



Decision \_\_\_\_\_

**FILED**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

04/08/25

03:53 PM

Order Instituting Rulemaking to Update and Amend  
Commission General Order 131-DR.23-05-018  
(Filed May 18, 2023)

R2305018

**INTERVENOR COMPENSATION CLAIM OF ENVIRONMENTAL DEFENSE FUND  
AND DECISION ON INTERVENOR COMPENSATION CLAIM OF  
ENVIRONMENTAL DEFENSE FUND**

**NOTE:** After electronically filing a PDF copy of this Intervenor Compensation Claim (Request), please email the document in an MS WORD and supporting EXCEL spreadsheet to the Intervenor Compensation Program Coordinator at [icompcordinator@cpuc.ca.gov](mailto:icompcordinator@cpuc.ca.gov).

<b>Intervenor:</b> Environmental Defense Fund	<b>For contribution to Decision</b> 25-01-055
<b>Claimed:</b> \$178,754	<b>Awarded:</b> \$
<b>Assigned Commissioner:</b> Karen Douglas	<b>Assigned ALJ:</b> Rajan Mutialu and Zhen Zhang
I hereby certify that the information I have set forth in Parts I, II, and III of this Claim is true to my best knowledge, information and belief. I further certify that, in conformance with the Rules of Practice and Procedure, this Claim has been served this day upon all required persons (as set forth in the Certificate of Service attached as Attachment 1).	
<b>Signature:</b>	/s/ Heather Minner
<b>Date:</b> April 8, 2025	<b>Printed Name:</b> Heather Minner

**PART I: PROCEDURAL ISSUES***(to be completed by Intervenor except where indicated)*

<b>A. Brief description of Decision:</b>	D.25-01-055 adopts General Order 131-E.	
Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812 <sup>1</sup> :		
	<b>Intervenor</b>	<b>CPUC Verification</b>
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference:	N/A	

<sup>1</sup> All statutory references are to California Public Utilities Code unless indicated otherwise.

	Intervenor	CPUC Verification
2. Other specified date for NOI:	August 30, 2023	
3. Date NOI filed:	August 30, 2023	
4. Was the NOI timely filed?		
<b>Showing of eligible customer status (§ 1802(b)) or eligible local government entity status (§§ 1802(d), 1802.4):</b>		
5. Based on ALJ ruling issued in proceeding number:	R.21-06-017	
6. Date of ALJ ruling:	November 9, 2021	
7. Based on another CPUC determination (specify):	N/A	
8. Has the Intervenor demonstrated customer status or eligible government entity status?		
<b>Showing of “significant financial hardship” (§1802(h) or §1803.1(b)):</b>		
9. Based on ALJ ruling issued in proceeding number:	R.21-06-017.	
10. Date of ALJ ruling:	November 9, 2021	
11. Based on another CPUC determination (specify):	N/A	
12. Has the Intervenor demonstrated significant financial hardship?		
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D.25-01-055	
14. Date of issuance of Final Order or Decision:	February 7, 2025	
15. File date of compensation request:	April 8, 2025	
16. Was the request for compensation timely?		

**Additional Comments on Part I: *(use line reference # as appropriate)***

#	Intervenor’s Comment(s)	CPUC Discussion
2	No prehearing conference was set per the Assigned Commissioner’s Scoping Memo and Ruling in this Rulemaking 23-05-018. Assigned Commissioner’s Scoping Memo and Ruling [“Scoping Memo”] at 6, Footnote 13.	

#	Intervenor's Comment(s)	CPUC Discussion
3	<p>A “customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation within 30 days after issuance of this scoping memo.” Scoping Memo at 9.</p> <p>The NOI was filed by August 30, 2023, which is within 30 days after the issuance of the Scoping Memo on July 31, 2023.</p>	

## PART II: SUBSTANTIAL CONTRIBUTION

*(to be completed by Intervenor except where indicated)*

Did the Intervenor substantially contribute to the final decision (see § 1802(j), § 1803(a), 1803.1(a) and D.98-04-059): *(For each contribution, support with specific reference to the record.)*

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
<p>1. EDF recommended that the Commission post non-confidential information in utility quarterly reports and revise the Proposed Decision to delete statements suggesting that the Commission would withhold written records.</p> <p>Decision Adopting General Order 131-E, D.25-01-055, (Jan. 30, 2025) (“D.25-01-055”) directed staff to make the annual and quarterly utility reports available to the public and removed the proposed language regarding withholding public records.</p>	<p>“Therefore, we do not permit access to these reports and briefings to the public.” <i>Proposed Decision of Commissioner Douglas Adopting General Order 131-E (Dec. 27, 2024) (“Proposed Decision”), at 104.</i></p> <p><b>“The Commission should promote transparency by requiring the posting of non-confidential information in quarterly reports, including notices for CEQA exempt projects. . . . Moreover, the Proposed Decision states that ‘[t]herefore, we do not permit access to these reports and briefings to the public,’ referring to both the quarterly briefings and the annual briefings which are submitted by the utilities via an electronic copy.<sup>27</sup> This statement fails to recognize the Commission’s obligations under the California Public Record Act, which requires public access to any ‘record,’ broadly defined, unless one of a limited number of exemptions applies.<sup>28</sup> The</b></p>	

	<p>Proposed Decision should be revised to acknowledge the Commission’s obligations under California’s sunshine law.” <i>Opening Comments of Environmental Defense Fund on the Proposed Decision Adopting General Order 131-E (Jan. 16, 2025) (“Opening Comments on PD”), at 9-11; see also, Reply Comments of Environmental Defense Fund on the Proposed Decision Adopting General Order 131-E (“Reply Comments on PD”) (Jan. 21, 2025), at 2-3 (similar)..</i></p> <p>“Cal Advocates and EDF request that the Commission provide public versions of annual reports and quarterly briefings to promote data and information transparency. . . . Despite these concerns, we acknowledge the value of public disclosure to facilitate a transparent planning and permitting process for this critical public infrastructure. Therefore, we direct Staff to coordinate with the reporting utilities to make the reports and briefings required in GO 131-E Section IV available to the public and to help properly redact any information that must be kept confidential.” <i>D.25-01-055, at 113; see also id, at 136 (similar).</i></p>	
<p>2. EDF advised that the definition of existing electrical facilities should not be limited to transmission lines. EDF objected to proposals to limit this definition in various ways. EDF also established that SB 529 did not limit streamlined projects to those within an existing transmission easement, right of way, or franchise agreement.</p>	<p>“Third, should the permitting process authorized in SB 529 apply only to modifications to ‘transmission lines’ as defined in Section 1 of GO 131-D for instance, modifying a 200 kV line to 500 kV? The answer is <b>no</b>. To begin with, SB 529 applies to ‘transmission facilities, including electric transmission lines and substations.’<sup>7</sup> Transmission facilities is a broader term than ‘transmission lines,’ which the Legislature obviously intended by including ‘substations’ as a type of transmission facility. Further, SB 529</p>	

