

DOCKETED

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TN #:	224237
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Before the Energy Resources Conservation and Development
Commission of the State of California
1516 Ninth Street, Sacramento, CA 95814
1-800-822-6228 – www.energy.ca.gov

**APPLICATION FOR A SMALL POWER PLANT
EXEMPTION FOR THE:
MCLAREN BACKUP GENERATING
FACILITY PROJECT**

Docket No. 17-SPPE-01

NOTICE OF PREHEARING CONFERENCE, EVIDENTIARY HEARING, SCHEDULING ORDER, AND FURTHER ORDERS

PLEASE TAKE NOTICE that the California Energy Commission (Energy Commission) Committee¹ (Committee) assigned to conduct proceedings on the Application for a Small Power Plant Exemption (Application)² for the McLaren Backup Generating Facility Project (Project) has scheduled a Prehearing Conference and Evidentiary Hearing on:

THURSDAY, AUGUST 30, 2018

The Prehearing Conference will begin at 1:00 p.m. The Evidentiary Hearing will immediately follow the Prehearing Conference.

**California Energy Commission
Charles Imbrecht Hearing Room (Hearing Room B)
1516 Ninth Street
Sacramento, CA 95814
(Wheelchair Accessible)**

Remote Access Available by Computer or Phone via WebEx™
(For instructions, please see the **Remote Attendance** section on page 7 below.)

BACKGROUND

The Energy Commission is responsible for reviewing, and ultimately approving or denying, all thermal electric power plants 50 MW and greater, proposed for construction and operation in California. Pursuant to Public Resources Code Section 25541, the Energy Commission may grant an exemption to this authority and allow applicants to obtain a license through the local review and approval process if a project is less than

¹ The Committee consists of Commissioner Karen Douglas, Presiding Member, and Commissioner Janea A. Scott, Associate Member. The full Energy Commission made this Committee assignment at an Energy Commission Business Meeting on January 17, 2018 (TN 222286).

² The original Application can be found at TN 222041-1 through 222041-13; 222097 and 222104. The revised Application can be found at TN 223483 and 223484.

100 MW. To grant this exemption, the Energy Commission must find that the proposed project would not create a substantial adverse impact on the environment or energy resources.

On December 21, 2017, Vantage Data Centers (Applicant), filed an application to the Energy Commission for the proposed Project. Subsequently amended on May 21, 2018, the Applicant seeks to build 47 diesel generators and three lifesaving emergency generators with a generation capacity of 91.7 megawatts (MW) in Santa Clara, California. The Project would not be interconnected to the electrical transmission grid and the generators would be exclusively used to provide backup generation to support the McLaren Data Center when electricity is unavailable. More details regarding the proposed Project and associated data center may be found in the Application. The application, Energy Commission Draft Initial Study and Proposed Mitigated Negative Declaration³ and all proceeding-related documents are available at:

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=17-SPPE-01>

SCHEDULING ORDER

The Committee has established the following schedule for this proceeding:

EVENT	DATE
Application for SPPE filed	December 21, 2017
Revised Application for SPPE filed	May 21, 2018
Staff published Draft Initial Study and Proposed Mitigated Negative Declaration	June 22, 2018
Last day for parties, agencies, and members of the public to file comments on Staff's Initial Study and Recommendation	July 24, 2018
Staff Publishes Final Initial Study and Proposed Mitigated Negative Declaration	August 3, 2018
Last Day to File a Petition to Intervene	August 10, 2018
Parties file Opening Testimony	August 13, 2018
Rebuttal Testimony and Prehearing Statements, including evidence lists and witness lists filed	August 20, 2018
Prehearing Conference and Evidentiary Hearing	August 30, 2018

³ TN 223911.

Committee Recommended Decision filed	Week of September 3, 2018
Last day for parties, agencies, and members of the public to file comments on the Committee Recommended Decision	September 24, 2018
Final Adoption Hearing by the California Energy Commission	October 3, 2018

The Committee encourages the parties to consider this schedule an outer boundary and make their best efforts to complete the milestones ahead of these dates.

