STATE OF CALIFORNIA EDMUND G. BROWN JR., *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

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June 25, 2013

Agenda ID #12219
Ratesetting

TO PARTIES OF RECORD IN APPLICATION 12-07-001 ET AL.:

This is the proposed decision of Administrative Law Judge (ALJ) Melanie M. Darling. It will not appear on the Commission's agenda sooner than 30 days from the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the proposed decision as provided in Article 14 of the Commission's Rules of Practice and Procedure (Rules), accessible on the Commission's website at www.cpuc.ca.gov. Pursuant to Rule 14.3, opening comments shall not exceed 15 pages.

Comments must be filed pursuant to Rule 1.13 either electronically or in hard copy. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to ALJ Darling at md2@cpuc.ca.gov and the assigned Commissioner. The current service list for this proceeding is available on the Commission's website at www.cpuc.ca.gov.

/s/ KAREN V. CLOPTON
Karen V. Clopton, Chief
Administrative Law Judge

KVC:jv1

Attachment

Decision **PROPOSED DECISION OF ALJ DARLING** (Mailed 6/25/2013)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Approval of 2013-2014 Energy Efficiency Programs and Budget (U39M).	Application 12-07-001 (Filed July 2, 2012)
And Related Matters.	Application 12-07-002 Application 12-07-003 Application 12-07-004

DECISION IMPLEMENTING 2013-2014 ENERGY EFFICIENCY FINANCING PILOT PROGRAMS

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1. Summary

California's Energy Efficiency Strategic Plan states a target of 30 percent reduction in existing home energy purchases of 75 percent of all existing homes by 2020, or 1.2 million homes annually. Lowering the barriers to energy efficiency retrofits and financing in under-served market sectors is critical to reaching the state's goals.

In Decision (D.) 12-11-015, the Commission adopted 2013 - 2014 energy efficiency (EE) programs for Southern California Edison Company, Pacific Gas and Electric Company, Southern California Gas Company, and San Diego Gas & Electric Company (collectively "IOUs"), and included preliminary approval of up to $75.2 million of ratepayer funds for innovative EE Financing pilot programs.[1] However, a previously ordered expert consultant's report recommending several EE financing pilot programs, and comments thereon by the IOUs and other parties, were received too late to authorize specific programs.[2]

This decision authorizes up to $65.9 million to launch the implementation of the 2013 - 2014 EE financing pilot programs initially developed by the expert consultant, and modified as a result of comments filed by the parties. The Commission's goals include developing new, scalable, and leveraged financing products to offer consumers to help them produce deeper energy efficiency projects than previously achieved through traditional program approaches (e.g., audits, rebates, and information).

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[1] D.12-11-015 at 67.

[2] D.12-05-015 at 400 OP 21 (Rulemaking 09-11-014).

A core feature of the authorized pilots is the use of limited ratepayer funds for "credit enhancements," such as a loan loss reserve, to provide additional security to third party lenders. The lenders, in turn, should provide greater consumer access to enhanced loan terms. The pilot programs will test whether transitional ratepayer support for expanded access to EE financing in under-served market sectors, will trigger innovative, self-supporting programs in the future.

The innovative EE financing pilot programs authorized in this decision require coordination of many moving parts with multiple participants. The administrative hub, identified as the Energy Efficiency Financing Entity (EEFE), is designed to increase the flow of private capital to energy efficiency projects. It is expected to accomplish this by providing a simple, streamlined structure through which energy users, financial institutions, energy efficiency providers and IOUs can participate in a standardized "open market" that facilitates EE financing in California.

The Decision authorizes a state agency, California Alternative Energy & Alternative Transportation Financing Authority (CAEATFA), to assume the EEFE functions. CAEATFA has experience with managing potentially compatible residential and commercial EE financing programs. However, CAEATFA needs to complete pending executive and legislative modifications to its budgetary authority prior to agreeing to assume these duties.

Until CAEATFA can act, Southern California Gas Company is directed to perform certain initial EEFE functions in order to kick-start the development of the standardized financial products, infrastructure, data collection, and program timelines. Both the EEFE and the pilots will be phased in, beginning in the third

quarter of 2013. The Commission anticipates that CAEATFA will be able to assume some or all of the EEFE functions by then, subject to legislative action.

Three residential EE financing pilot programs are approved; none would permit shut off of electric service as a result of non-payment of EE financing obligations. One program addresses support for direct loans to the single family market sector, complemented by another program which allows the loan payment to appear as an itemized charge on the electric bill. A third pilot program targets a segment of the multifamily market: master-metered multifamily buildings that house primarily low-moderate income households. The multifamily debt service would also occur on the utility bill. Each of these market sectors should provide useful data to evaluate future programs.

The decision also authorizes three non-residential EE financing pilot programs, two for small businesses, and includes an expansion of on-bill utility collection of the monthly finance payments. The On-Bill Repayment (OBR) feature would test the hypothesis that payment on the utility bill will increase debt service performance across market sectors. No "credit enhancements" (i.e., ratepayer funds) are authorized to support OBR financing for medium and large businesses.

The Commission's development of effective energy efficiency financing programs, particularly for underserved segments of energy users, advances overall state and Commission policies to reduce energy consumption. Adoption of the pilot programs in this decision is a bold step toward opening financing to more California energy customers than ever before.

2. Background

The Commission initiated Rulemaking (R.) 09-11-014 to examine the

Commission's Post-2008 EE policies, programs, evaluation, measurement, and verification, and related issues. This was in part in response to AB 758, which required the PUC through its proceedings to investigate the ability of utilities to provide energy efficiency financing options to implement the comprehensive program called for by AB 758.[3] In the resulting decision, D. 12-05-015 (Guidance Decision), the Commission gave guidance to the IOUs for their 2013-2014 EE programs, including direction to expand EE financing by development of a portfolio of options at a cost of some $200 million over the two-year period.[4]

The Commission required portfolio applications from Southern California Edison Company, Pacific Gas and Electric Company, Southern California Gas Company, and San Diego Gas & Electric Company (collectively "IOUs) and invited proposals for regional energy networks (RENs) from local government entities. In Applications (A.) 12-07-001 and A.12-07-004, the IOUs also proposed three types of financing programs to be offered in 2013-14: continuation of (possibly modified) on-bill financing, continuation of financing programs previously funded by American Recovery & Reinvestment Act of 2009 (ARRA), and new pilot programs to be developed by an expert statewide financing consultant hired by San Diego Gas & Electric Company and Southern California Gas Company (SDG&E/SoCalGas).[5] Harcourt, Brown & Carey (HBC) was hired as the consultant.

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[3] AB 758, Chapter 470, Statutes of 2009.

[4] *Id*. at 2-3.

[5] Harcourt Brown & Carey.

HBC's proposals for new pilot programs were presented in a public workshop on October 2, 2012, stakeholder comments were solicited, and a final report (Report) was filed and served in this proceeding on October 19, 2012. By subsequent ruling, the Administrative Law Judge (ALJ) requested supplemental information and comments on HBC's financing proposals.[6]

In November 2012, the Commission adopted D.12-11-015 approving a portfolio of energy efficiency programs and budgets to be implemented in 2013 and 2014 by Pacific Gas and Electric Company (PG&E), SDG&E, SoCalGas, and Southern California Edison Company (SCE), (collectively, the IOUs), as well as two RENs: San Francisco Bay Area Regional Energy Network and Southern California Regional Energy Network, and one community choice aggregator (CCA): Marin Energy Authority (MEA).

The Commission reserved funding for the new financing pilots being developed by HBC.[7] Due to the timing of HBC's work, the Commission was not able to evaluate the substance of those proposals in D.12-11-015. Thus, the Commission deferred consideration of the pilot programs until after D.12-11-015 was adopted, and delegated authority to the assigned Commissioner to finalize the design and launch of the new financing pilot programs.[8]

To facilitate review of the pilot program proposals, on November 16, 2012, the ALJ issued a ruling requesting SDG&E/SoCalGas, and/or HBC to provide certain supplemental information to be filed and served by November 30, 2012.

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[6] ALJ Ruling Requesting Supplemental Information and Comments on Expert Consultant Financing Pilot Proposals issued November 16, 2012.

[7] D.12-11-015 at 64.

[8] Ibid.

SDG&E/SoCalGas filed a timely response. Interested parties were invited to file and serve comments by December 14, 2012, and reply comments by no later than December 21, 2012.

Opening Comments were jointly filed by filed by SDG&E/SoCalGas and by SCE, PG&E, Division of Ratepayer Advocates (DRA), CRHMFA Homebuyer's Fund (CHF), Metrus Energy, Inc. (Metrus), California Construction Industry Labor Management Cooperation Trust (CCILMCT), Women's Energy Matters (WEM), National Association of Energy Service Companies (NAESCO), Environmental Health Coalition (EHC), Renewable Funding LLC (Renewable Funding), Natural Resources Defense Council (NRDC), Global Green USA (Global Green), Local Government Sustainable Energy Coalition (LGSEC), California Housing Partnership Corporation (CHCPC), Consumer Electronics Association (CEA), and jointly by The Greenlining Institute, Green For All, and The Utility Reform Network (collectively, Greenlining, et al). Reply Comments were filed by SCE, PG&E, SDG&E/SoCalGas, DRA, EHC, Greenlining et al., Renewable Funding, and LGSEC.

After reviewing the comments, Commission staff asked HBC to clarify certain features of HBC's recommendations relating to the movement and control of ratepayer funds. On June 12, 2013, the ALJ issued a ruling which attached several pages of power point slides provided by HBC in response to these inquiries. Parties were invited to comment on HBC's clarification of its contemplated flow of ratepayer funds and protections to ensure dedication of the funds to the authorized uses. The additional information and comments thereon have been considered by the Commission.

Upon review of the record and in consideration of the innovative framework envisioned by the proposals and the parties, the assigned

Commissioner chose to bring the launch of the EE Financing pilot programs before the full Commission in the form of this decision.

3. Energy Efficiency Financing Pilot Programs

3.1. Overview

In D.12-11-051, the Commission authorized $75.2 million for EE Financing pilot programs to be implemented in 2013-2014 (pilot period), including up to $20 million for marketing the pilots. We also authorized additional funds for pilots to be carried out by MEA, BayREN and SoCal REN, three of which are considered in this decision.[9] The Commission's overall EE financing goals include creation of innovative financing programs to ensure that financing instruments are available to all users, particularly underserved segments of energy users.

To advance these goals, HBC led the project team which examined EE finance around the country and organized input from hundreds of experts and stakeholders.[10] The resulting HBC Report (Report) recommended a number of pilot programs for residential and non-residential customers to be coordinated through a central entity, identified as the "Hub."[11]

The Commission authorizes development of several of these programs to test EE capital incentives in both residential and non-residential markets. We agree with HBC and other parties that a centralized entity is essential to development of programs suitably attractive to private capital, in addition to

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[9] D.12-11-015 at 67, 103.

[10] "Recommendations For Energy Efficiency Pilot Programs" (Report) filed on October 19, 2012 by SDG&E/SoCalGas at 1.

[11] Report at 17-18.

providing financial controls and program administration. In this decision, the "Hub" is identified as the Energy Efficiency Financing Entity (EEFE). The EEFE has core centralized functions related to program development, implementation, and reporting.

A cornerstone of the recommended pilot programs is a "credit enhancement" strategy (e.g., loan loss reserve) for residential and non-residential markets in which ratepayer funds are leveraged to achieve more deal flow, primarily through reduced interest rates, during the pilot period. A second critical element is the introduction of a repayment feature on a customer's utility bill for non-utility EE financing. Significantly, no residential service disconnection is authorized for non-payment of EE loans. Third, is a data base of loan repayment history to inform what hopefully will become a new "asset class'' for the financial industry (described below).

The EEFE will work closely with the IOUs to ensure they cooperatively and economically develop information technology (IT) infrastructure compatible with the cash and information management requirements of the programs. We generally agree with parties who advised that substantial investments in IT infrastructure be phased to parallel program growth. On the other hand, it is critical that the EEFE early on build the data set needed to demonstrate the value of EE improvements, repayment performance, and any alternative security aspects which could reduce the need for ratepayer–funded credit enhancements (CE) the future.

Under the Commission's oversight, the EEFE will develop the terms and conditions of financial products offered through the pilot programs, coordinate and track the deal flow between qualified financial institutions (FI), IOUs, and customers, protect the integrity of ratepayer funds held as CE, provide

transparency, and ensure compliance by the FIs, qualified contractors, and the IOUs.

The EEFE will negotiate Lender Service Agreements (LSA) with FIs to establish financial products, ensure FIs conform with the terms of the pilot program in which they are participating, and for any additional requirements related to the use of CEs. Through a Master Servicer agent, the EEFE will manage the flow of ratepayer funds and data between the IOUs, EEFE, and the FIs as needed.

To protect the integrity of ratepayer funds allocated to CEs, the EEFE will initiate trust accounts (CE Holding Account) at a national bank to hold CE funds received from the IOUs and allocated to approved financing; and trust accounts (CE Pool Account) to receive CE funds transferred from the Holding Account when an FI reports the EE financing was released and repayment obligations have been triggered, subject to qualified FI drawdowns as required. As described in more detail in Sections 3.2 and 6, the EEFE and the IOUs shall closely monitor all transfers to ensure ratepayer funds are only disbursed into the CE pool after the financing transaction has closed and the borrower is obligated to make repayment.

Nearly all parties supported the idea of new statewide EE financing pilot programs, although several expressed concerns about or sought changes to particular program aspects. For example, Greenlining et al. stated general support of "the concept of a centralized and open market platform that standardizes and coordinates application processing, underwriting, funding, repayment, credit enhancements, and other core functions…. critical to

leveraging sufficient capital to realize scale."[12] On the other hand, NAESCO disputed the value of trying to use financing to drive penetration into certain segments of the EE market and claimed it diverts ratepayer funds from proven approaches.[13]

The IOUs generally supported the expansion of EE financing pilot programs tempered by concerns about debt collection activities and sufficient funding for IT. For example, SDG&E/SoCalGas raised questions whether on-bill repayment (OBR) of private debt would subject them to additional legal or regulatory risks and duties. The IOUs also commented that time and cost estimates for the IT upgrades are very tentative until the programs are authorized, specific design parameters and business requirements are resolved, and implementation begins. In this decision, the Commission finds these issues are resolvable and should not serve as obstacles to testing the important premises of the pilot programs.

Commission oversight will be critical to protecting the integrity of ratepayer funds allocated to support EE financing programs. Although we will delegate program development, LSA negotiations, cash management, and data flow responsibilities to the EEFE, we set clear guidelines in the decision for execution of these tasks. In addition, we establish standard and special program reporting requirements to ensure that the Commission maintains an accurate understanding of the EE financing implementation and EEFE operations.

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[12] Greenlining Comments at 2.

[13] NAESCO Response at 3.

In order to instigate the rapid development and implementation of the authorized programs, some EEFE functions must be promptly performed. HBC recommended that a state agency, California Alternative Energy & Advanced CAEATFA, (part of the State Treasurer's Office (STO)), assume the EEFE functions.

CAEATFA has some limited experience managing the AB 1x 14 energy loan loss reserve program,[14] and we recognize the more extensive financial expertise of its parent STO and related California Pollution Control Financing Authority that administers small business finance programs. It is our preference that EEFE functions be performed by a state agency subject to standard fiscal controls and the open meeting requirements.

