

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



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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.

Rulemaking 24-09-012  
(Filed September 26, 2024)

**OPENING COMMENTS OF THE UTILITY REFORM NETWORK ON  
ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING ADDITIONAL  
INFORMATION TO IMPLEMENT SENATE BILL 1221**



Lower bills. Livable planet.

March 27, 2026

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**OPENING COMMENTS OF THE UTILITY REFORM NETWORK ON  
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INFORMATION TO IMPLEMENT SENATE BILL 1221**

Pursuant to the directions in the *Administrative Law Judge’s Ruling Requesting Additional Information to Implement Senate Bill 1221* (“ALJ Ruling”), issued on March 17, 2026, The Utility Reform Network (“TURN”) submits these opening comments in response to some of the questions posed in the Ruling.

**I. SUMMARY**

The ALJ Ruling poses five questions directed at developing the record on Phase 3, Track 4 scoping issues 19 and 20 — specifically, the appropriate cost recovery mechanism and rate of return framework for zonal decarbonization pilot project costs under Public Utilities Code Sections 663(b)(8) and 663 (b)(9). TURN’s December 3, 2025, Opening Comments addressed the distinction between behind-the-meter (“BTM”) costs and utility-side implementation costs at length.<sup>1</sup> The ALJ Ruling’s questions build on that analysis and focus the inquiry not on whether BTM costs can be capitalized and afforded the authorized rate of return but on the appropriate mechanism for recovering those costs in rates. TURN addresses these questions in turn.

**II. RESPONSES TO QUESTIONS**

**A. Question 1: Are Sections 663(b)(8) and 663 (b)(9) in Conflict?**

There is no inherent conflict between Public Utilities Code Section 663(b)(8) and Section 663 (b)(9) if they are interpreted according to established statutory interpretation principles. Section 663(b)(8) provides a clear and unambiguous prohibition against

<sup>1</sup> Opening Comments of The Utility Reform Network on Questions Regarding the Establishment of the Pilot Program, December 3, 2025, pp. 8-17.

recovering behind-the-meter (“BTM”) costs as capital costs afforded a rate of return. Section 663(b)(9) directed the Commission to establish a rate of return for “costs to implement a zero-emission alternative.” The provisions are not in conflict; one relates to a specific subset of the general other and are fully harmonized when reading the statute as written.

Section 663(b)(8) prohibits a gas corporation from recovering BTM costs associated with the pilot projects “as capital costs that are afforded a rate of return.” The prohibition is unambiguous and targets capital treatment and the associated return on equity embedded in the authorized rate of return. Section 663(b)(9) directs the Commission to establish “an appropriate rate of return” that a gas corporation is eligible to receive for “costs to implement a zero-emission alternative.” The Legislature’s use of “costs to implement” in Section 663(b)(9) is broader than the specific BTM cost category addressed in Section 663(b)(8) and permits the Commission to authorize an appropriate rate of return for costs not subject to the prohibition of Section 663(b)(8).

The two subsections thus address two different populations of costs — (b)(8) governs BTM expenditures and bars their capitalization and (b)(9) governs implementation costs such as utility-side implementation assets and authorizes an appropriate return on those investments, so long as they are not BTM expenditures. As TURN previously stated, “while BTM costs should be ‘recoverable,’ they cannot be capitalized and earn a return,”<sup>2</sup> and “the Legislature intended to distinguish behind-the-meter costs from other ‘implementation’ costs[.]”<sup>3</sup> There is no conflict between the provisions. The statute instructs the Commission to treat each category of costs according to its character and set appropriate compensation accordingly.

<sup>2</sup> TURN December 3, 2025, Opening Comments, p. 9.

<sup>3</sup> TURN December 3, 2025, Opening Comments, p. 12.

This reading is consistent with the Legislature’s intent. SB 1221 is designed to facilitate a voluntary, cost-effective transition away from gas infrastructure. Allowing utilities to earn a full authorized return on subsidies paid to customers for BTM electrification work that produces no utility asset and serves no utility-system function would embed costs in rates that the statute expressly sought to prohibit. At the same time, denying any return on legitimate utility-owned infrastructure deployed to execute the pilots could create a disincentive to participation that the Legislature did not intend.

**B. Question 2: Should the Commission Allow Rate Recovery of BTM ZEA Implementation Costs?**

Yes, Section 663(b)(8)’s prohibition is on capital treatment and return on equity, not rate recovery. The statute specifically provides for utility recovery of “costs related to the pilot projects that are deemed just and reasonable.” BTM costs are necessarily incurred to execute SB 1221 pilots and without customer-side electrification subsidies, the pilots cannot function. The statute authorizes pilot programs and implicitly authorizes recovery of prudently incurred costs necessary to implement them. Rate recovery of BTM costs, treated as expenses rather than capital, is consistent with the statute. As TURN stated in its December 3, 2025, comments, “Where an expenditure is necessary for pilot execution but does not create a utility asset . . . it should be treated as pilot O&M and recovered without return.”<sup>4</sup>

TURN further recommends that to comply with the “just and reasonable” language of the statute any BTM cost recovery be subject to a reasonableness review and conditioned on the utility demonstrating that the expenditures were directly tied to an approved SB 1221

