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STATE OF CALIFORNIA

Energy Resources Conservation
and Development Commission

In the Matter of:

SAN JOSE CITY DATA CENTER

Docket No. 19-SPPE-04

PETITION TO INTERVENE BY
CALIFORNIA UNIONS FOR RELIABLE ENERGY

January 23, 2020

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Reliable Energy

**PETITION TO INTERVENE BY
CALIFORNIA UNIONS FOR RELIABLE ENERGY**

Pursuant to section 1211.7 of Title 20 of the California Code of Regulations, California Unions for Reliable Energy (“CURE”) files this Petition to Intervene (“Petition”) to the California Energy Commission (“Commission”) for the San Jose City Data Center, Docket No. 19-SPPE-04 proceeding (“Project”).

Section 1211.7(a) grants “any person” the right to file a petition to intervene which sets forth “the grounds for the intervention, the position and interest of the petitioner in the proceeding, the extent to which the petitioner desires to participate in the proceedings, and the name, mailing address, e-mail address, and telephone number of the petitioner.” Section 1211.7(c) provides that the “presiding member may grant intervention and may impose reasonable conditions on an intervenor’s participation.... An intervenor is a party to a proceeding.”

This Petition is timely. The Commission has not promulgated a scheduling order with a deadline to file a petition to intervene. In the absence of a scheduling order, the deadline default is 30 days before the first evidentiary hearing. (Cal. Code Regs., tit. 20, § 1211.7 (b).) The Commission has not yet set a date for an evidentiary hearing on this matter thus, this Petition is timely.

CURE has an interest in the proceeding. CURE is a coalition of unions whose members construct and operate power plants and other industrial facilities in California. The Project therefore directly affects the union members' immediate economic interests.

The Project also affects the union members' longer term economic and environmental interests. Environmental degradation jeopardizes future jobs by causing construction moratoriums, depleting limited air pollutant emissions offsets, consuming limited freshwater resources, and imposing other stresses on the environmental carrying capacity of the State. This in turn reduces future employment opportunities.

Additionally, union members live in the communities that suffer the impacts of projects that are detrimental to human health and the environment. Unions have a corresponding interest in acting to minimize the adverse impacts of projects that would degrade the environment, and in enforcing environmental laws to protect their members.

Finally, union members are concerned about projects that cause serious environmental harm without providing countervailing economic benefits. The Commission's environmental review process provides for a balancing of the Project's socioeconomic and environmental impacts. CURE's ultimate position and participation in this proceeding will be determined based on all of the factors that will be considered by the Commission.

CURE has been granted intervention in all prior siting cases and small power plant exemption cases in which it has sought to intervene since the enactment of AB 1890. The Commission rejected the only challenge to CURE's participation in those cases, finding CURE's interests "undeniably relevant" to the proceedings. (In the Matter of Application for Certification for the High Desert Power Project, Docket No. 97-AFC-1, Order Granting Petition to Intervene at 2 (Dec. 24, 1997).) Most recently, CURE was granted intervenor status In the Matter of Application for Small Power Plant Exemption for the Laurelwood Data Center, Docket No. 19-SPPE-01. The same decision should be reached here.

CURE has participated in permit proceedings for data center projects, including their backup power generation and other facilities, in the City of Santa Clara. In those cases, CURE identified informational deficiencies in the project descriptions that prevented adequate assessments of impacts to air quality and public health and from greenhouse gas emissions and energy use. CURE also identified underestimated, unanalyzed and unmitigated impacts from construction air emissions, operational air emissions, greenhouse gas emissions, energy use, hazards and noise. For those data center projects, CURE provided evidence showing that the data centers, including their backup power generation, may result in significant impacts to air quality and public health and from greenhouse gas emissions, energy use, hazards and noise. CURE also reviewed the water use associated with data

center projects. Finally, for these identified issues, CURE proposed feasible mitigation measures to reduce impacts from data center projects to less than significant.

If granted intervention in this data center proceeding, CURE would like to participate in the topics of air quality, public health, greenhouse gas emissions, noise, hazards and hazardous materials, energy and energy resources, wildfire, and water resources. Due to the number of data centers being proposed in the City of San Jose, CURE would also like to participate in cumulative impacts associated with these resource areas. CURE respectfully reserves the right to participate in other topics should issues be identified warranting such participation. CURE may provide testimony, briefing, and cross-examination of witnesses.

For the foregoing reasons, CURE respectfully requests that the Commission grant its petition to intervene in this proceeding and allow CURE to participate as a party.