Therefore, this decision affirms that CAEATFA/STO is uniquely positioned to manage potentially compatible residential and commercial EE financing programs. The Commission finds it is in the public interest to obtain a successful outcome of the pilots, best served by our request that CAEATFA/STO take on the role of the EEFE. CAEATFA may use ratepayer EE financing pilot funds allocated to the implementation of the EEFE, for the staff and technical resources required for CAEATFA to perform these functions.

Statutory and budget authority for CAEATFA to assume the EEFE role is currently under discussion with the Department of Finance and in the Legislature. Subject to receiving such authorizion, the Commission designates

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[14] AB 1x 14 (c. 9 Statutes of 2011) requires CAEAFTA and Cellular Wholesale to administer a Clean Energy Upgrade Program using up to $50 million from the Renewable Resource Trust Fund. This legislation allows CAEATFA to provide financial assistance in the form of loan loss reserves or other credit enhancements as approved by the Board.

CAEAFTA as the EEFE. An interagency agreement between the Commission and CAEATFA will formalize the relationship, as set forth in Section 6. Should the authorization not be granted by the date of this decision, SoCalGas is authorized to act as "start-up" EEFE and to take immediate steps to begin implementation of the authorized pilot programs.

A key first step should be to initiate Requests for Proposal (RFP) for an EEFE Master Servicer and Technical Consultants (e.g., financial products, information technology). Creation of the EEFE, and hiring of a Master Servicer and Technical Advisors, is discussed in more detail in Sections 6 and 6.2. SoCalGas shall consult and coordinate with CAEATFA in all aspects of program implementation until CAEATFA is authorized and capable of taking over the EEFE functions.

Issues related to qualification and oversight of FIs, contractors, and IOUs, standardization of financial products, data collection, quality assurance, and timeline, as well as specific program elements are discussed below.

3.2. Credit Enhancements

The Report finds that "credit enhancements (CE)" are an important incentive for financial institutions to expand access to their loan products and improve finance product terms into targeted markets.[15] The term covers a range of mechanisms that set aside ratepayer or other funds to support repayment of the EE Financing loans in case of default or nonpayment. In the Guidance Decision, we directed that the new EE Financing proposals should include CEs

[15] Report at 17, 34.

for both residential and small business non-residential markets, and include expansion of on-bill repayment for all non-residential customers.[16]

Nearly all parties agreed with the Report's view that CE funds are likely to expand financing options particularly to support loans to borrowers not otherwise reached by existing CEs. Generally enthusiastic non-utility parties expressed varying degrees of support for specific CEs proposed. In their Responses, the IOUs modified their prior policy opposition to the limited use of ratepayer funds to support CEs in EE pilot programs.

There was broad agreement among parties that the Commission should not specify exact terms for financial products in order for FIs to access CE funds. "As long as FIs adhere to general credit enhancement terms defined under the pilots, specifics should be limited in nature."[17] Instead, parties (e.g., PG&E, Global Green, DRA, CHF) agreed that the EEFE should have flexibility within Commission guidelines, to avoid onerous restrictions that could limit new products and deal flow.[18] Nonetheless, we think certain features, such as how CEs are applied and recovered, should be consistent in different pilots to improve oversight.

The Commission finds it reasonable to utilize limited ratepayer funds for credit enhancements negotiated by the EEFE for approved pilot programs during the pilot period in order to test their effectiveness in stimulating broader access to EE financing. These credit enhancements will be reviewed by the Commission

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[16] D.12-05-015 at 20-21,117.

[17] Renewable Funding Response at 4.

[18] LGSEC Comments at 5-6; Joint IOUs Response at 6.

pursuant to Program Implementation Plans submitted by the IOUs, described in more detail in Section 13.

In order to foster competition and to ensure support of successful financing tools, we also adopt HBC's recommendation for a single credit enhancement pool for each pilot program made available to all pre-qualified FIs to draw down from on a first-come-first-served basis (CE Pool Account).[19] The EEFE shall open one or more trust accounts at a national bank to serve as an "IOU Holding Account," for the benefit of ratepayers, to hold CE funds received from the IOUs and allocated to approved financing. The EEFE and IOUs shall develop a mutually acceptable schedule for periodic transfer of CE funds from the IOUs to the Holding Account in anticipation of estimated approved financing.

Ratepayer funds allocated to CEs in the Holding Account will not be disbursed until after the FI has released the financing to the borrower. This could take up to ninety days. The use of trust accounts created under the authority of the EEFE, subject to the bank's exercise of a Trustee's fiduciary duty, protects the funds from inappropriate withdrawal or misapplication.

The EEFE will also open one or more trust accounts (CE Pool Account), for the benefit of the participating FIs, to receive CE funds transferred from the Holding Account when an FI reports the EE financing was released and repayment obligations have been triggered (e.g., upon completion of the EE improvements.) Funded CEs are subject to qualified FI drawdowns as required.

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[19] Report at 34.

If the financing transaction does not close (i.e., funding released) within 90 days of FI approval of the financing, the allocated CE funds shall be returned to the utility for the benefit of ratepayers.

In order to protect the integrity and liquidity of the CE Pool Account funds, no more than 90% may be invested at any given time, and may only be invested in limited-term fixed-income securities. The Commission's initial guidelines for financial products, including credit enhancements, are attached hereto as Appendix A.

Nothing in this decision prohibits CAEATFA's/STO's existing credit enhancements from being harmonized with the CEs implemented by the pilot programs.

The Commission authorizes the use of CEs as part of the pilot programs authorized in this decision (except for OBR for medium and large businesses). Two types of CEs are specifically authorized: Loan Loss Reserve (LLR) and Debt Service Reserve Fund (DSRF). In addition, the EEFE Manager is given flexibility to structure CEs differently among pilot participants with the goal of maximizing loan qualification and benefits to customers.

3.2.1. Loan Loss Reserve

A LLR sets aside a certain amount of money (reserves) to cover potential losses in case of no repayment.[20] For example, a 10% LLR on a $10 million loan portfolio would cover up to $1 million of a capital provider's losses on that loan portfolio. The actual loss recovery on any one loan would be a subject of negotiation between EEFE and the FIs.

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[20] D.12-05-015 at 119, fn 162.

The Commission has previously recognized LLRs as a useful mechanism to support EE financing programs. In the Guidance Decision, we stated that an LLR appears to "stretch scarce ratepayer funding effectively."[21] In D. 12-11-015, we also approved funding for REN EE financing pilot programs which include LLR features. In this decision, the LLR mechanism is the preferred choice for the Single Family Direct Loan pilot and the Small Business OBR with CE pilot. It is modeled after, and applies lessons from, the ARRA energy efficiency programs.[22]

The LLR funds will be set aside in the CE Pool Account, allocated in sub-accounts for each FI's pool of transactions, and managed by a trustee for the EEFE. A participating FI may draw on its allocated funds when loans go into default. The EEFE will negotiate with the FIs to set both a CE contribution cap (e.g., 10%) of the total eligible financing for each FI, and a percentage of the overall pool of credit support reserved for that FI. On any single loss, a lender may recover up to a negotiated percentage of the loss—typically between 70% and 90% — with the lender at risk for the remainder, as well as aggregate losses in excess of an FI's pool limit. No ratepayer funds are at risk until a loan is funded and the project is verified as complete.

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[21] *Id*. at 119.

[22] D.12-11-015 at 31.

Based on the record, it is reasonable to infer the following example of how an LLR deal would work.

Example of LLR fund flow:

- FI notifies customer and EEFE of approved loan application
- EEFE requests IOU to make transfer to, and/or allocation of, funds in IOU's Holding Account to the transaction
- EEFE confirms CE allocation to FI
- Upon notice from FI that approved funding has been released to borrower, EEFE directs transfer of the CE funds to the CE Pool Account managed by Trustee
- Trustee manages and tracks sub-accounts for each FI's pool of CEs from completed transactions.
- FI sends monthly bill to customer who pays total due
- If default, FI provides documentation and requests LLR disbursement for agreed percentage of loan balance
- If LLR funds are subsequently repaid by borrower then FI refunds any collections to LLR balance

3.2.2. Debt Service Reserve Fund

The DSRF mechanism, similar to HBC's proposed Debt Service Coverage Reserve,[23] is applicable to the On-Bill Repayment (OBR) pilot programs for small business borrowers, and is preferred for the Multifamily Affordable Housing program. It is modeled after a mature CE, but differs from the debt service coverage reserve proposed in the Report because the availability of CE funds is not linked to estimated energy savings. The DSRF, as authorized here, is solely to cover non-payment of monthly principal and interest payments. Similar to an LLR, the DSRF is designed to keep ratepayer funds under the control of a CPUC-designated entity and within a trust account without risk until a loan is funded and a project is verified as complete.

[23] Report at 50.

The IOUs will transfer funds to the CE Holding Account, subject to agreement with the EEFE, until the EEFE authorizes transfer of an identified amount to fund the DSRF for a particular executed financing deal. The EEFE provides for the transfer of the DSRF funds to the CE Pool Account for a lender or investor to draw on when a customer's monthly principal and interest payments (i.e., debt service) are less than the full amount owed.

The EEFE will negotiate a percentage of the overall pool of loans covered by the DSRF (e.g., 10% DSRF means that a lender can recover up to 10% of the value of its loan pool—or any individual loan). Borrowers are required to repay missed principal and interest payments which are returned to the DSRF.

Based on the record, it is reasonable to infer the following example of how a DSRF deal would work.

Example of DSRF fund flow:

- FI notifies customer and EEFE of loan approval and financing agreement
- EEFE requests transfer to, and/or allocation of, funds in CE Holding Account to approved transaction
- EEFE confirms CE to FI
- FI confirms project completion, closes loan and notifies EEFE
- EEFE provides for transfer of CE funds into CE Pool Account for DSRF
- Customer makes principal and interest payments through OBR
- If customer fails to make a full principal and interest payment, payment is allocated between the utility bill and loan per the Utility's current approved practice
- FI notifies EEFE of delinquency and makes a DSRF request
- EEFE directs release of DSRF funds to FI per DSRF agreement; monthly DSRF draws can continue until agreed percentage of loan value is reached, or it turns into a default (default definition to be subject to FI agreement)
- FI keeps draw down, unless customer reimburses, then returned to DSRF fund

3.3. Eligible EE Measures

There is significant disagreement about whether and how to limit EE financing pilot programs to funding in support of qualified EE projects, identified here as Eligible EE Measures (EEEM). EEEMs are measures that have been approved by the Commission for a Utility's EE rebate and incentive program, although the customer need not get an incentive or rebate to qualify for the loan. Each utility is directed to make a list of EEEMs publicly available, including on the utility's website.

In the Guidance Decision, we said, "financing offerings need not be limited to energy efficiency, and can support all types of demand-side investment."[24] We clarified this statement in D.12-11-015, when we stated, "To be clear, this statement was intended to apply to OBR or other types of pilot activity where the funding for the loans themselves come from sources other than ratepayers. For other types of financing, such as OBF, credit enhancements, etc., where [ratepayer] energy efficiency funds are being utilized, they should be used for energy efficiency projects only at this time, unless a budget contribution can be shared from other sources…."[25]

SCE too strictly reads the language from D.12-11-015 as prohibiting any use of CEs to support third party financing for projects that include a small amount for non-EE measures. Most parties commented on the significance of customers adding EE financing to existing improvement plans linked to personal or business necessities. HBC proposed that no more than 20% of total financing be for non-EE measures during the pilot period. Several parties (e.g., CHPC,

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[24] D.12-11-015 at 65.

[25] Ibid.

PG&E, Global Green, LGSEC, EHC) agreed to a defined level of inclusion of non-EE measures in the total loan because customers are more likely to include EE financing as part of overall improvement projects. Many related improvements may support EE or be necessary to maximize the benefits of EE improvements (e.g., asbestos removal, concrete boiler pads).

We find that customers may be more likely to add EE projects while undertaking other improvement activities. Therefore, for purposes of the pilot period, the Commission finds it reasonable and adopts a requirement that authorized EE pilot program financing qualifying for CEs must apply a minimum of 70% of the funding to Eligible EE Measures (EEEMs).

Therefore, financing eligible for CEs may include funds for non-EEEMs totaling less than 30% of the loan total.

4. Pilot Programs – Residential

The primary goals of the Single Family pilot programs are to provide a reliable, one-stop mechanism which provides attractive rates and terms for consumers, and a relatively quick turn-around for payments to contractors. We authorize a direct loan program with an LLR, and development of a complementary sub-pilot to provide repayment on the utility bill--without shut-off.

The total amount of ratepayer funding HBC recommended to implement Residential EE financing pilot programs is $28.9 million, of which $26.0 million was to be allocated to programs targeting single family EE improvements. However, in this decision we do not adopt two of the pilots proposed by HBC (i.e., Warehouse for EE Loans or "WHEEL" and a pilot targeted to middle income residents.) The remaining $2.9 million was proposed by HBC to be allocated to the adopted multifamily residential program.

The Commission finds it reasonable to approve the total HBC-recommended amounts for the residential pilot programs that are authorized herein, as set forth below. At this stage, the public interest is best served by expedient and broad implementation of the authorized programs during the pilot period.

4.1. Single Family Direct Loan Program

California has approximately eight million single-family residences who are potential participants in an EE financing pilot.[26] HBC's proposed pilot, the Single Family Direct Loan Program (SFDLP), is open to all ratepayers occupying single family residences. The program would leverage existing private capital to be made available for EE financing by offering an LLR.

The program appears to be relatively easy to initiate. Once a loan is funded, the IOU transfers ratepayer funds for the LLR, as negotiated in the Lender Service Agreement (LSA). The EEFE maintains the integrity of the CE funds through a trust account, described in Section 6.

The primary purposes of the SFDLP are to utilize the single statewide EEFE to make it easy for FIs to participate in a test of direct loans to optimize loan terms and to build deal volume for data collection and expand EE improvements. It does not require utility collection of debt service on the utility bill.

All of the parties who commented on the SFDLP pilot supported it. However, the support by Greenlining, et al. was linked to the HBC proposal of a form of repayment on the utility bill, discussed below. Greenlining views the

[26] Report at 27.

repayment feature as providing great value in itself which can drive the market for deeper retrofits, particularly among moderate income and credit challenged populations.[27]

A principal benefit of the SFDLP is that it leverages an existing network of financing institutions in California, and moves the efficiency program finance infrastructure towards increased standardization through program requirements. We anticipate that customers will seek out their own financing from a variety of California FIs, and that EE contractors will become leaders in providing their customers with streamlined referrals to FIs. Success will depend on building an active network of participating FIs and encouraging alliances between these lenders and the contractors that typically close EE sales transactions.

The Commission finds that the SFDLP pilot program will advance the Commission's goals of leveraging private capital with ratepayer funds to expand access to EE financing in the Single Family residential sector. The Commission finds it reasonable to authorize the SFDLP, including the funding of an LLR to improve residential customer access to local and regional financial products with enhanced terms. Up to $25 million in utility ratepayer capital shall be available for the LLR associated with the SFDLP.

4.2. Energy Financing Line-Item Charge (EFLIC)

There is currently no state law authorizing on-bill repayment for residential customers. However, HBC concluded the convenience of customer repayment could drive residential demand for energy improvements, improve

[27] Greenlining et al. Comments at 2.

repayment, and reduce FI servicing costs.[28] HBC recommended a sub-pilot called "Line Item Billing (LIB)" whereby collection of principal and interest payments on customer loans occurs through utility bills.

