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EVIDENTIARY HEARING BEFORE THE
ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
CALIFORNIA ENERGY COMMISSION

In the matter of,)
) Docket No. 19-SPPE-05
Mission College Data Center)
Backup Generating Facility)

EVIDENTIARY HEARING

REMOTE ACCESS ONLY
VIA ZOOM VIRTUAL MEETING PLATFORM

MONDAY, JUNE 15, 2020

2:05 P.M.

Reported by:

Peter Petty

APPEARANCES

COMMISSIONERS (AND THEIR ADVISORS) PRESENT:

Karen Douglas, Commissioner, Presiding Member

Kourtney Vaccaro, Advisor to Commissioner Douglas

Eli Harland, Advisor to Commissioner Douglas

Janea Scott, Vice Chair, Associate Member

Rhett DeMesa, Advisor to Commissioner Scott

Linda Barrera, Advisor to Commissioner Scott

HEARING OFFICER:

Ralph Lee, California Energy Commission

CEC STAFF PRESENT:

Lisa DeCarlo, Staff Counsel

Michael Murza

Matthew Layton, Supervising Mechanical Engineer

Rosemary Avalos, Public Advisor's Office

Patricia Carlos

Patricia Pham

Tao Jiang, PhD

Huei-An Chu, PhD

Shahab Khoshmashrab, PE

Kenneth Salyphone

APPEARANCES

STAFF WITNESSES

Kevin Kolnowski, Silicon Valley Power

Caryn Quist, BAAQMD

Brewster Birdsall, PE, Aspen Environmental Group

APPLICANT:

Scott Galati, Esq.
DayZen, LLC

APPLICANT WITNESSES:

Drew Johnson, VP of Development, Oppidan Investment Company

Michael Lisenbee, David J. Powers & Associates

Elizabeth Geller, Trinity Consultants

INTERVENOR:

Robert Sarvey

PUBLIC AGENCIESBAAQMD

Jakub Zielkiewicz,

Caryn Quist

SILICON VALLEY POWER (CITY OF SANTA CLARA)

Kevin Kolnowski

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EXHIBITS

	IDENTIFICATION	EVIDENCE	WITHDRAWN
<u>Applicant</u>			
	1-16, 17 and 18	15	
<u>Staff</u>			
	200-203	17	
<u>Intervenor Sarvey</u>			
	300-306	17	

1 P R O C E E D I N G S

2 June 15, 2020

2:05 p.m.

3 COMMISSIONER DOUGLAS: And Mr. Lee, are you ready to
4 go straight into the Evidentiary Hearing, then?

5 HEARING OFFICER LEE: I'm ready.

6 COMMISSIONER DOUGLAS: All right. So, we are now
7 opening up the Evidentiary Hearing for the Mission College
8 Backup Generating Facility Small Power Plant Exemption.

9 I'm Karen Douglas, the Presiding Member of the
10 Committee assigned to conduct proceedings on this
11 application.

12 We've just concluded the Prehearing Conference and
13 are now going to begin the Evidentiary Hearing. This hearing
14 is a separate hearing from the Prehearing Conference and
15 there will be a separate transcript included as part of the
16 record of the proceeding for the Evidentiary Hearing.

17 So, therefore, parties will be asked to make
18 introductions again for the record. Before we go into the
19 introductions of the parties, I'll make some introductions on
20 behalf of the Committee.

21 Again, I'm Karen Douglas, a Commissioner and
22 Presiding Member of this Committee.

23 Vice Chair Janea Scott is the Associate Member of the
24 Committee.

25 My Advisors, Kourtney Vaccaro and Eli Harland are

1 participating. And Commissioner Scott's Advisors are Rhetta
2 DeMesa and Linda Barrera.

3 We just heard -- Rosemary Avalos is participating for
4 the Public Advisor's Office and Ralph Lee is the Hearing
5 Officer.

6 With that let me ask the parties to introduce
7 themselves and their representatives starting with the
8 Applicant.

9 MR. GALATI: Good afternoon, thank you. This is
10 Scott Galati representing Oppidan Investment Company, who is
11 the Applicant for the Mission College Backup Generating
12 Facility. And I'll introduce witnesses as they come up to be
13 sworn. Thank you.

14 COMMISSIONER DOUGLAS: Thank you, Mr. Galati.
15 Staff please.

16 MR. MURZA: Good afternoon Commissioner Douglas, and
17 Vice Chair Scott, and Hearing Officer Lee. This is Michael
18 Murza, staff attorney with the Energy Commission. I'm joined
19 today by co-counsel and staff attorney Lisa DeCarlo. We also
20 have a number of technical experts from the Energy Commission
21 and other agencies that we will introduce when they are to
22 speak. Thank you.

23 COMMISSIONER DOUGLAS: Thank you. Intervenor Robert
24 Sarvey.

25 MR. SARVEY: Oh, yeah, this is Intervenor Robert

1 Sarvey. I'm present.

2 COMMISSIONER DOUGLAS: Thank you very much. Do we
3 have anybody participating from any agencies of the federal
4 government?

5 How about the State of California, other than the
6 Energy Commission?

7 Native American Tribes?

8 Is anybody here from the Bay Area Air Quality
9 Management District?

10 MR. ZIELKIEWICZ: Yes, hello, this is Jakub
11 Zielkiewicz from the Air Quality District.

12 COMMISSIONER DOUGLAS: Is that it or is there
13 somebody else?

14 All right, is anybody here from the City of Santa
15 Clara and Silicon Valley Power?

16 MR. KOLNOWSKI: Kevin Kolnowski is here.

17 COMMISSIONER DOUGLAS: Thank you very much.

18 Is anybody else participating representing local
19 government agencies?

20 All right, at this time I will hand over the conduct
21 of this hearing to Hearing Officer Ralph Lee.

22 HEARING OFFICER LEE: Yes, thank you. Hello again.
23 the Committee gave notice of today's Evidentiary Hearing by
24 Revised Notice of Prehearing Conference and Evidentiary
25 Hearing Scheduling Order and Further Orders, including Order

1 Granting Request to Modify Schedule by Moving Evidentiary
2 Hearing to June 15th, which the Committee issued on June 5th,
3 2020. Going forward, I may refer to this as the June 5th
4 Notice.

5 This Evidentiary Hearing is being held remotely.
6 That is we are in separate locations and communicating only
7 through electronic means. We are meeting in this fashion
8 consistent with Executive Order N-2520 and N-2920, and the
9 recommendations from the California Department of Public
10 Health to encourage physical distancing in order to slow the
11 spread of COVID-19.

12 Before we proceed with the substantive portions of
13 this Evidentiary Hearing I wanted to restate the housekeeping
14 matters that I mentioned earlier at the Prehearing
15 Conference.

16 First, in Zoom participants can either be panelists
17 or attendees. We've set the Zoom meeting up so that all
18 participants should be panelists, which means you should be
19 able to mute and unmute yourselves. In other words all
20 participants will be able to control their ability to be
21 heard or not heard during the hearing.

22 With that said I expect everyone to abide by the
23 following protocols to ensure everyone is able to
24 meaningfully participate in today's hearing in an orderly
25 manner.

1 Only one person is to speak at a time. Use the raise
2 hand feature if you want to be recognized. But if you're
3 participating by phone only you may use star 9 to raise your
4 hand and star 6 to unmute. After you've been called on
5 please lower your hand so that I can make sure you've been
6 recognized. But if you're on the phone, we'll have to do
7 that for you. Please do not use the chat function or the Q&A
8 function, if it's enabled, as it could be distracting to
9 other hearing participants and the decision makers. Anything
10 that is placed in the chat function or Q&A function will
11 become part of the official record for this proceeding.

12 The second housekeeping matter is to please identify
13 yourselves before you speak. That's important for me and for
14 the court reporter. If you don't identify yourself, either
15 the court reporter or I may interrupt you to ask that you do
16 so to ensure that we have a complete and accurate record for
17 this proceeding.

18 Again, I ask the parties are there any questions,
19 starting with Applicant?

20 MR. GALATI: No questions, Mr. Lee.

21 HEARING OFFICER LEE: Staff?

22 MR. MURZA: No, we don't have any questions, thank
23 you.

24 HEARING OFFICER LEE: And Mr. Sarvey? Mr. Sarvey,
25 are you -- do you have any questions?

1 MR. SARVEY: No, I have no questions. Thank you.

2 HEARING OFFICER LEE: Thank you. This Evidentiary
3 Hearing concerns the application for a Small Power Plant
4 Exemption, known as an SPPE, for the Mission College Backup
5 Generating Facility, which was filed on November 25th, 2019
6 by the Applicant. The application and many of the other
7 documents I'll be mentioning today are available from the
8 online docketing system on the Energy Commission's website.
9 Specifically, the documents are accessible from the project
10 webpage at ww2.energy.ca.gov/sitingcases/missioncollege.

11 The proposed Backup Generating Facility would be used
12 to ensure an uninterruptable power supply for the Mission
13 College Data Center located at 2305 Mission College
14 Boulevard, in Santa Clara, California.

15 The Backup Generating Facility would consist of 43
16 2.5-megawatt, diesel-fired emergency backup generators, four
17 of which are redundant. And also, two 600-kilowatt, diesel-
18 fired life safety emergency generators. All would be located
19 in two onsite generator yards. The Backup Generating
20 Facility would help provide an uninterruptable power supply
21 to the Data Center of up to 78.1 megawatts which if
22 ultimately permitted would be the maximum load of the Data
23 Center. The Data Center would consist of two three-story
24 Data Center buildings, totally about 490,000 square feet.

25 The Applicant also intends to construct a substation

1 and related facilities. The substation would allow delivery
2 of power from Silicon Valley Power, known as SVP, but the
3 substation would not allow any electricity generated from the
4 Backup Generating Facility to be distributed offsite.

5 Under the law, that is Public Resources Code Section
6 25541, the Energy Commission may grant an SPPE only when it
7 makes three separate and distinct findings which are that the
8 proposed power plant has a generating capacity of up to 100
9 megawatts. That no substantial adverse impact on the
10 environment will result from the construction or operation of
11 the power plant. And no substantial adverse impact on energy
12 resources will result from the construction or operation of
13 the power plant.

14 In addition, the Energy Commission acts as the lead
15 agency under CEQA. In reviewing an SPPE, the Energy
16 Commission considers the whole of the action. For this
17 particular application the whole of the action means the
18 Backup Generating Facility, the Data Center, and other
19 related features such as the substation. I may refer to the
20 whole of the action as the project.

21 To aid in consideration of the application and in
22 fulfillment of the law, under the Warren-Alquist Act and
23 CEQA, on April 21st, 2020 staff prepared and published an
24 Initial Study and Proposed Mitigated Negative Declaration,
25 known as the ISPMND. The ISPMND was subject to a public

1 review and comment period that ended on May 22nd, 2020.
2 Comments were received from the Bay Area Air Quality
3 Management District, known as BAAQMD for short, and from the
4 National Fuel Cell Research Center. No comments were
5 received from any intervenor, the general public, or the
6 Applicant.

7 As set forth in the June 5th Notice, this Evidentiary
8 Hearing will be conducted using a formal hearing procedure
9 modified to fit the remote nature of the hearing.

10 Now, regarding testimony. As discussed in the Notice
11 will we deem all parties' opening and rebuttal testimony as
12 their direct examination.

13 There is no need to discuss experts' resumes if we
14 have them in writing and if there's no objection to the
15 witness as an expert.

16 If witnesses testify who have not filed written
17 testimony, please have them identify themselves, such as Joe
18 Doe, Air Quality Specialist, California Energy Commission.
19 If any party has an objection, please state that objection.

20 Ms. Carlos, one more time would you mind displaying
21 the exhibit list, please. Yes, thank you. And scroll down
22 to the teens. Right there, yeah.

23 Okay, at this time I'm going to ask if the parties
24 wish to move exhibits into the evidence. The Applicant
25 identified Exhibits 1 through 20. And as I mentioned, 17 and

1 20 were already identified as exhibits by the Intervenor.
2 So, I'll leave them there and I'll say -- ask if the
3 Applicant has any motion regarding Exhibits 1 through 16 and
4 18 through 19?

5 MR. GALATI: Yes, Mr. Lee, this is Scott Galati. I'd
6 move 1 through 16, 18 and 19 into the record, please.

7 HEARING OFFICER LEE: Does any party object to
8 admission of Exhibits 1 through 16 and 18 through 19?

9 MR. SARVEY: Yes, this is Bob Sarvey. I'm objecting
10 to Exhibits 18 and 19.

11 HEARING OFFICER LEE: Okay and what's the basis?

12 MR. SARVEY: Well, first, they don't appear to have
13 any relevance to anyone's credentials or testimony. And
14 second, Mr. Galati has previously used these documents in a
15 closing argument where there will be no opportunity to rebut
16 the exhibit or whatever diatribe that comes with it.

17 When we opened you said these documents can only be
18 used to question a witness.

19 And then, third, the Hearing Order states: If a
20 party wishes to use a document during open, rebuttal, or
21 cross-examination, including for the purpose of impeachment
22 the document shall be identified at least one business day
23 prior to the start of the Evidentiary Hearing. It doesn't
24 specify that you can use a document for your closing
25 arguments. So, that's the reason I'm objecting.

1 HEARING OFFICER LEE: Thank you. Response, Mr.
2 Galati?

3 MR. GALATI: Yes, I think Mr. Sarvey is confused on
4 the difference between identifying an exhibit for purposes of
5 using it at the Evidentiary Hearing versus identifying an
6 exhibit that I want in the record. For example, I will not
7 be referring to data responses, yet those were properly in
8 the docket and they're being offered as an exhibit.

9 As far as relevance, I can't think of a more relevant
10 document than the CARB Resolution that sets forth the entire
11 electricity sector's greenhouse gas emission planning goals.
12 So, I think that the documents should be entered into the
13 record, both 18 and 19, which I guess are -- yeah, still 18
14 and 19, for those grounds.

15 HEARING OFFICER LEE: And does staff have a comment
16 on that? Mr. Murza or Ms. DeCarlo?

17 MS. DECARLO: Lisa DeCarlo for staff. We agree that
18 these documents are relevant to the fundamental issue that
19 Mr. Sarvey himself brings up about the GHG impacts of these
20 facilities, and we believe that they should be entered into
21 the record.

22 HEARING OFFICER LEE: Okay, objection overruled. At
23 this time the Committee admits Applicant's Exhibits 1 through
24 16 and 18 and 19 into evidence.

25 (Applicant Exhibit Nos. 1 through 16, and 18 and 19

1 admitted into evidence.)

2 HEARING OFFICER LEE: And now, we'll move on to the
3 exhibits identified by staff, Exhibits 200 through 203. Does
4 staff have a motion regarding your exhibits.

5 MR. MURZA: Hi, this is Michael Murza, staff attorney
6 for the Energy Commission. Staff moves to place Exhibits 200
7 through 203 into the record.

8 As we noted in the Prehearing Conference, Staff
9 Prehearing Conference Statement TN-233383 was not marked as
10 Exhibit 203 on the exhibit list and so, we would just like to
11 include that request in the record here.

12 HEARING OFFICER LEE: I'm sorry, can you state that
13 one more time?

14 MR. MURZA: Sure, this is Michael Murza again. So,
15 staff moves to place Exhibits 200 to 203 into the record. We
16 noticed that Staff's Prehearing Conference Statement, which
17 is Exhibit 203 was not marked as Exhibit 203 in the exhibit
18 list, and so we would like to request that marking.

19 HEARING OFFICER LEE: I see. Yes, we'll make that
20 amendment, unless there are any objections.

21 Mr. Galati?

22 MR. GALATI: Scott Galati on behalf of the Applicant.
23 No objection.

24 HEARING OFFICER LEE: And Mr. Sarvey?

25 MR. SARVEY: No objection.

1 HEARING OFFICER LEE: Okay. Then at this time the
2 Committee admits Exhibits 200 through 203 into evidence.

3 (Staff Exhibit Nos. 200 through 203 admitted
4 into evidence.)

5 HEARING OFFICER LEE: And now, moving on to Mr.
6 Sarvey's exhibits.

7 MR. SARVEY: Yeah, I --

8 HEARING OFFICER LEE: Sorry, let me, 300 through 306.
9 Do you have a motion regarding your exhibits?

10 MR. SARVEY: Yeah, I move that we enter Exhibits 300
11 through 306 into the record, please.

12 HEARING OFFICER LEE: And does any party object to
13 the admission of Intervenor's Exhibits 300 through 306?

14 MR. GALATI: Scott Galati, no objection.

15 HEARING OFFICER LEE: Staff?

16 MS. DECARLO: Lisa DeCarlo for staff. No objection.

17 HEARING OFFICER LEE: Thank you. And with that, the
18 Committee admits Exhibits 300 through 306 into evidence.

19 (Intervenor Sarvey Exhibit Nos. 300 through 306
20 admitted into evidence.)

21 HEARING OFFICER LEE: Now, regarding the topics for
22 hearing. As we discussed during the Prehearing Conference
23 the topics that we'll hear testimony on today are as follows:
24 Utilities and Service Systems, Air Quality, Public Health,
25 GHG Emissions, Energy Resources, and Generating Capacity.

1 Are there any other topics that I did not list that
2 the parties wish to address?

3 As a reminder, the general order of presentation and
4 questioning will be as follows: Applicant, staff, Mr.
5 Sarvey. With one exception that we discussed earlier that
6 we're going to start with the staff-sponsored witnesses from
7 SVP and BAAQMD.

