

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Order Instituting Rulemaking to Update
And Amend Commission General Order
131-D.

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**OPENING COMMENTS OF THE
CENTER FOR ENERGY EFFICIENCY AND RENEWABLE TECHNOLOGIES
ON THE ORDER INSTITUTING RULEMAKING TO
UPDATE AND AMEND COMMISSION GENERAL ORDER 131-D**

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For: CENTER FOR ENERGY EFFICIENCY AND RENEWABLE TECHNOLOGIES

June 22, 2023

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OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Update
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131-D.

Rulemaking 23-05-018
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ON THE ORDER INSTITUTING RULEMAKING TO
UPDATE AND AMEND COMMISSION GENERAL ORDER 131-D**

The Center for Energy Efficiency and Renewable Technologies (CEERT) respectfully submits these Opening Comments on the Order Instituting Rulemaking (OIR or R.) 23-05-018, with a date of issuance of May 23, 2023. The purpose of the OIR is to address updates and amendments to Commission General Order (GO) 131-D, which encompasses rules on the siting of electric transmission infrastructure in California.

These Opening Comments are timely filed and served pursuant to Rule 6.2 of the Commission’s Rules of Practice and Procedure and Ordering Paragraph 5 of R.23-05-018.¹ By filing these “comments in response to this OIR by the indicated deadlines,” CEERT also seeks confirmation of its status as a “party to the proceeding.”²

**I.
BACKGROUND**

CEERT is a nonprofit public-benefit organization founded in 1990 and based in Sacramento, California. CEERT is a partnership of major private-sector clean energy companies, environmental organizations, public health groups and environmental justice organizations. CEERT designs and fights for policies that promote global warming solutions and increased reliance on clean, renewable energy sources for California and the West. CEERT is working

¹ OIR, Ordering Paragraph 5, at p. 12.

² *Id.*, at p. 10; Commission Rules of Practice and Procedure, Rule 1.4(a)(2).

toward building a new energy economy, including cutting contributions to global warming, and reducing dependence on fossil fuels. CEERT has long advocated before the Commission for increased use of preferred resources and for California to move towards a clean energy future.

To that end, CEERT has brought its advocacy and expertise as a party to numerous other Commission proceedings, including, but not limited to, the Resource Adequacy (RA) rulemakings (R.17-09-020, R.19-11-009, and R.21-10-002), the Extreme Weather OIR (R.20-11-003), the Integrated Resources Plan (IRP) OIRs (R.16-02-007 and R. 20-05-003), and the last Commission investigation addressing the need for transmission and distribution system upgrades (Order Instituting Investigation (I.) 00-11-001). For the reasons detailed herein, CEERT intends to be an active party in this OIR to address changes or amendments to GO 131-D that can and must be promptly adopted to streamline the process of ensuring the timely addition of urgently needed transmission infrastructure to achieve this State's clean energy goals.

II. CEERT POSITION ON PRELIMINARY SCOPING MEMO IN OIR

A. OIR's Purpose and Directions to Parties.

The OIR states that its "Purpose" is to implement Senate Bill (SB) 529 (Hertzberg) (Stats.2022, Ch. 357), which added Public Utilities (PU) Code Section 564. PU Code Section 564 directs the Commission, by January 1, 2024, to update General Order 131-D to authorize the electric utilities (IOUs) to use the "permit-to-construct" (PTC) process or claim an exemption from obtaining a Certificate of Public Convenience and Necessity (CPCN) to construct an extension, expansion, upgrade or other modifications to its existing electrical transmission facilities. Notably, PU Code Section 564 further states that such changes to an existing electrical transmission facility do not require a certificate that the present or future public convenience and

necessity requires or will require its construction, as otherwise mandated by PU Code Section 1001 on which GO 131-D is based.³

According to R.23-05-018, the Commission has opened the OIR not only to update GO 131-D in compliance with Section 564, but also to “make other necessary changes”⁴ to GO 131-D. The OIR, therefore, offers two attached alternative revisions to GO 131-D, the first squarely addressing the change required by SB 529 to institute a PTC for permitting changes to existing transmission resources, but the second adding other proposed amendments, which the OIR concludes are needed to reflect changes in the process for reviewing and approving “new electric generation and transmission facilities in California.”⁵

