

<b>DOCKETED</b>	
<b>Docket Number:</b>	21-SPPE-01
<b>Project Title:</b>	CA3 Backup Generating Facility-Vantage
<b>TN #:</b>	243079
<b>Document Title:</b>	Revised Notice of Prehearing Conference and Evidentiary Hearing and Revised Scheduling Order
<b>Description:</b>	Tuesday, May 24, 2022; 1:30 p.m. and Friday, May 27, 2022; 11:30 a.m.
<b>Filer:</b>	Patricia Carlos
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
<b>Submission Date:</b>	5/13/2022 4:44:24 PM
<b>Docketed Date:</b>	5/13/2022



**State of California  
State Energy Resources Conservation and  
Development Commission**

**715 P Street, Sacramento, CA 95814  
1-800-822-6228 – [www.energy.ca.gov](http://www.energy.ca.gov)**

**APPLICATION FOR SMALL POWER PLANT  
EXEMPTION FOR THE:**

***CA3 BACKUP GENERATING FACILITY***

**Docket No. 21-SPPE-01**

**REVISED NOTICE OF PREHEARING CONFERENCE AND  
EVIDENTIARY HEARING AND REVISED SCHEDULING ORDER**

In April 2021, Vantage Data Centers (Applicant) submitted an application for a small power plant exemption (SPPE) for the CA3 Backup Generating Facility (Application)<sup>1</sup> to the California Energy Commission (CEC).<sup>2</sup>

**PLEASE TAKE NOTICE** that the Committee<sup>3</sup> has scheduled a **PREHEARING CONFERENCE** and **EVIDENTIARY HEARING**:

**The PREHEARING CONFERENCE will be held on:**

**Tuesday, May 24, 2022**

**1:30 p.m. – 3:30 p.m.**

**In-person at:**

**Warren-Alquist State Energy Building**

**Rosenfeld Hearing Room, First Floor**

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<sup>1</sup> Information about this proceeding, including a link to the electronic docket, may be found on the CEC's [web page](https://ww2.energy.ca.gov/sitingcases/ca3/) at <https://ww2.energy.ca.gov/sitingcases/ca3/>. Documents related to this proceeding may be found in the [online docket](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-SPPE-01) at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-SPPE-01>. The Application and related addenda are TN 237380 through 237383, TN 237423, and TN 237521.

<sup>2</sup> The CEC is formally known as the "State Energy Resources Conservation and Development Commission." (Pub. Resources Code, § 25200.) All further references are to the Public Resources Code unless otherwise specified.

<sup>3</sup> On May 12, 2021, the CEC appointed a Committee consisting of Karen Douglas, Commissioner and Presiding Member, and Siva Gunda, Vice Chair and Associate Member, to preside over this Application. (TN 237834.) On March 24, 2022, the CEC amended the committee appointments for this Application, appointing Siva Gunda, Vice Chair and Presiding Member, and Kourtney Vaccaro, Commissioner and Associate Member (TN 242447).

1516 Ninth Street, Sacramento, CA 95814  
(Wheelchair accessible)

**Remote Option via Zoom™**

<https://zoom.us>, webinar ID: **990 2465 1712** and passcode: **CSPPE@0524**

**The EVIDENTIARY HEARING will be held on:**

**Friday, May 27, 2022**

11:30 a.m. – 3:00 p.m.

**In-person at:**

Warren-Alquist State Energy Building  
Imbrecht Hearing Room, First Floor  
1516 Ninth Street, Sacramento, CA 95814  
(Wheelchair accessible)

**Remote Option via Zoom™**

<https://zoom.us>, webinar ID: **972 8494 1333** and passcode: **CSPPE@0527**

Please note that the CEC aims to begin promptly at the start time, and the end time is an estimate based on the agenda proposed. The event may end sooner or later than the time indicated depending on various factors.

To submit comments in advance of the Prehearing Conference and Evidentiary Hearing, please see the instructions below under the section “AGENCY AND PUBLIC PARTICIPATION”.

**ATTENDANCE INFORMATION**

**In-person:** Participants may join in-person at the following location: Warren-Alquist State Energy Building, 1516 Ninth Street, Sacramento, California. Please sign in at the security desk. Masks and social distancing are encouraged, but not required.

**Remote Attendance:** You may participate in this meeting through the on-line meeting service, Zoom. Please be aware that the meeting may be recorded.

