

Decision **PROPOSED DECISION OF COMMISSIONER DOUGLAS**  
(Mailed 10/26/2023)

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

Order Instituting Rulemaking to  
Update and Amend Commission  
General Order 131-D.

Rulemaking 23-05-018

**DECISION ADDRESSING PHASE 1 ISSUES**

**Summary**

This decision adopts modifications to Commission General Order 131-D to conform it to the requirements of Senate Bill 529 (Hertzberg; Stats. 2022, ch. 357) and to correct outdated references.

This proceeding remains open.

**1. Factual Background**

Commission General Order (GO) 131-D sets forth the Commission's rules relating to the planning and construction of electric generation plant; transmission, power, or distribution lines; and substations located in California. GO 131-D sets forth the following permitting processes:

1. Pursuant to Section III.A,<sup>1</sup> a utility must file an application to obtain a Certificate of Public Convenience and Necessity (CPCN) prior to constructing electric generating plant with an aggregate net capacity over 50 megawatts or major electric transmission line facilities at or over 200 kilovolts (kV). To issue a CPCN, the Commission must find that the

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<sup>1</sup> All section references are to GO 131-D unless otherwise specified.

facilities are necessary to promote the safety, health, comfort and convenience of the public, and are required by the public convenience and necessity. In a CPCN application, the Commission considers the environmental impacts of the project pursuant to the California Environmental Quality Act (CEQA),<sup>2</sup> as well as project need and cost.

2. Pursuant to Section III.B., a utility must file an application to obtain a permit to construct (PTC) prior to constructing substations with a high-side voltage over 50kV and power lines between 50kV and 200kV. The PTC process focuses primarily on environmental review pursuant to CEQA.
3. For projects that qualify for an exemption under the PTC (Section III.B) rules, a utility may use a notice and advice letter process.
4. Projects that are statutorily or categorically exempt under CEQA Guidelines (California Code of Regulations, Title 14, § 15000 et seq.) are exempt from the permitting and noticing requirements under GO 131-D.<sup>3</sup>

On January 1, 2023, Senate Bill (SB) 529 (Hertzberg; Stats. 2022, ch. 357) went into effect and added Public Utilities (Pub. Util.) Code Section 564, which reads as follows:

By January 1, 2024, the commission shall update General Order 131-D to authorize each public utility electrical corporation to use the permit-to-construct process or claim an exemption under Section III(B) of that general order to seek approval to construct an extension, expansion, upgrade, or other modification to its existing electrical transmission facilities, including electric transmission lines and substations within existing transmission easements, rights of way, or franchise agreements, irrespective of whether the electrical transmission facility is above a 200-kilovolt voltage level.

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<sup>2</sup> Pub. Resources Code § 21000 *et seq.*

<sup>3</sup> Section III.B.1, Section III.B.1.h.

SB 529 also amended subsection (b) of Pub. Util. Code Section 1001 to read as follows:

The extension, expansion, upgrade, or other modification of an existing electrical transmission facility, including transmission lines and substations, does not require a certificate that the present or future public convenience and necessity requires or will require its construction.

## 2. Procedural Background

On May 23, 2023, the Commission issued an Order Instituting Rulemaking (OIR) to update and amend GO 131-D pursuant to SB 529 and to consider other changes to GO 131-D to better address the needs of the State of California and its residents; be consistent with other applicable laws, policies, and Federal Energy Regulatory Commission orders; and provide a clearer, more efficient, and consistent process.

To begin the Commission's examination of these updates to GO 131-D, the OIR set forth questions and solicited comments from stakeholders on two draft versions of a proposed GO 131-E and other potential changes to GO 131-D.<sup>4</sup> The first version, Attachment A of the OIR (OIR Attachment A),<sup>5</sup> proposed amendments to GO 131-D solely to conform the GO to the requirements of SB 529. The second version, Attachment B of the OIR,<sup>6</sup> included additional proposed amendments beyond those reflect in Attachment A to also:

- Reflect changes in Commission Rules and other regulations that have occurred since GO 131-D was last modified in 1995;

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<sup>4</sup> OIR at 5-6.

