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| <b>Docket Number:</b>   | 15-AFC-01   |
| <b>Project Title:</b>   | Puente Power Project  |
| <b>TN #:</b>            | 212632  |
| <b>Document Title:</b>  | California Environmental Justice Alliance Comments on the PDOC for the Puente Power Project |
| <b>Description:</b>     | N/A   |
| <b>Filer:</b>           | Cathy Hickman   |
| <b>Organization:</b>    | California Energy Commission  |
| <b>Submitter Role:</b>  | Intervenor  |
| <b>Submission Date:</b> | 8/4/2016 3:09:28 PM   |
| <b>Docketed Date:</b>   | 8/4/2016  |

July 29, 2016

Via electronic mail

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**Re: California Environmental Justice Alliance Comment on PDOC for Puente Power Project (Docket No. 15-AFC-01)**

Dear Mr. Zozula:

The California Environmental Justice Alliance (“CEJA”) hereby respectfully submits its comments regarding the Preliminary Determination of Compliance (“PDOC”) for the Puente Power Project (“P3”) in Oxnard, California. CEJA member and partner organizations organize and represent people who live in environmental justice communities throughout California, including the Central Coast Alliance United for a Sustainable Economy (“CAUSE”), whose members include many Spanish-speaking residents and farmworkers in Oxnard. The proposed location of P3 raises significant air permitting concerns for CEJA and its members.

**I. Environmental Justice Communities in Proximity to P3 must be Protected Against Emissions Increases**

The communities closest to, and surrounding, P3 are environmental justice communities, and air permitting of new facilities must scrupulously protect these communities. Environmental justice communities, or disadvantaged communities, as some California agencies term them, are low-income communities of color that are burdened by cumulative effects of existing and historic environmental pollution such as toxic waste, polluted water, and often, air emissions from mobile and stationary sources. Compounding the effects of environmental pollution, environmental justice communities have less access to critical services such as regular or emergency health care, fresh food, or safe recreation spaces. Community members often have low educational achievement and many households are linguistically isolated.

In close proximity to P3, there are numerous census tracts that suffer from these impacts. As CEJA explained, through expert testimony to the California Public Utilities Commission (“PUC”) and California Energy Commission (“CEC”), there are several census tracts near P3 in

the top 25% most impacted statewide, in the top 20% and even the top 10%. In its June 1, 2016 final decision, the PUC agreed with CEJA's assessment that Oxnard was home to environmental justice communities.

In the PUC decision, which approved the contract between Southern California Edison and NRG for P3, the PUC emphasized that environmental justice will be considered in the CEC siting process. The air permit issued to P3 is the air district's DOC – although the CEC is separately engaged in an analysis under the California Environmental Quality Act ("CEQA"), the actual air permitting is conducted here, and environmental justice must be considered when evaluating the PDOC.

As an initial matter, the comparison offered in the PDOC between P3 emissions and emissions from diesel backup generators ("BUGs") is spurious propaganda and should be deleted from prior to issuance of an FDOC. There are, of course, scenarios parties can imagine that would have significantly fewer or greater air impacts than P3 – it is not the job of the DOC to evaluate those alternatives. The DOC must impose permit limits on P3, regardless of whether a different alternative can be imagined. The exception to this rule is that the air district must evaluate whether P3 is BACT. Emissions from diesel BUGs is irrelevant to the BACT analysis, and any other task to be undertaken. CEJA respectfully respects the final paragraph of section I of the PDOC be deleted, or supplemented with discussions about how much a scenario that includes distributed generation combined with storage would be for air quality compared to P3.

## II. Calculation of P3's New Emissions Results in Underestimates of Emissions

The PDOC correctly asserts that New Source Review is required for P3, and that NO<sub>x</sub> emissions must be offset with valid Emission Reduction Credits ("ERCs"). CEJA disagrees, however, with the PDOC categorization of P3 as a replacement source under APCD Rule 26.6.D.2.

