

**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)

**RESPONSE OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
TO APPLICATION FOR REHEARING OF D.25-01-055, DECISION ADOPTING
GENERAL ORDER 131-E**

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I. Introduction

Pursuant to Rule 16.1 of the Commission’s Rules of Practice and Procedure, the California Independent System Operator Corporation (CAISO) submits this response to the March 10, 2025 Protect Our Communities Foundation; Center for Biological Diversity; Acton Town Council; California Farm Bureau Federation; Anza Borrego Foundation, and Defenders of Wildlife (Applicants) application for rehearing of Commission Decision (D.) 25-01-055, Decision Adopting General Order 131-E (Application).

The CAISO opposes the Application. Applicants fail to correctly characterize the CAISO’s transmission planning process (TPP) as described in the record in this proceeding, and they make incorrect claims about the Commission outsourcing California Environmental Quality Act (CEQA) duties to the CAISO.

II. Discussion

The Applicants argue D. 25-01-055 inappropriately limits consideration of alternatives to the CAISO’s identified electrical solution and inappropriately outsources CEQA duties to the CAISO. The Applicants predicate these arguments on misrepresentations of both the CAISO’s TPP and the rebuttable presumption codified in Public Utilities Code Section 1001.1. Applicants fail to distinguish between identifying the electrical solution and analyzing the alternative projects (e.g. siting) that meet that electrical solution as an objective. Consistent with the CAISO

tariff, the CAISO's TPP determines a solution (transmission or non-transmission alternative) to address an identified reliability, policy, or economic need. In the D.25-01-055, analysis of and decisions about routing or siting are appropriately left to the Commission.

A. Applicants Mischaracterize the CAISO's Transmission Planning Process and the Record in this Proceeding

Applicants' arguments largely center on a mischaracterization of the CAISO's TPP, inaccurately describing both what the CAISO considers in its analysis and the process itself. This proceeding covered these topics at length, and the record in this proceeding correctly describes them.

First, Applicants falsely claim that the "CAISO does not consider environmentally superior non-wires alternatives like behind-the-meter (BTM) solar plus storage."¹ This is incorrect. The CAISO explained multiple times in this proceeding and in response to Applicants' same allegations that the CAISO *does* consider non-wires alternatives, including storage, in the TPP.² The CAISO's consideration of non-transmission solutions is not new, either; it has existed in the current comprehensive TPP since 2010. Each subsequent Board-approved transmission plan has included extensive discussion of non-transmission alternatives, as "the ISO has considered and placed a great deal of emphasis on assessing non-transmission alternatives, including conventional generation, preferred resources (e.g., energy efficiency, demand response, renewable generating resources), and market-based energy storage solutions as a means to meet local transmission system needs."³

Applicants further claim that because the CAISO utilizes the Commission's integrated resource planning (IRP) portfolio, which does not include behind-the-meter resources, that the

¹ Application at pg. 25.

² Reply Comments of the CAISO on ALJ's Ruling Inviting Comment on Phase 2 Staff Proposal and Noticing Workshop (July 15, 2024), comments at pg. 2.; Reply Comments of the CAISO on ALJ's Ruling Inviting Comment on Phase 2 Issues (Feb. 26, 2024) at pg. 3. Reply Comments of the CAISO on Joint Motion for Adoption of Phase 1 Settlement Agreement (Nov. 13, 2023) at pg. 4.; Opening Comments of the CAISO on Joint Motion for Adoption of Phase 1 Settlement Agreement (Oct. 30, 2023) at pg. 3.

³ See, for example, ISO 2023-2024 Transmission Plan (May 23, 2024), at pg. 25, available at <https://www.caiso.com/documents/iso-board-approved-2023-2024-transmission-plan.pdf>.

TPP analysis is flawed.⁴ Though the TPP and IRP are highly integrated, the IRP portfolio described by Applicants is only one of many inputs the CAISO uses to determine transmission needs. The comments the CAISO previously submitted into the record specifically indicated that the CAISO uses the California Energy Commission’s (CEC) demand forecast, which incorporates behind-the-meter resources, as an input to the TPP.⁵ The CAISO unilaterally considers non-wires alternatives in the transmission plan, recognizing these as one of several preferred resources. The TPP also allows for the CAISO to consider specific project proposals by stakeholders, which can include non-wires alternatives.

Second, Applicants describe the CAISO TPP as lacking transparency, citing to the limited number of comments received by “general public interest” organizations as proof.⁶ The CAISO’s TPP is open to all interested persons. The CAISO offers many opportunities to participate through both stakeholder meetings, and the submission of written and oral comments throughout the process. Applicants confuse actual participation with the opportunity to participate. Many parties may choose to participate in the public stakeholder calls and not offer written comments, but that does not mean the opportunity is not available to them. Applicants only cite one single comment opportunity in a single prior TPP cycle,⁷ and fail to identify other TPP cycles where they participated in the process themselves.⁸ The CAISO’s TPP offer multiple opportunities to participate, as described in the record of this proceeding,⁹ and the CAISO attempts to address all stakeholder comments. Additionally, the CAISO’s Board must approve

⁴ Application at pg. 25.