<sup>5</sup> Attachment A to the OIR showed redlines of the proposed modifications. A clean version of Attachment A was provided as Attachment C to the OIR.

<sup>6</sup> Attachment B to the OIR showed redlines of the proposed modifications. A clean version of Attachment B was provided as Attachment D to the OIR.

- Provide the Commission with better cost information for electrical infrastructure projects;
- Create a process for the permitting of battery storage projects;
- Respond to requests from resource agencies for the Commission to serve as the lead agency pursuant to CEQA for all electric infrastructure projects requiring discretionary permits;
- Increase cost transparency for all projects subject to GO 131;
- Provide better notice to local governments of projects in their locality; and
- Better align GO 131 with GO 96-B.

Opening comments on the OIR were filed on June 21 and June 22, 2023, by:

Rural County Representatives of California (RCRC); the Acton Town Council; Clean Coalition; American Clean Power – California (American Clean Power); Pacific Gas and Electric Company (PG&E); California Farm Bureau Federation (Farm Bureau); the Protect Our Communities Foundation (POCF); Coalition of California Utility Employees (CUE); Environmental Defense Fund (EDF); California Energy Storage Alliance; Trans Bay Cable LLC, Horizon West Transmission, LLC, and GridLiance West LLC (jointly) (collectively, Transmission Owners); San Diego Gas & Electric Company (SDG&E); Defenders of Wildlife; the Public Advocates Office (Cal Advocates); Southern California Edison Company (SCE); Large-Scale Solar Association; LS Power Grid California, LLC (LS Power Grid); California Independent System Operator Corporation (CAISO); Center for Energy Efficiency and Renewable Technologies (CEERT); REV Renewables; Independent Energy Producers Association (IEP); Liberty Utilities (CalPeco Electric) LLC, PacifiCorp, and Bear Valley Electric Service, Inc. (jointly) (collectively, California Association of Small and Multi-Jurisdictional

Utilities (CASMU)); and the City of Long Beach, California, a municipal corporation acting by and through its Board of Harbor Commissioners (Long Beach).<sup>7</sup>

Reply comments were filed on July 7, 2023, by: LS Power Grid; Cal Advocates; PG&E; American Clean Power; the Acton Town Council; EDF; SDG&E; Farm Bureau; CEERT; CAISO; SCE; Large-Scale Solar Association; Transmission Owners; and IEP.

On July 31, 2023, the assigned Commissioner issued a Scoping Memo and Ruling (Scoping Memo) setting forth the issues to be considered and a schedule for the proceeding. The Scoping Memo determined that the issues in the proceeding should be bifurcated into two phases.<sup>8</sup> Phase 1 includes consideration of changes to GO 131-D necessary to conform it to the requirements of SB 529 and the updating of outdated references. Phase 2 includes consideration of all other changes to GO 131-D, including changes proposed in attachments to the OIR and by parties.

Phase 1 was to be considered on an expedited basis to ensure compliance with the SB 529 deadline. The Scoping Memo found that opening and reply comments on the OIR sufficiently addressed the issues identified for Phase 1 and that no further events for Phase 1 were required. The Scoping Memo also set a schedule for Phase 2, that includes the issuance of a Staff Proposal in the first quarter (Q1) of 2024.

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<sup>7</sup> Unless specified otherwise, all references to opening comments are to opening comments on the OIR.

<sup>8</sup> Scoping Memo at 4-5.

## **2.1. Submission Date**

Phase 1 of this proceeding was submitted on July 31, 2023, upon issuance of the Scoping Memo.

## **3. Issues Before the Commission**

As relates to Phase 1, the OIR sought comment regarding whether the proposed modifications set forth in OIR Attachment A comply with the requirements of SB 529 and should be adopted.

