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<b>Project Title:</b>	SJ2
<b>TN #:</b>	232375
<b>Document Title:</b>	Revised Issues ID, Status Report, and Proposed Schedule Memo
<b>Description:</b>	Staff's revised Issues Identification, Status Report, and Proposed Schedule memorandum for the San Jose City Data Center Small Power Plant Exemption
<b>Filer:</b>	Steve Kerr
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
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# Memorandum

To: Commissioner Karen Douglas, Presiding Member  
Commissioner Patty Monahan, Associate Member

Date: March 11, 2020

From: **California Energy Commission**  
1516 Ninth Street  
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Subject: **REVISED ISSUES IDENTIFICATION, STATUS REPORT, AND PROPOSED SCHEDULE FOR THE SAN JOSE CITY DATA CENTER SMALL POWER PLANT EXEMPTION (19-SPPE-04)**

In its March 6, 2020 order (“Notice of Revised Committee Conference and Orders on Hearings”), the San Jose City Data Center SPPE Committee noted that Energy Commission staff “may file a revised Issues Identification Report, Status Report, and Proposed Schedule”. Staff has revised the summary of the major issues identified to date, the status, and the proposed schedule.

Staff’s communication with staff from the City of San Jose (City) made it evident that the vehicle miles traveled (VMT) associated with the proposed project could cause a potentially significant impact under the California Environmental Quality Act (CEQA). Further coordination efforts between the applicant and City involving identification of, and agreement with, appropriate mitigation measures would enable staff to make a determination on the level of significance of the environmental impacts from this project. Staff is optimistic that a set of transportation demand management (TDM) measures could reduce the potentially significant impact, but is unable to make a determination on the level of significance until these measures are incorporated into the project design. Staff is preparing an additional data request related to transportation impacts and feasible mitigation, which will be accompanied by a motion for leave and filed on or before March 16, 2020.

Staff issued data requests on December 19, 2019 (Set 1) and additional data requests on January 10, 2020 (Set 2). The applicant submitted partial responses on January 28, 2020 to Set 1 and on February 13, 2020 to Set 2.

Since staff filed its original Issues Identification Report, Status Report, and Proposed Schedule on February 26, 2020 (TN 232231), staff filed a motion for leave to file additional data requests (included as Data Requests Set 3) on February 28, 2020 (TN 232269). Data Requests Set 3 includes Data Request (DR) 53, a renewed request for missing or pending information and three follow-up data requests related to Air Quality and Public Health.

In total, there are eleven data requests in the areas of Project Description, Transmission, and Cultural Resources that have not received responses or received only partial

responses. The applicant has not objected to any of the requests or indicated that it is unable to provide the requested information in accordance with the instructions and timelines in Title 20, California Code of Regulations, section 1716(f). The applicant's partial or missing responses are from the following data requests:

- DR 3 – Contradicting transformer rating in One Line Diagram clarification
- DR 3b – Applicant in consultation with Pacific Gas and Electric Company (PG&E) as to the feasibility of staff request for a third transformer
- DR 4 – Updates to Figure 2-6
- DR 5 – Updates to Figure 2-6
- DR 6 – Transmission line pole configurations
- DR 8 – Description of 60 kilovolt (kV) loop connection with 230 KV interconnection to Los Esteros substation
- DR 8a – Detailed descriptions and one line diagrams showing detailed interconnection of the Northwest Loop transmission segment with project
- DR 19 – Schedule of archaeological surveys on project linear routes
- DR 46 – Data demonstrating historic reliability of service of PG&E
- DR 47 – Data demonstrating historic reliability of service of PG&E
- DR 49 – Feasibility of looping existing 230 kV circuits

Staff had issued a data request concerning the applicant's schedule for conducting cultural resources surveys of the remaining project linears (DR 19). In its responses to Data Requests Set 1, the applicant provided staff with copies and GIS shapefiles of previous cultural resource studies and recorded cultural resources. After mapping these (the applicant did not provide an overview map with their data response) staff saw that the linears had been surveyed for cultural resources in 2015. Adequate examination of those areas has already occurred. Therefore, staff withdraws DR 19 and amends its renewed data request, DR 53, to remove DR 19 as pending information. This withdrawal leaves ten data requests from Sets 1 and 2 that have not received responses or received only partial responses to be renewed in DR 53.

