

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

Resolution ALJ-347  
Administrative Law Judge Division  
October 12, 2017

**RESOLUTION**

RESOLUTION ALJ-347. Adopts an Expedited Interconnection Dispute Resolution Process as Authorized by Assembly Bill 2861.

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**SUMMARY**

This resolution adopts the Expedited Interconnection Dispute Resolution Process set forth in Exhibit A as authorized by Assembly Bill 2861.

**BACKGROUND**

Assembly Bill (AB) 2861 (Stats. 2016, Ch. 672), signed into law in September 2016, authorizes the California Public Utilities Commission (CPUC) to establish an expedited dispute resolution process that will issue binding determinations to electric distribution grid interconnection disputes based on the recommendations of a technical panel within 60 days of the Commission receiving the Application regarding a particular dispute. AB 2861 is intended to address the inadequacy of the existing interconnection dispute resolution process described in utility tariffs in Section K of Rule 21, which relies on protracted mediation and does not benefit from readily-leveraged technical expertise to review the engineering determinations and upgrade cost allocations that often lead to disputes.

Specifically, AB 2861 directs the CPUC to:

- Establish an eight-member technical advisory panel, consisting of four members from utilities and four non-utility members. Of the eight-member panel, four panel members will be assigned to review each dispute brought before the Commission and make a recommendation within 30 days to the Executive Director, who then will have 30 days to review the recommendation and prepare an Order resolving the dispute;
- Allow for any interested party to request a review of the Order within ten days, which would require a Resolution on the matter for a vote of the Commission; and

- Appoint a qualified electrical systems engineer with substantial interconnection expertise to advise the director of the Energy Division, and provide adequate staff to assist in resolving interconnection disputes.

On May 30, 2017, the CPUC's Energy Division issued its *Staff Concept Paper for an Expedited Interconnection Dispute Resolution Process*. The original *Staff Concept Paper for an Expedited Interconnection Dispute Resolution Process* is provided as Exhibit B for informational and comparison purposes. Energy Division served its concept paper on the service list for Rulemaking (R.) 11-09-011 and sought comments from interested stakeholders about the process described therein. Comments were received on June 23, 2017 from California Solar Energy Industries Association, Office of Ratepayer Advocates, the Joint Investor-Owned Utilities, Clean Coalition, Interstate Renewable Energy Council, the Placer Air Pollution Control District, and California Energy Storage Alliance. Reply comments were received on June 30, 2017 from California Solar Energy Industries Association, Clean Coalition, and the Joint Utilities (Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE)).

Energy Division subsequently prepared a revised proposal, *Staff Proposal for an Expedited Interconnection Dispute Resolution Process*, which is attached as Exhibit B, and was the subject of the Draft ALJ Resolution. Changes were made between the May 30, 2017 Staff Concept Paper and the September 5, 2017 Staff Proposal to:

- Add a requirement for informal dispute resolution prior to application;
- Clarify the scope of eligible disputes for the expedited process;
- Exempt applicants from progress payments during dispute review;
- Lengthen the timeframe for utilities to initially respond to disputes from three to five business days;
- Shortened the timeframe for parties to provide additional information to the dispute's review panel from five to three business days;
- Shortened the timeframe for submitting comments on the panel's recommendation from ten calendar days to five business days;
- Allow for Energy Division to conduct a non-binding public nomination process for non-utility technical panel members;
- Delete the section proposing specific revisions to Rule 21 to integrate the Expedited Process; utilities instead are directed to propose tariff revisions following approval of the ALJ Resolution; and
- Clarify the scope of the Rule 21 Working Group.

## **DISCUSSION**

Because AB 2861 is fairly specific about how the expedited interconnection dispute resolution process is to be structured, the issues raised by stakeholders in response to the *Staff Concept Paper for an Expedited Interconnection Dispute Resolution Process* and the *Staff Proposal for*

*an Expedited Interconnection Dispute Resolution Process* were narrow. Exhibit A, *Expedited Interconnection Dispute Resolution Process FINAL*, describes how the CPUC intends to implement these requirements. Exhibit A uses as its starting point the *Staff Proposal for an Expedited Interconnection Dispute Resolution Process*, modified based on comments on the Draft ALJ Resolution. Changes were made to the September 5, 2017 Staff Proposal to:

- Allow parties to pause the interconnection process by mutual agreement;
- Remove the requirement to request approval from Energy Division when seeking to extend deadlines associated with the informal dispute resolution requirement by mutual agreement;
- Base the “start” date for the Pub. Util. Code § 769.5 timelines upon when Energy Division deems an application both eligible and complete, and issues notice to the utility and the Sub-Panel, rather than the date the dispute is first submitted to Energy Division;
- Allow parties to request additional time to prepare information for the Review Sub-Panel if good cause is shown, and clarify that failure to produce information in a timely manner does not necessarily result in forfeiture of the dispute;
- Expand the pool of eligible candidates for the technical panel to non-licensed engineers with substantial technical expertise in distribution system interconnection;
- When disclosing economic interests, include not only interests related to the applicant, but also interests related to the utilities subject to the dispute resolution process;
- Rename the Rule 21 Working Group as Interconnection Discussion Forum;
- Reduce the frequency of in-person Interconnection Discussion Forum meetings from monthly to quarterly, and explicitly grant Energy Division the authority to make additional scheduling adjustments as needed.

Below we discuss a number of comments that we either did not adopt, or only partially reflected, in the *Expedited Interconnection Dispute Resolution Process FINAL*.

Suspension of the interconnection process during dispute review: Of particular importance to the Joint Utilities is the requirement to stay the interconnection process to incorporate dispute panel findings. Joint Utilities articulated several use cases where it may be appropriate to halt the interconnection request to avoid unnecessary time and cost associated with continuing the analysis. Clean Coalition strongly disagreed with Joint Utilities request and recommended that the interconnection process be paused only by mutual agreement of both parties. We agree with Clean Coalition that there should be the opportunity to stay the process when both parties agree.

Expertise of Panelists: The Joint Utilities expressed that the technical panelists should have expertise in both distribution and transmission system matters. While we agree

there are some cases where transmission matters become important with entities connecting under Rule 21, this case is not frequent. While we will seek panelists with expertise in both areas, it will not be a requirement.

Application of Rule 21, Section K.2.a: The Joint Utilities expressed that the existing Rule 21, Section K.2.a should serve as the informal dispute resolution requirement, and an expedited informal dispute resolution option should not be adopted. Clean Coalition on the other hand supported the Staff Proposal's efforts to shorten the existing informal processes defined in Section K.2.a of Rule 21 precisely because the purpose of this process is to expedite resolution of disputes. We agree that interconnection applicants with a dispute need to assemble facts and pertinent information as described in Section K.2.a and offered an expedited option to support the goals of AB 2861. Further, the Staff Proposal already allows disputants to make a mutual request to Energy Division to extend deadlines associated with the informal dispute resolution process.

In-person attendance at Interconnection Discussion Forum meetings: The Joint Utilities believe they should not be required to attend Interconnection Discussion Forum meetings in-person, due to the significant resources such a requirement entails. Clean Coalition suggested we include a mechanism for Energy Division to modify the schedule and in-person requirements of the working group based on experience and as need over time. We believe that in person attendance is essential to ensure mutual understanding and sharing ideas. We also recognize the burden placed on stakeholders of this requirement. Therefore, we have modified the proposal to include quarterly Interconnection Discussion Forum meetings that require in person participation and monthly calls as a starting point. We also agree with Clean Coalition that we include a mechanism to adjust over time.

In order to implement the expedited interconnection dispute resolution process, we adopt today, changes to each utility's Tariff Rule 21 are required. We direct PG&E, SDG&E, and SCE to file a Tier 2 advice letter within 60 days of the effective date of this ALJ resolution to implement the tariff revisions required as a result of Exhibit A and a draft template for applicants for the expedited process (Exhibit A at 9).

Energy Division will evaluate the performance of the adopted process as described in Exhibit A, Section 3. Minor changes were made to the May 30, 2017 proposed evaluation framework to improve clarity.

Exhibit A, Attachment A describes Energy Division's proposal to convene an Interconnection Discussion Forum and the objective, scope, participants, and process to be employed by the Interconnection Discussion Forum. While we need not formally approve the Interconnection Discussion Forum, we will direct that PG&E, SDG&E, and SCE support the Interconnection Discussion Forum through the in-person attendance of at least one engineering representative from each utility at every quarterly meeting.

## **COMMENTS**

The Draft ALJ Resolution was mailed on September 5, 2017 to the R.11-09-011 and R.17-07-007 service lists in accordance with Section 311 of the Public Utilities Code and Rule 14.5 of the CPUC's Rules of Practice and Procedure. Comments on the Draft ALJ Resolution were served on September 21, 2017 by Clean Coalition and Joint Utilities (PG&E, SDG&E, and SCE), and reply comments were served on September 26, 2017 by the same two parties and are described in the Discussion section of this ALJ Resolution.

## **FINDINGS**

1. AB 2861 (Stats. 2016, Ch. 672) authorizes the CPUC to establish an expedited dispute resolution process that will issue binding determinations to electric distribution grid interconnection disputes based on the recommendations of a technical panel within 60 days of the Commission receiving the Application regarding a particular dispute.
2. Energy Division issued its *Staff Concept Paper for an Expedited Interconnection Dispute Resolution Process* on May 30, 2017.
3. Exhibit B reflects the updated *Staff Proposal for an Expedited Interconnection Dispute Resolution Process* based on comments from stakeholders, prepared for purposes of receiving comment on the Draft ALJ Resolution.
4. The process set forth in Exhibit A, *Expedited Interconnection Dispute Resolution Process FINAL*, complies with the requirements of AB 2861, reflects the input of affected stakeholders, and should be adopted.
5. To support the success of the Interconnection Discussion Forum, PG&E, SDG&E, and SCE should support the Interconnection Discussion Forum through the in-person attendance of at least one engineering representative at every quarterly meeting.

## **THEREFORE, IT IS ORDERED** that:

1. The Expedited Interconnection Dispute Resolution Process set forth in Exhibit A is adopted.
2. Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company must file Tier 2 advice letters to implement the changes to Tariff Rule 21 set forth in Exhibit A within 60 days of the effective date of this ALJ resolution.
3. As part of the Tier 2 advice letter required in ordering paragraph 2, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company must include a draft template for applicants for the expedited process as described in Exhibit A at 9.

4. Energy Division shall evaluate the performance of the Expedited Interconnection Dispute Resolution Process consistent with the evaluation framework described in Exhibit A, Section 3.
5. Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company must support the Interconnection Discussion Forum through the in person attendance of at least one engineering representative from each utility at every quarterly meeting.
6. The Executive Director shall take all necessary steps to provide resources to ensure that the Expedited Interconnection Dispute Resolution Process adopted today may begin accepting applications no later than eight months from the effective date of this ALJ resolution.

This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on October 12, 2017, the following Commissioners voting favorably thereon:

/s/ TIMOTHY J. SULLIVAN

TIMOTHY J. SULLIVAN  
Executive Director

MICHAEL PICKER  
President  
CARLA J. PETERMAN  
LIANE M. RANDOLPH  
MARTHA GUZMAN ACEVES  
CLIFFORD RECHTSCHAFFEN  
Commissioners

## Exhibit A

# Expedited Interconnection Dispute Resolution Process FINAL

# **Expedited Interconnection Dispute Resolution Process FINAL**

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California Public Utilities Commission

**OCTOBER 2017**





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## Definitions

**applicant:** the *Applicant* or *Producer* as defined in Rule 21 (i.e. the entity submitting an Interconnection Request pursuant to Rule 21; the entity that executes a Generator Interconnection Agreement with Distribution Provider.)

**day:** a calendar day as defined in Rule 21 (any day, including Saturday, Sunday or a Federal and State Holiday), unless specified otherwise.

**Expedited Interconnection Dispute Resolution Process (“Expedited Process”):** a process authorized by AB 2861 in which the CPUC’s Executive Director issues binding determinations on interconnection disputes within 60 days of receiving the dispute. Determinations are made based on the recommendations of the *Interconnection Dispute Resolution Panel*.

**Interconnection Dispute Resolution Panel (“Panel”):** the technical panel of qualified electrical systems engineers with substantial interconnection expertise from whom the *Review Sub-Panel* is selected. The Panel consists of at least eight members selected by the Commission, four from utilities and four not from utilities.

**interested person:** the applicant, utility, a person who has submitted comments on the recommendation of the Review Sub-Panel, or a person who has a demonstrable interest in the outcome of the dispute and has written Energy Division requesting to be added to the distribution list for the dispute

**Review Sub-Panel (“Sub-Panel”):** the four-member review panel selected from members of the *Interconnection Dispute Resolution Panel* to evaluate a given dispute.

**utility:** the *Distribution Provider* as defined in Rule 21 (i.e. the utility operating the distribution system to which the applicant seeks to interconnect.)

## Introduction

### Purpose of this Paper

The purpose of this paper is to set forth an expedited interconnection dispute resolution process as authorized by Assembly Bill 2861 (Ting, 2016).<sup>1</sup> This paper serves as the basis for an Administrative Law Judge (ALJ) Resolution ALJ- 347, which establishes the expedited process.

### Stakeholder Input

Stakeholders had the opportunity to provide feedback on this proposal prior to its finalization. Energy Division issued an earlier version of this proposal ("Staff Concept Paper for an Expedited Interconnection Dispute Resolution Process") on May 30, 2017 and received informal written comments from stakeholders on June 23 and June 30, 2017. Staff made a number of revisions to the paper based on comments, including the following:

- Added a requirement for informal dispute resolution prior to application.
- Clarified the scope of eligible disputes for the expedited process.
- Exempted applicants from progress payments during dispute review.
- Lengthened the timeframe for utilities to initially respond to disputes from three to five business days.
- Shortened the timeframe for parties to provide additional information to the dispute's review panel from five to three business days.
- Shortened the timeframe for submitting comments on the panel's recommendation from ten calendar days to five business days.
- Allowed for Energy Division to conduct a non-binding public nomination process for non-utility technical panel members.
- Deleted section proposing specific revisions to Rule 21 to integrate the Expedited Process; utilities will instead be directed to propose tariff revisions following approval of the ALJ Resolution.
- Clarified the scope of the Rule 21 Working Group.

On September 5, 2017, the Commission issued Resolution ALJ-347, which included the updated paper as Exhibit A. Pacific Gas and Electric, San Diego Gas and Electric, and Southern California Edison (collectively, the "Joint IOUs") and Clean Coalition filed comments on September 21 and September 26, 2017. Changes were made to the paper based on comments to:

- Allow parties to pause the interconnection process by mutual agreement;
- Remove the requirement to request approval from Energy Division when seeking to extend deadlines associated with the informal dispute resolution requirement by mutual agreement;

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<sup>1</sup> Assembly Bill 2861 codified Public Utilities Code Section 769.5 and is available in Appendix A of this paper and at [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160AB2861](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB2861).

- Base the “start” date for the timelines established by Section 769.5 upon when Energy Division (“ED”) deems an application both eligible and complete, and issues notice to the utility and the Sub-Panel, rather than the date the dispute is first submitted to ED;
- Allow parties to request additional time to prepare information for the Review Sub-Panel if good cause is shown, and clarify that failure to produce information in a timely manner does not necessarily result in forfeiture of the dispute;
- Expand the pool of eligible candidates for the technical panel to non-licensed engineers with substantial technical expertise in distribution system interconnection;
- When disclosing economic interests, include not only interests related to the applicant, but also interests related to the utilities subject to the dispute resolution process;
- Rename the Rule 21 working group to “Interconnection Discussion Forum”;
- Reduce the frequency of in-person working group meetings from monthly to quarterly, and explicitly grant Energy Division the authority to make additional scheduling adjustments as needed.

### Process and Schedule for Adoption of Expedited Process

Resolution ALJ-347 is the procedural vehicle for developing and adopting the expedited dispute resolution process (“Expedited Process”).

Table 1 (below) provides an estimated schedule for development of the Expedited Process, beginning with the issuance of the staff concept paper and ending with the launch of the process. The actual timeline to launch will depend on multiple factors:

- The Expedited Process centers on the recommendations of a panel of technical experts, four of whom will be hired by the CPUC using state contracting procedures. The CPUC’s ability to procure the services of the independent experts in a timely manner will impact the timeline to launch. Based on current staffing constraints within the CPUC’s Contracts Office, the estimated timeframe for contracting four panel members is six to nine months. The timeline below assumes a six month contracting period.
- The CPUC’s IT department must make modifications to its e-filing system to support the public comment process mandated by AB 2861 and the submission and posting of public documents associated with the Expedited Process, including all written notices requesting resolution using the Expedited Process, Sub-Panel recommendations, comments, replies, Orders Resolving Interconnection Disputes, and requests for Commission review of an Order. Resource constraints in the CPUC’s IT department may impact the timeline to launch.

Energy Division cannot commence processing applications for the expedited dispute resolution process until it has the resources necessary to implement this program.

### Table 1: Schedule for Adoption of Expedited Process

Activity	Date
Staff Concept Paper Issued	May 30, 2017
Stakeholder Comments Due	June 23, 2017
Reply Comments Due	June 30, 2017
Staff Proposal Finalized and Draft Resolution Issued	September 5, 2017
Comments on Draft Resolution Due	September 21 and 26, 2017
Commission Vote on Resolution	October 12, 2017
Interconnection Dispute Resolution Panel Assembled*	March 31, 2018
Expedited Process Launched (accepting applications)	March 31, 2018

\*The contracting process to hire non-utility Panel members may begin prior to formal Commission adoption of the Expedited Process.

### Background on Assembly Bill 2861

Assembly Bill (AB) 2861, signed into law in September of 2016, authorizes the CPUC to establish an expedited dispute resolution process that will issue binding determinations to interconnection disputes based on the recommendations of a technical panel within 60 days of the Commission receiving an Application regarding a particular dispute. AB 2861 is intended to address the inadequacy of the existing interconnection dispute resolution process described in Section K of Rule 21, which relies on protracted mediation and does not benefit from readily-leveraged technical expertise to review the engineering determinations and upgrade cost allocations that often lead to disputes.

Specifically, AB 2861 directs the CPUC to:

- Establish an eight-member technical advisory panel, consisting of four utility members and four non-utility members. Of the eight-member panel, four panel members will be assigned to review each dispute brought before the Commission and make a recommendation within 30 days to the Executive Director, who then will have 30 days to review the recommendation and prepare an Order resolving the dispute;
- Allow for any interested party to request a review of the Order within ten days, which would require a Resolution on the matter for a vote of the Commission; and
- Appoint a qualified electrical systems engineer with substantial interconnection expertise to advise the director of the Energy Division, and provide adequate staff to assist in resolving interconnection disputes.

