

**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' REPLY COMMENTS  
ON PHASE 1 (TRACK 1A AND TRACK 1B) WORKSHOP REPORT**

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November 17, 2020

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**I. INTRODUCTION**

The California Environmental Justice Alliance (“CEJA”) and the Greenlining Institute (collectively, the “Justice Parties”) submit the following reply comments to Administrative Law Judge Tran’s October 2, 2020 Ruling Issuing Workshop and Staff Recommendations. Consistent with many parties’ opening comments, we urge the Commission to fundamentally refocus its approach to this proceeding and ensure that all decisions are consistent with and in furtherance of the State’s greenhouse gas policies and requirements, which will significantly reduce gas usage. As the Gridworks’ report summarized, “[t]he simple fact is that meeting California’s GHG reduction goals, a statewide priority and absolute necessity to combat climate change, inevitably means a substantial decline in gas throughput in the state.”<sup>1</sup>

As such, the Justice Parties encourage the Commission to adopt a decision-making framework similar to the recent *Massachusetts Department of Public Utilities Order Opening Investigation Assessing the Future of Natural Gas in Massachusetts*. This order requires the

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<sup>1</sup> Gridworks, *California’s Gas System in Transition Report* (hereinafter Gridworks report), p. 1.

MDPU to “consider new policies and structures that would protect ratepayers as the Commonwealth reduces its reliance on natural gas, and it may require [gas companies] to make *significant changes* to their planning processes and business models.”<sup>2</sup> Its investigation clearly states their climate emissions reductions targets are incompatible with existing levels of natural gas use and supporting planning mechanisms.<sup>3</sup> Thus, the MDPU demonstrates an affirmative commitment to using its authority to reduce greenhouse gas emissions and promote equity in their gas transition planning.<sup>4</sup> Current Commission Staff Recommendations fail to consider the ramifications of the decisions on meeting climate requirements and therefore without modification, the Staff’s recommendations fall short of the *significant changes* necessary to equitably reform our energy systems in California consistent with controlling climate policies.

## II. REPLY COMMENTS

### **Track 1A, Issues 1a & b: Gas Utilities Should Not Overbuild Infrastructure and Unfairly Burden Disadvantaged Communities.**

The Commission’s *impartial* assessment of gas demand should inform any changes to the reliability standards. The Commission should ensure that any changes do not lead to further investment in gas infrastructure that will become stranded assets as California transitions from natural gas, unfairly burdening low-income and disadvantaged ratepayers especially. As CEERT explains, “[t]he trend of falling demand, and the burden of carrying the fixed infrastructure costs will fall on those least able to electrify their energy demand and bear the costs of remaining on a

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<sup>2</sup> Massachusetts, Department of Public Utilities Opens Investigation Assessing Future of Natural Gas in Massachusetts, (October 29, 2020), <https://fileservice.eea.comacloud.net/FileService.Api/file/FileRoom/12820821>, p. 1(emphasis added).

<sup>3</sup> *Id.* at pp. 1-2.

<sup>4</sup> *Id.* at pp. 5-6.

system in a death spiral.”<sup>5</sup> Recent Energy Division data confirms that due to economic impacts associated with Covid-19 and increased residential energy use from shelter-in-place orders, additional low-income Californians are facing significantly damaging energy burdens forcing households to choose between paying utility bills and for other necessities.<sup>6</sup> Specifically, Energy Division staff observed over 507,000 new California Alternate Rate for Electricity (CARE) customers and 22,000 new Family Electric Rate Assistance customers from March 2020-September 2020.<sup>7</sup> Energy Division staff also found a 128 percent increase in customers with arrearages between \$500 and \$1,000 dollars from September 2019 to September 2020 with many customers having larger and older arrearages.<sup>8</sup> Arrearages will only become larger if we continue to invest at the same levels in the gas system while demand is decreasing.

