

## 2024 Energy Law Conference

April 19, 2024

MCLE: 1.25 Hours

Panel 1: Siting Electric Transmission Infrastructure in California:  
Ideas to Inform and Enhance Permitting to Achieve Climate and  
Clean Energy Goals

Moderator: Leuwam Tesfai

Speakers: Erica Martin and Malinda Dickenson

### **Conference Reference Materials**

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# Siting Electric Transmission Infrastructure in California: Ideas to Inform and Enhance Permitting to Achieve Climate and Clean Energy Goals

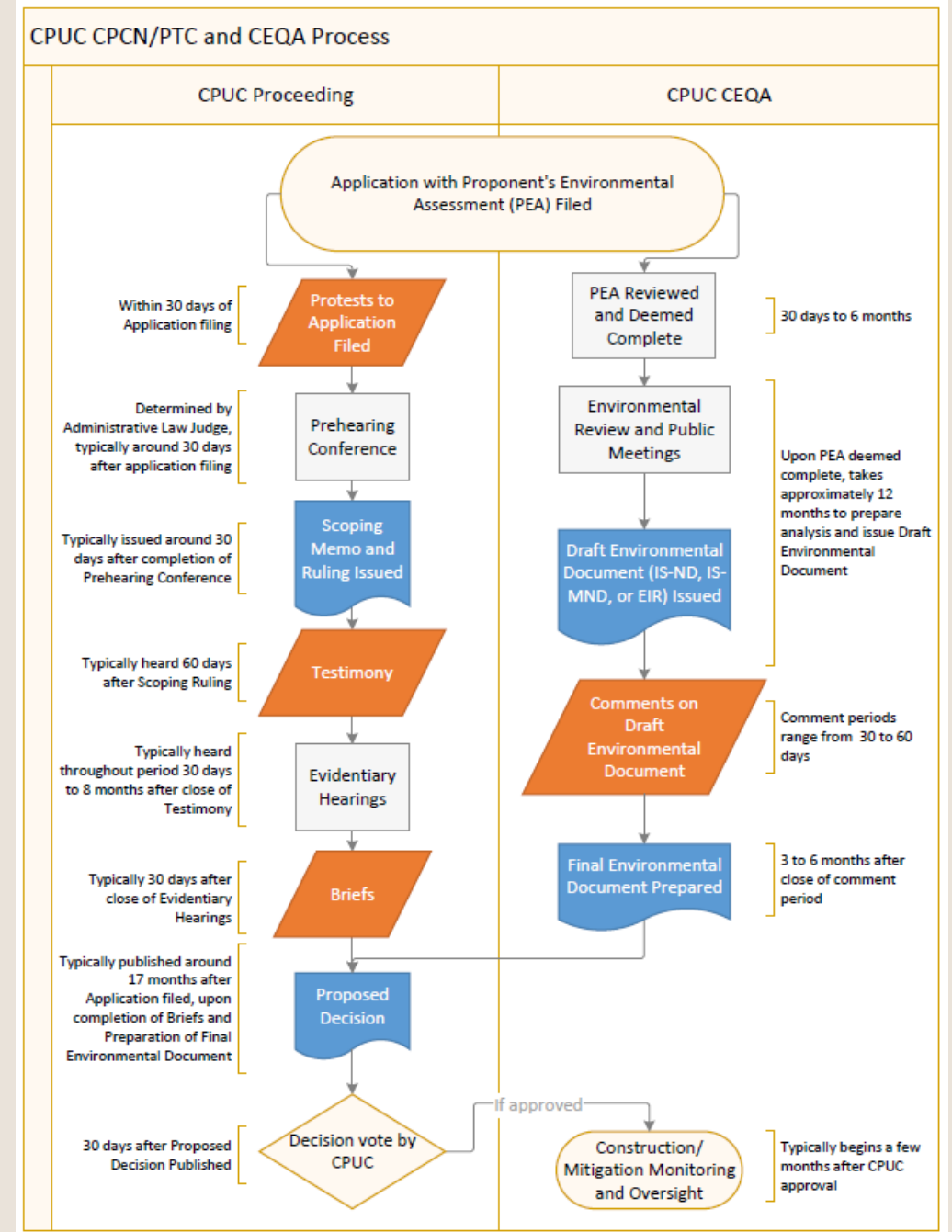
Leuwam Tesfai, California Public Utilities Commission