B. Preliminary Scoping Memo Issues to be Considered and Questions for Party Comment.

Pursuant to Rule 6.2 of the Commission’s Rules of Practice and Procedure, the OIR requires Opening Comments to “state any objections to the preliminary scoping memo regarding the category for hearing, issues to be considered, or schedule.”⁶ However, the OIR also sets forth additional, related “Questions for Party Comment” in Section 6.⁷ These questions focus on the merits of two alternative amendments of GO 131-D – one that focuses on implementing the specific “permit to construct” requirements of SB 529 and the other that would additionally engage in more far reaching issues related to “cost transparency,” reporting, and the “lead agency” of requiring “discretionary permits” pursuant to the California Environmental Quality Act (CEQA), among other things.⁸

³ OIR, at pp. 2-3.

⁴ *Id.*, at p. 2.

⁵ *Id.*, at p. 3.

⁶ *Id.*, at p. 7.

⁷ *Id.*, at pp. 4-6.

⁸ *Id.*, at pp. 4-6.

Over the last several years, CEERT has become increasingly aware of the urgent need for approval and development of upgrades and additions to California’s transmission and distribution systems that have failed to materialize, but are critical to assuring system reliability and achieving a zero-carbon future for California to protect against catastrophic climate change. In response, CEERT has taken a leadership role in promoting transmission development in California, most recently supported by its joint report with Gridlab titled “Transmission in California,” published in March 2023 (CEERT-Gridlab March 2023 Transmission Report).⁹ As the CEERT-Gridlab March 2023 Transmission Report reveals, however, lengthy transmission permitting processes in California have served to delay this development far longer than any other state and, if unchanged, will make it even more difficult and costly to make up for lost time in expanding needed transmission resources.¹⁰

For these reasons, CEERT supported SB 529 and certainly welcomes the Commission opening this OIR to implement its provisions clearly aimed at expediting the process for review and approval of needed upgrades to existing transmission infrastructure. While CEERT does not object to the issues included in the “preliminary scope,” CEERT is concerned that the failure to bifurcate those issues in a manner that will first examine and implement the express directives of SB 529, including compliance with its January 1, 2024 deadline, will undermine and delay, rather than expedite, permitting of existing transmission upgrades, additions, or expansions.

To avoid that outcome, CEERT strongly recommends that the following “issue” and “question” posed by the OIR should be considered in a *first, expedited Phase 1* (to result in a

⁹ “Transmission in California”, CEERT: <https://ceert.org/wp-content/uploads/2013/pdf/Transmission-in-California.pdf>. (CEERT-Gridlab March 2023 Transmission Report). CEERT plans the launch of a second transmission report (tentatively titled “California’s Path to Decarbonization: Transmission Planning, Permitting, and Timely Construction”) on July 12, 2023.

¹⁰ CEERT-Gridlab March 2023 Transmission Report, Section 9, at pp. 26-28.

Commission decision no later than December 2023), inclusive of any needed reforms to the PTC process to ensure timely permitting, as discussed below.

Preliminary Scoping Issue “1) *What changes should be adopted to GO 131-D are necessary to confirm it to the requirements of SB 529 (Hertzberg), 2022?*”¹¹

Question for Party Comment “2) *Should the Commission adopt the proposed amendments to GO 131-D as reflected in the Attachment A version of GO 131-E [sic] that include only the modifications to GO 131-D necessary to confirm to the requirements of SB 529 (Hertzberg), 2022? Explain your response.*”¹²

Other issues or changes to GO 131-D identified by the Commission in the OIR can be considered in a later Phase 2. However, Phase 1 must be focused on promptly giving effect to the purpose of SB 529 to accelerate permitting of existing transmission modifications and additions. To do so effectively also requires a more detailed examination of the present PTC process by the Commission and its staff to be reported to all parties. This information is critical to identify what changes should be made to the PTC process itself to ensure that it is or will be an efficient and expedient means of granting these permits.

That is, the OIR does not disclose the timing that is required today for a “permit to construct” process to be completed, either on its own or in comparison to the CPCN process. That timing clearly depends on the steps required to perfect the PTC process by a developer to the point of Commission approval, including those related to (1) any environmental documentation, review, or approval; (2) the required form or venue for requesting approval; (3) identification of the developers covered by this provision (that is, utility and/or non-utility); and (4) the time each step has taken, based on evidence of PTCs over the last 5 years, to actually

¹¹ OIR, at p. 4; emphasis added.

