

**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
(Filed May 18, 2023)

**REPLY COMMENTS OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
ON ADMINISTRATIVE LAW JUDGES' RULING INVITING COMMENT ON PHASE
2 ISSUES**

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I. Introduction

The California Independent System Operator Corporation (CAISO) submits reply comments pursuant to the California Public Utilities Commission’s (Commission) December 18, 2023 *Administrative Law Judges’ Ruling Inviting Comment on Phase 2 Issues (Ruling)* and January 10, 2024 *Email Ruling Extending Time For Phase 2 Comments And Issuance Of Staff Proposal* extending the time for filing of a Reply to February 26, 2024.

II. Discussion

The CAISO provides these reply comments to support the Commission’s consideration of the Settlement Agreement on an expedited basis and to respond to new proposals submitted in opening comments. Although some additional issues and proposals may ultimately be worth considering in the proceeding, their consideration should not preclude the Commission from acting on the Settlement first. Additionally, the CAISO responds to a proposal submitted by the Public Advocates Office at the California Public Utilities Commission (Cal Advocates), which does not adequately identify the issue it seeks to solve and proposes significant new design and process which are unlikely to reduce permitting timelines.

**A. The Commission Should Rule on the Settlement Proposal Because the OIR
Explicitly Seeks to Expedite Permitting Under GO 131-D**

The Commission’s Order Instituting Rulemaking (OIR) explicitly describes the goal of the proceeding to adopt a new “E” version of the general order that will “provide a clearer, more

efficient and consistent process,”¹ describing General Order 131-D (GO 131-D) as setting forth “the Commission’s process addressing the siting of electric transmission lines, substations, and related facilities.”² In Phase 1 of the proceeding, parties worked together to identify key areas of the general order that the Commission can immediately update to reflect current planning processes. As the Commission noted in its OIR, the current version of GO 131-D was adopted on June 8, 1994,³ prior to the enactment of the CAISO’s transmission planning process. The CAISO has described this at length in prior comments.⁴

The CAISO agrees with comments that recommend the Commission consider the Settlement Agreement on an expedited basis.⁵ Though parties, and Commission staff, have indicated forthcoming new proposals or additional details on proposals recently submitted, there is no need to delay ruling on the Settlement first. The Settlement contains concrete, discrete, actionable, and beneficial changes within the scope of the general order that can be implemented immediately. These proposed changes will expedite the Commission’s review of applications by leveraging work done by the CAISO and avoiding duplicative analysis, while still allowing for meaningful environmental review.⁶ The Commission may choose to pursue additional proposals and issues in Phase 2, but should consider the Settlement expeditiously. Particularly in the case of the Commission staff’s proposal, awaiting details of a yet-to-be-described framework risks additional delays to the critical task of modernizing the GO 131-D proposal to recognize major changes to transmission planning since 1994, a task the Settlement accomplishes. The Commission can continue to evaluate additional proposals that build off of the Settlement in this Phase 2.

¹ Order Instituting Rulemaking to Update and Amend Commission General Order 131-D. (May 18, 2023) at 2. (OIR).

² *Id.*

³ *Id.*

⁴ *See, for example*, Opening Comments of the CAISO on the Order Instituting Rulemaking to Update and Amend Commission General Order 131-D (filed June 22, 2023).

⁵ *See* Opening Comments on Administrative Law Judges’ Ruling Inviting Comment on Phase 2 Issues of Southern California Edison Company, San Diego Gas & Electric Company, Pacific Gas and Electric Company, Center for Energy Efficiency and Renewable Technologies, the Environmental Defense Fund, Large-Scale Solar Association, the American Clean Power Association, and the City of Long Beach.

⁶ *See* Opening Comments of the CAISO on Joint Motion for Adoption of Phase 1 Settlement Agreement (filed Oct. 30, 2023).