April 19, 2024

# Overview of GO 131-D

CPUC General Order 131-D includes:

- Rules for the permitting of electrical transmission and distribution lines, generation facilities, and substations
  - CPCN and PTC process
  - Noticing requirements
- Reporting requirements for electric public utilities
- Procedures for CPUC review of projects approved by the CEC
- Protest and complaint procedures



# History of GO 131

- **GO 131** (adopted 1970)
- **GO 131-A** (adopted 1976, amended 1977)
- **GO 131-B** (adopted 1979)
- **GO 131-C** (adopted 1985)
- **GO 131-D** (adopted 1994, modified 1995 and 2023)

**GENERAL ORDER NO. 131-D**  
(Supersedes General Order No. 131-C)

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

**RULES RELATING TO THE PLANNING AND CONSTRUCTION OF ELECTRIC  
GENERATION, TRANSMISSION/POWER/DISTRIBUTION LINE FACILITIES AND  
SUBSTATIONS LOCATED IN CALIFORNIA.**

**Adopted June 8, 1994. Effective July 8, 1994.**

**Decision 94-06-014**

**Modified August 11, 1995. Effective September 10, 1995.**

**Decision 95-08-038**

**Modified December 14, 2023. Effective December 14, 2023.**

**Decision 23-12-035**

**SECTION I. GENERAL**

Pursuant to the provisions of Sections 451, 564, 701, 702, 761, 762, 768, 770, and 1001 of the Public Utilities Code:

IT IS HEREBY ORDERED that except as specifically provided herein, no electric public utility, now subject, or which hereafter may become subject, to the jurisdiction of this Commission, shall begin construction in this state of any new electric generating plant, or of the modification, alteration, or addition to an existing electric generating plant, or of electric transmission/power/distribution line facilities, or of new, upgraded or modified substations without first complying with the provisions of this General Order.

For purposes of this General Order, a transmission line is a line designed to operate at or above 200 kilovolts (kV). A power line is a line designed to operate between 50 and 200 kV. A distribution line is a line designed to operate under 50 kV.

# SB 529 Requirements

- SB 529 required the CPUC to update GO 131-D to allow utilities to pursue the PTC process or claim an exemption to seek approval to construct an **extension, expansion, upgrade, or modification of an existing electrical transmission facility**
- SB 529 amends Public Utilities Code section 564 and 1001 to provide that a CPCN is not required for these activities
- SB 529 required changes to GO 131-D to be finalized by January 1, 2024



# GO 131 Update – Overview

Two phases of the GO 131 update proceeding (R.23-05-018):

- **Phase 1**
  - Update GO 131-D by January 1, 2024
    - **D.23-12-035 adopted Dec. 14, 2023**
  - Meet the requirements of SB 529 and implement other minor changes (e.g., updating outdated references)
- **Phase 2**
  - Adopt a new GO 131-E version by January 31, 2025
  - Consider more extensive changes to provide a clearer, more efficient, and more consistent process



# GO 131 Update – Phase 2

GO 131 Update (R.23-05-018) Phase 2 Schedule (approximate)														
Action	2023	2024												2025
	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan
Phase 1 decision (Dec. 14, 2023)														
Phase 2 party comments														
CPUC prepares staff proposal														
Party comments on staff proposal														
Prepare proposed decision														
Comments on proposed decision														
Commission decision (TBD)														
Proceeding resolved (by Jan. 31, 2025)														

**Questions?**



**We are hiring!**

**<https://www.cpuc.ca.gov/energydivisionrecruiting>**



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# Siting Electric Transmission Infrastructure in California: Ideas to Inform and Enhance Permitting to Achieve Climate and Clean Energy Goals

Malinda Dickenson, Protect Our Communities Foundation

April 19, 2024

**Ratepayer  
AND  
Environmental  
Advocates**



**Protect Our Communities  
Foundation**

**SB 529 requires  
that CPUC  
analysis must  
address  
rates & the  
environment**

**“...the state must support the development of cost-effective, environmentally responsible transmission projects that can reliably deliver renewable resources throughout the state. . . .**

