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Memorandum

To: Chair David Hochschild
Vice Chair Siva Gunda
Commissioner Noemi Gallardo
Commissioner J. Andrew McAllister
Commissioner Patty Monahan

Date: October 13, 2023

From: Drew Bohan, Executive Director
California Energy Commission
715 P Street
Sacramento, California 95814

Subject: Executive Director’s Recommendation on Digital Realty Small Power Plant Exemption Application

I. Introduction

On May 20, 2020, Digital Realty (applicant) filed an application for Small Power Plant Exemption (SPPE) in accordance with California Public Resources Code section 25541, seeking to exempt the Lafayette Backup Generating Facility (LBGF) (20-SPPE-02) from the Application for Certification provisions of the California Energy Commission’s (CEC) power plant licensing process. The LBGF would be part of the Lafayette Data Center (LDC) in Santa Clara. Together, the LDC and LBGF components constitute the project under the California Environmental Quality Act (CEQA) (Pub. Resources Code, section 21000 et seq.). California Code of Regulations, title 20, sections 1936 through 1942, set the procedures for the CEC’s review of an SPPE application. Section 1942 requires the Executive Director to recommend findings to the CEC on whether the application meets the requirements of Public Resources Code section 25541.

II. Background

Under the Public Resources Code, the CEC has the exclusive jurisdiction to approve or deny applications for the construction and operation of thermal power plants that can generate 50 megawatts (MW) or more of electricity. Under Public Resources Code section 25541, the CEC may exempt from its exclusive jurisdiction thermal power plants with a generating capacity of up to 100 MW if the CEC finds that no substantial adverse impact on the environment or energy resources will result from the construction or operation of the proposed facility. Public Resources Code section 25519(c) designates the CEC as the lead agency under CEQA for SPPE applications.

At my direction, staff analyzed the three requirements of Public Resources Code section 25541: 1) generating threshold, 2) no substantial adverse impacts on the environment, and 3) no substantial adverse impacts on energy resources. Following CEQA procedures, staff reviewed the application, obtained additional information to evaluate the project impacts, and published a comprehensive Final Environmental Impact Report (EIR) on October 13, 2023. The Draft EIR underwent the required public review and comment periods. Staff reviewed and

considered comments received during the preparation of the Final EIR and included appropriate responses.

Appendix A of the EIR presents staff's engineering analysis of the project's generating capacity, which considers the capacity and configuration of the generators and the project's demand. The analysis provides substantial evidence supporting staff's conclusions that the project would be 99.8 MW, thus satisfying the generating capacity threshold requirements of Public Resources Code section 25541.

The CEQA analysis and findings in the EIR adequately support the conclusion that the construction and operation of the project will not have substantial adverse impacts on the environment. The EIR presents considerable analysis on air quality (including public health), biological resources, cultural and tribal cultural resources, geology and soils (paleontology), greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, noise, and transportation. Substantial evidence supports staff's conclusions that with implementation of the required mitigation measures, the project will not have any significant adverse environmental impacts. The adoption of the Mitigation Monitoring and Reporting Program will ensure that the project features and mitigation measures are implemented.

Section 4.6 Energy and Energy Resources of the EIR presents the analysis of the project's impacts on energy resources and finds the project's consumption of energy resources during operation would not be wasteful, inefficient, or unnecessary. The project's use of diesel fuel would constitute a small fraction of available resources. The annual average Power Usage Effectiveness would be considered very efficient. Finally, the project would be constructed in accordance with the 2022 California Green Building Standards Code and would include green building measures to reduce energy consumption. The EIR contains substantial evidence supporting the conclusion that the project will not result in any substantial adverse impacts on energy resources and comports with Public Resources Code section 25541.

III. Recommendation

Based on the record of this proceeding, including the SPPE application, Final Environmental Impact Report, and proposed Mitigation Monitoring and Reporting Program, I recommend the following findings consistent with Public Resources Code section 25541:

1. The generating capacity of the project will not exceed 100 megawatts.
2. The construction and operation activities will not create a substantial adverse impact on the environment.
3. The construction and operation activities will not create a substantial adverse impact on energy resources.

I recommend the CEC:

1. Certify the Final Environmental Impact Report.
2. Adopt the Mitigation Monitoring and Reporting Program.
3. Grant the Lafayette Backup Generating Facility a small powerplant exemption from the Application for Certification provisions of the CEC's powerplant licensing process in accordance with California Public Resources Code section 25541.