Newsom electricity declaration
DATED: July 30, 2021

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

PROCLAMATION OF A STATE OF EMERGENCY

WHEREAS Californians are experiencing the impacts of climate change firsthand, from droughts to wildfires to heatwaves to floods to rising seas to mudslides to vanishing snowpacks; and

WHEREAS the effects of climate change threaten the health and safety of Californians, as well as the State's access to clean and reliable energy; and

WHEREAS in April, May, and July 2021, I proclaimed states of emergency because of severe drought conditions in 50 counties; and

WHEREAS because of drought conditions, water supplies in California's reservoirs have dropped to levels so low that hydroelectric power plants have had to reduce or cease production, leading to a reduction of nearly 1,000 megawatts of capacity and further exacerbating the drought's impact on California; and

WHEREAS in June and July 2021, I proclaimed states of emergency because of record-breaking extreme heat events that hit California and other Western states, increasing residents' demand and putting significant demand and strain on California's energy grid; and

WHEREAS at the same time as the July 2021 Extreme Heat Event, the Bootleg Fire in Southern-Central Oregon threatened the California-Oregon Intertie, which delivers power from the Pacific Northwest into California, and reduced electricity supply into California by almost 4,000 megawatts; and

WHEREAS many other transmission lines are located in high fire threat areas, including lines located in other states on which California depends, and thus wildfires are likely to continue impacting California's energy supply unpredictably during this wildfire season; and

WHEREAS because of the accelerating and compounding effects of continuing wildfires, ongoing drought, and extreme heat conditions caused by climate change, California currently faces an additional projected energy supply shortage of up to 3,500 megawatts during the afternoon-evening "net-peak" period of high power demand on days when there are extreme weather conditions, which is even greater than projected in May 2021; and

WHEREAS in July 2021, the California Independent System Operator (CAISO) sought additional resources for summer 2021 through its Capacity Procurement Mechanism but sufficient resources were not available to make up for the projected shortfall; and

WHEREAS it is necessary to take immediate action to reduce the strain on the energy infrastructure, increase energy capacity, and make energy supply more resilient this year to protect the health and safety of Californians; and

WHEREAS there is insufficient time or supply to install new energy storage or zero-carbon energy projects to address the immediate shortfall of up to 3,500 megawatts during extreme weather events that is now projected for this summer; and

WHEREAS until additional clean energy projects are online, it is essential to minimize, to the greatest extent possible, emissions resulting from additional energy production needed to avoid the shortfall in 2021, and to promptly mitigate the effect of those emissions to protect the health and safety of Californians; and

WHEREAS wildfire, drought, and extreme heat events are likely to persist through this summer and recur next summer, and impact several Western states simultaneously, posing further threats to California's energy supply and limiting our ability to import additional energy into the State; and

WHEREAS a second summer of extreme drought, heat, and fire in 2022 would pose an even more grave threat to California's energy supply, unless additional actions to increase California's energy infrastructure and capacity begin now; and

WHEREAS it is already too late, under normal procedures, to bring additional sources of energy online in time to address the previously unforeseen shortfall of up to 5,000 megawatts that is now projected for the summer of 2022 given the now-apparent likelihood that trends of drought, wildfire, and heatwaves continue into next year, making it necessary to take further action immediately; and

WHEREAS in 2018, California enacted Senate Bill 100, a landmark policy requiring that zero-carbon energy resources supply 100 percent of electric retail sales to customers by 2045; and

WHEREAS in March 2021, the California Energy Commission, California Air Resources Board, and California Public Utilities Commission, released a joint agency report outlining paths to reach the goal of 100 percent clean electricity by 2045; and

WHEREAS even more rapid procurement and deployment of clean energy production is necessary to end the vicious cycle in which generating energy contributes to the very climate-impacted emergencies that threaten energy supply; and

WHEREAS actions to accelerate procurement and deployment of clean energy projects will help prevent future emergency shortfall situations, and advance the State's progress toward achieving its clean energy goals, including the retirement of fossil fuel resources; and

