

Testimony Supporting SB434  
Education, Energy, and the Environment Committee  
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Position: OPPOSE

Members of the Committee,

The bill is misguided. Please refer to draft federal legislation directly below, the Clean Renewable Energy Act, specifically though not exclusively “Electricity is comparable to air and water as it is required for individuals and communities to survive and thrive. The generation, transportation, and the consumption of electricity is in the public interest. Electricity generated using clean renewable technologies including, but potentially not limited to in the future, solar, wind, moving water, and geothermal is available in fundamentally limitless quantities and is comparatively non-polluting. Electricity generated with non-renewable resources pollutes air and water and land and adversely affects planetary and human health. Clean renewable electricity is inherently in the public interest because it overwhelmingly reduces the need for appropriation of shared and limited natural resources.”:

## **The Clean Renewable Electricity Act**

### **1. Short Title; Purpose; Table of Contents**

**Short Title.** The Clean Renewable Electricity Act.

**Purpose.** The Act will assign the Federal Renewable Energy Commission, formerly the Federal Energy Regulatory Commission, the responsibility of leading the transformation of the national electricity grid from reliance on Non-renewable and polluting sources of electricity generation that directly contribute to human-induced atmospheric warming to exclusive use of Clean renewable sources of electricity generation, within a defined timeframe appropriate to the scale of the risk resulting from atmospheric warming that is challenging the continuing viability of that grid. The Act also prioritizes opportunity for Environmental Justice communities, Low-income communities, and Indigenous tribes and nations to participate, invest in, and lead that transition, and ensures fair treatment of those communities by the Federal Renewable Energy Commission.

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**2. Findings.** Electricity is comparable to air and water as it is required for individuals and communities to survive and thrive. The generation, transportation, and the consumption of electricity is in the public interest. Electricity generated using clean renewable technologies including, but potentially not limited to in the future, solar, wind, moving water, and geothermal is available in fundamentally limitless quantities and is comparatively non-polluting. Electricity generated with non-renewable resources pollutes air and water and land and adversely affects planetary and human health. Clean renewable electricity is inherently in the public interest because it overwhelmingly reduces the need for appropriation of shared and limited natural resources.

**3. Jurisdiction.** The provisions of this Act shall apply to the generation, transmission, and sale of electricity in interstate commerce.

**4. Definitions.** When used in this Act, “**Clean renewable electricity**” means electricity generated from solar, wind, moving water, and geothermal resources and specifically excludes electricity generated using fossil fuel, biogas, biomass, waste incineration, and nuclear power but does not exclude future sources of energy generated without consumption of fuel and generated without emitting pollution or waste—it also means electricity generated without harming communities, including Environmental justice communities and Low-income communities, and without violating the free, prior and informed consent of Indigenous Tribes or Nations in compliance with the United Nations Declaration on the Rights of Indigenous Peoples, specifically but not limited to Articles 10, 11, 19, 23, 28, 29, and 32; “**Moving water**” means tidal or Qualifying small-scale hydro; “**Qualifying small-scale hydro**” means hydropower constructed and operated so that the water surface elevation at any given location and time that would have occurred in the absence of the hydroelectric project is maintained. “**Non-Renewable electricity**” means electricity generated by burning fossil fuels, biogas, biomass, or waste, and electricity generated through a process that creates radioactive waste; “**Real benefits**” mean cash, other forms of monetary payment or grants, real-estate, or low interest loans with repayment periods no less than thirty years; “**Commission**” means the Federal Renewable Energy Commission; a “**Just transition energy project**” means the installation and operation of a system of Clean renewable electricity generating, storing, and distributing infrastructure by any entity regardless of whether that entity is subject to Commission jurisdiction; “**Environmental justice**” means the fair treatment and meaningful involvement of all people regardless of race, color, culture, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies to ensure that each person enjoys the same degree of protection from environmental and health hazards; and equal access to any Federal agency action on environmental justice issues in order to have a healthy environment in which to live, learn, work, and recreate; “**Environmental justice community**” means a community with significant representation of communities of color, low-income communities, or Tribal and Indigenous communities, that experiences, or is at risk of experiencing higher or more adverse human health or environmental effects or is located nearest to an existing area of significant environmental pollution and degradation, or bears a burden of negative public health effects from pollution, or includes 1 or more sites of a facility that is a part of a polluting industry or waste dump or a facility for fossil resource extraction, or experiences a

