



**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

FILED

04/12/21
08:00 AM

Order Instituting Rulemaking to Revise General Order 156 to Include Certain Electric Service Providers and Community Choice Aggregators and Encourage Voluntary Participation by Other Non-Utility Entities Pursuant to Senate Bill 255; Consider LGBT Business Enterprise Voluntary Target Procurement Percentage Goals; Incorporate Disabled Business Enterprises; Modify the Required Reports and Audits; and Update Other Related Matters.

Rulemaking 21-03-010
(Filed March 18, 2021)

**COMMENTS OF BUILD-OUT CALIFORNIA
ON PRELIMINARY SCOPING MEMO**

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Dated: April 12, 2021

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ON PRELIMINARY SCOPING MEMO**

In accordance with the Rulemaking Order issued on March 18, 2021, BuildOUT California, which has been granted party status in this proceeding, hereby submits these comments on the Preliminary Scoping Memo set forth in the Rulemaking Order.

I. INTRODUCTORY STATEMENT

Founded in 2020 as a not-for-profit organization, BuildOUT California is the world's first LGBTQ Industry Association dedicated to the sustainable growth of LGBT-owned and certified businesses and their allies, in the fields of architecture, engineering, construction services, real estate development, and related industries.¹

BuildOUT California is grateful for the opportunity to participate in this Rulemaking. As a party to this proceeding, BuildOUT California intends to demonstrate the tremendous potential of LGBT-owned business enterprises to contribute to a healthy, diverse and competitive business

¹ BuildOUT California's website can be found at the following link: [HOME | BuildOUT California | LGBT Industry Association](#)

environment. BuildOUT California also will seek to bring to the Commission's attention the continuing challenges LGBTQ persons experience because of anti-LGBTQ bias, harassment and discrimination, and even physical violence, directly because they identify as LGBTQ. We intend to show how this bias against LGBTQ persons spills over into workplace discrimination.

With the enactment in September 2014 of Assembly Bill 1678 (Gordon, Stats. 2014, Ch. 633) ("AB 1678"), the Public Utilities Code now requires the Commission to include LGBT-owned business enterprises in the General Order 156 program. As explained in the Rulemaking Order, the Commission in Decision 15-06-007 took the first steps toward implementing this statutory mandate, "by adding LGBT-owned business enterprises to the Commission's *Supplier Diversity Program*." (Rulemaking Order, p. 9.)

The Commission in Decision 15-06-007 elected not to adopt any voluntary target percentage for LGBT-owned businesses under General Order 156. In this Rulemaking, the Commission has announced its intention to finally consider the adoption of a voluntary target percentage for LGBT-owned businesses.

BuildOUT California appreciates that this is happening. From BuildOUT California's perspective, such action by the Commission is overdue. As of today, *nearly seven years after the enactment of AB 1678*, LGBT-owned business enterprises still do not have a full seat at the General Order 156 table. In the absence of a percentage target for LGBT-owned businesses, experience has shown that some of the utility companies and other entities covered by General Order 156 are simply ignoring LGBT-owned business enterprises in their contracting. While a handful of the utilities and other covered entities have taken exemplary steps towards inclusion of LGBT-owned businesses, many of them are conspicuously lagging in their contracting with LGBT-owned business enterprises. This is very problematic.

Simply stated, the inclusionary goals of General Order 156, and the benefits of robust competition by all qualified contractors, are being frustrated because of the failure of many of the utilities and other companies named as Respondents in this proceeding to include LGBT-owned businesses in their contracting portfolios.

A stronger push by the Commission toward inclusion of LGBT-owned business enterprises is urgently needed. BuildOUT California hopes to be a catalyst and a positive contributor for such reform, through its participation in this Rulemaking proceeding.

II. COMMENTS ON THE PRELIMINARY SCOPING MEMO

BuildOUT California appreciates the opportunity to comment on the Preliminary Scoping Memo that was included in the March 23 Rulemaking Order.

A. Issues to Be Considered: Adoption of a Target Percentage for LGBT-Owned Business Enterprises

By letter to the Commission dated March 26, 2021, former Assembly Member Richard Gordon, the author of AB 1678, expressed his thanks to the Commission for taking action to more fully implement the legislation he authored in 2014. But Mr. Gordon also said that he was “very disappointed” that the Commission was “considering a joint utility company proposal to establish a meager percentage goal of only 0.5% for LGBT-Owned Business Enterprises under the Commission’s General Order No. 156.”

Former Assembly Member Gordon went on to state: “Quite frankly, the proposal by the joint utility companies is an insult to the LGBTQ community.”

BuildOUT California strongly endorses the foregoing statement by former Assembly Member Gordon, who sponsored AB 1678. The percentage goal for LGBT-owned businesses

proposed by the joint utility companies – only 0.5% -- is absurdly low. It truly is a slap in the face to the LGBTQ community and to the proud business owners in that community.

Accordingly, BuildOUT California respectfully requests that the Commission rephrase, as follows, the statement of the issue that the parties in this proceeding will be asked to comment upon (underscoring indicates proposed new language; strikeout indicates language to delete):

2. *LGBT-Owned Business Enterprises.* What percentage should the Commission adopt ~~Whether the utility proposed target procurement percentage goal for LGBT-Owned business enterprises of 0.5% for LGBT-Owned business enterprises should be included in the *Supplier Diversity Program* set forth in General Order 156 or whether a different percentage should be included?~~

While the individual utility companies and other respondents will be free to advocate for any percentage they support (even something as low as 0.5%), we respectfully request that the Commission not create the appearance of putting its thumb on the scale by embedding the controversial 0.5% number in the official statement of the issue to be considered.

B. Procedural Questions Raised in the Preliminary Scoping Memo

First, BuildOUT California agrees with the preliminary categorization of this proceeding as Quasi-Legislative.

Second, BuildOUT California supports the preliminary schedule set forth on page 18 of the Rulemaking Order, which will lead up to issuance of a final decision by the Commission in the Third Quarter of this year. This is a worthy goal. Given the importance of the issues under consideration to the members of the LGBTQ community and to LGBT-owned business enterprises, BuildOUT California respectfully urges that there not be any undue delay in issuance of a final Commission decision in this proceeding.

Third, BuildOUT California endorses the Commission's proposal to conduct at least one workshop in this proceeding. We suggest that the workshop should be held *after* the parties have filed their substantive comments, to afford an opportunity to clarify and amplify the written comments. We believe that a workshop will help encourage the fullest degree of participation by parties and interaction with Commission staff. It will help create a strong record upon which the Commission can base its eventual decision.

III. CONCLUSION

BuildOUT California appreciates the opportunity to submit these comments. We respectfully ask that the statement of the issue regarding a percentage goal for LGBT-owned business enterprises in General Order 156 be revised, to strike any reference to the joint utility company proposal of only 0.5% as the goal. We support the categorization as Quasi-Legislative, the proposed schedule, and the opportunity for a workshop *after* substantive comments are filed.

Respectfully submitted,

By:  _____

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