⁵ Reply Comments of the CAISO on ALJ’s Ruling Inviting Comment on Phase 2 Staff Proposal and Noticing Workshop (July 15, 2024), at pg. 1.

⁶ Application at pg. 26.

⁷ Application at pg. 26, footnote 111.

⁸ See, for example, various comments of Defenders of Wildlife and Center for Biological Diversity on 2022-2023 TPP and 2024-2025 TPP, available at <https://stakeholdercenter.caiso.com/Comments/AllComments/6cdb6ed2-f22c-4064-96e1-739c8db239ef#org-4bf43219-30e4-446f-a563-f1e3f0b33d5e>; <https://stakeholdercenter.caiso.com/Comments/AllComments/42f8593a-384b-4d0c-94d3-561754fe8131#org-a1cc5149-ccb6-4b68-8864-79af1229afa9>; and <https://stakeholdercenter.caiso.com/Comments/AllComments/3b5eb926-9bce-4c7f-806c-9ae156a4f9f3>.

⁹ CAISO Opening Comments on Joint Motion for Adoption of Phase 1 Settlement Agreement (Oct. 10, 2023) at pg. 3.

the final transmission plan of each cycle, a process in which allows all interested stakeholders to address the CAISO Board directly through public written and oral comment.

Applicants make sweeping and incorrect generalizations about the CAISO's TPP, grossly misconstruing the robust analysis conducted to reach the most cost-effective and efficient solutions to reliability, policy, and economic needs of the balancing authority area. Applicants fail to cite to the CAISO's tariff describing the TPP and claim "[t]here is no opportunity for parties to provide expert testimony to the CAISO, there is no cross-examination, there are no sworn witnesses, there is no environmental analysis and little if any economic analysis, and there is no obligation for CAISO to consider alternatives proposed by stakeholders."¹⁰ All these claims are either immaterial or false. First, the CAISO's planning process is a thorough modeling exercise utilizing multiple inputs from state agencies regarding anticipated generation portfolios and forecasted demand, which incorporates data on behind-the-meter installations. Similar to CEQA, which also does not provide an opportunity for expert testimony and cross-examination, the CAISO planning process does not function as a court adjudicating a decision might. Rather, it is a robust technical analysis performed by subject-matter experts that follows transmission planning standards required by both its FERC-approved tariff and the North American Electric Reliability Council (NERC) reliability standards. Although there is no opportunity for cross-examination, the extensive public participation elements of the process afford stakeholders multiple opportunities to question and comment on the assumptions, inputs, and results of the TPP. Second, the CAISO's tariff specifically requires the CAISO to analyze environmental and economic impacts. In the context of policy-driven projects, the CAISO considers "the environmental evaluation, using best available public data, of the zones that the transmission is interconnecting as well as analysis of the environmental impacts of the transmission solutions themselves."¹¹ This process is in addition to any formal siting or permitting process. When performing the planning studies, the CAISO specifically looks for cost-effective solutions, and separately includes formalized "Economic Planning Studies" as part

¹⁰ Application at pg. 27.

¹¹ Policy-Driven Transmission Solutions, Section 24.4.6.6(e) of the CAISO Tariff.

of the TPP to consider projects that may provide economic benefits to the grid.¹² Finally, the FERC-approved tariff governing the TPP requires the CAISO to evaluate stakeholder-proposed transmission solutions and includes a specific request window to solicit such proposals,¹³ contrary to Applicants' claims.

Disregarding the clear record in this proceeding and the multiple statements by the CAISO to the contrary, Applicants continue to make false claims about the CAISO processes in an attempt to undermine the Commission's appropriate coordination with the CAISO on the TPP.

B. Applicants Incorrectly Describe GO 131-E as Outsourcing CEQA Duties to the CAISO

Applicants describe GO 131-E as "blindly adopt[ing] the 'project need' from CAISO as the basis for the statement of objectives under CEQA,"¹⁴ a characterization that fails to acknowledge both the ability of the Commission to utilize expertise of other entities and the specific system-wide planning expertise the CAISO possesses. As background, the CAISO was formed as a non-profit public benefit corporation pursuant to Assembly Bill 1890 (1996) and is specifically tasked "with ensuring the efficient use and reliable operation of the transmission system." The Bill identifies that it is the "intent of the Legislature to direct the Independent System Operator to seek federal authorization to perform its functions and to be able to secure the generation and transmission resources needed to achieve specified planning and operational reserve criteria." This specific charge regarding transmission planning was re-emphasized through the Legislature's passage of AB 1373, discussed further in Section C below, where the Legislature recognized the unique and robust transmission planning conducted by the CAISO in identifying transmission needs. The bifurcation of and coordination within the transmission development process – electrical planning and siting/permitting – is clearly defined and distinguished between the two entities. The CAISO has similarly cited previously to the

¹² See Determination of Needed Transmission Solutions, Section 24.4.5 of the CAISO Tariff.