<p>Decision 25-01-055 adopted a definition of an existing electrical transmission facility that included a power line, substation, or switchyard in addition to a transmission line.</p> <p>Decision 25-01-055 also modified the Staff Proposal’s definition to remove the clause limiting facilities to those within an existing transmission easement, right of way, or franchise agreement. The Commission did not adopt proposals to further limit the definition that EDF had objected to.</p>	<p>authorized these projects to apply for a PTC or claim an exemption, and Section III.B of GO 131-D describes those projects that must apply for a PTC, unless they qualify for an exemption. GO 131-D is thus clear about what permitting procedure a project must follow without a limiting definition of existing transmission facilities.”</p> <p><i>Comments of Environmental Defense Fund on Phase 2 Issues (“Comments on Phase 2 Issues”) (February 5, 2024), at 4-5.</i></p> <p>“If the Commission decides to adopt a definition of “existing electrical transmission facilities” . . . it should reject proposals that would restrict the definition of “existing” to exclude projects that would otherwise be streamlined under the plain meaning of this term.<sup>2</sup> Indeed, the Commission’s Ruling on Phase 1 Issues already rejected proposals to limit existing facilities to those that are “operational” or that have been “authorized” by the Commission.<sup>3</sup>”</p> <p><i>Reply Comments of Environmental Defense Fund on Phase 2 Issues (“Reply Comments on Phase 2 Issues”) (February 26, 2024), at 2.</i></p> <p>“Similarly, the intent of SB 529 was to allow extensions, expansions, modifications and upgrades to occur without the needs and costs analysis that occurs with an application for a Certificate of Public Convenience and Necessity (CPCN).<sup>3</sup> Accordingly, adding a requirement for an assessment of rates to the definitions of SB 529 terms, as proposed by some parties,<sup>4</sup> conflicts with the statute.</p> <p>The same is true of requests to require that SB 529 definitions exclude projects</p>	
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	<p>that have a significant effect on the environment.<sup>5</sup> . . . .</p> <p>EDF objects to party suggestions to define existing electrical transmission facilities to mean a facility “that first became commercially operational at least five years ago.”<sup>6</sup> EDF argues that this limitation is not warranted because the utilities would not actually benefit from this type of gamesmanship. The limitation would likely delay necessary transmission projects, which may reasonably be extensions or other modifications to recently constructed facilities, given the amount of time it takes to permit and construct a transmission facility.”</p> <p><i>Reply Comments of Environmental Defense Fund on the Phase 2 Staff Proposal (“Reply Comments on Staff Proposal”), at 2-3.</i></p> <p>“[A]llowing extensions that do not occur within existing transmission easements, rights-of-way, or franchise agreements is entirely consistent with AB 529, given that the bill’s amendments to Public Utilities Code section 1001 do not include this limitation.<sup>4</sup> Viewing the statute as a whole, and the Legislative intent inherent therein, it would thus be especially inappropriate to apply the <i>expressio unius est exclusio alterius</i><sup>5</sup> doctrine to interpret the existing easement clause to limit extensions in other areas not listed. Moreover, the use of the word “including” here does not limit SB 529 streamlining to the examples that follow. As the California Supreme Court has emphasized when interpreting statutes where ‘the introductory word to the clause in controversy... is the word “including.”’ This is not ordinarily understood as</p>	
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	<p>expressing an intent to limit, or to create an exception. It[’s] dictionary meaning is: to have as part of a whole; to take into account, put in a total category, etc.’ <i>Estate of Banerjee</i> (1978) 21 Cal.3d 527, 540.”</p> <p><i>Comments of Environmental Defense Fund on the Phase 2 Staff Proposal (“Comments on Phase 2 Staff Proposal)” (June 28, 2024), at 4-5.</i></p> <p>“Staff Proposal Section 3.1, Proposal 1 defines the term ‘existing electrical transmission facility’ as an: ‘Electrical transmission line, power line, or substation that has been constructed for operation at or above 50 kV within an existing transmission easement, right of way, or franchise agreement.’<sup>148</sup></p> <p>....</p> <p>Several parties (EDF, PCF, CBD, IEP, California Farm Bureau Federation (CFBF), and Cal Advocates) support Staff’s proposed definition with modifications.<sup>149</sup></p> <p>....</p> <p>Pub. Util. Code Section 564 also references “existing electrical transmission facilities,” including electric transmission lines and substations within existing transmission easements, rights of way, or franchise agreements,” but various parties assert that the term “including” does not create a restrictive list.</p> <p>Balancing these considerations, we adopt the modified Staff Proposal Section 1, Proposal 1 definition of “existing electrical transmission facility” as follows:</p> <p>... an electrical transmission line, power line, substation, or switchyard that has been constructed for operation at or above 50 kV.”</p> <p><i>D.25-01-055, at 69-71.</i></p>	
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<p>3. EDF proposed primarily relying on dictionary definitions for SB 529 terms and providing illustrative examples. EDF also made specific proposals for the definitions of extension, expansion, modification, and upgrade. EDF also objected to proposals that would limit these definitions.</p> <p>Decision 25-01-055 largely adopted EDF's suggestion to rely on plain meaning definitions with specific examples. The Commission's definitions of extension, expansion, modification, and upgrade also reflected language or ideas proposed by EDF. The Commission did not adopt proposals to limit the definitions that EDF had objected to.</p>	<p>"In adopting SB 529, the Legislature used common terms to describe the types of projects that would be eligible for the bill's streamlining provisions. It did not use terms of art that would require complicated definitions, but terms for which the plain meaning should apply. The Commission should therefor rely on the dictionary definitions of these terms, as applied to transmission facilities, and include in the definition illustrative examples, as proposed below." <i>Comments on Phase 2 Issues, at 5.</i></p> <p><u>"Extension:</u> The Merriam-Webster Dictionary definition of extension includes 'a section or line segment forming an additional length.'<sup>8</sup>" <i>Comments on Phase 2 Issues, at 6.</i></p> <p>"In particular, extensions that occur in the middle of a line (i.e. 'loop' extensions), and extensions to new generation projects and associated substations to connect those projects to the transmission grid. EDF did not intend to omit these types of projects from our proposed definition. Accordingly, EDF revises its proposed definition of 'extension' to mirror the plain meaning of this term: 'a section or line segment forming an additional length.'<sup>10</sup> . . . . [T]he Commission could . . . craft a separate provision to make clear that mid line upgrade loops are included." <i>Reply Comments on Phase 2 Issues, at 4.</i></p> <p>"F. An 'extension' is:</p> <ol style="list-style-type: none"> <li>1. An increase in the length of an existing electrical transmission facility within existing transmission easements, rights-of-way, or franchise agreements;</li> </ol> <p>or</p>	
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	<p>2. One of the following types of projects:</p> <p>a. Generation tie-line (gen-tie) segments, i.e., the construction of a new transmission or power line from an existing electrical transmission facility to connect to a new electric generation facility; or</p> <p>b. Substation loop-ins, i.e., looping one or more existing transmission lines into and out of a new or existing substation or switchyard.” <i>D.25-01-055, Attach. A, at 2.</i></p> <p>“<u>Expansion</u>: The Britannica Dictionary definition of expansion includes ‘the act of becoming bigger or of making something bigger.’”<sup>9</sup> The Commission should adopt this plain meaning as applied to transmission facilities as follows:</p> <p>a. ‘Expansion’ means increasing the carrying or processing capacity of existing transmission facilities.</p> <p>b. For example, rewiring or reconductoring to increase the capacity of a transmission line, expanding the carrying capacity of existing towers, or increasing transformer capability at a substation.” <i>Comments on Phase 2 Issues, at 6.</i></p> <p>“G. An ‘expansion’ is an increase in the width, capacity, or capability of an existing electrical transmission facility, including but not limited to the following types of projects:</p> <ol style="list-style-type: none"> <li>1. Rewiring or reconductoring to increase the capacity of an existing transmission line.</li> <li>2. Expanding the load carrying capacity of existing towers or poles.</li> <li>3. Converting a single-circuit transmission line to a double-circuit line.” <i>D.25-01-055, Attach. A, at 2.</i></li> </ol>	
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	<p>“<u>Upgrade</u>: The Merriam-Webster Dictionary definition of upgrade includes ‘to raise the quality of’ or ‘extend the usefulness of’ something, and ‘to replace something (such as software or an electronic device) with a more useful version or alternative.’<sup>11</sup> The Commission should adopt this plain meaning as applied to transmission facilities as follows:</p> <p>a. ‘Upgrade’ means replacing existing transmission facilities with more useful or modern versions of those same facilities.</p> <p>b. For example, replacing a transmission facility with a new one with greater capabilities; replacing existing support structures with new ones of a different material, height, and/or design; adding smart grid capabilities to an existing transmission line, or other wildfire hardening measures.</p> <p>“An ‘upgrade’ is the replacement or alteration of existing electrical transmission facilities, or components thereof, to enhance the rating, voltage, capacity, capability, or quality of those facilities, including but not limited to the following types of projects:</p> <ol style="list-style-type: none"><li>1. Reconductoring existing transmission or power lines to use conductors with greater power transfer capability and/or increased voltage levels, where the reconductoring requires replacement of the existing supporting structures.</li><li>2. Adding smart grid capabilities or aboveground wildfire hardening equipment to an existing transmission or power line.</li><li>3. Installing new mid-line series capacitors on a transmission or power line to support an increase in the power transfer capability of the line.”</li></ol> <p><i>D.25-01-055, Attach. A, at 2-3.</i></p>	
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	<p>“<u>Modification</u>: The Merriam-Webster Dictionary definitions of modification and modify include ‘the making of a limited change in something’ and ‘to make basic or fundamental changes in often to give a new orientation to or to serve a new end.’<sup>10</sup> The Commission should adopt this plain meaning as applied to transmission facilities as follows:</p> <p>a. ‘Modification’ means making changes to existing transmission facilities to serve a new or additional purpose, which do not expand the footprint of those facilities.</p> <p>b. For example, adding monitoring equipment to power lines.” <i>Comments on Phase 2 Issues, at 6-7.</i></p> <p>“A ‘modification’ is a change to an existing electrical transmission facility or equipment without extending or expanding the physical footprint of the facility.” <i>D.25-01-055, Attach. A, at 3.</i></p> <p>“Having some streamlined projects fall within an existing PTC or CEQA exemption is entirely consistent with SB 529 and efforts to avoid this result undermines the Legislature’s intent—as do proposals to define other SB 529 terms to require that streamlined projects do not have a significant effect on the environment or rates.<sup>7</sup> In addition, proposals to limit the definitions of SB 529 terms to facilities located ‘within an existing easement, right of way, or franchise agreement,’<sup>8</sup> would conflict with the statutory text of SB 529 as EDF has detailed in previous comments, incorporated herein.<sup>9</sup>” <i>Reply Comments on Phase 2 Issues, at 3.</i></p>	
4. EDF recommended that the Commission remove parentheses that the Proposed Decision included in the SB	<p>“<u>An</u> extension, expansion, upgrade, or other modification to an electric public utility’s existing electrical</p>	

