

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Lori Mitchell

**SUBJECT: SAN JOSE CLEAN ENERGY
RATES DATA UPLOAD AND
LOAD MANAGEMENT STANDARDS
COMPLIANCE PLAN**

DATE: April 24, 2023

Approved 

Date
5/2/23

RECOMMENDATION

- a) Adopt a resolution ratifying the Community Energy Department's submittal of a request to the California Energy Commission, for an extension of time of a regulatory requirement obligating San José Clean Energy to upload its rates data into a statewide database.
- b) Approve the interim Load Management Standards Compliance Plan that details the steps San José Clean Energy will take to prepare a Final Compliance Plan by the current completion date of October 31, 2024.

SUMMARY AND OUTCOME

On January 25, 2023, the California Energy Commission (CEC) adopted amendments to existing program regulations, which included a requirement that large community choice aggregators, such as San José Clean Energy, upload their existing time-dependent rates¹ to a statewide CEC database by July 1, 2023. In doing so, the CEC allowed less than one year for full adoption, systems implementation, and data upload. Additionally, the CEC has not yet provided its final requirements for the data upload format; the functional requirements it has set continue to change, creating uncertainty. These requirements must be finalized before the Community Energy Department (Department), administrator of San José Clean Energy, can build the systems and processes needed for data upload and maintenance.

As a result of the lack of clear requirements and the short timeline between adoption of the amended rules in January and the final data upload due in July, San José Clean Energy submitted

¹ Rates that go up and down to signal when it is costlier and less efficient to use electricity and when it is cheaper and cleaner.

to the CEC a request for more time² to upload all the required data. Approval from the City Council to request an extension of time and to approve an interim compliance plan will bolster the call for an extension and may be necessary in gaining CEC approval, as detailed below.

BACKGROUND

In January 2023, the CEC amended its Load Management Standards, applicable to many electric providers, including San José Clean Energy. Load management is a general term used to describe activities to encourage customers to use electricity during times when clean energy is available, such as during the day when solar is plentiful, and avoid using energy during times when fossil fuel plants are needed to meet higher demand, such as in the late afternoon. The CEC is the state agency charged with establishing standards for load management.

In adopting the amended regulations, the CEC required the state's electric utilities and the large community choice aggregators to upload their time-dependent rates into a new and not yet fully developed state database. While energy providers are required to input this data by July 1, 2023, the CEC has yet to establish final protocols for doing so. The CEC began hosting working groups to develop these requirements in November 2022, but the working group meetings were cancelled beginning in March 2023 and there has not yet been a formal release of the data upload specifications. Additionally, investor-owned utilities and community choice aggregators raised questions to CEC staff about compiling data by multiple parties. These questions remain unanswered and require a determination before moving forward. To date, the CEC has not announced when it will make any decisions on the outstanding items.

In an effort to facilitate a resolution, community choice aggregator representatives held meetings in April 2023, first with CEC staff and then with CEC Commissioner J. Andrew McAllister. Through these meetings, it is the CEC's position that, pursuant to state regulation 20 CCR Section 1623.1, two actions are required for the CEC to consider approving a data upload extension request: (1) the rate approving body of a community choice aggregator must approve any such request, and (2) the request should come with a plan for ultimately meeting the mandate to upload rates data.

Consequently, the Department requested of the CEC a deadline extension, agreeing to meet certain data upload milestones through a staged implementation plan and moving towards full upload in 2024. The stages of implementation are noted in the **Attachment** - San José Clean Energy Interim Load Management Standards Compliance Plan, which will be used until the Department reaches full implementation and brings to the City Council the legally required

² City Council is asked to ratify the request after it was made, rather than approve a future request, due to time constraints. The few weeks between CEC program amendments, analysis of implementation burdens, engagement with other community choice aggregators and CEC staff, and the need to finalize all uploads by July 1 did not allow the Department to seek City Council approval before making the rates data upload extension request.

compliance plan³. The Department's extension request and interim compliance plan were made in parallel with other community choice aggregators and investor-owned utilities that made the same request. The extension and staged plan will allow time for the CEC to finalize its data protocols and respond to questions prior to complete rates data upload.