The Acton Town Council, Transmission Owners, Long Beach, Large-Scale Solar Association, and CASMU expressed support for the modifications proposed in OIR Attachment A. Many other parties opposed adoption of OIR Attachment A without some amendments, arguing that Attachment A included proposed modifications, which were not required by or consistent with SB 529.

As discussed below, based on review of parties' comments, this decision finds that the proposed modifications to GO 131-D, as set forth in OIR Attachment A, should not be adopted without some amendments. The modifications to GO 131-D we find necessary to implement SB 529 and corrections to outdated references are set forth in Attachment A to this decision and are adopted.<sup>9</sup>

Several parties recommended additional modifications to GO 131-D, which are not required to implement SB 529. This decision is limited to addressing issues that are within the scope of Phase 1. Parties' additional recommendations shall be further considered during Phase 2.

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<sup>9</sup> Attachment B to this decision shows redlines of the adopted changes to GO 131-D.

### 3.1. Modifications to Section III.A

Section III.A of GO 131-D addresses proposed construction that requires a CPCN. In order to implement SB 529, OIR Attachment A proposed to add the following language to the end of Section III.A:

Compliance with Section III.A is not required for: an extension, expansion, upgrade, or other modification to existing electrical transmission facilities, including electric transmission lines and substations. Compliance with Section III.B, herein, is required for these facilities. A utility may file a permit to construct application or claim an exemption under Section III.B for these facilities.

PG&E and SDG&E oppose the proposed language requiring compliance with Section III.B. PG&E and SDG&E argue that the intent of SB 529 is to provide a utility with the option to file a PTC application or claim an exemption under Section III.B for proposed construction to existing electrical transmission facilities that require a CPCN under the current version of GO 131-D.<sup>10</sup> PG&E and SDG&E argue that the proposed language in OIR Attachment A requiring a utility to file a PTC application or claim a Section III.B exemption would remove needed permitting flexibility and result in projects requiring a formal PTC or notice process when none is currently required<sup>11</sup> or when the utility would prefer to proceed under the CPCN process.

Cal Advocates and the Farm Bureau oppose the proposed language that a utility “may file a PTC application or claim an exemption under Section III.B.”

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<sup>10</sup> PG&E Opening Comments at 8-9; SDG&E Opening Comments at 14.

<sup>11</sup> Pursuant to Section III.A, a CPCN is not required for the following modifications, alterations, or additions of major electric transmission line facilities: the replacement of existing power line facilities or supporting structures with equivalent facilities or structures; the minor relocation of existing power line facilities; the conversion of existing overhead lines to underground; or the placing of new or additional conductors, insulators, or their accessories on or replacement of supporting structures already built.

Cal Advocates argues that use of the voluntary “may” rather than the mandatory “shall” creates ambiguity as to whether a permit is required at all.<sup>12</sup> Farm Bureau also recommends this proposed language be deleted because it could confuse the options available.<sup>13</sup>

SB 529 requires the Commission to authorize utilities to use the PTC process or claim an exemption under Section III.B for all extensions, expansions, upgrades, or modifications to existing electrical transmission facilities. SB 529 does not require utilities to obtain a CPCN for such facilities but also does not preclude the utilities from electing to use the existing processes set forth in Section III.A in lieu of the processes set forth in Section III.B. To reflect this choice in compliance options and be consistent with SB 529, Section III.A is modified to add the following language to the end of the section:

In lieu of complying with Section III.A, an electric public utility is authorized to file a permit to construct application or claim an exemption under Section III.B to construct an extension, expansion, upgrade, or other modification to an electric public utility’s existing electrical transmission facilities, including electric transmission lines and substations within existing transmission easements, rights of way, or franchise agreements, irrespective of whether the electrical transmission facility is above a 200-kV voltage level.

