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**State of California
State Energy Resources Conservation and
Development Commission**
715 P Street, Sacramento, CA 95814
(800) 822-6228 – www.energy.ca.gov

APPLICATION FOR SMALL POWER PLANT
EXEMPTION FOR THE:

**SAN JOSE CITY BACKUP
GENERATING FACILITY**

Docket No. 19-SPPE-04

RULING ON PETITION TO INTERVENE FILED BY ROBERT SARVEY

Upon consideration of the Petition to Intervene (Petition) filed by Robert Sarvey (Petitioner)¹ in the Application for a Small Power Plant Exemption (SPPE) for the San Jose City Backup Generating Facility (Project),² the Presiding Member of the California Energy Commission (CEC)³ committee designated to conduct proceedings in this matter (Committee)⁴ makes the following findings:

1. On October 27, 2021, a Petition in the above-captioned proceeding was filed by:

Robert Sarvey
501 W. Grant Line Rd.
Tracy, CA 95376
sarveybob@aol.com
(209) 835-0277

¹ TN 240150.

² Information about this proceeding, including a link to the electronic docket, may be found on the San Jose Data Center SPPE [web page](https://www.energy.ca.gov/powerplant/reciprocating-engine/san-jose-data-center) at <https://www.energy.ca.gov/powerplant/reciprocating-engine/san-jose-data-center>. Documents related to this proceeding may be found in the [online docket at](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=19-SPPE-04) <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=19-SPPE-04>. The application is TNs 230741, 230762, 230763, 230765, and 230770, and a supplemental application is TNs 239409, 239410, 239411, 239412, 239413, 239419, 239420, 239421, 239422, and 239597.

³ The CEC is formally known as the "State Energy Resources Conservation and Development Commission." (Pub. Resources Code, § 25200.) All further references are to the Public Resources Code unless otherwise specified.

⁴ On December 11, 2019, the CEC appointed a committee consisting of Karen Douglas, Commissioner and Presiding Member, and Patricia Monahan, Commissioner and Associate Member, to preside over this SPPE Project. (TN 231265.)

2. The Petition contains the information required by the CEC's regulations.⁵
3. The Petition states that Petitioner intends to participate in Public Health, Alternatives, Air Quality, Energy Resources, Hazardous Materials and GHG Emissions and to participate fully in the proceeding including submitting testimony and briefing, and cross-examination of the parties' witnesses.⁶
4. The Petition also states that if granted intervention, Petitioner would like to address recent attempts to limit public participation in commission proceedings.⁷
5. No opposition to the Petition has been filed, and the deadline for such opposition was November 10, 2021.
6. Petitioner's stated interests are relevant to the above-captioned proceeding.

THEREFORE, the Presiding Member hereby **GRANTS IN PART** the Petition and **ORDERS** that the Petitioner may participate on the following topic areas as requested by Petitioner:

- **ALTERNATIVES**
- **AIR QUALITY**
- **ENERGY RESOURCES**
- **GREENHOUSE GAS EMISSIONS**
- **PUBLIC HEALTH**
- **HAZARDS AND HAZARDOUS MATERIALS**

The Presiding Member hereby **DENIES IN PART** the Petition as it relates to Petitioner's request to "address recent attempts to limit public participation in commission proceedings." The Committee in this proceeding has not granted any request to limit public participation, and thus this is not an issue under adjudication in this proceeding. This order does not preclude Petitioner from submitting comments on this topic.

The Presiding Member further **ORDERS** that Petitioner's name be placed upon the Proof of Service List as an intervenor. Petitioner may exercise the rights and shall fulfill the obligations of a party as set forth in all orders issued in this matter and California

⁵ Cal. Code Regs., tit. 20, § 1211.7, subd. (a).

⁶ TN 240150.

⁷ *Ibid.*

Code of Regulations, title 20, section 1212. Deadlines and other matters shall not be extended or changed by the granting of this Petition.⁸

The Petitioner's intervention is subject to further modification at the discretion of the Presiding Member or the Committee. Any limitations on Petitioner's participation in the capacity of intervenor do not affect Petitioner's ability to make public comments on other topics in the proceeding.

The CEC welcomes and values intervenor participation in its energy facility siting process. The Public Advisor's webpage [Public Participation in Siting Cases](https://www.energy.ca.gov/programs-and-topics/topics/power-plants/public-participation-siting-cases) can be found at <https://www.energy.ca.gov/programs-and-topics/topics/power-plants/public-participation-siting-cases>. [Portions of the CEC's regulations relating to power plant siting cases \(Title 20\)](https://www.energy.ca.gov/programs-and-topics/topics/power-plants/power-plant-siting-certification-title-20) can be found at <https://www.energy.ca.gov/programs-and-topics/topics/power-plants/power-plant-siting-certification-title-20>.

As an intervenor, Petitioner is required to file and serve documents on other parties and to follow the CEC's procedures and orders regarding presenting witnesses and evidence. Petitioner is further required to review the "General Orders Regarding Motions, Electronic Filing, Service of Documents, and Other Matters,"⁹ the rules regarding filings,¹⁰ the rules of evidence that apply at the Evidentiary Hearings,¹¹ and the rules prohibiting off-the-record contacts with commissioners, their advisors, or the hearing officer(s) about the Project.¹² Petitioner's failure to fulfill these responsibilities may result in the Committee limiting or precluding Petitioner's participation in the proceedings.

PUBLIC ADVISOR AND OTHER CEC CONTACTS

The CEC's Public Advisor provides the public with assistance in participating in CEC proceedings. For information about how to participate in this proceeding or to request interpreting services or other reasonable modification and accommodations, please contact the [Public Advisor](mailto:PublicAdvisor@energy.ca.gov) at PublicAdvisor@energy.ca.gov or by phone at (916) 957-7910.

Direct questions of a procedural nature to the Hearing Officers, [Caryn Holmes](mailto:Caryn.Holmes@energy.ca.gov) at Caryn.Holmes@energy.ca.gov, and [Deborah Dyer](mailto:Deborah.Dyer@energy.ca.gov) at Deborah.Dyer@energy.ca.gov.

⁸ Cal. Code Regs., tit. 20, § 1211.7, subd. (d).

⁹ TN 231937.

¹⁰ Cal. Code Regs., tit. 20, §§ 1208 – 1208.1, 1211.5.

¹¹ Cal. Code Regs., tit. 20, § 1212.

¹² Cal. Code Regs., tit. 20, § 1216.

Direct technical subject inquiries concerning the Application to [Lisa Worrall](#), at Lisa.Worrall@energy.ca.gov or (916) 661-8367.

Direct media inquiries to the [Media and Public Communications Office](#) at MediaOffice@energy.ca.gov or (916) 654-4989.

AVAILABILITY OF DOCUMENTS

Information regarding the status of the Application, as well as notices and other relevant documents are available on the [San Jose Data Center SPPE web page](#) at <https://www.energy.ca.gov/powerplant/reciprocating-engine/san-jose-data-center>.

IT IS SO ORDERED.

Dated: November 29, 2021

APPROVED BY:

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