**“Importantly, SB 529 expedites approvals least likely to pose rate concerns, still ensures CEQA is complied with through the PTC process, and minimizes development costs for ratepayers.”**

**“...the need to ensure adequate review of transmission projects, including upgrades, extensions, expansions, or modifications to existing approved transmission lines must be done with considerable consideration of the potential impacts, including those to landowners, communities, and ecosystems”**

*Senate Floor Analysis (Aug. 23, 2022), p. 5.*

## New § 564

**S.B. 529  
requires PUC  
to adhere to  
*both*  
new § 564  
*and*  
§ 1001  
amendment**

“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.”

## Amended § 1001(b)

“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.”

**D.23-05-035 added a potential loophole clause to GO 131-D that ignores the §1001(b) amendments, creates needless confusion, & gives utilities an opportunity to evade CPUC review entirely**



**D.23-05-035 gives utilities an option to seek a PTC for 200kV and above facilities only “in lieu of complying with Section III.A.” which requires CPCNs**

Ignores that S.B. 529 amended Public Utilities Code § 1001(b) to say that no CPCNs are required for the “extension, expansion, upgrade, or other modification of an existing electrical transmission facilities” in the first instance!



**S.B. 529 requires the PTC process “irrespective of whether the electrical transmission facility is above a 200-kilovolt voltage level”**

# CPUC still must ensure just and reasonable rates that are as low as possible & avoid or mitigate environmental harm

## Rates

“All charges demanded or received by any public utility, or by any two or more public utilities, for any product or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge demanded or received for such product or commodity or service is unlawful. . . . All rules made by a public utility affecting or pertaining to its charges or service to the public shall be just and reasonable.” Pub. Util. Code, § 451.

“It is the intent of the Legislature that the commission reduce rates for electricity and natural gas to the lowest amount possible.” Pub. Util. Code, § 747.

## CEQA

Pub. Res. Code, 21000(g): “It is the intent of the Legislature that all agencies of the state government which regulate activities of private individuals, corporations, and public agencies which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage, while providing a decent home and satisfying living environment for every Californian.”

“The chief goal of CEQA is mitigation or avoidance of environmental harm.” *Laurel Heights Improvement Assn. v. Regents of Univ. of California* (1988) 47 Cal. 3d 376, 403.”

Must avoid or mitigate environmental harm unless overriding economic, legal, social, technological, or other benefits outweigh the environmental harm. *See e.g.* Pub. Res. Code, 21081.

# Rates:

## Critical need for CPUC regulation

PTC process should require CPUC needs assessment in some form

- **CPUC recognizes growing importance of needs assessment to protect ratepayers:**


“Most utility transmission projects are currently self-approved projects, which lack transparency of their planning, prioritization, budgeting, and implementation. With the anticipation of the aforementioned large expansion of the transmission grid, it is more important than ever that transparency of transmission projects occur to protect ratepayers, ensure the Commission has the ability to track how projects best meet needs related to interconnection of renewable energy resources, CPUC permitting processes, risk and safety assessments, and more broadly address the integrated resource planning needed to meet the state’s clean energy goals and the changing electric grid.” ([Resolution E-5252 \(April 27, 2023\)](#))

PTC process should require CPUC review for all expensive projects irrespective of voltage

- **Utilities profit tremendously from building infrastructure**
  - See Center for Biological Diversity, [Rooftop-Solar Justice: Why Net Metering is Good for People and the Planet and Why Monopoly Utilities Want to Kill It](#)
  - **Lower voltage transmission projects can be some of the most expensive**
    - See [data](https://www.sdge.com/sdge-tpr-process) at <https://www.sdge.com/sdge-tpr-process>

# CEQA: Critical need for CPUC regulation

**We need to  
reduce GHGs  
immediately and  
as much as  
possible**



“With each additional increment of warming, these changes will become larger, resulting in long-lasting, irreversible implications, in particular for sea level rise. . . .

The science is unequivocal, the changes are unprecedented, and there is no more time for delay.”

IPCC, [Working Group I Contribution to the Sixth Assessment Report](#), p. v.

