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WSPA Comments on November 29 Hearing 22-IEPR-05

Please see attached letter.

Additional submitted attachment is included below.

Catherine H. Reheis-Boyd
President and CEO

December 20, 2022

Submitted via email at: https://efiling.energy.ca.gov/EComment/EComment.aspx?docketnumber=22-IEPR-05

The Honorable David Hochschild, Chair
California Energy Commission
1516 9th Street
Sacramento, California 95814

RE: WSPA Comments on "California Gas Price Spikes, Refinery Operations, and Transitioning to a Clean Transportation Fuels Future" Commissioner Hearing [Docket No. 22-IEPR-05]

Dear Chair Hochschild,

Thank you for the opportunity to comment and participate on behalf of California's refineries during the November 29, 2022, Commissioner Hearing[1] referenced above as part of the 2022 Integrated Energy Policy Report (IEPR) Update.[2] We incorporate by reference our comments[3] filed as part of the 2022 IEPR Update [Docket No. 22-IEPR-01], which are pertinent to this hearing as well, and offer recommendations on considerations as part of the Commission's proposed "Fuels Transition Study." WSPA and its member companies stand ready to work with policymakers on energy policy solutions – and the critical role our industry must play in them – towards providing cleaner, affordable, and reliable energy to California families and businesses for decades to come.

The Western States Petroleum Association (WSPA) agrees that California's petroleum fuels market is a critical part of our economy, especially issues related to refinery operations and gasoline supply. WSPA is a non-profit trade association representing members that account for the bulk of petroleum and natural gas exploration, production, refining, transportation, and marketing across the Western United States. In this capacity, WSPA has been a consistent and active participant in the Commission's prior IEPR proceedings – especially given the role that strict anti-trust laws and the competition-promoting principles those laws underlie that individual WSPA member companies must abide by.

Multiple State policies impact California's fuels market. Indeed, policy decisions that local governments, California's governors, the state legislature and regulators have made – and continue to make – directly impact the cost of fuel for Californians. While we appreciate the 2022 Draft IEPR Update's recognition that California's higher production costs, California's increasing dependence on more expensive foreign oil, California's environmental program fees, California's greater tax burden for gasoline, and California's high distribution costs and retail margins are contributing variables, the draft Report did not accurately attribute this so-called "price premium."

This includes policy matters WSPA has raised before the State Legislature, policies driven by the California Air Resources Board's (CARB) and local air quality districts, issues previously recognized by

[1] https://www.energy.ca.gov/event/workshop/2022-11/commissioner-hearing-california-gasoline-price-spikes-refinery-operations
[2] Draft 2022 IEPR Update at https://efiling.energy.ca.gov/GetDocument.aspx?tn=247338. Accessed December 5, 2022.
[3] WSPA Comments available at https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=22-IEPR-01

the Commission's own Petroleum Market Advisory Committee, and issues identified by low-income advocates as discussed in more detail below.

California's Affordability Crisis

Californians are undoubtedly facing unprecedented economic and affordability challenges in every facet of their daily lives, including higher grocery, energy, and housing costs. The impact of these challenges is being felt most by middle- and lower-income Californians who can least afford the acceleration of California's energy policies. While California may be leading with its policy ambitions, it has not been without significant costs to the entire economy. Policies contributing to increased fuel costs include:

