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

1516 Ninth Street, Sacramento, CA 95814  
1-800-822-6228 – [www.energy.ca.gov](http://www.energy.ca.gov)

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

***SAN JOSE CITY BACKUP  
GENERATING FACILITY***

**Docket No. 19-SPPE-04**

**NOTICE OF COMMITTEE CONFERENCE  
AND ORDERS ON HEARINGS**

On November 15, 2019, Microsoft Corporation (Applicant) submitted an application for a small power plant exemption (SPPE) for the San Jose City Backup Generating Facility to the California Energy Commission (CEC).<sup>1</sup>

**PLEASE TAKE NOTICE** that the Committee<sup>2</sup> has scheduled a Committee Conference:

**TUESDAY, APRIL 28, 2020  
2:00 p.m.**

**REMOTE ACCESS AVAILABLE BY COMPUTER OR PHONE VIA WEBEX™**  
(For instructions, please see the **Remote Attendance** section below.)

Executive Order N-29-20 authorizes CEC to hold public meetings via teleconference and other electronic means in order to slow the spread of COVID-19. This authorization is consistent with the recommendations from the California Department of Public Health. The public portion of the Committee Conference is accessible telephonically or via WebEx to all parties in this proceeding and members of the public.

**PURPOSE OF THE COMMITTEE CONFERENCE**

The purpose of this conference is to develop a schedule and review the current status of the proceeding and address any outstanding issues. In addition to the formal parties,

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<sup>1</sup> Information about this proceeding, including a link to the electronic docket, may be found on the CEC's web page at <https://ww2.energy.ca.gov/sitingcases/sj2/>. Documents related to this proceeding may be found in the online docket at: <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=19-SPPE-04>. The application is TN 230741.

<sup>2</sup> On December 11, 2019, the CEC appointed a Committee consisting of Karen Douglas, Commissioner and Presiding Member, and Patty Monahan, Commissioner and Associate Member, to preside over this SPPE application (TN 231265).

the Committee invites the attendance of interested public agencies and the public. We direct the parties' attention to the "Orders Regarding Issues Identification, Status Reports, Proposed Schedule, and Presentations by Applicant, Staff, and the Public Advisor," below, regarding their expected participation in and responsibilities for the conference.

## **BACKGROUND AND PROPOSED PROJECT DESCRIPTION**

### ***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> The CEC may grant an exemption to its certification jurisdiction, the SPPE, for thermal powerplants generating between 50 and 100 MW.

To grant an SPPE, the CEC must make three distinct determinations:

- the proposed powerplant has a generating capacity up to 100 MW;
- no substantial adverse impact on the environment will result from the construction or operation of the powerplant; and
- no substantial adverse impact on energy resources will result from the construction or operation of the powerplant.<sup>4</sup>

The SPPE process provides a public forum allowing the applicant requesting the exemption, CEC Staff (Staff), intervenors, governmental agencies, and members of the public to participate in the decision-making process.

In addition to the findings above, the CEC is the "lead agency"<sup>5</sup> under the California Environmental Quality Act (CEQA).<sup>6</sup>

If an SPPE is granted, responsible local land use authorities and other agencies, most notably any local air management or air pollution control district, conduct further review of the Proposed Project, including any necessary environmental review under CEQA.

### ***Proposed Project***<sup>7</sup>

The Proposed Project site is located at 1657 Alviso-Milpitas Road, in San Jose, California (Project Site). The Project Site has been used historically for farming, but is

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<sup>3</sup> Pub. Resources Code, §§ 25120, 25500. All further references are to the California Public Resources Code unless otherwise noted.

<sup>4</sup> § 25541.

<sup>5</sup> § 25519, subd. (c).

<sup>6</sup> The CEQA statutes, California Public Resources Code section 21000 *et seq.*, and CEQA Guidelines, California Code of Regulations, title 14, section 15000 *et seq.* (Guidelines), detail the protocol by which state and local agencies comply with CEQA requirements. We refer to the statute and the Guidelines collectively as "CEQA."

<sup>7</sup> The information in this section is taken from the application (TN 230741).

not currently in agricultural use. There are two vacant residences, a mobile home, and a storage shed/warehouse currently on site, which would be demolished as part of the Proposed Project.

Applicant proposes to construct and operate the San Jose City Backup Generating Facility, and San Jose City Data Center (Data Center). The Data Center consists of two single-story buildings with approximately 479,000 gross square feet of space, including administrative and data areas, and loading docks. Two administrative generators, rated at 1.25 MW and 0.5 MW, will provide backup electricity to the administrative buildings.

The Backup Generating Facility consists of 40 3.0-MW diesel-fired emergency generators, and will help provide an uninterruptable power supply to the Data Center. The generators would be distributed in redundant configurations to provide up to a maximum of 99 MW.

Applicant also intends to construct an onsite 230-kilovolt (kV) substation with two 230-kV electrical supply lines that would connect to Pacific Gas and Electric Company's (PG&E) Los Esteros Substation, located adjacent to and west of the site. The substation, located in the northwestern corner of the Project Site, will allow delivery of power from PG&E but will not allow any electricity generated from the backup generators to be distributed off the Project Site. Additional features of the Proposed Project include offsite connections to potable and recycled water pipelines and to sanitary sewer and stormwater pipelines, and an access road.

Even though the application describes the Data Center as separate from the San Jose Backup Generating Facility, CEQA requires the CEC to consider the "whole of an action."<sup>8</sup> Therefore, the CEC will include the entire Proposed Project in its environmental analysis.

