

DOCKETED	
Docket Number:	19-SPPE-04
Project Title:	SJ2
TN #:	242888
Document Title:	NOTICE OF PREHEARING CONFERENCE AND EVIDENTIARY HEARING, REVISED SCHEDULING ORDER, AND FURTHER ORDERS
Description:	N/A
Filer:	Ngoc Tran
Organization:	California Energy Commission
Submitter Role:	Committee
Submission Date:	4/29/2022 2:25:33 PM
Docketed Date:	4/29/2022

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**State of California
State Energy Resources Conservation and
Development Commission
715 P Street, Sacramento, CA 95814
1-800-822-6228 – www.energy.ca.gov**

**APPLICATION FOR SMALL POWER PLANT
EXEMPTION FOR THE:**

***SAN JOSE CITY BACKUP
GENERATING FACILITY***

Docket No. 19-SPPE-04

**NOTICE OF PREHEARING CONFERENCE AND EVIDENTIARY HEARING,
REVISED SCHEDULING ORDER, AND FURTHER ORDERS**

On November 15, 2019, Microsoft Corporation (Applicant) submitted an application for a small power plant exemption (SPPE) for the San Jose City Backup Generating Facility (Application)¹ to the California Energy Commission (CEC).²

PLEASE TAKE NOTICE that the Committee³ has scheduled a **PREHEARING CONFERENCE** and an **EVIDENTIARY HEARING**:

¹ 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](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=19-SPPE-04) at <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.

² 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.

³ On March 24, 2022, the CEC amended the committee appointments for this Application, appointing Patricia Monahan, Commissioner and Presiding Member, and Kourtney Vaccaro, Commissioner and Associate Member. (TN 242445.)

The PREHEARING CONFERENCE will be held on:

Wednesday, May 18, 2022

1:30 p.m. – 3:30 p.m.

In-person at:

Warren-Alquist State Energy Building
Rosenfeld Hearing Room, First Floor
1516 Ninth Street, Sacramento, CA 95814
(Wheelchair accessible)

Option for Remote Public Access via Zoom™

<https://zoom.us>, webinar ID: 928 9426 4520 and passcode: SSPPE@0518

The EVIDENTIARY HEARING will be held on:

Thursday, May 26, 2022

10:30 a.m. – 1:30 p.m.

In-person at:

Warren-Alquist State Energy Building
Rosenfeld Hearing Room, First Floor
1516 Ninth Street, Sacramento, CA 95814
(Wheelchair accessible)

Option for Remote Public Access via Zoom™

<https://zoom.us>, webinar ID: 959 9823 0736 and passcode: SSPPE@0526

Please note that the CEC aims to begin promptly at the start time and the end time is an estimate based on the agenda proposed. The event may end sooner or later than the time indicated depending on various factors.

To submit comments in advance of the Prehearing Conference and Evidentiary Hearing, please see the instructions below under the section “AGENCY AND PUBLIC PARTICIPATION.”

ATTENDANCE INFORMATION

In-person: Participants may join in-person at the following location: Warren-Alquist State Energy Building, Rosenfeld Hearing Room, First Floor, 1516 Ninth Street, Sacramento, California. Please sign in at the security desk. Masks and social distancing are encouraged, but not required.

Remote Attendance: You may participate in this meeting 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](https://support.zoom.us/hc/) at <https://support.zoom.us/hc/>. Or you may email the CEC's Public Advisor to seek help at publicadvisor@energy.ca.gov, and by phone at (916) 957-7910.

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 entering the Webinar ID and password for the event (listed below). To comment, use Zoom's "raise hand" feature and unmute. If interpreting services are provided, to use the service, click Zoom's interpretation icon and select the language. Interpreting services are not available by phone.

Prehearing Conference and Evidentiary Hearing.

Click to join [Prehearing Conference](https://energy.zoom.us/j/92894264520) May 18, 2022, 1:30 p.m. or <https://energy.zoom.us/j/92894264520?pwd=VIF6QU1vQWFzWHV0SllJMmNNZXk4dz09>

Webinar ID: 928 9426 4520
Password: SSPPE@0518

Click to join [Evidentiary Hearing](https://energy.zoom.us/j/95998230736) May 26, 2022, 10:30 a.m. or <https://energy.zoom.us/j/95998230736?pwd=ZEMvQkV1QS9zbG9FTGFXTTE1Jd1JBdz09>

Webinar ID: 959 9823 0736
Password: SSPPE@0526

Via Telephone (No Visual Presentation): Dial (877) 853-5257 (Toll Free), (888) 475-4499 (Toll Free), or (669) 219-2599. 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>.

