

DOCKETED

Docket Number:	19-SPPE-04
Project Title:	SJ2
TN #:	233960
Document Title:	Microsoft Corporation's Objections to CURE's Data Requests
Description:	N/A
Filer:	Arielle Harris
Organization:	Miller Starr Regalia
Submitter Role:	Applicant Representative
Submission Date:	7/20/2020 3:33:35 PM
Docketed Date:	7/20/2020

STATE OF CALIFORNIA

**Energy Resources Conservation
and Development Commission**

In the Matter of:

Application for Small Power Plant Exemption
for the:

San José City Data Center

Docket No. 19-SPPE-04

**APPLICANT MICROSOFT CORPORATION'S OBJECTIONS TO DATA REQUESTS
FROM CALIFORNIA UNIONS FOR RELIABLE ENERGY**

July 20, 2020

Nadia Costa
Miller Starr Regalia
1331 N. California Blvd., 5th Floor
Walnut Creek, CA 94596
Telephone: (925) 941-3235
Facsimile: (925) 993-4126
Email: nadia.costa@msrlegal.com

Arielle O. Harris
Miller Starr Regalia
1331 N. California Blvd., Fifth Floor
Walnut Creek, CA 94596
Telephone: (925) 941-3236
Facsimile: (925) 993-4126
Email: arielle.harris@msrlegal.com

Attorneys for Microsoft Corporation

Microsoft Corporation's Objections to CURE's Data Requests, Set One

MICROSOFT CORPORATION'S OBJECTIONS TO DATA REQUESTS FROM CALIFORNIA UNIONS FOR RELIABLE ENERGY, SET 1

Pursuant to section 1716 of Title 20 of the California Code of Regulations (Section 1716), Microsoft Corporation (Applicant) hereby files the following Objections to the Data Requests, Set 1, filed by California Unions for Reliable Energy (CURE). CURE filed a Motion for Leave to File Data Requests on May 28, 2020. On June 29, 2020, Commissioner and Presiding Member Karen Douglas granted the motion.

Section 1716 contains the basic framework for information exchanges (i.e., Data Requests and Responses) for licensing proceedings: "Any party may request from an Applicant ...information which is reasonably available to the Applicant which is relevant to the notice or application proceedings or reasonably necessary to make any decision on the ...application." (20 Cal. Code Regs., § 1716(b).) The Applicant may then answer or object to the request. If the Applicant objects, the requesting party may then forego the request, seek alternative means of obtaining the desired information, or petition for an Order directing the Applicant to provide the information. In considering the reasonableness of a Data Request, the Commission evaluates whether the information sought appears to be reasonably available, relevant and reasonably necessary for the Commission to reach a decision in the proceeding. The Applicant hereby objects to those requests that do not meet this standard.

The Applicant believes that the analyses it has prepared are sufficient for the Energy Commission to make an informed decision about the Application, and for the Application to comply with applicable laws, ordinances, standards and regulations (LORS). An intervener may disagree with analyses and prepare its own calculations or estimates regarding any relevant issue. However, the discovery phase must be differentiated from the evidentiary phase of this proceeding.

Except as noted below, the Applicant will respond to CURE's Data Requests on or before July 29, 2020. Further, notwithstanding these objections and without waiving any of its rights related to these objections, the Applicant also reserves the right, in its sole and absolute discretion, to respond to any of CURE's Data Requests to which the Applicant objects. This

Microsoft Corporation's Objections to CURE's Data Requests, Set One

reservation of right will allow the Applicant to meet and confer with CURE to discuss revising some of CURE's requests to more narrowly focus on information reasonably available, relevant, and reasonably necessary for the Commission to reach a decision in the proceeding.

The Applicant's specific objections are set forth below.

SPECIFIC OBJECTIONS

Electricity Demand, Data Requests 1 and 2

1. Please provide the vendor specifications for all of the electrical equipment that would support the project, e.g., IT equipment, ancillary electrical/telecommunication equipment, electrical switchgear, lights, heating etc.

Response: The Applicant objects to this Data Request on the grounds that the requested information is not reasonably available to the Applicant and is therefore onerous, burdensome, and irrelevant. The specifications for all electrical equipment will be developed during final design and are not available at this time. Furthermore, computer (IT) equipment specified at this time may likely be obsolete by the time construction commences. Finally, as the Applicant expects the Commission to issue a condition limiting the maximum electrical production to less than 100 megawatts, providing vendor specifications for all electrical equipment is unnecessary for analyzing the project's CEQA impacts.

2. Please provide calculations that support the estimated electricity usage of 803,730 MWh/yr.

Response: The Applicant objects to this Data Request on the grounds that the requested information is irrelevant. The Applicant expects the Commission to issue a condition limiting the maximum electrical production to less than 100 megawatts. The project has been designed and analyzed for a maximum demand of 867,240 MWh (99 MW * 24 hours/day * 365 days/year), which exceeds the estimated electricity usage of 803,730 MWh (91.75 MW). Providing detailed calculations is unnecessary for analyzing the project's CEQA impacts.

Water Use, Data Requests 3 and 9

3. Will serve letter from water purveyor.

Response: This Data Request for a water purveyor will serve letter is irrelevant to the analysis of CEQA impacts. The project site is located within the San José Municipal Water System, which has an obligation to serve the project, after approval by the CEC and the City of San José. A will serve letter does not provide any information regarding the water resources impacts beyond the Water Supply Assessment previously prepared

Microsoft Corporation's Objections to CURE's Data Requests, Set One

for the project site, which considered 129.5 acre-feet per year of potable and 1,673 acre-feet per year of recycled water use.

9. An estimate of electricity to convey and treat the Project's water demand.

Response: The Applicant objects to this Data Request on the grounds that the requested information is irrelevant and not reasonably available to the Applicant. The electricity for conveyance and treatment of the Project's water demand to the site is borne by the water provider which has an obligation to serve the project. The amount of electricity required would be minimal in comparison to the electricity needed to serve the entirety of the San José Municipal Water System. Providing estimates is unnecessary for analyzing the project's CEQA impacts.

Diesel Generator Pollution Controls, Data Request 15

15. Ammonia supply route(s) for delivery to site.

Response: This Data Request is irrelevant as the project proposes to use urea as the reactant in the emergency standby generator's emission control system, as noted in the air quality section of the Small Power Plant Exemption (SPPE) application.¹ Urea does not pose the same public health risk from use, storage, or transport as ammonia.

Air Quality, Data Request 24

24. All estimates of emissions associated with electricity consumption.

Response: This Data Request is burdensome and onerous as the Applicant provided greenhouse gas emission estimates associated with energy use in SPPE, and emission factors for these compounds are readily available. Identifying criteria pollutant emission factors for use in a long-term analysis would be difficult due to the pace at which renewables energy sources are incorporated into the California electrical grid.

Respectfully submitted,

Dated: July 20, 2020

MILLER STARR REGALIA

Nadia L. Costa

Nadia Costa, Esq.
Arielle O. Harris, Esq.

Attorneys for Applicant, Microsoft
Corporation

¹ Transaction Number 230741, Section 3.3 Air Quality, page 3.3-14.