Many parties agree with the need for minimizing investments as gas demand decreases. We agree with Protect Our Communities Foundation, who points out that the Scoping Memo directs the Commission to “implement a long-term planning strategy to manage the state’s transition away from natural gas-fuel technologies to meet California’s decarbonization goals.”<sup>9</sup> To ensure that the standards are consistent with this goal, the Justice Parties agree with CEERT

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<sup>5</sup> R. 20-01-007, Opening Comments of the Center for Energy Efficiency and Renewable Technologies on the Assigned Administrative Law Judge’s Ruling Issuing Workshop Report and Staff Recommendations, Seeking Comments, and Modifying Proceeding Schedule, p. 4.

<sup>6</sup> CPUC Energy Division, *CPUC Workshop on COVID Impacts on Customers in Energy Sectors*, (November 12, 2020), <https://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/UtilitiesIndustries/Energy/DER/COVID%20Workshop%20%20Presentations.pdf> (Slide 22).

<sup>7</sup> *Id.* at Slide 26.

<sup>8</sup> *Id.* at Slide 29.

<sup>9</sup> R.20-01-007, Assigned Commissioner’s Scoping Memo and Ruling, (April 23, 2020), available at <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M334/K581/334581865.PDF> , cited in R.20-01-007, The Protect Our Communities Foundation Comments on Assigned Administrative Law Judge’s Ruling Issuing Workshop Report and Staff Recommendations, Seeking Comments, and Modifying Proceeding Schedule, p. 2.

that the Commission should “accelerate the introduction of known, cost effective, reliable alternatives to gas” rather than expanding the existing system.<sup>10</sup> We also agree with the Public Advocates Office that PG&E and SoCalGas/SDG&E “should avoid making capital investments to achieve design standard in the short term if such investments will not be used and useful and may likely become stranded over the long-term.”<sup>11</sup> Environmental Defense Fund and the Small Business Utility Association similarly point to the need to ensure that any revisions do not create new infrastructure and promote gas demand.<sup>12</sup>

We further agree with parties that more clarity is necessary about the potential impact of reliability standards on infrastructure needs. The opening comments demonstrated a range of opinions on the reliability definitions’ potential impact on infrastructure needs. In particular, TURN notes that the Commission should clarify what it meant by a “1-in-10 peak day” demand standard, suggesting that this standard may differ slightly from what the utilities currently provide in the California Gas Report (“CGR”).<sup>13</sup> This ambiguity illustrates the need for the Commission to impartially assess the potential impact of reliability standards on infrastructure needs moving forward. Low-income and disadvantaged community (“DAC”) customers should not bear the costs of reliability investments that are only needed to meet a theoretical need and will later lead to stranded assets. Now is the time when we need to minimize our investment in

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<sup>10</sup> R.20-01-007, Opening Comments of the Center for Energy Efficiency and Renewable Technologies on the Assigned Administrative Law Judge’s Ruling Issuing Workshop Report and Staff Recommendations, Seeking Comments, and Modifying Proceeding Schedule, p. 5.

<sup>11</sup> R. 20-01-007. Public Advocates Office Comments Regarding Workshop Report and Staff Recommendations. Nov 2, 2020, p. 2.

<sup>12</sup> R. 20-01-007, Opening Comments of Environmental Defense Fund on Workshop Report, Nov. 2, 2020, p. 4-5; R. 20-01-007, Comments of Small Business Utility Advocates on the Workshop Report and Staff Recommendations, Nov. 2, 2020, p. 6.

<sup>13</sup> The Utility Reform Network (TURN) Opening Comments on the October 2, 2020 Staff Workshop Report, p. 1-2.

the gas system—not increase it. Thus, we request that the Staff develop an analysis and lead a stakeholder process related to the potential impact of reliability standards on infrastructure needs and provide additional clarity on potential reliability standards. This additional process is necessary to ensure that we are not needlessly investing in infrastructure for a standard that is higher than necessary and raising costs for those that are already unable to afford their energy bills.