[Learn about joining a Zoom meeting](https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-Meeting) at <https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-Meeting>. You may [download Zoom software](https://zoom.us/download) at <https://zoom.us/download>.

Zoom technical support is available at (888) 799-9666, ext. 2 and you may visit [Zoom's help center](https://support.zoom.us/hc/) at <https://support.zoom.us/hc/>. Or you may email the CEC's Public Advisor to seek help at [publicadvisor@energy.ca.gov](mailto:publicadvisor@energy.ca.gov), and by phone at (916) 957-7910.

**Via Computer:** Participants may join noticed events by clicking on the links below. You may also [access Zoom](https://join.zoom.us) at <https://join.zoom.us> and entering the Webinar ID and password for the event (listed below). To comment, use Zoom's "raise hand" feature and unmute. If interpreting services are provided, to use the service, click Zoom's interpretation icon and select the language. Interpreting services are not available by phone.

### **Prehearing Conference.**

[Click to join](https://energy.zoom.us/j/99024651712?pwd=b3lwVHJoeTdqZWZYczRFQm9JUkF2QT09) May 24, 2022, 01:30 p.m. or <https://energy.zoom.us/j/99024651712?pwd=b3lwVHJoeTdqZWZYczRFQm9JUkF2QT09>

Webinar ID: **990 2465 1712**

Password: **CSPPE@0524**

### **Evidentiary Hearing.**

[Click to join](https://energy.zoom.us/j/97284941333?pwd=a01vS1pTeXB6UitLQkFFRWFJQVJoQT09) May 27, 2022, 11:30 a.m. or <https://energy.zoom.us/j/97284941333?pwd=a01vS1pTeXB6UitLQkFFRWFJQVJoQT09>

Webinar ID: **972 8494 1333**

Password: **CSPPE@0527**

**Via Telephone (No Visual Presentation):** Dial (877) 853-5257 (toll free), (888) 475-4499 (toll free), or (669) 219-2599. When prompted, input the unique Webinar ID (listed above). To comment or ask a question over the telephone, dial \*9 to "raise your hand" and \*6 to mute/unmute your phone line.

**Via Mobile Device:** Access to Zoom meetings is available from your mobile device. To download the app, [visit the Zoom Download Center](https://zoom.us/download) at <https://zoom.us/download>.

## **BACKGROUND**

### ***The Application***<sup>4</sup>

The Applicant applied in April 2021 for a small power plant exemption (SPPE) for the proposed CA3 Backup Generating Facility (Backup Generators) that will support the CA3 Data Center (Data Center) and related accessories (collectively, the Project). The Data Center is proposed to be built on 6.69 acres at 2590 Walsh Avenue in Santa Clara, California (Project Site). The Project Site is currently developed with an approximately 115,000 square foot single-story office and warehouse building and associated paved surface parking and loading dock; the buildings would be demolished in order to construct the proposed project.

The Data Center would consist of a four-story, 469,482 square foot data center building, which would provide secure and environmentally controlled structures to house computer servers. Related accessories include a new utility substation, generator equipment yard, surface parking, landscaping, and a recycled water pipeline.

The Backup Generators will ensure an uninterruptible power source to the Data Center in the event of a loss of power, and normally would operate only for testing and maintenance. The Applicant proposes to install 44 diesel-fired, backup generators, each with a maximum peak rating of 2.75 megawatts (MW), located on the Project Site. Forty of the generators would provide backup power to the computer servers, and four would provide emergency response power to the administrative building and features. The Backup Generators would generate up to 96 MW, the maximum building load of the Data Center. None of the generators will be interconnected to the electrical transmission system, and therefore no electricity can be delivered off site. The Backup Generating Facility would supply power only to the Data Center.

### ***Environmental Documents***

On August 20, 2021, CEC staff (Staff) filed a Notice of Preparation (NOP) informing the responsible agencies, trustee agencies, and public about Staff's intent to prepare a draft Environmental Impact Report (DEIR) for the project and the opportunity to provide comment on its preparation.<sup>5</sup>

On January 21, 2022, Staff filed a DEIR that found no potentially significant and unavoidable environmental impacts.<sup>6</sup> The DEIR concluded that, with the implementation of the design and mitigation measures identified in the DEIR, potentially significant

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<sup>4</sup> The information in this section is taken from section 2 of the Application (TN 237380).

