

**DOCKETED**

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| <b>Docket Number:</b>   | 19-SPPE-03                                |
| <b>Project Title:</b>   | Sequoia Data Center                       |
| <b>TN #:</b>            | 235857                                    |
| <b>Document Title:</b>  | Notice of Committee Conference            |
| <b>Description:</b>     | WEDNESDAY, DECEMBER 16, 2020<br>2:00 p.m. |
| <b>Filer:</b>           | Ngoc Tran                                 |
| <b>Organization:</b>    | Energy Commission Hearing Office          |
| <b>Submitter Role:</b>  | Committee                                 |
| <b>Submission Date:</b> | 12/4/2020 12:58:03 PM                     |
| <b>Docketed Date:</b>   | 12/4/2020                                 |



**State of California  
State Energy Resources Conservation and  
Development Commission**  
1516 Ninth Street, Sacramento, CA 95814  
(800) 822-6228 – [www.energy.ca.gov](http://www.energy.ca.gov)

APPLICATION FOR SMALL POWER PLANT  
EXEMPTION FOR THE:

***SEQUOIA BACKUP GENERATING  
FACILITY***

**Docket No. 19-SPPE-03**

**NOTICE OF COMMITTEE CONFERENCE**

**PLEASE TAKE NOTICE** that the Committee<sup>1</sup> appointed by the California Energy Commission (CEC)<sup>2</sup> to conduct proceedings on the application for a small power plant exemption (SPPE) for the Sequoia Backup Generating Facility (Application)<sup>3</sup> has scheduled a Committee Conference on the following date and time:

**WEDNESDAY, DECEMBER 16, 2020  
2:00 p.m.**

***The Committee Conference will be held remotely, consistent with Executive Orders N-25-20 and N-29-20 and the recommendations from the California Department of Public Health to encourage physical distancing in order to slow the spread of COVID-19. The public and parties will be able to participate and/or observe the proceedings consistent with the direction in these Executive Orders.***

To participate in the Committee Conference remotely, please see the instructions below

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<sup>1</sup> On September 11, 2019, the CEC appointed a Committee consisting of Karen Douglas, Commissioner and Presiding Member, and Patty Monahan, Commissioner and Associate Member, to preside over this SPPE Application. (TN 229721.)

<sup>2</sup> The CEC is formally known as the "State Energy Resources Conservation and Development Commission." (Pub. Resources Code, § 25200.)

<sup>3</sup> Information about this Application, including a link to the electronic docket, may be found on the CEC's [web page](https://ww2.energy.ca.gov/sitingcases/sequoia/) at <https://ww2.energy.ca.gov/sitingcases/sequoia/>. Documents related to this Application may be found in the [online docket](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=19-SPPE-03) at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=19-SPPE-03>.

under the section “REMOTE ATTENDANCE.”

## **BACKGROUND**

### ***The Committee Proposed Decision***

C1-Santa Clara, LLC (Applicant)<sup>4</sup> proposes to construct and operate the Sequoia Backup Generating Facility, consisting of 54 diesel-fired backup generators to provide an uninterruptible power supply to the Sequoia Data Center during interruptions of the electrical supply (Project).<sup>5</sup>

On August 21, 2020, the Committee issued a Committee Proposed Decision (Proposed Decision) that recommended approval of a mitigated negative declaration and granting an SPPE for the Project.<sup>6</sup> The Proposed Decision relied on an initial study/proposed mitigated negative declaration (IS/PMND) to find that the Project would not have significant environmental impacts, including air quality impacts.

### ***Motion to Remand***

The CEC held a public hearing to consider the Proposed Decision at the September 9, 2020 business meeting.<sup>7</sup> During the public hearing on the Proposed Decision, three parties to the proceeding, CEC staff (Staff), Applicant, and intervenor Robert Sarvey, an intervenor in the case,<sup>8</sup> presented arguments and comments to the CEC.<sup>9</sup> In addition, representatives from the California Air Resources Board (CARB) and Bay Area Air Quality Management District (BAAQMD) made oral comments on the Proposed Decision.<sup>10</sup> CARB, in particular, proposed that the CEC consider additional information about air quality and public health impacts of the Project, particularly in light of the energy emergencies caused by heat storms and public safety power shutoffs in August and September 2020.<sup>11</sup>

After conducting the public hearing on the Proposed Decision and deliberating in a properly-noticed closed session, the CEC Commissioners returned to the public portion

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<sup>4</sup> On August 14, 2019, the Applicant submitted this Application to the CEC for an SPPE for the Sequoia Backup Generating Facility in Santa Clara, California. (TN 229419-1 through TN 229419-4.)

