Purchase Agreement, dated as of June 4, 2021 (the "**PPA**");

WHERAS¸ the Parties entered into that certain Letter Agreement re: Daily Delay Damage Collection, dated as of November 18, 2022, which, among other things, contemplated the entry into of this Amendment;

WHEREAS, the Parties now desire to amend certain provisions of the PPA; and

WHEREAS, the Parties desire to document their agreement to negotiate in good faith with respect to a second amendment to the PPA.

NOW, THEREFORE, in consideration of the terms and provisions set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. <u>Amendment to Cover Sheet</u>. The Cover Sheet of the PPA is hereby amended as follows:

a. <u>Milestone Schedule</u>. The "Milestones" table is hereby deleted in its entirety and replaced with the following:

Milestone	**Expected Date for Completion**
Evidence of Site Control	Complete
Executed Interconnection Agreement	Complete
CEC Pre-Certification Obtained	Complete
Major Use Permit	11/30/2024
Network Upgrades Completed	150 days prior to Expected Commercial Operation Date
Expected Construction Start Date	12/31/2025

Full Capacity Deliverability Status Obtained	Complete, subject to annual confirmation
Initial Synchronization	90 days prior to Expected Commercial Operation Date
Expected Commercial Operation Date	10/31/2026
Guaranteed Commercial Operation Date	Expected Commercial Operation Date

b. Expected Energy. The "Expected Energy" table is hereby deleted in its entirety and replaced with the following:

Contract Year	Expected Energy (MWh_{AC})
1	282,714
2	282,203
3	281,685
4	281,160
5	280,630
6	280,095
7	279,554
8	279,007
9	278,451
10	277,887
11	277,318
12	276,742
13	276,162
14	275,577
15	274,985
16	274,385
17	273,776
18	273,157
19	272,530
20	271,893

c. Minimum Storage Facility Discharging Loss Factor. The "Minimum Storage Facility Discharging Loss Factor" line item is hereby deleted in its entirety and replaced with the following:

"**Minimum Storage Facility Discharging Loss Factor**: Eighty-eight percent (88%)"

d. Contract Price. The "Contract Price" line items and tables are hereby deleted in their entirety and replaced with the following:

The Renewable Rate shall be:

Contract Year	Renewable Rate
1 – 20	[redacted]

The Storage Rate shall be:

Contract Year	Renewable Rate
1 – 20	[redacted]

2. **Amendment to Section 1.1**. The "Contract Definitions" of the PPA are hereby amended as follows:

a. RA Guarantee Date. The "RA Guarantee Date" definition is hereby deleted in its entirety and replaced with the following:

"'**RA Guarantee Date**' means the Commercial Operation Date."

3. **Amendment to Exhibit B to the PPA**. A new Section 6 is hereby added at the end of Exhibit B to the PPA:

"6. **Termination for Failure to Resolve MUP Litigation**. In the event that Seller is unable to obtain a final and non-appealable major use permit by the date set forth on the Cover Sheet, then either Party may terminate this Agreement upon written Notice to the other Party within ninety (90) days of such date; provided, however, that (x) this termination right under this Section 6 of Exhibit B shall expire in the event that a final and non-appealable major use permit is obtained and (y) if Seller waives its termination right under this Section 6 of Exhibit B, then Buyer's right to terminate shall also be deemed waived. Upon any such termination, neither Party shall have any liability to the other Party, save and except for (a) Buyer shall be entitled to draw upon the full amount of any outstanding Development Security and (b) those obligations specified in Section 2.1(b)."

4. **Agreement Regarding Development Cure Period**. As of the date of this Amendment, the cumulative extensions granted under the Development Cure Period shall be deemed to be zero days for all purposes, including for the purposes of Section 4 of Exhibit B to the PPA.

5. **Agreement Regarding Further Amendment**. The Parties agree to negotiate in good faith to enter into an additional amendment to the PPA prior to the commencement of the Delivery Term, which will address certain technical ambiguities with respect to the Storage Facility; provided that such amendments shall be neutral as to their impact on each of the Parties and are intended to be corrections in order to effectuate the intent of the PPA.

6. **Defined Terms**. Capitalized terms not otherwise defined herein shall have the meaning set forth in the PPA.

7. **Limited Effect**. Except as expressly amended hereby, all of the terms and provisions of the PPA shall remain in full force and effect and are hereby ratified and confirmed.

8. **Joint Preparation**. This Amendment was prepared jointly by the Parties, each Party having had access to advice of its own counsel, and not by either Party to the exclusion of the other Party, and shall not be construed against one Party or the other as a result of the manner in which this Amendment was prepared, negotiated or executed.

9. **Governing Law**. This Amendment and the rights and duties of the Parties hereunder shall be governed by and shall be construed, enforced and performed in accordance with the laws of the State of California, without regard to principles of conflicts of laws.

10. **Counterparts**. This Amendment may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument and each of which shall be deemed an original. The Parties may rely on electronic, facsimile or scanned signatures as originals.

11. **Electronic Delivery**. Delivery of an executed signature page of this Amendment by electronic format (including portable document format (.pdf)) shall be the same as delivery of an original executed signature page.

[*Signature page follows*]

IN WITNESS WHEREOF, the Parties hereto have signed this Amendment as of the day and year first above written.

SELLER:	**BUYER:**
JVR Energy Park LLC, a California limited liability company	San Diego Community Power, a California joint powers authority
By: ______________________________ Name: Title:	By: ______________________________ Name: Title:

SAN DIEGO COMMUNITY POWER
Staff Report – Item 14

To:	San Diego Community Power Board of Directors
From:	Rachel Hommel, Strategic Initiatives Manager
Via:	Karin Burns, Chief Executive Officer
Subject:	San Diego Community Power Sponsorship Policy
Date:	March 23, 2023

RECOMMENDATION
Review and approve the San Diego Community Power Sponsorship Policy

BACKGROUND

This Sponsorship Policy establishes a standardized process for San Diego Community Power (SDCP) to evaluate a business, organization, or individual seeking sponsorship fairly and objectively from SDCP.

