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**SENATE COMMITTEE ON ENERGY, UTILITIES AND  
COMMUNICATIONS**  
**Senator Steven Bradford, Chair**  
**2023 - 2024 Regular**

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**Bill No:** AB 2292 **Hearing Date:** 6/24/2024  
**Author:** Petrie-Norris  
**Version:** 2/12/2024 Introduced  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Nidia Bautista

**SUBJECT:** Electrical transmission facilities: certificates of public convenience and necessity

**DIGEST:** This bill repeals the requirement that the California Public Utilities Commission (CPUC) consider alternatives to prospective transmission projects before issuing a Certificate of Public Convenience and Necessity (CPCN) approval.

**ANALYSIS:**

Existing law:

- 1) Establishes and vests the CPUC with regulatory authority over public utilities, including electrical corporations. (Article XII of the California Constitution)
- 2) Provides that the CPUC may supervise and regulate every public utility in the state and may do all things, whether specifically designated or in addition, which are convenient and necessary and in the exercise of such power and jurisdiction. (Public Utilities Code §701)
- 3) Prohibits, via the Public Utilities Act, any electrical corporation from beginning the construction of, among other things, a line, plant, or system, or of any extension thereof, without having first obtained from the CPUC a CPCN that the present or future public convenience and necessity require or will require its construction, except that the extension, expansion, upgrade, or other modification of an existing electrical transmission facility, including transmission lines and substations, does not require a CPCN. (Public Utilities Code §1001)
- 4) Requires the CPUC, in a proceeding evaluating the issuance of a CPCN for a proposed transmission project, to establish a rebuttable presumption with regard to need for the proposed transmission project in favor of a California

Independent System Operator (CAISO) governing board-approved need evaluation if the project meets specified criteria. Specifically:

- a) The CAISO governing board has made explicit findings regarding the need for the proposed transmission project and has determined that the proposed project is the most cost-effective transmission solution.
  - b) The CAISO is a party to the proceeding.
  - c) The CAISO governing board-approved need evaluation is submitted to the CPUC within sufficient time to be included within the scope of the proceeding.
  - d) There has been no substantial change to the scope, estimated cost, or timeline of the proposed transmission project as approved by the CAISO governing board.  
(Public Utilities Code §1001.1)
- 5) Requires the CPUC, in considering an application for a CPCN for an electric transmission facility, to consider cost-effective alternatives to transmission facilities that meet the need for an efficient, reliable, and affordable supply of electricity, including demand-side alternatives such as targeted energy efficiency, ultraclean distributed generation, as defined, and other demand reduction resources. (Public Utilities Code §1002.3)
- 6) Requires the CPUC, by January 1, 2024, to update General Order (GO)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 (kV) level. (Public Utilities Code §564)

This bill repeals the provision that requires the CPUC to consider cost-effective alternatives to transmission facilities, including demand-side alternatives, as specified in Public Utilities Code §1002.3

## **Background**

*Transmission projects.* Electric transmission lines are generally high voltage lines that move electricity from generation resources (power plants) to distribution lines in neighborhoods. Companies, usually electric investor-owned utilities (IOUs), proposing the construction of new transmission, are required to obtain a permit

from the CPUC for construction of certain specified infrastructure listed under Public Utilities Code §1001, including transmission projects. The CPUC reviews permit applications under two concurrent processes: (1) an environmental review pursuant to California Environmental Quality Act (CEQA), and (2) the review of project need and costs pursuant to Public Utilities Code §1001 and GO 131-D (Certificate of Public Convenience and Necessity (CPCN)).

*Need for expanded transmission capacity.* In order for the state to meet its clean energy goals, including achieving 100 percent clean energy by 2045, electric transmission capacity will likely need to grow significantly. The CAISO conducts its transmission planning process (TPP) to identify potential transmission system limitations as well as opportunities for system reinforcements that improve reliability and efficiency. The annual transmission plan fulfills the CAISO's core responsibility to identify and plan the development of solutions, transmission or otherwise, to meet the future needs of the electricity grid. The CAISO identifies projects that address grid reliability requirements, identify upgrades needed to successfully meet California's policy goals, and explore projects that can bring economic benefits to consumers. In 2021, the CAISO created a 20-Year Transmission Outlook for the electric grid, in collaboration with the CPUC and the California Energy Commission (CEC), with the goal of exploring the longer-term grid requirements and options for meeting the state's SB 100 clean energy objectives reliably and cost-effectively. The 20-Year Transmission Outlook estimates a significant amount, and expense, to construct and expand transmission facilities, including an estimated \$10.74 billion in upgrades to existing facilities.