high incidence of climate change impacts and disasters, or has been excluded or harmed by racist or discriminatory policies that have resulted in disproportionate burdens of environmental pollution and related health and socioeconomic disparities, or has a land-based or food subsistence culture that is experiencing ecosystem disruption and devastation, or faces relocation and resettlement resulting from climate change or impacts to the environment and ecosystems; **“Community of color”** means a geographically distinct area in which the population of any of the following categories of individuals is higher than the average population of that category for the State in which the community is located: Black, African American, Asian, Pacific Islander, Other non-White race, Hispanic, Latinx, Linguistically isolated; **“Fair treatment”** means the conduct of a program, policy, practice, or activity by a Federal agency in a manner that ensures that no group of individuals (including racial, ethnic, or socioeconomic groups) experience a disproportionate burden of adverse human health or environmental effects resulting from such program, policy, practice, or activity, as determined through consultation with, and with the meaningful participation of, individuals from the communities affected by a program, policy, practice, or activity of a Federal agency; **“Low-income community”** means any census block group in which 30 percent or more of the population are individuals with an annual household income equal to, or less than, the greater of—(A) an amount equal to 80 percent of the median income of the area in which the house hold is located, as reported by the Department of Housing and Urban Development; and (B) 200 percent of the Federal poverty line; **“Stranded electricity assets”** means any Non-renewable electricity energy infrastructure that is obviated or replaced by a Certificate of Just Transition and has unmet financial obligations or unfunded decommissioning requirements.

**5. Establishment of the Federal Renewable Energy Commission.** The Federal Energy Regulatory Commission shall on July 1, 2023, become the Federal Renewable Energy Commission. All of the Federal Energy Regulatory Commission’s statutory responsibilities are hereby transferred to the Federal Renewable Energy Commission.

**6. Clean Renewable Electricity Mandate.** No later than one year after the date of enactment of this Act, the Commission shall establish a Just Transition Date by which all electricity sold in interstate commerce shall be Clean renewable electricity unless the electricity is generated at a facility that holds a Clean Renewable Electricity Exception Permit. The Just Transition Date shall be no earlier than January 1, 2025 and no later than January 1, 2030. The Commission shall issue a Certificate of Just Transition to each Clean Renewable electricity generating facility or just transition energy project placed in service on or before the Just Transition Date. The Commission shall also issue Clean Renewable Electricity Exception Permits to Non-Renewable electricity generating facilities or a period not to exceed 10 years past the Just Transition Date. The Commission must prepare Environmental Impact Statement (EIS) and a Community Impact Report before issuing a Certificate of Just Transition or a Clean Renewable Electricity Exception Permit. Community Impact Reports shall assess the degree to which a proposed Federal action affecting a community will cause multiple or cumulative exposure to human health and environmental hazards that influence, exacerbate, or contribute to adverse health outcomes; and assess relevant public health data and industry data concerning the potential for multiple or cumulative exposure to human health or environmental hazards in the area of the community and historical patterns of exposure to environmental hazards; and assess the impact of such proposed Federal action on such community’s ability to access public parks, outdoor spaces, and public recreation opportunities; and evaluate alternatives to or mitigation measures for the proposed Federal action that will (A) eliminate or reduce any identified exposure to human health and environmental hazards to a level that is reasonably expected to avoid human health impacts in communities and (B) not negatively impact a community’s ability to access public parks, outdoor spaces, and public recreation opportunities; and analyze any alternative developed by members of an affected community that meets the purpose and need of the proposed action. The Commission shall not delegate responsibility for the preparation of a Community Impact Report to any other entity.

**7. Just Transition.** Certificates of Just Transition shall replace an explicit amount of Non-Renewable interstate electricity from an explicit source with Clean Renewable electricity through the completion of one or more Just transition energy projects and shall be planned, approved, implemented, and operated with Fair treatment of Energy Justice communities, Low-income communities, Indigenous tribes or nations, and other communities. The holder(s) of a Certificate of Just Transition may be any individual or entity and shall be eligible for all incentives (loans, grants, and credits) made available pursuant to, but not limited to, the Inflation Reduction Act, the Energy Policy Act of 2005, and the Infrastructure Investment and Jobs Act. Fifty percent of all Real benefits resulting from Just transition energy projects must be directed to Environmental Justice communities, and/or low income communities, and/or indigenous tribes or nations. The Commission shall in the case of several applications for a Certificate of Just Transition proposed to replace the same amount and source of Non-Renewable interstate electricity award a certificate to one or more competing applicants based on the following priority: applications sponsored entirely by an Environmental Justice community, low-income community, or indigenous tribe or nation; applications sponsored by multiple entities where an Environmental Justice community, low-income community, or indigenous tribe or nation has a fifty percent or greater controlling interest in the proposed Just transition energy project(s); applications for which an Environmental Justice community, low-income community, or indigenous tribe or nation will receive more than fifty percent of all Real benefits from proposed Just transition energy projects (with more priority assigned to higher percentages of benefits received by an Environmental Justice community, low-income community, or indigenous tribe or nation). The costs for retiring Stranded electricity assets resulting from replacing explicit amounts of Non-Renewable interstate electricity from explicit sources shall be entirely paid for by the investors in those same Stranded electricity assets. Certificates of Just Transition shall include Abandonment Risk Mitigation Plans which account for the safe abandonment of Non-Renewable electricity in the certificate. The Commission shall require jurisdictional transmission providers to give interconnection priority to Just transition energy projects for Certificates of Just Transition over all pending interconnection projects, with the exception of those projects specifically purposed to increase safety and reliability.

**8. Exceptions.** Clean Renewable Electricity Exception Permits shall include a specific timetable for the amount of non-clean renewable electricity from an explicit source to retire at a point in time after the Just Transition Date, but not to exceed ten years after the Just Transition Date. An applicant for a Clean Renewable Electricity Exception Permit must demonstrate there is an absence of reasonable alternatives for meeting the demand for electricity at just and reasonable rates.

