

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Executive Director's Statement

Establishing Transmission Project Review Streamlining Directives

Through this Statement, and pursuant to my authority under Section 308 of the California Public Utilities Code, I hereby establish these "Transmission Project Review Streamlining Directives" ("Directives") to ensure that each Division within the California Public Utilities Commission ("CPUC") conducts procedures under its control and related to transmission facility siting and permitting in the most efficient and coordinated manner possible, and to encourage coordination in project review among the CPUC, project applicants, and other state and federal agencies.

I. OVERVIEW

In Energy Action Plan II ("EAP II"),¹ the CPUC committed to, among other things, streamline CPUC approval processes in order to facilitate meeting the targets established by California's Renewables Portfolio Standard ("RPS") legislation.² Almost in parallel to this EAP II commitment, the CPUC opened its Order Instituting Investigation No. 05-09-005 ("OII") in September 2005 to identify barriers to the construction of transmission infrastructure necessary to meet California's RPS goals. Parties to the OII, through workshops and filed comments, have assisted CPUC staff in identifying those CPUC transmission permitting procedures that could be streamlined to facilitate the timely development of needed transmission infrastructure

Thus, the CPUC's EAP II commitment, combined with unanimous support from parties in the OII for such a streamlining effort, have resulted in the development and adoption of these Directives. These Directives should streamline the transmission project permitting process, thus resulting in more efficient and timely project review, by, among other things:

- Stating explicitly, in one document, the steps that must be taken by CPUC Divisions to streamline the transmission siting and permitting process, thus making these obligations express and transparent;
- Establishing pre-filing guidelines for project applicants to follow if they desire to take advantage of the streamlining benefits of these Directives;
- Setting explicit time frames for action, whether required by law or self-imposed;
- Requiring coordination among CPUC Divisions; and

¹ Energy Action Plan II: Implementation Roadmap for Energy Policies, October 2005. Available at: <http://www.cpuc.ca.gov/static/energy/electric/energy+action+plan/index.htm>

² See Cal. Pub. Utils. Code §§ 387, 390.1, 299.25, and 399.11, *et seq.*

- Establishing a process for the CPUC to work with other California agencies critical to the CPUC’s transmission project review procedures.

These Directives do not change any CPUC rule, regulation, or order. Rather, they reflect changes to internal CPUC procedures, or make express commitments to comply with existing legal obligations. In addition to ensuring greater coordination between the CPUC and project applicants, these Directives should ensure coordination among CPUC Divisions so as to avoid some of the Application processing delays identified in the OII. However, these Directives are not intended to abrogate the CPUC’s obligation to independently review any application.

Significantly, these Directives, to the extent they apply to project applicants, are voluntary. However, to the extent a project applicant seeks to obtain the streamlining benefits of these Directives, it must meet its side of the bargain. Streamlining cannot succeed without a commitment from both the project applicant and the CPUC. These Directives represent the CPUC’s commitment, provided a similar commitment from a project applicant, to work cooperatively and to quickly meet established schedules.

Finally, while the CPUC’s efforts to date have focused on transmission related to renewable resources, these Directives apply to all transmission projects, not just those intended to facilitate RPS goals. To the extent appropriate, these Directives apply to both applications for Permits to Construct (“PTCs”) as well as applications for Certificates of Public Convenience and Necessity (“CPCNs”).

II. GENERAL STREAMLINING DIRECTIVES

- A. All CPUC Divisions shall coordinate and act to obtain the CPUC’s compliance with all time requirements established by the CPUC’s General Order 131-D (“GO 131-D”),³ the California Environmental Quality Act (“CEQA”),⁴ and the Permit Streamlining Act⁵ in processing applications for Permits To Construct (“PTCs”) and Certificates of Public Convenience and Necessity (“CPCNs”) (together “Applications”).
- B. Energy Division shall follow the required GO 131-D timeframes for processing Notices of Exempt Construction (“NOCs”) and any protests, including ensuring that the CPUC Executive Director’s Resolution is issued within 30 days, as required by GO 131-D.
- C. Energy Division shall develop a plan for regular management-level meetings with local, state and federal agencies overseeing California transmission projects and environmental review thereof to ensure open communication and adherence to project schedules.