## **ORDERS REGARDING ISSUES IDENTIFICATION, STATUS REPORTS, PROPOSED SCHEDULE, AND PRESENTATIONS BY APPLICANT, STAFF, AND THE PUBLIC ADVISOR**

Staff filed an Issues Identification Report, Status Report, and Proposed Schedule (Report) on February 26, 2020,<sup>9</sup> and a revised Report on March 11, 2020,<sup>10</sup> summarizing the major issues identified to date, status on activities conducted to date and issues that require resolution before hearings can be conducted, and proposing a schedule for the conduct of this proceeding. Applicant filed its Status Report #1 on March 25, 2020.<sup>11</sup> Staff may file any revisions to its Reports **no later than April 22, 2020**. Applicant may file a response to Staff's Revised Report **no later than April 24, 2020**.

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<sup>8</sup> Cal. Code Regs., tit. 14, § 15378, subd. (a) (under CEQA "project" means the whole of the action).

<sup>9</sup> TN 232231.

<sup>10</sup> TN 232375.

<sup>11</sup> TN 232529.

Copies of these documents will be posted to the online docket for this proceeding at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=19-SPPE-04>.

Applicant shall be prepared to offer an overview of the Proposed Project at the Committee Conference. Staff shall also be prepared to offer an overview of the SPPE application and their Issues Identification Report, Status Report, and Proposed Schedule. Overviews may include presentations and should not be longer than 5 minutes.

The Public Advisor's Office is invited, but not required, to provide a brief overview of the function of the Public Advisor's Office and the opportunities the public has to engage in this proceeding.

Pursuant to sections 1203, subdivision (f), and 1944, subdivision (b), of Title 20 of the California Code of Regulations, the Committee hereby extends the date for evidentiary hearings to be conducted until a schedule can be established based on the information provided by the parties pursuant to this Order. After the Committee Conference, the Committee will establish a schedule for this proceeding.

#### **NOTICE OF CLOSED SESSION DELIBERATIONS**

At any time during the Committee Conference, 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.

#### **PUBLIC ADVISOR AND OTHER CEC CONTACTS**

The CEC's Public Advisor's Office provides the public assistance in participating in CEC proceedings. For information on how to participate in this proceeding, or to request language services or other reasonable accommodations, please contact the Public Advisor, Noemí O. Gallardo, at [publicadvisor@energy.ca.gov](mailto:publicadvisor@energy.ca.gov), by phone at (916) 654-4489, or toll free at (800) 822-6228. Requests for language services and reasonable accommodations should be made at least five days in advance. The CEC will work diligently to accommodate late requests.

**WebEx:** If you experience difficulties with the WebEx system, please contact the Public Advisor's Office via email or phone. See contact information above.

Questions of a procedural nature should be directed to Deborah Dyer, Hearing Officer, by e-mail at [deborah.dyer@energy.ca.gov](mailto:deborah.dyer@energy.ca.gov) or by telephone at (916) 654-3951, or to Caryn Holmes, Hearing Officer, by e-mail at [caryn.holmes@energy.ca.gov](mailto:caryn.holmes@energy.ca.gov) or by telephone at (916) 653-1643.

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

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

## REMOTE ATTENDANCE ONLY

You may participate in this meeting through WebEx, the CEC's online meeting service. Any presentations will appear on your computer/laptop/mobile device screen and audio may be heard via the device or telephone. Please be aware that the WebEx meeting audio and on-screen activity may be recorded. WebEx technical support is available at (866) 229-3239, or you may contact the CEC's Public Advisor's Office at [publicadvisor@energy.ca.gov](mailto:publicadvisor@energy.ca.gov), or (800) 822-6228.

**Via Computer:** Go to <https://energy.webex.com> and enter the meeting number **922 455 373**. When prompted, enter your name and email address. The meeting password is **SJSPPE@042820**.

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. To have WebEx call you: Enter your direct dial phone number (no extensions are permitted) and click "Call Me."
3. 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 meeting number **922 455 373**.

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

[www.webex.com/products/web-conferencing/mobile.html](http://www.webex.com/products/web-conferencing/mobile.html).

## 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 regarding the status of the Proposed Project, as well as notices and other relevant documents, are available on the CEC's web page at <http://ww2.energy.ca.gov/sitingcases/sj2/>.

## **IT IS SO ORDERED.**

Dated: April 17, 2020

Original Signed by:

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Karen Douglas  
Commissioner and Presiding Member  
San Jose City Backup Generating Facility SPPE Committee

Dated: April 17, 2020

Original Signed by:

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Patty Monahan  
Commissioner and Associate Member  
San Jose City Backup Generating Facility SPPE Committee

*Mailed to list number(s): 7532*

**AGENDA**  
**Committee Conference**  
**April 28, 2020, at 2:00 p.m.**

**San Jose City Backup Generating Facility Small Power Plant Exemption  
Application (19-SPPE-04)**

**REMOTE ACCESS ONLY**

1. Call to order and introductions
2. Committee Conference
  - a. Overview of the Small Power Plant Exemption process, and the rules applicable to this proceeding (Hearing Officers, 5 minutes.)
  - b. Opportunities for public participation (CEC Public Advisor's Office, 5 minutes.)
  - c. Presentation on the San Jose City Backup Generating Facility and Data Center Project (Applicant, 5 minutes.)
  - d. Overview of CEC Staff's role and its review of the SPPE application (Staff, 5 minutes.)
  - e. Discussion of schedule, status, issues, and next steps (Committee and Parties)
3. Public comment
4. Committee closed session<sup>12</sup> considering the following items:  
Deliberation on the Small Power Plant Exemption Application for the San Jose City Backup Generating Facility
5. Adjourn

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<sup>12</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.