Events to be considered are ones that contribute to and are supportive of SDCP's Mission, Vision, Core Values, and Goals, as adopted by the SDCP Board of Directors on June 23, 2022. These include goals for cleaner renewable power, investment into communities of concern, climate justice and equity, promoting electrification and decarbonization, energy education, community outreach, and workforce development.

Sponsors should be businesses, nonprofits, or individuals that promote mutually beneficial relationships for San Diego Community Power. All potential sponsorships (e.g., events, programs, forums, etc.) should be reviewed in terms of creating synergistic relationships with regards to benefits, community contributions, educational opportunities, as well as political sensitivities.

The adopted Sponsorship Policy will both contribute positively to the recognition and image brand awareness of SDCP, while investing in the community to create an equitable and sustainable future for the San Diego region.

ANALYSIS AND DISCUSSION

PURPOSE

This policy provides the framework for SDCP's Board of Directors and staff to ensure SDCP's sponsorship development and implementation process remains transparent, fiscally responsible, and centered on the customer.

As a public not-for-profit agency, SDCP is committed to the reinvestment of revenues into the communities we serve, inspiring innovative solutions to climate change in the cities of Chula Vista, Encinitas, Imperial Beach, La Mesa and San Diego, with the unincorporated communities of the County of San Diego and the City of National City served in 2023.

SDCP will keep an updated list of all current sponsors, sponsored activities, sponsorship amounts, sponsorship agreements, and contacts related to sponsorship via Monday.com tracking.

Purpose of Maintaining the Database:

- Limit duplicate solicitations of one sponsor
- Allow management to make decisions based on most appropriate solicitations and levels of benefits offered
- Keep a current list of all contacts
- Track available budget and allow SDCP management to better understand overall sponsorship budget impacts and needs
- Track geographic diversity of event participation and sponsorships

GENERAL CRITERA & DEFINITIONS

Sponsorship: A sponsorship is any financial or in-kind support from SDCP (including SDCP administrative time) to a business, organization, or individual that helps offset the costs of an event hosted by the business, organization or individual.

Sponsorship Event: A celebration, fundraiser, or educational activity that demonstrates a public benefit that meets the criteria established below.

Sponsorship Agreement: A negotiated agreement between SDCP and a company, organization, or individual to pay a sponsorship fee, provide services, share products or any combination thereof, including advertising, digital marketing, and promotional opportunities.

The Sponsorship Agreement will include, at a minimum, the following:

- An agreed upon sponsorship price
- All benefits to SDCP outlined in writing (e.g., marketing, social media, tabling, tickets, quantified to the extent possible. etc.)
- Any requirements or requests for participation, such as speaking and/or moderating roles

All sponsorships shall be paid via an invoice or purchase order. Any alternate form of payment must be approved by the Chief Financial Officer, or designee, prior to such payment.

APPROVAL PROCESS

While objective analysis is ideal, the appropriateness of a potential sponsorship may be necessarily subjective. This policy addresses this necessity by including Approval Levels from various levels of SDCP management, to help assist with decisions involving larger amounts and benefits for sponsorship.

Each sponsorship will need separate approval if it exceeds specified limits. The Approval Levels for Sponsorship Agreements are as follows:

Under $1,000 – Sponsorship Agreement requires approval by External Affairs staff with review by the supervising Management Team Member

$1,001 to $8,500 – Sponsorship Agreement requires approval by a Management Team Member and the Department Director

Over $8,500 - Sponsorship Agreement requires approval by the Department Director, the Chief Financial Officer, and the Chief Executive Officer

Restrictions:

In general, religious organizations and organizations whose purposes include support of or opposition to candidates for political office, political parties, or ballot measures, are not eligible for sponsorships with SDCP, nor are businesses, organizations, or individuals whose primary products are firearms, tobacco, fossil fuels and/or any other subject matter not deemed appropriate by SDCP.

In all cases, SDCP reserves the right to reject any and all sponsors and sponsorship proposals if the criteria as outlined is not followed or there is the existence of a potential conflict of interest or an appearance of a conflict of interest or the sponsorship would otherwise conflict with applicable law.

For all requested sponsorships, SDCP shall require a Sponsorship Form to be filled out and submitted to SDCP's External Affairs Team.

While each potential sponsorship agreement will be considered on its merits, and judgement and discretion will characterize the decision making, the following questions will be raised:

- *Is the sponsorship reasonably related to the Mission, Vision, Core Values, and Goals of SDCP?*
- *What are the real costs, including administrative time, of the sponsorship?*
- *Has SDCP previously sponsored this organization?*
- *Will this sponsorship lead to a longer-term partnership?*
- *Will this sponsorship have a significant impact on SDCP's goal to equitably distribute resources across all SDCP's member agencies?*
- *Will this sponsorship help us realize our objectives?*

The activities outlined here complement the outreach SDCP does year-round to reach our customers wherever they may be and build support for our mission to provide clean, renewable electricity at competitive prices for San Diegans.

Sponsorships will generally be presented for consideration in two ways: (1) a business, organization or individual requests a sponsorship from SDCP; or (2) a member of the SDCP Staff, Board of Directors or Community Advisory Committee for SDCP's consideration.

FY 2022-23 Sponsorships & Featured Events

This fiscal year, SDCP has spent and/or committed over $44,000 dollars reinvesting back into our communities, hosting over 19 unique events throughout the region, showcasing our commitment to entirely clean and renewable electricity by 2035 or sooner.

Southeast San Diego Science and Art Expo, August 13, 2022 *-* an inclusive science, art, and culture event that welcomes families from around San Diego County.

