

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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**REPLY 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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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Update
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131-D.

Rulemaking 23-05-018
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**REPLY COMMENTS OF THE
CENTER FOR ENERGY EFFICIENCY AND RENEWABLE TECHNOLOGIES
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 Reply Comments on the Order Instituting Rulemaking (OIR or R.) 23-05-018, the purpose of which 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 Reply 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

I.

MULTIPLE PARTIES SHARE CEERT’S POSITION THAT IMPLEMENTATION OF SB 529, AS WRITTEN AND INTENDED, MUST BE PRIORITIZED AND IMPLEMENTED BASED ON AN INFORMED SCOPE AND EXPEDITED SCHEDULE.

A. Prioritization of SB 529 Implementation by January 1, 2024 Is Required.

As stated in CEERT’s Opening Comments, the issues and questions posed by the OIR relate to the merits of two alternative amendments of GO 131-D – one that focuses on implementing the specific “permit to construct” (PTC) 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” for “discretionary permits” pursuant to the California Environmental

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

Quality Act (CEQA), among other things.² Multiple parties commenting on the OIR, including CEERT, have strongly recommended that the Commission must first prioritize the implementation of SB 529, as written and intended, with a decision to be issued no later than December 2023 to comply with the SB 529 deadline of January 1, 2024.³

To that end, CEERT, similar to the comments of other parties, has urged the Commission to amend the OIR’s preliminary scope and schedule to first implement the express directives and purpose of SB 529 in a Phase or Track 1, with the other issues identified by the OIR to follow in a Phase or Track 2.⁴ This approach, with the inclusion in Phase 1 of the issue of “how to streamline the GO 131-D review and approval process,” as recommended by Southern California Edison Company (SCE) and consistent with CEERT’s comments, is required to yield SB 529’s intended expedited and streamlined permitting process that is essential for the timely addition of already identified transmission projects urgently needed for reliability and for the State to meet its clean energy goals.⁵

B. Implementation of SB 529 Must Not Result in Revisions to GO 131-D that Conflict with Its Terms and Purpose, But Must Instead Yield Streamlined Permitting Processes.

In their Opening Comments on the OIR, the Utilities (SCE, Pacific Gas and Electric Company (PG&E), San Diego Gas and Electric Company (SDG&E)) and the California Independent System Operator (CAISO) have provided significant information and direct

² OIR, at pp. 4-6.

³ Southern California Edison Company (SCE) OIR Opening Comments, at pp. 1-3, 6-8; California Independent System Operator Corporation (CAISO) OIR Opening Comments, at pp. 3-5; Environmental Defense Fund (EDF) OIR Opening Comments, at pp. 2-3; Independent Energy Producers Association (IEP) OIR Opening Comments, at pp. 1-4; Large-Scale Solar Association (LSA) OIR Opening Comments, at pp. 3-5; REV Renewables, LLC (REV) OIR Opening Comments, at pp. 2-3; City of Long Beach (Port of Long Beach) OIR Opening Comments, at pp. 1, 4, 6.

⁴ See, e.g., EDF OIR Opening Comments, at pp. 2-3; IEP OIR Opening Comments, at pp. 1-4; LSA OIR Opening Comments, at pp. 3-5; REV OIR Opening Comments, at pp. 2-3; Port of Long Beach OIR Opening Comments, at pp. 1, 4, 6.

⁵ SCE OIR Opening Comments, at p. 5; CEERT OIR Opening Comments, at pp. 11-12.

experience with GO 131-D that underscore the need to promptly focus first on the implementation of SB 529 and to do so in a manner that is consistent with that law’s directives and intent.⁶ Thus, SDG&E and PG&E, with that background, demonstrate that the purpose of SB 529 to expedite electric transmission projects is not achieved by the OIR or any of its attachments and, worse, include provisions that “squarely conflict” with that goal by imposing additional delay and undue burden on transmission projects⁷ and “greatly complicate, delay, and increase the cost of permitting for many thousands of projects.”⁸ According to SDG&E, examples of how that burden and delay is created by the OIR include the Commission’s proposals that would eliminate an existing PTC exemption, expand PTC application requirements, impose other process requirements, and narrow the applicability of SB 529 to existing “operational” transmission facilities, among other things.⁹ PG&E, along with the American Clean Power Association-California (ACP-California), are particularly critical of the Commission’s proposed elimination of the “long-standing exemption in Section III.B [of GO 131-D] for projects that would be categorically or statutorily exempt under CEQA Guidelines” and wrongly “add a new CPUC approval requirement for literally tens of thousands of routine maintenance projects as well as emergency projects...”¹⁰

Instead, these parties, along with SCE, CAISO, and CEERT, urge the Commission to focus on adopting “definitions, additional PTC exemptions, and procedures to expedite electric transmission projects,” including reducing duplication in environmental documentation and the

⁶ SCE OIR Opening Comments, at pp.4-22; Appendix A; PG&E OIR Opening Comments, at pp. 3-23 (and related attachments); SDG&E OIR Opening Comments, at pp. 1-48 (and related attachments); CAISO OIR Opening Comments, at pp. 1-6.

⁷ SDG&E OIR Opening Comments, at p. 4.

⁸ PG&E OIR Opening Comments, at p. 1.

⁹ SDG&E OIR Opening Comments, at p. 4.

