



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV

DOCKET	
11-SPPE-1	
DATE	FEB 06 2012
RECD.	FEB 06 2012

APPLICATION FOR SMALL POWER PLANT
EXEMPTION FOR THE *SANTA CLARA*
SC-1 DATA CENTER

DOCKET No. 11-SPPE-01

REVISED NOTICE OF EVIDENTIARY HEARING, SCHEDULE AND FURTHER ORDERS

PLEASE TAKE NOTICE that the Committee designated by the Energy Commission to conduct proceedings on the Application for a Small Power Plant Exemption (SPPE) for the **SANTA CLARA SC-1 DATA CENTER, PHASE 2** has changed the location of the scheduled evidentiary hearing as follows:

The EVIDENTIARY HEARING will take place on:

WEDNESDAY, FEBRUARY 22, 2012
Beginning at 11:00 a.m.

California Energy Commission
Hearing Room A
1516 Ninth Street
Sacramento, California 95814
(Map Attached)



TELECONFERENCE OPTION: Parties and the Public may attend the evidentiary hearing in person at the above location or by telephone and/or by computer via our "WebEx" web conferencing system. For details on how to participate by WebEx, please see the "INSTRUCTIONS FOR USING WEBEX TELECONFERENCING USING YOUR COMPUTER AND/OR TELEPHONE" attached to this Notice.

PLEASE TAKE FURTHER NOTICE that the Committee has established the following schedule:

EVENT	DATE	Days from Initial Filing date (11/21/11)
Informational Hearing and Site Visit	January 26, 2012	68
Evidence and Prehearing Statements, including evidence lists and witness lists filed and served	February 13, 2012	84
Last day to Intervene	February 13, 2012	84
Last day for agencies to file comments	February 22, 2012	93
Evidentiary Hearing	February 22, 2012	93
Proposed Decision	March 14, 2012	114
Final Argument before full Commission	March 28, 2012	128
Last Day for Commission Decision	April 2, 2011	135

Purpose of Evidentiary Hearing on an SPPE Application

The SPPE process, which incorporates requirements equivalent to the Initial Study process under the California Environmental Quality Act, will examine whether the proposed project will create a substantial adverse impact upon the environment or energy resources. The review process provides a public forum allowing the Applicant, Energy Commission staff, governmental agencies, adjacent landowners, and members of the general public to consider whether the proposed project qualifies for an exemption from the Commission’s licensing process.

At the evidentiary hearing, the Applicant shall have the burden of proving that the Santa Clara SC-1 Data Center, Phase 2 will have no substantial adverse impact upon the environment or energy resources to qualify for an exemption from the California Energy Commission’s certification process. (Cal. Code Regs., tit. 20, § 1212.)

Local, state, and federal governmental agencies may participate at the evidentiary hearing, as necessary. Elected officials and members of the public may present public

comments at these events and/or submit written comments to the Energy Commission's Docket Unit, **NO LATER than 5:00 p.m., Wednesday, February 22, 2012.** (Cal. Code Regs., tit. 20, § 1940.) Please include "**Santa Clara Sc-1 Data Center, Docket No. 11-SPPE-01**" on any written comments.

ORDER RE: SUBMISSION OF PREHEARING STATEMENTS

To facilitate the process, each party shall serve and file a **Prehearing Statement**. Each party's Prehearing Statement shall be provided to and received by the other parties and the Commission's Docket Unit, **NO LATER than 3:00 p.m., Monday, February 13, 2012.** The parties shall e-mail their statements to the Hearing Adviser as well as to the Docket Unit and the parties as indicated on the Proof-of-Service list. The parties shall also submit a **MICROSOFT WORD version** of their statements to the Hearing Adviser via e-mail.

FAILURE TO FILE A TIMELY PREHEARING STATEMENT MAY PRECLUDE A PARTY FROM SUBMITTING EVIDENCE AT THIS HEARING.

Each statement shall set forth the following under a separate heading:

- a) The topic areas that remain disputed and require adjudication, and the precise nature of the dispute for each topic;
- b) The identity of each witness sponsored by the party (***note***: witnesses must have professional expertise in the discipline of their testimony); the topic area(s) which each witness will present; a brief summary of the testimony to be offered by each witness; qualifications of each witness; the time required to present direct testimony by each witness; and whether the party seeks to have the witness testify in person or telephonically;
- c) Topic areas upon which a party desires to cross-examine witnesses, a summary of the scope of each such cross-examination (including voir dire of any witness' qualifications), and the time desired for each such cross-examination;
- d) A list identifying exhibits, including declarations, that each party intends to offer into evidence and the technical topics to which they apply; and
- e) For all topics, any proposed modifications to the proposed conditions of certification listed in the Staff's Initial Study based upon enforceability, ease of comprehension, and consistency with the evidence.

