



California Public Utilities Commission The Certificate of Public Convenience and Necessity Application Process for Utility Construction Transmission Projects

A Step-By-Step Guide

OVERVIEW:

The California Public Utilities Commission's (CPUC) review of transmission line applications takes place under two concurrent and parallel processes:

- (1) environmental review pursuant to the California Environmental Quality Act (CEQA), and
- (2) review of project need and costs pursuant to Public Utilities Code sections 1001 et seq. and General Order (G.O.) 131-D.

The environmental review process is administered by CPUC staff, and invites broad public participation through scoping meeting(s) and written comment periods. The review of project need and costs is administered by an Administrative Law Judge (ALJ) and is subject to compliance with the CPUC's Rules of Practice and Procedure. Participation in the review of the project need and costs is limited to official parties. For this reason, we sometimes refer to this part of the proceeding as the "formal" part of the proceeding.

These two review processes converge at the conclusion of the environmental review when the CPUC staff submits its final environmental report into the formal proceeding. Depending upon the impacts of the proposed project, the final environmental document may be either an Environmental Impact Report (EIR), a Mitigated Negative Declaration (MND) or a Negative Declaration (ND). Based on the information generated during both the environmental review process and the formal process of determining need and costs, the CPUC may approve the utility's proposed project, an alternate project, or no project.

This step-by-step-guide describes how the CPUC reviews a transmission line application when it decides to prepare an environmental impact report.

Any person may participate in the environmental review of a proposed project. This participation can include attending a project scoping meeting and providing oral comment at all public meetings and providing written comments on the draft environmental documents as described in the table below. However, in order to participate in the formal part of the proceeding administered by an (ALJ), a person must become a “party“ under Rule 1.4 of the CPUC’s Rules of Practice and Procedure¹. Any person not a party to the proceeding may also provide oral comment at public participation hearings held as part of the formal proceeding.

STEP-BY-STEP GUIDE:

Application Filed with the CPUC: The utility files an application for a Certificate of Public Convenience and Necessity (CPCN) for facilities 200 kilovolts (kV) and above or a Permit to Construct (PTC), for facilities between 50 kV to 200 kV. The application will include the utility’s Proponent’s Environmental Assessment (PEA) focusing on the proposed project’s environmental impacts along with applicant proposed mitigation measures and alternatives to the project. The application identifies the utility’s preferred project alternative; however, the CPUC may approve the proposed project, an alternative to the proposed project, or no project.

The filing of the Application triggers the start the two review processes.

SUMMARY OF REVIEW PROCESSES

ENVIRONMENTAL REVIEW	NEED/COST REVIEW
<p>Completeness Review – CPUC staff review the filed application and the PEA, for completeness. Within 30 days of the filing date, staff either deem the application complete or notify the utility of any deficiencies. Once deficiencies are corrected, CPUC staff sends a letter to the applicant deeming the application complete.</p> <p>Initial Study - When it is not clear whether CEQA requires an EIR or a MND, an Initial Study is prepared to determine which is appropriate.</p>	<p>Protests/Responses filed – Pursuant to G. O. 131-D, §XII protests to the application are due within 30 days after the notice was mailed or published.</p> <p>Prehearing conference (PHC) – If it is preliminarily determined that an evidentiary hearing is needed, or if protests are filed, the Administrative Law Judge (ALJ) will conduct a PHC to identify the issues to be addressed in the proceeding, determine whether evidentiary hearings are needed, and to discuss the schedule for the proceeding</p>

¹ Unless otherwise specified, all references to CPUC Rules are to the CPUC’s Rules of Practice and Procedure available on the CPUC’s website at:
http://docs.cpuc.ca.gov/published/RULES_PRAC_PROC/70731.htm

² The public comment period may be longer if the document is a joint environmental document prepared under both CEQA and the National Environmental Policy Act (NEPA).