III. PRE-FILING STREAMLINING DIRECTIVES

³ GO 131-D is available at: <http://www.cpuc.ca.gov/PUBLISHED/Graphics/589.PDF>.

⁴ Cal. Pub. Res. Code §21000 *et seq.*

⁵ Cal. Gov. Code §§ 65920-65963.1.

- A. An applicant for a transmission project that seeks streamlined review of its Application (“Applicant”) pursuant to these Directives shall notify the Director of the CPUC’s Energy Division in writing at least six months prior to filing an Application (“Pre-Filing Notification”) so that the CPUC may initiate internal procedures to prepare for receipt of the Application, including initiation of any internal contracting process. The Pre-Filing Notification shall include sufficient project information to initiate the CPUC’s internal contracting process, including, without limitation, the following:
1. A specific description of the location of the project;
 2. A description of the project and any accessory facilities; and
 3. A proposed project schedule.
- B. Energy Division shall, upon receipt of a Pre-Filing Notification:
1. Initiate any necessary internal contracting process and shall endeavor to complete the contracting process with the California Department of General Services (“DGS”) within three months or less of the Pre-Filing Notification.
 2. Establish a schedule for regular Pre-Filing meetings with the Applicant.
- C. Energy Division (including any necessary consultants) and the Applicant shall participate in the Pre-Filing meetings. The goals of the Pre-Filing meetings shall include, without limitation, to:
1. Ensure open, regular, and meaningful communication between the CPUC and the Applicant;
 2. Identify and timely resolve potential deficiencies in the Application so that when an Application is ultimately filed deficiencies are limited or non-existent so that the CPUC can process the Application as quickly as possible;
 3. Determine the appropriate scope of the project;
 4. Provide substantive comments on an Applicant’s administrative draft Proponent’s Environmental Assessment (“PEA”) or equivalent information, particularly with regard to its compliance with GO 131-D and the PEA “Information and Criteria List” contained as Appendix B to CPUC Decision No. 89905;⁶ and
 5. Avoid duplication of work and reduce deficiencies.

⁶ The Information and Criteria list is available at <http://www.cpuc.ca.gov/static/energy/environment/infocrit.htm>

- D. An Applicant shall endeavor to submit to Energy Division, at least three months prior to filing an Application, an administrative draft PEA or equivalent information consistent with GO 131-D and the Information and Criteria List. Such a submission may be on an incremental or rolling basis, upon agreement between Energy Division and the Applicant, in order to facilitate timely preparation and review of the draft PEA or equivalent information.
- E. Energy Division and the Applicant shall consult with all relevant local, state, and federal agencies to address permit requirements and other project-related issues and potential roadblocks during the Pre-Filing Notification period. To the extent it would be helpful, the CPUC encourages Applicants to engage in public outreach through open houses or other forums during this period.
- F. If CEQA requires a joint Environmental Impact Report/Environmental Impact Study (“EIR/EIS”), Energy Division shall negotiate, and the Executive Director shall execute, a Memorandum of Understanding (“MOU”) with the co-lead federal agency during the Pre-Filing Notification period. The MOU shall:
 - 1. List each agency’s responsibilities;
 - 2. Describe how issues will be resolved between the agencies; and
 - 3. Set forth a detailed schedule for document completion.

IV. POST-FILING STREAMLING DIRECTIVES

- A. Energy Division shall, pursuant to GO 131-D, deem a PEA complete or deficient within thirty days of its filing and shall provide written notice of such a determination to the Applicant, the Assigned Commissioner, and the Assigned Administrative Law Judge (“ALJ”). In the event an Applicant has complied with the Pre-Filing Notification requirements, Energy Division shall endeavor to make this determination pursuant to GO 131-D as expeditiously as possible, rather than taking the entire thirty day period to review the application.
- B. Energy Division shall, within thirty days of deeming a PEA complete, and pursuant to CEQA, decide whether to prepare a negative declaration (“ND”), a mitigated negative declaration (“MND”), or an environmental impact report (“EIR”). Using the PEA, and any supplemental information, Energy Division shall prepare an initial study to make this determination; or determine that an EIR is clearly required pursuant to CEQA, and therefore not prepare an initial study.