Appendix A contains the full text of AB 2861.

### Contents of this Paper

The paper is organized as follows:

- **Section 1** establishes a framework and steps for the Expedited Process, describes the role of the technical advisory panel in reviewing disputes, and provides information on the service of documents and online access to information.

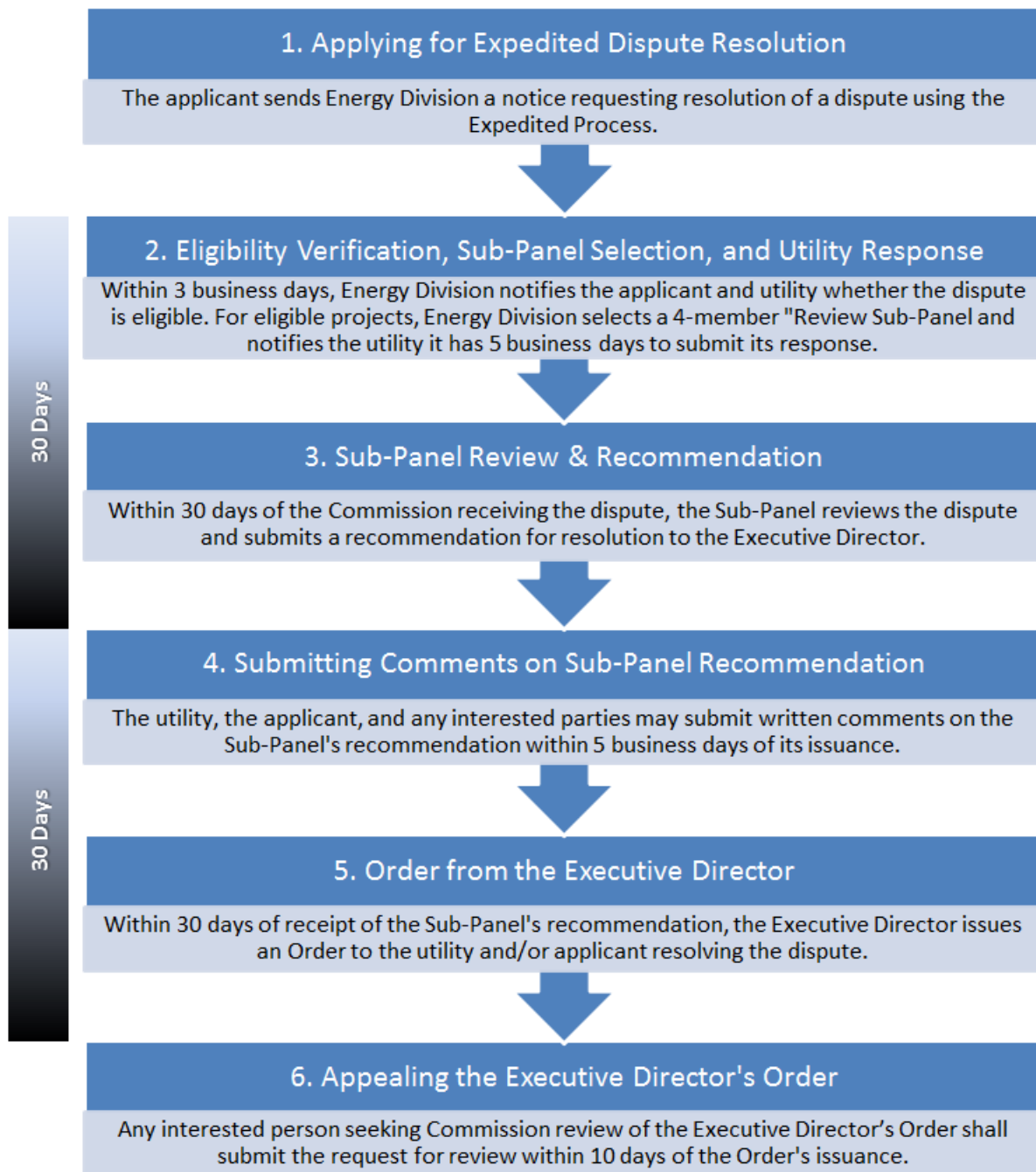
- **Section 2** sets out a governing structure for the technical advisory panel, including member selection processes, terms of appointment, and conflict of interest rules.
- **Section 3** provides methodological guidelines for evaluating the Expedited Process' performance in shortening interconnection timeframes, reducing uncertainty in the interconnection process, and reducing project interconnection costs.
- **Attachment A** proposes the formation of an "Interconnection Discussion Forum" that meets regularly to informally resolve and/or prevent disputes and foster proactive, constructive communication between utilities, developers, and other impacted stakeholders about interconnection-related issues.

## Section 1: Proposed Expedited Process for Dispute Resolution

### Process Overview and Steps

The expedited interconnection dispute resolution process shall be administered by Energy Division and consist of the steps described in this section. The steps closely track the process outlined in AB 2861.

*Figure 1. Overview of the Expedited Process*



More detailed descriptions of each step can be found below. Process design elements which derive directly from AB 2861 are indicated with the Public Utilities Code section referenced.

### 1. Applying for Expedited Dispute Resolution

#### *Eligibility*

Per Section 769.5(b)(3), if an applicant is unable to resolve an interconnection-related dispute after working with the utility operating the distribution grid, the applicant may seek to resolve the dispute using the Commission's expedited interconnection dispute resolution process.

#### *Informal Dispute Resolution Requirement*

To be eligible for the Expedited Process, an applicant must demonstrate they have made prior attempts to informally resolve the dispute with the utility using one of the following two procedures:

1. Bilateral negotiations as set forth in Section K.2.a of Rule 21.
2. Expedited bilateral negotiations tracking the steps of Section K.2.a but with the following shortened deadline requirements: upon the applicant notifying the utility of the dispute, the utility shall have *10* business days to prepare its response instead of 21 calendar days, and *15* business days to meet to attempt to resolve the dispute instead of 45 calendar days.

The applicant and utility may by mutual agreement extend deadlines associated with the informal dispute resolution requirement.

Energy Division shall have discretion to grant waivers to the informal dispute resolution requirement when the applicant and utility have already engaged in a dispute resolution process of equivalent duration and with equivalent opportunity for both parties to understand the facts of the dispute and prepare responses. The applicant and/or utility may make a request to Energy Division to waive the requirement.

#### *Stage of Interconnection*

An applicant is eligible to apply for dispute resolution at any stage of the Rule 21 interconnection process, including after an interconnection agreement has been signed and/or after operation has commenced.

#### *Scope*

A dispute may be considered eligible for the Expedited Process when there is an unresolved disagreement between the applicant and utility regarding whether one or both parties' actions are compliant with established interconnection rules and/or are reasonable, cost efficient and necessarily required under those rules to ensure safe and reliable interconnection.



Eligible disputes may include, but are not limited to, the following matters:

- Accuracy of analysis performed in studies and engineering conclusions
- The necessity for equipment or facilities required by the utility
- Whether there is a feasible, lower cost alternative to a requested upgrade
- Whether modifications to an application should trigger re-study

### *Out of Scope*

The Commission delegates to Energy Division the authority to enforce which disputes are out of scope of the Expedited Process.

Applicants shall not use the dispute resolution procedure as a method for resolving debates over established interconnection rules or policies. Disputes whose resolution would necessarily result in modifications or revisions to Commission rules will likely be found by Energy Division to be outside the scope of the Expedited Process. Such determinations are more properly the subject of Commission rulemakings.

Additionally, disputes of material facts that do not have an engineering or compliance question at their core will likely be found by Energy Division to be outside the scope of the Expedited Process. Such disputes will likely be referred to the Commission's pre-existing methods for dispute resolution, including bilateral negotiations as outlined in Section K.2.a of Rule 21, mediation via the Commission's Alternative Dispute Resolution process, and filing a formal complaint with the Commission.

### *Application Process*

To request resolution of a dispute via the Expedited Process, the applicant shall document the dispute in a written notice from the applicant to the Energy Division Director using a general template provided on the CPUC website. The template shall prompt the applicant to provide the following information:

- Relevant known facts pertaining to the dispute
- Specific dispute and the relief sought
- Express notice by the applicant that it is requesting resolution using the Commission's Expedited Process as described in Section K of Rule 21
- Efforts to date to resolve the dispute directly with the utility, including at minimum a showing that the applicant meets the informal dispute resolution requirement for eligibility
- Names of Interconnection Dispute Resolution Panel members who may have a conflict of interest as defined in Section 769.5(b)(1)<sup>2</sup>

The applicant shall attach materials that may aid in review of the dispute, including a copy of the project's interconnection application, any interconnection studies performed, and any correspondence between the applicant and utility regarding the dispute. For treatment

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<sup>2</sup> Names of current Interconnection Dispute Resolution Panel members will be posted on the CPUC website.

of confidential materials, please see “Treatment of Confidential or Proprietary Information” on page 17.

The applicant shall serve the notice to Energy Division, the utility, and any other interested persons according to the procedures outlined in “Service of Documents and Online Access to Information” on page 16.

### ***Withdrawal***

The applicant may withdraw its dispute from the Expedited Process at any time. If the applicant and utility reach a settlement independent of the Commission, it is not necessary for the Commission to approve the settlement. Notices of withdrawal should be sent to all interested parties (see “Service of Documents and Online Access to Information” on page 16.)

## **2. Eligibility Verification, Sub-Panel Selection, and Utility Response**

### ***Eligibility Verification***

Energy Division will evaluate the submission and notify the applicant and utility of the dispute’s eligibility within three business days of receiving the request. For eligible disputes, the notice will contain the following:

- Express notice that Energy Division has deemed the dispute eligible for the Commission’s expedited process as described in Section K of Rule 21.
- The date Energy Division deemed the dispute eligible (this is the “start” date for the 60-day expedited procedures defined in AB 2861).
- A unique dispute identification number.
- The names of the Interconnection Dispute Resolution Panel (“Panel”) members chosen by Energy Division to serve on the individual dispute’s Review Sub-Panel (“Sub-Panel”).
- A copy of the applicant’s written application requesting resolution of the dispute, and any supplementary materials submitted.
- Notice to the utility to submit a response and any remaining documents in its possession to the Sub-Panel within five business days (see “Utility Response” on page 13).
- Notice to the applicant and utility that the Sub-Panel will complete its recommendation within 30 days of the date the Commission received the dispute, and there will be an opportunity to submit comments and/or reply comments on the recommendation.
- Notice to the applicant and utility that the Executive Director will issue an order resolving the dispute within 30 days of the Sub-Panel’s recommendation, and there will be an opportunity to request Commission review of the order via a Draft Resolution within 10 days of the order’s issuance.
- Notice that pending resolution of the dispute, the applicant and utility shall proceed diligently with the performance of their respective obligations under Rule 21, with the exception that the applicant shall not be obligated to post interconnection

financial securities (see “Suspension of Rule 21 Process during Dispute Review” immediately following.)

*Suspension of Rule 21 Process during Dispute Review*

Pending resolution of a dispute using the Expedited Process, the utility and applicant shall proceed diligently with the performance of their respective obligations under Rule 21. However the utility and applicant may by mutual agreement suspend the interconnection process while the dispute is under review.

*Sub-Panel Selection*

Pursuant to Section 769.5(b)(2), Energy Division shall choose a Review Sub-Panel of four members from the Interconnection Dispute Resolution Panel for each eligible dispute. The Sub-Panel shall consist of two utility members and two non-utility members. Energy Division may also select an alternate member to serve on the Sub-Panel if it determines there is a need for additional support.

*Conflicts of Interest*

A Panel member shall not participate as a Sub-Panel member for a dispute in any of the following situations (Section 769.5(b)(1)):

- a) The member is an employee of, a contractor to, or an employee of a contractor to, an electrical corporation to which the contested interconnection application has been submitted.
- b) The member is the applicant, an installer or an employee of an installer for the applicant, or a third-party electricity purchase agreement provider for the applicant.
- c) The member has a direct financial interest in the contested interconnection application.

Energy Division shall make every effort to avoid selecting Sub-Panel members who have an employment or financial interest within the past three years that poses a real or perceived conflict of interest in the review of the contested interconnection application. Employment or financial interest can cover any party or subcontractor to the dispute, including but not limited to any of the service or technology partners working for either side of the dispute. Each panel member will be screened for conflict of interest issues prior to joining the panel, and each Sub-Panel member will be re-screened for conflict of interest issues prior to participation in any particular dispute panel. Determination of a real or perceived conflict of interest is designated to the sole discretion of the CPUC’s General Counsel, and his or her designee in the CPUC’s Legal Division.

If a Sub-Panel member develops or discovers a conflict of interest as defined in Section 769.5(b)(1) during the period of review for a dispute, the member shall immediately notify Energy Division of the change in status and recuse him or herself from the Sub-Panel.

Upon completion of the recommendation, each Sub-Panel member shall sign a statement affirming that they do not have an employment or financial interest in the contested

application as defined in this section, and attach the statement to the recommendation prior to submission to the Commission. Digital signatures will be sufficient.

#### **Utility Response**

Upon receiving notice from Energy Division of the dispute's eligibility, the utility shall have five business days to present its view on the dispute in response to the applicant's submission. The utility's response shall be addressed to the Sub-Panel and shall include the relevant known facts pertaining to the dispute, including the dispute's impact on safe and reliable grid operations, its position on the dispute as presented by the applicant, a response to the relief requested by the applicant, and a description of the efforts to date to resolve the dispute directly with the applicant.

The utility shall also review the materials submitted by the applicant and shall include in its submission to the Sub-Panel any remaining or missing documents in its possession, including the applicant's interconnection request, any interconnection studies performed, and any relevant correspondence between the applicant and utility regarding the dispute. These materials shall be submitted as part of the utility's response within five business days of receiving notice from Energy Division of the dispute's eligibility.

The utility shall serve its response to the Sub-Panel, applicant, Energy Division, and other interested persons according to the procedures outlined in "Service of Documents and Online Access to Information" on page 16. For treatment of confidential materials, please see "Treatment of Confidential or Proprietary Information" on page 17.

### **3. Sub-Panel Review and Recommendation**

The Sub-Panel shall review the dispute and make a recommendation to the Executive Director of the Commission within 30 days of the date the Commission received the dispute (Section 769.5(b)(5)).

#### **Review**

The scope of the Sub-Panel's review shall be limited to issues regarding compliance with the established interconnection rules. Any recommendations shall be designed to reasonably assure safe and reliable interconnection and operation of facilities (Section 769.5(b)(8)).

The Sub-Panel shall request any necessary information or materials from the applicant and utility involved in the dispute beyond the documents initially provided. Both the applicant and the utility shall supply the Sub-Panel with any additional needed information or materials within three business days of receiving the Sub-Panel's request for such materials. Parties may request additional time if good cause is shown. Any failure to produce information or materials in a timely manner shall subject the utility to possible forfeiture of its side of the dispute, and/or vice versa with the applicant of the dispute. If either side fails to prepare materials in a timely fashion, the Sub-Panel can decide to make a recommendation based on whatever limited information is available.

The Sub-Panel shall take the time necessary to review the technical issues in a dispute and develop a well-reasoned recommendation that ensures safe and reliable interconnection, but shall not spend more than an aggregate of 120 hours on any one dispute without prior approval from Energy Division.<sup>3</sup>

As mentioned above, if during the period of review for a dispute a Sub-Panel member develops or discovers a conflict of interest as defined in Section 769.5(b)(1), the member shall immediately notify Energy Division of the change in status and recuse him or herself from the Sub-Panel.

### **Recommendations**

The Sub-Panel is limited to making recommendations to resolve specific customer disputes and recommending associated corrective actions, and shall have no authority to assess penalties (Section 769.5(b)(9)).

The Sub-Panel's recommendation shall include a summary of the facts of the dispute, a description of the panel's review process, a recommendation for actions the Executive Director should take to resolve the dispute, and clear justification for the recommendation. The Sub-Panel shall include all relevant technical, policy, and financial information necessary for the Executive Director to make an informed determination, in a concise document written for a non-technical reader. The Sub-Panel shall include a record of any meetings or interviews conducted in the course of its investigation, and shall attach any documents it received through the course of its investigation.

The Sub-Panel is strongly encouraged to submit a consensus recommendation. If, however, the Sub-Panel cannot agree on recommendations, then each Sub-Panel member who chooses may submit a separate recommendation to the Executive Director, who shall make a final determination (Section 769.5(b)(10)). In cases of non-consensus, Sub-Panel members with similar opinions shall submit joint recommendations where possible.

Once complete, the Sub-Panel members will attach signed statements to the recommendation affirming they have no employment or financial interest in the contested application (see "Sub-Panel Selection") and will serve the recommendation to Energy Division, the utility, and any other interested persons according to the procedures outlined in "Service of Documents and Online Access to Information" on page 16.

### **Exceptions to the 30-day Review Period**

In cases where more than 30 days of review are necessary to recommend a fair and safe resolution to the dispute, the Sub-Panel may request the Executive Director grant an extension to the review period (Section 769.5(a)). The request for extension shall include justification for why the Sub-Panel believes more than 30 days of review are necessary.

If the Sub-Panel is evenly divided on whether to request an extension, the Sub-Panel shall request the extension, but note that the Sub-Panel is not in agreement on whether an

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<sup>3</sup> The 120-hour limit applies to the *sum* of all Sub-Panel members' time spent on the dispute.

extension is necessary and briefly describe the arguments for and against requesting an extension.

The Sub-Panel may request one extension of no more than 30 days. The Sub-Panel shall email extension requests to Energy Division at [Rule21.Disputes@cpuc.ca.gov](mailto:Rule21.Disputes@cpuc.ca.gov), and shall copy the applicant and utility.

#### **4. Submitting Comments on Sub-Panel Recommendations**

Pursuant to Section 769.5(b)(6), utilities, the applicant, and other interested parties shall have the opportunity to submit written comments regarding the recommendation of the Sub-Panel. In order to allow the Executive Director time to consider any comments submitted, comments shall be served to Energy Division, the utility, and any other interested persons within five business days of the date the recommendation is issued. Comments shall be served according to the procedures outlined in "Service of Documents and Online Access to Information" on page 16.

The utility and applicant may reply to any comments via the same procedures within three business days of the date the opening comments are due.

#### **5. Order from the Executive Director**

Pursuant to Section 769.5(b)(10), the Executive Director shall have 30 days from receipt of the Sub-Panel's recommendation to review the recommendation and to prepare an order to the utility resolving the dispute ("Order"). The Executive Director may direct staff to assist him/her in preparing the Order.

