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STATE OF CALIFORNIA
CALIFORNIA ENERGY COMMISSION

IN THE MATTER OF:

APPLICATION FOR CERTIFICATION OF
THE **PUENTE POWER PROJECT**

DOCKET NO. 15-AFC-01

**PETITION TO INTERVENE BY THE
CALIFORNIA ENVIRONMENTAL
JUSTICE ALLIANCE**

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PETITION TO INTERVENE

The California Environmental Justice Alliance (“CEJA”) hereby petitions to intervene in the proceedings for certification of the Puente Power Project (the “Project”) pursuant to Public Resources Code Section 25214 and California Code of Regulations, Title 20, Section 1211.7.¹ This petition “set[s] forth the grounds for intervention and the position and interests of the petitioner[]in the proceedings[.]”²

I. CEJA’s Grounds for Intervention

CEJA seeks to intervene in this proceeding to represent the interests of disadvantaged communities that will be impacted by the proposed Project. CEJA’s participation will help ensure that the CEC’s decision-making includes consideration of environmental justice issues associated with the siting of the Project, as those issues affect the residents of Oxnard.

CEJA is a statewide, community-led coalition that works to achieve environmental justice in low-income communities and communities of color. CEJA seeks to address toxic industries that pollute peoples’ land, water, and health, and to create a green, locally-based and sustainable economy. CEJA was formed in 2001 and today represents approximately 20,000 Asian American, Latino, and African American residents across California. CEJA participated in development of the legislatively-mandated environmental justice screening tool, CalEnviroScreen, that identifies overburdened, or “disadvantaged” communities, where many of CEJA’s members live. The Central Coast Alliance United for a Sustainable Economy (CAUSE) is a member organization of CEJA. CAUSE builds grassroots power to achieve social, economic, and environmental justice for the people of California’s central coast region.

¹ 20 C.C.R. § 1211.7(a) provides that any person or group has the right to file a petition to intervene in any California Energy Commission (“CEC”) proceeding.

² *Id.*

CEJA has a long history of participating in administrative and legislative matters that determine whether and when new gas-fired generation is approved in California. CEJA's goal in these venues is to ensure that the state's transition from a fossil-fuel based electricity system to a sustainable energy system takes into account existing environmental injustice, including the cumulative impacts already suffered by low-income communities of color in particular.

CEJA has specific concerns around new gas-fired power plants in disadvantaged communities. CEJA intervened in the California Public Utilities Commission ("PUC") proceeding reviewing Southern California Edison's application for approval of its procurement contract with NRG Oxnard Energy Center, LLC for the Project.³ In that proceeding, CEJA provided expertise regarding use of CalEnviroScreen 2.0, technical information regarding the Oxnard community in which the Project would be located, and general legal representation of CEJA's and CAUSE's interests. The Administrative Law Judge ("ALJ") and two commissioners specifically relied on information provided by CEJA in their respective proposed decisions.

As the proposed decisions by the ALJ, Assigned Commissioner Florio and Commissioner Peterman confirmed, the PUC record shows that Oxnard is a disproportionately burdened, environmental justice community.⁴ Environmental justice communities are marked by

³ See Application of Southern California Edison Company (U338E) for Approval of the Results of Its 2013 Local Capacity Requirements Request for Offers for the Moorpark Sub-Area, Application 14-11-016 (filed November 26, 2014). CAUSE was an intervenor in the proceeding before the PUC. Because it became a member of CEJA on April 30, 2015, CAUSE did not submit briefs independent of CEJA.

⁴ See Proposed Decision of ALJ DeAngelis, Application of Southern California Edison Company (U338E) for Approval of the Results of Its 2013 Local Capacity Requirements Request for Offers for the Moorpark SubArea, Application 14-11-016 (January 11, 2016), at 14, *available at* <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M157/K542/157542051.pdf>; Alternate Decision of Commissioner Florio (January 11, 2016), at 15, *available at* <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M157/K541/157541708.pdf>; Alternate Decision of Commissioner Peterman (February 12, 2016) *available at* <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M158/K355/158355879.PDF>. The PUC record shows that SCE acknowledged largely failing to consider environmental justice in its procurement process.

significant populations of low-income residents and residents of color bearing disproportionate environmental burdens. Oxnard fits this profile. As briefed by CEJA in the PUC proceeding and noted in the proposed decisions, CalEnviroScreen 2.0, which is the singular screening tool developed by the California Environmental Protection Agency to evaluate community environmental health, identifies census tracts in Oxnard as “within the top 20% most environmentally burdened communities in California.”⁵ This is in sharp contrast to the rest of the Moorpark sub-area, which contains many white, affluent communities, and no other communities in the top 80th percentile of CalEnviroScreen.⁶ In particular, environmental burdens from power generation in the Moorpark sub-area have fallen disproportionately on the people of Oxnard. Indeed, Oxnard already has “once-through” cooling power plants in two different locations, Mandalay and Ormond Beach, two gas-fired peakers, a toxic superfund site, and heavy pesticide contamination. The Project, as an additional fossil fuel plant in the City of Oxnard, would worsen environmental conditions in the area, including air quality, biological resources, coastal water quality, and would deprive residents of a non-industrial, clean natural recreational space.

