

DOCKETED

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In the Matter of:)
) Docket No. 21-SPPE-01
 Committee Conference)
 CA3 Backup Generating)
 Facility)
)

1

APPEARANCES

COMMISSIONERS PRESENT

COMMISSIONER SIVA GUNDA

HEARING OFFICER

Susan Cochran

COMMISSION STAFF

Eric Veerkamp

Lisa DeCarlo

Kristen Driskell

Eric Knight

Applicant Representative

Scott Galati

Simon Casey

PUBLIC ADVISOR

Noemi Gallardo

P R O C E E D I N G S

COMMISSIONER GUNDA: Susan, I think I see Mr. Galati in the attendees list signing that for you.

HEARING OFFICER COCHRAN: Okay. Thank you, if we could promote Mr. Galati to panelist. And I see that we have staff council and the project manager, Mr. Veerkamp. Oh, there's Mr. Galati. So, with that Commissioner Gunda, I believe we can start.

COMMISSIONER GUNDA: Right. Thank you so much. I am unable to turn on my video. I'm being told that the host has stopped it, so just checking.

Great. Thanks again, Susan, and thank you everybody for being here today. This is the committee conference regarding the application for a Small Power Plant Exemption for the CA3 backup generating facility.

The Energy Commission has assigned a committee of two commissioners to conduct these proceedings. I am Siva Gunda, the associate member on this committee. Commissioner Karen Douglas is the presiding member, but she is unable to be with us today.

With all participating remotely using Zoom, and I would like to introduce some of the people in attendance today.

Kourtney Vaccaro and Eli Harland; advisors to
Commissioner Douglas; Liz Gill and Le-Quyen Nguyen, my advisors,
Jon Hilliard, technical advisor for the commission on siting

1 matters, Susan Cochran and Kristen Driskell, hearing officers
2 from this proceeding.

3 I would like to also introduce Noemi Gallardo, the
4 Energy Commission's Public Advisor.

5 I would ask the parties to please introduce themselves
6 and their representatives at this time, starting with the
7 applicant, please.

8 MR. GALATI: Hello. Good morning, Commissioner and
9 commissioner advisors. And Madam Hearing Officer, this is Scott
10 Galati, representing Vantage Data Centers. With me, I also have
11 Michael Stoner and Simon Casey of Vantage Data Centers. I'd ask
12 them to be promoted to participate as they will be giving the
13 presentation on the applicant's part. Thank you.

14 COMMISSIONER GUNDA: Thank you, Mr. Galati. Moving on
15 to staff.

16 MR. VEERKAMP: Good afternoon. My name is Eric
17 Veerkamp. I'm representing the ENERGY COMMISSION today. I'm
18 the project manager for the CA3 Data Center.

19 COMMISSIONER GUNDA: Thank you Eric. Do you have
20 anybody else with you on the team?

21 MR. VEERKAMP: Yes, I believe we do have Lisa DeCarlo
22 in attendance this afternoon. She's staff council.

23 COMMISSIONER GUNDA: Thank you. Lisa, would you like
24 to please introduce yourself?

25 MS. DECARLO: Good afternoon, Lisa DeCarlo, Energy

1 Commission staff attorney for this proceeding.

2 COMMISSIONER GUNDA: Thank you Lisa. Now, I would
3 like to invite any public agencies or representatives of any
4 native American tribes or nations to please raise your hand so
5 that we can unmute your line.

6 Once you're unmuted, please introduce yourselves. I
7 would begin with federal or state government agencies if you're
8 present here today.

9 HEARING OFFICER COCHRAN: Commissioner Gunda, I don't
10 see anyone other than Energy Commission staff or applicants.

11 COMMISSIONER GUNDA: Okay.

12 HEARING OFFICER COCHRAN: On either the attendee or
13 panelist side.

14 COMMISSIONER GUNDA: Thank you Susan. Thanks for
15 confirming that. So, I'm going to then move the proceeding over
16 to you, Susan, hearing officer for this proceeding. Please go
17 ahead.

18 HEARING OFFICER COCHRAN: Thank you and good
19 afternoon. As Commissioner Gunda indicated, my name is Susan
20 Cochran and I am a hearing officer with the California Energy
21 Commission.

22 My role is to assist the committee with conducting
23 committee events like this committee conference, and with
24 preparing documents such as orders, the notice for today's
25 proceeding, and future notices, and ultimately a decision.

1 Next slide, please.

2 The Energy Commission has created an online docket for
3 documents associated with this proceeding. Docket number 21-
4 SPPE-01. Notice of today's committee conference was filed in
5 that docket on July 27, 2021 in English, Spanish, Mandarin, and
6 Vietnamese.

7 The notice and other documents I may refer to today,
8 as well as future documents related to this proceeding are all
9 available in the docket, including the PowerPoint that you see
10 here today, that will also be put in the docket for your future
11 reference.

12 Before we get to the substance of the committee
13 conference, I would like to discuss some housekeeping matters.
14 Consistent with Governor Newsom's executive order N-08-21, in
15 order to continue to help California respond to, recover from,
16 and mitigate the impacts of the COVID-19 pandemic, we are
17 conducting this committee conference remotely using Zoom.

18 We have set up this Zoom meeting so that most
19 participants will not be able to mute or unmute themselves to
20 speak. You will have an opportunity to speak during public
21 comment, as I will describe in a moment.

22 You may still mute your phone by pressing *6, and you
23 would still be able to hear the committee conference.

24 Today, we have a court reporter transcribing all of
25 the statements made and questions asked. Therefore, I must ask

1 that only one person speak at a time.

2 If you wish to be recognized, please use the raise
3 hand feature and the screen is showing how to do these various
4 things. If you have muted your phone by pressing *6, please be
5 sure to unmute yourself by pressing *6 again. The raise hand
6 feature creates a list of speakers based on the time when your
7 hand was raised. We will call on you in that order. I will
8 review these directions again right before we start the public
9 comment period.

10 Please identify yourself before you speak. When you
11 speak for the first time, please say and spell your name slowly.
12 This is important for me and for the court reporter. If you do
13 not identify yourself, either the court reporter, or I may
14 interrupt you to ask that you do so, to ensure that we have a
15 complete and accurate record of today's committee conference.

16 Next slide, please.

17 If you run into difficulties, please contact the
18 Public Advisor's office or Zoom's help center. Contact
19 information for both is listed on page six of the notice for
20 today's committee conference and is displayed on the screen at
21 this time.

22 One final housekeeping matter; due to unforeseen
23 circumstances, we will need to take a break from 2:30 to 3:15 to
24 allow Commissioner Gunda to attend to an urgent matter unrelated
25 to this SPPE.

1 We would ask that you all remain on the Zoom call so
2 that there is less disruption when Commissioner Gunda returns.
3 Are there any questions at this time?

4 Seeing no raised hands, we will proceed.

5 Next slide, please.

6 Can we please advance to the next slide please?

7 Am I coming through?

8 MS. DECARLO: Yes, Susan.

9 COMMISSIONER GUNDA: Yes.

10 HEARING OFFICER COCHRAN: Okay, thank you. I thought
11 maybe I had dropped and I didn't know. Okay. There we go.
12 Thank you so much.

13 The purpose of today's committee conference is to
14 cover a variety of issues; first, to review the current status
15 of the proceeding. Second, to provide the public with an
16 overview of the process the Energy Commission is using to review
17 the application. Third, to hear about the application and the
18 project that is proposed. Fourth, to address any outstanding
19 issues, and fifth, and finally, to develop a schedule for this
20 proceeding.

21 I will give you a brief overview of the application
22 that is the subject of this proceeding. I will then describe a
23 Small Power Plant Exemption known as an SPPE. And then I will
24 outline some of the rules applicable to Energy Commission
25 proceedings.

1 After I give that overview, the Energy Commission's
2 Public Advisor will discuss opportunities for public
3 participation in this proceeding. That will take care of the
4 first two items I mentioned. Following that, we will hear from
5 the applicant about the project it has proposed in the
6 application.

7 Energy Commission staff will then present on its
8 issues identification report, status report, and proposed
9 schedule.

10 Following staff's presentation, as stated in today's
11 agenda, the committee and the parties may discuss a schedule and
12 other topics regarding the application. There will then be an
13 opportunity for public comment.

14 The committee has also given notice that it may hold a
15 closed session. However, because Commissioner Douglas is not
16 with us today, we will not be holding a closed session.
17 Therefore, after public comment, we will adjourn the committee
18 conference.

19 Now turning to the application at issue in this
20 proceeding. In April, 2021, Vantage Data Centers, LLC, who I'll
21 refer to as the applicant, submitted an application for a Small
22 Power Plant Exemption for the CA3 backup generating facility.
23 I'm going to refer to that as the application.

