

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: June 9, 2005

To: The Commission
(Meeting of June 16, 2005)

From: Delaney Hunter, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **SB 1059 (Escutia) Electric transmission corridors**
As Amended May 27, 2005

Legislative Subcommittee Recommendation: Support if amended.

Summary: This bill authorizes the California Energy Commission (“Energy Commission”) to designate electric “transmission corridor zones” to accommodate high-voltage electric transmission lines that are consistent with the Energy Commission’s strategic transmission plan. The bill declares that the California Environmental Quality Act (“CEQA”) applies to the designation of the transmission corridor zones and requires the Energy Commission to be the lead agency for CEQA review of all transmission corridor zones.

Analysis (OGA/Energy): While we support the bill’s provisions granting the Energy Commission authority to designate transmission corridor zones, we remain concerned about other provisions in the bill requiring the Energy Commission to be the lead agency for CEQA review of all transmission corridor zones. Under existing law the CPUC has permitting and CEQA authority over all transmission projects proposed by those utilities subject to its regulatory jurisdiction. Fragmenting the transmission permitting process in California by having the Energy Commission perform CEQA analysis of transmission corridor zones is unnecessary and duplicative.

Recommended Amendments: We suggest amendments to make clear that the CPUC will retain the permitting and CEQA authority over any transmission corridor zones that are designated by the CEC. These amendments would clarify that the Energy Commission would undertake the research, evaluation, and analysis necessary to recommend certain areas as transmission corridor zones. These amendments will also ensure that the Energy Commission’s actions on researching and evaluating transmission corridor zones do not inadvertently trigger a CEQA determination on their own, creating an

unnecessary and duplicative CEQA review. Our suggested amendments are as follows:

- Amend proposed section 25331(a) as follows.

25331. (a) The commission may designate a preferred transmission corridor zone on its own motion or by application of a person who plans to construct a high-voltage electric transmission line within the state. The designation of a transmission corridor zone shall serve to identify a feasible corridor in which can be built a future high-voltage electric transmission line that is consistent with the state's needs and objectives as set forth in the strategic plan adopted pursuant to Section 25324.

- Amend proposed subsection 25332 as follows.

25332. The designation of a transmission corridor zone is subject to the California Environmental Quality Act (~~Division 13 (commencing with Section 21000)~~). The Public Utilities Commission shall be the lead agency, ~~as provided in Section 21165,~~ for all transmission corridor zones proposed by the commission for designation pursuant to this chapter.

- Amend proposed section 25336 (b) as follows.

(b) The commission shall conduct hearings pursuant to the hearing order. The purpose of the hearings shall be to receive information upon which the commission can make ~~findings and conclusions pursuant to Section 25337.~~ recommendations regarding the identification and selection of preferred transmission corridor zones.

- Delete proposed section 25337 in its entirety, or modify it as follows.

25337. ~~No later than 180 days after~~ No later than 180 days after ~~After~~ the conclusion of hearings conducted pursuant to Section 25336, ~~and no later than 180 days after completion of the environmental impact report prepared pursuant to Section 25332,~~ the commission shall issue ~~a proposed~~ an advisory decision that contains its findings and ~~conclusions~~ recommendations regarding all of the following matters:

(a) Conformity of the proposed transmission corridor zone with the strategic plan adopted pursuant to Section 25324.

(b) General ~~s~~ Suitability of the proposed transmission corridor zone with respect to environmental, public health and safety, land use, economic, ~~and transmission system~~ impacts and other issues raised by the public and other entities through the hearing process.

(c) ~~Any mitigation measures and alternatives as may be needed to protect environmental quality, public health and safety, the state's electric transmission grid, or any other relevant matter.~~

(d) Any other factors that the commission considers relevant.

- Amend proposed section 25338 as follows:

25338. As soon as practicable after the commission designates a preferred transmission corridor zone, it shall send a copy of its advisory decision, including a description of the transmission corridor zone, to each affected city, county, state agency, and federal agency.

- Amend proposed section 25339 as follows:

25339. After the commission designates a preferred transmission corridor zone, it shall identify that preferred transmission corridor zone in its subsequent strategic plans adopted pursuant to Section 25324. The commission shall regularly review and revise its designated preferred transmission corridor zones as necessary, but not less than once every six years. In revising designations of preferred transportation transmission corridor zones, the commission shall follow the procedures of this chapter. If, upon review, the commission ~~finds~~determines that a preferred transmission corridor zone is no longer ~~needed~~recommended, the commission shall revise or repeal the designation and, as soon as practicable, notify the affected cities, counties, and state and federal agencies.

