

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Order Instituting Rulemaking Regarding
Building Decarbonization.

Rulemaking 19-01-011

**MOTION OF THE CALIFORNIA PUBLIC ADVOCATES OFFICE
TO AMEND THE ASSIGNED COMMISSIONER'S SCOPING MEMO
AND RULING**

AYAT OSMAN, Ph.D.

Analyst for the
Public Advocates Office

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-1567
Email: Ayat.Osman@cpuc.ca.gov

KERRIANN SHEPPARD

Attorney for the
Public Advocates Office

California Public Utilities Commission
300 Capitol Mall, 4th Floor
Sacramento, CA 95814
Telephone: (916) 327-6771
Email: Kerriann.Sheppard@cpuc.ca.gov

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I. INTRODUCTION

Pursuant to Rule 11.1 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure, the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) submits the following Motion to Amend the Assigned Commissioner's *Scoping Memo and Ruling* (Scoping Memo), issued on May 17, 2019. The Scoping Memo includes the scope and schedule for this proceeding.¹

The Public Advocates Office requests that the Commission amend the Scoping Memo to include the following issues in the scope of this proceeding:

- Funding mechanism and program budgets; and
- Customer eligibility for benefits of the Building Initiative for Low-emissions Development (BUILD) Program and the Technology and Equipment for Clean Heating (TECH) Initiative.

This amendment is necessary to ensure that funding and program budgets are considered as stated in this Order Instituting Rulemaking 19-01-011 (OIR)² issued by the Commission on February 8, 2019.

II. RECOMMENDATIONS

Pursuant to Rules 1.3(g) and 7.3, the Scoping Memo determines the issues to be addressed in a proceeding. Therefore, if an issue is not identified in the Scoping Memo, it will not be considered in the proceeding. The Scoping Memo in this proceeding does not specifically identify funding mechanisms, program budgets, and customer eligibility for benefits of the BUILD Program and the TECH Initiative, as issues to be addressed within the scope of this proceeding. These issues must be included to ensure that the Commission adheres to Public Utilities (Pub. Util.) Code §748.6, §921 and §922, and Senate Bill (SB) 1477³ as discussed in detail below. It is necessary to amend the Scoping

¹ OIR <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M264/K629/264629773.PDF>.

² OIR, Section 2.1.1, p.11, and Section 3. Question 4. p. 20.
<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M264/K629/264629773.PDF>.

³ SB 1477, Chapter 378, an act to amend §748.6, and to add Article 12 (commencing with §921) and

Memo in this proceeding to ensure that these issues are included as part of the scope in this proceeding.

1. The Commission should include funding and program budgets as part of the scope of this proceeding.

Statutory requirements in Pub. Util. Code §748.6,⁴ §921⁵ and §922⁶ detail the requirements for allocating funding to fund the BUILD Program and the TECH Initiative.

While the OIR includes the funding and program budgets as issues in the preliminary scope,⁷ these issues were not included in the Scoping Memo and, therefore, appear to be excluded from within the scope of this proceeding. The Commission should amend the Scoping Memo to include the funding issue for the BUILD and TECH programs as required by Pub. Util. Code §748.6, §921 and §922.

Moreover, SB 1477 specified that \$50 million from the proceeds of freely allocated greenhouse gas (GHG) allowances to natural gas investor-owned utilities (IOU) must be used to fund the BUILD and TECH programs. However, those funds are already

Article 13 (commencing with §922) to Chapter 4 of Part 1 of Division 1 of, the Public Utilities Code, relating to energy. September 14, 2018.

⁴ Pub. Util. Code §748.6 “Beginning with the fiscal year commencing July 1, 2019, and ending with the fiscal year ending June 30, 2023, the commission shall annually allocate fifty million dollars (\$50,000,000) of the revenues, including any accrued interest, received by a gas corporation as a result of the direct allocation of greenhouse gas emissions allowances provided to gas corporations as part of a market-based compliance mechanism adopted pursuant to subdivision (c) of Section 38562 of the Health and Safety Code to fund the Building Initiative for Low-emissions Development (BUILD) Program (Article 12 (commencing with Section 921)) and the Technology and Equipment for Clean Heating (TECH) Initiative (Article 13 (commencing with Section 922)).”

⁵ Pub. Util. Code §921.1(c)(1) “To encourage the adoption of near-zero-emission building technologies in new low-income residential housing located in disadvantaged communities or low-income communities, the program shall reserve a minimum of 30 percent of the amount allocated pursuant to Section 748.6 for new low-income residential housing.”