<p>529 implementing paragraph (GO 131-E Section III.A) as an unintended legal error.</p> <p>D.25-01-055 removed the parentheses.</p>	<p>transmission facilities, (including electric transmission lines <b>and</b>, substations, <b>and switchyards</b>) within existing transmission easements, rights of way, or franchise agreements, irrespective of whether the electrical transmission facility is above a 200- kV voltage level.”</p> <p><i>Proposed Decision, Attach. A, at 5.</i></p> <p><b>“The Commission should modify the proposed amendments to the SB 529 implementing language to avoid conflicts with other provisions of GO 131-E. . . . EDF does not object to adding switchyards to this paragraph. However, we do object to adding the parentheticals, because doing so could be interpreted to mean that an extension, expansion, upgrade, or other modification (or the existing electrical facilities) must always occur within existing transmission easements, rights of way, or franchise agreements to qualify for a PTC under SB 529. We do not believe that that this result was intended and instead believe that the parentheticals were added in error.<sup>21</sup> For example, the parentheticals could create a conflict with the Proposed Decision’s definition of “existing electrical transmission facility,” which does not include a limit on the location of these facilities.<sup>22</sup> . . . And finally, these parentheticals could create a conflict with SB 529, which does not include a property right limitation for all projects that qualify for a PTC.<sup>24</sup> EDF recommends that changes to include the phrase “switchyards” in GO 131-E more closely adhere to the original language of SB 529, which does not include any parentheticals. EDF thus recommends that the Proposed Order, Attachment A (redline) be modified to</b></p>	
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	<p>reflect changes to GO 131-D as follows, with a corresponding modification to Attachment B (GO 131-E):  An extension, expansion, upgrade, or other modification to an electric public utility’s existing electrical transmission facilities, including electric transmission lines and, substations, and switchyards within existing transmission easements, rights of way, or franchise agreements, irrespective of whether the electrical transmission facility is above a 200- kV voltage level.”  <i>Opening Comments on PD, at 7-9; see also, Reply Comments on PD, at 3 (similar).</i></p> <p>“We have carefully reviewed and considered all parties’ comments and made revisions and clarifications to the proposed decision, where warranted, including corrections of inadvertent clerical errors.” <i>D.25-01-055, at 137.</i></p> <p>“a. An extension, expansion, upgrade, or other modification to an electric public utility’s existing electrical transmission facilities, including electric transmission lines and, substations, and switchyards within existing transmission easements, rights of way, or franchise agreements, irrespective of whether the electrical transmission facility is above a 200- kV voltage level.” <i>D.25-01-055, Attach. A, at 5.</i></p>	
5. EDF recommended edits to section III.B.2 to clarify the applicability of Permit-To-Construct (PTC) exemptions.	<p>“Proposed section III.B.1.c provides that a PTC is required for an extension, expansion, upgrade, or other modification of existing electrical transmission facilities. EDF is concerned that this could be interpreted</p>	

<p>Decision 25-01-055 included these edits.</p>	<p>to mean that all such extensions, expansions, and upgrades require a PTC, when SB 529 and Section III.A.3.e, also allow utilities to claim an exemption from a PTC. Accordingly, we suggest the following clarifying language in red be added to Section III.B.2 to remain consistent with these provisions.  <b>Notwithstanding Section III.B.1</b>, a PTC is not required for:” <i>Comments on Phase 2 Staff Proposal</i>, at 9.</p> <p>“Notwithstanding Section III.B.1, Compliance with Section IX.B, a PTC is not required for:” <i>D.25-01-055, Attach. A, at 21 (new text mistakenly not redlined in Decision)</i>.</p>	
<p>6. EDF suggested that the Commission revise the Staff Proposal’s list of draft CEQA documents that applicants may prepare to include a draft negative declaration, draft mitigated negative declaration, draft addendum, or analysis of a CEQA exemption.</p> <p>Decision 25-01-055 includes the additional requested documents in Section VII.C.1 of GO 131-E.</p>	<p>“[While the Staff Proposal limits the draft CEQA documents that an applicant could prepare to an initial study or EIR, we believe that additional time and money could be saved if applicants could also prepare a draft negative declaration, draft mitigated negative declaration, draft addendum, or analysis of a CEQA exemption, so that Commission staff would not be required to prepare those after an application is filed. This would have affordability benefits by reducing redundancies and rising costs with project delays. The Staff Proposal, page 80, suggests that limiting the types of CEQA documents to an initial study or EIR is required by CEQA. However, the documents submitted by applicants would only be <i>drafts</i>, and the Commission would retain full discretion to modify those or determine that another type of CEQA document is required. Further, in our</p>	

	<p>experience, initial studies are often circulated for comment along with a draft negative declaration or mitigated negative declaration and this is consistent with the CEQA Guidelines. . . Accordingly, we recommend that Section IX.C.1 be amended by adding the red text as follows:</p> <p>An applicant may elect to prepare and submit a draft version of an initial study, <b>negative declaration, mitigated negative declaration, addendum, an analysis of the applicability of an exemption from CEQA,</b> or a draft version of an EIR with its application in lieu of a PEA to support the CPUC in its preparation of a CEQA document for a project . . . . <i>Comments on Phase 2 Staff Proposal, at 12-14.</i></p> <p>“[W]e also modify Staff Proposal Section 3.7, Proposal 1, Option 3, by revising the list of permissible draft versions of CEQA document types in Section IX in GO 131-D, as reflected in Section VII.C.1 in GO 131-E, that applicants may prepare and submit to include a draft version of an initial study, ND, MND, EIR, addendum, or analysis of the applicability of an exemption from CEQA in their applications in lieu of a PEA. We also make similar conforming changes to Section VI in reference to the submission of draft versions of applicant-prepared CEQA documents for the permitting of generation facilities. Our inclusion of this broad list of draft versions of CEQA documents acknowledges that some applicants may be eager to draft a version of the</p>	
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	<p>“MND” or “ND” section of the IS/MND or IS/ND (i.e., the section summarizing the findings and mitigation measures) in addition to the initial study checklist. These draft versions of CEQA documents, however, would be subject to the Commission’s independent review, judgement, and revision when the Commission prepares its own draft CEQA document pursuant to California Pub. Res. Code Section 21082.1.” <i>D.25-01-055, at 34.</i></p> <p>“Notwithstanding any other provision herein, to support the Commission in its preparation of a CEQA document for a project, an applicant may elect to prepare and submit with its application, in lieu of a PEA, a draft version of: an initial study, ND, MND, EIR, Addendum, or analysis of the applicability of an exemption from CEQA . . . .” <i>D.25-01-055, Attach. A, at 20.</i></p>	
<p>7. EDF recommended allowing staff to authorize a shorter notice period prior to filing a Certificate of public convenience or necessity (CPCN) or a PTC.</p> <p>Decision 25-01-055 accepted this recommendation.</p>	<p>“EDF is concerned that some aspects of the Staff Proposal could unnecessarily slow permit processing procedures for CPCN and PTC applications. Specifically, Section IX.A.1.b and Section IX.B.1.b require a public utility to provide written notice to Energy Division staff not less than 12 months [sic] prior to filing a CPCN or PTC application. These provisions have no exceptions for situations where projects may have been reprioritized, for projects that are not subject to an EIR, or other instances where it would be in the public interest to allow an application to be filed sooner than 12 months following written notice. . . . In these instances, the 6-month prefiling meeting should be sufficient. Accordingly, EDF recommends that this section be amended by adding the red text as follows:</p>	



	<p>Provide written notice to Energy Division staff not less than 12 months prior to the filing of a [CPCN/PTC] application, <b>unless Energy Division staff determines in writing that a shorter notice period is in the public interest;</b>” <i>Comments on Phase 2 Staff Proposal</i>, at 9.</p> <p>“Provide written notice to Energy Division staff not less than 12 months prior to the filing of a CPCN application (unless Energy Division staff authorize a shorter period in writing);” <i>D.25-01-055, Attach. A, at 15, 17.</i></p>	
<p>8. EDF urged the Commission to commit to meeting deadlines for permit processing, given the large number of transmission projects required and that environmental review is a big factor in project delays.</p> <p>D.25-01-055 specifies that the Commission is subject to the deadlines set by the California Environmental Quality Act (“CEQA”) and removed proposed language stating that the Commission “stives” to meet the CEQA deadlines.</p>	<p>“Pursuant to CEQA Guidelines § 15107 and 15110, the Commission strives to complete Proposed Final MNDs or NDs for projects without federal agency involvement within 270 days or sooner from the date the PTC or CPCN application is deemed complete. Pursuant to CEQA Guidelines §§ 15108 and 15110, the Commission strives to complete Proposed EIRs for projects without federal agency involvement within 455 days or sooner from the date the application is deemed complete.” <i>Proposed Decision, Attach. A, at 27.</i></p> <p>“Chiefly, the Proposed Decision makes no commitments to completing environmental review within specified deadlines, despite the fact that environmental review is one of the biggest factors in transmission project processing delays.<sup>11</sup> EDF is underwhelmed by the Proposed Decision’s provision stating that the Commission will “strive” to meet certain deadlines. . . . As recognized in the Scoping Memo, “it is expected that a larger number of energy infrastructure projects compared to past years must be rapidly deployed over the next decade</p>	

