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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Establish Policies, Processes, and Rules to Ensure Safe and Reliable Gas Systems in California and Perform Long-Term Gas System Planning.	Rulemaking 20-01-007

THE JUSTICE PARTIES' RESPONSE TO ADMINISTRATIVE LAW JUDGE RULING SEEKING COMMENTS

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I. INTRODUCTION

The California Environmental Justice Alliance ("CEJA"), the Greenlining Institute and the Sierra Club (collectively, the "Justice Parties") submit the following responses to Administrative Law Judge Tran's July 31, 2020 Ruling Seeking Comments ("Ruling"). The Justice Parties have not responded to all of the questions included in Attachment 1 of the Ruling and reserve the right to comment on the Final Workshop Report for Tracks 1A and 1B of the proceeding. The Justice Parties thank Administrative Law Judge Tran for the opportunity to provide comments and additional information to ensure changes to "the rules, processes, and regulations governing gas utilities"[1] benefit disproportionately overburdened low-income, disadvantaged community residents.

II. COMMENTS

1. Given the high gas and electricity costs incurred during tight conditions on the SoCalGas system in 2017 and 2018, what changes, if any should be made to existing reliability standards?

Initially, it is not clear what this question refers to as "existing reliability standards." Problematically, as the Commission highlighted in the July 7 workshop, reliability for the gas

1 R.20-01-007 Order Institute Rulemaking at 13.

system is currently not defined.[2] Another concern with the lack of consistent standards related to reliability is that resilience is not discussed and integrated into it.[3] Future standards of reliability will need to be shaped by the transformation our state's energy system is undergoing. California, as reflected in SB 100 and in our decarbonization policies, is shifting away from natural gas reliance. As such, any reliability standard must focus on how to improve resilience in communities by increasing reliance on other energy resources including local distributed energy resources and storage.

With relation to specific reliability standards, the Justice Parties believe that standards such as PG&E's 1-in-90 abnormal peak day is excessive and does not reflect the reality of the transition away from fossil fuel resources. Reliance on excessive reliability standards will result in overbuilding infrastructure and resources that eventually will not be needed. As UCAN stated in its presentation, "[t]he Commission should require gas demand be reduced to meet existing gas infrastructure, not the other way around, particularly as we unwind from gas."[4] This was also illustrated by Mr. Beach showing how significantly electrical generation gas demand is expected to fall over time.[5]

Rather than rely on excessive reliability standards, the Commission should work to proactively ensure that other resources provide communities with resilience and reliable energy during the transition away from gas. In particular, the Commission is currently working to maximize the deployment and use of resources that decrease reliance on gas. For instance, the Electric Program Investment Charge ("EPIC") program continues to explore the viability of new

2 *See* July 7 Workshop Slides, Slide 9.
3 *Id.*
4 *Id.*, Slide 72.
5 *Id.*, Slide 107.

and emerging clean technologies. The Commission also continues to encourage the use of storage through the Self-Generation Incentive Program ("SGIP"). Recently, the Commission authorized ratepayer collections of $166 million annually for the years 2020 to 2024 to fund the SGIP and implement program revision pursuant to Senate Bill 700 and other program changes.[6] The Commission is also currently implementing demand response pilots in DACs, with lessons learned anticipated to further the state's climate and renewables targets. As of May 2020, the Commission is also overseeing 16 separate building electrification programs incentivizing heat pumps or related equipment, 15 of which fund heat pump water heaters ("HPWH"), offered by electric investor owned utilities ("IOUs") and/or in electric IOU service territory.[7] Also, the Commission's Building Decarbonization proceeding is exploring future tariffs, programs, and policies, such as the transformation of the HPWH market, to further decarbonize the California's building sector and meet the state's building decarbonization goals established pursuant to AB 3232.[8] Reliance on these local energy resources combined with increased demand-side management should be emphasized, and not ignored in this proceeding, to best ensure that communities are resilient to the many impacts of climate change. Certainly, the Commission's current Environmental and Social Justice Action Plan emphasizes the need to "[i]ncrease investment in clean energy resources to benefit ESJ communities, especially to improve local air quality and public health."[9] This includes increasing clean energy programs in these

6 D.20-01-021.

7 *See* Cal. Pub. Util. Com., *Factsheet on HPWH Incentive Programs* (May 1, 2020), <https://www.cpuc.ca.gov/WorkArea/DownloadAsset.aspx?id=6442465700>.

