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CALIFORNIA ENERGY COMMISSION

Application for Small Power)
Plant Exemption for the:)
) Docket No. 19-SPPE-04
San Jose City Backup)
Generating Facility)
_____)

COMMITTEE CONFERENCE AND

ORDERS ON HEARING

REMOTE VIA WEBEX

TUESDAY, APRIL 28, 2020

2:00 P.M.

Reported by:

Elise Hicks

APPEARANCES

HEARING OFFICERS

Deborah Dyer, California Energy Commission

Caryn Holmes, California Energy Commission

COMMITTEE MEMBERS

Karen Douglas, Presiding Commissioner, California Energy Commission

Patty Monahan, Associate Member Commissioner, California Energy Commission

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Kourtney Vaccaro, Advisor to Commission Douglas

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Jana Romero, Advisor to Commission Monahan

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Noemi Gallardo

CEC STAFF

Nick Oliver, Staff Attorney

Lisa Worrall, Project Manager

Mark Hester, Senior Transmission Planner

Liza Lopez

APPLICANT

Nadia Costa, Miller Starr Regalia

Dean Witters, Microsoft, Design Manager

Jerry Salamy, Jacobs Engineering

PUBLIC COMMENT

Ben Schwartz, Clean Coalition

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1 MS. COSTA: Good afternoon everyone. I'm
2 Nadia Costa, that's N-A-D-I-A C-O-S-T-A. I'm a
3 Land Use Entitlement and CEQA Attorney with the
4 law firm, Miller, Starr and Regalia, M-I-L-L-E-R
5 S-T-A-R-R R-E-G-A-L-I-A.

6 COMMISSIONER DOUGLAS: Thank you.

7 And is there a project -- is there -- are
8 there any additional representatives for the
9 Applicant you would like to introduce at this
10 time?

11 MR. WITTERS: Hello. My name is Peter
12 Witters, W-I-T-T-E-R-S, and I am the Design
13 Manager for Microsoft on this project.

14 Also representing us is Jerry Salamy, who
15 is also on the call at this time.

16 Jerry?

17 MR. SALAMY: Hi. This is Jerry Salamy,
18 J-E-R-R-Y S-A-L-A-M-Y, with Jacobs Engineering.

19 COMMISSIONER DOUGLAS: Thank you.

20 While the two of you are -- oh, we may
21 not have great sound. I was going to say, while
22 the two of you were introducing yourselves there
23 was some feedback on the line. We had multiple
24 devices on at the same time. Please try to make
25 sure you're using one.

1 MR. SALAMY: Can I check their voice?

2 COMMISSIONER DOUGLAS: Yes. Keep -- yes.

3 MR. SINGH: Sorry to interrupt you. This
4 is -- hi everyone. This is Raj. I'm front I.T.

5 The feedback is because if we are not
6 talking, then we can mute yourselves please?

7 Sorry. Go ahead. All right,
8 Commissioner Douglas.

9 COMMISSIONER DOUGLAS: Thank you. Thanks
10 for jumping in, Raj.

11 All right, so we're through the
12 introductions for the Applicant.

13 Let's go to Staff. Are you -- can you
14 make sure you un-mute yourselves and introduce
15 yourself as project management or staff counsel?

16 MR. OLIVER: I'm listening for Lisa
17 Worrall. This is Nick on the line --

18 MS. WORRALL: Oh. Sorry.

19 MR. OLIVER: -- Nick Oliver.

20 MS. WORRALL: Hi. Sorry, Nick. I think
21 with the sound quality, I was a little confused
22 as to what was going on.

23 Yes, my name is Lisa Worrall, L-I-S-A
24 W-O-R-R-A-L-L. And I'm Staff's Project Manager
25 for the San Jose City Data Center. And then you

1 just heard Staff Counsel Nick Oliver.

2 COMMISSIONER DOUGLAS: Thank you. Thank
3 you, Ms. Worrall.

4 Intervenor, California Union for Reliable
5 Energy, are you online? All right.

6 Let me now introduce any public -- let me
7 now invite any public agencies to introduce
8 themselves.

9 Are there any federal government agencies
10 online who would like to introduce themselves?

11 If so, please un-mute yourself and speak up.

12 How about state government agencies?

13 Any local government agencies?

14 Let me just ask, City of San Jose, are
15 you on?

16 How about Bay Area Air Quality Management
17 District?

18 Any others?

19 All right, Commissioner Monahan, do you
20 have any opening remarks you'd like to make?

21 I'll just pause. You don't have to fumble for
22 the un-mute button if you don't.

23 COMMISSIONER MONAHAN: Yes, just a few
24 remarks.

25 So good afternoon everybody. A pleasure

1 to be proceeding with this Committee conference.

2 I just wanted to acknowledge and
3 recognize, I mean, we all know that these are
4 extraordinary times with the COVID-19 crisis and
5 the shelter and place.

6 And we're, at the Energy Commission, you
7 know, committed to doing our best to move as
8 expeditiously as we can while recognizing that,
9 you know, some things are just taking more time.

10 But I just wanted to open with those
11 remarks. It's kind of the elephant in the room.
12 But I still wanted to just clarify that, you
13 know, we're open for business and we're going to
14 do our best to move quickly, while recognizing
15 that there are just going to be some barriers to
16 moving as quickly as we would like.

17 COMMISSIONER DOUGLAS: Thank you very
18 much for making opening comments.

19 And I will now turn the proceedings over
20 to the Hearing Officers, Deborah Dyer and Caryn
21 Holmes, who will discuss small power plant
22 exemptions generally, and then lead a discussion
23 about the San Jose City Data Center Application
24 for Exemption.