SD Bike the Bay 2022, August 28, 2022 – Benefit supporting the San Diego County Bicycle Coalition, a non-profit organization dedicated to improving the safety, connectivity, and quality of life for all who ride in San Diego.

Green Summit 2022, September 17, 2022 – Bringing together the biggest leaders in business and tech to share their vision for a sustainable future.

EcoFest 2022, Encinitas, September 22, 2022 – Annual one-day event dedicated to spreading awareness of eco-sustainability and inspiring green action.

SD Climate Action Campaign- NEXUS, October 21, 2022 – Inaugural climate conference bringing together leaders in policy, politics, business, labor, public health, and community to get real about what it will take to win a climate-safe future.

La Mesa Earth Day Fair, April 22, 2023 - The City of La Mesa, in partnership with the La Mesa Park & Recreation Foundation celebrate their commitment to Mother Earth.

Fallbrook Avocado Festival, April 23, 2023 – One of the most popular events in all of San Diego County, with an annual attendance of over 100,000 visitors. This Festival celebrates Fallbrook's heritage as an agricultural community.

COMMITTEE REVIEW

N/A

FISCAL IMPACT

N/A

ATTACHMENTS

Attachment A: San Diego Community Power Sponsorship Policy

Policy Number: F23_001

Original Adoption Date: March 23, 2023

Subject: Sponsorship Policy

Purpose: This Sponsorship Policy establishes a standardized process for San Diego Community Power (SDCP) to fairly and objectively evaluate a business, organization, or individual seeking sponsorship from SDCP.

Policy Definitions

Sponsorship: A sponsorship is any financial or in-kind support from SDCP (including SDCP administrative time) to a business, organization, or individual that helps offset the costs of an event hosted by the business, organization, or individual.

Sponsorship Agreement: A negotiated agreement between SDCP and a company, organization, or individual to pay a sponsorship fee, provide services, share products or any combination thereof, including advertising, digital marketing, and promotional opportunities.

Sponsorship Event: A celebration, fundraiser, or educational activity that demonstrates a public benefit that meets the criteria established below.

Event types shall include the following:

- Events that contribute to and support SDCP's Mission, Vision, Core Values, and Goals, as adopted by the SDCP Board of Directors on June 23, 2022, including goals for cleaner renewable power, investment into communities of concern, climate justice and equity, promoting electrification and decarbonization, energy education, community outreach, and workforce development;
- Events that contribute positively to the recognition and brand awareness of SDCP;
- Events and organizations that demonstrate that they can meet the necessary requirements of the Sponsorship Agreement; and
- Events that are open to the general public, or, if exclusive, then located within the San Diego region and/or supportive of SDCP's Mission, Vision, Core Values, and Goals.

Policy Restrictions

- In general, religious organizations and organizations whose purposes include support of or opposition to candidates for political office, political parties, or ballot measures, are not eligible for sponsorships with SDCP, nor are businesses, organizations or individuals whose primary products are firearms, tobacco, fossil fuels and/or any other subject matter not deemed appropriate by SDCP.
- In all cases, SDCP reserves the right to reject any and all sponsors and sponsorship proposals if the criteria as outlined is not followed or there is the existence of a potential conflict of interest or an appearance of a conflict of interest or the sponsorship would otherwise conflict with applicable law.

Internal Review

I. Guidelines for Acceptable Sponsorships

Sponsors should be businesses, nonprofits, or individuals that promote mutually beneficial relationships for San Diego Community Power. All potential sponsorships *(e.g.*, events, programs, forums, etc.) should be reviewed in terms of creating synergistic relationships with regard to benefits, community contributions, educational opportunities, as well as political sensitivities. All sponsorships should promote the Mission, Vision, Core Values, and Goals of San Diego Community Power as follows:

- MISSION STATEMENT
  San Diego Community Power is a community-owned organization that provides affordable clean energy and invests in the community to create an equitable and sustainable future for the San Diego region.

- VISION STATEMENT
  A global leader inspiring innovative solutions to climate change by powering our communities with 100% clean affordable energy while prioritizing equity, sustainability, and high-quality jobs.

- CORE VALUES
  Justice, Equity, Diversity & Inclusion (JEDI)
  Impact
  Integrity
  Innovation
  Servant Leadership
  Togetherness

The following questions are the major guiding principles of this policy and should be addressed prior to soliciting potential sponsors or reviewing submitted sponsorship requests:

- Is the sponsorship reasonably related to the Mission, Vision, Core Values, and Goals of SDCP?
- What are the real costs, including administrative time, of the sponsorship?
- Has SDCP previously sponsored this organization?
- Will this sponsorship lead to a longer-term partnership?
- Will this sponsorship have a significant impact on SDCP's goal to equitably distribute resources across all of SDCP's member agencies?

While objective analysis is ideal, the appropriateness of a potential sponsorship may be necessarily subjective. This policy addresses this necessity by including Approval Levels from various levels of SDCP management outlined in Section III, to help assist with decisions involving larger amounts and benefits for sponsorship.

II. Sponsorship Form and Approval Levels

Sponsorships will generally be presented for consideration in two ways: (1) a business, organization or individual requests a sponsorship from SDCP; or (2) a member of the SDCP Staff, Board of Directors or Community Advisory Committee for SDCP's consideration.

For all requested sponsorships, SDCP shall require a Sponsorship Form (Attachment A) to be filled out and submitted to SDCP's External Affairs Team.

Each sponsorship will need separate approval if it exceeds specified limits. The Approval Levels for Sponsorship Agreements are as follows:

- <u>Under $1,000</u> – Sponsorship Agreement requires approval by External Affairs staff with review by the supervising Management Team Member
- <u>$1,001 to $8,500</u> – Sponsorship Agreement requires approval by a Management Team Member and the Department Director
- <u>Over $8,500</u> - Sponsorship Agreement requires approval by the Department Director, the Chief Financial Officer, and the Chief Executive Officer

III. Sponsorship Agreement

Sponsorship Forms shall be reviewed by the Senior Manager of Strategic Partnerships, or designee, within five (5) business days once submitted. If the sponsorship request is approved for negotiation, the Senior Manager of Strategic Partnerships, or designee, will reach out to the respective business, organization, or individual and negotiate a Sponsorship Agreement (Attachment C).