Purpose of the Prehearing Conference

The Prehearing Conference is a public forum where the Committee will assess the parties' readiness for an Evidentiary Hearing, consider any objections to conducting the Evidentiary Hearing using informal hearing procedures (see below), identify matters in dispute, and discuss the remaining schedule and procedures necessary to conclude the SPPE process.

Purpose of the Evidentiary Hearing

The Evidentiary Hearing is an administrative adjudicatory proceeding to receive evidence into the formal hearing record from the parties and receive public comment. Only the parties (Applicant, Intervenors, and Energy Commission Staff) may present evidence for introduction into the formal hearing record. Testimony offered by the parties shall be under oath. Each party has the right to present witnesses, introduce exhibits, and to rebut evidence of another party.⁴

Local, state, federal, and tribal governmental agencies may participate in the Evidentiary Hearing as necessary.⁵

Members of the public may present comments at the Evidentiary Hearing that become part of the hearing record. No advance notice need be provided.⁶

Informal Hearing Procedures

Pursuant to California Government Code section 11445.10 et seq., and the California Code of Regulations, title 20, section 1210,⁷ the Committee may conduct all or portions of the Evidentiary Hearing using formal or informal procedures.

⁴ Cal. Code Regs. tit. 20, §§ 1212; 1714.5.

⁵ Cal. Code Regs. tit. 20, § 1714.5.

⁶ Cal. Code Regs. tit. 20, § 1212, subd. (c)(2).

⁷ Cal. Code Regs., tit. 20, §§ 1207, 1210.

Pursuant to Government Code section 11445.30, the Committee hereby notifies the parties that it has elected to utilize the informal hearing procedures.

The informal hearing process would generally proceed in the following order:

1. All parties' experts on the subject area at hand are sworn in as a panel.
2. Petitioner's experts provide a brief opening statement summarizing the key points and conclusions of their testimony.
3. Staff's experts provide a brief opening statement summarizing the key points and conclusions of their testimony.
4. Intervenor's experts provide a brief opening statement summarizing the key points and conclusions of their testimony.
5. Open discussion among the expert panelists led by the Committee.
6. Parties may follow up with questions of their own or other expert witnesses to the extent the Committee finds the questioning productive.
7. At the conclusion of the parties' examination of the experts, the Committee may ask witnesses additional questions or allow panelists to ask additional questions of each other and to offer follow-up responses.

Any party objecting to the use of informal hearing procedures shall include that objection in its Prehearing Conference Statement, as discussed below.

NOTICE OF CLOSED SESSION DELIBERATIONS

At any time during the Prehearing Conference or Evidentiary Hearing, the Committee may adjourn to a closed session in accordance with California Government Code section 11126, subdivision (c)(3), which allows a state body, including a delegated committee, to hold a closed session to deliberate on a decision to be reached in a proceeding the state body was required by law to conduct.

ORDERS REGARDING TESTIMONY, EXHIBIT LISTS, AND PREHEARING CONFERENCE STATEMENTS

All parties intending to submit evidence for consideration at the Evidentiary Hearing are **ORDERED** to docket evidence, written testimony, exhibit lists, and prehearing conference statements no later than 5:00 p.m. on the dates specified in the above schedule, unless otherwise directed by the Committee. Failure by a party to comply with the filing requirements stated in this Order may preclude that party from participating in the Evidentiary Hearing.

The Prehearing Conference Statement must specify under separate headings:

1. The subject areas that are complete and ready to proceed to Evidentiary Hearing.
2. The subject areas upon which any party proposes to introduce testimony in writing rather than through oral testimony.

