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MID Comments on RPS 15-day Language

Additional submitted attachment is included below.

BEFORE THE CALIFORNIA ENERGY COMMISSION

**In the matter of:
Amendments to Regulations Specifying
Enforcement Procedures for the
Renewables Portfolio Standard for
Local Publicly Owned Electric Utilities**

Docket No. 16-RPS-03

MODESTO IRRIGATION DISTRICT COMMENTS ON 15-DAY LANGUAGE

The Modesto Irrigation District (MID) appreciates the opportunity to provide these comments to the California Energy Commission (Commission) on the proposed *15-Day Language Modification of Regulations Specifying Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities* (15-Day Language), issued on July 21, 2020. The 15-Day Language proposes certain additional changes to the proposed amendments that were issued on May 7, 2020 (Proposed Amendments).

The Modesto Irrigation District (MID) supports the preponderance of the proposed changes to the RPS regulation reflected in the 15-day changes, and appreciates staff’s willingness to review stakeholder feedback and incorporate necessary revisions to the proposed amendments that address concerns raised by stakeholders.¹

In these comments, MID focuses solely on the issue surrounding the treatment of “financial assignments” and specifically, the Commission’s affirmation that such assignments do not impact the long-term nature of the underlying contract or ownership agreement, or the grandfathered status of any contract or ownership agreement originally executed prior to June 1, 2010. In the Final Statement of Reasons (FSOR), the Commission should acknowledge that contract amendments, assignments, or modifications that do not otherwise alter the publicly owned utility (POU) receiving the renewable resources or the renewable generation source, do not alter the resource’s portfolio content category (PCC) eligibility under 3202(a)(2)(A), or the

¹ MID is a signatory to the Comments of the Joint Publicly Owned Utilities, and supports the positions set forth therein.

classification of those agreements as long-term under 3204(d). Over the last 18-months, stakeholders have raised this issue with the Commission during workshops and meetings, and most recently in comments on the May 7 Proposed Amendments. Stakeholders sought clarity and certainty in the regulation that any such changes would not alter the PCC 0 designation of the pre-June 1, 2020 contracts. While the Commission has thus far declined to provide that clarity, MID urges the Commission to remove any uncertainty regarding the grandfathered and long-term nature of underlying contracts that are subject to financial-only assignments. In the absence of express regulatory amendments that would remove any ambiguity, the Commission should include an unequivocal statement in the FSOR that the proposed amendments to the RPS regulation sought by stakeholders are not needed because these arrangements clearly do not alter the long-term or grandfathered designation of the contract or ownership agreement originally executed prior to June 1, 2010.

This regulatory certainty is needed to ensure that market participants can make informed decisions about the economic benefits of modifying payment structures. The ability to utilize financing options that would reduce the cost of RPS contracts would provide direct financial benefits to the utility and customers. Regulatory uncertainty, however, could result in lost opportunities to realize substantial costs savings that would have otherwise benefited electricity ratepayers. As risk-adverse entities, public agencies and their financial partners are looking for regulatory clarity, which the Commission is in a position to provide. The Commission should clarify, once and for all, that the long-term and the grandfathered/PCC 0 nature of an underlying contract or ownership agreement would not be impacted by these kinds of financial assignments that expressly **do not** alter the nameplate capacity, or expected quantities of generation, or substitute a different renewable resource.

Financial-only assignments include arrangements that place a third-party between the generation and the POU for the sole purpose of making or receiving payments, but do not otherwise implicate other contract provisions. Critically important is the fact that such arrangements do not violate Public Utilities Code section 399.16(d) as these “contract amendments or modifications occurring after June 1, 2010, do not increase the nameplate capacity or expected quantities of annual generation, or substitute a different renewable energy resource.” As such, they do not trigger any of the criteria that would adversely impact the PCC 0/grandfathered characteristics of

the underlying resource. While clarifying this in the text of the regulation would be helpful, the Commission can provide some level of regulatory certainty by explicitly stating this in the FSOR that will be issued with the approved regulatory amendments. The Commission can provide the markets and market participants regulatory certainty by including a statement in the FSOR that clarifies that financial assignments of existing contracts or ownership agreements do not impact the grandfathered or long-term nature of those contracts or ownership agreements executed before June 1, 2010.

MID appreciate the opportunity to provide these comments to the Commission and the Commission's consideration of this critically important issue. If you have any questions, please do not hesitate to contact the undersigned.

Dated August 5, 2020

Respectfully submitted,

Martin Caballero

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