

**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)

**OPENING COMMENTS OF THE  
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION  
ON PROPOSED DECISION ADOPTING GENERAL ORDER 131-E**

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Dated: January 16, 2025

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### **Commission Rules**

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## **SUBJECT INDEX OF RECOMMENDED CHANGES**

Pursuant to Rule 14.3(b) of the California Public Utilities Commission's ("CPUC" or "Commission") Rules of Practice and Procedure, the California Independent System Operator Corporation ("CAISO") provides the following Subject Index of Recommended Changes in support of its Opening Comments on Proposed Decision Adopting General Order 131-E.

- The CAISO urges the Commission to direct staff to act quickly on any findings in the pilot program that can expedite the permitting process
- The Commission should revise the description of the CAISO's competitive solicitation process to correct when "access to right of way" is evaluated and note that the process is used to determine a project sponsor for projects already included in the transmission plan.
- Annual reports for utilities should include costs that a utility intends to put in rate base should a FERC-approved transmission revenue requirement not yet be in place.
- Annual reports should include information on whether FERC has approved transmission incentives.
- The Proposed Decision Adopting General Order 131-E should clarify either provide (a) more information about Energy Division staff's discretion to provide authorization of a shorter period of time or (b) revised language to indicate that 12 months is required in situations where such amount of time exists.

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**I. Introduction**

Pursuant to Rule 14.3 of the California Public Utilities Commission (Commission)’s Rules of Practice and Procedure, the California Independent System Operator Corporation (CAISO) submits opening comments on the December 27, 2024 *Proposed Decision Adopting General Order 131-E* (PD).

**II. Discussion**

The CAISO appreciates the efforts made by parties and Commission staff in this proceeding to address the significant need for rapid transmission development to meet California’s energy transition. In line with the expected rapid growth in demand and corresponding new resource development needed to serve that load, the CAISO continues to encourage the Commission to find solutions to expedite the permitting process in a way that both promotes efficient development and transparency. In particular, the CAISO recommends the Commission act on any findings of the pilot program to further expedite additional projects through the permitting process. Additionally, the CAISO submits the following comments on the PD.

**A. The PD Correctly Reflects Coordination Between the Commission and the CAISO’s Transmission Planning Process (TPP).**

The PD appropriately reflects the rebuttable presumption for CAISO-Approved Projects pursuant to Public Utilities Code Section 1001.1, ensuring the General Order (GO) 131-E

reflects all applicable law. In establishing the rebuttable presumption, the California Legislature recognized the process through which the CAISO makes “explicit findings regarding the need for the proposed transmission project and [determines] that the proposed project is the most cost-effective transmission solution.”<sup>1</sup> Establishing a rebuttable presumption of need pertaining to a proposed transmission project, with a specific scope, estimated cost, and timeline as approved by the CAISO Board of Governors reflects the independent evaluation process undertaken by the CAISO to identify transmission solutions necessary to meet the reliability and policy needs of the state.<sup>2</sup>

Relatedly, the CAISO also supports the PD’s reference to the CAISO’s transmission plan in drafting the statement of objectives in the California Environmental Quality Act (CEQA) document,<sup>3</sup> as well as limiting the range of alternatives in the initial draft Environmental Impact Report (EIR) to alternative routes or locations for construction.<sup>4</sup> As the CAISO has explained in prior comments,<sup>5</sup> the TPP assesses electrical alternatives to the ultimately adopted transmission project, and defers routing to the Commission’s process. The proposed language of GO 131-E recognizes these two distinct areas of expertise and is a starting point for continued coordination between the Commission’s CEQA process and the technical evaluation of alternatives done in the CAISO’s TPP. The CAISO looks forward to continued opportunities for collaboration, particularly in light of the pilot program adopted in the PD.

## **B. The PD Should Require Assessment of Pilot Program**

The CAISO supports the adoption of Staff Proposal Section 3.8, Proposal 2 to establish a pilot program for on-going review and analysis of permitting timelines. Although the CAISO prefers to see many of the CEQA target timelines adopted in this PD, it recognizes the need for the Commission to assess whether such timelines are feasible. In addition to the metrics used to track and report on the pilot program’s success, the CAISO urges the Commission to direct staff

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<sup>1</sup> Cal. Pub. Utilities Code § 1001.1.

<sup>2</sup> See Reply Comments of the CAISO on Joint Motion for Adoption of Phase 1 Settlement Agreement (filed Nov. 13, 2023) at pg. 6.

