



**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.

R.23-05-018

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) OPENING COMMENTS
ON THE RULING INVITING COMMENT ON PHASE 2 ISSUES

ROBERT PONTELLE
JON PARKER

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, California 91770
Telephone: (626) 302-7741
E-mail: Jon.Parker@sce.com

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I.

INTRODUCTION

In accordance with the instructions accompanying the Administrative Law Judges’ Ruling Inviting Comment on Phase 2 Issues issued on December 18, 2023 in the above captioned proceeding (“December 2023 Ruling”), Southern California Edison Company (“SCE”) hereby submits the following opening comments addressing issues and questions identified within the December 2023 Ruling.

II.

DEFINITION OF “EXISTING ELECTRICAL TRANSMISSION FACILITIES”

SCE appreciates and supports the California Public Utilities Commission’s (“CPUC’s” or “Commission’s”) adoption of Commission Decision Addressing Phase 1 Issues (“Phase 1 Decision”), which incorporates the Legislature’s direction to provide utilities with a choice in compliance options in accordance with Senate Bill 529, codified at Public Utilities Code section 564 (collectively, “SB 529/PUC 564”) with respect to changes to existing electrical transmission facilities (*i.e.*, the choice to pursue permitting requirements, or make use of applicable exclusions

or exemptions, under either Section III.A or III.B of General Order (“GO”) 131-D). The Phase I Decision includes modification of GO 131-D III.A to reflect these compliance options.¹

To further implement the Legislature’s directive, the December 2023 Ruling asks what definition, if any, the Commission should adopt for the term “existing electrical transmission facilities.”² SCE recommends that a clear, straightforward definition of the term “existing electrical transmission facilities” specifically and only for purposes of the process set forth in SB 529/PUC 564 is warranted. To that end, SCE suggests the following definition:

“Any electrical infrastructure designed for operation at voltage levels above 50 kV that has already been constructed or installed, regardless of whether currently in operation.”³

This definition acknowledges that electrical transmission “facilities” should include all types of infrastructure used for the conveyance of electricity, and infrastructure to support the reliable conveyance of electricity, at voltages above the 50 kV (or “distribution”) level, including but not limited to conductors, transformers, supporting structures, buildings and other utility equipment currently in place.

The next aspect of this definition is that the facilities are “existing.” To wit, all that matters is that they exist, and nothing more should be required. In particular, whether the existing facilities at issue were constructed pursuant to a Commission decision and whether they are currently operational are both immaterial to the fact that the facilities nonetheless exist. First, as previously articulated within SCE’s *Opening Comments to the Proposed Decision of Commissioner Douglas on Phase I of the Order Instituting Rulemaking to Update and Amend Commission General Order 131-D* (“Proposed Decision Opening Comments”), any suggestion that the use of the streamlined process set forth in SB 529/PUC 564 should be limited to facilities previously approved pursuant

¹ See Phase 1 Decision, at p. 8.

² December 2023 Ruling, at p. 1.

³ Alternatively, to accomplish the same purpose but also to add as much clarity as possible to the revised GO, SCE suggests the following revisions to GO 131-D, Section III.A to confirm that any definition of “existing electrical transmission facilities” applies to all existing facilities at voltage levels above 50 kV:

to an affirmative Commission decision would add an unnecessary and arbitrary layer of review and potential confusion, particularly because many existing facilities were constructed prior to Commission issuance of GO 131-D or were exempt from permitting under GO 131-D.⁴ Nothing in SB 529/PUC 564 references any such requirement, and establishing such a condition would unduly narrow the reach of the new law and undermine its intended purpose.

Likewise, nothing in the new legislation suggests that the facilities must actually be in operation. In fact, utilities could and should propose projects to modify or otherwise replace facilities that have been removed from operation (even if only temporarily) for good reasons, including but not limited to the age or structural integrity of the facilities. It would be unreasonable to penalize utilities for modernizing or improving the grid simply because facilities had been prudently taken out of service pending regulatory approval or construction of new facilities. The Commission correctly rejected proposals to limit the application of SB 529 to existing *operational* transmission facilities in Phase 1 of this proceeding,⁵ and it should again reject any similar proposals during Phase 2.