¹² *Id.*, at p. 5; emphasis added.

complete the process. The form of that final approval by the Commission also needs to be identified since it also impacts timing.¹³

Further, it is the case, that neither alternative proposed by the OIR alters currently numbered Section IX of GO 131-D, which requires compliance with the California Environmental Quality Act (CEQA) in the case of transmission construction pursuant to *either* “a CPCN *or* permit to construct.”¹⁴ That compliance requires “a finding that it can be seen with certainty that there is no possibility that the construction of those facilities may have a significant effect on the environment or that the project is otherwise exempt from CEQA, or the adoption of a final EIR or Negative Declaration.”¹⁵

Clearly, a Commission staff report, which, based on data from the last 5 years, details each PTC requirement and the time to meet each to the point of Commission decision (whether approval or denial), will put all stakeholders in a better position to assess what additional changes *to the PTC process* are required to make it a more efficient, streamlined permitting process compared to the CPCN as intended by SB 529. While there is a list of such requirements in GO 131-D,¹⁶ there is no detail on how onerous or time-consuming complying with or providing that information can or has been as to real-world examples.

The merits of a focused Phase 1, as described, is also needed where the prospect of the OIR “adding” and considering issues unrelated to SB 529 on, e.g., cost transparency, permitting battery storage projects, lead agency responsibility for discretionary permits, and other reporting changes, will only further delay resolution of the key questions regarding the PTC process itself.

¹³ As an example, if a Commission decision or formal resolution are required, a 30 day comment period would have to precede any action by the Commission to vote out that approval at a noticed CPUC Business Meeting. (Commission Rules of Practice and Procedure, Article 14.)

¹⁴ GO 131-D, Section IX; emphasis added.

¹⁵ *Id.*

¹⁶ *Id.*, Appendix A.

These “added” issues were also not among the stated goals or requirements of SB 529, and, again, clearly can be addressed in a later Phase 2 of this OIR. However, inclusion of those issues in the process of implementing SB 529 should not be undertaken where they could serve to distract or delay the resolution of the pressing issue of effecting an efficient and timely PTC process for existing transmission changes, especially by January 1, 2024.

CEERT is also not alone in highlighting the urgency of a timely transmission permitting process. In signing out the OIR on May 18, 2023, the Commissioners’ comments confirmed the need and urgency for expanding the transmission system to meet this State’s electrification, reliability, and climate goals and the “important role” that is to be played by this OIR in doing so.¹⁷

However, if that is the case, the shift in focus of this proceeding to implementing an effective, streamlined PTC process, consistent with SB 529, in a first Phase 1 is paramount and immediate, as has been demonstrated repeatedly by the California Independent System Operator (CAISO) and other reports. Specifically, on the same day the Commission signed out this OIR, the CAISO adopted its 2022-2023 Transmission Plan using this Commission’s base case policy and reliability resource portfolio to guide the determination of transmission need. The Transmission Plan identified 45 projects that need to be built for reliability and policy reasons. An additional two projects are still under consideration for possible adoption at a later date this year.¹⁸

Thirty-nine transmission projects recommended in the CAISO 2022-2023 Transmission Plan will be managed by Commission-regulated IOUs and should be subject to the Permit to

¹⁷ See, Comments by Commission President Reynolds, Commissioner Douglas, and Commissioner Houck at Commission Business Meeting (May 18, 2023), Agenda Item 45.

¹⁸ See: <https://stakeholdercenter.caiso.com/RecurringStakeholderProcesses/2022-2023-Transmission-planning-process> .

