

DOCKETED

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State of California
State Energy Resources Conservation and
Development Commission
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APPLICATION FOR SMALL POWER PLANT
EXEMPTION FOR THE:

**SAN JOSE CITY BACKUP
GENERATING FACILITY**

Docket No. 19-SPPE-04

RULING ON STAFF’S MOTION TO SUSPEND MONTHLY STATUS REPORTS

BACKGROUND

On November 15, 2019, Microsoft Corporation (Applicant) submitted an application for a small power plant exemption (SPPE) for the San Jose City Backup Generating Facility (Application)¹ to the California Energy Commission (CEC).² On December 17, 2019, the CEC appointed a committee consisting of Karen Douglas, Commissioner and Presiding Member, and Patricia Monahan, Commissioner and Associate Member, to preside over this Application.³

On February 4, 2020, Presiding Member Karen Douglas issued “General Orders Regarding Motions, Electronic Filing, Service of Documents, and Other Matters,”⁴ which, among other things, specify:

Written motions submitted by a party shall state the motion clearly in the document’s title and include a statement of the relief or action requested,

¹ Information about this proceeding, including a link to the electronic docket, may be found on the San Jose Data Center SPPE [web page](https://www.energy.ca.gov/powerplant/reciprocating-engine/san-jose-data-center) at <https://www.energy.ca.gov/powerplant/reciprocating-engine/san-jose-data-center>. Documents related to this proceeding may be found in the [online docket](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=19-SPPE-04) at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=19-SPPE-04>. The Application includes TNs 230741, 230762, 230763, 230765, 230770, and supplemental application materials including TNs 239409, 239410, 239411, 239412, 239413, 239419, 239420, 239421, 239422, and 239597.

² The CEC is formally known as the “State Energy Resources Conservation and Development Commission.” (Pub. Resources Code, § 25200.)

³ TN 231265.

⁴ TN 231937.

the grounds for the requested relief or action, and citation to a rule, law, or other authority authorizing the Committee or CEC to grant the request.⁵

On February 18, 2020, the Committee granted a petition to allow California Unions for Reliable Energy (CURE) to intervene as a party to the proceeding.⁶

On November 29, 2021, the Committee granted a petition to allow Robert Sarvey (Sarvey) to intervene as a party to the proceeding.⁷

On December 23, 2021, CEC Staff (Staff) published a Draft Environmental Impact Report for the Application.⁸ Staff,⁹ the Applicant, CURE, and Sarvey are each a “Party” and collectively the “Parties.” The deadline to comment on the Draft Environmental Impact Report was February 7, 2022.¹⁰ After receiving public comments on the document, Staff published a Final Environmental Impact Report on February 28, 2022.¹¹

On March 15, 2022, Chair David Hochschild of the CEC issued a Revised Scheduling Order, which extended the time to file opening testimony to April 14, 2022, the time to file reply testimony and any errata to the Final Environmental Impact Report to April 28, 2022, and the time to file prehearing conference statements and conduct the prehearing conference to dates yet to be determined.¹²

On March 24, 2022, the CEC amended the members of the committee appointed to preside over this Application, appointing Patricia Monahan, Commissioner and Presiding Member, and Kourtney Vaccaro, Commissioner and Associate Member (Committee).¹³

On April 12, 2022, the Committee issued “Amended General Orders Regarding Motions, Electronic Filing, Service of Documents, and Other Matters.”¹⁴

STAFF’S MOTION TO SUSPEND MONTHLY STATUS REPORTS

On March 15, 2022, Staff filed Status Report #25, which included a “Motion to Suspend or Revoke the Order that Parties Provide Monthly Status Reports” (Staff’s Motion).¹⁵

⁵ TN 231937, p. 1.

⁶ TN 232066.

⁷ TN 240731.

⁸ TN 241076.

⁹ Cal. Code Regs., tit. 20, § 1937.

¹⁰ See TN 241077, p. 1.

¹¹ TN 241977-1 and TN 241977-2.

¹² TN 242335.

¹³ TN 242445.

¹⁴ TN 242657 (English language version), TN 242654 (Vietnamese language version), TN 242652 (Spanish language version).

¹⁵ TN 242323.

Staff states that now that the Final Environmental Impact Report has been docketed, Staff requests that the Committee “suspend or revoke its prior order that parties file Status Reports on the 15th of each month.” Staff states that the need for monthly status updates is eliminated now that all parties will be engaging directly with the Committee as part of the evidentiary process.

In that same document, Staff also requested that the Committee provide specific dates for future proceedings, filings, and events at its earliest convenience.

No responses to the motion and request were submitted.

DISCUSSION AND RULING

The Presiding Member has authority to regulate the proceedings, including disposing of procedural requests and scheduling hearings.¹⁶ Staff’s motion to suspend the requirement to file status reports in this proceeding on the 15th of each month is **GRANTED**, as these monthly status reports are no longer necessary for the Committee to understand and regulate the orderly conduct of this proceeding.

As to Staff’s request that the Committee provide specific dates for future proceedings, filings, and events at its earliest convenience, as noted above, Chair Hochschild published a Revised Scheduling Order on March 15, 2022, that identified the deadlines for filing opening and reply testimony. At a future date the Committee will issue additional updates to the scheduling order identifying the prehearing conference and evidentiary hearing dates, the time for a Committee Proposed Decision, and the anticipated business meeting date.

PUBLIC ADVISOR AND OTHER CEC CONTACTS

The CEC’s Public Advisor provides the public assistance in participating in CEC proceedings. For information on participation or to request interpreting services or reasonable accommodations, please contact the Public Advisor at publicadvisor@energy.ca.gov, or by phone at (916) 957-7910.

Direct questions of a procedural nature related to the Application to the Hearing Officers, [Caryn Holmes](mailto:Caryn.Holmes@energy.ca.gov) at Caryn.Holmes@energy.ca.gov, and [Deborah Dyer](mailto:Deborah.Dyer@energy.ca.gov) at Deborah.Dyer@energy.ca.gov.

Direct technical subject inquiries concerning the Application to Lisa Worrall, Project Manager, at lisa.worrall@energy.ca.gov or (916) 661-8367.

¹⁶ Cal. Code Regs., tit. 20, § 1203, subds. (c) and (d).

Direct media inquiries to mediaoffice@energy.ca.gov or (916) 654-4989.

AVAILABILITY OF DOCUMENTS

Information regarding the status of the Application, as well as notices and other relevant documents are available on the [San Jose Data Center SPPE web page](https://www.energy.ca.gov/powerplant/reciprocating-engine/san-jose-data-center) at <https://www.energy.ca.gov/powerplant/reciprocating-engine/san-jose-data-center>.

IT IS SO ORDERED.

Dated: April 14, 2022

APPROVED BY:

Patricia Monahan
Commissioner and Presiding Member
San Jose City Backup Generating Facility
SPPE Committee