

**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)

**OPENING COMMENTS OF THE ACTON TOWN COUNCIL
ON THE ORDER INSTITUTING RULEMAKING TO UPDATE AND AMEND
COMMISSION GENERAL ORDER 131-D**

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June 22, 2023

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In accordance with rule 6.2 of the California Public Utility Commission’s (CPUC or Commission) Rules of Practice and Procedure, The Acton Town Council (The ATC) hereby submits these comments in response to the Order Instituting Rulemaking (OIR or Rulemaking) issued May 23, 2023 in the above captioned proceeding.

1. INTRODUCTION.

The ATC appreciates the opportunity to comment on the Commission’s Rulemaking addressing the updating of, and amendments to, General Order 131-D (GO 131-D). GO-131D warrants reconsideration given the everchanging landscape of California energy supply and demand; however, the ATC does not believe that GO-131D should be expanded to address battery storage projects or revised to such an extent that it substantially reduces the level of scrutiny given to the need, scope, and impacts of proposed battery storage facilities. The Acton Town Council only recently became aware of this Rulemaking action; therefore, our comments are necessarily brief and broad in scope; however, we do intend to participate actively in this proceeding because our community will be substantially affected by any changes that the Commission makes to the facility permitting provisions of GO-131D. In particular, Acton is traversed by more than 20 high voltage transmission lines and is home to the Vincent Substation which provides the Southern terminus of WECC Path 26. Additionally, the

Community of Acton is bracing for an onslaught of battery storage projects that have been, and will continue to be, proposed in our community; to date, the ATC is aware of more than 3,000 MW of battery storage projects that have been proposed in and around our community. Acton is a designated “Very High Fire Hazard Severity Zone”, and the ignition risks that high voltage transmission lines and battery storage facilities pose to our community cannot be overstated. Accordingly, the ATC has a substantial interest in the outcome of this Rulemaking Proceeding

2. SPECIFIC COMMENTS PERTAINING TO PROPOSED REVISIONS TO GO-131D.

The OIR sets forth the following questions for Party Comment:

1. Do the proposed changes in the two versions of the proposed GO 131-E modifying GO 131-D and appended to this OIR comply with the requirements of SB 529?
2. Should the Commission adopt the proposed amendments to GO 131-D as reflected in the Attachment A version of GO 131-E that include only the modifications to GO 131-D necessary to conform to the requirements of SB 529 (Hertzberg), 2022? Explain your response.
3. Should the Commission adopt the proposed amendments to GO 131-D as reflected in the Attachment B version of GO 131-E that include other modifications to GO 131-D in addition to those modifications required by SB 529? Explain your response.
4. Should the Commission consider any other modifications to GO 131-D in addition to the proposed amendments reflected in the appendices?
5. Should the Commission further address the roles of other entities, such as the California Independent System Operator (CAISO), the California Energy Commission (CEC), or local governments through additional edits? If so, what additional changes are needed?
6. Does the adoption of FERC Order 1000 require any additional changes to GO 131-D?
7. What notice requirements should apply in a modified GO 131-D to a Certificate of Public Convenience and Necessity and/or Permit to Construct?
8. Should the existing GO 131-D requirements for submission of reports to the Commission be modified? If so, how?
9. Should the Commission adopt either of the two versions of the appended modified GO 131-E in its entirety? Should either version be adopted with amendments? Please include redlines of the General Order that support your positions with your comments.

The ATC respectfully offers the following comments pursuant to Questions 2, 3, 4, and 9; in the interest of brevity, these comments are provided in “bullet format”.

