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OF THE STATE OF CALIFORNIA

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REPLY COMMENTS OF THE UTILITY REFORM NETWORK ON THE PROPOSED DECISION IN RULEMAKING 24-09-012

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I. INTRODUCTION

Pursuant to Rule 14.3(d), TURN submits these reply comments in response to opening comments filed on June 18, 2026. The Proposed Decision ("PD") correctly implements SB 1221 by requiring expense treatment for behind-the-meter ("BTM") costs, prohibiting a rate of return ("ROR") on those costs, and mandating project-level cost-effectiveness assessment. The opening comments of Pacific Gas and Electric Company ("PG&E"), Southern California Gas Company and San Diego Gas & Electric Company ("Joint Utilities"), and Sierra Club and NRDC ("Environmental Commenters") seek to reargue issues the PD correctly resolved. Comments that simply re-assert positions the PD declined to adopt identify no factual, legal, or technical error and, under Rule 14.3(c), are entitled to no weight.

II. THE PD CORRECTLY BARS A RATE OF RETURN ON BTM COSTS IN ANY FORM, AS REQUIRED BY SECTION 663.

PG&E and the Joint Utilities argue that even if BTM costs are treated as expenses, they are entitled to recover their full authorized cost of capital through regulatory-asset treatment or through the cost-of-debt carrying charge as a WACC proxy.[1] The Environmental Commenters go further and affirmatively seek "an equity-focused shareholder incentive" tied to BTM-driven cost savings.[2] All three positions are inconsistent with Public Utilities Code § 663(b)(8) and merely reiterate arguments the Commission implicitly rejected.

Section 663(b)(8) prohibits utilities from recovering BTM costs as capital costs afforded a rate of return. That prohibition applies regardless of whether the utility labels the recovery mechanism a capital cost, a regulatory asset, or an incentive award. As SBUA correctly observes,

[1] PG&E Opening Comments, pp. 2-3; Joint Utilities Opening Comments, p. 8.
[2] Sierra Club/NRDC Opening Comments, p. 11.

the Final Decision should "further clarify that this limitation applies regardless of whether the costs are characterized as capital costs, regulatory assets, or another return-bearing mechanism."[3] TURN endorses that clarification. The regulatory-asset path PG&E and the Joint Utilities prefer produces exactly what § 663(b)(8) bars: a carrying charge that incorporates both a debt component and an equity component on expenditures made for customer-owned, non-utility assets.[4]

The Joint Utilities also rely on the Mobile Home Park decision of 12 years ago (D.14-03-021) to support ROR/regulatory-asset treatment. That reliance is misplaced because the Commission was then unconstrained by any statutory prohibition on capital or capital-equivalent treatment of BTM costs.[5] SBUA agrees.[6] This merely revives the same argument these parties made earlier and that the PD implicitly finds without merit. The Commission should reject the comparison.

On carrying costs, the PD correctly adopts a cost-of-debt ceiling rather than the full WACC sought by PG&E and the Joint Utilities.[7] PG&E's argument that the cost-of-debt option is functionally equivalent to WACC is contradicted by the statute: any carrying-cost formulation that incorporates an equity return component violates the plain language of § 663(b)(8).[8]

The Final Decision should also confirm that the § 663(b)(8) prohibition and § 663(b)(9)'s authorization of a return on non-BTM utility-side implementation assets are harmonized and govern different cost categories. TURN previously rebutted PG&E's reliance on § 451.9(b)(1) as an independent authorization for full cost-of-service on BTM expenditures[9] and nothing in PG&E's opening comments answers that rebuttal or identifies error in the PD.

[3] SBUA Opening Comments, pp. 4-5.
[4] TURN Reply Comments on ALJ Ruling, April 3, 2026, p. 3.
[5] TURN Reply Comments on ALJ Ruling, April 3, 2026, p. 6.
[6] SBUA Opening Comments, p. 5.
[7] PD Discussion § 10.1, pp. 65-67; COL 54, p. 81.
[8] TURN Reply Comments on ALJ Ruling, April 3, 2026, p. 9.
[9] TURN's Reply Comments on ALJ Ruling, April 3, 2026, p. 3.

III. THE TRACK 4 SHAREHOLDER INCENTIVE MUST NOT CIRCUMVENT § 663(b)(8)

The PD defers design of a performance-based shareholder incentive to Track 4.[10] TURN does not oppose a properly structured shareholder incentive, but a one-time award tied to BTM-driven cost savings is a return on the utility's BTM investment—deferred and contingent rather than immediate and guaranteed, but a return nonetheless. (TURN Reply Comments, April 3, 2026, p. 7.) Cal Advocates correctly notes that incentives predicated on pilot avoided costs are unsupported by evidence and "wholly speculative at best." (Cal Advocates Opening Comments, p. 5.) The Final Decision should direct that any Track 4 incentive mechanism be limited to utility-side implementation work authorized under § 663(b)(9) and not flow from the BTM expenditures whose earnings § 663(b)(8) restricts.

