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Via Electronic Mail

Commissioners and Energy Division Staff
California Public Utilities Commission
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**Environmental and Environmental Justice Organizations' Comments on
the CPUC ESJ Action Plan 2.0**

Dear Commissioners and Energy Division Staff,

Thank you for developing a new proposed draft of the CPUC's Environmental and Social Justice (ESJ) Action Plan that takes into account valuable community feedback, and thank you to the Business and Community Outreach (BCO) Team at the Commission for hosting a webinar to discuss the changes that have been made and receive in-time feedback. We further appreciate the Commission rescheduling the webinar and moving back the comment deadline due to technical difficulties. We recognize that the Commission has taken significant steps forward in this document and in the overall recognition of the need to focus on ESJ communities, and we greatly appreciate the changes and action items developed in the ESJ Action Plan since the last meeting.

We view the ESJ Action Plan and the actions and commitments outlined to implement it as critical to ensuring that the Commission stays on a path toward greater equity in all of its programs. We also appreciate the Commission's openness to constructive feedback to improve the ESJ Action Plan.

During the webinar on Nov 10th, 2021, CEJA expressed the importance for the Commission to move toward more authentic partnerships with community-based organizations (CBOs) for conducting outreach. CEJA also referred to its energy justice statement that was released earlier this year on rooftop solar and distributed generation. Sierra Club pointed out a number of gaps in the plan, including a concrete commitment to invest in ESJ communities, goals and action items protecting ESJ communities from high rates and benchmarks, among others. In the following comments, CEJA and Sierra Club expand on our verbal comments and provide recommendations on how the Commission can: improve transparency and accessibility to Commission processes and decision-making; set clear goals and timelines; establish authentic partnerships with CBOs;

center energy justice in community solar development and distributed generation; establish clear requirements for utilities; and ensure accountability for statewide mandates.

Recommendations for the ESJ Action Plan 2.0:

1. Improve Accessibility to and Transparency in Decision-making Processes

We appreciate the improvements made toward accessibility to the Commission's decision-making; however, we strongly urge the Commission to go further.

Many of the Commission proceedings are complex and confusing to navigate. For example, the Integrated Resource Plan proceeding has become a multilayered process that is even difficult for practitioners to understand. This complex structure makes it nearly impossible for community members to understand what is happening at the Commission and which projects have the potential to come to their community.

The website, while improved, is also still difficult for the public to navigate and find relevant information from. To learn what is happening in proceedings, community members need to navigate several different web pages, decisions, rulings, and emails from the Energy Division. Likewise, to determine what procurement may be occurring in their community, community members need to examine information from decisions, rulings, Advice Letters, LSE filings, and LSE processes. The Advice Letter process is especially difficult to navigate because there is not a central location where a community member can access procurement-related Advice Letters nor are there ways to easily identify the proceedings connected to Advice Letters.

To improve accessibility and transparency, we recommend the Commission do the following:

- Update the Commission website with web pages similar to CARB's and the CEC's that allow interested community members to understand *where* and *when* procurement is being planned and the programs that apply to them. CARB has developed a visualization tool that allows community members to see where facilities are located as well as relevant details about those facilities.¹ This type of visual would be very helpful for projects that are currently being planned and under contract along with facilities that are currently operating on the grid. In addition, the CEC has developed a page that summarizes the status of all projects being considered.²
- Develop a tool that allows community members and CBOs to search for low-income energy, water, and other applicable programs that might be available in their community. The Commission can also develop a web page that displays a map of ESJ communities based on most recent data, or at least that lays out the criteria for qualifying as an ESJ Community. This page can be linked on the ESJ proceeding webpages mentioned above

¹ https://ww3.arb.ca.gov/ei/tools/pollution_map/pollution_map.htm

² https://ww2.energy.ca.gov/sitingcases/all_projects_cms.html

and would provide communities concrete information on which proceedings and programs might apply to them.

- Develop a single page summarizing each proceeding that impacts ESJ communities with a timeline and relevant links so that community members can understand which decisions may be currently under consideration. This page can also include links to submit comments directly on the page. This would facilitate more engagement from interested community members and help parties that have limited resources participate in the proceeding.
- Display all proceeding-related documents, including Advice Letters and Proposed Decisions, in a manner that is easily searchable by communities. The Commission can also utilize hashtags to organize content by topic and/or attach zip code tags so it is easier to search for items by location. Using an alerting system that updates community members when there is new, relevant information or new programs in their location would also support greater accessibility.
- Provide free technical assistance to help CBOs and interested community members apply for relevant Commission programs such as decarbonization programs.
- Create a repository of ESJ-related reports on the ESJ Action Plan website for easy and transparent access, and for ESJ communities to cite when advocating before the Commission.
- Provide technical assistance in English, Spanish and Cantonese/Mandarin prior to all hearings to make it easier for the public to submit live testimony and written comments.

2. Set Clear Goals and Timelines and Track Progress

We believe that the plan's proposed actions represent critical milestones to begin actualizing the goals reflected within it. Some of these proposed actions include items such as planning for gas retirements that CEJA has been advocating for for years.

