

DOCKETED

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**State of California
State Energy Resources Conservation and
Development Commission**

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**APPLICATION FOR SMALL POWER PLANT
EXEMPTION FOR THE:**

SAN JOSE CITY DATA CENTER

Docket No. 19-SPPE-04

**STAFF'S SECOND MOTION FOR LEAVE TO
FILE ADDITIONAL DATA REQUESTS**

Energy Commission staff (staff) is authorized under Title 20, California Code of Regulations, sections 1716 and 1941 to issue data requests in connection with the review of a small power plant exemption (SPPE) application. Data requests may cover any information which is “reasonably available to the applicant” and “reasonably necessary” to make a decision on an SPPE application. (Cal. Code Regs., tit. 20, § 1716(b).) However, Section 1941 states that “all requests for information shall be submitted no later than 60 days from the application for exemption’s filing date *or a later date as approved by the presiding member*” (emphasis added). The exemption application was filed on November 15, 2019, 120 days ago. Accordingly, staff is filing this motion for leave to file additional data requests, which are attached as Appendix A.

Staff has previously filed three sets of data requests in this proceeding. Staff’s first set of data requests (Set 1) was filed on December 19, 2019 and responded to by the applicant on January 28, 2020. Staff’s second set of data requests (Set 2) was filed on January 10, 2020 and responded to by the applicant on February 13, 2020. Staff also attached a third set of data requests (Set 3) as an appendix to a Motion to Leave to File Additional Data Requests, which was filed on February 28, 2020 and is currently pending before the Committee (TN 232269).

Subsequent to the filing of Set 3, staff became aware of certain errors in the applicant’s evaluation of the project’s vehicle miles traveled (VMT) in the Transportation section of the SPPE application (Section 3.17) and the accompanying appendix (Appendix 3.17A). After communicating with the City of San Jose, staff concluded that the VMT analysis provided in Appendix 3.17A of the SPPE application is inconsistent with the calculation method that would be utilized by city staff in review of this project because it fails to input and analyze the portion of the project that qualifies as office space separately from the industrial space in the VMT Evaluation Tool. Furthermore, Section 3.17 (Transportation) of the SPPE application erroneously refers to the project as being located in an

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"immitigable area" for industrial VMT per employee, when the City's current map¹ places the project in a "mitigable area."

Accordingly, staff has one additional follow-up data request in the technical area of Transportation, which seeks clarification of these issues from the applicant and requests that the applicant consult with the City of San Jose to revise the Transportation analysis in order to bring it in conformance with City policy. Additionally, staff seeks information on potential project design modifications and/or transportation demand management (TDM) measures that would reduce project VMT per employee below all applicable significance thresholds or to the maximum extent possible. This request and additional background information are attached to this motion as Data Request Set 4 in Appendix A.

Staff has good cause to submit these data requests beyond the initial 60-day period. Upon discovery of the errors, staff worked expeditiously to contact the City of San Jose and confirm that the VMT analyses and proposed measures needed to be revised in order to avoid potentially significant Transportation impacts. This motion and the issues raised by Data Request Set 4 were also previously identified to the Committee and the applicant in staff's previous *Revised Issues Identification, Status Report, and Proposed Schedule* filing on March 11, 2020 (TN 232375). Thus, staff moves for leave to file Data Request Set 4, attached to this motion as Appendix A.

DATED: March 16, 2020

Respectfully submitted,

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¹ City of San Jose (San Jose). VMT per Industrial Job map. Available online at: <https://www.sanjoseca.gov/home/showdocument?id=28475>.

APPENDIX A – DATA REQUEST SET 4

Technical Area: Transportation

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BACKGROUND: Calculation of Project Vehicle Miles Travelled (VMT) and City Coordination

Section 3.17 Transportation of the SPPE application explains that the site is located in a high VMT area with an average VMT of 17.30 per employee, which is higher than the industrial VMT CEQA significance threshold, 14.37 VMT per employee, set by the City of San Jose. The SPPE application nevertheless concluded VMT impacts would be less than significant because: 1) the project's VMT per employee (16.84) is less than the area's average VMT per employee (17.30); 2) the project is located within an "immitigable" area; and 3) the City's guidance does not define the analysis required for projects located within these immitigable areas. However, staff reviewed the City's VMT per Industrial Job heat map, which places the project within a mitigatable area (San Jose 2018a).