**9. Eminent Domain.** Notwithstanding the provisions of the Natural Gas Act, the issuance, after the date of enactment of this Act, of a certificate pursuant to Section 7 of the Natural Gas Act or a permit issued pursuant to Section 3 shall not confer on the project developer or any other entity eminent domain authority.

**10. Status for Environmental Justice Communities, Low-Income Communities, and Indigenous Tribes and Nations.** As of the enactment of this Act and forever more, Environmental Justice communities, Low-income communities, and Indigenous Tribes and nations shall have, with no further action required on their part, intervenor status in all open Commission proceedings. Communications between Environmental Justice communities, Low-income communities, and Indigenous Tribes and nations and the Commission shall not be subject to Commission ex parte regulations. All Commission filing fees and annual charges shall be waived for Environmental Justice communities, Low-income communities, and Indigenous Tribes and nations. The Commission shall prepare an Environmental Impact Statement and a Community Impact Report before approving any license, certificate, or permit

that impacts Environmental Justice communities, Low-income communities, Indigenous Tribes, or other communities.

**11. Methane or Natural Gas Exports.** Beginning one year after the enactment of this Act, exports of natural gas produced in the United States shall be capped at the level of such exports in the prior year. The cap shall be reduced by ten percent in each subsequent calendar year until the twelfth year after the date of enactment, at which time all exports of natural gas shall be prohibited.

**12. Public Participation.** The Commission shall employ a Community and Public Facilitator and offer commensurate support resources for each state and territory with a state utility regulatory commission, each region served by a regional transmission operator, and every Indigenous Tribe or Nation public utility commission, and every Indigenous Tribe or Nation energy authority. The Community and Public Facilitators shall facilitate community and public participation by engaging and frequently meeting with communities and members of the public to: communicate local, state, and federal interstate electricity siting participation procedures and electric grid technical information and complete context; cooperatively identify potential interstate electricity projects; and communicate independent and accurate information about proposed interstate electricity projects and alternatives. The Community and Public Facilitators shall periodically communicate the amount, cost, and provenance (source of generation and method of distribution) of each Clean Renewable and Non-Renewable electricity facility. The Community and Public Facilitators shall award grants to community members and members of the public for participating in any interstate electricity siting process. Awarded grants shall not be conditioned on the outcome of a particular or a set of siting procedures and shall not be restricted from being used to seek relief and redress. One or more Community and Public Facilitators shall participate in every public meeting of the Commission specifically to facilitate sixty minutes of Open Public Discussion between community members, the public, and the Commission about any jurisdictional Commission matter or proceeding. One or more Community and Public Facilitators and two or more Commissioners shall participate in an Open Public Energy Forum once each and every month for no less than six hours on a given day. Neither the Open Public Discussion portions of Commission monthly open meetings nor the Open Public Energy Forum shall be subject to or constrained by Commission ex parte regulations. The Community and Public Facilitators shall continuously identify community and public information requirements and provide transparent access to public information in custody of the Commission using Federal Government best practices for data management and open data.

**13. Retail Electricity Billing Transition Information.** Title I Subtitle B of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) is amended by adding after section 111 (d) (19) the following: (20) Retail electricity consumers shall, on a monthly basis, be informed of the percentage the electricity they consume that is Clean renewable electricity and the percentage of the electricity they consume that is Non-renewable electricity.

**14. Regulatory Independence.** No later than two years after the enactment date of this Act the Commission shall be funded through general appropriations not offset by Commission fees and charges. On a semi-annual basis beginning six months after the enactment date of this Act the Commission Office of Public Participation shall issue a report to Congress providing detailed and summary information regarding the real participants in Commission proceedings, the outcomes of their petitions or positions, the number and duration of staff communications with those participants, and resources provided to those participants by the Office of Public Participation and other staff. On a semi-annual basis beginning six months after the enactment date of this Act the Commission Office of Public Participation shall issue a report to the President and Congress identifying Commissioner nominee candidates who would improve Commission diversity regarding racial, tribal, and economic background and interstate electricity production and consumption experience. On an annual basis beginning six months after the

enactment date of this Act the Commission shall issue a report to Congress identifying U.S. Defense Department use of Non-Renewable and Clean Renewable electricity, including detailed and summary information regarding military unit function and geographic location and including the use of methane or natural gas exported from the United States. There are hereby appropriated \$< > to the Commission to plan and implement this Act, \$< > to the Commission to increase by three times for a period of no more than ten years the amount of resources for interstate electricity project (Clean Renewable electricity and Non-Renewable electricity) construction oversight and enforcement, \$< > to the Commission to increase by three times for a period of no more than ten years the number of staff and the amount of resources for interstate electricity project (Clean Renewable electricity and Non-Renewable electricity) technical consultation from Commission technical staff directly to the public facilitated by the Office of Public Participation, and \$< > to the Treasury to provide additional incentives for Certificates of Just Transition.