25 And one more time, as a reminder, please

1 mute yourselves if you aren't speaking. I
2 actually -- my phone, every time someone makes a
3 noise, my phone tells me that someone is
4 speaking. So I can actually see the names of
5 most people who aren't muted, and I've seen
6 several, so please mute yourselves. It will make
7 it easier on everybody.

8 Thanks.

9 COMMISSIONER DOUGLAS: Thank you,
10 Commissioner Douglas. This is Deborah Dyer. Can
11 you hear me? Hi. This is Deborah Dyer, can you
12 hear me?

13 COMMISSIONER DOUGLAS: Yes, we can hear
14 you.

15 HEARING OFFICER DYER: Thank you, Karen.
16 All right.

17 So this is Deborah Dyer and good
18 afternoon. Thank you all for attending this,
19 today's Committee concern.

20 Notice of today's Committee conference
21 was provided on April 17th, 2020. The conference
22 was previously noticed for March 4th, 2020 and,
23 again, for March 7th, 2020. But the earlier
24 Committee conference turned out to be incapable.

25 Notice for today's conference, as well as

1 the other documents related to this Application
2 for Exemption are available on the Energy
3 Commission's website in the electronic docket for
4 this proceeding. The Docket Number is
5 19-SPPE-04.

6 At today's conference, first, I'll give
7 an overview describing the small power plant
8 exemption, known as PPE, and then I'll outline
9 some of the rules applicable to the Energy
10 Commission proceeding.

11 After I give that overview, the Public
12 Advisor will discuss opportunities for public
13 participation in this proceeding.

14 Then we will hear from Applicant and
15 Staff on the specifics of the San Jose City SPPE
16 Application. During that discussion, the
17 Committee and the parties will discuss a schedule
18 and any other the topics regarding the SPPE
19 Application as stated in today's agenda.

20 The Committee has also given notice that
21 it may hold a closed session. We will decide
22 whether that is necessary after we've heard from
23 everyone.

24 So first, an overview of the SPPE
25 framework.

1 Under the Warren-Alquist Act, the Energy
2 Commission has the exclusive authority to
3 consider and, ultimately, approve or deny
4 applications for the construction and operation
5 of thermal power plants that will generate 50
6 megawatts or more of electricity. The law allows
7 the Energy Commission to grant an exemption from
8 this authority if a project will generate some 50
9 to 100 megawatts and if it meets certain
10 criteria. This exemption is known as Small Power
11 Plant Exemption.

12 The Warren-Alquist Act authorizes the
13 Energy Commission to grant an SPPE if it makes
14 three separate and distinct determinations:
15 first, that the proposed power plant has a
16 generating capacity of no more than 100
17 megawatts; second, that no substantial adverse
18 impacts on the environment will result from the
19 construction or operation of the power plant; and
20 third, that no substantial adverse impacts on
21 energy resources will result from the
22 construction or operation of the power plant.

23 In addition to meeting the Warren-Alquist
24 Act requirements the Energy Commission must also
25 analyze the SPPE Application under the California

1 Environmental CEQA Act, known as CEQA -- I'm
2 sorry, California Environmental Quality Act,
3 known as CEQA. The Energy Commission is the CEQA
4 lead agency and considers the whole of the
5 action.

6 For the San Jose City SPPE Application,
7 the whole of the action means not just the backup
8 generators but, also, the entire data complex
9 that the backup generators and other project
10 features, such as substations and landscaping.

11 It's important to note that if the Energy
12 Commission decides to grant the San Jose City
13 SPPE Application, that grant would not constitute
14 project approval. Instead, upon being granted an
15 exemption from the Energy Commission's power
16 plant license process, the project owner would
17 then seek permits and licenses that are required
18 from other local agencies, which for the San Jose
19 City project includes, without limitations, the
20 Citizen of San Jose and the Bay Area Air Quality
21 Management District. These agencies will also
22 conduct any other necessary environmental
23 analysis as responsible agencies under CEQA.

24 Today's conference is one of several
25 public events which will extend over the next

1 several months. At these events, members of the
2 public can provide comments on the project.

3 This Committee will eventually hold an
4 evidentiary hearing on the application. This
5 evidentiary hearing is part of the adjudicative
6 process that the California Energy Commission is
7 required to follow in consideration of SPPE
8 applications.

9 Similar to a trial, the Energy Commission
10 resolves the issue of whether or not to grant an
11 exemption by reviewing evidence submitted by the
12 parties. In all SPPE applications, there are at
13 least two parties, the applicant requesting the
14 exemption, and the California Energy Commission
15 staff which prepares and circulates an initial
16 analysis of the environmental and/or energy
17 resources impacts.

18 The Energy Commission's regulations also
19 allow any person, including a member of the
20 public, to become a part to its proceedings. And
21 we refer to a person that becomes a party as an
22 intervenor. Intervenors have the right to
23 present evidence, both documents and testimony,
24 to question other parties' witnesses, and to
25 challenge other parties' evidence.

1 After the evidentiary hearing is complete
2 the Committee will prepare its Proposed Decision.
3 This Proposed Decision will include the
4 Committee's analysis of the project under both
5 the Warren-Alquist Act and CEQA.

6 The Committee's Proposed Decision is then
7 considered by the Energy Commission at a public
8 hearing. The Energy Commission will ultimately
9 decide whether to adopt, modify or reject the
10 Committee's Proposed Decision.

11 Now, I want to talk about ex parte rules.
12 The Energy Commission's regulations and state law
13 require that we ensure a fair process for
14 everyone who participates in this proceeding.
15 One we do that is through the ex parte rule.
16 What that means is that parties to a proceeding
17 and interested persons outside of the Commission,
18 that is the general public, are prohibited from
19 communicating with presiding officers about
20 anything that may be in controversy or dispute,
21 unless notice is given to allow an opportunity
22 for all of the other parties to participate in
23 that communication. Prohibited communications
24 include voice mail messages, text messages,
25 emails, letters, telephone calls, and in-person

1 discussions, essentially, any form of
2 communication.

