
**SENATE COMMITTEE ON ENERGY, UTILITIES AND
COMMUNICATIONS**

**Senator Steven Bradford, Chair
2023 - 2024 Regular**

Bill No:	SB 420	Hearing Date:	4/24/2023
Author:	Becker		
Version:	3/30/2023 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Nidia Bautista		

SUBJECT: Electricity: electrical transmission facility projects

DIGEST: This bill allows transmission projects, identified by an agency chosen by the Governor to be necessary for reliability and to meet the state’s clean energy goals, to become environmental leadership development projects eligible for California Environmental Quality Act (CEQA) streamlining. It further directs the California Public Utilities Commission (CPUC) to streamline its Certificate of Public Convenience and Necessity (CPCN) review if the California Independent System Operator (CAISO) has already identified that project to be necessary.

ANALYSIS:

Existing law:

- 1) Establishes and vests the CPUC with regulatory authority over public utilities, including electrical corporations. (California Constitution, Article XII)
- 2) Requires the CPUC to identify a diverse and balanced portfolio of resources needed to ensure a reliable electricity supply that provides optimal integration of renewable energy in a cost-effective manner. (Public Utilities Code §454.51)
- 3) Establishes a state goal that renewable energy and zero-carbon resources supply 90 percent of all retail sales of electricity by the end of 2025, 95 percent by the end of 2040, and 100 percent by end of 2045. Requires state agencies, including CPUC, California Energy Commission (CEC), and the California Air Resources Board (CARB), to take certain actions to support the state’s clean energy goals. (Public Utilities Code §454.53)
- 4) Establishes the CAISO as a nonprofit, public benefit corporation to ensure efficient use and reliable operation of the transmission grid and to manage the transmission grid and related energy markets. (Public Utilities Code §345 et seq.)

- 5) Requires, through CEQA, lead agencies responsible for approving a project to prepare a negative declaration, mitigated negative declaration, or environmental impact report, unless the project is exempt from CEQA. (Public Resources Code §21000 et seq.)
- 6) Establishes the Jobs and Economic Improvement Through Environmental Leadership Act of 2021 which authorizes the Governor, until January 1, 2024, to certify environmental leadership development projects that meet specified requirements for certain streamlining benefits related to the CEQA. The Act establishes CEQA administrative and judicial review procedures for an "environmental leadership development project". Repeals the Act on January 1, 2026. (Public Resources Code §21178 et seq.)
- 7) Prohibits an electrical corporation from beginning the construction of a line, plant, or system, or of any extension thereof, without having first obtained from the CPUC a certificate that the present or future public convenience and necessity require or will require its construction, as specified. Under existing law, 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. (Public Utilities Code §1001)
- 8) Requires the CPUC, on or before January 15, 2023, to request the CAISO to identify the highest priority transmission facilities that are needed to allow for increased transmission capacity into local capacity areas to deliver renewable energy resources or zero-carbon resources that are expected to be developed by 2035 into those areas, and to consider whether to approve those projects as part of its 2022–23 transmission planning process. (Public Utilities Code §454.57)

This bill:

- 1) Requires the Governor to identify a lead agency to monitor clean energy and electrical transmission facility planning and deployment, and require that agency, in consultation with the Natural Resources Agency, to identify those electrical transmission facility projects necessary to maintain system reliability and to meet specified targets.
- 2) Makes that agency the lead agency for those projects for purposes of CEQA and deem those projects to be environmental leadership development projects for purposes of the Jobs and Economic Improvement Through Environmental Leadership Act of 2021, except as provided.

- 3) Requires the CPUC in proceedings evaluating the issuance of certificates of public convenience and necessity for those projects, to establish a rebuttable presumption with regard to need for the project in favor of an Independent System Operator governing board-approved need evaluation if certain requirements related to the Independent System Operator are satisfied.

Background

Electric transmission planning 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 CEQA, and (2) the review of project need and costs pursuant to Public Utilities Code §1001 and General Order (GO) 131-D CPCN.

CPUC's GO 131-D. GO 131-D specifically addresses the procedures to be followed in applications for siting of electric transmission infrastructure, in essence, implementing the requirements of Public Utilities Code §1001. Under GO 131-D, the CPUC has established the criteria that would trigger the need for a permit to build or renovate electrical facilities, including transmission lines and substations. Of the hundreds of major capital electric transmission projects completed in California each year, on average one-two per year may trigger a permit, and thus CEQA. Most projects are reviewed through the CPUC's advice letter approval process, which tends to be more simplified and expedient than a full application for a CPCN.

