

DOCKETED

Docket Number:	19-SPPE-03
Project Title:	Sequoia Data Center
TN #:	235457
Document Title:	Third Revised Notice of California Energy Commission Hearing to Reconsider Motion to Remand
Description:	N/A
Filer:	Ngoc Tran
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	10/29/2020 3:19:47 PM
Docketed Date:	10/29/2020



**State of California
State Energy Resources Conservation and
Development Commission**
1516 Ninth Street, Sacramento, CA 95814
(800) 822-6228 – www.energy.ca.gov

APPLICATION FOR SMALL POWER PLANT
EXEMPTION FOR THE:

***SEQUOIA BACKUP GENERATING
FACILITY***

Docket No. 19-SPPE-03

**THIRD REVISED NOTICE OF CALIFORNIA ENERGY COMMISSION
HEARING TO RECONSIDER MOTION TO REMAND**

On September 9, 2020, the California Energy Commission (CEC) conducted a public hearing to consider the Committee Proposed Decision¹ on the application for a small power plant exemption (SPPE) submitted by C1-Santa Clara, LLC (Applicant) for the Sequoia Backup Generating Facility.

After conducting the public hearing on the Committee Proposed Decision, the CEC adopted a motion to remand the proceedings back to the Committee to consider air quality and public health impacts in light of the recent energy emergencies² (Motion to Remand).

Pursuant to California Code of Regulations Title 20, section 1203, subdivision (c), the CEC will conduct a hearing to receive comment and to reconsider the Motion to Remand.

¹ On September 11, 2019, the CEC appointed a committee (Committee) to conduct proceedings on the application for a small power plant exemption (SPPE) for the Sequoia Backup Generating Facility. The Committee consists of Karen Douglas, Commissioner and Presiding Member, and Patty Monahan, Commissioner and Associate Member. (TN 229721.) On August 21, 2020, the Committee issued a Committee Proposed Decision which recommends approval of an SPPE for the Sequoia Backup Generating Facility. (TN 234416.)

² See TN 234840, at pp.25-26. On August 16, 2020, and September 3, 2020, the Governor proclaimed a state of emergency that allowed the emergency use of stationary generators during extreme heat events that were deemed an emergency event. (See August 16, 2020, Governor's [Proclamation of a State of Emergency](https://www.gov.ca.gov/wp-content/uploads/2020/08/8.16.20-Extreme-Heat-Event-proclamation.pdf), available at <https://www.gov.ca.gov/wp-content/uploads/2020/08/8.16.20-Extreme-Heat-Event-proclamation.pdf>, and September 3, 2020, Governor's [Proclamation of a State of Emergency](https://www.gov.ca.gov/wp-content/uploads/2020/09/9.3.20-Extreme-Heat-Event-Proclamation.pdf), available at <https://www.gov.ca.gov/wp-content/uploads/2020/09/9.3.20-Extreme-Heat-Event-Proclamation.pdf>.)

PLEASE TAKE NOTICE that on November 16, 2020, the CEC will hold a public hearing during the CEC's regularly scheduled Business Meeting to consider whether to affirm, affirm with modifications, or vacate the Motion to Remand.

MONDAY, NOVEMBER 16, 2020

The Business Meeting begins at 1:00 p.m.

REMOTE ACCESS ONLY

The CEC's November 16, 2020 Business Meeting will be held remotely, consistent with Executive Orders N-25-20 and N-29-20 and recommendations from the California Department of Public Health to encourage physical distancing in order to slow the spread of COVID-19. The public and parties will be able to participate consistent with the direction in these Executive Orders.

To participate remotely, please see the instructions below under the section **"PARTICIPATING REMOTELY."**

Members of the public and the parties to the Sequoia Backup Generating Facility may participate in and offer oral and written comments at the hearing. The CEC also invites the public, agencies, and parties to file written comments on the Motion to Remand in advance of the hearing. For information about how to file comments before the hearing, please see instructions below under **"PROVIDING COMMENT."**

PURPOSE OF CEC HEARING

The purpose of this hearing is to consider whether the CEC should affirm, affirm with modifications, or vacate the CEC's adoption of the Motion to Remand. The Chair of the CEC has the authority to regulate the conduct of proceedings and hearings, including the power to designate the process for commenting on a matter.³ The CEC is taking this additional step to reconsider its action on the Motion to Remand because parties and the public were unable to comment on the proposed Motion to Remand.

During the CEC public hearing to consider the Committee Proposed Decision, parties to the proceeding, including CEC staff, the Applicant, and Intervenor Robert Sarvey, presented arguments and comments to the CEC. During the public comment period, both the California Air Resources Board (CARB) and the Bay Area Air Quality Management District (BAAQMD) offered comments on the Committee Proposed Decision. These commenters proposed that the CEC consider additional information about air quality and public health impacts, particularly in light of the recent energy

³ Cal. Code of Regs., Tit. 20, § 1203(c).

emergencies.⁴ At the conclusion of the public comment period, the CEC adjourned to a properly noticed closed session to deliberate on the Committee Proposed Decision and statements made by the parties and commenters.

Upon returning from the closed session, the CEC adopted a motion to remand the proceedings back to the Committee for further proceedings, citing the new information about energy emergencies and the need to consider additional relevant information on air quality and public health impacts, as suggested by CARB and BAAQMD (Motion to Remand). The CEC did not solicit or receive any additional public comment before considering and voting to adopt the Motion to Remand.