ANALYSIS

Pursuant to 20 CCR Section 1623.1, the City must demonstrate in a request to modify compliance with the requirements including any of the following:

- (1) that despite good faith efforts to comply, requiring timely compliance with the requirements of this article would result in extreme hardship to San José Clean Energy;
- (2) requiring timely compliance with the requirements would result in reduced system reliability (e.g., equity or safety) or efficiency;
- (3) requiring timely compliance with the requirements would not be technologically feasible or cost-effective for San José Clean Energy to implement; or
- (4) that despite the City's good faith efforts to implement its load management standard plan, the plan must be modified to provide a more technologically feasible, equitable, safe, or cost-effective way to achieve the requirements or the plan's goals.

The Department determined that the requirement to upload existing time-dependent rates to the database by July 1, 2023 would cause extreme hardship and is technologically infeasible because: 1) the requirements for data upload are still in development by the CEC and 2) the Department cannot justify developing systems to upload and maintain data until the database is in a stable state.

Faced with a looming deadline to utilize a tool that requires concentrated staff time and training and with no final protocols or guidance, the Department requested that the CEC provide an extension in uploading rates data. Additional time will allow for the CEC to issue protocols and clarify outstanding questions before staff invests the time in developing systems compatible with the tool.

The Department recommends that the City Council (1) ratify the Department's request to the CEC for a data upload extension and (2) approve the corresponding San José Clean Energy Interim Load Management Standards Compliance Plan.

³ See 20 CCR § 1623.1(a)(1), available at [https://govt.westlaw.com/calregs/Document/I29EE5BD09D4311EDA65FDF2B31A571F6?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/I29EE5BD09D4311EDA65FDF2B31A571F6?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

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EVALUATION AND FOLLOW-UP

No further follow-up is expected.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the May 16, 2023 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/
LORI MITCHELL
Director, Community Energy

For questions, please contact Heather Dauler, Deputy Director, at Heather.Dauler@sanjoseca.gov or (408) 975-2619.

ATTACHMENT: San José Clean Energy Interim Load Management Standards Compliance Plan

**ATTACHMENT: SAN JOSÉ CLEAN ENERGY INTERIM LOAD MANAGEMENT
STANDARD COMPLIANCE PLAN**

**SAN JOSÉ CLEAN ENERGY
INTERIM LOAD MANAGEMENT STANDARD
COMPLIANCE PLAN**

I. PURPOSE

In Docket Number 21-OIR-03 the California Energy Commission (CEC) adopted Load Management Standards (CCR Title 20 §§ 1621-1625) applicable to San José Clean Energy. The purpose of this plan is to identify the steps and activities that San José Clean Energy will need to undertake in order to prepare a Final Compliance Plan by the current completion date of October 2024. As several of the CEC's requirements for the Load Management Standard (LMS) have due dates prior to the filing date of the Final Compliance Plan, this interim plan also addresses how San José Clean Energy will meet those requirements.

All dates are subject to change by either the CEC or the San José City Council upon either entity making the necessary findings.

II. UPLOADING SAN JOSÉ CLEAN ENERGY RATE INFORMATION TO MIDAS

- a. Twelve months after all MIDAS rate upload requirements are finalized, locked-in and published by the CEC; Ratepayer Identification Number (RIN) protocols are finalized; upload and access problems with MIDAS are resolved to allow easy entry of data; and the MIDAS system is proven scalable to the amount of data that will need to be input and processed San José Clean Energy will upload its electric energy generation rates to MIDAS.