	<p>for California to achieve its clean energy goals and electrical reliability.”<sup>13</sup> The Commission will thus be faced with processing a greater number of permits for transmission projects in the future than it has ever processed in the past. It will need to exercise discipline as it does so. A commitment to meeting reasonable deadlines for permit processing, with specified and limited exceptions, will only help the Commission manage this load.”  <i>Opening Comments on PD, at 4-5.</i></p> <p>“EDF, IEP, LSPGC, PG&amp;E, SCE, and SDG&amp;E recommend that the Commission specify in GO 131-E that it “shall” meet the existing CEQA review deadlines rather than committing to “strive to” meet those deadlines.<sup>252</sup> . . . As discussed in Section 5.3.2, the Commission must comply with CEQA and must ensure a thorough review of the record in each CPCN or PTC proceeding for decision-makers and stakeholders to deliberate on reasonable project alternatives during CEQA reviews. On this point, language in Section XIII in GO 131-E will be clarified to affirm that the Commission is subject to the timeframes and deadlines set forth in the CEQA statute and CEQA Guidelines, including those that set forth timelines for review and issuance of CEQA documents, and those that provide for additional time as needed to comply with CEQA mandates.” <i>D.25-01-055, at 131-32</i>, see also <i>id</i>, <i>Attach. A, at 26</i> (“<i>The commission is subject to the timeframes and deadlines set forth in CEQA and the CEQA Guidelines.</i>”).</p>	
9. EDF recommended against Cal Advocate’s proposal to establish a process to prioritize	<p>“EDF does not, however, agree with the Staff Proposal (page 100) to consider Cal Advocate’s Project Prioritization</p>	

<p>the permitting of some CAISO-approved projects, which the Staff Proposal suggested considering in a Phase 3 of this proceeding.</p> <p>The Commission declined to consider Cal Advocate’s proposal further and closed the proceeding.</p>	<p>proposal beyond Phase 2 of this Proceeding. In our estimation, it is convoluted and impractical to implement statewide. All of the projects in CAISO’s annual Transmission Plans are critically important and were informed by the Commission’s analysis in the Integrated Resource Planning proceedings. The 2022-2023 Transmission Plan, for example, includes 21 policy driven projects needed to meet the Commission’s renewable generation requirements and 24 reliability projects driven by load growth and evolving grid conditions as the generation fleet transitions to increased renewable generation.<sup>22</sup>” <i>Comments on Staff Proposal, at 20.</i></p> <p>“We do not adopt Staff Proposal Section 3.8, Proposal 4 and do not suggest that this issue should be resolved in a later phase of this rulemaking or in an alternate proceeding.” <i>D.25-01-055, at 53.</i></p>	
<p>10. EDF enriched deliberations and the record on Battery Energy Storage Systems (“BESS”) by advocating for amendments to specify a permitting process for BESS, recommending that a PTC be required for projects located adjacent to substations, and adding facts regarding the need for permit clarity. EDF was the only non-industry party that advocated for clarifying the Commission’s preemption of local BESS regulations.</p> <p>The Phase 2 Staff Proposal in this proceeding proposed including BESS projects within or adjacent to existing substations in the definition of</p>	<p>“The Commission has already identified amending GO 131-D to address the permitting of battery storage projects as an important issue. EDF supports making amendments for this issue.” <i>Comments on Phase 2 Issues, at 13.</i></p> <p>“EDF wishes to underscore, however, the importance of ensuring that projects with potentially significant environmental impacts will be subject to environmental review under CEQA. This means that larger battery storage projects in sensitive areas must be subject to a discretionary PTC by the Commission. EDF is concerned that some aspects of the PTC thresholds/exemptions proposed by other parties may be unduly broad. In particular, SCE proposes to exempt from PTC requirements ‘any battery storage</p>	

<p>“upgrade” in GO 131-E. While Decision 25-01-055 did not adopt this staff proposal, it did so with the unique perspective and information provided by</p>	<p>project located <i>on or adjacent to property</i> that is a) owned by a public utility, and b) where an existing substation is located.’ . . . For instance, it is possible that portions of large properties with substations, or adjacent properties, could be undeveloped with sensitive habitat or located near residential uses. While EDF has renewed its request for a workshop on battery storage to inform any staff proposal and party comments on these issues, at this point EDF would suggest exempting from a PTC only those battery storage projects located adjacent to existing utility-owned substation, energy storage or generation infrastructure.” <i>Reply Comments on Phase 2 Issues, at 6-7.</i></p> <p>“Proposal 2: Clarify Permitting Process for Battery Energy Storage System Substation Upgrades. This proposal would clarify the CPUC’s role in permitting BESS projects proposed by electric public utilities <i>within or adjacent to existing substations</i> by modifying Section III.A of GO 131-D to include such projects in the definition of “upgrade” of existing electrical transmission facilities outlined in Section 3.1.2, Proposal 2 of this staff proposal. . . . Section III.A would be modified to include the following example of an “upgrade” of existing electrical transmission facilities: Adding battery energy storage systems <i>to an existing substation, or expanding an existing substation</i> to include battery energy storage systems. . . . Staff recommend the adoption of Proposal 1 and Proposal 2 for the following reasons:</p> <ul style="list-style-type: none"> <li>• <b>A range of parties support clarifying a PTC process for energy storage systems. . . .</b></li> </ul>	
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	<p>• <b>Party comments support a streamlined permitting process for projects adding energy storage to existing substation infrastructure. . . .</b></p> <p>EDF asserts, ‘While EDF has renewed its request for a workshop on battery storage to inform any staff proposal and party comments on these issues, at this point EDF would suggest exempting from a PTC only those battery storage projects located adjacent to existing utility-owned substation, energy storage or generation infrastructure. Limiting the exemption to those projects adjacent to existing infrastructure, rather than property, likely aligns with the intent of these proposals, while limiting the possibility that expansive properties would lead to construction far from existing infrastructure being exempt from a PTC.’ (Reply Comments of Environmental Defense Fund on Phase 2 Issues, February 26, 2024, at 7). . . .</p> <p>Rather than establishing a capacity threshold for energy storage projects, Proposals 1 and 2 would focus on smaller projects that might be expected to be exempt from CEQA and/or the PTC requirement, notwithstanding the list of exceptions in GO 131-D Section III.B.2. . . .</p> <p>o EDF summarizes, ‘EDF is concerned that some aspects of the PTC thresholds/exemptions proposed by other parties may be unduly broad. . . .</p> <p>For instance, it is possible that portions of large properties with substations, or adjacent properties, could be undeveloped with sensitive habitat or located near residential uses.’ (Reply Comments of Environmental Defense Fund on Phase 2 Issues, February 26, 2024, at 6-7).” <i>Administrative Law Judges’ Ruling Inviting Comment on Phase 2 Staff Proposal and Noticing</i></p>	
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	<p><i>Workshop (May 17, 2024), Attach. A, Phase 2 Staff Proposal (“Phase 2 Staff Proposal”), at 60-61 (emphasis added), 64-65.</i></p> <p>“The 2023-2024 Transmission Plan recently adopted by the CAISO Board mapped the base case resource portfolio transmitted by the Commission onto the State’s grid, which included 28 GW of battery storage capacity installed through 2035.<sup>8</sup> In addition, during the transmission planning process, CAISO routinely considers whether a battery storage project can more cost-effectively alleviate a particular transmission constraint than a traditional transmission upgrade.<sup>9</sup> Moreover, the California Energy Commission recently published a report analyzing how Long-Duration Energy Storage (LDES) resources can contribute to achieving the State’s decarbonization goals.<sup>10</sup> The report emphasizes that, if procured in large quantities (up to 37 GW), LDES resources can facilitate the retirement of the State’s fossil gas plant fleet without sacrificing system reliability or increasing overall system costs.<sup>11</sup> Given that battery storage projects are essential to decarbonization goals, and can be cost-effective alternatives to transmission projects, the Staff Proposal should seek to incentivize and accelerate approval of these projects, while maintaining environmental review for projects that are not otherwise exempt from CEQA. . . . To begin with, the CPUC’s preemption of BESS should be clarified in order to avoid drawn-out disputes with local jurisdictions. The Staff Proposal unequivocally states that energy storage systems</p>	
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	<p>‘clearly falls under the definition of “electric facilities,” and that ‘Section XIV of GO 131-D clarifies that local authorities are preempted from regulating electric facilities constructed by public utilities subject to the CPUC’s jurisdiction.’<sup>14</sup> The Commission should amend GO 131-D Section XIV (renumbered to Section XIII in the Staff Proposal) to reflect this preemption by adding the following red text:</p> <p>This General Order clarifies that local jurisdictions acting pursuant to local authority are preempted from regulating electric power line projects, distribution lines, substations, <b>battery energy storage system</b>, or <b>other</b> electric facilities 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. In instances where the public utilities and local agencies are unable to resolve their differences, 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. In addition, the Staff Proposal is vague as to how permitting of stand-alone BESS will occur (i.e. those not added to an existing substation) and that acts as a barrier to public utility construction of these facilities. To ensure that utilities would need to undergo environmental review for BESS projects to the same extend that Independent Power Producers</p>	
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	<p>would, EDF recommends that stand-alone BESS be subject to a PTC or CPCN, unless the project would otherwise fall within a CEQA exemption (making it also exempt from a PTC). It is also reasonable to have stand-alone BESS be subject to a PTC, rather than a CPCN, where CAISO has identified the project as a more cost-effective alternative to a transmission upgrade through the TPP process. <i>Comments on the Phase 2 Staff Proposal, at 6-8.</i></p> <p>“Battery storage projects are too important to achieving California’s clean energy and grid reliability goals to leave utility BESS projects to muddle through a maze of regulatory uncertainty. . . . Indeed, a 2024 CAISO report found that battery storage is the fastest growing resource type in the CAISO balancing area.<sup>38</sup> . . . . Simply directing staff to support the CEC’s permitting of BESS projects subject to AB 205 opt-in certification is insufficient. Indeed, the CEC has yet to approve a single project under AB 205, and only six BESS projects have applied for CEC certification to date: three standalone projects and three solar plus storage projects.<sup>40</sup> Moreover, the process to apply for CEC certification expires in 2029.<sup>41</sup> Thus, even if the Commission wishes to refer projects to the CEC, it must begin to plan now for the end of that program.” <i>Comments on PD, at 13-14.</i></p> <p>“As discussed below, we therefore do not adopt any of the proposed revisions</p>	
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	<p>and rules; instead we instruct Staff to continue to coordinate with the CEC to support the permitting of BESS projects subject to CEC's opt-in certification process wherein the Commission may be a CEQA responsible agency. . . . Staff's rationale for recommending their proposals stems from party comments that advocate for clarifying the permitting process. . . . EDF supports the inclusion of BESS in the definition of 'upgrade' in Staff Proposal Section 3.5, Proposal 2 but suggest that further clarification is needed concerning the Commission's preemption of local jurisdictional authority for BESS permitting to avoid any disputes.<sup>232</sup>” <i>D.25-01-055, at 119, 121-23.</i></p>	
<p>11. EDF was a party to the Settlement Agreement. It also efficiently responded to objections in Phase 2 of this proceeding to adopting the Settlement's proposals to allow applicants to prepare draft CEQA documents and to establish rebuttable presumptions in favor of CAISO's Transmission Plan findings.</p> <p>Decision 25-01-055 substantially adopted the Settlement Agreement's proposed revisions to GO 131-D to (1) allow applicants to prepare draft CEQA documents, (2) establish rebuttable presumptions in favor of CAISO findings, and (3) partially adopted the Settlement Agreement's proposed revisions to clarify PTC exemption “g.”</p>	<p>“The Settling Parties include PG&amp;E, SCE, SDG&amp;E, Bear Valley Electric Service, Inc., Cal Peco Electric, PacifiCorp, ACP, IEP, CEERT, EDF, LSPGC, REV Renewables, Large-Scale Solar Association, California Energy Storage Alliance, City of Long Beach, and Transmission Owners.” <i>D.25-01-055, at 6.</i></p> <p>“Following the issuance of the Scoping Memo, the Settling Parties began negotiations among themselves and other interested parties to this proceeding. Throughout August and September, the Settling Parties considered and discussed various GO 131-D revision proposals; drafted, discussed, and edited myriad iterations of proposed revision language; engaged in coalition-building outreach efforts; and held an All-Party Settlement Conference . . . to provide all participants the opportunity to openly discuss and negotiate in furtherance of the settlement effort.” <i>Joint Motion for Adoption of the Phase 1 Settlement Agreement (“Joint Motion for Adoption</i></p>	