8 And as a reminder, at the conclusion of testimony
9 we're going to allow the parties to make a closing statement
10 of up to ten minutes, starting with staff, then Mr. Sarvey,
11 and then finally Applicant.

12 So, the order of the Evidentiary Hearing, as I
13 understand it, is that the SVP and BAAQMD representatives are
14 available for cross-examination as staff-sponsored witnesses
15 at the beginning, and we'll take them first.

16 We will then take testimony on the topics in the
17 following order: The topic of Utilities and Service Systems,
18 the topics of Air Quality, Public Health and GHG Emissions
19 together, and the topics of Energy, Energy Resources, and
20 Generating Capacity together.

21 Do I have that right, Mr. Galati?

22 MR. GALATI: Yes. I just wanted to make it clear
23 that Silicon Valley Power is critical both in Energy
24 Resources, Utility Systems, and I believe also in Greenhouse
25 Gas Emissions. So, would the parties be directed to ask

1 those questions all together, and then we'll handle our
2 testimony in the order that you just identified. I just want
3 to make sure that Mr. Kolnowski can leave and not be called
4 back.

5 HEARING OFFICER LEE: That's correct. Any questions
6 to SVP and BAAQMD take those all together when we have those
7 witnesses on the stand.

8 MR. GALATI: Thank you.

9 HEARING OFFICER LEE: Staff, any questions?

10 MR. MURZA: This is Michael Murza for staff. No
11 questions, thanks.

12 HEARING OFFICER LEE: And Mr. Sarvey, did I get that
13 right?

14 MR. SARVEY: Yes.

15 HEARING OFFICER LEE: Okay, thank you.

16 Well, then, at this time I will call to the stand
17 staff's witness Kevin Kolnowski. Please let me know, Mr.
18 Kolnowski, when we have you on the line.

19 MR. KOLNOWSKI: I'm here.

20 HEARING OFFICER LEE: Great. And let me swear you
21 in.

22 Do you swear or affirm that the testimony you're
23 about to give in this proceeding is the truth, the whole
24 truth, and nothing but the truth?

25 MR. KOLNOWSKI: I do.

1 HEARING OFFICER LEE: Thank you. And would you
2 please state and spell your name for the record?

3 MR. KOLNOWSKI: It's Kevin Kolnowski, K-O-L-N-O-W-S-
4 K-I.

5 HEARING OFFICER LEE: Thank you. Staff, you may
6 proceed.

7 MR. MURZA: Thank you, Hearing Officer Lee. And
8 thank you, Mr. Kolnowski for joining us today.

9 Could you please briefly describe your
10 responsibilities at Silicon Valley Power?

11 MR. KOLNOWSKI: I am Silicon Valley Power's Chief
12 Operating Officer and I basically handle the day-to-day
13 operations of the electric utility.

14 MR. MURZA: Are you generally familiar with the
15 Mission College Data Center proposal?

16 MR. KOLNOWSKI: I am.

17 MR. MURZA: Great. Would the construction and
18 operation of the Mission College Data Center require Silicon
19 Valley Power to construct new infrastructure to accommodate
20 the project?

21 MR. KOLNOWSKI: No. This data center is located on
22 our northeastern loop which has sufficient capacity as it is
23 to accommodate this. There will be connections from our
24 system to the substation, but that's the extent of it.
25 There's no upgrades required.

1 MR. MURZA: Okay. Could you please discuss SVP's
2 current and future ability to accommodate the electrical
3 needs of the Mission College Data Center?

4 MR. KOLNOWSKI: We are able to accommodate them.

5 MR. MURZA: Would operation of the Mission College
6 Data Center create any procurement shortfall for SVP?

7 MR. KOLNOWSKI: No.

8 MR. MURZA: In your experience do data centers
9 typically operate at or near their maximum listed capacity?

10 MR. KOLNOWSKI: No, they do not.

11 MR. MURZA: Will SVP required to procure more natural
12 gas as a result of the Mission College Data Center?

13 MR. KOLNOWSKI: No.

14 MR. MURZA: What is the general trend of SVP's GHG
15 emissions through 2030?

16 MR. KOLNOWSKI: Our trend is declining. It's
17 improving less -- its carbon footprint is getting lower as
18 each year goes by.

19 MR. MURZA: Okay. Staff's calculation of Mission
20 College Data Center's GHG emissions uses a carbon intensity
21 for SVP of 430 pounds of carbon dioxide equivalent per
22 megawatt hour. In your opinion does the use of this number
23 lead to a likely overestimation of GHG emissions attributable
24 to the Mission College Data Center?

25 MR. KOLNOWSKI: Yes. Our carbon intensity factor is

1 currently lower than that and it's trending downward.

2 MR. MURZA: Okay. On page 9 of Intervenor Sarvey's
3 testimony he includes a quote from SVP's Integrated Resource
4 Plan that states that the Commission's emissions rate for
5 spot market purchases is too high and will cause SVP to
6 exceed its target if applied. Was this statement intended to
7 be removed from the IRP?

8 MR. KOLNOWSKI: It was. In the revised IRP that we
9 submitted in August of '19, we removed it from one section,
10 but we overlooked it from another section. The intent was to
11 remove that statement.

12 MR. MURZA: Okay. And Intervenor Sarvey implies that
13 this statement means that SVP concedes it can only meet its
14 GHG target if it can ignore the GHG impacts of its spot
15 market purchases. Is this SVP's position?

16 MR. KOLNOWSKI: No, it is not.

17 MR. MURZA: Are you familiar with the Senate Bill 100
18 mandate that electricity portfolios be 60 percent renewable
19 by 2030 and that it's the state's goal that portfolios
20 consist of 100 percent renewable or zero carbon electricity
21 by 2045?

22 MR. KOLNOWSKI: Yes.

23 MR. MURZA: Is SVP working to meet these targets?

24 MR. KOLNOWSKI: Yes, we are.

25 MR. MURZA: Can you explain what actions SVP is

1 taking to meet the state GHG and RPS goals and requirements?

2 MR. KOLNOWSKI: We continue to source power purchase
3 agreements of renewable energy. We currently have projects
4 coming on over the next several years over 400 megawatts.
5 This is of solar and wind resources. And we're always
6 looking for opportunities for more renewable power.

7 MR. MURZA: Would the potential electricity demand
8 from Mission College Data Center impede the ability of SVP to
9 meet its GHG and RPS goals and requirements?

10 MR. KOLNOWSKI: No. It will require us to procure
11 more renewable energy, but it's a very doable activity. We
12 have a staff of about five people that work on this. And we
13 work through -- we put out proposals or requests for
14 proposals from ourselves, and we also use our GPA agency,
15 Northern California Power Agency. They periodically solicit
16 renewable projects which we're evaluating right now.

17 MR. MURZA: All right. And could you generally
18 discuss the extent to which the electricity produced or
19 procured by SVP meets California's Cap and Trade Program
20 requirements?

21 MR. KOLNOWSKI: Our power plants are in the Cap and
22 Trade Program. By our power plants, that is our DVR power
23 plant and our cogeneration facility. Our Generra facility is
24 a peaking plant. It's too small to be under the Cap and
25 Trade Program. However, that plant, its carbon emissions are

1 captured by PG&E and they charge in the gas tariff to cover
2 its carbon emissions.

3 The power plants that we purchase power from the
4 Northern California Power Agency, they are in the Cap and
5 Trade market. And likewise, with other resources that we
6 have contracts with, they are in the Cap and Trade Program.
7 And from my understanding when we buy energy from the spot
8 market or the Cal-ISO grid, to sell into the Cal-ISO grid,
9 they also have to be a participant in the Cap and Trade
10 Program. So, everything that's in our portfolio or what we
11 buy and sell is covered by Cap and Trade.

12 MR. MURZA: Okay. And could you please discuss the
13 effect of PG&E's public safety power shutoffs, the effects
14 that they've had or are anticipated to have on SVC's system?

15 MR. KOLNOWSKI: To date we have not been affected
16 directly in Santa Clara by PG&E's PSPS program. We receive
17 our power at transmission level, which is either 115 or 230
18 kV. And PG&E communicates with us at a different level than
19 if it was distribution. Our control operators, we have a
20 24/7 staff-manned control center, and they coordinate with
21 PG&E and the California Independent System Operator, which
22 would be the one directing a transmission level outage that
23 would come from the Cal-ISO.

24 And to date we have not been affected directly. We
25 have had indirect effects from NCPA, where their geothermal

1 project had an outage. But that didn't affect us during the
2 time period that that plant was out. What it will affect us
3 is when we do our power content label we'll have purchase
4 power from somewhere else to make that up so it will change
5 our carbon intensity level.

6 We could be affected by a PSPS event. We think it is
7 unlikely. On the activities PG&E has been doing over the
8 last several years of strengthening their transmission
9 system, but again, we have not had an outage to date caused
10 by the PSPS. It could happen, it's unlikely.

11 MR. MURZA: Okay. Great. Well, thank you very much
12 for making yourself available to us for questioning, Mr.
13 Kolnowski.

14 That concludes my direct questioning, so the witness
15 is available for questions from the Committee or cross-
16 examination.

17 HEARING OFFICER LEE: Yes, thank you, Mr. Murza.
18 Applicant, did you have any questions?

19 MR. GALATI: Yes, I do. This is Scott Galati. Thank
20 you, Mr. Lee.

21 HEARING OFFICER LEE: Please proceed.

22 MR. GALATI: Oh, I'm sorry?

23 HEARING OFFICER LEE: Please proceed.

24 MR. GALATI: Thank you.

25 Mr. Kolnowski, thank you for coming and testifying

1 again. I have a question for you that deals with your
2 planning process. You previously -- we've talked about and
3 there's an exhibit marked, the Integrated Resource Plan that
4 you just testified to about a couple of statements in it.
5 You're very familiar with that document, the 2018 IRP?

6 MR. KOLNOWSKI: Yes. Yes, I am.

7 MR. GALATI: And that document has to be updated
8 every five years, correct?

9 MR. KOLNOWSKI: Correct.

10 MR. GALATI: And you submit that to the Energy
11 Commission for review?

12 MR. KOLNOWSKI: Correct.

13 MR. GALATI: And the Energy Commission reviews to see
14 if the document proves it's going to meet the greenhouse gas
15 reduction emission goals, is that correct?

16 MR. KOLNOWSKI: Yes.

17 MR. GALATI: Can you briefly describe the planning
18 process that Silicon Valley Power undertakes to ensure
19 reliable service between these five years of Integrated
20 Resource Plan updates?

21 MR. KOLNOWSKI: We have a resource group and which
22 consists of five employees. And we have a trading group
23 which consists of another six or seven. That group works as
24 a team, along with connection with the Northern California
25 Power Agency. And we will put out requests for proposals for

1 projects and we'll also partner with NCPA for projects
2 they're putting out for the group of entities that make up
3 NCPA. There's a member of about seven municipalities like
4 ourselves, where we've gone in with them on projects to meet
5 our power needs.

6 We are always looking and we are always talking to
7 folks to understand what's taking place in the market. And
8 we have plans to meet our procurement obligations to meet the
9 load that we have projected that's coming online.

10 And in the IRP we have stated, this is both the
11 initial and the revised, and that the Energy Commission has
12 reviewed it and they concurred with it that we're on track to
13 meet the RPS standards for 2030 based on our portfolio and
14 the strategy that we've laid out.

15 MR. GALATI: Okay, thank you. Could you describe how
16 you keep track of how your -- the load might be changing, or
17 forecasted load might be changing, maybe specifically with
18 data centers?

19 MR. KOLNOWSKI: Yeah, since the data center is where
20 the growth is occurring, we have key customer reps that -- we
21 have key customer reps and we break the city up into a third,
22 and they each have different customers. And one of their
23 goals is to stay plugged in with them to determine what their
24 loading rate is and their projected ramp up, if there is any,
25 is going to be. So, we meet with them on a regular basis.

1 We hold meetings as a group with the industry members and the
2 key customer reps stay in connection with them. And they
3 have an obligation, as I think we have a filing that comes to
4 the Energy Commission every year of what our projected demand
5 will be. And so, we're always updating what is being
6 projected by the data centers and other development in the
7 city so we make sure we have an accurate projection and we
8 can meet our procurement obligations.

9 MR. GALATI: Thank you. What percentage of the
10 design maximum of a data center would you estimate you
11 ultimately serve?

12 MR. KOLNOWSKI: When we looked at data from about a
13 month ago, we were running at about 40 percent. We typically
14 see, there's I think two of the 50 data centers that are
15 running 75 percent. That's the max we've ever seen. We
16 always hear that they're always going to go up, but they have
17 a tendency not to do that.

18 MR. GALATI: Okay. And do you believe that the
19 Mission College Data Center's electricity demand will
20 interfere with your ability to meet the greenhouse gas and
21 RPS goals as outlined in your Integrated Resource Plan?

22 MR. KOLNOWSKI: We do not feel it's going to be a
23 problem.

24 MR. GALATI: No further questions. Thank you very
25 much.

1 HEARING OFFICER LEE: Yes, hi, this is Ralph Lee.

2 Mr. Sarvey, did you have some questions?

3 MR. SARVEY: Yes, I do.

4 HEARING OFFICER LEE: Yeah, please proceed.

5 MR. SARVEY: Do you know what amount of the current
6 data centers operating in Silicon Valley Power's territory
7 contribute to your peak demand?

8 MR. KOLNOWSKI: I'm trying to understand exactly the
9 piece that you're -- what you're looking for.

10 MR. SARVEY: I was just asking if you knew.
11 Currently, you have 49 or 50 data centers operating and I was
12 wondering what their contribution to your peak demand is?

13 MR. KOLNOWSKI: On an average, our -- I'm trying to
14 remember, this is 2019 data or 2018 data. Our average -- our
15 average system load was 425 megawatts. The industry was 383.
16 On the peak days our residential load, that is when our
17 residential load peaks. The data center load won't go up,
18 but it's fairly flat. It does go up somewhat.

19 My guess or my estimate is that on a peak day that
20 data centers are about 500 megawatts.

21 MR. SARVEY: About 500 megawatts.

22 MR. KOLNOWSKI: Yeah. And that's usually -- that
23 usually occurs on the degree day probably for about two hours
24 in the middle of the afternoon. We are still a traditional
25 peaking system.

1 MR. SARVEY: And is it true that 40 percent of your
2 load is allocated to data centers?

3 MR. KOLNOWSKI: I know that the industrial -- I kind
4 of put it all in the industrial and not just specifically to
5 the data centers. The industry piece is about 90 percent of
6 our load.

7 MR. SARVEY: Okay, thank you.

8 MR. KOLNOWSKI: Our residential is about six and a
9 half to seven percent. That's on the average.

10 MR. SARVEY: So, in order for your Integrated
11 Resource Plan to be approved or amended it needs the approval
12 of the Santa Clara City Council, is that correct?

13 MR. KOLNOWSKI: I believe that's correct. Because
14 the original document went to Council and I think they
15 delegated authority to make errata changes, which we did.
16 But we still brought it back to council when it went in for
17 the final.

18 MR. SARVEY: So, everything in your original and this
19 amendment plan's been approved by the City of Santa Clara?

20 MR. KOLNOWSKI: Yes.

21 MR. SARVEY: And that document, the Integrated
22 Resource Plan is the official position of the City of Santa
23 Clara, is that correct?

24 MR. KOLNOWSKI: It is.

25 MR. SARVEY: Okay. PG&E's PSPS shutoff last year

1 eliminated access to one of your geothermal resources for
2 about five months. Is that true?

3 MR. KOLNOWSKI: I believe that is true. I haven't
4 gone back to verify the data. I think the second unit just
5 came on in May. And it may not have been related to the
6 PSPS. They may have had a separate issue. Because I know
7 the line came back in service and I believe the one unit had
8 another problem that's not PSPS related. It may have been a
9 mechanical issue.

10 MR. SARVEY: And the PSPS shutoff also reduced hydro
11 resources owned by NCPA, which SVP utilities. Is that true?

12 MR. KOLNOWSKI: Yes.

13 MR. SARVEY: Okay. NCPA's submission to the PUC
14 states that the City of Ukiah and the City of Healdsburg,
15 which are both members of Northern California Power Agency,
16 along with SVP, were completely blacked out by PG&E's PSPS.
17 Is that your understanding?

18 MR. KOLNOWSKI: Yes.

19 MR. SARVEY: Okay. Could you display Exhibit 302,
20 page 106 of 109?

21 MS. CARLOS: Mr. Sarvey, could you please repeat
22 which pages?

23 MR. SARVEY: It would be page 106 and 109. That page
24 right there. That's the page right there. Okay, thank you.

25 Exhibit 302, on page 106, is a map of Santa Clara's

1 defined disadvantaged community. And according to the IRP
2 it's comprised of residential customers residing near the
3 borders of Highway 101 and the San Jose Airport. And it's
4 comprised of 24/7 manufacturing, SVP's DVR Power Plant, data
5 centers, and high tech companies, and small industrial.

6 Is the Mission College Data Center located in this
7 disadvantaged community displayed on this map?

8 MR. KOLNOWSKI: I can't quite make the map out in
9 terms of the actual location.

10 MR. SARVEY: Would the Mission College Data Center be
11 located between Highway 101 and the San Jose Airport?

12 MR. KOLNOWSKI: I'd have to look at a Google map with
13 the address to be completely positive. I know it's at 2305
14 Mission Boulevard. And I don't believe it's near the college
15 because the college is not in that area, but it's on the
16 boulevard.