<sup>5</sup> TN 239401.

<sup>6</sup> TN 241264.

impacts in the areas of air quality (including public health), biological resources, cultural and tribal cultural resources, geology and soils (paleontology), greenhouse gas emissions, hazards and hazardous materials, noise, and transportation would be avoided or reduced to less than significant levels. The DEIR also concluded that the Project would result in no impacts to agriculture and forestry resources, mineral resources, and wildfire, and would have less than significant impacts, with no mitigation required, on aesthetics, energy and energy resources, hydrology and water quality, land use, and utilities and service systems. On January 27, 2022, Staff filed a Memorandum and Errata to the DEIR, which did not change any of the conclusions in the DEIR.<sup>7</sup> Public comment on the DEIR concluded on March 9, 2022.<sup>8</sup>

On March 24, 2022, Staff filed a final Environmental Impact Report (FEIR) that included responses to public comments.<sup>9</sup> The FEIR also included the “Mitigation Monitoring and Reporting Program” for the design features and mitigation measures described in the DEIR. With the imposition and implementation of the design features and mitigation measures, the FEIR reached the same conclusions as the DEIR.

### ***Small Power Plant Exemptions***

The CEC has the exclusive authority to consider and ultimately approve or deny applications for the construction and operation of thermal powerplants that have the capacity to generate 50 MW or more of electricity.<sup>10</sup> If a proposed project will have a generating capacity between 50 MW and 100 MW, the CEC may grant an exemption to this exclusive certification jurisdiction through an SPPE if it makes three distinct findings:

- the proposed powerplant has a generating capacity up to 100 MW;
- no substantial adverse impact on the environment will result from the construction or operation of the powerplant; and
- no substantial adverse impact on energy resources will result from the construction or operation of the powerplant.<sup>11</sup>

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<sup>7</sup> TN 241294.

<sup>8</sup> See TN 241590 (clarifying the comment period).

<sup>9</sup> TN 242451 through TN 242454.

<sup>10</sup> §§ 25120, 25500.

<sup>11</sup> § 25541; Cal. Code Regs., tit. 20, § 1934 et seq.

For purposes of reviewing an SPPE, the CEC is the “lead agency”<sup>12</sup> under the California Environmental Quality Act (CEQA).<sup>13</sup> In reviewing an SPPE application, the CEC considers the “whole of an action.”<sup>14</sup> For the Application, the “whole of an action” means the Backup Generators, the Data Center, and the other project features, such as the substation.

If an SPPE is granted, responsible local land use authorities and other agencies, most notably any local air management or air pollution control district, will conduct further review of the project, including any necessary additional environmental review as “responsible agencies” under CEQA.

### **Prior Notices**

On April 20, 2022, the Committee filed “Notice of Prehearing Conference and Evidentiary Hearing, Revised Scheduling Order, and Further Orders” (April 20 Notice and Orders).<sup>15</sup> The April 20 Notice and Orders originally scheduled the Prehearing Conference and Evidentiary Hearing on the same day: May 10, 2020.

On May 6, 2022, the Committee filed “Notice of Continuation of Evidentiary Hearing, Notice of Intent to take Official Notice of Bay Area Air Quality Management District’s Justification Report, and Related Orders” (May 6 Notice and Orders).<sup>16</sup> The May 6 Notice and Orders continued the Evidentiary Hearing scheduled in the April 20 Notice and Orders to May 24, 2022, with formal notice and additional information to follow. The May 6 Notice and Orders also informed the parties that the Committee intended to take official notice of Justification Report recently adopted by the Bay Area Air Quality Management District (Bay Area); the focus was on the relation of the Justification Report to the mitigation measures for greenhouse gas emissions (GHG). On the latter issue, the May 6 Notice and Orders instructed the parties to provide any response to the notice of intent to file responses no later than May 9, 2022. Both Applicant<sup>17</sup> and Staff<sup>18</sup> timely filed responses to the notice of intent.

On May 10, 2022, due to unforeseen circumstances, the Committee canceled the Prehearing Conference as scheduled in the April 20 Notice and Orders.<sup>19</sup>

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<sup>12</sup> § 25519(c).

<sup>13</sup> The CEQA statutes, sections 21000 *et seq.*, and CEQA Guidelines, California Code of Regulations, title 14, section 15000 *et seq.* (Guidelines), detail the protocol by which state and local agencies comply with CEQA requirements. We refer to the statute and the Guidelines collectively as “CEQA.”

