

**DOCKETED**

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<b>Project Title:</b>	Gilroy Backup Generating Facility
<b>TN #:</b>	238329
<b>Document Title:</b>	Amazon Data Response to Staff's Issue Identification Report and Proposed Schedule
<b>Description:</b>	N/A
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STATE OF CALIFORNIA

Energy Resources  
Conservation and Development Commission

In the Matter of:

Application For Small Power Plant  
Exemption for the **GILROY BACKUP  
GENERATING FACILITY**

**DOCKET NO: 20-SPPE-03**

**AMAZON DATA SERVICES  
RESPONSE TO STAFF'S ISSUE  
IDENTIFICATION REPORT AND  
PROPOSED SCHEDULE**

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**INTRODUCTION**

Amazon Data Services (ADS), in accordance with the Notice of Committee Conference and Related Orders (TN 238169), dated, June 9, 2021, hereby files its response to Staff's Status Report and Proposed Schedule (TN 238191) dated June 14, 2021.

ADS supports Staff's recommendation that the appropriate environmental document for the Gilroy Backup Generating Facility (GBGF) is an Initial Study/Mitigated Negative Declaration (IS/MND). ADS also agrees with Staff's characterization that information is still being gathered through the discovery process to enable Staff to prepare the IS/MND for the GBGF. ADS is continuing to work on providing detailed and accurate responses to Staff's data requests, some of which require input from third parties.

**REVISED PROJECT DESCRIPTION**

ADS is currently adding Battery Energy Storage System (BESS) components to the Project Description. The BESS components will operate during an emergency loss of electrical service. However, due to the duration of electricity that can be delivered to the GDC during an emergency, the BESS will not eliminate the GBGF. To achieve its

reliability objectives, the GDC will still need the backup diesel generators in the case of an electrical outage that lasts longer than available BESS electrical discharge capacity or in the event the BESS is otherwise unavailable. Although the final design of the BESS is not complete, ADS estimates that the BESS could reliably provide between 4 and 6 hours of emergency backup electricity to the GDC during an outage. Although it is clear that emergency curtailment of data centers is extremely rare, the addition of the BESS will further significantly reduce the frequency of operation of the GBGF during rare electrical emergencies. ADS is also investigating how it may support grid reliability objectives with the on-site BESS.

We understand and agree that it is premature for Staff to propose a date whereby the IS/MND can be published. ADS is working on the Revised Project Description which will be docketed on or before July 2, 2021. ADS believes since the BESS will be on-site, only minor changes would be necessary to the portions of the IS/MND that Staff has already completed and therefore does not believe the modification should significantly affect Staff's workload and ability to produce the IS/MND.

## **SCHEDULE**

We agree with Staff that after several approved data center backup generating facility projects, the issues have been thoroughly examined. The Committee should simply not repeat the procedure and process it has used to date to thoroughly examine the same issues. To this end, we make the following recommendations which we believe are consistent with Staff's recommendations.

1. To avoid the delays experienced in previous projects, ADS requests that the Committee require any potential Intervenor to file a Petition to Intervene 10 days before the close of the public comment period for the IS/MND. Any potential Intervenor would have had 20 days since publication of the IS/MND to determine whether or not to intervene or to participate as a member of the public.
2. ADS requests that an Intervenor be required to file comments on the IS/MND as a prerequisite to being allowed to present further oral and written testimony and that those comments be treated as Intervenor's Opening Testimony for each respective issue. ADS agrees to file its Opening Testimony on the same day. In this way, Staff can provide responses to such comments and/or Opening Testimony, thereby narrowing and reducing the time and issues requiring adjudication in evidentiary hearings. This does not place any undue burden on Intervenor, as they would have had the same amount of time to review the

IS/MND and provide comments as any agency or other member of the public. For California Environmental Quality Act (CEQA), this is the primary way for interested persons to participate, and it is only fair to allow Staff an opportunity to consider and respond to comments. Evidentiary hearings should not be the only place Staff and ADS can respond to such comments. Testimony should be to provide facts that support arguments and not an opportunity to bring up new issues.

3. ADS supports Staff's request for 15 days to provide Response to Comments and Reply Testimony. All parties should file Reply Testimony on the same day.
  
4. ADS requests that the PreHearing Conference and Evidentiary Hearing be combined. The PreHearing Conference should be used to narrow the issues to be heard at the evidentiary hearing. To that end, ADS requests that rather than repeat testimony and arguments for threshold issues adjudicated in previous cases, the Committee should take administrative notice of portions of those records and focus oral and written testimony to issues that are unique to the GBGF. A party proffering such new and unique evidence should be required to make an offer of proof at the PreHearing Conference why such evidence should be allowed.

There are two reasons ADS is requesting the above suggestions. The first is to streamline the record and process to bring the proceeding more in line with a SPPE case where the focus is on compliance with CEQA and to prevent further movement towards treating the proceedings as those required for an Application For Certification (AFC). The second is that the Committee proposed decisions have taken a lot of time and effort to publish, often taking almost as much time as Staff required to evaluate the project and publish its environmental document. A robust record can be created by taking official notice of the information supplied in the prior projects, especially since they have been repeated multiple times in the prior data center SPPE Application proceedings. Focusing the proposed decision on items that have not yet been thoroughly adjudicated and are unique to the GBGF would allow the Committee to significantly reduce the time to prepare the Proposed Decision, without the risk of harming the evidentiary record.

ADS will continue to work diligently with Staff to provide all the data necessary to prepare its IS/MND and appreciates the Committee's consideration of our schedule-related recommendations.

Dated: June 21, 2021

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Scott A. Galati", written over a horizontal line.

Scott A. Galati  
Counsel to Amazon Data Services