An order issued by the Executive Director that resolves a dispute using the authority granted under Section 769.5 will take the form of a letter from the Executive Director. The Order will contain the Executive Director's determination and analysis supporting such determination. The Order will summarize the facts of the dispute, summarize and discuss the Sub-Panel Recommendation and any comments submitted, present findings, and issue orders resolving the dispute to the utility and/or applicant. The Order will also explicitly consider safety and estimated cost impacts associated with the Executive Director's determination.

An order issued by the Executive Director shall not constitute a precedent or be binding on other disputes or matters before the Commission.

#### **6. Appealing the Executive Director's Order**

Any "interested person" may request Commission review of an Order within 10 days of its issuance (Section 769.5(b)(11)). Interested persons are defined as the applicant, utility, a person who has submitted comments on the recommendation of the Review Sub-Panel, or a person who has a demonstrable interest in the outcome of the dispute and has written Energy Division requesting to be added to the distribution list for the dispute.

The request must set forth specifically the grounds on which the requester considers the Order to be unlawful or erroneous. Requests for review should be emailed to the Energy Division Director at [Rule21.Disputes@cpuc.ca.gov](mailto:Rule21.Disputes@cpuc.ca.gov).

Upon receiving the request, the Energy Division Director shall prepare and place on the Commission's meeting agenda a Draft Resolution affirming the Order, or affirming the Order with modifications. For further information on the rules governing public review and Commission consideration of Draft Resolutions and Alternative Draft Resolutions, please refer to the Commission's *Rules of Practice and Procedure*. If affirmed by the full Commission, the vote of the Commission can be appealed.

### Service of Documents and Online Access to Information

#### Service of Documents

The Commission intends to modify its e-filing system to support the public comment process mandated by AB 2861 and the submission and posting of public documents associated with the Expedited Process. These documents include all written notices requesting resolution using the Expedited Process, Energy Division notices confirming or denying eligibility, utility responses, Sub-Panel recommendations, comments, replies, Orders from the Executive Director, and requests for Commission review of an Order. Once the necessary modifications to the e-filing system are complete, public documents associated with the Expedited Process will be submitted, cataloged and distributed to parties interested in the dispute's proceeding via the Commission's e-filing system. A service list and docket will be created and posted on the Commission's website for each dispute.

#### Dispute Distribution Lists

The service list for any dispute proceeding shall include the following:

- Energy Division ([Rule21.Disputes@cpuc.ca.gov](mailto:Rule21.Disputes@cpuc.ca.gov))
- The applicant
- The utility (email address set forth in the Generator Interconnection Agreement (GIA) or Interconnection Request (if there is no GIA), and the utility's Rule 21 Ombudsman address)
- Members of the dispute's Review Sub-Panel
- Any "interested persons" who have either submitted comments on the recommendation of the Review Sub-Panel or have a demonstrable interest in the outcome of the dispute and have requested to be added to the service list for the dispute.

The Commission's Process Office shall manage service lists for disputes.

#### Public Access to Documents

All written notices requesting resolution using the Expedited Process, Energy Division notices confirming or denying eligibility, Sub-Panel recommendations, comments, replies, Orders from the Executive Director, and requests for Commission review of an Order, are



public records and open to public inspection, except as provided under statute or Commission order. Staff intends that all such notices be posted to the dispute's Docket Card. Staff expects that all interested persons have the opportunity, through timely and efficient means, to inspect such documents, receive notice when such documents are issued, and find information on the status of any such document associated with a dispute.

#### **Treatment of Confidential or Proprietary Information**

Procedures for treatment and transfer of confidential information will be developed in accordance with applicable law and regulations, including Commission Decision 16-08-024. The Commission will consider whether Sub-Panel members shall sign nondisclosure agreements with relevant parties prior to reviewing confidential information.

#### **Central Webpage for Expedited Process**

Energy Division shall maintain a central webpage for the Expedited Process on its public website. The webpage will contain:

- Information about the Expedited Process
- Detailed instructions for submitting a dispute
- Names of current interconnection technical panel members
- Instructions for treatment of confidential information
- A link to the location of documents related to specific disputes on the Commission's e-filing system
- Instructions to be added to the "service list" for a dispute
- Point of contact for questions or comments about the Expedited Process ([Rule21.Disputes@cpuc.ca.gov](mailto:Rule21.Disputes@cpuc.ca.gov))

## **Section 2: Interconnection Dispute Resolution Panel**

This section proposes a governing structure for the distribution grid Interconnection Dispute Resolution Panel described in AB 2861.

#### **Name**

The name of the distribution grid interconnection technical panel shall be the Interconnection Dispute Resolution Panel ("Panel").

#### **Purpose**

The purpose of the Panel is to review interconnection disputes submitted to the Commission and make recommendations to the Executive Director of the Commission within 30 days of receiving the dispute.

#### **Composition**

The Panel shall be comprised of at least eight individuals selected by the Commission. A minimum of four of the technical panel members shall be from utilities and a minimum of four shall not be from utilities (Section 769.5(b)(1)). Each member shall be an engineer with substantial technical expertise in distribution system interconnection.



### **Selection of Members from Utilities**

Each of the three investor-owned utilities shall nominate two or more employees with substantial technical expertise in distribution system interconnection who shall be made available by the utility to perform duties within the expedited timeframes set by AB 2861. The Energy Division Director will then appoint four or more of the nominees to serve on the Panel. No utility may have more than (n minus two) representatives on the Panel at any given time, where n equals the total number of utility-designated seats on the Panel. A written notice of the final panel selection shall be provided by the Energy Division to the service list of the proceeding.

### **Selection of Members Not from Utilities**

Energy Division will be responsible for procuring the services of at least four individuals with substantial technical expertise in distribution system interconnection to serve on the Panel at any given time. Selected appointees must be capable of reviewing disputes in the expedited timeframes set by AB 2861. Energy Division may conduct a public nomination process to allow stakeholders to nominate non-utility members in order to identify qualified individuals with sufficient technical expertise. If Energy Division chooses to do so, it will not necessarily be restricted to that nomination pool when selecting non-utility members.

### **Disclosure of Economic Interests**

All Panel members shall comply with the Fair Political Practices Commission Conflict of Interest Code, 2 Cal. Code of Regulations, § 18730. For purposes of applying these rules, all Panel members shall be defined as “designated employees” required to annually disclose the following “economic interests:”

Any investment or business position in, or income from, any of the following:

1. An entity seeking to provide any product or service associated with a generating facility or utility whose interconnection is subject to the Panel’s review.
2. A parent or a subsidiary of an entity seeking to provide any product or service associated with a generating facility or utility whose interconnection is subject to the Panel’s review.

### **Term of Appointment**

The Director of Energy Division will appoint a set of eligible Panel members for three-year terms. If for any reason, a member ceases to be a designated representative of the respective class or entity upon which membership is based, the member’s appointment shall terminate as of the date that affiliation ceases and a replacement shall be selected via the procedures outlined in “Vacancies” below.

### **Removal**

Panel members may be removed at any time by the Energy Division Director when the Director determines that such removal is in the best interests of the goals of the Commission. The Energy Division Director shall issue a letter announcing the termination of the member’s appointment.

### Resignation

Any member of the Panel may resign with written notice to the other Panel members and the Energy Division Director at [Rule21.Disputes@cpuc.ca.gov](mailto:Rule21.Disputes@cpuc.ca.gov).

### Vacancies

Vacancies for positions filled by members from utilities shall be filled via a similar process as the initial selection: a utility shall nominate two or more qualified individuals in a timely manner for a given vacancy, and the Energy Division Director shall appoint one of the nominees to serve on the Panel, assuming all required criteria are met. A vacant utility-designated seat does not necessarily need to be filled by a nominee from the same utility as the departing member.

Vacancies for positions filled by members not from utilities shall be filled by the Energy Division Director in a timely manner consistent with the initial selection procedures outlined above.

### Indemnification

Panel members who are not employed by the Commission or other governmental agencies of the State of California are servants of the State of California within the meaning of Gov. Code § 810.2. Accordingly, Panel members may request that the CPUC defend them against claims or actions relating to acts or omissions that are within the course and scope of the services they perform for the Panel, pursuant to Gov. Code § 815 - 825.6 and 995 - 996.6.

### Dispute Review Time

Panel members shall devote as much time to the affairs of the Panel as its responsibilities may reasonably require. Panel members shall take the time necessary to review the technical issues in a dispute and develop a well-reasoned recommendation that ensures safe and reliable interconnection, but shall not spend more than an aggregate of 120 hours on any one dispute without prior approval from Energy Division.

### Compensation and Expenses

The Commission shall compensate Panel members who are not from utilities at an hourly rate for their time spent performing the work of the Panel, and shall provide an appropriate per diem compensation consistent with Section 19822.5 of the Government Code.<sup>4</sup> The Commission shall consult with the Panel on its expected costs in the preparation of its annual proposed budget.

Panel members from utilities shall not receive hourly compensation or per diem payments from the Commission.

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<sup>4</sup> CA Govt Code § 19822.5. The department shall by rule authorize such expenditures as are reasonably necessary for the meals, lodging, or travel of persons who provide nonsalaried assistance to the department or a designated appointing power in the preparation or conduct of written or oral examinations. (Amended by Stats. 2013, Ch. 427, Sec. 112. Effective January 1, 2014.)

No non-utility panel member may take compensation or gifts (including meals or other incidentals) from the utility or applicant at any time. No utility member may take compensation or gifts from the applicant at any time.

### **Section 3: Program Evaluation**

This section proposes a method for tracking program subscription and evaluating performance in shortening interconnection timeframes, reducing uncertainty in the interconnection process, and lowering interconnection costs. The proposals in this section are non-binding and Energy Division shall have discretion to modify program evaluation methodologies and/or schedules as it sees fit.

Energy Division shall evaluate the Expedited Process annually for two years and results shall be made public to the extent they do not contain confidential information. A comprehensive program evaluation will be conducted at the end of the program's second year in operation, and every fifth year following.

In evaluating the program, Energy Division will seek to answer the following questions:

- How frequently is the program utilized?
- Does the program provide greater time and cost certainty in the interconnection process than pre-existing methods of dispute resolution?
- Does the program resolve interconnection disputes faster than pre-existing methods of dispute resolution, on average?
- Do the binding resolutions issued by the Commission adequately protect the safety and reliability of the distribution system?
- Do the benefits of the program outweigh the costs?

The Commission will use evaluation findings to inform decision-making about program priorities and design.

#### **Measuring Program Performance**

Energy Division shall track the following metrics:

##### **Subscription and Usage**

- Applications received
- Applications deemed eligible
- Withdrawn disputes
- Comments submitted on Sub-Panel Recommendation (per dispute)
- Disputes resolved via an Order from the Executive Director
- Disputes escalating to a Commission Resolution
- Commission Resolutions affirming and overturning an Executive Director Order

### Dispute Processing Speed

- Average, minimum and maximum number of days from receipt of application to issuance of an Order from the Executive Director
- For projects that escalate to a Commission Resolution: Average, minimum and maximum number of days from receipt of application to Commission vote on Draft Resolution

### Program Costs

- Staff time of CPUC employees administering the program
- Staff time of utility employees supplying the technical panel with information on the dispute
- Staff time of utility engineers serving on the technical panel
- Paid time of non-utility engineers serving on the technical panel

Energy Division shall also ask applicants and utilities who have participated in the Expedited Process for their feedback on what worked well and where there is room for improvement.

### Measuring Program Impact on Interconnection Costs and Timelines

Supplying certainty that disputes will be resolved within 60 days and potentially shortening the timeline for dispute resolution may offer time and cost savings for both applicants and utilities. Estimating the magnitude of the savings, however, is difficult given one is attempting to measure actual outcomes against a hypothetical of what would have happened in the absence of intervention.

Staff nevertheless believes it is beneficial to estimate these impacts. Staff proposes that after each dispute is resolved, the applicant and utility provide Energy Division with qualitative descriptions and quantitative estimates of the Expedited Process' impact on system and project costs, timeframes, and outcomes, as compared to pre-existing methods for dispute resolution. These methods include informal discussions with the utility, bilateral negotiations as outlined in Section K.2.a of Rule 21, mediation via the Commission's Alternative Dispute Resolution process, and filing a formal complaint with the Commission.

While descriptions and estimates will be highly subjective, they may prove useful in providing the Commission with context as it evaluates the success of the Expedited Process in achieving its program goals.

## Appendix A: Assembly Bill No. 2861

Assembly Bill No. 2861  
CHAPTER 672

An act to add Section 769.5 to the Public Utilities Code, relating to electricity.

[ Approved by Governor September 26, 2016. Filed with Secretary of State September 26, 2016. ]

### BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 769.5 is added to the Public Utilities Code, to read:

769.5. (a) The Commission may establish an expedited distribution grid interconnection dispute resolution process with the goal of resolving disputes over interconnection applications that are within the jurisdiction of the Commission in no more than 60 days from the time the dispute is formally brought to the Commission. If the Commission establishes an expedited distribution grid interconnection dispute resolution process, the Commission may provide exceptions to the 60-day time period when more than 60 days are needed to fairly and safely address a dispute.

(b) The expedited distribution grid interconnection dispute resolution process shall include the following elements:

(1) A distribution grid interconnection technical panel consisting of at least eight individuals selected by the Commission. Four of the technical panel members shall be from electrical corporations and four shall not be from electrical corporations. The Commission shall determine the length of the term of each member. A member shall not participate as a review panel member for the dispute resolution process for a contested interconnection application in any of the following situations:

(A) The member is an employee of, a contractor to, or an employee of a contractor to, an electrical corporation to which the contested interconnection application has been submitted.

(B) The member is the applicant, an installer or an employee of an installer for the applicant, or a third-party electricity purchase agreement provider for the applicant.

(C) The member has a direct financial interest in the contested interconnection application.

(2) A review panel of four members shall be selected from the technical panel for each dispute.

(3) If an applicant is unable to resolve an interconnection-related dispute after working with the electrical corporation operating the distribution grid, the

applicant may seek resolution of the dispute using the Commission's expedited distribution grid interconnection dispute resolution process.

(4) Upon agreeing to a final settlement of the dispute, parties shall be free to withdraw from the expedited distribution grid interconnection dispute resolution process.

(5) If the dispute is submitted with the Commission, the Commission shall ensure that the review panel shall review the dispute and make a recommendation to the executive director of the Commission within 30 days of receiving the dispute.

(6) The Commission shall establish a public process to allow the electrical corporation, the applicant, and other interested parties to submit written comments on the recommendation of the review panel.

(7) The review panel shall request appropriate documents from the electrical corporation involved in the dispute, including, but not limited to, interconnection application studies.

(8) The scope of the review panel's review shall be limited to issues regarding compliance with the established interconnection rules. Any recommendations shall ensure safe and reliable interconnection.

(9) The scope of the review panel's review is limited to making recommendations to resolve specific customer disputes and recommending associated corrective actions, and the panel shall have no authority to assess penalties.

(10) Upon receipt of the recommendation from the review panel, the executive director shall have 30 days to review the recommendation and to prepare an order to the electrical corporation resolving the dispute. If the review panel cannot agree on recommendations, then each recommendation of a review panel member shall be submitted to the executive director, who shall make the decision resolving the dispute.

(11) Any interested person seeking Commission review of the executive director's determination shall submit the request for review within 10 days of the determination. Upon receipt of the request for review, the executive director or the energy division director shall prepare a proposed resolution of the matter for approval by the Commission.

(c) The Commission shall provide the members of the technical panel who are not from electrical corporations with an appropriate per diem compensation consistent with Section 19822.5 of the Government Code.

(d) The Commission shall appoint a qualified electrical systems engineer with substantial interconnection expertise to advise the director of the energy division and shall provide adequate Commission staff to assist in resolving interconnection disputes.

## Attachment A: CPUC Staff Proposal for an “Interconnection Discussion Forum”

**Background:** Between 1999 and 2008, the California Energy Commission and California Public Utilities Commission sponsored a Rule 21 working group to provide a regular forum for communication and problem-solving between utilities, developers, and stakeholders regarding interconnection-related issues. The working group was widely considered to be an effective tool for improving understanding of interconnection by all interested parties, bringing utilities and developers together to find mutually acceptable solutions, and driving toward more consistent and efficient interconnection practices and policies across utilities and developers.

Resource constraints ultimately led to the closure of the working group, however with the passage of AB 2861 and new state funding for dispute resolution, the CPUC may now consider reconvening the forum.

**Objective:** CPUC Staff propose to convene an “Interconnection Discussion Forum” to meet the following objectives:

- Foster proactive, constructive communication between utilities, developers, and other impacted stakeholders about issues related to implementation of Rule 21 and other interconnection rules
- Informally resolve and/or prevent interconnection disputes
- Share information and best practices across utilities and developers

These objectives align with the Commission’s vision for distributed energy resources (DER) as articulated in the DER Action Plan, Vision Element 2.E: “Interconnection is facilitated by...streamlining utility application practices, and expediting resolution of disputes.”<sup>5</sup>

**Scope:** The forum will provide an informal, recurring venue for stakeholders to explore a wide variety of issues related to interconnection practices and policies, and will exist independently of any concurrent proceeding on interconnection. Topics of discussion may include:

- Issues regarding individual interconnection requests that are common to multiple applications or representative of recurring issues
- Observed inconsistencies in practices or interpretation of rules across utilities
- Announcement and discussion of upcoming program or tariff changes that impact Rule 21 stakeholders
- Suggestions for improvements to interconnection practices or policies

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[http://www.cpuc.ca.gov/uploadedFiles/CPUC\\_Public\\_Website/Content/About\\_Us/Organization/Commissioners/Michael\\_J\\_Picker/DER%20Action%20Plan%20\(5-3-17\)%20CLEAN.pdf](http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/About_Us/Organization/Commissioners/Michael_J_Picker/DER%20Action%20Plan%20(5-3-17)%20CLEAN.pdf)

- Modifications to materials such as the Unit Cost Guide, Guide to Energy Storage Charging Issues, etc.
- Utility management of the Rule 21 public queue
- Smart inverter rollout (to the extent issues are not discussed in meetings of the Smart Inverter Working Group)
- Technical interconnection subjects related to special reports from technical experts

While some discussion of potential changes to Rule 21 provisions will naturally occur during forum meetings, it shall not be within the scope of this working group to develop or submit formal recommendations for tariff changes to an open Commission proceeding. The facilitator will have discretion to terminate any lines of discussion that do not forward the working group's objectives of fostering proactive communication about issues related to implementation of Rule 21, informally resolving and/or preventing disputes, and information and best practices across utilities and developers.