The next aspect of this definition deals with the term “transmission.” SCE interprets this issue to refer to the voltage level of the existing facilities, and the December 2023 Ruling specifically asks for input regarding whether certain types of electrical infrastructure modifications (based on voltage) should qualify for the permitting processes authorized in SB 529/PUC 564.⁶

⁴ See Proposed Decision Opening Comments, at pp. 5-6 (“The intent of “authorized” is unclear and would unnecessarily hinder the intended review and approval process contemplated under SB 529. For example, “authorized” could be interpreted to only allow SB 529 procedure to apply to facilities that already have a CPCN issued by the CPUC. However, many transmission facilities were constructed prior to Commission issuance of GO 131 and therefore would not be associated with a permit, even though modifications and upgrades to these facilities were contemplated under SB 529.”)

⁵ Decision (“D.”) 23-12-035, at pp. 8-9.

⁶ Namely, the December 2023 Ruling directs parties to explain whether: (a) “modification of a facility below 50 kilovolts (kV) to a 200 kV facility should qualify for the permitting processes authorized in the statute;” (b) “whether modification of a facility between 50 kV and 200 kV to a 500 kV facility should qualify for the permitting processes authorized in the statute;” or (c) “whether the permitting processes authorized in the statute should only apply to modifications to ‘transmission lines’ as defined in Section I of General Order 131-D (for instance, modifying a 200 kV line to 500 kV).”

In this context, the Legislature’s use of the term “transmission” is key; facilities designed to operate below 50 kV are “distribution” facilities, not “transmission” facilities.⁷ In contrast, SCE is not aware of any further *legislative* distinction between types of “transmission” line facilities (*i.e.*, those that are above 50 kV); the statutes in Public Utilities Code section 1001 *et seq.* seem to include all such facilities within the definition of “transmission” facilities.⁸ In addition, nothing in SB 529/PUC 564 limits the type of existing transmission facilities that could be extended, expanded, upgraded, or modified to only those facilities that are already above a certain level (such as 200 kV). For example, nothing in SB 529/PUC 564 suggests that a utility would *not* have the option to file a Permit to Construct (“PTC”) for a 115 kV facility being upgraded to a 200 kV facility, even though it *would* have the option to file a PTC for a 220 kV facility being upgraded to a 500 kV facility. For these reasons, SCE believes that all projects that modify existing above-50 kV facilities would qualify for the permitting process in SB 529/PUC 564 (regardless of the new facility voltage), but those projects that modify existing facilities that are below 50 kV would not. As shown in the summary chart below, the determinative factor should be whether the *existing* facility is above or below 50 kV:

Electrical Infrastructure Modification	Qualification for Permitting Processes Authorized in SB 529/PUC 564
The modification of a facility below 50 kV to a 200 kV facility.	No.
The modification of a facility between 50 kV and 200 kV to a 500 kV facility.	Yes.
The modification of a 200 kV line to 500 kV line.	Yes.

⁷ See, e.g., Pub. Util. Code § 9510.5 (distinguishing between utility poles used for “transmission of electricity at 50 kilovolts or higher” from those used for “distribution” electricity at lower voltages).

⁸ In contrast, the Commission’s 1994 adoption of GO 131-D delineated among “transmission” lines and “power” lines for licensing purposes, but that distinction is not reflected anywhere in SB 529, or to SCE’s knowledge, in any other legislation. (See GO 131-D, § I.)

III.

