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EARTHJUSTICE

via electronic submission May 20, 2024

California Energy Commission
Docket Unit
Docket No. 23-AAER-01
715 P Street
Sacramento, CA 95814

Re: Earthjustice Initial Comments on Appliance Efficiency Regulations for Commercial Food Service Equipment, Docket 23-AAER-01

Energy Commission:

Earthjustice appreciates the California Energy Commission ("CEC") initiating this rulemaking to strengthen efficiency standards for commercial food service equipment. As noted in the CEC's report, *Demonstration of High-Efficiency Commercial Cooking Equipment and Kitchen Ventilation Systems,* "[a]n estimated 93,000 commercial food service facilities operating in California use roughly 560,000 major commercial natural gas-fired cooking appliances, with a total gas demand of almost 25 percent of the overall commercial gas consumption in the state."[1] Yet despite the "significant energy savings and emission reduction" potential from this market segment,[2] California has yet to adopt efficiency standards for commercial food service equipment. In contrast, states like Colorado require equipment including commercial ovens, steam cookers, dishwashers, and fryers to meet the most recently adopted Energy Star standards.[3] This proceeding is an important opportunity for California to not just play catch up with other states, but reclaim its mantle as an efficiency leader through the adoption of strong standards designed to facilitate the widespread electrification of commercial cooking equipment necessary for California to achieve its climate, air quality, and public health objectives.

At this initial stage of the proceeding, Earthjustice recommends that the CEC take the following actions: 1) expand the scope of the proceeding to consider standards for commercial broilers and griddles; 2) develop and evaluate potential standards with the objective of increasing adoption of electric commercial cooking equipment; and 3) ensure estimates of the operational

[1] CEC, *Demonstration of High-Efficiency Commercial Cooking Equipment and Kitchen Ventilation Systems* at 1 (Mar. 2021), https://www.energy.ca.gov/sites/default/files/2021-05/CEC-500-2021-021.pdf.
[2] *Id.*
[3] Colorado House Bill 23-1161 (2023), Section 4, https://leg.colorado.gov/sites/default/files/2023a_1161_signed.pdf. Other states that have adopted higher standards for commercial food service equipment include Maryland, New Jersey, Rhode Island, and Washington. *See* Appliance Standards Awareness Project ("ASAP"), https://appliance-standards.org/products-and-links#commercial.

cost of gas-fueled cooking equipment over its useful life account for increases in gas rates from the rapid declines in gas demand that will occur as California transitions away from fossil fuels.

1. The CEC Should Expand the Scope of this Proceeding to Include Potential Standards for Griddles and Broilers.

This proceeding is the CEC's opportunity to comprehensively improve efficiency of commercial cooking equipment and minimize their corresponding impacts on climate, indoor and outdoor air quality, and public health. All non-federally regulated commercial gas cooking equipment types that have a range of potential efficiencies from which to base an efficiency standard should be included within the scope of this proceeding. To identify additional categories of equipment that are currently not within the scope of this proceeding, the CEC can look to commercial cooking equipment eligible for rebates under the California Public Utilities Commission ("CPUC") Statewide Foodservice Point-of-Sale Program.[4] In addition to the commercial steam cookers, dishwashers, convection ovens, and fryers that are already within scope, other categories of non-federally regulated gas-fueled commercial food service equipment that are eligible for ratepayer funded efficiency rebates include griddles and broilers.[5] For example, underfired commercial gas broilers are eligible for $650 Year 1 Customer rebates and rebates for conveyer broilers range from $2,000 to $4,000.[6]

Consistent with this proceeding's purpose to "reduce the wasteful, uneconomic, inefficient or unnecessary consumption of energy,"[7] there is significant potential to reduce energy consumption from griddles and broilers. Griddles and broilers with pilot lights unnecessarily consume energy and worsen indoor air quality. Replacement with higher efficiency models that do not needlessly burn gas can result in significant energy savings. For example, replacing a non-thermostatic griddle that uses a pilot light with a thermostatic option using electric ignition was found to reduce gas consumption by 25 percent despite longer operating hours and higher production capacity.[8] Given the significant potential energy savings and reduced fossil fuel combustion that can be achieved through higher efficiency griddles and broilers, the CEC should include consideration of setting efficiency standards for these equipment categories as part of this proceeding.

