

**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

**CLEAN COALITION COMMENTS ON ADMINISTRATIVE LAW JUDGES'  
RULING INVITING COMMENT ON PHASE 2 STAFF PROPOSAL**

/s/ BEN SCHWARTZ

Ben Schwartz  
Policy Manager  
Clean Coalition  
1800 Garden Street  
Santa Barbara, CA 93101  
Phone: 626-232-7573  
[ben@clean-coalition.org](mailto:ben@clean-coalition.org)

July 1, 2024

**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

**CLEAN COALITION COMMENTS ON ADMINISTRATIVE LAW JUDGES’  
RULING INVITING COMMENT ON PHASE 2 STAFF PROPOSAL**

**I. INTRODUCTION**

Pursuant to Rule 6.2 of the Rules of Practice and procedure of the California Public Utilities Commission (“the Commission”), the Clean Coalition respectfully submits these comments in response to the *Administrative Law Judges’ (“ALJ”) Ruling Inviting Comments on Phase 2 Staff Proposal and Noticing Workshop*, issued at the Commission on May 17, 2024.

**II. DESCRIPTION OF PARTY**

The Clean Coalition is a nonprofit organization whose mission is to accelerate the transition to renewable energy and a modern grid through technical, policy, and project development expertise. The Clean Coalition drives policy innovation to remove barriers to procurement and interconnection of distributed energy resources (“DER”) — such as local renewables, demand response, and energy storage — and we establish market mechanisms that realize the full potential of integrating these solutions for optimized economic, environmental, and resilience benefits. The Clean Coalition also collaborates with utilities, municipalities, property owners, and other stakeholders to create near-term deployment opportunities that prove the unparalleled benefits of local renewables and other DER.

**III. COMMENTS**

*1(a) Do you support the proposals and recommendations contained in the Staff Proposal and appended GO 131-D redlines? Please explain why or why not, and provide suggestions to revise or improve any proposals, including those that you support and do not support.*

**3.1.2 – Proposals 1-6**

In regard to Proposal 1, the Clean Coalition believes that an existing facility must be one with a certificate or permit that is currently in service, to preclude a project that has recently broken ground or has begun construction but is experiencing delays from being included. This rationale reflects the definition included in the Order Instituting Rulemaking (“OIR”), which

states, “[a]n ‘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.”<sup>1</sup> This definition is compliant with the California Environmental Quality Act (“CEQA”), ensuring that the Commission’s regulation is harmonized with that of other lead agencies tasked with preserving California’s pristine natural lands.

On the subject of Proposal 2, the Clean Coalition’s Joint Comments with the Center for Biological Diversity (“CBD”) and the Protect Our Communities Foundation (“PCF”) clearly lay out the foundation for appropriate definitions that should be adopted by the Commission for the words, “extension”, “expansion”, “upgrade”, “modification”, “equivalent facilities or structures”, and “accessories”. Clean Coalition supports expediting improvements to the existing transmission grid that maximize efficiency and minimize impacts to the ratepayers/environment. While there are aspects of proposals in section 3.1.2 that have merit, overall, there are three subjects that have been omitted which provide crucial guardrails which are necessary to limit the ratepayer impacts of the certificate of public convenience & necessity (“CPCN”) and permit to construct (“PTC”) processes. The first is that each of the definitions should be limited to policy-driven constructs as approved in the California Independent System Operator’s (“CAISO”) Transmission Planning Process (“TPP”). The TPP includes two categories of policy-driven projects. Category 1 projects are confirmed to be needed, while Category 2 projects are thought to be required but may be cancelled, modified, or confirmed in the next iteration of the TPP. Of the two, only Category 1 policy projects should be expedited, ensuring that investments being made on behalf of the ratepayers—and costs recovered from the ratepayers—are done in a least regrets fashion. One aspect of least regrets investing in this context is ensuring that projects designed to transmit non-renewable capacity are not approved, given the state’s dedication to a renewable future. In addition, it is imperative that expedited projects result in ratepayer savings when compared to alternatives, whether that means, for example, comparing a modification in the form of advanced reconductoring to a non-wires alternative solution or an entirely new transmission project. With delivery charges making up a larger portion of utility rates than generation costs, any expedited project must both help advance California’s ambitious policy

---

<sup>1</sup> Center for Biological Diversity, Clean Coalition, and the Protect Our Communities Foundation Opening Comments on Phase 2 Issues, February 5, 2024, at p. 2, and 4 R.23-05-018, Order Instituting Rulemaking, Attachment A (Redlines), p. 1.

goals and result in ratepayer savings. Otherwise, rates will continue to skyrocket at a pace that exceeds inflation, imposing a greater burden on average Californians, especially those living in disadvantaged and vulnerable communities.

