BEFORE THE PUBLIC UTILITIES COMMISSION OF THE

STATE OF CALIFORNIA

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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

JUSTICE PARTIES' OPENING COMMENTS ON PHASE 1 (TRACK 1A AND TRACK 1B) WORKSHOP REPORT

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I. INTRODUCTION

The California Environmental Justice Alliance ("CEJA") and the Greenlining Institute (collectively, the "Justice Parties") submit the following responses to Administrative Law Judge Tran's October 2, 2020 Ruling Issuing Workshop and Staff Recommendations.

II. COMMENTS

Track 1A, Issue 1c: The Commission Should Require Consequences for a Gas Utility's Sustained Failure to Meet Minimum Transmission System Design Standards.

The Justice Parties agree with the Staff and TURN that "there should be consequences for failure to meet the design standards."[1] We also agree with the Staff that the consequences for not meeting the standard should apply to both backbone transmission and storage,[2] as both are crucial for ensuring safe and reliable gas service.

[1] R.20-01-007 Workshop Report and Staff Recommendations, October 2020 at 35.
[2] *Id.*

The Staff proposes that the nine-month criterion in Public Utilities Code Section 455.5—stating that the Commission can eliminate consideration of assets that remain out of service for nine months for the purpose of establishing *rates*—be used as a guideline for determining the duration of failing to meet *minimum design standards* (after which shareholders begin to absorb a percentage of the cost of repairs). However, there is a stark difference between establishing rates and failing to meet minimum design standards. Failing to meet minimum design standards presents grave risks for residents living in close proximity to natural gas infrastructure, predominantly disadvantaged communities ("DACs"). For instance, Californians have suffered the tragic consequences of failures when industrial standards are not met, as demonstrated by the horrific San Bruno explosion.[3] Californians have also repeatedly suffered the health consequences of methane leaks that could have been prevented with appropriate monitoring and safety inspections to ensure equipment met minimum design standards.

Between October 2015 and February 2016, the Aliso Canyon natural gas storage facility released at least 109,000 tons of methane, forcing the relocation of thousands of residents for several months.[4] A UCLA study found that many community members living around Aliso Canyon experienced elevated indoor levels of air toxins and persistent health systems following the leaks.[5] After finding many patients with symptoms including headaches, nausea, stomach

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[3] *See* CPUC Consumer Protection and Safety Division Incident Investigation Report, PG&E Pipeline Rupture in San Bruno, California (January 12, 2012) *available at* https://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Safety/Natural_Gas_Pipeline/News/AgendaStaffReportreOIIPGESanBrunoExplosion.pdf

[4] *Id.*

[5] *See* Pollutants Emitted From the 2015 Aliso Canyon Methane Blowout Pose Potentially Serious Health Risks, UCLA Fielding School of Public Health Study Finds (June, 2019) *available at* https://ph.ucla.edu/news/press-release/2019/jun/pollutants-emitted-2015-aliso-canyon-methane-blowout-pose-potentially

aches, dizziness, and trouble breathing following the leak, a local physician analyzed blood samples and found signs of bone marrow suppression in samples from Porter Ranch residents, which is associated with exposure to benzene and can lead to anemia and leukemia.[6]

In 2014, local officials discovered that a flare waste gas pipeline in Arvin, California was leaking, and may have been leaking for up to two years.[7] The leak released a mix of twenty chemicals including methane, benzene, n-hexane, and heptane, along with toxic gas levels 13 times higher than the level deemed safe by the U.S. EPA.[8] Residents experienced symptoms including nosebleeds, headaches, coughing, and dizziness, and dozens of residents were forced to evacuate for eight months.[9]

Unless the Commission establishes an enforcement mechanism to strongly motivate natural gas providers to meet minimum design standards in a timely fashion, leaks harming DACs will continue to occur. Therefore, the Justice Parties reiterate our previous comments that ratepayers, especially low-income ratepayers, should not have to pay for any of the costs of unreasonable or dangerous decision-making, consistent with the Commission's approach to wildfire mitigation.[10]

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6 Sharon McNary, *What Did Porter Ranch Residents Breathe During the Massive Gas Leak? Here's What One Doctor's Quest Revealed*, LAist (Nov. 5, 2019), https://laist.com/2019/11/05/aliso-canyon-porter-ranch-gas-leak-blowout-health-benzene-nordella.php.

7 Ruth Brown, *Arvin gas leak reveals lack of oversight*, Bakersfield Californian (Apr. 26, 2014), https://www.bakersfield.com/news/arvin-gas-leak-reveals-lack-of-oversight/article_9c839848-1db0-516d-af8b-ec615157561b.html.