**Track 1A, Issues 1c and 2a: The Commission Should Require Consequences for a Gas Utility’s Sustained Failure to Meet Minimum Transmission System Design Standards, and, Conduct Additional Analysis to Determine the Impact of the 1-in10 Year Peak Day Design Standard on Infrastructure.**

Ratepayers, especially low-income ones, should not have to pay for any of the costs of unreasonable or dangerous decision-making regarding minimum transmission system design standards, consistent with the Commission’s approach to wildfire mitigation. We agree with the Southern California Generation Coalition that the Staff’s proposed nine-month guideline would likely be ineffective to enforce design standards, as it would “create a rebuttable presumption” at best.<sup>14</sup> The Justice Parties thus continue to propose an “unreasonable” standard, similar to the standard utilized in the wildfire context, to determine if a gas utility should cover the full cost of failing to meet a minimum transmission design standard. A utility should be one hundred percent responsible for any unreasonable decisions, especially if it places DAC and low-income residents at risk. This would motivate utilities to act quickly if community members are at risk, as is often the case with safety violations and pipeline leaks.

Additionally, this standard would provide the Commission with the necessary discretion to determine if the particular circumstances and timeframe of a given situation make a utility’s

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<sup>14</sup> Southern California Generation Coalition Opening Comments on the October 2, 2020 Staff Workshop Report, p. 10-11.

actions unreasonable. PG&E agrees that the Commission’s “flexibility and discretion” is important in such instances, suggesting that “if capacity is reduced due to an identified safety concern on the gas system, then the Commission should exercise caution not to create undue pressure on the utility to restore the capacity until it is safe to do so.”<sup>15</sup> We agree that the Commission should prioritize safety, and a utility’s decision that *exacerbates* safety concerns on the gas system, would be unreasonable.

A “graduated scale” approach, where a utility is only penalized if it fails to keep at least 80% of its backbone transmission capacity available for a given time period, necessarily immunizes shareholders if 19.9% is unavailable. If even a small portion of this “acceptable” out-of-commission infrastructure poses human health and safety risks, a graduated scale approach fails to account for these risks. As detailed in our opening comments, the significant consequences of pipeline leaks and explosions often fall on DACs.<sup>16</sup> These harms can be mitigated by motivating utilities to conduct timely monitoring and safety inspections to ensure their equipment meets minimum safety standards. The Commission could accomplish this goal by adopting an unreasonable standard.

Similarly, the Commission must redefine reliability standards to reflect the inevitable shift to electrification and declining use of gas. Gas usage must and will decrease. Notably, dozens of communities throughout California have adopted resolutions and requirements to reduce gas demand in buildings.<sup>17</sup> Most recently, on November 10<sup>th</sup>, San Francisco Board of

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<sup>15</sup> PG&E Opening Comments at 4.

<sup>16</sup> The Justice Parties Opening Comments at Response 1A1C (describing the impacts of Aliso Canyon on neighboring communities).

<sup>17</sup> See <https://www.sierraclub.org/articles/2020/11/californias-cities-lead-way-gas-free-future> (describing ordinances in 39 cities that adopted gas-free building commitments or electrification building codes).

Supervisors voted unanimously to ban natural gas in new buildings impacting more than 54,000 homes, 32 million square feet of commercial space already in their development pipeline and a city with over 800,000 residents.<sup>18</sup> This ongoing trend of natural gas decline and undeniable fact of law is made clear by numerous studies cited in our previous comments, as well as an October 2020 CARB study outlining the state’s path to carbon neutrality, which shows that high building electrification is a necessity to achieve this goal.<sup>19</sup> As CEERT points out, Staff must revise their recommendations to recognize the decline of gas use across all sectors, a necessary consequence to further the state’s successful energy and climate policies.<sup>20</sup>

The Justice Parties agree that system reliability and safety are key considerations. However, these considerations should respond to, and not distract from, the paramount concern of this proceeding: planning for our transition away from natural gas. The Justice Parties echo the comments of Protect Our Communities Foundation, CEERT, SBUA, EDF, and TURN: that the proceeding must re-shift its focus to planning for a significant decrease in gas demand.<sup>21</sup> We agree with EDF that the Commission must “update the reliability rules to ensure a safe and reliable system without over-investing.” Furthermore, we advance CEERT’s position, that any analysis seeking to “expand the system should be rejected” and that instead, reliable alternatives

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<sup>18</sup> San Francisco Chronicle, *No More Natural Gas in San Francisco Buildings Next Year*, (November 11 2020), <https://www.sfchronicle.com/bayarea/article/No-more-natural-gas-in-new-San-Francisco-15717658.php>.