First, Mandalay Units 1 and 2 must shut down regardless of whether P3 is built, so to characterize P3 as a replacement for those units is incorrect. Under state law implementing federal Clean Water Act requirements, NRG is required to cease operating its Once Through Cooling units in 2020. NRG has taken no steps to extend or avoid closer mandates. Regulators have repeatedly asserted that these closures are not subject to extension. They will occur regardless of whether P3 is built, or energy needs are met through other combinations of efficiency, demand response, or renewable generation. Rather than a replacement, therefore, P3 must rather be assessed as the new source of emissions that it is. To the extent that emission reductions from shutdown of any Mandalay units are used to offset P3's emissions, they must be evaluated as ERCs, not simply added or subtracted from P3's emissions. Under the federal Clean Air Act, and the Ventura County Air Pollution Control District ("APCD") ERCs must be real, quantifiable, permanent, enforceable and surplus. APCD rule 26.1 defines surplus as a reduction not required by "federal, state, or district law, rule, order, permit or regulation...."

Emission reductions from Mandalay OTC units would have to be evaluated for "surplus". This evaluation would not generate any useable offsets, since the reduction is not surplus to

federal and state laws, but rather the reductions will occur due to NRG's compliance with OTC requirements.

In the alternative, to the extent the APCD intends to rely on P3 as a replacement source under its Rule 26.6.D.2, APCD should reduce the existing unit's actual emissions to reflect BACT. The BACT analysis set out in the PDOC shows BACT for gas-fired generating units. The Mandalay units operated a specific number of hours over the last two years. The BACT-level emissions for those hours are the relevant benchmark, if the DOC persists in categorizing P3 as a replacement unit.

### III. Emission Reduction Credits Sold by SCE for P3 Represent Reductions that Do Not Offset the Impacts to the Oxnard Community

The PDOC correctly concludes that ERCs are required to offset P3's NO<sub>x</sub> emissions. The project proponent purchased ERCs from SCE to meet the ERCs requirement. These ERCs do not represent emission reductions that address any of the air quality concerns implicated by the NO<sub>x</sub> increases P3 threatens. Further, as the PDOC explains, the "ERC Certificates were created by the Southern California Edison Co. in the early 1990's as a part of an electrification conversion program. Over eighty (80) natural gas-fired engines were replaced with electric motors. These engines were used to power equipment such as oil well rod pumping units, natural gas compressors, and water well pumps."

The ERCs NRG is surrendering pose two significant concerns to CEJA. First, none of the emission reductions occurred anywhere near the community that will be exposed to the increased NO<sub>x</sub> emissions. The emissions were reduced in Ojai, Ventura and Fillmore. The local NO<sub>x</sub> impacts will occur in Oxnard. The DOC should require NRG to offer ERCs from local sources to address local impacts.

CEJA's second significant concern is that, while the ERCs represent reductions of NO<sub>x</sub> emissions, the reductions were due to electrification of natural gas-fired engines. The electric engines are not emitting NO<sub>x</sub>, but P3 will emit NO<sub>x</sub> to power the engines. Essentially, cleaner air enjoyed by the people breathing in Ojai, Ventura and Fillmore will be at the direct expense of the dirtier air imposed on the people breathing in Oxnard. The connection between Oxnard's NO<sub>x</sub> burden and the region's improvements is a reflection of, and exacerbation of, the existing inequities in the region. As CEJA's expert testimony established, and the PUC affirmed, Oxnard is one of the very few environmental justice communities in the Moorpark sub-area, and has the most quantifiably impacted communities of any part of the region. To subsidize the region's environment by offsetting P3's emissions increases with ERCs from shutdowns that occurred in the early 1990s from as far as 80 miles away directly contradicts the environmental justice mandates the California Resources Agency imposes on California's agencies. CEJA requests that the APCD require NRG to produce ERCs that reflect local emission reductions.

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### III. Conclusion

CEJA appreciates the work that has gone into the PDOC thus far, and requests that the APCD correct the flaws identified above. The environmental justice impacts of air emissions are significant and far-reaching; CEJA trusts the APCD will take into account the health impacts of P3 emissions. CEJA further agrees with the comments submitted by the Sierra Club and the City of Oxnard to the extent the assess modeling assumptions and methodology and air quality analyses conducted by experts.

Dated: July 29, 2016

Respectfully Submitted,

By: /s/

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Communities for a Better Environment

*Attorney for the  
California Environmental Justice Alliance*