17 MR. SARVEY: Well, we'll move on. Can Silicon Valley
18 Power require the Applicant to use an alternative source of
19 power for the backup diesel generators when it executes the
20 Interconnection Agreement?

21 MR. KOLNOWSKI: Say that again?

22 MR. SARVEY: Can Silicon Valley Power require this
23 Applicant, Mission College, to use an alternative source
24 power for the backup diesel generators when it executes its
25 Interconnection Agreement or its Will Serve Letter?

1 MR. KOLNOWSKI: I'm not sure if we have a provision
2 in our code that would require us to do that. I know it
3 would take a resolution to be passed by council. And it
4 could be done, but there's a lot of steps that would have to
5 take place.

6 MR. SARVEY: So, is it your understanding that one of
7 the requirements to the Integrated Resource Plan is to
8 minimize localized air pollutants and GHG emissions with
9 priority on disadvantaged communities?

10 MR. KOLNOWSKI: Yes.

11 MR. SARVEY: Okay. Now, the 200-megawatt Big Horn
12 wind project is located in Washington, is that correct?

13 MR. KOLNOWSKI: Correct.

14 MR. SARVEY: And when did SVP start receiving
15 delivery from that project?

16 MR. KOLNOWSKI: One of them was in 2006 and one of
17 them was in 2010.

18 MR. SARVEY: Okay. And then, the 200-megawatt Viente
19 Loco Project is an out-of-state wind project and what state
20 is it located in?

21 MR. KOLNOWSKI: It's in New Mexico.

22 MR. SARVEY: Okay. And SVP intends to take delivery
23 of that in 2021, is that a correct assumption?

24 MR. KOLNOWSKI: Correct.

25 MR. SARVEY: So, both of those wind projects were

1 added to address load growth, would that be correct?

2 MR. KOLNOWSKI: Yes.

3 MR. SARVEY: Okay.

4 MR. KOLNOWSKI: Load growth and our renewable
5 portfolio.

6 MR. SARVEY: Okay.

7 MR. KOLNOWSKI: SVP has always been a very heavy
8 renewable organization because that's what our customers like
9 and want.

10 MR. SARVEY: Okay. So, Exhibit 302, page 58, at 109
11 states: The Integrated Resource Plan -- or excuse me.
12 Exhibit 302, page 58, at 109 states: The near term
13 accelerated growth observed in the load forecast is primarily
14 due to the growth from data centers which are already in the
15 city's planning and development process.

16 Do you agree with that statement?

17 MR. KOLNOWSKI: Yes.

18 MR. SARVEY: And then, on page 4-6 of the Integrated
19 Resource Plan it says: The high density of data centers in
20 SVP's territory and the planned addition of new data centers
21 drive the higher energy demand and load factor for the
22 utility.

23 Do you agree with that conclusion as well?

24 MR. KOLNOWSKI: Yes.

25 MR. SARVEY: Okay. And then page 58, 109, it says:

1 Starting around 2021 SVP's growth is more heavily weighted to
2 data centers due to interest and demand from consumer base to
3 locate in SVP's service territory and because of
4 technological advances which allow for a higher potential
5 energy usage density.

6 Would you agree with that statement as well?

7 MR. KOLNOWSKI: Yes.

8 MR. SARVEY: Thank you very much. That's all I have.

9 HEARING OFFICER LEE: Yes, thank you. Does staff
10 have any further questions?

11 MR. MURZA: This is Michael Murza for staff. No, we
12 don't have any further questions.

13 HEARING OFFICER LEE: Okay. Thank you, Mr.
14 Kolnowski. And by the way, do any of the parties see any
15 reason why we need the witness for the remainder of the
16 hearing? Or, can I ask if you would like to be released?
17 Staff?

18 MR. MURZA: This is Michael Murza for staff. We
19 don't see any further need for the witness.

20 HEARING OFFICER LEE: Applicant?

21 MR. GALATI: Yeah, this is Scott Galati. We don't
22 see a further need for the witness unless the Committee has
23 questions.

24 HEARING OFFICER LEE: Thank you. And Mr. Sarvey?

25 MR. SARVEY: Oh, he's answered all my questions and I

1 thank him very much for appearing.

2 HEARING OFFICER LEE: Yeah. Well, thank you Mr.
3 Kolnowski. You're released from the stand and it sounds like
4 you're not needed for testimony anymore today. If you choose
5 to remain at the hearing, you will remain sworn-in for the
6 remainder. Thank you, at this time you're released.

7 MR. KOLNOWSKI: Thank you.

8 HEARING OFFICER LEE: Now, at this time I'd like to
9 call to the stand staff's witnesses from BAAQMD. Staff,
10 would that be Mr. Jakub Zielkiewicz and Caryn Quist, or who's
11 coming?

12 MR. MURZA: This is Michael Murza for staff. We will
13 only be calling Mr. Zielkiewicz to the stand for opening
14 testimony today.

15 HEARING OFFICER LEE: Thank you. Then at this time I
16 call to the stand Mr. Zielkiewicz.

17 MR. ZIELKIEWICZ: Yes, hello.

18 HEARING OFFICER LEE: Yes, hello. This is the
19 Hearing Officer Ralph Lee. Let me swear you in.

20 Do you swear or affirm that the testimony you're
21 about to give in this proceeding is the truth, the whole
22 truth, and nothing but the truth?

23 MR. ZIELKIEWICZ: Yes, I do.

24 HEARING OFFICER LEE: And will you please state and
25 spell your name for the record?

1 MR. ZIELKIEWICZ: Sure. Jakub Zielkiewicz. Jakub is
2 spelled J-A-K-U-B. Zielkiewicz is spelled Z-I-E-L-K-I-E-W-I-
3 C-Z.

4 HEARING OFFICER LEE: Thank you. Staff, you may
5 proceed with your witness.

6 MR. MURZA: Thank you, Hearing Officer Lee. This is
7 Michael Murza again for staff.

8 Good afternoon, Mr. Zielkiewicz. Thank you for
9 joining us today and for offering your expertise.

10 Could you please briefly describe your
11 responsibilities at BAAQMD?

12 MR. ZIELKIEWICZ: Sure. I'm an Advance Projects
13 Advisor at the Air District. I advise on climate and
14 greenhouse gas policy, and also coordinate the Air District's
15 climate protection activities as part of the Climate
16 Protection and Planning Team.

17 MR. MURZA: And are you generally familiar with the
18 Mission College Data Center Project?

19 MR. ZIELKIEWICZ: Yes, I am.

20 MR. MURZA: Great. Did you help prepare the comments
21 BAAQMD submitted on CEC staff's Initial Study and Proposed
22 Mitigated Negative Declaration for the Mission College Data
23 Center Project?

24 MR. ZIELKIEWICZ: Yes.

25 MR. MURZA: And have you reviewed staff's analysis

1 and its response to your comments?

2 MR. ZIELKIEWICZ: Yes.

3 MR. MURZA: Are you familiar with the thresholds of
4 significance used by staff?

5 MR. ZIELKIEWICZ: Yes.

6 MR. MURZA: Do you disagree with the thresholds that
7 they chose?

8 MR. ZIELKIEWICZ: So, for the indirect greenhouse gas
9 emissions staff demonstrated consistency with state programs
10 and, specifically, staff discussed the greenhouse gas
11 emissions from the electricity delivered to the project, that
12 they would be reduced through programs and mandates such as
13 the (indiscernible) -- zero carbon electricity by 2045.

14 Regarding the diesel generators, there's a concern
15 about the use of fossil-based diesel fuel. There's concern
16 about consistency of fossil-based diesel use with the state's
17 objective of achieving carbon neutrality no later than 2045.

18 I'll note that as stated in our comment letter, the
19 Air District's launched the Diesel Free By '33 Initiative and
20 campaign to reduce fossil diesel use. We're also funding an
21 energy storage project at a data center in Santa Clara. I
22 also understand that CEC is also funding a data center
23 microgrid project.

24 These initiatives, in addition to broader reduction
25 of diesel use are areas that we're keen to continue to work

1 with, with CEC.

2 MR. MURZA: Okay, thank you. On page 7 of Intervenor
3 Sarvey's testimony he asserts that the Commission should use
4 the threshold of 1,100 million tons of carbon dioxide
5 equivalent per year, identified in BAAQMD's May 2017 CEQA
6 guidelines for a project's area, mobile, and indirect
7 sources. Is this threshold still applicable?

8 MR. ZIELKIEWICZ: So, the 1,000 metric ton threshold,
9 so that's for land use projects including residential,
10 commercial and industrial projects. It was developed based
11 on the AB 32 goal of reducing greenhouse gas emissions to
12 1990 levels by the year 2020. And although the threshold was
13 adopted by our board, it functionally doesn't make sense to
14 use since the year 2020 is upon us and this project won't be
15 live until after 2020.

16 I'll note that as an agency we're in the process of
17 updating the thresholds, evaluating what it means to be less
18 than significant, understanding how a project can be
19 consistent with longer-term state policies such as carbon
20 neutrality no later than 2045. We're continuing and we will
21 continue to work on this threshold's update going forward.

22 MR. MURZA: Okay. Do you agree with staff's use of
23 the 430 pounds of carbon dioxide equivalent per megawatt hour
24 to estimate the project's potential indirect GHG emissions
25 from its electricity use?

1 MR. ZIELKIEWICZ: So, I mean Mr. Kolnowski spoke this
2 a bit. My understanding is that that number is based on
3 Silicon Valley Power's 2017 emissions, I believe, and it will
4 likely be lower in the coming years as SVP procures resources
5 to meet its renewables obligation pursuant to SB 350 and SB
6 100. I don't think it's representative of SVP's GHG
7 emissions at the time of the Mission College Project build
8 out or throughout the lifetime of the data center's
9 operations. But I do think that the emission factor used,
10 it's a conservative number for estimating emissions from
11 electricity use.

12 MR. MURZA: Okay, thank you very much. Mr.
13 Zielkiewicz thank you for your time. That concludes my
14 direct questioning for you. And the witness is available for
15 questions from other parties or the Committee. Thank you.

16 MR. ZIELKIEWICZ: Thank you.

17 HEARING OFFICER LEE: Yes, hello, this is Ralph Lee.
18 Does the Applicant have any questions for the witness?

19 MR. GALATI: Yes, I do. This is Scott Galati. Ms.
20 Carlos, can we bring up Exhibit 15 and page 5 of the PDF.
21 Right there, thanks. Right there where it stays stationary
22 engines. Thank you.

23 Good afternoon, Mr. Zielkiewicz. Am I saying your
24 name correct?

25 MR. ZIELKIEWICZ: Yeah, that's an admirable try,

1 thank you.

2 (Laughter)

3 MR. GALATI: Thank you much for testifying. I just
4 wanted to ask you a question. This is from the your -- the
5 Bay Area Air Quality Management District's Diesel Free
6 statement, Diesel Free By '33, right. Are you familiar with
7 this?:

8 MR. ZIELKIEWICZ: That's correct. Yes.

9 MR. GALATI: The third paragraph, the last sentence
10 says that when speaking of larger generators and alternative
11 technologies here that they will become a more viable option
12 for larger backup applications within the next 15 years,
13 maybe especially true when batteries are teamed with
14 renewable power solutions and regulations requiring carbon
15 pricing or market-based carbon control programs such as
16 California's AB 32 Cap and Trade Program. Do you disagree
17 with that statement?

18 MR. ZIELKIEWICZ: So, this was from 2018, is that
19 correct? Yeah, I believe that's right. Yeah, I think
20 there's been some progress made over the past year and a half
21 on the front. I think that will continue to be more true as
22 time progresses, yes.

23 MR. GALATI: Thank you. Did you read the application
24 for the Small Power Plant Exemption that was filed by Oppidan
25 to the Energy Commission?

1 MR. ZIELKIEWICZ: I believe I did. There's been a
2 lot of these projects coming through. I believe I did when
3 it first came out, yes.

4 MR. GALATI: Okay. Do you remember that there's a
5 Section 5 on Alternatives that were rejected. Are you
6 familiar with that?

7 MR. ZIELKIEWICZ: Off the top of my head, no, but I
8 probably read it.

9 MR. GALATI: Okay, thank you. No further questions.

10 MR. ZIELKIEWICZ: Thank you.

11 HEARING OFFICER LEE: Yeah, thank you. Hold on one
12 second. Mr. Sarvey, do you have any questions for this
13 witness?

14 MR. SARVEY: Yes, I do.

15 HEARING OFFICER LEE: Yeah, please proceed.

16 MR. SARVEY: Okay. The Applicant is implying that
17 the Diesel Free By '33 Program requires a non-zero technology
18 alternative to replace diesel engines. Does the district
19 believe that the Mission College Project could you biodiesel,
20 natural gas, or fuel cells to eliminate the use of diesel to
21 accomplish the goals of the Diesel Free By '33 Initiative?

22 MR. ZIELKIEWICZ: We think there is solutions in
23 technology, we think there's solutions in renewable fuel. If
24 push comes to shove there is solutions in procuring carbon
25 offsets.

1 MR. SARVEY: So, at this time it's not necessary to
2 have a zero technology -- zero-emitting technology to replace
3 the diesel generators to comply with the Diesel Free
4 Initiative. That was the question I was asking, is that
5 true?

6 MR. ZIELKIEWICZ: Yeah, technology and fuels,
7 correct.

8 MR. SARVEY: Okay, thank you. Has the City of Santa
9 Clara and the CEC staff met with BAAQMD to discuss
10 alternatives to diesel engines?

11 MR. ZIELKIEWICZ: We've had discussions with the
12 Energy Commission and SVP staff about alternatives, correct.

13 MR. SARVEY: Have you guys come up with any solutions
14 to that?

15 MR. ZIELKIEWICZ: So, I mentioned in -- well, it's in
16 the letter and in the testimony as well. One of the projects
17 that we're funding is with SVP, so that's something that
18 we're actively exploring or even implementing.

19 MR. SARVEY: Okay. The threshold that was adopted to
20 mitigate emissions for a land use project was 1,100 metric
21 tons and it was developed to satisfy emission reductions
22 needed to comply with AB 32. Am I understanding that
23 correctly?

24 MR. ZIELKIEWICZ: I'm sorry, can you repeat that
25 again?

1 MR. SARVEY: I said, the threshold that you guys
2 adopted for land use prices at 1,100 metric tons was
3 developed to satisfy the -- or, emission reductions needed to
4 comply with AB 32, is that correct?

5 MR. ZIELKIEWICZ: Yeah, it was the 2020, with the
6 2020 target, correct.

7 MR. SARVEY: All right. And now, there are more
8 stringent requirements. In your mind, considering the need
9 to comply with the more stringent GHG requirements and
10 reductions that the State of California is putting forward
11 shouldn't the 1,100 metric significance level be lower?

12 MR. ZIELKIEWICZ: Well, that's -- I mean, we're in
13 the process of evaluating that threshold and what it means to
14 be on the trajectory to meet the SB 32 target and deeper
15 decarbonization. I think based on, you know, CEC's
16 discretion as the lead agency, you know, it's their
17 discretion to choose a threshold and justify it. That's
18 something that we had in our guidance but, again, that
19 guidance is dated.

20 MR. SARVEY: So, are you familiar with the CARB
21 threshold of 7,000 metric tons per year for industrial
22 projects and that includes indirect electricity use?

23 MR. ZIELKIEWICZ: I believe I saw that as an exhibit.
24 I wasn't familiar with whether it was adopted or not.

25 MR. SARVEY: Has the Mission College Data Center

1 submitted an application to the Air District yet?

2 MR. ZIELKIEWICZ: I don't believe so. But I believe
3 my colleague, Caryn Quist, from our Engineering Team is on
4 the line and probably can speak better to the application and
5 the permitting process.

6 MR. SARVEY: Well, BNAAQMD has a Community At Risk
7 Program. To your knowledge, is the Mission College Data
8 Center located in that Community At Risk area?

9 MR. ZIELKIEWICZ: When you say Community At Risk are
10 you referring to the CalEnviroScreen designation or the AB --

11 MR. SARVEY: The CARE program.

12 MR. ZIELKIEWICZ: I see. Off the top of my head I
13 don't know, but I can double check that.

14 MR. SARVEY: Okay. Are there additional CEQA
15 significance thresholds for at-risk communities?

16 MR. ZIELKIEWICZ: Are there additional CEQA -- sorry,
17 can you repeat the question?

18 MR. SARVEY: Are there additional CEQA significance
19 thresholds for these at-risk communities?

20 MR. ZIELKIEWICZ: For GHGs, I'm not aware of that.

21 MR. SARVEY: How about for other pollutants?

22 MR. ZIELKIEWICZ: That's -- I mean it's not my forte.
23 I wouldn't feel comfortable speaking to it.

24 MR. SARVEY: Okay. When conducting a cumulative
25 health risk assessment does BAAQMD require reasonably

1 foreseeable sources to be included in the analysis?

2 MR. ZIELKIEWICZ: Again, the air quality realm isn't
3 my bread and butter.

4 MR. SARVEY: Okay.

5 MR. ZIELKIEWICZ: Sorry, Mr. Sarvey, going back to
6 your question about the location, Mission College is right
7 outside of the CARE area.

8 MR. SARVEY: Okay, thank you very much. That's all I
9 have.

10 MR. ZIELKIEWICZ: Thank you.

11 HEARING OFFICER LEE: Okay, this is Hearing Officer
12 Ralph Lee. And does staff have any further questions for the
13 witness?

