

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



January 8, 2018

Bryan Wright
Chief Financial Officer
Constellation NewEnergy, Inc.
100 Constellation Way, Suite 500C
Baltimore, MD 21202

Dear Mr. Wright,

The Energy Division of the California Public Utilities Commission (Commission) approves Constellation NewEnergy, Inc.'s October 31, 2017 request for a penalty waiver.

Commission Decision (D.) 06-06-064 established waiver provisions for local Resource Adequacy (RA) procurement. D.17-06-027 established 2018 compliance year obligations for all Load Serving Entities (LSEs). On October 31, 2017, Constellation submitted its year-ahead local RA compliance filing, showing a deficiency in the San Diego-Imperial Valley local area. Constellation also submitted a request for penalty waiver for this deficiency pursuant to D.06-06-064.

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

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

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

Energy Division has reviewed Constellation's actions and finds them reasonable considering the capacity available to meet Constellation's local RA obligation. In this case, Energy Division finds that Constellation held a solicitation and pursued all commercially reasonable efforts to acquire the resources needed to meet the LSE's local procurement obligation. Constellation's waiver request includes confidential market-sensitive information supporting this finding. Thus, Energy Division grants Constellation's request for a waiver of Commission penalties related to its year-ahead 2018 local RA procurement.

Sincerely,

A handwritten signature in black ink, appearing to read 'ER', is positioned below the word 'Sincerely,'.

Edward F. Randolph, Director
Energy Division

Cc: EDComplianceReports@cpuc.ca.gov