MEETING OF THE BOARD OF DIRECTORS
MODESTO IRRIGATION DISTRICT BOARD ROOM
1231 Eleventh Street
Regular Meeting, December 13, 2011
Open Session: 9:00 A.M.

AGENDA ITEMS

CALL TO ORDER

ROLL CALL

Resolution appointing 2012 President of the Modesto Irrigation District Board of Directors

Resolution appointing 2012 Vice President of the Modesto Irrigation District Board of Directors

Resolution appointing Secretary to the Modesto Irrigation District Board of Directors

1. ADJOURN TO MODESTO IRRIGATION DISTRICT FINANCING AUTHORITY (MIDFA) ORGANIZATIONAL MEETING

RECONVENE TO MODESTO IRRIGATION DISTRICT BOARD MEETING

The public is also welcome to comment on matters which are not on the agenda when the President calls for “Public Input for the Good of the District.” This time is provided for the public to introduce any topic within the District’s jurisdiction. Because these are non-agenda matters, generally no discussion or comment by the Board should be expected except to properly refer the matter for review as appropriate, but no action will be taken at this meeting.

Public Comment will be limited to five minutes per speaker. If you wish to speak, please step up to the podium at the appropriate time and begin by stating your name and address.
Civility is expected from members of the public during the meeting. For more efficient use of time, disruptive behavior will not be tolerated. While you may not agree with what an individual is saying, please treat everyone with courtesy and respect.

CONSENT ITEMS 2-6 - All items are approved by a single action. There will be no separate discussion of those items unless an item is removed at the request of any Director or member of the public. Those items removed will be considered at the end of the consent agenda or be placed on the action agenda for the next meeting.

2. Motion approving Minutes of 09/13/11 and 09/27/11

3. Motion approving Warrants in the amount of $598,243.14

4. Motion approving Wire Transfers in the amount of $16,323,763.24

5. Motion approving Disbursement Account payments

6. Resolution approving the Replacement of Signatory from 2011 Board President and Vice President to 2012 Board President and Vice President on the General Fund Account at Wells Fargo Bank

END OF CONSENT ITEMS

STAFF REPORTS/COMMITTEE REPORTS/JPA REPORTS/ACTION ITEMS, ETC. (Requested action underlined.)

KETSCHER DON PEDRO BOARD OF CONTROL REPORT

7. KETSCHER Resolution approving the Don Pedro Recreation Agency’s 2012 Schedule of Fees effective January 1, 2012

8. HAMPEL Resolution approving and authorizing the General Manager to execute a contract with Fayez Sarofim and Co., as a Large Cap Core Manager for the Modesto Irrigation District’s Basic Retirement Plan, Retiree Medical Benefits Plan and Supplemental B Retirement Plan
Tab No.

9. SALYER OLIVERAS  Resolution approving and adopting the Modesto Irrigation District’s Renewable Energy Resources Enforcement Program and directing staff to update the Modesto Irrigation District’s Renewable Portfolio Standard and develop a Renewable Energy Resources Procurement Plan, both for the Board’s consideration at a later date

SHORT Resolution of Commendation to Cecil Hensley

SHORT Resolution of Commendation to John Kidd

PUBLIC INPUT FOR THE GOOD OF THE DISTRICT

ITEMS TOO LATE FOR THE AGENDA

FUTURE BOARD MEETINGS

CLOSED SESSION:

(a) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
(Subdivision (a) of Government Code Section 54956.9)

United States District Court, Eastern District of California, Fresno Division

Black & Veatch Corporation, v. Modesto Irrigation District

Case No. 1:11-CV-00695 LJO SKO

(b) CONFERENCE WITH LABOR NEGOTIATORS
Government Code Section 54957.6

Agency designated representatives: Irma Perrone, Dennis Batchelder

Employee organization: IBEW Local 1245

(c) Agency designated representative: Irma Perrone

Employee organization: Management/Confidential
RECONVENE OPEN SESSION

ANNOUNCEMENTS FOLLOWING CLOSED SESSION

ADJOURN
Subject: Renewable Portfolio Standard:

Enforcement Program to Comply With Public Utility Code Section 399.30 (e)

Recommended Action: Board approval of the Renewable Energy Resources Enforcement Program included as Attachment A to the proposed Resolution, in compliance with Public Utilities Code Section 399.30(e), and direct staff to update the MID RPS and develop a renewable energy resources procurement plan, both for the Board's consideration at a later date.

Background and Discussion: In the fall of 2002, the Governor signed Senate Bill 1078 (SB 1078) into law, establishing the Renewable Portfolio Standard (RPS) for California. It established the first RPS target for the state's Investor Owned Utilities (IOUs). IOUs were to meet 20 percent of their retail sales with renewable energy by the year 2017, by increasing their procurement of renewable energy by 1 percent on an annual basis until that target was met.