<sup>5</sup> TN 229419-1, at p. 2 - 1.

<sup>6</sup> TN 234416.

<sup>7</sup> TN 234840 is an excerpt from the transcript of the September 9, 2020 business meeting that contains exclusively the hearing on the application for an SPPE for the Sequoia Backup Generating Facility.

<sup>8</sup> On December 14, 2019, Robert Sarvey submitted a petition to intervene in the case. (TN 231245.) The Committee issued an order granting intervenor status to Mr. Sarvey on January 16, 2020. (TN 231546.)

<sup>9</sup> TN 234840, at pp. 13 - 17.

<sup>10</sup> *Id.* at pp. 19 - 23.

<sup>11</sup> *Id.* at pp. 19 - 20.

of the hearing.<sup>12</sup> They approved a motion to remand the proceedings back to the Committee to consider air quality and public health impacts in light of the recent energy emergencies (Motion to Remand).<sup>13</sup>

### ***Affirming Motion to Remand with Modifications***

On September 18, 2020, the CEC noticed, on its own motion, a hearing on the Motion to Remand to determine whether it should be affirmed, affirmed with modifications, or vacated.<sup>14</sup> The notice of the hearing was revised several times,<sup>15</sup> but, ultimately, a hearing on the Motion to Remand was scheduled for the November 16, 2020 business meeting.<sup>16</sup>

On October 15, 2020, CARB filed written comments, expanding on its oral comments made during the public hearing on September 9, 2020.<sup>17</sup> In the written comments, CARB challenged the sufficiency of the environmental analysis in the Proposed Decision (and the IS/PMND) of the Project's potential to cause significant air quality impacts. CARB stated that the inputs used to model the Project's one-hour NO<sub>2</sub> impacts were incorrect. CARB also challenged the Proposed Decision's conclusion that the modeling of emergency operations was speculative and indicated that the CEC should conduct scenario modeling where one or more engines is operated under different circumstances.<sup>18</sup> Staff,<sup>19</sup> Robert Sarvey,<sup>20</sup> and Applicant<sup>21</sup> all filed comments responding to CARB's written comments.<sup>22</sup>

At the public hearing on November 16, 2020, the CEC received oral comments from Robert Sarvey, Applicant, Staff, representatives from CARB and BAAQMD, respectively, Claire Warshaw, Earthjustice/Sierra Club, and the Santa Clara and San Benito Counties Building and Construction Trades Council. At the conclusion of the

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<sup>12</sup> *Id.* at p. 23.

<sup>13</sup> TN 234840, at pp. 25 - 26.

<sup>14</sup> TN 234821. On September 10, 2020, the Applicant filed a Petition for Reconsideration and Appeal of Committee Ruling that indicated that members of the public had been unable to comment prior to the CEC adopting the Motion to Remand and requested that the Motion to Remand be vacated and the Proposed Decision adopted. (TN 234649.)

<sup>15</sup> TNs 234898, 235020.

<sup>16</sup> TN 235457.

<sup>17</sup> TN 235271.

<sup>18</sup> TN 235271, at pp. 8 - 9.

<sup>19</sup> TN 235472.

<sup>20</sup> TN 235475.

<sup>21</sup> TN 235476.

<sup>22</sup> Comments were also filed by Clair Warshaw, a member of the public. (TN 235512.) Earthjustice and Sierra Club jointly filed comments. (TN 235600.)

hearing, the CEC voted to affirm the Motion to Remand with modifications and ordered the following:

The Committee is directed to conduct limited additional proceedings to consider those comments raised by the California Air Resources Board and the Bay Area Air Quality Management District in this proceeding that address 1) input assumptions regarding NO<sub>2</sub> impacts from routine testing and maintenance; and 2) direct and cumulative impacts of emergency operations of the Project's backup generators. The Committee may address additional issues that arise during those proceedings.

In order to facilitate a timely resolution of this matter, the Committee is directed to report on progress in this proceeding to the full California Energy Commission at the January 2021 business meeting.<sup>23</sup>

### **PURPOSE OF THE COMMITTEE CONFERENCE**

The purpose of the Committee Conference is to discuss the progress that the parties have made to address the comments raised by CARB and the BAAQMD in this proceeding regarding 1) input assumptions regarding NO<sub>2</sub> impacts from routine testing and maintenance; and 2) direct and cumulative impacts of emergency operations of the Project's backup generators.

