

**DOCKETED**

<b>Docket Number:</b>	19-SPPE-01
<b>Project Title:</b>	Laurelwood Data Center (MECP I Santa Clara I, LLC)
<b>TN #:</b>	230108
<b>Document Title:</b>	Notice of Prehearing Conference, Evidentiary Hearing, Scheduling Order, and Further Orders
<b>Description:</b>	Prehearing Conference will be held on October 31, 2019; Evidentiary Hearing is scheduled for November 1, 2019.
<b>Filer:</b>	Susan Cochran
<b>Organization:</b>	Energy Commission Hearing Office
<b>Submitter Role:</b>	Committee
<b>Submission Date:</b>	10/10/2019 12:29:30 PM
<b>Docketed Date:</b>	10/10/2019



State of California  
State Energy Resources Conservation and  
Development Commission  
1516 Ninth Street, Sacramento, CA 95814  
1-800-822-6228 – www.energy.ca.gov

APPLICATION FOR SMALL POWER PLANT  
EXEMPTION FOR THE:

***LAURELWOOD DATA CENTER***

**Docket No. 19-SPPE-01**

**NOTICE OF PREHEARING CONFERENCE, EVIDENTIARY HEARING,  
SCHEDULING ORDER, AND FURTHER ORDERS**

On March 5, 2019, MECP1 Santa Clara 1, LLC (Applicant) submitted an application to the California Energy Commission (CEC) for a small power plant exemption (hereafter, the application is referred to as the "SPPE")<sup>1</sup> for the Laurelwood Data Center in Santa Clara, California.

**PLEASE TAKE NOTICE** that the Committee<sup>2</sup> has scheduled a Prehearing Conference and an Evidentiary Hearing:

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

**THURSDAY, OCTOBER 31, 2019  
10:00 a.m.**

**California Energy Commission  
Art Rosenfeld Hearing Room (Hearing Room A)  
1516 Ninth Street  
Sacramento, CA 95814  
(Wheelchair accessible)**

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(For instructions, please see the **Remote Attendance** section below.)

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<sup>1</sup> All of the documents comprising the SPPE can be found at:

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?doctetnumber=19-SPPE-01>.

<sup>2</sup> The CEC designated a committee of two commissioners consisting of Karen Douglas, Commissioner and Presiding Member, and Janea A. Scott, Vice Chair and Associate Member, at a CEC Business Meeting on April 10, 2019 (TN 227638).

The **EVIDENTIARY HEARING** will take place on:

**FRIDAY, NOVEMBER 1, 2019  
10:00 a.m.**

**California Energy Commission  
Art Rosenfeld Hearing Room (Hearing Room A)  
1516 Ninth Street  
Sacramento, CA 95814  
(Wheelchair accessible)**

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## **BACKGROUND**

### ***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 power plants that will generate 50 megawatts (MW) or more of electricity.<sup>3</sup> An SPPE is subject to an expedited process designed to potentially exempt thermal power plants that will generate between 50 MW and 100 MW from the CEC's certification jurisdiction.<sup>4</sup> To grant an SPPE, the CEC must determine the generating capacity of the proposed facility and analyze whether the construction or operation of the project would result in substantial adverse impacts on the environment or energy resources.<sup>5</sup> In reviewing an SPPE, the CEC acts as the "lead agency" under the California Environmental Quality Act (CEQA).<sup>6</sup>

### ***The SPPE***

The Applicant applied for an SPPE for the proposed Laurelwood Data Center project at 2201 Laurelwood Road, in Santa Clara, California. The Applicant intends to build 56 3-MW diesel-fired generators to provide emergency electrical generation in support of approximately 640,000 square feet of data center and related facilities, such as office space, elevators, restrooms, and storage.<sup>7</sup> The Applicant has calculated that the maximum electrical load of these facilities will be 99 MW.<sup>8</sup> The Applicant would also construct a substation with connections to existing distribution lines with Silicon Valley Power (SVP).

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<sup>3</sup> Pub. Resources Code, §§ 25120, 25500.

<sup>4</sup> Pub. Resources Code, § 25541; Cal. Code Regs., tit. 20, §§ 1934 et seq.

<sup>5</sup> Pub. Resources Code, §§ 25500, 25541.

<sup>6</sup> Pub. Resources Code, § 25519, subd. (c).

<sup>7</sup> TN 227273-1, pp. 1-1, 2-1.

<sup>8</sup> *Id.* at pp. 1-1, 2-1 – 2-2.

CEQA requires the lead agency to consider the whole of the action. Therefore, the CEC will include the Laurelwood Data Center project in its analysis, which includes the construction of two new four-story data center buildings, the substation, the switchyard, and the installation and operation of the generators.