BACKGROUND

The Application⁴

On November 15, 2019, Applicant applied for a small power plant exemption (SPPE) for the proposed San Jose City Backup Generating Facility (Backup Generators) that will support the San Jose City Data Center (Data Center) and related accessories (collectively, the Project). The Data Center is proposed to be built on approximately 64.5 acres at 1657 Alviso-Milpitas Road in the city of San Jose, California (Project Site). The Project Site consists of undeveloped open fields and is bordered to the north by vacant land and to the west by Coyote Creek.

The Data Center would consist of two single-story buildings with a total of 396,914 square feet, which would provide secure and environmentally controlled structures to house computer servers. Related accessories include a new utility substation, distribution lines to an existing substation, generator equipment yard, paved surface parking, landscaping, stormwater bio-swales, as well as offsite linears for potable water, reclaimed water, stormwater, sanitary sewer, natural gas, and electricity.

The Applicant proposes to install 226 backup generators at the project site to support the Data Center in the event of loss of power. Of those backup generators, 224 would be powered by renewable natural gas and have a standby output capacity of 0.45 megawatts (MW) to provide electrical power. Two additional diesel-fired generators, a 1.25 MW Tier 4 diesel generator and a 0.5 MW Tier 4 diesel generator, would provide emergency response power to the administrative buildings and features.

The natural gas backup generators would be run primarily for testing and maintenance purposes but would also operate when there was an interruption of the electrical supply or pursuant to dispatch for load shedding, demand response, and behind the meter resource adequacy. The Backup Generators would generate up to 99 MW, and the expected building load of the Data Center is 96 MW.⁵ None of the generators will be interconnected to the electrical transmission system, and therefore no electricity can be delivered off site.

Environmental Documents

⁴ The information in this section is taken from section 1 of the Supplemental Application (TN 239409).

⁵ TN 241977-1, at p. 1-1.

On February 1, 2021, CEC staff (Staff) filed a Notice of Preparation (NOP) informing the responsible agencies, trustee agencies, and public about Staff's intent to prepare a draft Environmental Impact Report (DEIR) for the project and the opportunity to provide comment on its preparation.⁶

On December 23, 2021, Staff filed a DEIR that found no potentially significant and unavoidable environmental impacts.⁷ The DEIR concluded that with the implementation of the design and mitigation measures identified in the DEIR, potentially significant impacts in the areas of air quality, biological resources, cultural and tribal cultural resources, geology and soils (paleontology), greenhouse gas emissions, hazards and hazardous materials, and transportation would be avoided or reduced to less than significant levels. The DEIR also concluded that the Project would result in no impacts to agriculture and forestry resources, mineral resources, and wildfire, and would have less than significant impacts, with no mitigation required, on aesthetics, energy and energy resources, hydrology and water quality, land use, noise, and utilities and service systems.

On February 28, 2022, Staff filed a final Environmental Impact Report (FEIR) and response to public comments.⁸ The FEIR reached the same conclusions as the DEIR.

Small Power Plant Exemptions

The CEC has the exclusive authority to consider, and ultimately approve or deny, applications for the construction and operation of thermal powerplants that will generate 50 MW or more of electricity.⁹ If a proposed project will generate between 50 MW and 100 MW of electricity, the CEC may grant an exemption to this exclusive certification jurisdiction through an SPPE if it makes three distinct findings:

- the proposed powerplant has a generating capacity up to 100 MW;
- no substantial adverse impact on the environment will result from the construction or operation of the powerplant; and
- no substantial adverse impact on energy resources will result from the construction or operation of the powerplant.¹⁰

⁶ TN 236537.

⁷ TN 241076.

⁸ TN 241977-1, TN 241977-2.

⁹ §§ 25120, 25500.

¹⁰ § 25541; Cal. Code Regs., tit. 20, § 1934 et seq.