The applicant did not propose any transportation demand management (TDM) strategies other than Tier 2 bike path improvements along Alviso-Milpitas Road (0.34 mile segment), Tier 3 reduced parking (182 spaces to 116), and Tier 3 end of trip bike facilities, such as employee showers. According to the City's Transportation Analysis Handbook, some of these VMT reduction strategies require coordination and/or negotiations with the City and others for implementation (San Jose 2018b). Furthermore, Tier 4 TDM strategies were not applied in the VMT Evaluation Tool as presented in the application, in conflict with the following information from the Transportation Analysis Handbook:

The sketch tool evaluates a list of selected VMT reduction measures that can be applied to a project to reduce Project VMT. There are four strategy tiers whose effects on VMT can be calculated in the sketch tool: (1) project characteristics, (2) multimodal network improvements, (3) parking, and (4) TDM. The first three strategies – land use characteristics, multimodal network improvements and parking – are physical design strategies that can be incorporated into the project description. *If Project VMT still exceeds the threshold of significance after a combination of project characteristics, multimodal network improvements, and parking measures are included in the project description, the fourth strategy, TDM, should be considered.* TDM includes programmatic measures that aim to reduce VMT by decreasing personal motorized vehicle mode share and by encouraging more walking, biking, and riding transit. (Emphasis added.)

In addition, projects that feature more than 10,000 square feet of office space typically require a detailed CEQA transportation analysis per City Council Policy 5-1 (San Jose 2018c). According to city staff, since the project is constructing 450,000 square feet of industrial space and 22,000 square feet of administrative space (interpreted by the city as “office” space), both should be input and analyzed separately in the VMT Evaluation Tool. By doing so, the “office” space portion of the project would be evaluated subject to the CEQA significance threshold for office buildings (12.22 VMT per employee, which reflects a 15% reduction from existing regional VMT per employee) for the office portion of the project.

The City’s industrial VMT significance threshold (14.37 VMT per employee), is above the estimated maximum reduction possible (13.84 VMT per employee) for the industrial portion of the project; therefore, the project could apply additional VMT Reduction strategies to reduce the project’s VMT below the VMT significance threshold for industrial projects.

The VMT analysis provided in Appendix 3.17A of the SPPE application is inconsistent with the calculation method described by city staff because it fails to input and analyze the portion of the project that qualifies as office space separately from the industrial space in the VMT Evaluation Tool. Furthermore, Section 3.17 Transportation of the SPPE application erroneously refers to the project as being located in an “immitigable area” for industrial VMT per employee, when the City’s current map places the project in a “mitigable area.” (San Jose 2018a.)

Staff is optimistic that the applicant, with the city’s guidance, can submit a revised VMT analysis that is consistent with city policy. In doing so, the applicant may find it necessary to modify project characteristics and identify additional project design measures, including applying Tier 4 TDM strategies, to reduce the project’s VMT below all applicable thresholds of significance or to the estimated maximum reduction possible. These actions will require the applicant to coordinate with City staff to submit a revised VMT analysis reflecting any project changes the applicant and the City may agree on that would allow the project to result in less than significant Transportation impacts.

DATA REQUESTS

57. In consultation with the City of San Jose, please submit a revised Transportation analysis utilizing a VMT calculation methodology that is consistent with City policy. If necessary following consultation with the City, please identify and submit project design modifications and/or TDM measures that would reduce project VMT per employee below all applicable significance thresholds or to the maximum extent possible.

REFERENCES

San Jose 2018a – City of San Jose (San Jose). VMT per Industrial Job map. Available online at: <https://www.sanjoseca.gov/your-government/departments-offices/transportation/planning-policies/vehicle-miles-traveled-metric>

San Jose 2018b – City of San Jose (San Jose). San Jose Transportation Analysis Handbook. Available online at: <https://www.sanjoseca.gov/your-government/departments-offices/transportation/planning-policies/vehicle-miles-traveled-metric>

San Jose 2018c – City of San Jose (San Jose). City Council Transportation Analysis Policy 5-1 (Council Policy). Approved by Council Action February 27, 2018 by Resolution No. 78520. Effective date March 29, 2018. Available online at: <https://www.sanjoseca.gov/your-government/departments-offices/transportation/planning-policies/vehicle-miles-traveled-metric>