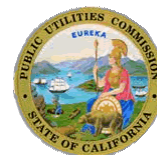


BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Order Instituting Rulemaking to
Investigate and Design Clean Energy
Financing Options for Electricity and
Natural Gas Customers.

Rulemaking 20-08-022

**OPENING COMMENTS OF THE PUBLIC ADVOCATES OFFICE
ON ORDER INSTITUTING RULEMAKING TO INVESTIGATE AND
DESIGN CLEAN ENERGY FINANCING OPTIONS FOR ELECTRICITY
AND NATURAL GAS CUSTOMERS**

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I. INTRODUCTION

The Public Advocates Office at the California Public Utilities Commission (Cal Advocates) hereby submits these opening comments on the *Order Instituting Rulemaking to Investigate and Design Clean Energy Financing Options for Electricity and Natural Gas Customers* (OIR) to examine options to assist electricity and natural gas customers with investments in residential and commercial buildings and at industrial and agricultural sites designed to decrease energy use, reduce greenhouse gas (GHG) emissions, and/or produce clean energy to support customers' on-site needs. The OIR was issued on September 4, 2020.

II. BACKGROUND

The California Public Utilities Commission (Commission) issued the OIR to examine options for multiple sources of private financing and ratepayer funding to support larger-scale and deeper investments in one or more clean energy resources at customer sites. The purpose of the OIR is to provide a venue for designing mechanisms that can help customers finance multiple energy investment options in a more comprehensive and holistic manner, by addressing various funding sources in a single proceeding.

The OIR identifies mechanisms that provide financing options to customers as well as traditional barriers to the deployment of energy efficiency, renewable energy, storage, and zero-emission vehicles. The OIR solicits comments from parties about how best to target and scope the proceeding to result in maximum benefit to customers in California with the hope of identifying several options that can be scaled to address large parts of both the residential and non-residential customer sectors.¹ The Commission preliminarily categorized R.20-08-022 as quasi-legislative, "because our consideration and approval of this matter would establish policy or rules affecting a class of regulated utilities."² Comments are due 30 days after the issuance of the OIR. Cal Advocates'

¹ OIR, p. 34.

² OIR, p. 35.

comments are timely.

Cal Advocates provides the following comments on the OIR below:

- This proceeding should address the impacts of financing mechanisms on affordability.
- This proceeding should address the role of ratepayer funds in the financing mechanisms.
- This proceeding should address how to deliver benefits to renters.
- To the extent the proceeding will commit ratepayer funds, the proceeding should be categorized as ratesetting rather than quasi-legislative.

III. COMMENTS ON SCOPE OF RULEMAKING

A. The Commission Should Address the Impacts of Financing Mechanisms on Affordability.

The OIR notes that attention should be paid to ensuring that opting in to one or more financing mechanisms does not significantly increase the risk of disconnection from utility service for non-payment of bills.³ Cal Advocates agrees that this proceeding should pay careful attention to affordability of customer energy bills. However, the proceeding should view affordability both as related to specific financing mechanisms and holistically across the proceeding as a whole. In designing a suite of financing options through this proceeding, the Commission should avoid creating a program whose overall use of ratepayer funds contributes to bill increases that are unduly burdensome and thus price more people out of the market for essential utility services. This proceeding intends to ensure that “benefits accrue to the broadest possible set of customers.”⁴ Doing so will require not just the creation of individually reasonable financing mechanisms, but a suite of options that are cost-effective overall and do not indirectly place excessive burdens on ratepayers.

³ OIR, p. 32.

⁴ OIR, p. 32.

B. The Commission Should Address the Role of Ratepayer Funds and Risk Allocation in the Financing Mechanisms in the Proceeding.

Cal Advocates supports the stated long-term goal to avoid relying solely on ratepayer funding for the financing mechanisms explored in this proceeding.⁵ We echo the statement in the OIR that the most successful long-term strategies for maximizing ratepayer and GHG benefits are likely to be those that rely on a small amount of ratepayer funds combined with larger amounts of private capital from financial institutions.⁶

In order to achieve this goal, this proceeding should address the role of ratepayer funds in greater depth. Specifically, the proceeding should contemplate how to appropriately allocate risk to ratepayers. All financing mechanisms include some amount of risk that the borrower will be unable to meet their repayment obligations and default on their loan. Default risk may vary significantly across different borrowers, assets, or other factors. Financing mechanisms may be structured to allocate this risk to one party or another, or otherwise be structured to reduce or compensate for risk.

Ratepayer funds may be particularly useful in expanding access to financing for those at the margins – customers with poor or limited credit, disadvantaged communities, or for financing newer technologies or practices with shorter track records – where traditional financing is out of reach. However, this expansion may come with increasing risk of defaults, jeopardizing ratepayer funds intended to provide greater benefits than a single project or customer. The proceeding should consider how much risk (if any) is appropriate for ratepayers to bear, versus other parties like utilities, state entities, or the private sector. This could include mechanisms to appropriately compensate ratepayers for increasing levels of risk or defining thresholds beyond which risking ratepayer funds is inappropriate, among other possible approaches. Any discussion of downside risk

⁵ OIR, p. 31.