The level of analysis performed by the CPUC varies with the size (measured in voltage) of the transmission project.

- Projects below 50 kilovolts (kV) are considered distribution projects, rather than transmission projects, and in general do not require CPUC approval.
- Projects between 50 kV and 200 kV require a Permit to Construct from the CPUC, which consists primarily of an environmental review pursuant to CEQA. The CPUC process generally does not require a detailed analysis of the need for or economics of these projects.
- Projects over 200 kV require a CPCN from the CPUC. The CPCN process analyzes the need for the project and the economics of the project, as well as, the environmental impacts of the project.

CAISO 20-Year Transmission Outlook. The CAISO conducts its transmission planning process to identify potential 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. The CAISO created a 20-Year Transmission Outlook for the electric grid, in collaboration with the CPUC and the 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 Outlook was released in September 2021 and the CAISO intends for the expanded planning horizon to provide valuable input for resource planning processes conducted by the CPUC and CEC, and to provide a longer-term context and framing of pertinent issues in the CAISO's ongoing annual 10-Year Transmission Plan. The CAISO identified the system needs by mapping resources to the appropriate regions, identifying the transmission additions necessary to add those resources to the grid, and then examining the need to deliver those resources over the bulk transmission system. The 20-Year Transmission Outlook estimates a significant amount, and expense, to construct and expand transmission facilities, including an estimate that more than \$30 billion in new transmission capacity will be needed by 2040.

Comments

A lead agency? As noted above, the CPUC retains exclusive authority over the siting of transmission lines, including in relation to CEQA and issuance of the CPCN. This bill attempts to provide the Governor with the option of selecting an agency, other than the CPUC, for the purposes of siting transmission lines that that would be eligible to the streamlining afforded by the Jobs and Economic Improvement Through Environmental Leadership Act of 2021 for environmental leadership development projects. These projects would be eligible for certain streamlining benefits related to CEQA, these include administrative and judicial review procedures. However, the existing authority to site transmission lines in the statutes continues to rest with the CPUC, as such, it unclear whether legally and practically, an agency, other and the CPUC, can serve in this capacity. Given the lack of clarity, as San Diego Gas & Electric (SDG&E) expresses, this process may conflict with existing CPUC processes, including the expedited processes afforded by SB 529 (Hertzberg, Chapter 357, Statutes of 2022). Moreover, the requirement to identify the transmission projects needed for reliability and to meet the state's clean energy targets. However, as noted above, the CAISO already provides this needed identification. It is unclear how this process would be informed or conflict with the CAISO process.

Amendments needed. This bill was amended in the Senate Committee on Environmental Quality with language that requires consultation with the Natural Resources Agency. However, given the concerns raised about this consultation, the author and Senate Committee on Environmental Quality have informed this committee that they have agreed to remove this reference in combination with other additions pertaining the exempting additional sensitive lands from the application of this bill. While the sensitive land amendments are better addressed by author amendments as this bill moves forward, the desire to remove the references to required consultation with the Natural Resources Agency is one that can help alleviate concerns from stakeholders. *As such, the author and committee may wish to amend this bill to delete references to in consultation with the Natural Resources Agency.*

Additional amendments needed. This bill includes language that was adopted in SB 846 (Dodd, Chapter 249, Statutes of 2022) that were subsequently chaptered out by the passage of SB 1020 (Laird, Chapter 361, Statutes of 2022) which would require in a CPUC proceeding evaluating the issuance of a CPCN that the CAISO shall have rebuttal presumption when they have made explicit findings regarding the need for the transmission project and has determined it is the most cost-effective transmission solution. The proposed language is an effort to reduce the need for duplicative review in cases where it may not be necessary. This language is also in Energy trailer bill language proposed by the Administration this year. However, in SB 846 and the trailer bill, the language is included in Public Utilities Code §454.53. *The author and committee may wish to amend this bill to ensure consistency with the action in SB 846 by moving this language to Public Utilities Code §454.53.*

Dual referral: This bill passed out of the Senate Committee on Environmental Quality on March 29, 2023 with a vote of 7-0.