Format for Presenting Evidence

The parties shall provide written testimonial and documentary evidence as follows:

1. Each document shall be numbered and identified on an **Exhibit List**. (*Use example attached to this Notice.*)

- Applicant's exhibits shall be numbered consecutively as **Exhibits 1 through 199**.
- Staff's exhibits shall be numbered consecutively as **Exhibits 200 through 299**.

Copies of the Exhibits shall be provided to the Committee and other parties NO LATER than 3:00 p.m., on Monday, February 13, 2012. Failure to timely exchange exhibits may result in exclusion of evidence.

FAILURE TO COMPLY WITH THE FILING REQUIREMENTS STATED IN THIS ORDER MAY PRECLUDE A PARTY FROM SUBMITTING EVIDENCE AT THIS HEARING.

Petitions to Intervene to Become a Formal Party

Only formal parties (Applicant, Staff, or Intervenors) may present evidence and cross-examine witnesses at the evidentiary hearing. The Presiding Member's Proposed Decision (PMPD) on the Santa Clara Sc-1 Data Center project will be based solely upon the official evidentiary record developed at the evidentiary hearing.

Anyone with an appropriate interest in the Santa Clara Sc-1 Data Center Project may file a Petition to Intervene and become a formal party. At the evidentiary hearing, the formal parties may offer testimony and documentary evidence, receive documents filed by other parties, and cross-examine witnesses. However, a formal party must also comply with all Committee orders, procedures, and filing requirements, and is subject to discovery and having its own witnesses cross-examined by other parties.

To facilitate the participation of all parties and allow for an orderly and efficient evidentiary hearing, **the DEADLINE TO FILE a Petition to Intervene in this case is 3:00 p.m., Monday, February 13, 2012.** (20 Cal. Code Regs., § 1203(f).) Intervenors take the proceedings as they find them at the time their petition is granted. Time extensions will not be granted for new Intervenors to review case materials.

Public Adviser and Public Participation

The Energy Commission invites members of the public and other interested parties to participate either on an informal basis or by intervening in the proceeding. Both types of participation allow written and oral comments. At the informal participation level, written and oral public comments are considered by the Commissioners and are part of the record, but are not part of the formal evidentiary record. Intervenors have the right to introduce evidence into the evidentiary record and cross-examine the other parties' witnesses.

The Energy Commission's Public Adviser's Office is available to provide the public with an understanding of a proceeding and to make recommendations for meaningful participation. For assistance, contact Jennifer Jennings, the Public Adviser, at (916) 654-4489 or 800-822-6228 or e-mail at: [\[publicadviser@energy.state.ca.us\]](mailto:publicadviser@energy.state.ca.us).

Information

Technical questions concerning the project should be addressed to Robert Worl, Staff Project Manager, at (916) 651-8853, or e-mail: [\[rworl@energy.state.ca.us\]](mailto:rworl@energy.state.ca.us).

Questions of a legal or procedural nature should be directed to Kenneth Celli, Hearing Adviser, at (916) 651-8893 or e-mail: [\[kcelli@energy.state.ca.us\]](mailto:kcelli@energy.state.ca.us).

Media inquiries should be directed to Adam Gottlieb, Acting Assistant Executive Director for Media and Public Communications at (916) 654-4989 or e-mail: [\[mediaoffice@energy.state.ca.us\]](mailto:mediaoffice@energy.state.ca.us).

If you have a disability and need assistance in order to participate at this hearing, please contact Lou Quiroz at least five days in advance of the hearing at (916) 654-5146 or e-mail at: [\[lquiroz@energy.state.ca.us\]](mailto:lquiroz@energy.state.ca.us).

Information concerning the status of the project, as well as notices and other relevant documents, may be viewed on the Energy Commission's Internet web page at: [\[http://www.energy.ca.gov/sitingcases/santaclara/index.html\]](http://www.energy.ca.gov/sitingcases/santaclara/index.html).

Dated: February 6, 2012, at Sacramento, California.