3 So in this proceeding the Presiding
4 Officers are the Commissioners on this Committee,
5 both Commissioner Douglas and Commissioner
6 Monahan, as well as the other three Commissioners
7 of the Energy Commission. It also includes the
8 Hearing Officers, which are Caryn Holmes and
9 myself. Ex parte communications are also
10 prohibited with individuals assisting these
11 Presiding Officers, which in this proceeding
12 includes anyone serving as an advisor to the
13 Commissioners and any attorney or other expert
14 assisting the Committee or Commissioners with
15 this proceeding.

16 So that includes my introductory
17 statement.

18 And we will now invite the Public
19 Advisor's Office to present on how they can help
20 members of the public participate in this
21 proceeding. And after that, we will move on to
22 the Applicant's presentation.

23 MS. GALLARDO: Hello there. My name is
24 Noemi Gallardo. I'm just going to make sure you
25 can all hear me?

1 COMMISSIONER DOUGLAS: Yes, we can hear
2 you.

3 MS. GALLARDO: Thank you. Again, Noemi
4 Gallardo, that's spelled N-O-E-M-I
5 G-A-L-L-A-R-D-O. I am the Energy Commission's
6 Public Advisor. And this is the presentation for
7 today's San Jose City Data Center Committee
8 conference.

9 Next slide. Thank you. That one.

10 So I'm here today to help inform the
11 public about how to navigate and participate in
12 the San Jose City Data Center Small Power Plant
13 Exemption proceeding.

14 Generally, the proceedings may seem like
15 a long, windy path that can generate confusion.
16 But the CEC Public Advisor's Office is here to
17 provide guidance.

18 The Commission values public
19 participation and wants to hear from an array of
20 stakeholders with different perspectives because
21 having a robust record helps the Committee make a
22 thoroughly informed decision.

23 At the National Academies of Sciences,
24 engineering and medicine have concluded public
25 participation improve the quality of agency

1 decisions about the environment. And well
2 managed public involvement also increases the
3 legitimacy of decisions in the eyes of those
4 affected by them, which makes it more likely that
5 decisions will be implemented effectively.

6 The process I'll review with you in this
7 presentation will include information about the
8 Public Advisor's role, outreach conducted to the
9 public and stakeholders in this proceeding,
10 instructions about how to participate in this
11 proceeding through informal and formal methods,
12 an explanation of the process to obtain
13 information about this proceeding, next steps for
14 participating, and contact information for the
15 CEC's Public Advisor's Office.

16 Next slide.

17 So a little bit about the Public
18 Advisor's role at the Commission. The Public
19 Advisor position is mandated by statute in the
20 Warren-Alquist Act. The Public Advisor must be a
21 licensed attorney who is nominated by the
22 Commission and appointed by the governor for a
23 three-year term.

24 I'll highlight a few key duties of the
25 Public Advisor, which one is assisting the public

1 to participate in proceedings, identifying
2 missing stakeholders and helping conduct outreach
3 to them, and assisting with access to language
4 services and reasonable accommodations. And I'll
5 note that for this proceeding, there were no
6 requests for -- or this, excuse me, for this
7 conference, there were no requests for language
8 services or reasonable accommodations.

9 Next slide.

10 The key takeaway from this presentation
11 is that the CEC values public participation. And
12 the Public Advisor is here to function as a
13 bridge for the public to be able to meaningfully
14 engage with the Commission, and in today's
15 proceeding, and moving forward with the rest of
16 the events that will be part of this proceeding.
17 My staff has a lot of experience to answer your
18 questions. And we can access the Commission's
19 subject matter experts, as well, when we don't
20 have immediate answer. Please do not hesitate to
21 contact us with any questions for guidance at our
22 email, publicadvisor@energy.ca.gov, or call us at
23 (916) 654-4489.

24 Next slide.

25 As mentioned, the CEC does conduct

1 significant outreach as part of the work that my
2 office does. And from beginning to the end of
3 every proceeding, we do this to ensure we cast a
4 wide net of information.

5 Staff, the Committee for this proceeding,
6 and the Public Advisors take on various
7 responsibilities to conduct the outreach. And
8 some of the key collective outreach conducted has
9 been mailing of the Notice of Receipt to
10 residents and property owners within 1,000 feet
11 of the project site, mailing to California Native
12 American tribes associated with the project area,
13 and others. This Notice of Receipt is important
14 because it notifies people that the proceeding is
15 beginning. And it informs people about signing
16 up on the Listserv to ensure that they receive
17 future notices.

18 Please note that the full mailing list
19 will be published in the Environmental Assessment
20 Document later.

21 The notice of this Committee conference
22 was emailed to parties of the proceeding and
23 posted on the Listserv. And all notices were
24 filed in the docket as well.

25 And because we're very diligent at the

1 CEC, additional outreach was conducted to notify
2 people about this proceeding via mail,
3 traditional mail, email, or by phone. And
4 there's a list of stakeholders here that we
5 contacted. I'll just highlight a couple which
6 are, you know, community-based organizations,
7 environmental and social justice advocates,
8 health groups, community centers, chambers of
9 commerce, trade associations, labor groups, and a
10 whole bunch more.

11 Next slide.

12 There are two ways to participate in SPPE
13 proceedings. One is informal, as a member of the
14 public, like you would any other type of
15 Commission event. And the other way is formal as
16 an intervenor. I'll focus here on the informal.

17 So this proceeding will consist of
18 various types of events that we encourage you to
19 attend in order to participate in the
20 proceedings. In every event, such as today's
21 Committee conference, time will be carved out
22 specifically for public comment and that is the
23 public's opportunity to speak to the issues.