24 The applicant proposes to construct and operate the
25 CA3 data center and the CA3 backup generating facility. The

1 proposed project site is located at 2590 Walsh Avenue, in the
2 City of Santa Clara, Santa Clara County, California.

3 The applicant also proposes to construct an electrical
4 substation along the Western boundary of the project site,
5 adjacent to the existing Silicon Valley Power Uranium
6 Substation. The new substation will cut into the existing 60
7 kilovolt line, passing nearby and switching will occur at the
8 Uranium Substation.

9 The data center would consist of a four-story 469,482
10 square foot data storage center building, which would provide
11 secure and environmentally controlled structures to house
12 computers servers.

13 The backup generating facility would ensure the
14 continued availability of power to the data center in the event
15 of loss of power from Silicon Valley Power, the local utility
16 provider.

17 In general, the backup generating facility would
18 operate only for testing and maintenance. The backup generating
19 facility would consist of 44 diesel fired back-up generators,
20 each with a maximum peak rating of 2.75 megawatts located in an
21 onsite generator equipment yard.

22 Each backup generator will be equipped with selective
23 catalytic reduction equipment and diesel particulate filters to
24 meet the United States Environmental Protection Agency's tier
25 four emissions standards.

1 Tier four standards are the most environmentally
2 protective standards. Four of the 44 generators would be used
3 to support redundant or critical cooling equipment and other
4 general building and life safety services.

5 While the data center will receive power from the
6 electrical transmission system, also known as the grid, the
7 backup generators will not be interconnected to the grid. This
8 means that no electricity could be delivered off site from the
9 backup generators.

10 The backup generating facility would supply power only
11 to the data center. The maximum electrical demand of the data
12 center would be 96 megawatts.

13 Next slide, please.

14 Now, I will describe the Small Power Plant Exemption
15 process. The California Energy Commission was created in 1974,
16 by the passage of the Warren-Alquist state Energy Resources
17 Conservation and Development Act commonly referred to as the
18 Warren-Alquist Act.

19 This law can be found in the California public
20 resources code. Under the Warren-Alquist Act, the Energy
21 Commission has the exclusive authority and jurisdiction to
22 consider and ultimately approve or deny applications for the
23 construction and operation of thermal power plants that will
24 generate 50 megawatts or more of electricity.

25 An exemption from the Energy Commission's exclusive

1 authority is available under the Warren-Ahlquist Act. Known as
2 the Small Power Plant Exemption, builders of thermal power
3 plants that will generate 50 up to 100 megawatts may apply to be
4 exempt from the Energy Commission's power plant certification
5 process, provided that the proposed project meets certain
6 criteria.

7 This exemption is known as the SPPE. To grant an
8 SPPE, the Warren-Alquist Act states that the Energy Commission
9 must make three separate and distinct findings.

10 First, that the proposed power plant has a generating
11 capacity of no more than 100 megawatts. Second, that no
12 substantial adverse impact on the environment will result from
13 the construction or operation of the power plant. And third,
14 that no substantial adverse impact on energy resources will
15 result from the construction or operation of the power plant.

16 Next slide, please.

17 In addition to analyzing the project under the Warren-
18 Ahlquist Act, the Energy Commission must also analyze an SPPE
19 application under the California Environmental Quality Act known
20 as CEQA.

21 The Energy Commission is the CEQA lead agency and
22 considers the whole of an action. For this application, the
23 whole of an action means not just the backup generating
24 facility, but also the entire data center complex that the
25 backup generating facility would support and includes other

1 project features such as the substation I mentioned and
2 landscaping.

3 This whole of an action is collectively called the
4 project, which again, is the backup generating facility, the
5 data center and other project features.

6 It is important to note that if the Energy Commission
7 decides to grant the SPPE, that decision would not constitute
8 project approval. Instead, upon being granted an exemption from
9 the Energy Commission's licensing process, the project owner
10 would then need to seek any necessary permits and license from
11 other local agencies, which for the CA3 project includes, but is
12 not limited to, the City of Santa Clara and the Bay Area Air
13 Quality Management District.

14 Those agencies will also conduct any other necessary
15 environmental analysis as responsible agencies under CEQA.
16 Consideration of an SPPE begins with the filing of an
17 application. An application for the CA3 backup generating
18 facility SPPE was filed on April 5th, 2021 with additional
19 filings on April 12, and May 28.

20 Energy Commission staff has filed requests for
21 information from the applicant. We refer to staff's request for
22 information as data requests or discovery. Staff uses this
23 information to prepare an environmental document, which includes
24 the information required by both CEQA and the Warren-Alquist
25 Act, and which is used by the committee and the full Energy

1 Commission to decide whether to approve or deny the application
2 for exemption.

3 The Energy Commission will review staff's
4 environmental analysis. During its review, the Energy
5 Commission uses an adjudicative process. The committee will
6 eventually conduct an evidentiary hearing, which is similar to a
7 trial.

8 At the hearing, the committee will receive evidence
9 from the parties and comments from the public about whether to
10 grant or deny the SPPE application.

11 After the evidentiary hearing, the committee will
12 prepare a proposed decision. This proposed decision will
13 include the committee's analysis of the project under both the
14 Warren-Alquist Act and CEQA. The committee's proposed decision
15 is then considered by the full Energy Commission any public
16 business meeting.

17 The Energy Commission will ultimately decide whether
18 to adopt, modify, or reject the committee's proposed decision.

19 As I mentioned, SPPE proceedings are adjudicative,
20 meaning that the action on the SPPE requires the taking of
21 evidence. In all SPPE proceedings, there are at least two
22 parties in the adjudication; first, the applicant requesting the
23 exemption, and second, the Energy Commission staff.

24 Organizations and members of the public can become
25 parties as well by intervening. The Public Advisor's office

1 will describe that opportunity as well as other ways for the
2 public to participate in the proceedings in just a few moments.

3 Next slide, please.

4 Thank you.

5 Because we use an adjudicative process, the Energy
6 Commission's regulations and state law require that we ensure a
7 fair process for everyone who participates in this proceeding.

8 The Energy Commission's ultimate decision will be
9 based solely on evidence contained in the record. One way we
10 ensure a fair process is through the ex parte rule.

11 Essentially, the ex parte rule prohibits off the record
12 communications with the presiding officers to the proceeding.

13 Off the record communications can come not only from
14 the parties to a proceeding, but also any interested person
15 outside of the Energy Commission, which is to say the general
16 public.

17 Off the record communications means any contact,
18 voicemail message, text message, email, letter, telephone call,
19 or in-person discussion, essentially any form of communication,
20 unless those communications occur at a notice meeting like
21 today's event or the communication is in a writing shared with
22 the public and the parties.

23 In this proceeding, the presiding officers are the
24 members of the committee, both Commissioner Douglas and
25 Commissioner Gunda, as well as the other three members of the

1 Energy Commission.

2 Presiding officers also include Kristen Driskell and
3 me, as the hearing officers. Ex parte communications are also
4 prohibited with individuals assisting these presiding officers,
5 which for this proceeding, includes anyone serving as an advisor
6 to the commissioners, and any attorney or other expert assisting
7 the committee or commissioners with this proceeding.

8 Today's conference is one of several public events
9 that will extend over the next several months.

10 Ms. Gallardo, do you think that your presentation will
11 last for longer than about eight minutes?

12 MS. GALLARDO: This is Noemi Gallardo. I do not think
13 it will.

14 HEARING OFFICER COCHRAN: Okay. Then can we please
15 display the public adviser's PowerPoint on screen.

16 At these events members of the public and provide
17 comments about the project.

18 I now invite Ms. Gallardo, the Public Advisor to
19 present on how she and her office can assist members of the
20 public in participating in events regarding the application.
21 After that, we will take the 2:30 break that I mentioned at the
22 top of the conference. Take it away, Ms. Gallardo.

23 Noemi Gallardo: Thank you, Susan. Hello everybody.
24 I'm keeping my video off due to some connectivity issues I'm
25 having. Hopefully my audio will be coming in clear for all of

1 you.

2 So, we'll move to the next slide. Again, my name is
3 Noemi Gallardo. I'm the Public Advisor at the California Energy
4 Commission, and I want to emphasize that the CEC values public
5 participation and wants to hear from an array of stakeholders
6 with different perspectives because having a robust record helps
7 the committee make a thoroughly informed decision.

8 The purpose of my presentation is to inform the public
9 about how to participate in this Small Power Plant Exemption
10 proceeding. Because any state proceeding may seem confusing, the
11 CEC's Public Advisors office is a resource to help you navigate
12 that journey.