To ensure these actions are carried through and goals are met at the pace needed, we request the Commission do the following:

- Set clear goals and timelines for all ESJ commitments. While we recognize that some items may depend on resources, clear timelines will help ensure that the action items are prioritized and not left out of proceeding and work plans. We do not want to wait a year and a half to see what progress has been made. It's important to set forth plans now.
- Commit to new, significant investments in ESJ communities. We recognize that the ESJ Action Plan is in part cataloging existing programs, but as it currently stands, ESJ communities are not participating equally in a just transition away from fossil fuels. We

request that the Commission identify a specific commitment, ideally a nominal monetary figure or a percentage of overall clean energy investment, that will be dedicated to ESJ communities.

- Conduct comprehensive stakeholder input. It is not clear if the included actions also will provide opportunities for meaningful stakeholder input. We request that the actions, especially actions that directly impact ESJ communities like the studies of gas retirements and the social cost of carbon, include time for meaningful outreach and stakeholder input.
- Conduct reporting to track progress and create measurable, updated benchmarks. It is important that there is a mechanism to report and track the Commission's progress related to each of these items. These milestones and benchmarks could be placed on a website and updated quarterly or annually, depending on feasibility, to create transparency and accountability. We suggest simple benchmarks, such as renewable energy investments in ESJ communities as a percentage of total renewable energy investments, rate hikes on ESJ communities compared to rate hikes more broadly, DER installations in ESJ communities as a percentage of DER installations overall, and electrification rates in ESJ communities compared to electrification rates overall.
- Conduct and publish budgetary analysis of the ESJ action items, indicating how much it will cost the CPUC to implement all of the ESJ commitments. In annual or quarterly reporting, CPUC must show how much of their existing budget has been devoted to ESJ Action Plan implementation, and what gaps exist in funding for implementation

3. Establish Authentic Partnerships with Community-Based Organizations for Meaningful Outreach

CEJA has consistently advocated for the Commission to partner with community-based organizations (CBOs) and provide resources for them to conduct outreach to communities. However, these opportunities are sometimes presented to CBOs in a transactional way which leads to disjointed and ineffective outreach. One example of this is when utilities issue market education and outreach (ME&O) solicitations to CBOs *after* dismissing opportunities for communities and developers to work together on projects at their outset. CEJA's members are unlikely to conduct outreach for a utility program that has steered far away from what communities envisioned and requested for that program.

Moreover, it is an inefficient use of a community organization's time and resources if individual outreach requests are meant to advance another institution or entity's agenda for the sake of checking a box rather than committing to a meaningful dialogue, authentic trust-building, and accountability measures between communities and the Commission.

Therefore, it is important for the Commission to work to foster meaningful engagement opportunities for communities in proceedings and pursue authentic collaboration with CBOs. Moving beyond one-off outreach attempts, this should include an ongoing effort to collaboratively vision and co-design programs through shared decision-making from the very

initiation of proposals. This will further foster greater energy democracy and community expertise-building.

4. Center Energy Justice in Community Solar Development and Distributed Generation

Earlier this year, CEJA published a statement with the Asian Pacific Environmental Network, Communities for a Better Environment (CBE), Central Coast Alliance United for a Sustainable Economy (CAUSE), Environmental Health Coalition, The Greenlining Institute, and Leadership Counsel for Justice & Accountability. The [“Energy Justice Statement On Rooftop Solar & Distributed Generation In California.”](#) was developed through a series of conversations between our organizations regarding the needs we see emerging from the communities we serve regarding rooftop solar and distributed generation. It also called for this transition to be based solely on truly clean energy and avoid polluting false solutions, especially biomethane from factory farms.

CEJA recommends that the Commission include the energy justice principles and recommendations we outline in this statement into the ESJ Action Plan including:

- Strategies should be deployed to achieve a bold and ambitious statewide solar adoption target of 40% in disadvantaged communities (DACs) by 2030.
- Equity funds should be created to dedicate resources exclusively for the purpose of enabling greater access to community-led clean energy projects in EJ communities.
- Direct investments should be made in EJ communities and households without placing discriminatory, exclusionary, expensive, time-consuming and unnecessary administrative burdens on intended beneficiaries.
- Improvements should be made to the current NEM alternative offerings, namely the Community Solar-Green Tariff (CS-GT), which as currently administered by the IOUs is failing to reach our communities and enable local, community-driven projects.
- Clean energy investments should integrate and leverage a broad set of distributed energy resources beyond rooftop solar (e.g., energy efficiency, battery storage, microgrids, building retrofits, community resilience hubs) in order to maximize economic benefits and promote climate resilience.

5. Establish Clear Utility Requirements

As written, the ESJ Action Plan is not clear about *how* utilities will comply and integrate these requirements into their overall work, and there is no discussion of the statutory requirements that relate to this plan. There is also no mention of what would occur if a utility does not adequately integrate the requirements. A clearer discussion of responsibilities and potential penalties will help with this, and allow the Commission to hold utilities more accountable to environmental justice communities.