SUPPORT/OPPOSITION

Support:

California Chamber of Commerce
Pacific Gas and Electric Company
Sempra Energy

Opposition:

League of California Cities
California State Association of Counties
Regional Council of Rural Counties
Southern California Edison
Cities of Costa Mesa and Murrieta

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BILL NUMBER: SB 1059 AMENDED
BILL TEXT

AMENDED IN SENATE MAY 27, 2005
AMENDED IN SENATE APRIL 26, 2005
AMENDED IN SENATE APRIL 18, 2005
AMENDED IN SENATE APRIL 13, 2005
AMENDED IN SENATE APRIL 4, 2005

INTRODUCED BY Senators Escutia and Morrow

FEBRUARY 22, 2005

An act to add Chapter 4.3 (commencing with Section 25330) to Division 15 of the Public Resources Code, relating to electricity transmission.

LEGISLATIVE COUNSEL'S DIGEST

SB 1059, as amended, Escutia. Electric transmission corridors.

(1) Existing law requires the State Energy Resources Conservation and Development Commission to adopt a strategic plan for the state's electric transmission grid using existing resources. Existing law requires that the plan identify and recommend actions required to implement investments needed to ensure reliability, relieve congestion, and to meet future growth in load and generation, including, but not limited to, renewable resources, energy efficiency, and other demand reduction measures.

This bill would authorize the commission to designate a transmission corridor zone on its own motion or by application of a person who plans to construct a high-voltage electric transmission line within the state. The bill would provide that the designation of a transmission corridor shall serve to identify a feasible corridor in which can be built a future transmission line that is consistent with the state's needs and objectives as set forth in the strategic plan adopted by the commission. The bill would prescribe procedures for the designation of a transmission corridor, including publication of the request for designation and request for comments, coordination with federal agencies and California Native American governments, informational hearings, and requirements for a proposed decision.

The bill would require the commission, after designating a transmission corridor zone, to identify that transmission corridor zone in its subsequent strategic plans and to regularly review and revise its designated transmission corridor zones as necessary, but not less than once every 6 years.

The bill would require a city or county, within 12 months after receiving a notice from the commission of a transmission corridor zone, to amend its general plan consistent with the commission's designation or revision.

The bill would require a city or county, within 10 days of accepting as complete an application for a development project within a designated transmission corridor zone that the city or county determines would threaten the potential to construct a high-voltage electric transmission line, to notify the commission of the proposed development project. The bill would require the commission, upon making a specified finding regarding the proposed development

project, to provide written comments to the city or county and would require the city or county to consider the commission's comments.

The bill would impose a state-mandated local program by imposing new duties upon local agencies.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.

The Legislature finds and declares all of the following:

(a) California currently lacks an integrated, statewide approach to electric transmission planning and permitting that addresses the state's critical energy and environmental policy goals and allows electric transmission projects to move seamlessly from the planning phase into the permitting phase for timely approval and construction of needed electric transmission lines.

(b) Planning for and establishing a high-voltage electric transmission system to accommodate the development of renewable resources within the state, facilitate bulk power transactions, ensure access to out-of-state regions that have surplus power available, and reliably and efficiently supply existing and projected load growth is vital to the future economic and social well-being of California.

(c) To promote the efficient use of the existing transmission system, the state should do both of the following:

(1) Encourage the use of existing rights-of-way, the expansion of existing rights-of-way, and the creation of new rights-of-way in that order.

(2) Promote the efficient use of new rights-of-way, where needed, to improve system efficiency and the environmental performance of the transmission system.

(d) The construction of new high-voltage electric transmission lines within new or existing corridors has become increasingly difficult and may impose financial hardships and adverse environmental impacts on the state and its residents. It is in the interest of the state, therefore, through the electricity transmission planning process, to accomplish all of the following:

(1) Identify the long-term needs for electric transmission corridor zones within the state.

(2) Work with stakeholders, appropriate federal, state, and local agencies, and the public to study transmission corridor zone alternatives and designate appropriate corridor zones for future use to ensure reliable and efficient delivery of electricity for California's residents.

