

STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

In the Matter of:

EMERGENCY PROCLAMATION

**[PROPOSED] Order Re: PROCESS
FOR LICENSING NEW OR
EXPANSIONS OF BATTERY
STORAGE SYSTEMS OF 20 MW OR
MORE**

I. Introduction

California faces extreme climate impacts, including extreme drought, wildfires, and record-breaking heat events, even as it works to achieve a 100 percent clean electricity system that supports long-term energy reliability. This unprecedented climate emergency threatens the state's energy supply and limits the state's ability to import additional energy to meet the summer electricity demand. Immediate action is needed to accelerate the state's transition to clean electricity to help end the cycle of energy contributing to climate impacts that threaten California's energy supply.

The California Energy Commission (CEC) is responsible for licensing new thermal power plants of 50 megawatts (MW) or more, establishing energy efficiency standards to reduce energy demand, assessing energy supply and demand, implementing renewable portfolio standards, and investing in clean transportation and clean energy research. These core functions anchor the state's effort to meet Senate Bill (SB) 100's target of requiring renewable energy and zero-carbon resources for 100 percent of electric retail sales to end-use customers by 2045.

On July 30, 2021, Governor Newsom issued a Proclamation of State of Emergency in California as a result of sudden and severe energy shortages from extreme drought, wildfires, and record-breaking heat events, which put significant demand and strain on California's energy grid. The Emergency Proclamation declares that, due to these extreme weather events, the state currently faces an energy supply shortfall of up to 3,500 megawatts in 2021, and projects a shortfall of up to 5,000 megawatts for the summer of 2022. To take immediate action to reduce the strain on energy infrastructure, increase energy capacity, and make energy supply more resilient to protect the health and safety of Californians, the Governor ordered the CEC to license new or expansions of battery storage systems. Specifically, the Emergency Proclamation authorized the CEC to issue licenses as follows:

With respect to new, and expansions of, battery storage systems of 20 megawatts or more that the California Energy Commission determines are capable of discharging for at least two hours and will deliver net peak energy by October 31, 2022, the provisions of Public Resources Code, Division 13 (commencing with Section 21000) and regulations adopted pursuant to that Division, are suspended to the extent that the Energy Commission determines that such systems should be licensed. Public Resources Code section 25500 shall apply to the issuance of a license under this Paragraph (notwithstanding the 50-megawatt limitation in Public Resources Code section 25120). The California Energy Commission shall implement the provisions in this Paragraph in consultation with local jurisdictions and state agencies.

The Emergency Proclamation further authorizes the CEC to delegate its authority to issue licenses in accordance with the described criteria to its Executive Director and exempts such actions from the rulemaking requirements in Government Code, Title 2, Division 3, Part 1, Chapter 3.5 (commencing with section 11340).

II. Authority

On July 30, 2021, the Governor issued an Emergency Proclamation pursuant to the authority under the California Emergency Services Act, Government Code sections 8567, 8571, 8625, and 8627, to take immediate action to address energy supply shortfalls and achieve energy stability.

This Emergency Proclamation provides the CEC authority to establish an expedited process to approve licenses for new and expansions of battery storage systems 20 MW or more that the CEC determines are capable of discharging for at least two hours and will deliver net peak energy by October 31, 2022.

The CEC's license for a project is in lieu of any permit, certificate, or similar document required by any state, local, or regional agency, or federal agency to the extent permitted by federal law, and supersedes any otherwise applicable statute, ordinance, or regulation of any state, local, or regional agency, or federal agency to the extent permitted by federal law. (Pub. Resources Code, section 25500; Emergency Proclamation, paragraph 11.)

III. CRITERIA AND PROCEDURES FOR LICENSING NEW OR EXPANSIONS OF BATTERY STORAGE SYSTEMS OF 20 MW OR MORE

For licensing of new or expansions of battery storage systems of 20 megawatts or more, the following expedited process shall be implemented:

(a) The executive director shall establish informational requirements for the submittal of an application for licensing battery storage systems. The informational requirements shall, at a minimum, require the following, supported by documentation as appropriate, from any entity seeking a license for a battery storage system:

(1) A description of the battery storage system (project), including a showing that it is 20 megawatts or larger in size, capable of discharging for at least two hours, and will deliver net peak energy by October 31, 2022.

