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LOS ANGELES REGIONAL
6 INTEROPERABLE
COMMUNICATIONS SYSTEM
7 AUTHORITY

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10 **BEFORE THE HEARING BOARD OF THE**
11 **SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**
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13 In the Matter of
14 LOS ANGELES REGIONAL
INTEROPERABLE
15 COMMUNICATIONS SYSTEM
AUTHORITY

16 Petitioner, and,
17 SOUTH COAST AIR QUALITY
18 MANAGEMENT DISTRICT,

19 Respondent.
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CASE NO. 6234-6
FACILITY ID No.: 195568
[PROPOSED] FINDINGS AND
DECISION
AND ORDER GRANTING AN INTERIM
VARIANCE AND WAIVER OF FEES
South Coast AQMD Rule 203(b) & 303 (p)
Hearing Date: May 27, 2025
Time: 9:30 AM
Place: 21865 Copley Drive
Diamond Bar. CA 91765

21 The Petition for an Interim Variance and Waiver of Fees, filed on April 30, 2025, by
22 petitioner Los Angeles Regional Interoperable Communications System Authority (“Petitioner”),
23 was heard on the South Coast Air Quality Management District Hearing Board’s May 27, 2025
24 consent calendar, in accordance with the provisions of California Health and Safety Code Section
25 42351. Five members of the Hearing Board were present: Micah Ali, Chair; Robert Pearman, Esq.,
26 Vice Chair; Dr. Jerry Abraham, MD, MPH, CMQ; Mohan Balagopalan, and Cynthia Verdugo-
27 Peralta. Petitioner, represented by Truc Moore, Principal Deputy County Counsel, did not appear.
28 Respondent, Executive Officer of the South Coast Air Quality Management District (“South Coast

1 AQMD”), represented by Mary Reichert, Senior Deputy District Counsel, did not appear. The
2 Joint Stipulation re Findings and Decision and Order Granting an Interim Variance and Waiver of
3 Fees, and the Declaration of Nancy Yang in Support of Order Granting an Interim Variance and
4 Waiver of Fees, and the [Proposed] Findings and Decision and Order Granting an Interim
5 Variance were received as evidence. The public was given the opportunity to testify, evidence was
6 received, and the case was submitted.

7 The Hearing Board finds and declares as follows:

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

10 Petitioner is a radio network dedicated entirely to first responders. The Land Mobile Radio
11 System (LMR System) creates a unified web of communication, eliminates barriers to multi-
12 jurisdictional responses and allows law enforcement, firefighters, and paramedics to communicate
13 directly with users outside of their agency. As part of the LMR System, Petitioner owns and
14 operates a remote emergency back-up diesel generator internal combustion engine under Permit to
15 Operate (P/O) No. G67048 in the Angeles National Forest at 16482U Santa Clara Truck Trail,
16 Santa Clarita, CA 91321 (also known as “Loop Canyon” or “LPC”), in the County of Los Angeles
17 to ensure reliability of the Petitioner's LMR System which supports public safety communications
18 and operations in the region, including during the recent windstorm and wildfires in January 2025.

19 The equipment that is the subject of this petition is an Internal Combustion Engine (IC
20 Engine) driving an Emergency Generator, P/O No. G67048, located at 16482U Santa Clara Truck
21 Trail, Santa Clarita, CA 91321.

22 The IC Engine is used to provide power when there is an interruption of electrical power
23 by Southern California Edison (SCE) to the LMR System. The IC Engine provides emergency
24 backup power in the event of a power outage which allows the radio site to continue to maintain
25 critical communications supporting public safety operations and serving impacted communities.

26 **II. SUMMARY**

27 Petitioner is in violation of Rules 203(b) as it pertains to Condition No. 4 of P/O
28 No. G67048 and will achieve compliance on January 1, 2026, when the annual 200-hour operating

1 limitation in Condition No. 4 resets. Petitioner sought an interim and regular variance from the
2 yearly hours limit in its permit to ensure that Petitioner would not be forced to either shut down
3 critical telecommunications infrastructure that is relied upon for provision of public safety
4 communications services or violate South Coast AQMD Rules due to public safety needs to
5 ensure there was constant power at the site.

6 **III. FINDINGS FOR A VARIANCE**

7 Following are the facts and conclusions supporting the findings set forth in Health and
8 Safety Code Section 42352 necessary to grant the interim variance. The Executive Officer did
9 not oppose the granting of the interim variance. The hearing was bifurcated to demonstrate that
10 “good cause” exists to justify the holding of a hearing on an interim variance petition in the
11 absence of notice to the public.

