

**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

**COMMENTS OF THE COALITION OF CALIFORNIA UTILITY
EMPLOYEES ON THE PROPOSED DECISION ESTABLISHING
APPLICATION PROCESS FOR SENATE BILL 1221 PILOT PROGRAM**

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RECOMMENDED CHANGES TO PROPOSED DECISION

- Eliminate the shareholder incentive.
- Include administrative and outreach costs in the cost effectiveness analysis.
- Establish standards for implementing SB 1221's preference for high road jobs.

TABLE OF AUTHORITIES

Statutes

Pub. Util. Code § 663(a).....4
Pub. Util. Code § 663(b)(2).....3, 4
Pub. Util. Code § 663(b)(6).....5
Pub. Util. Code § 663(b)(8).....2

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Pursuant to Rule 14.3 of the Commission’s Rules of Practice and Procedure, the Coalition of California Utility Employees (CUE) respectfully files these comments on the Proposed Decision Establishing Application Process for SB 1221 Neighborhood Decarbonization Pilot Program.

I. INTRODUCTION

In passing SB 1221, the Legislature intended to create a voluntary pilot program that is fair for gas ratepayers, does not enrich shareholders and creates high quality, high-road jobs. The PD correctly implements several provisions of SB 1221. For example, consistent with Public Utilities Code section 663(a), the PD makes clear that the pilot program is voluntary for the utilities. The PD also finds that SB 1221 prohibits utilities from earning a rate of return on behind-the-meter costs consistent with Public Utilities Code section 663(b)(8). The PD, however, is inconsistent with the plain language and intent of SB 1221 in three significant ways. First, the PD provides that the Commission will establish a financial

incentive for utility shareholders to participate in the pilot program which is inconsistent with the prohibition on shareholders earning a rate of return on behind-the-meter costs and undermines the goal of SB 1221 to reduce the costs that go into rates for remaining gas customers. Second, the PD excludes administrative and outreach costs from the cost effectiveness calculation which makes it impossible to do an apples-to-apples comparison of the costs of gas system investments and electrification alternatives as required by SB 1221. Third, the PD fails to establish standards for implementing SB 1221's preference for high road jobs. The Commission should correct these errors to implement the plain language and intent of SB 1221.

II. THE PD ERRS BY PROVIDING UTILITY SHAREHOLDERS A FINANCIAL INCENTIVE

The PD states that the:

Commission intends to establish a performance-based shareholder incentive mechanism to provide incentives for gas corporations to pursue pilot projects, consistent with statutory goals. The incentive should encourage utility participation in pilot programs by offering an opportunity to earn shareholder awards up to a set percentage of the pilots' actual cost savings, based on the project's realized savings and the effective implementation of the pilot.¹

A shareholder financial incentive was not contemplated by the Legislature when passing SB 1221. Indeed, on the contrary, the Legislature prohibited shareholders from earning a rate of return on a pilot's behind-the-meter costs.² This prohibition was added to SB 1221 in response to a recommended committee amendment "to

¹ PD, p 67.

² Pub. Util. Code § 663(b)(8).

include guard rails to protect customers” by “limit[ing] and narrow[ing] the program to” “[p]rohibit behind-the-meter costs from receiving capital asset recovery by the utility.”³ A shareholder financial incentive runs counter to this prohibition.

Moreover, reducing the costs that go into gas rates to mitigate the effect from building electrification on a shrinking pool of remaining gas customers is a primary purpose of SB 1221.⁴ SB 1221 repeatedly shows the intent of the Legislature to reduce gas system costs and 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.⁵

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***.⁶

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.⁷

³ 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).

⁴ Pub. Util. Code § 663(b)(2); OIR, pp. 4-5 (“The first risk of the gas transition is to potential cost and relatedly rate increases, primarily due to necessary maintenance of aging infrastructure, upgrades related State and Federal mandates, and future decline in fossil gas demand resulting in fixed costs being spread among fewer customers. To the extent that cost pressures result in gas rate increases that further incentivize customers to switch from gas to electricity, a feedback loop could result where costs become increasingly concentrated on a smaller pool of remaining customers. Because lower income customers and renters face more barriers to fuel substitution, this is one of the core equity challenges presented by the gas transition.”).

⁵ Sen. Bill 1221, 2023–2024 Reg. Sess., § 1(3) (Cal. 2024).

⁶ *Id.*, § 1(4).

⁷ *Id.*, § 1(6).

This legislative intent 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.***⁸

A pilot project should ***meaningfully reduce*** costs for remaining gas customers.

The Commission should want to use every penny of savings to help mitigate rising gas rates for remaining gas customers, not to pay shareholders. The PD should be revised to eliminate any shareholder incentive.

III. THE PD ERRS BY EXCLUDING ADMINISTRATIVE AND OUTREACH COSTS FROM THE COST EFFECTIVENESS CALCULATION

The PD provides that for a pilot project, “[t]he final determination of cost effectiveness should be based on the calculation that excludes costs funded by non-ratepayer sources and excludes administrative and outreach costs.”⁹ Excluding administrative and outreach costs is inconsistent with SB 1221.

SB 1221 requires the Commission to ensure that the pilot program “facilitates the cost effective decarbonization of priority neighborhood decarbonization zones”¹⁰ and requires the “***total cost*** incurred by the gas corporation for the zero-emission alternative” to “be less than the ***total cost*** that would have otherwise occurred.”¹¹ This means the gas system investment must be

⁸ Pub. Util. Code § 663(b)(2).

⁹ PD, pp. 60-61.

¹⁰ Pub. Util. Code § 663(a).

¹¹ *Id.* § 663(b)(2) (emphasis added).

compared, on an apples-to-apples basis, with the electrification alternative. The PD does not comply with this statutory requirement. Instead, the PD excludes administrative and outreach costs from the cost effectiveness determination.¹²

The Commission cannot cherry-pick costs to exclude from the cost effectiveness analysis. The Commission must abide by the statutory mandate to compare the *total cost* of the gas system investment to the *total cost* of the electrification alternative. The Commission is statutorily obligated to consider all costs when evaluating the cost-effectiveness of SB 1221 pilot projects. The Legislature created these pilots to help the state understand the full cost impacts of zonal decarbonization and how these projects can be effectively deployed to reduce the overall cost impact of the gas transition in the interest of affordability. The Commission should want (and is required) to evaluate the entire cost of an electrification alternative.

IV. THE PD ERRS BY FAILING TO ESTABLISH STANDARDS FOR IMPLEMENTING SB 1221'S PREFERENCE FOR HIGH ROAD JOBS

SB 1221 requires the Commission to establish “[a] preference for pilot projects that provide prevailing wages and use high road job programs.”¹³ As the Labor Coalition explained, the highly disaggregated nature of the behind-the-meter electrification market creates structural barriers to achieving SB 1221’s labor goals. The pilot projects present a unique opportunity to develop effective behind-the-meter aggregation and bundling strategies to overcome these barriers. Accordingly,

¹² PD, pp. 60-61.

¹³ Pub. Util. Code § 663(b)(6).

Attorneys for the Coalition of California
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