



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Julia H. Cooper
Lori Mitchell

**SUBJECT: CALIFORNIA ARREARAGE
PAYMENT PROGRAM –
ELECTRICAL/ENERGY**

DATE: December 17, 2021

Approved

Date

12/20/21

RECOMMENDATION

- (a) Accept the staff report regarding the California Arrearage Payment Program (“CAPP”); and
- (b) Adopt a resolution:
- (1) Ratifying the City of San José application for the CAPP, and authorizing the City Manager, Director of Finance, or their designees to negotiate and execute the necessary documents, including any amendments or revisions, and take all other actions to accept the grant and fulfill the Program terms and conditions; and
 - (2) Accepting up to \$4,348,501, or the amount awarded, in CAPP funding; and
 - (3) Authorizing the Director of Finance or her designee to waive any late or other fees and accrued interest for customers that are awarded benefits in compliance with CAPP requirements; and
 - (4) Authorizing the City Manager, Director of Finance, or their designees to apply for, negotiate and execute any documents, and take other actions necessary to receive CAPP funds for electric arrearage, if additional funding becomes available, including the waiver of interest or late and other fees.

OUTCOME

The proposed action allows the City of San José (“City”) to fully participate in the CAPP¹ to provide customer relief for unpaid electric bills and positions the City to take part in any future opportunities for assistance for electric arrearages and further authorizes the Director of Finance or her designee to waive late or other fees and interest², as well as take any other action, as required for CAPP participation.

¹ California Arrearage Payment Program <https://www.csd.ca.gov/Pages/CAPP.aspx>

² Director of Finance authority to write off as uncollectible any account or claim not exceeding \$5,000 per San José Municipal Code §4.24.030, *Write-off of uncollectible accounts authorized when*. Higher amounts can be authorized by the City Council.

BACKGROUND

San José Clean Energy (SJCE) is a Community Choice Aggregation program (CCA) operated by the City's Community Energy Department. SJCE launched service to most customers in the City in February 2019 and completed customer enrollment in January 2021. SJCE serves approximately 350,000 customer accounts, including more than 320,000 residential accounts. SJCE customers are billed for SJCE charges monthly by Pacific Gas & Electric Company (PG&E), and customers remit payment for SJCE charges to PG&E. PG&E in turn remits SJCE's portion of customer payments to SJCE.

The COVID-19 pandemic has led to job loss and other financial hardships for many San José residents and businesses. In early 2020, the State of California enacted a moratorium on utility disconnections for nonpayment, which ended on September 30, 2021. Subsequently, SJCE residential customers with arrearages over 60 days were automatically enrolled in 24-month payment plans, and small business customers were automatically enrolled in payment plans with monthly installments not exceeding 10 percent of their average bill amount. Pandemic-related economic hardship has continued for the public, leading to an increase in unpaid utility bills. In December 2019, prior to the COVID-19 pandemic, SJCE customers owed approximately \$938,000 for unpaid bills older than 120 days; this balance has grown to approximately \$9.6 million as of June 2021.

The American Rescue Plan of 2021 (ARPA) was adopted by the federal government to provide support and relief for Americans affected by the pandemic. The State of California, via the California Department of Community Services & Development (CDCSD), requested this ARPA funding to establish the Program and intends to distribute funding to eligible electric providers that have accrued residential and commercial arrearages during the relief period of March 2020 through June 2021. Electric providers that are approved for Program funding must provide bill credits to unpaid electric charges accumulated during the relief period within 60 days of receiving State funds.

ANALYSIS

Between August and September 2021, the CDCSD surveyed all energy utility providers to determine statewide accrued residential and commercial arrearages. San José Community Energy staff submitted a response to the CDCSD survey on September 15, 2021, reporting \$9,615,133 in eligible residential and commercial arrearages. On November 2, 2021, CDCSD released CAPP Program Notice No. 2021-06-E2, which showed that \$4,348,501 would be allocated to the City as a credit to be distributed amongst these arrearages. January 7, 2022 is the deadline by which electricity providers must submit a final application along with supporting documentation to obtain arrearage funding allocated to them in Program Notice No. 2021-06-E2. Within 60 days of receiving program funding, a final determination will be made as to which residential and commercial accounts have outstanding arrearages. To help ensure an even distribution of credits across all energy utility providers in the disbursement of limited funds, CDCSD has established

that all active residential customers will receive the same percentage of their eligible balances credited/forgiven. A tiered system will be employed to prioritize arrearage credits, as follows:

- Priority Group 1: Active residential accounts with a past due balance of 60 days or more and at risk of disconnection
- Priority Group 2: Active residential accounts with a past due balance of 60 days or more
- Priority Group 3: Inactive residential accounts with a past due balance of 60 days or more
- Priority Group 4: All commercial customers with a past due balance of 60 days or more

Energy utility providers participating in the Program must comply with several requirements, including:

- Allocate payments as bill credits to customer accounts within 60 days of receiving payment;
- Waive customer late fees for any arrearages accrued during the relief period;
- Notify customers of the amount credited, and offer to enroll customers with remaining debt into a payment plan;
- Not discontinue electric service until the customer defaults on the payment plan or misses the deadline to enroll in the payment plan;
- Report on expenditures and customer credits.

By January 7, 2022, SJCE staff, in collaboration with PG&E, will submit a final application that includes then-current customer arrearages that are expected to exceed the \$4,348,501 in allocated Program funds. This application will include a categorization of residential and commercial electric accounts with arrearage amounts, as of the application date (or as close to the application date as possible).

CONCLUSION

Staff will provide bill credits to eligible customer accounts within 60 days of receiving Program funding and will implement all other Program requirements, including customer notification, reporting, payment arrangements, and waiving of late fees.

EVALUATION AND FOLLOW-UP

Staff will continue to provide information to the State as necessary to facilitate participation in the Program and will bring back further updates and actions related to this recommendation as necessary.

CLIMATE SMART SAN JOSE

The recommendation in this memo positively impacts one or more Climate Smart San José energy, water, or mobility goals. Reducing the customer arrearages of SJCE customers will improve the financial stability of SJCE, enabling it to take actions such as implementing energy-saving customer programs and increasing the renewable energy content of the power it delivers to customers sooner than it would otherwise.

PUBLIC OUTREACH

This memorandum will be posted on the City’s Council Agenda website for the January 11, 2022 Council Meeting.

COORDINATION

This item has been coordinated with the Office of the City Attorney and the City Manager’s Budget Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

FISCAL/POLICY ALIGNMENT

This action aligns with the City’s fiscal and policy goals to seek and utilize federal and state assistance for customers impacted by the pandemic.

COST SUMMARY/IMPLICATIONS

The recommended action will result in the City’s San José Clean Energy Operating Fund receiving up to \$4,348,501. Once the final amount has been received and a reconciliation of payments is completed, the revenue will be recognized and appropriated to the San José Clean Energy Operating Fund ending fund balance as part of a future budget action. At this time, the CAPP does not allow the City to offset or recover administrative costs. If funds are granted for this purpose, they would also be part of a future budget action. In addition, the City will waive any late fees and/or penalties that would otherwise be payable by customers with unpaid bills.

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CEQA

Not a Project, File No. PP17-004, Government Funding Mechanism, or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment.

/s/

JULIA H. COOPER

Director of Finance

/s/

LORI MITCHELL

Director of Community Energy

For questions, please contact John Kachmanian, Deputy Director of Finance – Revenue Management at john.kachmanian@sanjoseca.gov or (408) 535-7034 or Zach Struyk, Assistant Director, San José Community Energy at zachary.struyk@sanjoseca.gov or (408) 535-4868.