[4] Energy Efficiency Programs, California Foodservice Instant Rebates Program Implementation Plan at 17-20 (Aug. 26, 2021), https://cedars.sound-data.com/documents/download/2044/main/.
[5] *Id.*
[6] *Id. at* 21.
[7] CEC, Docket 23-AAER-01, Order Instituting Rulemaking at 1 (Aug. 10, 2023).
[8] *Demonstration of High-Efficiency Commercial Cooking Equipment and Kitchen Ventilation Systems* at 23.

2. To Align with State Climate Objectives, Efficiency Standards Should Be Developed and Evaluated Based on their Ability to Move the Market Toward Adoption of Electric Commercial Cooking Equipment.

Electrification of commercial buildings is a critical piece of California's strategy to achieve its climate objectives. The California Air Resources Board ("CARB") has determined that "[a]chieving carbon neutrality must include transitioning away from fossil gas in residential and commercial buildings, and will rely primarily on advancing energy efficiency while replacing gas appliances with non-combustion alternatives."[9] Similarly, the CEC has recognized that "gas equipment efficiency investments have a growing likelihood over time of becoming stranded assets, becoming a liability for carbon offsets, or causing the state to miss its goals."[10] Because every new gas appliance is a long-term commitment to continued fossil fuel dependency, achieving marginal gains in efficiency of gas technologies is wholly inadequate to addressing the climate crisis. In addition to their inconsistency with the achievement of state climate requirements, gas cooking equipment is a significant source of NOx pollution.[11]

Table ES-3: Average Nitrogen Oxide Generation for Different Appliances (pounds/year)

Site / Appliance	Fryer	Broiler	Griddle	Oven	Range
Average – All Sites	7.7	25.5	9.1	13.7	12.8
Lab	8.4	N/A	10.5	12.6	N/A

The solution to the air quality and climate impacts of gas cooking equipment is to move the market toward electric options. Yet despite the superior climate, air quality, and public health benefits of electric technologies, existing efficiency standards are not designed to do so. Indeed, existing standards paradoxically allow gas-fueled equipment to be substantially less efficient than electric options. For example, a full-size gas convection oven need only have a 49 percent cooking efficiency to qualify for Energy Star 3.0 yet an electric convection oven requires 76 percent efficiency to meet this same qualification.[12] In addition, 79 percent of efficiency rebate funds for commercial cooking equipment are currently directed to gas-fueled equipment.[13] A regulatory structure that sets lower standards for fossil-fuel technologies and awards the vast majority of incentive funding for its deployment is not one that is aligned with achieving California's climate requirements.

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[9] CARB, 2022 Scoping Plan for Achieving Carbon Neutrality at 212 (Dec. 2022), https://ww2.arb.ca.gov/sites/default/files/2023-04/2022-sp.pdf.

[10] CEC, 2021 IEPR Vol. 1 at 21 (Feb. 2022), https://efiling.energy.ca.gov/GetDocument.aspx?tn=241599.

[11] CEC, *Demonstration of High-Efficiency Commercial Cooking Equipment and Kitchen Ventilation Systems* at 4 (Mar. 2021).

[12] Energy Star, Energy Star Program Requirements for Commercial Ovens, Eligibility Criteria Version 3.0 at 5, https://www.energystar.gov/sites/default/files/ENERGY%20STAR%20Version%203.0%20Commercial%20Ovens%20Final%20Specification.pdf.

[13] Attach. A, SoCalGas Response to Data Request Sierra Club-SCG-02, Q.3 (May 11, 2022).

Given the climate imperative of ending reliance on fossil fuels, the CEC should develop and evaluate proposed standards based on their ability to encourage deployment of electric commercial cooking equipment. For example, increasing baseline standards for gas-fueled equipment would limit the continued use of efficiency funding for gas technologies and focus incentives on electric equipment and any necessary electric upgrade costs.[14] The CEC should also consider fuel-neutral efficiency standards instead of perpetuating the existing paradigm that expects less efficiency from polluting technologies. Rather than look at this proceeding as an isolated undertaking, proposed standards should be assessed on their ability to further adoption of electric appliances and developed as part of a broader decarbonization strategy for commercial kitchens.