8 R.19-01-011.

9 Cal. Pub. Util. Com., *Environmental and Social Justice Action Plan* (Feb. 21, 2019) <https://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/UtilitiesIndustries/Energy/EnergyPrograms/Infrastructure/DC/Env%20and%20Social%20Justice%20ActionPlan_%202019-02-21.docx.pdf>.

communities, as well as maximizing the benefits from these programs, which includes increasing the resilience of communities.[10]

2. Questions related to a one-way financial incentive, such as utility shareholders sharing in the cost of repair or a reduction in the allowed return on equity.

a. What would constitute a "sustained" failure to meet minimum design standard?

A sustained failure must be tied to issues of safety of the system. It is important to avoid unnecessary expenditures to the gas system, but it is also critical to avoid installing equipment to unnecessarily expand the gas system, which could contribute to additional catastrophic failures. The Commission must also update minimum design standards to allow for the planning required to significantly decrease the size of the gas system consistent with SB 100, SB 350 and local measures[11] limiting the use of gas across the state. The Commission must analyze the life of each individual asset in relation to controlling climate policies limiting the production and distribution of gas in California.

b. Do parties agree that utility shareholders should share in the cost of repair if the utility does not maintain minimum design standard?

Yes, shareholders should bear all costs of a repair that does not maintain minimum design standards. There must be a clear incentive to design the system safely and at the least cost. Environmental justice communities already bear a disproportionate energy burden and should not have to pay for any utility failures. The disproportionate burden of environmental health

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10 *Id*. at 15.

11 See Building Decarbonization Coalition, *Local Government Decarbonization Ordinance Comparison Matrix* as of 7/22/2020, (2020) <http://www.buildingdecarb.org/active-code-efforts.html> (Number of California Jurisdictions: 32); "In 2019, Berkeley, California, became the first city in the U.S. to ban gas in newly constructed buildings. Around 30 other cities in the state have followed suit" with similar measures restricting the use of gas. *See also* Peters, Fast Company, *What Will it Take for Cities to Get Rid of Natural Gas?* (August 2020) <https://www.fastcompany.com/90538829/what-will-it-take-for-cities-to-get-rid-of-natural-gas>.

impacts as a result of energy production on low-income communities and communities of color is well documented.[12] As an additional example, half of all natural gas power plants in California are located in DACs.[13] At the same time, residents of DACs spend a larger portion of their income on home energy costs compared to other households.[14] The Commission must not unfairly externalize the costs of potentially unsafe, illegal or unsuccessful utility decisions on economically vulnerable Californians who bear no responsibility for them. High energy burdens and any potential increase in energy costs to environmental justice community residents, "can force these households to choose between energy and necessities, like food or medicine. Insufficient heating or cooling, a choice some families may be forced to make, can increase the incidence of asthma, respiratory problems, heart disease, arthritis, and rheumatism; children and the elderly are particularly vulnerable to adverse health effects from energy insecurity…"[15] Similar to the policies and supporting rationales governing the Commission's approach to wildfire mitigation, utilities and their shareholders must not recover the costs for dangerous or

12 Cushing et al., *A Preliminary Environmental Equity Assessment of California's Cap-and-Trade Program* (September 2016) <https://dornsife.usc.edu/assets/sites/242/docs/Climate_Equity_Brief_CA_Cap_and_Trade_Sept2016_FINAL2.pdf>; Cushing et al., *Carbon trading, co-pollutants, and environmental equity: Evidence from California's cap-and-trade program (2011–2015)* (July 2018) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6038989/>; Shonkoff et al, *Minding the Climate Gap: Environmental Health and Equity Implications of Climate Change Mitigation Policies in California* (December 2009) <https://www.liebertpub.com/doi/abs/10.1089/env.2009.0030> (at 9); Mikati, *Disparities in Distribution of Particulate Matter Emission Sources by Race and Poverty Status* (April 1, 2018) <https://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.2017.304297>.