<sup>14</sup> Cal. Code Regs., tit. 14, § 15378.

<sup>15</sup> TN 242274.

<sup>16</sup> TN 242971.

<sup>17</sup> TN 242980.

<sup>18</sup> TN 242985.

<sup>19</sup> TN TBD (transcript of PHC).

The requirements and standards contained in the April 20 Notice and Orders shall be applicable to the revised dates for the Prehearing Conference and Evidentiary Hearing, except as specifically stated herein.

### ***Parties to the Proceeding***

The parties to the proceeding are:

- 1) Applicant; and
- 2) Staff.

Parties have the right to call and examine witnesses, to offer oral and written testimony under oath, to introduce exhibits, to cross-examine opposing party witnesses on any matters relevant to the issues in the proceeding, and to rebut evidence.

### **SCHEDULING ORDER**

The schedule attached to this Notice *supersedes* all other schedules issued by the Committee.

### **PURPOSE OF THE PREHEARING CONFERENCE**

The Prehearing Conference is a public forum where the Committee will identify matters in dispute and discuss the remaining schedule and procedures necessary to conclude the SPPE process.

### **NOTICE OF CLOSED SESSION DELIBERATIONS**

At any time during the Prehearing Conference and Evidentiary Hearing, the Committee may adjourn to a closed session in accordance with California Government Code section 11126, subdivision (c)(3), which allows a state body to hold a closed session to deliberate on a decision to be reached in a proceeding the state body was required by law to conduct.

### **AGENCY AND PUBLIC PARTICIPATION**

Local, state, and federal agencies, tribal governments, and members of the public are welcome to attend and offer oral comments at the Prehearing Conference and Evidentiary Hearing. It is not necessary to be an Intervenor to participate in the public process.

The Public Advisor may, upon the request of public participants who may be absent from the CEC's place of business or during the Prehearing Conference and Evidentiary Hearing when a matter of interest to them is being considered, neutrally and publicly



relate those participants' points to the CEC on behalf of members of the public. If you are interested in this service, please email concise comments, specifying your main points, before the start of the Prehearing Conference and Evidentiary Hearing to the Public Advisor at [publicadvisor@energy.ca.gov](mailto:publicadvisor@energy.ca.gov). Comments submitted after the Prehearing Conference and Evidentiary Hearing starts will be filed in the CA3 Backup Generating Facility docket. The CEC will work diligently to accommodate all requests.

[Written comments](#) may be submitted electronically at:

<https://efiling.energy.ca.gov/Ecomment/Ecomment.aspx?docketnumber=21-SPPE-01>.

Otherwise, written comments may be submitted for posting on the proceeding docket by handing them directly to the Public Advisor, e-mailing them to [docket@energy.ca.gov](mailto:docket@energy.ca.gov), or by U.S. Mail to:

California Energy Commission  
Docket Unit  
Docket number: 21-SPPE-01  
715 P Street, MS-4  
Sacramento, CA 95814

For all comments, please include the docket number and proceeding name “**Docket No. 21-SPPE-01, CA3 Backup Generating Facility.**”

**Please note:** Your written and oral comments, attachments, and associated contact information (e.g., your address, phone, e-mail address, etc.) become part of the viewable public record. Additionally, this information may become available via search engines.

## **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](mailto:publicadvisor@energy.ca.gov), or by phone at (916) 957-7910. Requests for interpreting services in Spanish, Vietnamese, Mandarin, or other languages and reasonable accommodations should be made as soon as possible or before 5:00 p.m. at least five days in advance of the Prehearing Conference and Evidentiary Hearing. The CEC will work diligently to accommodate all requests.

**Direct questions of a procedural nature** related to the Application to the Hearing Officers, [Susan Cochran](mailto:susan.cochran@energy.ca.gov) at [susan.cochran@energy.ca.gov](mailto:susan.cochran@energy.ca.gov), or at (916) 891-8078, or [Kristen Driskell](mailto:kristen.driskell@energy.ca.gov) at [kristen.driskell@energy.ca.gov](mailto:kristen.driskell@energy.ca.gov).

**Direct technical subject inquiries** concerning the Application to [Eric Veerkamp](#), Project Manager, at [erik.veerkamp@energy.ca.gov](mailto:erik.veerkamp@energy.ca.gov) or (916) 661-8458.

