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Memorandum

To: Chair David Hochschild
Vice Chair Siva Gunda
Commissioner Noemi Gallardo
Commissioner J. Andrew McAllister, Ph.D.
Commissioner Nancy Skinner

Date: April 25, 2025

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

Subject: Executive Director's Recommendation on STACK Infrastructure Small Power Plant Exemption Application for the STACK SVY03A Data Center Campus

I. Introduction

On April 14, 2023, STACK Infrastructure filed an application for a Small Power Plant Exemption (SPPE) in accordance with Public Resources Code, section 25541, for the STACK SVY03A Data Center Campus backup generating facility (23-SPPE-01). 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 backup generating facility would be part of the STACK SVY03A Data Center Campus proposed in the city of Hayward, Alameda County, 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 STACK SVY03A Data Center Campus backup generating facility, exempting the facility 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 Final Initial Study (IS)/Mitigated Negative Declaration (MND) to the docket on April 25, 2025 (TN 262794). The Draft IS/MND was filed to the docket on March 21, 2025 (TN 262296), and underwent all required public review and comment periods. Three comment letters were received on the Draft IS/MND from 1) Mission Peak Conservancy, 2) Pacific Gas and Electric Company (PG&E), and 3) the California Department of Transportation (Caltrans) District 4. While not required, staff responses to comments received on the IS/MND are included in Appendix E of the Final IS/MND. Changes to the Draft IS/MND are identified by strikethroughs for deleted text and underlines to indicate where text was added to clarify, amplify, or make minor modifications. This includes minor revisions responsive to comments received.

Appendix A of the Final IS/MND 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's maximum electrical load would be 67.2 MW, thus satisfying the generating capacity threshold requirements of Public Resources Code, section 25541.

The CEQA analysis and findings in the Final IS/MND 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 IS/MND dedicates considerable analysis on topics to include air quality, biological resources, cultural and tribal cultural resources, geology and soils (paleontology), greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, and noise; 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 Final IS/MND Section 5.6: Energy and Energy Resources, 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 (and ultra-low sulfur diesel (ULSD) as backup 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 IS/MND 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 IS/MND, 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. Adopt the Final IS/MND,
2. Adopt the Mitigation Monitoring and Reporting Program, and
3. Grant the STACK SVY03A Data Center Campus 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.