⁶ Pub. Util. Code §922(a)(1) The commission shall develop and supervise the administration of the Technology and Equipment for Clean Heating (TECH) Initiative, a statewide market development initiative, to require gas corporations to advance the state’s market for low-emission space and water heating equipment for new and existing residential buildings through upstream market development, consumer education, contractor and vendor training, and the provision of upstream and midstream incentives to install low-emission space and water heating equipment in existing and new buildings, with technologies identified pursuant to subdivision (b).

⁷ OIR, Section 2.1.1, p.11, and Section 3. Question 4. p. 20.

<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M264/K629/264629773.PDF>

fully allocated, and must be reconsidered and reallocated in order to make available the statutorily required funding mechanism. As noted in the Public Advocates Office's Reply Comments on the OIR,⁸ in Decision (D.) 15-10-032 and, subsequently D.18-03-017, the Commission determined that proceeds obtained from the consignment of directly allocated allowances to natural gas IOUs shall all be returned to residential customers in the form of a bill credit, the California Climate Credit, primarily to alleviate the compliance cost burden on residential and low-income ratepayers. The un-consigned amounts are used by the natural gas Investor Owned Utilities (IOUs) to offset the cost of compliance with the Cap and Trade program. Since the Commission did not earmark any portion of the allocated allowances to the natural gas IOUs to fund clean energy or energy efficiency projects, the Commission currently lacks a mechanism to allocate \$50 million in GHG allowance proceeds for the BUILD program and TECH initiative, as required by SB 1477. Accordingly, the Commission must authorize a funding mechanism to comply with the statute.

Furthermore, SB 1477 does not specify the respective budgets for the BUILD program and the TECH initiative. As a part of this proceeding, the Commission needs to determine how to establish the budgets for these programs including determining budget caps for program administration, marketing, education and outreach, as well as program evaluation. The current scope of the proceeding does not allow for consideration of these critical issues.

The Public Advocates Office recommends the addition of the following highlighted issues as sub-issues to Item 1 in the Scoping Memo:

1. How should the Commission implement SB 1477 (2018, Stern)?
 - a. *How should the Commission authorize the funding for the BUILD program and the TECH Initiative pursuant to Public Utilities Code § 748.6?*
 - b. *How should the Commission establish the budgets for the BUILD program and the TECH Initiative?*

⁸ California Public Advocates Office's Reply Comments, Section III. 2. Pp.3-5.
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M277/K022/277022340.PDF>

2. The Commission should include customer eligibility for the BUILD and TECH programs as part of the scope of this proceeding.

California Air Resource Board (CARB) regulations require that “[a]llowance value, including any allocated allowance auction proceeds, obtained by a natural gas supplier must be used for the primary benefit of retail natural gas ratepayers of each natural gas supplier, consistent with the goals of AB [Assembly Bill] 32, and may not be used for the benefit of entities or persons other than such ratepayers.”² Because the BUILD program and TECH initiative will be funded from proceeds of the freely allocated GHG allowances to the natural gas IOUs, statutory funding requirements under the Cap-and-Trade regulations would limit the benefits of the BUILD program and TECH initiative primarily to residential customers of the natural gas IOUs who incur the GHG emissions compliance costs.

The Public Advocates Office recommends the Commission include the following highlighted issues regarding customer eligibility for the BUILD program and TECH initiative as sub-issues to Items 1.c and 1.d in the Scoping Memo:

1. How should the Commission implement SB 1477 (2018, Stern)?
 - c. What program design parameters should the Commission establish for the BUILD program?
 - i. Technology eligibility criteria;
 - ii. Process for evaluating new technologies;
 - iii. Guidelines and evaluation metrics;
 - iv. Criteria for scoring and selecting projects; and
 - v. *Customer eligibility for benefits of BUILD program.*
 - d. What program design parameters should the Commission establish for the TECH program?
 - i. Technology eligibility criteria;
 - ii. Process for evaluating new technologies;
 - iii. Guidelines and evaluation metrics;

² Title 17 CCR Section 95893 (d) (3).

- iv. Criteria for scoring and selecting projects; and
- v. *Customer eligibility for benefits of TECH program.*

III. CONCLUSION

The Public Advocates Office requests that the Commission adopt the recommendations in this motion and amend the Scoping Memo so that the issues of funding mechanism, program budgets, and customer eligibility for the BUILD Program and the TECH Initiative are clearly identified as within the scope of this proceeding.

Respectfully submitted,

/s/ KERRIANN SHEPPARD

KERRIANN SHEPPARD

Attorney for the
Public Advocates Office

California Public Utilities Commission
300 Capitol Mall, 4th Floor
Sacramento, CA 95814
Telephone: (916)327-6771
Email: Kerriann.Sheppard@cpuc.ca.gov

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