14 MR. MURZA: This is Michael Murza for staff. We
15 don't have any additional questions.

16 HEARING OFFICER LEE: Okay. And no further witnesses
17 for BAAQMD?

18 MR. MURZA: This is Michael Murza again. That's
19 correct.

20 HEARING OFFICER LEE: Okay. Again, I'll ask do we
21 need this witness for the remainder of the hearing or can
22 this witness be released? I'll ask the parties, starting
23 with Applicant.

24 MR. GALATI: Scott Galati for the Applicant. No, we
25 do not need this witness, thank you.

1 HEARING OFFICER LEE: And staff?

2 MR. MURZA: This is Michael Murza. We do not need
3 the witness any longer.

4 HEARING OFFICER LEE: And Mr. Sarvey?

5 MR. SARVEY: I just want to thank the witness for
6 appearing. I have no more questions for him.

7 HEARING OFFICER LEE: Okay, thank you Mr.
8 Zielkiewicz. You are released from the stand. And if you
9 choose to remain at the hearing, you'll remain sworn in for
10 the remainder of the hearing.

11 MR. ZIELKIEWICZ: All right, thank you.

12 HEARING OFFICER LEE: Thank you. And do we have any
13 more witnesses on Utilities and Service Systems?

14 Applicant, do you have any witnesses? It was my
15 understanding that you did not have any witnesses on
16 Utilities and Service Systems, is that correct?

17 MR. GALATI: This is Scott Galati. That's correct.

18 HEARING OFFICER LEE: And staff, the same question to
19 you, do you have any additional witnesses to present on the
20 topic of Utilities and Service Systems?

21 MR. MURZA: This is Michael Murza. We do not have
22 any witnesses that would be speaking directly to Utilities
23 and Services Systems.

24 HEARING OFFICER LEE: Okay, thank you.

25 And Mr. Sarvey, that same question to you. My

1 understanding is you did have some testimony, is that
2 correct?

3 MR. SARVEY: Well, I don't have any direct testimony
4 on it.

5 HEARING OFFICER LEE: Okay. So, is it the parties'
6 understanding that we have now completed with the SVP
7 witnesses, the BAAQMD witnesses, and the topic of Utilities
8 and Service Systems?

9 Applicant, is that correct?

10 MR. GALATI: This is Scott Galati. If Mr. Sarvey's
11 not going to testify on those subject matters then I agree,
12 we don't have any more witnesses on that subject matter from
13 Applicant, but I'll defer to staff.

14 HEARING OFFICER LEE: Thank you. And staff, is that
15 correct that we are finished now with the SVP witnesses, the
16 BAAQMD witnesses, and any witnesses on the topic of utilities
17 -- or, any witnesses who wish to testify directly on the
18 topic of Utilities and Service Systems?

19 MR. MURZA: This is Michael Murza for staff. That is
20 correct.

21 HEARING OFFICER LEE: Okay. And Mr. Sarvey, the same
22 question to you. Do you have any --

23 MR. SARVEY: Yeah, that's correct. I believe the
24 record speaks for itself and there's no more additional
25 testimony necessary.

1 HEARING OFFICER LEE: Okay, thank you. With that we
2 move on to the topic of Air Quality, Public Health, and GHG
3 Emissions, which we're going to take together.

4 And so, it's my understanding that Applicant's
5 witnesses will give testimony on this in a panel, if I got
6 that correct. So, at this time I call to the stand
7 Applicant's witnesses for its panel on the topics of Air
8 Quality, Public Health, and Greenhouse Gas Emissions.

9 MR. GALATI: Thank you.

10 HEARING OFFICER LEE: Mr. Galati -- oh, sorry. Would
11 that be Mr. Johnson, Mr. Lisenbee, and Ms. Geller?

12 MR. GALATI: That's correct.

13 HEARING OFFICER LEE: Okay. Please let me know when
14 we have them on the line.

15 MR. GALATI: I believe that they are on the line.
16 Are you guys unmuted? Please, let's go with Mr. Johnson, are
17 you there? Drew Johnson, could you unmute, please.

18 I'm having difficulty hearing Mr. Johnson. Let me
19 see if Ms. Geller is there.

20 MS. GELLER: Hi, Scott, I'm here. Can you hear me?

21 MR. GALATI: Yes, I can, thank you. And Mr.
22 Lisenbee?

23 MR. LISENBEE: Yes, I'm here.

24 MR. GALATI: Mr. Johnson, have you joined? I think
25 he must be having problems. I actually see him here. Could

1 somebody unmute Mr. Johnson because I believe that he's
2 muted, but I think he is on a telephone call and not using
3 his computer.

4 HEARING OFFICER LEE: Ms. Carlos, could you check
5 that? Do you see him?

6 MR. GALATI: Drew Johnson is the name.

7 MS. CARLOS: Drew -- sorry. Drew Johnson, if you're
8 on the phone could you press star 9 so that I know which
9 phone number you're associated with?

10 MR. GALATI: His hand is raised.

11 HEARING OFFICER LEE: Okay.

12 MS. CARLOS: You should be unmuted now, Mr. Johnson.

13 MR. JOHNSON: Drew Johnson's here. Sorry about that.

14 HEARING OFFICER LEE: Okay, great.

15 MR. GALATI: Thank you.

16 HEARING OFFICER LEE: This is Ralph Lee, Hearing
17 Officer. At this time I would like to swear in the witnesses
18 and I'm just going to do it altogether.

19 Do you swear or affirm that the testimony you're
20 about to give in this proceeding is the truth, the whole
21 truth, and nothing but the truth?

22 Mr. Johnson?

23 MR. JOHNSON: I do.

24 HEARING OFFICER LEE: Mr. Lisenbee?

25 MR. LISENBEE: Yes, I do.

1 HEARING OFFICER LEE: And Ms. Geller?

2 MS. GELLER: Yes, I do.

3 HEARING OFFICER LEE: Very good. And then, again, I
4 want to have everyone state their name. Mr. Johnson, would
5 you please state and spell your name for the record?

6 MR. JOHNSON: Drew Johnson, D-R-E-W J-O-H-N-S-O-N.

7 HEARING OFFICER LEE: And Mr. Lisenbee?

8 MR. LISENBEE: Michael, M-I-C-H-A-E-L, Lisenbee, L-I-
9 S-E-N-B-E-E.

10 HEARING OFFICER LEE: And Ms. Geller?

11 MS. GELLER: Elizabeth Geller, E-L-I-Z-A-B-E-T-H,
12 Geller, G-E-L-L-E-R.

13 HEARING OFFICER LEE: Thank you. Mr. Galati, please
14 proceed with your witnesses.

15 MR. GALATI: Thank you. I'm going to ask each of you
16 to once again state your name, and describe where you work,
17 and what your role is on the project. Let's start with Mr.
18 Johnson, please.

19 MR. JOHNSON: Drew Johnson, Oppidan Investment
20 Company. We are the landlord and the owner. And I need our
21 National Critical Infrastructure Practice.

22 MR. GALATI: Thank you. Ms. Geller?

23 MS. GELLER: This is Elizabeth Geller. I work for
24 Trinity Consultants, and environmental consulting firm
25 specializing in air quality analysis. I'm a registered

1 professional engineer in the State of California. And my
2 role in the project was preparing the Air Quality Impact
3 Assessment submitted as part of the application, as well as
4 responding to post-filing data requests related to air
5 quality.

6 MR. GALATI: Thank you. And Mr. Lisenbee?

7 MR. LISENBEE: Yes, my name is Michael Lisenbee. I'm
8 a Senior Project Manager at David J. Powers & Associates,
9 which is a CEQA consulting firm in San Jose. I've been a
10 CEQA practitioner for 14 years. My typical role on a
11 project is to prepare legally-defensible CEQA documents on
12 behalf of lead agency staff. In fact, I prepared the ISMND
13 [sic] for the original data center on the project site, for
14 the City of Santa Clara.

15 But for this project my role was to prepare the SPPE
16 application on behalf of the project Applicant.

17 MR. GALATI: Thank you very much. So, Mr. Johnson,
18 have you had a chance to review Mr. Sarvey's testimony?

19 MR. JOHNSON: Yes.

20 MR. GALATI: And do you have any comments?

21 MR. JOHNSON: No. No comments in particular, other
22 than some of the business related terms, which we can
23 probably get to later if you want.

24 MR. GALATI: Actually, why don't you go ahead and
25 describe that now, please.

1 MR. JOHNSON: Okay. Well, as the project lead our --
2 my job is to deliver the hyper scale power shells for
3 individual users, and so our job is -- my job is schedule and
4 budget. This is a project that's 100 percent leased to an
5 end user and that's why we're seeking our permits to build
6 the shell.

7 Based on the 2018 data center approvals issued by
8 Santa Clara, that were mentioned by Mr. Lisenbee, demo and
9 grading permits have already been released and work to clear
10 and prep the site has already been underway. There was a
11 data center project previously approved on the site and we
12 started on the site clearing. That is similar for that work.

13 When COVID came along, demand generators from Cloud
14 computing have increased, especially for clients that are
15 reliant on the connectivity of Silicon Valley. So,
16 therefore, you know, the project completion date was moved up
17 by the end user.

18 During the Santa Clara County shelter in place order,
19 the data centers and network computing were classified as
20 essential infrastructure and work was allowed to continue.
21 As an example, the Santa Clara Building Department was
22 conducting inspections for data centers and other critical
23 infrastructures during the shelter in place.

24 For this project, we have ordered all the long lead-
25 time items like structural steel and metal panels that are

1 being designed and in production. And we've tried to
2 accommodate for all this increased network demand by these
3 critical users for existing data center intensification
4 densification, purchasing bridge third-party Cloud space.
5 None of it's really worked, putting more pressure on keeping
6 this project going.

7 And given workers are on site now, if we can't get
8 our project approvals moving, we're going to force de-
9 mobilize, and the project will sit idle, further delaying the
10 project.

11 MR. GALATI: Thank you. The next question to Ms.
12 Geller. Ms. Geller, did you review Mr. Sarvey's testimony?

13 MS. GELLER: This is Elizabeth Geller. Yes, I did.

14 MR. GALATI: And do you have any comments?

15 MS. GELLER: Yes, I have two comments related to the
16 cancer risk statement that Mr. Sarvey made. Mr. Sarvey
17 stated that: The calculated cancer risk from project
18 construction at the point of maximum impact exceeds the Bay
19 Area Air Quality Management District thresholds of
20 significance.

21 He goes on to state that: The project at full
22 operation also exceeds the significance level at the point of
23 maximum impact.

24 What I wanted to point out and hopefully clarify for
25 the group today is that the point of maximum impact is the

1 highest calculated cancer risk value at any physical location
2 within the surrounding area, and is provided in the report
3 for completeness purposes.

4 However, the point of maximum impact does not take
5 into account whether a location will be occupied for an
6 individual for an extended period of time.

7 The health risk model that is used in this project
8 assumes that a location will be occupied for at least eight
9 hours per day, and for 25 years. For this project, the point
10 of maximum impact is actually located along a facility fence
11 line where there are no residential or workplace buildings in
12 the nearby vicinity.

13 As discussed in the ISPMND, the Air District's CEQA
14 guidelines specifically note that project health risks should
15 be evaluated at the location of a maximally-exposed
16 individual. The maximally-exposed individual is a
17 residential sensitive or workplace building where an
18 individual would experience the maximum long-term exposure to
19 project emissions.

20 In this project, the maximally-exposed individual is
21 a residential building north of the facility property, which
22 is different from the location of the point of maximum impact
23 along the facility fence line.

24 Therefore, the project does not exceed the local Air
25 District thresholds of significance and the point of maximum

1 impact is not appropriate for comparison to Air District
2 thresholds.

3 Instead, the project health risk is evaluated at the
4 maximally-exposed individual, which is less than the Air
5 District threshold of significance, as demonstrated in the
6 ISPMND.

7 There's further explanation of the point of maximum
8 impact and the maximally-exposed individual in the ISPMND.

9 The second comment that I had related to Mr. Sarvey's
10 statement was his stated that there is no estimate of cancer
11 risk from phase one of project construction.

12 And I wanted to comment that construction health risk
13 was assessed in the project by modeling both phase one
14 operation and phase two construction at the same time. By
15 modeling this overlapping period of phase one operation and
16 phase two construction together actually provides a
17 conservative estimate of project construction, which would
18 have been higher and more impactful than modeling phase one
19 or phase two construction periods independently.

20 That concludes my comments for now.

21 MR. GALATI: Thank you, Ms. Geller.

22 Mr. Lisenbee, did you review Mr. Sarvey's testimony?

23 MR. LISENBEE: This is Michael Lisenbee. Yes, I did.

24 MR. GALATI: And do you have any comments?

25 MR. LISENBEE: I do. I'd like to address the portion

1 of Mr. Sarvey's testimony related to the analysis of GHG
2 emissions in the ISMND. Mr. Sarvey's testimony states that
3 the ISMND proposed no threshold of significance or indirect
4 GHG emissions from the Mission College Data Center. This is
5 somewhat of a mischaracterization.

6 Section 15064.4 of the CEQA guideline states that: A
7 lead agency shall have discretion to determine, in the
8 context of a particular project whether to, one, quantify
9 greenhouse gas emissions resulting from a project or two;
10 rely on a qualitative analysis or performance-based
11 standards.

12 In fact, the ISMND included both methods of
13 evaluation. It quantified the indirect GHG emissions of the
14 project and the impact determination was based on a
15 qualitative analysis which evaluated the project's compliance
16 with regulations or requirements adopted to implement a
17 statewide regional or local plan for the reduction or
18 mitigation of greenhouse gas emissions, per the direction in
19 Section 15064.4 of the guidelines.

20 Just to clarify, when we're discussing indirect
21 emissions in the context of this project, we're discussing
22 emissions from the generation of electricity provided to the
23 project by Silicon Valley Power.

24 So, the qualitative approach to using the ISMND is
25 the most appropriate way to analyze indirect emissions from

1 electricity. A project's indirect emissions from electricity
2 are less a function of the project itself and more a function
3 of the utility providing the electricity to the project,
4 since the emissions occur at the source of generation.

5 As a result, the best way to analyze the emissions is
6 to assess the utility provider's compliance with state
7 regulations intended to reduce GHG emissions.

8 This approach is supported by Kate's Law in the
9 Center for Biological Diversity versus California Department
10 of Fish and Wildlife, which is also known as the Newhall
11 Ranch Decision. The State Supreme Court ruled that a lead
12 agency can assess consistency with the state's GHG reduction
13 goal in whole or in part by looking to compliance with
14 regulatory programs designed to reduce greenhouse gas
15 emissions from a particular activity.

16 In the area of emissions from electricity generation,
17 the most relevant regulatory program is SB 350. Silicon
18 Valley Power is required by SB 350 to meet state-mandated GHG
19 reduction targets. As part of the implementation of SB 350,
20 CARB established specific emissions targets for the
21 electricity utility sector as a whole, as well as individual
22 providers to meet the reduction targets of SB 350.

23 This information is contained in the CARB Resolution
24 1826, which is Exhibit 18, and the accompanied staff report
25 which is Exhibit 19. These reduction targets are based on

1 the best available science determining statewide emission
2 levels needed to prevent a two degree increase in global
3 temperature.

4 The CEC is the regulatory body with oversight of SVP
5 and has a mechanism to monitor and enforce compliance through
6 regular filings of IRPs, as required under SB 350.

7 Now, CEQA assumes regulatory compliance, especially
8 when the lead agency is the regulatory body with oversight.
9 I'd say the classic example of this is CEQA assumes
10 compliance with Building Codes. And it's safe to assume for
11 the purposes of CEQA that a project will comply with the
12 Building Code because the lead agency can enforce the
13 compliance through inspections and permits.

14 As a result, we can rely on measures required in the
15 Building Code to determine whether a project would have an
16 impact in the area addressed by those measures, such as
17 seismic hazards.

18 Similarly, we can assume for the purposes of CEQA
19 that Silicon Valley Power will comply with SB 350 because it
20 is required to do so and the CEC can review and enforce
21 compliance through the IRP review process.

22 As a result, indirect emissions from electricity is
23 by definition consistent with the state's reduction goals
24 because the electricity utility itself is required by law to
25 be consistent with the reduction goals, and the lead agency

1 for the project can monitor and enforce compliance.

2 So, at its most basic level, the analysis of indirect
3 emissions from electricity use is very simple. We know that
4 the project's indirect emissions will be consistent with the
5 state's emission targets because they will receive
6 electricity from a utility provider that is required by law
7 to meet those targets.

8 Going back to Mr. Sarvey's testimony, what Mr. Sarvey
9 likely meant by saying that the analysis did not use a
10 threshold of significance for indirect emissions is that no
11 numeric threshold was used. As we discussed, the lead agency
12 is not required by CEQA to adopt or rely on a numeric
13 threshold.

14 Further, the three numeric thresholds suggested by
15 Mr. Sarvey would be inappropriate for various reasons.
16 First, Mr. Sarvey suggests a threshold of 1,100 metric tons
17 of CO₂e per year, which was established in the 2017 BAAQMD
18 guidelines, for land use projects. This threshold only
19 addressed compliance with the state's 2020 emissions target
20 and is now out of date and cannot be used for projects
21 constructed after 2020.

22 Second, Mr. Sarvey suggests a threshold of 7,000
23 metric tons of CO₂e per year, contemplated by CARB in 2009.
24 This threshold was never adopted by the state and CARB has
25 since released updated guidance in the form of its most

1 recent Scoping Plan that does not propose a numeric threshold
2 for individual projects.