The Sponsorship Agreement will include, at a minimum, the following:

- An agreed upon sponsorship price
- All benefits to SDCP outlined in writing (*e.g.*, marketing, social media, tabling, tickets, quantified to the extent possible.)
- Any requirements or requests for participation, such as speaking and/or moderating roles

All sponsorships shall be paid via an invoice or purchase order. Any alternate form of payment must be approved by the Chief Financial Officer, or designee, prior to such payment.

IV. Sponsorship Contact & Budget Database

A designated staff person or representative of the Public Affairs Team will keep an updated list of all current sponsors, sponsored activities, sponsorship amounts, sponsorship agreements, and contacts related to sponsorship.

Purpose of Maintaining the Database:

- Limit duplicate solicitations of one sponsor
- Allow management to make decisions based on most appropriate solicitations and levels of benefits offered
- Keep a current list of all contacts
- Track available budget and allow SDCP management to better understand overall sponsorship budget impacts and needs
- Track geographic diversity of event participation and sponsorships

SAN DIEGO COMMUNITY POWER

SAN DIEGO COMMUNITY POWER
Staff Report – Item 15

To: San Diego Community Power Board of Directors

From: Chandra Pugh, SDCP, Director of People (HR)

VIA: Karin Burns, Chief Executive Officer

Subject: Compensation Policy Review and Approval

Date: March 23, 2023

RECOMMENDATION

Approve the SDCP compensation policy.

BACKGROUND

As a community-owned organization, it is imperative that SDCP create and commit to a compensation strategy to attract and retain employees. Our success can only result from a workforce of talented, professional, and committed employees. We must be able to attract, develop and retain talent. Therefore, we offer a range of benefit programs, including, compensation reflective of our geographic locations, group health welfare benefits, time-off, work life balance, formal learning, and on-the-job development opportunities. We benchmark compensation and benefits periodically to current energy industry, San Diego regional and California based CCA data. This policy is designed to help support and recognize staff contributions to organizational success and provides guidelines for annual compensation decision making and implementation.

DISCUSSION AND ANALYSIS

Our goal in developing this compensation strategy is to create a foundation that rewards employee performance and engagement.

The proposed board policy and resolution would allow San Diego Community Power to provide annual merit and COLA increases for staff tied to budget and the San Diego County Consumer Price Index for all urban consumers. We will use the CPI-U calculated on a rolling 12-month basis by the Bureau of Labor Statistics in January of the calendar year in which the COLA increase will take effect. COLA increases will be incorporated into the annual budget each year.

Salary adjustments and promotions may become applicable based on the increased competence of identified team members and business need. The process outlined will establish and maintain salary equity and assist managers in the recognition of internal employees who are meeting or exceeding performance standards.

Once adopted, continued communication to staff regarding the overall compensation strategy and total rewards program will be essential to maintaining transparency and consistency in application and practice.

COMMITTEE REVIEW

N/A

FISCAL IMPACT

N/A

ATTACHMENTS:

Attachment A: Compensation Policy

Attachment B: SDCP - Compensation Tool A – Job Responsibility Level Listing of Approved Jobs & EEO Categories (For Informational Purposes – not for adoption).

Attachment C:Salary Grading Tool (For Informational Purposes – not for adoption).

Attachment D: SDCP - Compensation Tool C – Job Responsibility Level Listing of Approved Jobs & EEO Categories (For Informational Purposes – not for adoption).

Policy Title	Total Compensation Policy
Policy Owner	Human Resources
Policy Approver(s)	Board of Directors
Related Policies	Employee Handbook
Related Procedures	N/A
Storage Location	To be determined
Effective Date	[INSERT BOARD APPROVAL DATE HERE]
Next Review Date	N/A

TOTAL COMPENSATION POLICY

Mission Statement: San Diego Community Power is a community-owned organization that provides affordable clean energy and invests in the community to create an equitable and sustainable future for the San Diego region.

Our success can only result from a workforce of talented, professional, and committed employees. We must be able to attract, develop and retain talent. Therefore, we offer a range of benefit programs, including, compensation reflective of our geographic locations, group health welfare benefits, time-off, work life balance, formal learning, and on-the-job development opportunities. We benchmark compensation and benefits periodically to current energy industry, San Diego regional and California based CCA data. This policy is designed to help support and recognize staff contributions to organizational success.

Our goal is to:

- Attract, motivate, develop, and retain employees.
- Recognize employee performance contribution and goal accomplishment.
- Be internally equitable, externally competitive, financially sustainable, and compliant with all laws and regulations.
- Provide managers a wage framework to administer fair pay, pay transparency, and to recognize the level of job responsibility and capabilities required for effective job performance.

The Board of Directors approves the budget annually, including, but not limited to, job classifications, personnel budget, and salary schedules. Individual employee salary increases, where and when applicable, are approved and administered by the Chief Executive Officer (CEO).