Construct process. Following is a list of the recommended reliability-drive and policy-driven projects that are upgrades to the existing transmission system and are located on properties owned by California’s IOUs:¹⁹

Reliability-Driven Transmission Projects

- Banta ring bus – PG&E
- Metcalf 230/115 kV Transformers Circuit Breaker Addition – PG&E
- South Bay Area Limiting Elements Upgrade – PG&E
- Barre 230 kV Switchrack Conversion to Breaker-and-a-Half -SCE
- Mira Loma 500 kV Circuit Breaker Upgrade -SCE
- Garberville area reinforcement project -PG&E
- Tulucay-Napa #2 60 kV line reconductoring project – PG&E
- Santa Rosa 115 kV lines reconductoring project – PG&E
- Tesla 115 kV Bus Reconfiguration Project – PG&E
- Lone Tree – Cayetano – Newark Corridor Series Compensation - PG&E
- Los Banos 70 kV Area Reinforcement Project – PG&E
- Redwood City Area 115 kV System Reinforcement – PG&E
- Pittsburg 115 kV Bus Reactor project – PG&E
- Los Banos 230 kV Circuit Breaker Replacement – PG&E
- Panoche 115 kV Circuit Breaker Replacement and 230 kV Bus Upgrade project – PG&E
- North East Kern 115 kV Line Reconductoring Project – PG&E
- Mesa Spare Transformer Installation – PG&E
- Coolwater 1A 230/115 kV Bank Project – SCE
- Control 115 kV Shunt Reactor - SCE
- Serrano 4AA 500/230 kV Transformer Bank Addition – SCE
- Sylmar Transformer Replacement – SCE
- Antelope-Whirlwind 500 kV Line Upgrade Project – SCE
- Miguel-Sycamore Canyon 230 kV line Loop-in to Suncrest Project – SDG&E

¹⁹ Descriptions of the projects can be found in Appendix H to the CAISO 2022-2023 Transmission Plan

Policy-Driven Transmission Projects

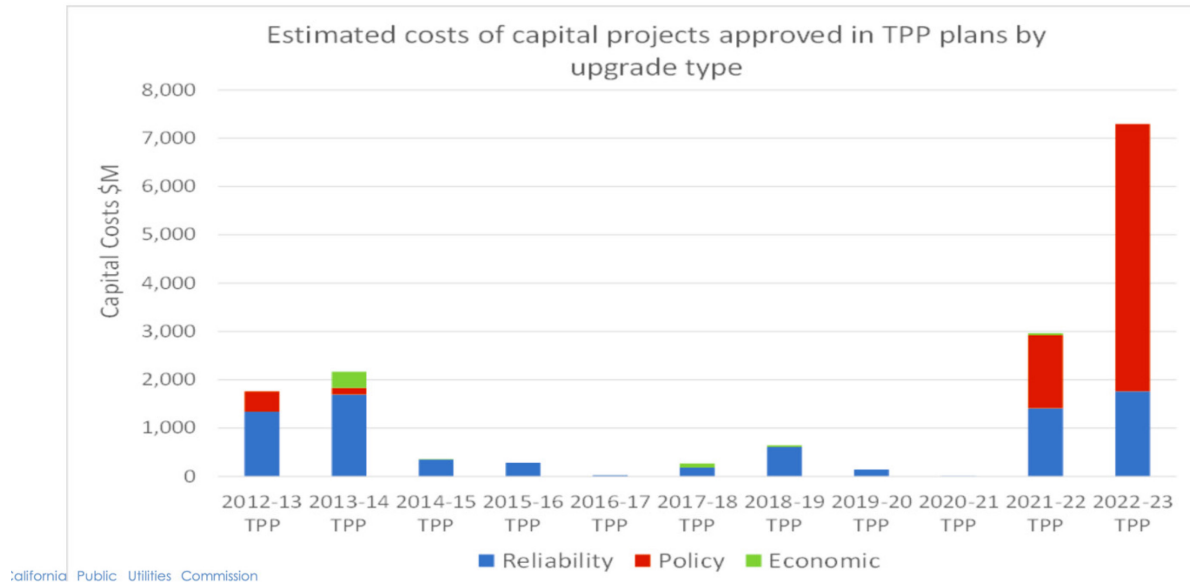
- Borden-Storey 230 kV 1 and 2 Line Reconductoring – PG&E
- Henrietta 230/115 kV Bank 3 Replacement – PG&E
- Lugo–Victor–Kramer 230 kV Upgrade - SCE
- Colorado River-Red Bluff 500 kV 1 Line Upgrade – SCE
- Devers-Red Bluff 500 kV 1 and 2 Line Upgrade – SCE
- Devers-Valley 500 kV 1 Line Upgrade- SCE
- Serrano-Alberhill-Valley 500 kV 1 Line Upgrade – SCE
- San Bernardino-Etiwanda 230 kV 1 Line Upgrade – SCE
- San Bernardino-Vista 230 kV 1 Line Upgrade – SCE
- Vista-Etiwanda 230 kV 1 Line Upgrade - SCE
- Mira Loma-Mesa 500 kV Underground Third Cable - SCE
- Serrano–Del Amo–Mesa 500 kV Transmission Reinforcement – SCE
- Rearrange TL23013 PQ-OT and TL6959 PQ-Mira Sorrento – SDG&E
- Reconductor TL680C San Marcos-Melrose Tap – SDG&E
- 3 ohm series reactor on Sycamore-Penasquitos 230 kV line – SDG&E
- Upgrade TL 13820 Sycamore-Chicarita 138 kV – SDG&E