*The Transmission Permitting Process.* Usually, utilities proposing the construction of new transmission are required to obtain a permit from the CPUC for construction of certain specified infrastructure listed under Public Utilities Code §1001, including transmission projects. The CPUC reviews permit applications under two concurrent processes:

- 1) An environmental review of applicable projects pursuant to CEQA and CPUC environmental rules. To prepare for the environmental review, the utility first conducts and submits a Proponents Environmental Assessment (PEA). The PEA is a preliminary assessment of the project's potential environmental impacts and alternatives. Some projects may trigger a federal National Environmental Policy Act (NEPA) review if they cross federal land or use federal funds.
- 2) The review of project needs and costs according to Public Utilities Code §1001 and GO 131-D, also known as a CPCN, or — depending on project size — a permit to construct (PTC).

*Permit/Certificate Review.* Parallel to environmental review under CEQA, the CPUC reviews the utility's application for a CPCN or a PTC, depending on the size of the project. The CPUC's decision on the CPCN or PTC cannot be issued until the environmental review is complete, if one is required. But most transmission projects are categorically exempt from CEQA. Most of the CPCN/PTC process is outlined in GO 131-D.

*CPUC's GO 131-D.* GO 131-D was first adopted in 1970 and before a recent update late in 2023, it had not been updated since 1995. It establishes the criteria to be followed to trigger the need for a PTC or renovate electrical facilities, including transmission lines and substations, and also sets out public notice requirements for proposed transmission projects. The level of analysis performed by the CPUC pursuant to GO 131-D varies with the size (measured in voltage) of the transmission project.

- Projects below 50 kV are considered distribution line projects and in general, do not require CPUC approval.
- Projects between 50 kV and 200 kV generally require a PTC, which includes an environmental review pursuant to CEQA, if applicable. The CPUC process generally does not require a detailed analysis of the need for or economics of these projects. An application for a PTC must be filed at least nine months before a decision is required.
- Projects over 200 kV generally require a CPCN and are subject to CEQA review, as applicable.

The CPCN process analyzes the need for the project and the economics of the project, as well as, the environmental impacts of the project if CEQA applies. An application for a CPCN must be filed at least 12 months before a decision is required.

*GO 131-D Reforms.* SB 529 (Hertzberg, Chapter 357, Statutes of 2022) requires the CPUC to revise the permitting process for specified transmission projects. The bill directed the CPUC to revise GO 131-D to authorize a utility to use the PTC process or claim an exemption to seek approval to construct an extension, expansion, upgrade, or other modification to its existing transmission facilities regardless of the voltage level by January 1, 2024. However, CEQA still applies. In May 2023, the CPUC opened a rulemaking to solicit comments that would revise the GO 131-D rules. Based on the feedback, the assigned commissioner determined the issues to be considered in the proceeding should be separated into two phases. Phase 1 includes consideration of changes to GO 131-D necessary to

conform it to the requirements of SB 529 and updates to outdated references. Phase 1 decision was approved on December 14, 2023.

*AB 1373 (Garcia, 2023).* Among the many provisions adopted in AB 1373 is a provision that requires the CPUC to establish a rebuttable presumption with regard to need for the proposed transmission project in favor of a CAISO governing board-approved need evaluation if the project meets specified criteria. This requirement is among those under development within the SB 529 Rulemaking.

## Comments

*Need for this bill.* As shared by the author's office, California's transmission system is not equipped to handle the anticipated substantial increase in power flows; its lack of capacity and availability has led to grid congestion causing massive backlog in clean energy projects. Similarly, California's transmission development process can be complicated and delayed taking over a decade or with ongoing coordination between CAISO, the CPUC and Utilities to plan, permit, and construct projects. Without revisions to current planning and permitting processes, it will be tremendously difficult for California to connect new generation to the grid in time to meet its clean energy and climate goals. The proponents contend that this bill proposes a modest, but important change to remove a duplicative review. They contend the CPUC review of alternatives is duplicative of the alternatives review by the CAISO in identifying the need for the project within the TPP. In this regard, the supporters believe this proposal would help reduce some of the delay in planning and siting transmission projects.

*Phase 2 Staff Proposal.* Currently, the CPUC is in Phase 2 of the rulemaking proceeding to make changes to GO 131-D, which includes consideration of changes not addressed in the Phase 1. Roughly a month ago, the CPUC issued a *Phase 2 Staff Proposal* with recommendations for various approaches to the changes sought in GO 131-D, including consideration of comments submitted in the rulemaking. While still a proposal, not official policy adopted by the CPUC, it's important to note that the rulemaking is actively considering related issues to this bill, including the application of the CPUC review of alternatives. The Staff Proposal states: "The CAISO and the CPUC have distinct and separate mandates to consider alternatives to transmission solutions. The role of the CPUC differs from the CAISO in key ways, including: the CPUC is a public agency with discretionary powers and an obligation to both comply with CEQA and ensure that public utility infrastructure projects serve the public convenience and necessity." The Staff Proposal notes the CAISO is a nongovernmental nonprofit entity and does not conduct land use planning or environmental review pursuant to CEQA. Additional discussion in the Staff Proposal notes competing comments about the necessity and

value of the CPUC review as compared to the CAISO's. Within the rulemaking, stakeholders raise comparisons as to the review of cost and need at the CPUC and that by the CAISO. Similar comments are raised by supporters and opponents of this bill with some suggesting the CAISO process is more limited in terms of review and stakeholder ability to participate and others suggesting a CAISO review should be sufficient to inform the CPCN and siting process, particularly as AB 1373 (Garcia, 2023) requires a rebuttal presumption for a CAISO need evaluation under specified conditions.