3. The subject areas that are not complete and not yet ready to proceed to Evidentiary Hearing, and the reasons therefor.
4. The subject areas that remain disputed and require adjudication, the issues in dispute, and the precise nature of the dispute for each issue.
5. The identity of each witness the party intends to sponsor at the Evidentiary Hearing, the subject area(s) about which the witness(es) will offer testimony, whether the testimony will be oral or in writing, a brief summary of the testimony to be offered by the witness(es), qualifications of each witness, the time required to present testimony by each witness, and whether the witness seeks to testify telephonically.
6. Subject areas upon which the party desires to question the other parties' witness(es), a summary of the scope of the questions (including questions regarding witness qualifications), the issue(s) to which the questions pertain, and the time desired to question each witness. (Note: a party who fails to provide, with specificity, the scope, relevance, and time for questioning other parties' witness(es) risks preclusion from questioning witnesses on that subject area).
7. A list identifying exhibits with transaction numbers (TN) that the party intends to offer into evidence during the Evidentiary Hearing and the technical subject areas to which they apply (see below for further details on Exhibit Lists).
8. Proposals for briefing deadlines or other scheduling matters.
9. Any objection by the party to the use of the informal hearing procedure outlined above.⁸

All documentary evidence must be filed in this proceeding's docket (17-SPPE-01) and have a transaction number assigned by the Energy Commission Dockets Unit in accordance with the General Orders Regarding Electronic Document Formats, Electronic Filing, Service of Documents and Other Matters filed February 22, 2018.⁹ **Exhibits without a TN, or not filed in this proceeding's docket, will not be received into evidence absent a showing of good cause.**

The parties shall exchange documentary evidence, including written testimony, by filing an **Exhibit List**. Each document shall be numbered and identified on the Exhibit List as follows:

- Applicant's exhibits shall be numbered *consecutively* as **Exhibits 1 through 199**;
- Energy Commission Staff's exhibits shall be numbered *consecutively* as **Exhibits 200 through 299**.
- Intervenor Robert Simpson/Helping Hand Tools' exhibits shall be numbered *consecutively* as **Exhibits 300 through 399**.

⁸ Cal. Govt. Code, § 11445.30, subd. (b).

⁹ TN 222681.

The Exhibit Lists shall be formatted as four columns. The first column shall list the proposed Exhibit Number. The second column shall identify the TN of the corresponding document. The third column shall state the title of the document as shown in the docket. The fourth column shall state the subject area(s) to which the exhibit applies. Hearing Office Staff from the Energy Commission will then add the Exhibit Number information into the e-filing system and issue a Master Exhibit List.

TRANSCRIPTS

Parties are responsible for identifying errors in the transcripts of the proceedings. Corrections to the transcripts must be filed within 30 days of the filing of a transcript.

AGENCY AND PUBLIC PARTICIPATION

Local, state, federal, and tribal governmental agencies and members of the public are welcome to attend and offer oral or written comments at the prehearing conference and evidentiary hearing. It is not necessary to be an Intervenor to participate in the public process. Comments may be submitted electronically by email at:

<https://efiling.energy.ca.gov/Ecomment/Ecomment.aspx?docketnumber=17-SPPE-01>

Otherwise, written comments may be submitted for posting on the proceeding docket by handing them directly to the Public Adviser, e-mailing them to docket@energy.ca.gov, or by U.S. Mail to:

California Energy Commission
Docket Unit
Docket number: 17-SPPE -01
1516 Ninth Street, MS-4
Sacramento, CA 95814

For all comments, please include the docket number and proceeding name “**Docket No. 17-SPPE-01, McLaren Backup Generation Facility**” in the subject line and on the cover page.

Please note: Your written and oral comments, attachments, and associated contact information (e.g., your address, phone, e-mail, etc.). become part of the viewable public record. Additionally, this information may become available via search engines such as Google and Yahoo.

PUBLIC ADVISER AND OTHER ENERGY COMMISSION CONTACTS

The Energy Commission Public Adviser's Office is available to assist the public with understanding the proceedings and to facilitate meaningful participation. For assistance, please contact Alana Mathews, Public Adviser at publicadviser@energy.ca.gov or (916) 654-4489, or toll free at (800) 822-6228.

Questions of a procedural nature should be directed to Susan Cochran, Hearing Officer, by e-mail at susan.cochran@energy.ca.gov or (916) 654-3965.