The primary purpose of this sub-pilot is to test the attractiveness of on-bill repayment and its impact on residential loan performance. In this decision, the LIB is identified as the Energy Financing Line-Item Charge (EFLIC).

The EFLIC sub-pilot program involves collecting the principal and interest payments on consumer loans through utility bills, but is not the same as OBR described below for non-residential programs. The primary differences are that it does not result in utility disconnection for failure to pay the debt charges, nor does it involve an allocation of partial customer payments between utility energy bills and energy improvement finance charges. The loan obligation does not transfer with the meter.

In addition to substantial IT investment, the IOUs expressed concerns that collection of financing payments from consumers subjects the IOUs to regulation as financial institutions in California. They also assert that it will lead to customer confusion, despite the success of current utility on-bill financing programs. PG&E asked that implementation be delayed to allow the IOUs to resolve legal and business risks.[29]

HBC and other parties who support the EFLIC pilot recognized the IOUs' concerns. For example, HBC recommended further clarification from regulatory authorities as to whether the IOUs would be classified as consumer lenders.

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[28] Report at 36.

[29] PG&E Response at 5.

Similarly, Greenlining et al. strongly supports the EFLIC program, but urged the Commission to address the legal issues of whether IOUs would be classified as consumer lenders.[30]

We think the EFLIC sub-pilot program has some appealing advantages in counterweight to the concerns raised. Such a pilot could yield useful data on residential utility payment as alternative underwriting criteria. Moreover, we are not persuaded that providing a conduit for loan repayment exposes the IOUs to consumer lender regulation. In an attempt to resolve this matter, the Commission recently urged the Department of Financial Institutions (DFI) to approve Requests for Exemption from the Money Transmission Act from each of the IOUs.[31] This sub-pilot may be phased in after DFI acts on the IOUs' exemption requests.

The Commission finds the EFLIC sub-pilot program could improve participation in the SFDLP and advance the Commission's goals of leveraging private capital with ratepayer funds to expand access to EE financing in the Single Family residential sector. The utility claim that EFLIC would be confusing is unpersuasive. On-bill financing programs have not led to excess confusion, and no clear reason was articulated for why EFLIC would create a different result. In addition, utility and party concerns about the initial utility investment in information technology (IT) to implement EFLIC are addressed in Section 9. Lastly, we agree with NRDC's recommendation that the pilot be implemented in

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[30] Greenlining et al. Comments at 9.

[31] March 27, 2013 letter to California Department of Financial Institutions, attached as Appendix B.

a defined geographic area so that marketing can be targeted and initial IT costs contained.[32]

Therefore, the Commission finds it reasonable to authorize the EFLIC sub-pilot program for implementation in conjunction with the SFDLP, subject to the IOUs receiving an exemption from the Money Transmission Act from the DFI eliminating application to third party repayments on the utility bill. We authorize up to $1 million to test EFLIC, preferably at PG&E, due to the utility's interest and limited authorized funds.

Based on the record, it is reasonable to infer the following example of how an EFLIC deal would work.

EFLIC Sample Fund Flow:

- FI makes loan to Customer and notifies EEFE
- Customer pays Utility the Principal & Interest (P&I), plus energy charges
- If partial payment is made, payment applied to energy charges first, any remainder applied to loan P&I payment
- Utility sends P&I through EEFE to FI (whether whole or part)
- During pilot period, FI recourse for partial or non-payment is LLR from underlying SFDLP loan

4.3. Master-Metered Multifamily With On-Bill Repayment

Energy efficiency financing in multifamily rental properties poses special challenges due to complex ownership structures and different incentives between landlords and tenants. In the Guidance Decision, we said that "multifamily buildings that house primarily low-moderate income households may provide a unique test bed for multiple aspects of an [on bill repayment]

[32] NRDC Comments at 6.

financing program," recognizing that virtual net metering for solar photovoltaic systems was pioneered in low-income multifamily buildings.[33]

In this decision, we authorize a modified version of HBC's proposed pilot program that targets master-metered multifamily housing and offers owners repayment on the master utility bill without the risk of service disconnection.

There is not clear legislative authority to implement OBR outside of master-metered low/moderate income properties. Specifically, we refer to properties with deed restrictions that require the owner to keep rents affordable with income qualifying households occupying at least 50% of units, and the owner pays utility bills and charges tenants for energy through their rent. Restricting the pilot to this type of property provides an additional benefit in that the risk of rising utility bills falls on the owners, thus motivating owners to stabilize or reduce energy costs.[34]

HBC recommended a Master-Metered Multifamily Financing Program with repayment on the customer's utility bill (MMMFP) as a possible strategic pathway to eventually offering on-bill repayment (OBR) to the entire multifamily market.[35] HBC's proposed repayment feature does not include disconnection as a result of non-payment of the financing. It is supported by a "Bill Net Neutrality" requirement, cushioned by a CE mechanism that covers monthly shortfalls.[36]

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[33] D.12-05-015 at 126.

[34] Ibid.

[35] Report at 42.

[36] *Id*. at 49-50.

By "Bill Net Neutrality," we understand HBC to mean energy savings will be sufficient to cover the cost of debt service on an annual basis. In order to provide FIs and customers a cash flow-based mechanism for financing projects, HBC proposed a requirement of Bill Net Neutrality. However, HBC acknowledged that a standardized measurement methodology would have to be developed and understood by contractors and the IOUs, combined with clear disclosure to customers and FIs.[37]

As a result of using forecasted energy savings as a basis to incur debt, HBC proposed a CE for this pilot that addresses potential cash shortfalls of actual energy savings. The Debt Service Coverage Reserve (DSCR), as conceived by HBC, would provide ratepayer funds of up to 10% of the loan value to cover the under collections by FIs. As with other proposed pilots, the EEFE could negotiate terms and conditions of financing products with FIs, subject to the 10% cap.

The primary goals of the MMMFP are to test the value of OBR in the affordable master-metered MF segment, improve delivery of services across IOUs, building auditors, contractors, and lenders, and to gather performance data in a multifamily setting.[38]

Most parties agreed with HBC that the proposed pilot focuses on a limited market with economically motivated owners, and addresses a significant barrier to EE improvements in this category of building owners. On the other hand, some parties (e.g., LGSEC, Global Green, EHC) contend that the pilot is too

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[37] *Id*. at 49.

[38] *Id*. at 46.

narrow and should be expanded to other multifamily properties. We agree that a pilot focused on this particular property type has distinct advantages. Notably, we authorize funding to BayREN, elsewhere in this decision, for a complementary multifamily financing program targeting market rate housing.

However, the parties are divided about the value of Net Bill Neutrality for multifamily properties. CHPC strongly supports it based on its own experience with on-bill features. Renewable Funding and LGSEC strongly oppose bill neutrality for residential properties due, in part, to the variables of residential consumption. DRA opposes bill neutrality for multifamily properties as against Commission direction, and views HBC's proposed CE, the Debt Service Coverage reserve, as a functional neutrality guarantee.

We acknowledge that bill neutrality could be an important incentive for this sector, but find that residential energy usage is subject to many variables other than EE improvements. Furthermore, development of measurement methodology, performance data, and access to water usage information are among the obstacles to achieving reasonably accurate savings estimates during the pilot period. Therefore, we do not require bill neutrality for this pilot. (This leaves the owner free to size the project and loan to meet their own objectives and cash flow.)

The OBR feature for this pilot also divides the parties. For example, Greenlining supports OBR in the multifamily pilot because testing OBR without disconnection will allow the Commission and stakeholders to begin to understand the value proposition of OBR without placing the energy security of

low-income tenants at risk.[39] The IOUs question the Commission's authority to order an OBR feature, and raise questions about the transferability of the obligation to new owners. DRA opposes the combination of the CE and the OBR in the multifamily pilot because it will be difficult to assess the value of each feature.

There is significant value in testing OBR without shut-off in the difficult multifamily building environment. The Guidance Decision and D.12-11-015 both anticipated OBR as an element of the EE Financing pilots.[40] The lack of statutory authority for residential service disconnection for debt service, is not a barrier to authorizing a multifamily pilot without disconnection. Because ownership change for these properties is uncommon and the OBR has no shut-off provision, the IOUs concerns about transferability are overstated. Nonetheless, transferability for OBR is addressed in detail in Section 5.2, which addresses OBR in non-residential pilot programs.

The Commission finds it reasonable to implement an MMMFP that includes OBR without shut-off, for master-metered affordable multifamily buildings. However, based on comments received, we make certain changes to the pilot from HBC's proposal: (1) the OBR feature will be by agreement, supported by tariff; (2) Net Bill Neutrality can be an objective, not a requirement; and (3) the use of a DSRF as the primary CE.

To the extent the customer is eligible for other rebates and incentives, the Utility shall apply them, but CEs will apply only to the financing net of such

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[39] Greenlining et al. Comments at 11.

[40] D.12-05-015 at 19; D.12-11-015 at 65.

rebates and incentives. We anticipate that the DSRF as described in Section 3.2 will be the most effective CE for this pilot.

The EEFE shall provide the same functions as for other financing pilots authorized in this decision. In addition, the EEFE shall work with the IOUs to develop guidelines for Energy Audits for participating buildings. Ratepayers shall fund the audits from authorized EE finance program funds to improve understanding of building science and review contractor performance. Ratepayer funds may also support limited on-going technical assistance to the building manager post-retrofit as a key to maximizing EE savings.

Therefore, it is reasonable for the Commission to authorize a total of $2.9 million in ratepayer funds to implement the MMMFP and provide limited support for post-project technical assistance.

Based on the record, it is reasonable to infer the following example of how an MMMFP deal would work.

MMMFP with OBR Sample Fund Flow:

- Owner applies to Qualified FIs
- FI notifies EEFE that loan closed, requests CE
- EEFE notifies Utility of loan/OBR and requests CE
- EEFE accepts CE and transfers to CE pool account
- Owner makes payments to Utility
- Utility pays FI through EEFE
- If partial payment, applied to energy charges first; FI can draw on DSRF month-by-month
- FI can pursue collection from Owner for DSRF drawdowns; reimbursements are returned to DSRF

5. Pilot Programs – Non-Residential

In order to address the challenges of making EE financing available and viable to small, medium, and large businesses that occupy commercial buildings, HBC proposed several financial products and structures. These include an OBR feature for small, medium and large commercial customers and a credit

enhancement strategy for the small business market. HBC views OBR as a complement to current utility On-Bill Financing programs.[41]

The primary purpose of the Non-Residential pilot programs is to build the deal flow necessary to test the value of OBR as a bridge to overcome traditional lending barriers in these markets. HBC recommended CEs be offered in connection with OBR because the value of OBR to investors, customers, and contractors is unproven.

The total HBC-proposed budget for non-residential pilot programs is $21 million: $14 million for Small Business pilots with CEs and OBR payment, and up to $7 million for medium/large non-residential OBR repaid financing with CEs.[42] We do not authorize CEs for medium and large businesses in this decision, and reallocate authorized CE funds accordingly, as set forth below.

In addition, the IOUs have given preliminary estimates for utility IT costs to implement OBR ranging from a total of $4 million to $8 million. The IT costs are discussed further in Section 9.

5.1. On-Bill Financing

The IOUs have previously developed OBF programs which provide no-interest loans to non-residential customers for comprehensive EE projects; these OBF programs provide for the possibility of shut-off in the event of non-payment.

Qualification is primarily based on a good utility bill payment history and the prospect that the loans can be repaid by savings within five years for most

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[41] *Id*. at 58.

[42] *Id*. 16.

borrowers, or the lesser of up to ten years or the expected useful life of the energy efficiency measures for governmental borrowers. OBF is funded 100% by ratepayers without private capital to leverage more funds to fully meet customer market demand. In addition to limited funds, OBF has been heavily marketed by lighting vendors and contractors to finance lighting-only projects and has not yet enabled many deep and more comprehensive retrofits.[43]

A number of parties, including PG&E, SDG&E/SoCalGas, NRDC and TURN, support continuation of the OBF programs for the non-residential market. However, due to concentration of funds in single end use lighting measures, HBC recommended that such measures comprise no more than 20% of total project costs, and that non-compliant lighting-focused projects be redirected to the leveraged private finance with OBR and/or small business leasing.[44] SCE, Metrus, and SDG&E/SoCalGas support the proposed change. PG&E opposes any change while the financing pilot programs are being established.[45] NRDC opposes adding an "arbitrary" limit and instead recommends the IOUs establish a whole-building savings threshold as a minimum requirement for eligibility for the OBF program.[46]

The Commission finds that, overall, OBF is a strategy that is serving some customers, but without the ability to scale to the levels we estimate California and IOU service area customers need. In D.12-11-015, we directed the IOUs to

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[43] D. 12-05-015 at 109.

[44] Report at 60.

[45] PG&E Opening Responses at 13.

[46] NDRDC Comments at 7-8.

allocate funds to continue OBF during the 2013-2014 program cycle.[47] However, we also find that the IOUs should adjust the loan program to incentivize and promote projects that are more comprehensive.

Therefore, the Commission finds it reasonable to modify the OBF program so that single end use lighting measures shall comprise no more than 20% of total project costs for business customers, excluding institutional customers. Within 60 days of the date the decision is issued, the IOUs shall make this change and at the same time shall submit a joint Tier 2 Advice Letter which identifies new, emerging lighting equipment which may be excluded from the 20% calculation due to their technologically-higher efficiencies and frequently higher initial costs.

5.2. On-Bill Repayment

HBC recommended OBR as a pilot feature/program to allow a business customer to repay a third party EE loan or lease on the utility bill. The non-residential OBR pilots are targeted to all non-residential utility customers. Non-residential customers often occupy commercial buildings which are leveraged with debt or otherwise have ownership or occupancy structures that preclude normal economic motivations to make EE improvements

To "fill in the gaps" in the modified OBF program, HBC identified OBR-eligible projects as those currently ineligible for OBF, majority lighting projects that no longer qualify for OBF, water efficiency projects, projects exceeding OBF's financing limit or not meeting OBF's bill neutrality test.[48]

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[47] D.12-11-015 at 19.

[48] Report at 61.

From a customer's perspective, the biggest differences between OBF and OBR are that (1) OBR will have a market interest rate; and (2) OBR may require a more extensive financial underwrite of the borrower. Although Net Bill Neutrality is not a requirement of HBC's recommendations, an energy savings analysis typically would be done by the contractor prior to loan origination.

OBR is new and untested. According to HBC, FIs are interested in learning whether it leads to better loan, lease or other investment performance than otherwise possible. Without also offering CEs, HBC does not believe the resulting deal flow will be adequate for evaluation.

Three non-residential OBR pilot programs recommended by HBC are authorized in this decision. Two apply CEs and target Small Businesses: one for direct loans to support EE improvements and one to support EE equipment leasing. The third pilot would expand use of OBR without any CEs to EE financing incurred by any size business using EEFE-approved financing products. These proposals are discussed in more detail below.

The primary purpose of the OBR pilot is to test whether OBR that combines traditional utility consumption and EE loan repayments into a single bill payment, can overcome lending barriers in the non-residential sector, and attract large pools of accessible private capital to EE markets.[49] As a result, we expect OBR will attract more borrowers and lead to more favorable lending terms than are available to those borrowers without the added support of OBR payments and its threat of disconnection for non-payment.