	<p><i>of Settlement”)(Sept. 29, 2023), Attach. A, at 7.</i></p> <p>“CBD renews objections to the Settlement’s Proposed amendments to GO 131-D.11 EDF has already responded to these, and other party objections, detailing why they are unfounded, in previous comments, incorporated herein by reference.<sup>12</sup> In summary, the Settlement’s proposed amendments do not ‘replace’ the Commission’s independent oversight or judgment during CEQA review. The proposed amendments expressly preserve the Commission’s independent judgment in releasing CEQA documents<sup>13</sup> and any rebuttable presumption in favor of CAISO findings may be rebutted with evidence and disagreed with by the Commission. Further, it is entirely rationale for the Commission’s statement of objectives for a project to include the CAISO Transmission Plan’s stated purpose and benefit of the project, given that CAISO approval is the reason the project is applying for permitting from the Commission. And while the parties have raised concerns about CAISO’s Transmission Planning process, and improvements may be warranted, the Commission’s permitting procedures is not the place to address those concerns.” <i>Reply Comments on Phase 2 Issues, at 5.</i></p> <p>“Notwithstanding the foregoing, an applicant may elect to prepare and submit with its application, in lieu of a PEA, a draft environmental impact report, draft mitigated negative declaration, draft negative declaration, draft addendum, or analysis of the applicability of an exemption from CEQA (each a CEQA Document).</p>	
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	<p>Energy Division may provide the applicant with appropriate guidance and assist in the preparation of the draft CEQA Document. Before using a draft CEQA Document prepared by the applicant, the Commission shall subject the draft to its independent review and analysis. Any draft CEQA Document sent out for public review shall reflect the independent judgment of the Commission.” <i>Joint Motion for Adoption of Settlement, Attach. A, at 9, 15.</i></p> <p>“Notwithstanding any other provision herein, to support the Commission in its preparation of a CEQA document for a project, an applicant may elect to prepare and submit with its application, in lieu of a PEA, a draft version of an initial study, ND, MND, EIR, Addendum, or analysis of the applicability of an exemption from CEQA; provided that applicants electing to prepare and submit draft versions of CEQA documents must first initiate pre-filing consultation with Energy Division staff pursuant to Rule 2.4 of the Commission’s Rules of Practice and Procedure at least six (6) months prior to the filing of the application and earlier if reasonably feasible, unless Energy Division staff authorize a shorter period in writing, and provides the draft documents to Energy Division staff for review during the pre-filing period.</p> <p>1. An applicant-prepared version of a draft CEQA document shall comply with the CEQA Guidelines and Public Resources Code § 21000 et seq., shall provide substantial evidence for all findings and conclusions, and shall include any required issue-specific technical studies (e.g., biological resource studies, cultural resource studies).</p>	
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	<p>2. In accordance with CEQA Guidelines § 15084, the Commission shall subject all materials prepared by others to independent review and analysis. Any CEQA document circulated for public review shall reflect the independent judgment of the Commission.” <i>D.25-01-055, Attach. A, at 14, 20-22.</i></p> <p>“W]here the electric project proposed in a CPCN or PTC application has been evaluated and approved by the CAISO in a Transmission Plan prepared in accordance with the CAISO tariff approved by FERC:</p> <p>a. The statement of objectives required by 14 Cal. Code Regs. § 15124(b) and any statement of overriding considerations required by 14 Cal. Code Regs. § 15093(b) in a CEQA Document for the proposed project shall include the underlying purpose and project benefits of the proposed project as stated in the relevant CAISO Transmission Plan.</p> <p>b. The range of reasonable alternatives to the proposed project, if any, required by 14 Cal. Code Regs. § 15126.6 in an initial draft CEQA Document for the proposed project circulated for public comment, shall be limited to alternative routes or locations for construction of the relevant CAISO Transmission Plan-approved electric project.</p> <p>c. There shall be a rebuttable presumption that the consideration of cost effective alternatives to transmission facilities required by Public Utilities Code Section 1002.3, if applicable, may be limited to the analysis of such alternatives to the proposed project as set forth in the relevant CAISO Transmission Plan and the base resource portfolio provided by the Commission to CAISO for development of that Transmission Plan.</p>	
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	<p>d. Where such an electric project is the subject of a CPCN application, the CAISO's approval of such project shall establish a rebuttable presumption that such project is necessary to promote the safety, health, comfort, and convenience of the public, and that public convenience and necessity require project approval." <i>Joint Motion for Adoption of Settlement, Attach. A, at 9, 15-16.</i></p> <p>"Where the electric project proposed in a CPCN or PTC application has been evaluated and approved by the CAISO in a transmission plan prepared in accordance with the CAISO tariff approved by FERC, the following will occur:</p> <p>a. The project need from the CAISO transmission plan shall form the basis of the statement of objectives required by 14 Cal. Code Regs. § 15124(b) in a CEQA document.</p> <p>b. In a proceeding evaluating the issuance of a CPCN for a proposed transmission project, if the applicant demonstrates that all the requirements of Public Utilities Code § 1001.1 are satisfied, the Commission shall establish a rebuttable presumption in favor of a CAISO governing board-approved finding that such project is needed.</p> <p>c. The range of reasonable alternatives to the proposed project in an initial draft EIR circulated for public comment may be limited to alternative routes or locations for construction of the relevant CAISO transmission plan approved electric project and the "no action" alternative." <i>D.25-01-055, Attach. A, at 21.</i></p> <p>"g. power line facilities or substations to be located in an existing franchise, road-widening setback easement, or public</p>	
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	<p>utility <u>right of way (ROW)</u> or easement; or <u>power line facilities or substations</u> in a utility corridor designated, precisely mapped and officially adopted pursuant to law by federal, State, or local agencies for which a final Negative Declaration <del>or EIR</del>, <u>Mitigated Negative Declaration, or Environmental Impact Report (EIR)</u> finds no significant unavoidable environmental impacts.” <i>Joint Motion for Adoption of Settlement, Attach. A, at 6.</i></p> <p>“Power line facilities <del>or</del>, substations, or switchyards to be located in an existing franchise, road-widening setback easement, or public utility easement; or power line facilities, substations, or switchyards in an existing right-of-way (ROW), fee-owned property, or other property on which a public utility has a legal right to operate existing transmission or power line facilities, substations, or switchyards; or power line facilities, substations, or switchyards in a utility corridor designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies. <u>for which a final Negative Declaration or EIR finds no significant unavoidable environmental impacts.” D.25-01-055, Attach. A, at 21.</u></p>	
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**Duplication of Effort (§ 1801.3(f) and § 1802.5):**

