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**STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION**

In the Matter of:)
)
Application for Small Power Plant)
Exemption for the:)
)
Laurelwood Data Center)

Docket No. 19-SPPE-01

**MECP1 SANTA CLARA 1, LLC'S
OPPOSITION TO MOTION OF ROBERT SARVEY
TO ADOPT CEC STAFF'S PROPOSED SCHEDULE AND
CONDUCT A SITE VISIT AND INFORMATIONAL HEARING**

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September 10, 2019

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**STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION**

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**MECP1 SANTA CLARA 1, LLC’S
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Pursuant to Section 1211.5 of the Commission’s regulations, MECPI Santa Clara 1, LLC (the “Applicant”) files this opposition to the *Motion of Robert Sarvey to Adopt CEC Staff’s Proposed Schedule and Conduct a Site Visit and Informational Hearing* (the “Motion”) docketed by Robert Sarvey (the “Intervenor”) on August 28, 2019.

The Motion is a thinly-veiled collateral attack on the Committee’s *Orders after July 23, 2019 Status Conference and Revised Scheduling Order*¹ (the “Revised Scheduling Order”). The Motion wholly lacks citation to any relevant, let alone controlling, legal authorities. Instead, the Motion simply challenges the Committee’s Revised Scheduling Order, calling for strict adherence to the Intervenor’s belief of what “past practice” dictates. The Committee should deny the Intervenor’s Motion.

The Intervenor’s Motion argues that the Revised Scheduling Order differs from past practice in small power plant exemption (“SPPE”) proceedings from 2001, 2003, 2004, and 2006.² The fatal legal flaw underpinning the Intervenor’s Motion is the failure to recognize that these SPPE proceedings all occurred under a different regulatory paradigm, now superseded by current law and regulation.

For example, Section 1709.7 of the Commission’s regulations previously required that a committee hold an informational hearing and site visit within 45 days after the filing of an

¹ TN: #229475, 8/16/2019

² Specifically, the Intervenor cites to the MID Woodland Generation Station II Proceeding (01-SPPE-01), Malaga Power Plant Proceeding (03-SPPE-02), MID Ripon Simple Cycle Proceeding (03-SPPE-01), Riverside Energy Resource Center Proceeding (04-SPPE-01), and Niland Peaker Proceeding (06-SPPE-1). (Motion, pp. 2-3.)

application for SPPE. However, this requirement was removed in 2015 by amendments to Section 1709.7.³ Further amendments to the SPPE application process occurred in 2018, which further clarified the SPPE process.⁴ Current, controlling regulations do not require the Committee to reconsider the Revised Scheduling Order or conduct a site visit and informational hearing.

Further, the Intervenor incorrectly asserts that “[n]one of the Energy Commission customary procedures for public participation ... have taken place in this proceeding.”⁵ In fact, opportunities for public participation have been provided at each status conference held by the Committee,⁶ along with invitations for public participation in the proceeding, instructions for how to participate in the proceeding, and directions on how to receive assistance from the Public Advisor’s Office.⁷ A workshop was held by Commission Staff on August 26, 2019 to discuss the project, which also provided an opportunity for parties and the public to participate in this proceeding.⁸ Accordingly, the Motion’s attempt to paint a picture of limited public process and opportunities for review, comment and participation are belied by the facts demonstrating a robust and transparent public process.

The schedule established by the Committee pursuant to the Revised Scheduling Order is consistent with the amended, current regulations. The Intervenor does not allege otherwise. Moreover, the record demonstrates that this has been, and will continue to be, a robust public process. Therefore, the Intervenor’s Motion should be denied in its entirety because it lacks merit.

September 10, 2019

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³ Docket No. 15-OIR-02. The amendments to Section 1709.7 became operative on January 1, 2016.

⁴ Docket No. 17-OIR-02. The amendments to the SPPE regulations became operative on January 1, 2018.

⁵ Motion, p. 2. The Applicant notes that documents issued by the US Environmental Protection Agency to govern that agency’s own practices are not applicable to the CEC.

⁶ See, 5/8 RT 50:23- 51:5 and 7/23 RT 48:25-49:12.

⁷ See, TN#: 227871, 228946, 228923, 228431, and 229398.

⁸ TN#: 229473.