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

19 Respondent.
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CASE NO. 6234-7
FACILITY ID No.: 195322
[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 during off-business hours on
22 May 2, 2025 but officially accepted on May 6, 2025, by petitioner Los Angeles Regional
23 Interoperable Communications System Authority (“Petitioner”) was heard on the South Coast Air
24 Quality Management District Hearing Board’s May 27, 2025 consent calendar, in accordance with
25 the provisions of California Health and Safety Code Section 42351. Five members of the Hearing
26 Board were present: Micah Ali, Chair; Robert Pearman, Esq., Vice Chair; Dr. Jerry Abraham,
27 MD, MPH, CMQ; Mohan Balagopalan, and Cynthia Verdugo-Peralta. Petitioner, represented by
28 Truc Moore, Principal Deputy County Counsel, did not appear. Respondent, Executive Officer of

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

8 The Hearing Board finds and declares as follows:

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

11 Petitioner is a radio network dedicated entirely to first responders. The Land Mobile Radio
12 System (LMR System) creates a unified web of communication, eliminates barriers to multi-
13 jurisdictional responses and allows law enforcement, firefighters, and paramedics to communicate
14 directly with users outside of their agency. As part of the LMR System, Petitioner owns and
15 operates a remote emergency back-up diesel generator internal combustion engine under Permit to
16 Operate (P/O) No. G66628 in the Angeles National Forest at 10875U Santa Clara Truck Trail,
17 Canyon Country, CA 91390 (also known as “Magic Mountain Link” or “MML”), in the County of
18 Los Angeles to ensure reliability of the Petitioner's LMR System which supports public safety
19 communications and operations in the region, including during the recent windstorm and wildfires
20 in January 2025.

21 The equipment that is the subject of this petition is an Internal Combustion Engine (IC
22 Engine) driving an Emergency Generator, P/O No. G66628, located at 10875U Santa Clara Truck
23 Trail, Canyon Country, CA 91390.

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

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1 **II. SUMMARY**

2 Petitioner has the potential to be in violation of Rules 203(b) as it pertains to Condition No.
3 4 of P/O No. G66628 with runtime close to but has not yet exceeded the 200-hour annual
4 operation limit of the IC Engine generator if generator runtime from January 8 to February 6, 2025
5 during when South Coast AQMD's Executive Order 25-01 was in effect is excluded from total
6 cumulative generator runtime to-date. Petitioner sought an interim and regular variance from the
7 yearly hours limit in its permit to ensure that Petitioner would not be forced to either shut down
8 critical telecommunications infrastructure that is relied upon for provision of public safety
9 communications services or violate South Coast AQMD Rules due to public safety needs to
10 ensure there was constant power at the site.

11 **III. FINDINGS FOR A VARIANCE**

12 Following are the facts and conclusions supporting the findings set forth in Health and
13 Safety Code Section 42352 necessary to grant the interim variance. The Executive Officer did
14 not oppose the granting of the interim variance. The hearing was bifurcated to demonstrate that
15 "good cause" exists to justify the holding of a hearing on an interim variance petition in the
16 absence of notice to the public.

17 **A. Good Cause Findings**

18 **1. Petitioner is in violation of Section 41701, or of any rule, regulation or order**
19 **of the District, or that such violation is imminent.**
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21 Petitioner will be in violation of Condition No. 4 of Permit to Operate No. G66628, which
22 limits the annual engine run time to 200 hours per year. As of 9:00 AM on May 21, 2025, the
23 current runtime of the IC Engine is 573.9 hours. MML IC Engine generator runtime excluding
24 hours covered by the SCE PSPS and South Coast AQMD Executive Order 25-01 is 171.1 hours.
25 Petitioner has not yet exceeded its annual permitted operating limit of 200 hours for the IC Engine,
26 as specified in Condition No. 4 of Petitioner's P/O No. G66628, but has a potential to exceed the
27 runtime limit specified in Condition No. 4.
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1 **2. The circumstances leading to the violation could not reasonably have been**
2 **avoided by Petitioner, or anticipated in sufficient time to provide for public notice of the**
3 **variance hearing.**

4 The circumstances leading to the potential violation of Condition No. 4 of P/O No.
5 G66628 could not reasonably be avoided by Petitioner nor anticipated in sufficient time to
6 provide for public notice of the variance hearing. The IC Engine for the emergency generator at
7 MML is at 171.1 hours as of May 21, 9 AM primarily due to two major, extended utility power
8 outages beyond the Petitioner's control. The first major outage occurred when SCE activated
9 public safety power shutoffs during January's windstorm and wildfire conditions for which the
10 Governor proclaimed a state of emergency for the County of Los Angeles and for which South
11 Coast AQMD issued Executive Order 25-01 suspending rules or permit conditions limiting hours
12 of operation of emergency IC Engines. The second major outage occurred when SCE started a
13 utility maintenance power outage for multiple days. The Petitioner does not have control over
14 SCE and when it conducts its work, and cannot anticipate or control when utility outage occurs.