(3) Integrate transmission corridor zone planning at the state level with local planning so that designated corridor zones are reflected in local general and specific plans.

(e) Orderly planning and development of needed high-voltage electric transmission lines through the designation of transmission

corridor zones is an issue of statewide concern.

SEC. 2 Chapter 4.3 (commencing with Section 25330) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 4.3. Designation of Transmission Corridors

25330.

For purposes of this chapter, the following terms have the following meanings:

(a) "Feasible" has the same meaning as in Section 21061.1.

(b) "High-voltage electric transmission line" means an electric transmission line with an operating capacity of at least 200 kilovolts, or that is under the operational control of the California Independent System Operator.

(c) "Transmission corridor zone" means the geographic area necessary to accommodate the construction and operation of one or more high-voltage electric transmission lines, consistent with existing land uses and land uses identified in local general or specific plans, to the extent feasible.

25331.

(a) The commission may designate a transmission corridor zone on its own motion or by application of a person who plans to construct a high-voltage electric transmission line within the state. The designation of a transmission corridor zone shall serve to identify a feasible corridor in which can be built a future high-voltage electric transmission line that is consistent with the state's needs and objectives as set forth in the strategic plan adopted pursuant to Section 25324.

(b) A person planning to construct a high-voltage electric transmission line may submit to the commission an application to designate a proposed transmission corridor zone as being consistent with the strategic plan adopted pursuant to Section 25324. The application shall be in the form prescribed by the commission and shall be supported by any information that the commission may require.

25332. The designation of a transmission corridor zone is subject to the California Environmental Quality Act (Division 13 (commencing with Section ~~21000~~ 21000)) . The commission shall be the lead agency, as provided in Section 21165, for all transmission corridor zones proposed for designation pursuant to this chapter.

25333.

(a) In developing a strategic plan pursuant to Section 25324 or considering an application for designation pursuant to this chapter, the commission shall confer with cities and counties, federal agencies, and California Native American tribal governments to identify appropriate areas within their jurisdictions that may be suitable for a transmission corridor zone. The commission shall, to the extent feasible, coordinate efforts to identify long-term transmission needs of the state with the land use plans of cities, counties, federal agencies, and California Native American tribal governments.

(b) The commission shall not designate a transmission corridor zone within the jurisdiction of a California Native American tribal government without the approval of the California Native American tribal government.

25334.

(a) Upon receipt of an application or upon its own motion for designation of a transmission corridor zone, the commission shall arrange for the publication of a summary of the application in a newspaper of general circulation in each county in which the proposed

transmission corridor zone would be located. The commission shall transmit a copy of the application for designation to all cities, counties, and state and federal agencies having an interest in the proposed transmission corridor zone.

(b) As soon as practicable after the receipt of an application or upon its own motion for designation of a transportation corridor zone, the commission shall notify cities, counties, state and federal agencies, and California Native American tribal governments in whose jurisdictions the proposed transmission corridor zone would be located regarding the proposed transmission corridor zone and the objectives of the most recent strategic plan for the state's electric transmission grid. The commission's notice shall solicit information from, and the commission shall confer with, all interested cities, counties, state and federal agencies, and California Native American tribal governments regarding their land use plans, existing land uses, and other factors in which they have expertise or interest with respect to the proposed transmission corridor zone. The commission shall provide any interested city, county, state or federal agency, or California Native American tribal government ample opportunity to participate in the commission's review of a proposed transmission corridor zone.

(c) The commission shall request affected cities, counties, state and federal agencies, the Independent System Operator, interested California Native American tribal governments, and members of the public to provide comments on the suitability of the proposed transmission corridor zone with respect to environmental, public health and safety, land use, economic, and transmission-system impacts or other factors on which they may have expertise.

(d) The commission shall require a person who files an application for the designation of a transmission corridor zone to ~~pay the reasonable costs incurred by the commission in making this designation.~~ *pay a fee sufficient to reimburse the commission for all costs associated with reviewing the application. If the commission initiates the designation of a transmission corridor zone on its own motion, the commission shall fix the surcharge imposed pursuant to subdivision (b) of Section 40016 of the Revenue and Taxation Code, at a level sufficient to cover the commission's added costs.*

(e) Upon receiving the commission's request for review of a proposed transmission corridor zone, a city or county may request a fee pursuant to Section 25338 to cover for the actual and added costs of this review and the commission shall pay this amount to the city or county.
25335.

