

**DOCKETED**

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## Memorandum

**To:** Chair David Hochschild  
Vice Chair Siva Gunda  
Commissioner Noemi Gallardo  
Commissioner J. Andrew McAllister, Ph.D.  
Commissioner Patty Monahan

**Date:** May 30, 2024

**From:** Drew Bohan, Executive Director  
California Energy Commission  
715 P Street  
Sacramento, California 95814

**Subject: Executive Director's Recommendation on Martin Avenue Properties, LLC  
Small Power Plant Exemption Application for the Martin Backup Generating  
Facility**

### I. Introduction

On November 7, 2022, Martin Avenue Properties, LLC filed an application for Small Power Plant Exemption (SPPE) in accordance with Public Resources Code, section 25541, for the Martin Backup Generating Facility (22-SPPE-03). The application seeks to exempt the facility from the Application for Certification provisions of the California Energy Commission's (CEC) power plant licensing process. The Martin Backup Generating Facility would be part of the Martin Data Center to be in the city of Santa Clara, which together constitute the project under the California Environmental Quality Act (CEQA) (Pub. Resources Code, §21000 et seq.). California Code of Regulations, title 20, sections 1936 and 1940 through 1942, set forth the procedures for the CEC's review of an SPPE application. Section 1942 requires the Executive Director to recommend findings to the CEC on whether the application meets the requirements of Public Resources Code, section 25541. The Executive Director recommends the SPPE be granted for the Martin Backup Generating Facility, exempting the project from the CEC's jurisdiction.

### II. Background

Under the Public Resources Code section 25500, the CEC has the exclusive jurisdiction to approve or deny applications for the construction and operation of thermal power plants that have the capacity to generate 50 megawatts (MW) or more of electricity. Under Public Resources Code, section 25541, the CEC may exempt from its exclusive jurisdiction thermal power plants with a generating capacity of up to 100 MW if the CEC finds that no substantial adverse impact on the environment or energy resources will result from the construction or operation of the proposed facility. Public Resources Code, section 25519(c) designates the CEC as the "lead agency" under the CEQA for SPPE applications.

Under my direction, staff analyzed all three requirements of Public Resources Code, section 25541: 1) generating threshold, 2) no substantial adverse impacts on the environment, and 3) no substantial adverse impacts on energy resources. Following the procedures required in

CEQA, staff received and reviewed the application, obtained additional information necessary to evaluate the project impacts, and published a comprehensive Final Environmental Impact Report (EIR) on May 29, 2024. Prior thereto, the Draft EIR underwent all required public review and comment periods. No comments were received on the Draft EIR.

Appendix A of the Final EIR contains CEC staff's engineering analysis of the project's generating capacity which considers the capacity and configuration of the generators and the project's demand. The analysis provides substantial evidence supporting staff's conclusions that the project would be 96 MW, thus satisfying the generating capacity threshold requirements of Public Resources Code, section 25541.

The CEQA analysis and findings in the Final EIR submitted for CEC approval adequately support the conclusion that the construction and operation of the project will not have substantial adverse impacts on the environment. The Final EIR dedicates considerable analysis on topics such as air quality, biological resources, cultural and tribal cultural resources, geology and soils (paleontology), greenhouse gas emissions, hazards and hazardous materials, and transportation, and contains substantial evidence that supports staff's conclusions that with implementation of the required mitigation measures, the project will not have any significant adverse environmental impacts. The adoption of the Mitigation Monitoring and Reporting Program will ensure that the project features and mitigation measures will be implemented.

In the Section 4.6: Energy and Energy Resources topic area of the Final EIR, CEC staff analyzed the project's impacts on energy resources. The analysis found that the project's consumption of energy resources during operation would not be wasteful, inefficient, or unnecessary. The project's use of renewable diesel fuel would constitute a small fraction of available resources. The annual average Power Usage Effectiveness for the project would be at a level considered very efficient. Finally, the project would be constructed in accordance with the 2022 California Green Building Standards Code and would include green building measures to reduce energy consumption. As such, the Final EIR contains substantial evidence supporting the conclusion that the project will not result in any substantial adverse impacts on energy resources, and therefore comports with the requirements of Public Resources Code, section 25541.

### **III. Recommendation**

Based on the entire record of this proceeding, including the SPPE application, Final EIR, and proposed Mitigation Monitoring and Reporting Program, I recommend the CEC make the following findings consistent with Public Resources Code, section 25541:

1. The generating capacity of the project will not exceed 100 megawatts.
2. The construction and operation activities of the project will not create a substantial adverse impact on the environment.
3. The construction and operation activities of the project will not create a substantial adverse impact on energy resources.

Therefore, I recommend the CEC:

1. Certify the Final EIR,

2. Adopt the Mitigation Monitoring and Reporting Program, and
3. Grant the Martin Backup Generating Facility an SPPE from the Application for Certification provisions of the CEC's power plant licensing process in accordance with California Public Resources Code, section 25541.