### **Prior/Related Legislation**

AB 2779 (Petrie-Norris, 2024) requires the CAISO, upon approval of the annual transmission plan, to report on any new use of any grid enhancing technology and its associated cost or efficiency savings. The bill is pending on the Senate Floor.

AB 3246 (Garcia, 2024) requires the CPUC, on or before January 1, 2026, to update a GO to provide specified exemption from the PTC for advanced reconductoring transmission projects. The bill is pending before this committee.

AB 3238 (Garcia, 2024) provides exemptions from, and streamlining of, planning, environmental review, and environmental permitting processes for the development of electrical transmission projects meeting specified criteria. The bill is pending before this committee.

SB 1006 (Padilla, 2024) requires electrical transmission utilities, by January 1, 2026, to develop a strategic plan for grid-enhancing technologies to cost-effectively increase transmission capacity and to complete an evaluation to identify which of its transmission and distribution lines can be reconductored with advanced reconductors. Requires these plans and evaluations are submitted to the CPUC and made publicly available. The bill is pending in the Assembly.

SB 319 (McGuire, Chapter 390, Statutes of 2023) required the CEC and the CPUC, in coordination with the CAISO, to better and regularly coordinate planning and permitting of energy transmission infrastructure to ensure the state meets its clean energy goals and to evaluate and report on that planning and related infrastructure development.

AB 1373 (Garcia, Chapter 367, Statutes of 2023) among its many provisions included a requirement that the CPUC establish a rebuttable presumption with regard to need for the proposed transmission project in favor of a CAISO governing board-approved need evaluation if the project meets specified criteria.

SB 529 (Hertzberg, Chapter 357, Statutes of 2022) exempted an extension, expansion, upgrade, or other modification of an existing transmission line or substations from the requirement of a CPCN and directed the CPUC to revise its GO, by January 1, 2024, to instead use its permit to construct process for these approvals.

SB 887 (Becker, Chapter 358, Statutes of 2022) required 15-year projections of energy resource portfolios and energy demand to inform transmission planning to achieve the state's clean energy goals, and requires the CAISO to consider approval for specified transmission projects as part of the 2022-23 TPP.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

**SUPPORT:**

American Clean Power-California  
California Energy Storage Alliance  
California State Association of Electrical Workers  
California Wind Energy Association  
Clean Air Task Force  
Coalition of California Utility Employees  
Environmental Defense Fund  
Independent Energy Producers Association  
Large-scale Solar Association  
Northern California Power Agency  
Pacific Gas and Electric Company  
San Diego Gas and Electric Company  
Sonoma Clean Power  
Southern California Edison

**OPPOSITION:**

California Farm Bureau Federation

**ARGUMENTS IN SUPPORT:** In support of this bill, the sponsor, the Clean Air Task Force states:

Currently, major transmission projects must be reviewed twice to determine if they are needed—once under the California Independent System Operator's (CAISO) Transmission Planning Process (TPP) and once under the CPUC's CPCN application. To approve a CPCN application, the CPUC must consider the availability of cost-effective alternatives to transmission.

This requirement largely duplicates a similar determination made by the CAISO and is in addition to the CPUC's environmental reviews under the California Environmental Quality Act (CEQA). In some cases, an alternative could be the no project alternative—not building the project at all if the need could be met through other means such as energy conservation, additional generation, or load management. The no project alternative is required even though CAISO independently identifies the transmission development needs in its TPP, including the energy efficiency and distributed generation assumptions provided directly by the CPUC. CATF can find no other case in the United States where one agency would effectively second-guess the need assessment determined by another agency.

**ARGUMENTS IN OPPOSITION:** In opposition to this bill, the California Farm Bureau states:

Farm Bureau has grave concerns that AB 2292 believes it is simply deleting repetitive action that is already taking place through the California Independent System Operator (CAISO) process. The process for participation at CAISO can be opaque and may not be used by stakeholders who are the most directly impacted by transmission projects because they are not always aware of the direct impacts until the project reaches the Commission [CPUC]. The current structure allows ratepayers and stakeholders to have an opportunity for input when they become aware of more specific projects at the Commission rather than the global view in the CAISO Transmission planning process (TPP) that can mask what may become direct impacts. Although recognizing the need for improved transmission connections, Farm Bureau is cognizant of and concerned about the impacts that could be imposed on agricultural landowners without an opportunity to understand the implications of expanding transmission lines on their properties. Our members already face the consequences of scaled back productive areas due to statewide requirements for utility management around the lines.

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