

<b>DOCKETED</b>	
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<b>TN #:</b>	233667
<b>Document Title:</b>	Ruling on CURE Motion for Leave to File Data Requests
<b>Description:</b>	N/A
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<b>Organization:</b>	California Energy Commission
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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:**

***SAN JOSE CITY BACKUP  
GENERATING FACILITY***

**Docket No. 19-SPPE-04**

**RULING ON CALIFORNIA UNIONS FOR RELIABLE ENERGY MOTION  
FOR LEAVE TO FILE DATA REQUESTS**

On November 15, 2019, Microsoft Corporation (Applicant) submitted an application to the California Energy Commission (CEC)<sup>1</sup> for a small power plant exemption (SPPE)<sup>2</sup> for the San Jose City Backup Generating Facility.<sup>3</sup>

On May 28, 2020, Intervenor California Unions for Reliable Energy (CURE) filed a Motion for Leave to File Data Requests (Motion).<sup>4</sup> CURE's data requests seek information related to the following areas: electricity demand; water use; diesel generator pollution controls; health risk assessment; and air quality. These are the topics for which CURE was granted intervenor status in this proceeding.<sup>5</sup>

The deadline for filing a response to the Motion was 14 days from the date of service of the Motion, or June 11, 2020.<sup>6</sup> Applicant filed a timely response to the Motion on June 12, 2020,<sup>7</sup> requesting that the Motion be denied, on grounds that CURE's data requests were considerably delayed. CEC staff (Staff) did not file opposition to the Motion.

Data requests in an SPPE proceeding must be filed no later than 60 days from the application's filing date, or a later date as approved by the presiding member.<sup>8</sup> Here that

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<sup>1</sup> The CEC is formally known as the "State Energy Resources Conservation and Development Commission." (Pub. Resources Code, § 25200)

<sup>2</sup> The CEC appointed a committee (Committee) to conduct proceedings on this SPPE application on December 11, 2019. The Committee consists of Karen Douglas, Commissioner and Presiding Member, and Patty Monahan, Commissioner and Associate Member (TN 231265).

<sup>3</sup> Information about this proceeding, including a link to the electronic docket, may be found on the [CEC's web page at](https://www.energy.ca.gov/sitingcases/sj2/) <https://www.energy.ca.gov/sitingcases/sj2/>. Documents related to this proceeding may be found in the [online docket at](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=19-SPPE-04): <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=19-SPPE-04>. The application is TN 230741.

<sup>4</sup> TN 233196.

<sup>5</sup> TN 232066.

<sup>6</sup> Cal. Code Regs., tit. 20, section 1211.5, subd. (a).

<sup>7</sup> TN 233448.

<sup>8</sup> Cal. Code Regs., tit. 20, § 1941.

deadline was January 14, 2020. The Committee may, however, allow requests for information at a later time for good cause shown.<sup>9</sup>

CURE's Motion requests relief from the 60-day deadline. CURE explains that it attempted to obtain information through a May 4, 2020, Public Records Act request, but after reviewing the responsive documents determined that additional information was necessary to fully assess the Project's potential environmental impacts. CURE also submits that its data requests will not delay this proceeding in light of the Applicant's June 15, 2020, representation that the Applicant cannot respond to outstanding data requests issued by CEC Staff until late September 2020.<sup>10</sup>

Because the Committee wishes for substantive issues to be identified well in advance of the evidentiary hearing and concurs that CURE's untimely requests will not cause delay in this proceeding, the Committee hereby determines there is good cause shown and **GRANTS** CURE's Motion.

**IT IS SO ORDERED.**

Dated: June 29, 2020

***Approved By:***

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Karen Douglas  
Commissioner and Presiding Member  
San Jose City Backup Generating Facility SPPE Committee

Dated: June 29, 2020

***Approved By:***

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Patty Monahan  
Commissioner and Associate Member  
San Jose City Backup Generating Facility SPPE Committee

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<sup>9</sup> Cal. Code Regs., tit. 20, § 1716, subd. (a).

<sup>10</sup> TN 233489.