

DOCKETED

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**STATE OF CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION**

In the Matter of:

Complaint Against Stockton Port District for
Noncompliance With the Renewables Portfolio
Standard

Docket No. 18-RPS-01

**RESPONSE TO MOTION FOR BIFURCATED, TWO PHASED PROCEEDING AND
MOTION TO MODIFY THE DUE DATE TO FILE ANSWER**

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Dated: January 31, 2018

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AND DEVELOPMENT COMMISSION**

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Pursuant to California Code of Regulations, title 20, section 1211.5(a) and the *Memo from Chair Weisenmiller to Stockton Port District Richard Aschieris and Energy Commission Drew Bohan*, dated January 18, 2018, the Port of Stockton (“Port”) submits this response to the *Motion for Bifurcated, Two Phased Proceeding* (“Motion to Bifurcate”), submitted on February 8, 2018, and moves for the California Energy Commission (“Commission”) to modify the due date for the Port to submit an Answer in this proceeding.

I. RESPONSE TO MOTION TO BIFURCATE

The Port serves as an economic driver in an area of the state that faces persistently high levels of poverty and unemployment. Much of the region in and around the City of Stockton is designated as falling within the top 10 percent of the most impacted census tracts by the California Communities Environmental Health Screening Tool 3.0, which identifies communities that face the highest levels of pollution and are the most economically disadvantaged.¹ By offering commercially competitive rates, the Port can attract new

¹ See Office of Environmental Health Hazard Assessment, Update to the California Communities Environmental Health Screening Tool, CalEnviroScreen 3.0, January 2017, *available at*: <https://oehha.ca.gov/media/downloads/calenviroscreen/report/ces3report.pdf>.

commercial and industrial businesses to its region and provide much needed employment opportunities. This employment can then provide economic benefits throughout the community. Without the Port providing economic rates, there are real risks that these businesses will locate to other regions, including out of state.

The Port intends to meet the state's environmental goals in a manner that does not disproportionately harm its community. Consistent with these goals, the Port has successfully procured sufficient renewable resources to meet its Compliance Period 2 procurement requirements and is working diligently to meet its obligations for Compliance Period 3. The Port looks forward to quickly resolving this complaint and refocusing its efforts on serving its community.

The Port understands that the Executive Director's Motion to Bifurcate would achieve a quick resolution of this matter by considering the mitigating circumstances that would clearly support dismissing the complaint. This could be achieved without adjudicating the merits of the alleged violation, which would likely result in a much longer process. The Port believes that the Executive Director's recommendation would save significant time and resources for both the Commission and the Port.

For these reasons, the Port urges the Commission to grant the Executive Director's motion.

II. MOTION TO MODIFY SCHEDULE

Pursuant to California Code of Regulations, title 20, section 1240(d), the Port's Answer to the complaint filed by the Executive Director is due on February 22, 2018. The Chair's Memo states that the Commission will consider the possible appointment of a committee to conduct a hearing on the complaint in this proceeding at the February 21, 2018 Commission Business

meeting. It is, therefore, likely that the Commission will not rule on the Motion to Bifurcate by the February 22, 2018 deadline for filing an Answer.

If the Commission grants the Motion to Bifurcate, then the Port's Answer will be limited to the mitigating factors that support the dismissal of this complaint. However, if the Commission denies or does not act on the Motion to Bifurcate, then the Port's Answer will address both the merits of the alleged violation and the mitigating factors. The current schedule makes it nearly impossible for the Port to know the necessary content of its Answer by the filing deadline.

Therefore, the Port moves that the Commission modify the due date for the Port to file its Answer from February 22, 2018 to the earlier of either: (1) 30 days after the date that the Commission rules on the Motion to Bifurcate; or (2) 30 days after March 21, 2018, if the Commission does not issue a ruling, and the Motion to Bifurcate is deemed denied.

III. CONCLUSION

The Port appreciates the opportunity to provide this response and urges the Commission to grant both the Motion to Bifurcate and the Port's Motion to modify the due date for the Port to submit an Answer.

Dated: January 31, 2018

Respectfully submitted,



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