For purposes of reviewing an SPPE, the CEC is the “lead agency”¹¹ under the California Environmental Quality Act (CEQA).¹² In reviewing an SPPE application, the CEC considers the “whole of an action.”¹³ For the Application, the “whole of an action” means the Backup Generators, the Data Center, and the other project features, such as the substation.

If an SPPE is granted, responsible local land use authorities and other agencies, most notably any local air management or air pollution control district, will conduct further review of the project, including any necessary additional environmental review as “responsible agencies” under CEQA.

Parties to the Proceeding

The parties to the proceeding are:

- 1) Applicant;
- 2) Staff;
- 3) California Unions for Reliable Energy; and
- 4) Robert Sarvey.¹⁴

Parties have the right to call and examine witnesses, to offer oral and written testimony under oath, to introduce exhibits, to cross-examine opposing party witnesses on any matters relevant to the issues in the proceeding, and to rebut evidence, subject to the presiding member’s authority to regulate this proceeding and other rights identified.¹⁵

SCHEDULING ORDER

The schedule attached to this Notice **supersedes** all other schedules issued by the Committee.

¹¹ § 25519(c).

¹² The CEQA statutes, section 21000 *et seq.*, and CEQA Guidelines, California Code of Regulations, title 14, section 15000 *et seq.* (Guidelines), detail the protocol by which state and local agencies comply with CEQA requirements. We refer to the statute and the Guidelines collectively as “CEQA.”

¹³ Cal. Code Regs., tit. 14, § 15378.

¹⁴ Cal. Code Regs., tit 20, § 1937.

¹⁵ Cal. Code Regs., tit. 20, § 1212, subd. (a).

PURPOSE OF THE PREHEARING CONFERENCE

The Prehearing Conference is a public forum where the Committee will identify matters in dispute and discuss the remaining schedule and procedures necessary to conclude the SPPE process.

PURPOSE OF THE EVIDENTIARY HEARING

The Committee's review is primarily conducted through an administrative adjudicatory process. As part of the review process, the Committee will conduct an Evidentiary Hearing and receive public comment.¹⁶ The Evidentiary Hearing is a major component of the administrative adjudicatory proceeding where evidence is received into the hearing record from the parties to the proceeding. Only the parties (Applicant, Staff, and Intervenors) may present evidence for inclusion into the hearing record. Members of the public may present comments at the Evidentiary Hearing that become part of the hearing record.¹⁷

Formal Hearing Procedures

Although Committees have typically opted to utilize informal hearing processes in similar proceedings, this proceeding will follow formal hearing procedures.

The formal hearing procedure will proceed in the following order:

- 1) All parties' experts on the contested subject area are sworn in as a group.
- 2) Opening Testimony: The designated expert witness(es) for each party provides a brief opening statement summarizing the key points and conclusions of the expert's testimony. The order of opening testimony and examination of witnesses shall be as follows: Applicant, Staff, Intervenors, if any.
- 3) Cross Examination: At the conclusion of the opening statements from each party's designated expert witness(es), parties may cross-examine the other parties' expert(s). Each witness will testify and respond to questions individually (not as a group). The order of examination of witnesses shall be as follows: Applicant, Staff, Intervenors, if any.
- 4) At the conclusion of the parties' examination of the experts, the Committee may ask witnesses additional questions.

¹⁶ Cal. Code Regs., tit. 20, § 1212, subd. (b).

¹⁷ Cal. Code Regs., tit. 20, § 1212, subd. (b)(1)(B), (c)(4).

NOTICE OF CLOSED SESSION DELIBERATIONS

At any time during the Prehearing Conference and the Evidentiary Hearing, the Committee may adjourn to a closed session in accordance with California 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.

ORDERS REGARDING RESPONSES TO COMMITTEE QUESTIONS, PREFILING EVIDENCE, EXHIBIT LISTS, AND PREHEARING CONFERENCE STATEMENTS

Committee Questions

All parties are **ORDERED** to respond to the following questions in an attachment to their Prehearing Conference Statements.