¹³ See Phase 2 Request Window, Section 24.4.3 of the CAISO Tariff.

¹⁴ Application at pg. 14.

Memorandum of Understanding between the CAISO, Commission, and CEC that further enhances this coordination.¹⁵

As the CAISO has explained previously, the CAISO’s “project need” does not drive the specific project details, but instead the electrical solution objectives that the proposed project, and any feasible alternatives, will address. Following the extensive analysis conducted by the CAISO, the transmission plan only identifies solutions, or functional specifications that identify the technical needs, but not the details around siting or routing for the specific project proposed to be developed to meet those needs. The cooperation between the CAISO and the Commission in analyzing and identifying these solutions and the projects to meet those solutions is appropriate given the expertise of the two entities. Identifying the project need, or functional specifications, and physical details of the proposed project and its alternatives are distinct areas of expertise. Under GO 131-E, the statement of objectives may come from the CAISO, but the range of alternatives is still determined by the Commission, who, utilizing the CAISO’s project need, will have a better understanding of which alternatives are feasible.

The CAISO responded to similar concerns around cooperative CEQA approaches in prior comments in this proceeding.¹⁶ As cited by the CAISO previously, *Citizens of Goleta Valley v. Board of Supervisors* holds that “no ironclad rule govern[s] the nature or scope of the alternatives to be discussed in an EIR, other than the rule of reason,” and that the lead agency in that case did not “abuse[] its discretion in relying on the [Local Coastal Programs, certified by the California Coastal Commission] to help it assess the feasibility of potential project alternatives.”¹⁷ In that case, local governments, serving as lead agencies, were allowed to utilize the state-wide planning expertise of the California Coastal Commission in limiting the feasibility of project alternatives under the EIR.¹⁸ Opponents of the EIR in that case sought an alternatives analysis that the Court described as “broad-based regional planning...in light of a variety of pertinent planning and environmental factors,” “regardless of whether the alternatives could

¹⁵ MOU available at <https://www.caiso.com/documents/iso-cec-and-cpuc-memorandum-of-understanding-dec-2022.pdf>.

¹⁶ Reply Comments of the CAISO on Joint Motion for Adoption of Phase 1 Settlement Agreement (Nov. 13, 2023) at pg. 3.

¹⁷ 52 Cal. 3d 553, 572 (1990).

¹⁸ *Id.* at 562.

feasibly be developed by the project proponent, or even necessarily approved by the lead agency.”¹⁹ The Court recognized broad-based planning as an important concern, but notes that the opponents “fail[] to recognize that the law provides for their consideration elsewhere.”²⁰ The same is true in the CPCN context, where the electrical solutions and objectives are evaluated in the CAISO’s robust TPP. These objectives may affect the feasible alternatives, but they do not specify alternatives.

Applicants instead rely on *We Advocate Thorough Environmental Review v. County of Siskiyou*²¹ to analogize GO 131-E to a case where the alternatives were so narrow such that no other project could be built. In the case, however, the Court described an EIR utilizing objectives that included a specific 118-acre site of an existing plant, full use of the production capacity of the existing plant, and the operation of the plant as soon as possible.²² This extremely narrow description of objectives, which included the siting, effectively precluded any other project. GO 131-E and the CAISO’s need analysis does not identify specific siting. Rather, it only identifies a specific electrical need, such as increased transfer capability or deliverability for new resources, for example, without specifying the location of the project or any mitigation that the project must be built or routed to accommodate. Although the CAISO’s transmission plan sometimes uses the term “project” rather than the more common term “transmission solution,” this simply refers to the electrical need and not to the routing or physical solution to that electrical need. For example, consider the CAISO’s 2022-2023 Transmission Plan, which identified the “Imperial Valley–North of SONGS 500 kV Line and Substation,” with the objectives to “mitigate the East of Miguel deliverability constraint” and to “mitigate the Devers-Red Bluff 500 kV deliverability constraint.”²³ The CAISO’s transmission plan describes both the approved solution and alternative electrical solutions that it considered but rejected, without defining *where* or *how* the transmission line would be built. The functional specifications tell a similar story: they provide the technical details associated with meeting the

¹⁹ *Id.* at 570.

²⁰ *Id.*

²¹ 78 Cal.App.5th 683, 692 (2022).