**Direct media inquiries** to [mediaoffice@energy.ca.gov](mailto:mediaoffice@energy.ca.gov) or (916) 654-4989.

### **Muting**

We greatly appreciate your cooperation in reducing noise on the audio connection by muting your line when you are not speaking. Mute your line rather than placing your phone on hold. Using Zoom, you may mute yourself by right clicking on the mute icon. If you are only using a telephone connection, press “\*6” once to mute and again to unmute.

### **AVAILABILITY OF DOCUMENTS**

Information regarding the status of the Application, as well as notices and other relevant documents are available on the [CA3 Online Docket](#) at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-SPPE-01>.

### **IT IS SO ORDERED.**

Dated: May 13, 2022

**APPROVED BY:**

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Siva Gunda  
Vice Chair and Presiding Member  
CA3 Backup Generating Facility SPPE  
Committee  
*Mailed to list number: 7541*

Dated: May 13, 2022

**APPROVED BY:**

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Kourtney Vaccaro  
Commissioner and Associate Member  
CA3 Backup Generating Facility SPPE  
Committee

**AGENDA**  
**CA3 Backup Generating Facility SPPE (21-SPPE-01)**  
**Prehearing Conference and Possible Closed Session**

**May 24, 2022**  
**1:30 p.m. – 3:30 p.m.**

\*Please note that the CEC aims to begin promptly at the start time and the end time is an estimate based on the agenda proposed. The event may end sooner or later than the time indicated depending on various factors.

- 1) Call to Order.
- 2) Prehearing Conference.

Report from the Applicant and Staff regarding their readiness for the upcoming Evidentiary Hearing, proposed testimony and witnesses; Committee discussions with the parties about the order of subject areas, use of informal procedures and any objections; ruling on any pending motions; and other matters in preparation for the Evidentiary Hearing.

- 3) Public Comment.

Members of the public and other interested persons and entities may speak up to three minutes on a matter related to this proceeding.

- 4) Committee closed session deliberations on the application for a small power plant exemption for the CA3 Backup Generating Facility.<sup>20</sup>
- 5) Adjourn.

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<sup>20</sup> The Committee may adjourn to closed session in accordance with Government Code section 11126, subdivision (c)(3), which allows a state body, including a delegated committee, to hold a closed session to deliberate on a decision to be reached in a proceeding the state body was required by law to conduct.

**AGENDA**  
**CA3 Backup Generating Facility SPPE (21-SPPE-01)**  
**Evidentiary and Possible Closed Session**

**May 27, 2022**  
**11:30 a.m. – 3:00 p.m.**

\*Please note that the CEC aims to begin promptly at the start time and the end time is an estimate based on the agenda proposed. The event may end sooner or later than the time indicated depending on various factors.

1) Call to Order.

2) Evidentiary Hearing.

Receipt of evidence from the Applicant and Staff on the application for a small power plant exemption for the CA3 Backup Generating Facility and consideration of any motions.

3) Public Comment.

Members of the public and other interested persons and entities may speak up to three minutes on a matter related to this proceeding.

4) Committee closed session deliberations on the application for a small power plant exemption for the CA3 Backup Generating Facility.<sup>27</sup>

5) Adjourn.

**CA3 BACKUP GENERATING FACILITY SPPE (21-SPPE-01)  
APRIL 2022 REVISED SCHEDULE**

<b>EVENT</b>	<b>DATE</b>
<b>Staff Published the Draft Environmental Impact Report (DEIR)</b>	<b>January 21, 2022</b>
<b>Public Comment Period on the DEIR closed</b>	<b>March 9, 2022<sup>28</sup></b>
<b>Staff filed Final EIR</b>	<b>March 24, 2022</b>
<b>All Parties filed Opening Testimony</b>	<b>April 14, 2022</b>
<b>All Parties filed Rebuttal Testimony and Response to Committee Question</b>	<b>April 25, 2022</b>
<b>All Parties filed Prehearing Conference Statements, including Exhibit Lists</b>	<b>May 2, 2022</b>
<b>Prehearing Conference</b>	<b>May 24, 2022</b>
<b>Evidentiary Hearing</b>	<b>May 27, 2022</b>
<b>Committee files Committee Proposed Decision</b>	<b>TBD</b>
<b>Final Decision Adoption Hearing at CEC Business Meeting</b>	<b>TBD</b>