24 I'd like to emphasize that the CEC has
25 been using WebEx as its main platform for holding

1 events online. And we provide instruction in the
2 notices on how to participate. And given, you
3 know, Commission Monahan's comment earlier, that
4 we are in a different mode right now where we're
5 doing a lot more virtually, if not everything, I
6 wanted to highlight that if we do switch to any
7 other platform, we'll provide relevant
8 instructions, and in a timely manner, so that the
9 public can continue participating.

10 And aside from providing verbal comments
11 during events, you can also provide comments in
12 writing to the Public Advisor and I will relate
13 the main points on your behalf.

14 Finally, you may also submit written
15 comments through our docket system to be included
16 in the record.

17 Next slide.

18 So for the formal approach to participate
19 in the SPPE proceedings, to become an intervenor,
20 which is a person or group that is a party to the
21 proceeding, and like any other party to the
22 proceeding, an intervenor may present evidence
23 and witnesses, object to the parties evidence,
24 cross-examine other witnesses, and file motions.

25 And in order to become an intervenor, you

1 must file a Petition to Intervene. And we
2 emphasize that even if you are not sure whether
3 you want to become an intervenor, or even if you
4 do not end up participating at all in the
5 proceeding, it is best to go ahead and file so
6 that you don't miss key deadlines and
7 opportunities to engage.

8 And anyone may file a petition. And to
9 be crystal clear on this, you do not need to be
10 an attorney or even have legal representation to
11 file it. And there is no specific form to fill
12 out but you must include the required information
13 in the petition. For example, it should
14 include -- you should identify grounds for the
15 intervention, your position of interest of the
16 petitioner, and the extent to which the
17 petitioner desires to participate in the
18 proceeding. And that must be filed in the docket
19 and include the docket number.

20 Next slide.

21 So whether you decide to engage in the
22 proceeding as a member of the public or an
23 intervenor, we highly recommend you go to the San
24 Jose City Data Center Project page found at
25 www.2.energy.ca.gov/sitingcases/sj2/. It's put

1 here on the slide. And that's where you can
2 obtain the most current information about the
3 proceeding.

4 And this slide is meant to show you what
5 that webpage looks like. The red arrow points to
6 the link where you can submit electronic
7 comments. The blue arrow points to the e-filing
8 link which is a preferred pathway for staff and
9 parties participating to submit the material.
10 And the yellowish arrow there points to the
11 docket log link. And the docket log is a
12 repository for documents filed by parties, staff
13 and public comment. Basically, it's where you
14 will find all materials submitted for this
15 proceeding. And then the green arrow towards the
16 bottom is the section where you sign up for the
17 San Jose Data Center Listserv. And we will go
18 over the steps to sign up on the next slide.

19 If you need assistance with any of these
20 processes, please feel free to contact my office.
21 This webpage also contains contact information
22 for Staff, who can answer more questions, and the
23 Public Advisor's Office.

24 Next slide.

25 So signing up for the proceedings

1 Listserv is a voluntary procedure. We highly
2 recommend it because it is the most sufficient
3 way to receive the information about the
4 proceeding, including alerts about what's
5 happening and notifications about material that
6 has been docketed.

7 And signing up for Listserv is a quick
8 process. I listed the steps here. First, you'll
9 go to the project webpage, noted in step one on
10 this slide and what I showed you on the last
11 slide. And when you scroll down you'll find a
12 box that looks like the one listed on this slide,
13 titled, "Subscribe San Jose City Data Center
14 Listserv." You enter your first and last name,
15 along with your email, then hit send. You will
16 receive an automated email from the CEC asking
17 you to complete your subscription. And please be
18 on the lookout for this email because you won't
19 be able to join without responding to it.

20 You'll have 24 hours to confirm the
21 subscription. And if you did it successfully, you
22 then receive an email notifying you that your
23 subscription was accepted and you'll begin to
24 receive material.

25 Next slide.

1 So today is the first Committee
2 conference for this proceeding. And a schedule
3 with specific deadlines for the rest of the
4 proceeding is forthcoming, which you will be able
5 to locate on our webpages. We want to emphasize
6 a few significant opportunities for
7 participation.

8 So in addition to the Committee
9 conferences and the possible Staff workshops,
10 first is the publication of the CEC Staff
11 Environmental Assessment Document. The CEQA
12 allows for public review and comment of Staff
13 environmental assessment. The beginning and end
14 of the review and comment period will be
15 published. Among other things, this assessment
16 will identify and assessment possible mitigation
17 for any potential environmental impacts. Staff
18 will prepare written responses to the comments
19 and submit them in the hearing record. And, if
20 necessary, a workshop may be held to address any
21 unresolved issues. And if workshops are
22 scheduled, we encourage you to participate, given
23 that those are the opportunities for engagement.

24 The prehearing conference and evidentiary
25 hearing are other opportunities. So subsequent

1 to the environmental assessment is a prehearing
2 conference, followed by an evidence hearing. And
3 the prehearing conference is a public forum where
4 the Committee will assess the party's readiness
5 for an evidentiary hearing. Public comment will
6 be taken. An evidentiary hearing is an
7 administrative adjudicatory proceeding to receive
8 evidence into the formal hearing record from the
9 parties. And members of the party may present
10 comments at the evidentiary hearing.

11 The Commission decision at the business
12 meeting is another key opportunity. So after the
13 evidence hearing, the assigned Committee will
14 issue a Proposed Decision. The Commission will
15 decide on whether to approve or deny that
16 proposed decision during a CEC business meeting.
17 And the public will also be allowed to comment
18 and those comments will be considered prior to
19 the vote of the Commissioners.

20 Next slide.

21 So this concludes my presentation. And
22 just wanted to emphasize, here are all of the
23 ways that you contact the Public Advisor's
24 Office. Right now, while we're in a shelter in
25 place period, email is preferred, and that's

1 publicadvisor@energy.ca.gov. I'll also note that
2 by the end of this week, we'll post this
3 presentation through our online docket system for
4 public access.

