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**BEFORE THE HEARING BOARD OF THE
SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

In the Matter of
LOS ANGELES REGIONAL
INTEROPERABLE
COMMUNICATIONS SYSTEM
AUTHORITY
Petitioner, and,
SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT,
Respondent.

CASE NO. 6234-1
FACILITY ID No.: 195322
[PROPOSED] FINDINGS AND
DECISION
AND ORDER GRANTING A REGULAR
VARIANCE AND WAIVER OF FEES
South Coast AQMD Rule 203(b) & 303(p)
Hearing Date: May 25, 2023
Time: 9:00 AM
Place: 21865 Copley Drive
Diamond Bar, CA 91765

The Petition for a Regular Variance, filed on March 3, 2023 by petitioner Los Angeles Regional Interoperable Communications System Authority (“Petitioner”), was heard on the South Coast Air Quality Management District Hearing Board’s May 25, 2023 consent calendar, in accordance with the provisions of California Health and Safety Code Section 42351. Five regular members of the Hearing Board were present: Cynthia Verdugo-Peralta, Chair; Robert Pearman, Esq., Vice Chair; Mohan Balagopalan, Dr. Allan Bernstein, DPM; and Micah Ali. Petitioner, represented by Truc Moore, Principal Deputy County Counsel, did not appear. Respondent, Executive Officer of the South Coast Air Quality Management District (“South Coast AQMD”),

1 represented by Kathryn Roberts, Senior Deputy District Counsel, did not appear. The Joint
2 Stipulation re Findings and Decision and Order Granting a Regular Variance, and the Declaration
3 of Ted Pao in Support of Order Granting a Regular Variance, and the [Proposed] Findings and
4 Decision and Order Granting a Regular Variance were received as evidence. The public was given
5 the opportunity to testify, evidence was received, and the case was submitted.

6 The Hearing Board finds and declares as follows:

7 **I. NATURE OF FACILITY AND EQUIPMENT THAT IS THE SUBJECT OF THE**
8 **VARIANCE**

9 Petitioner owns and operates a remote emergency back-up diesel generator engine under
10 Permit to Operate No. G66628 in the Angeles National Forest at SCE meter address 10875U Santa
11 Clara Truck Trail, Canyon Country, California 91390 in the County of Los Angeles to ensure
12 reliability of the Petitioner's telecommunications system which supports public safety
13 communications and operations in the region.

14 **II. SUMMARY**

15 Due to primarily unforeseen power interruptions caused by extreme weather conditions in
16 February 2023 which resulted in the site's utility provider, Southern California Edison (SCE), not
17 being able to maintain power to the site, the emergency back-up generator engine has extensively
18 operated during the first half of this year. As of May 22, 2023, the generator has used 443.5544
19 hours of its permitted 200 hour per year limit, of which only 3.9892 hours have been for monthly
20 maintenance and testing purposes. Petitioner immediately sought an emergency, interim, and
21 regular variance from the yearly hours limit in its permit to ensure that Petitioner would not be
22 forced to either shut down critical telecommunications infrastructure that is relied upon for
23 provision of public safety communications services or violate South Coast AQMD Rules due to
24 SCE's power outage. Petitioner was granted an Emergency Ex-Parte Variance on March 7, 2023
25 and an Interim Variance on March 30, 2023.

26 **III. FINDINGS FOR A VARIANCE**

27 **1. The petitioner is in violation of South Coast AQMD Rule 203(b) and Condition 4 of**
28 **Petitioner's Permit to Operate.**

1 Petitioner is in violation of condition #4 of Permit to Operate G66628, which limits the
2 annual engine run time to 200 hours per year. By March 15, the engine had operated for 439.8
3 hours. As of May 22, 2023, the engine has run a total of 443.55 hours; of those hours, 439.59
4 hours have been during an SCE power outage. Remaining hours have been for regular
5 maintenance. Since March 7, 2023, Petitioner has been operating under a variance for these
6 exceedances. Due to the changes in weather, the extreme weather conditions that resulted in the
7 declaration of statewide emergency, and the unforeseen nature of power interruptions experienced
8 from SCE this year, Petitioner is unable to predict the need to operate the emergency standby
9 generator, necessitating Petitioner to obtain coverage from exceeding the annual limit. As soon as
10 it was identified that there was a potential to exceed the 200-hour limit in the condition, Petitioner
11 took immediate action to request an emergency ex-parte variance along with an interim variance to
12 provide coverage until a publicly noticed hearing for a regular variance could be scheduled.

13 **2. Due to conditions beyond the reasonable control of Petitioner, requiring**
14 **compliance would result in either the arbitrary or unreasonable taking of property or the**
15 **closing or elimination of an otherwise unlawful business.**

16 Due to unforeseen power interruptions from extreme weather conditions that resulted in a
17 declaration of statewide emergency, and the utility provider being able to handle such extreme
18 weather conditions that were beyond Petitioner's reasonable control, a denial of the regular
19 variance would result in the practical closing of a lawful business that would impose an
20 unreasonable burden upon the essential public service of providing public safety response. The site
21 equipment is necessary to support Petitioner's public safety communications infrastructure and
22 enable communications between Petitioner's users of their public safety communications system,
23 who in turn provide public safety response to the public and all for coordination between first
24 responders.