Second, each definition should conclude with the phrase, “and does not have a significant effect on the environment or rates.”<sup>2</sup> There is no doubt that increasing the amount of available capacity is important given the anticipated load increases required to fully electrify the energy portfolio, transportation sector, and buildings. Cutting down the time required to interconnect new resources and deliver the energy to end-users is a necessary part of the equation to maintaining a safe and reliable system. Yet, the Commission has a responsibility to balance the need for additional infrastructure with its duty to preserve pristine natural landscapes wherever possible and to ensure that the bundled cost of electricity remains just and reasonable. Greenlighting all projects that fit under the proposed definitions will surely lead to substantial increases in customer rates, especially if the Commission focuses solely on capital costs without also factoring likely operations and maintenance (“O&M”) required over the lifetime of the assets. As the Clean Coalition has commented previously in this proceeding, the total cost shouldered by the ratepayers of some transmission projects can be five times the initial sticker price (in real dollars) when factoring in O&M and the rate of return. O&M, costs which typically increase faster than inflation, often account for 55% of the total lifetime cost of a transmission project. Therefore, we continue to recommend that the definitions include the phrase, “and does not have a significant effect on environment or rates.”<sup>3</sup>

With the proposed additions discussed above incorporated, the Clean Coalition is supportive of Option 1. There is sufficient specificity, especially with the examples, to ensure that an applicant can appropriately categorize a proposed project under one of the definitions without carte blanche approval for any requested addition. Proposals 3 and 4 are also acceptable, with the inclusion of the phrase, “and does not have a significant effect on the environment or rates.” Clean Coalition supports Proposal 5, Option 1 and Proposal 6, Option 2. A Tier 2 Advice Letter still provides stakeholders the opportunity to provide input or protest and ensures that Energy Division staff will conduct a thorough review. It is important that projects deemed to be categorically exempt from CEQA do not have an unjustifiable impact on the ratepayers,

---

<sup>2</sup> CBD, Clean Coalition, and the PCF Opening Comments on Phase 2 Issues, February 5, 2024, at p. 10-11.

<sup>3</sup> *Ibid.*

especially if other more cost-effective measures are available. Given the deluge of self-approved transmission projects, the Commission should retain processes that promote transparency and accountability while balancing the need to expedite critical projects.

### **3.2.2 – Proposals 1-2**

Clean Coalition supports Proposal 1, Option 1 and Proposal 2, Option 1, with some modifications. Proposal 1, Option 1 should be amended so the report forecasting power lines between 50 kV and 200 kV is increased from five-years to ten-years, which is in line with changes being considered in the High DER proceeding (“R. 21-06-017”). The formatting of such a report should also be consistent with mapping done by CAISO in the TPP, so as to ensure that data comparisons can be done in an easy and simple manner that utilizes staff resources efficiently. In other words, the utility mapping should line up with the CAISO TPP, so it does not take hours/days to decipher the maps (meaning similar named substations, busbars, etc....).

We appreciate the dedication to increased transparency on the “real” costs of projects. Proposal 2, Option 1 will better allow the Commission to ascertain a portion of the true cost of a transmission project but does not go far enough. As mentioned in comments on the proposals in section 3.1.2, one of the greatest components of any infrastructure project is the O&M costs. It is possible that the Staff Proposal includes expected O&M in the “Others” section, but it is unclear. Reporting costs should include the full expected life cycle costs, which must include a clear section where the utility reports on likely O&M costs; without O&M, any cost estimate will be severely lower than the actual cost to the ratepayers.

### **3.3.2 – Proposals 1-2**

The Clean Coalition does not support adoption of Proposal 1. First, the CAISO only considers projects based on the Integrated Resources Portfolio (“IRP”), which models a portfolio entirely based on utility-scale renewables. However, in the coming years, especially as the results of demand flexibility pilots are revealed and dynamic rates become widespread, additional tools will become available for the Commission to utilize that are not currently at the disposal of CAISO. In addition, planning based on the IRP does not consider the flexibility and potential cost savings from strategically siting DER. In 2021, Vibrant Clean Energy (“VCE”) released a study, entitled, [the] “Role of Distributed Generation in Decarbonizing California by 2045,” to

model the ratepayer savings that can be realized through the deployment of an increased percentage of distributed energy resources throughout the state.<sup>4</sup> The results, which are analyzed in a Clean Coalition-sponsored webinar,<sup>5</sup> explain that if deployed strategically, local solar+storage could lead to reduced electrical rates from the years 2020-2050. **Compared with a utility-only solution, adding local solar+storage would save ratepayers \$120 billion in cumulative savings from 2020-2050.** The study is applicable in this case; it is likely that in some cases where a utility is requesting approval of a small transmission upgrade or a new project via the CPCN or PTC processes, a study by the Commission may find that it is far more cost-effective for the ratepayers to instead strategically site 30 MW of DER—somewhere on the distribution grid or within a local reliability area—than to approve a new infrastructure project. This is not to presume that CAISO does not do its job well; the CAISO works with the inputs that it is given and available tools to ensure broad system safety/reliability. Second, the Commission has a separate jurisdiction and additional tools at its discretion that should be used in the process of evaluating whether approval of a traditional infrastructure solution is prudent, given the cost implications. Evaluating DER and non-wires alternatives will not take years to complete, but swift approval using a rebuttal presumption has the potential to add tens (if not hundreds) of millions of dollars to ratepayer bills per project. The need for expedited approval cannot risk a situation where a less-than-thorough review impacts the Commission’s ability to fulfill its obligation to promote just and reasonable rates.<sup>6</sup>

If the Commission chooses to move forward with the adoption of Proposal 1, the rebuttal presumption should be limited to policy-driven projects included in Category 1 (those that are **required and confirmed** following study) rather than both Category 1 and Category 2 projects. Since Category 2 projects are restudied in a subsequent TPP cycle, these are the projects most likely to be modified or cancelled entirely.