3 Third, Mr. Sarvey suggests a threshold of 10,000
4 metric tons of CO₂e per year as is coincides with the state's
5 mandatory GHG reporting requirement. Mr. Sarvey states that
6 this is the level of emissions the state considers
7 significant, which is also a mischaracterization. This is
8 merely the level at which facilities are required to report
9 their emissions to the state under the Mandatory Reporting
10 Program. The state did not determine that this was a
11 significant level of GHG emissions under CEQA.

12 So, just to recap, the ISMND's use of a qualitative
13 analysis for the project's indirect emissions from
14 electricity consumption is consistent with Section 15064.4 of
15 the CEQA guidelines, it's support by case law, and it
16 represents the best available methodology for analyzing
17 indirect emissions.

18 MR. GALATI: Thank you very much, Mr. Lisenbee. I
19 have no further questions. These witnesses are available for
20 cross-examination by the parties.

21 HEARING OFFICER LEE: Great. This is Ralph Lee
22 again. Does staff have any cross for these witnesses?

23 MR. MURZA: This is Michael Murza for staff. We
24 don't have any questions.

25 HEARING OFFICER LEE: And Mr. Sarvey, do you have any

1 questions for these witnesses?

2 MR. SARVEY: Yeah, I have a couple of questions.

3 HEARING OFFICER LEE: Yeah, please proceed.

4 MR. SARVEY: Okay. I heard one of the witnesses' say
5 this project was 100 percent contracted to one individual
6 client, is that correct?

7 MR. JOHNSON: Correct. This is Drew Johnson.
8 Correct.

9 MR. SARVEY: Okay. Mr. Johnson, did you discuss with
10 this client whether they'd be willing to use the 100 percent
11 green power offering from SVP to lower their GHG emissions?

12 MR. JOHNSON: No, I have not.

13 MR. SARVEY: Okay. And I also heard someone admit
14 that phase one construction was not evaluated for cancer. Is
15 that correct?

16 MS. GELLER: This is Elizabeth Geller. Construction
17 impacts were evaluated in the analysis by modeling phase two
18 construction with phase one operation, which is an inherently
19 higher emission rate than phase one construction would be
20 alone. Therefore, it's considered to be more conservative
21 than modeling phase one construction by itself.

22 MR. SARVEY: The simple question is did you guys do a
23 phase one construction evaluation for cancer? That's a yes
24 or no question.

25 MR. GALATI: Objection that's asked and answered.

1 MR. SARVEY: I didn't hear a yes or no.

2 HEARING OFFICER LEE: Objection overruled.

3 MS. GELLER: This is Elizabeth Geller. While phase
4 one construction impacts were not modeled for health risk
5 alone, phase one operation and phase two construction were
6 modeled together which is an inherently higher emission rate
7 and, therefore, a higher health risk as compared to modeling
8 construction from phase one alone.

9 MR. SARVEY: So, I'll just rephrase it one more time.
10 Did you guys or did you not do a phase one construction
11 cancer risk evaluation of phase one construction, yes or no?

12 MS. GELLER: Did not model phase one construction
13 alone.

14 MR. SARVEY: Thank you. That's all I have.

15 HEARING OFFICER LEE: Okay, Mr. Sarvey, did you mean
16 that's the last question you have for this panel?

17 MR. SARVEY: That's correct, thank you.

18 HEARING OFFICER LEE: Applicant, did you have any
19 further questions?

20 MR. GALATI: Yes, I do.

21 Ms. Geller, just to make the record absolutely clear,
22 do you believe that the health risk assessment that you did
23 for construction is a predicted or calculated higher
24 emissions than if you calculated construction for phase one
25 alone?

1 MS. GELLER: Yes.

2 MR. GALATI: No further questions.

3 HEARING OFFICER LEE: Staff, do you have any
4 questions for the witnesses about that additional testimony?
5 Staff?

6 MR. MURZA: This is Michael Murza. No, we do not.

7 HEARING OFFICER LEE: And Mr. Sarvey, do you have any
8 additional questions on that additional testimony?

9 MR. SARVEY: No, I do not. Thank you.

10 HEARING OFFICER LEE: Thank you. Well, at this time
11 we'll release this panel from the stand for now, but you will
12 remain sworn in for the remainder of the hearing if you
13 testify later.

14 And so, at this time I call to the stand staff's
15 panel on Air Quality, Public Health, and Greenhouse Gas
16 Emissions. Staff, who will be testifying? Is that Dr.
17 Jiang, Dr. Chu, and Mr. Birdsall?

18 DR. JIANG: Yes, this is Dr. Tao Jiang. And I'm
19 going to be testifying on greenhouse gas emissions.

20 HEARING OFFICER LEE: Okay. Let me ask your
21 attorney, staff, is there -- do you have any other witnesses
22 on those topics?

23 MR. MURZA: This is Michael Murza for staff. No, we
24 don't have any additional witnesses on those topics. Those
25 three that you mentioned will be testifying as a panel, on

1 this first panel.

2 HEARING OFFICER LEE: Okay. So, right now we're just
3 going to Dr. Jiang?

4 MR. MURZA: Yes, that's correct. They'll each be
5 offering their opening statements in the order that you
6 introduced them.

7 So, Dr. Jiang, could you please start us off?

8 HEARING OFFICER LEE: Excuse me, let me swear in your
9 witnesses just in case they talk. Do I have -- I hear Dr.
10 Jiang. Do I have Dr. Chu on the line, too?

11 DR. CHU: Yes.

12 HEARING OFFICER LEE: And Mr. Birdsall, are you on
13 the line? Staff, are you expecting Mr. Birdsall?

14 MR. MURZA: This is Michael Murza. We are expecting
15 Mr. Birdsall to be participating today.

16 HEARING OFFICER LEE: Okay. Let's see if we can find
17 him real quick.

18 MR. MURZA: It appears as though he's participating
19 and unmuted, so I'm not sure what that may mean.

20 HEARING OFFICER LEE: Oh, I don't see a hand raised.
21 No.

22 MS. CARLOS: Mr. Birdsall, this is Patricia Carlos.
23 I have promoted you to a panelist, so you should be able to
24 speak.

25 HEARING OFFICER LEE: Well, maybe he stepped away for

1 a second.

2 MR. LAYTON: Hearing Officer Lee, this is Matt
3 Layton.

4 HEARING OFFICER LEE: Yes, Mr. Layton.

5 MR. LAYTON: Mr. Birdsall, unfortunately, has
6 childcare problems, so he might have stepped out. But we can
7 go ahead and start with the other witnesses and Mr. Birdsall
8 can come in later. Apparently, he's not available to get
9 sworn in right now.

10 MS. PHAM: I'm sorry, this is Patty Pham, IT for the
11 Energy Commission. Mr. Birdsall's on the phone. He's
12 connected and his last three digits is 174.

13 HEARING OFFICER LEE: Yeah, I'm sorry, this is Ralph
14 Lee. I didn't catch that. I'll leave it to staff. Would
15 you like to proceed now or would you like to take a break?

16 MR. BIRDSALL: Yes, this is --

17 HEARING OFFICER LEE: As a matter of fact it's been
18 -- it actually has been two hours since we've been going.
19 Let me ask the Committee, let me start with Commissioner
20 Douglas, do you have a plan in mind for maybe a five-minute
21 break?

22 COMMISSIONER DOUGLAS: This is Commissioner Douglas.
23 I think it's a good idea. I think we should take a break.

24 HEARING OFFICER LEE: Yeah, so Vice Chair Scott, do
25 you have any preference? Is a five-minute break okay?

1 VICE CHAIR SCOTT: Yes, I agree with Commissioner
2 Douglas.

3 HEARING OFFICER LEE: Okay, thank you. And this is
4 Ralph Lee again, Hearing Officer. The time is now 3:36 and
5 let's take a break until 3:42, and then we can start back up
6 with staff's witnesses. Thank you.

7 (Off the record at 3:36 p.m.)

8 (On the record at 3:42 p.m.)

9 HEARING OFFICER LEE: We're ready to proceed. Do I
10 have Dr. Jiang on the phone, on the line?

11 DR. JIANG: Yes, I'm here.

12 HEARING OFFICER LEE: And Dr. Chu?

13 DR. CHU: Yes, I'm here.

14 HEARING OFFICER LEE: And Mr. Birdsall?

15 MR. BIRDSALL: Yes, this is Brewster Birdsall.

16 HEARING OFFICER LEE: Thank you. I'm going to swear
17 you all in at this time, together, and then I'll go through
18 and ask if you agree.

19 Do you swear or affirm that the testimony you're
20 about to give in this proceeding is the truth, the whole
21 truth, and nothing but the truth?

22 Dr. Jiang?

23 DR. JIANG: Yes, I do.

24 HEARING OFFICER LEE: Dr. Chu?

25 DR. CHU: Yes, I do.

1 HEARING OFFICER LEE: And Mr. Birdsall?

2 MR. BIRDSALL: Yes, I do.

3 HEARING OFFICER LEE: Okay, great. And just one more
4 thing. I'll ask each of you to state and spell your name for
5 the record, starting with Dr. Jiang.

6 DR. JIANG: Yes, this is Tao Jiang. My first name is
7 spelled as T-A-O. Last name, J-I-A-N-G.

8 HEARING OFFICER LEE: Thank you. Dr. Chu?

9 DR. CHU: Hi, my name's Huei-An Chu. H-U-E-I - A-N,
10 and the last name is C-H-U, and I also go by Ann, A-N-N.

11 HEARING OFFICER LEE: Thank you. And Mr. Birdsall?

12 MR. BIRDSALL: Hi. My name is Brewster Birdsall.
13 The first name B-R-E-W-S-T-E-R. The last name Birdsall, B-I-
14 R-D-S-A-L-L. Thanks.

15 HEARING OFFICER LEE: Thank you. Staff, please
16 proceed with your witness.

17 MR. MURZA: Thank you, Hearing Officer Lee. So, as
18 you mentioned, we have our three speakers who will be
19 offering opening statements, beginning with Dr. Jiang.

20 So, Dr. Jiang, could you please read your opening
21 statement into the record?

22 DR. JIANG: Yes. Good afternoon. My name is Dr. Tao
23 Jiang. I have been with the Energy Commission as an Air
24 Resources Engineer since 2009. My areas of expertise include
25 air quality and greenhouse gas emissions, chemical and

1 environmental engineering.

2 I prepared the Greenhouse Gas Emissions section of
3 the Initial Study, Exhibit 200, page 5.8-1 to 5.8-20,
4 Responses to Bay Area AQMD comments, Exhibit 201, page 1 to
5 6, which represent my written testimony.

6 My declaration and qualifications were previously
7 filed in this proceeding.

8 I concluded an independent analysis, including
9 determining project impacts and assessing whether the impacts
10 are significant, that the project would not have any
11 significant impacts in the area of Greenhouse Gas Emissions.

12 Staff's conclusion is as follows: The project's
13 direct GHG emissions would be 1,231 metric tons CO2
14 equivalent during the demolition/construction period. The
15 Bay Area AQMD CEQA guidelines do not identify a greenhouse
16 gas emission threshold for construction-related emissions,
17 but recommends that incorporation of best management
18 practices to reduce the emissions as feasible and applicable.

19 To comply with the BMP requirement, the project would
20 participate in the city's construction and demolition Debris
21 Recycling Program by recycling or diverting at least 50
22 percent of discarded materials generated during demolition
23 and construction.

24 Direct emissions from the backup generators during
25 readiness testing and maintenance are estimated to be 3,875

1 metric tons CO2 equivalent per year, which would be well
2 below the Bay Area AQMD's stationary source significance
3 threshold of 10,000 metric tons CO2 equivalent per year.

4 The indirect GHG emissions mainly come from the
5 electricity generation provided by SVP, which is estimated to
6 be 133,721 metric tons CO2 equivalent per year. Based on
7 2017 SVP carbon intensity factor of 430 pounds of CO2
8 equivalent per megawatt hour.

9 Increasing the percentage of carbon-free power
10 procured by SVP will be the most impactful GHG reduction
11 measure. SVP's GHG emissions are trending down due to its
12 low and decreasing carbon intensity factor and compliance
13 with various renewable and low carbon energy requirements.

14 The City of Santa Clara issued initial study for the
15 previous MCDC configuration in March 2019, which concluded
16 that the project's GHG emissions would not conflict with the
17 Santa Clara Climate Action Plan, or other plans, policies, or
18 regulations by implementing the efficiency measures and the
19 BMTs included in the project, and in combination with the
20 green power mix utilized by SVP.

21 For the new, reconfigured MCDC, staff concluded that
22 the project would still be consistent with City of Santa
23 Clara's Climate Action Plan or any applicable regulatory
24 programs and policies adopted by the California Air Resources
25 Board, AB 32, SB 32, SB 350, SB 100 and Executive Orders.

1 Because staff determined that the project would not
2 cause any significant impacts, mitigation beyond MCDCC's GHG
3 reduction efforts is not required. This concludes my opening
4 statement. Thank you.

5 HEARING OFFICER LEE: Thank you. This is Ralph Lee.
6 Staff, do we have any further direct testimony for this topic
7 of Air Quality, Public Health, and Greenhouse Gas Emissions?

8 DR. CHU: Yes, this is Huei-An Chu.

9 HEARING OFFICER LEE: Please proceed.

10 DR. CHU: Okay. My name is Dr. Huei-An, Ann Chu. My
11 areas of expertise include air quality and human health risk
12 assessment, biostatistics, and environmental epidemiology. I
13 prepared the Air Quality Section of the Initial Study, which
14 represents my written testimony.

15 My declaration and qualifications were previously
16 filed in this proceeding.

17 In my written testimony covering air quality impacts
18 from criteria air pollutants and public health impacts on
19 toxic air contaminations set forth in the Initial Study.
20 Responses to comments on the Initial Study. We've concluded
21 after independent analysis that the project would not have
22 any significant impacts in the area of Air Quality and Public
23 Health.

24 Consistent with CEQA, my analysis in the initial
25 study includes determining project impacts and assessing

1 whether the impacts are significant. My written testimony in
2 the Initial Study, from pages 5.3-1 to 5.3-28, and from pages
3 5.3-34 to 5.3-42 sets forth this analysis in detail.

4 Staff's conclusion is as follows. The mass emissions
5 during construction and for the backup generators' readiness
6 testing and maintenance were below the thresholds of
7 significance from the Bay Area Air District CEQA guideline.
8 The project is not expected to result in cumulative
9 considerable net increase of criteria pollutants during the
10 construction and for readiness testing and maintenance.
11 These impacts would be less than significant.

12 Page 5.3-1 of the Initial Study states: Intermittent
13 and extent emitting sources, like those proposed in this
14 project could operate for emergency use and such emergency
15 operations would be infrequent and (indiscernible) --which
16 are beyond the control of the project owner. Emergency
17 operations and the impacts of air pollutants during
18 emergencies are generally exempt from Air District
19 permitting. Emissions for emergency operation are not
20 regularly expected or easily quantifiable such that they
21 cannot be analyzed with certainty.

22 Staff reviewed Applicant's Health Risk Assessment for
23 project construction and the backup generators' readiness
24 testing and maintenance. Their Health Risk Assessment
25 measures the incremental risk from the project's toxic air

1 emissions, including three key areas of health effects,
2 cancer, chronic lung cancer, and acute non-cancer health
3 effects. Their Health Risk Assessment was based on very
4 conservative assumptions to overestimate the health risk due
5 to the uncertainty and variability of Health Risk Assessment.

6 These conservative assumptions include, first, health
7 risks during construction were conducted for the project
8 construction and operation together. Modeling the
9 overlapping period of phase one operation and phase two
10 construction together provide a more conservative estimate of
11 the project construction and emissions than modeling the
12 phase one or phase two construction period independently.

13 Second, health risks during readiness testing and
14 maintenance were evaluated to assume a total of 50 hours of
15 operation per year, per generator, for all 45 generators.
16 However, readiness testing and maintenance activities are
17 expected to occur for only one engine at a time, and for less
18 than 12 hours per year.

19 Third, for residential exposure we assumed a 30-year
20 exposure duration starting with exposure during the third
21 trimester of pregnancy. While for offsite worker exposure we
22 assume a 25-year exposure from age 16 to 40.

23 Even using these conservative assumptions in the
24 Health Risk Assessment, the impacts from both the project
25 construction and the backup generator readiness testing and

1 maintenance will be less than significant.

2 Staff also conducted the Cumulative Health Risk
3 Assessment according to Air District CEQA guidelines. The
4 results are in Table 5.3-11 of the Initial Study.

5 Staff then concluded that the project won't result in
6 a cumulatively considerable contribution. Therefore, the
7 project does not cause cumulatively considerable impacts.

8 Mr. Sarvey had comments in his Exhibit 300, reply
9 testimony regarding the cancer risk at the point of maximum
10 impact, PMI. He commented that, quote, "The Applicant
11 estimated the cancer risk from the project at the point of
12 maximum impact to be 51.39. In a median as the point of
13 maximum impact five times the BAAQMD significance level,"
14 unquote.

15 Mr. Sarvey continue misread the question C in both
16 the Appendix G of CEQA, which ask, quote, "Will the project
17 with both sensitive receptors to substantial pollutant
18 concentrations," unquote.

19 Staff did report the risk number of two sensitive
20 receptors. The first one is maximally exposed individual
21 residence, MEIR, and the second one is maximally exposed
22 individual sensitive receptor, MEISR. The risk numbers shown
23 in the Initial Study, Table 5.3-10, on page 5.3-14 are 8.4
24 for MEIR, and 0.47 for MEISR. They are both below the Air
25 District's threshold of significance.