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

22 Petitioner exercised diligence by filing for an Emergency Ex Parte, Interim and Regular
23 Variance on May 6, 2025. The variance petition was electronically submitted during off-business
24 hours on May 2, 2025 but officially accepted on May 6, 2025. As of May 2, the total calendar
25 year-to-date runtime of the MML emergency generator IC Engine is 53 hours excluding the
26 runtime of about 403 hours from January 8 to February 6, 2025 during when South Coast
27 AQMD's Executive Order 25-01 was in effect. Southern California Edison (SCE) notified the
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1 Petitioner of a planned maintenance power outage associated with utility pole upgrade that is
2 estimated to start on May 3 at 8 AM and end on May 9 at 10AM. Site MML's IC Engine
3 emergency generator was therefore expected to run during the SCE outage for 146 hours to keep
4 supplying power to Petitioner's LMR public safety communications system so the system stays
5 operational and "on air". If SCE implements the maintenance power outage as estimated, when
6 utility power is restored and the emergency generator stops on May 9 at 10 AM, the expected
7 cumulative generator runtime excluding those runtime hours when Executive Order 25-01 was in
8 effect would be 199 hours. Although it is still below the 200-hour annual limit stipulated in
9 Condition No. 4 of P/O G66628, in consideration of the potential of SCE's planned outage not
10 restored as scheduled or is further extended due to unforeseen circumstances, of the possibility of
11 future scheduled and unscheduled utility power outages, as well as the need for future periodic
12 testing and maintenance of the MML IC Engine to ensure it maintains good working order,
13 Petitioner took action to request an Emergency Ex Parte variance on May 6, 2025 to provide
14 coverage until a publicly noticed hearing for an Interim and Regular Variance could be
15 scheduled. At the time the variance petition was filed and accepted on May 6, 2025 and even at
16 time of current filing on May 21, 2025, the IC Engine for the emergency generator at MML had
17 not yet exceeded 200 hours of runtime after excluding the runtime during when South Coast
18 AQMD's Executive Order 25-01 was in effect.

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

26 Since the date that the Emergency Ex Parte Variance was approved on May 7, 2025,
27 Petitioner has complied with the conditions of the variance and limited operation of the IC Engine
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1 for P/O No. G66628 to less than 1.0 hour per month total for maintenance and test time. Denial
2 of the Interim Variance would cause significant harm to Petitioner, in that Petitioner would run
3 the risk of violating Condition No. 4 of P/O G66628. Additionally, Petitioner would be unable to
4 operate the IC Engine if additional, multiple-day future commercial power outages occurred. If
5 Petitioner is unable to operate the emergency generator during future power outages for the
6 remainder of the year, it would pose a major public safety risk potentially causing a threat to life
7 and property. First responders rely on the Petitioner's LMR System for wireless communications
8 extending throughout the remote regions of Los Angeles County. The Petitioner's LMR System
9 was used extensively by first responders during the Palisades, Eaton and other recent wildfires.
10 Losing power for the MML site would not only hurt coverage for the localized area but would
11 hurt system performance and reliability for the rest of the county due to critical microwave links
12 this site provides. If a variance is not granted, the Petitioner's LMR System, being a mission-
13 critical communications system supporting first responder radio communications for daily
14 operation and emergency responses Los Angeles countywide and for which it is imperative to
15 stay "on air", would need to continue operation with backup power during utility power outages,
16 and Petitioner would incur fines and penalties, which would result in an unreasonable and
17 unavoidable adverse impact to the Petitioner.

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

22 **B. Interim Variance Findings**

23 **1. The petitioner is or will be in violation of South Coast AQMD Rule 203(b) and** 24 **Condition 4 of Petitioner's Permit to Operate.**

25 Petitioner will be in violation of Condition No. 4 of Permit to Operate No. G66628, which
26 limits the annual engine run time to 200 hours per year. As of the date of this filing, given the
27 171.1 hour of year-to-date cumulative generator runtime, Petitioner has the high potential to
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1 exceed its annual permitted operating limit of 200 hours for the IC Engine, as specified in
2 Condition No. 4 of Petitioner's P/O No. G66628. When Petitioner identified there was a potential
3 to exceed the 200-hour limit in the condition, Petitioner took action to request on May 6, 2025, an
4 Emergency Ex Parte variance to provide coverage until a publicly noticed hearing for a regular
5 variance could be scheduled. On May 7, 2025, Petitioner was granted an Emergency Ex Parte
6 Variance from South Coast AQMD Rule 203(b), with respect to the IC Engine to continue to
7 operate its generator until June 5, 2025 for emergency purposes, as well as for maintenance and
8 testing purposes to no more than 1.0 hour per month to ensure the generator is in good working
9 order, in the event of a power outage.