WHEREAS under the provisions of Government Code section 8558, subd. (b), I find that conditions of extreme peril to the safety of persons and property exist throughout California due to the combined effects of drought, wildfire, and extreme heat on the State's energy system; and

WHEREAS under the provisions of Government Code section 8558, subd. (b), I further find that conditions of extreme peril to the safety of persons and property exist due to rapid, unforeseen, sudden, and severe energy shortages throughout California caused by these climate events; and

WHEREAS under the provisions of Government Code section 8558, subd. (b), I find that responding to the sudden and severe energy shortages requires extraordinary measures beyond the authority vested in the California Public Utilities Commission; and

WHEREAS under the provisions of Government Code section 8625, subd. (c), I find that local authority is inadequate to cope with the magnitude and impacts of the conditions of extreme peril; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes, regulations, and orders specified in this proclamation would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the conditions of extreme peril.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, including the California Emergency Services Act, and in particular, Government Code sections 8567, 8571, 8625, and 8627, **HEREBY PROCLAIM A STATE OF EMERGENCY** to exist in California.

IT IS HEREBY ORDERED THAT:

1. All agencies of state government shall use and employ state personnel, equipment, and facilities or perform any and all activities consistent with the direction of the Governor's Office of Emergency Services and the State Emergency Plan. Also, all residents are to obey the direction of emergency officials with regard to this emergency in order to protect their safety.

2. All energy agencies shall act immediately to achieve energy stability during this emergency, and the California Public Utilities Commission is requested to do the same. In particular, the California Energy Commission is directed, and the California Public Utilities Commission and the CAISO are requested, to work with the State's load serving entities on accelerating plans for the construction, procurement, and rapid deployment of new clean energy and storage projects to mitigate the risk of capacity shortages and increase the availability of carbon-free energy at all times of day.

3. To provide incentives for large energy users to reduce their electricity demand when an extreme heat event, a sudden and

severe reduction in transmission capacity (including reductions due to wildfire), or both, are projected to result in acute energy shortages this summer, the Department of Finance is directed to provide payments to fund electrical demand reduction programs to be established by California utilities, in accordance with the requirements below. Payment shall be made to any investor-owned utility or publicly owned utility for the eligible costs of an incentive payment program, including reasonable administrative costs, that the Department of Finance, in consultation with the CAISO, the California Energy Commission, and the California Public Utilities Commission, determines, based on documentation submitted by the utility, satisfies the following requirements:

a. The utility must operate the program through and no later than October 31, 2021;

b. The utility must require that its participating customers, as a condition of receiving incentive payments from the utility under the program, commit to reduce their electricity demand by a preset minimum number of kilowatts per hour for all periods of time as to which the CAISO publishes notice that load reduction under such programs is necessary, which periods shall be only within the time of a CAISO Grid Warning or Grid Emergency;

c. The utility must permit participating customers to shift to back up generation (including any method of generation permitted by Paragraphs 4.a and 4.b of this proclamation) during the period specified in subparagraph (b) of this Paragraph;

d. The utility must pay participating customers $2 per kilowatt hour reduced during the period specified in subparagraph (b);

e. The utility must pay participating customers $0.75 per kilowatt hour committed if the CAISO has issued a day-ahead Alert and the utility has directed participating customers to prepare to reduce their load under the program, but then the CAISO does not ultimately publish notice that load reduction under such programs is necessary;

f. The utility must prohibit participating customers from participating in both the Emergency Load Reduction Program and this program, and participating customers may only participate with respect to an amount of reduced electricity demand that is incremental to an obligation to reduce load that the participating customer has agreed to under another demand response program providing compensation for reducing load;

g. The utility must require that participating customers, upon enrollment, report to the utility how much (if any) backup

generation they intend to use during the periods of load reduction specified in subparagraph (b), and if available, information on whether the backup generation is portable or stationary, and the federal emissions tier for each generator;

h. The utility must provide to the California Air Resources Board the information collected under subparagraph (g), plus an estimate of total load reduction achieved by ZIP code, each month; and