**Maximize  
deployment of  
rooftop and  
community solar  
plus batteries**

Can most quickly reduce GHGs

Saves \$\$\$ for all ratepayers

Avoids land use impacts and other environmental harms

Avoids the need for expensive transmission construction and construction of remote, utility-scale generation projects



# SOLUTION: CEQA's built-in streamlining method

## CEQA allows the CPUC to streamline environmental analysis

- CEQA “permits the environmental analysis for long-term, multipart projects to be ‘tiered,’ so that the broad overall impacts analyzed in an EIR at the first-tier programmatic level need not be reassessed as each of the project's subsequent, narrower phases is approved.” *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 429.

## CEQA analysis required as early as possible

- “...the later the environmental review process begins, the more bureaucratic and financial momentum there is behind a proposed project, thus providing a strong incentive to ignore environmental concerns that could be dealt with more easily at an early stage of the project...For that reason, ‘EIRs should be prepared as early in the planning process as possible to enable environmental considerations to influence project, program or design.’” *Laurel Heights Improvement Assn. v. Regents of Univ. of California* (1988) 47 Cal. 3d 376, 395.





# CPUC should not abdicate its authority to protect the environment *and* ratepayers

**CAISO does not perform environmental review under CEQA nor does CAISO do any just and reasonable rate analysis (see Pub. Util. Code § 345.5)**

**FERC does not have jurisdiction unless specified under the Federal Power Act “over facilities used for the generation of electric energy or over facilities used in local distribution or only for the transmission of electric energy in intrastate commerce, or over facilities for the transmission of electric energy consumed wholly by the transmitter” (16 U.S.C. § 824(b))**

# §1001(b) does NOT apply to gas system

## S.B. 529 exemptions to the CPCN requirement apply only to electrical transmission facilities:

(a) A **railroad corporation** whose railroad is operated primarily by electricity, **street railroad corporation**, **gas corporation**, **electrical corporation**, **telegraph corporation**, **telephone corporation**, **water corporation**, or **sewer system corporation** shall not begin the construction of a street railroad, of a line, plant, or system, or of any extension thereof, without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require its construction.

(b) 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.

(c) This article does not require those **corporations** to secure that certificate for an **extension** within any city or city and county within which it has lawfully commenced operations, for an extension into territory either within or without a city or city and county contiguous to its street railroad, line, plant, or system, and not served by a public utility of like character, or for an extension within or to territory already served by it, necessary in the ordinary course of its business...



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# Siting Electric Transmission Infrastructure in California: Ideas to Inform and Enhance Permitting to Achieve Climate and Clean Energy Goals

Erica Martin, San Diego Gas & Electric Company

April 19, 2024

# SDG&E | Background



SDG&E PROVIDES ENERGY SERVICE TO


**3.7** MILLION PEOPLE

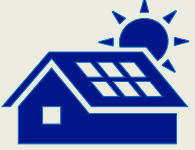
THROUGH


**1.5** MILLION ELECTRIC METERS

**900** THOUSAND NATURAL GAS METERS

**4,100** SQUARE-MILE SERVICE AREA

 **384 MW of utility-owned storage (power ~ 260K homes)**

 **23% rooftop solar; 317K+ renewable systems**

 **140K+ EVs registered in SDG&E service territory**

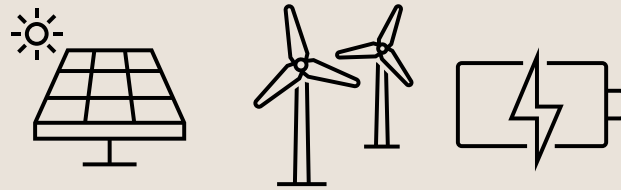
# Electric Transmission Planning | Overview

## Forecasting/System Planning



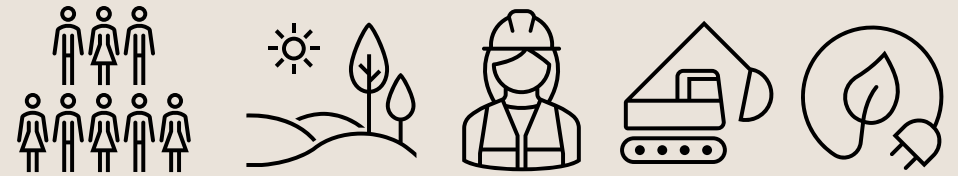
- **Integrated Energy Policy Report** | CEC/CPUC/ISO Single Forecast
- **Resource Planning** | Integrated Resource Plan (IRP)
- **Transmission Planning** | 20-year outlook and 10-year plan
- **Interconnection** | Cluster open windows, studies, deliverability