10 As sworn to in the Declaration of Nancy Yang, Petitioner has complied with all applicable
11 Conditions in the Minute Order for the Emergency Ex Parte Variance which the Hearing Board
12 granted on May 7, 2025. Specifically, Petitioner has for Condition 1: limited the operation of the
13 emergency Internal Combustion Engine (ICE), Permit to Operate No. G66628 to emergency
14 usage, and no more than 1.0 hours per month total for maintenance and testing time; for Condition
15 2: maintained a monthly operating log for the emergency ICE and is prepared to start submitting
16 monthly log to the AQMD inspector starting June 3, 2025; and for Condition 3: reporting final
17 compliance to the District is not yet applicable because Petitioner has not yet achieved final
18 compliance. Petitioner will achieve compliance on January 1, 2026, when the annual 200-hour
19 operating limitation in Condition No. 4 resets.

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

23 Due to unforeseen SCE commercial power outages caused by a third-party utility provider,
24 a denial of the Interim Variance would result in the practical closing of a lawful business that
25 would impose an unreasonable burden upon the essential public service of providing public safety
26 response. The site equipment is necessary to support Petitioner's public safety communications
27 infrastructure and enable communications between Petitioner's users of their public safety
28 communications system, who in turn provide public safety response to the public and all for

1 coordination between public safety-first responders. Losing power for this important site at MML
2 would not only hurt coverage for the localized area but would hurt system performance and
3 reliability for the rest of Los Angeles County due to critical microwave links this site provides.

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

6 The estimated excess emissions for the generator, when in use during the variance period
7 are as follows: 23.80 pounds/day of carbon monoxide (CO), 26.09 lb/day of oxides of nitrogen
8 (NOx), 1.37 pounds/day of particulate matter (PM), and 1.37 lb/day of unburned hydrocarbons
9 (HC).

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

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

15 Curtailment or shutdown of the generator would not bring Petitioner into compliance, as
16 Petitioner operates a first responder radio communications system that must stay operational and “on
17 air”.

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

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

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

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

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

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

8 2. Due to the extreme wind and wildfire conditions, on January 7, 2025, the State of
9 California through the Governor's Office declared a State of Emergency, and included the County
10 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)
11 [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) .

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

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

24 5. Petitioner is a public agency that serves first responders by providing public safety
25 communications infrastructure and enabling communications between Petitioner’s users of their
26 public safety communications system, who in turn provide public safety response to the public.
27 The exceedance of generator hours is not a result of Petitioner's actions, but those of a third party
28 utility and as caused by extreme weather conditions. It is inequitable and would be a hardship to

1 not waive such fees for Petitioner, a public agency who is not a for profit entity. For those
2 reasons, fees associated with this petition should also be waived.

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4 **ORDER**

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

6 A. Petitioner is granted an interim variance from South Coast AQMD Rule 203(b) from Condition
7 No. 4 of P/O No. G66628 for an Internal Combustion Engine driving an Emergency Generator,
8 commencing May 27, 2025 and ending in 90 days* or until a noticed hearing for a regular
9 variance, currently scheduled for July 30, 2025, whichever occurs first, subject to the following
10 conditions:

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

- 12
- 13 1. Petitioner shall limit the operation of the Internal Combustion Engine ("ICE"), as
14 described in Permit to Operate No. G66628, to emergency usage, and the ICE shall
operate no more than 1.0 hours per month total for maintenance and testing time.
 - 15 2. Petitioner shall maintain a monthly operating log for the emergency ICE and shall
16 send the monthly records to South Coast AQMD by email to AQ Inspector I
17 Nathan 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
18 areas:
 - 19 a. Date and hours of emergency operation, and specify the cause of the
20 emergency;
 - b. Date and hours of maintenance and testing operations; and
 - c. Date and hours of any other non-emergency operation.
 - 21 3. Petitioner shall calculate, record, and report all excess emissions during the
22 variance period, and pay appropriate excess emission fees, to the extent not waived
23 or reduced, to the Clerk of the Board within fifteen (15) days of notification in
24 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.
25 If applicable, Petitioner may exclude any hours the ICE is operated for Public
Safety Power Shutoff ("PSPS") events as defined by Rule 118.1 by following the
26 procedures in Rule 118.1(d), if Petitioner complies with the notification and
reporting requirements of Rule 118.1(e).
 - 27 4. Except as otherwise permitted in variance condition 1, Petitioner shall cease
28 operation of the ICE.

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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: _____