Adding the proposed Project to the cumulative effects of existing pollution sources would impose additional burdens on an already heavily disadvantaged and vulnerable population. Within the environmentally overburdened communities in Oxnard, 85% of the population is Latino, 29% lives in linguistic isolation, 56% lives below two times the federal poverty level,

⁵ See Proposed Decision of ALJ DeAngelis, *supra* note 2, at 15-16; Alternate Proposed Decision of Commissioner Florio, *supra* note 2, at 15-16; Opening Brief of the California Environmental Justice Alliance, Application of Southern California Edison Company (U338E) for Approval of the Results of Its 2013 Local Capacity Requirements Request for Offers for the Moorpark SubArea, Application 14-11-016 (July 22, 2015), at 2-3, *available at* <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M155/K634/155634643.pdf>.

⁶ See CalEnviroScreen 2.0, Oxnard, *available at* (<http://oehha.maps.arcgis.com/apps/Viewer/index.html?appid=112d915348834263ab8ecd5c6da67f68>).

and 46% of those over 25 years of age have less than a high school education.⁷ In addition to the people who live in close proximity to the proposed plant, thousands of farm workers work in even closer proximity. Between 1,000 and 3,000 laborers work in surrounding fields less than half a mile from the site.⁸

In reviewing applications for certification from companies like NRG, the CEC conducts environmental review under the California Environmental Quality Act (“CEQA”). The CEC has “integrate[d] environmental justice into its siting process since 1995, as part of its thorough [CEQA] analysis of applications for siting power plants and related facilities.”⁹ The CEC’s final decision in its CEQA review should include consideration of its “[s]taff[’s] . . . analy[ses] [of] . . . disproportionate impacts on minority and low-income populations resulting from exposure to direct and cumulative impacts associated with the proposed facility.”¹⁰ The CEC’s “analy[ses] [include] the existing socioeconomic setting of the area and evaluat[ing] the project in terms of population and demographic characteristics, economic base[,] and employment data[.]”¹¹

CEJA represents the voices of many people who live and work near the proposed site, and offers considerable expertise in analysis of environmental justice and CEQA. CEJA seeks to intervene so that those interests are adequately represented in this proceeding. CEJA’s expertise regarding environmental justice legal standards and policies will ensure that the record is developed on these issues, and adequate consideration of the disproportionate impacts on the environmental justice community of Oxnard.

⁷ See CalEnviroScreen Population Indicators, *available at* (<http://oehha.maps.arcgis.com/apps/MapSeries/index.html?appid=6e5df08a61984e29a90e7d67236ef233>).

⁸ See US Census Bureau “On the Map” *available at* <http://onthemap.ces.census.gov>.

⁹ See http://www.energy.ca.gov/public_adviser/environmental_justice_faqs.html.

¹⁰ See California Energy Commission, Energy Facility Licensing Process: Developers Guide of Practices and Procedures Staff Report / Draft, December 7, 2000, at 30, *available at* http://www.energy.ca.gov/siting/documents/2000-12-07_700-00-007.pdf.

¹¹ *Id.*

II. CEJA's Position and Interests

CEJA protests the siting of the Project in the heavily burdened community of Oxnard, which would result in further disproportionate impacts and serious environmental justice issues. CEJA's environmental justice concerns are pertinent to multiple aspects of the Commission's CEQA review, including: (1) the project description; (2) project alternatives; (3) compliance and closure; (4) greenhouse gas emissions; (5) air quality; (6) land use; (7) public health; and (8) socioeconomics.

CEJA's unique interests in the environmental justice implications of this proceeding, as discussed *supra*, are thus far unrepresented. CEJA will draw on its breadth of knowledge as an environmental justice organization, its prior experience in the parallel PUC proceeding, and its technical analyses specific to the environmental justice issues faced by Oxnard's residents and workers to inform the Commission's analysis of the proposed plant's environmental justice impacts. CEJA's participation will thus help to ensure that the Commission is best able to comply with applicable law as it evaluates the environmental justice conditions, mitigation, alternatives, and other critical information about the Oxnard community. Therefore, CEJA respectfully requests intervenor status to ensure a fair and thorough evaluation of the relevant environmental justice concerns.

III. Extent of Participation

CEJA intends to participate fully in this proceeding with the full rights and duties of a party as authorized by California Code of Regulations, Title 20, Section 1211.7. This includes reserving the "right to call and examine witnesses, to offer oral and written testimony under oath,

to introduce exhibits, to cross-examine opposing witnesses on any matters relevant to the issues in the proceeding, and to rebut evidence.”¹²

IV. Petitioner’s Contact Information

CEJA will be represented by the counsel identified below. All filings should be served on CEJA’s counsel (via electronic service):

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V. Conclusion

Based on the foregoing reasons, CEJA respectfully requests that the California Energy Commission grant CEJA’s Petition to Intervene in this proceeding.

Dated: March 28, 2016

Respectfully Submitted,

By: /s/

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¹² 20 C.C.R. § 1212(a).