<sup>4</sup> TURN December 3, 2025, Opening Comments, p. 13.

pilot, were prudently incurred, and were reduced by all available non-ratepayer funding before ratepayer recover was sought.<sup>5</sup>

**C. Question 3: Should The Commission Authorize Expense Treatment for BTM Costs?**

Yes, expense treatment is a permissible approach under section 663(b)(8) and would fully honor the statutory prohibition on capital treatment. To the extent that recovering those costs entirely in the year incurred could produce rate spikes that harm the very ratepayers the pilots are designed to benefit, it would be difficult to justify in a reasonableness review absent a deferral mechanism. Accordingly, TURN recommends that the Commission authorize amortized expense treatment with carrying costs on the unamortized balance equal to either the then-current memorandum account and balancing account interest rate (the 60-day commercial paper rate) — a modification of Option 1 under Question 5 as presented in the ALJ Ruling – or the utility’s authorized cost of debt.<sup>6</sup>

Under this structure, BTM costs are recorded as incurred in a dedicated subaccount and are then recovered in rates through a defined amortization schedule. The unamortized balance earns an appropriate carrying cost to compensate for the time value of deferred recovery. No equity return is embedded, no asset appears on the utility’s books, and the prohibition of Section 663(b)(8) is fully honored.

TURN recommends an amortization period tied to the average effective useful life of the BTM electrification measures funded by the subsidy.<sup>7</sup> This aligns the recovery period

<sup>5</sup> TURN December 3, 2025, Opening Comments, p. 16

<sup>6</sup> The ALJ Ruling suggests the appropriate carrying cost for deferred balances of O&M expense is the utility’s authorized cost of debt. The Commission has long used the commercial paper rate as the appropriate carrying cost under such circumstances.

<sup>7</sup> TURN December 3, 2025, Opening Comments, pp. 14-15, 19-20.

with the period over which the funded measures provide value and avoids recovering costs after the underlying measured have reached end of life.

**D. Question 4: Should the Commission Authorize Regulatory Asset Treatment for BTM Costs?**

No, regulatory asset treatment is not appropriate for BTM costs and is not necessary. As TURN explained in its December 3, 2025, comments, the Commission has long distinguished between utility plant subject to traditional capital recovery and program expenditures tracked in memorandum accounts and reviewed for reasonableness before recovery.<sup>8</sup> BTM pilot costs belong in the latter category.

Adopting regulatory asset treatment for BTM costs would provide a vehicle for utilities to obtain a form of return on expenditures that Section 663(b)(8) explicitly prohibits. The Legislature's explicit bar on capital treatment for BTM costs would be rendered meaningless if the Commission authorized a functionally equivalent substitute. Existing ratemaking tools are sufficient. The amortized expense structure with appropriate carrying cost described in Question 3, above, achieves the same recovery-spreading objective through mechanisms the Commission routinely employs for program expenditures, without creating any ambiguity about whether the statutory prohibition has been honored.

**E. Question 5: If Regulatory Asset Treatment is Adopted, What Amortization Period, Depreciation Schedule, and Rate of Return Should Apply?**

As explained in response to Question 4, TURN does not recommend regulatory asset treatment for BTM costs and therefore does not propose parameters for such treatment. However, to the extent the Commission reaches Question 5, TURN reiterates that any carrying cost on deferred BTM balances should be limited to the then-current commercial

<sup>8</sup> TURN December 3, 2025, Opening Comments, p. 15.

paper rate, consistent with current ratemaking treatment of balances in regulatory accounts. If the Commission chooses to adopt a different carrying cost for purposes here, it should be no more than the utility's authorized cost of debt, as suggested in Option 1 of the ALJ Ruling.<sup>9</sup> Authorizing any return above this, whether framed as a midpoint as outlined in Option 2 or as a shareholder incentive as outlined in Option 3, introduces an equity return component in contravention of the clear prohibition in Section 663(b)(8). TURN likewise recommends that the amortization period should be the average useful life of the funded BTM measures.

#### **F. Additional Considerations**

Regardless of the recovery mechanism, TURN emphasizes that the utility must demonstrate that electrical upgrade costs are incremental. These costs must be excluded from recovery if they were already part of authorized electrical capacity work plans, ensuring that ratepayers do not pay twice for the same infrastructure.<sup>10</sup>

### **III. CONCLUSION**

Sections 663(b)(8) and 663 (b)(9) are harmonized, not conflicting, provisions that assign distinct ratemaking treatment to different cost categories. BTM costs may be recovered in rates but may not be capitalized or afforded the authorized rate of return. Option 1 (preferably modified to use the commercial paper rate rather than the authorized cost of debt) is the appropriate mechanism for recovery.

TURN appreciates the ALJ's careful development of the record on these issues and looks forward to responding to comments and recommendations made by other parties.

<sup>9</sup> ALJ Ruling, p. 3.

<sup>10</sup> TURN December 3, 2025, Opening Comments, p. 24.

Date: March 27, 2026

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By: \_\_\_\_\_/s/\_\_\_\_\_

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