- *Banning Internal Combustion Engine (ICE) Vehicles* **–** recent approval of the Advanced Clean Cars II rulemaking have severe market implications with higher costs to be most felt by the middle- and lower-income Californians. A recent analysis[4] by Stillwater Associates found that CARB's rulemaking will result in operators of ICE vehicles having to travel farther to reach fueling sites, and pay considerably more to cover the additional supply costs that are likely on the order of $0.35 per gallon in 2035 and $0.90 per gallon in 2050.[4] In addition, legislative and regulatory policies continue to jeopardize the State's refining capacity, which can lead to shortages of fuel and higher costs.
- *Eliminating In-State Oil Production* **–** California continues to pursue an aggressive agenda to ban all in-State production of fossil fuels, while at the same time, demand in the State continues to grow.[4] Through his executive orders, Governor Newsom has instituted a de facto ban on oil production by refusing to issue new permits for oil production and banning the use of hydraulic fracturing. CARB is proposing to prematurely eliminate in-State production through its 2022 Scoping Plan Update. The California Geologic Energy Management Division is undertaking a rulemaking on oil and gas setbacks that will eliminate a large portion of the State's production. An analysis by Capital Matrix Consulting found that these policies will potentially increase the cost of producing gasoline by between $1.00 and $2.00 per gallon.[5]
- *Increasing Cap-and-Trade Program Costs* **–** California's unique climate program adds 25 cents to every gallon of gas made in California today.[6] While this industry has worked hard to ensure that there are appropriate cost containment mechanisms in place, CARB and the Legislative Analyst's Office have found that every $10 increase to the cost of carbon equals roughly a 9 cents per gallon increase to the cost of fuel.[7] Stillwater estimates the costs added to fuels by the Cap-and-Trade Program will be 85 cents per gallon in 2031 and $1.75 per gallon by 2050.[6]
- *Increasing Low Carbon Fuel Standard Costs* **–** California's unique LCFS program adds an additional 16 cents to the cost of every gallon of fuel made in California.[5] Stillwater Associates found that the rulemaking will likely add about 60 cents in 2035 and $1.42 per gallon in 2050.[4]
- *Limiting Retail Fueling Sites* **–** As a result of State and local policy decisions, California drivers have fewer convenient choices for gasoline stations. California has half the number of gasoline stations per licensed driver than the rest of the county.[6] As the State moves towards banning the internal combustion engine, this issue will continue to be exacerbated, with the number of fueling sites decreasing by 50% by 2035 and over 80% by 2050. This will only result in even more Californians who can't readily afford electric vehicles to drive further and pay more to fuel their vehicles.

As the civil rights group, The Two Hundred for Homeownership, commented[8] to CARB during development of the 2022 Scoping Plan Update, "…California has an acute poverty and housing crisis which disproportionately burdens our communities of color. *See, e.g,* https://www.unitedwaysca.org/realcost. The blunt truth is that low income workers need and use cars to

[4] Stillwater Associates, *Possible Market Implications of California's Efforts to Ban ICE, February 2022*
[5] Capitol Matrix Consulting, *Impacts of SB 467 and Other Restrictive Oil Production Policies on Jobs and Retail Prices,* March 2021
[6] California Energy Commission, OPIS West Coast Spot Market Report
[7] CARB*, Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation SRIA*, September 2018
[8] https://www.arb.ca.gov/lists/com-attach/779-scopingplan2022-B3cGclwyVXYLYgl6.pdf

get to work, even in transit-served areas like Los Angeles where 55 times more jobs can be accessed by car in 30 minutes than can be accessed by a 30-minute transit ride. In the vast majority of California communities, cars are the only practical transportation option to get to work on time." They continued that the Scoping Plan "…neither acknowledge or analyze the racially disparate harms created by depriving middle (80-120%) income working households of continued access to reliable, low cost, increasingly lower emission cars and pickup trucks." Internal combustion engine vehicles are extremely important assets for tens of millions of Californians today and will be for decades to come.

In State-led efforts to electrify the transportation sector, The 200 group further noted that, "residential electricity prices in California are almost double the national average and are predicted to continue to rise.[6] This will affect the affordability of vehicle charging and could make electric vehicles impractical, even with rebates and expanded charging infrastructure. Notably, these same communities are also less likely to have rooftop solar installations, which can significantly reduce the cost of electricity for homeowners. Low-income and disadvantaged communities spend a disproportionate amount of their income on essential utilities, including electricity. The [California Public Utilities Commission's (CPUC)] 2019 Annual Affordability Report indicates that '13 percent of households in the state are located in areas where low-income households pay more than 15 percent of their disposable income on electricity service.'[7] In addition, certain areas, including Los Angeles, Chico, parts of the San Joaquin Valley, and parts of the San Francisco Bay Area, spend significantly higher amounts, 'indicating that low-income households in these areas spend a very large percentage of their non-disposable income on electricity'[8]."