1 Again, in this project point of maximum impact is not
2 a sensitive receptor. It is located on the project fence
3 line, neither a residential, nor a sensitive receptor. Staff
4 does not expect a person to stay at the PNI location
5 throughout the construction period or 50 operation hours per
6 year for 30 years. Also, all the sensitive receptors are all
7 below the thresholds.

8 Considering all risks, the health risk of project
9 construction and the backup generators' readiness testing and
10 maintenance will be less than significant impact.

11 Mr. Sarvey also comments that, quote, "The ISMND
12 provides no estimate of the cancer risk from phase one of the
13 project construction. The ISMND does present a combined
14 phase two construction and operational risk and the maximum
15 cancer risk to the maximally exposed individual resident is
16 6.56 in the median," unquote.

17 As I mentioned previously, health risks during
18 construction were conducted for the project construction and
19 operation together. Modeling the overlapping period of phase
20 one operation and phase two construction together provide a
21 more conservative estimate than for phase one construction
22 only.

23 This concludes my opening statement. Thank you.

24 HEARING OFFICER LEE: Yes, hi, this is Ralph Lee.

25 Ms. DeCarlo or Mr. Murza do you have any more witnesses to

1 present?

2 MR. MURZA: This is Michael Murza. Yes, so Brewster
3 Birdsall will be providing an opening statement as part of
4 this panel, next.

5 HEARING OFFICER LEE: Okay, please proceed.

6 MR. BIRDSALL: Thank you Hearing Officer, this is
7 Brewster Birdsall. I am employed by Aspen Environmental
8 Group as an on-call contractor for the Energy Commission
9 staff for air quality analysis of power plant siting cases.
10 I've served in this roll off and on since 2001. I'm a
11 California-licensed mechanical engineer and am certified as a
12 qualified environmental professional. And my education is in
13 mechanical and civil engineering.

14 I prepared the Criteria Pollutant Air Quality Impact
15 Analysis in the Air Quality Section of the Initial Study
16 which represents my written testimony.

17 My declaration and qualifications were previously
18 filed in this proceeding.

19 And in my written testimony covering Criteria
20 Pollutant Air Quality Impacts set forth in the Initial Study
21 I concluded, after independent analysis, that the project
22 would not have any significant impacts in the potential to
23 expose sensitive receptors to substantial pollutant
24 concentrations of criteria air pollutants.

25 The project emissions would not cause any new ambient

1 air quality standard exceedance, or any substantial
2 contribution to an existing ambient air quality standard
3 exceedance.

4 My assessment of air quality impacts and my
5 conclusions are consistent with the conclusions presented by
6 Dr. Ann Chu regarding public health impacts and cumulative
7 air quality impacts.

8 Consistent with CEQA, my analysis of Criteria
9 Pollutant Air Quality Impacts in the Initial Study includes a
10 determination of project impacts in assessing whether the
11 impacts were significant. And this testimony appears in the
12 Initial Study, at pages 5.3-29 to 34, which sets forth the
13 analysis in detail.

14 One note about the analysis, the Bay Area Air Quality
15 Management District comment letter on Mission College ISPMD,
16 that's the letter, comment letter from May 21, 2020, did not
17 raise any issues with the Criteria Pollutant Air Quality
18 Impact Analysis.

19 Concerns on this topic, however, are coming from
20 Intervenor Sarvey. And in his petition to intervene, Mr.
21 Sarvey is concerned about the backup generator engines'
22 emissions during emergency operation. The Sarvey reply
23 testimony filed on June 11th elaborates the Intervenor's
24 concerns under a heading called "Evaluating Emergency
25 Operations". And because Intervenor Sarvey is concerned

1 about the quantity of potential emissions from the backup
2 generator engines, I'll first explain how these emissions are
3 inherently limited.

4 The inherent limitation on the engines' emissions is
5 that they are used as backup only. And that means that they
6 are used for onsite loads in the event that the power source,
7 or the electricity service from the utility is not available.
8 The engines would not operate for export to the power grid.

9 Another limitation on the engines' operation is that
10 they are designed to, and built with certification to Tier 2
11 standards, and also they include diesel particulate filters
12 that provide always on control. And that means that those
13 controls would be in place during emergency use.

14 Another limitation that is inherent in the project
15 design is the Applicant's proposal that only single generator
16 engine would operate at a given time for testing and
17 maintenance.

18 Looking at the topics raised by the Sarvey Prehearing
19 Conference Statement, and I was looking at the revised one
20 from June 12th, Intervenor Sarvey incorrectly states in his
21 Prehearing Conference Statement that, quote, "The ISMND does
22 not contain an analysis of emergency operation of the
23 project", end quote.

24 We believe this is incorrect because the claim
25 ignores staff's discussion that spans nearly ten pages

1 devoted to emergency operation. And this discussion appears
2 in the Initial Study, pages 5.3-42 to 5.3-52.

3 And as Dr. Chu introduced this topic a few minutes
4 ago, we discussed this topic up front on the first page of
5 the Air Quality Section, page 5.3-1, and then provide those
6 details later.

7 To explain how this all comes together, staff's
8 evaluation of criteria pollutants follows its own past
9 practices in preparing air quality impact analyses. And
10 staff's practices are consistent with and make use of the
11 2017 Bay Area Air Quality Management District's CEQA Air
12 Quality Guidelines, which establish mass rate thresholds to
13 test the significance of project emissions.

14 And this project would emit at levels below those
15 emissions threshold, and that's discussed under Item B, in
16 the Air Quality Section.

17 Staff's Additional Ambient Air Quality Impact
18 Analysis that is discussed under Item C in the Air Quality
19 Section, confirms that substantial pollutant concentrations
20 would not occur near the project due the project permitted
21 emissions.

22 Intervenor Sarvey states that: During emergency
23 operation the NO2 Ambient Air Quality Standard could be
24 exceeded, without providing an analysis to support his
25 conclusion.

1 In contrast, staff considered the potential for air
2 quality impacts during emergency operations and concluded
3 that undertaking such an analysis would involve making
4 speculative assumptions, and I'll elaborate here a little
5 bit.

6 We recognize that the project aims to be available in
7 case of a power outage. So, staff's work began with
8 attempting to figure out how often the engines might run in
9 an emergency situation.

10 And a note about the regulation that applies, or one
11 regulation that applies to this project, the Bay Area Air
12 Quality Management District defines emergency use for these
13 engines as that use stemming from, quote, "Unforeseeable
14 failure of regular electric power supply." We mention this
15 -- that's an end quote.

16 We mention this on page 5.3-18. That unforeseeable
17 failure of the regular electric power supply is something
18 that staff analyzed. Our discussion, between pages 5.3-42
19 and 48 shows that a power outage, and then subsequent
20 emergency use of the backup generator engines would be very
21 infrequent.

22 If we dismiss this low probability nature of an
23 emergency arising, staff would still need to craft
24 assumptions on the timing, the nature, and the mass of
25 emissions during an emergency. The Initial Study outlines

1 some of these challenges in four bullets that appear on page
2 5.3-42 to 43. And, specifically, we can split these factors
3 in six groups of assumptions, where we'd need to establish an
4 assumption before conducting a meaningful analysis of air
5 quality impacts of those emissions that could occur during an
6 emergency.

7 And I'll number them here. The first one being we
8 would have to assume the hours of the engines being used in
9 the emergency or the duration of the emergency.

10 Number two, the continuous or the variable use of the
11 engines in the midst of the emergency.

12 Three, the local meteorological conditions at that
13 time of the emergency.

14 Number four, the background air quality
15 concentrations of the pollutants of concern at the time of
16 the emergency.

17 Number five, the number of emergency generator
18 engines that are running simultaneously, all or some.

19 And then, number six, the load points of each
20 generator, whether it be at 100 percent full load or 50
21 percent load for example.

22 Taking all this into consideration, when faced with
23 making such a wide range of assumptions to define the timing,
24 the nature, and the mass of the emissions, staff decided that
25 it could not identify a meaningful or representative modeling

1 scenario reflecting emergency operations.

2 You'll see in the Initial Study, around page 5.3-51,
3 I'll quote: "Due to the high reliability of the SVP
4 transmission system the project, MCBGF, would rarely enter
5 into emergency operations. Accordingly, the potential for
6 any adverse impacts to ambient air quality concentrations
7 would be a very low probability event. Thus, staff concludes
8 that assessing the impacts of emergency operation of the
9 standby generators would be speculative due to the
10 infrequent, irregular, and unplanned nature of outages", end
11 quote. That's again from the Initial Study, page 51 of 5.3.

12 And in the end, we believe that such a speculative
13 analysis is not required under CEQA.

14 And this concludes my opening statement.

15 HEARING OFFICER LEE: Thank you. This is Ralph Lee,
16 Hearing Officer. Ms. DeCarlo or Mr. Murza, do you have any
17 further questions for this panel?

18 MR. MURZA: This is Michael Murza. We do not have
19 any further questions for this first panel.

20 HEARING OFFICER LEE: Okay, thank you. And so, it
21 goes to Applicant. Do you have any questions for this panel?

22 MR. GALATI: Yes, I do. This is Scott Galati. Can I
23 speak to Dr. Jiang, please?

24 DR. JIANG: Yes, this is Dr. Jiang.

25 MR. GALATI: Thank you. Ms. Carlos, could you please

1 put up Exhibit 200, page 210 of 402.

2 And Dr. Jiang, I just want to ask you a question
3 about how you calculated a number.

4 MS. CARLOS: Can you repeat which page?

5 MR. GALATI: Yes, it's page 210 of 402.

6 MS. CARLOS: 210, okay.

7 MR. GALATI: Thank you, Ms. Carlos. Right in that
8 paragraph that says "Data Center Electricity Usage", can you
9 see that, Dr. Jiang?

10 DR. JIANG: You mean Table 5.8-3?

11 MR. GALATI: Below that, it's the title "Data Center
12 Electricity Usage." Right there underneath the table, the
13 first paragraph under the table.

14 DR. JIANG: Oh, okay. Okay.

15 MR. GALATI: The second sentence says: The projected
16 maximum demand for the entire project is 78.1 megawatts. Do
17 you see that?

18 DR. JIANG: Yes.

19 MR. GALATI: Are you -- would you agree that that is
20 based on a full loading of the building on the hottest design
21 day?

22 DR. JIANG: Yes. As I stated here, it's a maximum
23 electrical use by this project we can project.

24 MR. GALATI: Thank you. On the next sentence you
25 talk -- you calculate megawatt hours on an annual basis. And

1 is it safe to say that you took 8,760 hours available in the
2 year --

3 DR. JIANG: Yeah.

4 MR. GALATI: -- and multiplied it by 78?

5 DR. JIANG: Yes.

6 MR. GALATI: And so, that is conservative, right,
7 because --

8 DR. JIANG: Yes.

9 MR. GALATI: -- it's not hot 365 days a year and 24
10 hours a day, correct?

11 DR. JIANG: Yes, we use a full year on run 7 days, 24
12 hour, every day, and all year long.

13 MR. GALATI: Okay. And the other projects that
14 you've worked on in front of the Energy Commission that's
15 typically what you do, correct?

16 DR. JIANG: Yes, we do this consistently for all of
17 our data centers.

18 MR. GALATI: Okay, no further questions. Thank you
19 very much, Dr. Jiang.

20 DR. JIANG: Okay.

21 HEARING OFFICER LEE: Thank you. Mr. Sarvey, do you
22 have any questions for staff's panel on Air Quality, Public
23 Health, and Greenhouse Gas Emissions?

24 MR. SARVEY: No, I do not. Thank you.

25 HEARING OFFICER LEE: Okay. Staff, do you have any

1 further questions for your panel on Air Quality, Public
2 Health, and Greenhouse Gas Emissions?

3 MR. MURZA: No, we do not have any further -- this is
4 Michael Murza. We don't have any further questions for the
5 first panel we just want to thank them for making themselves
6 available for this hearing.

7 HEARING OFFICER LEE: Okay. Well, this is Ralph Lee
8 again, and I thank them, too. And at this time I'm releasing
9 them from the stand for now, but you will remain sworn in for
10 the remainder of the hearing if you're called back.

11 So, at this time I'll move to the Intervenor, Mr.
12 Sarvey's testimony on Air Quality, Public Health, and
13 Greenhouse Gas Emissions. Mr. Sarvey, are you ready?

14 MR. SARVEY: Yes. I don't have any additional
15 testimony, just what I filed and I'm available to answer any
16 questions.

17 HEARING OFFICER LEE: Well, okay. Are there --
18 Applicant, do you have any questions for Mr. Sarvey on the
19 topic of Air Quality, Public Health, or Greenhouse Gas
20 Emissions?

21 MR. GALATI: This is Scott Galati. Yes, I do.

22 HEARING OFFICER LEE: Okay, hold on one second. Let
23 me swear in Mr. Sarvey.

24 Mr. Sarvey, do you swear or affirm that the testimony
25 you're about to give in this proceeding is the truth, the

1 whole truth, and nothing but the truth?

2 MR. SARVEY: Yes, I do.

3 HEARING OFFICER LEE: Okay, thank you. And for the
4 record, would you please state and spell your name?

5 MR. SARVEY: My name is Robert Sarvey. That's R-O-B-
6 E-R-T S-A-R-V-E-Y.

7 HEARING OFFICER LEE: Thank you. Mr. Galati, you may
8 proceed. This is Ralph Lee, did we lose Mr. Galati?

9 MR. GALATI: No, I apologize, muting in two places,
10 so I apologize.

11 Mr. Sarvey, I apologize for these questions, you've
12 heard them before. But the first question is have you ever
13 performed an air quality modeling analysis for a submittal to
14 any public agency?

15 MR. SARVEY: In order to answer that, I'll discuss my
16 long history with you, Mr. Galati. I recall in the Oakley
17 proceeding that your client, you agreed to give \$2.5 million
18 to the Bay Area Air Quality Management District in exchange
19 for me withdrawing my public health and air quality
20 testimony.

21 And I recounted to you previously that I have viewed
22 quite a few health risk assessments and had made some
23 significant changes to some of them. And have I prepared
24 one, the correct answer is no.

25 MR. GALATI: Okay. So, that was for health risk

1 assessment. How about a traditional air quality modeling
2 analysis?

3 MR. SARVEY: Yeah, I'll go back to what I said
4 previously. I remember your client gave \$2.5 million to the
5 Bay Area Air Quality Management District if I would sacrifice
6 on my air quality testimony. So, I assume that my air
7 quality testimony is valid.

8 MR. GALATI: So, but you have not done an air quality
9 modeling analysis, correct?

10 MR. SARVEY: An air quality modeling analysis in
11 terms of what?

12 MR. GALATI: So, for example, doing an airmod
13 analysis in which you compared the project, you know, you
14 calculated what the increase in emissions would be at any
15 point?

16 (Audio loss)

17 MR. GALATI: I'm sorry, Mr. Sarvey, I didn't hear
18 that.

19 MR. SARVEY: Oh, I said no. I'm sorry.

20 MR. GALATI: Okay. Thank you, no further questions.

21 HEARING OFFICER LEE: Okay. And does staff have any
22 questions for Mr. Sarvey? Excuse me, on the topic
23 specifically of Air Quality, Public Health, and Greenhouse
24 Gas Emissions.

25 MR. MURZA: This is Michael Murza for staff. We do

1 not have any questions for Mr. Sarvey on these topics.

2 HEARING OFFICER LEE: Okay, thank you. Mr. Sarvey,
3 did you have any further testimony?

4 MR. SARVEY: No, I do not.

5 HEARING OFFICER LEE: Okay. Well, then you're
6 released from the stand for now, but you will remain sworn in
7 for the remainder of this hearing.

8 And with that, my understanding is that we're leaving
9 the topic of Air Quality, Public Health, and Greenhouse Gas
10 Emissions and moving on to Energy, Energy Resources, and
11 Generating Capacity, if any.

12 But first, is it correct that we're finished with Air
13 Quality, Public Health, and Greenhouse Gas, Mr. Galati?

14 MR. GALATI: Yes. From my perspective we are
15 concluded with those items. Thank you.

16 HEARING OFFICER LEE: And staff, is that correct?

17 MR. MURZA: This is Michael Murza. Yeah, that's
18 correct.

19 HEARING OFFICER LEE: And Mr. Sarvey?

20 MR. SARVEY: Yes, that's correct.

21 HEARING OFFICER LEE: Okay, thank you. So, with that
22 we will move on to Energy, Energy Resources, and Generating
23 Capacity, which we'll take together.

24 It was my understanding, Mr. Galati, the Applicant
25 has no direct testimony on those topics, is that correct?

1 MR. GALATI: That is correct.

2 HEARING OFFICER LEE: Okay. So, then, we'll go
3 straight to staff's panel on Energy, Energy Resources, and
4 Generating Capacity. Are you ready to proceed, Ms. DeCarlo
5 and Mr. Murza?

6 MR. MURZA: This is Michael Murza. Yes, we are ready
7 to proceed. Our second panel includes two experts, Kenneth
8 Salyphone and Shahab Khoshmashrab. Only Kenneth Salyphone
9 will be offering an opening statement, but Mr. Khoshmashrab
10 will be available for questioning as well.

11 HEARING OFFICER LEE: Okay. I would like to swear
12 them both in at this time, please. Do we have Mr. Salyphone
13 and Mr. Khoshmashrab on the line?

