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**State of California
State Energy Resources Conservation and
Development Commission**
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**APPLICATION FOR SMALL POWER PLANT
EXEMPTION FOR THE:**

LAURELWOOD DATA CENTER

Docket No. 19-SPPE-01

ORDER ON MOTION TO DISMISS

Introduction

On March 5, 2019, MECP1 Santa Clara 1, LLC (Applicant) submitted an application to the California Energy Commission (CEC) for a small power plant exemption (hereafter, the application is referred to as the “SPPE”)¹ for the Laurelwood Data Center in Santa Clara, California.

On April 10, 2019, the CEC appointed a committee consisting of Karen Douglas, Commissioner and Presiding Member, and Janea A. Scott, Vice Chair and Associate Member (the Committee) to preside over this proceeding.²

The CEC has the exclusive authority to consider, and ultimately approve or deny, applications for the construction and operation of thermal power plants that will generate 50 megawatts (MW) or more of electricity.³ An SPPE is subject to an expedited process designed to potentially exempt thermal power plants that will generate between 50 MW and 100 MW from the CEC’s certification jurisdiction.⁴ To grant an SPPE, the CEC must determine the generating capacity of the proposed facility and analyze whether the construction or operation of the project would result in substantial adverse impacts on the environment or energy resources.⁵

Summary of Proceedings

The Applicant intends to build 56 3-MW diesel-fired generators to provide emergency electrical generation in support of approximately 640,000 square feet of data center and

¹ All of the documents comprising the SPPE application can be found at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=19-SPPE-01>.

² TN 227638.

³ Pub. Resources Code, §§ 25120, 25500.

⁴ Pub. Resources Code, § 25541; Cal. Code Regs., tit. 20, §§ 1934 et seq.

⁵ Pub. Resources Code, §§ 25500, 25541.

related facilities, such as office space, elevators, restrooms, and storage.⁶ The Applicant has calculated that the maximum electrical load of these of these facilities will be 99 MW.⁷ On August 19, 2019, intervenor Robert Sarvey filed a motion, asking the Committee to dismiss the SPPE (Motion to Dismiss).⁸ Sarvey cites California Code of Regulations, title 20, section 2003 (Section 2003) and asserts that Section 2003 is the exclusive authority addressing the calculation of generating capacity in CEC proceedings. To support this contention, Sarvey cites to a recent CEC rulemaking docket that would update both section 2003 and California Code of Regulations, title 20, section 2001 “to clarify the methodology for calculating generating capacity for non-grid tied electrical generating facilities.”⁹ Applying the requirements of section 2003, Sarvey contends that there is no “parasitic load” listed.¹⁰ Sarvey then calculates the generating capacity of the 56 generators as being between 154¹¹ and 168¹² MW— in excess of the 100 MW limit for an SPPE.

CEC staff (Staff) filed an opposition to the Motion to Dismiss.¹³ Staff argues that Section 2003 does not apply because it is addressed to “turbine generators,” and the diesel generators described in the Application are not turbine generators. Staff then asserts that generating capacity in SPPE cases should be determined by looking at critical IT load, ancillary load, and cooling. In support of this contention, Staff cites to the recent decision in the McLaren Backup Generating Facility SPPE proceedings,¹⁴ which found the generating capacity of that project was equal to the maximum load of the servers, ancillary load, and cooling.¹⁵ Staff thus requests that the Motion to Dismiss be denied.

The Applicant also opposed the Motion to Dismiss.¹⁶ Like Staff, the Applicant focuses on the language of Section 2003 as being inapplicable because the diesel generators proposed in the SPPE are not turbine generators. The Applicant also argues that the Motion to Dismiss is actually a motion to terminate and that an SPPE can be terminated only where it has not been pursued with due diligence. The Applicant contends that Sarvey has made no such showing. Accordingly, the Applicant concludes that the Motion to Dismiss should be denied.

⁶ TN 227273-1, pp. 1-1, 2-1.

⁷ *Id.* at 1-1, 2-1 – 2-2.

⁸ TN 229476.

⁹ The memorandum opening the rulemaking docket on August 15, 2019, can be found at: <https://efiling.energy.ca.gov/getdocument.aspx?tn=229423>. This docket was closed on August 29, 2019. No action was taken under this docket. (<https://efiling.energy.ca.gov/getdocument.aspx?tn=229610>.)

¹⁰ Under section 2003, parasitic load is called “minimum auxiliary load” and is defined as the minimum continuous and average intermittent on-site electricity needed to support the maximum generation of the power plant. (Cal. Code Regs., tit. 20, §2003, subd (c).)

¹¹ Based on the continuous steady state output capacity of 2.725 MW per generator. (TN 228748, pp. 1, 3.)

¹² Based on the peak output capacity of 3.0 MW per generator. (TN 228748, pp. 1, 3.)

¹³ TN 229593.

¹⁴ <https://efiling.energy.ca.gov/getdocument.aspx?tn=225970>.

¹⁵ *Id.* at pp. 7-9.

¹⁶ TN 229625.

Order on Motion to Dismiss

In the SPPE review process, the assigned Committee publishes a proposed decision that includes their recommendation to approve or deny the SPPE request and which requires a hearing and vote of the CEC Commissioners.¹⁷

We find the issue of generating capacity would be best addressed after the evidentiary hearing. We therefore take the Motion to Dismiss under submission and will address its contentions fully in the decision.

Public Advisor and Other Commission Contacts

The CEC's Public Advisor's Office provides the public with assistance in participating in CEC proceedings. If you would like information on how to participate in this proceeding, please contact Jennifer Martin-Gallardo, Acting Public Advisor, at PublicAdvisor@energy.ca.gov or (916) 654-4489, or toll free at (800) 822-6228.

If you have a disability and need assistance to participate in any upcoming Committee events, contact Yolanda Rushin at least five days prior to the event at Yolanda.Rushin@energy.ca.gov or (916) 654-4310.

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

Technical questions concerning the Petition should be addressed to Lisa Worrall, Project Manager, at lisa.worrall@energy.ca.gov or at (916) 654-4545.

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

¹⁷ Cal. Code Regs., tit. 20, § 1945, subd. (b).

Information regarding the status of the project, as well as notices and other relevant documents pertaining to this proceeding, may be viewed on the CEC's web page at <https://ww2.energy.ca.gov/sitingcases/laurelwood/>.

Dated: September 18, 2019, at Sacramento, California

ORIGINAL SIGNED BY

Karen Douglas
Commissioner and Presiding Member
Laurelwood Data Center SPPE
Committee

ORIGINAL SIGNED BY

Janea A. Scott
Commissioner and Associate Member
Laurelwood Data Center SPPE
Committee