

**Comments of the Modesto Irrigation District (“MID”) Regarding the California Independent System Operator Corporation’s (“CAISO”) Grid Management Charge (“GMC”) for 2009 Tariff Proposal<sup>1</sup>**

**October 7, 2008**

MID thanks the CAISO for the opportunity to comment on the CAISO’s proposed Tariff language for the GMC, for the time period in 2009 preceding the effectiveness of the GMC rate design under the Market Redesign and Technology Upgrade (“MRTU”). MID has no concerns regarding the so-called “trigger” of \$195 million proposed for 2009. However, comments made at the September 26, 2008 budget workshop give rise to concerns over the proposed Tariff language.

A comment was made by CAISO Staff that the requirement in the proposed tariff language that the CAISO submit a Federal Power Act (“FPA”) Section 205 filing at the end of 2009 would not mean that the CAISO would be required to file what is traditionally considered to be a Section 205 filing. A traditional Section 205 filing includes the full cost support data and schedules supporting the CAISO’s budget required by the Federal Energy Regulatory Commission’s (“FERC”) regulations. The CAISO has not had to file cost support data since the October 31, 2003 CAISO GMC rate filing (FERC Docket No. ER04-115). The comment from CAISO Staff appeared to MID to say that the CAISO would only have to make a minor technical change in order to qualify as a Section 205 filing, such as changing the Tariff language due date for the next Tariff language by extending it a year. For example, under the apparent interpretation, a change would qualify which makes a Section 205 filing due date from one effective “January 1, 2010” to “January 1, 2011.” Such an interpretation would render the Tariff language commitment on this point effectively a nullity.

Further, the current revenue requirement “trigger” is premised on the basis that if the CAISO exceeds a certain revenue requirement amount, currently \$195 million, the CAISO would be required to make a Section 205 filing. MID asks the CAISO what it considers a Section 205 filing to mean in the context of exceeding the trigger, given the apparent interpretation of what a Section 205 filing means, as expressed at the September 26 Workshop.

These questions are important in that, if the CAISO’s interpretation is such that a full Section 205 filing is not required at the end of 2009, then MID may be put in the position of not only opposing the current, proposed Tariff language, but also reconsidering its non-opposition to the Tariff language filed with regard to the GMC rates under MRTU.

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<sup>1</sup> MID submits these comments in the spirit of open discussion, and reserves the right to change its position on the above matters in the future, as well as reserves the rights to comment on any other issue in this stakeholder process.

MID's need to maintain the requirement for the CAISO to submit a full Section 205 filing is not predicated on a desire to protest the CAISO's budget. Indeed, MID hopes that it does not see a need to protest any aspect of the CAISO's budget. MID's concern is premised on the idea that the CAISO's budget is not receiving needed regulatory oversight.

The CAISO most likely is aware of the U.S. Government Accountability Office's ("GAO") September 2008 Report to the U.S. Senate Committee on Homeland Security and Government Affairs, entitled "Electricity Restructuring: FERC Could Take Additional Steps to Analyze Regional Transmission Organizations' Benefits and Performance." The report cited concerns as to the costs imposed on ratepayers created by the Regional Transmission Organization ("RTO") system, including their direct expenses and budgets. The GAO recommends that the Chairman of FERC "develop a consistent approach for regularly reviewing expense information contained in RTO budgets. . . ." GAO Report at 59. This report to MID suggests that at least one other governmental arm, the GAO, fears that RTOs are not receiving sufficient regulatory review regarding their expenses. MID agrees, which is the reason it has consistently supported the requirement that the CAISO submit a full Section 205 filing at the expiration of any settled periods or extensions for GMC.

MID, the CAISO and many other stakeholders have come to agreement as to budgets over the past several years. MID believes that such agreements have been in the best interests of all concerned. MID is willing to entertain proposals in the future regarding the CAISO's budget to bridge the differences. However, the interpretation of the proposed Tariff language that MID believed CAISO Staff supported at the September 26 Workshop would advance a policy of avoiding regulatory review that is counter to MID's and GAO's view of regularly reviewing expense and budget information of RTOs. MID looks forward to an opportunity to discuss MID's concerns with the CAISO to clarify any misunderstandings and address any differences on these issues.