14 MR. SALYPHONE: Yes.

15 MR. KHOSHMAHRAB: This is Shahab Khoshmashrab.

16 HEARING OFFICER LEE: Okay, very good.

17 Then I'm going to ask you both, do you swear or
18 affirm that the testimony you're about to give in this
19 proceeding is the truth, the whole truth, and nothing but the
20 truth?

21 Mr. Salyphone?

22 MR. SALYPHONE: Yes, I do.

23 HEARING OFFICER LEE: And Mr. Khoshmashrab?

24 MR. KHOSHMAHRAB: Yes, I do.

25 HEARING OFFICER LEE: Okay, thank you. And one more

1 time, can I have you both state and spell your name for the
2 record. Mr. Salyphone?

3 MR. SALYPHONE: Kenneth Salyphone, K-E-N-N-E-T-H,
4 Salyphone, S-A-L-Y-P-H-O-N-E.

5 HEARING OFFICER LEE: And Mr. Khoshmashrab?

6 MR. KHOSHMAHRAB: Shahab, S-H-A-H-A-B, Khoshmashrab,
7 K-H-O-S-H-M-A-S-H-R-A-B.

8 HEARING OFFICER LEE: Thank you. Ms. DeCarlo, Mr.
9 Murza, please proceed on the topics of Energy, Energy
10 Resources, and Generating Capacity.

11 MR. MURZA: Great, thank you Hearing Officer Lee. As
12 I previously indicated, Kenneth Salyphone will be providing
13 an opening statement. So, please go ahead, Mr. Salyphone.

14 MR. SALYPHONE: Oh, thank you. So, my name is
15 Kenneth Salyphone. My areas of expertise as it relates to my
16 testing in the hearing today includes Energy and Energy
17 Resources, and Jurisdiction and Generating Capacity.

18 My declaration and qualifications were previously
19 filed in this proceeding.

20 The project's generating capacity would be between 50
21 and 100 megawatts and, thus, the project could qualify for a
22 Small Power Plant Exemption. Staff includes this because
23 jurisdictional analyses are based on the net megawatts that
24 can be delivered for use, and not simply based on the gross
25 or nameplate.

1 Furthermore, the maximum load for use for load demand
2 is determinative and not the simple summation of the combined
3 capacity of the generators installed. Hence, the maximum
4 facility-wide load demand requirements for the proposed
5 Mission College Data Center would be 78.1 megawatts.

6 Also, restrictions on the facility's load demand are
7 hardwired through various control systems.

8 Mr. Sarvey comments that energy is completely wasted
9 from testing the backup generators. And has also stated that
10 the energy could be stored into battery storage systems.

11 Testing has an essential purpose as it provides
12 assurances that the generators are mechanically and
13 electrically functional, reliable, and will perform as
14 designed in the event of an electrical service disruption to
15 the facility.

16 Testing procedures are put in place such that when
17 followed mechanical and electrical measurements are taken to
18 determine if an issue is potentially looming.

19 Testing is done in accordance to the requirements of
20 the manufacturer's warranty and to verify the project can
21 provide the high level of reliability that data center
22 customers look for.

23 Electrically loading the generators to charge
24 batteries would alter the procedure and the purpose of the
25 test. It would no longer qualify as a test and it would

1 simply be storing energy into a battery storage system, which
2 could violate its permit as a standby emergency generator.

3 I'd also like to address the project's efficiency.
4 The project would use energy-efficient technologies,
5 including lighting controls to reduce energy usage for
6 exterior lighting. An air side economizer to use outside air
7 for building cooling. Transfer waste heat from the servers
8 to occupied areas of buildings, limiting mechanical
9 refrigeration needs and lowering the required refrigerant
10 volume. And also, cool roof designed reflecting surfaces to
11 reduce heat gains.

12 The Mission College Data Center would be a state-of-
13 the-art facility, operating very efficiently. The project
14 would have a very efficient PUE of 1.11, which is better than
15 the industry average of 1.67.

16 Staff concludes that the project would have a less
17 than significant impact on energy resources and staff did not
18 determine that additional mitigation, such as alternative
19 energy solutions would be required.

20 Thank you for your time and I welcome any comments or
21 questions.

22 HEARING OFFICER LEE: Okay, thank you. This is Ralph
23 Lee, Hearing Officer. Does staff have any further questions
24 for its witnesses?

25 MR. MURZA: This is Michael Murza. We do not have

1 additional questions for witnesses on this second panel.

2 HEARING OFFICER LEE: Yeah, hi, this is Ralph Lee. I
3 think you said you don't have any further questions for your
4 witnesses on this panel.

5 So, then we'll move -- correct me if I'm wrong. But,
6 now, we'll move on to --

7 MR. MURZA: That's correct.

8 HEARING OFFICER LEE: Yeah, thank you. Questions by
9 Applicant. Mr. Galati, does the Applicant have any questions
10 on staff's panel on Energy, Energy Resources, and Generating
11 Capacity?

12 MR. GALATI: This is Scott Galati. No questions,
13 thank you.

14 HEARING OFFICER LEE: Thank you. Mr. Sarvey, do you
15 have any questions for staff's panel on Energy, Energy
16 Resources, and Generating Capacity?

17 MR. SARVEY: Yes, I do.

18 HEARING OFFICER LEE: Okay, please proceed.

19 MR. SARVEY: So, do you believe that the energy from
20 the project's backup diesel generators can be stored in a
21 battery?

22 HEARING OFFICER LEE: Excuse me, this is Ralph Lee.
23 Mr. Sarvey, if you can, identify the witness you're speaking
24 to, if you're able.

25 MR. SARVEY: The first witness that did the direct

1 testimony, I'm asking him a couple of questions. I'm sorry.

2 So, the question was, do you believe that the energy
3 from the project's backup diesel generators can be stored in
4 a battery, regardless of the testing requirements?

5 MR. SALYPHONE: Regardless of the testing conditions?

6 MR. SARVEY: Uh-hum.

7 MR. SALYPHONE: Like, so you're saying if the
8 generator was, I don't know, operating in a non-test
9 condition could you store the --

10 MR. SARVEY: No, under any condition.

11 MR. SALYPHONE: Under any condition, even -- well,
12 testing has a purpose, so not in testing mode.

13 MR. SARVEY: I understand.

14 MR. SALYPHONE: So, we wouldn't be able to load it
15 and store the energy produced from the test into a battery.

16 If you were to -- obviously, if you were to take a
17 generator in and generate electricity, you can store it in a
18 battery storage system. It would just simply be storing
19 energy into a battery storage system, as I stated.

20 MR. SARVEY: Okay. What testing requirements would
21 be violated by using a battery to store energy?

22 MR. SALYPHONE: Well, there's a whole bunch of tests
23 in testing generators, right. You have your mechanical tests
24 and your electrical tests. Mechanically, you're checking out
25 to see if all the fluid levels are at the proper measure or

1 proper readings that they're supposed to be.

2 And then, electrically you're testing the voltage
3 output of the generator and also the current output, right.
4 So, any of those, if you were to test would need to be
5 measured and verified against, you know, the requirements of
6 the manufacturer's warranty.

7 MR. SARVEY: So, those tests could be conducted as
8 well as storing the energy in the battery, correct?

9 MR. SALYPHONE: I would not do that. Because they're
10 specific, right. So, you're testing -- when you test
11 something you're testing it for a purpose.

12 MR. SARVEY: Uh-hum.

13 MR. SALYPHONE: You can alter -- if you -- so, you're
14 running the generator, right, and then you're measuring the
15 current coming out and you're measuring the voltage coming
16 out. If you put that into a load, like a battery, it could
17 alter the measurements you're trying to take.

18 MR. SARVEY: Well, couldn't you take those
19 measurements before that energy entered into the battery? I
20 mean that's quite possible, isn't it?

21 MR. SALYPHONE: Yeah, once you do that, then you're
22 done. I mean, why prolong the test after you've gathered the
23 measurement?

24 MR. SARVEY: It's just a question. I don't
25 understand your answer. But that's all I have, thanks.

1 HEARING OFFICER LEE: Okay, this is Ralph Lee again.
2 And for the record, I believe that was Mr. Salyphone
3 speaking.

4 Let's see, does staff have any further questions for
5 its witnesses on Energy, Energy Resources, and Generating
6 Capacity?

7 MR. MURZA: This is Michael Murza. We do not have
8 additional questions for this witness, thank you.

9 HEARING OFFICER LEE: Okay, thank you. And does
10 staff have any further witnesses or testimony you'd like to
11 present on the subject of Energy, Energy Resources, and
12 Generating Capacity?

13 MR. GALATI: We do not have additional testimony.

14 HEARING OFFICER LEE: Live testimony, correct.

15 MR. GALATI: Correct.

16 HEARING OFFICER LEE: All right, thank you Mr.
17 Salyphone and Mr. Khoshmashrab, you're released from the
18 stand for now, but you will remain sworn in for the remainder
19 of the hearing if you're called back.

20 And now, we move on to Mr. Sarvey. I believe you
21 said that you have no live testimony to present on the topics
22 of Energy, Energy Resources, and Generating Capacity. Is
23 that correct, Mr. Sarvey?

24 MR. SARVEY: That's correct and I'm available to
25 answer any questions on the previous I've filed.

1 HEARING OFFICER LEE: Okay, thank you. I'll guess
2 I'll ask, does Applicant have any questions for Mr. Sarvey on
3 the topics of Energy, Energy Resources, and Generating
4 Capacity?

5 MR. GALATI: This is Scott Galati. Mr. Lee, no, we
6 do not.

7 HEARING OFFICER LEE: And does staff have any
8 questions for Mr. Sarvey on the topic of Energy, Energy
9 Resources or GHG Emissions?

10 MR. MURZA: This is Michael Murza. Staff does not
11 have questions for Mr. Sarvey.

12 HEARING OFFICER LEE: Okay, thank you.

13 At this time I'd like to consider maybe taking a
14 five-minute break so I can just go over my notes, and
15 everyone can just have a break. We've been at it for another
16 hour.

17 I would ask the Committee, would Commissioner Douglas
18 be amendable to that?

19 COMMISSIONER DOUGLAS: This is Commissioner Douglas.
20 Yes, that sounds like a good idea.

21 HEARING OFFICER LEE: Okay. And Vice Chair Scott,
22 does that sound all right to you?

23 VICE CHAIR SCOTT: Yes. This is Vice Chair Scott.
24 That sounds all right to me.

25 HEARING OFFICER LEE: Very good, thank you. Then,

1 let's go off the record on a break for five minutes and come
2 back at 4:39. Thank you.

3 (Off the record at 4:33 p.m.)

4 (On the record at 4:40 p.m.)

5 HEARING OFFICER LEE: Okay, so now we're back. And
6 my understanding is we just finished the topics of Energy,
7 Energy Resources, and Greenhouse Gases. And we also finished
8 all the live testimony for all the topics we're going to
9 discuss during this hearing.

10 Do I have that correct, Mr. Galati?

11 MR. GALATI: Yes, you do.

12 HEARING OFFICER LEE: Okay. And the same question to
13 you, staff, are we now finished with the topics of Energy,
14 Energy Resources, and -- excuse me, Energy, Energy Resources
15 and Generation Capacity, and finished with the live testimony
16 for this hearing?

17 MR. MURZA: This is Michael Murza for staff. Yes,
18 that's correct.

19 HEARING OFFICER LEE: And the same question to you,
20 Mr. Sarvey, are we now finished with the topics of Energy,
21 Energy Resources, and Generating Capacity, and finished with
22 the topics for live testimony at this hearing?

23 MR. SARVEY: Yes, I agree.

24 HEARING OFFICER LEE: Okay, great. Well, then, we
25 will move on to closing statements. We've accepted the

1 exhibits into the record and heard testimony, and now it's
2 time for closing statements.

3 Each party has the opportunity to present closing
4 statements. Each party has up to ten minutes to make their
5 closing statement. And we were going to start with staff.
6 Staff, are you ready to proceed?

7 MR. MURZA: This is Michael Murza. Yes, ready to
8 proceed.

9 HEARING OFFICER LEE: Yes, please go -- hold on. Ms.
10 Carlos, do we have the timer ready to go? That's fine, it
11 looks ready.

12 MS. CARLOS: Yes, it's ready.

13 HEARING OFFICER LEE: Okay. Mr. Murza, please
14 proceed.

15 MR. MURZA: Great, thank you, Hearing Officer Lee,
16 and Commissioner Douglas, and Vice Chair Scott, and to all of
17 the witnesses and experts we've had testify today.

18 The overwhelming and unrebutted evidence in the
19 record supports staff's conclusion that the project qualifies
20 for a Small Power Plant Exemption. And staff recommends the
21 Commission grant it.

22 At its absolute maximum capacity, the project would
23 be capable of generating 78.1 megawatts, which is squarely
24 within the 50 to 100 megawatt range required to qualify for a
25 Small Power Plant Exemption under Public Resources Code

1 Section 25541.

2 As the Commission has concluded previously, Mr.
3 Sarvey's reliance on Section 203 of our regulations is ill-
4 founded for data center projects such as this, which don't
5 use turbine generators and are not capable of delivering
6 electricity to the grid.

7 Here, the building load is the limiting factor for
8 how much electricity the backup generators are physically
9 capable of producing, and it is reasonable to rely on that
10 limiting factor to determine whether a project qualifies for
11 an SPPE. The evidence shows that this project qualifies.

12 With the capacity question addressed, we turn to the
13 second prong of 25541, whether the Commission can make a
14 finding, quote, "That no substantial adverse impact on the
15 environment or energy resources will result from construction
16 or operation of the proposed facility," end quote.

17 Both staff and the Applicant have provided copious
18 evidence to support such a finding for the Mission College
19 Backup Generating Facility, aided by the testimony of Silicon
20 Valley Power and Bay Area AQMD.

21 Staff's testimony shows that time and again staff
22 relies on reasonable, but extremely conservative assumptions
23 in quantifying the project's potential impacts, concluding
24 that they are less than significant.

25 At the beginning of today's hearing, the Committee

1 heard testimony from Silicon Valley Power and the Bay Area
2 Air Quality Management District.

3 Mr. Kolnowski, Electric Utility Chief Operating
4 Officer of SVP, testified that SVP has sufficient resources
5 to accommodate the Mission College Data Center, even in light
6 of the other data centers proposed in its territory, and that
7 serving Mission College will not impede its trajectory of
8 meeting SB 100 and other GHG reduction and renewable energy
9 goals statewide.

10 Mr. Kolnowski also testified that all of the
11 electricity procured by SVP to meet its load complies with
12 California's Cap and Trade Program, either by providing the
13 necessary annual allowances or offsets, or by being exempt
14 because they are either below the emissions threshold or are
15 a renewable facility with no GHG emissions.

16 Mr. Kolnowski also affirmed that staff's analysis
17 relies on an appropriate GHG emissions rate to adequately
18 capture the potential worse case GHG emissions that could be
19 attributable to Mission College's indirect use of
20 electricity. Not only did staff use a number far in excess
21 of what SVP's own documents show they anticipate emitting,
22 but this number was then coupled with the assumption that the
23 project would operate at full capacity all the time. When,
24 in reality, it will on average operate at around 40 to 75
25 percent of maximum capacity.

1 Lastly, Mr. Kolnowski testified that while the PG&E
2 Public Safety Power Shutoffs might have some tangential
3 effects on SVP, they are unlikely to significantly increase
4 the potential for data centers to operate their backup
5 generators.

6 Mr. Zielkiewicz, Advanced Project Advisor with the
7 Planning and Climate Protection Division at BAAQMD, testified
8 that BAAQMD did not disagree with the threshold used by staff
9 and that the 1,100 metric tons of carbon dioxide equivalent
10 per year threshold contained in BAAQMD's 2017 CEQA guidelines
11 is no longer recommended by the district.

12 Staff then summarized its testimony, encapsulating
13 the highlights of months of analysis. Staff testified that
14 the project would not result in any significant, unmitigable
15 impacts to Air Quality, Public Health, Greenhouse Gas
16 Emissions, and Energy and Energy Resources, along with all
17 the other technical sections that were not the focus of
18 today's hearing.

19 Staff testified that the project's emissions are
20 under the significance threshold for NO2 and under the
21 threshold for maximum cancer, and chronic health impacts.

22 Staff testified that air districts do not model
23 emergency operations when permitting similar facilities and
24 it would be speculative to do so here.

25 Staff also testified that the potential public health

1 impacts of the project were modeled based on 50 hours of
2 testing per engine, even though it's likely each engine will
3 only run 10 to 12 hours per year.

4 Staff also testified that it conducted a Health Risk
5 Assessment, even though one was not required, because the
6 incremental risk from the project alone was below any
7 threshold of significance. The addition of other sources
8 could not change the spec, and the Health Risk Assessment
9 confirmed this.

10 Finally, staff testified that the project's GHG
11 emissions would be less than significant. Without a specific
12 document from which to tier under Section 15183.5 of the CEQA
13 guidelines, staff analyzed the project's GHG emissions under
14 Section 15064.4, quantifying the potential emissions and
15 evaluating the project's consistency with the state's long-
16 term climate goals and regional plans to implement those
17 goals.

18 Staff testified that the project complies with and
19 would not impede the attainment of goals specified in state
20 and regional GHG plans and policies, including the City of
21 Santa Clara's Climate Action Plan, SB 100, SB 350, and AB and
22 SB 32, including Cap and Trade, among others.

