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STATE OF CALIFORNIA — NATURAL RESOURCES AGENCY

Gavin Newsom, *Governor*

## **CALIFORNIA ENERGY COMMISSION**

715 P Street  
Sacramento, California 95814

[energy.ca.gov](https://energy.ca.gov)

CEC-70 (Revised 11/2021)



*IN THE MATTER OF:*

*CA3 Backup Generating Facility*

Docket No. 21-SPPE-01

## **NOTICE OF AVAILABILITY OF THE COMMITTEE PROPOSED DECISION, NOTICE OF PUBLIC COMMENT PERIOD, AND NOTICE OF CALIFORNIA ENERGY COMMISSION HEARING**

### **I. NOTICE OF AVAILABILITY**

#### **AVAILABILITY OF PROPOSED DECISION**

On July 29, 2022, the Committee<sup>1</sup> appointed by the California Energy Commission (CEC) to conduct proceedings on the application for a Small Power Plant Exemption (SPPE) for the CA3 Backup Generating Facility (Application)<sup>2</sup> issued its Committee Proposed Decision (Proposed Decision), as required by California Code of Regulations, title 20, section 1945(a). The Proposed Decision was filed with the CEC's Docket Unit and a link to the internet-posted document was e-

<sup>1</sup> 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.)

<sup>2</sup> Information about this proceeding, including a link to the electronic docket, may be found on the CEC's [CA3 web page](https://www.energy.ca.gov/powerplant/reciprocating-engine/ca3-backup-generating-facility) at <https://www.energy.ca.gov/powerplant/reciprocating-engine/ca3-backup-generating-facility>. 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 TNs 237380, 237381, 237382, 237383, 237423, 238029, 238030.

mailed to the Proof of Service list and the CA3 Backup Generating Facility SPPE listserv. The Proposed Decision may be viewed on or downloaded from the CEC's website at:

<https://efiling.energy.ca.gov/EFiling/GetFile.aspx?tn=244261-1&DocumentContentId=78196>

<https://efiling.energy.ca.gov/EFiling/GetFile.aspx?tn=244261-2&DocumentContentId=78197>

<https://efiling.energy.ca.gov/EFiling/GetFile.aspx?tn=244261-3&DocumentContentId=78198>

<https://efiling.energy.ca.gov/EFiling/GetFile.aspx?tn=244261-4&DocumentContentId=78199>

A printed copy of the Proposed Decision is available for a fee. To request a printed copy, please email the CEC's Publications Unit at [BSORequests@energy.ca.gov](mailto:BSORequests@energy.ca.gov) or call (916) 654-5200.

## **EXECUTIVE SUMMARY OF THE PROPOSED DECISION**

The Application was submitted to the CEC in April 2021, under Public Resources Code section 25541. The Warren-Alquist State Energy Resources Conservation and Development Act (Warren-Alquist Act)<sup>3</sup> grants the CEC the exclusive jurisdiction to approve or deny applications for the construction and operation of thermal powerplants that have the capacity to generate 50 megawatts (MW) or more of electricity.<sup>4</sup> Section 25541 creates an exemption to this exclusive jurisdiction that is referred to as a Small Power Plant Exemption (SPPE).

To grant an exemption, the CEC must make three distinct findings:

- the proposed powerplant has a generating capacity up to 100 MW;
- no substantial adverse impact on energy resources will result from the construction or operation of the powerplant; and
- no substantial adverse impact on the environment will result from the construction or operation of the powerplant.<sup>5</sup>

In addition, the CEC is required by law to serve as the "lead agency" under the California Environmental Quality Act (CEQA)<sup>6</sup> for SPPE applications.<sup>7</sup> Under CEQA, "project" means the

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<sup>3</sup> Pub. Resources Code, § 25000 *et seq.*

<sup>4</sup> See Pub. Resources Code, §§ 25110, 25120, 25500.

<sup>5</sup> Pub. Resources Code, § 25541.

<sup>6</sup> The CEQA statutes (Pub. Resources Code, § 21000 *et seq.*), and the Guidelines for the Implementation of CEQA (Cal. Code Regs., tit. 14, § 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." We will cite to the Guidelines as "Guidelines, § \_\_\_\_."

<sup>7</sup> Pub. Resources Code, § 25519(c).

"whole of an action."<sup>8</sup> Accordingly, we evaluated the entire proposed project, i.e., the Data Center, Backup Generators, and other project features (collectively, the "Project") under CEQA.

To help the Committee review the Project's potential environmental impacts, CEC staff (Staff) prepared a draft Environmental Impact Report (EIR) on January 21, 2022. On January 27, 2022, Staff also published an addendum to the draft EIR. The draft EIR and its addendum were circulated to the public and to responsible and trustee agencies for a 45-day public review and comment period that ended on March 9, 2022. After the public review and comment period, CEC staff reviewed and responded to the substantive environmental comments received on the draft EIR. CEC staff then prepared a final EIR that included the comments received during the comment period, the responses to those comments, and changes to the text of the draft EIR following from the responses. Staff also prepared a proposed Mitigation Monitoring and Reporting Program (MMRP).