5 Thank you so much.

6 HEARING OFFICER DYER: Thank you, Ms.
7 Gallardo.

8 And I would like to ask those who have
9 not yet muted their devices to please do so. We
10 are hearing background noise. Thank you.

11 Okay, so now I -- we would like to invite
12 the Applicant to give an overview of its SPPE
13 Application, so that would be Ms. Costa, Mr.
14 Witters, or Mr. Salamy. Go ahead please.

15 MS. COSTA: Thank you and good afternoon
16 everyone. Again, I'm Nadia Costa, Legal Counsel
17 on behalf of the Applicant.

18 And, first of all, I would like to echo
19 the initial comments and thank you for holding
20 this Committee conference and hearing this matter
21 today during these unprecedented times. I know
22 it takes a lot of effort to make that happen.
23 And we very much appreciate it and hope that
24 everyone is staying safe and healthy.

25 Since we've already done introductions at

1 this time, unless there are any questions for the
2 Applicant team, I'll go ahead and turn things
3 over to Peter Witters, Microsoft's Data Center
4 Design Manager, who will be making a brief
5 substantive presentation. And, of course, all
6 members of the Applicant's consultant team are
7 available to respond to any questions that you
8 may have.

9 MR. WITTERS: Hi there. My name is Peter
10 Witters. I'm a Design Manager for Microsoft's
11 Cloud Operations and Innovation Team.
12 Specifically, I'm the Data Center Engineering
13 Teller (phonetic). We manage the Data Center
14 infrastructure that Microsoft Azure Cloud is
15 based on. I'm the Design Manager for the Bay
16 Area. And I want to thank you, once again, thank
17 you for taking the time to meet with us today.

18 Microsoft's plan to decrease customer
19 latency and maintain customer uptime has never
20 been more important than during these unusual
21 times, as we're experiencing now. San Jose Data
22 Center, or SJCO2 as we call it, is a vital
23 component of that plan into the Bay Area
24 development. So thank you and appreciate your
25 time.

1 Do you want to go to the next slide?

2 So this is a just a brief introduction of
3 who we are. Microsoft, as you know, is
4 headquartered in Redmond, Washington. We have
5 multiple lines of business. The key component
6 that we're dealing with right now is our Cloud
7 infrastructure off of our Azure Cloud. We have a
8 very large data center portfolio throughout the
9 world and in the U.S. We, as it says here, we
10 currently operate dozens of HERO Data Center
11 campuses around the country and the world. So
12 that's our background.

13 Next slide.

14 So, Jerry, do you want to jump into,
15 specifically, on the SJCO2 project?

16 MR. SALAMY: Yes, I will. Thank you,
17 Peter.

18 This is Jerry Salamy with Jacobs
19 Engineering.

20 The San Jose Data Center Project is a
21 64.5 acre parcel located in the City of San Jose.
22 The CEC knows this parcel fairly well because
23 it's adjacent to the Los
24 Esteros Critical Energy Facility which had
25 undergone two licensing efforts. The parcel is

1 zoned as an industrial parcel. And Microsoft is
2 proposing to install about 485,000 square feet of
3 Data Center and associated infrastructure.

4 And as part of that infrastructure
5 package, it includes 43 megawatts standby
6 generators and two administrative generators to
7 provide power for the admin parts of the two data
8 center buildings.

9 The project design includes a host of
10 offsite linears including both potable and
11 recycled water, stormwater, sanitary sewer, and
12 electricity from the adjacent Pigmy (phonetic)
13 Los Esteros Substation.

14 Next slide please.

15 So this is a fairly difficult-to-see map
16 of where the project site is. It's in the
17 northern part of San Jose, sandwiched against
18 Milpitas and the Bay. Like I said, the project
19 site is well known. I believe the first time, it
20 was in an Energy Commission licensing case in
21 2001.

22 Next slide.

23 And here is a slide showing the project
24 parcel and the adjacent land use. Most of the
25 land use surrounding the project site is either

1 industrial open space or public with the Coyote
2 Creek riparian quarter along the eastern edge of
3 that project parcel.

4 This figure also shows the linear
5 features that are primarily due west from the
6 project site.

7 I'll stop here for a moment and ask, any
8 questions or comments so far?

9 Hearing none, I'll continue. Next slide
10 please.

11 So the recent issues that have come up
12 have been of the interconnections study by PG&E
13 where they have identified an overload potential
14 for the project if we deliver more than 50
15 megawatts worth of energy out of the Los Esteros
16 Substation. That has required -- or that will
17 require a reconductoring to alleviate the
18 overload of a 115 line from the north receiving
19 station to the Newark Station. And we are
20 working with PG&E on identifying what the
21 potential areas of effect will be so that we can
22 then analyze what the potential environmental
23 impacts are. And we provided a discussion of
24 this in our response to data requests, I believe.

25 Next slide please.

1 And that's the last slide. Any
2 questions?

3 HEARING OFFICER DYER: Thank you, Mr.
4 Salamy.

5 MR. SALAMY: My pleasure.

6 HEARING OFFICER DYER: Okay. So -- thank
7 you.

8 So now we're going to discuss the status
9 issues, the next step, and the schedule.

10 First of all, in response to the notices
11 for the March 4th and March 17th Committee
12 conferences, Staff filed an Issues Identification
13 Report, Status Report, and Proposed Schedule, and
14 a Revised Issues Identification Report.

15 And then on March 25th, Applicant filed
16 it's Status Report Number 1.

17 The Committee's April 17th notice for
18 this Committee conference gave Staff the option
19 of filing a Revised Issues Identification Report,
20 Status Report, and Proposed schedule. And Staff
21 did so and filed Revision 2 to its Staff Report
22 on April 22nd. I will refer to this document as
23 Staff's Report.