8 *Id.*; Christine Bedell & John Cox, *Pipeline operator fined over Arvin gas leak*, Bakersfield Californian (Feb. 19, 2016), https://www.bakersfield.com/news/pipeline-operator-fined-over-arvin-gas-leak/article_91c29fcc-2da9-5be3-9239-822ced6a0c26.html.

9 Ruth Brown, *Arvin gas leak reveals lack of oversight*, Bakersfield Californian (Apr. 26, 2014), https://www.bakersfield.com/news/arvin-gas-leak-reveals-lack-of-oversight/article_9c839848-1db0-516d-af8b-ec615157561b.html.

10 *See, e.g.*, Justice Parties' August 14, 2020 Comments, pp. 5-6 citing AB 1054 (Holden, 2019).

If, alternatively, the Commission decides to endorse a methodology like TURN's "graduated scale" approach, the Justice Parties urge the Commission to require that utility shareholders absorb a higher percentage of the cost of repairs than proposed by TURN.[11] This approach is not unduly burdensome on IOUs and will protect the populations that live near pipelines and facilities.

Specifically, given the significant health and equity consequences of a failure to meet the design standards, we propose that the Commission strengthen TURN's proposal to encourage more timely compliance. The Justice Parties propose that if the utility fails to keep at least 80% of its backbone transmission capacity available over any rolling three-month period, the company be required to absorb 50% of the cost of repairs needed to restore capacity, rather than the proposed 25%. If the 80% level cannot be met over a rolling six-month period, the shareholder portion should increase to 75% (rather than 50%), with 100% (rather than 75%) shareholder responsibility at nine months.

We acknowledge the challenges of pipeline permitting and construction in remote, protected areas,[12] but TURN's "graduated scale" approach adequately addresses these difficulties by targeting 80% of the infrastructure. This approach would provide utilities three months, an ample cushion, to act before their shareholders absorbed any cost, especially when considering the significant risks to DAC public health and life.

As a caveat, we emphasize that design standards should only apply to the pipeline capacity necessary given the downturn of the system and should in no way be used to prevent the retirement of infrastructure.

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[11] TURN's response to ALJ's Ruling Seeking Comments at 5.

[12] R.20-01-007 Workshop Report and Staff Recommendations, October 2020 at 35.

Track 1A, Issue 2a: The 1-in10 year peak day design standard for PG&E, SoCalGas/SDG&E is reasonable.

The Justice Parties support the Staff's findings that a 1-in10 year peak day design standard for PG&E, SoCalGas/SDG&E is reasonable and will simplify standards while still holding utilities accountable for reliable delivery of service.

However, the Justice Parties maintain that there is a clear need for the Commission, in concert with the CEC, to reevaluate the demand calculations that this reliability determination is based upon on an annual basis. Several studies confirm a decline in natural gas demand over the next few decades.[13] Furthermore, peak gas demand for electric generators will decline with the continued expansion of behind the meter storage technologies, increased storage capacity on the electric system, and an overall shift to 100% clean energy production as mandated by SB 100. Additionally, robust building electrification efforts currently underway, including the BUILD/TECH Program, will greatly reduce the need for natural gas in buildings across the state.

The Justice Parties believe that the "cautionary tales," of 2018-2019 gas curtailments and rotating power outages of August 2020, cited by Staff are misleading. Importantly, these

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[13] 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. See also California Energy Commission, 2019 California Energy Efficiency Action Plan ("2019 CEC Report"), at 84, https://ww2.energy.ca.gov/business_meetings/2019_packets/2019-12-11/Item_06_2019%20California%20Energy%20Efficiency%20Action%20Plan%20(19-IEPR-06).pdf. *See also* Rocky Mountain Institute, *The Economics of Electrifying Buildings*, at 29 (2018); https://rmi.org/insight/the-economics-of-electrifying-buildings/.; E3, *Residential Building Electrification in California—Consumer Economics, Greenhouse Gases and Grid Impacts*, at 32, 34 (Apr. 2019); Anne Brockway and Pierre Delforge, *Emissions reduction potential from electric heatpumps in California homes,* Electricity Journal (Nov. 2018), https://www.sciencedirect.com/science/article/abs/pii/S1040619018302331; and California Energy Commission, *The Challenge of Retail Gas in California's Low-Carbon Future*, at 39–40 (Apr. 2020), https://ww2.energy.ca.gov/2019publications/CEC-500-2019-055/CEC-500-2019-055-F.pdf; Gridworks, California's Gas System in Transition - Equitable, Affordable, Decarbonized, and Smaller (2019).

instances did not indicate a lack of gas capacity, but rather the inability of utilities to deliver uninterrupted service. The Commission should dedicate greater resources to matters that affect the utility's ability to supply from ample capacity, for instance, through improved enforcement of minimum design standards. The Commission should not incorrectly justify overreliance on natural gas supply, especially as California continues to add energy storage to mitigate the intermittency of renewable generation, and the Commission continues to further the state's decarbonization goals.