<sup>19</sup> E3, *Achieving Carbon Neutrality in California* (2020), [https://ww2.arb.ca.gov/sites/default/files/2020-10/e3\\_cn\\_final\\_report\\_oct2020\\_0.pdf](https://ww2.arb.ca.gov/sites/default/files/2020-10/e3_cn_final_report_oct2020_0.pdf). See also Justice Parties Opening Comments at 5.

<sup>20</sup> CEERT Opening Comments at 5.

<sup>21</sup> PCF Opening Comments at 2; CEERT Opening comments at 5; SBUA opening comments at 6; EDF opening comments at 4; TURN Opening Comments at 3.



to gas should be adopted by the Commission.<sup>22</sup> A discussion of reliability standards without considering the future of gas will be incomplete and irrelevant.

**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. As the Small Business Utility Advocates note, it is critical that “cold day dry year demand forecasts [] be adjusted to reflect the most recent authoritative assessment of California climate forecasts.”<sup>23</sup> Like TURN, we support a requirement that all future gas demand forecasts rely upon the most recent Climate Change Assessment “for data regarding the temperatures used to determine ‘average’ and ‘cold’ year conditions, as well as ‘peak day.’”<sup>24</sup> This will provide much needed consistency to the demand forecasting process.<sup>25</sup> In this regard, we reiterate the need for the California Energy Commission (“CEC”) to develop demand projections, as the CEC does for electricity generation, and that the Commission not rely on the utilities’ unsubstantiated and biased data. As the Gridworks report acknowledged: “From the CEC, there is a need for an *independent* long-term gas demand forecasting effort, separate from the industry sponsored California Gas Report, which has yet to incorporate the coming reductions in gas system throughput due to its reliance on existing laws and regulations for planning purposes. This forecast should include consideration of the impacts of building electrification that will

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<sup>22</sup> CEERT Opening Comments at 5.

<sup>23</sup> Small Business Utility Advocates Opening Comments on the October 2, 2020 Staff Workshop Report, p. 4.

<sup>24</sup> TURN Opening Comments on the October 2, 2020 Staff Workshop Report, p. 8.

<sup>25</sup> *Id.*

increasingly occur as a result of individual economics.”<sup>26</sup> Impartial assessment is critical to avoid overbuilding natural gas infrastructure and overburdening low-income and DAC ratepayers throughout the state.

We also agree with the Public Advocates Office and PG&E that reliance on the Climate Change Assessments should not be to the exclusion of other valuable sources,<sup>27</sup> and specifically request that the Commission use the tools and resources available on Cal-Adapt to determine whether current standards overestimate capacity needs.

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

We agree with EDF, consistent with Staff and party recommendations, that the Commission should not adopt a new summer reliability standard and may take better suited actions to mitigate gas system management challenges associated with potential summer demand. “For this reason, the Commission should focus on reliability for the design of the *future* demands of the system.”<sup>28</sup> Additionally, we agree with EDF more broadly that any reliability standard must be coupled with additional policies including UCAN’s recommendations: “[R]eduction of gas demand to meet existing gas infrastructure (not vice versa), removal gas line extension allowances and gas utility incentive mechanisms, and prohibition on new single-family residential gas hookups.”<sup>29</sup>

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<sup>26</sup> Gridworks Report at p. 17.

<sup>27</sup> Public Advocates Office Opening Comments at 2; PG&E Opening Comments at 12–13.

<sup>28</sup> EDF, R.20-01-007 Opening Comments at pp.9 (emphasis added), 11; R.20-01-007 Workshop Report and Staff Recommendations, October 2020 at pp. 10-12, p. 38.

<sup>29</sup> *Id.* at p.9; R.20-01-007 Workshop Report and Staff Recommendations, October 2020 at p. 10.