13 Brune, *Building Our Own Bridge* (Feb 28, 2020) <https://www.sierraclub.org/michael-brune/2020/02/regenerate-california-natural-gas>.

14 *See eg*. U.S. Dept. Energy, *Low-Income Household Energy Burden Varies Among States* (2018), <https://www.energy.gov/sites/prod/files/2019/01/f58/WIP-Energy-Burden_final.pdf>.

15 California Energy Commission, *Low-Income Barriers Study, Part A: Overcoming Barriers to Energy Efficiency and Renewables for Low-Income Customers and Small Business Contracting Opportunities in Disadvantaged Communities* (2016) <https://www.energy.ca.gov/rules-and-regulations/energy-suppliers-reporting/clean-energy-and-pollution-reduction-act-sb-350/sb> (at 13).

unreasonable decision-making.[16] Failing to maintain minimum design standards is impermissible under existing policies, unsafe, unreasonable and should be financed solely by the responsible parties instead of economically vulnerable Californians. The Commission should not add to these already significant burdens and ensure that utility shareholders bear the costs of repair and maintenance of existing natural gas infrastructure.

c. Do parties agree that a utility's return on equity should be reduced if the utility does not maintain the minimum design standard?

Yes, the utility's return on equity is already too high considering the necessary transition to GHG-free energy and electrification. The value of existing assets varies according to the useful life of the asset. Senate Bill 100, Senate Bill 350 and related local measures referenced above impact the usable life, utility and value of these assets.[17] The Commission's return on equity must account for California's decarbonization mandates like Senate Bill 100 and Senate Bill 350. Given this, we believe that the Commission should lower the utility's return on equity in this instance and overall. If minimum design standards are not maintained, the Commission should consider eliminating the return on equity for that piece of equipment.

3. A common set of temperature projections needs to be established in this proceeding.

a. Do parties have any concerns with using these sources?

Yes, the Justice Parties are concerned about using the California Gas Report for such projections. The California Gas Report is a utility-generated document, not a scientific document. Gas utilities do not provide unbiased, scientific data. Moreover, as of the workshop

16 *See* Assembly Bill 1054 (Holden, 2019).

17 Senate Bill 100 (De León, 2018) requires exclusively renewable and zero-carbon resources for in-state electricity retail sales by 2045. Senate Bill 350 (De León, 2015) section 2 (a)(2) requires doubling the natural gas energy efficiency savings in order to reduce natural gas usage in California significantly. Collectively, these policies require eliminating the use of many existing gas assets and impact the Values of gas assets.

date, the California Gas Report still does not include discussion of relevant state legislation, including SB 350 and SB 100. Although the Gas Report is required pursuant to D.95-01-039, which requires a comprehensive report every five years, the public has not yet had an opportunity to review or comment on the next 2020 comprehensive report. In line with this proceeding's Order Instituting Rulemaking, there is a clear need to update the rules and regulations governing natural gas; relying on outdated reporting requirements and planning assumptions would only hinder that objective. Therefore, we request that the California Gas Report is not relied on for such projections.

b. Are there any other vetted projections, including peer-reviewed studies and projections produced by state agencies, on California's climate that should be considered?

Yes, the Justice Parties request that the Commission rely on Cal-Adapt. Cal-Adapt has been developed by the Geospatial Innovation Facility at University of California, Berkeley with funding and advisory oversight by the California Energy Commission and the California Strategic Growth Council.[18] Cal-Adapt importantly allows an overlay of community vulnerability and allows users to compare predicted climate change within and between communities. Consideration of the vulnerability of communities is an essential overlay for planning the gas system.

Importantly, consideration of Cal-Adapt and the Fourth Assessment is consistent with the Commission's decision in the Climate Change Adaptation Proceeding, R.18-04-019. In that proceeding, the Commission directed utilities "to use the California Fourth Climate Change Assessment and the studies, data, tools, and models contained in that Assessment when analyzing climate impacts, climate risk, and climate vulnerability of utility infrastructure and

18 CalAdapt <https://cal-adapt.org>.

operations."[19] As the Commission noted, the tools available within the Fourth Climate Assessment includes Cal-Adapt with its climate change projections and visualizations of climate scenarios.[20]