⁶ OIR, p. 31.

should also contemplate how to appropriately share any upside from these financing mechanisms.

C. The Commission Should Address How to Deliver Benefits to Renters in the Proceeding.

Cal Advocates supports this proceeding’s focus on equity and inclusion to ensure all customers, regardless of income or credit history, may benefit from access to energy improvements. We echo the need to explore options specific to affordable housing and/or multifamily buildings. However, the Commission should also specifically address how to provide benefits for renters—ratepayers who do not own the property where they receive electric service—through this proceeding.

Renters represent a significant portion of Californians – 45% of housing in the state is renter-occupied.⁷ Lower income households are more likely to be renters,⁸ underscoring the need for any equity-focused efforts to specifically address renters. Renters also face unique challenges in energy upgrades. As mentioned in the OIR, split incentives where costs flow to landlords while benefits flow to renters or vice versa can be a barrier to deployment of energy efficiency, renewable energy, storage, and zero-emission vehicles.² Landlords have limited incentive to make these often-complex upgrades as bill savings usually flow to tenants, but tenants may not want to invest in physical upgrades to a building they do not own. There may also be barriers specific to renters in master-metered multifamily buildings or other situations where the electric bill is not in the renter’s name. Any financing mechanisms developed should specifically address renters to avoid excluding a significant portion of California’s housing from energy savings and GHG reductions and to be more inclusive of customers that may have lower incomes or otherwise face significant barriers to energy upgrades.

⁷ American Community Survey, 2018 5-Year Estimates. Available at <https://data.census.gov/cedsci/table?q=0400000US06&d=ACS%205-Year%20Estimates%20Data%20Profiles&tid=ACSDP5Y2018.DP04>.

⁸ American Community Survey, Financial Estimates, 2019 1-Year Estimates. Available at <https://data.census.gov/cedsci/table?q=tenure%20income&g=0400000US06&tid=ACSST1Y2019.S2503>.

² OIR, p. 33.

IV. CATEGORIZATION AND SCHEDULE

A. The Commission Should Categorize this Proceeding as Ratesetting Due to Its Impact on Customer Rates.

Section 3.2 of the OIR determines the categorization and need for hearings in this proceeding. The Commission preliminarily categorized this proceeding as quasi-legislative.¹⁰ However, ratesetting would be a more appropriate categorization for this proceeding because of the reliance of these funding mechanisms on ratepayer funds.

The Commission's Rules of Practice and Procedure (Rules) define ratesetting proceedings as "proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities)."¹¹

This proceeding is designed to address various financing options and mechanisms that will have an impact on electrical rates faced by utility customers. Many of the financing mechanisms described in Section 1 that may be investigated in this proceeding would directly or indirectly impact utility bills. Tariff On-Bill (TOB) or Tariff-Based Recovery (TBR), for example, would raise rates by using customer bills as the collection mechanism for utilities to recoup investments in building energy improvements.¹² Credit enhancement mechanisms like loan loss reserves or interest rate buydowns (IRBs)¹³ could require utilities to furnish ratepayer funds to support these programs, thus increasing rates.

Categorizing this proceeding as ratesetting would improve the overall transparency of this proceeding and ensure rate impacts are appropriately considered. The Commission's Rules permit ex parte communication without restrictions or reporting requirements in quasi-legislative proceedings.¹⁴ However, ex parte communications are

¹⁰ OIR, p. 35.

¹¹ Rule 1.3(f).

¹² OIR, p. 8.

¹³ OIR, p. 10-11.

¹⁴ Rule 8.2(a).

subject to restrictions and reporting requirements in ratesetting proceedings.¹⁵ To ensure that all parties are afforded the same opportunity to be heard and have their input given due consideration, due process requires that this proceeding be categorized as ratesetting. Even if this proceeding is categorized as quasi-legislative, the Assigned Commissioner should still impose more stringent reporting requirements on ex parte communications. Pursuant to Rule 8.2(d), the Assigned Commissioner may “issue a ruling ... to require reporting of ex parte communications in a quasi-legislative proceeding.”

The OIR also notes that hearings are not necessary.¹⁶ Cal Advocates agrees that filed comments, workshops, and testimony should allow for a swift and thorough proceeding. Cal Advocates requests the Commission offer rulings or staff papers open for public comments during this proceeding to allow ample opportunity for stakeholder feedback.

V. CONCLUSION

The Public Advocates Office respectfully requests that the Commission adopt the recommendations contained herein.

Respectfully submitted,

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¹⁵ Rule 8.2(c).

¹⁶ OIR, p. 35.