Original Signed By:

KAREN DOUGLAS
Commissioner and Presiding Member
Santa Clara SPPE Committee

Original Signed By:

CARLA PETERMAN
Commissioner and Associate Member
Santa Clara SPPE Committee



INSTRUCTIONS FOR USING WEBEX TELECONFERENCING USING YOUR COMPUTER AND/OR TELEPHONE



STEP 1: Go to <https://energy.webex.com>

STEP 2: Enter the Meeting Number: **929 563 938**

STEP 3: Enter the Meeting Password (*case sensitive*): **SPPEsc-1**

STEP 4: After you log-in, a prompt will appear on-screen asking for **your** phone number. In the **Number box**, type your area code and phone number, and then click "OK." **You will receive a call back on your phone that will carry the audio portion of the meeting.** International callers can use the "Country/Region" button to help make their connection.

TO LOG-IN USING A TELEPHONE NUMBER WITH AN EXTENSION: follow Step 1 through Step 3, but after you log-in, when the prompt asks for your phone number, click "CANCEL." Then call **1-866-469-3239** (toll-free in the U.S. and Canada). When prompted, enter the meeting number above and your unique Attendee ID number which is listed in the top left area of your computer screen after you login.

TO LOG-IN USING A TELEPHONE ONLY (WITHOUT COMPUTER ACCESS): Call 1-866-469-3239 (toll-free in the U.S. and Canada) and, when prompted, Enter the **Meeting Number** (above).

If you have difficulty joining the meeting, please call the WebEx Technical Support number at 1-866-229-3239. To see if your computer is compatible, visit [<http://support.webex.com/support/system-requirements.html>]. Please be aware that the meeting's WebEx audio and on-screen activity may be recorded.



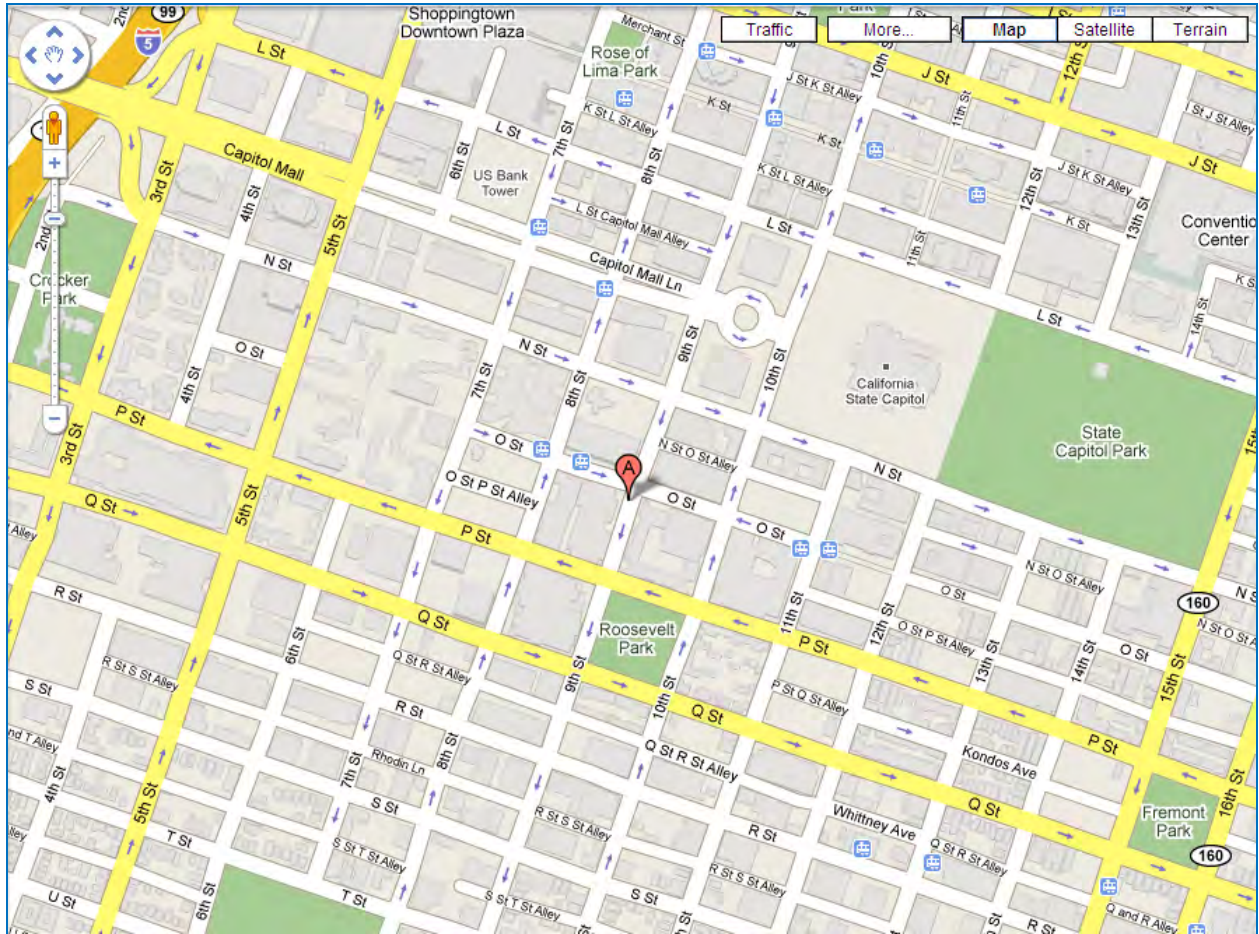
BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814 - 1-800-822-6228 - WWW.ENERGY.CA.GOV