DEFINITIONS FOR OTHER TERMS USED IN SB 529/PUC 564 AND GO 131-D

The December 2023 Ruling next asks what definitions the Commission should adopt for several terms set forth in SB 529/PUC 564 (*i.e.*, “expansion,” “extension,” “upgrade” and “modification”) as well as other terms that already appear in GO 131-D (*i.e.*, “equivalent facilities or structures” and “accessories”), and asks for examples of potentially qualifying projects for each included term. SCE’s suggested definitions, along with relevant examples, are set forth in this section. In all instances, SCE further recommends that the Commission include language to confirm that any definitions added to the GO pursuant to SB 529/PUC 564 are only applicable to revised Section III.A. In addition, SCE notes that the SB 529/PUC 564 terms overlap in many cases; in fact, many projects would qualify for the permit streamlining benefits of SB 529/PUC 564 for multiple reasons and under multiple definitions. Regardless of the label used, the utility should be authorized to pursue a PTC (or applicable exemption) for such projects. Similarly, some of those projects would also qualify for exclusions and exemptions within GO 131-D, including those related to “equivalent facilities or structures” or placing of “accessories.”

A. Expansion

SCE interprets an “expansion” to be an increase in size. SCE therefore recommends the following provision be applied for the term “expansion” (as used in Section 564 and Section III.A of GO 131-D):

A project that results in longer, larger or additional facilities or right-of-way.

Examples of the type of project that would qualify as an “expansion” for purposes of this provision include:

- A substation expansion where additional equipment (such as a switchrack, transformer banks, and/or poles/towers and their supporting conductors) would be located outside the existing property boundary, and where associated transmission line work would otherwise be subject to the Certificate of Public Convenience and Necessity (“CPCN”)

provisions of Section III.A. if not also covered within the definition of “extension” as recommended below.

- Installation of a new 220 kV or 500 kV transmission line project within, and/or at locations adjacent to, an existing ROW containing transmission facilities, resulting in an enlargement of the ROW.
- A project that involves reconductoring that results in the replacement and/or addition of larger or more robust structures.

In addition to meeting the statutory purpose of SB 529/PUC 564 (*i.e.*, facilitating development of transmission infrastructure to help achieve California’s clean energy goals), this definition of expansion would incentivize utilities to add facilities in or near areas already being used for utility purposes, consistent with existing public policy directives to maximize and/or expand the use of the existing ROW to the extent practicable.²

B. Extension

The term “extension” means, among other things: “a part constituting an addition” and “a section or line segment forming an additional length.”¹⁰ Both of these meanings are instructive with respect to utility projects. Therefore, SCE recommends the following definition be adopted for the term “extension” (as used in Section 564 and Section III.A of GO 131-D):

Major transmission line construction that results in additional or longer over-200 kV lines to connect to a new or different substation, generation source or large end user.

Examples of such extensions would include:

- A new substation (such as a collector station for new renewable generation) accompanied by a “loop-in” (*i.e.*, separation of an existing 220 kV line at two internal

² See SB 2431 (Stats. 1988, Ch. 1457, the “Garamendi Principles”), which set forth the State’s preferences for: (a) using existing ROWs by upgrading existing transmission facilities where technically and economically justifiable; and (b) encouraging the expansion of existing ROWs when construction of new transmission lines is required, where technically and economically feasible.

¹⁰ See, e.g., <https://www.merriam-webster.com/dictionary/extension>.

points, with connections from each point into the substation, resulting in two new line segments).

- Construction of a major 220 kV transmission line from an existing substation (as well as additional work within the substation) to connect to a generation facility or a 220 kV generation tie-line segment constructed by an independent renewable generator or other transmission provider.
- Construction of a radial major 220 kV transmission line from an existing substation to a large single load source.

C. **Upgrade**

SCE believes that “upgrades” are projects that improve or increase the power transfer capability of transmission facilities, including improvements associated with increases in voltage. SCE recommends the following definition be adopted for the term “upgrade” (as used in Section 564 and Section III.A of GO 131-D):

A change to, or alteration of, existing transmission line structures, conductors, substation equipment, and/or other facilities that results in a voltage increase, a power transfer increase, or both.

