

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



**FILED**

03/27/26

04:59 PM

R2409012

Order Instituting Rulemaking to Establish  
Policies, Processes, and Rules to Ensure  
Safe and Reliable Gas Systems in California  
and Perform Long-Term Gas System  
Planning.

Rulemaking 24-09-012

**COMMENTS OF THE COALITION OF CALIFORNIA UTILITY  
EMPLOYEES ON ADMINISTRATIVE LAW JUDGE'S RULING  
REQUESTING ADDITIONAL INFORMATION TO IMPLEMENT SENATE  
BILL 1221**

March 27, 2026

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Order Instituting Rulemaking to Establish Policies, Processes, and Rules to Ensure Safe and Reliable Gas Systems in California and Perform Long-Term Gas System Planning.

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BILL 1221**

Pursuant to the Administrative Law Judge’s Ruling Requesting Additional Information to Implement Senate Bill 1221, the Coalition of California Utility Employees (CUE) respectfully files these opening comments.

**1. Are Pub. Util. Code Section 663(b)(8) and Section 663(b)(9) in conflict? If not, why? If so, what way and how can they be harmonized?**

No. Sections 663(b)(8) and (9) do not conflict and are already harmonized.

Subdivision (b) of Section 663 requires the Commission, in administering the pilot projects, to “establish *all* of the following...”<sup>1</sup> including:

(8) A requirement that gas corporations recover costs related to the pilot projects that are deemed just and reasonable and a requirement that prohibits a gas corporation from recovering behind-the-meter costs associated with the pilot projects as capital costs that are afforded a rate of return.<sup>2</sup>

(9) The appropriate rate of return and recovery period that a gas corporation is eligible to receive for its costs to implement a zero-emission alternative. A

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<sup>1</sup> Pub. Util. Code § 663(b) (emphasis added).

<sup>2</sup> *Id.* § 663(b)(8) (emphasis added).

gas corporation shall not receive ratepayer funding for the costs of a zero-emission alternative that are covered by incentives under federal, state, or local laws.<sup>3</sup>

Paragraphs (8) and (9) are entirely harmonized and make clear that the Commission must decide the appropriate rate of return for *front-of-the-meter* pilot projects costs only since a utility is prohibited from earning a rate of return on *behind-the-meter costs*.

Some parties to this proceeding argue that, despite paragraph (8)'s prohibition on a utility earning a rate of return on behind-the-meter costs, paragraph (9) allows a utility to do so. In addition to the plain language of the statute, the legislative history of SB 1221 makes clear that this is not the case.

Paragraph (9), which requires the Commission to determine the appropriate rate of return for pilot project costs, was in the original substantive version of the bill published on March 18, 2024.<sup>4</sup> Paragraph (8), which prohibits a utility from earning a rate of return on behind-the-meter costs, was not in the March 18, 2024 version of the bill. Paragraph (8) was added to the bill in response to a recommended amendment in the April 22, 2024 Senate Energy, Utilities and Communications Committee analysis which provides that “to include guard rails to protect customers, the author and committee may wish to amend this bill to limit

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<sup>3</sup> *Id.* § 663(b)(8).

<sup>4</sup> *See* March 18, 2024 version of SB 1221, Sec. 5, Pub. Util. Code § 662(d). Pub. Util. Code § 662(d) became § 663(b)(9) through amendments made on April 25, 2024.

and narrow the program to,” among other things, “[p]rohibit behind-the-meter costs from receiving capital asset recovery by the utility.”<sup>5</sup>

The recommended amendment was taken and the bill was amended on April 25, 2024 to, among other things, add Section 663(b)(8) which explicitly prohibits a utility from earning a rate of return on behind-the-meter costs. The utility’s ability to earn a rate of return on front-of-the-meter costs remained in the bill in Section 663(b)(8). The Legislature’s addition of paragraph (8) makes clear that it intended to distinguish front-of-the-meter and behind-the-meter costs when allowing a utility to earn a rate of return.

In short, paragraphs (8) and (9) do not conflict – they address separate things (behind-the-meter and front-of-the-meter costs) and act in harmony.

**2. Should the Commission allow rate recovery of BTM zero emission alternative (ZEA) implementation costs incurred by gas utilities (i.e., the utility may recover approved program costs from gas ratepayers)? Why or why not?**

The Commission should allow rate recovery of BTM *gas* costs from gas ratepayers *only if* the pilot project would *meaningfully reduce* costs for remaining gas customers as compared to the pipeline alternative.

As we explained in previous comments, recovering these costs in gas customer rates, even as O&M expenses, would be incredibly expensive. SB 1221 pilot projects would involve neighborhood-scale decarbonization paired with gas

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<sup>5</sup> Senate Committee on Energy, Utilities and Communications, April 22, 2024, SB 1221 Analysis, pp. 10-11 (emphasis added) (available at [https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=202320240SB1221](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202320240SB1221)).

pipeline retirement, meaning every customer within the pilot footprint would need BTM electrical, piping, plumbing, ducting, equipment and/ or appliance upgrades. This is a significant amount of work with significant associated costs.