13 In this presentation, I will review information about
14 the public adviser, which conducted in this proceeding
15 instructions about how to participate in this proceeding and an
16 explanation of the process to obtain information about the
17 proceeding along with next steps for participating and contact
18 information for our office.

19 Next slide.

20 I'll start with some information about my role as
21 Public Advisor. It is mandated by statute in the Warren-Alquist
22 Act, the Public Advisor must be a licensed attorney nominated by
23 the Energy Commission and appointed by the governor for a three-
24 year term.

25 A few of the key duties of the Public Advisor's to

1 help the public understand commission processes and assist the
2 public to participate in proceedings.

3 We also assist with access to language services and
4 reasonable accommodations. Thus far for this proceeding, we
5 have not received any individual requests for either.

6 Next slide.

7 The key takeaway from this presentation for you is
8 that again, the commission values public participation and the
9 Public Advisor's office is here to function as a bridge between
10 the public and the agency to help ensure that you will be able
11 to participate meaningfully in our proceedings.

12 Our staff has a lot of experience and we can call on
13 others who have expertise if we don't have immediate answers for
14 something. Please don't hesitate to contact us at
15 publicadvisor@energy.ca.gov or by phone at (916) 654-4489. That
16 information is on the slide.

17 Next slide.

18 So, regarding outreach that we conducted, we do that
19 from beginning to end of every proceeding and staff, the
20 committee and the Public Advisor's office take on different
21 responsibilities for this outreach.

22 So, some of what has been done is mailing of the
23 notice of receipt to residents and property owners within a
24 thousand feet of the project site, also to California Native
25 American tribes associated with the project area and to others.

1 And this notice is important because it notifies
2 people that the proceeding is beginning and it informs people
3 about sign-up on the listserv to ensure that they receive future
4 notices. Please note that the full mailing list will be
5 published in the environmental assessment document.

6 Also, the notice of this committee conference was
7 mailed to residents and property owners within a thousand feet
8 of the project site, email to parties to the proceeding and
9 email through the CA3 listserv. All the notices are also filed
10 in the relevant docket.

11 And we do conduct additional outreach to notify
12 stakeholders and local residents beyond the property owners in
13 proximity of the project.

14 So, outreach was conducted via traditional mail and
15 email to local and state elected representatives, air water, and
16 transit district officials, community-based organizations, to
17 name a few.

18 Next slide.

19 So, there are two ways to participate in these
20 proceedings. There's the informal as a member of the public
21 like you would in any other Energy Commission event and the
22 other way is formal, as an intervener. This proceeding will
23 consist of various types of events that we encourage you to
24 attend in order to participate in the proceeding.

25 And in every event, such as today's committee

1 conference, time will be carved out specifically for public
2 comment and that is your opportunity to speak to the issues.

3 Aside from providing verbal comments during events,
4 you can also provide comments in writing to my office, the
5 Public Advisor's office and I, or a representative from my
6 office will relate the main points on your behalf.

7 And finally, you may also submit written comments
8 through our docket system and then that will be included in the
9 record.

10 Next slide.

11 So, the formal approach to participate in these
12 proceedings is to become an intervener. An intervener is a
13 person or group that is a party to the proceedings and like any
14 other party to proceeding, an intervener may present evidence
15 and witnesses, object to other parties' evidence, cross examine
16 other witnesses and file motions.

17 And to become an intervener, you must file a petition
18 to intervene and we emphasize that even if you are not sure
19 whether you want to become an intervener, or even if you do not
20 end up participating at all in the proceeding, it is best to go
21 ahead and file so that you don't miss key deadlines and
22 opportunities to engage.

23 And anyone may file a petition. You do not need to be
24 an attorney or have legal representation to do so. And there is
25 not a specific form to fill out, but you must include the

1 required information in the petition.

2 For example, the petition must identify grounds for
3 the intervention, position and interest of the petitioner, and
4 the extent to which the petitioner desires to participate in the
5 proceedings. And the petition must be filed in the docket and
6 include the docket number.

7 Next slide.

8 So, whether you decide to participate in the
9 proceeding as a member of the public or intervener, we highly
10 recommend you go to the CA3 Backup Generating Facility Project
11 webpage, at the Energy Commission's website and obtain the most
12 current information about the proceedings.

13 So, here's what the webpage looks like. The red arrow
14 is pointing to the link where you can submit electronic
15 comments. Blue arrow points to the e-filing link, which is the
16 preferred pathway for staff and parties, to the proceeding to
17 submit material. The gold arrow points to the docket log link,
18 and the docket log is a repository for documents filed by all
19 parties in the proceeding and for public comments.

20 Basically, this is where you will find all materials
21 submitted for this proceeding.

22 And it's not shown here, but the webpage does contain
23 contact information for staff who can answer more questions and
24 contains the Public Advisor's office contact information as
25 well.

1 Next slide.

2 So, this is one of the most important slides. It's
3 how you sign up for the listserv. So, this is a voluntary
4 procedure and we, again, we recommend it's the most efficient
5 way to receive all of the information related to the proceeding.

6 So, signing up is a quick process. You'll go to the
7 project webpage noted here. And then when you scroll down,
8 you'll find a box that looks like this one on the slide, titled
9 "Subscribe CA3, Backup Generating Facility Listserv." Enter
10 your first and last name, along with your email and then you hit
11 send.

12 You will then receive an automated email from the
13 commission asking you to complete your subscription. Please be
14 on the lookout for this email because you won't be able to join
15 it without responding to it, and you'll have 24 hours to confirm
16 your subscription.

17 If you do this successfully, you'll then receive an
18 email notifying you that your subscription was accepted and
19 you'll begin receiving material.

20 Next slide.

21 So, there are some significant opportunities to
22 participate that are coming up. So, first is the publication of
23 the CEC staff's environmental assessment document. So, CEQA
24 allows for a public review and commentary on staff's
25 environmental assessment document.

1 So, this is a period during which staff will prepare
2 proposed mitigated negative declaration or environmental impact
3 report based upon the assessment of potential environmental
4 impacts outlined in the staff's initial study. And then staff
5 will respond to comments and questions.

6 So, if necessary, they'll hold a workshop, but this is
7 a big one. And then as a pre-hearing conference and evidentiary
8 hearing are also other opportunities. So, those come subsequent
9 to the environmental assessment.

10 And then I'll skip quickly to the next big
11 opportunity, which is the commission decision at the business
12 meeting. So, that's towards the end of the proceeding, the
13 commission will decide on whether to approve or deny the
14 proposed decision during one of our regular scheduled business
15 meetings and public comment will be accepted there.

16 Next slide.

17 So, this concludes my presentation and we've provided
18 the contact information for the Public Advisor's office on this
19 slide here.

20 The best way to get a hold of us again, is via email
21 at publicadvisor@energy.ca.gov or by phone at (916) 654-4489, or
22 toll free at 800-822-6228.

23 And I'd like to note that by the end of this week,
24 we'll post this presentation through our online docket system
25 for public access if it hasn't already been posted.

1 Thank you so much. And I'll hand it back to Susan
2 Cochran.

3 Susan, you're there?

4 HEARING OFFICER COCHRAN: One must unmute oneself in
5 order to be able to be heard.

6 MS. GALLARDO: There you go.

7 HEARING OFFICER COCHRAN: Thank you, Ms. Gallardo for
8 your presentation. So, Commissioner Gunda has left us. He
9 posted an issue in chat.

10 So, at this point, if we could go to the very last
11 slide, so we are now recessed and we will resume at 3:15.

12 When we come back, it will be the applicant's turn to
13 present their application. Again, as I noted, please remain in
14 the Zoom meeting if at all possible so that when Commissioner
15 Gunda is back, we can start up quickly without having to promote
16 people over again. I see a raised hand from Mr. Galati.

17 MR. GALATI: Yes. Hearing officer and staff, I
18 apologize. I noticed as I was working today and compiling my
19 documents, that my response to the issue identification report
20 was not docketed on this Friday as I thought it was.

21 I have immediately docketed it and I am emailing you
22 both a copy of that. And I apologize. I don't think I've done
23 that before. I'm not sure what happened, but I'm sure it was
24 operator error.

25 HEARING OFFICER COCHRAN: I will note that I noted the

1 absence, but obviously, I couldn't contact you because of the ex
2 parte rule.

3 So, I appreciate your letting us know that you filed
4 something. And I will look at that while we're taking this
5 break. And with that, we are in recess.

6

7 [CONTINUATION FROM RECESS]

8

9 HEARING OFFICER COCHRAN: I want to make sure that
10 everybody is still here. I see Mr. Galati. I see Mr. Galati's
11 clients. I see the project manager and staff counsel.