	<b>Intervenor’s Assertion</b>	<b>CPUC Discussion</b>
<b>a. Was the Public Advocate’s Office of the Public Utilities Commission (Cal Advocates) a party to the proceeding?<sup>2</sup></b>	Yes	

<sup>2</sup> The Office of Ratepayer Advocates was renamed the Public Advocate’s Office of the Public Utilities Commission pursuant to Senate Bill No. 854, which the Governor approved on June 27, 2018.

<b>b. Were there other parties to the proceeding with positions similar to yours?</b>	Yes	
<b>c. If so, provide name of other parties:</b> Sierra Club and Center for Energy Efficiency and Renewable Technologies (CEERT).		
<b>d. Intervenor's claim of non-duplication:</b> EDF collaborated with Sierra Club and CEERT to avoid duplication of efforts. For example, EDF coordinated with Sierra Club on proposed definitions for SB 529 terms and coordinated with CEERT on a joint ex parte letter to Commissioner Douglas regarding accelerating permitting.  To the extent that duplication occurred, it was unavoidable due to the large number of parties actively engaged in the case. EDF's comments were neither unproductive nor unnecessary because they substantially assisted the Commission's deliberations and decision making. EDF worked diligently to ensure that its involvement uniquely influenced the outcome of the final Decision. To the extent EDF's arguments were similar to other parties' arguments, they supplemented, complemented, and contributed to the positions taken by other parties and were neither unproductive nor unnecessary.		

**Additional Comments on Part II: *(use line reference # or letter as appropriate)***

#	Intervenor's Comment	CPUC Discussion
II.A.	<b>Substantial Contribution.</b> Pursuant to Section 1802(j), "Substantial contribution" means that, in the judgment of the commission, the customer's presentation has substantially assisted the commission in the making of its order or decision because the order or decision has adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer."	
II.A.	<b>Substantial Contribution Includes Enriching Deliberations and the Record.</b> The Commission's past decisions recognize that the Commission does not need to adopt an intervenor's position on a particular issue for that intervenor	

#	Intervenor's Comment	CPUC Discussion
	<p>to make a substantial contribution. D.08-04-004 at 4-5; D.19-10-019 at 3; D.03-03-031 at 6 (“substantial contribution includes evidence or argument that supports part of the decision even if the Commission does not adopt a party’s position in total”). Rather, intervenor substantially contribute when they have “provided a unique perspective that enriched the Commission’s deliberations and the record.” D.05-06-027 at 5. Intervenors also substantially contribute when they provide a full discussion of the matters at issue so as to allow the Commission “to fully consider the consequences of adopting or rejecting” the parties’ proposals, and when they “assist [] the Commission in the decision-making process.” D.08-04-004 at 5-6; D.19-10-019 at 4.</p>	
II.B.	<p><b>No Duplication.</b> No reduction to EDF’s compensation due to duplication is warranted given the standard adopted by the Commission in D.03-03-031 and consistent with Public Utilities Code Sections 1801.3(b) &amp; (f), 1802(j), 1802.5, and 1803.</p> <p>Section 1803 sets forth the requirements for awarding intervenor compensation. Pub. Util. Code, § 1803; D.03-03-031 at 12-14. An award of compensation for reasonable fees for participation in a proceeding is required when an intervenor (1) complies with Section 1804 and (2) “satisfies both of the</p>	



#	Intervenor's Comment	CPUC Discussion
	<p>following requirements: (a) The customer's presentation makes a substantial contribution to the adoption, in whole or in part, of the Commission's order or decision. (b) Participation or intervention without an award of fees or costs imposes a significant financial hardship." Pub. Util. Code. § 1803.</p> <p>Section 1801.3(f) seeks to avoid only (1) "unproductive or unnecessary participation that duplicates the participation of similar interests otherwise adequately represented" or (2) "participation that is not necessary for a fair determination of the proceeding." Pub. Util. Code, § 1801.3(f); D.03-03-031 at 15-18. The "duplication language contained in the first dependent clause requires the compensation opponent to establish three elements – duplication, similar interests, and adequate representation." D.03-03-031 at 18.</p> <p>Section 1802.5 provides for full compensation where participation "materially supplements, complements, or contributes to the presentation of another party." Pub. Util. Code, § 1802.5; see also D.03-03-031 at 14.</p> <p>Additionally, the intervenor compensation statutory scheme is intended to "be administered in a manner that encourages the effective and efficient participation of all groups that have a stake in the public utility</p>	

#	Intervenor's Comment	CPUC Discussion
	regulation process.” Pub. Util. Code § 1801.3(b).	

**PART III: REASONABLENESS OF REQUESTED COMPENSATION*****(to be completed by Intervenor except where indicated)*****General Claim of Reasonableness (§ 1801 and § 1806):**

	CPUC Discussion
<b>a. Intervenor's claim of cost reasonableness:</b> EDF's costs were reasonable for the scope and complexity of the issues presented in this rulemaking and the proposed procurement requirements.	
<b>b. Reasonableness of hours claimed:</b> EDF worked diligently throughout the process to only spend a reasonable and prudent amount of time. EDF had one point person for reviewing and drafting filings to ensure efficient disposition of our advocacy. Research tasks were assigned to a junior attorney.  On February 15, 2024, EDF filed a request for intervenor compensation for substantial contribution to D.23-12-035, which addressed Phase I issues. EDF requested compensation for time spent contributing to the settlement agreement that numerous parties executed during Phase 1 to aid the Commission in resolving issues raised in the proceeding. The Commission directed staff to consider issues raised by the settlement agreement during Phase 2. EDF thus also requests compensation for work contributing to the settlement agreement in this claim. <b>EDF is not seeking double compensation</b> , and is only including the work contributing to the settlement in the event that the Commission feels it is more appropriate to recover work contributing to the settlement in this Phase 2 intervenor compensation claim, rather than in EDF's Phase 1 intervenor compensation claim.	
<b>c. Allocation of hours by issue:</b> Acceleration of Permitting - Rule 2.4 Process, CEQA Review, and Rebuttable Presumption of CAISO Transmission Plan Findings: 97.9 hours (42%) Terms and CPCN and PTC Exemptions: 84.2 hours (36%) Settlement Executed During Phase 1: 28.2 hours (12%) Permitting BESS: 17.8 hours (8%) Reporting Requirements: 4.1 hours (2%)	

**Specific Claim:\***

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Heather Minner	2023	24.2	\$675	ALJ-393; Attorney V	\$16,335			
Yochanan Zakai	2023	1.2	\$560	2022 rate set in D.24-01-022 plus 5% step increase per D.07-01-009 and escalation rate (a.k.a. COLA)	\$672			
Michael Colvin	2023	7.7	\$520	2023 rate set in D.24-12-072.	\$4,004			
Heather Minner	2024	109.8	\$710	Requested 2023 rate plus 5% step increase per D.07-01-009 and escalation.	\$78,425			
Yochanan Zakai	2024	1.9	\$610	ALJ-393; Attorney IV	\$1,159			
Michael Colvin	2024	17.8	\$535	2024 rate set in D.24-12-072.	\$9,523			
Orran Balagopalan	2024	6.8	\$330	Requested 2023 rate plus 5% step increase per D.07-01-009 and escalation.	\$2,244			
Heather Minner	2025	53.9	\$800	Requested 2024 rate plus 5% step increase per D.07-01-009 and escalation.	\$43,120			
Yochanan Zakai	2025	0.5	\$665	Requested 2024 rate plus 5% step increase per D.07-01-009 and escalation.	\$333			
Michael Colvin	2025	8.5	\$565	Awarded 2024 (D.24-12-072) rate plus 5%	\$4,803			