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[49] Id. at 59

5.2.1. Parties' Positions

The IOUs raised concerns about the OBR program similar to those discussed in Section 4.3 for the MMMFP, including questions about the transferability of the debt obligation. For example, PG&E recommended three program changes to OBR pilots: (1) no service disconnection for non-payment; (2) transferability with clear disclosure and legally binding agreement between building owner, building occupant, FI, and the utility; and (3) ability to keep pari passu allocation of partial payments.[50] LGSEC urged the Commission obtain "legal and regulatory clarity" on these issues before implementing OBR.

Most parties generally supported the OBR concept (e.g., NRDC, Metrus) as an innovative expansion of a successful OBF model. On the other hand, DRA viewed OBR as undeveloped and requested a workshop among stakeholders to craft a uniform OBR tariff.[51]

There was little discussion by other parties about whether non-residential OBR should have a shut-off provision for non-payment. PG&E argued that service disconnection for non-payment of non-energy charges would add legal risks to the utility and market confusion without any clear value. Greenlining, et al. and SDG&E/SoCalGas were generally against shut-off for non-residential programs.

PG&E agrees with HBC's conclusion that FIs seek continuity of payments, or "transferability," as part of the security enhancement provided by OBR in addition to any CE. The utility views a legally binding agreement to transfer the

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[50] PG&E Response at 8.

[51] DRA Opening Comments at 14-15.

debt as essential to a successful OBR program.[52] NRDC suggested expanding notice and consent requirements of OBR transferability to include the consent of all existing mortgage holders, preferably following consultation with lenders and property owners.[53] In contrast, DRA raised several questions about how transferability would work, and suggested a workshop to develop a uniform OBR tariff.[54]

On the question of whether the FIs should be charged servicing fees for OBR, the IOUs and LGSEC approve of lender fees supporting the programs over time, even if EE funds are used for initial costs. Other parties (e.g., CHPC, Renewable Funding) said no fees should be charged during the pilot period due to the potential adverse impact from small project size.

The parties offered mixed views about the use of CEs for the non-residential sector. Most parties viewed CEs as necessary to promote maximum deal flow. For example, Metrus, LGSEC, and SDG&E/SoCalGas would even extend CEs to medium and large businesses as part of OBR. On the other hand, NAESCO argues that CEs are unnecessary and "supplant a robust competitive marketplace…."[55] DRA only reviewed residential programs, but stated that CEs should be separately piloted from OBR to more clearly test the impact on lenders.

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[52] SDG&E/SoCalGas Joint Response at 8.

[53] LGSEC

[54] DRA Opening Comments at 15-16.

[55] NAESCO Comments at 4.

5.2.2. Discussion

We have acknowledged the benefits of OBR in prior decisions, which include increasing the number of customers who can qualify for credit, providing a predictable payment stream, and simplifying sales transactions.

Transferability of the underlying debt obligation with the customer's meter, upon change of building ownership and/or tenancy, is both central to the appeal of OBR and a key implementation challenge. Without a clear and enforceable obligation, owners and tenants might not disclose the debt when selling, leasing, or otherwise transferring an interest in the metered property. Parties were reluctant to tackle the sticky disclosure and acceptance issues presented. However, the Commission finds that the desired results can be achieved through the use of written agreements and a tariff as described below.

5.2.2.1. Requirements of OBR Program and Directive to IOUs and EFEE to Negotiate OBR Tariff

For the OBR pilot program, the Commission is principally focused on ensuring (1) the maximum enforceability of the financing agreement and OBR tariff; (2) the enforceability of the written consent of the utility customer subject to the OBR provisions to the maximum extent feasible; (3) the OBR program does not run afoul of federal bankruptcy law; and (4) that the OBR program does not run afoul of California property law. These principles must guide every aspect in the negotiation, development, and approval of the OBR program.

To ensure maximum enforceability under the Commission's OBR program, we will require property owners and landlords that initially commit to the EE financing and OBR program ("current landlord") and all of the current landlord's tenants responsible for repayment under the OBR program ("current tenants") to give their written consent to abide by the terms and obligations of

the OBR program. Furthermore, in order to ensure the enforceability, to the maximum extent feasible, of the OBR program against the utility customer subject to the OBR provisions, we require the written consent of subsequent property owners and landlords and subsequent tenants subject to the OBR program.

HBC and the IOUs have raised the question of the necessity and prudency of requiring the consent of property owners, landlords, and tenants in order to fully implement and enforce the transferability aspect of the proposed OBR pilot. Our concern for the enforceability and workability of the OBR program extends to possible circumstances that might affect the rights of property owners, landlords, and tenants participating in the OBR program, such as bankruptcy and non-judicial foreclosure.

We reiterate our interest in the transferability requirement under the OBR pilot program proposal, but only to the extent discharge of past due payments or financing obligations in bankruptcy prevents further collection of debt and only if California property law prevents further collection of payments due. Accordingly, as discussed further below, we direct the EFEE to hire an attorney(s) to prepare a legal memorandum or opinion letter advising of the risks to our guiding principles in the event of a current or subsequent property owner's, landlord's, or tenant's bankruptcy, non-judicial foreclosure, or other event affecting enforceability under the OBR program.

We direct the IOUs and EFEE to negotiate, in consultation with FIs, to structure the OBR program so that current property owners and landlords and current tenants shall provide written consent to abide by the terms and obligations of the OBR program. Their negotiations should be informed by the legal memorandum or opinion letter prepared by EFEE's contractor. The IOUs

and EFEE shall further structure the OBR program in such a way that, to the maximum extent feasible, the written consent of subsequent property owners and landlords and subsequent tenants subject to the OBR program is ensured.

The IOUs and EFEE could achieve the Commission's requirements for an OBR program by providing for Financing Agreement Terms, an OBR Tariff and Notice to Subsequent Owners and Tenants similar to the guidelines set forth in Appendix C.

5.2.2.2. Process For Approval of OBR Tariff

Consistent with the requirements set forth above, the IOUs and EFEE, in consultation with FIs, shall negotiate the provisions of the OBR tariff. It is evident that the terms of any one of the financing or leasing agreements, the written consent and notice, and the OBR tariff will affect the content of each of the other documents. For example, the loan agreement could specify the contents of the lease agreement and the extent to which the requirements of the lease agreements should be in the OBR tariff. The EFEE should therefore coordinate the negotiation of the terms of financing instruments to occur concurrently with the development of the proposed OBR tariff.

As an initial matter, the EFEE shall retain the services of an attorney(s) with expertise in bankruptcy, California property, secured transactions, and any other relevant law. The attorney(s) will identify risks to the goal of maximum enforcement of the OBR program and of enforcement, to the maximum extent feasible, the written consent to the OBR program, in the event bankruptcy, non-judicial foreclosure, or other events of a property owner, landlord, or tenant obligated under the OBR program. The attorney(s) shall prepare a memorandum or opinion letter setting forth the risks and recommendations to ensure the Commission's goals and requirements of the OBR program.

The IOUs and EFEE, in consultation with FIs, shall negotiate the OBR program details that would both ensure the Commission's goals and requirements of the OBR program and incent FI participation in the OBR program subject to the risks identified in the legal memorandum or opinion letter.

Upon agreement of provisions of the OBR tariff consistent with the requirements discussed in this decision, the IOUs shall file a Tier 2 Advice Letter submitting a proposed OBR tariff that reflects agreement with the EFEE. The attorney(s) memorandum or opinion letter should be attached to the Advice Letter and inform the Commission in its review of the proposed OBR tariff. The Commission will review the proposed OBR tariff for maximum enforceability of the loan agreement, OBR tariff, and written consent, and to ensure the result is just and reasonable.

5.2.2.3. Other OBR Issues

We find that CEs, in conjunction with OBR, provide a reasonable mechanism to test expansion of EE capital into the small business sector. After carefully weighing the range of views received, we are persuaded that the benefits, for the limited purposes of the pilot programs, outweigh concerns about the benefits of using limited ratepayer funds to support EE projects. We concur with HBC and other parties that credit enhancement is necessary for a transitional period to educate financial institutions about the value of OBR in improving investment performance. However, we decline to expand use of CEs to medium and large businesses at this time due to limited resources and lingering questions about owner interest and need.

We are not persuaded that non-residential shut off for nonpayment of third party non-energy charges is burdensome to the IOUs which have shut-off

protocols in place for the OBF program that can be adapted to non-residential OBR. Clear practices and adequate notice should ameliorate concerns. Therefore, we find the OBR program shall include non-residential shut-off in conformity with Commission-approved shut off protocols in place at each utility.

Lastly, the weight of argument favors no charges to FIs for use of the OBR feature associated with transactions closed during the pilot period. The small size of the projects makes them too sensitive to fees for initial program implementation costs during 2013-2014, and some limited funds have already been authorized. However, this feature, along with all other aspects of the pilot programs will be reviewed prior to any future statewide rollout. The record indicates such fees have been collected from FIs elsewhere to fund ongoing operations and maintenance of mature OBR systems.

Therefore, the Commission finds it is reasonable to authorize an OBR feature for the non-residential pilots described below. For the duration of the pilot period, no fees shall be charged to FIs by the IOUs for the OBR service. Moreover, it is important to begin collecting data about the potential value of OBR as an EE market incentive, to stimulate education and marketing efforts, and to energize EE contractors.

OBR, as authorized here, will have two applications: with CEs for small business EE loans and leases, and without CEs for all sized businesses, primarily medium and large-sized non-residential customers. There is no need to expressly expand the type of measures eligible for financing because we only require that a minimum of 70% of the funding be for EEEMs. The EEFE has reasonable flexibility, subject to Commission oversight, to negotiate with FIs to achieve basic minimum standards for loan terms and underwriting criteria,

while maximizing the leverage of ratepayer monies. The EEFE shall provide the same functions as for other financing pilots authorized in this decision..

5.3. OBR for Small Business Sector with CE

Eligible customers are all small business customers. This pilot program is targeted to owners of commercial properties that may be unable, or lack business incentives, to obtain EE financing.[56] HBC did not define "small business" in its proposals. In this decision, we find it reasonable to adopt the United States Small Business Administration (SBA) definitions found at 13 C.F.R. 121 because financial institutions and others involved in small business financing are already familiar with SBA requirements.

The Commission finds it reasonable to authorize a Small Business Sector OBR pilot program with CE. We agree with HBC's advice not to adopt a particular level and structure of CE in the decision, but the CEs should be available to support secured and unsecured loans. As with other proposed pilots, the EEFE will have flexibility to negotiate terms and conditions of financing products with FIs to achieve the pilot's goals, e.g., deal flow and data collection.

Our preferred CE for this program is an LLR limited to no more than a percentage of a project's financed cost.[57] HBC's recommended 20% cap reflects the views of equity investors who identified 20% as the approximate gap between available financing and a significant number of deals in this sector.[58]

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[56] Report at 62.

[57] *Id*. at 63.

[58] *Id*. at 62.

This seems an appropriate benchmark for EEFE. In order to maximize deal flow and data collection, we also adopt a $200,000 cap on CE value per loan (e.g., if 20% = $1 million loan value).[59]

Participating FIs shall qualify with the EEFE as described in Appendix E, and commit to compliance with the Small Business Sector OBR with CE pilot requirements set forth in this decision and as implemented by the EEFE.

5.4. Small Business Sector OBR Lease Providers Sub-Pilot with CE

Equipment lease financing is a mature commercial market with many capital providers and has been used extensively to finance energy improvements.[60] Based on favorable experiences in other states, HBC proposed a small business financing pilot program with equipment lease providers.[61] Lease companies are skilled, states HBC, at designing and marketing financial products to small businesses, managing contractors, understanding how to quickly originate leases, and at bringing pools of lease investors to the market.[62] HBC concluded that expanding EE equipment lease financing in the underserved small business sector, would serve as a primary pathway to providing an alternative to OBF.

HBC recommended a limited number (up to four) lease originators be selected by competitive RFP to participate in the pilot. Limiting the number of originators may provide confidence of sufficient deal flow to warrant up-front costs while also creating competition. The financing products and terms for

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[59] *Id*. at 63.

[60] *Id*. at 64.

[61] Ibid.

[62] Ibid.

HBC's proposed small business lease pilot would be subject to the competitive proposals, with an LLR as the preferred CE.[63]

The Commission finds it reasonable to authorize a Small Business Sector OBR Lease Providers pilot program with CE. Equipment leasing is the most common method used by the commercial sector to acquire equipment. We find that OBR with CE could extend the availability of these leases to a larger group of small business customers than currently qualify for OBF and private financing, and at more attractive terms.

In order to launch this pilot, the EEFE shall conduct an RFP to competitively select at least two lease originators to participate in the pilot program. The criteria for RFP respondents shall include interest in the pilot program, experience operating lease programs focused on EE, maximum interest rates to be charged expressed as a spread over prime or a well-known index or rate, maximum origination and servicing fees expressed as a spread over cost of funds, contractor management capabilities, years in business/net worth, willingness to explore alternative underwriting standards (e.g., that incorporate utility bill payment history) and such other criteria identified in the Report as the EEFE finds useful.[64]

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[63] *Id*. at 65.

[64] *Id*. at 65-66.

For quicker implementation, the selected lease providers may initially rely on existing sources of investment capital.

Based on the record, it is reasonable to infer the following example of how a Small Business Lease Provider deal would work.

Small Business Lease Providers Sample Deal Flow:

- Equipment lease provider originates lease with customer
- Lease Provider notifies EEFE of executed lease, requests CE
- EEFE notifies Utility of lease/OBR, requests CE
- EEFE accepts CE and transfers to CE Pool account
- Customer pays Utility the lease payment, plus energy charges
- Utility pays Lease provider through EEFE
- If partial payment, payment applied by utility using existing Commission-approved practices
- Commission-approved disconnection protocols may be followed to obtain delinquent payment

In summary, the Commission allocates a total of $14.0 million from the previously authorized funds for the two non-residential EE financing pilots targeted to small businesses identified above.

5.5. OBR for Non-residential Customers Without CE

HBC recommended that $7.0 million be allocated for an OBR mechanism with CEs to be made available to all non-residential utility customers. This is the only pilot recommended by HBC that we authorize to target medium and large businesses. Identified eligible projects include Demand Response (DR), Distributed Generation (DG), and other non-OBF EE measures, and certain non-energy measures that are related to core energy improvements and necessary to enable installation or improve performance of EE measures. HBC's proposal permits, but does not require, DR/DG measures in conjunction with the EE

improvements because it found that many businesses have trouble qualifying for credit to install DG.[65]

To the extent the Commission were to authorize OBR without CEs for non-residential customers, including the DR and DG measures, HBC proposed that OBR with transferability (i.e., a tariff or service-based structure) be available to FIs, citing a number of advantages:

- Eliminates the need for the ratepayer to take on new "debt;"
- A true service payment obligation is not recorded on the customer's balance sheet;
- The service payments do not become due on sale (or vacancy); and
- The payment obligation and use of the EE asset is transferable to the new owner/tenant.

The parties disagreed on whether CEs should be available to medium and large commercial customers. Those that oppose CEs for this pilot (e.g., PG&E, SCE, DRA, NAESCO) generally believe that this sector does not need additional financial support, or is receiving too much of the pilot funding. The parties that support CEs (e.g., SoCalGas/SDG&E, LGSEC, WEM, Metrus) believe deal flow is an important objective because this market segment has the scale and potential for significant savings with such credit enhancements.[66]

There are limited funds available during the pilot period, and no clear evidence of need for CEs by medium and large businesses. The Commission finds that a non-residential OBR Pilot Program without CEs is a reasonable

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[65] *Id*. at 67.