- C. If applicable, Energy Division shall develop a final schedule for MND or EIR completion within thirty days of deeming an Application complete and shall provide written notice of such final schedule to the Applicant, the Assigned Commissioner, and the Assigned ALJ. All participants in the Application process, including the CPUC, its consultants, the Applicant, and any co-lead agency shall be expected to adhere to the schedule.
- D. In developing environmental documents, Energy Division and its consultants shall comply with CEQA and its Guidelines⁷ in determining the content of such documents and the level of analysis required. Further, consistent with legal requirements, the EIR document shall identify and focus on the significant environmental effects of the proposed project.⁸
- E. If preparing a MND, Energy Division shall work with the Applicant to develop project modifications and/or mitigation measures that would allow for the public release of a MND that can be adopted within six months of the determination that the PEA is complete, pursuant to CEQA requirements.
- F. If preparing an EIR, Energy Division shall immediately address unresolved issues internally and/or in concert with the Applicant. Energy Division shall develop a strategic plan for resolution of any unresolved issues that maintains the EIR schedule.
- G. In preparing any environmental document, Energy Division analysis addressing electromagnetic frequency (EMF) should be limited to assessing the Applicant's compliance with the CPUC's "prudent avoidance" and "low-cost/no-cost" principles, as articulated in CPUC Decision Nos. 93-11-013 and 06-01-042.
- H. Energy Division shall closely manage its consultants to ensure strict compliance with CEQA standards and other statutory requirements and adherence to the adopted schedule as well as to ensure that documents are completed at a reasonable cost.
- I. An Applicant shall respond as expeditiously as possible to any data requests or deficiency notices submitted by Energy Division or its consultants, particularly during preparation of the environmental document. Energy Division shall promptly notify the Assigned Commissioner and Assigned ALJ of any Applicant delays in responding to data requests.

V. PROCEEDING PHASE STREAMLINING DIRECTIVES

⁷ Cal. Code of Regulations, Title 14, Chap. 3 ("CEQA Guidelines").

⁸ CEQA Guidelines, Section 15126.2(a).

- A. No later than thirty calendar days after Energy Division provides written notice that the PEA is complete, and provides the final schedule for environmental document preparation, the Assigned Commissioner and/or ALJ shall endeavor to calendar and notice a pre-hearing conference (“PHC”) to address issues and develop a schedule for the proceeding.
- B. The Assigned Commissioner and/or ALJ shall endeavor to issue a scoping memo outlining the issues to be addressed and the schedule for the proceeding as soon as practicable after the PHC, and ideally within a month or less of the PHC. The scoping memo shall establish a schedule to ensure that the Proposed Decision on the Application is issued for the Commission’s consideration as soon as possible after issuance of the final environmental document.
- C. Consideration of EMF-related issues shall be consistent with the directives in Commission Decision Nos. 93-11-013 and 06-01-042 and should be limited to the Applicant’s compliance with the CPUC’s “prudent avoidance” and “low-cost/no-cost” principles, as articulated in those decisions. As set forth in Decision No. 06-01-042: “prospective policy changes regarding EMF health effects should not be litigated in future utility Certificate of Public Convenience and Necessity (CPCN) or Permit to Construct (PTC) proceedings.” Mimeo at 14.

VI. ADDITIONAL STREAMLINING GOALS

- A. The Executive Director will coordinate with the Directors of the Energy Division and the Information and Management Services Division to address:
 - 1. Development of a consistent and efficient internal contracting process necessary to implement these Directives; and
 - 2. Providing necessary staff to ensure that the CPUC can comply with these Directives.
- B. The Executive Director will coordinate and implement a plan with the Director of DGS to ensure a more consistent and timely contract review and approval process so that the CPUC can comply with these Directives.
- C. The Energy Division Director shall endeavor to obtain project management training for Energy Division CEQA Unit Staff to ensure consistent production quality in CEQA documents produced by the CPUC, compliance with CEQA standards, reasonable production costs, and adherence to adopted schedules.

Date: July 13, 2006

/s/ STEVE LARSON
Executive Director