### **SCHEDULING ORDER**

The Committee has established the following schedule for this proceeding, which **supersedes** all prior schedules:

<b>EVENT</b>	<b>DATE</b>
Application for SPPE filed	March 5, 2019
CEC staff (Staff) filed its Environmental Analysis (Initial Study and Proposed Mitigated Negative Declaration) and sent the Notice of Intent to adopt an IS/MND to the State Clearinghouse <sup>9</sup>	August 28, 2019
Public Comment Period on Staff's Environmental Analysis ends	October 3, 2019
Parties file Opening Testimony	October 8, 2019
Parties file Rebuttal Testimony	October 15, 2019
Parties file Prehearing Conference Statements, including evidence lists and witness lists	October 21, 2019
Prehearing Conference	October 31, 2019
Evidentiary Hearing	November 1, 2019
Committee Issues Proposed Decision	November 2019
Final Decision (CEC Business Meeting)	December 11, 2019

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

The Prehearing Conference is a public forum where the Committee will assess the parties' readiness for an Evidentiary Hearing, consider any objections to conducting the Evidentiary Hearing using informal hearing procedures (see below), identify matters in dispute, and discuss the remaining schedule and procedures necessary to conclude the SPPE process.

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<sup>9</sup> TN 229584.

## **PURPOSE OF THE EVIDENTIARY HEARING**

The Evidentiary Hearing is an administrative adjudicatory proceeding to receive evidence into the formal hearing record from the parties and receive public comment. Only the parties (Applicant, Intervenors, and Staff) may present evidence for introduction into the formal hearing record. Testimony offered by the parties shall be under oath. Each party has the right to present witnesses, introduce exhibits, and to rebut evidence of another party.<sup>10</sup>

Members of the public may present comments at the Evidentiary Hearing that become part of the hearing record. No advance notice need be provided.<sup>11</sup>

### ***Informal Hearing Procedures***

Pursuant to California Government Code section 11445.10 et seq., and California Code of Regulations, title 20, section 1210, the Committee may conduct all or portions of the Evidentiary Hearing using formal or informal procedures.

Pursuant to Government Code section 11445.30, the Committee hereby notifies the parties that it has elected to utilize the informal hearing procedures.

The informal hearing process would generally proceed in the following order:

1. All parties' experts on the subject area at hand are sworn in as a panel.
2. Petitioner's experts provide a brief opening statement summarizing the key points and conclusions of their testimony.
3. Staff's experts provide a brief opening statement summarizing the key points and conclusions of their testimony.
4. Intervenors' experts provide a brief opening statement summarizing the key points and conclusions of their testimony.
5. Open discussion among the expert panelists led by the Committee.
6. Parties may follow up with questions of their own or other expert witnesses to the extent the Committee finds the questioning productive.
7. At the conclusion of the parties' examination of the experts, the Committee may ask witnesses additional questions or allow panelists to ask additional questions of each other and to offer follow-up responses.

Any party objecting to the use of informal hearing procedures shall include that objection in its Prehearing Conference Statement, as discussed below.

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<sup>10</sup> Cal. Code Regs. tit. 20, § 1212, subd. (a).

<sup>11</sup> Cal. Code Regs. tit. 20, § 1212, subdivs. (b)(1), (c)(4).

## **NOTICE OF CLOSED SESSION DELIBERATIONS**

At any time during the Prehearing Conference or 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, 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.

## **ORDERS REGARDING PREFILING EVIDENCE, EXHIBIT LISTS, AND PREHEARING CONFERENCE STATEMENTS**

All parties intending to submit evidence for consideration at the Evidentiary Hearing are **ORDERED** to docket evidence, written testimony, exhibit lists, and prehearing conference statements no later than 5:00 p.m. on the dates specified in the above schedule, unless otherwise directed by the Committee. Failure by a party to comply with the filing requirements stated in this Order may preclude that party from participating in the Evidentiary Hearing.

### ***Prehearing Conference Statements***

The Prehearing Conference Statement must specify under separate headings:

1. The subject areas that are complete and ready to proceed to Evidentiary Hearing.
2. The subject areas upon which any party proposes to introduce testimony in writing rather than through oral testimony.
3. The subject areas that are not complete and not yet ready to proceed to Evidentiary Hearing and the reasons therefor.
4. The subject areas that remain disputed and require adjudication, the issues in dispute, and the precise nature of the dispute for each issue.
5. The identity of each witness the party intends to sponsor at the Evidentiary Hearing, the subject area(s) about which the witness(es) will offer testimony, whether the testimony will be oral or in writing, a brief summary of the testimony to be offered by the witness(es), qualifications of each witness, the time required to present testimony by each witness, and whether the witness seeks to testify telephonically.
6. Subject areas upon which the party desires to question the other parties' witness(es), a summary of the scope of the questions (including questions regarding witness qualifications), the issue(s) to which the questions pertain, and the time desired to question each witness. (Note: a party who fails to provide, with specificity, the scope, relevance, and time for questioning other parties' witness(es) risks preclusion from questioning witnesses on that subject area.)

