CALIFORNIA ENERGY COMMISSION
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October 24, 2014

California State Senators and Assemblymembers
The Honorable Jean Fuller
The Honorable Andy Vidak
The Honorable Anthony Cannella
The Honorable Rudy Salas
The Honorable Frank Bigelow
The Honorable Jim Patterson
The Honorable Connie Conway
The Honorable Adam Gray
The Honorable Henry Perea
State Capitol
Sacramento, CA 95814

RE: Friant Power Authority Hydro Certification

Dear Senators and Assemblymembers:

Chair Weisenmiller and Renewables Commissioner Hochschild asked me to respond to your September 29, 2014 letter concerning the Friant Power Authority's hydroelectric project and its eligibility for California's Renewables Portfolio Standard (RPS).

Energy Commission staff have worked with the Friant Power Authority since 2011 to address the RPS certification issues associated with the hydroelectric generation units operated by Friant Power Authority at the Friant Dam. Unfortunately, the resolution of these issues has been delayed by several related factors, discussed in detail below.

To better understand these issues, it is necessary to provide some background information on the Friant Dam facility and its current RPS certification status. The

Friant Dam facility was RPS certified in 2005.[1] .The existing facility is comprised of four existing hydroelectric units – the 15 megawatt (MW) Friant-Kern Canal Unit, the 8 MW Madera Canal Unit, the 2 MW River Outlet Unit, and the 0.45 MW Friant Fish Release Unit. These existing hydroelectric units were RPS-certified as a single small hydroelectric "facility" consistent with the requirements in statute and the Energy Commission's Guidebook, which establish a 30 MW capacity limit for RPS eligible small hydroelectric facilities.. The sum capacity of the four existing units at the Friant Dam totals just over 25 MW, less than the 30 MW capacity limit for a small hydroelectric facility to be RPS eligible.

In 2011, the Friant Power Authority contacted Energy Commission staff about adding a new 7 MW hydroelectric unit (New River Outlet Unit) and sought to amend the RPS certification of the existing Friant Dam facility. The Friant Power Authority subsequently submitted an application to precertify the New River Outlet Unit for the RPS on July 6, 2011 with an estimated commercial operations date of January 1, 2014.[2] However, the addition of the new 7 MW unit to the existing 25 MW capacity of the Friant Dam facility would have caused the overall capacity of the entire facility to exceed the 30 MW capacity limit, making the entire facility no longer eligible for the RPS. Friant Power Authority began working with Energy Commission staff to identify alternatives to the entire facility losing its RPS eligibility with the installation of the new 7 MW hydroelectric unit, including the possibility that one or more of the hydroelectric units could be separately certified on its own as a small hydroelectric "facility."

Energy Commission staff ultimately determined that the hydroelectric units could not be individually certified as small hydroelectric facilities, because the Energy Commission's existing Guidebook rules applied the 30 MW capacity limit to a hydroelectric project as a whole. The term "project" was defined by the Energy Commission in such a way as to ensure that larger hydroelectric projects could not circumvent the 30 MW capacity limit by piecemeal applications for RPS certification for each smaller generating unit within a larger project.

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1 The application for certification for the Friant Dam facility was submitted by Pacific Gas and Electric Company under the Energy Commission's rules at the time which allowed a utility to certify a facility on behalf of the facility owner if the facility's generation was under contract to the utility.

2 The Guidebook includes a process that allows an applicant for a proposed renewable electrical generation facility to apply for RPS precertification in advance of the facility's commercial operation date, with applicant required to apply for full certification once the facility begins commercial operation.

The Energy Commission clarified this point in its very first Guidebook, stating, "The Energy Commission interprets the 30-MW size limit to apply to the total hydro project."[3] Since the Energy Commission's adoption of the first guidebooks governing the implementation of the RPS in 2004, the term "project" has been synonymous with "facility" and defined as follows for a small hydroelectric facility:

> ***Project*** *—for hydroelectric facilities under the Renewables Portfolio Standard Program, "project" refers to a group of one or more pieces of generating equipment and ancillary equipment necessary to interconnect to the transmission grid that is unequivocally separable from any other generating equipment or components. Two or more sets of generating equipment that are located within a one-mile radius of each other and are either 1) contiguous or 2) share common control or maintenance facilities and schedules shall constitute a single Project..."*

In establishing this definition, the Energy Commission relied on guidance from the criteria for a "project" under federal laws governing small power production facilities related to the Public Utility Regulatory Policies Act.[4]

Energy Commission staff determined that the hydroelectric units at the Friant Dam (the existing units and proposed new unit) constitute a single "project" under the Guidebook, because the units are located within a one-mile radius of each other and are contiguous. As such, the Friant Dam facility could not be certified as a single project, because the combine capacity of the five hydroelectric units would total approximately 32.5 MW and exceed the 30 MW limit for a small hydroelectric facility under the RPS.

