

DOCKETED

Docket Number:	19-SPPE-01
Project Title:	Laurelwood Data Center (MECP I Santa Clara I, LLC)
TN #:	232556
Document Title:	Motion to strike Applicants Response to Sarvey Petition for Reconsideration as untimely
Description:	Motion to strike Applicants Response to Sarvey Petition for Reconsideration as untimely.
Filer:	Robert Sarvey
Organization:	Robert Sarvey
Submitter Role:	Intervenor
Submission Date:	3/26/2020 2:58:05 PM
Docketed Date:	3/26/2020

State of California
State Energy Resources Conservation and Development Commission

In the matter of:

Laurelwood Data Center

Docket 19-SPPE-01

Motion to strike Applicants Response to Sarvey Petition for Reconsideration as untimely.

Intervenor Sarvey moves to strike the applicants untimely response to my Petition for Reconsideration. On March 5, 2020 I filed a Petition for Reconsideration of the Commission's Decision approving the Laurelwood SPPE.¹ The record of the proceeding shows that the final decision was not filed until March 13, 2020² but the Commission's adoption order was docketed on February 5, 2020.³ The applicant filed his response to the Petition for Reconsideration on March 26, 2020 twenty days after the Petition for Reconsideration was filed.⁴ Title 20 Section § 1716.5 requires that, "Responses to the petition by other parties shall be filed within 15 days of the filing of the petition unless otherwise specified by the presiding member."

Mr. Harris does not provide any good cause for the late filing of his client's petition. Mr. Harris is a licensed attorney who has been practicing before the Commission for at least 20 years and has no excuse for his untimely filing. Mr. Harris is obligated to comply with the Commission's rules regarding filings. Participation in the Commission's processes provides certain benefits, like the rights to request information from other parties, present evidence, and cross examine witnesses. These benefits carry related duties and obligations, and chief among these is compliance with the Commission's rules and procedures, including timely filing.

¹ TN 232325

² TN 232394 **§ 1720. Reconsideration of Decision or Order.** (a) Within 30 days after a decision or order is **final**, the Commission may on its own motion order, or any party may petition for, reconsideration thereof.

³ TN 231950

⁴ TN 232547 Opposition of Laurelwood to Petition for Reconsideration

Ironically in the applicant's response Mr. Harris makes an accusation that the Petition for Reconsideration was not timely filed. In doing so Mr. Harris ignores Section 1003 of the Commission's Rules of Practice and Procedure and the fact that the Month of February has only 29 days. The Petition for Reconsideration was actually due on March 6, 2020.

CEC Staff also makes a similar meritless argument that the reconsideration was not timely filed. CEC Staff is being disingenuous and went so far as to pressure the docket office to change the docketed date of the Petition for Reconsideration from March 5 to March 6 to match their claims.⁵ The Petition for Reconsideration was filed with the Chief Counsel of the Energy Commissions at 1:30 PM on March 5, 2020. The Petition for Reconsideration was also delivered to **project manager Lisa Worrell** and Leonidas Payne at 2:03 PM on March 5, 2020. On March 5, 2020 I contacted the public advisor to report the problems with the service list and e-filing on the website. See email below from Maria Norbeck at 4:54 PM on March 5, 2020 thanking me for bringing the filing problems to the Public Advisors attention.

I request the Committee strike the applicants untimely filing and schedule a workshop for the Staff and Mr. Harris on the computation of time for filing documents.

⁵ TN 232470 " Staff's Opposition to Intervenor Robert Sarvey's Petition for Reconsideration Page 2

"Although the petition was not timely filed on March 5 and service of the petition occurred on March 6, the cover sheet for the petition shows a "Docketed Date" of March 5. The Dockets Unit confirmed to Staff that this was a clerical error on their part and that the "Docketed Date" (otherwise known as the filing date) should in fact have been manually changed to say March 6. See **Appendix A** to this opposition additional information from the Dockets Unit on the timing of filing and service."

Re: Laurelwood Data Center Service List



Norbeck, Maria@Energy (Maria.Norbeck@energy.ca.gov)

Thu, Mar 5, 2020 4:54 pm

To: you + 1 more [Details](#) ▾

Hi Mr. Sarvey,

I've been notified that our IT department took care of the issue online with the service list for Laurelwood. Thanks for bringing the problem to our attention.

Sincerely,
Maria Norbeck
Executive Assistant

Email: PublicAdvisor@energy.ca.gov
Web: <https://www.energy.ca.gov/about/divisions-and-offices/office-public-advisor>
Phone: 916-654-4489 or 1-800-822-6228
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Respectfully submitted,

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