An upgrade may result in the complete replacement of structures, conductors, substation equipment, and/or other facilities, and could include installation of interset structures. Examples of such projects include:

- Installation of new mid-line series capacitors on a transmission line, coupled with increases to existing structure heights and the addition of new structural components and new equipment, all to support an increase in the power transfer capability of the transmission lines.
- Reconductoring of existing lines to utilize conductors with greater power transfer capability and/or increased voltage levels, where the reconductoring requires additional or larger structures.

- Construction of a new 220/115 kV substation and a corresponding loop-in of an existing 115 kV transmission line for the purpose of increasing the operating voltage of the 115 kV transmission line to 220 kV.¹¹
- Replacing existing 66 kV, 115 kV or 220 kV lines with 220 kV or 500 kV lines, *e.g.*, to support generation interconnections and the transmission of electrical power from current and future renewable generation resources.
- Installing additional conductor(s) that results in the replacement and/or addition of larger or more robust structures.

D. Modification

SCE recommends the following definition be adopted for the term “modification” (as used in Section 564 and Section III.A of GO 131-D):

A change to, or alteration of, existing structures, conductors and/or other transmission facilities, whether or not also constituting an expansion, extension or upgrade.

This definition could apply to projects involving changes to existing structures, conductors, and/or other facilities for stability, clearance, or other purposes. Examples of such projects include:

- Projects to bring existing line facilities into compliance with physical clearance standards while maintaining the existing line ratings for the affected circuits. Such work may involve alterations to existing 500 kV or 220 kV transmission lines, and could include reconductoring and/or installation of interset structures at various locations.

¹¹ Such an upgrade could be useful to support generation interconnections, increase system strength, and facilitate the transmission of higher-voltage electrical power from renewable generation resources.

- Increasing structure heights of 500 kV or 220 kV transmission towers to eliminate physical clearance discrepancies and ensure consistency with North American Electric Reliability Corporation compliance requirements.
- Reconductoring of an existing 220 kV transmission line with equivalent facilities or structures that is located in mapped critical habitat or wetlands.

E. Equivalent Facilities or Structures

The December 2023 Ruling also asks for proposed definitions for two terms already used in exclusions and exemptions in GO 131-D: “equivalent facilities or structures” and “accessories.” At least one past Commission decision involving a project with potentially “equivalent facilities or structures” makes clear that when considering whether the facilities in question meet that standard, the fundamental question is whether the new facilities or structures are the same in “function and purpose” as the existing facilities or structures, not whether they consist of the same material or are of the same type.¹² SCE also notes that the carve-out for “equivalent facilities or structures” appears to have evolved from the CEQA exemption for “Replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity.”¹³ With those principles in mind, SCE recommends the following definition be adopted for the term “Equivalent facilities or structures” as used in Sections III.A and III.B.1.b of GO 131-D:

Facilities and supporting structures providing power transfer capability at no greater voltage than the structure or facility to be replaced. The type of material, relative size or type of the structure is not determinative of whether the new facility or structure is “equivalent” to the structure or facility to be replaced.

Examples of projects involving “equivalent facilities or structures” include but are not limited to the replacement of existing structures and/or reconductoring of existing lines involving:

¹² Resolution E-4373 (replacement of wood poles with steel poles satisfies that standard).

¹³ 14 Cal. Code Regs. § 15302, subd. (c).

- Installation of one or more tubular steel pole(s) to replace one or more lattice steel tower(s);
- Installation of one or more lightweight steel pole(s) to replace one or more wood pole(s); or
- Installation of one or more tubular steel pole(s) to replace one or more lightweight steel pole(s).

F. Accessories

SCE recommends the following definition be adopted for the term “Accessories” as used in Sections III.A and III.B.1.e and VI of GO 131-D:

Equipment and hardware used for the structural support of, and/or safe and reliable operation of, power line facilities (such as conductors, switches, telecommunications equipment, insulators, and/or other appurtenances).