Publicly Owned Utilities (POUs) such as MID were required to adopt an RPS consistent with state policy encouraging renewables. MID adopted its RPS in December 2003, establishing the same RPS target as that applicable to the IOUs. In addition, the MID RPS adopted the definition of eligible renewable resources that SB 1078 established for the IOUs.

Since the inception of the RPS, the MID Board of Directors has taken steps to minimize renewable energy resource procurement risks by: (i) first procuring renewable energy resources that are located within the state of California, to the extent practicable, (ii) obtaining assurances that counter parties will meet deliverability requirements for both energy and environmental attributes (including renewable energy credits (RECs)) associated with in-state or out-of-state renewable resources, in accordance with eligibility criteria; and (iii) examining potential legislative impacts within the regulatory framework in which MID operates. MID has also ensured competitiveness of the purchases made to date by benchmarking the products against various industry and California Energy Commission (CEC) reports.

In 2006, the Governor signed SB 107 into law, further accelerating the RPS target for the state's IOUs to 20 percent by 2010. POUs still had to meet the intent of the law and, therefore, MID did not update its RPS.

The Global Warming Solutions Act of 2006 (AB32) was one of the main drivers of a 33 percent renewable energy requirement. In December 2008, the California Air Resources Board approved a Scoping Plan, which provides an outline of actions to reduce greenhouse gas emissions from significant sources in California. Those actions include regulations, market mechanisms, and other actions, such as the adoption of a goal to meet 33 percent of the state's electric demand with California eligible renewable energy resources.
After several years of debate in the legislature, a 33 percent RPS standard was introduced in 2010 through SB 23 but failed passage. Subsequently, the legislature, as part of significant revisions to RPS laws, through SB 2 required that the state’s POU’s meet the same RPS targets that the state’s IOUs are required to meet. This new legislation was signed into law by Governor Brown in April of 2011 (in an extraordinary session the legislation was numbered SBX1-2) and will become effective December 10, 2011.

SBX1-2 defines three distinct compliance periods as follows:

1. January 1, 2011, to December 31, 2013, inclusive,

The new RPS targets are as follows:

1. Average of 20% of retail sales by December 31, 2013,
2. 25% of retail sales by December 31, 2016, and
3. 33% of retail sales by December 31, 2020.

In addition, SBX1-2 defines the POU obligations as follows:

- Adopt a program for enforcing the new RPS by January 1, 2012.
- Adopt a “renewable energy resources procurement plan” to achieve the goals set by the legislation.
- Meet RPS goals by the designated dates, and make “reasonable progress” toward those goals during the interim years of the second and third compliance periods.
- Provide data annually to the CEC and report annually to customers and the CEC.

MID’s Renewable Energy Resources Enforcement Program (Enforcement Program) is intended to ensure that MID’s renewable procurement plan complies with applicable requirements of SBX1-2. The matters addressed in the Enforcement Program are described below.

MID’s renewable energy resources procurement plan (to be adopted at a later date by the Board) must be consistent with Public Utilities Code Section 399.16, which sets forth requirements for types of renewable resources eligible for compliance. Governing boards of POUs are authorized to adopt measures for banking excess compliance, delaying compliance, and setting cost limits for procurement to meet the RPS, each consistent with the provisions applicable to retail sellers. A POU must annually post public notice whenever its governing body will deliberate in public on the renewable procurement plan.

The renewable energy resource procurement plan that staff will develop will provide the details as to how the specific RPS targets will be met and the enforcement timers, and reporting requirements for procurement.
The CEC is currently tasked with the development of regulations for the implementation of the new RPS for the state's POU's. These regulations will include verification procedures and enforcement guidelines for the POU's. It is anticipated that the CEC will be adopting these regulations by July 1, 2012. Such regulations may require amendment to MID's Enforcement Program. If this occurs, staff will bring back the proposed changes for the Board's consideration.

Staff recommends the adoption of the attached resolution and the attached Enforcement Program, included as Attachment A to the resolution, to comply with SBX1-2. Pursuant to Public Utilities Code section 399.30(e), MID must adopt an enforcement program on or before January 1, 2012.

Alternatives, Pros and Cons of Each Alternative:
If the Board determines that the proposed enforcement program is insufficient it may direct staff to make the necessary revisions before putting the plan into effect.

Concurrence:
Legal has reviewed as to form.

Fiscal Impact:
None. The procurement of required renewable resources has been budgeted.

Recommendation:
The MID Board of Directors approve the Renewable Energy Resources Enforcement Program included as Attachment A to the proposed Resolution, in compliance with Public Utilities Code Section 399.30(e), and direct staff to update the MID RPS and develop a renewable energy resources procurement plan, both for the Board's consideration at a later date.