<u>Designated Job Titles and Descriptions</u>

The compensation program establishes consistent and authorized job titles, department assignments, designated Fair Labor Standards Act (FLSA) Exempt or Non-exempt job status, Worker's Compensation codes, and other required payroll coding. Also, every manager carries the responsibility to guide the compensation program in accordance with

Equal Opportunity guidelines: all job and salary decisions must be made without regard to any protected classes in accordance with federal, state or local laws.[1]

Job descriptions will be evaluated and updated by the organization on a periodic basis. Questions about job titling and descriptions can be addressed with the immediate manager and Human Resources (HR). Managers in consultation with HR, will ensure that the job title and job description accurately reflect job responsibilities, essential functions and

[1] These include race, color, sex (including reproductive health decision-making), sex stereotyping, sexual orientation, gender, gender identity (including transgender identity), gender expression (including transgender expression), because an individual has transitioned (to live as the gender with which they identify), is transitioning, or is perceived to be transitioning), religious or political affiliation, creed (including religious dress and religious grooming practices), military or veteran status, service or obligation, reserve status, national guard status, marital status, pregnancy (including perceived pregnancy, childbirth, breastfeeding, or other pregnancy related conditions), age (over 40), national origin, ancestry, citizenship, physical or mental disability (including HIV and AIDS), legally protected medical condition or information, genetic identity, genetic expression, genetic information, protected medical leaves, domestic partner status, status as a victim of domestic violence, sexual assault, or stalking, enrollment in a public assistance program, engaging in protected communications regarding employee wages or otherwise exercising rights protected under the California Fair Pay Act, requesting a reasonable accommodation on the basis of disability or bona fide religious belief or practice, or any other basis protected by federal, state or local laws.

required qualifications. Final job descriptions are evaluated and finalized by HR, working with the manager and functional director.

Final job description must meet approval of the CEO and HR. Authorized job descriptions are maintained by HR. Job descriptions are key to successful recruitment, onboarding, and staff development.

The compensation program and authorized jobs are a function of the SDCP's current business situation and are subject to change, update, or deletion at any time.

(See Compensation Tool A – Job Responsibility Level Listing of Approved Jobs & EEO Categories)

<u>Presenting New Job Descriptions</u>
If business circumstances present the need to establish a new job description, modify a job title, change an existing job description or to update a job's Fair Labor Standards exemption status or Workers' Compensation class code, the manager must address first with her/his functional director and HR. The manager will undertake a Job Description Questionnaire (JDQ) process to present the job criteria. HR in collaboration with the executive team will evaluate the proposed job and conduct analysis to clarify the final job description, budgeted salary range, and proposed job responsibility level.

(See Compensation Tool B – Job Description Questionnaire)

<u>Salary Ranges & Job Responsibility Levels</u>
SDCP's Compensation Program presents salary grade based on levels based on job responsibility. Job responsibility levels consider job factors such as scope of work, organizational impact, management of others, budget development and oversight, revenue or expense control, years of experience and education required for the job.

The job responsibility levels present broad salary ranges to allow for employee career development and growth with the current job level. Compensation data will be benchmarked periodically as directed by CEO and HR to inform directors and managers recommendations as it related to job title and salary adjustments.

(See Compensation Tool C – Salary Grading Tool)

<u>Job Offers, Salary Changes, and Documentation</u>
Job offers for external candidates must be presented by HR within the compensation guidelines. Generally, salary changes for employees being newly promoted to a job with a higher responsibility level will fall within the first half up to the midpoint of the salary range.

Salary change recommendations for existing staff must be accompanied by their respective Director's review and support. A new job offer to an external candidate or job transfer assignment to an existing employee must be budgeted and supported by business need (EMPLOYMENT AGREEMENT) and approved in advance with a Salary worksheet or Notice of Employee Change payroll change form signed by the Director of People, the CFO, and the CEO.

Hiring managers recommending a job offer to an external candidate will do so considering qualifications, experience level (number of years in a similar position), type of business where the candidate served, and level of responsibility and complexity of duties, and if applicable, managerial experience if required for the job. SDCP will review internal equity when evaluating external candidate job offers.

Managers are expected to consult with HR prior to presenting a salary change or job offer to make sure the salary proposed is budgeted, internally equitable, and within the compensation guidelines. The salary change or job offer proposal must be presented to your manager and HR to clarify the salary recommendation to the CEO for final approval.

A Notice of Employee Change payroll form must be submitted with supporting documentation, such as a performance evaluation, salary worksheet, or a written memo describing and/or quantifying the reasons why the manager presents the salary change recommendation. In addition, for current employees being promoted or those being recommended for a transfer assignment, a letter or salary worksheet to the employee must be presented to clarify the new job title, updated goals and assignments, and effective date of the changes. HR will assist the manager complete this step.

Final salary changes or job offers may not be communicated to an employee or candidate until the salary rate is approved by the CEO on a salary worksheet.

1) Merit Increases

In conjunction with the annual performance feedback process, merit increases may be awarded based on the overall success of the organization, individual employee performance, and goal achievement. Merit increases are contingent on SDCP's financial results as reported by the CFO/Treasurer based on the fiscal year-end results as presented to the SDCP Board of Directors in the annual audited financial statements by a certified public accountant. Merit increases are typically a percentage of base salary within a range of 1%-5% and will be reflected on the 1st pay period in April of each year.

The CEO and CFO will identify the merit increase pool on an annual basis as part of the annual budget process. SDCP Finance and HR will present the merit pay process guide to managers. The merit increase award is designed to recognize employees considerate of the performance of the employee during the evaluation period.

The following factors are the basis for awarding merit pay to employees:

- Wage/salary funds available as identified in the budget.
- The employee's employment time in the performance evaluation period.
- The employee's performance as reported in the performance feedback tool, and as noted by the manager during one-on-one meetings, observation, and actual performance and goal achievement.
- The appropriate job responsibility level considering the employee's performance and performance of others within the range.

Salary Adjustments

A promotion is when an employee moves to a higher job responsibility level position. A promotional increase may be designated when new or existing activities call for additional or increased job responsibilities, performance has been documented, and the higher salary level is supported by organizational need and budget availability. Approved promotions will be presented by the manager to the employee in a letter describing the terms of the promotion.

A salary adjustment may be applicable when an employee is placed in a different job having more or less demanding responsibilities or a different work schedule, as may be the case in a lateral job change. A salary adjustment may also be justified if market conditions for a job have changed significantly or if greater or less duties are now assigned to the employee. Documentation describing the reason for the salary adjustment must be presented by the manager.

