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August 24, 2020

Attorney General Xavier Becerra  
1300 I Street  
Sacramento, CA 95814-2919

Dear Attorney General Becerra,

The Utility Reform Network (TURN), a consumer advocacy organization that has fought on behalf of California utility customers for 50 years, urgently requests that the California Department of Justice take immediate action to conduct an investigation of the first rolling blackouts in 20 years recently imposed by the California Independent System Operator (CAISO).

We firmly believe that the circumstances leading to the mandatory blackouts of at least 220,000 households on August 14, and the narrowly averted loss of power to another 3.3 million customers on August 17, were easily forecastable and preventable. CAISO, as a private corporation tasked with sweeping public interest responsibilities, bears unique responsibility as the traffic controller of California's power market that ensures a reliable flow of energy to utility customers. While we acknowledge that the state, and the Southwest portion of the U.S., was in the midst of a heat wave, it is also the case that the region has experienced heat waves every summer since 2001 without resorting to rolling blackouts.

TURN strongly urges an independent investigation to assess whether California residents have been the victims of market manipulation, price gouging and windfall profiteering. While such practices are never acceptable, they are especially egregious during the COVID pandemic, when the majority of the workforce is required to shelter at home, using air conditioning during heat waves at a time where they otherwise would be at their workplaces for a significant portion of the day. We urge the investigation to include, but not be limited to, the following inquiries.

- 1) What led CAISO to order rolling blackouts when energy reserves stood at levels well above emergency benchmarks, and the peak demand was substantially below recent historical levels?
  - a. David Marcus, a long-time observer of California's electricity markets, is cited in a New York Times article published on August 16 as questioning why over the course of less than 30 minutes on August 14 CAISO went from issuing a first stage alert to a stage three alert. The CAISO actions are particularly questionable given

that, for each “stage,” the available operating reserves stood at figures far higher than CAISO’s standards.<sup>1</sup>

- b. Mr. Marcus also notes that the 46,797 megawatt peak demand on August 14 fell below the 50,270 megawatt peak demand in 2006 or the 50,116 peak in 2017, neither of which triggered rolling blackouts.
- 2) What are the circumstances that led to the unplanned outages of critical generating plants during peak demand periods?
- a. According to Utility Dive, on August 14, a 500 megawatt natural gas generator went suddenly offline as demand was approaching its peak. That same day, another 750 megawatt gas plant unexpectedly remained out of service (purportedly for routine maintenance), and the next day the generation from a 470 megawatt gas unit was unexpectedly unavailable.
  - b. New York Times journalist Ivan Penn reports that power plants with the capacity to produce 6,000 megawatts, or 15 percent of California’s peak electricity need, were offline as temperatures surged on August 14.
- 3) To what extent did market manipulation by energy traders contribute to an artificial shortage of generation resources that led to price gouging of California consumers?
- a. A recent New York Times article reports that on August 15, wholesale prices on California’s electricity market surged in some places above \$3,800 per megawatt-hour, roughly 100 times the typical cost, which ended up being passed along to utility customers.
  - b. CAISO did take action to suspend, for several days starting August 17, a form of virtual trading in energy known as convergence bidding, that it determined was “detrimentally affecting the ISO’s ability to maintain reliable grid operations.”

The California Attorney General in the best position to lead an independent investigation on behalf of California ratepayers of the events that reduced resource availability and led to the rotating outages—as your office did in holding many parties accountable during the 2000–2001 deregulation crisis. We are particularly concerned because CAISO in 2000 and 2001 repeatedly claimed that there was nothing suspicious about unscheduled power plant outages, when later

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<sup>1</sup> CAISO issued a first stage alert at 6:00pm on August 14 when operating reserves stood at 12 percent, well above its standard of 8 percent. CAISO then issued a second stage alert at 6:25pm when reserve stood at 9.59 percent as opposed to the standard of 6 percent. FIVE MINUTES LATER, CAISO declared a stage three emergency triggering the rolling blackouts when reserves dipped to 8.9 percent, but still almost three times the threshold of 3 percent listed by CAISO in 2019 as the stage three benchmark.

investigations revealed that Enron and other traders intentionally shut down power plants to artificially create generating shortages and reap windfall profits.

TURN believes that your investigation needs to determine the degree to which the recent energy shortages were caused by factors other than increased demand due to the heat wave. It is critical to assess how much those shortages resulted from poor planning by CAISO grid operators, and how much of the shortage and resulting skyrocketing prices was triggered by energy traders and power sellers positioning themselves to reap extraordinary profits off the backs of California residents suffering in the midst of the pandemic. The investigation must also consider taking action to recover refunds for utility customers forced to pay artificially inflated bills.

We look forward to your prompt response given the urgency of holding CAISO, plant owners, and energy traders accountable to California residents.

Feel free to contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark W. Toney". The signature is fluid and cursive, with the first name "Mark" being the most prominent.

Mark W. Toney, Ph.D.

Executive Director, TURN

Cc: Governor Gavin Newsom

Senate President proTem Toni Atkins

Assembly Speaker Anthony Rendon

Senator Ben Hueso, Chair Senate Energy, Utilities & Communications Committee

Assemblymember Chris Holden, Chair Assembly Utilities & Energy Committee