

DOCKETED

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Project Title:	McLaren Backup Generating Facility
TN #:	224913
Document Title:	McLaren Data Center Motion to Strike applicants October 5 testimony.
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BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of
McLaren Backup Generating Facility

Docket Number 17-SPPE-01

Helping Hand Tools (2HT) Motion to Strike Applicant's Unauthorized Testimony

On September 29, 2018 the Committee for the McLaren Backup Generating Facility issued a "Notice of Status Conference and Further Orders." In the document, "The Committee therefore **ORDERS** that Staff and Applicant shall, and other parties may, file an Issues Statement no later than Friday, October 5, 2018. The Committee order does not solicit additional pre filed testimony nor does the order indicate that an evidentiary hearing would be conducted. The order merely requests the parties positions on several matters in dispute.

CEC Staff filed its position paper October 5 as required by the committee order. 2HT also filed its position statement although not required by the Committee. The applicant filed its position paper on October 5 but took the liberty to file 28 pages of unauthorized testimony¹ in addition to stating its position as requested by the Committee.

The September 29, 2018 Committee order announced a status conference not an evidentiary hearing. The Committee order did not invite the parties to file testimony but instructed the parties to file a statement on their positions on the disputed issues remaining in the proceeding. Both CEC Staff and intervenor Helping Hand Tools followed the Committees directions. The Committee order did not even require 2HT to file anything which indicates that the committee was not soliciting testimony from the parties. The applicant took the liberty to file an additional 28 pages of sworn testimony when the evidentiary record of the proceeding was closed at the evidentiary hearing on August 30, 2018.

Helping Hand Tools is obviously prejudiced by the applicants disregard for the Committees direction. The Committee did not solicit additional testimony and went so far as to instruct 2HT that they did not even have to file a position statement. 2HT will be prejudiced if the Committee considers any of this new evidence because it will not have had an opportunity to present contrary evidence, research the validity of the evidence, consider the references cited in the entire context of the documents relied upon nor cross-examine the basis and assumptions used to

¹ TN 224897 Pages 22-50

support the applicants unsolicited testimony. Helping Hand Tools therefore moves to strike pages 22-50 of the applicants submission on October 5, 2018 TN-224897.

Respectfully Submitted

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