On September 10, 2020, Applicant filed a “Petition for Reconsideration and Appeal of Committee Ruling” (Petition) regarding the Motion to Remand.⁵ According to the Applicant’s Petition, the Applicant’s counsel was muted and not allowed to comment on the Motion to Remand.⁶ The CEC is thus reconsidering its action on the Motion to Remand on its own authority and is, at this time, not considering whether the Applicant has established a legal right to its Petition.

The CEC is interested in hearing from the parties, interested government agencies, and the public on whether to affirm, affirm with modifications, or vacate the Motion to Remand. Those in support of affirming the Motion to Remand with modifications are encouraged to suggest proposed language supporting that recommendation.

After receiving comments from the parties, interested government agencies, and the public, the CEC may take any of the following actions:

1. Affirm the action on the Motion to Remand:
 - a. Affirm the action on the Motion to Remand without change; or
 - b. Affirm the action on the Motion to Remand but modify the action by providing further direction or conditions on the remand.
2. Vacate the action on the Motion to Remand. The CEC could then:
 - a. Adopt the Committee Proposed Decision as previously presented; or
 - b. Adopt the Committee Proposed Decision and consider any errata or other modifications to it; or

⁴ These energy emergencies included a heat storm which affected much of the western United States and limited the availability of out of state power and fire emergencies that caused Public Safety Power Shutoff Power interruptions to the electrical grid.

⁵ TN 234649.

⁶ *Id.*, p. 1.

- c. Set a date for a continued hearing on the Committee Proposed Decision;
or
- d. Not adopt the Committee Proposed Decision and deny the SPPE.

Until the hearing on the reconsideration of the Motion to Remand is complete, the decision to remand continues in full force and effect. The Committee may issue questions for the parties and government agencies to address in advance of the Business Meeting to assist in the orderly conduct of the hearing.

PROVIDING COMMENT

The parties, state and local government agencies, and members of the public, are invited to submit written comments on the Motion to Remand in advance of the November 16, 2020, Business Meeting. The CEC requests that comments on the Motion to Remand be submitted by 5:00 p.m. on **October 30, 2020**. It is not necessary to be an Intervenor to participate in the public process. [Comments may be submitted electronically to:](#)

<https://efiling.energy.ca.gov/Ecomment/Ecomment.aspx?docketnumber=19-SPPE-03>.

Written comments may also be submitted for posting on the proceeding docket by emailing them to docket@energy.ca.gov, or by U.S. mail to:

California Energy Commission
Docket Unit
Docket Number: 19-SPPE-03
1516 Ninth Street, MS-14
Sacramento, California 95814

For all written comments, please include the docket number and proceeding name **“Docket No. 19-SPPE-03, Sequoia Backup Generating Facility SPPE”** in the subject line and on the cover page.

The CEC will also accept oral comments at the hearing. Please see the section below, “PARTICIPATING REMOTELY,” for instructions on how to present oral comments.

Please note: Your written and oral comments, attachments, and associated contact information (for example, address, phone, email) become part of the viewable public record. Additionally, this information may become available via internet search engines.

PARTICIPATING REMOTELY

To participate by telephone only, call (888) 823-5065 on the day of the Business Meeting after 12:50 p.m. (Pacific Time). The passcode is "business meeting." If you plan to make public comment about a specific item, please provide your name, affiliation, and the item number to the operator.

[Click here](#) to participate via [Zoom](#)

(<https://energy.zoom.us/j/93869230237?pwd=Zm96c09ULzdXTjd4eldtUXdnUGErzd09>).

You may also [access Zoom](#) at this address: <https://join.zoom.us>, and enter event number 938-6923-0237. The meeting password is mtg@10am.

Zoom technical support is available at (888) 799-9666 ext. 2, or visit [Zoom's help center](#) at <https://support.zoom.us/hc/>. You may also contact the [CEC's Public Advisor's Office](#) by email at publicadvisor@energy.ca.gov, or by phone at (800) 822-6228.

Note that in order to comment or ask a question, you must call (888) 823-5065 as described above or you may email concise comments before the Business Meeting to the [Public Advisor's Office](#) at publicadvisor@energy.ca.gov to have the CEC's public advisor verbally relate the comments.

[Subscribe to Electronic Mail Lists](#) found at www.energy.ca.gov/business_meetings/. To have the Business Meeting agenda emailed to you, enter your contact information under "Subscribe."

PUBLIC ADVISOR AND OTHER CEC CONTACTS

The CEC's Public Advisor's Office provides the public with assistance in participating in CEC proceedings. For information on how to participate in this proceeding, or to request interpreting services or other reasonable accommodations, please contact the [Public Advisor, Noemí O. Gallardo](#), at publicadvisor@energy.ca.gov, or by phone at (916) 654-4489, or toll free at (800) 822-6228. Requests for interpreting services and reasonable accommodations should be made at least five days in advance of the hearing. The CEC will work diligently to accommodate late requests.

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

Technical questions concerning the Sequoia Application should be addressed to [Leonidas \(Lon\) Payne, Project Manager](#), at Leonidas.Payne@energy.ca.gov or at (916) 651-0966.

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

AVAILABILITY OF DOCUMENTS

Information about the Sequoia Backup Generating Facility SPPE application, 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/sequoia/>.

Dated: October 29, 2020

APPROVED BY:

DAVID HOCHSCHILD
Chair

Sent to mailing list number: 7531