Three larger projects will be competitively bid by the CAISO and contracts awarded to project developers in 2024 and may also be subject to Commission review. These projects are: (1) the Imperial Valley – North of SONGS 500 kV line and substation, (2) the North of SONGS – Serrano 500 kV line, and (3) the North Gila – Imperial Valley 500 kV line.

The 39 reliability-driven and policy-driven transmission projects listed above will need to be permitted by the Commission. The amount of work that this will entail will represent a significant step up from permitting work required in preceding years. Table 1 below, presented by the Commission’s Energy Division at a California Energy Commission (CEC) AB 525 Workshop on May 25, 2023, demonstrates the magnitude of the task ahead in comparison to previous years.

TABLE 1

CAISO-approved Transmission 2013 -2023



The challenge the Commission has faced in managing transmission permitting has also been highlighted in a report prepared by the Clean Air Task Force (CATF) and summarized in a recent blog.²⁰ The CATF reviewed and compared transmission project approval timelines across ten western states, including California. The CATF found that the Commission’s 19-month timeline for a CPCN was the longest duration of any of the Western states and noted that the Commission can delay a project’s permitting decision indefinitely. In contrast, in Arizona and Colorado, the failure of those state’s Public Utilities Commissions to meet a specified deadline results in project approval and the issuance of a permit. The CATF table below (Table 2) presents the permitting timelines for the ten western states.

²⁰ See: Clean Air Task Force, California’s transmission permitting: Slowest in the West?, May 30, 2023. www.catf.us/2023/05/californias-transmission-permitting-slowest-in-the-west/

TABLE 2

Western State CPCN Statutory and Reported Permitting Timelines

STATE	TOTAL PROCESSING TIME	EXPEDITED PERMITTING	PUC FAILURE TO MEET DEADLINES
ARIZONA	8 months	No	Applicant may proceed with construction
COLORADO	8 months	No	Applicant may proceed with construction
IDAHO	2 months	No	Unclear
MONTANA	10 months	Yes	No consequence
NEVADA	5 months	No	Unclear
NEW MEXICO	11 months	No	6-month extension
OREGON	6 months	No	No consequence
UTAH	2 months	No	Unclear
WASHINGTON	14 months	Yes	Unclear
WYOMING	Indeterminate	No	Unclear
CALIFORNIA	19 months	No	No consequence

Clearly, the intent of SB 529 is to promptly provide a remedy for the current lengthy delays in approving upgrades and expansion of existing transmission projects by requiring a PTC process in place of what may be assumed to be a lengthier CPCN permitting timelines. That assumption regarding the CPCN, however, can only be demonstrated by providing more information about how the PTC has actually worked. In turn, the goal of SB 529 can only be realized if the Commission adopts an expedited Phase 1 of this OIR that addresses and resolves two issues only: (1) What changes are required to be adopted to GO 131-D to comply with SB 529, and (2) what changes can be adopted to the Petition to Construct (PTC) process in GO 131-

D to expedite approval of permitting of existing transmission infrastructure pursuant to that process. Again, that second issue requires the Commission and its Staff to immediately report on (1) the documentation, including required environmental documentation and approval, required for issuance of a PTC permit and (2) the time required to submit and review such documentation through Commission approval of transmission infrastructure pursuant to the PTC process based on PTCs sought over the last 5 years. While the table above examined CPCN timelines, all parties need to be apprised as to whether and if the PTC process has operated any faster and what changes or reforms can be undertaken to ensure that it is more expedient than the CPCN process.