Track 1A, Issue 2b: The Commission Should Use Adaptation Tools to Determine if Current Standards Overestimate Capacity Needs.

We agree with the Staff's recommendation to rely on data from California's Fourth Climate Change Assessment or the most recent Assessment to determine whether current reliability standards overstate the capacity that gas utilities must maintain.[14] Gas utilities should rely on the most recent Assessment and incorporate relevant data to adjust their cold day demand forecasts.[15] Additionally, the Justice Parties request that the tools and resources available on Cal-Adapt be used to determine whether current standards overestimate capacity needs.[16]

Track 1A, Issue 2c: There is No Need for a Summer Reliability Standard.

We agree with the Staff that a summer reliability standard not be established.[17] As the Staff describes, the July workshop and subsequent comments did not demonstrate a need for

[14] R.20-01-007 Workshop Report, October 2020 at 38.
[15] *Id.*
[16] D.20-08-046 at 19 (explaining that IOUs may use Cal-Adapt for the purpose of determining which communities qualify as disadvantaged vulnerable communities (DVCs)); Cal-Adapt, https://cal-adapt.org/.
[17] R.20-01-007 Workshop Report, October 2020 at 38.

one.[18] Moreover, when considering changes to reliability standards, it is crucial to consider the long-term decline in gas demand.[19]

Track 1A, Issue 3: Slack Capacity Standard Must Account for Climate Targets and Decreases in Gas Use.

We agree with the Center for Energy Efficiency and Renewable Technologies' (CEERT's) arguments for slack capacity requirements to be tied to reduced "dependence on gas [because] the technical and economic capabilities to replace gas are available."[20] Gas use is already decreasing and our climate laws require continued and targeted declines in future use.[21] Consistent with this decline, PG&E stated it is "looking for ways to retire infrastructure and lower its capacity."[22]

To ensure that slack capacity is consistent with climate requirements, the functions of slack capacity need to be amended to include consistency with climate requirements. Staff cites seven functions of slack capacity that do not include, and overall run counter to controlling climate policies.[23] Problematically, as SoCalGas/SDG&E explained, current slack capacity is "based off a forecast of demand and receipt capacity, noting that demand is an annual average and that receipt capacity is not representative of actual gas supply scheduled by customers."[24]

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[18] *Id.*

[19] EDF, Comments on R-20-01-007 at 5 ("As California continues to implement its Senate Bill (SB) 100 goals, customers will be using gas – and the gas system – even less. As a result, there is no need for a summer reliability standard at this time."); Protect Our Communities Foundation, Comments on R-20-01-007 at 16 (agreeing that no summer reliability standard need be established, in part because "between now and 2030 the annual electricity generation from gas-fired generators will decrease by at least 59%, the equivalent of 53,540 GWh").

[20] R.20-01-007 Workshop Report, October 2020 at 9.

[21] Justice Parties, Comments on R. 20-01-007 at 4.

[22] R.20-01-007 Workshop Report, October 2020 at 13.

[23] R.20-01-007 Workshop Report, October 2020 at 38 (including "increasing gas demand for electric generation.".

[24] R.20-01-007 Workshop Report, October 2020 at 13.

Annual average demand alone is insufficient to determine necessary projected slack capacity as gas use and the gas system in California continue shrinking. The Commission cannot determine the accurate amount required for safety and affordability in the future if they rely on out of date assumptions on average demand. Gas use must decline consistent with climate policies regardless of current definitions of customer demand. Slack capacity requirements must correspondingly consider the downturn of the gas system.

Track 1A, Issue 4: Reliability Considerations for Energía Costa Azul LNG Must Consider Gas Decline and Safety.

When evaluating reliability considerations for the Energía Costa Azul LNG export facility, the Commission must consider long-term gas demand decline. Additionally, the Justice Parties request the Commission consider the safety implications of Energía Costa Azul LNG, and its local and climate pollution impacts when setting reliability standards.[25] The Commission must set reliability standards consistent with its mission to allow access to "safe, clean, and affordable utility services and infrastructure."[26] The Commission cannot and should not set reliability standards that further lead to inequitable and unsafe localized pollution burdens from gas infrastructure. The Justice Parties reserve the right to further respond to this issue and corresponding party comments on reply.