The applicant's response to Data Requests question 3a (Set 1) indicates that both of the 45 megavolt ampere (MVA) transformers at the new Microsoft Data Center substation would be required to serve the data center electric loads and staff understands both the transformers would be needed at all times. Information in the application and responses does not describe whether routine maintenance of the proposed onsite substation including the two proposed 45 MVA transformers could result in total or partial loss of PG&E's electricity service to the data center. Staff expects normal electrical power service to be continually available during all types of routine and scheduled maintenance of the proposed onsite substation. For staff's analysis "emergency use" is defined in the Airborne Toxic Control Measure (ATCM) for Emergency Standby Diesel-Fueled Engines, which describes the seven conditions that qualify for an "emergency use" [17 CCR §93115.4 (a)(30)]. Maintenance of the substation should be foreseeable and would not qualify as an "emergency." The follow-up data requests in Set 3 address this issue.

At this time staff is unaware of any other issues the San Jose City Data Center project presents that require resolution before the staff's Initial Study can be published and hearings conducted; however, staff does not currently know whether additional mitigation measures may be necessary for this project. If the applicant wishes to discuss or modify staff's mitigation measures, staff would need to hold a public workshop prior to publication of the environmental document.

Because staff is still completing the discovery phase, it is not possible for staff to produce a definitive schedule for publication of the Initial Study. Our experience on this project is consistent with prior SPPE evaluation efforts. Publication delays most often result from project description changes made by the applicant after filing. In some cases, these changes are in response to changing market conditions. In other cases, such changes are in response to data requests made by staff or information that becomes available during concurrent planning reviews being conducted by the local permitting authority, which for this project is the City of San Jose. The proposed schedule provided below reflects this inherent uncertainty in the evaluation process.

Staff's Proposed Schedule

Application materials docketed	11/15/2019
Committee named at Business Meeting	12/17/2019
Tribal consultation letters mailed	12/17/2019
Staff Data Requests Set 1 docketed	12/19/2019
Notice of Receipt and agency coordination letters docketed	1/6/2020
Staff Data Requests Set 2 docketed	1/10/2020
60-day discovery period closes	1/13/2020
Application for Confidential Materials docketed	1/28/2020
Applicant Responses to Data Requests Set 1 received	1/28/2020
Applicant Responses to Data Requests Set 2 received	2/13/2020
Memo re Issue ID and Schedule docketed	2/26/2020
Motion For Leave and Data Requests Set 3 docketed	2/28/2020
Revised Memo re Issue ID and Schedule docketed	by 3/11/2020
Motion For Leave and Data Requests Set 4 docketed	by 3/16/2020
Committee Conference	3/17/2020
Responses to Data Requests Set 3	by 3/30/2020
Responses to Data Requests Set 4	by 4/14/2020
Mitigation measures workshop (if needed)	TBD
Initial Study publication	TBD
Deadline for comments on the Initial Study (30 days per CEQA)	TBD
Public Comments / Opening Testimony due	TBD*
Response to Public Comments / Reply Testimony due	TBD*
Prehearing Conference	TBD
Evidentiary Hearing	TBD
Committee Proposed Decision	TBD
Commission Decision at Business Meeting	TBD

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\* Staff requests that the Committee establish the same filing deadline for public comment on the Initial Study and Opening Testimony from any intervening parties. Staff further requests a minimum of 10 business days following the Opening Testimony filing deadline to prepare and submit its Reply Testimony, which would include responses to any substantive comments received on the Initial Study during the CEQA comment period, as well as any novel matters raised by parties in Opening Testimony. If, however, separate deadlines are established for staff to file its response to CEQA comments and its reply to opening testimony, staff requests a minimum of 10 business days for each of these tasks.