[66] SDG&E/SoCalGas Reply Brief (RB) at 3.

means to offer innovative financing products to all non-residential customers, and provides an opportunity to evaluate OBR as a single feature. Transferability shall be an option for FIs, permitted by a new tariff, as described above.

Subject to Commission oversight, the EEFE has flexibility to negotiate with FIs to achieve basic minimum standards for loan terms and underwriting criteria.

Therefore, it is reasonable for the Commission to authorize the implementation of the OBR for Non-Residential Customers Without CE pilot program as described above. However, because no CEs are authorized for this non-residential sector, the $7.0 million HBC recommended be allocated for CEs is reserved and not allocated at this time.

5.6. Partial Payments and Shut-off of Service

Non-payment of a customer's energy bill can result in shut-off of electric or gas service under the CPUC-approved practices of each individual utility. A customer's partial payment, for a combined energy and EE financing bill, will be applied by each utility to either the electric service bill or the OBR payment by following its pre-existing practice of either "pari passu" (pro rata) or "waterfall" (i.e., the utility or the lender will receive the partial payment alternating every month.)

Service disconnection is not currently authorized for failure to pay non-energy charges on bills of residential customers. Thus, for the MMMFP pilot, no shut off for non- or partial payment is authorized or contemplated.

However, for non-residential OBR customers, shut off is permitted just as it is now under OBF finance terms and provides an expectation of considerable risk-minimization value to investors in OBR transactions. In addition, non-residential customers with OBR are not precluded from making partial payments

for combined energy and debt bill, although partial payments may expose the customer to collections procedures and/or ultimate notice of disconnetion.

The Commission finds it reasonable for the IOUs shall apply their existing practices for application of partial payments and may follow Commission-approved disconnection procedures to obtain delinquent payments.

6. The EE Financing Entity (EEFE)

HBC concluded that a central enabling entity is necessary in order to provide a simple, streamlined structure through which energy users, financial institutions, EE providers, and IOUs can participate in a standard "open market" for energy improvement transactions[67] That entity, EEFE, is designed to act as a facilitator to allow for the easy flow of cash, information and data, among IOUs, financial institutions, the Commission and others.

The EEFE is conceived by HBC as an information technology (IT)-driven platform designed to support the core processes and functions that track CEs and OBR, and to collect data. The EEFE's goals and responsibilities as identified by HBC are incorporated herein, with emphasis on the duty to ensure the proper and approved uses of utility ratepayer funds. Among its primary financial responsibilities, the EEFE will provide a reliable and transparent conduit for transfer of ratepayer payments from the IOUs to the lenders, and maintenance of managed pooled credit enhancement funds through a trust account.

However, first and foremost, the EEFE must create the necessary framework to launch the EE finance pilot programs approved in this decision. HBC recommended an allocation of $4 million from authorized EE financing

[67] Report at 17.

pilot funding for EEFE staffing, legal, technical and IT related costs, and an additional $1 million for Master Servicer (MS)-related costs.[68] HBC's description of the critical tasks and responsibilities of the EEFE is attached hereto as Appendix G.

6.1. Discussion

All parties basically supported the EEFE role. Most agreed that the EEFE should be developed in phases to first confirm lender participation and borrower demand; some requested more detail for the EEFE functions and Master Servicer role.[69] The IOUs thought they should be in charge of initial program design and integration, but agreed with HBC that activities related to the lending process should be managed by the EEFE. SCE suggested that a utility could perform the EEFE start-up role, but that CAEATFA is more appropriate for later management.

On the other hand, some parties are concerned about the potential for a conflict of interest. LGSEC asserted the EEFE should have no ties to, association with, or vested interest in secondary financial markets. "To comply with the letter and spirit of the Guidance and Final Decisions (D.12-05-015, D.12-11-015), the [EEFE] should not be managed, supervised, administered or controlled in any way by the IOUs"[70] DRA takes it a step further by recommending that the EEFE be subject to all of the rules of a public entity.[71]

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[68] Report at 16.

[69] See, e.g., LGSEC Comments at 1; PG&E RC at 2.

[70] LGSEC Comments at 5-6.

[71] DRA Comments at 2.

Because ratepayer funds will be moving as CEs through the EEFE, the Commission prefers that either an IOU or a state agency operate as the "Manager" of the EEFE functions. HBC's recommendation that CAEATFA assume and manage the EEFE functions was unopposed. The Commission finds that CAEATFA is an appropriate state entity to perform EEFE duties, subject to CAEATFA accepting this role and obtaining legislative authorization to receive and spend Commission-designated funds to retain staff, sign outsource contracts, and manage fiduciary funds necessary to execute these pilot EE finance programs.

No party objected to HBC's recommended funding level for EEFE of $5 million, including $ 1 million for the MS RFP and other MS functions. The Commission finds these recommended allocations to be reasonable.

If this decision is adopted prior to legislative action on CAEATFA's budget authority, the Commission finds it reasonable for SoCalGas to act as the "start-up EFFE Manager" (hereinafter EEFE) until CAEATFA is able to assume EEFE functions.

As a regulated IOU, SoCalGas is subject to a wide range of Commission oversight, audit, and review of its actions. Furthermore, it has established approved protocols for protecting the integrity of ratepayer funds. We agree with SCE that the public entity rules, including process requirements for procedure and decision-making, are too cumbersome for the rapid start-up functions anticipated for these short-term pilots. In the event CAEATFA cannot, or does not, assume the EEFE role, SoCalGas is directed to perform all EEFE functions during the pilot period.

We anticipate that CAEATFA could step into the role sometime in 2013, after legislative authority is clarified. Based on that assumption, SoCalGas shall

meet and confer with CAEATFA in the interim to ensure a smooth transition as to policy and practice when CAEATFA takes over the EEFE role. SoCalGas shall continue to assist CAEATFA during the pilot period in order to expedite implementation of authorized pilot programs and ensure appropriate data collection.

The EEFE start-up should be initially limited to a core set of functions to ease rapid implementation, focused on coordination between stakeholders including the Commission. Furthermore, we agree with HBC that the primary functions of fund management, financial product/ borrower data management, and OBR billing and collections procedures should be developed contemporaneously by a contracted MS, as discussed below.

As the interim EEFE, SoCalGas may engage one or more individuals, including utility personnel, to coordinate the necessary tasks, roles, and functions. These individuals should be experienced with EE technology and financing programs, and have the administrative capacity to coordinate and implement the various elements of the pilot programs, including interface issues with regard to EE, DR and DG. The MS shall be a designated agent of the EEFE with major functions related to cash and data flow, file maintenance, reporting, and default notice, described in more detail below.

The Commission agrees with HBC that the EEFE will require on-going technical advisory services, including assistance in development and monitoring of financial products, review of financing pilots, coordination of IT and data flow, and overall strategic direction.[72] Within ten days of the date the decision is

[72] Report at 21.

issued, the EEFE shall begin development of an RFP process to select any necessary Technical Consultants with a goal of reaching contract within 75 days.

The EEFE shall also take all reasonable steps to promptly develop LSAs that reflect FI requirements for pilot program participation, as set forth in Appendix E.

6.2. Master Servicer

Most parties agree with HBC that the most important role to fill is that of the Master Servicer (MS). As SCE observed, "Several parties also note that the most critical element to the success of the hub is to first establish a competent, qualified, and experienced master servicing entity…. (that) must be in place for any pilots which leverage the utility bill for third party debt repayment."[73] The EEFE shall contract with a Master Servicer to serve as an agent to provide CE fund flow management, oversight, instructions, and reporting. Among the MS's first duties will be to develop and maintain financial product servicing data files to be maintained through the life of the financial products.

The MS shall have experience as a financial institution, loan servicer, or similar entity, and ideally have knowledge of existing EE, DR, and/or DG finance transactions. The primary fund flow functions of the MS will vary between market sectors targeted by the pilot programs and the program characteristics. These functions are set forth in the Report, are attached as Appendix H, and are incorporated herein.[74]

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[73] SCE Reply Comments (RC) at 2.

[74] Report at 19-20.

The Commission finds it reasonable to authorize the EEFE to hire an MS through a competitive solicitation. Within ten days of the date the decision is issued, the EEFE shall begin development of an RFP process to select an MS with a goal of reaching contract within 75 days. The Commission has identified in Appendix H minimum RFP criteria for the Master Servicer.

6.3. Lease Originator

The Consultant's recommendations for the non-residential sector include a small business-focused leased equipment model specifically designed for EE projects. The EEFE shall competitively solicit contracts with a minimum of two lease originators to conduct intake, financial underwriting, servicing, and investor management for all qualifying projects during the pilot period.

Pursuant to the eventually adopted Program Implementation Plan for this pilot, the EEFE shall utilize the lease originator criteria set forth in Section 5.4 as the basis for the RFP, and further develop appropriate mechanisms to collect relevant lease product and performance data for scheduled reporting.

7. Data Collection

Coordinating ongoing data collection on program participants, project characteristics, project outcomes, and repayment results is an essential function of the EEFE. The data should be collected in a careful and comprehensive manner to ensure the relevant data are collected at the least cost.

We agree with NRDC and DRA who recommended that the Commission "direct the IOUs to implement all financing pilots with the requisite disclosures and permissions that can be expected to permit the resulting loan information and participant energy usage information to be available for Commission

research activities related to efficiency, in a manner consistent with all applicable privacy requirements."[75]

Additionally, DRA advised the Commission not to depend on the pilot programs to populate the data sets and pointed out that, in the Guidance Decision, the Commission ordered the IOUs to create a data set. First, the IOUs were to "collect data on the performance of loans receiving credit enhancements and OBF through current programs and build a database of California loan payment history from all sources of energy project loans."[76] The Commission also ordered the IOUs, through a working group, to "develop a larger-scale database or databases of financing related data and information that could be shared publicly…. and that consists of the following minimum types of information:

a. Customer type;
b. Host site characteristics;
c. Utility payment history;
d. Borrower credit scores and energy project repayment history;
e. Energy project performance data; and
f. Billing impacts comparing pre- and post-installation utility bills.[77]

Some parties asked the Commission to expand the types of data to be collected. For example, EHC and Greenlining et al. requested that the EEFE

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[75] NRDC Comments at 9; DRA RC at 6.

[76] D.12-05-015 at 126.

[77] *Id*. at 401-402, OP25.

collect Contractor/Workforce data (e.g., wages, benefits, insurance, etc.)[78] CCILMCT thought the data should be integrated with the Evaluation, measurement and verification (EM&V) and Workforce, Education, and training (WE&T) and that the IOUs should be ordered to form a working group to ensure effective data sharing, centralized collection, and streamline data collection processes.[79]

Data collection should be already underway based on prior Commission orders to the IOUs.[80] It should be robust and coordinated. However, we are persuaded that the collection of Contractor/Workforce data as requested by Greenlining is unnecessary because the Commission's decision approving the IOUs' recent Energy Savings Assistance (ESA) and Energy Efficiency portfolio applications requires the IOUs to collect specified data with respect to WE&T.

The Commission concludes that data collection, subject to privacy considerations, is essential to be able to test the value of various features of the authorized financing pilots. Therefore, the Commission finds it reasonable that the IOUs immediately begin to develop information for an EE financing database which complements previously ordered data collection. For purposes of the EE Financing pilot programs, the IOUs shall work with FIs and the EEFE to collect, organize, and make public the information identified in Appendix D.

In addition, we note that the IOUs have not fully responded to our direction in the Guidance Decision to include in their 2013-2014 EE program

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[78] Greenlining et al. Comments at 3-4.

[79] CCILMFT Comments at 2.

[80] E.g., D.12-05-015 at 117 (ordered development of financing-related database for collection and sharing of relevant data.)

portfolio applications, a proposed "methodology to estimate incremental savings delivered by the statewide financing programs towards their energy savings goals…."[81] We acknowledged that such estimates would be speculative, but it is important that IOUs see a benefit to their business and their customers from developing and implementing EE financing programs.

Therefore, the Commission finds it reasonable for the IOUs, in conjunction with Energy Division, to develop such a methodology which avoids double counting savings from other programs. We suggest that a joint workshop coordinated by Energy Division may be a useful mechanism for this effort, and might lead to a uniform methodology. In any event, the IOUs shall, by December 1, 2013, submit by Tier 2 Advice Letter their proposed methodology, and a proposal for evaluation, including what data programs would need to collect.

8. Quality Assurance

Quality assurance and quality control are important program elements for FIs and customers. SCE pointed out that any pilot projects which include utility incentive/rebate measures will undergo utility quality assurance and standard project technical review protocols, consistent with Commission guidelines. To the extent any non-rebated or non-energy measures are included in projects financed via pilots, the onus is on the borrower to perform any project quality assurance and technical review the borrower deems appropriate.[82]

CCILMCT and DRA suggested that the Commission require integration of clear quality assurance mechanisms, perhaps by including EM&V design in

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[81] *Id*. at 136.

[82] SCE Response at 9.

program implementation. CHPC and Global Green are reluctant to support strict performance metrics or benchmarks during the pilot period.

Because these are pilot programs, we find that data collection and required reporting will provide most of the information to assure whether program participants, or the energy improvement projects, are sufficiently performing their functions. The results of the Data and Privacy Working Group should be fully developed by next year when the Commission decides whether to roll out to full scale any these pilot EE Financing programs.

However, a set of minimum standards for qualified contractors is an area of keen interest to parties. Greenlining, et al. recommends that participating contractors meet threshold quality assurance requirements to help guarantee energy savings.[83] They argue that by creating consistent standards across IOU administered programs, FIs will have greater confidence in energy savings projections. PG&E thinks this will lead to disputes and recommends that the EEFE not be tasked with supervising contractors.

None of the authorized pilots require Net Bill Neutrality, although this could be a feature of a future program rollout. Therefore, no energy savings projections by contractors need to be confirmed to FIs. However, we do require that an estimate of the bill impacts of the energy efficiency project to be financed be presented by the contractor to the customer at the time they are making the commitment to the project to insure an informed decision without a strict requirement for bill neutrality, per the Guidance Decision.[84]

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[83] Greenlining et al. Comments at 6.

[84] D.12-05-015 at 139.

In addition, for baseline quality assurance, the Commission finds it reasonable for the EEFE to adopt minimum standards for qualified contractors eligible to participate in the EE financing pilot programs. For purposes of the pilot programs, the EEFE shall ensure that contractors meet the minimum qualifications set forth in Appendix I, and any other qualifications EEFE finds reasonable and necessary.

When CAEATFA assumes the EEFE role, it has its own regulations for participating contractors performing energy efficiency work. They must meet minimum technical qualification requirements and certify that the work was completed in accordance with applicable laws and regulations.

9. Utility Billing Systems and other Upgrades

In connection with the implementation of OBR, the IOUs and EEFE will need to coordinate IT systems to allow for smooth flow of data regarding the OBR programs. Many parties agreed that the IT systems upgrades can be phased in with the phase-in of the EE Financing pilot programs in order to verify market demand prior to making significant investments in new systems and infrastructure.