The Committee conducted a public evidentiary hearing on May 27, 2022, to admit evidence, including the final EIR and the MMRP, into the hearing record, to allow for testimony and cross-examination, and to receive public comment. After the evidentiary hearing, CEC staff prepared an update to the final EIR containing additional analysis regarding the Project's potential health risks that was submitted into the hearing record. Based on the hearing record, the Committee prepared a Proposed Decision.

In its Proposed Decision, the Committee recommends that the CEC find: (1) the backup generators will have a generating capacity of more than 50 MW but less than 100 MW; (2) the construction and operation of the Project will not have any substantial adverse impact on energy resources; and (3) the construction and operation of the Project will not have any substantial adverse impact on the environment. The Committee further recommends that the CEC certify the final EIR and updates, adopt the MMRP, and grant the SPPE.

## **II. NOTICE OF PUBLIC COMMENT PERIOD**

The CEC and the Committee invite interested persons, public agencies, and other entities to submit written comments on the Proposed Decision prior to the CEC hearing where it will be considered for adoption. The CEC requests that comments on the Proposed Decision be received by **5:00 p.m. on Monday, August 8, 2022.**

To ensure that your comments are considered, they must be electronically uploaded to the e-filing system, or received by the Docket Unit via email, or physically delivered via mail on or before that date.

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<sup>8</sup> Guidelines, § 15378.

Comments may be submitted electronically at the [21-SPPE-01 comment page](https://efiling.energy.ca.gov/Ecomment/Ecomment.aspx?docketnumber=21-SPPE-01) found 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 emailing them to the [Public Advisor](mailto:publicadvisor@energy.ca.gov) at publicadvisor@energy.ca.gov or e-mailing them to the [docket unit](mailto:docket@energy.ca.gov) at docket@energy.ca.gov, or sending by U.S. Mail to:

California Energy Commission  
Docket Unit  
Docket number: 21-SPPE-01  
715 P Street, MS-14  
Sacramento, CA 95814

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

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

Following the end of the comment period, the Committee, if appropriate, may prepare Errata describing changes to the Proposed Decision it recommends after its consideration of comments from the parties and the public.

### **III. NOTICE OF CEC HEARING AT THE BUSINESS MEETING**

**PLEASE TAKE NOTICE** that the CEC will conduct a public hearing at the August 10, 2022, Business Meeting to consider the Proposed Decision, any errata, and comments.

**Wednesday, August 10, 2022**  
**Business Meeting 10:00 a.m. - 4:00 p.m.**

Instructions for participating at the Business Meeting will be provided in the Business Meeting notice, available on the [CEC’s Business Meeting webpage](https://www.energy.ca.gov/proceedings/business-meetings) at <https://www.energy.ca.gov/proceedings/business-meetings>.

### **PURPOSE OF THE CEC HEARING**

The purpose of this hearing is to consider whether the CEC should adopt, modify, or reject the Proposed Decision and any errata. Parties and members of the public may participate and offer oral and written comments on the Project and the Proposed Decision. The agenda is available at

least 10 business days before the date of the meeting. Please visit the [CEC's Business Meeting webpage](https://www.energy.ca.gov/proceedings/business-meetings) at: <https://www.energy.ca.gov/proceedings/business-meetings>.

If the Proposed Decision is adopted, the CEC will compile a Final Commission Decision that incorporates the CEC Adoption Order, Committee Proposed Decision, any errata, and any modifications made by the CEC during the August 10, 2022, Business Meeting into a single document for the convenience of the parties and the public.

Information regarding the Business Meeting is available on [CEC's Business Meeting webpage](https://www.energy.ca.gov/proceedings/business-meetings) at <https://www.energy.ca.gov/proceedings/business-meetings>. To subscribe to the Business Meeting Email List, enter your contact information under "Subscribe."

## **PUBLIC ADVISOR AND OTHER CEC CONTACTS**

The CEC's Public Advisor provides the public with assistance in participating in CEC proceedings. For information about how to participate or to request interpreting services or other reasonable modification and accommodations, please contact the [Public Advisor](mailto:publicadvisor@energy.ca.gov) at [publicadvisor@energy.ca.gov](mailto:publicadvisor@energy.ca.gov), or by phone at (916) 957-7910. Requests for interpreting services, modifications, and reasonable accommodations should be made as soon possible or at least five days in advance of the hearing. The CEC will work diligently to meet all requests based on the availability of the service or resource needed.

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

**Direct technical subject inquiries** concerning the Application to [Eric Veerkamp](mailto:eric.veerkamp@energy.ca.gov), Project Manager, at [eric.veerkamp@energy.ca.gov](mailto:eric.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.

## **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](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>.

Dated: July 29, 2022

Dated: July 29, 2022

### ***APPROVED BY:***

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Siva Gunda  
Vice Chair and Presiding Member  
CA3 Backup Generating Facility SPPE  
Committee

### ***APPROVED BY:***

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

Sent to mailing list number: 7541