

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.

**OPENING COMMENTS OF THE
LARGE-SCALE SOLAR ASSOCIATION REGARDING THE ADMINISTRATIVE LAW
JUDGE RULING INVITING COMMENT ON PHASE 2 ISSUES**

Dated: February 5, 2024

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In accordance with the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), the Large-scale Solar Association (“LSA”) hereby submits these comments on the Administrative Law Judge’s Ruling Inviting Comments on Phase 2 Issues (the “Ruling”), issued on December 18, 2023.

General Order (“GO”) 131-D governs the CPUC’s responsibility for permitting transmission facilities. The two permitting options, Certificate of Public Convenience and Necessity (“CPCN”) and Permit to Construct (“PTC”), both require environmental review through the California Environmental Quality Act (“CEQA”) process, but the PTC process is designed to be more efficient because it does not require analysis of need or cost. Senate Bill (“SB”) 529 (Hertzberg) required the CPUC to modify GO 131-D by January 1, 2024, to exempt from a CPCN an extension, expansion, upgrade, or other modifications of an existing transmission line or substation, regardless of size, and instead require a PTC for the project approvals.

The intention of SB 529 appears to have been to streamline the permitting process by allowing more projects to use the PTC process. Proponents of the bill argued that the amount of transmission project upgrades noted in the California Independent System Operator’s

(“CAISO’s”) 20-year Transmission Outlook¹, many of which were recently approved by the CAISO’s board in the 2022-23 Transmission Plan², necessitate the need to move expeditiously with review and approval of these projects. However, as is discussed in more detail below, the changes required by SB 529 and adopted by the CPUC in Decision (“D.”) 23-12-035 dated December 14, 2023 (the “Phase 1 Decision”) require additional clarification and may not go far enough to streamline the permitting process.

LSA appreciates the CPUC’s efforts to gather stakeholder comments in advance of issuing its staff proposal on additional changes to GO 131-D. LSA encourages the CPUC to limit Phase 2 of this proceeding to discussion of changes that will expedite permitting as required by SB 529. Proposed changes that will have the opposite effect of delaying and/or complicating permitting timelines should not be considered. LSA’s positions are described below in response to questions for parties set forth in the Ruling.

II. BACKGROUND ON LSA

LSA is a non-partisan association of solar and battery storage developers that advocates appropriate policies to enable market penetration of utility-scale solar technologies in California and the Western United States. LSA’s members are leaders in the utility-scale solar industry with deep experience in all disciplines necessary to site develop, engineer, construct, finance and operate utility scale solar and battery storage systems. LSA’s member companies are principally responsible for developing most of the operational and planned solar and storage capacity in California today. In addition to a deep appreciation of what it takes to bring solar and storage capacity on-line, LSA members are also profoundly aware of the many challenges that must be

¹ CAISO 20 Year Transmission Outlook which can be found here:
<https://www.caiso.com/InitiativeDocuments/20-YearTransmissionOutlook-May2022.pdf>.

² CAISO 2022-2023 Transmission Plan which can be found here:
<https://www.caiso.com/InitiativeDocuments/Revised-Draft-2022-2023-Transmission-Plan.pdf>.

addressed with urgency to achieve the state’s aggressive goals for incremental solar capacity between now and 2035.

II. LSA RESPONSES TO QUESTIONS SET FORTH IN THE ALJ RULING

Question 1: What definition, if any, should the Commission adopt for the term: “existing electrical transmission facilities” set forth in Public Utilities Code Section 564? In your response, please explain:

- **Whether modification of a facility below 50 kilovolts (kV) to a 200 kV facility should qualify for the permitting processes authorized in the statute**
- **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; and**
- **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).**

The adopted changes to GO 131-D allow “existing electrical transmission facilities” to proceed with a PTC instead of a CPCN. LSA has no comment at this time regarding how voltage levels may impact whether a facility qualifies as “existing.” However, the Phase 1 Decision outlines additional stakeholder disagreement about whether the facility must be operational to qualify as “existing”. LSA argues that the existing facility that is being expanded should not have to be operational for the PTC exception to apply. If a Load Serving Entity (“LSE”) can build onto a project that is no longer in operation but exists on land that is already deemed suitable for a transmission project, the exception should apply. The location is already earmarked for transmission facilities and should provide a pathway for expediting permitting of expansions to those facilities.

Question 2: What definitions, if any, should the Commission adopt for the following terms listed in Section 564 and/or GO 131-D? For each of the terms, please provide at least three examples of potentially qualifying projects.

- **“Expansion” (as used in Section 564 and Section III.A of GO 131-D)**
- **“Extension” (as used in Section 564 and Section III.A of GO 131-D)**
- **“Modification” (as used in Section 564 and Section III.A of GO 131-D)**
- **“Upgrade” (as used in Section 564 and Section III.A of GO 131-D)**

- “Equivalent facilities or structures” (as used in the phrase “the replacement of existing power line facilities or supporting structures with equivalent facilities or structures” in Sections III.A and III.B.1.b of GO 131-D)
- “Accessories” (as used in the phrase “the placing of new or additional conductors, insulators, or their accessories on or replacement of supporting structures already built” in Section III.A and similar phrases in Sections III.B.1.e and VI of GO 131-D)

LSA has no specific comment on these questions at this time but generally encourages reasonable yet expansive definitions of these terms in line with the goal of SB 529 and CAISO’s 20-year Transmission Outlook.

Question 3: On September 29, 2023, Southern California Edison Company, Pacific Gas and Electric Company, and San Diego Gas & Electric Company filed a Joint Motion for Adoption of Phase 1 Settlement Agreement on behalf of numerous settling parties. Notwithstanding its title as a settlement regarding Phase 1 revisions, the settlement agreement addresses issues that are within the scope of both Phase 1 and Phase 2 of this proceeding. On December 14, 2023, the Commission adopted a decision addressing Phase 1 issues, Decision (D.) 23-12-035. The Commission explained that submission of Phase 1 of the proceeding had not been set aside to consider the settlement agreement as relates to Phase 1 but directed that proposals in the settlement agreement within the scope of Phase 2 be given due consideration during Phase 2.

- A. Are any modifications to the proposals in the settlement agreement warranted in light of the Phase 1 decision?**
- B. Are there any other issues related to the settlement agreement the Commission should consider that have not already been raised in the settlement agreement or party comments?**

LSA continues to support the proposals contained in the Settlement Agreement, including the following key concepts that are intended to expedite permitting beyond the requirements of SB 529: (1) the project’s CEQA objectives should match CAISO’s stated purpose and benefits in its Transmission Planning Process (“TPP”); (2) the range of reasonable alternatives should be limited to alternative routes for construction of CAISO-approved projects; (3) for a CPCN, CAISO’s approval should establish a rebuttable presumption of necessity; and (4) the CPUC

should rely on applicant prepared CEQA documentation in lieu of a Proponent's Environment Assessment to avoid duplicative work.

Question 4: Should the Commission consider any other modifications to GO 131-D in addition to the proposed amendments reflected in the appendices?

LSA encourages the CPUC to consider the following additional modifications: (1) develop a list of pre-approved project alternatives that can quickly be compared to proposed projects when necessary; (2) require Transmission Owners to submit their application to the CPUC within a fixed amount of time from the CAISO awarding the project; and (3) review projects in batches instead of one at a time where appropriate/feasible.

VI. CONCLUSION

LSA appreciates the opportunity to submit these Opening Comments on the Ruling and looks forward to further engagement on these matters.

Dated: February 5, 2024

Respectfully submitted,

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