### **3.2. Definition of “Existing Electrical Transmission Facilities”**

OIR Attachment A proposed to add the following definition to Section I: “An ‘existing electrical transmission facility’ means existing, operational electrical infrastructure and does not include property under utility control upon which no electrical infrastructure is currently located.”

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<sup>12</sup> Cal Advocates Opening Comments at 5.

<sup>13</sup> Farm Bureau Opening Comments at 2-3.

PG&E, SCE, SDG&E, CUE, and LS Power Grid oppose the proposed definition. These parties argue that including the word “operational” in the definition is not consistent with SB 529 because the permitting processes authorized by SB 529 apply to extensions, expansions, upgrades, or other modifications to existing electrical transmission facilities without limitation to facilities that are operational.<sup>14</sup> PG&E and SDG&E note that an existing transmission facility may be deenergized and not operational for a variety of reasons, including for maintenance work and upgrades.<sup>15</sup>

SDG&E also argues that the definition’s exclusion of utility-owned property upon which no electrical infrastructure is currently located could exclude areas of an existing substation property that do not currently have equipment located on it or land over which a transmission line passes and is inconsistent with SB 529.<sup>16</sup> LS Power Grid also argues that SB 529 applies to all utility transmission infrastructure, regardless of whether it is located on property that is not currently occupied by electric infrastructure.<sup>17</sup>

SB 529 does not require an existing electrical transmission facility to be operational for SB 529 to apply. Moreover, SDG&E provides examples in which an extension, expansion, upgrade, or other modification to an existing electrical transmission facility may occur on property under utility control where there is currently no electrical infrastructure located. Therefore, we decline to adopt OIR Attachment A’s definition of “existing electrical transmission facility.” We direct

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<sup>14</sup> SCE Opening Comments at 10; PG&E Opening Comments at 12; SDG&E Opening Comments at 19; CUE Opening Comments at 4; LS Power Grid Opening Comments at 4.

<sup>15</sup> PG&E Opening Comments at 12; SDG&E Opening Comments at 19.

<sup>16</sup> SDG&E Opening Comments at 19.

<sup>17</sup> LS Power Grid Opening Comments at 4.

that a definition of “existing electrical transmission facility” be further considered during Phase 2 of this proceeding.

### **3.3. Removal of Section III.B Exemption**

GO 131-D, Section III.B requires utilities to obtain a PTC in accordance with GO 131-D, Sections IX.B, X, and XI.B for the construction of any electric power line facilities or substations which are designed for immediate or eventual operation at any voltage between 50kV and 200kV or new or upgraded substations with high side voltage exceeding 50kV. Section III.B.1 exempts certain projects from needing to comply with the requirements of Section IX.B. Section III.B.1.h provides an exemption for:

the construction of projects that are statutorily or categorically exempt pursuant to § 15260 et seq. of the Guidelines adopted to implement the CEQA, 14 Code of California Regulations § 15000 et seq. (CEQA Guidelines).

All projects exempt pursuant to Section III.B.1, with the exception of projects that fall under Section III.B.1.h, must still comply with the notice requirements of Section IX.B.

OIR Attachment A proposed to delete the exemption found in Section III.B.1.h for projects that are statutorily or categorically exempt from CEQA, as well as the notice exception for these projects.<sup>18</sup>

PG&E, SCE, SDG&E, CUE, American Clean Power, LS Power Grid, and RCRC oppose the proposed deletion of Section III.B.1.h. These parties argue that the proposed deletion is not justified, is not required by SB 529, and would

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<sup>18</sup> The deletion of the notice requirement was not reflected in Attachment C of the OIR, which was presented as the clean version of Attachment A of the OIR.

conflict with the legislative intent of SB 529 to accelerate the review of upgrades to existing transmission facilities.<sup>19</sup>

The scope of Phase 1 is limited to implementing changes required by SB 529 and updating outdated references.<sup>20</sup> The proposed deletion of Section III.B.1.h is not required to implement SB 529 and does not fall within the scope of Phase 1. Therefore, consideration of the deletion of Section III.B.1.h and notice exception will be deferred to Phase 2.