The forum shall not have authority to alter or require new interconnection policies, practices or requirements that are not otherwise established by a Commission decision or resolution via a public proceeding.

**Facilitation:** The CPUC will employ one or more facilitators to lead forum meetings, develop a charter, develop agendas and meeting materials, organize special reports on technical subjects, circulate meeting notes, maintain a web portal for the forum, and provide logistical support. The facilitator or facilitators will have a combination of technical expertise in interconnection and/or distribution system engineering and experience with facilitation.

**Participants:** Forum meetings will be open to the public. The makeup of the forum will reflect the variety of stakeholders impacted by interconnection practices, including but not limited to: utilities, developers, trade associations, non-governmental organizations, and regulators. At least one engineering representative from each of the three large investor-owned utilities will be required to attend every meeting in person.

**Logistics:** Meetings will occur monthly and last from two to four hours. At least once per quarter, meetings will be in-person with remote participation enabled. CPUC Staff will have authority to adjust the frequency, duration, and attendance requirements for forum meetings. The facilitator(s) will be responsible for scheduling and identifying hosts for upcoming meetings and for noticing meetings on the CPUC's Daily Calendar, Smart Inverter Working Group member list, and the R.11-09-011 and R.17-07-007 service lists.

**(End of Exhibit A)**



## Exhibit B

### Staff Proposal for an Expedited Interconnection Dispute Resolution Process

# Staff Proposal for an Expedited Interconnection Dispute Resolution Process

California Public Utilities Commission

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Energy Division

SEPTEMBER 2017



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## Definitions

**applicant:** the *Applicant* or *Producer* as defined in Rule 21 (i.e. the entity submitting an Interconnection Request pursuant to Rule 21; the entity that executes a Generator Interconnection Agreement with Distribution Provider.)

**day:** a calendar day as defined in Rule 21 (any day, including Saturday, Sunday or a Federal and State Holiday), unless specified otherwise.

**Expedited Interconnection Dispute Resolution Process (“Expedited Process”):** a process authorized by AB 2861 in which the CPUC’s Executive Director issues binding determinations on interconnection disputes within 60 days of receiving the dispute. Determinations are made based on the recommendations of the *Interconnection Dispute Resolution Panel*.

**Interconnection Dispute Resolution Panel (“Panel”):** the technical panel of qualified electrical systems engineers with substantial interconnection expertise from whom the *Review Sub-Panel* is selected. The Panel consists of at least eight members selected by the Commission, four from utilities and four not from utilities.

**interested person:** the applicant, utility, a person who has submitted comments on the recommendation of the Review Sub-Panel, or a person who has a demonstrable interest in the outcome of the dispute and has written Energy Division requesting to be added to the distribution list for the dispute

**Review Sub-Panel (“Sub-Panel”):** the four-member review panel selected from members of the *Interconnection Dispute Resolution Panel* to evaluate a given dispute.

**utility:** the *Distribution Provider* as defined in Rule 21 (i.e. the utility operating the distribution system to which the applicant seeks to interconnect.)

## Introduction

### Purpose of this Paper

The purpose of this paper is to propose an expedited interconnection dispute resolution process as authorized by Assembly Bill 2861 (Ting, 2016).<sup>1</sup> This paper will serve as the basis for an Administrative Law Judge (ALJ) Resolution to establish the expedited process.

### Stakeholder Input

Stakeholders had the opportunity to provide feedback on this proposal prior to its finalization. Energy Division issued an earlier version of this proposal ("Staff Concept Paper for an Expedited Interconnection Dispute Resolution Process") on May 30, 2017 and received informal written comments from stakeholders on June 23 and June 30, 2017. Staff made a number of revisions to the paper based on comments, including the following:

- Added a requirement for informal dispute resolution prior to application.
- Clarified the scope of eligible disputes for the expedited process.
- Exempted applicants from progress payments during dispute review.
- Lengthened the timeframe for utilities to initially respond to disputes from three to five business days.
- Shortened the timeframe for parties to provide additional information to the dispute's review panel from five to three business days.
- Shortened the timeframe for submitting comments on the panel's recommendation from ten calendar days to five business days.
- Allowed for Energy Division to conduct a non-binding public nomination process for non-utility technical panel members.
- Deleted section proposing specific revisions to Rule 21 to integrate the Expedited Process; utilities will instead be directed to propose tariff revisions following approval of the ALJ Resolution.
- Clarified the scope of the Rule 21 Working Group.

### Process and Schedule for Adoption of Expedited Process

Staff proposes an ALJ Resolution as the procedural vehicle for developing and adopting the expedited dispute resolution process ("Expedited Process").

Table 1 (below) provides an estimated schedule for development of the Expedited Process, beginning with the issuance of the staff concept paper and ending with the launch of the process. The actual timeline to launch will depend on multiple factors:

- The Expedited Process centers on the recommendations of a panel of technical experts, four of whom will be hired by the CPUC using state contracting procedures. The CPUC's ability to procure the services of the independent experts in a timely manner will impact the timeline to launch. Based on current staffing constraints

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<sup>1</sup> Assembly Bill 2861 codified Public Utilities Code Section 769.5 and is available in Appendix A of this paper and at [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160AB2861](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB2861).

within the CPUC's Contracts Office, the estimated timeframe for contracting four panel members is six to nine months. The timeline below assumes a six month contracting period.

- The CPUC's IT department must make modifications to its e-filing system to support the public comment process mandated by AB 2861 and the submission and posting of public documents associated with the Expedited Process, including all written notices requesting resolution using the Expedited Process, Sub-Panel recommendations, comments, replies, Orders Resolving Interconnection Disputes, and requests for Commission review of an Order. Resource constraints in the CPUC's IT department may impact the timeline to launch.

Energy Division cannot commence processing applications for the expedited dispute resolution process until it has the resources necessary to implement this program.

**Table 1: Schedule for Adoption of Expedited Process**

Activity	Estimated Date
Staff Concept Paper Issued	May 30, 2017
Stakeholder Comments Due	June 23, 2017
Reply Comments Due	June 30, 2017
Staff Proposal Finalized and Draft Resolution Issued	September 8, 2017
Comments on Draft Resolution Due	September 28, 2017
Commission Vote on Resolution	October 12, 2017
Interconnection Dispute Resolution Panel Assembled*	March 31, 2018
Expedited Process Launched (accepting applications)	March 31, 2018

\*The contracting process to hire non-utility Panel members may begin prior to formal Commission adoption of the Expedited Process.

### Background on Assembly Bill 2861

Assembly Bill (AB) 2861, signed into law in September of 2016, authorizes the CPUC to establish an expedited dispute resolution process that will issue binding determinations to interconnection disputes based on the recommendations of a technical panel within 60 days of the Commission receiving an Application regarding a particular dispute. AB 2861 is intended to address the inadequacy of the existing interconnection dispute resolution process described in Section K of Rule 21, which relies on protracted mediation and does not benefit from readily-leveraged technical expertise to review the engineering determinations and upgrade cost allocations that often lead to disputes.

Specifically, AB 2861 directs the CPUC to:

- Establish an eight-member technical advisory panel, consisting of four utility members and four non-utility members. Of the eight-member panel, four panel members will be assigned to review each dispute brought before the Commission and make a recommendation within 30 days to the Executive Director, who then

will have 30 days to review the recommendation and prepare an Order resolving the dispute;

- Allow for any interested party to request a review of the Order within ten days, which would require a Resolution on the matter for a vote of the Commission; and
- Appoint a qualified electrical systems engineer with substantial interconnection expertise to advise the director of the Energy Division, and provide adequate staff to assist in resolving interconnection disputes.

Appendix A contains the full text of AB 2861.

### Contents of this Paper

The paper is organized as follows:

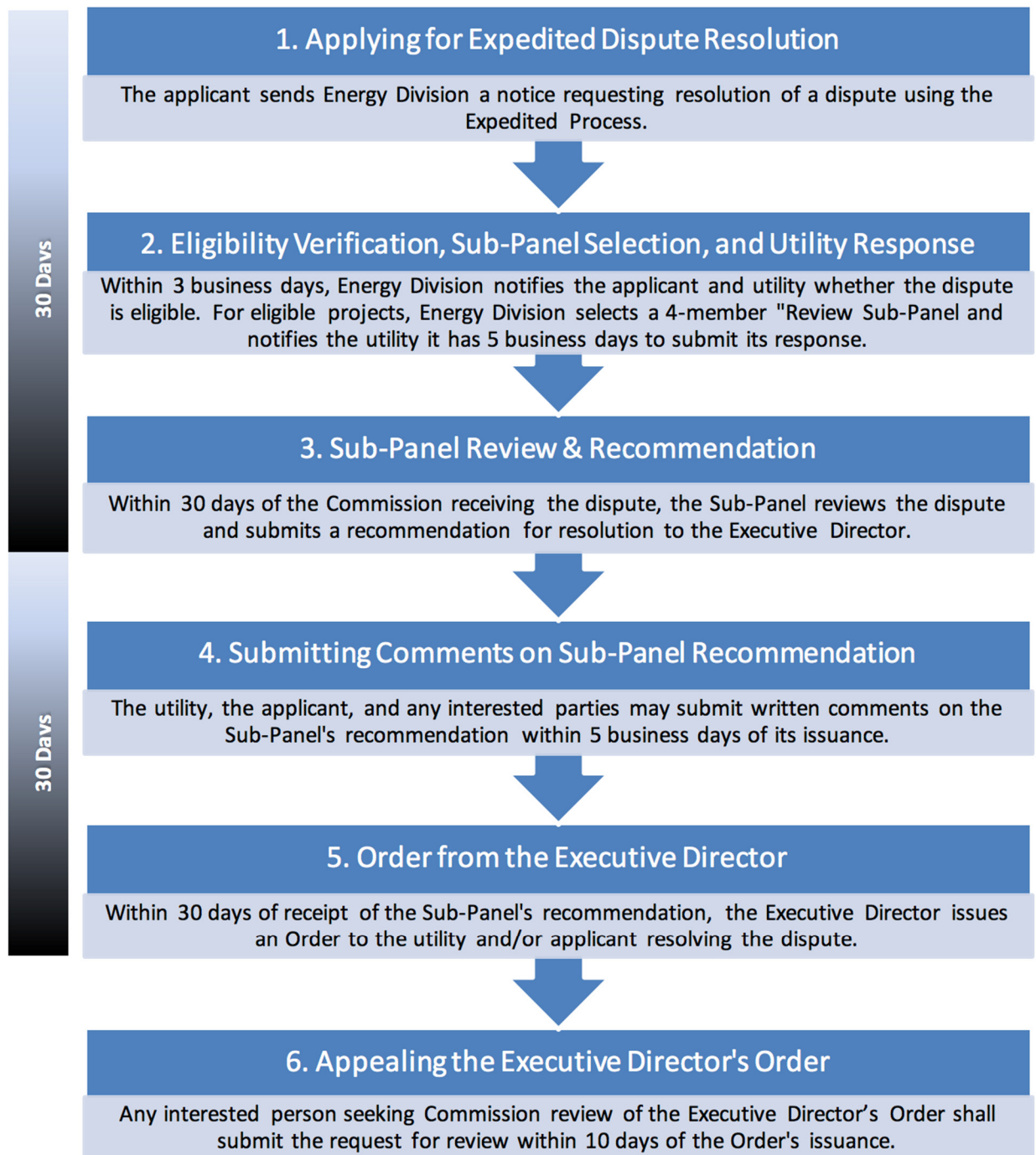
- **Section 1** proposes a framework and steps for the Expedited Process, describes the role of the technical advisory panel in reviewing disputes, and provides information on the service of documents and online access to information.
- **Section 2** sets out a governing structure for the technical advisory panel, including member selection processes, terms of appointment, and conflict of interest rules.
- **Section 3** provides methodological guidelines for evaluating the Expedited Process' performance in shortening interconnection timeframes, reducing uncertainty in the interconnection process, and reducing project interconnection costs.
- **Attachment A** proposes the formation of a Rule 21 Working Group to informally resolve and/or prevent disputes and foster proactive, constructive communication between utilities, developers, and other impacted stakeholders about interconnection-related issues.

## Section 1: Proposed Expedited Process for Dispute Resolution

### Process Overview and Steps

The expedited interconnection dispute resolution process shall be administered by Energy Division and consist of the steps described in this section. The steps closely track the process outlined in AB 2861.

*Figure 1. Overview of the Expedited Process*





More detailed descriptions of each step can be found below. Process design elements which derive directly from AB 2861 are indicated with the Public Utilities Code section referenced.

### 1. Applying for Expedited Dispute Resolution

#### *Eligibility*

Per Section 769.5(b)(3), if an applicant is unable to resolve an interconnection-related dispute after working with the utility operating the distribution grid, the applicant may seek to resolve the dispute using the Commission's expedited interconnection dispute resolution process.

#### *Informal Dispute Resolution Requirement*

To be eligible for the Expedited Process, an applicant must demonstrate they have made prior attempts to informally resolve the dispute with the utility using one of the following two procedures:

1. Bilateral negotiations as set forth in Section K.2.a of Rule 21.
2. Expedited bilateral negotiations tracking the steps of Section K.2.a but with the following shortened deadline requirements: upon the applicant notifying the utility of the dispute, the utility shall have *10* business days to prepare its response instead of 21 calendar days, and *15* business days to meet to attempt to resolve the dispute instead of 45 calendar days.

The applicant and utility may by mutual agreement make a request to Energy Division to extend deadlines associated with the informal dispute resolution requirement.

Energy Division shall have discretion to grant waivers to the informal dispute resolution requirement when the applicant and utility have already engaged in a dispute resolution process of equivalent duration and with equivalent opportunity for both parties to understand the facts of the dispute and prepare responses. The applicant and/or utility may make a request to Energy Division to waive the requirement.

#### *Stage of Interconnection*

An applicant is eligible to apply for dispute resolution at any stage of the Rule 21 interconnection process, including after an interconnection agreement has been signed and/or after operation has commenced.

#### *Scope*

A dispute may be considered eligible for the Expedited Process when there is an unresolved disagreement between the applicant and utility regarding whether one or both parties' actions are compliant with established interconnection rules and/or are reasonable, cost efficient and necessarily required under those rules to ensure safe and reliable interconnection.

Eligible disputes may include, but are not limited to, the following matters:

- Accuracy of analysis performed in studies and engineering conclusions
- The necessity for equipment or facilities required by the utility
- Whether there is a feasible, lower cost alternative to a requested upgrade
- Whether modifications to an application should trigger re-study

### *Out of Scope*

The Commission delegates to Energy Division the authority to enforce which disputes are out of scope of the Expedited Process.

Applicants shall not use the dispute resolution procedure as a method for resolving debates over established interconnection rules or policies. Disputes whose resolution would necessarily result in modifications or revisions to Commission rules will likely be found by Energy Division to be outside the scope of the Expedited Process. Such determinations are more properly the subject of Commission rulemakings.

Additionally, disputes of material facts that do not have an engineering or compliance question at their core will likely be found by Energy Division to be outside the scope of the Expedited Process. Such disputes will likely be referred to the Commission's pre-existing methods for dispute resolution, including bilateral negotiations as outlined in Section K.2.a of Rule 21, mediation via the Commission's Alternative Dispute Resolution process, and filing a formal complaint with the Commission.

### *Application Process*

To request resolution of a dispute via the Expedited Process, the applicant shall document the dispute in a written notice from the applicant to the Energy Division Director using a general template provided on the CPUC website. The template shall prompt the applicant to provide the following information:

- Relevant known facts pertaining to the dispute
- Specific dispute and the relief sought
- Express notice by the applicant that it is requesting resolution using the Commission's Expedited Process as described in Section K of Rule 21
- Efforts to date to resolve the dispute directly with the utility, including at minimum a showing that the applicant meets the informal dispute resolution requirement for eligibility
- Names of Interconnection Dispute Resolution Panel members who may have a conflict of interest as defined in Section 769.5(b)(1)<sup>2</sup>

The applicant shall attach materials that may aid in review of the dispute, including a copy of the project's interconnection application, any interconnection studies performed, and any correspondence between the applicant and utility regarding the dispute. For treatment

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<sup>2</sup> Names of current Interconnection Dispute Resolution Panel members will be posted on the CPUC website.

of confidential materials, please see “Treatment of Confidential or Proprietary Information” on page 16.

The applicant shall serve the notice to Energy Division, the utility, and any other interested persons according to the procedures outlined in “Service of Documents and Online Access to Information” on page 15.

### *Withdrawal*

The applicant may withdraw its dispute from the Expedited Process at any time. If the applicant and utility reach a settlement independent of the Commission, it is not necessary for the Commission to approve the settlement. Notices of withdrawal should be sent to all interested parties (see “Service of Documents and Online Access to Information” on page 15.)

## **2. Eligibility Verification, Sub-Panel Selection, and Utility Response**

### *Eligibility Verification*

Energy Division will evaluate the submission and notify the applicant and utility of the dispute’s eligibility within three business days of receiving the request. For eligible disputes, the notice will contain the following:

- The date the application for dispute resolution was submitted to the Commission (this is the “start” date for the 60-day expedited procedures defined in AB 2861).
- Express notice that Energy Division has deemed the dispute eligible for the Commission’s expedited process as described in Section K of Rule 21.
- A unique dispute identification number. Energy Division will assign identification numbers sequentially, beginning with the first dispute.
- The names of the Interconnection Dispute Resolution Panel (“Panel”) members chosen by Energy Division to serve on the individual dispute’s Review Sub-Panel (“Sub-Panel”).
- A copy of the applicant’s written application requesting resolution of the dispute, and any supplementary materials submitted.
- Notice to the utility to submit a response and any remaining documents in its possession to the Sub-Panel within five business days (see “Utility Response” on page 12).
- Notice to the applicant and utility that the Sub-Panel will complete its recommendation within 30 days of the date the Commission received the dispute, and there will be an opportunity to submit comments and/or reply comments on the recommendation.
- Notice to the applicant and utility that the Executive Director will issue an order resolving the dispute within 30 days of the Sub-Panel’s recommendation, and there will be an opportunity to request Commission review of the order via a Draft Resolution within 10 days of the order’s issuance.
- Notice that pending resolution of the dispute, the applicant and utility shall proceed diligently with the performance of their respective obligations under Rule 21, with

the exception that the applicant shall not be obligated to post interconnection financial securities (see “Suspension of Rule 21 Progress Payments during Dispute Review” immediately following.)

***Suspension of Rule 21 Progress Payments during Dispute Review***

Pending resolution of a dispute using the Expedited Process, the utility and applicant shall proceed diligently with the performance of their respective obligations under Rule 21, with the exception that the applicant shall not be obligated to post interconnection financial securities while the dispute is under review, nor shall the utility be required to initiate work dependent upon the payment of said financial securities if such payments are not made.