Further, simply requiring a PTC versus CPCN process may not fully remedy the delays that have been encountered previously in the permitting process. The PTC process can also involve redundant transmission power flow and production cost studies that have already been carried out by the CAISO when a no-project alternative under CEQA is evaluated. Clearly, such duplication must be avoided and certainly further underscores the need for a report by the Commission, available to all parties, which provides a detailed evaluation of the reasons for previous delays in permitting transmission projects. Finally, in undertaking that report, the Commission and its staff should develop a regular reporting mechanism and clear dashboard to oversee the permitting of the 45 transmission projects approved by the CAISO.

Again, as to CEERT's recommendation that other issues identified in the OIR should be considered in a Phase 2, such as additional cost transparency, the Commission should recognize that the delays in the design and construction schedule of needed transmission projects both increases costs and undermines reliability and achievement of State policies. Further, even before the launch of CEERT's recommended Phase 2, the Commission can begin now to work closely with the CAISO to improve the quarterly Transmission Development Forum that is co-

sponsored by the CAISO and the Commission. Since the costs of these transmission projects are subject to review by the Federal Energy Regulatory Commission (FERC), such cooperation is more likely to result in better cost controls.

**III.
CEERT COMMENTS ON CATEGORY, NEED FOR HEARING, AND SCHEDULE**

CEERT does not object to the preliminary determinations regarding category or need for hearing, but certainly does recommend a change in the schedule consistent with its Comments above, in particular, the need for expedited Phased 1 on the PTC process. To that end, CEERT recommends the following schedule for its proposed Phase 1. Given that almost 5 months had passed from the time SB 529 became law and this OIR was issued, CEERT asks that this proposed Phase 1 schedule be adopted promptly to provide for the input on and resolution of needed revisions to GO 131-D consistent with that law before January 1, 2024..

**PHASE 1 SCHEDULE:
*Revision of GO 131-D Required by SB 529 & PTC Reform***

EVENT	DATE
Report Served by Commission Staff on Current Reporting Requirements and Timing for Approval of Existing Transmission Infrastructure Pursuant to Permit to Construct (PTC) Process and Proposed Dashboard for Tracking 45 Transmission Projects Approved by CAISO to Service List in OIR	August 1, 2023
Comments on Commission Staff August 1, 2023 Report and Proposed Reforms of the GO 131-D PTC Process, Including Proposed Revisions to Implement SB 529.	August 22, 2023
Reply Comments on Commission Staff August 1, 2023 Report and Proposed Reforms of the GO 131-D PTC Process, Including Proposed Revisions to Implement SB 529.	September 5, 2023
Opening Briefs on Amendments to GO 131-D to Implement SB 529 and Adopt Reforms to PTC Process	September 19, 2023
Reply Briefs on Amendments to GO 131-D to Implement SB 529 and Adopt Reforms to PTC Process	October 3, 2023
Phase 1 Proposed Decision Mailed	November 13, 2023
Phase 1 Final Commission Decision	December 14, 2023

Phase 2, to address all other issues identified in the OIR, should commence following the issuance of the final Phase 1 Decision. CEERT does not recommend the concurrent running of Phase 1 and Phase 2, such a circumstance will only delay a decision on the Phase 1 issues.

**IV.
CONFIRMATION OF PARTY STATUS**

Pursuant to Rule 1.4(a)(2) and R.23-05-018, by filing these “comments in response to this OIR by the indicated deadlines,” CEERT also seeks confirmation of its status as a “party to the proceeding.”²¹ CEERT, therefore, requests “party status” and inclusion on the service list of R.23-05-018 as a party as follows:

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**V.
CONCLUSION**

CEERT appreciates the Commission’s consideration and the opportunity to provide Opening Comments on the OIR. CEERT strongly urges the Commission to adopt the above issues, requirements, and schedule for Phase 1 as proposed herein by CEERT.

Dated: June 22, 2023

Respectfully submitted,

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²¹ OIR, at p. 10; Commission Rules of Practice and Procedure, Rule 1.4(a)(2).