(a) Within 45 days of receipt of the application or motion for designation, the commission shall commence public informational hearings in the county or counties in which the proposed transmission corridor zone would be located.

(b) The purpose of the hearings shall be to do all of the following:

(1) Provide information about the proposed transmission corridor zone so that the public and interested agencies have a clear understanding of what is being proposed.

(2) Explain the relationship of the proposed transmission corridor zone to the commission's strategic plan for the state's electric transmission grid, as set forth in the most recent integrated energy policy report adopted pursuant to Chapter 4 (commencing with Section 25300).

(3) Receive initial comments about the proposed transmission corridor zone from the public and interested agencies.

(4) Solicit information on reasonable alternatives to the proposed transmission corridor zone.

25336.

(a) Within 155 days of the final informational hearing, the commission shall conduct a prehearing conference to determine the issues to be considered in hearings pursuant to this section, to identify the dates for the hearings, and to set forth filing dates for public comments and testimony from the parties and interested agencies. Within 15 days of the prehearing conference, the commission shall issue a hearing order setting forth the issues to be heard, the dates of the hearings, and the filing dates for comments and testimony.

(b) The commission shall conduct hearings pursuant to the hearing order. The purpose of the hearings shall be to receive information upon which the commission can make findings and conclusions pursuant to Section 25337.

25337.

After the conclusion of hearings conducted pursuant to Section 25336, and no later than 180 days after the date of certification of the environmental impact report prepared pursuant to Section 25332, the commission shall issue a proposed decision that contains its findings and conclusions regarding all of the following matters:

(a) Conformity of the proposed transmission corridor zone with the strategic plan adopted pursuant to Section 25324.

(b) Suitability of the proposed transmission corridor zone with respect to environmental, public health and safety, land use, economic, and transmission-system impacts.

(c) Any mitigation measures and alternatives as may be needed to protect environmental quality, public health and safety, the state's electric transmission grid, or any other relevant matter.

(d) Any other factors that the commission considers relevant.

25338. As soon as practicable after the commission designates a transmission corridor zone, it shall send a copy of its decision, including a description of the transmission corridor zone, to each affected city, county, state agency, and federal agency.

25339.

After the commission designates a transmission corridor zone, it shall identify that transmission corridor zone in its subsequent strategic plans adopted pursuant to Section 25324. The commission shall regularly review and revise its designated transmission corridor zones as necessary, but not less than once every six years. In revising designations of transportation corridor zones, the commission shall follow the procedures of this chapter. If, upon review, the commission finds that a transmission corridor zone is no longer needed, the commission shall revise or repeal the designation and, as soon as practicable, notify the affected cities, counties, and state and federal agencies.

25340.

Not more than 12 months after receiving notice from the commission regarding the designation or revision of a transmission corridor zone within its jurisdiction, each city or county shall amend its general plan pursuant to Article 6 (commencing with Section 65350) of Chapter 3 of Division 1 of Title 7 of the Government Code, to be consistent with the commission's designation or revision.

25341.

(a) Within a designated transmission corridor zone, within 10 days of accepting as complete an application pursuant to Section 65943 of the Government Code for a development project that a city or county determines would threaten the potential to construct a high-voltage

electric transmission line, the city or county shall notify the commission of the proposed development project. The notice shall include a copy of the application, and set a deadline that is not less than 60 days from the date of the notice for the commission to provide written comments to the city or county regarding the proposed development project.

(b) If the commission finds that the proposed development project would threaten the potential to construct a high-voltage electric transmission line within the designated transmission corridor zone, the commission shall provide written comments to the city or county. The commission may recommend revisions to, redesign of, or mitigation measures for the proposed development project that would eliminate or reduce the threat.

(c) The city or county shall consider the commission's comments, if any, prior to acting on the proposed development project. If the commission objects to the proposed development project, the city or county shall provide a written response that shall address in detail why it did not accept the commission's comments and recommendations.

SEC. 3.

The Legislature finds and declares that Sections 65104 and 66014 of the Government Code provide local agencies with authority to levy fees sufficient to pay for the program or level of service mandated by this act.

SEC. 4.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.