Finally, in opening comments on the Commission’s Phase 2 ruling, some parties argued the Commission should reject the Settlement because the CAISO fails to use the transmission planning process to evaluate distributed alternatives.⁷ The CAISO continues to address these allegations, stating again that the transmission planning process does consider non-wires alternatives, such as storage. Moreover, the California Energy Commission considers the impact of distributed energy resources in its demand forecast, as does the Commission’s Integrated Resource Plan – both of which are utilized as inputs into the CAISO’s transmission planning process. The CAISO’s transmission planning process also provides multiple opportunities for stakeholder engagement, including in the development of study assumptions and consideration of specific project proposals by stakeholders.⁸ These arguments about the transmission planning process have no merit.⁹

B. Cal Advocates’ Proposal Does Not Address a Specific Problem and Does Not Clearly Reduce Permitting Timelines.

In its Opening Comments, Cal Advocates includes a proposal for the “prioritization and streamlining of policy-driven transmission projects to qualify for an expedited permitting process. The CAISO has concerns about the impact of this proposal as it does not directly address issues around reforming permitting processes, risks undermining the planning and coordination done by the utilities and the CAISO, and inserts additional complexity and uncertainty in the application process. Although the proposal spends a significant amount of text on the process for prioritization, it is unclear what sort of expedited treatment the prioritized projects will receive. The CAISO suggests that the expedited treatment is the critical issue to deliberate, as the resource and transmission planning processes conducted by the state and local regulatory authorities and the CAISO serve to identify priority transmission projects.

1. The Proposal’s Link to SB 529 is Tenuous and is Outside the Scope of this Proceeding.

Though-well intentioned in seeking to usher more applications to the Commission more quickly, Cal Advocates’ proposal does not directly address the purpose of this specific

⁷ See CBD/PCF/Clean Coalition Comments at 16.

⁸ See <https://www.caiso.com/Documents/Transmission-Planning-Process-Overview.pdf>

⁹ Reply Comments of the CAISO on Joint Motion for Adoption of Phase 1 Settlement Agreement (Nov. 13, 2023) at 4.

rulemaking, which is, in part, to consider “all other changes to *GO 131-D*”¹⁰ This proposal is outside the scope of this proceeding because it does not look at the process of siting and permitting of transmission facilities, which is the scope of this proceeding. Instead, these comments target the phasing of applications rather than expediting or enhancing current siting and permitting processes. Cal Advocates uses Senate Bill 529 (SB 529) to insert this proposal into this proceeding, but the citations to the intent of SB 529¹¹ are quoted out of context. Cal Advocates’ extrapolations from the quotations to support an entirely new prioritization framework run counter to the explicit intent of the legislation – to authorize an exemption to the certificate of public convenience and necessity (CPCN) process for certain extensions, expansions, upgrades, or other modifications to existing electrical transmission facilities.¹² The Commission already addressed this directive by the statutory deadline in the Phase 1 Decision, and as contemplated in the Commission’s Scoping Memo and Ruling for Phase 1.¹³ Nonetheless, the CAISO offers the following high-level comments concerning Cal Advocates comments.

2. The Proposal Addresses an Application Queue Issue That Does Not Exist

First, it is unclear what delays or problems Cal Advocates seeks to address. Though the proposal’s problem statement describes various delays between CAISO approval, submission of the application, and the in-service date, the proposal itself ultimately appears to focus on an unsupported problem that there is a backlogged application queue or that multiple applications are currently and problematically submitted the same time. Cal Advocates presents no evidence that limited resources contribute to the delay or that prioritizing and phasing applications in

¹⁰ Assigned Commissioner’s Scoping Memo and Ruling (July 31, 2023) at 4. (Scoping Memo), emphasis added.

¹¹ Opening Comments of Cal Advocates at A-3 (quoting Senate Bill 529 (Hertzberg) Senate Rules Committee Analysis, August 23, 2022, at 6 for the goals of “the ‘development of cost-effective, environmentally responsible transmission projects that can reliably deliver renewable resources throughout the state,’ and ‘facilitate[ing] the delivery of clean energy resources to the power grid.’”)

¹² SB 529 (2022) amends the Public Utilities Code to read “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.”

¹³ Scoping Memo at 4.

batches would speed any approvals. The proposal states that the process “could allow the [ALJ] to issue separate permitting decisions for each application within the proceeding, so that each project could receive authority to begin construction as soon as the Commission issues a permit.”¹⁴ This is no different than the process today under the individual application framework. The proposal spends significant time describing a lengthy and complex process for prioritization, but never addresses how this prioritization would expedite approvals or remove duplicative processes, and should not be further considered in this proceeding.