***Sub-Panel Selection***

Pursuant to Section 769.5(b)(2), Energy Division shall choose a Review Sub-Panel of four members from the Interconnection Dispute Resolution Panel for each eligible dispute. The Sub-Panel shall consist of two utility members and two non-utility members. Energy Division may also select an alternate member to serve on the Sub-Panel if it determines there is a need for additional support.

***Conflicts of Interest***

A Panel member shall not participate as a Sub-Panel member for a dispute in any of the following situations (Section 769.5(b)(1)):

- a) The member is an employee of, a contractor to, or an employee of a contractor to, an electrical corporation to which the contested interconnection application has been submitted.
- b) The member is the applicant, an installer or an employee of an installer for the applicant, or a third-party electricity purchase agreement provider for the applicant.
- c) The member has a direct financial interest in the contested interconnection application.

Energy Division shall make every effort to avoid selecting Sub-Panel members who have an employment or financial interest within the past three years that poses a real or perceived conflict of interest in the review of the contested interconnection application. Employment or financial interest can cover any party or subcontractor to the dispute, including but not limited to any of the service or technology partners working for either side of the dispute. Each panel member will be screened for conflict of interest issues prior to joining the panel, and each Sub-Panel member will be re-screened for conflict of interest issues prior to participation in any particular dispute panel. Determination of a real or perceived conflict of interest is designated to the sole discretion of the CPUC’s General Counsel, and his or her designee in the CPUC’s Legal Division.

If a Sub-Panel member develops or discovers a conflict of interest as defined in Section 769.5(b)(1) during the period of review for a dispute, the member shall immediately notify Energy Division of the change in status and recuse him or herself from the Sub-Panel.

Upon completion of the recommendation, each Sub-Panel member shall sign a statement affirming that they do not have an employment or financial interest in the contested application as defined in this section, and attach the statement to the recommendation prior to submission to the Commission. Digital signatures will be sufficient.

#### **Utility Response**

Upon receiving notice from Energy Division of the dispute's eligibility, the utility shall have five business days to present its view on the dispute in response to the applicant's submission. The utility's response shall be addressed to the Sub-Panel and shall include the relevant known facts pertaining to the dispute, including the dispute's impact on safe and reliable grid operations, its position on the dispute as presented by the applicant, a response to the relief requested by the applicant, and a description of the efforts to date to resolve the dispute directly with the applicant.

The utility shall also review the materials submitted by the applicant and shall include in its submission to the Sub-Panel any remaining or missing documents in its possession, including the applicant's interconnection request, any interconnection studies performed, and any relevant correspondence between the applicant and utility regarding the dispute. These materials shall be submitted as part of the utility's response within five business days of receiving notice from Energy Division of the dispute's eligibility.

The utility shall serve its response to the Sub-Panel, applicant, Energy Division, and other interested persons according to the procedures outlined in "Service of Documents and Online Access to Information" on page 15. For treatment of confidential materials, please see "Treatment of Confidential or Proprietary Information" on page 16.

### **3. Sub-Panel Review and Recommendation**

The Sub-Panel shall review the dispute and make a recommendation to the Executive Director of the Commission within 30 days of the date the Commission received the dispute (Section 769.5(b)(5)).

#### **Review**

The scope of the Sub-Panel's review shall be limited to issues regarding compliance with the established interconnection rules. Any recommendations shall be designed to reasonably assure safe and reliable interconnection and operation of facilities (Section 769.5(b)(8)).

The Sub-Panel shall request any necessary information or materials from the applicant and utility involved in the dispute beyond the documents initially provided. Both the applicant and the utility shall supply the Sub-Panel with any additional needed information or materials within three business days of receiving the Sub-Panel's request for such materials. Any failure to produce information or materials in a timely manner shall subject the utility to either forfeiture of its side of the dispute, and/or vice versa with the applicant of the dispute. If either side fails to prepare materials in a timely fashion, the Sub-Panel can decide to make a decision based on whatever limited information is available.

The Sub-Panel shall take the time necessary to review the technical issues in a dispute and develop a well-reasoned recommendation that ensures safe and reliable interconnection, but shall not spend more than an aggregate of 120 hours on any one dispute without prior approval from Energy Division.<sup>3</sup>

As mentioned above, if during the period of review for a dispute a Sub-Panel member develops or discovers a conflict of interest as defined in Section 769.5(b)(1), the member shall immediately notify Energy Division of the change in status and recuse him or herself from the Sub-Panel.

### **Recommendations**

The Sub-Panel is limited to making recommendations to resolve specific customer disputes and recommending associated corrective actions, and shall have no authority to assess penalties (Section 769.5(b)(9)).

The Sub-Panel's recommendation shall include a summary of the facts of the dispute, a description of the panel's review process, a recommendation for actions the Executive Director should take to resolve the dispute, and clear justification for the recommendation. The Sub-Panel shall include all relevant technical, policy, and financial information necessary for the Executive Director to make an informed determination, in a concise document written for a non-technical reader. The Sub-Panel shall include a record of any meetings or interviews conducted in the course of its investigation, and shall attach any documents it received through the course of its investigation.

The Sub-Panel is strongly encouraged to submit a consensus recommendation. If, however, the Sub-Panel cannot agree on recommendations, then each Sub-Panel member who chooses may submit a separate recommendation to the Executive Director, who shall make a final determination (Section 769.5(b)(10)). In cases of non-consensus, Sub-Panel members with similar opinions shall submit joint recommendations where possible.

Once complete, the Sub-Panel members will attach signed statements to the recommendation affirming they have no employment or financial interest in the contested application (see "Sub-Panel Selection") and will serve the recommendation to Energy Division, the utility, and any other interested persons according to the procedures outlined in "Service of Documents and Online Access to Information" on page 15.

### **Exceptions to the 30-day Review Period**

In cases where more than 30 days of review are necessary to recommend a fair and safe resolution to the dispute, the Sub-Panel may request the Executive Director grant an extension to the review period (Section 769.5(a)). The request for extension shall include justification for why the Sub-Panel believes more than 30 days of review are necessary.

If the Sub-Panel is evenly divided on whether to request an extension, the Sub-Panel shall request the extension, but note that the Sub-Panel is not in agreement on whether an

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<sup>3</sup> The 120-hour limit applies to the *sum* of all Sub-Panel members' time spent on the dispute.

extension is necessary and briefly describe the arguments for and against requesting an extension.

The Sub-Panel may request one extension of no more than 30 days. The Sub-Panel shall email extension requests to Energy Division at [Rule21.Disputes@cpuc.ca.gov](mailto:Rule21.Disputes@cpuc.ca.gov), and shall copy the applicant and utility.

#### **4. Submitting Comments on Sub-Panel Recommendations**

Pursuant to Section 769.5(b)(6), utilities, the applicant, and other interested parties shall have the opportunity to submit written comments regarding the recommendation of the Sub-Panel. In order to allow the Executive Director time to consider any comments submitted, comments shall be served to Energy Division, the utility, and any other interested persons within five business days of the date the recommendation is issued. Comments shall be served according to the procedures outlined in "Service of Documents and Online Access to Information" on page 15.

The utility and applicant may reply to any comments via the same procedures within three business days of the date the opening comments are due.

#### **5. Order from the Executive Director**

Pursuant to Section 769.5(b)(10), the Executive Director shall have 30 days from receipt of the Sub-Panel's recommendation to review the recommendation and to prepare an order to the utility resolving the dispute ("Order"). The Executive Director may direct staff to assist him/her in preparing the Order.

An order issued by the Executive Director that resolves a dispute using the authority granted under Section 769.5 will take the form of a letter from the Executive Director. The Order will contain the Executive Director's determination and analysis supporting such determination. The Order will summarize the facts of the dispute, summarize and discuss the Sub-Panel Recommendation and any comments submitted, present findings, and issue orders resolving the dispute to the utility and/or applicant. The Order will also explicitly consider safety and estimated cost impacts associated with the Executive Director's determination.

An order issued by the Executive Director shall not constitute a precedent or be binding on other disputes or matters before the Commission.

#### **6. Appealing the Executive Director's Order**

Any "interested person" may request Commission review of an Order within 10 days of its issuance (Section 769.5(b)(11)). Interested persons are defined as the applicant, utility, a person who has submitted comments on the recommendation of the Review Sub-Panel, or a person who has a demonstrable interest in the outcome of the dispute and has written Energy Division requesting to be added to the distribution list for the dispute.



The request must set forth specifically the grounds on which the requester considers the Order to be unlawful or erroneous. Requests for review should be emailed to the Energy Division Director at [Rule21.Disputes@cpuc.ca.gov](mailto:Rule21.Disputes@cpuc.ca.gov).

Upon receiving the request, the Energy Division Director shall prepare and place on the Commission's meeting agenda a Draft Resolution affirming the Order, or affirming the Order with modifications. For further information on the rules governing public review and Commission consideration of Draft Resolutions and Alternative Draft Resolutions, please refer to the Commission's *Rules of Practice and Procedure*. If affirmed by the full Commission, the vote of the Commission can be appealed.

If an interested person appeals a Commission vote approving the Resolution Affirming the Executive Director's Order, the expectation is that the dispute would be escalated to a formal complaint pursuant to Public Utilities Code 1702 and Article 4 of the Commission's *Rules of Practice and Procedure*.

### Service of Documents and Online Access to Information

#### Service of Documents

The Commission intends to modify its e-filing system to support the public comment process mandated by AB 2861 and the submission and posting of public documents associated with the Expedited Process. These documents include all written notices requesting resolution using the Expedited Process, Energy Division notices confirming or denying eligibility, utility responses, Sub-Panel recommendations, comments, replies, Orders from the Executive Director, and requests for Commission review of an Order. Once the necessary modifications to the e-filing system are complete, public documents associated with the Expedited Process will be submitted, cataloged and distributed to parties interested in the dispute's proceeding via the Commission's e-filing system. A service list and docket will be created and posted on the Commission's website for each dispute.

#### Dispute Distribution Lists

The service list for any dispute proceeding shall include the following:

- Energy Division ([Rule21.Disputes@cpuc.ca.gov](mailto:Rule21.Disputes@cpuc.ca.gov))
- The applicant
- The utility (email address set forth in the Generator Interconnection Agreement (GIA) or Interconnection Request (if there is no GIA), and the utility's Rule 21 Ombudsman address)
- Members of the dispute's Review Sub-Panel
- Any "interested persons" who have either submitted comments on the recommendation of the Review Sub-Panel or have a demonstrable interest in the outcome of the dispute and have requested to be added to the service list for the dispute.

The Commission's Process Office shall manage service lists for disputes.



### **Public Access to Documents**

All written notices requesting resolution using the Expedited Process, Energy Division notices confirming or denying eligibility, Sub-Panel recommendations, comments, replies, Orders from the Executive Director, and requests for Commission review of an Order, are public records and open to public inspection, except as provided under statute or Commission order. Staff intends that all such notices be posted to the dispute's Docket Card. Staff expects that all interested persons have the opportunity, through timely and efficient means, to inspect such documents, receive notice when such documents are issued, and find information on the status of any such document associated with a dispute.

### **Treatment of Confidential or Proprietary Information**

Procedures for treatment and transfer of confidential information will be developed in accordance with applicable law and regulations, including Commission Decision 16-08-024. The Commission will consider whether Sub-Panel members shall sign nondisclosure agreements with relevant parties prior to reviewing confidential information.

### **Central Webpage for Expedited Process**

Energy Division shall maintain a central webpage for the Expedited Process on its public website. The webpage will contain:

- Information about the Expedited Process
- Detailed instructions for submitting a dispute
- Names of current interconnection technical panel members
- Instructions for treatment of confidential information
- A link to the location of documents related to specific disputes on the Commission's e-filing system
- Instructions to be added to the "service list" for a dispute
- Point of contact for questions or comments about the Expedited Process ([Rule21.Disputes@cpuc.ca.gov](mailto:Rule21.Disputes@cpuc.ca.gov))

## **Section 2: Interconnection Dispute Resolution Panel**

This section proposes a governing structure for the distribution grid Interconnection Dispute Resolution Panel described in AB 2861.

### **Name**

The name of the distribution grid interconnection technical panel shall be the Interconnection Dispute Resolution Panel ("Panel").

### **Purpose**

The purpose of the Panel is to review interconnection disputes submitted to the Commission and make recommendations to the Executive Director of the Commission within 30 days of receiving the dispute.

### **Composition**

The Panel shall be comprised of at least eight individuals selected by the Commission. A minimum of four of the technical panel members shall be from utilities and a minimum of four shall not be from utilities (Section 769.5(b)(1)). Each member shall be a licensed Professional Engineer with substantial technical expertise in distribution system interconnection.

### **Selection of Members from Utilities**

Each of the three investor-owned utilities shall nominate two or more employees with substantial technical expertise in distribution system interconnection who shall be made available by the utility to perform duties within the expedited timeframes set by AB 2861. The Energy Division Director will then appoint four or more of the nominees to serve on the Panel. No utility may have more than (n minus two) representatives on the Panel at any given time, where n equals the total number of utility-designated seats on the Panel. A written notice of the final panel selection shall be provided by the Energy Division to the service list of the proceeding.

### **Selection of Members Not from Utilities**

Energy Division will be responsible for procuring the services of at least four individuals with substantial technical expertise in distribution system interconnection to serve on the Panel at any given time. Selected appointees must be capable of reviewing disputes in the expedited timeframes set by AB 2861. Energy Division may conduct a public nomination process to allow stakeholders to nominate non-utility members in order to identify qualified individuals with sufficient technical expertise. If Energy Division chooses to do so, it will not necessarily be restricted to that nomination pool when selecting non-utility members.

### **Disclosure of Economic Interests**

All Panel members shall comply with the Fair Political Practices Commission Conflict of Interest Code, 2 Cal. Code of Regulations, § 18730. For purposes of applying these rules, all Panel members shall be defined as “designated employees” required to annually disclose the following “economic interests:”

Any investment or business position in, or income from, any of the following:

1. An entity seeking to provide any product or service associated with a generating facility whose interconnection is subject to the Panel’s review.
2. A parent or a subsidiary of an entity seeking to provide any product or service associated with a generating facility whose interconnection is subject to the Panel’s review.

### **Term of Appointment**

The Director of Energy Division will appoint a set of eligible Panel members for three-year terms. If for any reason, a member ceases to be a designated representative of the respective class or entity upon which membership is based, the member’s appointment

shall terminate as of the date that affiliation ceases and a replacement shall be selected via the procedures outlined in “Vacancies” below.

### **Removal**

Panel members may be removed at any time by the Energy Division Director when the Director determines that such removal is in the best interests of the goals of the Commission. The Energy Division Director shall issue a letter announcing the termination of the member’s appointment.

### **Resignation**

Any member of the Panel may resign with written notice to the other Panel members and the Energy Division Director at [Rule21.Disputes@cpuc.ca.gov](mailto:Rule21.Disputes@cpuc.ca.gov).

### **Vacancies**

Vacancies for positions filled by members from utilities shall be filled via a similar process as the initial selection: a utility shall nominate two or more qualified individuals in a timely manner for a given vacancy, and the Energy Division Director shall appoint one of the nominees to serve on the Panel, assuming all required criteria are met. A vacant utility-designated seat does not necessarily need to be filled by a nominee from the same utility as the departing member.

Vacancies for positions filled by members not from utilities shall be filled by the Energy Division Director in a timely manner consistent with the initial selection procedures outlined above.

### **Indemnification**

Panel members who are not employed by the Commission or other governmental agencies of the State of California are servants of the State of California within the meaning of Gov. Code § 810.2. Accordingly, Panel members may request that the CPUC defend them against claims or actions relating to acts or omissions that are within the course and scope of the services they perform for the Panel, pursuant to Gov. Code § 815 - 825.6 and 995 - 996.6.

### **Dispute Review Time**

Panel members shall devote as much time to the affairs of the Panel as its responsibilities may reasonably require. Panel members shall take the time necessary to review the technical issues in a dispute and develop a well-reasoned recommendation that ensures safe and reliable interconnection, but shall not spend more than an aggregate of 120 hours on any one dispute without prior approval from Energy Division.

### **Compensation and Expenses**

The Commission shall compensate Panel members who are not from utilities at an hourly rate for their time spent performing the work of the Panel, and shall provide an appropriate per diem compensation consistent with Section 19822.5 of the Government

Code.<sup>4</sup> The Commission shall consult with the Panel on its expected costs in the preparation of its annual proposed budget.

Panel members from utilities shall not receive hourly compensation or per diem payments from the Commission.

No non-utility panel member may take compensation or gifts (including meals or other incidentals) from the utility or applicant at any time. No utility member may take compensation or gifts from the applicant at any time.

### Section 3: Program Evaluation

This section proposes a method for tracking program subscription and evaluating performance in shortening interconnection timeframes, reducing uncertainty in the interconnection process, and lowering interconnection costs. The proposals in this section are non-binding and Energy Division shall have discretion to modify program evaluation methodologies and/or schedules as it sees fit.

Energy Division shall evaluate the Expedited Process annually for two years and results shall be made public to the extent they do not contain confidential information. A comprehensive program evaluation will be conducted at the end of the program's second year in operation, and every fifth year following.

In evaluating the program, Energy Division will seek to answer the following questions:

- How frequently is the program utilized?
- Does the program provide greater time and cost certainty in the interconnection process than pre-existing methods of dispute resolution?
- Does the program resolve interconnection disputes faster than pre-existing methods of dispute resolution, on average?
- Do the binding resolutions issued by the Commission adequately protect the safety and reliability of the distribution system?
- Do the benefits of the program outweigh the costs?

The Commission will use evaluation findings to inform decision-making about program priorities and design.

#### Measuring Program Performance

Energy Division shall track the following metrics:

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<sup>4</sup> CA Govt Code § 19822.5. The department shall by rule authorize such expenditures as are reasonably necessary for the meals, lodging, or travel of persons who provide nonsalaried assistance to the department or a designated appointing power in the preparation or conduct of written or oral examinations. (Amended by Stats. 2013, Ch. 427, Sec. 112. Effective January 1, 2014.)