Attachments:
Supporting documents attached:

- Presentation
- Other supporting docs
- None attached

Note: Original contracts and agreements are housed in the Board Secretary's Office, phone (209) 526-7360.

Details listed above are accurate and complete to the best of my knowledge.
BOARD RESOLUTION

DRAFT

RESOLUTION NO. 2011-

THE DISTRICT’S ADOPTION OF AN ENFORCEMENT PROGRAM TO COMPLY WITH PUBLIC UTILITY CODE SECTION 399.30 (e)

WHEREAS, on December 16, 2003 the Modesto Irrigation District adopted a Renewable Portfolio Standard (RPS) in an effort to meet 20 percent of its retail energy sales with renewable resources by 2017, consistent with Senate Bill (SB) 1078; and

WHEREAS, on April 12, 2011 Governor Brown signed SBX1-2 into law, establishing a statewide target of securing 33% of retail electric sales from eligible renewable energy resources; and

WHEREAS, SBX1-2 requires that the state’s Publicly Owned Utilities adopt a program of enforcement relating to renewable procurement; and

WHEREAS, staff has prepared an enforcement program for consideration by the Modesto Irrigation District Board of Directors, attached hereto as Attachment A, Renewable Energy Resources Enforcement Program, in compliance with Public Utilities Code section 399.30(e); and

WHEREAS, staff plans to develop for Board consideration a renewable energy resources procurement plan to comply with the applicable provisions of SBX1-2;

BE IT RESOLVED, that the MID Board of Directors hereby approves the Renewable Energy Resources Enforcement Program attached to this Resolution as Attachment A, in compliance with Public Utilities Code Section 399.30(e), and directs staff to update the MID RPS and develop renewable energy resources procurement plan, both for the Board’s consideration at a later date.
ATTACHMENT A

RENEWABLE ENERGY RESOURCES ENFORCEMENT PROGRAM

This Renewable Energy Resources Enforcement Program (Enforcement Program) for Modesto Irrigation District (District) is to comply with Public Utilities Code section 399.30 (e).

Renewable Energy Resources Procurement Plan
The District shall develop a Renewable Energy Resources Procurement Plan (Renewable Procurement Plan). The Renewable Procurement Plan should at a minimum include the following elements.

Section 1: Definitions
All references to Public Resources Code (PRC) and Public Utilities Code (PUC) sections are to those sections as amended by the provisions of SBX1-2, signed by the Governor on April 12, 2011 and made effective as of December 10, 2011 by operation of law. The definitions set forth in PRC § 25741 and PUC § 399.12 are incorporated herein. The following definitions shall also apply to this Enforcement Program:

Renewable Energy Resources Procurement Plan (Renewable Procurement Plan): The plan adopted by the District pursuant to PUC § 399.30.


Section 2: Procurement Targets
The Renewable Procurement Plan will include the following renewable energy procurement goals as a percentage of retail sales, pursuant to PUC § 399.30(b) and (c)(1)-(2):

Compliance Period One: January 1, 2011 through December 31, 2013, inclusive.
  • An average of 20% eligible renewable energy resource procurement for the period starting with the later of January 1, 2011, or the effective date of PUC § 399.30, through December 31, 2013.

Compliance Period Two: January 1, 2014 through December 31, 2016, inclusive.
  • By December 31, 2016: 25% renewable energy eligible resource procurement.

Compliance Period Three: January 1, 2017 through December 31, 2020, inclusive.
  • By December 31, 2020: 33% renewable energy eligible resource procurement.

The quantities of eligible renewable energy resources to be procured for Compliance Periods Two and Three will reflect reasonable progress in each of the intervening years sufficient to ensure that the procurement of eligible renewable energy resources achieves the Compliance Period Two and Three goals. (See PUC § 399.30(c)(2).)

Post 2020: The District will endeavor to procure not less than 33 percent of retail sales of electricity products from eligible renewable energy resources in all subsequent years. (See PUC § 399.30(c)(2).)
Section 3: Procurement Content Categories
The General Manager or his/her duly authorized designee shall assign all eligible renewable energy resources procured by the District to the appropriate procurement content category, in accordance with the provisions of PUC § 399.30(c)(3), consistent with PUC § 399.16.

The General Manager or his/her duly authorized designee shall count all resources meeting the requirements of PUC § 399.16(d) in full towards District procurement requirements. The General Manager or his/her duly authorized designee shall have the flexibility to apply these grandfathered resources to procurement content categories as appropriate.

Section 4: Deviation from Procurement Content Category Requirements
The District may waive or delay timely compliance with a requirement set forth in the Renewable Procurement Plan pursuant to PUC § 399.30(d)(2) to the extent the District demonstrates that it cannot comply with such requirements because of conditions beyond the control of the District due to any one of the conditions set forth in PUC § 399.15(b)(5).