4. How does decreased snowpack impact the need for other baseload resources and/or gas-fired electric generation?

While decreased snowpack has historically impacted gas-fired electric generation, it is also important to examine the increased role of wind and solar energy during years of increased snowpack. As the EIA noted, "[d]ecreasing hydroelectric generation in California in recent years has been offset by increasing natural gas, wind and solar generation."[21] Wind and solar generation will have an increased role in offsetting low snowpack years as California increases the penetration of these resources on the grid. Additionally, the Commission's response to decreased snowpack impacts cannot override the statutory limits on gas fired electric generation in California.[22] The Commission must plan on mitigating the impacts of decreased snowpack with non-gas, renewable and zero-carbon alternatives.

5. Is a winter reliability standard sufficient to ensure that a gas system can meet summer peak demand without the need for a summer reliability standard?

The winter reliability standard is sufficient to ensure that the gas system can meet summer peak demand. As the CEC noted in its presentation, the decreased demand for natural gas from homes approximately offsets increased residential electricity consumption.[23]

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19 D.19-10-054 at 43.

20 D.19-10-054 at 43, n. 135.

21 U.S. Energy Information Admin., *Today in Energy* (March 22, 2017) <https://www.eia.gov/todayinenergy/detail.php?id=30452>.

22 Senate Bill 100 (De León, 2018) requires exclusively renewable and zero-carbon resources for in-state electricity retail sales by 2045.

23 July 7 Workshop Presentation, Slide 25; The demand for natural gas may significantly decrease beyond current mandates as the CEC evaluates all-electric new building construction requirements.

Indeed, the summer peak electricity consumption will continue to be offset as California adds increasing solar and storage to the grid. The Integrated Resource Planning is projecting that thousands of megawatts of solar and storage will be added in upcoming years,[24] which will significantly offset peak needs by the natural gas system. As Mr. Beach's presentation summarized, "[s]ummer EG gas demand will drop substantially per SB 100."[25]

6. Reclassifying core customers to include gas electric generators.

Core customers should not be redefined to include gas electric generators. California has many other methods of generating electricity beyond reliance on gas electric generators.[26] If there is any revision of core customers, the Justice Parties believe that hospitals should be considered to be included as a core customer.

7. Need for a reserve system for SoCalGas.

For the same reasons detailed above, there is no need for a reserve system for SoCalGas. In addition, workshop presentations supporting an additional reserve system were based on data from the forthcoming 2020 California Gas Report, but that is not an objective document and should not be relied upon because it is produced by the utilities and has not been subject to stakeholder review.

8. Should slack capacity include storage?

As raised in the July 7 Workshop, the Justice Parties are unclear whether slack capacity requirements are necessary given that D.06-09-039 requires utilities to maintain a certain level of

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California Code of Regulations, Title 24, Part 6 of Building Codes, CEC Docket 19-BSTD-03 (The updated standards will be proposed for adoption in 2021 with an effective date of January 1, 2023).

24 *See*, e.g., R.16-02-007, Reference System Plan.

25 July 7 Workshop Presentation, Slide 108.

26 Notably, even SoCalGas does not suggest all electrical generation should be a core customer. *See* July 7 Workshop Presentation, Slide 66 (asking whether some level of electric generation should be considered core).

transmission and storage capacity. Given the impending downturn in gas usage, we should focus on how to eliminate redundant and excessive requirements. Furthermore, at the workshops, SDG&E and SoCalGas noted that annual average forecasts of demand include a 50% margin for error, which is sufficient to manage fluctuations in demand, especially given the state's climate and renewables policies.

11. Are there policy changes the CPUC should consider that would help manage the changing use of the gas infrastructure?

The Commission must change its policies and procedures to support an equitable transition away from natural gas use in California required by statues.[27] Researchers predict that even under a "no building electrification scenario," residential gas use will decline in California 25 percent by 2050 exclusively due to energy efficiency. Widespread building electrification, consistent with existing policy mandates and trends,[28] could result in residential gas throughput reductions of over 90% by 2050.[29] This decline coupled with limits on natural gas use for in-state electricity fundamentally alter our current system.

