

DOCKETED	
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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 **CA3 Backup**
Generating Facility

DOCKET NO: 21-SPPE-01

**VANTAGE DATA CENTERS' MOTION
FOR MODIFICATION TO THE
SCHEDULING ORDER AND ORDER
SHORTENING TIME FOR RESPONSE
TO THIS MOTION**

Vantage Data Centers (VDC) hereby files this Motion For Modification to the current Scheduling Order to reflect that there are no disputes between the parties that require adjudication by the Committee. Staff and VDC are the only parties. There are no intervenors. VDC also requests the Committee issue an order shortening time to respond to this motion by April 1, 2022. This motion is brought pursuant to Section 1211.5 of the Commission Regulations¹.

BACKGROUND AND REQUEST FOR SCHEDULE MODIFICATION

On October 6, 2021, the Committee a Scheduling Order (Order)² after hearing and considering several suggestions by Staff and VDC. The Order denied VDC's motion to move directly to evidentiary hearing after Staff published the Final Environmental Impact Report (FEIR) stating at pages 3 and 4:

¹ The term Commission Regulations used in this Motion shall refer to Title 20, Division 2 of the California Code of Regulations.

² TN239992.

The Committee does not have enough information this early in the proceeding to allow it to determine whether these proposals will improve the efficiency of the hearing while building an adequate record to support the proceeding. At this point, there are no intervenors, the draft EIR has not yet been issued, public comments have not been received, and responses to comments have not been filed. The Committee declines to require that opening testimony be filed at the same time as public comment in this proceeding. However, the Committee will take the remainder of these requests under consideration when the prehearing conference and evidentiary hearing are closer.

Staff published the FEIR on March 24, 2022. No person has petitioned to intervene in the proceeding and time for such petition has passed.³ VDC has reviewed the FEIR and has concluded that it has no dispute with its contents that require adjudication by the Committee. As VDC has stated before in its Status Reports to the Committee, it needs to begin construction as soon as possible to accommodate the needs of a tenant. Since the parties are in total agreement on the contents of the FEIR, VDC requests the Committee modify the Order to:

1. Combine the PreHearing Conference and Evidentiary Hearing into a single hearing and set the date as soon as possible;
2. Remove the obligation to file PreHearing Conference Statements;
3. Require the filing of Opening Testimony and Exhibit Lists 5 days prior to Hearing;
4. Remove the obligation for Reply Testimony;
5. Receive all evidence upon written declaration;
6. Remove the obligation for briefs;
7. Complete the Proposed Decision in time for it to be considered at the May Business Meeting.

These step would allow the development of an adequate record, allow the public to have a hearing to provide comment, and expedite the matter in a manner that would reduce Commission and VDC time.

³ The Order held that the last day to file a petition to intervene was 21 days after Staff published the Draft Environmental Impact Report (DEIR). Staff published the DEIR on January 21, 2022.

LEGAL AUTHORITY OF COMMITTEE TO GRANT MOTION


Section 1203 of the Commission's Regulations provides broad power to the Presiding Member of the Committee to:

- (c) Regulate the conduct of the proceedings and hearings, including, but not limited to, disposing of procedural requests, ordering the consolidation or severance of any part, or all, of any proceeding or hearing, admitting or excluding evidence, designating the subject matter, scope, time of presentation, and order of appearance of persons making oral comments or testimony, accepting stipulations of law or fact, and continuing the hearings.
- (d) Set the time and place of hearings.
- (e) Cancel a scheduled hearing or meeting. To the extent feasible, notice shall be given of any cancellation, and the staff, in consultation with the public adviser, shall inform known interested participants by the most expeditious means possible.
- (f) For good cause shown, shorten or lengthen the time required for compliance with any provision of these regulations.

Revising the schedule order to make the proposed adjustments is clearly authorized by Section 1203. The proposed modifications do not inhibit any member of the public from participating in the exact same way they would participate under the current schedule.

Dated: March 29, 2022

Respectfully Submitted,

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

Scott A. Galati
Counsel to Vantage Data Centers