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9 UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA

11 CARSON HYBRID ENERGY
12 STORAGE, LLC, CMD CARSON LLC,

13 Plaintiff,

14 v.

15 TURLOCK IRRIGATION DISTRICT and
16 DOES 1 through 20,
Defendant.

No. 1:23-cv-00460-JLT-EPG

Hon. Jennifer L. Thurston

STIPULATION TO EXTEND THE
DEADLINE TO RESPOND TO
DEFENDANT'S NOTICE

17 Plaintiffs Carson Hybrid Energy Storage, LLC and CM Carson LLC (“Plaintiffs”) and
18 Defendants Turlock Irrigation District and DOES 1 through 20 (“Defendants”), by and through
19 counsel of record, respectfully request that the Court approve the parties’ Stipulation to extend the
20 notice of a 30-day deadline for Plaintiffs to sign Turlock Irrigation District’s Interconnection
21 Facilities Study Agreement and pay the relevant study deposit set forth in Turlock Irrigation
22 District’s February 17, 2023 letter to Carson Hybrid Energy Storage, LLC. This Stipulation is
23 made and entered into with reference to the following facts:

24 1. On March 9, 2023, Plaintiffs filed a complaint for breach of contract seeking
25 specific performance and injunctive relief, an *ex parte* application for a temporary restraining
26 order and order to show cause re: a preliminary injunction in the Superior Court of Stanislaus
27 County, California (the “Superior Court”).—
28

1 2. Plaintiffs served Defendant and its counsel with a copy of the complaint for breach
2 of contract seeking specific performance and injunctive relief, an *ex parte* application for a
3 temporary restraining order and order to show cause re: a preliminary injunction.

4 3. On March 16, 2023, the Superior Court held a hearing on Plaintiffs' *ex parte*
5 application for a temporary restraining order, at which Plaintiffs' counsel and Defendant's
6 counsel appeared and presented argument.

7 4. On March 16, 2023, and following the hearing, the Superior Court granted
8 Plaintiffs' request and issued a temporary restraining order, effective until May 12, 2023,
9 enjoining Defendant from "enforcing its 30-day deadline set in its February 17, 2023 letter to
10 Carson Hybrid Energy Storage, LLC and from withdrawing Plaintiffs' interconnection request."

11 5. The Superior Court did not require Plaintiffs to post a bond.

12 6. The Superior Court scheduled a hearing on Plaintiff's request for a preliminary
13 injunction for May 12, 2023, ordered Defendant to file and serve any opposition papers by April
14 21, 2023 and ordered Plaintiffs to file any reply by April 28, 2023.

15 7. On March 17, 2023, Plaintiffs served Defendant with the temporary restraining
16 order and order to show case re a preliminary injunction.

17 8. On March 27, 2023, Defendant removed the above referenced Superior Court case
18 to this Court.

19 9. Under *Granny Goose Foods v. Bhd. of Teamsters & Auto Truck Drivers*, 415 U.S.
20 423, 439-40 (1974), 28 U.S.C. § 1450, and Federal Rule of Civil Procedure 65(b)(2), the Superior
21 Court's temporary restraining order was set to remain in force for 14 days after removal, or until
22 April 10, 2023.

23 10. The Superior Court's temporary restraining order was set to expire on April 10,
24 2023.

25 11. On April 7, 2023, the parties filed a Stipulation to Extend the State Court
26 Temporary Restraining Order until June 9, 2023.

27 12. On April 10, 2023, the Court issued an order extending the State Court Temporary
28 Restraining Order until June 9, 2023.

1 13. On April 17, 2023, Defendants moved to dismiss Plaintiffs' complaint for failure
2 to state a claim on which relief can be granted.

3 14. On April 20, 2023, Plaintiffs moved to remand this proceeding to the Superior
4 Court of California for Stanislaus County.

5 15. On May 4, 2023, Defendants filed their Brief in Opposition to the Plaintiffs'
6 Motion to Remand.

7 16. On May 9, 2023, Plaintiffs filed their Opposition to Defendants' Motion to
8 Dismiss.

9 17. This Court's order extending the State Court Temporary Restraining Order until
10 June 9, 2023 may expire before the Court rules on the pending Motion to Dismiss and/or the
11 Motion to Remand.

12 **IT IS THEREFORE HEREBY STIPULATED** between Plaintiffs and Defendant
13 Turlock Irrigation District, in order to preserve scarce judicial resources and avoid burdening the
14 Court with entering orders on the aforementioned motions and a contemporaneous motion for
15 preliminary injunction and subject to the Court's approval, that:

16 1. The Temporary Restraining Order, which this Court extended on April 10, 2023,
17 pursuant to a Stipulation among the parties, until June 9, 2023, shall expire on June 9, 2023.

18 2. Defendant Turlock Irrigation District, and its agents, servants, employees,
19 representatives, and anyone acting on their behalf or at their direction and control shall not
20 enforce the 30-day deadline set forth in Turlock Irrigation District's February 17, 2023 letter to
21 Plaintiff Carson Hybrid Energy Storage, LLC and shall not withdraw Plaintiff's interconnection
22 request until July 20, 2023.

23 3. Defendant Turlock Irrigation District hereby extends the 30-day deadline set in
24 forth in Turlock Irrigation District's February 17, 2023 letter to Carson Hybrid Energy Storage,
25 LLC until July 20, 2023.

26 4. In the event the Court grants Plaintiffs' Motion to Remand (Case No. 1:23-cv-
27 00460-JLT-EPG, ECF No. 17), the Superior Court shall have jurisdiction to enforce the terms of
28 this Stipulation as if it were filed in and approved by the Superior Court and the parties shall treat

1 this Stipulation as remaining in full force and effect without interruption.

2

3 **IT IS SO STIPULATED.**

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5 Dated: May 19, 2023.

GREENBERG TRAURIG, LLP

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By: _____

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Jonathan S. Goldstein

Attorneys for Plaintiffs Carson Hybrid

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Energy Storage LLC and CMD Carson LLC

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Dated: May 19, 2023.

DURAN & CEDILLO

10

By: _____

11

Manuel Duran

Attorneys for Plaintiffs Carson Hybrid

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Energy Storage LLC and CMD Carson LLC

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Dated: May 19, 2023, at Washington, D.C.

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DUNCAN & ALLEN

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By: _____

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Jon R. Stickman

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Duncan & Allen LLP

Attorneys for Turlock Irrigation District and

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Does 1 through 20.

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[PROPOSED] ORDER APPROVING STIPULATION

The foregoing Stipulation, by and among Plaintiffs and Defendant Turlock Irrigation District, is hereby APPROVED.

IT IS SO ORDERED.

Dated: May 19, 2023


UNITED STATES DISTRICT JUDGE