Examples of such equipment include but are not limited to: grounding wire, telecommunications conductors, clamps, brackets, extensions, distribution transformers, anchor lines, guy wires, fire detection equipment, cameras, line guards, wildlife inhibitors, vibration dampers, and switches.

IV.

**COMMISSION CONSIDERATION OF SETTLEMENT AGREEMENT PROPOSALS
AND RELATED ISSUES DURING PHASE TWO**

On September 29, 2023, SCE, Pacific Gas and Electric Company (“PG&E”), and San Diego Gas & Electric Company (SDG&E”) filed a Joint Motion for Adoption of Phase 1 Settlement Agreement on behalf of numerous settling parties (“Settlement Agreement”). Within its Phase 1 Decision, the Commission adopted certain elements of the Settlement Agreement. With Phase 2 set to begin in the near term, the December 2023 Ruling invited parties to comment on (1) whether modifications to the Settlement Agreement are warranted in light of the Phase 1 Decision

and (2) whether any additional Settlement Agreement related issues which have not already been raised within the Settlement Agreement or party comments should be considered by the Commission. SCE's comments on these Settlement Agreement related questions are provided below.

A. Settlement Agreement Modifications in Light of Phase 1 Decision

SCE does not believe it is necessary to modify any portion of the Settlement Agreement. The Phase 1 Decision substantively addresses certain Settlement Agreement provisions which no longer need to be considered or revisited during Phase 2 of this proceeding, *i.e.*: (1) the adoption of revisions to GO 131-D Section III.A that authorize each public utility to elect to use the PTC process, or claim an exemption under Section III.B, when seeking to construct an extension, expansion, upgrade or other modification of certain specified electrical transmission facilities, even if those facilities are above the 200 kV level;¹⁴ (2) revisions throughout GO 131-D to update outdated references, reflect new statutes governing utility facilities, and accurately reflect the renaming of the "Commission's Advisory and Compliance Division" to "Energy Division;"¹⁵ and (3) revisions to reflect modern technological advances (*e.g.*, authorizing applicants to provide electronic copies, rather than hard copies, of certain application documents).¹⁶ Given those revisions to GO 131-D, the corresponding provisions of the settlement agreement are now moot, but the remainder of the Settlement Agreement provisions are not affected by the Phase 1 Decision, and no modifications are necessary.

B. Commission Consideration of Additional Settlement-Agreement Related Issues

Because the Commission has not made any decisions regarding the remainder of the Settlement Agreement, SCE strongly urges the Commission to consider several issues and proposals related to the Settlement Agreement as soon as practicable during Phase 2 of this proceeding. Many of these issues and proposals were raised within the Settlement Agreement

¹⁴ See D.23-12-035, Attachment B, at p. 2.

¹⁵ See D.23-12-035, Attachment B, at pp. 5, 12-17.

¹⁶ See D.23-12-035, Attachment B, at pp. 5-6.

itself, while others were raised within party comments on the Settlement Agreement. Specifically, SCE urges the Commission to consider the following issues and proposals during Phase 2:

- ***Applicant-Prepared CEQA Documents.*** The Commission should revise GO 131-D Section VIII.A.7 and Section IX.C.1 to permit a public utility to submit, with its application for a PTC or CPCN, a draft California Environmental Quality Act (“CEQA”) document (or information justifying a CEQA exemption) instead of a Proponent’s Environmental Assessment (“PEA”). As discussed within the Settlement Agreement, this revision would obviate the duplicative and often time-consuming and expensive process whereby Commission staff and retained consultants preparing CEQA documents essentially re-write the entire environmental analysis already contained in the PEA, and would be an easy way to foster rapid deployment of transmission infrastructure projects needed to achieve the state’s clean energy goals and ensure reliability. In addition, SCE suggests that this proposal should be considered on an expedited basis during Phase 2 to enable utilities to quickly incorporate CEQA document drafting into any project application efforts that may be ongoing.¹⁷
- ***Recognition of CAISO Transmission Planning Decisions.*** As discussed within the Settlement Agreement, the California Independent System Operator (“CAISO”) considers electrical system needs across its territory through its annual Transmission Planning Process (“TPP”), which is based upon resource and load forecasts provided by the California Energy Commission (“CEC”) and this Commission. When the need for additional grid modifications is identified through that TPP, CAISO’s tariff requires consideration of transmission and non-transmission alternatives to meet identified objectives. As a result, by the time CAISO has identified the need for a new transmission project, it has already vetted the objectives of that project, its purpose and