Track 1B, Issue 1: The Commission Should Not Reclassify Electric Generators as Core Customers.

The Justice Parties agree with the Commission that "the outcomes of this Rulemaking

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25 Greg Knox, *AIR ADVISORY: The Air Quality Impacts of Liquefied Natural Gas operations Proposed for Kitimat B.C.* (2013) available at http://lnginnorthernbc.ca/images/uploads/documents/Air%20Advisory-airqualityimpactsofLNG-SkeenaWild-nov2013.pdf (LNG "plants will place an enormous burden on the region's airshed and are unlikely to meet any reasonable and objective global gold standard for air quality.") at p. 1.

26 CPUC, *Mission*, https://www.cpuc.ca.gov/general.aspx?id=1034.

should not result in higher" energy costs for Californians.[27] The Justice Parties agree with Staff and several parties advocating for analyzing customer designation anchored in an assessment of their potential energy bill impacts.[28] The Justice Parties also agree with TURN and SoCal Gas raising feasibility concerns from reclassifying electric generators.[29]

In response to Staff analyzing the electric generator classification because of alleged renewable generation reliability concerns, the Justice Parties note that CAISO's *Preliminary Root Cause Analysis Mid-August 2020 Heat Storm* did not recommend reclassifying electric generators to prohibit future power outages.[30] *The Root Cause Analysis* did not find renewables responsible for the outages and instead found the natural gas fleet significantly underperformed because of extreme weather and other factors.[31] CAISO's analysis did not find evidence of a gas shortage contributing to power outages. CAISO's reliability enhancing recommendations included significant state investment in storage projects, developing additional demand response and flexibility resources, and "transitioning electricity resource mix to meet the clean energy goals of the state[.]"[32] In classifying electric generators as with gas reliability standards more broadly, the Commission should prioritize transitioning electric generation to comply with our clean energy goals. The Justice Parties recommend that the Commission make electric

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27 R.20-01-007 Workshop Report, October 2020 at 41.

28 *Id*. at 40 (citing agreement with Calpine, Middle River Power, CAISO).

29 *Id*. at 41.

30 CAISO, *Preliminary Root Cause Analysis Mid-August 2020 Heat Storm* (October 2020) available at http://www.caiso.com/Documents/Preliminary-Root-Cause-Analysis-Rotating-Outages-August-2020.pdf, pp. 14-15 (Recommendations).

31 *Id*. at p. 8 ("The natural gas fleet collectively experienced 1,400 MW to 2,000 MW of forced outages (i.e., derating or lowering the resource's available capacity) largely attributed to the extreme heat, and day-of outages. Additionally, almost 400 MW of planned outages had not been substituted").

32 *Id*. at 15.

generation classifications and rules consistent with the California Energy Commission's *SB 100 Joint Agency Report's* pathways to a zero-carbon electric system by December 31, 2045.

Track 1B, Issue 2

The Justice Parties reserve the right to respond in reply comments.

Track 1B, Issue 3: **The Commission Should Prioritize Safety.**

As stated in our previous comments, the Commission should prioritize safety in setting pipeline operating procedures and operational flow orders.[33] The Commission should include minimum safety requirements for pipeline operating procedures and operational flow orders. These minimum safety standards must meaningfully respond to projected decreases in gas throughput and promote necessary infrastructure retirement. We support Utility Consumers Action Network's (UCAN) recommendation to require utilities to analyze gas demand decreases for the purposes of identifying gas infrastructure retirements.[34] As PG&E stated, it is actively looking for retirement opportunities because it has "a substantial capacity surplus forecasted in the future."[35] The Commission should require all utilities to equally evaluate methods to responsibly retire gas infrastructure under their supervision. The Commission has two options: overseeing a disorganized retirement of gas infrastructure that burdens ratepayers or an organized retirement of gas infrastructure that benefits ratepayers. The Commission must ensure an orderly and safe retirement of infrastructure system-wide that meets controlling climate laws and does not financially burden low-income ratepayers especially.

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33 Justice Parties, Comments on R. 20-01-007 at 11-12.
34 R.20-01-007 Workshop Report, October 2020 at 9.
35 *Id.* at 13.

III. CONCLUSION

The Justice Parties respectfully request the Commission to adopt Staff's recommendations with the above modifications. The Commission must set standards for a realistic future gas system in compliance with our clean energy laws instead of wasting resources planning to replicate the gas system of our past that cannot continue.

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Respectfully submitted,

By: _____/s/_____

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