<p>Public Workshops – CPUC transmission and environmental permitting staff may meet with the public to explain the CPUC and CEQA processes, the purpose of these processes, and how they are interrelated. This would normally occur before the Notice of Preparation is mailed out.</p> <p>Notice of Preparation (NOP) and Comment on the NOP – If it is determined that an EIR is required, CPUC staff will issue a NOP to request agency and public comment on the scope and content of the EIR and to notice the time and location of scoping meetings for public participation.</p> <p>Agency Consultations and Public Scoping Meetings – CPUC transmission and environmental permitting staff meet with other agencies and the public to get their input into the proposed project route and/or facility sites as well as any alternatives to the proposed project. In addition, input is sought on project issues, impacts, and mitigation measures for the project. Public scoping meetings are typically held within 30 days of the issuance of the NOP. Scoping comments are due 30 days after issuance of the NOP.</p> <p>Draft EIR – CPUC staff issues the Draft EIR which assesses the environmental impacts of the proposed project and alternatives, identifies mitigation measures for each significant impact, and identifies the environmentally superior alternative. The public comment period on the Draft EIR is usually 45 days².</p> <p>Public Meetings on Draft EIR - During</p>	<p>and other procedural matters.</p> <p>Scoping Memo – After the PHC, the Assigned Commissioner issues a scoping memo determining the issues, schedule and other procedural matters for the proceeding.</p> <p>Hearings and Briefs – Parties file written testimony, cross-examine witnesses at evidentiary hearings, file written briefs, and appeal any final decision.</p> <p>Evidentiary hearings will generally be limited to matters other than the environmental issues addressed in the CEQA process and will be held no sooner than after the Draft EIR issues. If evidentiary hearings are set, the schedule will generally provide for prepared testimony to be filed by the parties, with the evidentiary hearings limited to cross-examination of witnesses sponsoring the written testimony.</p> <p>Whether or not evidentiary hearings are set, the schedule will generally provide for the filing of briefs by the parties.</p> <p>The ALJ may hold one or more public participation hearing(s) in the communities affected by the project to allow for comments from members of the public who are not parties in the proceeding. Transcripts from these hearings are available to the five Commissioners, and Commissioners may attend these public participation hearings.</p>
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<p>the public comment period, public meetings are held to discuss the results of the Draft EIR and how to comment on the Draft EIR.</p> <p>Comments on Draft EIR – Interested persons may submit written comments on the Draft EIR within the specified public comment period.</p> <p>Final EIR – The Final EIR, which includes the Draft EIR and responses to the public’s comments on the Draft EIR, is prepared and submitted into the formal record of the proceeding.</p>	
<p>Proposed and Alternate Decisions – Once the two review processes, as described above, have concluded, the ALJ prepares a proposed decision (PD) which includes information from the Final EIR regarding the proposed project, project alternatives, impacts, and mitigations. The assigned Commissioner may concurrently prepare and issue an alternate decision to the PD. Once the PD and any Assigned Commissioner alternate have been issued, other Commissioners may subsequently issue alternate decisions. All CPUC decisions, whether a PD or an alternate, must be based upon the evidentiary record, which includes the Final EIR and the testimony of the parties from the filed testimony and evidentiary hearings.</p> <p>Comment on Proposed and Alternate Decisions – Most PDs and alternate decisions are subject to 30 days of public review and comment before the CPUC may vote on them. .</p> <p>CPUC Vote – The CPUC votes on the PD and any alternate decision(s) at a public business meeting after the period for public review and comment has passed.</p>	

Recommended Resources

- **California Statutes** – available at www.leginfo.ca.gov/calaw.html
 - o Statutes related to Certificates of Public Convenience and Necessity (CPCN) - California Public Utilities Code Sections 1001-1005.5
 - o California Environmental Quality Act (CEQA) – California Public Resources Code Sections 21000, et seq. See also: <http://ceres.ca.gov/ceqa/>
 - o Permit Streamlining Act – California Government Code Sections 65920-65963.1
 - o CEQA Guidelines – California Code of Regulations, Title 14, Chapter 3

- **Recent CPUC Transmission Line decisions** - Specific CPUC decisions may be located by decision number on the CPUC’s website at <http://www.cpuc.ca.gov/static/documents/index.htm>
 - o Jefferson-Martin, D. 04-08-046
 - o Valley-Rainbow, D. 02-12-066
 - o EMF issues, D. 06-01-042
 - o Renewable Portfolio Standard (RPS) need determination, D.04-06-010

- **CPUC General Order 131-D** – “Rules Relating to the Planning and Construction of Electric Generation, Transmission/Power/Distribution Line Facilities and Substations Located in California” – available at www.cpuc.ca.gov/PUBLISHED/Graphics/589.PDF

- **CPUC General Order 159-A** – “Rules Relating to the Construction of Commercial Mobile Radio Service Facilities in California” available at <http://www.cpuc.ca.gov/Published/Graphics/611.pdf>

- **CPUC CEQA requirements** – “Information and Criteria List” – available at www.cpuc.ca.gov/static/energy/environment/infocrit.htm

- **CPUC “Guide to Public Participation”** – available at www.cpuc.ca.gov/PUBLISHED/REPORT/46182.htm

- **CPUC Rules of Practice and Procedure** – available at www.cpuc.ca.gov/PUBLISHED/RULES_PRAC_PROC/46095.htm

- **CPUC Executive Director’s Statement Establishing Transmission Project Review Streamlining Directives** – available at <http://www.cpuc.ca.gov/static/energy/environment/index.htm>

- **Questions?** – Contact the CPUC’s Public Advisor’s Office at public.advisor@cpuc.ca.gov or (415) 703-2074 or toll free at (866) 849-8390; TTY (415) 703-5282 or TTY toll free at (866) 836-7825.

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