12 I think we're ready to proceed. So, at this point,
13 could you please display Mr. Galati's presentation and there we
14 go. Mr. Galati, it is on you now.

15 MR. GALATI: Thank you very much. Mr. Casey is going
16 to present this part of the presentation.

17 MR. CASEY: A warm welcome this afternoon everyone.
18 Thank you very much for giving us the opportunity to present to
19 you.

20 My name is Simon Casey, and I'm the Senior Director of
21 Construction for California Projects at Vantage Data Centers.
22 And again, thank you. I'm very pleased to be here today to
23 discuss our CFE project.

24 Next slide, please.

25 A little bit of Vantage Data Centers, for those of you

1 that don't know us; we were founded in Santa Clara in 2010 on
2 one original campus called CA1. And since then, we operate two
3 data centers in Santa Clara, totaling approximately 154
4 megawatts of power.

5 We have presented to the CEC before in those past
6 projects. So, I'm very happy and privileged to be able to
7 present today on this next project that we have.

8 As I mentioned, we started in Santa Clara. We have
9 two campuses there, and since then, we are operational in four
10 other states, in the United States, as well as operations in
11 Canada, EMEA and Asia Pacific.

12 So, really, we're a growing organization, despite that
13 we remain very nimble and able to adapt to things very quickly.
14 So, I'd like to thank the Energy Commission for the speed at
15 which they've been able to work with us as we try and ramp up
16 this process. So, a big thank you for that.

17 We pride ourselves in being innovative in terms of the
18 sustainability, and we have a goal to be net carbon neutral by
19 2030, and we're considered to be the premier hyper scale leaser
20 of data center space within Santa Clara and also on the east
21 coast of the United States.

22 We're incredibly well-capitalized, as you can imagine
23 from the recent groups that I have just demonstrated, as we're
24 very excited and very eager to get going with this project that
25 we're going to present here today.

1 Next slide, please.

2 So, this is the north elevation of the building, which
3 is taken from the Walsh Street entrance. So, what you see here
4 is we're facing essentially the main entry to the campus on the
5 right-hand side with the glazing demonstrating both the office
6 block for our own operations teams, as well as for our
7 customers.

8 Running along the bottom of the plan here adjacent to
9 the trees, is a screen wall to conceal the generators that are
10 located at this part of the facility, as well as a larger screen
11 wall that you can see in the light gray color that goes up
12 approximately half of that exterior elevation, which would be to
13 screen some of the electrical gear and cabling that we have
14 going outside the building so that we obviously, we wish to
15 promote the highest aesthetic to anyone passing as is the case
16 with the facilities that we've constructed to date.

17 Next slide, please.

18 We're showing here the west elevation, which is
19 essentially the elevation facing our neighbor. So, you can see
20 that expanse of office that wraps around and the rather
21 attractive cut to walling.

22 On the left-hand side, as I mentioned earlier, you've
23 got this screening to the gen yard, which is located in the
24 lower left-hand of the plan. And then on the balance of the
25 right-hand side, you've got the exterior elevation of the west,

1 as well as the gray screening which is on plan right, which
2 conceals a staircase that we have going outside of the building.

3 Obviously, we're augmenting a lot of the landscaping
4 that's already in place, as well as making some modifications to
5 the landscaping throughout the site. One thing I didn't mention
6 very quickly, this is a four-story facility, with 64 megawatts
7 of IT power being provided to our customers.

8 Next slide, please.

9 So, this is the south elevation. So, this is the
10 elevation that would be facing the railroad that runs along the
11 rear of the property. Again, plan left is the same office
12 facility that I mentioned with a continuation around of that to
13 create rather an attractive metal screening to conceal the
14 staircase that was also on the west elevation.

15 On the right-hand side of the plan, on the lower right
16 of the building, we've got a double bay loading dock that
17 enables our operations to deliver customer goods and all of
18 those other things that we put into the data center.

19 We're showing a variety of tree sizes on landscaping
20 also on the side as well as obviously, there's a larger way of
21 existing landscaping that runs along the rail yard line.

22 Next slide, please.

23 The final elevation; this, is east elevation. So, on
24 the very right-hand side of the property we you would have Walsh
25 Avenue and the generator yard with the return of that office

1 complex that you can see again.

2 We have the screening to another staircase that we
3 also have on the exterior of the building, and we've got some
4 landscaping along the lower level.

5 It's for us to know that we also have extensive
6 screening running along the parapet height of the building. And
7 that does a couple of things. One, it provides a very
8 attractive aesthetic screen for the plant that we have up on the
9 roof. And it also augments and improves the significant steps
10 that we've implemented to ensure that the noise emissions from
11 this data center are as low as they can possibly be for a
12 facility of this type.

13 Next slide, please.

14 So, here's a plan view of our site. Along the north
15 of the property, we've got Walsh Avenue. Immediately adjacent
16 to that, we've put a fire access road that runs around the
17 perimeter of the facility. And then moving into the facility
18 itself, we've got our exterior generator yard which faces the
19 Walsh Street Avenue with that screening that I mentioned to make
20 sure that it's aesthetically pleasing.

21 And then we've got the main rectangle, if you will, is
22 the roof of the data center itself. And we're showing the
23 rooftop mounted chillers as those kind of variety of rectangles
24 that we have on the roof. It's worth noting that we're also
25 adding certain measures to each of those chiller units in

1 addition to the actual perimeter side mitigation that I
2 mentioned.

3 On the left-hand side of the facility, you can see
4 those individual parking spaces with the access showed running
5 to the left. And then in the immediate bottom left of the floor
6 plan, we have our generator yard.

7 Next slide, please.

8 In terms of some of the features, it's a 6.69-acre
9 site as I mentioned, located at 2590 Walsh Avenue. We'll be
10 providing 64 megawatts of critical IT load up to a total
11 capacity of 96 megawatts of total power.

12 We intend to use recycled water as part of our
13 sustainability initiative of this project. The generator yard,
14 as I kind of mentioned in the plans, we've got a total of 44
15 tier four compliant generators, four of which are house
16 generators and obviously, the intent is as we've been through
17 some of the earlier questions from staff, is to ensure that
18 those limited maintenance and testing hours for the benefit of
19 the environment, but also the adjacent neighbors and residences.

20 Next slide, please.

21 In terms of project benefits, I can't stress enough
22 the noise mitigation measures that we're implementing. I think
23 it's over and beyond I think any other data center user, either
24 current or proposed in terms of the noise levels that we intend
25 to get to. And that's all be detailed in the packet that we

1 submitted to staff.

2 We're looking, obviously, we're repurposing a
3 Brownfield site, so we feel very proud of kind of what we'll be
4 doing to that specific site location.

5 As part of our sustainability, obviously, we're
6 minimizing water because we're using yard chillers and a variety
7 of other initiatives as part of our overall sustainability
8 measures.

9 I would mention that we have actually reached
10 agreement as an existing customer of ours for the first phase of
11 the building and that really speaks to the schedule that we're
12 working to and **[inaudible 00:09:14]** to staff, to kind of help us
13 get to the speed that we need to, to get approval on this
14 project and put in these submissions. So, we're very grateful
15 for that. And we're looking for this small power plant
16 exemption in approximately February of next year.

17 Next slide, please.

18 Oh, that concludes the presentation. Again, a big
19 thank you to the staff that we've been working with thus far and
20 the commission for taking the time to go consider this hearing
21 today. Thank you.

22 HEARING OFFICER COCHRAN: Thank you very much for your
23 presentation. In the July 27 notice of today's community
24 conference, we direct staff to file an issues identification
25 report, status report, and proposed schedule. Staff timely

1 filed that document on August 2nd, 2021 and we thank staff for
2 its timely filing.

3 The notice also ordered the applicant to file a
4 response to staff's issues identification report, and Mr. Galati
5 explained the delay and filed that document today. But at this
6 point, what I'd like to do is turn to the Energy Commission
7 staff to present on its issues identification reports, status
8 report, and proposed, schedule. Mr. Veerkamp.

9 MR. VEERKAMP: Yes. Thank you. My name is Eric
10 Veerkamp. If you couldn't hear me, I'm sure you would be
11 yelling at me right now.

12 I am the CEC project manager for the CA3 Data Center
13 proposed by Vantage Data Centers. And online, as I mentioned is
14 staff Council Lisa Decarlo.

15 HEARING OFFICER COCHRAN: I'm going to ask you to
16 pause for just a minute.

17 MR. VEERKAMP: Of course.

18 HEARING OFFICER COCHRAN: Staff, can you please
19 display the staff's PowerPoint because I believe you prepared a
20 PowerPoint, is that correct?