## Resource Procurement



- **Procurement Orders** | IRP, Summer Reliability, Resource Adequacy, Resource-Specific Procurement
- **Contract Origination** | Solicitation, Negotiation, Execution
- **Oversight** | Procurement Review Group, Protests, CPUC Approval
- **Contract Milestones** | Permitting, Deliverability, Site Control and Readiness, Construction, Commissioning, Interconnection
- **Financing**

## System Buildout



- **Resource, Transmission, and Interconnection Approval** | Discretionary permits, CPUC GO 131
- **Site Control** | Land acquisition, condemnation, public land rights/ROW, O&M agreements
- **Environmental Review** | CEQA, NEPA
- **Impact Mitigation** | Aesthetics, Air, Biological, Cultural, Coastal, Land Planning, Water
- **Public Review** | Comment, Controversy
- **Permit Conditions** | Mitigation, Restrictions
- **Ministerial Permits** | Encroachment, Fire
- **Capacity to Build** | Supply Chain, Workforce
- **Litigation**

# System Buildout | CAISO 2022-2023 Transmission Plan

*In May 2023, CAISO approved ~\$7.3B in new transmission projects to meet the state's policy goals as well as ensure system reliability*

## Purpose of CAISO Transmission Plan:

- Aimed at ensuring California has the necessary infrastructure to meet its reliability and clean-energy goals
  - More power and infrastructure is needed to support anticipated electrification increases, most notably in transportation and the building industry
  - Addresses the state's reliability and policy needs in the most cost-effective and efficient way possible

## CAISO-recommended projects for the SDG&E Service Territory:

- Imperial Valley to a new substation near SONGS 500 kV Line
  - Project is part of a competitive bid process with CAISO
  - SDG&E is a bidder
- Miguel-Sycamore Canyon 230 kV line Loop-in to Suncrest Project
  - SDG&E to construct, upgrade to existing facilities
- Smaller internal upgrades
  - SDG&E to construct and upgrade

 **45** projects outlined across California



## Competitive Bid Milestones

- ✓ **May 2023** - Transmission Plan Approved
- ✓ **June 2023** - Solicitation opens for projects being competitively bid
- ✓ **October 2023** – Project bids due to CAISO
- **April 2024** - CAISO selects winning bids

# System Buildout | Permit Streamlining

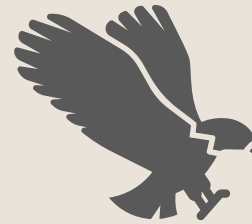
Building the future requires unprecedented agility

## CPUC General Order 131

## Land Permitting + Acquisition

## Species Permitting

## Environmental Review Process



Authority to Construct

Tribal | Federal | State |  
Private Lands

Protected Plants + Animals +  
Habitats

Impacts | Mitigation |  
Alternatives



# Permit Streamlining | GO 131-D Reform (R.23-05-018)

- General Order 131 first adopted in 1970
- Last modified in 1995 – prior to creation of CAISO and setting of CA climate policy goals

- CPUC Staff Proposal + 23 Parties filed comments
- Common theme: **Reform of CPUC permitting and CEQA process is necessary and overdue**

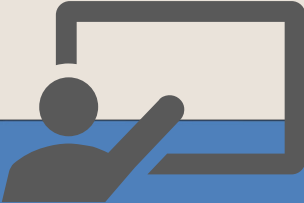
- Settlement Agreement filed by 18 parties in September, 2023
- Proposed revisions aimed at implementing statutory requirements and reducing permit and review times to support the clean energy transition

# GO 131-D | Settlement Agreement

Proposed Reforms Could Reduce Permit to Construct Process by 2 Years



**18 Settling Parties**



**Implement statutory requirements**



**Leverages CAISO approval**

- Need determination
- CEQA alternatives & project objectives



**Focuses CEQA review**

- Sets deadlines
- Eliminates duplication