Employees Whose Salary is Above the Salary Range Maximum

Employees at or above the current salary range maximum will remain at the current salary level until that time that the salary range is updated by the SDCP Board of Directors, or the individual is promoted. The employee whose current salary is above the current salary range maximum is eligible for participation in any applicable merit increase, if available, and if SDCP's financial performance and the performance of the employee meets the criteria designated for the increase.

Compensation Tool A – SDCP Job Responsibility Level Listing of Approved Jobs & EEO Categories
Compensation Tool B – SDCP Job Description Questionnaire
Compensation Tool C – SDCP Job Responsibility Table / Salary Grading Tool

COLA Policy

A cost-of-living adjustment (COLA) is a company-wide compensation increase that corresponds to a rise in the cost of living.

COLA increases are based on data from the San Diego Consumer Price Index for all Urban (CPI-U) consumers. SDCP will use the CPI-U calculated on a rolling 12-month basis by the Bureau of Labor Statistics in January of the calendar year in which the COLA increase will take effect. COLA increases may be incorporated into the annual budget each year at the discretion of the CEO, subject to final approval by the SDCP Board of Directors.

Eligibility:

The COLA adjustment takes effect on July 1 of each fiscal year and will be reflected on the first paycheck following the effective date. All employees hired prior to April 30 of the current increase will be eligible.
https://www.bls.gov/regions/west/news-release/consumerpriceindex_sandiego.htm

SDCP - Compensation Tool A – Job Responsibility Level Listing of Approved Jobs & EEO Categories

Job Title	Final Grade	EEO Categories
Chief Executive Officer	19	Executive
Chief Financial Officer/Treasurer (Board Appointment)	18	Executive
Managing Director/ Chief Power Officer	18	Executive
Chief Operating Officer	18	Executive
Director of Data Analytics and Account Services	17	First/ Mid-Level Professionals and Managers
Director of Programs	17	First/ Mid-Level Professionals and Managers
Director of External Affairs	17	First/ Mid-Level Professionals and Managers
Director of Regulatory and Legislative Affairs	17	First/ Mid-Level Professionals and Managers
Power Services Settlement Manager	16	First/ Mid-Level Professionals and Managers
Senior Portfolio Manager	16	First/ Mid-Level Professionals and Managers
External Partnerships Manager	16	First/ Mid-Level Professionals and Managers
Policy Manager	15	First/ Mid-Level Professionals and Managers
Power Services Contract Manager	15	First/ Mid-Level Professionals and Managers
Power Services Portfolio Manager	15	First/ Mid-Level Professionals and Managers
Finance Manager	15	First/ Mid-Level Professionals and Managers
Program Manager	15	First/ Mid-Level Professionals and Managers
Marketing and Communications Manager	15	First/ Mid-Level Professionals and Managers
Data and Systems Analyst	13	Professionals
Senior Regulatory Analyst	14	Professionals
Account Services Analyst	13	Professionals
Executive Assistant to CEO and Board Clerk/Secretary (Board Appointment)	13	Professionals
Office Manager and Administrative Assistant	12	Administrative Support Workers

SDCP - Compensation Tool C – Job Responsibility Level Listing of Approved Jobs & EEO Categories

SAN DIEGO COMMUNITY POWER - SALARY STRUCTURE GRADING BY JOB	
Job Title	**Final Grade**
Chief Executive Officer	19
Chief Financial Officer/Treasurer (Board Appointment)	18
Managing Director/ Chief Power Officer	18
Chief Operating Officer	18
Director of Data Analytics and Account Services	17
Director of Programs	17
Director of External Affairs	17
Director of Regulatory and Legislative Affairs	17
Power Services Settlement Manager	16
Senior Portfolio Manager	16
External Partnerships Manager	16
Policy Manager	15
Power Services Contract Manager	15
Power Services Portfolio Manager	15
Finance Manager	15
Program Manager	15
Marketing and Communications Manager	15
Data and Systems Analyst	13
Senior Regulatory Analyst	14
Account Services Analyst	13
Executive Assistant to CEO and Board Clerk/Secretary (Board Appointment	13
Office Manager and Administrative Assistant	12

SDCP - Compensation Tool C – Job Responsibility Level Listing of Approved Jobs & EEO Categories

JOB DESCRIPTION DATE:

REQUESTED POSITION TITLE:

DEPARTMENT OR FUNCTION AREA:

POSITION SUMMARY

Brief overview of job purpose. (Why does the job exist? What is the main function or overall purpose of the job?)

MAJOR RESPONSIBILITIES

Responsibilities: Identify 4 to 6 major job responsibilities that comprise the ESSENTIAL functions of the job. *Within this section, specify physical requirements, environmental work conditions and any situations where the job requires the handling of sensitive or protected information/materials. If the **majority** of the job involves physical activities, complete the optional Physical Requirements Form.*

% of Time Annually: Indicates the amount of time spent annually on each responsibility – use increments of 5%, totaling 100%.

Essential: Place an "X" in the left column of responsibilities which are *Essential* functions of the position.
All functions may not be considered essential. An essential function is defined as:

1) Job tasks that are fundamental and not marginal, or the reason the position exists is to perform that function,
2) The number of employees available to perform that function is limited, OR
3) The function may be so highly specialized that the person in the position is hired for his / her expertise or ability to perform the particular function.

ESSENTIAL	RESPONSIBILITIES	% OF TIME ANNUALLY
X	Example: Develops Annual Business Plan	10%
X	Example: Lifting boxes to stock warehouse shelves (up to 50 lbs each several times per day.)	30%
X	Example: Daily cooking on Grill in a hot temperature environment	25%
	OTHER DUTIES AS ASSIGNED	

QUALIFICATIONS

EDUCATION – Check the **minimal** educational background, certification and licensure ***required*** to competently perform the essential responsibilities of the job.