Dated: January 23, 2020

Respectfully submitted,



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**State of California
State Energy Resources Conservation and
Development Commission**
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**APPLICATION FOR SMALL POWER PLANT
EXEMPTION FOR THE:**

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

Docket No. 19-SPPE-04

**COMMITTEE ORDER GRANTING PETITION TO INTERVENE
FILED BY CALIFORNIA UNIONS FOR RELIABLE ENERGY**

Upon consideration of the Petition to Intervene (Petition) filed by California Unions for Reliable Energy (Petitioner)¹ in the Application for a Small Power Plant Exemption (SPPE) for the San Jose Backup Generating Facility (Project), the California Energy Commission (CEC) Committee designated to conduct proceedings (Committee)² in this matter makes the following findings.

1. On January 23, 2020, a Petition in the above-captioned proceeding was filed by:

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¹ TN 231653.

² The CEC appointed a committee consisting of Karen Douglas, Commissioner and Presiding Member, and Patty Monahan, Commissioner and Associate Member (the Committee), on December 11, 2019 (TN 231265).

2. The Petition contains the information required by the CEC's regulations.³
3. No opposition to the Petition has been filed, and the deadline for such opposition was February 6, 2020.
4. Petitioner's interests are relevant to the above-captioned proceeding.
5. Petitioner has demonstrated a bona fide interest in the Project and has demonstrated possession of information or expertise that may help the Committee in preparing a proposed decision.
6. Intervention is granted at the Committee's discretion to the degree that it finds intervention reasonable and relevant. The Presiding Member or Committee may impose conditions on all intervenors' participation in the hearings in order to promote the orderly conduct of the proceeding.

THEREFORE, the Committee **ORDERS** that the Petition be **GRANTED** and that Petitioner 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 Code of Regulations, title 20, section 1212. Deadlines and other matters shall not be extended or changed by the granting of this Petition.⁴

The Committee further **ORDERS** that the Petitioner's participation is limited to the direct, indirect, and cumulative impacts of the following topic areas as requested by Petitioner:

- **AIR QUALITY**
- **PUBLIC HEALTH**
- **GREENHOUSE GAS EMISSIONS**
- **NOISE**
- **HAZARDS AND HAZARDOUS MATERIALS**
- **ENERGY AND ENERGY RESOURCES**
- **WILDFIRE**
- **WATER RESOURCES**

Petitioner's intervention is subject to further modification at the discretion of the Presiding Member or the Committee. These limitations of Petitioner's participation as an 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 describing intervening in power plant siting cases can be found at:

https://ww2.energy.ca.gov/public_advisor/intervening_siting_cases.html.

³ Cal. Code Regs., tit. 20, § 1211.7, subd. (a).

⁴ Cal. Code Regs., tit. 20, § 1211.7, subd. (d).

Portions of the CEC's regulations relating to power plant siting cases can be found at:

<https://www.energy.ca.gov/programs-and-topics/topics/power-plants/title-20-power-plant-siting-certification>.

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,"⁵ the rules regarding filings,⁶ the rules of evidence that apply at the Evidentiary Hearings,⁷ and the rules prohibiting off-the-record contacts with commissioners, their advisors, or the hearing officer about the Project.⁸

Petitioner's failure to fulfill these responsibilities may result in the Committee limiting or precluding Petitioner's participation in the proceedings.

Contact Information

The Public Advisor's Office provides the public with assistance to participate in CEC proceedings. For assistance, please contact Noemí O. Gallardo, Public Advisor, by e-mail at publicadvisor@energy.ca.gov, (916) 654-4489, or toll free at (800) 822-6228.

Questions of a procedural nature should be directed to Deborah Dyer, Hearing Officer, by e-mail at deborah.dyer@energy.ca.gov or by telephone at (916) 654-3951, or to Caryn Holmes, Hearing Officer, by e-mail at caryn.holmes@energy.ca.gov or by telephone at (916) 653-1643.

Technical questions concerning the Project should be addressed to Lisa Worrall, Staff Project Manager, by e-mail at lisa.worrall@energy.ca.gov or at (916) 654-4545.

Media inquiries should be sent to the Media and Public Communications Office by e-mail at mediaoffice@energy.ca.gov or at (916) 654-4989.

IT IS SO ORDERED.

Dated: February 14, 2020

Dated: February 14, 2020

ORIGINAL SIGNED BY:

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

ORIGINAL SIGNED BY:

Patty Monahan
Commissioner and Associate Member
San Jose City Backup Generating
Facility SPPE Committee

⁵ TN 231937.

⁶ Cal. Code Regs., tit. 20, §§ 1208 – 1208.1, 1211.5.

⁷ Cal. Code Regs., tit. 20, § 1212.

⁸ Cal. Code Regs., tit. 20, § 1216.