21 MR. VEERKAMP: I do not have a PowerPoint, but my
22 understanding is that my docket issues ID report is going to be
23 put on screen, which my presentation is based off of.

24 HEARING OFFICER COCHRAN: Okay. Can staff display
25 that please? Thank you.

1 MR. VEERKAMP: Excellent.

2 HEARING OFFICER COCHRAN: Eric, go ahead.

3 MR. VEERKAMP: So, we're here to present staff's
4 summary of the status to date on the processing of the CA3 Data
5 Center, small power plant exemption application filed on April
6 5th in preparation of the environmental impact report.

7 As noted, the issues ID report was docketed on August
8 2nd which you should see on your screen now. The notice of
9 receipt was docketed on July 15th, 2021, and published in four
10 languages as was mentioned.

11 Staff docketed data request set three on July 6 and
12 responses to that are still outstanding. So, that was the most
13 recently data request we had.

14 On July 1st, staff sent tribal consultation letters to
15 nine tribal entities.

16 The landscape plan and a revised general arrangement
17 and site layout were docketed by the applicant on May 28th. The
18 applicant filed a missing element of the application part two on
19 April 12th. And staff also requested received responses to data
20 request set one and data request set two, as well as
21 supplemental responses going to vehicle miles traveled, and that
22 was the data request set one.

23 Issues identified by staff thus far focus on the areas
24 of biological resources. Staff is working with the California
25 Department of Fish and Wildlife to avoid minimize and/or

1 mitigate potential impacts to bird species, and special status
2 bat species potentially affected by project activities,
3 including demolition and tree removal associated with
4 construction.

5 The area of energy and energy resources, Silicon
6 Valley Power is currently preparing a system impact study that
7 will help us to better understand the impacts of the project on
8 SVP's central loop. So, we are awaiting submittal of that
9 impact study that will allow us to better evaluate the project's
10 overall impact on the transmission system, and SVP's ability to
11 serve the project.

12 Aesthetics and land use. The city of Santa Clara
13 conducted a project clearance committee meeting on June 22nd to
14 consider the proposed developer application rendering a decision
15 of incompleteness.

16 The committee determined the project does not meet the
17 front yard landscape setback requirement, and that this
18 encroachment does not have the support of the planning staff.
19 So, therefore, the city has asked the applicant to redesign the
20 frontage and examine an alternate location for the generator
21 yard.

22 The revision had the potential to require
23 modifications to the air modeling and the noise studies. The
24 applicant has just recently docketed a revised configuration.
25 So, this information is updated.

1 At present, staff is unable to make definitive
2 statements for the technical areas of aesthetics, air quality,
3 and public health, biological resources, energy and energy
4 resources, environmental justice, greenhouse gas emissions, land
5 use, and noise.

6 Staff is currently preparing a combination notice of
7 preparation agency request for participation document that will
8 be distributed to the state clearing house and agency
9 distribution list.

10 And the schedule is as follows. Staff schedule for
11 items already completed -- I've already gone through those, if
12 there's anything in particular that you would like me to
13 highlight, I would be happy to do so.

14 The notice of preparation is in process and finally,
15 staff recommends that the scheduling order associated with this
16 proceeding include language that states publication of staff's
17 environmental document should occur no later than 60 days
18 following staff acknowledgement that no further project
19 information is needed.

20 That concludes my presentation, and will be happy to
21 answer any questions you may have.

22 HEARING OFFICER COCHRAN: Thank you, Mr. Veerkamp.
23 Applicant, I'm now going to turn to you. Would you like to
24 respond to any of staff's presentation or add anything regarding
25 the issue status for the proposed schedule?

1 MR. GALATI: Yes. Yes, I would. First of all, it is
2 very important to take my comments in light of the fact of what
3 you've heard Mr. Casey describe as an incredible schedule
4 constraint in that we have a tenant.

5 This project like Vantage projects, and the commission
6 is familiar with that, their project which they call CA2 was
7 McLaren. And so, CA1 or the existing facilities, this project
8 is right adjacent to CA1 across Walsh Avenue and will operate
9 its own facility.

10 But it has a tenant ready to move in. So, for all
11 intents and purposes, this is like a power plant that comes to
12 you that has a power purchase agreement and would like to get
13 priority and expedited.

14 With that in mind, I would like to identify all of the
15 things that the applicant has done to try to expedite the
16 project first and foremost, while I personally, and the
17 applicant do not agree in any way, shape or form that this
18 project requires an EIR.

19 We're not disputing that. We're moving along and
20 we're hoping staff gets that EIR done quickly. But rather than
21 take the committee's time and effort to try to hear motions and
22 our arguments, which I happen to have convinced myself that I'm
23 right, but know yet how it's necessary. Rather than waste the
24 committee's time, the applicant is trying to move forward.

25 Second of all, they have responded to data requests

1 when they usually have 30 days, in some cases, seven days for
2 the data requests to be responded. Data request three, which we
3 received not on July 6th but actually August 6, we've already
4 got the draft responses. We're hoping to have those responded
5 to by the end of the week.

6 In addition, when the planning commission -- first of
7 all, I have to give you a little bit of background. The
8 planning committee, the clearance committee at the City of Santa
9 Clara is a time in which the planning director and department
10 and the other departments get in and look at the specifics of a
11 project and work on things like fire access and setbacks; the
12 very, very detailed things that you would do to get your
13 building permits and your grading permits.

14 There was an encroachment on the front as staff
15 identify, and what Vantage did immediately was redesign the
16 project. We don't want to move the generators' yard to the back
17 of the building, because that would be closer to the sensitive
18 receptors across the railroad track. It doesn't make sense to
19 do that.

20 So, what they did is they moved eight of the
21 generators into a slightly staggered configuration, which
22 allowed the road to be moved back and avoid that entire 15-foot
23 encroachment.

24 So, it's been solved that way. The PCC process will
25 continue and we're confident that the city will understand what

1 we're doing and agree that this solution solves the 15-foot
2 setback without increasing impacts to the neighbors.

3 So, what the applicant did here is as soon as they
4 made that decision, we were in the process of remodeling and
5 doing some answers to air quality data requests. They put a
6 halt on that and immediately started remodeling the changes to
7 the configuration of the generators, which is complete and I
8 received a draft of that document yesterday.

9 We're reviewing it, cleaning it up, and we'll be
10 docketing that this week. So, any revision to the project
11 changes, staff will have in their hand and including the
12 outstanding responses to air quality modeling, which were
13 delayed only for the purposes of documenting that change.

14 This applicant has spared no expense at expediting
15 every response to the Energy Commission.

16 The outstanding issues raised by staff on land use and
17 aesthetics, we believe are resolved by the moving of the
18 generators within the yard.

19 Second, I'd like to address the energy resources.
20 This is the first project in Silicon Valley Power that the
21 Energy Commission staff has required a system impact study be in
22 its possession prior to performing its CEQA analysis.

23 You simply do not need the system impact study to
24 complete the CEQA analysis. Staff has to data request. We
25 filed in our response to the issue identification report reasons

1 why. We included as attachment where Silicon Valley Power has
2 identified how electricity would be delivered to this project,
3 as well as increased electricity to Vantage's existing sites.

4 We believe that that's sufficient for the CEQA level
5 analysis, and I'd like to make a distinguished difference here.
6 Unlike a power plant which can put all of its electricity on the
7 grid and therefore break pieces of the grid, a system impact
8 study is required to determine what is necessary for that power
9 plant to be able to deliver its full output.

10 This project is taking electricity and how it works in
11 reality is the applicant can't lease tenants and take
12 electricity if it's unavailable to it.

13 If there's projects within the Silicon Valley Power
14 that they have to do to get electricity in the future to this
15 project, those projects will have to be done and the applicant
16 will have to wait before it can put demand in the building.
17 Nobody does that.

18 That is common within a city and if there are projects
19 that are necessary, the city will do its CEQA review at that
20 time to identify projects because it's usually a bank of
21 projects that require that analysis or those projects

22 So, what you'll see is the project has enough
23 electricity promised to it to build and occupy the first phase.
24 Project is then designed to ramp up over time.

25 And so, I think that staff can rely on Silicon Valley

1 Power's commitment and future procurement of electricity, for
2 all the demand of all its data centers as they increase, and not
3 treat this like a power plant.

4 So, we're hoping that our answer in the letter when
5 staff has a chance to review it, will realize this is not an
6 outstanding issue.

7 Lastly, I would like to ask the committee to really do
8 a couple of things, to help us with the schedule. We don't
9 think they're big things, and we don't think that they actually
10 encroach upon the commission's dedication to public process.