SCE has identified several changes to its billing and IT systems that may be required depending on final Commission guidance relating to the pilots including: complex programming of payment priority algorithms; automating application of partial payments; automating debt billing transfer upon change of ownership; setting new triggers for potential disconnect actions; and

reconfiguring automated notification protocols.[85] These are likely similar for other IOUs.

The IOUs gave a preliminary estimate of $4.5 to $8.5 million for necessary IT upgrades to implement the OBR and EFLIC features of the authorized pilot programs. However, in their comments they also stated the estimate would change once the details of authorized programs were adopted. Several parties questioned the basis for the IOUs cost estimates for billing system changes and upgrades required to accommodate debt billing services for third party financial institutions.

We agree with the parties that the IT infrastructure should be phased in with the launch of the various pilots. We also note that each of the IOUs have large IT budgets and numerous on-going upgrades to platforms, systems, hardware, and software. The IOUs are directed to take all reasonable steps to incorporate necessary IT changes for the EE Financing pilots with other scheduled and funded IT projects in order to achieve available economies and efficiencies. Although we agree with SCE that not all costs can be "absorbed," we are confident that these IT improvements need not be wholly stand-alone and economies can be achieved.

Furthermore, each of the IOUs will need to integrate borrower and project-related data into the database with the EEFE, including the MS. Therefore, the Commission finds it reasonable for the IOUs to work closely with each other and CAEATFA to ensure system compatibility and a smooth transition to

[85] SCE RC at 6.

CAEATFA's assumption of the EEFE role. A system working group may be a useful mechanism to facilitate these discussions.

The Commission also finds it reasonable for the IOUs to develop an updated estimate of costs for the minimum IT system upgrades necessary to implement the authorized EE financing pilot programs. Within 90 days of the date of this decision, each utility shall file a Tier 2 Advice Letter providing sufficient documentation to support the revised estimate and serve the revised estimate on the service list for this proceeding. The Advice Letter shall include information about economies achieved by integrating these upgrades with previously funded and scheduled IT capital projects.

Total allocations approved as a result of the Advice Letters may not exceed $8 million.

10. Marketing

In the Report, HBC recommended that up to $20 million be allocated to marketing, education, and outreach (ME&O) specifically for the EE financing pilot programs, in addition to statewide ME&O for all EE programs. HBC stated, "targeted ME&O to inform stakeholders about the pilots and how to participate in them will be essential given the short time horizon to pilot launch and performance." In a later filing, HBC expanded upon, and revised its recommendations, including a series of tables that provided a Market & Demand Analysis and proposed marketing budget.[86]

Few parties commented on the proposed marketing allocation, but of those, all agreed some marketing, particularly contractor-focused, could be

[86] SoCalGas/SDG&E Joint Response(November 30, 2013) at 2-13.

effective (e.g., CHF, RF, Global Green). LGSEC supported a dedicated marketing budget related to EE Financing pilots– especially for nascent and emerging markets. Metrus asked for further details or guidelines for ME&O expenditures be set forth in the decision.

We agree with HBC and supporting parties, that generating demand is an essential activity for the authorized financing programs to be successful. In furtherance of this goal, the Commission finds it reasonable to allocate up to $10 million for customized marketing, outreach, advertising, and promotion strategies, as follows:

- - Single family credit enhancement $5 million (about 20% of CE budget)
- - Multi-family master-metered $500,000 (they only seek to work with 25 buildings. this is equivalent to just under 20% of $2.9 mil authorized budget for this pilot)
- - Small business credit enhancement, including leasing $3 million (about 20% of CE budget)
- - OBR for all non-residential customers ($1.0 - $1.5 million per Sempra supplemental info)

The allocated amount of $10 million is less than the original recommended amount in recognition of the shorter pilot period and limited programs authorized in this decision.

Elsewhere in this decision, we have required a PIP to be submitted for each pilot program which will include an ME&O component. It is our expectation that the ME&O plans will include training for all pilot programs, including engaging participating FIs, contractors, and other market participants and borrowers.

The IOU's, in consultation with the EEFE, may reallocate the maximum total amount across the pilots as warranted to best deploy and test the pilot

financing mechanisms approved here. The IOU's shall coordinate this marketing with the statewide ME&O effort, under review in a separate proceeding, to ensure maximized outreach and to avoid duplication.

11. Timeframe

No party viewed the first quarter of 2013 as realistic to launch the EE Financing pilot programs due to the array of unanswered policy, procedure, and legal questions.

Several parties, including LGSEC and IOUs, agreed that any premature entry into the marketplace of programs that have not had the benefit of reasonable development, operational, and compliance consideration, and construction of necessary infrastructure may ultimately harm the marketplace more than a reasonable timeline adjustment.[87]

Based on particular concerns about the IT system upgrades necessary, SDG&E/SoCalGas proposed an alternate schedule and some interim steps to provide sufficient functionality for the pilot period.[88] With the exception of any specific deadlines set forth in this decision, we find SDG&E/SoCalGas's alternate schedule to be reasonable.

Therefore, the Commission finds reasonable and adopts, with the exception of the OBF program change deadlines set forth in Section 5.1, the Pilot Phase-In Timing and Deadlines set forth in Attachment A to the Joint Response by SDG&E and SoCalGas which allows for some aspects of the proposals to be implemented more slowly than others. [Appendix J] SDG&E/SoCalGas also

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[87] LGSEC RC at 7.

[88] SDG&E/SoCalGas Joint Response, Attachment A.

identify best practices in the Attachment for launching pilot programs. The Commission finds them to be reasonable and adopts them.[89]

12. Dispute Resolution

If any dispute should arise as to the flow of information, CEs, or debt service payments between the IOUs, FIs, contractors, or the fiduciary managing the CE holding account, the EEFE shall promptly undertake an investigation, in consultation with the Master Servicer, and correct any problem discovered.

Customers with an on-bill repayment servicing dispute which they have been unable to first resolve directly with an IOU or FI, may contact the EEFE to seek investigation and assistance. The EEFE shall acknowledge receipt of the complaint to the customer and the Utility or FI in writing within ten business days. The EEFE shall promptly undertake an investigation, in consultation with the MS, to identify and correct any accounting errors discovered.

If the EEFE is unable to resolve the customer's complaint about a bill-related finance servicing dispute within 30 days of receipt, then the customer may contact the Commission's Consumer Affairs Branch (CAB) for assistance through its existing dispute resolution process. The EEFE and Energy Division shall each provide CAB with an individual contact to provide technical assistance to CAB for resolving any dispute.

Disputes involving the conduct of any FI or contractor shall be referred to the appropriate regulatory agencies (e.g., U.S. Consumer Financial Protection Bureau, (CA) Contractors State License Board).

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[89] SDG&E/SoCalGas Joint Response, Attachment A at 27.

Nothing in this decision is intended to modify the existing legal rights and remedies of any participant in the pilot programs, including contractor performance, collection of delinquent payments or defaulted loan, or other claims.

13. Reporting & Commission Oversight

The administration of the EE Financing Pilot Programs authorized in this decision will be by the EEFE. The Commission will maintain its oversight of the EEFE and the IOUs through periodic reports on data collection, Advice Letters, and PIPs. Therefore, the Commission finds it reasonable to require the reporting identified below.

SoCalGas, as the start-up EEFE or on behalf of CAEATFA, shall be responsible for ensuring that all reports, Advice Letters, and Program Implementation Plans (PIPs) required of the EEFE are properly submitted during the pilot period in accord with the requirements set forth in this decision. Within 30 days of the date of this decision, the EEFE shall provide a copy of the Master Servicer, Technical Consultant, and lease originator RFPs to the Energy Division by Tier 1 Advice Letter. The Director of the Energy Division, or his designee, shall be included on the review panel for the EEFE Master Servicer and may be included on other RFP review panels.

Within 30 days of the date CAEATFA is legislatively authorized to assume EEFE functions, the EEFE shall execute an interagency agreement between the Commission and CAEATFA, submit a copy by Tier 1 Advice Letter to the Energy Division, and serve it on the service list in this proceeding.

Prior to implementation of any new EE Financing pilot program, EEFE, in conjunction with the IOUs, shall file a PIP setting forth the features and implementation steps for the pilot. Similarly, EEFE, in conjunction with the

IOUs, shall file and serve quarterly reports on program uptake by pilot, and on EEFE operational expenses. The reports should notify the Commission of implementation progress, including any previously unidentified program details, and any problems or obstacles encountered in the implementation of the authorized programs. Details to be submitted would include, but not be limited to:

- The platform and space within which EEFE functions take place;
- Accounts and account managers associated with EEFE;
- Database permission (and levels therein) criteria and platforms;
- Customer facing products (such as websites/informational charts);
- Transactions of various financial products administered by EEFE and certain aggregate profile information about borrowers, project purposes/scope, financed amounts, etc.; and
- Overview of participating FIs.

Nothing in this section is meant to supercede or prevent any other order by the Commission in these consolidated proceedings for development, or reporting, of data collection.

14. Regional Energy Networks

In the Guidance Decision, the Commission invited proposals from local governments to form Regional Energy Networks (RENs), separately from utility portfolio proposals. D. 12-11-015 reserved funding for, but deferred a decision on, three EE financing pilot programs proposed by the RENs due to insufficient information .[90] The decision stated that these pilots, particularly for the

[90] D.12-11-015 at 121, Conclusion of Law 31.

multifamily sector, should be considered in light of, and coordinated with, pilots that HBC proposed in the report.

BayREN proposed a multi-family financing program that addresses this hard-to-reach market. As described in D.12-11-015, it is a new program proposal for the Bay Area which would provide a capital contribution to the loan of up to $5,000 per unit for EE improvements.[91] We also directed PG&E and BayREN in that decision to include funding for the program in their contract provisions. This proposed pilot is complementary to the multi-family financing pilot recommended by HBC and as modified and authorized in this decision.

On January 14, 3013, The Association of Bay Area Governments ("ABAG"), on behalf of BayREN, submitted an Advice Letter to the Commission which included its updated and finalized PIP for the Residential Multi-Family Capital Advance Pilot Program. BayREN described the pilot as modeled on a successfully implemented program in the State of New York. The Advice Letter provided additional program elements, including:

- The underwriting criteria and loan terms are negotiated directly with the lender
- The property owner is obligated to repay the total principal
- BayREN will receive a pro rata share of each payment
- The repaid funds will be available to provide principal capital for additional projects

Based on the foregoing, the Commission finds it reasonable to authorize $2 million from reserved funding for the BayREN Multi-Family Capital Advance Program. The Commission further finds it reasonable to deny funding at this

[91] Id. at 40.

time for the BayREN Single Family LLR pilot ($3.825 million) and SoCalREN's proposed Multi-Family LLR pilot ($1.275 million) and orders the refund of these funds to ratepayers within 60 days of the date of this decision.

15. Comments on Proposed Decision

The proposed decision of ALJ Darling in this matter was mailed to the parties in accordance with Pub. Util. Code § 311 and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed by _____ on _____ 2013, and reply comments were filed by _____ on _____ 2013.

16. Assignment of Proceeding

This proceeding was categorized as ratesetting. The assigned Commissioner is Mark Ferron and the assigned ALJ is Melanie M. Darling.

Findings of Fact

1. San Diego Gas & Electric Company and Southern California Gas Company (SDG&E/SoCalGas) hired an expert statewide financing consultant to develop new Energy Efficiency (EE) pilot programs.

2. Harcourt, Brown & Carey (HBC) was hired as the expert consultant; HBC's proposals for new EE pilot programs were presented in a public workshop on October 2, 2012, stakeholder comments were solicited, and a final report (Report) was filed and served in this proceeding on October 19, 2012.

3. Due to the timing of HBC's work and the Commission's adoption of D.12-11-015, the Commission deferred consideration of the HBC proposals and authorization of the new Energy Efficiency financing pilot programs.

4. In D.12-11-015, the Commission authorized $75.2 million for EE Financing pilot programs to be implemented in 2013-2014 (pilot period), including up to $20 million for marketing the pilot programs.

5. The Commission's overall EE financing goals include creation of innovative financing programs to ensure that financing instruments are available to all users, particularly underserved segments of energy users.

6. A centralized entity is essential to development of Energy Efficiency financing pilot programs suitably attractive to private capital, in addition to providing financial controls and program administration. In this decision, the centralized entity is identified as the Energy Efficiency Financing Entity (EEFE).

7. California Alternative Energy & Advanced Transportation Financing Authority (CAEATFA, part of the State Treasurer's Office (STO)) has experience managing an energy loan loss reserve program, and its parent STO has extensive financial expertise.

8. Statutory and budget authority for CAEATFA to assume the EEFE role is currently under discussion with the Department of Finance and in the Legislature.

9. In order to instigate the rapid development and implementation of the authorized programs, some EEFE functions must be promptly performed.

10. An Investor-Owned Utility (IOU), such as Southern California Gas Company (SoCalGas) could perform certain "start-up EEFE fnctions.

11. The term "credit enhancement"(CE) covers a range of mechanisms that set aside ratepayer or other funds to support repayment of the EE Financing loans in case of default or nonpayment.

12. CE funds have been utilized in other EE programs to expand financing options particularly to support loans to borrowers not otherwise reached by existing financing.

13. The use of trust accounts created under the authority of the EEFE, subject to the bank's exercise of a Trustee's fiduciary duty, protects ratepayer credit enhancement funds from inappropriate withdrawal or misapplication.

14. A loan loss reserve (LLR) sets aside a certain amount of money (reserves) to cover potential losses in case of no repayment; no ratepayer funds are at risk until a loan is funded and the project is verified as complete.

15. A Debt Service Reserve Fund (DSRF), as authorized here, is solely to cover non-payment of monthly principal and interest payments; borrowers are required to repay missed principal and interest payments which are returned to the DSRF no ratepayer funds are at risk until a loan is funded and the project is verified as complete.

16. Eligible Energy Efficiency measures (EEEM) are measures that have been approved by the Commission for a Utility's EE rebate and incentive program.

17. Utility customers are more likely to add EE projects while undertaking other improvement activities.

18. The Single Family Direct Loan Program pilot program will advance the Commission's goals of leveraging private capital with ratepayer funds to expand access to EE financing in the Single Family residential sector.

19. The Energy Financing Line-Item Charge (EFLIC) pilot program will test the attractiveness of on-bill repayment and its impact on residential loan performance.

20. EE financing in multifamily rental properties poses special challenges due to complex ownership structures and different incentives between landlords and tenants.

21. The Master-Metered Multifamily Financing Program (MMMFP) targets master-metered multifamily housing and offers owners repayment on the master utility bill without the risk of service disconnection.

22. There is significant value in testing On Bill Repayment without shut-off in the multifamily building environment.

23. Energy Audits for participating multi-family buildings with completed EE projects will improve understanding of building science and review contractor performance.

24. The IOUs currently offer On-Bill Financing (OBF) programs which provide no-interest loans to non-residential customers for comprehensive EE projects; OBF is funded 100% by ratepayers.

25. OBF funds have been concentrated in single end use lighting measures.

26. On-Bill Repayment (OBR) as a pilot feature/program allows a business customer to repay a third party EE loan or lease on the utility bill.

27. The primary purpose of the OBR pilot is to test whether OBR that combines traditional utility consumption and EE loan repayments into a single bill payment, can overcome lending barriers in the non-residential sector, and attract large pools of accessible private capital to EE markets.