Moreover, building electrification will result in fewer gas customers and less gas running through the pipelines. But there will still be some gas running through the pipelines. Therefore, the pipelines will still require investment and maintenance. As throughput diminishes, the cost to maintain the pipelines will remain the same but will be spread across a shrinking pool of customers. The decline in natural gas demand will lead to higher rates as fixed costs are spread over a declining base, creating a domino effect where more and more people with the means to electrify to avoid the rising cost of natural gas will do so, and those who cannot afford to electrify or don't have the option to electrify will be stuck with exponentially higher gas bills. Therefore, any pilot project must **reduce** the costs that go into rates to mitigate the domino effect for remaining gas customers.

A primary and explicit intent of the Legislature in enacting SB 1221 was to reduce costs for gas customers. Indeed, the language of SB 1221 repeatedly indicates the intent of the legislature to reduce gas system costs, avoid stranded gas assets and to protect gas ratepayers from unsustainable, unaffordable rate increases:

Without active planning and management, ***reduced demand for natural gas will result in higher rates***, with a disproportionate burden on vulnerable customers.<sup>6</sup>

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<sup>6</sup> Sen. Bill 1221, 2023–2024 Reg. Sess., § 1(3) (Cal. 2024).

A longer term planning process is necessary to evaluate zero-emission alternatives, including neighborhood electrification and thermal energy networks, that could avoid new capital investment in the gas system that may become stranded assets and to **reduce upward pressure on gas rates**.<sup>7</sup>

Cost-effective, zero-emission alternatives to pipeline replacement projects both **reduce gas system costs** and further California's efforts to reduce greenhouse gas emissions and improve air quality.<sup>8</sup>

This legislative intent language is operationalized in Section 663(b)(2) of the Public Utilities Code, which requires that SB 1221 pilot projects result in gas system cost reductions:

The total cost incurred by the gas corporation for the zero-emission alternative **shall be less than the total cost that would have otherwise occurred**.<sup>9</sup>

The Commission should interpret this language to mean that SB 1221 projects must **meaningfully reduce** costs that go into gas rates to mitigate the impact of zonal decarbonization on remaining gas customers. If a project does not **meaningfully reduce** costs as compared to the pipeline alternative, the project should not be approved.

Further, gas ratepayers should not be required to fund electric system upgrade costs in front of or behind the meter. Requiring gas customers to absorb electric system costs would directly undermine the legislative objective of protecting remaining gas customers from rate increases. Electric costs from investments in the electric distribution system and from the electrification of appliances and

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<sup>7</sup> *Id.*, § 1(4).

<sup>8</sup> *Id.*, § 1(6).

<sup>9</sup> Pub. Util. Code § 663(b)(2).

equipment should be assigned to electric ratepayers (or covered with non-ratepayer funds). Since electrification puts downward pressure on electric rates, assigning these costs to electric customers makes sense.

**3. If the Commission authorizes utilities to recover approved BTM costs, should the Commission authorize expense treatment, where costs are recovered in rates in the year they are incurred? Why or why not?**

If the Commission authorizes utilities to recover BTM costs, they should be treated as an expense where costs are recovered in a way that puts downward pressure on gas rates and does not contribute to the domino effect where more and more people with the means to electrify to avoid the rising cost of natural gas will do so, and those who cannot afford to electrify or don't have the option to electrify will be stuck with exponentially higher gas bills.

**4. If the Commission authorizes utilities to recover BTM costs, should the Commission authorize regulatory asset treatment? Why or why not?**

No, the Commission should not authorize regulatory asset treatment for BTM costs. Regulatory asset treatment for BTM costs would allow utilities to receive a return on these expenditures which is expressly prohibited by statute.<sup>10</sup>

**5. If you recommend regulatory asset treatment, address the following questions:**

**a. Which amortization period should the Commission adopt: five years, 10 years, 15 years, 20 years, or something else? Provide justification.**

**b. What depreciation schedule(s) should apply to BTM costs if the Commission were to grant regulatory asset treatment? Should there**

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<sup>10</sup> Pub. Util. Code § 663(b)(8).

**be straight-line depreciation for an amortization period (e.g., 5 percent annual depreciation over a 20-year amortization period)? Should there be an accelerated depreciation schedule? Should a single depreciation schedule be applied to all BTM assets? Provide justification.**

**c. Considering your responses to Questions 5(a) and 5(b), what would be the appropriate compensation for the gas corporation on the amortized expenditures and why? If the Commission were to grant regulatory asset treatment for BTM expenditures, what rate of return should be authorized? What clarifications would be necessary, if any, regarding allocation of BTM expenses to long-term debt?**

See response to Question 4.

Dated: March 27, 2026

Respectfully submitted,

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