3. Operational Cost Analyses Should Account for Increasing Gas Rates from Declining Gas Throughput.

In assessing operational cost savings from potential efficiency standards over the expected useful life of the commercial cooking appliance, the CEC should account for the impact of California's transition away from fossil fuels on gas and electric rates. Increased electric load from electrification of the transportation and building sectors puts downward pressure on electric rates by spreading fixed costs across a greater amount of kWh.[15] In contrast, reduced gas demand from deployment of renewable energy and fuel switching from gas to electric end-uses puts upward pressure on gas rates as fewer therms are sold to cover the costs of maintaining the gas system. To project future gas rate increases, the CEC should use a gas demand forecast that assumes future building electrification. As the CEC recognized in the 2023 Integrated Energy Policy Report ("IEPR"), gas demand "scenarios that exclude CARB's concept for a zero-emission appliance standard are overly conservative, assuming little building electrification, which is not aligned with the state's goals and the proposed regulations and appliance standards under development."[16] Accordingly, gas utility demand forecasts in the California Gas Report, which do not assume demand reduction from future zero-emission appliance standards, should not be utilized in projecting gas rate increases. Instead, the CEC should use Additional Achievable Fuel Substitution ("AAFS") Scenario 3, which assumes full implementation of

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[14] For example, in D.21-05-031, the CPUC established three different portfolio segments for energy efficiency portfolios: resource acquisition, market support, and equity. D.21-05-031, *Assessment of Energy Efficiency Potential and Goals and Modification of Portfolio Approval and Oversight Process*, at 14–15 (May 26, 2021), https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M385/K864/385864616.PDF. The resource acquisition segment would be used to achieve savings through increased efficiency while the market support segment could be used to enable that savings by supporting necessary electric upgrades.

[15] *See, e.g.* Synapse Energy, Electric Vehicles are Driving Electric Rates Down (June 2020), https://www.synapse-energy.com/sites/default/files/EV_Impacts_June_2020_18-122.pdf (finding that between 2012 and 2019, EV drivers in PG&E's and SCE's service territories contributed $806 million more in revenues than associated costs).

[16] CEC, 2023 Integrated Energy Policy Report at 108 (Feb. 2024), https://efiling.energy.ca.gov/GetDocument.aspx?tn=254463.

CARB's zero-emission appliance standard and is used for electric system planning, or at a minimum, the CEC's recently adopted Gradual Transformation AAFS Scenario.[17]

Thank you for your consideration of these comments. Earthjustice looks forward to working with the CEC as it develops efficiency standards for commercial cooking equipment.

Sincerely,

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[17] CEC, Presentation at May 8, 2024 Business Meeting, Item 10: 2023 Gradual Transformation AAFS Scenario, https://www.energy.ca.gov/filebrowser/download/6333?fid=6333#block-symsoft-page-title.

ATTACHMENT A

[1]Approximation based on current program performance from November 2021 to March 2022, which is 27% of total incentives for these programs directed towards gas technologies.

QUESTION 3:

For the Statewide Food Service Point of Sale Program, please provide:

a. **The total amount of rebate funds provided for gas-fueled equipment in the last two program years**
b. **The total amount of rebate funds provided for electric equipment in the last two program years**
c. **The percentages of total rebate funds provided for gas and electric equipment respectively in the last two program years**
d. **All public-facing marketing, outreach, and education materials for the program**

SoCalGas Response:
SoCalGas provides the following response:

a. The total amount of rebates for gas-fueled equipment is $3,021,650 for the last two program years.
b. The total amount of rebates for electric equipment is $652,445 for the last two program years.
c. 79% of rebate funds were spent on gas-fueled equipment, 17% of rebate funds were spent on electric equipment (the remainder was spent on dual-fuel equipment).
d. Please see the attached zipped file: CA FS – Public Collateral.zip.