The Committee and the parties may also discuss a schedule for the proceeding and address any other outstanding issues.

We direct the parties' attention to the section "ORDERS REGARDING RESPONSES TO COMMITTEE QUESTIONS AND REQUEST FOR INFORMATION," regarding their expected participation in and responsibilities for the Committee Conference.

In addition to the formal parties, the Committee invites interested public agencies, particularly CARB and the BAAQMD, to work with the parties and respond to the Committee questions and request for information and attend the Committee Conference.

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

During the Committee Conference noticed herein, the Committee may adjourn to a closed session in accordance with California Government Code section 11126, subdivision (c)(3), which allows a state body, including a delegated committee, to hold a

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<sup>23</sup> TN 235758.

closed session to deliberate on a decision to be reached in a proceeding the state body is required by law to conduct.

## **ORDERS REGARDING RESPONSES TO COMMITTEE QUESTIONS AND REQUEST FOR INFORMATION**

Based on the written comments filed by CARB and the parties' filed responses, the Committee wishes to resolve the issues raised by CARB and BAAQMD during the CEC's initial consideration of the Proposed Decision and adoption of the Motion to Remand. To that end, the Committee directs the parties and requests that CARB and BAAQMD respond to the following questions and request for information no later than **5:00 p.m. on December 14, 2020.**

1. The parties are directed to meet and confer, and invite participation by CARB and BAAQMD, to determine whether any of the outstanding issues identified in the Order can be resolved among the parties and what issues remain in dispute. The parties are encouraged to prepare a joint statement setting out their positions as to the identified issues, as well as responses to the questions set forth below. If the parties are unable to prepare a joint statement, then they are to submit individual statements.
  - a. Is the Applicant's modeling, relied upon by Staff in the IS/PMND, adequate for the analysis of NO<sub>2</sub> impacts from routine testing and maintenance operations? If not, describe why the analysis is not adequate and what would cure the described inadequacies?
  - b. Can scenario modeling be used to bound a range of potential impacts from emergency operations? Are there other options to assess impacts of emergency operations? If so, how long will it take to perform those options?
2. The Committee asks CARB or BAAQMD, respectively or jointly, to provide any additional information/data they deem relevant to resolving the outstanding issues identified by the CEC in the Order. Further, the Committee requests that CARB and BAAQMD explain the relevance of any such information/data and how the Committee should utilize such information/data.

## **AGENCY AND PUBLIC PARTICIPATION**

Local, state, federal, and tribal governmental agencies and members of the public are welcome to attend and offer oral or written comments at the Committee Conference. It is not necessary to be an intervenor to participate in the public process. Comments may be [submitted electronically](#) to the Sequoia Docket Page at:

<https://efiling.energy.ca.gov/Ecomment/Ecomment.aspx?docketnumber=19-SPPE-03>.

Otherwise, written comments may be submitted for posting on the proceeding docket by emailing them to [publicadvisor@energy.ca.gov](mailto:publicadvisor@energy.ca.gov) or to [docket@energy.ca.gov](mailto:docket@energy.ca.gov).

For all comments, please include the docket number and proceeding name “**Docket No. 19-SPPE-03, Sequoia Backup Generating Facility**” in the subject line and on the cover page.

Written and oral comments, attachments, and associated contact information (including address, phone number, and email address) will become part of the public record of this proceeding with access available via any internet search engine.

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

The CEC’s Public Advisor’s Office provides the public with assistance in participating in CEC proceedings. For information on participation or to request interpreting services or reasonable accommodations, please contact Public Advisor Noemí O.

Gallardo at [publicadvisor@energy.ca.gov](mailto:publicadvisor@energy.ca.gov), by phone at (916) 654-4489, or toll free at (800) 822-6228. Requests for interpreting services and reasonable accommodations should be made at least five days in advance. The CEC will work diligently to accommodate all requests.

**Direct questions of a procedural nature** related to the Application to [Susan Cochran, Hearing Officer](#), at [susan.cochran@energy.ca.gov](mailto:susan.cochran@energy.ca.gov) or (916) 654-3965.