7. A list identifying exhibits with transaction numbers (TN) that the party intends to offer into evidence during the Evidentiary Hearing and the technical subject areas to which they apply (see below for further details on Exhibit Lists).
8. Proposals for briefing deadlines or other scheduling matters.
9. Any objection by the party to the use of the informal hearing procedure outlined above.<sup>12</sup>

### ***Prefiling of Evidence***

All written testimony (whether opening or rebuttal) and documentary evidence must be filed in this proceeding's docket (19-SPPE-01) and have a transaction number assigned by the CEC Docket Unit in accordance with the General Orders Regarding Motions, Electronic Filing, Service of Documents, and Other Matters, filed April 25, 2019.<sup>13</sup>

### ***Exhibit List***

The parties shall exchange documentary evidence, including written testimony, by filing an **Exhibit List**. Each document shall be numbered and identified on the Exhibit List as follows:

- Applicant's exhibits shall be numbered *consecutively* as **Exhibits 1 through 199**;
- Staff's exhibits shall be numbered *consecutively* as **Exhibits 200 through 299**.
- Intervenor Robert Sarvey's exhibits shall be numbered *consecutively* as **Exhibits 300 through 399**.
- Intervenor California Unions for Reliable Energy's exhibits shall be numbered *consecutively* as **Exhibits 400 through 499**.

The Exhibit Lists shall be formatted as four columns. The first column shall list the proposed exhibit number. The second column shall identify the TN of the corresponding document. The third column shall state the title of the document as shown in the docket. The fourth column shall state the subject area(s) to which the exhibit applies. The Hearing Officer will ensure the addition of the exhibit number information into the e-filing system and the issuance of a Master Exhibit List.

**Exhibits without a TN, or not filed in this proceeding's docket, will not be received into evidence absent a showing of good cause.**

### **TRANSCRIPTS**

Parties are responsible for identifying errors in the transcripts of the proceedings. Corrections to the transcripts must be filed within 30 days of the filing of a transcript.

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<sup>12</sup> Cal. Govt. Code, § 11445.30, subd. (b).

<sup>13</sup> TN 227867.

## AGENCY AND PUBLIC PARTICIPATION

Local, state, federal, and tribal governmental agencies and members of the public are welcome to attend and offer oral or written comments at the Prehearing Conference and Evidentiary Hearing. It is not necessary to be an Intervenor to participate in the public process. Comments may be submitted electronically at:

<https://efiling.energy.ca.gov/Ecomment/Ecomment.aspx?docketnumber=19-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: 19-SPPE-01  
1516 Ninth Street, MS-4  
Sacramento, CA 95814

For all comments, please include the docket number and proceeding name “**Docket No. 19-SPPE-01, Laurelwood Data Center**” 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 such as Google and Yahoo.

## PUBLIC ADVISOR AND OTHER CEC CONTACTS

The Public Advisor’s Office provides the public with assistance to participate in CEC proceedings. For assistance, please contact Noemí O. Gallardo, Public Advisor, at [publicadvisor@energy.ca.gov](mailto:publicadvisor@energy.ca.gov), (916) 654-4489, or toll free at (800) 822-6228.

If you have a disability and require assistance to participate in this event, please contact Yolanda Rushin at [yolanda.rushin@energy.ca.gov](mailto:yolanda.rushin@energy.ca.gov) or (916) 654-4310 at least five days in advance.

Questions of a procedural nature should be directed to Susan Cochran, Hearing Officer, at [susan.cochran@energy.ca.gov](mailto:susan.cochran@energy.ca.gov) or (916) 654-3965.

Technical questions concerning the SPPE should be addressed to Lisa Worrall, Project Manager, at [lisa.worrall@energy.ca.gov](mailto:lisa.worrall@energy.ca.gov) or at (916) 654-4545.

Media inquiries should be sent to the Media and Public Communications Office at [mediaoffice@energy.ca.gov](mailto:mediaoffice@energy.ca.gov) or (916) 654-4989.



## REMOTE ATTENDANCE

You may participate in this meeting through WebEx, the CEC's on-line meeting service. Any presentations will appear on your computer screen and you may listen to audio via your computer or telephone. Please be aware that the meeting may be recorded.

