

LEGISLATIVE DIGEST

[Administrative Code - Purchase and Sale of Electricity and Related Products - Public Utilities Commission]

Ordinance amending the Administrative Code to modify the waivers of specified contract-related requirements in the Administrative, Labor and Employment, and Environment Codes for electricity and related product transactions, authorizing binding arbitration, and increasing the annual expenditure limit for energy procurements from \$200 million to \$300 million and the revenue collection limit from \$10 million to \$300 million.

Existing Law

Chapter 21.43 of the San Francisco Administrative Code delegated authority to the General Manager of the Public Utilities Commission (PUC) to enter contracts for the purchase of electricity and related services that exceed ten years in duration for more than 10 million dollars. The ordinance made the procurement approval subject to several conditions, including: the duration of any individual contract could not exceed 25 years, inclusive of contract extensions, and; the total cost of the contracts could not exceed 200 million dollars per year. The ordinance also delegated authority to the PUC to enter contracts for the sale of power in excess of \$1 million dollars to \$10 million dollars. Chapter 21.43 also allows the General Manager to waive certain City contracting requirements for these agreements.

Amendments to Current Law

The ordinance would amend Chapter 21.43 of the Administrative Code by increasing delegated authority to enter into contracts with an annual expenditure maximum amount of 300 million dollars and to enter into contracts for the sale of power up to \$300 million per year. The ordinance would allow the General Manager to waive certain City requirements for the procurement and resulting contract subject to certain conditions being met including if the procurement process is consistent with industry standards followed by other community choice aggregation providers and other publicly owned utilities. The ordinance would also authorize the General Manager to enter into agreements with binding arbitration provisions. It would also add two form agreements required when purchasing power and related services from the United States Department of Energy Western Area Power Authority (“WAPA”) to the list of approved pro form agreements.

Background Information

The PUC operates two power businesses—its municipal electric utility, Hetch Hetchy Power (HHP), and its community choice aggregation program, CleanPowerSF (CPSF). HHP mostly uses clean hydro power from Hetch Hetchy and renewable energy from City facilities, but it

sometimes needs to engage in other purchases and sales. CPSF obtains all of its energy through purchases, to meet the needs of enrolled San Franciscans under PG&E tariffs approved by the California Public Utilities Commission (CPUC). PG&E provides transmission, distribution and billing service for CPSF customers. The program has grown from 8,000 customers to 380,000 customers in eight years. CleanPowerSF competes for wholesale power supplies in the highly competitive and highly volatile California Independent System Operator energy market and competes with PG&E and private energy suppliers for customers in San Francisco.

CPSF must enter into a large number of contracts for a variety of electricity products and services under compressed timelines to comply with state law, CPUC regulations and San Francisco clean energy policies. This makes Board approval of every power and related service contract in the usual manner neither practical nor possible. The energy industry relies on standard terms that deviate from general city contracting terms including but not limited to binding arbitration. In order to compete with commercial and other government energy providers, CPSF must include these terms in transactions for power and related services. The ordinance sets out a process for approval of these terms and delegates waiver and approval authority for these agreements to the General Manager of the PUC.

Due to growth of the programs and the number of energy procurements needed in the future, PUC is seeking delegated authority and contract waivers for CPSF and HHP procurements through June 30, 2030.

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