

Congress of the United States
Washington, DC 20510

June 19, 2024

Pedro Pizarro
Chair, Edison Electric Institute Board of Directors
President & CEO, Edison International
2244 Walnut Grove Avenue
Rosemead, CA 91770

Dear Dr. Pizarro:

As you gather for the Edison Electric Institute (EEI) annual meeting, we write to express our deep concern about EEI President and CEO Dan Brouillette's decision to initiate litigation challenging the Environmental Protection Agency's (EPA) new source performance standards for certain fossil fuel-fired power plants.¹

EEI has historically been a responsible partner in the clean energy transition, and Mr. Brouillette's decision is a significant deviation from the association's prior position. In 2022, EEI filed a brief in support of EPA's regulatory authority in *West Virginia v. EPA*.² Mr. Brouillette's assertions that carbon capture and storage (CCS), the technology EPA determined to be the best system of emission reduction in its recent rule, is unproven³ is at odds with EEI's and the industry's longstanding advocacy for CCS.⁴ Additionally, the number of CCS projects around the world, including in the power sector, has been growing by double-digit percentages for several years now.⁵

Congress has taken several steps in recent years to support this increased deployment of CCS. This includes extending the Section 45Q tax credit and increasing the credit to \$85 per metric ton of carbon oxide captured and sequestered in the *Inflation Reduction Act*. Congress has also authorized and appropriated billions of dollars of funding for carbon dioxide transportation infrastructure and CCS research, development, and demonstration through the *Energy Act of*

¹ New Source Performance Standards for Greenhouse Gas Emissions From New, Modified, and Reconstructed Fossil Fuel-Fired Electric Generating Units; Emission Guidelines for Greenhouse Gas Emissions From Existing Fossil Fuel-Fired Electric Generating Units; and Repeal of the Affordable Clean Energy Rule, 89 Federal Register 39898, available at <https://www.federalregister.gov/documents/2024/05/09/2024-09233/new-source-performance-standards-for-greenhouse-gas-emissions-from-new-modified-and-reconstructed>

² Brief of amici curiae the Edison Electric Institute and the National Association of Clean Water Agencies in support of respondents, available at https://www.supremecourt.gov/DocketPDF/20/20-1530/211265/20220125125212019_Final%20EEI%20NACWA%20ACE%20Amicus.pdf

³ See, EEI Statement on EPA's Package of Final Rules for Power Plants, April 25, 2024, available at <https://www.eei.org/news/news/all/eei-statement-on-epa-package-of-final-rules-for-power-plants>

⁴ See, e.g., Statement of Ben Fowke, CEO of Xcel Energy and former EEI Chair, before the Senate Environment and Public Works Committee, March 10, 2021, available at https://www.epw.senate.gov/public/?_cache/files/3/e/3e372b82-130a-4430-a0e4-1d312afdee1c/502E65CB839A3CC7493C4FEA46875BBA.fowke-testimony-03-10-2021.pdf

⁵ Global Status of CCS 2023, Global CCS Institute, available at <https://www.globalccsinstitute.com/wp-content/uploads/2024/01/Global-Status-of-CCS-Report-1.pdf>

2020 and the *Infrastructure Investment and Jobs Act*. We have the tools we need to provide cleaner and more affordable energy to American consumers, and utilities should focus on deploying them – rather than litigating rules that support public health, the environment, and economic competitiveness.

EEI's decision to challenge EPA's newly issued power plant rule is also contrary to Edison International's climate and decarbonization commitments. For example, Edison International states that its "climate goals are aligned with science and limiting warming to 1.5 degrees"⁶ and that "[a]chieving an 85% GHG emissions reduction and reaching net zero by 2045 requires bold, immediate action."⁷ In addition, EEI's position will likely make it harder for Edison International to meet decarbonization targets in California, which has set goals of 90 percent clean electricity by 2035, 95 percent clean electricity by 2040, and 100 percent clean electricity by 2045.⁸

Edison International can help deliver a healthier, more affordable, and more secure clean energy future by following through on its commitments to decarbonize and urging EEI to drop its litigation against EPA's power plant rule. We urge you to use your position as Chair of EEI's board of directors to push for a reversal of this decision and to ensure that EEI's leadership reflects the industry's stated commitment to rapidly decarbonize.

Considering the above, we request the following information by July 10, 2024:

1. Does Edison International support EEI's decision to initiate litigation against EPA's recent power plant rule?
2. Was Edison International consulted by EEI prior to its decision to initiate litigation against EPA challenging its recent power plant rule?
3. If Edison International was consulted by EEI prior to the initiation of this litigation, did Edison International support or oppose the proposed litigation strategy?
4. If Edison International was not consulted by EEI prior to the initiation of this litigation, what steps will Edison International take to ensure that EEI does not make important policy and litigation decisions without first seeking input from all of its members?
5. If Edison International opposes EEI's decision to litigate, what steps will Edison International take to ensure that EEI does not pursue litigation at odds with Edison International's interests?

⁶ Edison International 2023 Sustainability Report, pg. 13, *available at* <https://www.edison.com/sustainability/sustainability-report>

⁷ "Countdown to 2045," Edison International, pg. 8, *available at* https://download.newsroom.edison.com/create_memory_file/?f_id=6508e6633d63325f2e763f1b&content_verified=True

⁸ *See*, SB-1020, Clean Energy, Jobs, and Affordability Act of 2022.

Thank you for your attention to these matters.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sheldon Whitehouse".

SHELDON WHITEHOUSE
United States Senator

A handwritten signature in blue ink, appearing to read "Brian Schatz".

BRIAN SCHATZ
United States Senator