**Via Computer:** Go to <https://energy.webex.com> and enter the appropriate meeting number:

EVENT	DATE	MEETING NUMBER
PREHEARING CONFERENCE	THURSDAY, OCTOBER 31, 2019 10:00 a.m.	922 625 664
EVIDENTIARY HEARING	FRIDAY, NOVEMBER 1, 2019 10:00 a.m.	925 970 585

When prompted, enter your name and email address. No meeting password is needed.

The "Join Conference" menu will offer you a choice of audio connections:

1. To call into the meeting: Select "I will call in" and follow the on-screen directions.
2. International attendees: Click on the "Global call-in number" link.
3. To have WebEx call you: Enter your direct dial phone number (no extensions are permitted) and click "Call Me."
4. To listen over the computer: If you have a broadband connection, and a headset or a computer microphone and speakers, you may use VoIP (Internet audio) by going to the Audio menu, clicking on "Use Computer Headset," then "Call Using Computer."

**Via Telephone Only (No Visual Presentation):** Call (866) 469-3239 (toll-free in the U.S. and Canada). When prompted, enter the appropriate meeting number:

EVENT	DATE	MEETING NUMBER
PREHEARING CONFERENCE	THURSDAY, OCTOBER 31, 2019 10:00 a.m.	922 625 664
EVIDENTIARY HEARING	FRIDAY, NOVEMBER 1, 2019 10:00 a.m.	925 970 585

International callers may select their number from:

<https://energy.webex.com/energy/globalcallin.php>.

**Via Mobile Access:** Access to WebEx meetings is now available from your mobile device. To download an app, go to:

<https://signin.webex.com/collabs/#!/meetings/joinbynumber?TrackID=&hbxref=&goid=attend-meeting>

WebEx Technical Support is available at (866) 229-3239.

### **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 WebEx, you may mute yourself by right clicking on your name in the panelists or attendees list and selecting "Mute." If you are only using a telephone connection, press "\*6" once to mute and again to unmute.

### **AVAILABILITY OF DOCUMENTS**

Information about the SPPE, as well as notices and other relevant documents pertaining to this proceeding, may be viewed on the CEC's web page at:

<https://ww2.energy.ca.gov/sitingcases/laurelwood/>.

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

Dated October 9, 2019, at Sacramento, California

#### ***ORIGINAL SIGNED BY:***

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Karen Douglas  
Commissioner and Presiding Member  
Laurelwood Data Center SPPE Committee

Dated October 9, 2019, at Sacramento, California

#### ***ORIGINAL SIGNED BY:***

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Janea A. Scott  
Vice Chair and Associate Member  
Laurelwood Data Center SPPE Committee

*Mailed to list number: 7529*

## AGENDA

### Laurelwood Data Center Project (19-SPPE-01) Prehearing Conference

THURSDAY, OCTOBER 31, 2019  
10:00 a.m.

California Energy Commission  
Art Rosenfeld Hearing Room (Hearing Room A)  
1516 Ninth Street  
Sacramento, CA 95814  
(Wheelchair accessible)

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1. Call to Order

2. Prehearing Conference:

Report from the Applicant, Staff, and Intervenor(s) 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, and other matters in preparation for the 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. Closed Session<sup>14</sup>

Committee closed session consideration of the following items:

#### ***DELIBERATION ON THE APPLICATION FOR A SMALL POWER PLANT EXEMPTION FOR THE LAURELWOOD DATA CENTER***

5. Adjourn

Agency Contact: Susan Cochran, Hearing Officer, at [susan.cochran@energy.ca.gov](mailto:susan.cochran@energy.ca.gov)  
or (916) 654-3965.

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<sup>14</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

### Laurelwood Data Center Project (19-SPPE-01) Prehearing Conference

FRIDAY, NOVEMBER 1, 2019  
10:00 a.m.

California Energy Commission  
Art Rosenfeld Hearing Room (Hearing Room A)  
1516 Ninth Street  
Sacramento, CA 95814  
(Wheelchair accessible)

**REMOTE ACCESS AVAILABLE BY COMPUTER OR PHONE VIA WEBEX™**  
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1. Call to Order

2. Evidentiary Hearing:

Receipt of evidence from the Applicant, Staff, and Intervenor(s) on the small power plant exemption for the Laurelwood Data Center.

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. Closed Session<sup>15</sup>

Committee closed session consideration of the following items:

***DELIBERATION ON THE APPLICATION FOR A SMALL POWER PLANT  
EXEMPTION FOR THE LAURELWOOD DATA CENTER***

5. Adjourn

Agency Contact: Susan Cochran, Hearing Officer, at [susan.cochran@energy.ca.gov](mailto:susan.cochran@energy.ca.gov)  
or (916) 654-3965.

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<sup>15</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.