Our system is already radically different than the one assumed in current planning procedures and rules governing the gas system. In 2019, the CEC estimates 63 percent of the state's electricity retail sales came from non-fossil fuel sources.[30] As the CEC Chair David Hochschild explains, "As we move to 100 percent clean electricity by mid-century, this success

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27 Senate Bill 100 (De León, 2018), Senate Bill 350 (De León, 2015).

28 *See Building Decarbonization Coalition*, Local Government Decarbonization Ordinance Comparison Matrix as of 7/22/2020, (2020) <http://www.buildingdecarb.org/active-code-efforts.html> (Number of California Jurisdictions: 32); Senate Bill 100 (De León, 2018); Senate Bill 350 (De León, 2015).

29 E3, *Draft Results: Future of Natural Gas Distribution in California*, presented at the California Energy Commission staff workshop on June 6, 2019, slide 16. <https://ww2.energy.ca.gov/ research/notices/2019 06-06_workshop/2019-06-06_Future_of_Gas_Distribution.pdf>.

30 CEC, *Immediate Release* (July 2020) <https://www.energy.ca.gov/news/2020-07/new-data-shows-nearly-two-thirds-californias-electricity-came-carbon-free>.

shows what's possible and demonstrates that renewables are now mainstream and fossil fuels are now becoming the alternative energy."[31] Evaluating and updating existing gas systems planning procedures without fully integrating a transition-oriented frame away from natural gas use will be a misuse of the Commission's resources and authority. In other words, if we don't plan for the inevitable transition away from gas now, fewer policy options will be available to mitigate potential negative consequences later.

The Commission must acknowledge the end of our current gas system and plan for a decarbonized future, "There are two paths available to California: a smart, managed path that maximizes benefits and minimizes costs for everyone, or an uncontrolled path that is reactive and costly. The reactive path is most likely to hurt those least likely to afford the transition: low-income residents. The smart, managed path must consider equity and protect customers from unaffordable gas bills…"[32] The Commission must look at each individual decision point before it in this proceeding: reliability, costs, market rules, and safety in relation to our gas system transition by 2045.

13. Should PG&E's Operational Flow Order (OFO) penalty structure be changed so that it aligns with SoCalGas' winter OFO penalty structure? 14. Should SoCalGas' winter OFO penalty structure be adopted year-round? Are there any risks in allowing the revised OFO penalty structure (D. 19-05-030) to expire in October 2021 and allowing the prior OFO penalty structure (D.15-06-004 and D. 16-06-039) to continue?

The OFO penalty structures' priority should remain increasing gas system safety and preventing life-threatening disasters across the state.[33] The Commission should not prioritize

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31 *Id*.

32 Gridworks, *California's Gas System in Transition: Equitable, Affordable, Decarbonized and Smaller* (2019) <https://gridworks.org/wp-content/uploads/2019/09/CA_Gas_System_in_Transition.pdf>.

33 California ISO, *Potential Methodology to Account for OFO Penalties Incurred due to Real-time Energy Dispatches* (2012) <https://www.caiso.com/Documents/DMMMethodology-Account_OperationalFlowOrderPenaltiesIncurred_EnergyDispatches.pdf> (at 3).

administrative ease or industry profits above safety in designing penalty structures. Accordingly, if parity between PG&E and SoCalGas OFO penalty structures does not enhance gas system safety, then the Commission need not prioritize alignment.

The Commission must, however, analyze potential gas systems impacts of significantly decreased gas throughput[34] in the context of existing OFO structures. Currently, OFOs function on a short-term basis in response to day-ahead market schedules. As California meets controlling decarbonization statutes that require multi-year planning with radically different gas demand and use, more information is necessary for the Commission to determine whether penalty structure reform is necessary now or in the future to ensure long-term system safety.

III. CONLCUSION

The Justice Parties respectfully request the Commission to include the above comments in the forthcoming final workshop report on Tracks 1A and 1B of the proceeding.

Dated: August 14, 2020

Respectfully submitted,

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34 E3, *Draft Results: Future of Natural Gas Distribution in California*, presented at the California Energy Commission staff workshop on June 6, 2019, slide 16. <https://ww2.energy.ca.gov/ research/notices/2019 06-06_workshop/2019-06-06_Future_of_Gas_Distribution.pdf>.

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