

STATE OF CALIFORNIA

PUBLIC UTILITIES COMMISSION

M e m o r a n d u m

Date: June 15, 2022

To: CPUC Commissioners
(Meeting of June 23, 2022)

From: Grant Mack, Director
Office of Governmental Affairs (OGA) – Sacramento

Subject: **Commission Position on CPUC Process Legislation – SB 599**
(Hueso): Public Utilities Commission: proceedings, reports, and
public utility procurement. (Version: As Amended, June 13, 2022)

RECOMMENDED POSITION: SUPPORT**REASON:**

This bill improves the ability of Commissioners to deliberate on matters before the Commission by authorizing closed session meetings to additionally include deliberation on Resolutions. This bill simplifies the current quiet period and closed session requirements by revising and recasting existing statute. This bill also sunsets an annual report to the Legislature for the California Solar Initiative (CSI) program, as the program ended in December 2021. Lastly, this bill updates statute for consistency with Senate Bill (SB) 255 (Bradford, 2019), which amended the Commission's Supplier Diversity program.

SUMMARY OF BILLS & STATUS

Status – In Assembly Committee. Set for hearing on June 29, 2022.

This bill would authorize the Commission to deliberate on Resolutions in closed session and would also clarify statutory requirements relating to quiet periods and closed sessions. Specifically, the bill -

- 1) Authorizes the Commission to meet in closed session to deliberate on a Proposed Decision, Order, or Resolution after providing three-day advanced notice to the public, except in an adjudicatory or quasi-legislative proceeding.
- 2) Requires the Commission to establish a quiet period during the three business days before the Commission's scheduled vote on a Decision, during which oral or written communications shall not be permitted, except in an adjudicatory or quasi-legislative proceeding.

This bill would also repeal the requirement for the Commission to submit to the Legislature an annual assessment of the CSI Program, as the last CSI-funded program ended on December 31, 2021.

The bill would also update several Public Utilities Code sections for consistency with statutory changes made by Senate Bill 255 (Bradford, 2019) related to the Commission's Supplier Diversity Program. Specifically, the bill –

- 1) Requires the Commission to include in its annual Supplier Diversity program report the progress of activities undertaken by electrical, gas, water, and telephone corporations as well as wireless telecommunications, electric service providers and community choice aggregators with gross annual California revenues between \$15 million and \$25 million to support increased procurement from women, minority, disabled veteran, and lesbian, gay, bisexual and transgender (LGBT) business enterprises.
- 2) Directs the Commission to require every electrical, gas, water, and telephone corporation as well as wireless telecommunications, and electric service providers with gross annual California revenues exceeding \$25 million, and their Commission-regulated subsidiaries and affiliates, to implement an outreach program for diverse supplier recruitment.
- 3) Would make it a crime for any person or corporation to falsely represent a business as a women, minority, disabled veteran, or LGBT business enterprise in the procurement, or attempted procurement, of contracts from an electric service provider with gross annual California revenues exceeding \$25 million or a Commission-regulated subsidiary or affiliate, or from electrical, gas, water, and telephone corporations as well as wireless telecommunications, and electric service providers with gross annual California revenues exceeding \$15 million.
- 4) Updates terminology that authorizes eligible corporations to consider certain measures to include women, minority, disabled veteran, and LGBT business enterprises and small businesses in all phases of contracting in contract procurement.

CURRENT LAW

Existing law:

- 1) Establishes the specific conditions under which the Commission may meet in closed session and requirements for quiet time prior to Commission voting meetings.
- 2) Authorizes the Commission to meet in closed session on any Proposed Decision in a catastrophic wildfire proceeding.