²² *Id.*

²³ Appendix H to the 2022-2023 Transmission Plan (May 18, 2023), at pg. H-29, available at <https://www.caiso.com/documents/appendix-h-board-approved-2022-2023-transmission-plan.pdf>.

technical need but do not identify any locations.²⁴ In this case, in the CAISO’s analysis of alternatives showed the CAISO could not pursue a non-wires alternative because it was technically infeasible to meet the identified need.

Finally, Applicants encourage cooperation in the arena of planning for a siting electrical transmission, stating that “[b]ecause CAISO does not perform CEQA review or possess field staff to review the proposals, they do not investigate the field locations of the projects and are thus unable to fully engage in a process to evaluate reasonable alternatives.”²⁵ This statement is true in the context of siting transmission solutions, and the CAISO does not claim to possess expertise on environmental impacts of those siting decision. Instead, it specifically defers those decisions to the CPCN and CEQA process run by the Commission as lead agency. However, the Applicants fail to make the parallel point that because the Commission does not perform the robust system-wide transmission modeling, it similarly is unable to fully engage in the process to evaluate reasonable electrical alternatives that maintain the reliability of the grid. Thus, the cooperative model envisioned by GO 131-E ensures those entities with the correct expertise are tasked with their own analysis while providing deference when appropriate. Applicant’s concerns appear to be targeted at non-wires alternatives, and as the CAISO has described in this proceeding, including in above Section A, the CAISO in fact engages in the non-wires analysis the Applicants seek.

C. Applicants Misrepresent Section 1001.1 Rebuttable Presumption

The Applicants misunderstand the purpose of the rebuttable presumption of need in the CPCN proceeding as created by AB 1373 (2023). Applicants state “the Decision in adopting GO 131-E conflicts with the statutory mandate established by AB 1373 because it renders CAISO’s project need determination fixed and permanent, rather than ‘rebuttable’ as required.”²⁶ Applicants conflate the CPCN process with the CEQA process, but the approach to “need” in each process is different. Because of the different use and purpose of “need” in each process, it is appropriate to have a rebuttable presumption in the CPCN process, but it is not necessary to export any analysis of

²⁴ Appendix I to the 2022-2023 Transmission Plan (May 18, 2023), available at <https://www.caiso.com/documents/appendix-i-board-approved-2022-2023-transmission-plan-additionalrevisions.pdf>.

²⁵ Application at pg. 21.

²⁶ Application at pg. 23.

need from that process into the CEQA process. There is thus no conflict between GO 131-E and AB 1373.

The CPCN process is not unique to the Commission or California. It stems from the long history of regulated utilities and the regulatory compact made with the public. The purpose of the CPCN process is to evaluate the need for the project to ensure that it is in the public interest.²⁷ Thus, in the CPCN process, the need for the project is specifically at issue. In this context, it is understandable why the Legislature would provide a rebuttable presumption recognizing the extensive modeling work conducted by the CAISO to determine that need. The conditions to the rebuttable presumption codified in Public Utilities Code Section 1001.1 ensure the evaluation otherwise to be completed in the CPCN process are met. If the conditions are not met, the need will still be evaluated in the CPCN process.

CEQA, by contrast, is not a process in which a need is evaluated, but instead it is a process that reviews the environmental impacts of a project and its reasonable alternatives. The “need” for a solution is not at issue beyond considering alternatives to meet the identified objective. The CEQA process only evaluates the solution in the context of the specific need, or as it relates to the project objectives. Without a fixed need in the CEQA context, there would be no objectives under which to consider alternatives. If an alternative cannot reasonably meet the project objectives, or the need for the project, there is no requirement to study that alternative.²⁸

Although AB 1373 does not require the Commission to use the project need from the CAISO in the CEQA process, it also does not prohibit the Commission from utilizing the identified need in the statement of objectives. AB 1373 establishing a rebuttable presumption of need instead bolsters the Commission’s decision to utilize the CAISO’s project need in defining the statement of objectives. The Legislature recognized the robust modeling done by the CAISO and eliminated the requirement for the CAISO to make that case again in the CPCN context, demonstrating the Legislature’s confidence in the CAISO’s determination of need. Applicants’ claim that the need should be rebuttable in the CEQA context has no merit, as without defined objectives, or need, there

²⁷ CA Public Utilities Code Section 1001.

²⁸ See *In re Bay-Delta etc.*, 43 Cal. 4th 1143, 1166 (2008) (“Although a lead agency may not give a project’s purpose an artificially narrow definition, a lead agency may structure its EIR alternative analysis around a reasonable definition of underlying purpose and need not study alternatives that cannot achieve that basic goal.”)

is no context to evaluate project alternatives. It is thus appropriate for the CAISO's electrical solution defines the objectives to be considered in CEQA.

III. Conclusion

The CAISO appreciates the opportunity to respond to the Application to correct erroneous claims about the CAISO process and provide citations to the record that previously dispelled these claims.

Respectfully submitted

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