24 The Committee's April 17th notice also
25 gave Applicant the option of filing a response to

1 Staff's Report, which Applicant filed on April
2 24th. And I will call that Applicant's Response.

3 So we thank both Staff and Applicant for
4 filing these documents.

5 So now we're going to ask Staff to
6 present on the issues addressed in its Staff
7 Reports and any other relevant topics at this
8 time.

9 So, Ms. Worrall or Mr. Oliver --

10 MS. WORRALL: Yes.

11 HEARING OFFICER DYER: -- would you
12 please proceed?

13 MS. WORRALL: Yes. Can you hear me?
14 This is Lisa Worrall. Can you --

15 HEARING OFFICER DYER: Yes, we can hear
16 you.

17 MS. WORRALL: -- can you hear me? Oh,
18 excellent.

19 HEARING OFFICER DYER: Yes, we can hear
20 you.

21 MS. WORRALL: Good afternoon,
22 Commissioners and Hearing Officers. As in my
23 introductions earlier, I am the Staff Project
24 Manager for the San Jose City Data Center. And
25 we have also on the line Staff Counsel Nick

1 Oliver. And so we're here today to present the
2 current status of Staff's review of the project
3 and the preparation of the initial study.

4 As we noted in Staff's latest Revised
5 Status Report that was filed April 22nd, and that
6 was TN-232812, that the latest, we had filed --
7 the activities that have occurred is that we
8 filed a Motion to Leave to file additional data
9 requests, which would have been set forth. That
10 was on March 26th. And that was TN-232418. And
11 these data requests were made in the technical
12 area of transportation.

13 And then on April 8th, the Committee
14 granted Staff's second Motion to Leave to file
15 the data requests. And the Applicant had agreed
16 to these requests. And, currently, they're
17 pending.

18 Applicant's response to data request set
19 three, TN-232595, on March 30th regarding the
20 revised interconnections between the Los Esteros
21 Substation and the proposed substation generated
22 some follow-up questions from Staff. Staff will
23 be submitting follow-up questions regarding the
24 change from using a 230 kilovolt transmission
25 line to a 115 kilovolt transmission line. And

1 responses to these follow-up questions could be
2 included in the Applicant description that we
3 understand is forthcoming in the nature and scale
4 about standing issues and some of those that the
5 Applicant has just spoken of, and the data that
6 is still needed to complete the initial study.
7 We can't generate a more specific schedule than
8 the one that was provided with our latest revised
9 status report.

10 Thank you very much and would be happy to
11 answer any questions you might have.

12 HEARING OFFICER DYER: Thank you, Ms.
13 Worrall.

14 So now I would like to ask Applicant to
15 discuss the information contained in its
16 response, anything raised by Staff today, and any
17 other relevant topic.

18 So go ahead please.

19 MR. SALAMY: Hi. This is Jerry Salamy
20 with Jacobs Engineering.

21 Regarding the questions on the change
22 from the 230 feeder lines from the Los Esteros
23 Substation, the PG&E Los Esteros Substation, to
24 the onsite substation, what in particular is
25 Staff's concern?

1 Can you summarize that for me, Lisa?

2 MS. WORRALL: I muted myself. There you
3 go. Sorry. Yeah, I muted myself on the computer
4 and on the phone in an abundance of caution.

5 I have Mark Hesters.

6 Mark Hesters, are you on the line? Could
7 you answer more specifically to that?

8 I don't know if he's muted or not.

9 The other person who might be able to
10 provide information would be Laiping Ng.

11 Okay. Hello?

12 MS. WORRALL: Yes. Oh, Mark?

13 UNIDENTIFIED MALE: Hey, Mark, we can
14 hear you.

15 MR. HESTERS: Okay. Good. This is Mark
16 Hesters. I'm with the Energy Commission staff.

17 The sort of basic set of questions, the
18 most important one is we don't have a rating for
19 the two underground cables that connect Los
20 Esteros to the data center project. Sort of one
21 of the concerns we have is whether or not those
22 cables can individually serve the total load of
23 the data center or whether both are needed, so
24 it's pretty straightforward.

25 The other is we have outage data for the

1 230 kV system in the area, which we agree is most
2 critical. We don't have any information on how
3 the 115 kV system has historically operated, sort
4 of for outages and a bunch of outages and how
5 often outages occur.

6 MS. LOPEZ: Can you please state your
7 name for the Court Reporter, please?

8 MR. HESTERS: Yes. Mark, M-A-R-K, and
9 the last name is Hesters, H-E-S-T-E-R-S.

10 MS. LOPEZ: Thank you.

11 MR. HESTERS: And that's -- those are the
12 two main areas that we have questions about that
13 changed from the -- as the result of the change
14 to a 115 kV interconnection.

15 MR. SALAMY: So in terms of the sizing of
16 the conductors, you're just looking at whether
17 it's a 1250 KCMIL toppler XLLP extruded dielectric
18 cable, that type of information would --

19 HEARING OFFICER DYER: That kind of
20 information. And if you have ratings for it, that
21 would be great. We could find ratings for it
22 ourselves otherwise.

23 MS. LOPEZ: Just for the Court Reporter's
24 record, is that Jerry Salamy that's speaking?

25 MR. SALAMY: Yes, ma'am. I'm sorry. I

1 did not --

2 MS. LOPEZ: Thank you.

3 MR. SALAMY: -- identify myself. Jerry
4 Salamy. Okay.

5 I suspect part of the change was driven
6 by the underground aspect.

7 But, yeah, Mark, if you want to -- or
8 Lisa, if you want to submit those data requests,
9 I think we actually have the information at hand.