Prior/Related Legislation

SB 319 (McGuire, 2023) codifies a December 2022 memorandum of understanding between the CPUC, CEC, and the CAISO regarding transmission and resource planning and implementation. The bill is pending in this committee.

SB 619 (Padilla, 2023) requires facilities eligible to be certified by the CEC to include electrical transmission lines carrying electricity from certain generation facilities regardless of whether the electricity is carried to a point of junction with any interconnected electrical transmission system. The bill also gives priority to applications for eligible electrical transmission facilities applying for the opt-in permit streamlining, if the applicant certifies that a capital investment of at least

\$250 million will be made over a period of five years. The bill is pending in this committee.

AB 205 (Committee on Budget, Chapter 21, Statutes of 2022) allows certain energy projects, including electric transmission lines between certain non-fossil fuel energy generation facilities to become certified leadership projects under the Jobs and Economic Improvement Through Environmental Leadership Act of 2021 through a certification process through the CEC. With this certification, actions or proceedings related to the certification of an environmental impact report need to be resolved within 270 days to the extent feasible.

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

SB 887 (Becker, Chapter 358, Statutes of 2022) directed, among other provisions, the CPUC, on or before January 15, 2023, to request CAISO to identify the highest priority anticipated transmission facilities that are needed to deliver renewable energy resources or zero-carbon resources.

SB 1274 (McGuire, 2022) would have made a clean energy transmission project that upgrades existing transmission infrastructure to bring renewable energy from an offshore wind project located within or adjacent to the County of Humboldt eligible for ELDP certification. This bill was held in the Senate Environmental Quality Committee without a hearing.

SB 1174 (Herzberg, Chapter 229, Statutes of 2022) requires certain CPUC reports and assessments, including reporting relating to the California Renewables Portfolio Standard Program, to consider the role of transmission.

SB 7 (Atkins, Chapter 19, Statues of 2021) extended the Jobs and Economic Improvement Through Environmental Leadership Act, specifically providing the Governor until January 1, 2024, to certify a project and the Act will be repealed by its own provisions on January 1, 2026.

AB 900 (Buchanan, Chapter 354, Statutes of 2011) established the Jobs and Economic Improvement Through Environmental Leadership Act of 2011.

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

SUPPORT:

American Clean Power Association, Sponsor
350 Bay Area Action
350 Humboldt: Grass Roots Climate Action
350 Sacramento
California Environmental Voters
Clean Air Task Force
Clean Power Campaign
Climate Action California
Elders Climate Action, NorCal Chapter
Elders Climate Action, SoCal Chapter
Independent Energy Producers Association
Indivisible San Jose
The Climate Center

OPPOSITION:

San Diego Gas & Electric Company, unless amended

ARGUMENTS IN SUPPORT: According to the author:

California needs more transmission to meet its clean energy goals, to improve reliability, and be able to shut down more fossil fuel plants in disadvantaged communities. California's Independent System Operator estimates that we need an additional \$30 billion in new transmission capacity by 2040. Under status quo permitting approvals, new construction of transmission lines can take up to 10 years, stalling California's climate progress.

SB 420 makes two good-governance changes to how transmission lines are approved, without sacrificing relevant environmental protections and economic considerations. First, the bill provides expedited judicial review of California Environmental Quality Act lawsuits against transmission lines that agencies deem necessary to meet our climate and reliability plans. Second, the bill requires the Public Utilities Commission to reuse the economic analysis from the California Independent System Operator so that they can focus on ensuring cost-savings, rather than reevaluating whether the project is needed at all. These small tweaks will shave additional months of review, speeding up the approval of transmission lines and helping California meet its clean energy goals.

ARGUMENTS IN OPPOSITION: San Diego Gas & Electric raises concerns that the bill’s provisions would require an unspecified agency to consult with the Natural Resources Agency to identify the transmission projects necessary to maintain system reliability and meet specified targets—a process similar to the mission of the CAISO. SDG&E also raises concerns that the bill may duplicate part of the existing CEQA process. SDG&E is concerned that the bill will create a new and conflicting process that would take time for state agencies to implement. “SDG&E strongly suggests establishing time certainty under existing permit and environmental review processes, as this would provide substantial streamlining benefits that will help the state meet its greenhouse gas emissions reduction goals.”

-- END --