III. DEVELOPMENT OF STATE-WIDE ACCESS TO THE MIDAS SYSTEM

- a. San José Clean Energy will provide its customers with their Ratepayer Identification Numbers (RIN) on billing statements and on-line accounts by April 2024, unless delayed by;
 - i. The CEC failing to resolve RIN protocols in time to meet the deadline.
 - ii. The inability to coordinate and resolve RIN issues between San José Clean Energy and PG&E.
 - iii. The inability of the combined PG&E/ San José Clean Energy billing process to handle the assignment of RIN numbers.

**ATTACHMENT: SAN JOSÉ CLEAN ENERGY INTERIM LOAD MANAGEMENT
STANDARD COMPLIANCE PLAN**

- b. San José Clean Energy will work with all other Load-Serving Entities (LSEs) subject to the LMS requirements to make the MIDAS system readily accessible to all customers by October, 2024. As this requires a “single statewide standard tool for authorized rate data access to third parties that is compatible with each of those entities’ systems” San José Clean Energy will look to the CEC to oversee development of this tool. This tool shall;
 - 1. Incorporate cybersecurity measures;
 - 2. Minimize enrollment barriers;
 - 3. Be accessible in a digital, machine-readable format according to best practices and standards;
 - 4. Allow access to authorized third-parties; and
 - 5. Allow third-parties to transfer customers to new rates “in the next billing cycle according to San José Clean Energy’s standard procedures.”
- c. Unless San José Clean Energy develops a rate comparison tool for customers eligible for multiple rates, San José Clean Energy is not required to incorporate this feature into the MIDAS system.

IV. DEVELOP A FINAL COMPLIANCE PLAN BY APRIL 2024

- a. San José Clean Energy shall prepare a Final Compliance Plan for submission to the San José City Council no later than April 2024, showing how it will meet LMS program requirements. This plan will be;
 - i. Consistent with Section 1623.1 of the regulations;
 - ii. Meet the goals of encouraging off-peak usage, encourage control of seasonal and peak loads to improve system reliability and efficiency, lessen/delay need for new generation, reduce fossil-fuel and GHG emissions; and
 - iii. Evaluate cost-effectiveness, equity, technical feasibility, benefits to the grid, and benefits to the customer.

V. DEVELOP AND OFFER REAL-TIME ELECTRIC RATES BY JULY 2025

- a. San José Clean Energy shall develop at least one real-time (i.e. hourly or sub-hourly) electric rate for each customer class and offer it to their customers.
- b. If San José Clean Energy determines that real-time rates are neither feasible nor cost-effective it shall propose alternative proposals for demand flexibility such as interruptible rates, demand response programs, etc.

ATTACHMENT: SAN JOSÉ CLEAN ENERGY INTERIM LOAD MANAGEMENT STANDARD COMPLIANCE PLAN

VI. SAN JOSÉ CITY COUNCIL APPROVAL

- a. San José Clean Energy will present to the City Council a Final Compliance Plan for approval at a publicly noticed meeting by no later than April 2024.
- b. No later than 30 days after City Council approval, the Director of San José Clean Energy shall transmit the Final Compliance Plan to the CEC.
- c. Any real-time rates or other demand response programs developed as part of the LMS process must be approved by the City Council in the same manner and process as all other San José Clean Energy rates.

VII. COST TRACKING AND RECOVERY

- a. San José Clean Energy will develop the necessary accounting methods to track the costs of complying with the CEC's LMS requirements.
- b. San José Clean Energy will seek recovery of these costs from all applicable sources including the CEC.

VIII. SAN JOSÉ CITY COUNCIL AUTHORITY

- a. Nothing in this plan overrides or supersedes the City Council's sole authority as the governing and rate-making body of San José Clean Energy.
- b. Nothing in this plan implies any jurisdictional authority of the CEC over San José Clean Energy's rates and rate programs.
- c. As allowed by statute and in the CEC regulations, the San José City Council has the authority and is allowed to modify any deadline or make necessary program changes if implementation of the LMS requirements would;
 - i. Impose extreme hardship on San José Clean Energy;
 - ii. Reduce system reliability or efficiency; and/or
 - iii. Not be technologically feasible or cost-effective.