### **3.4. Updating Outdated References**

OIR Attachment A proposed to update outdated references. No party opposed the updating of these references. Therefore, we update GO 131-D, as set forth in Attachment A to this decision, to correct outdated references to the Commission's Advisory and Compliance Division, Rules of Practice and Procedure, and GO 96-A.

SCE and LS Power Grid recommend the Commission remove requirements to submit multiple hard copies of documents and instead permit electronic submission of one copy.<sup>21</sup> The Commission no longer has a need for multiple hard copies of submitted documents. We modify GO 131-D to require service of electronic copies of various documents on the Commission's Executive Director and Commission staff.

LS Power Grid also recommends Section X.B be deleted since the Electric and Magnetic Fields (EMF) education program referenced in the section ended

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<sup>19</sup> PG&E Opening Comments at 9; SCE Opening Comments at 10; SDG&E Opening Comments at 16; CUE Opening Comments at 4; American Clean Power Opening Comments at 3; LS Power Grid Opening Comments at 10; RCRC Opening Comments at 3-4.

<sup>20</sup> Scoping Memo at 4.

<sup>21</sup> SCE Opening Comments at 21; LS Power Grid Opening Comments at 12.

on March 1, 1999.<sup>22</sup> With the removal of Section X.B, LS Power Grid recommends the heading for the remaining paragraph be deleted as unnecessary. LS Power Grid correctly notes the end of the EMF education program. Therefore, we adopt LS Power Grid's recommended modifications to Section X.

In addition, we correct other non-substantive typographical errors to GO 131-D as set forth in Attachment A to this decision.

#### **4. Summary of Public Comment**

Rule 1.18 of the Commission's Rules of Practice and Procedure allows any member of the public to submit written comment in any Commission proceeding using the "Public Comment" tab of the online Docket Card for that proceeding on the Commission's website. Rule 1.18(b) requires that relevant written comment submitted in a proceeding be summarized in the final decision issued in that proceeding. No public comments for this proceeding were submitted on the Docket Card.

#### **5. Comments on Proposed Decision**

The proposed decision (PD) of Commissioner Karen Douglas in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments on the PD (PD Opening Comments) were filed on November 7, 2023 by CUE; November 14, 2023 by CEERT; and November 15, 2023 by CAISO, the Acton Town Council, CBD, Farm Bureau, SCE, Sierra Club, SDG&E, EDF, PG&E, POCF, and Cal Advocates. Reply comments (PD Reply Comments) were filed on November 20, 2023 by the Acton

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<sup>22</sup> LS Power Grid Opening Comments at 14 citing Decision (D.) 97-12-027, 77 CPUC.2d 91, 98 (Ordering Paragraph 4).

Town Council, EDF, Cal Advocates, CBD, POCF, PG&E, CAISO, CUE, and SCE; and on November 21, 2023 by SDG&E.

We have carefully reviewed and considered the parties' comments and made appropriate changes to the PD where warranted. We find that all further comments not specifically addressed by revisions to the PD do not raise any factual, legal, or technical errors that would warrant modification to the PD.<sup>23</sup>

**(1) Factual Background Section**

In response to comments by PG&E, SCE, and SDG&E,<sup>24</sup> the following modifications have been made to the Factual Background Section of the PD: (1) the reference to Pub. Util. Code Section 1001 in the description of the CPCN application requirement was deleted since projects requiring a CPCN under Section III.A do not necessarily require a CPCN under Pub. Util. Code Section 1001; and (2) the description of the notice and advice letter process for exempt projects has been modified to reflect that this process does not apply to projects exempt under Section III.A and that Commission acceptance or resolution is not required in every instance. The Factual Background Section is intended to describe existing requirements, not modify any existing requirements or create new ones.