6. Protect ESJ Communities from High Rates

The ESJ Action Plan includes two action items that address rates for ESJ communities, 2.4.3 and 2.4.4, Pilot Utilization of Affordability Metrics in CPUC Proceeding and Net Energy Metering (NEM): Ensuring Equitable Incentives. We applaud the Commission for including these important proceedings, but we want to emphasize that the most common manner through which an ESJ community member will interact with utilities is through paying their utility bill.

Without intentional mitigation of rate increases to ESJ communities, ESJ communities can be left paying higher rates for obsolete energy infrastructure, or alternatively, can be left unable to participate in programs that can lower their bills. We request that the Commission raise affordability's prominence within the ESJ Action Plan and create metrics to ensure that ESJ communities benefit from a transition away from fossil fuels. We also suggest that the Commission add a case study that demonstrates how attention to rate affordability might impact a rate case or other affordability-related proceeding.

7. Integrate the Societal Cost Test

The ESJ Action Plan should provide a rubric upon which Commission proceedings can account for all costs and benefits, including climate change impacts, to ESJ communities. It should endorse the Societal Cost Test to be used in all proceedings, including rate cases, affordability metrics and broader planning because it better and more accurately incorporates public health impacts associated with greenhouse gas and criteria pollutant emissions. It should also include an example or a case study of how the Societal Cost Test can be layered onto a Commission proceeding to account for these impacts.

8. Ensure Accountability for Statutory Mandates

Several sections of the Public Utilities Code require preference for environmental justice communities. For example, section 399.13(a) requires that investor owned utilities give a preference to environmental justice communities when siting renewables. Unfortunately, we are not aware of this preference being required in a way that results in concrete procurement benefits for environmental justice communities. Tracking the compliance with these types of mandates and how the Commission is implementing them in its proceedings is a critical way to achieve environmental justice. These mandates should set the floor for achieving environmental justice, not the ceiling.

9. Improve Access to Safe and Affordable Drinking Water

We support the ESJ action items contained in Appendix A related to water affordability, water system resilience, and consolidation of water systems. We note, however, that the Commission can do significantly more than it currently is to ensure that small water systems subject to its jurisdiction are offering Customer Assistance Programs and Arrearage Management Plans, as

much of the rulemaking in this area has been focused on Class A water systems. We note in particular that mutual water companies are subject to Commission jurisdiction to the extent that they do not fall within the exception to jurisdiction contained in Pub. Util. Code, § 2705. Our understanding is that most, or at a minimum many, mutual water companies supply water to lessees, without approval of the mutual water company, thus subjecting the mutual to Commission jurisdiction.

As small water systems and mutual water companies are disproportionately out of compliance with the Safe Drinking Water Act and at risk of failing to deliver an adequate supply of safe drinking water, and as they on average provide less affordable water,³ the Commission must exercise its jurisdiction to provide oversight. As a result, we ask that the Commission add an action item related to improving access to safe and affordable drinking water in communities served by small private water systems and mutual water companies.

10. Reinstate the Energy Disconnection Moratorium

As CEJA, Leadership Counsel for Justice and Accountability (LCJA), and others have raised in the Commission's COVID utility debt proceeding, the COVID-19 pandemic and the economic impacts are ongoing. ESJ communities bear a disproportionate burden of the utility debt accrued since March 2020 and face significant barriers to access relief, remain connected to services, and recover economically more broadly.

The Action Plan calls out the disconnection moratorium as a successful strategy to respond to COVID-19, and rightly so. But the emergency is not over. Without a reinstated disconnection moratorium, even utility customers who are eligible for relief, but with no ability to pay according to payment plans face disconnection as soon as next month. CAPP funding will likely not make it to customer accounts until March 2022, and even that is at least \$1 billion short of the need. The ESJ action plan needs to include a plan to immediately reinstate the disconnection moratorium.

11. Add a Goal to Do No Harm to EJ Communities

While we support many of the goals contained in the Action Plan, we are concerned that there is no explicit goal or commitment to ensure that Commission's actions do not perpetuate harmful practices and projects in and near environmental justice communities. The decisions that the Commission makes have the potential to perpetuate and exacerbate environmental pollution that negatively impacts communities of color and low-income communities and households. For example, investments in biomethane derived from factory farm manure perpetuate the

³ State Water Resources Control Board, Annual Compliance Report, p.18 (2018), available at https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/docs/acr_2019_final.pdf; Office of Environmental Health Hazard Assessment, "Human Right to Water in California," pp.110-111 (January 2021), available at <https://oehha.ca.gov/media/downloads/water/report/hrtwachievinghrtw2021f.pdf>; State Water Resources Control Board, Drinking Water Needs Assessment (2021), available at https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/documents/needs/2021_needs_assessment.pdf.

contamination of the air and water of nearby communities by subsidizing the factory farm's continued operation, and, in many cases, subsidizing its expansion. Environmental and social justice require that the Commission cease causing and contributing to harm in environmental justice communities.

As such, the Commission should add a goal to do no harm in environmental justice communities. The Commission should assess all future decision making with this goal as an absolute minimum requirement, while prioritizing non-neutral, positive impacts for EJ communities.

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We welcome further discussion of these points, and if you are amenable, would like to meet to discuss these recommendations further. Thank you for your time and consideration of these comments.

Sincerely,

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