- 3) Establishes the CSI program and requires the Commission to submit a program assessment report to the Legislature each year.
- 4) Requires electric, gas, water, and telecommunications providers as well as community choice aggregators and electric service providers to participate in the Commission's Supplier Diversity program
- 5) Encourages distributed energy resource companies, energy storage companies, and certain wholesale electric generators to participate in the Commission's Supplier Diversity program.
- 6) Requires electrical, gas, water, and telecommunication providers to annually submit a detailed plan to the Commission on its Supplier Diversity practices and outreach efforts.
- 7) Requires the Commission, by September 1 of each year, to report on supplier diversity implementation, as outlined in the electrical, gas, water, and telecommunication providers' annual Supplier Diversity plans.

CRITICAL ANALYSIS:

The ability of Commissioners to meet in closed session to discuss and deliberate the diverse public input they receive, and complex legal and technical issues that may arise, is a right that has been granted in statute. As recently as 2016 under the *Principles of Reform*, then Governor Edmund G. Brown Jr. and the Legislature affirmed the Commission's ability to discuss matters in closed session by authorizing the Commission to consider administrative and managerial issues in closed session. This bill, by expanding closed session meetings to additionally include deliberation of Resolutions after sufficient public notice, provides the Commission with additional flexibility to consider these items before the body.

Additionally, the bill revises complicated language in Public Utilities Code Section 1701.3 and recasts the language in simplified terms in a new section (Public Utilities Code Section 1701.9). These changes will provide the Commission with more straight-forward direction on imposing quiet periods prior to Commission voting meetings and the conditions for convening closed sessions meetings. Most importantly, the language in the bill makes all these changes while preserving due process for parties and public transparency.

The bill repeals the requirement for the Commission to complete an annual assessment on the CSI program as of January 1, 2024, given that the last program ended as of December 31, 2021 - the Multifamily Affordable Solar Housing (MASH). As background, in January 2007, California launched a \$3.3 billion ratepayer-funded effort to install 3,000 megawatts (MW) of new distributed behind-the-meter (BTM) solar photovoltaic systems over a decade and transform the market for solar energy by reducing the cost

of solar generating equipment. The Commissions portion of the solar effort is known as the CSI program. The CSI program goal was to install 1,940 MW of BTM solar PV capacity, and, along with other statewide solar PV programs, transition the solar PV industry to a point where it could be self-sustaining without subsidies. The CSI Annual Program Assessment meets the statutory requirement for a yearly report to the Legislature on the progress of the CSI program.

Absent a statutory modification, Commission resources will continue to be spent updating, reviewing, and publishing a report that does not contain any new information. There are no known alternative policy or administrative solutions to sunset this reporting requirement. Sunsetting the report requirement after the program has terminated brings a natural conclusion to the program.

Lastly, the bill makes statutory changes for consistency with SB 255 (Bradford, 2019) which modified Public Utilities Code (PU Code) Sections 366.2 and 8283. Under current statute, the Commission is only required to provide a report to the Legislature on the progress of electrical, gas, water, wireless telecommunications service providers, and telephone corporations, with gross annual revenues exceeding \$25 million, made in procuring from women, minority, disabled veteran, LGBT business enterprises. Current statute does not reflect the requirements SB 255 (Bradford, 2019) added for electric service providers and community choice aggregators, the change to annual California revenues, and the additional reporting requirement threshold for electrical, gas, water and, wireless telecommunications service providers, telephone corporations, and electric service providers with annual California revenues between \$15 million and \$25 million. This bill ensures that statute reflects consistent Supplier Diversity program participation and reporting requirements for these entities.

CUMULATIVE RATEPAYER IMPACT

This bill would have minimal ratepayer impact; however, it would allow the Commission to conduct its work to protect ratepayers more efficiently.

STAFF CONTACTS:

Grant Mack, Director

Grant.Mack@cpuc.ca.gov

Lori Misicka, Senior Budget Liaison

Lori.Misicka@cpuc.ca.gov

Marina MacLatchie, Legislative Consultant

Marina.Maclatchie@cpuc.ca.gov

Amanda Singh, Legislative Consultant

Amanda.Singh@cpuc.ca.gov