**Direct technical subject inquiries** concerning the Application to [Leonidas \(Lon\) Payne, Project Manager](#), at [leonidas.payne@energy.ca.gov](mailto:leonidas.payne@energy.ca.gov) or at (916) 651-0966.

**Direct media inquiries** to [mediaoffice@energy.ca.gov](mailto:mediaoffice@energy.ca.gov) or (916) 654-4989.

### **REMOTE ATTENDANCE**

You may participate in these meetings through the on-line meeting service, Zoom. Please be aware that the meeting may be recorded.

[Learn about joining a Zoom meeting](https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-Meeting) at <https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-Meeting>. You may [download Zoom software](https://zoom.us/download) at <https://zoom.us/download>.

Zoom technical support is available at (888) 799-9666, ext. 2 and you may visit [Zoom’s help center](#) at <https://support.zoom.us/hc/>. Or you may [email the CEC’s Public Advisor’s Office](#) to seek help at [publicadvisor@energy.ca.gov](mailto:publicadvisor@energy.ca.gov), or by phone at (800) 822-6228.

**Via Computer:** Participants may join noticed events by clicking on the links below. You may also [access Zoom](https://join.zoom.us) at <https://join.zoom.us>, and enter the unique Webinar ID and password for the event (listed below). To comment, use Zoom’s “raise hand” feature and unmute.

Click to join December 16, 2020, 2:00 p.m. [Committee Conference](https://energy.zoom.us/j/93852439330?pwd=ckQ0bIZUDA0dmJaeEJBWmRUYkVzd09)  
(<https://energy.zoom.us/j/93852439330?pwd=ckQ0bIZUDA0dmJaeEJBWmRUYkVzd09>).  
Webinar ID: 938 5243 9330. Password: SSPPE@1216

| Event                | Dates                           | Webinar ID    | Password   |
|----------------------|---------------------------------|---------------|------------|
| Committee Conference | December 16, 2020,<br>2:00 p.m. | 938 5243 9330 | SSPPE@1216 |

**Via Telephone (No Visual Presentation):** Call Zoom at (877) 853-5257 (toll free) or (888) 475-4499 (toll free). When prompted, input the unique Webinar ID (listed above). To comment or ask a question over the telephone, dial \*9 to “raise your hand” and \*6 to mute/unmute your phone line.

**Via Mobile Device:** Access to Zoom meetings is available from your mobile device. To download the app, [visit the Zoom Download Center](https://zoom.us/download) at <https://zoom.us/download>.

### **Muting**

We greatly appreciate your cooperation in reducing noise on the audio connection by muting your line when you are not speaking. Mute your line rather than placing your phone on hold. Using Zoom, you may mute yourself by right clicking on the mute icon. If you are solely using a telephone connection, press “\*6” once to mute and again to unmute.



**AVAILABILITY OF DOCUMENTS**

Information about the Application, as well as notices and other relevant documents pertaining to this proceeding, are available on the [CEC's web page](https://ww2.energy.ca.gov/sitingcases/sequoia/) at <https://ww2.energy.ca.gov/sitingcases/sequoia/>.

**IT IS SO ORDERED.**

Dated: December 4, 2020

Dated: December 4, 2020

*APPROVED BY:*

*APPROVED BY:*

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Karen Douglas  
Commissioner and Presiding Member  
Sequoia Backup Generating Facility  
SPPE Committee

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Patty Monahan  
Commissioner and Associate Member  
Sequoia Backup Generating Facility  
SPPE Committee

*Mailed to list number: 7531*

## **AGENDA**

### **Sequoia Backup Generating Facility SPPE (19-SPPE-03) Committee Conference**

**December 16, 2020  
2:00 p.m.**

#### **Remote Access Only**

1. Call to Order
2. Discussion of Responses to the Committee Questions and Request for Information:
  - a. Applicant
  - b. Staff
  - c. Robert Sarvey
  - d. Public Agencies

3. Public Comment

Individuals may speak up to three minutes on any matter concerning the application for a small power plant exemption for the Sequoia Backup Generating Facility, including the items on this agenda. Comments may be limited to one person per entity.

4. Committee closed session deliberations on the application for a small power plant exemption for the Sequoia Backup Generating Facility.<sup>24</sup>
5. Adjourn

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<sup>24</sup> The Committee may adjourn to closed session in accordance with Government Code section 11126, subdivision (c)(3), which allows a state body to hold a closed session to deliberate on a decision to be reached in a proceeding the state body was required by law to conduct.