28. Transferability of the underlying debt obligation with the customer's meter, upon change of building ownership and/or tenancy, is central to the appeal of OBR.

29. CEs, in conjunction with OBR, provide a reasonable mechanism to test expansion of EE capital into the small business sector.

30. CEs are necessary for a transitional period to educate financial institutions about the value of OBR in improving investment performance.

31. The small size of the OBR projects makes them too sensitive to charge financial institutions fees to cover initial program implementation costs during 2013-2014; limited EE funds have already been authorized for this purpose.

32. Collection of data about the potential value of OBR as an EE market incentive, is essential for education and marketing efforts, and to energize EE contractors.

33. The Small Business OBR with CE pilot program is targeted to small business customers.

34. The Small Business Sector OBR Lease Providers pilot program with CE is targeted to small business customers.

35. The On-Bill Repayment Pilot Program without Credit Enhancements provides an opportunity to evaluate OBR as a single feature.

36. The EEFE is designed to be an information technology (IT)-driven platform to support the core processes and functions that track CEs and OBR, and to collect data so as to facilitate the flow of funds, information and data, among IOUs, financial institutions (FI), the Commission and others.

37. The Master Servicer (MS) role for the EEFE is to serve as an EEFE agent to provide CE fund flow management, oversight, instructions, and reporting.

38. Data collection, subject to privacy considerations, is essential to be able to test the value of various features of the authorized financing pilots.

39. The IOUs have not fully complied with a prior Commission order to propose a methodology to estimate incremental savings delivered by the statewide financing programs towards their energy savings goals.

40. Quality assurance and quality control are important program elements for FIs and customers; data collection; required reporting will provide most of

the information to assess whether program participants, or the energy improvement projects, are sufficiently performing their functions.

41. To implement OBR, the IOUs and EEFE will need to coordinate IT systems to allow for smooth flow of data regarding the OBR programs.

42. It is necessary for the IOUs to undertake IT upgrades to implement the OBR and EFLIC features of the authorized pilot programs.

43. Generating demand through targeted marketing, education and outreach (ME&O) is an essential activity for the authorized financing programs to be successful.

44. Coordinating ongoing data collection on program participants, project characteristics, project outcomes, and repayment results is an essential function of the EEFE.

45. Commission oversight will be critical to protecting the integrity of ratepayer funds allocated to support EE financing programs.

46. It would advance the Commission's Energy Efficiency financing goals for BayREN to implement a multi-family financing program which would provide a capital contribution to the loan of up to $5,000 per unit for EE improvements because it is complementary to the multi-family financing pilot authorized in this decision.

Conclusions of Law

1. It is in the public interest to establish a process and mechanism to ensure the successful outcome of the pilots.

2. It is reasonable for California Alternative Energy & Advanced Transportation Financing Authority (CAEATFA, part of the State Treasurer's Office (STO)), to assume the Energy Efficiency Financing Entity (EEFE) functions.

3. It is reasonable for CAEATFA to use ratepayer EE financing pilot funds allocated to the implementation of the EEFE, for the staff and technical resources required for CAEATFA to perform these functions.

4. In order for CAEATFA to assume the EEFE function, the Commission must execute an interagency agreement between the Commission and CAEATFA to formalize the delegation of duties.

5. If CAEATFA's authority to assume the EEFE role is delayed, it is reasonable for an Investor-Owned Utility (IOU) to act as "start-up" EEFE and to take immediate steps to begin implementation of the authorized pilot programs.

6. It is reasonable to utilize limited ratepayer funds for credit enhancements (CEs) negotiated by the EEFE for approved pilot programs during the pilot period in order to test their effectiveness in stimulating broader access to EE financing.

7. It is reasonable for the EEFE to open trust accounts at a national bank in order to track, transfer, and protect the integrity of ratepayer funds allocated to CEs; for committed CE funds, no more than 90% may be invested at any given time, and may only be invested in limited-term fixed- income securities..

8. Two types of CEs are reasonable and specifically authorized: Loan Loss Reserve (LLR) and Debt Service Reserve Fund (DSRF).

9. It is reasonable to require that authorized EE pilot program financing qualifying for CEs must apply a minimum of 70% of the funding to Eligible EE Measures (EEEMs).

10. It is reasonable to authorize the Single Family Direct Loan Program, including allocation of $25.0 million to fund a Loan Loss Reserve, to improve residential customer access to local and regional financial products with enhanced terms.

11. There is currently no state law authorizing on-bill repayment for residential customers.

12. It is reasonable to authorize up to $1 million the EFLIC sub-pilot program for implementation in a single IOU's territory in conjunction with the SFDLP, subject to the IOUs receiving an exemption from the Money Transmission Act from the Department of Financial Institutions.

13. It is reasonable to authorize an MMMFP that includes OBR without shut-off, for master-metered affordable multifamily buildings, and provides: (1) the OBR feature will be by agreement, supported by tariff; (2) Net Bill Neutrality is an objective, not a requirement; and (3) the use of a DSRF is the primary CE.

14. It is reasonable to authorize a total of $2.9 million in ratepayer funds to implement the MMMFP and provide limited support for post-project technical assistance and Energy Audits.

15. It is reasonable to modify the OBF program so that single end use lighting measures shall comprise no more than 20% of total project costs for business customers, excluding institutional customers.

16. It is reasonable to authorize an OBR feature for the non-residential pilots authorized within this decision.

17. Transferability of an On-Bill Repayment (OBR) obligation can be achieved through the use of written agreements and a tariff. The required principles underlying the transferability of OBR process are (1) the maximum enforceability of the financing agreement and OBR tariff; (2) the enforceability of the written consent of the utility customer subject to the OBR provisions to the maximum extent feasible; (3) the OBR program does not run afoul of federal bankruptcy law; and (4) that the OBR program does not run afoul of California property law.

18. It is reasonable for the EFEE to retain the services of an attorney(s) with expertise in bankruptcy, California property, secured transactions, and any other relevant law to prepare a memorandum or opinion letter setting forth the risks and recommendations to ensure the Commission's goals and requirements of the OBR program are achieved.

19. It is reasonable that the OBR program shall include non-residential shut-off in conformity with Commission-approved shut off protocols in place at each utility.

20. It is reasonable to require further Commission review of all aspects of the pilot programs prior to any future statewide rollout.

21. It is reasonable for the IOUs to not charge fees to participating FIs for the OBR service related to financing approved during the pilot period.

22. The United States Small Business Administration definitions of "small business" [13 C.F.R. 121} are a reasonable definition to apply to the two authorized non-residential pilot programs targeting "small businesses."

23. It is reasonable to authorize the Small Business Sector OBR pilot program with CE as described in Section 5.3, including a cap of $200,000 on CE value per loan.

24. It reasonable to authorize a Small Business Sector OBR Lease Providers pilot program with CE as described in Section 5.4.

25. It is reasonable to allocate a total of $14.0 million from previously authorized funds to implement the two non-residential EE financing pilots targeted to small businesses: Small Business Sector OBR with CE and Small Business Sector OBR Lease Providers with CE.

26. There is insufficient evidence in the record to establish a need for credit enhancements to support Energy Efficiency financing for medium and large businesses.

27. The OBR Pilot Program without CEs, as described in section 5.5, is a reasonable means to test offering innovative financing products to all non-residential customers.

28. No ratepayer funds should be allocated to support credit enhancements for the OBR Pilot Program without CEs.

29. For non-residential OBR customers, IOUs shall apply their existing practices for application of partial payments and may follow Commission-approved disconnection procedures to obtain delinquent payments.

30. The EEFE has a duty to ratepayers to ensure the proper and approved uses of utility ratepayer funds, including the provision of a reliable and transparent conduit for transfer of ratepayer payments from the IOUs to the lenders, and maintenance of managed pooled credit enhancement funds through a trust account.

31. It is reasonable for the EEFE to contract with a Master Servicer, as described in section 6.2, to perform the primary functions of fund management, financial product/ borrower data management, and OBR billing and collections procedures.

32. It is reasonable for the IOUs to immediately begin to develop information for an EE financing database which complements previously ordered data collection.

33. The required data should be collected in a careful and comprehensive manner to ensure the data are collected at the least cost.

34. It reasonable for the IOUs, in conjunction with Energy Division, to develop a methodology to estimate incremental savings delivered by the statewide financing programs towards their energy savings goals.

35. It is reasonable to require an estimate of the bill impacts of the proposed energy efficiency project to be presented by the contractor to the customer at the time they are making the commitment to the project to insure an informed decision.

36. It is reasonable for the EEFE to adopt minimum standards for qualified contractors eligible to participate in the EE financing pilot programs. For purposes of the pilot programs, the EEFE shall ensure that contractors meet the minimum qualifications set forth in Appendix I, and any other qualifications EEFE finds reasonable and necessary.

37. It is reasonable for the EEFE to adopt minimum standards for qualified financial institutions eligible to participate in the EE financing pilot programs. For purposes of the pilot programs, the EEFE shall ensure that financial institutions meet the minimum qualifications set forth in Appendix E, and any other qualifications EEFE finds reasonable and necessary.

38. When CAEATFA assumes the EEFE role, it may apply its own regulations for participating contractors performing energy efficiency work.

39. It is reasonable to phase in the IT infrastructure with the launch of the various pilot programs.

40. It is reasonable to require the IOUs to work closely with each other and CAEATFA to ensure system compatibility and a smooth transition to CAEATFA's assumption of the EEFE role.

41. It is reasonable to require the IOUs to develop an updated estimate of costs for the minimum IT system upgrades necessary to implement the authorized EE financing pilot programs.

42. It is reasonable to allocate up to $10 million for customized marketing, outreach, advertising, and promotion strategies by market sector, as follows:

- Single family: $5 million
- Multi-family master-metered: $500,000
- Small business, including leasing: $3 million
- OBR for all non-residential customers: ($1.0 - $1.5 million

43. With the exception of the OBF program change deadlines set forth in Section 4.1, the Pilot Phase-In Timing and Deadlines, and best practices to launch programs, set forth in Appendix J are reasonable.

44. It is reasonable to authorize a process to resolve any problems and errors related to the managing of the flow of ratepayer funds through the EEFE.

45. It is reasonable for the Commission to maintain oversight of the EEFE and the IOUs through periodic reports on data collection and program performance, Advice Letters, and PIPs.

46. For all pilot programs, it is reasonable for the EEFE to have flexibility, subject to Commission oversight, to negotiate with FIs to achieve basic minimum standards for loan terms and underwriting criteria, while maximizing the leverage of ratepayer monies.

47. Any other rebates and incentives for which the customer is eligible shall be applied by the Utility, but CEs will apply only to the portion of financing net of such rebates and incentives.

48. It is reasonable to authorize $2 million from reserved funding for BayREN to implement the Multi-Family Capital Advance Program.

49. It is reasonable to deny funding at this time for the BayREN Single Family LLR pilot ($3.825 million) and SoCalREN's proposed Multi-Family LLR pilot. ($1.275 million) and orders the refund of these funds to ratepayers within 60 days of the date of this decision.

O R D E R

IT IS ORDERED that:

1. A total of $57.9 million from authorized Energy Efficiency (EE) funds for Southern California Edison Company, Pacific Gas and Electric Company, Southern California Gas Company, and San Diego Gas & Electric Company (collectively "IOUs") shall be used to establish and implement the Energy Efficiency financing pilot programs authorized in this decision.

    a. Each IOU shall promptly release to the Energy Efficiency Financing Entity (EEFE):

        i. Up to $5 million from EE funds as necessary costs are documented and invoiced to fund the start-up function of the EEFE, including the Master Servicer functions;

        ii. Up to $10 million from EE funds as necessary costs are documented and invoiced to fund marketing, education, and outreach plans targeted to the EE financing pilot programs authorized in this decision;

        iii. Up to $28.9 million from EE funds as are documented and invoiced for credit enhancements for residential pilot programs authorized in this decision; and

        iv. Up to $14 million from EE funds as are documented and invoiced for credit enhancements for non-residential pilot programs authorized in this decision

2. Southern California Gas Company shall consult and coordinate with California Alternative Energy & Advanced Transportation Financing Authority (CAEATFA) in all aspects of program implementation until CAEATFA is authorized and capable of taking over the Energy Efficiency Financing Entity functions.

3. If there is a delay in establishing the authority or agreement of California Alternative Energy & Advanced Transportation Financing Authority to assume the Energy Efficiency Financing Entity (EEFE) role, Southern California Gas Company shall act as "start-up" EEFE and take immediate steps to begin implementation of the authorized pilot programs:

a. within ten (10) days of the date of this decision, begin development of a Request For Proposal (RFP) process to competitively select a Master Servicer and any necessary Technical Consultants , with a goal of reaching contracts within seventy-five (75) days.

    i. within thirty (30) days of the date of this decision, the EEFE shall provide a copy of the Master Servicer and Technical Consultant, RFPs to the Energy Division by Tier 1 Advice Letter. The Director of the Energy Division, or his designee, shall be included on the review panel for the EEFE Master Servicer and may be included on other RFP review panels.

b. within thirty (30) days of the date of this decision, file by Tier 2 Advice Letter an Energy Efficiency Financing Entity (EEFE) Start-up Program Implementation Plan (PIP). The EEFE PIP shall include the features and steps set forth in Appendix F, and provide for the development of an interagency agreement between the Commission and CAEATFA to implement this decision.

    i. If Southern California Gas Company must briefly act as EEFE, it shall consult with CAEATFA, other Investor-Owned Utilities, and Financial Institutions about the EEFE PIP to ensure that information and

other systems will be compatible, secure, and have the capacity for CAEATFA to assume EEFE functions in the future with minimum transition time and cost.

c. within ninety (90) days of the date of this decision, develop a marketing, education, and outreach (ME&O) plan, in consultation with the Investor-Owned Utilities, which may reallocate the $10 million authorized for these purposes across the pilots as warranted to best deploy and test the pilot financing mechanisms approved here.

   i) The EEFE shall coordinate its marketing with the statewide ME&O effort, under review in a separate proceeding, to ensure maximum outreach and to avoid duplication.

d) within ninety (90) days of the date of this decision and prior to implementation of any new EE Financing pilot program, shall file by Tier 2 Advice Letter a PIP developed in consultation with the IOUs, setting forth the features and implementation steps for the pilot.

e) take all reasonable steps to promptly develop Lender Service Agreements that reflect Financial Institutions requirements for pilot program participation, as set forth in Appendix E;

4. The Executive Director of the Commission shall take all reasonable steps to assist in the development of an interagency agreement between the Commission and CAEATFA to implement this decision at the earliest possible opportunity.

5. The Executive Director of the Commission shall take all reasonable steps to assist in the development of an interagency agreement between the Commission and California Alternative Energy & Advanced Transportation Financing Authority to implement this decision at the earliest possible opportunity.

6. Within thirty (30) days of the date California Alternative Energy & Advanced Transportation Financing Authority (CAEATFA) is legislatively authorized to assume EEFE functions, the EEFE shall execute an interagency agreement between the Commission and CAEATFA, submit a copy by Tier 1 Advice Letter to the Energy Division, and serve it on the service list in this proceeding.

7. Within ninety (90) days of the date of this decision, Southern California Edison Company, Pacific Gas and Electric Company, Southern California Gas Company, and San Diego Gas & Electric Company shall each make publicly available a list of Eligible Energy Efficiency Measures, including on the utility's website.