¹⁷ *Joint Motion For Adoption Of Phase 1 Settlement Agreement* (“Settlement Motion”), pp. 27-28, Attachment A, pp. 9, 15, Attachment B, pp. 10, 16.

need, and potential alternatives that could be implemented instead of a transmission solution. The Commission should amend GO 131-D to provide that when considering a PTC or CPCN application, the Commission should only consider alternatives that would be consistent with CAISO's determination that a transmission solution be developed, and, consistent with AB 1373, CAISO's determination regarding the purpose and need for a transmission project establishes a rebuttable presumption that the project is consistent with the public convenience and necessity.¹⁸

- ***Setting Deadlines for the CPUC CEQA Processes.*** As discussed within the Settlement Agreement, the duration of CPUC CEQA reviews of utility CPCN and PTC applications has steadily increased over the course of the past two decades. Licensing process delays impede construction of infrastructure needed to accommodate the clean energy transition and increase costs to ratepayers.¹⁹ In recognition of the long licensing processes often associated with utility development, in the past two years the Legislature has enacted a number of laws designed to shorten that process (*e.g.*, AB 205, which, among other things, establishes strict timelines on the CEC process, including prompt determinations regarding application completeness and a deadline for a decision on the application as a whole (*i.e.*, 270 days after the application is deemed complete)). The Commission should adopt the same timelines for its CEQA review process and consideration of a PTC or CPCN application, consistent with State policymakers' repeated acknowledgment of the need to develop worthy transmission projects as promptly as possible to facilitate the clean energy transition.²⁰

¹⁸ Settlement Motion, pp. 28-37, Attachment A, pp. 15-16, Attachment B, pp. 16-17.

¹⁹ *Southern California Edison Company's (U 338-E) Comments On Order Instituting Rulemaking To Update And Amend Commission General Order 131-D* (filed June 22, 2023), at Appendix A, Declaration of David LeBlond.

²⁰ Settlement Motion, pp. 37-43, Attachment A, pp. 12, 14-15, Attachment B, pp. 12, 15.

- ***Confirming Procedures for Filing, Processing and Disposition of Protests.*** As discussed within the Settlement Agreement, CPUC GO 96-B sets forth general CPUC rules related to the processing of advice letters and provides for the disposition of protests to advice letters by full Commissioner vote at an agenda meeting. In contrast, in adopting GO 131-D in 1994, the CPUC recognized the need for a swift process for assessing utility advice letters relating to exemptions from licensing, establishing a clear process for the Executive Director to quickly determine whether any protest to such an advice letter identifies any valid reason to negate a potential exemption. Nevertheless, Energy Division has begun to elevate advice letter protests for consideration by Commission vote, similar to the process discussed in GO 96-B. This practice could delay construction of critical infrastructure projects by several months while CPUC staff review the matter and identify the appropriate time for it to be considered at an agenda meeting. Therefore, the Commission should revise GO 131-D to clarify and reinforce the Commission’s original intent that staff-level disposition of all advice letter protests submitted pursuant to GO 131-D is appropriate, otherwise the streamlining benefits provided by the advice letter process could be negated.²¹
- ***Clarifying Language Regarding Exemption “g”.*** As mentioned within the Settlement Agreement, existing GO 131-D Section III.B.1.g provides an exemption from the PTC requirement for certain power line facility or substation projects that would be located within areas already associated with utility land uses. However, the language in that existing provision has led to confusion regarding the scope of that exemption, as narrow readings have excluded certain types of property rights. Therefore, to streamline development within such areas, the Settlement Agreement provisions specify that all utility ROWs are locations where new projects could be exempt from requiring a PTC.