## Subscription and Usage

- Applications received
- Applications deemed eligible
- Withdrawn disputes
- Comments submitted on Sub-Panel Recommendation (per dispute)
- Disputes resolved via an Order from the Executive Director
- Disputes escalating to a Commission Resolution
- Commission Resolutions affirming and overturning an Executive Director Order

## Dispute Processing Speed

- Average, minimum and maximum number of days from receipt of application to issuance of an Order from the Executive Director
- For projects that escalate to a Commission Resolution: Average, minimum and maximum number of days from receipt of application to Commission vote on Draft Resolution

## Program Costs

- Staff time of CPUC employees administering the program
- Staff time of utility employees supplying the technical panel with information on the dispute
- Staff time of utility engineers serving on the technical panel
- Paid time of non-utility engineers serving on the technical panel

Energy Division shall also ask applicants and utilities who have participated in the Expedited Process for their feedback on what worked well and where there is room for improvement.

## Measuring Program Impact on Interconnection Costs and Timelines

Supplying certainty that disputes will be resolved within 60 days and potentially shortening the timeline for dispute resolution may offer time and cost savings for both applicants and utilities. Estimating the magnitude of the savings, however, is difficult given one is attempting to measure actual outcomes against a hypothetical of what would have happened in the absence of intervention.

Staff nevertheless believes it is beneficial to estimate these impacts. Staff proposes that after each dispute is resolved, the applicant and utility provide Energy Division with qualitative descriptions and quantitative estimates of the Expedited Process' impact on system and project costs, timeframes, and outcomes, as compared to pre-existing methods for dispute resolution. These methods include informal discussions with the utility, bilateral negotiations as outlined in Section K.2.a of Rule 21, mediation via the Commission's Alternative Dispute Resolution process, and filing a formal complaint with the Commission.

While descriptions and estimates will be highly subjective, they may prove useful in providing the Commission with context as it evaluates the success of the Expedited Process in achieving its program goals.

## Appendix A: Assembly Bill No. 2861

Assembly Bill No. 2861  
CHAPTER 672

An act to add Section 769.5 to the Public Utilities Code, relating to electricity.

[ Approved by Governor September 26, 2016. Filed with Secretary of State September 26, 2016. ]

### BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 769.5 is added to the Public Utilities Code, to read:

769.5. (a) The Commission may establish an expedited distribution grid interconnection dispute resolution process with the goal of resolving disputes over interconnection applications that are within the jurisdiction of the Commission in no more than 60 days from the time the dispute is formally brought to the Commission. If the Commission establishes an expedited distribution grid interconnection dispute resolution process, the Commission may provide exceptions to the 60-day time period when more than 60 days are needed to fairly and safely address a dispute.

(b) The expedited distribution grid interconnection dispute resolution process shall include the following elements:

(1) A distribution grid interconnection technical panel consisting of at least eight individuals selected by the Commission. Four of the technical panel members shall be from electrical corporations and four shall not be from electrical corporations. The Commission shall determine the length of the term of each member. A member shall not participate as a review panel member for the dispute resolution process for a contested interconnection application in any of the following situations:

(A) The member is an employee of, a contractor to, or an employee of a contractor to, an electrical corporation to which the contested interconnection application has been submitted.

(B) The member is the applicant, an installer or an employee of an installer for the applicant, or a third-party electricity purchase agreement provider for the applicant.

(C) The member has a direct financial interest in the contested interconnection application.

(2) A review panel of four members shall be selected from the technical panel for each dispute.

(3) If an applicant is unable to resolve an interconnection-related dispute after working with the electrical corporation operating the distribution grid, the

applicant may seek resolution of the dispute using the Commission's expedited distribution grid interconnection dispute resolution process.

(4) Upon agreeing to a final settlement of the dispute, parties shall be free to withdraw from the expedited distribution grid interconnection dispute resolution process.

(5) If the dispute is submitted with the Commission, the Commission shall ensure that the review panel shall review the dispute and make a recommendation to the executive director of the Commission within 30 days of receiving the dispute.

(6) The Commission shall establish a public process to allow the electrical corporation, the applicant, and other interested parties to submit written comments on the recommendation of the review panel.

(7) The review panel shall request appropriate documents from the electrical corporation involved in the dispute, including, but not limited to, interconnection application studies.

(8) The scope of the review panel's review shall be limited to issues regarding compliance with the established interconnection rules. Any recommendations shall ensure safe and reliable interconnection.

(9) The scope of the review panel's review is limited to making recommendations to resolve specific customer disputes and recommending associated corrective actions, and the panel shall have no authority to assess penalties.

(10) Upon receipt of the recommendation from the review panel, the executive director shall have 30 days to review the recommendation and to prepare an order to the electrical corporation resolving the dispute. If the review panel cannot agree on recommendations, then each recommendation of a review panel member shall be submitted to the executive director, who shall make the decision resolving the dispute.

(11) Any interested person seeking Commission review of the executive director's determination shall submit the request for review within 10 days of the determination. Upon receipt of the request for review, the executive director or the energy division director shall prepare a proposed resolution of the matter for approval by the Commission.

(c) The Commission shall provide the members of the technical panel who are not from electrical corporations with an appropriate per diem compensation consistent with Section 19822.5 of the Government Code.

(d) The Commission shall appoint a qualified electrical systems engineer with substantial interconnection expertise to advise the director of the energy division and shall provide adequate Commission staff to assist in resolving interconnection disputes.



## Attachment A: CPUC Staff Proposal for a Rule 21 Working Group

**Background:** Between 1999 and 2008, the California Energy Commission and California Public Utilities Commission sponsored a “Rule 21 Working Group” to provide a regular forum for communication and problem-solving between utilities, developers, and stakeholders regarding interconnection-related issues. The working group was widely considered to be an effective tool for improving understanding of interconnection by all interested parties, bringing utilities and developers together to find mutually acceptable solutions, and driving toward more consistent and efficient interconnection practices and policies across utilities and developers.

Resource constraints ultimately led to the closure of the working group, however with the passage of AB 2861 and new state funding for dispute resolution, the CPUC may now consider reconvening the working group.

**Objective:** CPUC Staff propose to convene a Rule 21 Working Group to meet the following objectives:

- Foster proactive, constructive communication between utilities, developers, and other impacted stakeholders about issues related to implementation of Rule 21 and other interconnection rules
- Informally resolve and/or prevent interconnection disputes
- Share information and best practices across utilities and developers

These objectives align with the Commission’s vision for distributed energy resources (DER) as articulated in the DER Action Plan, Vision Element 2.E: “Interconnection is facilitated by...streamlining utility application practices, and expediting resolution of disputes.”<sup>5</sup>

**Scope:** The working group will provide an informal venue for stakeholders to explore a wide variety of issues related to interconnection practices and policies, and will exist independently of any concurrent proceeding on interconnection. Topics of discussion may include:

- Issues regarding individual interconnection requests that are common to multiple applications or representative of recurring issues
- Observed inconsistencies in practices or interpretation of rules across utilities
- Announcement and discussion of upcoming program or tariff changes that impact Rule 21 stakeholders
- Suggestions for improvements to interconnection practices or policies
- Modifications to materials such as the Unit Cost Guide, Guide to Energy Storage Charging Issues, etc.

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[http://www.cpuc.ca.gov/uploadedFiles/CPUC\\_Public\\_Website/Content/About\\_Us/Organization/Commissioners/Michael\\_J\\_Picker/DER%20Action%20Plan%20\(5-3-17\)%20CLEAN.pdf](http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/About_Us/Organization/Commissioners/Michael_J_Picker/DER%20Action%20Plan%20(5-3-17)%20CLEAN.pdf)

- Utility management of the Rule 21 public queue
- Smart inverter rollout (to the extent issues are not discussed in meetings of the Smart Inverter Working Group)
- Technical interconnection subjects related to special reports from technical experts

While some discussion of potential changes to Rule 21 provisions will naturally occur during working group meetings, it shall not be within the scope of this working group to develop or submit formal recommendations for tariff changes to an open Commission proceeding. The facilitator will have discretion to terminate any lines of discussion that do not forward the working group's objectives of fostering proactive communication about issues related to implementation of Rule 21, informally resolving and/or preventing disputes, and information and best practices across utilities and developers.

The working group shall not have authority to alter or require new interconnection policies, practices or requirements that are not otherwise established by a Commission decision or resolution via a public proceeding.

**Facilitation:** The CPUC will employ one or more facilitators to lead working group meetings, develop a working group charter, develop agendas and meeting materials, organize special reports on technical subjects, circulate meeting notes, maintain a web portal for the working group, and provide logistical support. The facilitator or facilitators will have a combination of technical expertise in interconnection and/or distribution system engineering and experience with facilitation.

**Participants:** Working group meetings will be open to the public. The makeup of the working group will reflect the variety of stakeholders impacted by interconnection practices, including but not limited to: utilities, developers, trade associations, non-governmental organizations, and regulators. At least one engineering representative from each of the three large investor-owned utilities will be required to attend every meeting in person.

**Logistics:** Meetings will occur monthly and last for approximately two hours. Meetings will be in-person with conference lines enabled. The facilitator(s) will be responsible for scheduling and identifying hosts for upcoming meetings and for noticing meetings on the CPUC's Daily Calendar, Smart Inverter Working Group member list, and the R.11-09-011 and R.17-07-007 service lists.

## Exhibit C

### Staff Concept Paper for an Expedited Interconnection Dispute Resolution Process

# Staff Concept Paper for an Expedited Interconnection Dispute Resolution Process

California Public Utilities Commission

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Energy Division

**MAY 30, 2017**



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## Definitions

**applicant:** the *Applicant* or *Producer* as defined in Rule 21 (i.e. the entity submitting an Interconnection Request pursuant to Rule 21; the entity that executes a Generator Interconnection Agreement with Distribution Provider.)

**day:** a calendar day as defined in Rule 21 (any day, including Saturday, Sunday or a Federal and State Holiday), unless specified otherwise.

**Expedited Interconnection Dispute Resolution Process (“Expedited Process”):** a process authorized by AB 2861 in which the CPUC’s Executive Director issues binding determinations on interconnection disputes within 60 days of receiving the dispute. Determinations are made based on the recommendations of the *Interconnection Dispute Resolution Panel*.

**Interconnection Dispute Resolution Panel (“Panel”):** the technical panel of qualified electrical systems engineers with substantial interconnection expertise from whom the *Review Sub-Panel* is selected. The Panel consists of at least eight members selected by the Commission, four from utilities and four not from utilities.

**interested person:** the applicant, utility, a person who has submitted comments on the recommendation of the Review Sub-Panel, or a person who has a demonstrable interest in the outcome of the dispute and has written Energy Division requesting to be added to the distribution list for the dispute

**Review Sub-Panel (“Sub-Panel”):** the four-member review panel selected from members of the *Interconnection Dispute Resolution Panel* to evaluate a given dispute.

**utility:** the *Distribution Provider* as defined in Rule 21 (i.e. the utility operating the distribution system to which the applicant seeks to interconnect.)

## Introduction

### Purpose of this Paper

The purpose of this paper is to:

- Propose an expedited interconnection dispute resolution process as authorized by Assembly Bill 2861 (Ting, 2016),<sup>1</sup>
- Solicit feedback from stakeholders on program design elements, and
- Inform the development of a staff proposal which will serve as the basis for an Administrative Law Judge Resolution to establish the expedited process.

### Process for Submitting Informal Written Comments

Stakeholders are strongly encouraged to provide feedback on this proposal prior to its finalization. **Staff requests stakeholders submit informal written comments on the paper by 5pm on June 23, 2017.** To submit comments, please email electronic documents to Mary Claire Evans ([MaryClaire.Evans@cpuc.ca.gov](mailto:MaryClaire.Evans@cpuc.ca.gov)) and the service list for Commission proceeding Rulemaking (R.) 11-09-011. It is not necessary to submit hard copies to Energy Division or to include certificates of service. All comments received by 5pm on June 23 will be fully considered.

Stakeholders may submit reply comments in response to the comments of other stakeholders. Reply comments are due by 5pm PT on Friday, June 30, 2017 and should be emailed to Mary Claire Evans ([MaryClaire.Evans@cpuc.ca.gov](mailto:MaryClaire.Evans@cpuc.ca.gov)) and the service list for R.11-09-011.

Stakeholders are also encouraged to provide comments on the “CPUC Staff Straw Proposal for a Rule 21 Working Group,” appended to this paper as Attachment A. Comments on the straw proposal should be included with comments submitted on this paper.

### Process and Schedule for Adoption of Expedited Process

Staff proposes an Administrative Law Judge (ALJ) Resolution as the procedural vehicle for developing and adopting the expedited dispute resolution process (“Expedited Process”). A formal record will be created prior to adoption.

Table 1 (below) provides an estimated schedule for development of the Expedited Process, beginning with the issuance of this concept paper and ending with the launch of the process. The actual timeline to launch will depend on multiple factors:

- The Expedited Process centers on the recommendations of a panel of technical experts, four of whom will be hired by the CPUC using state contracting procedures. The CPUC’s ability to procure the services of the independent experts in a timely manner will impact the timeline to launch. Based on current staffing constraints

<sup>1</sup> Assembly Bill 2861 codified Public Utilities Code Section 769.5 and is available at [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160AB2861](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB2861).



within the CPUC's Contracts Office, the estimated timeframe for contracting four panel members is six to nine months. The timeline below assumes a six month contracting period.

- The timeline also assumes the CPUC will be given budgetary approval to hire support staff beginning July 1, 2017. If budgetary approval is denied, the CPUC may require more time to develop and launch the Expedited Process.
- The CPUC's IT department must make modifications to its e-filing system to support the public comment process mandated by AB 2861 and the submission and posting of public documents associated with the Expedited Process, including all written notices requesting resolution using the Expedited Process, Sub-Panel recommendations, comments, replies, Orders Resolving Interconnection Disputes, and requests for Commission review of an Order. Resource constraints in the CPUC's IT department may impact the timeline to launch.

Energy Division cannot commence processing applications for the expedited dispute resolution process until it has the resources necessary to implement this program.

**Table 1: Schedule for Adoption of Expedited Process**

Activity	Estimated Date
Staff Concept Paper Issued	May 30, 2017
Stakeholder Comments Due	June 23, 2017
Reply Comments Due	June 30, 2017
Staff Proposal Finalized	August 3, 2017
Draft Resolution Issued	September 8, 2017
Comments on Draft Resolution Due	September 28, 2017
Commission Vote on Resolution	October 12, 2017
Interconnection Dispute Resolution Panel Assembled*	March 31, 2018
Expedited Process Launched (accepting applications)	March 31, 2018

\*The contracting process to hire non-utility Panel members may begin prior to formal Commission adoption of the Expedited Process.

### Background on Assembly Bill 2861

Assembly Bill (AB) 2861, signed into law in September of 2016, authorizes the CPUC to establish an expedited dispute resolution process that will issue binding determinations to interconnection disputes based on the recommendations of a technical panel within 60 days of the Commission receiving an Application regarding a particular dispute. AB 2861 is intended to address the inadequacy of the existing interconnection dispute resolution process described in Section K of Rule 21, which relies on protracted mediation and does not benefit from readily-leveraged technical expertise to review the engineering determinations and upgrade cost allocations that often lead to disputes.

Specifically, AB 2861 directs the CPUC to:

- Establish an eight-member technical advisory panel, consisting of four utility members and four non-utility members. Of the eight-member panel, four panel members will be assigned to review each dispute brought before the Commission and make a recommendation within 30 days to the Executive Director, who then will have 30 days to review the recommendation and prepare an Order resolving the dispute;
- Allow for any interested party to request a review of the Order within ten days, which would require a Resolution on the matter for a vote of the Commission; and
- Appoint a qualified electrical systems engineer with substantial interconnection expertise to advise the director of the Energy Division, and provide adequate staff to assist in resolving interconnection disputes.

Appendix A contains the full text of AB 2861.

### Contents of this Paper

The paper is organized as follows:

- **Section 1** proposes a framework and steps for the Expedited Process, describes the role of the technical advisory panel in reviewing disputes, and provides information on the service of documents and online access to information.
- **Section 2** sets out a governing structure for the technical advisory panel, including member selection processes, terms of appointment, and conflict of interest rules.
- **Section 3** proposes tariff revisions to Rule 21 in order to integrate the expedited dispute resolution process into the Rule 21 process workflow.
- **Section 4** provides methodological guidelines for evaluating the Expedited Process' performance in shortening interconnection timeframes, reducing uncertainty in the interconnection process, and reducing project interconnection costs.
- **Attachment A** proposes the formation of a Rule 21 Working Group to informally resolve and/or prevent disputes and foster proactive, constructive communication between utilities, developers, and other impacted stakeholders about interconnection-related issues.

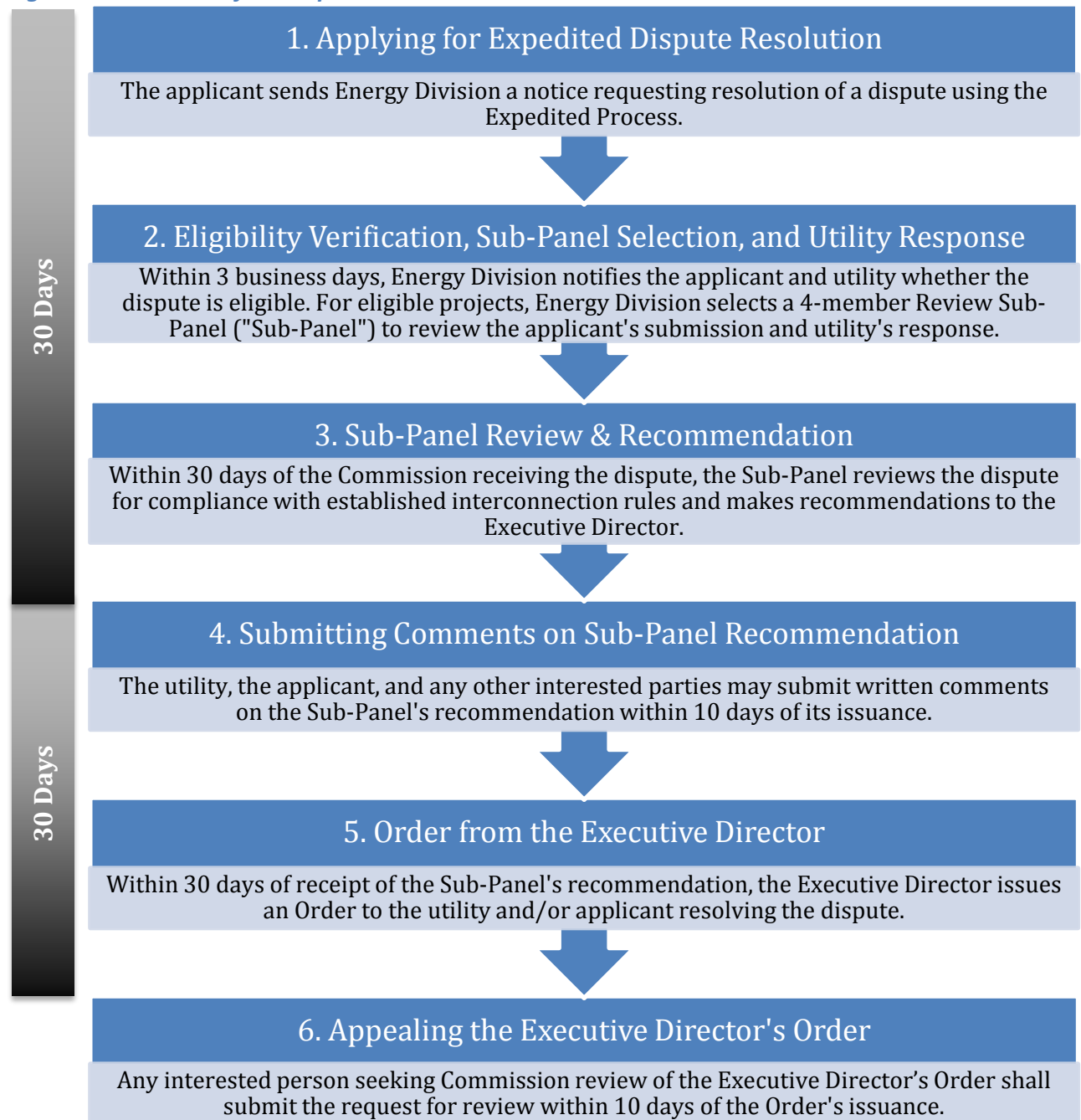
Stakeholders are invited to provide feedback on all sections and Attachment A.

