



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

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Appeal of Western Community Energy to
Citation No. E-4195-0099, issued on February
9, 2021, by the Consumer Protection and
Enforcement Division.

K.21-03-006
(Filed March 11, 2021)

**REPORT ON STAY OF APPEAL PROCEEDING
OF WESTERN COMMUNITY ENERGY**

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July 25, 2022

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I. BACKGROUND

The California Public Utilities Commission’s (“Commission”) Consumer Protection and Enforcement Division (“CPED”) issued a Citation on February 9, 2021, in relation to WCE’s November 2, 2020, Year-Ahead Resource Adequacy (“YARA”) submission. On March 11, 2021, pursuant to Resolution ALJ-299 and Resolution E-4195, Western Community Energy (“WCE”) provided notice of its determination to appeal and seek a hearing concerning Citation E-4195-0099 (“Citation”).

On May 24, 2021, the WCE Board of Directors declared a fiscal emergency and filed for Chapter 9 bankruptcy protection due to emergency cash flow issues. WCE has filed a plan of adjustment under 11 U.S. Code Chapter 9 (Adjustment of Debts of a Municipality). WCE has also been working with the Energy Division and Commission legal counsel, as well as Southern California Edison (“SCE”), on serving WCE customers and complying with the Commission regulatory requirements.

On June 28, 2021, WCE filed a Motion for Stay of Appeal of Citation No. E-4195-0099 (Motion) requesting a stay of this proceeding until September 30, 2021, which was not protested

by CPED. On July 14, 2021, Administrative Law Judge Peter Wercinski granted WCE's Motion for Stay.

On May 16, 2022, WCE most recently provided a Report on the Stay of Appeal Proceeding that requested a continued stay of the appeal proceedings until after confirmation hearing on the plan of adjustment in WCE's bankruptcy proceeding, which was not opposed or supported by CPED. On May 17, 2022, Administrative Law Judge Wercinski granted a continuance to the stay of proceedings, and required that by July 18, 2022, the parties shall meet and confer regarding a proposed schedule for this proceeding after July 31, 2022, and that by July 25, 2022, WCE shall file and serve a Report reflecting the results of the meet and confer.

II. MEET AND CONFER

A. Position of WCE

On July 18, 2022, WCE regulatory counsel and the CPED held a meet and confer to discuss the status of a proposed schedule for this proceeding after July 31, 2022. At the meet and confer, WCE informed CPED of the developments in its bankruptcy process and discussed the future schedule of the appeal, as further explained below.

The Commission has filed a claim with the bankruptcy court which includes, in part, the Resource Adequacy penalty. While other creditor claim disputes have been resolved, WCE's settlements with its secured creditors has impacted how much remaining funds WCE can use for unsecured creditors.

The bankruptcy court conditionally confirmed the plan of adjustment on July 14, 2022. WCE bankruptcy counsel must lodge an order and a declaration of professionals listing the amounts paid by WCE in connection with the case and plan confirmation and believes that the confirmation order will likely be entered imminently.

Once the plan is confirmed on or shortly after that date, funds will become available and WCE will make distributions in accordance with the confirmed plan. WCE will reserve the Commission's pro rata share of the general unsecured creditor claim pool cash until the Appeal of the penalty is resolved. Subordination of the Commission's claim to a general unsecured claim will be determined, if at all, in a separate proceeding and not as part of the plan confirmation process.

WCE requests a brief extension to September 16, 2022, to bring the matter of the RA appeal to its Board of Directors so that the Board may make a final determination on the withdrawal or continuation of the RA appeal while having all available information from its bankruptcy counsel on the implications of that action. WCE's next two regularly scheduled Board meetings are on August 10, 2022 and September 14, 2022, where WCE plans to schedule a closed Board session to make a final determination on the matter.

Consistent with WCE's prior requests for a stay of this appeal proceeding, a continued stay of WCE's Appeal of Citation No. E-4195-0099 is warranted until September 16, 2022, for the reasons discussed herein and the parallel tracks of this enforcement proceeding and the bankruptcy proceeding. By September 16, 2022, WCE plans to report the outcome of its Board determination regarding whether to withdraw or continue with the Appeal proceeding.

The Commission will not be prejudiced by the extension of a stay, as there is no threat of ongoing harm to the Commission by staying the Appeal because its claims related to the penalty are considered unsecured. In addition, the stay will promote the interests of judicial economy of the Commission and the bankruptcy court.

B. Position of CPED

CPED does not oppose or support WCE's request for a continuance of the stay of WCE's Appeal in this matter.

III. CONCLUSION

For the reasons stated above, Western Community Energy respectfully requests that the Commission continue to Stay WCE's Appeal of Citation No. E-4195-0099 until September 16, 2022.

Respectfully submitted,

July 25, 2022

By: _____



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