²¹ Settlement Motion, pp. 43-47, Attachment A, pp. 18-19, Attachment B, pp. 20-21.

Similarly, the Settlement Agreement confirms that an exemption would apply to a power line or substation to be located in a government-adopted utility corridor where a prior CEQA document found no significant unavoidable impacts, and clarifies that no such CEQA determination is required where the utility already has a ROW.²²

- ***Raising The Threshold Voltage for Projects That Require A PTC.*** As described within the Settlement Agreement, existing GO 131-D requires a CPCN or PTC for all projects at voltages of 50 kV or greater, unless an exemption applies. The Settlement Agreement includes provisions which increase the permitting threshold to 138 kV for utility projects that are located on previously disturbed land, or in an urbanized area, and projects that have already been analyzed as part of a separate CEQA analysis. This presents a common-sense solution for streamlining the development of power line and substation projects that can be expected (or have already been found) to cause only minor environmental impacts, although it also ensures built-in safeguards that would require permitting for projects between 50 kV and 138 kV that are proposed for sensitive environmental areas.²³

V.

COMMISSION CONSIDERATION OF ADDITIONAL ISSUES NOT PREVIOUSLY RAISED DURING GO 131-D RULEMAKING PROCEEDING

SCE also strongly urges the Commission to consider certain additional issues and proposals which were not raised within the Settlement Agreement, including issues and proposals related to battery storage and vegetation management. SCE's comments on these issues are provided below.

²² Settlement Motion, pp. 48-50, Attachment A, p. 3, Attachment B, p.3.

²³ Settlement Motion, pp. 53-54, Attachment B, p. 5.

A. Battery Storage

During Phase 2 of this proceeding, the Commission should confirm its preemptive jurisdictional authority over energy storage issues, including battery facility siting and permitting. It is well-established that public utilities are subject to the Commission’s jurisdiction, and the Commission has plenary jurisdiction over public utility infrastructure siting and technical considerations. As reflected in the decision originally adopting GO 131-D:

“The question of whether local agencies are pre-empted [sic] from regulating the construction or installation of utility facilities is answered in § 8 of Article XII of the California Constitution, which states in pertinent part: ‘A city, county, or other public body may not regulate matters over which the Legislature grants regulatory power to the Commission.’ PU Code § 761 clearly vests in the Commission regulatory authority over the methods and means of locating and constructing public utility equipment and facilities.”²⁴

Given the Commission’s experience in evaluating many different kinds of electric infrastructure development projects, it is well-positioned to apply its expertise to battery storage projects and exert proper and appropriate jurisdictional authority over such projects.

Attachment B to the Order Instituting Rulemaking to Update and Amend Commission General Order (GO) 131-D (“OIR Attachment B”), included proposed revisions to GO 131-D confirming that (1) absent an exemption, a PTC would be required for construction of a battery storage facility exceeding 50 MW; and (2) as with other PTC matters, the Commission’s licensing authority preempts local land use regulation of battery storage facilities.²⁵ Consistent with its Reply Comments on the Order Instituting Rulemaking to Update and Amend Commission General Order 131-D (“SCE Reply Comments to OIR,” or “SCE Reply”), SCE does not disagree with the Commission’s proposed threshold of 50 MW for battery project PTC licensing, although SCE is open to other size or scale thresholds.²⁶

²⁴ D. 94-06-014, at pp. 8-9.

²⁵ OIR Attachment B, at §§ III.B., XIV.

²⁶ See, SCE Reply, at pp. 16-18.