**(2) Definition of "Extension, Expansion, Upgrade, or Other Modification"**

We do not find the comments demonstrate that any modifications are warranted with respect to the language presented in the PD to be added to Section III.A to implement SB 529. This language mirrors the language in SB 529 and implements the statute's requirements. However, several parties, including

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<sup>23</sup> See Commission's Rules of Practice and Procedure, Rule 14.3(c).

<sup>24</sup> PG&E PD Opening Comments at 3-4; SCE PD Opening Comments at 3-5; SDG&E PD Opening Comments at 4, 7.

the Acton Town Council, CBD, and Sierra Club, argue that the terms “extension, expansion, upgrade, or other modification” are ambiguous and require further definition. The Acton Town Council argues that every transmission project involves an extension, expansion, or modification to existing transmission facilities.<sup>25</sup> Sierra Club argues that these terms are subject to a wide range of interpretations and that the distinction among the terms is also unclear.<sup>26</sup> Sierra Club recommends that the Commission adopt clear definitions for an efficient process and to limit future disputes over classifications of transmission projects.<sup>27</sup>

We agree it would be useful to develop definitions or examples of the types of transmission projects that would qualify as an “extension, expansion, upgrade, or other modification.” The record does not reflect a workable definition of these terms that would be consistent with SB 529. Therefore, we direct that Phase 2 of this proceeding include development of definitions of these terms.

POCF argues that ratepayers will be exposed to unjust and unreasonable rates if the exemption from the CPCN requirement in Pub. Util. Code Section 1001(b) is not accompanied with the commonsense guardrails required by Pub. Util. Code Section 564.<sup>28</sup> POCF argues that the Commission cannot abdicate its authority under the Public Utilities Code, including Sections 451, 454, 701, and 747, to supervise public utilities and ensure just and reasonable rates, irrespective of whether an electrical transmission facility is above a 200-kV level.<sup>29</sup> POCF

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<sup>25</sup> Acton Town Council PD Reply Comments at 2.

<sup>26</sup> Sierra Club PD Opening Comments at 2-3.

<sup>27</sup> *Id.* at 3.

<sup>28</sup> POCF PD Opening Comments at 2.

<sup>29</sup> *Id.* at 4.

argues that only de minimis projects, which POCF suggests are projects with a total dollar value of less than \$1 million, may be properly exempted from fundamental Commission regulatory oversight.<sup>30</sup>

The modifications to GO 131-D adopted in this decision are consistent with the requirements of SB 529. SB 529 does not limit the permitting processes authorized by that statute to projects with costs less than \$1 million. Contrary to POCF's contentions, implementation of the requirements of SB 529 does not result in the Commission abdicating responsibility to supervise public utilities and ensure just and reasonable rates. As is the case today, Commission review and approval of costs under the Commission's jurisdiction would be required in a utility's General Rate Case or other application prior to the costs being collected in rates. Furthermore, on April 27, 2023, the Commission adopted Resolution E-5252, which established the Transmission Project Review (TPR) Process for the state's investor-owned electric utilities (IOUs) beginning January 1, 2024. The TPR Process will allow the Commission and stakeholders to receive robust and consistent data from the IOUs, and to inquire about and provide feedback on the IOUs' historical, current, and forecast transmission projects with actual or forecast capital costs of \$1 million or more.

(3) Definition of "Existing Electrical Transmission Facility"

PG&E, SCE, and SDG&E argue that a statement in the PD indicating that an existing electrical transmission facility is a facility that has previously been authorized should be deleted because the term "authorized" is ambiguous.<sup>31</sup> SCE and SDG&E note that not all existing transmission facilities would have

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<sup>30</sup> *Id.* at 3.