___ No formal education requirements
___ High School diploma or General Education Degree (GED)
___ Associate degree (indicate specific field, if required):
___ Associate degree or equivalent experience (indicate specific field, if required):
___ Bachelor's degree (indicate specific field, if required):
___ Bachelor's degree or equivalent experience (indicate specific field, if required):
___ Advanced degree (indicate specific field, if required):
___ Certification, professional license, or credential:
___ Valid driver's license (indicate required class):
___ Other:

EXPERIENCE – Indicate below the **minimum** number of years of experience ***required*** to perform the essential responsibilities of the job.

SPECIALIZED SKILLS – List special skills and/or behavioral competencies ***required*** to perform the essential responsibilities of the job.

OPTIONAL: Indicate preferred education, experience, or specialized skills:

SUPERVISION

___ The position does not have any regular responsibility for overseeing or supervising the work of other employees*

___ The position has immediate oversight of employees* while most of the time performing the same or directly related work as those the position leads.

___ The position supervises or manages the work of at least two full-time employees* or the equivalent. The position includes decisions or recommendations regarding personnel actions such as hiring, disciplinary action, overtime, changes in pay and terminations.

# of Employees supervised (FTEs): ______

SAN DIEGO COMMUNITY POWER
Staff Report – Item 16

To: San Diego Community Power Board of Directors

From: Laura Fernandez, Director of Regulatory & Legislative Affairs

Via: Karin Burns, Chief Executive Officer

Subject: Approval of Support for Senate Bill 411

Date: March 23, 2023

RECOMMENDATIONS

Adopt a support position for Senate Bill 411 (Portantino).

BACKGROUND

Virtual meetings have allowed much easier access to appointed bodies of local agencies with far more members of the public participating in each meeting. This has created greater equity in the process and fostered the health of our democracy. Additionally, in-person meetings may jeopardize the health and safety of vulnerable citizens due to ongoing risks of COVID-19 and other illnesses.

The Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body, as defined, of a local agency be open and public and that all persons be permitted to attend and participate. The act generally requires for teleconferencing that the legislative body of a local agency that elects to use teleconferencing post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and have each teleconference location be accessible to the public. Existing law also requires that, during the teleconference, at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction.

Existing law, until January 1, 2024, authorizes the legislative body of a local agency to use alternate teleconferencing provisions during a proclaimed state of emergency or in other situations related to public health that exempt a legislative body from the general requirements (emergency provisions) and impose different requirements for notice, agenda, and public participation, as prescribed. The emergency provisions specify that they do not require a legislative body to provide a physical location from which the public may attend or comment.

Existing law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing in certain circumstances related to the particular member if at least a quorum of its members participate from a singular physical location that is open to the public and situated within the agency's jurisdiction and other requirements are met, including restrictions on remote participation by a member of the legislative body.

SB 411 would authorize a legislative body to use alternate teleconferencing provisions similar to the emergency provisions indefinitely and without regard to a state of emergency. The bill would alternatively define "legislative body" for this purpose to mean a board, commission, or advisory body of a local agency, the membership of which board, commission, or advisory body is appointed and which board, commission, or advisory body is otherwise subject to the act.

Author: Senator Anthony Portantino (D-La Canada Flintridge), District 25

ANALYSIS AND DISCUSSION

During the February 23, 2023, SDCP Board of Directors meeting, SDCP General Counsel presented on the current requirements of the Brown Act, and also noted the proposed SB 411 legislation. SDCP staff was directed to review the bill language and consider bringing forward a proposal to support the bill at a future meeting.

Upon review of the bill language, staff recommends SDCP adopt an official support position for SB 411.

COMMITTEE REVIEW

N/A

FISCAL IMPACT

N/A

ATTACHMENTS

N/A

SAN DIEGO COMMUNITY POWER
Staff Report – Item 17

To: San Diego Community Power Board of Directors

From: Victoria Abrenica, Public Outreach Associate

Via: Karin Burns, Chief Executive Officer

Subject: Approval of Community Advisory Committee (CAC) Appointment for La Mesa

Date: March 23, 2023

RECOMMENDATION
Approve the appointment of Lauren Cazares as La Mesa representative for the Community Advisory Committee.

BACKGROUND
According to Section 5.10.3 of the SDCP Joint Powers Authority (JPA) Agreement:

> The Board shall establish a Community Advisory Committee comprised of non-Board members. The primary purpose of the Community Advisory Committee shall be to advise the Board of Directors and provide for a venue for ongoing citizen support and engagement in the strategic direction, goals, and programs of the Authority. The Community Advisory Committee is advisory only, and shall not have decision-making authority, nor receive any delegation of authority from the Board of Directors. Each Party may nominate a committee member(s) and the Board shall determine the final selection of committee members, who should represent a diverse cross-section of interests, skills sets and geographic regions.

ANALYSIS AND DISCUSSION

At the January 2023 Special New Board Member Orientation Meeting, staff presented a process from which recruitment of the new representatives would begin. Applications for Imperial Beach and San Diego County opened September 2022, and close once filled. Applications for La Mesa opened in February 2023. At the February 2023 Board Meeting, staff announced the three vacancies on the Community Advisory Committee (CAC) and presented the process on how a director, from the respected member agency, can appoint a representative from their community. Throughout the process, staff promoted the applications via SDCP's social media channels and Community Advisory Committee, and directly engaging with staff from La Mesa, Imperial Beach, San Diego County.

Applications were reviewed to determine qualification based on membership criteria including residence or impact their work has on La Mesa, Imperial Beach, and San Diego County. In total, 2 applications were received, and 2 qualified to represent La Mesa, 1 application was received, and 1 qualified to represent Imperial Beach, and 5 applications were received, and 4 qualified to represent unincorporated San Diego County. The lists of applications were sent to each of the respective member agency staff on March 14, 2023, for their review and determination of who would be nominated for appointment.