**The Clean Coalition is strongly opposed to the adoption of Proposal 2.** The Commission has different statutory obligations than the CAISO. For example, while the CAISO is focused on reliable grid operations, the Commission also has the important task of addressing affordability, grid resilience, and overcoming historical inequities that have put disadvantaged

---

<sup>4</sup> [https://vibrantcleanenergy.com/wp-content/uploads/2021/07/VCE-CCSA\\_CA\\_Report.pdf](https://vibrantcleanenergy.com/wp-content/uploads/2021/07/VCE-CCSA_CA_Report.pdf)

<sup>5</sup> <https://clean-coalition.org/news/webinar-how-local-solar-and-storage-will-save-californians-billions-11-august-2021/>

<sup>6</sup> California Pub. Utilities Code § 451.

communities at a handicap compared with wealthier communities. The redline rebuttal also presumption includes aspects that fall completely outside of the role of the CAISO TPP. Which part of the CAISO TPP addresses, “comfort [and] health,” of the public, as is included in the redline addition for Section IX.C.2.d?<sup>7</sup> And if CAISO is party to a proceeding, as is suggested in Section IX.C.3, but does not provide any direct input or submit comments, why should that be sufficient to substantiate a rebuttal presumption? **Again, the Commission should not elevate the CAISO to the point where its own analytical abilities are significantly constrained to the point of simply becoming a rubber stamp in the cost-effectiveness evaluation process.**

CAISO has no process for considering societal benefits, or total benefits to the ratepayers. For example, a local DER solution that obviates a gas peaker plant or limits the deployment of temporary diesel generators during the summer peak months does far more to improve health and reduce local air pollution and greenhouse gas emissions when compared to a new transmission line. Or a solar+storage deployment at the site of an existing gas-fired plant could be more cost-effective than approving an entirely new transmission process. The burden of proof required to justify this proposal is completely absent. It is concerning that Proposal 2 suggests redlines without any sort of analysis of the CAISO TPP or that explains **why** a rebuttal presumption is reasonable (let alone essential). CAISO may be a non-profit organization, but the Commission is a regulatory agency whose duty is enshrined in the California constitution. At this point in the proceeding, the record does not support the addition of a rebuttal presumption nor is there support for reducing the Commission’s agency in this aspect of the decision making process. The Staff Proposal explains the same sentiment:

The settling parties’ proposed Section IX.C.2.c would establish a rebuttable presumption limiting the consideration of cost-effective alternatives to transmission facilities required by Public Utilities Code Section 1002.3 to the alternatives analyzed in the relevant CAISO Transmission Plan and the underlying base resource portfolio. By constraining the alternatives analysis, the settling parties’ proposal would impede the CPUC’s ability to comply with CEQA; would be inconsistent with the robust alternatives analysis required by the National Environmental Policy Act (NEPA) for projects with federal involvement; and would constrain the CPUC’s ability to evaluate non-wires alternatives to proposed transmission projects.... the Commission is obligated to use it within the context of its own independent analysis.<sup>8</sup>

---

<sup>7</sup> Staff Proposal, at p. 48.

<sup>8</sup> *Ibid*, at p. 49.

Proposal 2 limits the ability of the Commission to consider DER and other non-wire alternatives, and to do so in a way that is transparent and accountable to stakeholders, which is important, given that many ratepayers and ratepayers organizations may not have the time/resources to engage in the CAISO's stakeholder processes. Likewise, a local government may not have the bandwidth to get involved with a systemwide process, but once a specific project is proposed within its jurisdiction, the same municipality has a responsibility to govern and protect the interest of its residents. Adopting Proposal 2 suggests that the job is done once CAISO has made a determination, forfeiting the opportunity for anyone (and everyone) else. Therefore, the Clean Coalition urges the Commission to reject both proposals, noting our fervent opposition to Proposal 2.

### **3.4.2 – Proposals 1-2**

Clean Coalition supports Proposal 1. We oppose Proposal 2.

## **IV. CONCLUSION**

The Clean Coalition appreciates the opportunity to comment. We urge the Commission to approve expedited review of projects that does not reduce the obligation to consider the most cost-effective solution and reduce the Commission's obligation to promote just and reasonable rates.

/s/ BEN SCHWARTZ

Ben Schwartz

Policy Manager

Clean Coalition

1800 Garden Street

Santa Barbara, CA 93101

Phone: 626-232-7573

[ben@clean-coalition.org](mailto:ben@clean-coalition.org)

Dated: July 1, 2024