## Section 1: Proposed Expedited Process for Dispute Resolution

### Process Overview and Steps

The expedited interconnection dispute resolution process shall be administered by Energy Division and consist of the steps described in this section. The steps closely track the process outlined in AB 2861.

**Figure 1. Overview of the Expedited Process**



More detailed descriptions of each step can be found below. Process design elements which derive directly from AB 2861 are indicated with the Public Utilities Code section referenced.

### 1. Applying for Expedited Dispute Resolution

#### *Eligibility*

If an applicant is unable to resolve an interconnection-related dispute after working with the utility operating the distribution grid, the applicant may seek to resolve the dispute using the Commission's expedited interconnection dispute resolution process (Sec. 769.5(b)(3)).

An applicant is not required to attempt to resolve the dispute using the "meet and confer" procedures under Rule 21, Section K.2 prior to applying for the Expedited Process. However applicants with disputes over missed engineering review timelines must demonstrate they have been in communication with the utility Rule 21 Ombudsman to be considered eligible.<sup>2</sup>

Applicants are eligible to apply for dispute resolution at any stage of the Rule 21 interconnection process, including during the construction of upgrade facilities.

A dispute may be considered eligible for the Expedited Process when there is an unresolved disagreement between the applicant and utility on which an independent panel of distribution system engineers may provide expert insight. These may include, but are not limited to, the following examples:

- Differing interpretations of technical requirements in Rule 21
- Differing interpretations of interconnection study results
- Disagreements over reasonableness of costs of required facilities identified in interconnection studies
- Failure to use "Reasonable Efforts" to meet tariff and/or mutually agreed-upon deadlines
- Failure to provide sufficient detail on interconnection study methodologies and results
- Failure to provide sufficient detail on estimated and/or billed costs to perform interconnection studies
- Disagreements over termination charges resulting in loss of queue position

It is not the CPUC's intent for applicants to use the dispute resolution procedure as a method for resolving non-technical debates over interconnection policies or practices.

<sup>2</sup> Per Rule 21 Section F.1.d, each utility must designate an ombudsman with authority to resolve disputes over missed timelines. Contact information for utility Rule 21 Ombudsmen can be found on the CPUC Rule 21 webpage at <http://www.cpuc.ca.gov/General.aspx?id=3962>, or on the utility's website.

## **Application Process**

To request resolution of a dispute via the Expedited Process, the applicant shall document the dispute in a written notice from the applicant to the Energy Division Director. The notice shall contain the following:

- Relevant known facts pertaining to the dispute
- Specific dispute and the relief sought
- Express notice by the applicant that it is requesting resolution using the Commission's Expedited Process as described in Section K.2.b of Rule 21
- Efforts to date to resolve the dispute directly with the utility

The applicant shall attach materials that may aid in review of the dispute, including a copy of the project's interconnection application, any interconnection studies performed, and any correspondence between the applicant and utility regarding the dispute. For treatment of confidential materials, please see Treatment of Confidential or Proprietary Information on page 15.

The applicant shall serve the notice to Energy Division, the utility, and any other interested persons according to the procedures outlined in "Service of Documents and Online Access to Information" on page 15.

## **Withdrawal**

The applicant may withdraw its dispute from the Expedited Process at any time. If the applicant and utility reach a settlement independent of the Commission, it is not necessary for the Commission to approve the settlement. Notices of withdrawal should be sent to all interested parties (see Service of Documents and Online Access to Information on page 15.)

## **2. Eligibility Verification, Sub-Panel Selection, and Initial Response from the Utility**

### **Eligibility Verification**

Energy Division will evaluate the submission and notify the applicant and utility of the dispute's eligibility within three business days of receiving the request. For eligible disputes, the notice will contain the following:

- The date the application for dispute resolution was submitted to the Commission (this is the "start" date for the 60-day expedited procedures defined in AB 2861).
- Express notice that Energy Division has deemed the dispute eligible for the Commission's expedited process as described in General Order [#].
- A unique dispute identification number. Energy Division will assign identification numbers sequentially, beginning with the first dispute.
- The names of the Interconnection Dispute Resolution Panel ("Panel") members chosen by Energy Division to serve on the individual dispute's Review Sub-Panel ("Sub-Panel").
- A copy of the applicant's written notice requesting resolution of the dispute, and any supplementary materials submitted.

- Notice to the utility to review the materials submitted by the applicant and to submit any remaining documents in its possession to the Sub-Panel within three business days (see Initial Response from the Utility on page **Error! Bookmark not defined.**)
- Notice to the applicant and utility that the Sub-Panel will complete its recommendation within 30 days of the date the Commission received the dispute, and there will be an opportunity to submit comments and/or reply comments on the recommendation.
- Notice to the applicant and utility that the Executive Director will issue an order resolving the dispute within 30 days of the Sub-Panel's recommendation, and there will be an opportunity to request Commission review of the order via a Draft Resolution within 10 days of the order's issuance.

#### *Sub-Panel Selection*

Pursuant to Section 769.5(b)(2), Energy Division shall choose a Review Sub-Panel of four members from the Interconnection Dispute Resolution Panel for each eligible dispute. A Panel member shall not participate as a Sub-Panel member for a dispute in any of the following situations (Section 769.5(b)(1)):

- a) The member is an employee of, a contractor to, or an employee of a contractor to, an electrical corporation to which the contested interconnection application has been submitted.
- b) The member is the applicant, an installer or an employee of an installer for the applicant, or a third-party electricity purchase agreement provider for the applicant.
- c) The member has a direct financial interest in the contested interconnection application.

Energy Division shall make every effort to avoid selecting Panel members who have an employment or financial interest within the past three years that poses a real or perceived conflict of interest in the review of the contested interconnection application. Employment or financial interest can cover any party or subcontractor to the dispute, including but not limited to any of the service or technology partners working for either side of the dispute. Each panel member will be screened for Conflict of Interest issues prior to joining the panel, and each panel member will be re-screened for Conflict of Interest issues prior to participation in any particular dispute panel. Determination of a real or perceived conflict of interest is designated to the sole discretion of the CPUC's General Counsel, and his or her designee in the CPUC's Legal Division.

Upon completion of the recommendation, each Sub-Panel members shall sign a statement affirming that they do not have an employment or financial interest in the contested application as defined in this section, and attach the statement to the recommendation prior to submission to the Commission. Digital signatures are sufficient.

If a Sub-Panel member develops or discovers a conflict of interest as defined above during the period of review for a dispute, the member shall immediately notify Energy Division of the change in status and recuse him or herself from the Sub-Panel.

### *Initial Response from the Utility*

Upon receiving notice from Energy Division of the dispute's eligibility, the utility shall have three business days to present its view on the dispute in response to the applicant's submission. The utility's response shall be sent to the Sub-Panel and shall include the relevant known facts pertaining to the dispute, including the dispute's impact on safe and reliable grid operations, and a description of the efforts to date to resolve the dispute directly with the applicant.

The utility shall also review the materials submitted by the applicant and submit any remaining or missing documents in its possession to the dispute's Review Sub-Panel, including the applicant's interconnection request, any interconnection studies performed, and any relevant correspondence between the applicant and utility regarding the dispute. For treatment of confidential materials, please see Treatment of Confidential or Proprietary Information on page 15. Such materials shall be provided within three business days upon receiving notice from Energy Division of the dispute's eligibility.

### **3. Sub-Panel Review and Recommendation**

The Sub-Panel shall review the dispute and make a recommendation to the Executive Director of the Commission within 30 days of the date the Commission received the dispute (Section 769.5(b)(5)).

#### *Review*

The scope of the Sub-Panel's review shall be limited to issues regarding compliance with the then-existing CPUC interconnection rules. Any recommendations shall also be designed to reasonably assure safe and reliable interconnection and operation of facilities (Section 769.5(b)(8)).

The Sub-Panel shall request any necessary documents from the applicant and utility involved in the dispute beyond the documents initially provided. Both the applicant and the utility shall supply the Sub-Panel with any needed information or materials within five business days of receiving the application for dispute resolution. Any utility failure to produce documents in a timely manner shall subject the utility to either forfeiture of its side of the dispute, and/or vice versa with the applicant of the dispute. If either side fails to prepare materials in a timely fashion, the Sub-Panel can decide to make a decision based on whatever limited information is available.

#### *Recommendations*

The Sub-Panel is limited to making recommendations to resolve specific customer disputes and recommending associated corrective actions, and shall have no authority to assess penalties (Section 769.5(b)(9)).



The Sub-Panel's recommendation shall include a summary of the facts of the dispute, a description of the panel's review process, a recommendation for actions the Executive Director should take to resolve the dispute, and clear justification for the recommendation. The Sub-Panel shall include all relevant technical, policy, and financial information necessary for the Executive Director to make an informed determination, in a concise document written for a non-technical reader. The Sub-Panel shall include a record of any meetings or interviews conducted in the course of its investigation, and shall attach any documents it received through the course of its investigation.

The Sub-Panel shall take the time necessary to review the technical issues in a dispute and develop a well-reasoned recommendation that ensures safe and reliable interconnection, but shall not spend more than an aggregate of 120 hours on any one dispute without prior approval from Energy Division.<sup>3</sup>

The Sub-Panel is strongly encouraged to submit a consensus recommendation. If, however, the Sub-Panel cannot agree on recommendations, then each Sub-Panel member who chooses may submit a separate recommendation to the Executive Director, who shall make a final determination (Section 769.5(b)(10)). In cases of non-consensus, Sub-Panel members with similar opinions shall submit joint recommendations where possible.

Once complete, the Sub-Panel members will attach signed statements affirming they have no employment or financial interest in the contested application (see "Sub-Panel Selection") and will serve the recommendation to Energy Division, the utility, and any other interested persons according to the procedures outlined in "Service of Documents and Online Access to Information" on page 15.

#### ***Exceptions to the 30-day Review Period***

In cases where more than 30 days of review are necessary to recommend a fair and safe resolution to the dispute, the Sub-Panel may request the Executive Director grant an extension to the review period (Section 769.5(a)). The request for extension shall include justification for why the Sub-Panel believes more than 30 days of review are necessary.

If the Sub-Panel is evenly divided on whether to request an extension, the Sub-Panel shall request the extension, but note that the Sub-Panel is not in agreement on whether an extension is necessary and briefly describe the arguments for and against requesting an extension.

The Sub-Panel may request one extension of no more than 30 days. The Sub-Panel shall email extension requests to Energy Division at [Rule21.Disputes@cpuc.ca.gov](mailto:Rule21.Disputes@cpuc.ca.gov), and shall copy the applicant and utility.

#### **4. Submitting Comments on Sub-Panel Recommendations**

Pursuant to Section 769.5(b)(6), utilities, the applicant, and other interested parties shall have the opportunity to submit written comments regarding the recommendation of the

<sup>3</sup> The 120-hour limit applies to the *sum* of all Sub-Panel members' time spent on the dispute.



Sub-Panel. In order to allow the Executive Director time to consider any comments submitted, comments shall be served to Energy Division, the utility, and any other interested persons according to the procedures outlined in “Service of Documents and Online Access to Information” on page 15 within ten days of the date the recommendation is issued.

The utility and applicant may reply to any comments via the same procedures within five business days of the date the opening comments are due.

### 5. Order from the Executive Director

Pursuant to Section 769.5(b)(10), the Executive Director shall have 30 days from receipt of the Sub-Panel’s recommendation to review the recommendation and to prepare an order to the utility resolving the dispute. The Executive Director may direct staff to assist him/her in preparing the Resolution.

An order issued by the Executive Director that resolves a dispute using the authority granted under Section 769.5 will take the form of a letter from the Executive Director. The Order will contain the Executive Director’s determination and analysis supporting such determination. The Order will summarize the facts of the dispute, summarize and discuss the Sub-Panel Recommendation and any comments submitted, present findings, and issue orders resolving the dispute to the utility and/or applicant. The Order will also explicitly consider safety and estimated cost impacts associated with the Executive Director’s determination.

### 6. Appealing the Executive Director’s Order

Any “interested person” may request Commission review of an Order within 10 days of its issuance (Section 769.5(b)(11)). Interested persons are defined as the applicant, utility, a person who has submitted comments on the recommendation of the Review Sub-Panel, or a person who has a demonstrable interest in the outcome of the dispute and has written Energy Division requesting to be added to the distribution list for the dispute.

The request must set forth specifically the grounds on which the requester considers the Order to be unlawful or erroneous. Requests for review should be emailed to the Energy Division Director at [Rule21.Disputes@cpuc.ca.gov](mailto:Rule21.Disputes@cpuc.ca.gov).

Upon receiving the request, the Energy Division Director shall prepare and place on the Commission’s meeting agenda a Draft Resolution affirming the Order, or affirming the Order with modifications. For further information on the rules governing public review and Commission consideration of Draft Resolutions and Alternative Draft Resolutions, please refer to the Commission’s *Rules of Practice and Procedure*. If affirmed by the full Commission, the vote of the Commission can be appealed.

If an interested person appeals a Commission vote approving the Resolution Affirming the Executive Director’s Order, the expectation is that the dispute would be escalated to a formal complaint.

## Service of Documents and Online Access to Information

### Service of Documents

The Commission intends to modify its e-filing system to support the public comment process mandated by AB 2861 and the submission and posting of public documents associated with the Expedited Process. These documents include all written notices requesting resolution using the Expedited Process, Energy Division notices confirming or denying eligibility, Sub-Panel recommendations, comments, replies, Orders from the Executive Director, and requests for Commission review of an Order. Once the necessary modifications to the e-filing system are complete, public documents associated with the Expedited Process will be submitted, cataloged and distributed to parties interested in the dispute's proceeding via the Commission's e-filing system. A service list and docket will be created and posted on the Commission's website for each dispute.

### Dispute Distribution Lists

The default service list for any dispute proceeding shall include the following:

- Energy Division ([Rule21.Disputes@cpuc.ca.gov](mailto:Rule21.Disputes@cpuc.ca.gov))
- The applicant
- The utility (email address set forth in the Generator Interconnection Agreement (GIA) or Interconnection Request (if there is no GIA), and the utility's Rule 21 Ombudsman address)
- Members of the dispute's Review Sub-Panel (who shall be added once identified by Energy Division) Any "interested persons" who have either submitted comments on the recommendation of the Review Sub-Panel or have a demonstrable interest in the outcome of the dispute and have requested to be added to the service list for the dispute.

The Commission's Process Office shall manage service lists for disputes.

### Public Access to Documents

All written notices requesting resolution using the Expedited Process, Energy Division notices confirming or denying eligibility, Sub-Panel recommendations, comments, replies, Orders from the Executive Director, and requests for Commission review of an Order, are public records and open to public inspection, except as provided under statute or Commission order. Staff intends that all such notices be posted to the dispute's Docket Card. Staff expects that all interested persons have the opportunity, through timely and efficient means, to inspect such documents, receive notice when such documents are issued, and find information on the status of any such document associated with a dispute.

### Treatment of Confidential or Proprietary Information

Procedures for treatment and transfer of confidential information will be developed in accordance with applicable law and regulations, including Commission Decision 16-08-024. Confidential versions of documents must be submitted via hard copy and may not be filed using the Commission's e-filing system. The Commission will consider whether Sub-Panel

members shall sign nondisclosure agreements with relevant parties prior to reviewing confidential information.

#### **Central Webpage for Expedited Process**

Energy Division shall maintain a central webpage for the Expedited Process on its public website. The webpage will contain:

- Information about the Expedited Process
- Detailed instructions for submitting a dispute
- Instructions for treatment of confidential information
- A link to the location of documents related to specific disputes on the Commission's e-filing system
- Instructions to be added to the "service list" for a dispute
- Point of contact for questions or comments about the Expedited Process ([Rule21.Disputes@cpuc.ca.gov](mailto:Rule21.Disputes@cpuc.ca.gov))

## **Section 2: Interconnection Dispute Resolution Panel**

This section proposes a governing structure for the distribution grid Interconnection Dispute Resolution Panel described in AB 2861.

#### **Name**

The name of the distribution grid interconnection technical panel shall be the Interconnection Dispute Resolution Panel ("Panel").

#### **Purpose**

The purpose of the Panel is to review interconnection disputes submitted to the Commission and make recommendations to the Executive Director of the Commission within 30 days of receiving the dispute.

#### **Composition**

The Panel shall be comprised of at least eight individuals selected by the Commission. Four of the technical panel members shall be from utilities and four shall not be from utilities (Section 769.5(b)(1)). Each member shall be a licensed Professional Engineer with substantial technical expertise in distribution system interconnection.

#### **Selection of Members from Utilities**

Each of the three investor-owned utilities shall nominate two or more employees with substantial technical expertise in distribution system interconnection who shall be made available by the utility to perform duties within the expedited timeframes set by AB 2861. The Energy Division Director will then appoint four or more of the nominees to serve on the Panel. No utility may have more than three representatives on the Panel at any given time. A written notice of the final panel selection shall be provided by the Energy Division to the service list of the proceeding.