12 **A. Good Cause Findings**

13 **1. Petitioner is in violation of Section 41701, or of any rule, regulation or order** 14 **of the District, or that such violation is imminent.**

15 Petitioner is or will be in violation of Condition No. 4 of Permit to Operate No. G67048,
16 which limits the annual engine run time to 200 hours per year. As of the date of this filing, the
17 current runtime of the IC Engine is 544.6 hours. If the hours covered by the SCE PSPS and
18 Southcoast AQMD's Executive order are not counted, the current generator runtime is 255.4
19 hours. Petitioner has exceeded its annual permitted operating limit of 200 hours for the IC Engine,
20 as specified in Condition No. 4 of Petitioner's P/O No. G67048.

21 **2. The circumstances leading to the violation could not reasonably have been** 22 **avoided by Petitioner, or anticipated in sufficient time to provide for public notice of the** 23 **variance hearing.**

24 The circumstances leading to the violation of Condition No. 4 of P/O No. G67048 could
25 not reasonably be avoided by Petitioner nor anticipated in sufficient time to provide for public
26 notice of the variance hearing. The IC Engine for the emergency generator at LPC ran over 200
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1 hours primarily due to two major, extended utility power outages beyond the Petitioner's control.
2 The first major outage occurred when SCE activated public safety power shutoffs during
3 January's windstorm and wildfire conditions for which the Governor proclaimed a state of
4 emergency for the County of Los Angeles and for which South Coast AQMD issued Executive
5 Order 25-01 suspending rules or permit conditions limiting hours of operation of emergency IC
6 Engines. The second major outage occurred when SCE started a pole upgrade that caused a
7 utility maintenance power outage for multiple days. The Petitioner does not have control over
8 SCE and when it conducts its work, and cannot anticipate or control when utility outage occurs.

10 **3. Petitioner exercised diligence in petitioning for the interim variance and**
11 **scheduling the interim variance hearing; "diligence in petitioning for the variance" shall**
12 **mean that Petitioner filed a variance petition as soon as feasible after the time Petitioner**
13 **knew or should have known that a variance would, more likely than not, be needed.**

15 Petitioner exercised diligence by filing for an Emergency Ex Parte, Interim and Regular
16 Variance on April 30, 2025. As of April 21, the total calendar year-to-date runtime of the LPC
17 emergency generator IC Engine is 40 hours excluding the runtime of about 289 hours during
18 when South Coast AQMD's Executive Order 25-01 was in effect. On Friday, April 24, the LPC
19 IC Engine emergency generator started to run. Over the weekend and on Monday, April 28, the
20 generator continued to run. When Petitioner tracked the cause with SCE, it was found that SCE
21 had implemented a maintenance outage associated with a pole upgrade which was expected to
22 continue through May 1, 2025. As of April 29, the emergency generator runtime excluding those
23 runs when Executive Order 25-01 was in effect is about 160 hours. When Petitioner identified
24 there was a potential to exceed the 200-hour limit in the P/O condition, Petitioner took action to
25 request on April 30, 2025, an Emergency Ex Parte variance to provide coverage until a publicly
26 noticed hearing for an Interim and Regular Variance could be scheduled. At the time the variance
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1 petition was filed, the IC Engine for the emergency generator at LPC had not yet exceeded 200
2 hours of runtime after excluding the runtime during when South Coast AQMD's Executive Order
3 25-01 was in effect.

4 **4. A denial of the interim variance will result in either: (a) An increase in the**
5 **emissions of air pollutants, an adverse impact to air quality, and/or an adverse impact on**
6 **public health or welfare; or (b) An unreasonable and unavoidable adverse impact to**
7 **Petitioner.**