The CAISO certainly supports the idea of getting more applications before the Commission more quickly. As described above, the CAISO continues to support the immediate adoption of the Settlement, and would support an exploration of additional proposals that address permitting delays before or after an application is filed.

Additionally, the length of the proposed process both in this rulemaking and in the proposed prioritization going forward risks exacerbating the existing delay issues. Cal Advocates proposes multiple tracks and at least nine months before the prioritized projects are identified. Not accounted for in that timeline is potential delays under the eleven step prioritization analysis, whether a Proposed Decision is required, or how disputes or debates around the outcome of the prioritization are handled. Further, projects not selected through this prioritization process will simply be directed back to existing permitting processes.¹⁵ The Cal Advocates proposal could therefore exacerbate delays for projects that are not selected through the prioritization process, especially without reforms to existing processes. The proposal only seems to inject additional complexity with a new process added to the existing framework without commensurate benefit.

3. The Proposal Undermines the CAISO’s Transmission Planning Process

The proposal if pursued would also undermine the CAISO’s transmission planning process by focusing only on policy-driven projects, utilizing criterion already addressed in the CAISO’s transmission planning process, and risking disrupting timelines. Policy-driven projects represent only a portion of the projects modeled and approved in the CAISO’s transmission planning process. Reliability-driven projects are equally important to the whole network model

¹⁴ Opening Comments of Cal Advocates at A-2.

¹⁵ *Id.* at A-7.

and transmission plan that the CAISO evaluates and approves. The proposal attempts to put the burden on the utilities to identify which reliability-driven projects should be included in the prioritization, but only to the extent they support policy-driven projects.¹⁶ The proposal inappropriately omits projects driven by reliability or economic benefits and does not address when such projects would be eligible for Commission permitting under this framework. Further, many of the criterion identified are already data points that the CAISO analyzes in its transmission planning process.

It is unclear whether Cal Advocates proposes that these data points be reinterpreted or utilized in a different way, which could undermine the CAISO's findings under its FERC-approved transmission planning process. The CAISO's robust modeling already serves as a prioritization of sorts by identifying required in-service dates for transmission projects. This new application prioritization framework risks impacting the system-wide plan the CAISO approves as it is unclear if and when de-prioritized projects would be eligible for permitting.

4. The Proposal Fails to Address Preparatory Work Conducted Prior to a Permitting Application.

Finally, the proposal also does not address any work prepared by transmission developers and utilities prior to filing a permit application. Similar to the CAISO's concern with the proposal's elimination of non-policy-driven projects, the proposal also leaves out non-CAISO approved projects – distribution, capital maintenance, load interconnections, etc. – that are equally critical.

Cal Advocates' Figure 2, the "average timeline of 14 CAISO-approved transmission projects" claims utilities are waiting 2.4 to 4 years to begin working on a project.¹⁷ It is the CAISO's understanding that significant environmental and engineering work occurs prior to the filing of the application. The CAISO supports pursuit of proposals that explore expediting those processes and reach the filing of an application sooner, as well as those that eliminate duplicative reviews in the application process itself.

¹⁶ *Id.* at A-5.

¹⁷ *Id.* at 14.

5. Overarching Goals of Cal Advocates’ Proposal Should be Addressed by More Direct Measures.

The CAISO supports Cal Advocates’ overarching goal to get more permitting applications in front of the Commission sooner. However, as discussed above, Cal Advocates’ proposal does not clearly expedite permitting timelines, and parties should explore more direct measures to achieve this outcome. Additionally, although an application queue does not currently exist, should workload constraints arise as a result of a wave of applications at the Commission, the CAISO supports exploring ideas on how to best manage such workload constraints including Cal Advocates’ suggestion that the Commission coordinate environmental review efforts with other entities like the California Energy Commission.¹⁸

III. Conclusion

The CAISO appreciates the opportunity to provide reply comments on the Phase 2 issues and urges the Commission to act quickly on the Settlement Agreement. The Commission can continue to evaluate additional proposals and related issues in the next phase of this proceeding.

Respectfully submitted,

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¹⁸ *Id.* at A-6.

