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M-S-R Comments re AB 1110 Implementation Proposal

Additional submitted attachment is included below.

STATE OF CALIFORNIA ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION

In the Matter of:	Docket No. 16-OIR-05
AB 1110 Implementation Rulemaking	

M-S-R PUBLIC POWER AGENCY COMMENTS ON STAFF PROPOSAL

The M-S-R Public Power Agency (M-S-R)[1] provides these limited comments to the California Energy Commission (CEC) on the October 2018 Staff Paper "Assembly Bill 1110 Implementation Proposal for Power Source Disclosure, Third Version."

Introduction

M-S-R is authorized to acquire, construct, maintain, and operate facilities for the generation and transmission of electric power and to enter into contractual agreements for the benefit of any of its members. Currently, M-S-R and its members have contractual arrangements for over 625 megawatts of CEC RPS-certified renewable energy. M-S-R and its member agencies have made significant investments in RPS-eligible, zero-GHG emitting generation resources for the benefit of their electricity customers and in furtherance of the state's clean energy objectives. M-S-R submits these limited comments on the proposal to alter the treatment of firmed-and-shaped resources set forth on pages 35 and 36 of the proposal, and specifically as this provision applies to as it applies to contractual commitments first entered into prior to June 1, 2010, as M-S-R is greatly concerned that staff's proposal would send the wrong message to electricity providers and ratepayers, and could adversely impact financial investments in renewable electricity resources.

Treatment of Firmed-and-Shaped Resources

Staff notes that "firmed-and-shaped imports under contract as of February 1, 2018, may be classified according to the emissions profile of the renewable generator and associated RECs," and that the "grandfathering provision will expire by the end of the initial firming-and-shaping

1 Created in 1980, the M-S-R Public Power Agency is a public agency formed by the Modesto Irrigation District, the City of Santa Clara, and the City of Redding.

contract or by December 31, 2024, whichever occurs sooner." The provision recognizes the significance of historic investments in renewable resources, and staff has chosen the February 1 cut-off date because this is the date that "corresponds with the public workshop in support of previous iteration of this implementation proposal, in which staff reaffirmed its conclusions regarding firmed-and-shaped imports," and believes that this provision will "provide sufficient transition time for retail suppliers to renegotiate or replace existing firmed-and-shaped agreements at their discretion." (Revised Staff Proposal, p. 36)

What this proposal does not recognize, however, is that for some long-term commitments, retain sellers may not have any real, meaningful discretion to renegotiate or replace existing firmed-and-shaped agreements. While staff correctly acknowledges that "some retail suppliers have made investments in firmed-and-shaped products as a cost-effective and allowable way to meet RPS targets or to support voluntary renewable procurement" (Revised Staff Proposal, p. 35), the proposal fails to recognize the significance of the long-term commitments these investments represent. Not all pre-existing agreements can be readily amended, and even for those that can, the adverse financial repercussions for electric utility ratepayers could be significant.

Investments in these resources was consistent with the state's renewable energy laws and policy objectives. Even as the legislature moved towards categorizing RPS-eligible resources into different "buckets," existing firmed and shaped contracts were expressly excluded from that requirement. Public Utilities Code section 399.16(d) clearly stated the legislature's intent to fully recognize the value of these early contracts and agreements. The California Air Resources Board also recognizes these "zero carbon" resources in the cap-and-trade program through the Mandatory Reporting Regulation. Nothing in the power source disclosure should alter this intent, and the proposal's attempt to create a distinction based on a future point in time for this class of renewable resources is both inequitable to those that have significant financial investments on the line, and contrary to the intent of the legislation to provide clarity to consumers.

Altering existing agreements in not always feasible, practical, or cost-effective. For example, M-S-R's member agencies made a significant early investment in the Big Horn I wind facility to provide renewable energy to electricity customers. The initial contract term goes through 2026, but mandatory extensions to the initial agreement result in a term through at least September 30, 2031. M-S-R's contract for Big Horn II has a stated term running through October 31, 2035.

M-S-R entered into these agreements in 2005 and 2009 respectively. Since that time, more renewable resources, some at lower costs, have come available, so M-S-R commissioned a study to review whether the agency could restructure or alter its arrangements to reduce costs and be more competitive with later-in-time renewable projects. After reviewing the economics, it was determined that it would be costlier for M-S-R to restructure its existing agreement – essentially the same economic effect of an early termination, resulting in substantial early termination fees that would be borne by the electricity ratepayers of M-S-R's member agencies. What the results of the study – and this example – show, is that despite the fact that CEC staff heralded its intent to treat these significant investments differently moving forward, it is not always practical to do so. As such, the proposal's accommodation to allow the existing treatment through a sunsetting period is inadequate. These arrangements should be "grandfathered" for the duration of their contractual or ownership commitments, consistent with the treatment of such resources for RPS purposed under PU code section 399.16(d).

Staff's proposal may also have unintended consequences on future renewable energy transactions. While staff may view the proposal as related solely to a reporting obligation, it does much more than that. Adopting this proposal sends conflicting signals to electricity ratepayers about past investments in renewable resources. It also undermines incentives for early action and long-term commitments in renewable resources, both of which are important elements of the state's clean energy objectives and renewable procurement mandates.

Conclusion

M-S-R urges staff to reconsider its proposal to alter the treatment of firmed-and-shaped resources set forth in the current proposal, and to ensure that the early investments in renewable energy projects are not compromised at the expense of utility ratepayers.

Dated October 25, 2018

Respectfully submitted,

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M-S-R Public Power Agency