11 A couple of them is we really believe that there is
12 one intervener who often does not file responses on the draft
13 EIR. Any comments waits till testimony to be able to do that.
14 We believe that that is unfair to staff and unfair to the
15 applicant, that staff doesn't have a chance to respond to those
16 comments like they do every other public comment.

17 So, what we try to do is we've tried to say, we think
18 the interveners should file a petition to intervene 10 days
19 before the closing public comment period. And that would give
20 them 35 days since publication of the draft EIR to determine
21 whether or not to intervene.

22 Also, we request that any intervener that doesn't file
23 comments not be allowed to file opening testimony unless they
24 show the commission good cause of why they should be allowed to
25 file opening testimony.

1 What this does is it prevents what we're going through
2 right now on Great Oaks South. The intervenor filed no comments
3 on the draft EIR. The staff prepared response to comments and
4 then prepared the final EIR, and we're ready to go to
5 evidentiary hearing and we're waiting for opening testimony.

6 And so, this is the first time that staff is going to
7 have an opportunity to hear what the intervenor disagrees with
8 the EIR. So, that opening testimony, we only have two weeks
9 after that to file a reply testimony.

10 I think that that is unfair to staff and unfair to the
11 applicant to give the intervenor a pass where they do not file
12 response to comments on the draft EIR so that staff can take the
13 15 days or more, in this case, 30 days, it's asking for to be
14 able to fully respond to them and prepare a final EIR. So, we
15 ask you to consider that comment as well.

16 We also believe that now that we're doing an EIR even
17 more, so there is really no need for a pre-hearing conference.
18 We think that if you wanted to have one, you should combine it
19 with the evidentiary hearing and we'd like you to expedite that
20 for us as well.

21 Lastly, we don't believe on this particular project
22 that the staff needs 60 days after we file our full responses to
23 the last data request set. We're happy to work with staff, but
24 we would ask that the commission give staff 30 days to prepare
25 its documents.

1 And then lastly, we believe that in the response to
2 comments document, staff has done pretty well about responding
3 to those comments in the last 15 days after the close of public
4 commentary.

5 So, we're asking for you to consider those things and
6 again, we appreciate staff's been working well with us and
7 working hard on the document. We hope to have sections that are
8 completed. Sections that don't have issues so that they can
9 focus their time on those sections that do have issues while
10 we're continuing to prepare our answers.

11 So, I know that was a mouthful and apologize for
12 taking so much time, but it's real important that you consider
13 those things Commissioner because we are really trying to meet
14 that goal of being done and able to have our small power plant
15 exemption considered at a business meeting in the first quarter
16 so we can be in construction in the second quarter.

17 Thank you. I'm available to answer any questions.

18 HEARING OFFICER COCHRAN: Thank you, Mr. Galati.
19 Staff, could you please put up the, I believe it's slide 10 in
20 my deck, so we know where we are.

21 That should be the agenda. Perfect. Thank you for
22 that.

23 So, Mr. Galati stole a little bit of my thunder, but I
24 do have a specific question for either you Mr. Galati, or Mr.
25 Casey. I want to make sure that I understood you're requesting

1 that there be a final decision on this SPPE application by
2 February of next year? Did I hear that correctly?

3 MR. GALATI: Yes, we are. And I would remind the
4 commission as much as it pains me to do so, the statute requires
5 a decision in 135 days. We're going through a full EIR when
6 it's not necessary.

7 And so, we'd like to expedite as opposed to projects
8 keep taking longer and longer, when we think especially here in
9 Santa Clara, where we've done projects before with an applicant
10 that's done projects before at a facility where it is literally
11 already developed for demolition and we've build a new facility.
12 This is not something that we think should take 12 months to do.

13 HEARING OFFICER COCHRAN: I understand Mr. Galati that
14 our regulations do say 135 days. However, that's not hard and
15 fast and the committee has already found good cause to extend
16 beyond the 135 days as I believe that's in the general orders
17 that we've already filed.

18 Be that as it may, this commission always endeavors to
19 provide quality robust work in order to support our action on
20 these applications.

21 So, to that end, I'd like to go through some of the
22 issues that I and the committee have identified. And again,
23 this was based on staff's issues identification report.

24 While we were on our break, I had an opportunity to go
25 through the filings from the applicant today. And so, I'm going

1 to have some additional questions.

2 And staff my question is this; so you had talked about
3 outstanding data requests. You've mentioned that you filed
4 another data request, I believe on August 6th and you're waiting
5 for answers for that.

6 You had identified biological resources because of the
7 presence of a special status species of bat. And you had
8 indicated that you were consulting with the California
9 Department of Fish and Wildlife. Is that consultation still
10 underway? And if so, do you have any indication of what the
11 timing of that input from CDF&W might be?

12 MR. CASEY: To my knowledge, yes. The consultation
13 process is still ongoing. However, I don't have any additional
14 information about timing or where that process is.

15 HEARING OFFICER COCHRAN: Okay. And depending on the
16 information that you receive from CDF&W, do you have any idea of
17 what the next steps might be or what additional analysis may be
18 required?

19 And I don't know is an acceptable answer. This is all
20 so you understand, I'm also trying to figure out a workable
21 schedule that also allows us again, to have a robust record to
22 support the decisions that the commission makes on these SPPE
23 applications.

24 MR. CASEY: Yeah, I just don't have the technical
25 knowledge to relay to you what may present itself as far as

1 drafting mitigation, if there's something about that bat
2 species. I'm afraid, I don't know.

3 HEARING OFFICER COCHRAN: That's quite alright. So,
4 let's turn now to energy and energy resources, which is an issue
5 not only under ... Mr. Galati, you have your hand raised.

6 MR. GALATI: Yes, I do. I wanted to address the
7 issue. Staff presented to us a mitigation measure already for
8 bats of which we have fully agreed.

9 HEARING OFFICER COCHRAN: Okay.

10 MR. GALATI: So, I think the consultation is whether
11 CDFW believes that that mitigation is appropriate or not. And
12 we're hoping that staff was working with CDFW when they actually
13 developed that mitigation, but we've already agreed to
14 mitigation for that issue.

15 HEARING OFFICER COCHRAN: Okay. Thank you for that.

16 MS. DECARLO: Hearing Officer Cochran, I also want to
17 note that our office manager, Eric Knight is also attending and
18 he has raised his hand. So, I think if you promote him to
19 panelist, he might have some response for you.

20 HEARING OFFICER COCHRAN: Yes. Please promote Mr.
21 Knight to panelist. And I would be delighted to hear from Mr.
22 Knight.

23 MS. GALLARDO: This is Noemi, the public advisor. I
24 just promoted him, so he should be coming through and there he
25 is on the screen.

1 HEARING OFFICER COCHRAN: Thank you so much.

2 MR. KNIGHT: Thank you Lisa and thank you Noemi, and
3 thank you Susan. Hearing Officer Cochran, excuse me.

4 HEARING OFFICER COCHRAN: Susan's fine.

5 MR. KNIGHT: Okay. Don't need to be so formal.

6 So, yeah, the consultation that we're doing and
7 conducting right now, our staff's biologists, Ann Crisp has been
8 in contact with CDFW. They have traded several emails and she
9 just confirming that the mitigation measure that was proposed by
10 the applicant meets their requirements.

11 So, we understand that this is kind of a standard
12 condition, the mitigation measure that they like to see, but we
13 just want to confirm that. So, we just haven't been able to
14 close the loop yet.

15 HEARING OFFICER COCHRAN: Okay. Thank you for that
16 Mr. Knight.

17 MR. KNIGHT: You're welcome.

18 HEARING OFFICER COCHRAN: Let's now turn to energy and
19 energy resources. And I would like to understand the system
20 impact study.

21 So, in the filing today, is an attachment from Silicon
22 Valley Power to direct it to the applicant regarding service.
23 And in that letter, it says that the data center can be provided
24 with initial power.

25 And I believe Mr. Galati you explained that as is

1 sufficient for the first phase, but they're still studying
2 whether the second phase of the project is going to be able to
3 be served based on what?

4 MR. GALATI: So, as is standard with taking power, is
5 a utility does not procure power while you're in the permitting
6 process. They also with data centers and we've had Silicon
7 Valley Power testify in other data centers, they work with
8 projects and applicants on a yearly basis to ramp up their load.

9 Silicon Valley Power has identified that there are
10 projects outside its service territory from PG&E that need to be
11 completed over 2024 or 2025 in order to import some additional
12 power due into Silicon Valley. That is not uncommon. They've
13 done that many, many times.

14 So, a system impact study that would be done that
15 identifies that additional work needs to be done outside their
16 system would have to go through the transmission planning
17 process with Cal ISO and the California Public Utility
18 Commission. And any project proposed to respond to the need to
19 get power into Silicon Valley Power would be subject to CEQA at
20 that time when that project is proposed.