<sup>31</sup> PG&E PD Opening Comments at 4; SCE PD Opening Comments at 5-6; SDG&E PD Opening Comments at 3.

been subject to a Commission decision or action (e.g., if a facility was constructed prior to the adoption of GO 131 or if GO 131 did not require a CPCN or PTC at the time the facility was constructed.)<sup>32</sup> CBD and POCF also recommend the statement be deleted or modified arguing that the statement could be interpreted as defining an existing facility as a project that has been authorized, even if it has not been built or is not actually in existence.<sup>33</sup>

We agree that an authorized facility does not necessarily equate to an existing facility. Therefore, the statement in the PD indicating that an existing electrical transmission facility is a facility that has previously been authorized has been deleted. Development of definitions for an “extension, expansion, upgrade, or other modification” may produce additional clarification regarding whether “existing electrical transmission facility” requires further definition. Therefore, we direct that a definition of “existing electrical transmission facility” also be further considered during Phase 2 of this proceeding.

**(4) Proposed Settlement Agreement and Proposals Outside the Scope of Phase 1**

On September 29, 2023, SCE, PG&E, and SDG&E filed a Joint Motion for Adoption of Phase 1 Settlement Agreement (Joint Motion) on behalf of numerous settling parties.<sup>34</sup> Many parties urge adoption of the settlement or elements of the settlement.<sup>35</sup> Many other parties urge rejection of the settlement or argue it

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<sup>32</sup> SCE PD Opening Comments at 6; SDG&E PD Opening Comments at 3.

<sup>33</sup> CBD PD Opening Comments at 11; POCF PD Opening Comments at 8.

<sup>34</sup> The settling parties are SDG&E, PG&E, SCE, Bear Valley Electric Service, Inc., Liberty Utilities (CalPeco Electric) LLC, PacifiCorp, American Clean Power, IEP, CEERT, EDF, LS Power Grid, REV Renewables, LLC, Large-Scale Solar Association, California Energy Storage Alliance, Horizon West Transmission, LLC, Trans Bay Cable LLC, GridLiance West LLC, and Long Beach.

<sup>35</sup> See, e.g., PD Opening Comments of PG&E, SCE, EDF, and CEERT.

would be procedurally improper to consider the settlement in the Phase 1 decision.<sup>36</sup>

The scope of Phase 1 of this proceeding is limited to consideration of changes to GO 131-D necessary to conform it to the requirements of SB 529 and the updating of outdated references. The scope of Phase 2 broadly encompasses consideration of all other changes to GO 131-D. The proposed settlement agreement addresses issues that are within the scope of both phases of this proceeding.<sup>37</sup>

Phase 1 of this proceeding was submitted on July 31, 2023. Given the deadline to implement SB 529, the submission of Phase 1 has not been set aside to consider the settlement agreement as relates to Phase 1. The timing of the settlement agreement did not provide adequate time for other parties to comment on the settlement agreement and for the Commission to prepare and consider a proposed decision on the settlement agreement, which would have enabled implementation of SB 529 by the January 1, 2024 deadline.

The settlement agreement reflects the efforts and consensus of a wide range of parties to this proceeding representing varied interests. However, many parties also oppose adoption of the settlement agreement.<sup>38</sup> The Commission has previously explained: “a contested settlement is not entitled to any greater weight or deference merely by virtue of its label as a settlement; it is merely the

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<sup>36</sup> See, e.g., PD Opening Comments of Sierra Club; PD Reply Comments of Cal Advocates, Acton Town Council, POCF, and CBD.

<sup>37</sup> See Joint Motion at 9-15.

<sup>38</sup> Cal Advocates, POCF, Acton Town Council, Sierra Club, Farm Bureau, CUE, CBD, and Clean Coalition filed comments opposing elements of the settlement agreement.

joint position of the sponsoring parties, and its reasonableness must be thoroughly demonstrated by the record.”<sup>39</sup>

A record on Phase 2 issues has not yet been fully developed. The proposals in the settlement agreement that are outside the scope of Phase 1 should be considered during Phase 2. The schedule for this proceeding anticipates a Staff Proposal addressing Phase 2 issues to be issued in Q1 2024. In preparing the Staff Proposal, we expect Commission Staff to give due consideration to the proposals in the settlement agreement, which are within the scope of Phase 2. Given the broad scope of Phase 2, consideration of some of the Phase 2 proposals on a more expedited basis may be warranted if there are meritorious proposals to streamline the permitting process, which can be quickly implemented to enable the rapid deployment of transmission infrastructure projects needed to achieve the state’s clean energy goals and ensure reliability.