- 1) Air Quality:
 - a. On page 4.3-33 of the FEIR, CEC Staff discuss the anticipated cumulative contributions from particulate matter. The FEIR states that both the modeled 24-hour and annual PM10 concentrations would exceed the applicable significant impact levels (SILs). The FEIR then predicts PM10 concentration at the fence line and states that the 24-hour PM10 concentration would be below the SILs, and that the annual PM10 emissions at the nearest residential receptors would be “much lower than the maximum shown.” Similarly, for PM2.5, the FEIR states that the maximum modeled 24-hour PM2.5 concentration “would decrease rapidly with distance from the fence line,” while annual PM2.5 would be less than applicable significance thresholds.
 - i. What are the estimated annual PM10 concentrations at the nearest residential receptor? Does it fall below the applicable significance thresholds?
 - ii. What are the estimated 24-hour PM2.5 concentrations at the nearest residential receptor? Does it fall below the applicable significance thresholds?
 - b. On page 4.3-34 of the FEIR, as part of its air quality impact analysis (AQIA) for criteria pollutants, the FEIR estimates the emissions from the natural gas-fired generators when operating “load shedding and demand response under various load scenarios,” in addition to routine maintenance and testing. This operation is due to the project’s anticipated participation in PG&E’s Base

Interruptible Program (BIP). (Page 3-17.) BIP is triggered “when the California Independent System Operator issues a curtailment notice.” (Page 3-17.) Page 3-17 of the FEIR describes the scenarios in which the generators are anticipated to operate for participation in BIP and for maintenance. In contrast, the FEIR states that use of the natural gas-fired generators and diesel-fired administrative generators for emergency operations is typically not evaluated during facility permitting and air districts do not conduct such an assessment. (Page 4.3-46.) The FEIR states that modeling air quality impacts from emergency operations “would require a host of unvalidated, unverifiable, and speculative assumptions” that “would not provide meaningful information by which to determine project impacts.” (Page 4.3-46.) As a result, the FEIR assesses air quality impacts from participation in BIP, which occurs under emergency reliability conditions, but not for other types of emergency operations.

Please explain whether the air quality impact analysis modeling assumptions and scenarios used to assess emissions, including BIP participation, are or are not appropriate for assessing emissions from emergency operations.

2) Biological Resources:

- a. On page 4.4-2 of the FEIR, Staff states that Applicant performed habitat surveys of the project area. On page 4.4-10, Staff describes surveys for special status plant species. On page 4.4-12, Staff states that while the California Department of Fish & Wildlife recommended a habitat survey for salt marsh harvest mouse, “a habitat survey was not performed.” Regarding other biological resource surveys, in the FEIR Response to Comments, page 7-73, Staff acknowledges that surveys completed in 2016 are not considered “recent” survey efforts.
 - i. Please provide the dates for the biological resources surveys and studies of the project area and associated linear features, including surveys for wildlife such as burrowing owl, golden eagle, and salt-marsh harvest mouse, and surveys for ordinance-sized trees. Please explain whether those surveys are still current and valid given the amount of time that has elapsed between when those surveys were performed, when the project filed an application, and when Staff published a Notice of Preparation for the project.

- ii. If no habitat or biological resources survey was performed, please explain what information was used to establish a baseline for these biological resources against which to evaluate potential environmental impacts.
- b. On page 4.4-11, the FEIR states “This Draft EIR includes the Technical Biological Report (Live Oak Consultants, Appendix D), and Tree Inventory (HM Engineers, Appendix E).” Appendix D of the DEIR/FEIR is the Nitrogen Deposition Modeling, and Appendix E of the DEIR/FEIR is the Mailing List. Please identify the location of the Technical Biological Report and the Tree Inventory; if the items are not currently in the docket, please either file them with the docket or explain why they should not be filed.

Prefiling Evidence

All written testimony (whether opening or rebuttal) and documentary evidence must be filed in this proceeding’s docket (19-SPPE-04) and have a transaction number (TN) assigned by the CEC Docket Unit in accordance with the Amended General Orders Regarding Motions, Electronic Filing, Service of Documents, and Other Matters, filed April 12, 2022.¹⁸

All parties intending to submit evidence for consideration at the Evidentiary Hearing are **ORDERED** to docket evidence and exhibit lists **no later than 5:00 p.m.** on the dates specified in the attached Schedule, unless otherwise directed by the Committee.

Failure by a party to comply with the filing requirements stated in this Order shall preclude that party from participating in the Evidentiary Hearing. Any party precluded may still offer public comment.