23 As I previously noted, this summary is just the tip
24 of the iceberg of what went into analyzing the proposed
25 project. Certainly, diesel generators are not without

1 controversy. I don't doubt that everyone at this hearing
2 hopes that California can become fossil fuel free in the near
3 future. But the role of the Commission staff here isn't to
4 opine on what it would like to see, it is to objectively
5 evaluate the project as proscribed by the laws and
6 regulations currently in effect.

7 Based on these legal parameters and the evidence in
8 the record, staff has concluded that across the board the
9 project would not result in any significant adverse impacts
10 and recommends that the Commission grant an exemption.

11 HEARING OFFICER LEE: Thank you, Mr. Murza.

12 Mr. Sarvey, do you have a closing statement that
13 you'd like to present?

14 MR. SARVEY: Yeah, I'll provide one.

15 HEARING OFFICER LEE: Okay, please proceed.

16 MR. SARVEY: Okay. With all this analysis of the
17 Silicon Valley Integrated Resource Plan, staff and Applicant
18 ignore the City of Santa Clara's obligation to reduce GHG
19 emissions by 40 percent by 2030, which should be the focus of
20 their greenhouse gas analysis.

21 The City of Santa Clara has an estimated 1990 GHG
22 baseline of 1,854,300 metric tons per year. Currently, to
23 meet the 2030 GHG reduction target of 40 percent reduction
24 over the 1990 baseline, the City of Santa Clara would have to
25 lower its total GHG emissions by 741,720 metric tons of CO2

1 equivalent a year by 2030.

2 The addition of the emissions from the Mission
3 College Project of 133,721 metric tons would require the city
4 to reduce its GHG emissions by 916,440 metric tons per year,
5 instead of the 741,720 metric tons to meet the 2030 GHG
6 target without the Mission College Project.

7 Staff and Applicant are relying on SVP's Integrated
8 Resource Plan, and state and local regulations to achieve the
9 goal of an additional 40 percent in greenhouse gas reductions
10 for 2030 towards Silicon Valley power, not the City of Santa
11 Clara.

12 If the plan is successful, it will reduce the Mission
13 College Project's 2030 GHG emissions by 20 percent, since the
14 emissions are based on 2020 carbon emission factors. If
15 Applicant and staff are right, and the state and local
16 programs, and the Integrated Resource Plan successfully
17 reduce the emissions from the Mission College by 20 percent,
18 or 26,744 metric tons over its 2021 indirect emissions, it
19 will still add 106,976 metric tons to the 2030 GHG target of
20 the City of Santa Clara.

21 In other words, this leaves the City of Santa Clara
22 to reduce their combined GHG emissions by 848,696 metric tons
23 by 2030, instead of 741,720 metric tons by 2030, as they
24 would without the Mission College Data Center.

25 CEC staff has now approved through five proceedings,

1 through Mitigated Negative Declarations, five data centers
2 estimated by CEC staff to emit a combined total of 693,519
3 metric tons of CO₂ per year. What does that represent? The
4 693,519 metric tons of estimated GHG emissions is over 37
5 percent of the City of Santa Clara's estimated 2008 -- 1990
6 GHG baseline emissions of 1,854,300 metric tons per year.

7 The 693,519 metric tons is 1.4 times the GHG target
8 set by CARB for Silicon Valley Power of 485,000 metric tons
9 per year.

10 Despite this cumulative impact of 693,519 tons of
11 CO₂, CEC staff or Applicant has not provided a Cumulative
12 Impact Assessment of these project's GHG impacts on the
13 ability of the City of Santa Clara to meet its 40 percent GHG
14 reduction target for 2030.

15 Santa Clara must reduce its 1,854,300 metric tons
16 per year by 40 percent, or 741,720 metric tons, and at the
17 same time reduce the emissions from all of the additional
18 data centers' GHG emissions estimated by CEC staff to be
19 693,519 metric tons per year to zero to meet its goals of 40
20 percent reduction by 2030.

21 The project's GHG emissions of 133,721 metric tons
22 equals 27 percent of Silicon Valley's 2030 Integrated
23 Resource Planning target of 485,000 metric tons per year. In
24 addition, the project also annually emits an estimated 3,875
25 metric tons of CO₂ from the emergency generators and another

1 2,663 metric tons of emissions from other sources, like
2 transportation, water use, and other GHG-emitting activities.

3 A total of an additional 6,538 metric tons of GHG
4 emissions per year are emitted in addition to the 133,721
5 metric tons per year. These emissions are not regulated by
6 Cap and Trade, nor are they included in the Integrated
7 Resource Plan.

8 Turning my attention to Exhibit 19, which is going to
9 be part of Mr. Galati's closing statement, one paragraph he
10 fails to mention is on page 14 of 29 of the exhibit, which
11 describes the significant and unavoidable impacts from the
12 implementation of the Integrated Resource Plan.

13 It states: The final EAA (phonetic) found that
14 impacts including construction of new facilities,
15 modification of existing facilities, an increased number of
16 renewable energy projects such as wind, solar, solar thermal,
17 solar voltaic, geothermal, solid fuel biomass, biogas, and
18 other small hydroelectric systems. It isn't the impacts that
19 could be expected from SVP's Integrated Resource Plan, which
20 required 670 megawatts of solar and 500 megawatts of wind in
21 terms of installed capacity through the portfolio.

22 These utility additions won't impact SVP, but they
23 will impact some other utility and it will require additional
24 utilities and services to serve its load.

25 The EA from Resolution 2278 also found unavoidable

1 impacts to utilities and service systems. Finally, EA found
2 on 22 of 29 that reasonably foreseeable actions associated
3 with implementation of proposed targets includes construction
4 of new facilities or a modification facilities, an increased
5 number of renewable energy projects such as wind, solar,
6 thermal, solar voltaic.

7 This adequately describes SVP's intent in the IRP to
8 acquire 670 megawatts of solar and 500 megawatts of wind.

9 Thank you, that's all I have.

10 HEARING OFFICER LEE: Yes, thank you. This is Ralph
11 Lee, again.

12 So, with closing statements finished, I'll remind --
13 I discuss the briefing schedule. As I mentioned at the
14 Prehearing Conference we're going to allow optional briefing
15 by the parties. Any party wishing to file a brief should do
16 so no later than seven business days after the reporter's
17 transcript of this Evidentiary Hearing is filed in the
18 docket.

19 VICE CHAIR SCOTT: Ralph? This is Vice Chair Scott.
20 I think we need to go the Applicant's closing statement,
21 first.

22 HEARING OFFICER LEE: Oh, my goodness. Excuse me.
23 Thank you.

24 VICE CHAIR SCOTT: Okay.

25 HEARING OFFICER LEE: Mr. Galati, would you like to

1 make a closing statement?

2 MR. GALATI: I would, thank you. Thank you,
3 Commissioner Scott.

4 As the Committee is aware, Oppidan staff are in
5 complete agreement on the findings, conclusions, and
6 mitigation, including new and modified mitigation measures,
7 and concurring opinion that the evidence conclusively proves
8 that the Commission can make the findings necessary to grant
9 a Small Power Plant Exemption.

10 I remind the Committee that there have been no
11 members of the public that have raised concern over this
12 project, even though the CEC has conducted public outreach
13 and noticing in excess of what is required by CEQA.

14 So, this closing statement's going to focus on the
15 sole purpose of this entire Evidentiary Hearing, which is the
16 obligation on the Applicant and staff to rebut Mr. Sarvey.

17 First, Mr. Sarvey has previously made the same
18 arguments regarding jurisdiction and generating capacity, air
19 quality modeling, cumulative impacts, and emergency
20 operations. He's not providing anything new in these areas.
21 And the Committee Proposed Decision should just simply rely
22 on what you did in Laurelwood and in McLaren.

23 The ISMND is even more thorough in this case than in
24 those cases regarding these issues because staff has
25 proactively addressed Mr. Sarvey's claims.

1 I'll focus the rest of my time on two issues,
2 indirect GHG emissions from the use of electricity and the
3 timing of this project.

4 As Mr. Lisenbee testified, a GHG analysis must keep a
5 pace with changing regulatory requirements. This is
6 supported by the California Supreme Court in its opinion in
7 Cleveland National Forest Foundation vs. SANDAG.

8 This makes sense because analysis of GHG emissions
9 under CEQA has to be different. And the courts and the CEQA
10 guidelines routinely acknowledge, it is impossible to
11 determine whether the emissions from a single project would
12 cause the earth to warm. So, by its very nature the only way
13 to analyze GHG emission is cumulatively.

14 For the Mission College Data Center, the electricity
15 emissions are indirect and, therefore, entirely within the
16 control of the utility, Silicon Valley power. Therefore,
17 they must be treated differently.

18 Ms. Lisenbee testified, as an expert in preparing
19 CEQA analyses for cities and counties, including the analysis
20 for the prior project, that the numeric thresholds Mr. Sarvey
21 proposes for these indirect emissions are outdated and no
22 longer used.

23 Mr. Lisenbee outlined that the appropriate threshold
24 to use is authorized by case law and the CEQA guidelines.
25 Does the project comply with statewide goals to reduce GHG

1 emissions? But how can it, if it doesn't control the
2 emissions from SVP's supply of electricity? Therefore, the
3 only rational and legally defensible significance threshold
4 for these indirect emissions can be is does the Mission
5 College Data Center interfere or inhibit Silicon Valley Power
6 from implementing its plans to comply with the statewide GHG
7 reduction goals.

8 The basis for California goals are outlined in
9 Exhibit 18, CARB Resolution 18-26, and Exhibit 19, the staff
10 report to support that resolution.

11 I'll remind the Committee that Mr. Sarvey has done it
12 again. He's discussing a document that's not in the record,
13 which is the environmental assessment that was done for those
14 documents.

15 As the Commission is aware, it participated and
16 developed the specific planning reduction targets for the
17 electricity industry and, specifically, Silicon Valley's
18 portion of those targets. Why set these goals and targets if
19 they're not to be used?

20 Exhibit 302, the 2018 Integrated Resource Plan is
21 SVP's most recent plan, meaning it's the portion of the
22 reduction required by state law, Public Utility Code Section
23 9621, or commonly referred to as SB 350.

24 Mr. Kolnowski testified that the Mission College Data
25 Center will not interfere or inhibit SVP's ability to

1 implement its Integrated Resource Plan and, more importantly,
2 its ability to meet the goals.

3 I again remind the Commission that the Commission
4 helped develop those targets and also reviewed Silicon Valley
5 Power's Integrated Resource Plan to make sure they outlined a
6 pathway to meet them.

7 Finally, after Mr. Sarvey was forced to put all of
8 his arguments and opinion in his pre-filed written testimony,
9 rather than in a brief so that we can address the at
10 Evidentiary Hearing, Mr. Sarvey produced some tables and
11 calculations show the GHG emissions of several data centers,
12 and then concludes that the addition of these data centers
13 will consume all of SVP's GHG emission allotment under SB
14 350.

15 There are two factually incorrect assumptions that
16 were made in his calculation. First, he fails to correct all
17 of the electrical consumption numbers, all of the electrical
18 consumption numbers for temperature. All of the numbers he
19 uses assume complete of the use of the total critical IT
20 capacity, every hour, of every day of the year. Then, these
21 calculations assume that the electricity needed for cooling
22 would be the amount needed to cool the hottest design day for
23 every hour, for every day, of the year.

24 None of the numbers are corrected for the amount of
25 electricity consumption data centers actually use. Mr.

1 Kolnowski has testified that in SVP's experience, probably a
2 location where there have been a lot of data centers for a
3 long time, the highest actual electrical demand of a data
4 center in SVP's territory is more like 75 percent of the
5 total design.

6 As this project will be phased, like many projects,
7 the use will be ramped up over time as each phase is
8 constructed, and the data center is leased and occupied.

9 Second, Mr. Sarvey's arguments concerning the
10 Integrated Resource Plan for Silicon Valley Power all assume
11 that integrated resource planning is a static event. It is
12 not. It is iterative and dynamic. It must be. No large
13 electrical customer purchases electricity until it is needed.
14 There is a different between planning for increased demand
15 and actually procuring the resources to serve that demand.

16 Mr. Sarvey's arguments assume they are the same. And
17 further, without any legal or factual support for the
18 proposition that SVP must have the resources to serve that
19 inflated cumulative demand included in his tales.

20 Mr. Kolnowski described how SVP is always planning
21 for increased demand. He testified that SVP worked with its
22 large data center customers often to constantly revise their
23 upcoming electrical demands. The IRP is updated every five
24 years and reflects the ongoing dynamic planning process,
25 which is submitted to the CEC for review to ensure SVP

1 continues to meet the goals.

2 The Commission's desire to offer intervenors an open
3 and transparent process has interfered with its
4 classification of expert opinion testimony. The discussion
5 of procurement is just another example. While Mr. Sarvey has
6 been allowed to provide expert testimony, when he has no
7 expertise in this area. When this practice continues, it
8 forces staff and Applicants to prove the negative, which is
9 an unfair burden when opinion testimony from an unqualified
10 person is accepted as expert opinion, rather than public
11 comment.

12 This policy forces me to say that Mr. Sarvey's
13 testimony related to integrated resource planning should not
14 be given any weight. To do so, otherwise would be to ignore
15 the true qualifications of Mr. Kolnowski and his staff who,
16 by the way, have done a tremendous in providing some of the
17 most reliable electric service in the state, while far
18 exceeding its GHG emission reduction goals to date.

19 To do so would ignore the qualifications of staff and
20 Oppidan's experts who have had to prove Mr. Sarvey wrong.

21 Lastly, giving weight to Mr. Sarvey's testimony would
22 ignore the CEC's own staff experts who helped CARB develop
23 the GHG reduction planning targets, and who reviewed, and
24 will continue to review SVP's IRP to meet the state's
25 greenhouse gas emission reduction goals.

1 As outlined in our Small Power Plant Exemption, the
2 Commission should have treated the CEQA analysis as an
3 addendum, but it didn't. So little has changed that the City
4 of Santa Clara has allowed demolition and grading activities
5 to continue.

6 As Mr. Johnson testified, construction works have
7 been deemed to be essentially to this facility. Demolition
8 has all been completed and grading nearly completed.

9 In order to avoid the destruction in the work flow,
10 causing the contractor to demobilize the site, we're asking
11 for the Committee to write a proposed decision and allow the
12 Commission to grant the SPPE at the Business Meeting on July
13 8th, 2020.

14 Briefs simply are not needed. You've heard closing
15 statements. There are no discrete legal questions. Mr.
16 Sarvey waited until the last moment to participate in this
17 project. He didn't file comments on the ISMND, which would
18 have allowed staff to address each and every one. Instead,
19 he waited. Now, we have just spent three hours addressing
20 his comments again.

21 Most of Mr. Sarvey's arguments are duplicative. The
22 new issues involving indirect GHG electricity emissions have
23 been discussed thoroughly in Walsh, Sequoia, and now Mission
24 College. Mr. Sarvey's arguments are factually incorrect, not
25 supported by any legal authority, and rest completely on his

1 own opinion which should not be given any weight.

2 We urge the Committee to quickly write a Proposed
3 Decision and keep our workers working. Thank you.

4 HEARING OFFICER LEE: Yes, thank you. This is Ralph
5 Lee, again. And now, I do believe we are finished with
6 closing statements.

7 I do believe we are going to allow optional briefing
8 by the parties. Any party wishing to file a brief shall do
9 so no later than seven business days after the reporter's
10 transcript from this Evidentiary Hearing is filed in the
11 docket.

12 All briefs shall be limited to 15 pages, shall be in
13 a font size no less than 12 points, and shall not include any
14 attachments. Briefs shall apply the law to the evidence in
15 the hearing record, citing the evidence by exhibit and page
16 number.

17 And so, with that, we're going to move on to public
18 comment. So, I would ask that if anyone has a public comment
19 at this time, please use the raise hand feature so that we
20 can unmute you.

21 At this time, I see Mr. Galati has his hand raised.

22 MR. GALATI: No, that's a leftover. I'm sorry.
23 That's a leftover, I apologize, from when I wanted to get my
24 closing statement in.

25 HEARING OFFICER LEE: No problem.

1 Okay, I'm not seeing any public comments. I'll wait
2 here just a second. And actually, please go ahead and raise
3 your hand if you have a public comment. Let me see if the
4 Public Advisor's Office is still online. Is it Ms. Avalos
5 there?

6 MS. AVALOS: This is Rosemary Avalos from the Public
7 Advisor's Office and there are no public comment at this
8 time. Thank you.

9 HEARING OFFICER LEE: Thank you. Okay, and I still
10 see no hands raised. And that's star 9, again, on Zoom.

11 Yes, still no public comment, still no hands raised.
12 So, going once, going twice.

13 MS. PHAM: One second, Ralph, we're checking the
14 attendees.

15 HEARING OFFICER LEE: Thank you.

16 MS. CARLOS: If you would like to make a public
17 comment on the phone, please dial star 9, or if you're on
18 Zoom there's a raise your hand feature.

19 I don't think there's anybody.

20 HEARING OFFICER LEE: Okay, thank you, Ms. Carlos.
21 Yes, I don't see anybody's hands.

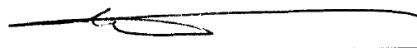
22 So, at this time I'll ask -- I'll turn to the
23 Committee and ask if Commissioner Douglas or Vice Chair Scott
24 have -- either has any final remarks. Commissioner Douglas,
25 do you have any final remarks?

REPORTER' S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of June, 2020.



PETER PETTY
CER**D-493
Notary Public

TRANSCRIBER'S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of June, 2020.



Barbara Little
Certified Transcriber
AAERT No. CET**D-520