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

We agree with several parties arguing for the Commission to set a slack capacity standard that supports a beneficial gas system transition.<sup>30</sup> We agree with EDF that the Commission should not focus on slack capacity in isolation, but simultaneously as it considers “the future of the gas system with declining demand.”<sup>31</sup> We also agree with TURN that the Commission should use “extreme caution with respect to any type of slack capacity” that might encourage construction of expensive and soon to be stranded assets as gas demand declines over time.<sup>32</sup> We further agree with CEERT that the current functions of slack capacity impermissibly exclude “efficiency, compensated demand response or managed curtailment, greenhouse gas emission targets, or environmental justice considerations” rendering the Commission’s approach insufficient.<sup>33</sup> Finally, the Justice Parties agree with Southern California Generation Coalition that the Commission should not unnecessarily increase the capacity amounts required by design standards to meet unexpected failures on the gas system.<sup>34</sup>

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

The Justice Parties find commonality with our opening comments and those of Protect Our Communities Foundation on this matter.<sup>35</sup> Protect Our Communities Foundation correctly states support for UCAN’s recommendations<sup>36</sup> explaining the Commission should not make

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<sup>30</sup> See CEERT Opening Comments, TURN Opening Comments, EDF Opening Comments.

<sup>31</sup> EDF Opening Comments, p. 12.

<sup>32</sup> TURN Opening Comments, p. 9.

<sup>33</sup> CEERT Opening Comments, p. 5.

<sup>34</sup> Southern California Generation Coalition Opening Comments, p. 25.

<sup>35</sup> Justice Parties Opening Comments, p. 8; PCF Opening Comments pp. 20-21.

<sup>36</sup> See UCAN July 31, 2020 Comments at p. 11.

reliability determinations for Energía Costa Azul LNG that permit Sempra Energy to “force higher prices on SoCalGas customers” or reward gas companies for increasing gas usage and increasing global warming because to do so “runs counter to all California policies regarding climate change.”<sup>37</sup>

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

The Justice Parties agree with several parties raising increased costs and gas system feasibility concerns from reclassifying electric generators as core customers.<sup>38</sup> The Justice Parties agree with TURN that reclassifying electric generators risks significant cost allocation and rates challenges.<sup>39</sup> We also agree with Sacramento Municipal Utility District (SMUD)’s concern that “[r]eclassifying electric generators from noncore to core may have a range of impacts on both natural gas and electricity prices.”<sup>40</sup> Further, Justice Parties agree with SMUD that reclassification presents unnecessary complexity for relevant implementers and may be impossible in practice due to infrastructure constraints.<sup>41</sup> Similarly, we agree with Indicated Shippers that reclassification may be unfeasible and discourage the Commission from doing so.<sup>42</sup> As EDF explains, “simple reclassification” of electric generators to core likely won’t solve the problem the Commission is trying to address.<sup>43</sup> For those reasons and those stated in our opening comments, the Justice Parties request the Commission not reclassify electric generators.

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<sup>37</sup> PCF Opening Comments, pp. 20-21.

<sup>38</sup> *See e.g.*, Indicated Shippers Opening Comments, pp. 19-20.

<sup>39</sup> TURN Opening Comments, p. 11.

<sup>40</sup> SMUD Opening Comments, p. 3.

<sup>41</sup> *Id.* at p. 4.

<sup>42</sup> Indicated Shippers Opening Comments, p. 20.

<sup>43</sup> EDF Opening Comments, pp. 14-15.

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

The Justice Parties agree with multiple party comments supporting uniformity of OFO winter standards.<sup>44</sup> We agree with TURN that the Commission must evaluate potential changes to the summer standards for price spike and rate increases prior to adoption.<sup>45</sup> The Justice Parties reiterate our request that the Commission analyze all operational flow rules, penalties and extensions anchored in the gas system's projected throughput decrease.<sup>46</sup>

**III. CONCLUSION**

The Justice Parties respectfully request that the Commission 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.

Dated: November 17, 2020

Respectfully submitted,

By: \_\_\_\_\_/s/ \_\_\_\_\_

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<sup>44</sup> See e.g., PG&E Opening Comments, p. 17; EDF Opening Comments, pp. 23-24; UCAN Opening Comments, p. 9.

<sup>45</sup> TURN Opening Comments, pp. 12-13; See also Southern California Generators Opening Comments, p. 43.

<sup>46</sup> Justice Parties Opening Comments, p. 10.

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