¹⁰ PG&E OIR Opening Comments, at pp. 2, 9, 11; *see also*, ACP-California OIR Opening Comments, at pp. 2-4.

permitting process.¹¹ In particular, the CAISO’s thorough Transmission Planning Process (TPP), which evaluates the need for, and alternatives to, specific transmission facilities, does not need to be repeated or revisited by the Commission in its permitting process.¹²

Clearly, it is critical for the Commission to implement SB 529, as written and intended to accelerate, not create delays, in the Commission’s permitting process for existing transmission projects and to achieve that outcome by the timeline required by SB 529 (January 1, 2024). To do that, CEERT strongly supports SCE’s recommendation that the scope of the Commission’s implementation of SB 529 must not only adhere to its provisions, but must also “include a specific additional issue: how to streamline the GO 131-D review and approval process.”¹³ CEERT further agrees with SCE that the failure to do so is contrary to a primary purpose of the OIR, as well as SB 529.¹⁴

In support of this recommendation, SCE references concerns that were also raised by CEERT and other parties as follows:

“The potential exclusion of this issue from the OIR’s scope is especially concerning given that the [CAISO] in its Draft 2022-2023 [TPP] has identified 46 transmission projects that need to come online in the next eight to ten years in order to meet not only reliability and resiliency goals, but also ... ambitious green energy mandates....[¶] Given the expected increase in energy infrastructure projects that need to be licensed in the coming years, the Commission should focus on identify ways to increase the efficiency and expediency of the licensing process.”¹⁵

In addressing these facts, CEERT in its Opening Comments recommended that the Commission issue a report at the outset of CEERT’s proposed Phase 1 that would provide

¹¹ SDG&E OIR Opening Comments, at pp. 4-5, 35, 40-45; PG&E OIR Opening Comments, at p. 15; SCE OIR Opening Comments, at pp. 5-6, 20; CAISO OIR Opening Comments, at p. 4; CEERT OIR Opening Comments, at p. 7-9, 12;.

¹² *Id.*

¹³ SCE OIR Opening Comments, at pp. 5-6.

¹⁴ *Id.*

¹⁵ *Id.*

information on how “efficient” the current PTC-CPCN permitting processes actually are and have been to better inform party proposals that could focus on removing barriers and streamlining those processes.¹⁶ For that reason, CEERT was very appreciative of SCE beginning that informational process by including in its OIR Comments “an analysis of 28 CPCN and PTC applications – filed within the past two decades – that demonstrate, among other things: (1) such applications are seldom reviewed and approved within timelines contemplated by GO 131-D and CEQA; and (2) the review and approval timeline has steadily lengthened in recent years.”¹⁷

Where the focus of SCE’s analysis is on its own applications, it is that information that should be provided by the Commission for all of the Utilities, again at the outset of CEERT’s proposed Phase 1. Such information can inform proposals that, as SCE states, will recognize “the time it takes to review and approve licensing applications and prioritize the immediate need to streamline the licensing application review and approval process by removing burdensome impediments and barriers that stand in the way of California achieving its clean energy goals.”¹⁸

In this regard, the information also provided by CAISO in its OIR Comments points to the work and analysis that its TPP process offers to support streamlining the Commission’s permitting process. Thus, through its TPP, as an example, “there has been extensive vetting and analysis of the project,” with “extensive up-front work, including an analysis of alternatives,” all with “stakeholder engagement.”¹⁹ In turn, as stated by CAISO, this Commission “has the opportunity to expedite the permitting process by leveraging the work already completed” and, in

¹⁶ CEERT OIR Opening Comments, at pp. 5-6; 11-12

¹⁷ SCE OIR Opening Comments, at p. 6; Appendix A.

¹⁸ *Id.*, at p. 6.

¹⁹ CAISO OIR Opening Comments, at p. 4.

this OIR, “consider new strategies” to expedite its process and amend those “that may slow this process down.”²⁰

II. REVISED CEERT PROPOSED COMMISSION REPORT

As CEERT’s Opening Comments on the OIR demonstrated, more information must be provided to all parties and stakeholders to inform streamlining proposals for amending GO 131-D permitting processes consistent with SB 529. While stated in a slightly different manner than SCE in its OIR Comments, CEERT agrees with SCE that the OIR Scoping Memo should be amended to include the additional issue of “how to streamline the GO 131-D review and approval process.”²¹

To that end, CEERT had recommended that the Commission and its Staff should “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.”²² However, based on a review of SCE’s Comments and its attached Appendix A that details the Commission’s permitting process over the last 20 years, it is CEERT’s opinion that SCE’s Appendix A provides the best structure and timeframe for providing information needed to inform proposals for streamlining the GO 131-D permitting processes.

For that reason, CEERT revises its proposed Phase 1 schedule regarding the content of that report, but without changing any dates to ensure complying with the SB 529 deadline, as follows in bold and bold strike-through:

²⁰ CAISO OIR Opening Comments, at p. 4.

²¹ SCE OIR Opening Comments, at p. 5.

²² CEERT OIR Opening Comments, at p. 12.

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

EVENT	DATE
Report Served and Filed by Commission Staff on Current CPCN and PTC Reporting Filing and Data Requirements and Timing for Approval of Existing Transmission Infrastructure Pursuant to Permit to Construct (PTC) Process CPUC Approval Timeframe for All Utility Transmission Projects 2003-2023 and Proposed Dashboard for Tracking 45 Transmission Projects Approved by CAISO 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

**III.
CONCLUSION**

The Opening OIR Comments offered by a broad range of parties, including CEERT, demonstrate the urgent need for the Commission to revise its proposed scope and schedule for the OIR to first consider implementation of SB 529 in an expedited Phase 1, which would include the issue of how to streamline the GO 131-D permitting processes in doing so. CEERT believes that its proposed Phase 1 schedule achieves this outcome, will provide critical information to all stakeholders to inform their proposals for streamlining the permitting process, and, in turn, continues to recommend its adoption for all of the reasons stated here and in its

Opening Comments, as amended above for the Commission's report applicable to all of the Utilities and consistent with Appendix A of SCE's Opening Comments on the OIR.

Dated: July 7, 2023

Respectfully submitted,

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