To the extent parties’ PD comments propose other modifications to GO 131-D that are outside the scope of Phase 1, these proposals are also appropriately considered during Phase 2 and do not warrant modification to the PD addressing Phase 1 issues.

#### (5) Clarification of Cross References

Finally, in response to comments by EDF,<sup>40</sup> modifications have been made to Section IX (Transmission Line, Power Line, Substation Facilities) and Section XI (Notice) of GO 131-D to allow for consistent cross references within the GO.

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<sup>39</sup> D.02-01-041 at 13.

<sup>40</sup> EDF PD Opening Comments at 6-7.

## **6. Assignment of Proceeding**

Karen Douglas is the assigned Commissioner and Sophia Park and Rajan Mutialu are the assigned Administrative Law Judges in this proceeding.

### **Findings of Fact**

1. The scope of Phase 1 of this proceeding is limited to implementing changes to GO 131-D required by SB 529 and updating outdated references.
2. GO 131-D contains outdated references to the Commission's Advisory and Compliance Division, Rules of Practice and Procedure, and GO 96-A.
3. The Commission no longer has a need for multiple hard copies of documents submitted pursuant to GO 131-D.
4. The EMF education program referenced in Section X.B ended on March 1, 1999.

### **Conclusions of Law**

1. SB 529 requires the Commission to update GO 131-D by January 1, 2024, to authorize utilities to use the PTC process or claim an exemption under Section III.B for all extensions, expansions, upgrades, or modifications to existing electrical transmission facilities.
2. SB 529 does not require utilities to obtain a CPCN for extensions, expansions, upgrades, or modifications to existing electrical transmission facilities but also does not preclude the utilities from electing to use the existing processes set forth in Section III.A in lieu of the processes set forth in Section III.B.
3. To reflect a utility's choice in compliance options and to be consistent with SB 529, Section III.A should be modified to add the following language:

In lieu of complying with Section III.A, an electric public utility is authorized to file a permit to construct application or claim an exemption under Section III.B to construct an

extension, expansion, upgrade, or other modification to an electric public utility's existing electrical transmission facilities, including electric transmission lines and substations within existing transmission easements, rights of way, or franchise agreements, irrespective of whether the electrical transmission facility is above a 200-kV voltage level.

4. Definitions of what constitutes an "extension, expansion, upgrade, or other modification" to an existing electrical transmission facility should be further developed and considered during Phase 2 of this proceeding.
5. SB 529 does not require an existing electrical transmission facility to be operational for SB 529 to apply.
6. OIR Attachment A's proposed definition of "existing electrical transmission facility" is not consistent with SB 529 and should not be adopted.
7. A definition of "existing electrical transmission facility" should be further considered during Phase 2 of this proceeding.
8. OIR Attachment A's proposed deletion of the exemption found in Section III.B.1.h for projects that are statutorily or categorically exempt from CEQA, as well as the notice exception for these projects, is not required to implement SB 529 and is not within the scope of Phase 1.
9. Proposals to modify GO 131-D, which are not within the scope of Phase 1, should be considered during Phase 2.
10. GO 131-D should be modified to update outdated references, clarify cross references within the GO, and correct typographical errors as set forth in Attachment A of this decision.
11. This proceeding should remain open.

**O R D E R**

**IT IS ORDERED** that:

1. General Order 131-D is modified as set forth in Attachment A of this decision.
2. Rulemaking 23-05-018 remains open.

This order is effective today.

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

**ATTACHMENT A**

**and**

**ATTACHMENT B**