

**From:** Allen, Meredith  
**Sent:** Wednesday, October 17, 2012 06:21 PM  
**To:** Borak, Mary Jo <[maryjo.borak@cpuc.ca.gov](mailto:maryjo.borak@cpuc.ca.gov)>  
**Cc:** Sterkel, Merideth "Molly" <[MeridethMolly.Sterkel@cpuc.ca.gov](mailto:MeridethMolly.Sterkel@cpuc.ca.gov)>  
**Subject:** RE: Status of AL 4058-E and 4066-E

Hi Mary Jo,

Thank you so much for following up on these two advice letters. As Kate mentioned to you yesterday, we are concerned with the timing of the resolutions and the scope of DRA's protest. Additional information regarding these concerns is provided below.

1. Timing: Both of these projects have been flagged as needing urgent resolution. The original advice letters were filed in June, 2012 and responses to DRA's protest were provided on July 3rd and July 13th (for 4058/Contra Costa Moraga and 4066/Saratoga Vasona, respectively). There was a subsequent protest on 4066 by nearby landowners that was initially withdrawn and then reinstated, which we responded to on October 5th. Since GO 131-D, section XIII, requires that the CPUC issue a resolution on protested advice letters within 30 days of a protest response, we are hoping that these issues can be resolved quickly, particularly on Contra Costa Moraga given the protest response was submitted on July 3rd.

Adhering to these GO-131D timing milestones is critical to helping our electric operations team plan for construction events. For both of these projects, we have ISO-authorized clearances to de-energize the lines beginning on November 5, 2012 and December 14, 2012 (for 4058 and 4066, respectively) that now may be in jeopardy. The work being requested in these advice letters is needed in response to the NERC Alert of October 2010, to accommodate GO 95 ground-to-conductor clearance requirements and, in the case of 4058, to help ensure capacity for GenOn Energy's 760 MW Marsh Landing Power Plant, which is scheduled to come online in May 2013, and for which PG&E is relying on to provide Resource Adequacy capacity later next year. Therefore, we believe it is a high priority to be able to complete this work this year. It would really help to have resolutions issued by the middle of next week and by the end of the week of November 5, respectively, so that we can contract, mobilize and proceed with construction in time to utilize the previously-scheduled ISO clearances.

2. Scope: As explained in our responses to the DRA protests, we disagree that DRA's assessment of need for these projects is procedurally within scope since these projects do not require a CPCN application. This position is supported by years of CPUC precedent; CPUC Executive Director resolutions have repeatedly found that there are only two circumstances in which a protest to a claim of exemption under GO 131-D may be sustained: (1) where the protest establishes that the utility has incorrectly applied an exemption or (2) when one of three special conditions listed in GO 131-D, Section III.B.2 exist such that the Project could result in significant environmental impacts, thereby rendering the claimed exemption inapplicable. (See, e.g., Res. E-3460 (July 1, 1996); Res. E-3789 (October 30, 2002); Res. E-4243 (November 20, 2009); Res. E-4360 (August 13, 2010).) Even in the case of permit to construct

proceedings, the Commission does not require utilities to demonstrate the need for the project. (See, e.g., D. 10-06-014 at 5-6, 2010 Cal. PUC LEXIS 201 at \*7 (“GO 131-D does not require PTC applications for electric power lines to include an analysis of purpose and necessity, an estimate of cost and an economic analysis, a schedule or an in-depth description of construction methods beyond that required for CEQA compliance.”)) We have voluntarily shared our engineering analysis with DRA to help explain why we are pursuing these projects and are happy to continue to discuss the projects with DRA; however, we do not believe their questions are grounds to delay the project further given that the projects align with GO 131-D, Section III, Subsection A as described below.

These projects involve 1) raising the height of 14 lattice steel towers along the Contra Costa-Moraga 230 kv transmission line (AL 4058) and 2) raising the height of 4 lattice steel towers that carry the Saratoga-Vasona 230 kv transmission line and the Monta Vista-Hicks 230 kv transmission line (AL 4066). Both projects entail removing a section of the tower and replacing it with a tower extension (in the case of 4058) or top-cage extension (in the case of 4066) to bring the existing conductors into a safer position further from the ground. The proposed construction is a clear replacement of existing power line facilities with equivalent facilities and does not constitute the construction of major electric transmission line facilities that would require a full CPCN and need analysis. As indicated in our protest responses, these projects align with GO 131-D, Section III, Subsection A, which states that projects are exempt from permitting requirements when they are not construction of “major electric transmission line facilities” and involve “replacement of existing power lines facilities or supporting structures with equivalent facilities or structures.” DRA’s novel claim that the above exemption requires PG&E to demonstrate that the replacement structures are “structurally equivalent” is flatly contradicted by CPUC Resolution E-4373, among others. (Res. E-4373, at p. 7 (Nov. 19, 2010) (in assessing applicability of claimed replacement exemption, “[t]he Commission is required to determine whether the replacement of wood with steel is equivalent in function and purpose”; “[t]here is no evidence that the structures are not performing an equivalent function or that they are required for capacity upgrade”).)

In sum, DRA’s protests lack merit, and their claims are irrelevant to the Commission’s consideration of these projects under GO 131-D’s exemption process.

I hope this context helps. I will call you to discuss.

Thanks,

Meredith

**From:** Borak, Mary Jo [<mailto:maryjo.borak@cpuc.ca.gov>]

**Sent:** Monday, October 15, 2012 12:07 PM

**To:** Allen, Meredith

**Cc:** Sterkel, Merideth "Molly"

**Subject:** Status of AL 4058-E and 4066-E

Hi Meredith

Regarding the two above referenced advice letters, I checked with DRA and their engineer thinks they should know be able to wrap up their review of the need issue in about four weeks.

Hope this helps

Mary Jo

Mary Jo Borak

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