During the same timeframe, the passage of Senate Bill X1-2 (Stats of 2011, First Extraordinary Session, Chapter 1) created a new RPS eligibility category for a hydroelectric generation unit with a capacity of up to 40 MW that is operated as part of a water supply or conveyance system (WSCS) and satisfies other requirements. SB X1-2 became effective on December 10, 2011, and in 2012 the Energy Commission adopted revisions to its Guidebook to establish rules for implementing the new RPS eligibility category for WSCS hydroelectric units.

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3 http://www.energy.ca.gov/portfolio/documents/2004-04-21_meeting/2004-03-22_500-03-004D.PDF.
4 16 U.S. Code § 796 – Definitions http://www.law.cornell.edu/uscode/text/16/796 and 18 CFR 292.204 - Criteria for qualifying small power production facilities http://www.law.cornell.edu/cfr/text/18/292.204.

Following the Energy Commission's adoption of the Guidebook revisions, the Friant Power Authority submitted applications to amend the RPS certification of its 25 MW Friant Dam facility and to apply for separate certification for each of the existing hydroelectric units under the new RPS eligibility category for WSCS hydroelectric units. These applications remain pending in part because the provisions for WSCS hydroelectric units under Senate Bill X1-2 were ambiguous.

With the passage of Assembly Bill 1478 (Stats of 2014, Chapter 664), the law with respect to WSCS hydroelectric units has now been clarified and amended to apply retroactively consistent with the effective date of SBX1-2. Among other things, AB 1478 clarifies that a WSCS hydroelectric unit is RPS eligible only for the retail seller or local publicly owned electric utility that procured electricity from the unit as of December 1, 2005.

PG&E is the retail seller that has been procuring electricity from the existing units at the Friant Dam as of December 31, 2005. Energy Commission staff understands that PG&E's contract with the Friant Power Authority for this electricity procurement is set to expire in 2015. Consequently, if one or more of the existing hydroelectric units at the Friant Dam are RPS certified under the provisions for a WSCS hydroelectric unit, electricity from the unit(s) will only be eligible for the RPS if it is claimed by PG&E to meet PG&E's RPS procurement requirements. Energy Commission staff discussed these AB 1478 requirements with representatives of the Friant Power Authority in a conference call on September 4, 2014.

Energy Commission staff are working on revisions to the Guidebook to implement the clarified requirements under AB 1478. As staff develops these revisions, it will consider the changing operations of the Friant Dam in light of the San Joaquin River Settlement. The Energy Commission appreciates the importance of this settlement, but must also recognize the statutory 30 MW capacity limit for eligible hydroelectric facilities in the statute.

Staff plans to reevaluate the Friant Power Authority applications for RPS certification based on AB 1478 after the Energy Commission adopts new requirements for its implementation in the Guidebook. Staff is optimistic that the new requirements can be considered for adoption by the Energy Commission by the end of the year, so applications for WSCS hydroelectric units such as those for the Friant Power Authority can be evaluated and processed.

Thank you for your letter. We would be happy to provide a more detailed briefing or to respond to any questions you may have.

Sincerely,

Robert P. Oglesby
Executive Director

CC:
Kip Lipper, Office of Senate President Pro Tempore de Leon
Lawrence Lingbloom, Assembly Natural Resources Committee
Janelle Beland, Undersecretary California Natural Resources Agency
Cliff Rechtschaffen, Office of the Governor
Robert B. Weisenmiller, Chair
Karen Douglas, Commissioner
David Hochschild, Commissioner
J. Andrew McAllister, Commissioner
Janea A. Scott, Commissioner
Jay Dickenson, Director of Governmental Affairs