Prefiling Testimony

The parties are hereby **ORDERED** to submit opening and rebuttal testimony as established in the attached Schedule. Failure by a party to file opening testimony shall preclude that party from filing rebuttal testimony. Any party precluded may still offer public comment.

Prehearing Conference Statements

¹⁸ TN 242657.

All parties are **ORDERED** to file Prehearing Conference Statement **no later than 5:00 p.m.** on the date specified in the attached Schedule. The Prehearing Conference Statement must specify under separate headings:

- 1) The subject areas that are complete and ready to proceed to Evidentiary Hearing.
- 2) The subject areas upon which any party proposes to introduce testimony in writing rather than through oral testimony.
- 3) The subject areas that are not complete and not yet ready to proceed to Evidentiary Hearing and the reasons therefor.
- 4) The subject areas that remain disputed and require adjudication, the issues in dispute, and the precise nature of the dispute for each issue.
- 5) The identity of each witness the party intends to sponsor at the Evidentiary Hearing, the subject area(s) about which the witness(es) will offer testimony, whether the testimony will be oral or in writing, a brief summary of the testimony to be offered by the witness(es), qualifications of each witness, and the time required to present testimony by each witness.
- 6) Subject areas upon which the party desires to question the other parties' witness(es), a summary of the scope of the questions (including questions regarding witness qualifications), the issue(s) to which the questions pertain, and the time desired to question each witness. (**Note: a party who fails to provide, with specificity, the scope, relevance, and time for questioning the witness of another party risks preclusion from questioning the witness on that subject area.**)
- 7) A list identifying exhibits with TN that the party intends to offer into evidence during the Evidentiary Hearing and the technical subject areas to which they apply (see below for further details on Exhibit Lists.)
- 8) Proposals for briefing deadlines or other scheduling matters.

Exhibit Lists

The parties shall exchange documentary evidence, including written testimony, by filing an **Exhibit List**. Each document shall be numbered and identified on the Exhibit List as follows:

- Applicant's exhibits shall be numbered consecutively as **Exhibits 1 through 199**.
- Staff's exhibits shall be numbered consecutively as **Exhibits 200 through 299**.
- Intervenor California Unions for Reliable Energy's exhibits shall be numbered consecutively as **Exhibits 300 through 399**.
- Intervenor Robert Sarvey's exhibits shall be numbered consecutively as **Exhibits 400 through 499**.

The Exhibit Lists shall be formatted with four columns. The first column shall list the proposed exhibit number. The second column shall identify the TN of the corresponding document. The third column shall state the title of the document as shown in the docket. The fourth column shall state the subject area(s) to which the exhibit applies. The Hearing and Advisory Unit of the CEC's Chief Counsel's Office will ensure the addition of the exhibit number information into the e-filing system and the issuance of a Master Exhibit List.

Exhibits without a TN, or not filed in this proceeding's docket, will not be received into evidence.

AGENCY AND PUBLIC PARTICIPATION

Local, state, and federal agencies, tribal governments, and members of the public are welcome to attend and offer oral comments at the Prehearing Conference and Evidentiary Hearing. It is not necessary to be an Intervenor to participate in the public process.

The Public Advisor may, upon the request of public participants who may be absent from the CEC's place of business or during the Prehearing Conference and Evidentiary Hearing when a matter of interest to them is being considered, neutrally and publicly relate those participants' points to the CEC on behalf of members of the public. If you are interested in this service, please email concise comments, specifying your main points, before the start of the Prehearing Conference and Evidentiary Hearing to the Public Advisor at publicadvisor@energy.ca.gov. Comments submitted after the Prehearing Conference and Evidentiary Hearing starts will be filed in the San Jose City Backup Generating Facility docket. The CEC will work diligently to accommodate all requests.

[Written comments](#) may be submitted electronically at:

<https://efiling.energy.ca.gov/Ecomment/Ecomment.aspx?docketnumber=19-SPPE-04>.