CLAIMED						CPUC AWARD		
				step increase per D.07-01-009 and escalation.				
Orran Balagopalan	2025	3	\$355	Requested 2024 rate plus 5% step increase per D.07-01-009 and escalation.	\$1,065			
<b>Subtotal: \$ 161,682</b>						<b>Subtotal: \$</b>		
<b>OTHER FEES</b>								
<b>Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):</b>								
<b>Item</b>	<b>Year</b>	<b>Hours</b>	<b>Rate \$</b>	<b>Basis for Rate*</b>	<b>Total \$</b>	<b>Hours</b>	<b>Rate \$</b>	<b>Total \$</b>
[Person 1]								
[Person 2]								
<b>Subtotal: \$</b>						<b>Subtotal: \$</b>		
<b>INTERVENOR COMPENSATION CLAIM PREPARATION **</b>								
<b>Item</b>	<b>Year</b>	<b>Hours</b>	<b>Rate \$</b>	<b>Basis for Rate*</b>	<b>Total \$</b>	<b>Hours</b>	<b>Rate \$</b>	<b>Total \$</b>
Yochanan Zakai	2025	2.7	\$333	Half 2025 rate	\$899.10			
Heather Minner	2025	30.6	\$400	Half 2025 rate	\$12,240			
Orran Balagopalan	2025	22.1	\$178	Half 2025 rate	\$3,933.80			
<b>Subtotal: \$ 17,072</b>						<b>Subtotal: \$</b>		
<b>COSTS</b>								
<b>#</b>	<b>Item</b>	<b>Detail</b>	<b>Amount</b>	<b>Amount</b>				
1.								
2.								
<b>Subtotal: \$</b>						<b>Subtotal: \$</b>		
<b>TOTAL REQUEST: \$ 178,854</b>						<b>TOTAL AWARD: \$</b>		
<p>*We remind all intervenors that Commission staff may audit the records and books of the intervenors to the extent necessary to verify the basis for the award (§1804(d)). Intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenors' records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time are typically compensated at ½ of preparer's normal hourly rate</p>								
<b>ATTORNEY INFORMATION</b>								

CLAIMED			CPUC AWARD
Attorney	Date Admitted to CA BAR <sup>3</sup>	Member Number	Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation
Heather Minner	December 7, 2007	252676	No
Yochanan Zakai	Admitted to Oregon State Bar in 2013	Oregon State Bar Member No. 130369	No
Orran Balagopalan	December 1, 2021	341508	No

**Attachments Documenting Specific Claim and Comments on Part III:**  
***(Intervenor completes; attachments not attached to final Decision)***

Attachment or Comment #	Description/Comment
1	Certificate of Service
2	<p><b>Biography of Expert and Attorneys</b></p> <p><b>Heather Minner</b> is a partner with Shute, Mihaly &amp; Weinberger LLP. She joined the firm in 2008 after serving as a judicial clerk for the Honorable Garland E. Burrell Jr. of the United States District Court for the Eastern District of California.</p> <p>Ms. Minner advises and advocates on behalf of renewable energy companies and environmental nonprofits seeking to facilitate the rapid deployment of clean energy projects and to decarbonize the economy.</p> <p>Ms. Minner frequently assists cities and local agencies in land use and administrative matters and advises on transparency and ethics laws, public contracting, processing development applications, environmental review, and the adoption of fees and taxes. Ms. Minner also represents environmental and community groups before local governments and in the courts to protect open space and public health across California.</p> <p>EDF requests a rate of \$675 for Ms. Minner’s work in 2023. Ms. Minner has been a member of the bar for over 16 years, which in the Hourly Rate Chart approved in Resolution ALJ-393 places her as a level V attorney. Level V attorneys, with 15+ years of experience are eligible for rates ranging from \$535 to \$750, with a median of \$650.</p> <p>EDF requests a rate of \$735 for Ms. Minner’s work in 2024. For work in 2024, Ms. Minner is classified as an Attorney V in the Hourly Rate Chart in Resolution ALJ-393. Level V Attorneys are eligible for rates ranging from \$535-\$7850, with a median of \$650. A rate of \$735 is equivalent to the 2023 rate Ms. Minner requested in prior Intervenor Compensation Requests, in</p>

<sup>3</sup> This information may be obtained through the State Bar of California’s website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

Attachment or Comment #	Description/Comment
	<p>addition to the 5% step increase per D.07-01-009 and the 2024 escalation rate (a.k.a COLA) of 4.07%.</p> <p>EDF requests a rate of \$800 for Ms. Minner’s work in 2025. For work in 2024, Ms. Minner is classified as an Attorney V in the Hourly Rate Chart in Resolution ALJ-393. Level V Attorneys are eligible for rates ranging from \$535-\$785, with a median of \$650. A rate of \$800 is equivalent to the 2024 rate Ms. Minner requests here, in addition to the 5% step increase per D.07-01-009 and the escalation rate (a.k.a COLA) for 2025 of 3.46%.</p> <p>EDF submits that these rates are reasonable for Ms. Minner’s work given her experience, her widely-regarded expertise on the California Environmental Quality Act and other environmental and administrative law issues.</p> <p>EDF requests a rate of \$400 for Ms. Minner’s claim preparation in 2025, half of the requested rate for 2025.</p> <p><b>Yochanan Zakai</b> is an associate at Shute, Mihaly, and Weinberger. He graduated from the University of Oregon School of Law in 2012 and then worked as a policy advisor for the Washington State Utilities and Transportation Commission for four years. He was admitted to the Oregon State Bar in 2013. His relevant experience includes clerkships with the Hawaii Public Utilities Commission, Oregon’s utility ratepayer advocate, and the Bonneville Power Administration, as well as an externship with a wind turbine manufacturer and two years representing a municipal electric utility.</p> <p>Mr. Zakai has a national practice of administrative law focused on utility regulation. Mr. Zakai has represented clients in various CPUC proceedings including R.19-01-006 (wildfire cost recovery, representing Protect Our Communities Foundation or PCF), R.17-06-026 (power cost indifference recovery adjustment, representing PCF), R.17-07-007 (interconnection of distributed energy resources, representing the Interstate Renewable Energy Council), R.16-02-007 &amp; R.20-05-003 (integrated resource planning, representing EDF), and R.14-08-013 &amp; R.21-06-017 (distribution resource planning, representing the Interstate Renewable Energy Council). He has also appeared representing clients before the Bonneville Power Administration, California Independent System Operator, Colorado Public Utilities Commission, Massachusetts Department of Public Utilities, Michigan Public Service Commission, Minnesota Public Utilities Commission, and Washington State Utilities and Transportation Commission.</p>

Attachment or Comment #	Description/Comment
	<p>Resolution ALJ-393 reaffirmed that, as a matter of policy, lawyers “licens[ed] by any jurisdiction within the United States” are eligible for compensation at attorney rates.<sup>[1]</sup> Although Draft Resolution ALJ-393 originally proposed requiring attorneys to be licensed in California, the final version removed this requirement in response to comments from TURN emphasizing that attorneys like Mr. Zakai with a national practice bring “unique value to the Commission’s proceedings because of their national perspective.”<sup>[2]</sup></p> <p>EDF requests a rate of \$560 for Mr. Zakai’s work in 2023. D.24-01-022 adopted a rate of \$510 for Mr. Zakai’s work in 2022. For Mr. Zakai’s 2023 rate, EDF requests that the Commission apply a 5% step increase per D.07-01-009 and the 2023 escalation rate (a.k.a. COLA) of 4.46%.</p> <p>EDF requests a rate of \$610 for Mr. Zakai’s work in 2024. For work in 2024, Mr. Zakai is classified as an Attorney IV in the Hourly Rate Chart in Resolution ALJ-393. Level IV Attorneys are eligible for rates ranging from \$440-\$680, with a median of \$560. A rate of \$610 is equivalent to the 2023 rate Mr. Zakai requested in prior Intervenor Compensation Requests, in addition to the 5% step increase per D.07-01-009 and the 2024 escalation rate (a.k.a COLA) of 4.07%.</p> <p>EDF requests a rate of \$665 for Mr. Zakai’s work in 2025. For work in 2025, Mr. Zakai is classified as an Attorney IV in the Hourly Rate Chart in Resolution ALJ-393. Level IV Attorneys are eligible for rates ranging from \$440-\$680, with a median of \$560. A rate of \$655 is equivalent to the 2024 rate Mr. Zakai requests here and has requested in prior Intervenor Compensation Requests, in addition to the 5% step increase per D.07-01-009 and the escalation rate (a.k.a COLA) for 2025 of 3.46%.</p> <p>EDF requests a rate of \$333 for Mr. Zakai’s claim preparation in 2025, half of the requested rate for 2025.</p>

<sup>[1]</sup> Resolution ALJ-393 at 6 (Dec. 17, 2020) (“We have modified the definition [in the hourly rate chart] of labor roles for Legal Directors and Attorneys to include ‘licensing by any jurisdiction within the United States.’”). The hourly rate chart posted on the Commission’s intervenor compensation website has not been updated to reflect this modification.