### **Selection of Members Not from Utilities**

Energy Division will be responsible for procuring the services of at least four individuals with substantial technical expertise in distribution system interconnection to serve on the Panel at any given time. Selected appointees must be capable of reviewing disputes in the expedited timeframes set by AB 2861.

### **Disclosure of Economic Interests**

All panel members shall comply with the Fair Political Practices Commission Conflict of Interest Code, 2 Cal. Code of Regulations, § 18730. For purposes of applying these rules, all Panel members shall be defined as “designated employees” required to annually disclose the following “economic interests:”

Any investment or business position in, or income from, any of the following:

1. An entity seeking to provide any product or service associated with a generating facility whose interconnection is subject to the Panel’s review.
2. A parent or a subsidiary of an entity seeking to provide any product or service associated with a generating facility whose interconnection is subject to the Panel’s review.

### **Term of Appointment**

The Director of Energy Division will appoint a set of eligible Panel members for three-year terms. If for any reason, a member ceases to be a designated representative of the respective class or entity upon which membership is based, the member’s appointment shall terminate as of the date that affiliation ceases and a replacement shall be selected via the procedures outlined in “Vacancies” below.

### **Removal**

Panel members may be removed at any time by the Energy Division Director when the Director determines that such removal is in the best interests of the goals of the Commission. The Energy Division Director shall issue a letter announcing the termination of the member’s appointment.

### **Resignation**

Any member of the Panel may resign with written notice to the other Panel members and the Energy Division Director at [Rule21.Disputes@cpuc.ca.gov](mailto:Rule21.Disputes@cpuc.ca.gov).

### **Vacancies**

Vacancies for positions filled by members from utilities shall be filled via a similar process as the initial selection: the utility shall nominate two or more qualified individuals in a timely manner for a given vacancy, and the Energy Division Director shall appoint one of the nominees to serve on the Panel, assuming all required criteria are met.

Vacancies for positions filled by members not from utilities shall be filled by the Energy Division Director in a timely manner consistent with the initial selection procedures outlined above.

### **Indemnification**

Panel members who are not employed by the Commission or other governmental agencies of the State of California are servants of the State of California within the meaning of Gov. Code § 810.2. Accordingly, Panel members may request that the CPUC defend them against claims or actions relating to acts or omissions that are within the course and scope of the services they perform for the Panel, pursuant to Gov. Code § 815 - 825.6 and 995 - 996.6.

### **Dispute Review Time**

Panel members shall devote as much time to the affairs of the Panel as its responsibilities may reasonably require. Panel members shall take the time necessary to review the technical issues in a dispute and develop a well-reasoned recommendation that ensures safe and reliable interconnection, but shall not spend more than an aggregate of 120 hours on any one dispute without prior approval from Energy Division.

### **Compensation and Expenses**

The Commission shall compensate Panel members who are not from utilities at an hourly rate for their time spent performing the work of the Panel, and shall provide an appropriate per diem compensation consistent with Section 19822.5 of the Government Code.<sup>4</sup> The Commission shall consult with the Panel on its expected costs in the preparation of its annual proposed budget.

Panel members from utilities shall not receive hourly compensation or per diem payments from the Commission.

No non-utility panel member may take compensation or gifts (including meals or other incidentals) from the utility or applicant at any time. No utility member may take compensation or gifts from the applicant at any time.

## **Section 3: Proposed Tariff Revisions to Rule 21**

This section proposes revisions to Rule 21 in order to integrate the expedited dispute resolution process into the Rule 21 process workflow.

The existing dispute resolution process described in Sections F and K of Rule 21 provides a structure for bilateral negotiations between the applicant and the utility, and then refers unresolved disputes to the CPUC's Alternative Dispute Resolution (ADR) process. Staff propose to add the Expedited Process as an additional path available to parties seeking dispute resolution.

### **Changes to Section F:**

<sup>4</sup> CA Govt Code § 19822.5. The department shall by rule authorize such expenditures as are reasonably necessary for the meals, lodging, or travel of persons who provide nonsalaried assistance to the department or a designated appointing power in the preparation or conduct of written or oral examinations. (Amended by Stats. 2013, Ch. 427, Sec. 112. Effective January 1, 2014.)

F. REVIEW PROCESS FOR INTERCONNECTION REQUESTS (Cont'd.)

1. OVERVIEW OF THE INTERCONNECTION REVIEW PROCESS  
(Cont'd.)

d. Compliance with Timelines

Distribution Provider shall use Reasonable Efforts in meeting all the timelines set out in this Rule, or mutually modified by Distribution Provider and Applicant pursuant to Section D.15. Each Distribution Provider shall designate an ombudsman with authority to resolve disputes over missed timelines. The identity, role, and contact information of the ombudsman shall be available on Distribution Provider's website.

If at any time an Applicant is dissatisfied with the Reasonable Efforts of Distribution Provider to meet the timelines in this Section, Applicant may use the following procedures:

- (i) Contact the ombudsman designated by Distribution Provider;
- (ii) If the Distribution Provider ombudsman is unable to resolve the dispute within ten (10) Business Days, Applicant may either:
  - a) Contact the Consumer Affairs Branch (CAB) at the Commission.
  - b) Upon mutual agreement with Distribution Provider, make a written request for mediation to the Alternative Dispute Resolution (ADR) Coordinator in the Commission's Administrative Law Judge (ALJ) Division. The request may be made by electronic mail to [adr\\_program@cpuc.ca.gov](mailto:adr_program@cpuc.ca.gov), and shall state "Rule 21" in the subject line. The request shall contain the relevant facts of the timeline dispute. A copy of the request shall be sent to the Distribution Provider ombudsman. Provided that resources are available, the mediator assigned shall schedule a mediation with Applicant and Distribution Provider within ten (10) Business Days of receiving the request.
  - c) Make a written request to the Commission to resolve the dispute using the expedited interconnection dispute resolution process as defined in Section K.2.a of this Rule.

At any time, Applicant may submit a formal complaint before the Commission pursuant to California PUC Section 1702 and Article 4 of the Commission's Rules of Practice and Procedure.

Changes to Section K:

K. DISPUTE RESOLUTION PROCESS

In addition to the informal procedures for timeline-related disputes set out in Section F.1.d, the following procedures will apply for disputes arising from this

Rule:

1. SCOPE

The Commission shall have initial jurisdiction to interpret, add, delete or modify any provision of this Rule or of any agreements entered into between Distribution Provider and Applicant or Producer to implement this tariff ("Implementing Agreements") and to resolve disputes regarding Distribution Provider's performance of its obligations under Commission-jurisdictional tariffs, the applicable agreements, and requirements related to the interconnection of Applicant's or Producer's Generating Facility or Interconnection Facilities pursuant to this Rule.

2. PROCEDURES

Any dispute arising between Distribution Provider and Producer (individually referred to in Section K as "Party" and collectively "the Parties") regarding Distribution Provider's or Producer's performance of its obligations under its tariffs, the Implementing Agreements, and requirements related to the interconnection of Producer's Facilities pursuant to this Rule shall be resolved according to one of the following procedures:

a. Option 1: Expedited Process as defined in Resolution ALJ-XXX

If a Producer is unable to resolve an interconnection dispute after working formally or informally with the Distribution Provider, the Producer may seek resolution of the dispute using the Commission's expedited distribution grid interconnection dispute resolution process as defined in Resolution ALJ-XXX. Under the expedited procedures in General Order [#], the Executive Director of the Commission shall prepare an Order resolving the interconnection dispute to the Distribution Provider within 60 days from the time the dispute is formally brought to the Commission. The Order shall be based on the recommendation of an independent technical review panel selected by the Commission.

Please refer to Resolution ALJ-XXX for more information and instructions for applying to the Commission for expedited dispute resolution. Information can also be found on the Commission's website at [XXX].cpuc.ca.gov.

b. Option 2: Bilateral Negotiations

The dispute shall be documented in a written notice ("notice") by the aggrieved Party to the other Party containing the relevant known facts pertaining to the dispute, the specific dispute and the relief sought, and express notice by the aggrieved Party that it is invoking the procedures under Section K.2.a. The notice shall be sent to the Party's email address and physical address set forth in the Generator Interconnection Agreement or Interconnection Request, if there is no Generator Interconnection Agreement. A copy of the notice shall also be sent to the Energy Division, Office of the Director, at the



Commission. The receiving Party shall acknowledge the notice within five (5) Calendar Days of its receipt.

Upon the aggrieved Party notifying the other Party of the dispute, each Party must designate a representative with the authority to make decisions for its respective Party to review the dispute within seven (7) Calendar Days. In addition, upon receipt of the notice, Distribution Provider shall provide the aggrieved Party with all relevant regulatory and/or technical details and analysis regarding any Distribution Provider interconnection requirements under dispute within twenty-one (21) Calendar Days.

Within forty-five (45) Calendar Days of the date of the notice, the Parties' authorized representatives will be required to meet and confer to try to resolve the dispute. Parties are expected to operate in good faith and use best efforts to resolve the dispute.

If a resolution is not reached in forty-five (45) Calendar Days from the date of the notice, either 1) a Party may request to continue negotiations for an additional forty-five (45) Calendar Days or 2) the Parties may by mutual agreement make a written request for mediation to the ADR Coordinator in the Commission's ALJ Division. The request may be submitted by electronic mail to [adr\\_program@cpuc.ca.gov](mailto:adr_program@cpuc.ca.gov). Alternatively, both Parties by mutual agreement may request mediation from an outside third-party mediator with costs to be shared equally between the Parties.

- c. At any time, either Party may submit a formal complaint before the Commission pursuant to California PUC section 1702 and Article 4 of the Commission's Rules of Practice and Procedure.

Nothing in this section shall be construed to limit the rights of any Party to exercise rights and remedies under Commission law.

### 3. PERFORMANCE DURING DISPUTE

Pending resolution of any dispute under this Section, the Parties shall proceed diligently with the performance of their respective obligations under this Rule and the Implementing Agreements, unless the Implementing Agreements have been terminated. Disputes as to the Interconnection Request and implementation of this Section shall be subject to resolution pursuant to the procedures set forth in this Section.

## Section 4: Program Evaluation

This section proposes a method for tracking program subscription and evaluating performance in shortening interconnection timeframes, reducing uncertainty in the interconnection process, and lowering interconnection costs. Energy Division shall evaluate the Expedited Process annually for three years and results shall be made public to the extent they do not contain confidential information. A comprehensive program



evaluation will be conducted at the end of the program's third year in operation, and every fifth year following.

In evaluating the program, Energy Division will seek to answer the following questions:

- How frequently is the program utilized?
- Does the program provide greater time and cost certainty in the interconnection process than pre-existing methods of dispute resolution?
- Does the program resolve interconnection disputes faster than pre-existing methods of dispute resolution, on average?
- Do the binding resolutions issued by the Commission adequately protect the safety and reliability of the distribution system?
- Do the costs of running the program outweigh the benefits?

The Commission will use evaluation findings to inform decision-making about program priorities and design.

### Measuring Program Performance

Energy Division shall track the following metrics:

#### Subscription and Usage

- Applications received
- Applications deemed eligible
- Withdrawn disputes
- Comments submitted on Sub-Panel Recommendation (per dispute)
- Disputes resolved via an Order from the Executive Director
- Disputes escalating to a Commission Resolution
- Commission Resolutions affirming and overturning an Executive Director Order

#### Dispute Processing Speed

- Average, minimum and maximum number of days from receipt of application to issuance of an Order from the Executive Director
- For projects that escalate to a Commission Resolution: Average, minimum and maximum number of days from receipt of application to Commission vote on Draft Resolution

#### Program Costs

- Staff time of CPUC employees administering the program
- Staff time of utility employees supplying the technical panel with information on the dispute
- Staff time of utility engineers serving on the technical panel
- Paid time of non-utility engineers serving on the technical panel

### **Measuring Program Impact on Interconnection Costs and Timelines**

Supplying certainty that disputes will be resolved within 60 days and potentially shortening the timeline for dispute resolution may offer time and cost savings for both applicants and utilities. Estimating the magnitude of the savings, however, is difficult given one is attempting to measure actual outcomes against a hypothetical of what would have happened in the absence of intervention.

Staff nevertheless believes it is beneficial to estimate these impacts. Staff proposes that after each dispute is resolved, the applicant and utility provide Energy Division with qualitative descriptions and quantitative estimates of the Expedited Process' impact on system and project costs, timeframes, and outcomes, as compared to pre-existing methods for dispute resolution. These methods include informal discussions with the utility, bilateral negotiations as outlined in Section K.2.a of Rule 21, mediation via the Commission's Alternative Dispute Resolution process, and filing a formal complaint with the Commission.

While descriptions and estimates will be highly subjective, they may prove useful in providing the Commission with context as it evaluates the success of the Expedited Process in achieving its program goals.

## Appendix A: Assembly Bill No. 2861

Assembly Bill No. 2861  
CHAPTER 672

An act to add Section 769.5 to the Public Utilities Code, relating to electricity.

[ Approved by Governor September 26, 2016. Filed with Secretary of State September 26, 2016. ]

### BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 769.5 is added to the Public Utilities Code, to read:

769.5. (a) The Commission may establish an expedited distribution grid interconnection dispute resolution process with the goal of resolving disputes over interconnection applications that are within the jurisdiction of the Commission in no more than 60 days from the time the dispute is formally brought to the Commission. If the Commission establishes an expedited distribution grid interconnection dispute resolution process, the Commission may provide exceptions to the 60-day time period when more than 60 days are needed to fairly and safely address a dispute.

(b) The expedited distribution grid interconnection dispute resolution process shall include the following elements:

(1) A distribution grid interconnection technical panel consisting of at least eight individuals selected by the Commission. Four of the technical panel members shall be from electrical corporations and four shall not be from electrical corporations. The Commission shall determine the length of the term of each member. A member shall not participate as a review panel member for the dispute resolution process for a contested interconnection application in any of the following situations:

(A) The member is an employee of, a contractor to, or an employee of a contractor to, an electrical corporation to which the contested interconnection application has been submitted.

(B) The member is the applicant, an installer or an employee of an installer for the applicant, or a third-party electricity purchase agreement provider for the applicant.

(C) The member has a direct financial interest in the contested interconnection application.

(2) A review panel of four members shall be selected from the technical panel for each dispute.

(3) If an applicant is unable to resolve an interconnection-related dispute after working with the electrical corporation operating the distribution grid, the

applicant may seek resolution of the dispute using the Commission's expedited distribution grid interconnection dispute resolution process.

(4) Upon agreeing to a final settlement of the dispute, parties shall be free to withdraw from the expedited distribution grid interconnection dispute resolution process.

(5) If the dispute is submitted with the Commission, the Commission shall ensure that the review panel shall review the dispute and make a recommendation to the executive director of the Commission within 30 days of receiving the dispute.

(6) The Commission shall establish a public process to allow the electrical corporation, the applicant, and other interested parties to submit written comments on the recommendation of the review panel.

(7) The review panel shall request appropriate documents from the electrical corporation involved in the dispute, including, but not limited to, interconnection application studies.

(8) The scope of the review panel's review shall be limited to issues regarding compliance with the established interconnection rules. Any recommendations shall ensure safe and reliable interconnection.

(9) The scope of the review panel's review is limited to making recommendations to resolve specific customer disputes and recommending associated corrective actions, and the panel shall have no authority to assess penalties.

(10) Upon receipt of the recommendation from the review panel, the executive director shall have 30 days to review the recommendation and to prepare an order to the electrical corporation resolving the dispute. If the review panel cannot agree on recommendations, then each recommendation of a review panel member shall be submitted to the executive director, who shall make the decision resolving the dispute.

(11) Any interested person seeking Commission review of the executive director's determination shall submit the request for review within 10 days of the determination. Upon receipt of the request for review, the executive director or the energy division director shall prepare a proposed resolution of the matter for approval by the Commission.

(c) The Commission shall provide the members of the technical panel who are not from electrical corporations with an appropriate per diem compensation consistent with Section 19822.5 of the Government Code.

(d) The Commission shall appoint a qualified electrical systems engineer with substantial interconnection expertise to advise the director of the energy division and shall provide adequate Commission staff to assist in resolving interconnection disputes.

## Attachment A: CPUC Staff Straw Proposal for a Rule 21 Working Group

CPUC Staff invite stakeholders to comment on this proposal to reconvene the Rule 21 Working Group, previously led by the CEC from 1999 to 2008. Comments should be included in the written comments on the “Staff Concept Paper for an Expedited Interconnection Dispute Resolution Process.”

**Introduction:** CPUC Staff propose to form a Rule 21 Working Group in order to informally resolve and/or prevent interconnection disputes, and foster proactive, constructive communication between utilities, developers, and other impacted stakeholders about interconnection-related issues. Staff believe the working group will improve understanding of interconnection by all interested parties, bring utilities and developers together to find mutually acceptable solutions, and drive toward more consistent interconnection business practices across utilities and developers.

**Purpose:** The purpose of the Rule 21 Working Group is to:

- Informally resolve and/or prevent interconnection disputes between utilities and developers
- Share information and best practices across utilities and developers
- Provide a monthly forum for communication and problem-solving between utilities, developers, and other impacted stakeholders

These objectives align with the Commission’s vision for distributed energy resources (DER) as articulated in the DER Action Plan, Vision Element 2.E: “Interconnection is facilitated by...streamlining utility application practices, and expediting resolution of disputes.”<sup>5</sup>

**Facilitation:** The CPUC will hire a facilitator to lead working group meetings, develop agendas and meeting materials, organize special reports on technical subjects, circulate meeting notes, maintain a web portal for the working group, and provide logistical support. The facilitator will be an independent technical expert with interconnection or distribution system expertise and experience in facilitation.

**Participants:** Working group meetings will be open to the public. The makeup of the working group will reflect the variety of stakeholders impacted by interconnection practices, included but not limited to: utilities, developers, trade associations, non-governmental organizations, and state regulators.

**Scope:** The working group will provide an informal venue for stakeholders to explore a wide variety of issues related to interconnection processes and policies, and will exist

independently of any concurrent proceeding on interconnection. Topics of discussion may include:

- Questions or complaints about individual interconnection requests
- Inconsistent practices or interpretations of rules across utilities
- Rule 21 public queue management
- Announcement and discussion of upcoming program or tariff changes
- Suggestions for improvements to interconnection business practices
- Modifications to materials such as the Unit Cost Guide, Guide to Energy Storage Charging Issues, etc.
- Smart inverter rollout (to the extent issues are not discussed in meetings of the Smart Inverter Working Group)

**Logistics:** Meetings will occur monthly and last for two hours. Meetings may be in-person with conference lines enabled, via conference call only, or via WebEx.

(End of Exhibit C)