- In general, the ATC does not oppose the proposed revisions to GO 131-D that are provided in Attachment A of the OIR. However, the ATC does not support many of the revisions provided in Attachment B for the reasons set forth below; therefore, the ATC recommends that the Commission not adopt Attachment B.
- The ATC objects to the proposed strikeout in Attachment B which eliminates “the opportunity for affected parties to be heard by the Commission” as a responsive purpose of GO-131D that is set forth in Section II. As a frequently “affected party” that has too often had to file pleadings with the Commission to address concerns regarding electrical projects in and around the Community of Acton, the ATC is, frankly, stunned by the very notion that language which avers that a purpose of GO 131-D is to allow affected parties to be heard by the Commission would be stricken.
- The ATC objects to the proposed strikeout in Attachment B which eliminates “the obligations of the utilities to serve their customers in a timely and efficient manner” as a responsive purpose of GO-131D that is set forth in Section II. The California Public Utilities Code obligates utilities to reliably serve their customers in a timely and efficient manner, and GO-131D provides the primary mechanism whereby customers can bring their grievances regarding deficiencies in utility service to the Commission for resolution. Accordingly, ensuring that utilities meet their “obligations to serve their customers in a timely and efficient manner” must remain a core purpose of GO-131D.
- The ATC objects to the proposed strikeout in Attachment B which eliminates “the need to replace the present complaint treatment of under-200-kV projects with a new streamlined review mechanism” as a responsive purpose of GO-131D that is set forth in Section II. There is an ongoing need for the Commission to maintain a mechanism that allows affected stakeholders to initiate a complaint process pursuant to electrical projects under Commission jurisdiction because circumstances arise under which such complaints are warranted. In fact, at this very moment, the ATC is actively involved in such a Complaint Proceeding.
- The ATC objects to the proposed modifications to Section III(A) in Attachment B as unnecessary and unwarranted to achieve conformance with Senate Bill 529.

- The ATC objects to the proposed modifications to Section III(B) in Attachment B for many reasons, not the least of which is that it conflicts with Assembly Bill 205 which explicitly identifies the “Certificate of Public Convenience and Necessity” (“CPCN”) process as the mechanism whereby the Commission asserts jurisdiction over battery storage facilities proposed by investor owned utilities [See 25545.1. (a)]. Furthermore, battery technology is still in its infancy, and “stand alone” utility scale battery storage facilities that are connected directly to the transmission and subtransmission grids pose very real and very significant wildfire risks¹, particularly in High and Very High Fire Hazard Severity Zones; even individual batteries and small scale battery storage facilities pose a significant ignition risk². Utility scale battery facilities also pose very real and very significant life-safety risks particularly in residential areas because toxic fumes (including cyanide and hydrofluoric acid) are emitted when deflagration occurs³. Scientific articles by respected physicists have revealed substantial deficiencies in the “protection systems” that are deployed for battery storage facilities⁴. For all these reasons, battery storage projects that are proposed for connection to the transmission

¹ Battery facilities are highly susceptible to deflagration events which can take days to extinguish; thus, when placed in designated High and Very High Fire Hazard Severity Zones, utility scale battery storage facilities pose a unique and substantial wildfire conflagration risk. <https://www.ksbw.com/article/moss-landing-residents-worried-for-their-safety-after-pgandes-tesla-battery-fire/41323388> , https://www.montereycountyweekly.com/news/local_news/even-after-two-shutdowns-vistra-s-moss-landing-battery-plant-expects-to-nearly-double/article_4fb66e0c-9a5b-11ec-a940-97fe3a9f84cb.html , <https://www.energystoragejournal.com/belgiums-li-ion-ess-fire-cause-still-unknown-two-months-later/> , <https://www.dailymail.co.uk/news/article-10680335/Huge-Merseyside-blaze-took-59-hours-extinguish-caused-explosion.html> ,

² <https://www.cnn.com/2023/03/09/tech/lithium-ion-battery-fires/index.html> , <https://pv-magazine-usa.com/2022/04/26/battery-fire-at-salt-river-project-in-arizona/> , <https://www.ctif.org/news/large-explosion-and-fire-french-lithium-battery-warehouse> , <https://www.brusselstimes.com/563557/four-dead-in-new-york-in-yet-another-e-bike-battery-fire>

³ <https://www.azcentral.com/story/money/business/energy/2019/04/23/arizona-public-service-provides-update-investigation-battery-fire-aps-surprise/3540437002/> , <https://www.nature.com/articles/s41598-017-09784-z#:~:text=The%20electrolyte%20in%20a%20lithium,may%20not%20be%20ignited%20immediately,https://www.genixenergy.com/battery-knowledge/are-lithium-ion-battery-fire-fumes-toxic.html>