i. The utility must provide to the Department of Finance documentation establishing the utility's procedures for verifying the amount of load reduced by participating customers for purposes of calculating payments as specified in subparagraph (d), and for confirming that participating customers are not also receiving compensation under the Emergency Load Reduction Program or other demand response program as specified in subparagraph (f), and the utility must agree that determination of the sufficiency of the documentation required by this subparagraph shall be in the sole discretion of the Department of Finance, in consultation with the CAISO, the California Energy Commission, and the California Public Utilities Commission; and

j. The utility must agree to provide, upon request of the Department of Finance, necessary documentation evidencing the claimed costs of the incentive program for which the utility seeks payment.

To the extent it would otherwise apply to actions under this Paragraph, Chapter 3.5 (commencing with section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, is suspended.

4. Through October 31, 2021, on any day for which the CAISO issues a Grid Warning or Emergency notice based on its determination that, despite its reliance on all available resources, an imminent shortfall is projected because of an extreme heat event, a sudden and severe reduction in transmission capacity (including reductions due to wildfire), or both, the following subparagraphs shall be in effect. Beginning August 15, 2021, application of subparagraphs (a), (b), and (f) shall become limited to participants in a program instituted by a utility under Paragraph 3, and participants in the California Public Utilities Commission's Emergency Load Reduction Program, Base Interruptible Program, and Agricultural & Pumping Interruptible Program.

   a. For purposes of regulations concerning stationary generators, use of stationary generators shall be deemed an "emergency use" under California Code of Regulations (CCR), title 17, section 93115.4, subd. (a)(30)(A)(2) during a period running from two hours before the beginning of the

effective time of the CAISO Grid Warning or Emergency notice to one hour after the end of that effective time.

b. For purposes of regulations concerning portable generators, the period running from two hours before the beginning of the effective time of the CAISO Grid Warning or Emergency notice to one hour after the end of that effective time shall be an "emergency event" under CCR, title 17, section 93116.1, subd. (b)(14), and a loss of electrical service shall be deemed "beyond the reasonable control of the owner or operator" under CCR, title 17, section 93116.2, subd. (a)(12)(A)(2). In addition, the period running from two hours before the beginning of the effective time of the CAISO Grid Warning or Emergency notice to one hour after the end of that effective time shall be an "emergency event" under CCR, title 13, section 2452, subd. (j), and interruptions caused during those times shall be deemed an "unforeseen interruption of electrical power from the serving utility" under CCR, title 13, section 2453, subd. (m)(4)(E)(1).

c. Restrictions on the use of prohibited resources adopted by the California Public Utilities Commission under Decision 16-09-056, Ordering Paragraphs 3 and 4[b], and as implemented in the tariffs of regulated energy utilities, are suspended for any non-residential customer who is enrolled in the Base Interruptible Program or Agricultural & Pumping Interruptible Program.

d. The provisions of Water Code section 13385, subd. (i)(1)(A) as they pertain to daily average and instantaneous temperature limitations in waste discharge requirements for thermal power plants are suspended for any thermal power plant that maintains operations to abate the effects of this emergency. Any exceedance of the daily average or instantaneous temperature limitations resulting from maintaining operations during this time shall not constitute a violation for purposes of calculating mandatory minimum penalties under Water Code section 13385, subd. (i).

e. Permitting requirements or conditions of certification adopted by the Energy Commission pursuant to Public Resources Code, sections 25216.5, subd. (a) and 25500 et seq., as well as permitting requirements adopted by local air quality management districts, shall be suspended to the extent they restrict the amount of power that a facility may generate, restrict the amount of fuel that a facility may use, or impose air quality requirements that prevent the facility from generating additional power, for use in California, during the period running from two hours before

the beginning of the effective time of the CAISO Grid Warning or Emergency notice to one hour after the end of that effective time.

f. Any other permit, regulation or law prohibiting, restricting or penalizing the use of stationary or portable generators during the period running from two hours before the beginning of the effective time of the CAISO Grid Warning or Emergency notice to one hour after the end of that effective time is suspended.

g. Any other permit, regulation or law prohibiting, restricting or penalizing any other conduct allowed by this Paragraph, other than conduct described in subparagraph (f), is suspended.