21 So, these system impact studies are not going to
22 identify what has to be done, what projects must be fixed, like
23 you would find in a power plant where we put energy on the grid
24 and line A to B needs a new conductor. That's not what's going
25 to happen.

1 What's going to happen is, "PG&E, you have to deliver
2 X amount of power into Silicon Valley Power. You propose which
3 projects you think might work. And then you go to the Public
4 Utility Commission and see what you can get permitted and then
5 you're allowed to build it." That is how distribution works
6 into a system.

7 So, what we believe is that the letter that Silicon
8 Valley Power has given us is enough for us to occupy a portion
9 of the project, which we're calling first phase. We're going to
10 build the whole building and then we're going to build out the
11 interior rooms as data centers do over time.

12 But we have enough electricity for the initial
13 tenants, and we'll continue to work with Silicon Valley Power
14 and time with them our ramping of our existing facilities, as
15 well as these projects, before we occupy the rest of the
16 building. That's how all the data centers work in Silicon
17 Valley Power service territory.

18 So, a system impact study will simply say, projects
19 need to be done outside the system to deliver 99 megawatts or 96
20 megawatts to this project over time. And we don't need 96
21 megawatts now, and we can build the project and occupy it with
22 less.

23 HEARING OFFICER COCHRAN: Okay. Staff, I know that we
24 just got the filing from the applicant. Have you had a chance
25 to look at the information that they did provide today, and do

1 you have any information as whether the information that was
2 provided today answers the questions that you referred to
3 regarding the system impact study?

4 MR. VEERKAMP: I've had an opportunity to ... yeah,
5 please go ahead, Lisa.

6 MS. DECARLO: Oh, sorry. So, we've had some initial
7 conversations with our staff initial reactions. We're
8 sympathetic to Mr. Galati's position on this. The more
9 information he can provide to us about the scope of what's being
10 contemplated by SVP concerning being able to ultimately provide
11 power to the entire project, the better for us.

12 So, we'll just need to see what information we end up
13 with to determine whether or not we feel comfortable reaching a
14 conclusion on CEQA impacts on the whole of the project.

15 HEARING OFFICER COCHRAN: Okay. Sorry, I am
16 distracted because I'm looking for a piece of information.

17 Commissioner Gunda has informed me that he needs to
18 leave at 4:00 o'clock today. There is provision in the Energy
19 Commission's regulations that the hearing officer can continue
20 to conduct the proceeding in the absence of commissioners, so
21 long as evidence is not being taken.

22 Does anyone object to continuing this committee
23 conference after Commissioner Gunda has to leave with just my
24 attendance, as well as the attendance of his advisors?

25 MS. DECARLO: No objection from staff.

1 MR. GALATI: No objections, yeah.

2 HEARING OFFICER COCHRAN: Okay. So, Commissioner
3 Gunda, you can leave at 4:00 o'clock as you need to, and we'll
4 continue. Again, there is a transcript being prepared of this,
5 so there will be some follow-up with everybody with the
6 committee after today's proceeding. So, thank you Ms. Decarlo
7 for your-

8 COMMISSIONER GUNDA: Officer Cochran?

9 HEARING OFFICER COCHRAN: Yes.

10 COMMISSIONER GUNDA: I just want to say thank you to
11 you and staff and the applicant for being flexible today with my
12 schedule. Thank you so much.

13 HEARING OFFICER COCHRAN: Thank you very much for
14 keeping us posted. So, and Ms. Decarlo thank you for your
15 substantive answer on that. I think you have probably
16 identified the same issues that I have identified as a hearing
17 officer.

18 And so, I'll look forward to additional information
19 from staff as we move forward with this.

20 Let me then talk about the land use and aesthetics
21 issues with the city of Santa Clara Project Clearance Committee.

22 So, I understand that there has been a revised site
23 plan. Is there additional action required from the city before
24 staff can move forward with its analysis?

25 And then I want to follow-up after I hear that with

1 what may have happened with both air quality and noise.

2 So, Mr. Galati, is there a future project clearance
3 committee meeting where the applicant will be presenting its
4 revised project description and layout to respond to the city's
5 concerns? Will there be any type of like -- not a conditional
6 use permit, but some sort of document coming from the city
7 showing that this is an acceptable document or are they waiting
8 for us to complete the CEQA review?

9 MR. GALATI: The CEQA review needs to be completed.
10 So, let me just ... first of all, we have a call at 4:00 o'clock.
11 I will stay on until it's over and Simon we'll probably leave
12 the call at 4:00 o'clock to talk to the city again about the
13 recent changes.

14 HEARING OFFICER COCHRAN: Okay.

15 MR. GALATI: The important thing to understand is that
16 the PCC process is like preliminary indication processes that
17 sometimes applicants have them finished before they come to the
18 energy commission. Most of the time, they don't.

19 You've approved many projects where the PCC was not
20 finished. And during the finalization of that document, if your
21 CEQA document needs to be revised because they made a change to
22 it, the city will do that.

23 So, we can't wait for the PCC process to be done
24 because that's not an approval. It ultimately, has to go to the
25 Architectural Review Board which they will not take an action or

1 city council or planning commission -- they will not take action
2 or consider it without a CEQA document.

3 So, we believe that there doesn't need to be
4 confirmation that the city has accepted our proposed change. I
5 can tell you there's no land use nonconformance now. We comply
6 with the 15-foot setback. And as far as the aesthetics are
7 concerned, we've screened it.

8 If the city wants different kinds of screening, which
9 is often the case, we'll do something like that, but we don't
10 believe that this is a CEQA issue. It was only a CEQA issue if
11 we had to reconfigure the project.

12 So, that's how we see it. And we would just remind
13 the commission that if additional CEQA needs to be done, the
14 responsible agency will do it if the project changes.

15 HEARING OFFICER COCHRAN: Okay. Staff, do you have a
16 response to Mr. Galati's comments?

17 MR. VEERKAMP: I'm going to defer to Lisa Decarlo,
18 because while I've read Mr. Galati's response, I have not even
19 had an opportunity to review the reconfigured building in
20 compliance with PCC Committee.

21 I do appreciate Scott's comments because I had
22 questions about whether it still needed a conditional use permit
23 and planning commission hearings, et cetera. But from what I'm
24 hearing him say, it does not. But Lisa, do you have any
25 additional comment on that?

1 Ms. DECARLO: Yeah, I guess we would just want
2 confirmation to some extent whether that be a letter from the
3 city or just an indication that the city has concurred and staff
4 can follow-up on that with the city themselves, but that no
5 further project changes are contemplated by the city that we
6 would need to review.

7 HEARING OFFICER COCHRAN: Okay. Thank you for that.
8 So, Mr. Galati, when you were speaking before we moved into
9 these committee questions, you indicated that there were some
10 changes to the, I believe, air quality modeling done based on
11 the change of configuration and the location of the generators.
12 Did I understand that correctly?

13 MR. GALATI: Yes. So, to be specific, we got a set of
14 data requests that said, please redo the modeling and look at it
15 this way. That was before there was any change.

16 We started that modeling and then the PCC pointed out
17 the 15-foot encroachment issue. What we did is we changed and
18 stepped the generator yards, so that eight generators changed
19 position.

20 So, we redid the air quality modeling to answer
21 staff's questions, but we did the whole suite of modeling with
22 the eight generators changed as we currently have configured it.
23 And we will be filing that this week.

24 I'm hoping to be able to get to it tomorrow, but I
25 think I might have some questions with what I've received to be

1 able to make that response as clear as possible.

2 There is no changes necessary for noise and it's
3 because as we intended, the sensitive receptors are on the other
4 side of the building. So, changing the generators slightly in
5 configuration does not change the noise at the sensitive
6 receptors from the generators.

7 So, that project change is done and we think staff
8 will have everything that it needs now, not only the revised air
9 quality modeling to represent the change in the eight
10 generators, but we've redone the modeling as staff requested
11 from our initial model.

12 HEARING OFFICER COCHRAN: And for the record, I should
13 note the Commissioner Gunda has left the meeting and I thank
14 you, both staff and advocate for agreeing to continue this with
15 just my presence along with the respective advisors for both
16 Commissioner Douglas and Commissioner Gunda.

17 So, staff, do you have any response about either the
18 air quality analysis or the new traditional noise analysis,
19 based on the changes to the project configuration and layout?

20 And again, if you haven't had time to fully assess
21 that out, that is acceptable as well.

22 MS. DECARLO: Yeah, I think we'll ... sorry, go ahead,
23 Eric.

24 MS. VEERKAMP: Please go ahead, Lisa.

25 No, I understand what Mr. Galati was saying, they

1 hadn't even yet completed the modeling under the previous
2 configuration. Once they understood the change required, they
3 proceeded immediately to do their modeling. And that's what
4 he's going to be submitting in a couple of days, which is fine.