<sup>[2]</sup> TURN Reply Comments on Draft Resolution ALJ-393 at 2 (Dec. 11, 2020) (“the Commission has never required that attorneys be members of the California Bar to be compensated on the attorney hourly rate scale, as long as they are licensed by another jurisdiction within the United States. Restricting the Attorney and Legal Director Labor Roles to attorneys licensed by the California Bar would be a major change of practice for intervenors with a national presence, who bring unique value to the Commission’s proceedings because of their national perspective.”).

Attachment or Comment #	Description/Comment
	<p>Considering Mr. Zakai’s national perspective and specialized experience, these rates are reasonable.</p> <p><b>Orran Balagopalan</b> joined Shute, Mihaly &amp; Weinberger LLP as an associate in 2021. He represents public agencies, tribes, community groups, and nonprofit organizations on a broad range of environmental, energy, land use, and local government issues. Mr. Balagopalan advises clients on non-litigation matters and represents them in litigation at the trial level. Mr. Balagopalan has represented clients in public utility proceedings both in, and out of, California, in addition to representing clients across the nation on clean energy interconnection rules.</p> <p>Mr. Balagopalan graduated from the University of California, Los Angeles School of Law in 2021. During law school, he clerked at the California Coastal Commission and Earthjustice. Prior to attending law school, Mr. Balagopalan interned at the Orange County Public Defender’s Office, the Legal Aid Foundation of Los Angeles, and the congressional office of California’s 31st District.</p> <p>EDF requests a rate of \$330 for Mr. Balagopalan’s work in 2024. For work in 2024, Mr. Balagopalan is classified as a level II Attorney in the Hourly Rate Chart in Resolution ALJ-393. Level II Attorneys, with 2-5 years’ experience, are eligible for rates ranging from \$240 to \$430, with a median of \$330. A rate of \$330 is equivalent to the 2023 rate Mr. Balagopalan requested in prior Intervenor Compensation Requests, in addition to the 5% step increase per D.07-01-009 and the 2024 escalation rate (a.k.a COLA) of 4.07%.</p> <p>EDF requests a rate of \$355 for Mr. Balagopalan’s work in 2025. For work in 2025, Mr. Balagopalan is classified as a level II Attorney in the Hourly Rate Chart in Resolution ALJ-393. Level II Attorneys, with 2-5 years’ experience, are eligible for rates ranging from \$240 to \$430, with a median of \$330. A rate of \$355 is equivalent to the 2024 rate Mr. Balagopalan requests here, in addition to the 5% step increase per D.07-01-009 and the escalation rate (a.k.a COLA) for 2025 of 3.46%.</p> <p>EDF requests a rate of \$178 for Mr. Balagopalan’s claim preparation in 2025, half of the requested rate for 2025.</p> <p>Considering his experience, these rate are reasonable.</p>



Attachment or Comment #	Description/Comment
	<p><b>Michael Colvin</b> is the Director, Regulatory and Legislative Affairs, California Energy Program, Environmental Defense Fund. He has a Bachelor of Science and Master's degree in Public Policy, both from the University of California, Berkeley. His relevant experience includes a decade of work at the California Public Utilities Commission (from 2008-2018) both as staff and as policy advisors to former Commissioners Ferron and Sandoval. In addition to his work before the CPUC, Mr. Colvin is also an active participant at the California legislature, California Air Resources Board, California Energy Commission, and the California Independent System Operator.</p> <p>Mr. Colvin has appeared before the Commission as a policy expert and advocate in several proceedings, including Rulemaking 19-01-011 (Building Decarbonization), R.13-02-008 (Biomethane Procurement Standards), Rulemaking 18-12-006 (Transportation Electrification Framework), R.20-01-007 (long term gas planning docket), R.20-08-022 (Clean Energy Financing). Mr. Colvin also appears before the Commission in a variety of utility specific matters, including Applications 19-02-006 (Voluntary RNG tariff), A.20-10-011 (PG&amp;E's dynamic rate for commercial electric vehicles) and A. 19-07-006 (SD&amp;GE electric vehicle dynamic rate design).</p> <p>EDF requests a rate of \$520 for Mr. Colvin's work in 2023. D.24-12-272 adopted a rate of \$520 for Mr. Colvin's work in 2023.</p> <p>EDF requests a rate of \$535 for Mr. Colvin's work in 2024. D.24-12-272 adopted a rate of \$535 for Mr. Colvin's work in 2024.</p> <p>EDF requests a rate of \$565 for Mr. Colvin's work in 2025. Mr. Colvin is classified as a Public Policy Analyst V in the Hourly Rate Chart in Resolution ALJ-393. Level V Public Policy Analysts are eligible for rates ranging from \$540-\$920, with a median of \$700. A rate of \$565 is equivalent to the 2024 rate awarded for Mr. Colvin's work in D.24-12-072, in addition to the 5% step increase per D.07-01-009 and the escalation rate (a.k.a COLA) for 2025 of 3.46%.</p> <p>Considering Mr. Colvin's extensive and specialized experience in energy policy, these rates are reasonable.</p>
3	Timesheet with hourly information
4	Retainer Agreement Between Environmental Defense Fund and Shute, Mihaly & Weinberger LLP

**CPUC Comments, Disallowances, and Adjustments (*CPUC completes*)**

Item	Reason

#### **PART IV: OPPOSITIONS AND COMMENTS**

**Within 30 days after service of this Claim, Commission Staff or any other party may file a response to the Claim (see § 1804(c))**

<b>A. Opposition: Did any party oppose the Claim?</b>	
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If so:

Party	Reason for Opposition	CPUC Discussion

<b>B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(c)(6))?</b>	
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If not:

Party	Comment	CPUC Discussion

**(Green items to be completed by Intervenor)**

#### **FINDINGS OF FACT**

**Environmental Defense Fund** [has/has not] made a substantial contribution to D.25-01-055.

The requested hourly rates for **Environmental Defense Fund**'s representatives [, as adjusted herein,] are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.

The claimed costs and expenses [, as adjusted herein,] are reasonable and commensurate with the work performed.

The total of reasonable compensation is \$\_\_\_\_\_.

#### **CONCLUSION OF LAW**

The Claim, with any adjustment set forth above, [satisfies/fails to satisfy] all requirements of Pub. Util. Code §§ 1801-1812.

#### **ORDER**

**Environmental Defense Fund** is awarded \$\_\_\_\_\_.

Within 30 days of the effective date of this decision, \_\_\_\_\_ shall pay **Environmental Defense Fund** the total award. [for multiple utilities: "Within 30 days of the effective date of this decision, ^, ^, and ^ shall pay **Environmental Defense Fund** their respective shares of the award, based on their California-jurisdictional [industry type, for example, electric] revenues for the ^ calendar year, to reflect the year in which the proceeding was primarily litigated. If such data are unavailable, the most recent [industry type, for example, electric] revenue data shall be used."] Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning [date], the 75<sup>th</sup> day after the filing of **Environmental Defense Fund**'s request, and continuing until full payment is made.

The comment period for today's decision [is/is not] waived.

Revised March 2023

This decision is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

**APPENDIX**  
**Compensation Decision Summary Information**

<b>Compensation Decision:</b>		<b>Modifies Decision?</b>	
<b>Contribution Decision(s):</b>	D.25-01-055		
<b>Proceeding(s):</b>	R.23-05-018		
<b>Author:</b>			
<b>Payer(s):</b>			

**Intervenor Information**

<b>Intervenor</b>	<b>Date Claim Filed</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier?</b>	<b>Reason Change/Disallowance</b>
<b>Environmental Defense Fund</b>	April 8, 2025	\$178,754		N/A	

**Hourly Fee Information**

<b>First Name</b>	<b>Last Name</b>	<b>Attorney, Expert, or Advocate</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
Heather	Minner	Attorney	\$675	2023	
Heather	Minner	Attorney	\$735	2024	
Heather	Minner	Attorney	\$800	2025	
Yochanan	Zakai	Attorney	\$560	2023	
Yochanan	Zakai	Attorney	\$610	2024	
Yochanan	Zakai	Attorney	\$665	2025	
Michael	Colvin	Expert	\$520	2023	
Michael	Colvin	Expert	\$535	2024	
Michael	Colvin	Expert	\$565	2025	
Orran	Balagopalan	Attorney	\$330	2024	
Orran	Balagopalan	Attorney	\$355	2025	

**(END OF APPENDIX)**

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