IV. PROJECT-LEVEL COST-EFFECTIVENESS IS REQUIRED BY THE STATUTE

PG&E seeks portfolio-level cost-effectiveness assessment to promote "equity and affordability."[11] The Environmental Commenters assert that project-level assessment is a "legal error" because nothing in the statute mandates it.[12] Both positions misread SB 1221. Section 663(b)(2) conditions authorization on each pilot's cost-effectiveness, not a portfolio average. Portfolio blending would obscure statutory noncompliance at the project level, particularly with respect to the BTM prohibition and consent thresholds. Indicated Shippers correctly recognize that the PD's project-specific framework is "supported by the record [and] consistent with statutory requirements."[13] The Commission should also reject the Joint Utilities' argument that the NPV

[10] PD Discussion § 10.2, pp. 67-69.
[11] PG&E Opening Comments, p. 12.
[12] Sierra Club/NRDC Opening Comments, pp. 11-12.
[13] Indicated Shippers Opening Comments, p. 4.

discount rate for the zero-emission alternative should be the utility's authorized cost of debt.[14] The Joint Utilities have not demonstrated a factual or legal error in the PD to support such a revision.

V. REJECT UTILITY REQUESTS TO EXPAND COST-EFFECTIVENESS OR COST RECOVERY

The Joint Utilities seek to add lost revenues from departing customers to the cost-effectiveness framework.[15] Favoring a utility in the cost-effectiveness calculation for customer departure inverts cost-causation principles and subsidizes the utility's own gas throughput loss. TURN urges rejection of this modification. The Joint Utilities also seek removal of the 10% administrative and outreach cost cap.[16] The cap reflects a reasonable compromise between ratepayers and the broader public beneficiaries of decarbonization. TURN endorses Cal Advocates' proposed extension of the cap to CBO funding and the application-development phase.[17]

On project-development spending for abandoned pilots, the PD's open-ended recovery authorization warrants tightening. TURN supports Cal Advocates' proposal to cap memorandum-account recovery at $3 million per project and require a lessons-learned report for each pilot found infeasible.[18] This is consistent with TURN's reasonableness-review posture and the non-ratepayer-maximization principle.[19] The Final Decision should also require that BTM cost recovery be conditioned on the utility demonstrating exhaustion of non-ratepayer funding sources.[20]

[14] Joint Utilities Opening Comments, p. 8.
[15] Joint Utilities Opening Comments, p. 8.
[16] Joint Utilities Opening Comments, p. 7.
[17] Cal Advocates Opening Comments, pp. 1-2.
[18] Cal Advocates Opening Comments, pp. 2-3.
[19] *See, e.g.*, TURN Opening Comments on ALJ Ruling, March 27, 2026, p. 3; TURN Reply Comments on ALJ Ruling, April 3, 2026, p. 10.
[20] TURN Opening Comments on ALJ Ruling, March 27, 2026, p. 4.

VI. THE APPLICATION PROCESS AND CONSENT THRESHOLDS SHOULD BE RETAINED AND STRENGTHENED

PG&E, the Joint Utilities, and the Environmental Commenters each propose variations of an Advice Letter process in lieu of the Application process the PD requires.[21] The Application process enables meaningful intervenor review of complex, site-specific proposals involving consent thresholds, incremental electric infrastructure costs, and BTM cost recovery. Advice Letter review lacks those protections. TURN endorses the Application requirement.

On consent, TURN supports Cal Advocates' recommendation to raise the pre-filing non-binding expression-of-interest threshold to 80% and add non-consent forms.[22] As Cal Advocates notes, where the pre-filing and post-approval thresholds are identical, no contingency is preserved. The Final Decision should also require pilot applications to include tenant-protection terms consistent with the "affordable, adequate, efficient" mandate of § 663(b)(3), as ECCHHC recommends.[23]

VII. CONCLUSION

The PD's core holdings of expense treatment for BTM costs, a cost-of-debt ceiling on carrying charges, and project-level cost-effectiveness assessment have ample record support, are legally correct and should be affirmed. The Final Decision should additionally close the regulatory-asset and Track 4 pathways that utilities and the Environmental Commenters are preserving to reintroduce equity returns on BTM expenditures in functional form. Comments urging the Commission to reconsider positions it has already considered and declined to adopt identify no cognizable error and should be accorded no weight.

[21] PG&E Opening Comments, pp. 5-7; Joint Utilities Opening Comments, pp. 6-7; Sierra Club/NRDC Opening Comments, pp. 1, 3-4.

[22] Cal Advocates Opening Comments, p. 4.

[23] ECCHHC Opening Comments, p. 2.

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Respectfully submitted,

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