

SAN DIEGO REGIONAL COMMUNITY CHOICE ENERGY AUTHORITY

Staff Report – Item 8

To: SDRCCEA Board of Directors

From: Cody Hooven, SDRCCEA Interim Executive Officer
Director/Chief Sustainability Officer, City of San Diego

Subject: Approval of Legal Services Engagement for Regulatory Support

Date: November 21, 2019

Recommendation

Approve a one-year agreement with Tosdal, APC to provide regulatory monitoring, engagement and legal services commencing January 1, 2020 through December 31, 2020.

Background

A critical component to the success of any Community Choice Energy (CCE) program in California is regulatory engagement to ensure the business model is protected and the needs of CCE communities are represented in various proceedings and actions before the California Public Utilities Commission and other regulatory bodies.

Discussion and Analysis

Currently, there are several proceedings underway at the California Public Utilities Commission that could impact the operations and financial outlook of the Authority. At the October 31, 2019 Board meeting, the Board discussed the need to retain legal support as soon as possible for both General Counsel services as well as regulatory engagement. An ad hoc committee made up of Board members Padilla and Montgomery was created to support the Interim Executive Officer in this effort. In speaking with these Board members, the direction to solicit a proposal from Tosdal, APC was agreed upon. Please see Attachment A to this report for the referenced proposal and the firm's qualifications, which include regulatory legal services for a number of operational CCE programs in California.

Tosdal, APC has submitted a proposal that is price competitive with other firms doing similar regulatory work in California, has demonstrated knowledge and expertise in San Diego Gas & Electric's (SDG&E's) various proceedings, rate filings, and other operations, and has previous experience in the CCE arena, having worked with several of the operational CCE's in the State of California.

Under the Regulatory Legal Services Agreement, the engagement with Tosdal APC will commence on January 1, 2020 and expire on December 31, 2020, unless terminated earlier or extended by the Chief Executive Officer or Board of Directors.

The services provided under the Agreement include the following:

- Regulatory monitoring and reporting – ongoing services related to the development of regulations and the outcomes of regulatory proceedings at the California Public Utilities Commission and other regulatory bodies that could or will impact SDRCCEA, and which may be necessary to make informed engagement positions at the CPUC;
- Regulatory compliance advice - entails interpretation and analysis of certain regulations, review of best practices, and collaboration with staff and consultants to support CCE program compliance;
- Direct advocacy - direct advocacy in regulatory proceedings often requires document review, consultation with clients, development of strategy, and the preparation of comments and briefs. Depending on the proceeding, this task may also involve collaboration with technical experts, development and review of testimony, and questioning and defending witnesses at hearings

The firm's billable rates are described in the attached agreement and provides that total fees shall not exceed \$200,000 in 2020 without the prior written approval of the Chief Executive Officer or Board of Directors. This amount is consistent with the Implementation Budget approved by the Board in October. Tosdal, APC further understands and agrees to "work at risk" for 6-8 weeks, deferring compensation until February 2020, at which time SDRCCEA will have its working capital in place.

Attachment A: Tosdal, APC Letter of Engagement