These issues will only be further amplified as the cost of utilities continue to rise – as recognized in CPUC's affordability rulemaking[9] where the most recent 2020 Annual Affordability Report concluded that, "Essential electricity service is projected to grow less affordable for vulnerable Californians."[10]

California's Unique Fuels Market

As recognized by Commission staff, the cost of fuel is the result of several complex market factors and public policy. The factors determining gasoline and diesel market costs are therefore complicated and influenced by several intertwining components, including consumer choice, global events and public policies, the supply chain, and market forces dictating supply and demand.

And, as further recognized by Commission staff, the California market is uniquely expensive:

- Californians have a greater tax burden and high environmental program costs;
- California's market is isolated, which makes it more vulnerable to higher costs due to lower supply;
- California has become heavily reliant on foreign oil with higher waterborne import cost inputs (including marine vessels, dock fees, weather delays traversing oceans, labor shortages, etc.);
- California's refiners face high crude oil costs due to the need to import, as in-state production is artificially limited by government policy;
- Local and state policies are causing production of fuels to fall faster than consumption; and
- California's extremely challenging permitting processes creates significant uncertainty and barriers for needed energy infrastructure investments.

Despite these challenges, our WSPA members produce 42 million gallons of gasoline and 10 million gallons of diesel every day to meet the ongoing transportation fuels demand for California's 35 million registered vehicles. Our refiners meet this demand by producing California's unique, cleaner burning gasoline blend specifications while continuing to lower the carbon intensity of these fuels in line with the State's climate programs. We do this in the most expensive operating environment and the most challenging regulatory environment in the entire nation.

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[9] https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/affordability

[10] https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/affordability-proceeding/2020/2020-annual-affordability-report.pdf

California has also isolated itself when it comes to liquid energy. There are no pipelines into California to import crude oil and there are limited pipelines for refined fuels. Storage options are limited and capacity limits at ports also create further challenges. This isolation is a direct result of restrictive land uses, policy decisions, and permit denials at all levels of government. California's energy isolation, coupled with reduced in-state refining capacity, has created an environment where the State simply cannot meet its own demand for fuel – directly leading to cost volatility for Californians.

President Biden has recognized the lack of supply on the national level and continues to seek more production from other parts of the world to address demand and keep costs down. This is an unfortunate and ineffective approach – particularly as it makes America's energy security increasingly more dependent on less supportive foreign governments – with Californians paying the costs.

Role of California's Transportation Fuel Policies

California's public policy impacts will be felt by the public regardless of market conditions. It is also through public policy that the governor, legislators, and regulators have the most opportunity to make changes that can positively impact fuel supply for Californians. California's polices have not only restricted the supply of refined fuels, they also continue to restrict the supply of crude oil by effectively banning new in-state production. California has routinely adopted policies and regulations that have both prevented needed, new energy infrastructure from being built in the State and sent signals to the market that have significantly curtailed investment in refining and production capacity. As a result, refineries operating in California have been unable to manufacture enough gasoline and diesel demanded by California's 35 million internal combustion engine vehicles.

In fact, CARB recently released a far reaching and extremely ambitious 2022 Scoping Plan Update[11] that assumes the near complete phase-out of in-state oil and gas production and refining capacity. The successful implementation of which is presumed to "drop gas consumption by 94%" towards achieving "an oil-free future" – as touted by the Governor in his November 16, 2022, press release about the final 2022 Scoping Plan Update.[12] The State's ability to reach the recently-accelerated (by statute) emissions reduction target, of 48% below 1990 levels by 2030, is fundamentally premised on "hope" and the successful transformation *this decade* of California's economy on a scale never before seen.