9 Since the date that the Emergency Ex Parte Variance was approved on May 2, 2025,
10 Petitioner has complied with the conditions of the variance and limited operation of the IC Engine
11 for P/O No. G67048 to less than 1.0 hour per month total for maintenance and test time. Denial
12 of the Interim Variance would cause significant harm to Petitioner, in that Petitioner would be
13 unable to operate the IC Engine if a commercial power outage occurred. If Petitioner is unable to
14 operate the emergency generator during future power outages for the remainder of the year, it
15 would pose a major public safety risk potentially causing a threat to life and property. First
16 responders rely on the Petitioner's LMR System for wireless communications extending
17 throughout the remote regions of Los Angeles County. The Petitioner's LMR System was used
18 extensively by first responders during the Palisades, Eaton and other recent wildfires. Losing
19 power for the LPC site would not only hurt coverage for the localized area but would hurt system
20 performance and reliability for the rest of the county due to critical microwave links this site
21 provides. If a variance is not granted, the Petitioner's LMR System, being a mission-critical
22 communications system supporting first responder radio communications for daily operation and
23 emergency responses Los Angeles countywide and for which it is imperative to stay "on air",
24 would need to continue operation with backup power during utility power outages, and Petitioner
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1 would incur fines and penalties, which would result in an unreasonable and unavoidable adverse
2 impact to the Petitioner.

3 Upon finding Good Cause, the Board then proceeded to the merits of the Interim
4 Variance and the six (6) Findings.

5 **B. Interim Variance Findings**

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7 **1. The petitioner is or will be in violation of South Coast AQMD Rule 203(b) and**
8 **Condition 4 of Petitioner's Permit to Operate.**

9 Petitioner is or will be in violation of Condition No. 4 of Permit to Operate No. G67048,
10 which limits the annual engine run time to 200 hours per year. As of the date of this filing,
11 Petitioner has exceeded its annual permitted operating limit of 200 hours for the IC Engine, as
12 specified in Condition No. 4 of Petitioner's P/O No. G67048. When Petitioner identified there was
13 a potential to exceed the 200-hour limit in the condition, Petitioner took action to request on April
14 30, 2025, an Emergency Ex Parte variance to provide coverage until a publicly noticed hearing for
15 a regular variance could be scheduled. On May 2, 2025, Petitioner was granted an Emergency Ex
16 Parte Variance from South Coast AQMD Rule 203(b), with respect to the IC Engine to continue to
17 operate its generator until May 31, 2025 for emergency purposes, as well as for maintenance and
18 testing purposes to no more than 1.0 hour per month to ensure the generator is in good working
19 order, in the event of a power outage.

20 As sworn to in the Declaration of Nancy Yang, Petitioner has complied with all applicable
21 Conditions in the Minute Order for the Emergency Ex Parte Variance which the Hearing Board
22 granted on May 2, 2025. Specifically, Petitioner has for Condition 1: limited the operation of the
23 emergency Internal Combustion Engine (ICE), Permit to Operate No. G67048 to emergency
24 usage, and no more than 1.0 hours per month total for maintenance and testing time; for Condition
25 2: maintained a monthly operating log for the emergency ICE and is prepared to start submitting
26 monthly log to the AQMD inspector starting June 3, 2025; and for Condition 3: reporting final
27 compliance to the District is not yet applicable because Petitioner has not yet achieved final
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1 compliance. Petitioner will achieve compliance on January 1, 2026, when the annual 200-hour
2 operating limitation in Condition No. 4 resets.

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

6 Due to unforeseen SCE commercial power outages caused by a third-party utility provider,
7 a denial of the Interim Variance would result in the practical closing of a lawful business that
8 would impose an unreasonable burden upon the essential public service of providing public safety
9 response. The site equipment is necessary to support Petitioner's public safety communications
10 infrastructure and enable communications between Petitioner's users of their public safety
11 communications system, who in turn provide public safety response to the public and all for
12 coordination between public safety-first responders. Losing power for this important site at LPC
13 would not only hurt coverage for the localized area but would hurt system performance and
14 reliability for the rest of Los Angeles County due to critical microwave links this site provides.

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

17 The estimated excess emissions for the generator, when in use during the variance period
18 are as follows: 14.00 pounds/day of carbon monoxide (CO), 29.47 lb/day of oxides of nitrogen
19 (NOx), 2.47 pounds/day of particulate matter (PM), and 2.37 lb/day of unburned hydrocarbons
20 (HC).

21 The Hearing Board determined that the significant harm to Petitioner and the public would
22 outweigh the benefit to air quality if the emissions associated with the variance request were
23 eliminated as a result of denying the variance.

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

26 Curtailment or shutdown of the generator would not bring Petitioner into compliance, as
27 Petitioner has already exceeded the 200-hour operating limit for the calendar year of 2025.