Director Parent reviewed the strong applicants, ultimately choosing to appoint Lauren Cazares to fill seat 5 in the Community Advisory Committee. Seat 5 has a term ending on June 30, 2025, with the opportunity to serve a maximum of two, three-year terms.

Seats 10 and 12 remain vacant. Applications for the seats will remain open until filled.

SEAT	TERM ENDS	NAME	MEMBER AGENCY
5	2025	LAUREN CAZARES	LA MESA
10	2023	VACANT	IMPERIAL BEACH
12	2023	VACANT	SAN DIEGO COUNTY

If approved by the Board with a simple majority vote, staff will work with the representative to conduct their oath of office, conduct onboarding prior to the next CAC meeting on April 14, as well as be available to answer any questions. Staff will also update Attachment A: CAC Roster and Seat Assignments, to include the new representative.

COMMITTEE REVIEW
N/A

FISCAL IMPACT
N/A

ATTACHMENTS
Attachment A: CAC Roster and Seat Assignments

Community Advisory Committee Roster
and Seat Assignments

Seat	Term Ends	Name	Member Agency Representing
1	2025	Eddie Price	San Diego
2	2023	Matthew Vasilakis	San Diego
3	2025	Anthony Sclafani	Chula Vista
4	2023	Carolyn Scofield	Chula Vista
5	2025		La Mesa
6	2023	David Harris	La Mesa
7	2025	Gary L. Jahns	Encinitas
8	2023	Tara Hammond	Encinitas
9	2025	Anna Webb	Imperial Beach
10	2023		Imperial Beach
11	2025	Peter Andersen	County of San Diego
12	2023		County of San Diego
13	2025	Aida Castañeda	National City
14	2023	Lawrence Emerson	National City

Terms end at the end of every June. Members are subject to a limit of two, three-year terms. They are also subject to the CAC Membership Terms and Criteria.

SAN DIEGO COMMUNITY POWER

SAN DIEGO COMMUNITY POWER
Staff Report – Item 18

To:	San Diego Community Power Board of Directors
From:	Jen Lebron, Director of Public Affairs Lucas Utouh, Director of Data Analytics and Account Services
Via:	Karin Burns, Chief Executive Officer
Subject:	Phase 4 Enrollment Update
Date:	March 23, 2023

RECOMMENDATION
Receive and file Phase 4 enrollment update.

BACKGROUND
San Diego Community Power (SDCP) is engaged in a variety of public relations, marketing, and community outreach activities to drive brand awareness, spark engagement, provide information and minimize opt-outs as enrollment efforts are currently underway in National City and the unincorporated areas of San Diego County.

ANALYSIS AND DISCUSSION

SDCP is in regular communication with regional media in the spirit of transparency and openness for Phase 4 Enrollment that will commence on April 1, 2023 for the unincorporated areas of San Diego County and National City.

SDCP and Civilian, its marketing and communications contractor, have worked together to develop a high-impact campaign that includes multiple mailers sent directly to customers, targeted marketing in local publications, advertising on billboards in high-traffic areas and sending members of staff to outreach events.

We have developed and updated our communications and outreach strategies for the onboarding of new board members, as well as updated our statutory pre- & post-enrollment notices for clarity as well as talking points for our Contact Center agents regarding rates and SDCP service offerings.

The first set of enrollment mailers were sent to customers beginning on Feb. 1st with the second set of enrollment mailers delivered to customer the first week of this month i.e.

March. A total of four statutory mailers will be sent to each customer as a part of the enrollment process.

Trusted messengers are a vital key to connecting with audiences. Two of our Community Advisory Committee members, Vice Chair Aida Casteneda from National City and Dr. Peter Anderson from the East County area have written op-eds in support of SDCP in local publications, The Star News, El Latino and The East County Californian.

As part of our wider media strategy, SDCP has increased its focus on earned media in March and April to broaden our reach to customers. CEO Karin Burns has already participated in a KUSI live feature in February to let future customers know more about SDCP and was featured once more on the KUSI morning show on March 15th. Other live television news segments are being scheduled at every local news television station. Outreach is also being done to ensure SDCP's enrollment is covered by radio, print and online media outlets as well.

Paid media efforts will be key to reaching audiences that may not be tuning into local news. SDCP and Civilian have created a multifaced campaign that provides fair and equitable coverage across each region by analyzing population sizes and allocating budgets accordingly. There has been special attention given to Spanish-, Filipino- and Arabic-speaking audiences in recognition of the fact that some of the Phase 4 enrollment areas have significant portions of their populations that do not speak English.

Starting on March 13, billboards in high-traffic areas near National City, as well as the northern and southern regions of the county will be visible to customers and will stay up through early June. These billboards will help inform new customers that SDCP will be serving them soon as well as increase the general brand awareness for the organization.

SDCP has prioritized the use of Facebook and Instagram for its social media outreach based on the performance of Phase 3 enrollment media campaigns as well as data that showcased high numbers of target audience participation on both sites. Our data analysis shows that social media outreach on Facebook and Instagram has a high impact at a low cost compared to other sites such as Nextdoor or Twitter.

Other paid media efforts include ads in the local newspapers such as the Filipino Press and Asian Business Journal, radio spots on KPBS public radio and Univision radio, posters placed in convenience stores, door hangers, strategically-placed digital bulletins, and geo-fenced banner ads that will appear on a variety of websites.

These strategies will help SDCP accomplish its goal to create awareness around enrollment and strengthen our brand. The activities outlined here complement the outreach SDCP does year-round to reach our customers wherever they may be and build support for our mission to provide clean, renewable electricity at competitive prices for San Diegans.

COMMITTEE REVIEW

N/A

FISCAL IMPACT
$288,438

ATTACHMENTS
N/A