10 MS. WORRALL: That's great.

11 MR. SALAMY: And so we'll be --

12 MS. WORRALL: Yeah. Remind us.

13 MR. HESTERS: (Indiscernible) in writing.

14 MS. WORRALL: Yes.

15 HEARING OFFICER DYER: Shortly.

16 MR. SALAMY: I can -- other than that, I
17 didn't have any other questions.

18 The Revised Issues Identification Report
19 seemed to recognize that we have a path with the
20 City of San Jose, we believe, in that we are
21 going to be moving forward on both resolving the
22 issues regarding the traffic analysis with the
23 city, as well as identifying the impacts
24 associated with the reconductor method. So I
25 appreciate Staff's effort in that regard.

1 HEARING OFFICER DYER: Thank you, Mr.
2 Salamy. Anything else you'd like to add at this
3 time?

4 MR. SALAMY: Not from me.

5 HEARING OFFICER DYER: Thank you. Okay.
6 So now the Committee has the following
7 questions.

8 This is a question for Staff. Can you
9 tell us who -- which agencies you sent the
10 Request for Agency Participation to when you sent
11 the document back on January 6th, 2020?

12 MS. WORRALL: I can, actually. I just
13 emailed that to our attorney fairly recently.
14 One moment. Actually, the list of agencies were
15 the agencies that the Applicant had supplied in
16 the SPPE Application. And let's just make sure
17 there wasn't ones that stopped added on because
18 we try to be very thorough. One moment.

19 HEARING OFFICER DYER: Okay.

20 (Pause)

21 HEARING OFFICER DYER: And, Ms. Worrall,
22 if you cannot find that easily, we can come back
23 to that question.

24 MR. OLIVER: This is Nick Oliver, Staff
25 Counsel.

1 I have a document and the piece that's
2 being referenced in front of me.

3 Lisa, would you like me to read it?

4 MS. WORRALL: That would be wonderful.

5 Thank you, Nick. And then those three -- we had
6 a couple agencies we added just recently, so --

7 MR. OLIVER: Yes.

8 MS. WORRALL: -- and mailed out.

9 MR. OLIVER: Hearing Officer Dyer, would
10 you like the first and last name, or just the
11 division, or how would you like this information
12 presented? The individuals it was mailed or the
13 broader entities affiliated with?

14 HEARING OFFICER DYER: Yes, the broader
15 entity, the agency.

16 MR. OLIVER: Okay. With the San Jose
17 Planning, Building, and Code Enforcement
18 Division, there were four different individuals
19 it was mailed to, as well as one individual at
20 the San Jose Planning Division, not the Code
21 Enforcement.

22 And then there was a recipient at the Bay
23 Area Air Quality Management District. That was
24 Greg Stone, the Manager of Engineering.

25 There was an Assistant Engineer with the

1 Santa Clara Valley Water District, a Katherine A.
2 Turner (phonetic).

3 There was a Regional Manager with the
4 California Department of Fish and Wildlife, DFW,
5 that's Greg Erickson. And then, subsequently,
6 DFW's staff sent supplemental mailings to the
7 Santa Clara Valley Habitat Agency, the Sacramento
8 Fish and Wildlife Office, and the San Francisco
9 Bay Delta Fish and Wildlife.

10 HEARING OFFICER DYER: Okay. Thank you.
11 Would you please docket a list of those agencies?

12 MS. WORRALL: Sure. Yeah, we can do
13 that.

14 HEARING OFFICER DYER: Okay. Thank you.
15 Thank you.

16 MS. WORRALL: And they will be also, as
17 Noemi had provided in her outreach presentation,
18 they will be also included in appendices for
19 Staff's Environmental Document, along with the
20 others in our mailing list.

21 HEARING OFFICER DYER: Okay. Thank you.
22 Okay.

23 Next, to the issue of data requests and
24 data responses, Staff, I just wanted to clarify
25 that you said you would be issuing another data

1 request subsequent to having received Applicant's
2 response to set three; is that correct?

3 MS. WORRALL: Right. These are questions
4 that have arisen based on the Applicant's
5 responses which spurred additional questions.
6 And we can --

7 HEARING OFFICER DYER: Okay.

8 MS. WORRALL: -- doctor them up as the
9 data request and docket them, obviously.

10 HEARING OFFICER DYER: Okay. So then
11 outstanding from here, we will have Applicant's
12 responses to that set of data requests.

13 MS. WORRALL: That --

14 HEARING OFFICER DYER: And -- sorry. Go
15 ahead.

16 MS. WORRALL: Yes. And supplemental
17 information in response to set three, we
18 understand, is forthcoming, as well as responses
19 to set four.

20 HEARING OFFICER DYER: Okay. So we are
21 still waiting for a supplemental on data request
22 set three, set four?

23 MS. WORRALL: Yes.

24 HEARING OFFICER DYER: And then this
25 additional data requests, will they be filed as a

1 new data request or will they be filed as a
2 follow up to set three?

3 MS. WORRALL: I think, perhaps, a follow
4 up to set three because I don't know if --

5 MR. OLIVER: Hearing Officer Dyer, this
6 is --

7 MS. WORRALL: -- (indiscernible).

8 HEARING OFFICER DYER: Yes, Nick?

9 MR. OLIVER: This is Nick Oliver.

10 HEARING OFFICER DYER: Yes.

11 MR. OLIVER: I had a question about that
12 specific issue. It's from a legal procedural
13 standpoint.

14 It sounds like the Applicant has
15 indicated they're willing to provide that
16 information that Mr. Hesters has stated is
17 necessary to complete his analysis.

18 Would it be fine with the Committee if we
19 just docket that without any motion
20 (indiscernible) motion for leave? It sounds like
21 there's agreement.

22 HEARING OFFICER DYER: Commissioner
23 Douglas, do you have a thought on that or should
24 we come back to that after closed session?