⁴ https://www.researchgate.net/publication/352158070_Safety_of_Grid_Scale_Lithium-ion_Battery_Energy_Storage_Systems/link/60bbaa59299bf10dff9c66f9/download

and subtransmission grid by investor owned utilities must always be subject to the highest level of scrutiny; furthermore, the substantial risks that such facilities pose must always be demonstrably outweighed by a clear and convincing showing that the location, size, and configuration of proposed battery storage facilities are essential to promote the safety, health, comfort, and convenience of the public and are required to serve the public convenience and necessity. Such a showing must be substantially supported by modeling results which demonstrate beyond any doubt that alternate locations and configurations will not meet the perceived transmission and subtransmission needs. Furthermore, and as discussed in more detail below, modeling results must also demonstrate that proposed battery storage facility interconnection locations will not contribute to transmission congestion and will instead reduce transmission congestion and thereby provide ratepayer benefits. Accordingly, all battery storage facilities proposed by investor owned utilities for connection to the grid at voltages exceeding 50 kV must be undergo a CPCN approval process.

- The ATC objects to the inclusion of battery storage projects exceeding 50 MW in the list of facilities addressed by Subsection B of Section XI in Attachment B. All battery storage facilities of any size that are proposed by investor owned utilities for connection to the grid at voltages exceeding 50 kV must always be subject to the full notice procedures required for all CPCN applications; given the risks that such facilities pose, it is untoward for affected property owners to be given no notice of such projects and instead be relegated to relying on newspaper advertisements that they will probably never know about and small signs that will probably never see. Furthermore, subsection B of Section XI must be expanded to require investor owned utilities to give notice to all owners of land on which the proposed facility would be located and to all owners of property within 500 feet of the right-of-way (as determined by the most recent local assessor's parcel roll) *as well as* all other interested parties that have requested such notification.
- The ATC objects to virtually all of the proposed modifications to Section XIV in Attachment B. In particular, we oppose the elimination of mandatory language requiring the Commission to set a hearing when local agencies and utilities are unable to resolve their differences regarding land use matters and we oppose language which compels local agencies to file a complaint with the Commission in order to resolve differences regarding land use matters. The latter is particularly objectionable because it

imposes further and unnecessary burdens on local agencies to have their concerns heard by the Commission. The Acton Town Council knows from personal experience that it is already exceedingly difficult for local agencies like Los Angeles County to effectively engage with utilities like Southern California Edison regarding land use matters and thereby protect the interests of rural unincorporated residents in projects that fall under Commission jurisdiction⁵; these extant difficulties will be substantially compounded if local agencies are required to first file a complaint in order to be heard by the Commission. The process to mitigate land use conflicts posed by utility projects is already too cumbersome and it allows utilities to pursue disruptive practices with impunity while local agencies struggle to seek redress; the process will be rendered even more cumbersome and ineffective if local agencies face the further impediment of having to file a complaint in order to get the Commission's attention.

- The ATC recommends that Appendix B of General Order 131-D be further revised beyond what is indicated in the Attachments A and B of the OIR. Specifically, the ATC recommends that the list of information required in an application for a "Certificate of Public Convenience and Necessity" for a stand-alone, utility scale battery storage facility that operates at or above 50 kV be expanded to include modeling results which clearly demonstrate that the facility is sited in a manner that reduces transmission grid congestion and does not contribute to it. Currently, most of the proposed "stand alone" battery storage facilities operating at >50 kV are located outside the load pockets that they serve and as such, their dispatch during peak hours actually increases transmission congestion and, by extension, ratepayer costs. In contrast, placement of such facilities nearer to the load pockets they serve substantially reduces congestion because they are "charged" by energy delivered during off peak hours when the grid has abundant capacity, and they are dispatched directly to the load they serve during peak hours without burdening the transmission grid. In other words, when properly sited, "stand alone" utility scale battery storage facilities substantially reduce transmission congestion and ratepayer cost; accordingly, no CPCN should be issued for any "stand along" utility scale battery facility that operates at or above 50 kV unless it is conclusively demonstrated that the facility is optimally located to reduce transmission congestion.

⁵ As explained in the Complaint filed by the ATC in proceeding C.21-11-019, SCE disregarded land use concerns raised by the County of Los Angeles and, among other things, misrepresented to the County that the Commission had approved certain activities that caused substantial land use conflicts when in fact the Commission had not.

3. CONCLUSION

The ATC appreciates this opportunity to comment on the OIR and respectfully requests that we be included as a party in this proceeding

Respectfully submitted,

By: _____/s/_____

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