Otherwise, written comments may be submitted for posting on the proceeding docket by handing them directly to the Public Advisor, e-mailing them to docket@energy.ca.gov, or by U.S. Mail to:

California Energy Commission
Docket Unit
Docket number: 19-SPPE-04
715 P Street, MS-4
Sacramento, CA 95814

For all comments, please include the docket number **19-SPPE-04** and proceeding name **“San Jose City Backup Generating Facility.”**

Please note: Your written and oral comments, attachments, and associated contact information (e.g., your address, phone, e-mail address, etc.) become part of the viewable public record. Additionally, this information may become available via search engines.

PUBLIC ADVISOR AND OTHER CEC CONTACTS

The CEC’s Public Advisor provides the public assistance in participating in CEC proceedings. For information on participation or to request interpreting services or reasonable accommodations, please contact the Public Advisor at publicadvisor@energy.ca.gov, or by phone at (916) 957-7910. Requests for interpreting services in Spanish, Vietnamese, or other languages and reasonable accommodations should be made as soon possible or before 5:00 p.m. at least five days in advance of the Prehearing Conference and Evidentiary Hearing. The CEC will work diligently to accommodate all requests.

Direct questions of a procedural nature related to the Application to the Hearing Officers, [Deborah Dyer](mailto:deborah.dyer@energy.ca.gov) at deborah.dyer@energy.ca.gov, or [Caryn Holmes](mailto:caryn.holmes@energy.ca.gov) at caryn.holmes@energy.ca.gov.

Direct technical subject inquiries concerning the Application to Lisa Worrall, Project Manager, at lisa.worrall@energy.ca.gov or (916) 661-8367.

Direct media inquiries to 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 [SJ02 Online Docket](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=19-SPPE-04) at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=19-SPPE-04>.

IT IS SO ORDERED.

Dated April 22, 2022

Dated April 26, 2022

APPROVED BY:

APPROVED BY:

Patricia Monahan
Commissioner and Presiding Member
San Jose City Backup Generating Facility
SPPE Committee

Kourtney Vaccaro
Commissioner and Associate Member
San Jose City Backup Generating Facility
SPPE Committee

Mailed to list number: 7532

AGENDA

San Jose City Backup Generating Facility SPPE (19-SPPE-04) Prehearing Conference and Closed Session

May 18, 2022

1:30 p.m. to 3:30 p.m.

1. Call to Order.

2. Prehearing Conference.

Report from the Applicant, Staff, and any intervenors regarding their readiness for the upcoming Evidentiary Hearing, proposed testimony and witnesses, Committee discussions with the parties about the order of subject areas, use of formal procedures, and other matters in preparation for the Evidentiary Hearing.

3. Public Comment.

Members of the public and other interested persons and entities may speak up to three minutes on a matter related to this proceeding.

4. Committee closed session deliberations on the application for a small power plant exemption for the San Jose City Backup Generating Facility.¹⁹

5. Adjourn.

¹⁹ 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.

AGENDA

San Jose City Backup Generating Facility SPPE (19-SPPE-04) Evidentiary Hearing and Closed Session

May 26, 2022

10:30 a.m. to 1:30 p.m.

1. Call to Order.

2. Evidentiary Hearing.

Receipt of evidence from the Applicant, Staff, and any intervenors on the application for a small power plant exemption for the San Jose City Backup Generating Facility.

3. Public Comment.

Members of the public and other interested persons and entities may speak up to three minutes on a matter related to this proceeding.

4. Committee closed session deliberations on the application for a small power plant exemption for the San Jose City Backup Generating Facility.²⁰

5. Adjourn.

²⁰ 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.

**SAN JOSE CITY BACKUP GENERATING FACILITY SPPE (19-SPPE-04)
APRIL 2022 REVISED SCHEDULE**

EVENT	DATE
Staff Published the Draft Environmental Impact Report (DEIR)	December 23, 2021
Public Comment Period on the DEIR closed	February 7, 2022
Staff filed Final EIR	February 28, 2022
Last Day to file Opening Testimony	April 14, 2022
All Parties file Rebuttal Testimony and any Errata or Addendum to the Final EIR	April 28, 2022
All Parties file Prehearing Conference Statements, including Exhibit Lists, and Responses to Committee Questions	May 12, 2022
Prehearing Conference	May 18, 2022
Evidentiary Hearing	May 26, 2022
Committee files Committee Proposed Decision	TBD
Final Decision Adoption Hearing at CEC Business Meeting	TBD