

DOCKETED	
Docket Number:	19-SPPE-04
Project Title:	SJ2
TN #:	232976
Document Title:	Committee Scheduling Order
Description:	N/A
Filer:	Muoi-Lynn Tran
Organization:	California Energy Commission
Submitter Role:	Committee
Submission Date:	5/13/2020 4:07:35 PM
Docketed Date:	5/13/2020



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 BACKUP
GENERATING FACILITY***

Docket No. 19-SPPE-04

COMMITTEE SCHEDULING ORDER

BACKGROUND

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).¹

On April 17, 2020, the CEC the Committee² (Committee) issued a “Notice of Committee Conference and Orders on Hearings,”³ which among other things directed CEC Staff (Staff) to submit a proposed schedule by April 22, 2020 and directed the Applicant to file a response to Staff’s proposal by April 24, 2020. Staff and Applicant met these deadlines.⁴

During the Committee Conference held on April 28, 2020, the parties agreed that there are outstanding discovery requests. Specifically, the parties stipulated that Applicant has outstanding responses to Staff’s Data Requests Set 3⁵ and Set 4⁶. Applicant stated that its responses to the Data Requests depend on the receipt of information and/or

¹ Information about this proceeding, including a link to the electronic docket, may be found on the [CEC’s web page at](https://www2.energy.ca.gov/sitingcases/sj2/) <https://www2.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): <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=19-SPPE-04>. The application is TN 230741.

² 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).

³ TN 232158.

⁴ On April 22, 2020, Staff filed its “Revision #2 Issues Identification, Status Report, and Proposed Schedule for the San Jose City Data Center Small Power Plant Exemption (19-SPPE-04),” (TN232812), and on April 24, 2020, Applicant filed “San Jose City Data Center Response to Staff’s Revision #2 Issues Identification, Status Report and Proposed Schedule” (TN232843).

⁵ TN 232269.

⁶ TN 232418.

further coordination with other entities.⁷ Staff also indicated that until it receives the information still outstanding, it does not have the information it needs to prepare its environmental assessment of the proposed project, particularly as to any necessary mitigation.

Staff's Proposed Schedule contained no specific dates for the production of any documents or events. Staff stated that its Proposed Schedule reflects the current uncertainty in the environmental evaluation process. Applicant stated that it is in agreement with Staff's Proposed Schedule.

SCHEDULING ORDER

The Committee hereby adopts the schedule for the proceeding that is attached below. The Committee encourages the parties to make their best efforts to complete the milestones ahead of these dates.

The Committee ORDERS all parties to file and serve a Status Report on the 15th of each month, beginning with May 15th, 2020. The Status Report shall inform the Committee whether or not the case is progressing satisfactorily and bring potential schedule delays and other relevant matters to the Committee's attention.

Staff is to provide a notice to the docket when the last Data Request response is received.

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, or by fax at (916) 654-4493. 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.

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

⁷ Applicant's "San Jose City Data Center Response to Staff's Revision #2 Issues Identification, Status Report and Proposed Schedule" (TN232843) stated that Applicant is working with Pacific Gas & Electric Company and the City of San Jose to obtain the information needed to respond to the outstanding Data Requests.

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/](http://ww2.energy.ca.gov/sitingcases/sj2/).

IT IS SO ORDERED.

Dated: May 12, 2020

Approved by

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

Dated: May 12, 2020

Approved by

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

**SAN JOSE CITY BACKUP GENERATING FACILITY SPPE (19-SPPE-04)
SCHEDULING ORDER
MAY 2020**

EVENT	DATE
All Parties file Status Reports	Beginning May 15 th , the 15 th of every month
Staff Publishes its Environmental Review Document and sends the appropriate notice to the State Clearinghouse	No later than 30 days after receipt of the last data request response from Applicant
Public Comment Period on Staff's Environmental Review Document closes	30 days after publication of Staff's Environmental Review Document ⁸
All Parties File Opening Testimony	30 days after publication of Staff's Environmental Review Document
Last Day to File Petition to Intervene ⁹	To be determined
Staff responds to comments on Staff's Environmental Review Document	10 days after close of public comment period
All Parties to File Reply testimony ¹⁰	10 days after opening testimony
Prehearing Conference (PHC) statement filed	3-5 days after reply testimony
PHC	7-10 days after PHC statement
Evidentiary Hearing (EH)	7-14 days after PHC ¹¹
Committee files Proposed Decision ¹²	30 days after EH
Final Adoption Hearing by the Commission	Fourth quarter 2020

The Committee may modify the schedule at any time. The Committee will issue final dates in a later Order.

⁸ Please note that the State Clearinghouse has 3 days to distribute. (Pub. Resources Code, § 21091, subd. (c)(3).)

⁹ The deadline to file a petition for intervention shall be established by the presiding member, or if no deadline is established, at least 30 days prior to the first day of the evidentiary hearing. (Cal. Code Regs., tit. 20, § 1211.7, subd. (b).)

¹⁰ Seven days prior to the evidentiary hearing or at such other times as ordered by the presiding member. (Cal. Code Regs., tit. 20, § 1943.)

¹¹ Evidentiary hearings shall commence no later than 100 days after filing the application for an SPPE unless otherwise ordered by the presiding member. In the "General Orders Regarding Motions, Electronic Filing, Service of Documents, and Other Matters," (TN 231937), the Committee extended the deadline for the hearing pursuant to California Code of Regulations, Title 20, sections 1203, subdivision (f) and 1944, subdivision (b).

¹² Cal. Code Regs., tit. 20, § 1945, subd. (a).