25 COMMISSIONER DOUGLAS: Honestly -- this

1 is Commissioner Douglas -- I think that would be
2 fine. If that's the only -- is that the only
3 outstanding data request?

4 MS. WORRALL: For now. I mean --

5 COMMISSIONER DOUGLAS: For now?

6 MS. WORRALL: -- the thing is, I never
7 like to say never because we want to make sure
8 that when we review everything the Applicant has
9 submitted, we don't need for the clarification or
10 it doesn't spur another question, hopefully not
11 another question but maybe clarification.

12 So I like to leave that window open
13 because we want to make sure we're very clear in
14 describing the project and analyzing the way we
15 analyze the project.

16 COMMISSIONER DOUGLAS: Understood.

17 MS. WORRALL: That's my thought. Yeah.

18 COMMISSIONER DOUGLAS: Understood. If
19 that is the only question, then to answer the
20 Hearing Officer's question, and Commissioner
21 Monahan can speak up, but I think we can just --
22 we have it on the record that the question is
23 clear, it's understood, and it will be responded
24 to, so I think that's fine.

25 HEARING OFFICER DYER: Okay. Thank you.

1 Commissioner Monahan, would you like to
2 weigh in on that?

3 COMMISSIONER MONAHAN: No. That sounds
4 fine to me.

5 HEARING OFFICER DYER: Okay. Thank you.

6 So, yes, then we understand that
7 Applicant will file the information responsive to
8 that question with the docket. Okay.

9 Next, on to schedule. So Staff proposed
10 a schedule. And understanding that there are
11 still some outstanding data requests, the
12 schedule was mostly left open. And Applicant has
13 -- said they have no difficulties with that
14 schedule. So the Committee will be discussing
15 these items. And then we'll be issuing a schedule
16 in an order after this proceeding. Okay.

17 With that, Commissioner Douglas, do you
18 have any additional questions for the Applicant
19 or Staff?

20 COMMISSIONER DOUGLAS: I do not. No.
21 Appreciate both --

22 HEARING OFFICER DYER: Okay.

23 COMMISSIONER DOUGLAS: -- of the
24 presentations. They were very helpful.

25 HEARING OFFICER DYER: Commissioner

1 Monahan, do you have any additional questions for
2 Applicant or Staff?

3 COMMISSIONER MONAHAN: No, not at this
4 time. Thank you.

5 HEARING OFFICER DYER: Okay. Thank you.

6 Any final remarks before we move on to
7 public comment? Okay. So that concludes our
8 discussion of the schedule, the status, the
9 issues, and the next steps.

10 So now we will take public comment. We
11 are going to -- Liza is going to un-mute everyone
12 on WebEx for public comment, so please re-mute
13 yourselves until you want to speak. And if any
14 members of the public on WebEx wish to make a
15 public comment, please do so now. And remember
16 to state and spell your first and last name
17 before you comment.

18 Any members of the public wish to speak?

19 I want to give it a good moment or two in
20 case someone is having difficulty un-muting
21 themselves.

22 MR. SCHWARTZ: Yes. Hello. My name is
23 been Schwartz.

24 HEARING OFFICER DYER: Hello. Go ahead.

25 MR. SCHWARTZ: Can I make a comment?

1 HEARING OFFICER DYER: Yes. Please spell
2 your name before you comment.

3 MR. SCHWARTZ: Sure. My name is Ben
4 Schwartz, that's B-E-N S-C-H-W-A-R-T-Z. And I'm
5 presenting the Clean Coalition with this comment.

6 And what I wanted to say is, simply, that
7 I think both the City of San Jose and Microsoft
8 need to consider DER as an opportunity to reduce
9 the total amount of diesel capacity in generators
10 that are being used. In the long run a good
11 diesel generator runs somewhere around 15 years.
12 And solar panels run a good five to ten years
13 longer than that and are lower maintenance and
14 lower cost.

15 But most importantly is the issue of the
16 diesel itself. The generators can only be run
17 for a number of hours per year. And having a
18 solar-plus storage microgrid would be a lot more
19 beneficial, as well as more resilient. The sun is
20 always there but diesel is not, meaning that in
21 an extended PSPS event or other outage, there
22 would be a need to continue buying storage, which
23 is neither resilient or really reliant.

24 And the most important thing is just the
25 DER is less expensive, more beneficial, and more

1 resilient. And in the long run, I think it's
2 important to consider the state's and the city's
3 environmental goals. Rather than approving
4 something that is polluting and puts, you know,
5 fossil fuels into the atmosphere. It would be
6 much more beneficial to consider more resilient
7 and renewable option, like a solar-plus storage
8 microgrid.

9 And that completes my comment. Thank
10 you.

11 HEARING OFFICER DYER: Thank you, Mr.
12 Schwartz.

13 Any other members of the public wishing
14 to speak?

15 Okay, hearing none, then I will ask the
16 members of the Committee if they see the need to
17 go into closed session?

18 Commissioner Douglas?

19 COMMISSIONER DOUGLAS: Thank you, Hearing
20 Officer Dyer. I do not. But I want to hear what
21 Commissioner Monahan has to say.

22 COMMISSIONER MONAHAN: I would like a
23 closed session.

24 COMMISSIONER DOUGLAS: Okay.

25 COMMISSIONER MONAHAN: Okay. Okay.

1 So, Commissioner Douglas, I'd like to
2 give it back to you to adjourn.

3 COMMISSIONER DOUGLAS: All right. So
4 thanks to the parties and we are adjourned.

5 (The Committee conference adjourned
6 at 3:30 p.m.)

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CERTIFICATE OF REPORTER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of June, 2020.



ELISE HICKS, IAPRT
CERT**2176

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I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.



MARTHA L. NELSON, CERT**367

June 2, 2020