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

3 Petitioner will limit emissions to the maximum extent feasible, including limiting the hours
4 the engine is run for monthly maintenance and evaluating the engine's performance towards the
5 end of the year to determine if additional maintenance and testing can be eliminated. Petitioner
6 will only use the generator in times of emergency and for no more than one (1) hour each month
7 for required maintenance and testing. Petitioner will comply will all conditions as specified in the
8 Order.

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

12 Petitioner shall maintain a monthly operating log of the hours of operation of the generator
13 and shall send the monthly records to South Coast AQMD, by email to South Coast AQMD staff,
14 on the first Tuesday of each month.

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

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

19 2. Due to the extreme wind and wildfire conditions, on January 7, 2025, the State of
20 California through the Governor's Office declared a State of Emergency, and included the County
21 of Los Angeles in such state of emergency: [https://www.gov.ca.gov/wp-](https://www.gov.ca.gov/wp-content/uploads/2025/01/SOE_Palisades-Fire_1-7-25_Formatted.pdf)
22 [content/uploads/2025/01/SOE_Palisades-Fire_1-7-25_Formatted.pdf](https://www.gov.ca.gov/wp-content/uploads/2025/01/SOE_Palisades-Fire_1-7-25_Formatted.pdf) .

23 3. Under South Coast AQMD Rule 303(p), fees “shall be waived for any petition for a
24 variance filed as the direct and proximate result of any event declared to be a ‘state of emergency’
25 by local, state or federal authorities.” Because the weather and wildfires created the power outages
26 by the utility, which directly led to the exceedance of generator hours at issue here, and there was
27 a declared state of emergency by the Governor of California, fees associated with this petition
28 should be waived.

1 4. Further, fees can be waived under South Coast AQMD Rule 303(g), which permits "the
2 Hearing Board may adjust the excess emission fee required by subdivisions (d), (e), and (f) of this
3 rule, at the request of the petitioner or upon motion of the Hearing Board, based on evidence
4 regarding emissions presented at the time of the hearing." South Coast AQMD Rule 303(m) also
5 permits a waiver of fees where, "Any person may allege that payment of any of the fees within this
6 rule, excluding publication fees, will cause an unreasonable hardship or is otherwise inequitable."

7 5. Petitioner is a public agency that serves first responders by providing public safety
8 communications infrastructure and enabling communications between Petitioner's users of their
9 public safety communications system, who in turn provide public safety response to the public.
10 The exceedance of generator hours is not a result of Petitioner's actions, but those of a third party
11 utility and as caused by extreme weather conditions. It is inequitable and would be a hardship to
12 not waive such fees for Petitioner, a public agency who is not a for profit entity. For those
13 reasons, fees associated with this petition should also be waived.

14 **ORDER**

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

16 A. Petitioner is granted an interim variance from South Coast AQMD Rule 203(b) from
17 Condition No. 4 of P/O No. G67048 for an Internal Combustion Engine driving an
18 Emergency Generator, commencing May 27, 2025 and ending in 90 days* or until a
19 noticed hearing for a regular variance, currently scheduled for July 30, 2025,
20 whichever occurs first, subject to the following conditions:

21 (*the 90 days starts from the date the Ex-Parte Emergency variance was granted)

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- 23 1. Petitioner shall limit the operation of the Internal Combustion Engine ("ICE"), as
24 described in Permit to Operate No. G67048, to emergency usage, and the ICE shall
operate no more than 1.0 hours per month total for maintenance and testing time.
 - 25 2. Petitioner shall maintain a monthly operating log for the emergency ICE and shall
26 send the monthly records to South Coast AQMD by email to AQ Inspector Nathan
27 Wong nwong2@aqmd.gov) on the first Tuesday of each month beginning June 3,
2025. The operating log shall list all engine operations in the following areas:
 - 28 a. Date and hours of emergency operation, and specify the cause of the
emergency;

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- b. Date and hours of maintenance and testing operations; and
- c. Date and hours of any other non-emergency operation.

- 3. Petitioner shall calculate, record, and report all excess emissions during the variance period, and pay appropriate excess emission fees, to the extent not waived or reduced, to the Clerk of the Board within fifteen (15) days of notification in writing that the fees are due, unless otherwise ordered by the Hearing Board. The variance will be invalidated pursuant to Rule 303(k) if applicable fees are not paid.
- 4. Except as otherwise permitted in variance condition 1, Petitioner shall cease operation of the ICE.

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

BOARD MEMBER: _____

DATED: _____