In many ways, battery storage facilities resemble substations in terms of size, shape and ground disturbance footprint. Therefore, SCE believes that like substations, battery storage facility projects should be subject only to the same PTC (as opposed to CPCN) requirements as substations, given that the generation purpose of the facility is clear. Environmental considerations under CEQA are the only issues needing review by the Commission.²⁷ Likewise, just as GO 131-D currently states that substation modification projects (including those that do not involve work beyond the existing utility-owned property) do not even require a PTC, the Commission should similarly exempt from licensing any battery storage project located on or adjacent property that is: a) owned by a public utility; and b) where an existing substation is located.²⁸ Installation of battery facilities on or adjacent to existing substations would serve multiple purposes, including compliance with the Garamendi Principles favoring collocation of utility infrastructure,²⁹ as well as minimizing environmental impacts (such as ground disturbance for the battery facility and/or transmission line work needed to connect the facility to the broader grid).

B. Vegetation Management and Communications Infrastructure

GO 131-D section XIV.B. clearly states that local agencies are preempted from regulating “electric power line projects, distribution lines, substations, or electric facilities constructed by public utilities” subject to CPUC jurisdiction, although utilities are required to consult with local agencies regarding land use issues. Nevertheless, disputes regarding either: a) the scope of that preemption; or b) procedures for resolving differences between local agencies and utilities regarding construction, operation and maintenance of facilities and surrounding vegetation could lead to delays in the utilities’ ability to complete this essential work and ensure the safe and reliable operation of the grid. To provide clarity, GO 131-D section XIV.B. should be modified to: 1) confirm that local agencies are preempted from requiring discretionary approvals for work related

²⁷ See GO 131-D, § III.B.

²⁸ The CPUC should confirm that this relief from the PTC requirement also extends to projects located on property where the public utility has an easement or franchise rights.

²⁹ See fn. 9, *supra*.

to electric utility infrastructure, including work on communication infrastructure that serves the electric grid, or for operations and maintenance activities supporting such infrastructure such as vegetation management; and 2) establish a procedure whereby a local agency may file a complaint with the CPUC if the agency and utility are unable to resolve any differences. Specifically, section XIV.B. should be modified as follows:

This General Order clarifies that local jurisdictions acting pursuant to local authority are preempted from regulating electric transmission line projects, power line projects, distribution lines, substations, ~~or communications infrastructure constructed to provide services to a public utility's electric system, or other~~ electric facilities and their supporting infrastructure, constructed by public utilities subject to the Commission's jurisdiction. However, in locating such projects, the public utilities shall consult with local agencies regarding land use matters. This General Order further clarifies that local jurisdictions acting pursuant to local authority are preempted from regulating utility operation and maintenance activities with respect to the foregoing electric facilities, including vegetation management activities. However, the utility must obtain any applicable, non-discretionary local permits required for its operation and maintenance activities. In instances where the public utilities and local agencies are unable to resolve their differences, ~~the~~ regarding such projects, the local agency may file a complaint with the Commission pursuant to the Commission's Rules of Practice and Procedure seeking specific changes to the proposed facilities. The Commission shall set a hearing no later than 30 days after the ~~utility or local agency has notified the Commission of the inability to reach agreement on land use matters~~ last day to file any answer to such a complaint.

This logical revision will clarify both the scope of the preemption and the procedures for resolving differences between local agencies and utilities regarding construction, operation and maintenance of electric facilities and surrounding vegetation, thereby ensuring utilities can complete essential electric utility infrastructure work as quickly as possible to ensure the safe and reliable operation of the grid.

VI.

CONCLUSION

SCE appreciates the opportunity to provide comments on the December 2023 Ruling and looks forward to working with the Commission and other stakeholders to improve the effectiveness and efficiency of the GO 131-D licensing process during Phase 2 of this proceeding.

Respectfully submitted,

JON PARKER

/s/ Jon Parker

By: Jon Parker

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, California 91770
Telephone: (626) 302-7741
E-mail: Jon.Parker@sce.com

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