5. Through October 31, 2021, when the CAISO issues a Grid Warning or Emergency notice based on its determination that, despite its reliance on all available resources, an imminent shortfall is projected because of an extreme heat event, a sudden and severe reduction in transmission capacity (including reductions due to wildfire), or both, and when the Governor's Office of Emergency Services also publishes notice that this Paragraph shall become effective, then:

   a. In regulations concerning the use of auxiliary engines by ocean-going vessels berthed in California ports, the Grid Warning or Emergency notice shall establish an "emergency event" under CCR, title 17, section 93118.3, subd. (c)(14).

   b. This proclamation, the CAISO's issuance of Grid Warning or Emergency notice, and the notice published by the Governor's Office of Emergency Services shall together be deemed to provide notice to reduce use of grid-based electrical power under CCR, title 17, section 93118.3, subd. (c)(14)(C). Expiration of the Grid Warning or Emergency notice, the CAISO's issuance of a Cancellation notice, or notice of an end to the "emergency event" from the Governor's Office of Emergency Services shall be deemed to provide notice under that same section that reduction is no longer necessary. Ships that are berthed in California ports while the CAISO Grid Warning or Emergency notice is in effect shall not be required to use shore power until 11:59 p.m. on the third day following the last consecutive day on which the CAISO issued a Grid Warning or Emergency notice.

   c. A ship operating on auxiliary engines pursuant to an "emergency event" under subparagraph (a) shall be deemed to qualify for an exemption under CCR, title 17, section 93118.3, subd. (d)(1)(E)(1)(a), and any visit

occurring during the period described in subparagraph (b) shall be counted towards compliance under CCR, title 17, section 93118.3, subd. (d)(1)(F)(1).

d. Any other permit, regulation or law prohibiting, restricting or penalizing the use of auxiliary ship engines or other conduct allowed by this Paragraph is suspended.

6. Any facility that operates in excess of permitting requirements or conditions of a certificate suspended by Paragraph 4.e shall:

   a. notify the relevant local air quality management district, the California Energy Commission, and the California Air Resources Board of its actions within 48 hours; and

   b. report additional fuel use, additional hours of operation and times of operation, and energy produced by that additional use and operation to the relevant local air quality management district, the California Energy Commission, and the California Air Resources Board within 30 days of operation under this proclamation.

7. In order to help address any exceedances in emissions permitted under federal law and other federal obligations that result from acts taken under this proclamation, and to avoid jeopardizing public health or safety as a result of those acts, the California Air Resources Board shall develop by November 15, 2021, and then promptly implement, a State-funded plan to mitigate the effects of additional emissions authorized by this proclamation beyond ordinarily permitted levels. The mitigation plan shall include plans to invest in programs to improve air quality in communities, with a particular focus on disadvantaged communities, and to reduce risk to sensitive populations. To the extent it would otherwise apply to actions under this Paragraph, Chapter 3.5 (commencing with section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, is suspended.

8. As necessary to assist state agencies, local governments, utility companies, contractors, and others, the Department of Water Resources and the California Energy Commission shall enter into contracts to arrange for the procurement of materials, goods, and services necessary for projects likely to be online by October 31, 2021, that would expand energy supply and storage to respond to energy supply shortages caused by climate change. For contracts first executed through October 31, 2021, applicable provisions of the Government Code and the Public Contract Code, including but not limited to travel, advertising, and competitive bidding requirements, are suspended to the extent necessary to effectuate this Paragraph and Paragraphs 9 and 10.