The final 2022 Scoping Plan Update, which was adopted on December 15, 2022, is based on reducing liquid fuels demand to less than one-tenth of what we use today by 2045 – while also acknowledging that petroleum demand will persist nonetheless due to legacy fleets.[13]

WSPA has maintained, as documented throughout development of the 2022 Scoping Plan Update, that it is not even feasible to phase down refining in line with an anticipated reduction in State demand due to the significant volumes of transportation fuels that are exported to other jurisdictions as well as other countries, thereby limiting the provision of lower-carbon intensity (CI) fuels resulting in a net reduction of global greenhouse gas emission benefits.[14] This would result in emissions leakage which CARB is required to avoid per Assembly Bill 32 (2006).[15] California must import the majority of crude that is processed in the State; in 2020, only 31% of the 478 million barrels of crude supplied to California refineries was produced in the State.[16] There is thus capacity for the State to encourage production of lower-CI crude that can substitute foreign crude supply and further reduce the CI of fuel required within

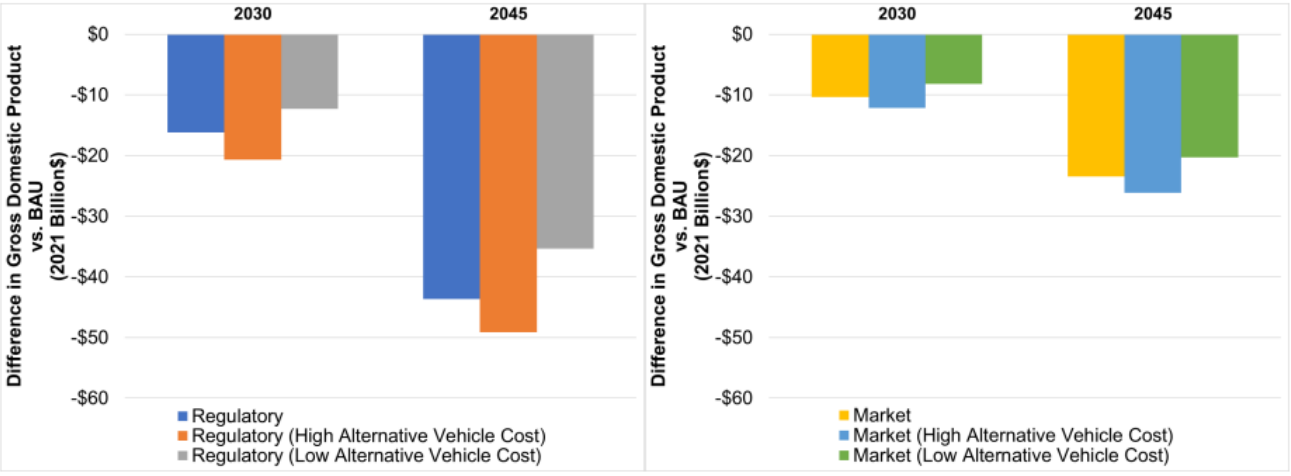
[11] https://ww2.arb.ca.gov/our-work/programs/ab-32-climate-change-scoping-plan/2022-scoping-plan-documents
[12] https://www.gov.ca.gov/2022/11/16/california-releases-worlds-first-plan-to-achieve-net-zero-carbon-pollution/
[13] Final Scoping Plan Update at page 105 and https://www.gov.ca.gov/2022/11/16/california-releases-worlds-first-plan-to-achieve-net-zero-carbon-pollution/
[14] WSPA comments to CARB on draft 2022 Scoping Plan Update at pages 8, 11-12.
[15] AB 32 Section 38562 (b)(8) https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=200520060AB32
[16] CARB. 2021. LCFS Crude Oil Life Cycle Assessment. Available here: https://ww2.arb.ca.gov/resources/documents/lcfs-crude-oil-life-cycle-assessment. Accessed October 2022.

and supplied by the State. Indeed, with supportive policy approaches, California could play a pivotal role in production of negative CI crude that would support the State's climate goals. Given this, the smarter premise would be a phase-in of low-CI crude from California.[17]

Given the criticality of the 2022 Scoping Plan Update, WSPA commissioned a study with NERA Economic Consulting (NERA), included in Attachment D[18] of our comment letter to CARB on the proposed Draft 2022 Scoping Plan Update, to explore additional scenarios that could achieve the State's climate goals. Scenarios were required to achieve net-zero emissions by 2045. From this work, two primary comparative scenarios were developed and explored more deeply. One scenario, which approximated CARB's Proposed Scenario, relied to a greater extent on sector-specific mandates (the "Regulatory" scenario), while the other relied to a greater degree on market forces by use of a unifying price signal (the "Market" scenario).