(2) A description of the site on which the project will be located, including whether the site is disturbed, and what control the project applicant has over it. The application shall also include a list of all property owners within 1,000 feet of the project site. Additionally, the application shall provide the current zoning designation for the site and allowable uses within that zoning designation.

(3) A description of the potential impacts of the project on environmental quality and public health and safety and project design measures proposed to mitigate potential impacts.

(4) A description of all local, state, regional, and federal laws, ordinances, regulations, and standards that would otherwise be applicable to the project and an analysis of the project's compliance with each.

(5) A discussion of the applicant's authorization to interconnect the battery storage system to the distribution or transmission grid by the relevant grid authority by October 31, 2022.

(b) Within 10 days after the adoption of this order, the executive director shall publish a list of informational requirements, including those specified above, that an application for a license for a battery storage system must provide.

(c) Upon receipt of a license application pursuant to this order, the executive director shall establish a docket for the proceeding and publish a Notice of Receipt and mail it to all property owners within 1,000 feet of the proposed site. The notice shall also be sent to all local, state, regional, and federal agencies that either have jurisdiction over the project or would have jurisdiction if not for the CEC's exclusive authority and to any California Native American Tribe that is traditionally and culturally affiliated with the geographic area of the proposed project.

(d) Within 10 days after an owner or operator files an application for a license, the executive director shall verify that the application is complete and meets the requirements of section (a), the project is capable of discharging for at least two hours and, based on the information available at the time of review, the project will deliver net peak energy by October 31, 2022.

(e) Once the application has been determined to be complete, the executive director shall conduct an analysis of the project's potential impacts to environmental quality and public health and safety and compliance with applicable laws, ordinances, regulations, and standards. The executive director shall consult with local jurisdictions and state agencies in conducting this analysis and attempt to resolve any potential non-compliance with applicable laws, ordinances, regulations, and standards. The executive director shall direct staff to meet at least once, virtually or in person, with representatives of any local jurisdiction or state agency that would otherwise be responsible for reviewing the project for compliance with public health and safety measures, including fire and hazardous materials, to ensure that all public health and safety concerns are addressed in the license. The executive director shall impose conditions and verification and monitoring requirements on the license as appropriate to mitigate any potential impacts to the extent feasible. The executive director shall complete the analysis no later than 21 days after the determination in (d) has been made and shall publish it for a 10-day comment period.

(f) Within seven days after the close of the comment period, the executive director shall file a decision on the application granting or denying the license. The decision of the executive director is final and not subject to further consideration or appeal.

(g) Any change to a license granted pursuant to this order shall be subject to the provisions of California Code of Regulations, Title 20, section 1769.

IV. CALIFORNIA ENERGY COMMISSION FINDINGS

Based on the Governor's July 30, 2021 Emergency Proclamation, the CEC finds that:

- The unprecedented climate emergency threatens the state's energy supply and limits the state's ability to import additional energy to meet the summer electricity demand.
- Due to these extreme weather events, the state currently faces energy supply shortfall of up to 3,500 megawatts in 2021, and a shortfall of up to 5,000 megawatts is now projected for the summer of 2022.
- Battery storage systems are a technology that can be rapidly deployed to help alleviate energy supply shortfalls and other grid impacts.
- Expedited action by the CEC is necessary to install and utilize battery storage systems.
- The executive director is authorized to approve applications and grant licenses consistent with the process set forth in this order.
- An application filed under the process set forth in this order is not subject to an adjudicatory proceeding as defined in California Code of Regulations, title 20,

section 1201(b), therefore the ex parte restrictions set forth in Article 7 of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code (sections 11430.10 et seq.) do not apply.

V. CONCLUSION AND ORDER

Consistent with the Governor's Emergency Proclamation and to ensure the rapid deployment of battery storage systems the CEC hereby adopts this order establishing an expedited licensing process for these systems and delegates approval of such applications and the granting of licenses to the executive director.

CERTIFICATION

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the CEC held on September 8, 2021.

AYE:

NAY:

ABSENT:

ABSTAIN:

Liza Lopez
Secretariat