Technical questions concerning the Project should be addressed to Leonidas Payne, Staff Project Manager, by e-mail at leonidas.payne@energy.ca.gov or (916) 651-0966.

Media inquiries should be sent to the Media and Public Communications Office at mediaoffice@energy.ca.gov or (916) 654-4989.

If you have a disability and require assistance to participate in this event, please contact Poneh Jones at poneh.jones@energy.ca.gov or (916) 654-5146 at least five days in advance.

REMOTE ATTENDANCE

You may participate in this meeting through WebEx, the Energy Commission's online meeting service. Any presentations will appear on your computer screen, and you may listen to audio via your computer or telephone. Please be aware that the meeting may be recorded.

Via Computer: Go to <https://energy.webex.com> and enter the meeting number **928 307 880**. When prompted, enter your name and email address. No meeting password is needed.

The “Join Conference” menu will offer you a choice of audio connections:

1. To call into the meeting: Select "I will call in" and follow the on-screen directions.
2. International Attendees: Click on the "Global call-in number" link.
3. To have WebEx call you: Enter your direct dial phone number (no extensions are permitted) and click "Call Me."
4. To listen over the computer: If you have a broadband connection, and a headset or a computer microphone and speakers, you may use VoIP (Internet audio) by going to the Audio menu, clicking on “Use Computer Headset,” then “Call Using Computer.”

Via Telephone Only (No Visual Presentation): Call (866) 469-3239 (toll-free in the U.S. and Canada). When prompted, enter the meeting number **928 307 880**. International callers may select their number from:

<https://energy.webex.com/energy/globalcallin.php>

Via Mobile Access: Access to WebEx meetings is now available from your mobile device. To download an app, go to:

www.webex.com/products/web-conferencing/mobile.html

Please be aware that WebEx audio and on-screen activity may be recorded. WebEx Technical Support is available at (866) 229-3239.

Muting

We greatly appreciate your cooperation in reducing noise on the audio connection by muting your line when you are not speaking. Mute your line rather than placing your phone on hold. Using WebEx, you may mute yourself by right clicking on your name in the panelists or attendees list and selecting "Mute." If you are only using a telephone connection, press "*6" once to mute and again to unmute.

Availability of Documents

Information regarding the status of the Project, as well as notices and other relevant documents pertaining to this proceeding, may be viewed on the Energy Commission's web page at <http://www.energy.ca.gov/sitingcases/mclaren/>.

Dated: July 23, 2018, at Sacramento, California

ORIGINAL SIGNED BY:

KAREN DOUGLAS
Commissioner and Presiding Member
McLaren Backup Generating Project
Facility Committee

ORIGINAL SIGNED BY:

JANEA A. SCOTT
Commissioner and Associate Member
McLaren Backup Generating Project
Facility Committee

Mailed to list: 7524

**McLaren Backup Generating Facility Project (17-SPPE-01)
Prehearing Conference and Evidentiary Hearing Agenda
Thursday, August 30, 2018**

1:00 p.m.

**California Energy Commission
Charles Imbrecht Room (Hearing Room B)
1516 Ninth Street
Sacramento, CA 95814**

1. Call to Order
2. Prehearing Conference
3. Evidentiary Hearing
4. Public Comment

Members of the public and other interested persons and entities may speak up to three minutes on a matter related to this proceeding.

5. Closed Session (if necessary)¹⁰
Committee closed session consideration of the following items:

***DELIBERATION ON THE SMALL POWER PLANT EXEMPTION FOR THE
McLAREN BACKUP GENERATING PROJECT***

6. Adjourn
7. Agency Contact: Susan Cochran, Hearing Officer, phone: (916) 654-3965, or e-mail at susan.cochran@energy.ca.gov.

¹⁰ The Committee may adjourn to closed session in accordance with Government Code section 11126, subdivision (c)(3), which allows a state body, including a delegated committee, to hold a closed session to deliberate on a decision to be reached in a proceeding the state body was required by law to conduct.