



Agenda Report

20-235

Agenda Date: 2/25/2020

REPORT TO COUNCIL

SUBJECT

Action on a Resolution Amending Silicon Valley Power's Rules and Regulations to Remove the Requirement for New or Modified Self-Generation Facilities to Utilize Renewable Generation and Fuel Sources [Council Pillar: Sustainability]

BACKGROUND

On May 7, 2019 the City Council approved Resolution 19-8701 which required new or modified self-generation facilities to utilize renewable generation and fuel sources. These amendments to Silicon Valley Power's Rules and Regulations aligned with the City and State goals and requirements for renewable and/or GHG free energy. The changes were intended to create a greener Santa Clara and help to address environmental and climate change issues. Silicon Valley Power has already taken the initiative by proactively ensuring all new energy acquisitions are renewable and/or GHG free. The proposed change encouraged other generators within the City to do the same.

Bloom Energy Corporation (Bloom) sued the City based on the California Environmental Quality Act (CEQA). The lawsuit stated that the City's CEQA determination, Exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15061(b)(3), was not sufficient and additional CEQA analysis was required.

DISCUSSION

Bloom challenged the City's restriction of Natural Gas Bloom Fuel Cells primarily contending that Bloom boxes emitted less greenhouse gas emissions (GHG) than Silicon Valley Power. The City evaluated Bloom's claim and concluded that Silicon Valley Power produces less GHG than Bloom Fuel Cells. The Court agreed with the City findings and stated that "The Court finds the City's analysis of average CO₂e emissions is reasonable and supports the conclusion reached"

While the Court found that Bloom's Natural Gas Fuel Cells emit more GHG than Silicon Valley Power, the Court held that the City must further evaluate potential NO_x and SO_x emissions and back-up generator use. The City, therefore, must consider additional evidence on these two other items before it reconsiders the restriction on the use of natural gas fuel cells.

Considering that the Court agreed Bloom Fuel Cells will produce more GHG than Silicon Valley Power in Santa Clara, staff anticipates returning in the future for Council to reconsider adopting the changes once additional CEQA is completed. However, as directed by the Court, the amendments to Silicon Valley Power's Rules and Regulations implemented by Resolution No. 19-8701 must be removed unless and until such future CEQA review is completed and the City reconsiders adopting such amendments.

ENVIRONMENTAL REVIEW

The proposed action is in accord with the ruling of the Superior Court.

FISCAL IMPACT

There is no direct fiscal impact of the recommended action.

COORDINATION

This report has been coordinated with the City Attorney's office

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

RECOMMENDATION

Adoption of a Resolution Amending Silicon Valley Power's Rules and Regulations to Remove the Requirement for New or Modified Self-Generation Facilities to Utilize Renewable Generation and Fuel Sources.

Reviewed by: Manuel Pineda, Chief Electric Utility Officer

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Resolution Amending Silicon Valley Power Rules and Regulations
2. Silicon Valley Power Rules and Regulations 2-20-20
3. Silicon Valley Power Rules and Regulations 2-20-20 (redlined version)