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Additional submitted attachment is included below.

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California Energy Commission
Dockets Office, MS-4
Re: Docket No. 17-IEPR-07
1516 Ninth Street
Sacramento CA, 95814-5512

Filed Electronically

RE: TID Comments on CEC Staff Proposal for POU IRP Guideline Development.

Turlock Irrigation District ("TID") submits the following comments on the CEC Staff proposal for *POU IRP Guidelines Development: Administration, Review Process, and Reporting* ("Proposed IRP Guidelines"), docketed on April 14, 2017. While the Proposed IRP Guidelines generally adhere to the statutory language of SB 350, there is one concerning departure: the CEC's plans to review retail rates of the Publicly Owned Utilities ("POUs") in the context of the IRP process. As explained below, the review and approval of retail rates falls within the exclusive jurisdiction of the local POU governing boards. SB 350 was not intended to delegate this oversight to the CEC and nothing in express statutory language of SB 350 provides the CEC with this authority. TID requests that the CEC clarify that it has no intention to review the reasonableness of POU rates.

We also comment on the need to minimize the administrative burdens of the IRP process. Finally, the proposed guideline that would require a demonstration of emission reductions within a POU's service territory should be evaluated in the context of the North American Electric Reliability Corporation ("NERC") regulatory obligations, since some local POUs, like TID, have balancing authorities.

DISCUSSION

1. The IRP Guidelines Process Should Be Structured to Minimize the Administrative Burden on the POUs.

The Proposed Guidelines would require the submission of supporting documents that may not be necessary for the CEC's review of the POUs IRPs. Rather than having a POU submit supporting documentation that may not be necessary, we recommend that to the extent that the CEC feels that additional documentation is needed to meet the review requirements of the IRP, the CEC should request additional documentation it may need. In addition, some modeling documentation may be copyrighted and should not be required to be docketed and available for public review. Instead, the CEC should

ensure that some IRP documents can be protected under the CEC's normal confidentiality procedures. The proposed guidelines would allow the CEC to post an IRP at the CEC website for public comment. The IRP submitted to the CEC has been adopted by the POU's governing body through its regular public process that provides for public comment, particularly from its customers who will be directly impacted by the IRP. We do not believe it is appropriate to have the CEC solicit further public comments. Finally, if an appeals period is necessary, the period should be 60 days in light of the complexity inherent in resource planning.

2. **Review of POU Retail Rates Is Within the Exclusive Jurisdiction of a POU's Local Governing Board.**

The Proposed Guidelines suggest that the CEC will review POU retail rates in the IRP process:

> Filing POUs are required to adopt an IRP that ensures that the POU meets its obligations to serve its customers at just and reasonable rates and minimizes impacts on ratepayer bills as required by PUC Section 9621. Staff proposes that POUs demonstrate this by submitting materials related to annual average retail rate analysis that is presented to the utility's governing board. IRPs may also include a discussion of the interrelationship between achieving policy goals and targets and retail rates. (Proposed Guidelines, p. 3.)

TID is concerned with the assertion in the Proposed IRP Guidelines that the CEC will review the IRPs to make sure that a POU has met its "obligation to serve its customers at just and reasonable rates and minimizes impacts on ratepayer bills as required by PUC Section 9621." As to irrigation districts, such as TID, this statement is incorrect for at least three reasons.

First, irrigation districts have broad authority to establish retail rates for electric service, which is not subject to review by either the CEC or the CPUC. Irrigation districts are not subject to the same "just and reasonable" standard that the CPUC applies in reviewing rate proposals of Investor Owned Utilities ("electrical corporations"). Irrigation Districts are formed pursuant to California Water Code Sec. 20500 et seq. Under the Irrigation District Law,[1] irrigation districts are authorized to "fix and collect charges for any service furnished by the district", including the sale of electric power.[2] The board of directors of an irrigation district is vested with "very large discretion by the general terms of the law giving that power"

[1] Cal. Water Code §§ 20500, et. Seq. 20560.
[2] Cal. Water Code § 22280.

to fix charges for services.[3] The Irrigation District Law is in contrast to the requirements of Public Utilities Code Section 451, which sets a just and reasonable rate standard that the CPUC applies to electrical corporations. POUs are not electrical corporations within the meaning of Public Utilities Code Section 451 and 216. Thus, under longstanding legal precedent, the CEC does not have jurisdiction to review POU rates under a just and reasonable standard.

Second, SB 350 does not provide the CEC with purview over POU rates as the Proposed IRP Guidelines seem to suggest. Public Utilities Code Section 9621 does not impose an "obligation to serve its customers at just and reasonable rates and minimizes impacts on ratepayer bills as required by PUC Section 9621." Instead, Section 9621(b) specifically provides that a POU's IRP meet the goals set forth in Section 454.52(a)(1)(C) when those goals are applicable to a POU. While some of the standards in Section 454.52 (e.g., RPS rules) may apply to POUs, the just and reasonable rate standard in Section 454.52 applies only to "electrical corporations" by the express terms of that statutory subsection. Thus, by the express terms of SB 350, POUs are not subject to the just and reasonable rate review standards.

Third, to the extent that the CEC needs "materials" to demonstrate that the requirements of Public Utilities Code Section 9621 are met, POUs will be able to satisfy this requirement through the provision of public documents relied upon or published by the POU governing boards when establishing new rates or making rate changes. POUs are required to conduct rate hearings in open public meetings that meet the requirements of the Brown Act. The CEC should not require any additional rate-related documentation in the context of the POUs IRP filings. For these reasons, the CEC should explicitly recognize that the establishment of rates lies exclusively with the governing boards of the POUs, and will not be subject to review by the CEC in the context of the IRP process.

3. <u>The CEC Should Review Any GHG Reduction Efforts Within a POU's Service Territory in Conjunction with a POU's obligations as a Balancing Authority</u>

The Proposed IRP Guidelines would require filing POUs to demonstrate that localized air pollutants and GHG emissions are reduced within the POU's service territory. TID has made considerable investments in Renewable Portfolio Standard ("RPS") eligible resources, and has balanced these investments with its NERC regulatory obligations by procuring a geographically diverse renewable generation portfolio. TID's status as a Balancing Authority creates operational and regulatory limitations on its ability to change the use of its fast starting natural gas facilities and integrate intermittent renewable generation inside of its Balancing Authority. The CEC should qualify the required demonstration of local air pollutant and GHG reduction measures with a POU's obligation to meet its Balancing Authority requirements.

[3] *Wores v. Imperial Irrigation Dist*., 193 Cal. 609, 632 (Cal. 1924); also see, Cal. Water Code § 22116.

TID appreciates the opportunity to provide these comments and looks forward to working with the Commission to develop a legal and workable set of IRP guidelines.

Sincerely,

/S/

Dan B. Severson
Turlock Irrigation District

cc: Brian S. Biering
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