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Via e-mail (docket@energy.ca.gov and rps33@energy.ca.gov)

November 12, 2014

California Energy Commission  
Docket Office, MS-4  
Re: Docket No. 11-RPS-01  
1516 Ninth Street  
Sacramento, CA 95814-5512

California Energy Commission

**DOCKETED**

**11-RPS-01**

**TN 73974**

**NOV 12 2014**

## **Comments of the Friant Power Authority Docket No. 11-RPS-01 (RPS Implementation)**

The Friant Power Authority (“FPA”) appreciates the opportunity to submit these limited comments on the California Energy Commission (“CEC”) staff’s recommended revisions to the *Renewables Portfolio Standard Eligibility Guidebook* (“RPS Guidebook”) to implement Assembly Bill (“AB”) 1478 (“Proposed Staff Revisions”). As further described below, minimal edits to the Proposed Staff Revisions are necessary in order to ensure that the eligibility of FPA’s hydroelectric generation units (“Units”) is not unnecessarily called into question.

FPA operates three existing Units at or near Millerton Lake in the greater Fresno area: Madera (8 MW), Friant-Kern (15 MW) and River Outlet (2 MW). Electrical output from these three existing Units has been sold for many years under a Qualifying Facility (“QF”) contract with Pacific Gas and Electric Company (“PG&E”). The QF contract with PG&E is scheduled to expire on or about December 31, 2015, and deliveries under a successor power purchase agreement with the city of Santa Clara (“Santa Clara PPA”) are expected to begin on or about January 1, 2016. The Santa Clara PPA was executed on May 15, 2012. Each of the existing Units operates as part of water supply or conveyance system (“WSCS”).

FPA is also constructing a new Unit at Millerton Lake that is intended to economize hydroelectric generation in light of new water flows on the San Joaquin river: New Friant (6.7 MW). Output from the New Friant Unit will be sold to Santa Clara under a separate power purchase agreement (“New Friant Unit PPA”). Total capacity from the existing FPA Units and the New Friant Unit equals 31.7 MW.

As currently written, the Proposed Staff Revisions appear to require a Unit to be separately certified as a WSCS Unit in order for the Unit to “be considered a separate project even though the generation unit itself is part of a larger hydroelectric facility.”<sup>1</sup> The problem with this language for FPA is that, in order to get the benefit from one its Existing Units being considered a separate project, it appears that FPA would need to remove at least one of the Existing Units

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<sup>1</sup> See Proposed Staff Revisions at 8 (modifying the definition of a “project”) (emphasis added).

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from the Santa Clara PPA, and renegotiate a successor amendment to the expiring QF contract with PG&E. These actions are unreasonable, yet these contract modifications would appear to be necessary in order to satisfy the Proposed Staff Revisions' requirement that, in order to be given WSCS certification, electrical output from a Unit must actually be procured by "the retail seller or POU that procured electricity from the generation unit as of December 31, 2005."<sup>2</sup>

In this regard, there is a meaningful distinction between WSCS "certification," on the one hand, and consideration of WSCS Units as separate "projects," on the other hand. Regarding the latter, actual procurement is not necessary under AB 1478, but rather "deemed" procurement will be sufficient. Specifically, AB 1478 requires that "[o]nly one retail seller or local publicly owned electric utility shall be **deemed to have procured** electricity from a given unit as of December 31, 2005."<sup>3</sup> This interpretation, as applied to the consideration of whether a WSCS Unit may be a separate project, is harmonized with and bounded by the other limiting factors in AB 1478, namely, the requirement that the Unit be operated as part of a WSCS and that an application for certification for the Unit shall have been submitted to the CEC prior to January 1, 2013 (both of which are satisfied with respect to FPA's existing WSCS Units). In other words, the other limiting factors in AB 1478 narrowly apply the WSCS designation, so it is unnecessary and unreasonable under the CEC's regulations to require that FPA be constrained by its December 31, 2005 QF contract with PG&E in order for FPA to get the benefit from one its Existing Units being considered a separate "project." Again, there is a meaningful distinction between WSCS "certification," on the one hand, and consideration of WSCS Units as separate "projects," on the other hand.

In order to implement AB 1478 in a way that does not unintentionally and negatively impact FPA's Units, FPA requests that the following minor changes be made to the Proposed Staff Revisions (in yellow shading):

2) ~~For a small-A hydroelectric generation unit with a nameplate capacity not exceeding 40 megawatts that is operated as part of a water supply or conveyance system and satisfies the RPS eligibility criteria (a) through (f) of Section II.F.3 of this guidebook ;~~ **notwithstanding the limitation in paragraph (2),** ~~as defined in this guidebook, may be considered a separate project even though the generation unit itself is part of a larger hydroelectric facility. and generation from the facility was under contract to, or owned by, a retail seller or local publicly owned electric utility as of December 31, 2005, the~~ The turbine and generator of the hydroelectric generation unit shall constitute a separate project provided that the unit is separately metered to identify its generation, and is separately certified as RPS-eligible by the Energy Commission. If a hydroelectric generation unit is certified as part of a small hydroelectric facility, **and does not satisfy RPS eligibility criteria (a) through (f) of Section II.F.3 of this guidebook, rather than individually pursuant to Section II.F.3,** the capacity of the hydroelectric unit shall be

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<sup>2</sup> See Proposed Staff Revisions at 6 (modifying paragraph (2)).

<sup>3</sup> AB 1478; Section 8 (amending Public Utilities Code section 399.12(e)(1)(D)(i)).

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considered part of the overall project in determining the capacity of the small hydroelectric facility.

Acceptance of these modifications will allow AB 1478 to be implemented in a manner that is consistent with the spirit and intent of AB 1478, without unintentionally and negatively impacting FPA's Units or its agreements. Acceptance of these modifications will allow one of FPA's Existing Units to be considered a separate "project" on the basis that the Unit operates as part of a WSCS and meets the core WSCS eligibility criteria (criteria (a) through (f) of Section II.F.3). Accordingly, the separate Unit and the other Units could each be certified as part of a small hydroelectric facility.

FPA respectfully request that the CEC modify the Proposed Staff Revisions as described herein.

Respectfully,

A handwritten signature in black ink, appearing to read "Scott Blaising". The signature is fluid and cursive, with a large initial "S" and a long horizontal stroke at the end.

Scott Blaising

**BRAUN BLAISING McLAUGHLIN & SMITH, P.C.**

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