Section 5: Banking Rules
The District may adopt measures permitting the District to accumulate, beginning January 1, 2011, excess procurement in one compliance period to be applied to any subsequent compliance period pursuant to PUC § 399.30(d)(1), provided that the quantity of excess procurement is determined in the same manner as allowed pursuant to PUC § 399.13(a)(4)(B).

Section 6: Cost Limitations
The District may establish a limitation on the procurement expenditures for all RPS-eligible resources used to comply with the Renewable Procurement Plan. In establishing such limit, the District shall rely on elements consistent with PUC § 399.30(d)(3), PUC § 399.15(c) and with pertinent policies and rules established by the District.

Section 7: Procurement Plan Limitations and Relief
In endeavoring to procure adequate supplies of renewable energy to meet the goals set forth in Renewable Procurement Plan, the District shall at all times maintain system reliability and maintain average procurement costs for retail electric sales in accordance with the budget and retail electric rates approved by the Board of Directors. The District retains all authority and flexibility granted under PUC § 399.30 and other relevant authorities in meeting its obligations under PUC § 399.30 and implementing its Renewable Procurement Plan.

Enforcement
The District shall annually post a public notice whenever the District will deliberate in public on the Renewable Procurement Plan. The District shall also provide data annually to the Energy Commission and report annually to its customers and the Energy Commission. (See PUC § 399.30 (f)(1) and (2).)

The Board of Directors directs the General Manager or his/her duly authorized designee to inform the Board of Directors at a duly noticed public meeting in the event that the District will not meet the renewable energy resource procurement requirements set forth in the District’s Renewable Procurement Plan. The General Manager or his/her duly authorized designee shall also notify the Energy Commission of such noncompliance, in the manner and schedule established by the Energy Commission pursuant to regulations developed by the Energy Commission in accordance with PUC § 399.30(n). As soon as reasonably practicable following his/her
informing the Board of Directors, the General Manager or his/her duly authorized designee shall develop and present to the Board a plan to bring the District into compliance.
Renewable Energy Resources Enforcement Program

December 13, 2011
Docs: 296461
Regulatory Framework

- MID must comply with new law
- Create enforcement program
- Develop and adopt a renewable resources procurement plan
- Meet new targets
Enforcement Program

- Post annual notice whenever the District will deliberate in public on the Renewable Energy Resources Procurement Plan (Renewable Procurement Plan)
- Provide data annually to the Energy Commission and report annually to customers and the Energy Commission. (PUC § 399.30 (f)(1) and (2))
- Board of Directors directs General Manager (GM) to inform the Board at a duly noticed public meeting in the event that the District will not meet the renewable energy resource procurement requirements set forth in the District’s Renewable Procurement Plan
- The GM or designee will notify the Energy Commission of such noncompliance
- As soon as reasonably practicable following informing the Board of Directors, the GM/designee will develop and present to the Board a plan to bring the District into compliance
- Subject to modifications pending final regulations that the Energy Commission adopts for Publicly Owned Utilities
Elements of the Renewable Procurement Plan

- New renewable energy targets
  - 1/1/11 - 12/31/13: Average of 20%
  - 1/1/14 - 12/31/16: 25%
  - 1/1/17 - 12/31/20: 33%
  - Post 2020 – maintain 33%
- No specific intervening year targets
- Flexibility in deviation from targets
  - Insufficient transmission access
  - Lack of cost effective delivery
  - Permitting delays, among other factors
- Flexibility in implementing banking
  - 36 month shelf life for renewable energy credits
- Cost limitations
  - Evaluate as the District moves forward
- Relief
  - Maintain average procurement costs in accordance with board approved budget
- All of this is subject to final regulations that the Energy Commission adopts for Publicly Owned Utilities
  - On or about July 2012
Current Renewable Energy Status

- Wind/Other: 27% renewable energy meeting retail need
- McHenry Solar Farm: adds 2%
- Total with solar farm: 29%
- Plan to bank renewable energy credits
- Subject to final regulations adopted by the Energy Commission
Current Renewable Energy Status

(continued)

33% by 2020 Trajectory

Filling in with additional resources and/or TREC

Current Resource Plan

Energy (GWh)

Big Horn I
Shiloh
High Winds
Star Point
Stone Drop, New Hogan Fiscalini
McHenry Solar Farm
Big Horn II

Year

Recommendation

The MID Board of Directors approve the Renewable Energy Resources Enforcement Program included as Attachment A to the proposed Resolution, in compliance with Public Utilities Code Section 399.30(e), and direct staff to update the MID RPS and develop a renewable energy resources procurement plan, both for the Board’s consideration at a later date.