Project Name: **Application for Small Power Plant Exemption for the Santa Clara SC-1 Data Center; Docket No. 11-SPPE-01**

SAMPLE EXHIBIT LIST

NOTE: The format of the samples provided below is equally applicable to all parties. However, given the likely differences in the documentary evidence submitted by the parties, the samples illustrate how to address specific types of evidence that might be unique to each party. **SUBMIT ALL EXHIBIT LISTS IN MICROSOFT WORD FORMAT.**

Exhibit	Brief Description	Offered	Admitted
APPLICANT'S EXHIBITS 1-199			
1	Application for Small Power Plant Exemption (Nov. 21, 2011)		
2	Initial Study, Santa Clara SC-1 Data Center (Feb. 2008)		
COMMISSION STAFF'S EXHIBITS 200-299			
200	Staff's Initial Study		
201	Staff's Supplemental Analysis		



**California Energy Commission
Hearing Room A
1516 Ninth Street
Sacramento, California 95814**

EVIDENTIARY HEARING
WEDNESDAY, FEBRUARY 22, 2012
Beginning at 11:00 a.m.



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV

**APPLICATION FOR SMALL POWER PLANT
EXEMPTION For The SANTA CLARA
SC-1 DATA CENTER**

DOCKET NO. 11-SPPE-01
PROOF OF SERVICE
(revised 1/20/12)

APPLICANT

DuPont Fabros Technology
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APPLICANT'S CONSULTANT

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**ENERGY COMMISSION –
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DECISIONMAKERS (con't.)**

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**ENERGY COMMISSION – PUBLIC
ADVISER**

Jennifer Jennings
Public Adviser's Office
publicadviser@energy.state.ca.us

DECLARATION OF SERVICE

I, RoseMary Avalos, declare that on, February 6, 2012, I served and filed a copy of the attached REVISED NOTICE OF EVIDENTIARY HEARING, SCHEDULE and FURTHER ORDER, dated February 6, 2012. This document is accompanied by the most recent Proof of Service list, located on the web page for this project at: [<http://www.energy.ca.gov/sitingcases/santaclara/index.html>].

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner:

(Check all that Apply)

For service to all other parties:

- Served electronically to all e-mail addresses on the Proof of Service list;
- Served by delivering on this date, either personally, or for mailing with the U.S. Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses **NOT** marked "e-mail preferred."

AND

For filing with the Docket Unit at the Energy Commission:

- by sending an electronic copy to the e-mail address below (preferred method); **OR**
- by depositing an original and 12 paper copies in the mail with the U.S. Postal Service with first class postage thereon fully prepaid, as follows:

CALIFORNIA ENERGY COMMISSION – DOCKET UNIT
Attn: Docket No. 11-SPPE-01
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, § 1720:

- Served by delivering on this date one electronic copy by e-mail, and an original paper copy to the Chief Counsel at the following address, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid:

California Energy Commission
Michael J. Levy, Chief Counsel
1516 Ninth Street MS-14
Sacramento, CA 95814
mlevy@energy.state.ca.us

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

Original Signed By:

RoseMary Avalos
Hearing Adviser's Office