5 I just know our air quality staff is still waiting to
6 see the modeling and then they will need to write their
7 analysis. But to be able to comment any further on it, like I
8 said, I haven't seen it, been able to suggest it.

9 HEARING OFFICER COCHRAN: Ms. Decarlo, did you have
10 anything else you wanted to add?

11 MS. DECARLO: Yeah, I mean, just along those lines, we
12 look forward to seeing the applicant's full data response set to
13 determine if we need any additional information. We encourage
14 the applicant to provide any noise discussion regarding the
15 change of the generator location, so we could put that issue to
16 rest, if possible, based on the response.

17 HEARING OFFICER COCHRAN: Thank you. So, is there
18 anything else of a substantive nature staff that Mr. Galati
19 mentioned that I haven't raised, that you would like to raise
20 before I move into schedule, which is always a fun conversation
21 to have.

22 MS. DECARLO: Nothing from me.

23 HEARING OFFICER COCHRAN: Okay.

24 MR. VEERKAMP: No, nothing more for me.

25 HEARING OFFICER COCHRAN: Okay, thank you. I just

1 wanted to make sure that everybody had a last chance to respond
2 to the substance of what we've received today.

3 So, let's do talk a little bit about schedule because
4 as I confirmed with Mr. Galati, the applicant is looking for a
5 decision in February of next year.

6 And one thought in particular was that the draft EIR
7 be published 30 days after the receipt of the complete responses
8 to its data requests, as opposed to the 60 days that staff has
9 proposed. Staff, what are your initial reactions to that
10 request?

11 MR. VEERKAMP: My reaction, my initial reaction is
12 that 30 days is an insufficient amount of time for staff to be
13 able to produce the final document.

14 And I'm not sure, you have to forgive me how much
15 extraneous information is allowed to be entered in to this
16 process, but just knowing what staff's workload and some of the
17 urgent situations that are presenting themselves to staff right
18 now, I think it's going to be a distinct challenge. So, perhaps
19 Ms. Decarlo or Mr. Knight have comments on that as well.

20 HEARING OFFICER COCHRAN: Ms. Decarlo?

21 MS. DECARLO: I agree with Eric. Workload is a
22 challenge these days and I know the applicants don't like when
23 we say it, but we will endeavor to release these documents as
24 soon as we can. I mean, certainly we wouldn't sit on them if we
25 could get them out sooner than the schedule allows for.

1 But 30 days, I don't think is even remotely feasible.
2 60 days is a nice amount of time that we feel comfortable we
3 could commit to, but anything less is uncertain at this point.

4 HEARING OFFICER COCHRAN: Okay. Thank you. Mr.
5 Galati also mentioned some other timing and limitations relating
6 to intervenor participation that are included in what he filed
7 today, as well as his comments.

8 Do you have responses to how to handle intervenor
9 comments, the evidentiary hearing, the pre-hearing conference
10 that you'd like to share with the committee as it moves forward
11 and potentially issues a scheduling order coming out of this
12 committee conference?

13 MR. GALATI: I apologize, was that a ...?

14 HEARING OFFICER COCHRAN: That was for staff. That
15 was for staff. Sorry about that, I didn't preface that.

16 So again, because in staff issues identification
17 report, the schedule only contained essentially two milestones;
18 that the draft EIR be filed 60 days after you informed the
19 committee that you've received complete responses to all of your
20 outstanding data requests. And second, that the final EIR be
21 published and filed 30 days after the comment period on the
22 draft EIR ends.

23 There's no mention of intervenor deadlines,
24 limitations on testimony or anything of that nature. And Mr.
25 Galati included that both in what he filed today, as well as in

1 his oral statements earlier. And so, I was wondering if staff
2 had a response to that? If you haven't had time to study it and
3 you don't have a response, that's okay too.

4 MR. VEERKAMP: No, I thank you for repeating that. We
5 did have a chance to huddle. Staff did, although it was
6 somewhat a condensed time period. And I believe those were
7 items one, two and three in Mr. Galati's response.

8 And staff has no objection to either of those three
9 proposals by Mr. Galati. So, we would be in agreement, if the
10 committee chooses to implement those recommendations, we would
11 support them.

12 HEARING OFFICER COCHRAN: Okay. Thank you.

13 MS. DECARLO: We don't think that any of the proposals
14 present a disadvantage to interveners in terms of their ability
15 to substantively comment on staff's analysis or the project as a
16 whole. And we certainly believe the community should have
17 discretion to determine the scope of the ultimate evidentiary
18 hearing, whether or not that be just to move documents into
19 evidence and testimony, or to actually allow for oral testimony
20 and cross examination. And that should certainly be at the
21 discretion of the committee depending upon the issues that have
22 been raised.

23 And we would suggest too, the committee consider doing
24 something similar to what they did Sequoia, the second phase of
25 that proceeding where cross-examination questions were submitted

1 in writing and oral cross only allowed upon a showing of good
2 cause.

3 HEARING OFFICER COCHRAN: Thank you Ms. Decarlo. I am
4 familiar with what happened in Sequoia.

5 MR. VEERKAMP: As I'm I.

6 HEARING OFFICER COCHRAN: So that was the extent of
7 the questions that I had. Is there anything that anyone would
8 like to say before we move on to public comment?

9 MR. GALATI: I'd just like one final opportunity to
10 plead, and that is I think that we need to, for this project,
11 speed it up somehow, and it's difficult to come here and ask the
12 committee to do it quicker, but I'm going to ask the committee
13 to do it quicker. And I've given you ways that you can do it
14 quicker.

15 Having long periods of time between the evidentiary
16 hearing and a proposed decision is difficult, and we don't think
17 that it is necessary.

18 In this particular case, you will have a full EIR.
19 And one of the reasons we didn't object to the full EIR is that
20 removes some risk to the committee in writing a decision that is
21 beyond the final EIR.

22 We actually think that it can answer your questions on
23 environmental impacts on the EIR. That's why we think that the
24 intervenor in public should write comments on EIR.

25 That's how a CEQA process is done. And this one

1 particular intervenor waits to the very last minute to
2 intervene, the very last day, who doesn't file comments, and
3 that causes the committee to do a lot more work. You don't have
4 to do that to ensure a fair process and a robust record.

5 We're talking about EIRs and environmental documents
6 that the staff prepares that eclipse the environmental documents
7 prepared by cities and counties to already have a robust record.

8 And I would like to make sure that we keep that in
9 mind. And then when the staff does elect to go to a final EIR,
10 from my perspective, it should shorten evidentiary hearings and
11 a proposed decision because you've already done a full EIR,
12 unless the committee has questions.

13 But starting the second half of the process instead of
14 finishing up after the final EIR I think is something that we
15 can consolidate and we're begging the committee to do so.

16 HEARING OFFICER COCHRAN: Okay. Thank you for that.
17 Staff, anything, any closing remarks you'd like to make?

18 MR. VEERKAMP: No, I've said all my remarks. Thank
19 you.

20 HEARING OFFICER COCHRAN: Okay, thank you. So, with
21 that, next slide, please. So that concludes our discussion of
22 the schedule status issues, and next steps. We will now take
23 public comment.

24 Comments are limited to three minutes per person. If
25 you are on your computer, use the raise hand feature to let us

1 know you'd like to comment. If you change your mind, you can
2 lower your hand. We will call on you and open your line so that
3 you can state your comments.

4 For those on the phone, dial *9 to raise your hand.
5 If you have muted yourself, press *6 to unmute your phone line.
6 We will unmute your line from our end.

7 We will call on you in the order you raise your hand.
8 If you are on the phone, we will tell you when your line is
9 open.

10 MS. GALLARDO: Susan, this is Noemi Gallardo, the
11 public adviser. I am not hearing you anymore. Are you still
12 there?

13 HEARING OFFICER COCHRAN: I'm still here. We don't
14 know why you're not hearing me.

15 MS. GALLARDO: Okay, now I do.

16 HEARING OFFICER COCHRAN: Okay. In any event, I'm
17 looking for public comment. I am not seeing any raised hands,
18 Madam public advisor.

19 MS. GALLARDO: I do not either. So, one last call for
20 public comment, use the raise hand feature, which looks like a
21 high five if you are using the Zoom platform. If you are on by
22 phone press *9 to raise your hand, *6 to unmute. Last call.

23

24

25

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 12th day of September, 2021.



MARTHA L. NELSON, CERT**367

CERTIFICATE OF TRANSCRIBER

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

September 12, 2021