25 **3. The closing or taking would be without corresponding benefit in reducing air**
26 **contaminants.**

27 Petitioner identified that the only other alternative would be to utilize another diesel
28 emergency generator engine rated no less than 49 brake horsepower that meets the load demand of

1 the facility. Having another diesel generator there would still result in NOx, PM, and CO
2 emissions with no corresponding reduction. Additionally, there would be increased vehicle use to
3 the site to deliver the additional portable generator .

4 **4. The petitioner for the variance has given consideration to curtailing**
5 **operations of the source in lieu of obtaining a variance.**

6 LA-RICS has already taken steps to limit Maintenance & Testing at the site to 8.66 hours
7 per year, well below the permitted limit of 50 hours per year. Petitioner has agreed to Condition 1
8 of the variance, limiting maintenance to a maximum of 1 hour per month, below what is otherwise
9 allowed under its permit.

10 **5. During the period that the variance is in effect, the petitioner will reduce**
11 **excess emissions to the maximum extent feasible.**

12 Petitioner will limit emissions to the maximum extent feasible, including limiting the hours
13 the engine is run for monthly maintenance and evaluating the engine's performance towards the
14 end of the year to determine if additional maintenance and testing can be eliminated. Petitioner
15 will comply with all conditions as specified in the Order.

16 **6. During the period that the variance is in effect, the petitioner will monitor and**
17 **quantify emission levels from the source, and report the emission levels to the South Coast**
18 **AQMD pursuant to a schedule.**

19 During the period of the variance, Petitioner will monitor emissions pursuant to the
20 conditions of this Order and provide such records to the South Coast AQMD as specified in the
21 conditions of this Order.

22 **IV. FINDINGS FOR A FEE WAIVER**

23 1. South Coast AQMD Rule 303(p) requires a waiver of fees for any petition for a
24 variance filed as a direct and proximate result of any event declared to be a "state of emergency"
25 by local, state or federal authorities.

26 2. Due to the extreme weather conditions, the power provider reported multiple
27 outages in the Angeles National Forest due to the extreme weather phenomenon known as the
28 atmospheric river that brought heavy rain, snow in high elevation, and high wind to that area. On

1 February 25, 2023, Petitioner and its power provider experienced the utility power outage that
2 resulted in the petition for variance.

3 3. On March 1, 2023, the State of California through the Governor's Office declared a
4 State of Emergency, and included the County of Los Angeles in such state of emergency:
5 [https://www.caloes.ca.gov/wp-content/uploads/Legal-Affairs/Documents/Proclamations/3.1.23-](https://www.caloes.ca.gov/wp-content/uploads/Legal-Affairs/Documents/Proclamations/3.1.23-Storms-State-of-Emergency-signed.pdf)
6 [Storms-State-of-Emergency-signed.pdf](https://www.caloes.ca.gov/wp-content/uploads/Legal-Affairs/Documents/Proclamations/3.1.23-Storms-State-of-Emergency-signed.pdf).

7 4. Under South Coast AQMD Rule 303(p), fees “shall be waived for any petition for a
8 variance filed as the direct and proximate result of any event declared to be a ‘state of emergency’
9 by local, state or federal authorities.” Because the weather creating the power outages by the
10 utility, which directly led to the exceedance of generator hours at issue here ,was declared a state
11 of emergency by the Governor of California, fees associated with this petition should be waived.

12 **ORDER**

13 THEREFORE, good cause appearing, the Hearing Board orders as follows:

14 A. Petitioner is granted a regular variance from the date of this Order through December
15 31, 2023, as follows: the internal combustion engine (ICE) with South Coast AQMD Permit to
16 Operate No. G66628 is granted a variance from Condition No. 4 of that Permit to Operate, subject
17 to the following conditions:

- 18 1. Petitioner shall limit the operation of the Internal Combustion Engine (“ICE”), as
19 described in Permit to Operate (“PO”) No. G66628, to emergency usage, and the ICE shall
20 operate no more than 1.0 hour per month total for maintenance and testing time.
- 21 2. Petitioner shall maintain a monthly operating log for the emergency ICE and shall send the
22 records to the South Coast AQMD by email to AQ Inspector III Heidee Dela Cruz
(hdelacruz@aqmd.gov) on the first Tuesday of each month. The operating log shall list all
23 engine operations in the following areas:
 - 24 a. Date and hours of emergency operation, and specify the cause of the emergency;
 - 25 b. Date and hours of maintenance and testing operations; and
 - 26 c. Date and hours of any other non-emergency operation.
- 27 3. Petitioner shall calculate, record, and report all excess emissions during the variance period
28 to the Clerk of the Board by January 30, 2024. The emission factors for calculating excess
emissions are listed below:
CO: 0.25 lb/hr
NOx: 1.02 lb/hr

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PM10: 0.03 lb/hr
RHC: 0.04 lb/hr
SOx: 0.001 lb/hr

4. Except as otherwise permitted in variance condition #1, Petitioner shall cease operation of the ICE (PO No. G66628)

B. Petitioner is granted a waiver of fees under South Coast AQMD Rule 303(p).

BOARD MEMBER: _____

DATED: _____