Comparative results from the two studies were compelling. While both scenarios achieved carbon neutrality by 2045, the Market scenario did so with just over half the adverse economic impact as projected by differences in state gross domestic product (GDP). Perhaps even more notably, the Market scenario actually resulted in a greater volume of earlier emission reductions in its trajectory to reach carbon neutrality. As CARB is well aware, achieving earlier emission reductions when feasible is a desired outcome of climate policy.

Figure 2: Projected Differences in GDP in 2030 and 2045 (Relative to the BAU) (2021$, Billions)



The report illuminated that there were important trade-offs for CARB to consider between these two scenarios, with an important underlying message that forcing deeper emission cuts in certain sectors leads to unnecessarily higher costs to achieve the same 2045 goal. This conclusion, coupled with the recognition that a mandate-heavy approach carries greater technology risks, made it compelling to update the Draft 2022 Scoping Plan to rely more on market-based approaches. It was not.

Indeed, CARB's own "Uncertainty Analysis" (Appendix J)[19] of the Final 2022 Scoping Plan Update identified that two scenarios captured the largest emissions impact in 2030 from implementation delays under CARB's "Reference Scenario:" delays in transportation electrification and delays in renewable energy capacity buildout. The analysis noted that, "Delaying electrification transportation has the second largest [Greenhouse Gas (GHG)] emissions impact related to implementation uncertainty, compared to the GHG impact of delayed renewables deployment. In the Scoping Plan Reference

[17] WSPA comments to CARB on draft 2022 Scoping Plan Update at pages 8-9.
[18] https://www.arb.ca.gov/lists/com-attach/4416-scopingplan2022-BnEAdVQIBTdRCAZn.pdf
[19] https://ww2.arb.ca.gov/sites/default/files/2022-11/2022-sp-appendix-j-uncertainty-analysis.pdf

Scenario, 40% of [Light Duty Vehicle (LDV)] sales are [Zero-Emission Vehicles (ZEV)] in 2030. In 2021, 13% of LDV sales were ZEVs. Increasing sales to 40% over the next decade requires an available supply of ZEVs, sufficient infrastructure to support in-home and public charging, and consumer demand for ZEVs. There is uncertainty and risk related to global ZEV supply and penetration, as global demand for ZEVs is increasing[10] there are growing concerns about ZEV availability due to global supply chain issues and potential shortages in raw materials that can impact battery and vehicle production."

Given the significant uncertainty identified in the 2022 Scoping Plan Update, and the significance of emissions reduction gains available utilizing a market-based approach, the California Energy Commission should, independent of CARB's Scoping Plan modeling, evaluate ongoing petroleum fuel demand through 2045 as part of the IEPR. Our own analysis shows that even with implementation of California's aggressive climate change policies that fuel demand will continue.

More broadly, California's policies and regulations continue to put pressure not only on gasoline, but on all forms of energy, driving up costs while driving down reliability for consumers. Given that these policies disparately impact the cost-of-living for low- and moderate-income residents and small businesses, the Commission or another state regulator should study how the state's policies impact supply and reliability. The governor, the legislature and regulators should focus their efforts on removing the policy hurdles being imposed on the energy industry so we can focus on providing affordable, reliable, and lower carbon energy to all Californians. When the women and men of our industry are allowed to do their jobs, they do, and the result has been lower costs and reduced emissions.

Insights from CEC's Petroleum Market Advisory Committee

WSPA was also asked to participate in deliberations before the Commission's Petroleum Market Advisory Committee (PMAC), which was comprised of leading energy economists and experts convened in December 2014, to provide independent advice and insights on issues affecting the market. Their final report was published in September 2017. During their deliberations several years ago, several major issues were raised then that foreshadowed issues we face now:

- "Today's regulatory environment layers additional costs on refineries to meet cap and trade, Low Carbon Fuel Standard. South Coast Air Quality District is rolling out a NOx reduction program that's going to be fairly expensive. And so refiners, the refining companies in California are all national companies. In many cases international companies. And so while they're making money, good money now, they are, everybody knows that when the market flips to the other direction then their margins are going to be average. My point here is that these companies will make decisions about how they're going to invest in their facilities based on their outlook for profitability. And, you know, I think they see better profitability outside of California in the long run because of the direction that the State's going."[20] – Dave Hackett, February 8, 2016, PMAC meeting transcript
- "I'm going to offer an opinion, and my opinion is that there are plenty of barriers to supply in this market. Creating additional regulations will create additional barriers and keep market participants out." [21] – Dave Hackett, April 22, 2016, PMAC meeting transcript
- "First, with regard to the price spikes, probably the most consistent point that we've heard is that uncertainty can be a significant contributor to the price spikes, either because uncertainty in terms of lack of knowledge, uncertainty because of such a small number of large players having so much, a lot of different things."[22] – Kathleen Foote, August 12, 2016, PMAC meeting transcript
- "And I'm not sure if it was during this Committee's meeting, but certainly I have heard this from industry participants, that it's a lot to ask, on the one hand, that, you know, we should be investing in this industry, and on the other hand another part of the state is telling us we're about to kill your industry by replacing your product. And so I think I'm not optimistic we're going to see any more

[20] https://www.energy.ca.gov/data-reports/planning-and-forecasting/petroleum-market-advisory-committee at page 168
[21] https://www.energy.ca.gov/sites/default/files/2019-05/2016-04-22_PMAC_transcript.pdf at page 68
[22] https://www.energy.ca.gov/data-reports/planning-and-forecasting/petroleum-market-advisory-committee at page 190

investment in the gasoline industry in California, certainly in the refining business. And we need to think about how to make the market work during this transition period, which is likely to be decades."[23] - Chairman Severin Borenstein, August 12, 2016, PMAC meeting transcript

The final PMAC report[24] concluded, after exploring several different policy options for addressing gasoline price volatility, that there was no agreement that any of them would appropriately address price volatility in California.

WSPA Recommendations Regarding CEC's Considerations for the Fuels Transition Study

We agree with PMAC member observations, from several years ago, that the desired transition will take decades and that the pathway is unlikely to be a smooth nor equitable one for the most vulnerable Californians, particularly low- and moderate-income residents and small businesses. WSPA has worked with interested stakeholders across numerous economic sectors – agriculture, advocates, labor, business chambers, and housing advocates, to name a few – concerning fuel costs and would be pleased to meet with the Commission to discuss significant areas for the study's consideration. Based on a review of staff's presentation, we would recommend that:

- The time horizon under consideration be both short- and longer-term (beyond 10 years)
- Price and fuel demand scenarios incorporate low, medium, and high scenarios for ongoing fuel demands given the transportation electrification uncertainties raised by CARB, as noted above
- Equity must be a central part of the study to help inform policies under the base assumption that ICE vehicles (including hybrid vehicles) will be used and needed by Californians for decades to come, and that fuel affordability be a guiding tenant
- The Commission focus on policy scenarios that both increase access to low-CI and alternative fuels while ensuring a reliable and affordable supply of transportation fuels for all Californians

Conclusion

We agree that a serious and independent study on how the State's goals and policies impact supplies and reliability of petroleum fuels, as well as other forms of energy, should inform all policymakers before adoption of additional policies. Efforts to ban supply and restrict capacity have consequences that threaten the State's economy and hurt consumers, especially those most vulnerable. And, that is why the State should commit to an "all of the above" transportation fuels portfolio to address climate goals and lower costs for all Californians.

Bringing down costs across the economy, ensuring an affordable and reliable energy future, and meeting our climate goals can be done cooperatively. There is a better way, and our industry and its people want to, and must be, a part of this important work. We are here to help with that type of effort.

Sincerely,

cc: The Honorable Siva Gunda, Vice-Chair, California Energy Commission
The Honorable J. Andrew McAllister, Ph.D., Commissioner, California Energy Commission
The Honorable Patty Monahan, Commissioner, California Energy Commission
The Honorable Kourtney Vaccaro, Commissioner, California Energy Commission

[23] https://www.energy.ca.gov/data-reports/planning-and-forecasting/petroleum-market-advisory-committee at page 199
[24] https://www.energy.ca.gov/data-reports/planning-and-forecasting/petroleum-market-advisory-committee