<sup>3</sup> PD at pg. 60.

<sup>4</sup> PD at pg. 60.

<sup>5</sup> See, for example, Opening Comments of the CAISO on Administrative Law Judges’ Ruling Inviting Comment on Phase 2 Staff Proposal and Noticing Workshop (filed July 1, 2024) at pg. 2-3.

to act quickly on any findings that can expedite the permitting process. The CAISO expects the pilot program will take well over a year, given the target date for completing an EIR is 455 days after a sample project application is deemed complete. The CAISO suggests the Commission review any best practices determined throughout the pilot program and adopt any potential beneficial changes as soon as possible, even if the pilot is not entirely completed.

**C. The Commission Should Correct Statements around the CAISO's Competitive Solicitation Process.**

The CAISO seeks to correct an error in the description of one element of the CAISO's TPP used in discussion of the right of way (ROW) sharing proposal. Though this proposal was not adopted by the PD, the CAISO seeks to correct this error for the record. The CAISO takes no position on this proposal, however does suggest that if the Commission revisits this proposal, the Commission should assess any benefits or drawbacks of such ROW sharing in the context of how ROW is relevant to CAISO decision-making. The CAISO can provide additional details with the correct understanding of if/when "access to a right of way" is assessed.

The PD describes a "competitive solicitation process for incumbent and independent non-incumbent electric utilities to submit proposed transmission projects that are reviewed and selected by CAISO for inclusion in the CAISO Transmission Plan"<sup>6</sup> and appears to describe a process in which the CAISO reviews access to a right of way as part of its decision to select a project for the transmission plan. However, the competitive solicitation process takes place in Phase 3 of the CAISO's TPP, *i.e.*, after the CAISO has already identified a transmission solution in the Transmission Plan. The CAISO considers information regarding access to right-of-way only when selecting an approved project sponsor for projects that are *already* included in the CAISO's Board-approved Transmission Plan. Thus, the CAISO requests the Commission revise this sentence in the PD to remove any reference to the submission of proposed transmission projects and instead indicate that the CAISO uses the competitive solicitation process to select a project sponsor for projects approved in the transmission plan that are eligible for competitive solicitation.

The CAISO also points out that the competitive solicitation process is subject to its Federal Energy Regulatory Commission (FERC)-approved tariff. Therefore, the Commission cannot unilaterally change the selection factors.

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<sup>6</sup> PD at pg. 115.

#### **D. Utility Reports Should Include Additional Details**

Proposed GO 131-E includes several new or revised reporting requirements for utilities planning to build new transmission or with transmission under construction. The CAISO suggests the following minor changes to the requirements for added clarity.

The annual reports contemplated in Section IV(A) and (C) include information on capital expenditures put into FERC-jurisdictional rate base. The CAISO suggests the Commission ensure these categories are broad enough to include capital expenditures the utility *intends* to put in rate base, in nominal or actual dollars, should a FERC-approved transmission revenue requirement not yet be in place. This will ensure the Commission receives an accurate annual accounting prior to any rate case filed at FERC for any projects under construction. For projects seeking to recover allowance for funds used during construction (AFUDC) or construction work in progress (CWIP), the annual report requires an accounting of each of these project incentives. The CAISO recommends the report include information about whether FERC has approved these transmission incentives.

#### **E. Notice to CPUC Should Allow Flexibility for Required In-Service Dates**

As part of the revised permitting process, GO 131-E proposes for transmission developers to provide written notice to Energy Division staff no less than 12 months prior to the filing of a certificate of public convenience and necessity (CPCN) or a permit to construct (PTC) application, unless Energy Division staff authorize a shorter period in writing.<sup>7</sup> The CAISO agrees that earlier pre-filing consultation can result in greater coordination. However, the CAISO suggests either (a) more information be provided about Energy Division staff's discretion to provide authorization of a shorter period of time or (b) the language be revised to indicate that 12 months is required in situations where such amount of time exists. The CAISO can foresee circumstances in which a required in-service date for a reliability or other need would require a transmission developer to file more quickly than 12 months after an award and the CAISO is concerned the language may inadvertently preclude a faster filing in such situations.

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<sup>7</sup>

Proposed Sections VII(A)(1)(b) and VII(B)(1)(b) of GO 131-E.

### III. Conclusion

The CAISO appreciates the opportunity to provide opening comments on the PD.

Respectfully submitted,

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