9. With respect to all post certification petitions for changes in power plant project design, operation, performance, including geothermal generation and integrating solar generation and

battery storage with appurtenant facilities on an existing site, the following statutes and regulations are suspended to the extent the California Energy Commission determines that the petitioned-for change should be granted and would reduce the energy shortfall resulting from this emergency by October 31, 2021:

a. California Environmental Quality Act in Public Resources Code, Division 13 (commencing with section 21000) and regulations adopted pursuant to that Division;

b. California Coastal Act in Public Resources Code, Division 20 (commencing with section 30000) and regulations adopted pursuant to that Division; and

c. Title 20, section 1769, of the California Code of Regulations.

10. With respect to new emergency and temporary power generators of 10 megawatts or more that the California Energy Commission determines will deliver net peak energy before October 31, 2021, the provisions of Public Resources Code, Division 13 (commencing with Section 21000) and regulations adopted pursuant to that Division, are suspended to the extent that the California Energy Commission determines that such generators should be licensed and that:

a. generation will be located in a previously disturbed site;

b. generation will use natural gas as soon after construction as practicable;

c. there is a secure water supply for the project; and

d. there is an available grid interconnection.

Public Resources Code section 25500 shall apply to the issuance of a license under this Paragraph (notwithstanding the 50-megawatt limitation in Public Resources Code section 25120).

11. With respect to new, and expansions of, battery storage systems of 20 megawatts or more that the California Energy Commission determines are capable of discharging for at least two hours and will deliver net peak energy by October 31, 2022, the provisions of Public Resources Code, Division 13 (commencing with Section 21000) and regulations adopted pursuant to that Division, are suspended to the extent that the Energy Commission determines that such systems should be licensed. Public Resources Code section 25500 shall apply to the issuance of a license under this Paragraph (notwithstanding the 50-megawatt limitation in Public Resources Code section 25120). The California Energy Commission shall implement the provisions in this Paragraph in consultation with local jurisdictions and state agencies.

12. The California Energy Commission shall establish a process to expedite all actions described in Paragraphs 9 through 11. The California Energy Commission's implementation of and actions taken under Paragraphs 9 through 11 shall not be subject to the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and the California Energy Commission may delegate its authority under Paragraphs 9 through 11 to the Executive Director of the California Energy Commission. The California Energy Commission shall maintain on its website a list of all activities or approvals for which it has relied on suspensions under this proclamation.

13. The California Public Utilities Commission is requested to exercise its powers to expedite Commission actions, to the maximum extent necessary to meet the purposes and directives of this proclamation, including by expanding and expediting approval of demand response programs and storage and clean energy projects, to ensure that California has a safe and reliable electricity supply through October 31, 2021, to reduce strain on the energy infrastructure, and to ensure increased clean energy capacity by October 31, 2022. In particular, for purposes of expediting Commission actions, these emergency circumstances may be deemed an unforeseen emergency situation under Public Utilities Code section 311, subd. (d) & (g) and section 306, subd. (b); an event necessary for the preservation of the public health and safety or general welfare under Public Utilities Code section 311, subd. (h); an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, allowing for an emergency meeting under Government Code section 11125.5, subd. (a-b); and a circumstance in which the failure of the Commission to adopt a decision before the expiration of the 30-day review and comment period would cause significant harm to public health or welfare under the Commission's Rules of Practice and Procedure 14.6, subd. (c)(10).

14. The CAISO is requested to take all actions available and use best efforts, including seeking waivers to its existing tariff processes, to expedite the interconnection to the transmission grid of resources specified by the California Energy Commission for purposes of meeting the intent of this proclamation.

15. The California Energy Commission, in consultation with the California Air Resources Board, the CAISO, and the California Public Utilities Commission, shall identify and prioritize action on recommendations in the March 2021 Senate Bill 100 Joint Agency Report, and any additional actions, that would accelerate the State's transition to carbon-free energy. The California Energy Commission shall report its recommendations to me within 60 days.

This proclamation is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

I FURTHER DIRECT that as soon as hereafter possible, this proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this proclamation.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 30th day of July 2021.

GAVIN NEWSOM
Governor of California

ATTEST:

SHIRLEY WEBER, PH.D
Secretary of State