8. The Energy Efficiency Financing Entity shall work with the Investor-Owned Utilities to develop guidelines for Energy Audits for multifamily customers participating in the Master-Metered Multifamily Financing Program with completed Energy Efficiency (EE) projects. The Energy Audits are to be funded from the $2.9 million allocated from authorized EE finance program funds.

9. . Southern California Edison Company, Pacific Gas and Electric Company, Southern California Gas Company, and San Diego Gas & Electric Company (collectively "IOUs") shall modify their On-Bill Financing programs so that single end use lighting measures shall comprise no more than 20% of total project costs for business customers, excluding institutional customers. No later than sixty (60) days after this decision is issued, the IOUs shall submit a joint Tier 2 Advice Letter which identifies new, emerging lighting equipment which may be excluded from the 20% calculation due to their technologically-higher efficiencies and frequently higher initial costs

10. Southern California Edison Company, Pacific Gas and Electric Company, Southern California Gas Company, and San Diego Gas & Electric Company (collectively "IOUs") and Energy Efficiency Financing Entity (EFEE) shall negotiate, in consultation with participating financial institutions, to structure the On-Bill Repayment (OBR) program so that current property owners and landlords and current tenants shall provide written consent to abide by the terms and obligations of the OBR program.

a. The negotiations should be informed by the legal memorandum or opinion letter prepared by EFEE's legal contractor. The IOUs and EFEE shall structure the OBR program in such a way that, to the maximum extent feasible, the written consent of subsequent property owners and landlords and subsequent tenants subject to the OBR program is ensured.

b. Upon agreement of provisions of the OBR tariff consistent with the requirements discussed in this decision, the IOUs shall file a Tier 2 Advice Letter submitting a proposed OBR tariff that reflects agreement with the EFEE. The attorney(s) memorandum or opinion letter should be attached to the Advice Letter and inform the Commission in its review of the proposed OBR tariff.

11. Pursuant to the provisions of the eventually adopted Program Implementation Plan for the Small Business Sector On-Bill Repayment Lease Providers with Credit Enhancement pilot program, the Energy Efficiency Financing Entity shall conduct a Request For Proposal (RFP) to competitively select at least two lease originators to participate in the pilot program. The minimum criteria for RFP respondents are set forth in Section 5.4.

12. As part of the authorized Energy Efficiency Financing pilot programs, Southern California Edison Company, Pacific Gas and Electric Company, Southern California Gas Company, and San Diego Gas & Electric Company shall

work with Financial Institutions and the Energy Efficiency Financing Entity to collect, organize, and make public the information identified in Appendix D.

13. . No later than December 1, 2013, Southern California Edison Company, Pacific Gas and Electric Company, Southern California Gas Company, and San Diego Gas & Electric Company (collectively "IOUs") shall, each or jointly submit by Tier 2 Advice Letter their proposed methodology to estimate incremental savings delivered by the statewide financing programs towards their energy savings goals, and a proposal for evaluation, including what data the pilot programs would need to collect

14. The Energy Efficiency Financing Entity (EEFE) shall ensure that Financial Institutions participating in the pilot programs meet the minimum qualifications set forth in Appendix E, and any other qualifications EEFE finds reasonable and necessary.

15. The Energy Efficiency Financing Entity (EEFE) shall ensure that contractors participating in the pilot programs meet the minimum qualifications set forth in Appendix I, and any other qualifications EEFE finds reasonable and necessary.

16. Southern California Edison Company, Pacific Gas and Electric Company, Southern California Gas Company, and San Diego Gas & Electric Company shall take all reasonable steps to incorporate necessary Information Technology (IT) changes for the Energy Efficiency financing pilots with other scheduled and funded IT projects in order to achieve available economies and efficiencies.

17. Within ninety (90) days of the date of this decision, Southern California Edison Company, Pacific Gas and Electric Company, Southern California Gas Company, and San Diego Gas & Electric Company shall each file a Tier 2 Advice Letter supporting an updated estimate of the Information Technology (IT)

changes necessary to implement On-Bill Repayment and other features of the authorized pilots, and serve the revised estimate on the service list for this proceeding. The Advice Letter shall include information about economies achieved by integrating these upgrades with previously funded and scheduled IT capital projects.

a. Total allocations approved as a result of the Advice Letters may not exceed $8 million.

18. If any dispute arises as to the flow of information, Credit Enhancements, or debt service payments, Southern California Edison Company, Pacific Gas and Electric Company, Southern California Gas Company, and San Diego Gas & Electric Company (collectively "IOUs") , the Energy Efficiency Financing Entity (EEFE), and the Financial Institutions (FI), shall promptly cooperate to investigate the dispute, in consultation with the Master Servicer (MS), and ensure that any problem discovered is corrected.

a. Customers with an On-Bill Repayment servicing dispute which they have been unable to first resolve directly with an IOU or FI, may contact the EEFE to seek investigation and assistance. The EEFE shall acknowledge receipt of the complaint to the customer and the IOU or FI in writing within ten (10) business days. The EEFE shall promptly undertake an investigation, in consultation with the MS, to identify and correct any accounting errors discovered.

b. If the EEFE is unable to resolve the customer's complaint about a bill-related finance servicing dispute within thirty (30) days of receipt, then the customer may contact the Commission's Consumer Affairs Branch (CAB) for assistance through its existing dispute resolution process. The EEFE and Energy Division shall each provide CAB with an

individual contact to provide technical assistance to CAB for resolving any dispute.

c. Disputes involving the conduct of any FI or contractor shall be referred to the appropriate regulatory agencies.

19. Southern California Gas Company, as the start-up Energy Efficiency Financing Entity (EEFE) or on behalf of California Alternative Energy & Advanced Transportation Financing Authority (CAEATFA), is responsible for ensuring that all reports, Advice Letters, and Program Implementation Plans (PIPs) required of the EEFE are properly submitted during the pilot period in accord with the requirements set forth in this decision.

20. Beginning October 31, 2013, the Energy Efficiency Financing Entity (EEFE), in conjunction with Southern California Edison Company, Pacific Gas and Electric Company, Southern California Gas Company, and San Diego Gas & Electric Company, shall file and serve a Second Quarter 2013 Report, and quarterly reports thereafter through the pilot period, by pilot program and on EEFE operational expenses.

a. The reports should notify the Commission of implementation progress, including any previously unidentified program details, and any problems or obstacles encountered in the implementation of the authorized programs. Details to be submitted would include, but not be limited to:

- The platform and space within which EEFE functions take place;
- Accounts and account managers associated with EEFE;
- Database permission (and levels therein) criteria and platforms;

- Customer facing products (such as websites/informational charts);
- Transactions of various financial products administered by EEFE and certain aggregate profile information about borrowers, project purposes/scope, financed amounts, etc.; and
- Overview of participating Financial Institutions.

21. Pacific Gas and Electric Company and Southern California Edison Company shall refund a total of $5.1 million --$3.825 million for BayREN' Single Family LLR pilot and $1.275 million for SoCalREN's Multi-Family LLR pilot, respectively---- to ratepayers within 60 days of the date of this decision.

22. Applications 12-07-001, 12-07-002, 12-07-003 and 12-07-004 remain open.

This order is effective today.

Dated _____, at San Francisco, California.

APPENDIX A

GUIDELINES FOR CREDIT ENHANCEMENTS

1. Loan Loss Reserve – is a fund in the trust account established by the trustee at a national bank or financial institution, used to cover a portion of loans in default.

    a. A LLR of 10% means that that an amount equivalent to 10% of each loan is transferred from ratepayers to the trust, and a lender can recover a negotiated value of that lender's loan pool for any loan in default. In other words, ratepayers put in the equivalent of 10% of each loan into reserve, but for any given loan, the recoverable loss may exceed 10%.

2. Debt Service Reserve – is a fund in the trust account established by the trustee, used to cover individual monthly non-payments before default of an entire loan is declared. This credit enhancement provides lenders with the promise of prompt payment if a demand for money is made (e.g., may pay within 24 hours).

    a. A percentage of each loan is pooled with other DSR monies from other loans. "Percentage of overall pool of loans covered by the DSRF (i.e. 5% DSRF means that a lender can ultimately recover up to 5% of the value of its loan pool – or any individual loan – should the pool experience high loss rates." Borrowers "typically" must "re-pay" missed principle and interest the DSRF covered; these "re-payments" are transferred back to the fund. If customer defaults, lender keeps the DSR monies received.

FLOW OF MONEY AND CREDIT ENHANCEMENTS

1. Pilot Program

    a. Upon a financial institution's approval of a loan, the EEFE will ensure that the negotiated equivalent CE funds are allocated within the IOUs Holding Account .

Upon a financial institution's fundinf of a loan, the EEFE will provide for the transfer of the CE funds to the CE Pool (Trust) Account.

b. Trustee will be a bank making payouts for loan loss reserve or debt service reserve; will have a fiduciary duty to both ratepayers and banks.

(END OF APPENDIX A)

APPENDIX B

STATE OF CALIFORNIA Edmund G. Brown Jr., *Governor*

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

March 27, 2013

Wallace M. Wong
Senior Counsel
California Department of Financial Institutions
300 South Spring Street
Suite 15513
Los Angeles, California 90013-1204

RE: Request for Order of Exemption under the Money Transmission Act by Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), and Southern California Gas Company (SCG)

Dear Mr. Wong,

Thank you for your letter of February 14, 2013 asking if the California Public Utilities Commission (Commission) has a position on the request for an exemption from Money Transmission Act licensing requirements submitted to the Department of Financial Institutions by the investor owned utilities PG&E, SCE, SDG&E, and SCG. The Commission supports the request.

Your letter also requested information as to how the Commission regulates third party collection practices and what recourse harmed parties have before the Commission. The Commission has expansive regulatory authority over utilities. The California Constitution grants the Commission authority to, among other things, fix rates, establish rules, examine records, issue subpoenas, punish for contempt and prescribe a uniform system of accounts. (See Cal. Const. Art XII, §6.) The Public Utilities Code grants the Commission authority to, among other things, supervise and regulate public utilities and may do all things which are necessary and convenient in the exercise of such power. See PU Code §701.) Commission staff have authority to inspect the books of regulated utilities and require reports as the Commission prescribes. (See PU Code §§ 313, 314, 314.5, 581, and 584.)

Individuals and entities are allowed to file complaints against utilities before the Commission. (See PU Code §1702; see also Commission's Rules of Practice and

Procedure, Art.4.) The Code states the Commission may, after a hearing, find that rates in connection with any service, product or commodity unlawful, unjust, unreasonable or discriminatory and can order a change to the rates or practices. (See PU Code §§ 728, 729, 734, and 761.) The Commission may also order restitution, fines, changes or revocations of previous decisions may be granted, or other remedies. (See PU Code §§ 1708, 2107, 734, and 761.)

In closing, the Commission finds that its regulatory oversight makes the licensing requirements of the Money Transmission Act duplicative in regards to regulated utilities. Thank you for the opportunity to provide our thoughts on the matter. Please feel free to contact me if you have any questions.

Sincerely,

Jason Reiger
Assistant General Counsel

Christine Hammond
Counsel

(END OF APPENDIX B)

APPENDIX C

ON-BILL REPAYMENT TARIFF (Transferability)

1. Financing Agreement Terms

   a. For Existing Property Owners or Landlords and Existing Tenants:

      The financing or leasing agreements could require existing property owners to provide written consent to the OBR program terms and conditions via a stand-alone agreement or as a term of the financing or leasing agreement; and could require existing landlords to obtain written consent from existing tenants via a lease amendment or separate agreement.

   b. For Subsequent Property Owners or Landlords and Subsequent Tenants:

      The financing or leasing agreements could require subsequent property owners to provide written consent to the OBR program terms and conditions (including obtaining written consent from subsequent tenants) via a stand-alone agreement or a deed restriction or other form; and could require subsequent property owners or landlords to obtain written consent from subsequent tenants via a term of the lease agreement or a separate agreement.

   c. For Both Current and Subsequent Property Owners and Landlords and Both Current and Subsequent Tenants

The Commission encourages the IOUs and EFEE to discuss a requirement that financing or leasing agreement provide precise language for, or else required elements of, the written consent.

If the landlord fails to comply with the written consent requirement, the financing or leasing agreement could provide that, in addition to other remedies available to the Lender, the landlord could be subject to shutoff of the landlord's

own meter until arrearages are repaid. In their negotiations, the IOUs and EFEE might give special consideration for additional incentives for landlords who lease the entire property (e.g., an entire warehouse), where the landlord has no meter responsibility associated with the property during a tenant's occupancy.

d. Substance of Written Consent:

The written consent, whether achieved as a part of the financing or leasing agreement, a part of the lease agreement, or by a separate agreement or lease amendment, could include:

- Notice of subjugation of meter(s) to OBR tariff and of financing or leasing agreement, including notice of parties' rights, obligations, and liabilities.
- A referral to, or copy of, the most recent OBR tariff, qualifying that the OBR Tariff may change per CPUC order or directive.
- An explanation of the obligations and liabilities the tenant is assuming, e.g., that a portion of the utility bill payment goes toward paying for financed EE improvements and that the utility customer of record is responsible for both utility payment and repayment obligation.
- Notice that partial payment of utility bill will result in allocation of payment between amount owed to utility and amount owed to FI.
- Notice that, in the event of nonpayment or partial payment of utility bill, the tenant may have utility service shut off under the same terms and conditions as provided in the IOU tariff for nonpayment.
- Precise language required in lease or rental agreements.
- End date of loan repayment obligation associated with the meter, and/or approximate remaining balance owed on loan.

- Agreement by tenant authorizing utility or other retail energy supplier to allow EFEE and/or Master Servicer to collect data on energy use, subject to applicable privacy requirements.

2. OBR Tariff

The IOUs and EFEE could include the following provisions in the proposed OBR tariff:

a. Name of Tariff (to ensure uniformity across IOUs);

b. Specification of the notice requirement to ensure subsequent owners are notified (e.g., recording the financing agreement and OBR tariff obligation at the Recorder's/Assessor's Office)

c. Specification of the terms and conditions that would be incorporated into a lease or rental agreement if the property owner decides to lease/rent the property, including:

   i. Language for lease provision or separate consent from tenant.

   ii. Language for agreement from current tenants (in the form of, e.g., supplement or amendment to lease agreement, or separate consent form)

d. A rate impact illustration, so that current or prospective subsequent tenants can see estimated monthly utility rates and repayment amounts.

e. Translation of the notice, written consent, or OBR tariff into in a reasonable range of languages spoken by non-English-speaking customers of IOUs.

f. Specification of the obligations, rights, and liabilities of the FI or equipment lessor, of the property owner or landlord, and of the tenant in the event that written consent and other requirements of the OBR program are not property met.

The OBR tariff shall address what happens to a subsequent tenant when the subsequent tenant has not given informed consent. The IOUs and EFEE may,

for example, require that the tenant be billed according to the OBR tariff but will not be subject to utility service shutoff.

3. Notice to Subsequent Owners and to Tenants

The IOUs and EFEE in their negotiations are encouraged to consider the means of providing notice to subsequent property owners and landlords as a means of ensuring the maximum enforceability of the OBR program against the subsequent property owners and landlords, and providing notice of subsequent tenants to ensure, to the maximum extent feasible, the enforceability of the OBR program against and of the written consent of subsequent tenants. Such notice requirements may include:

a. To achieve notice to subsequent property owners, recording notice of the financing or leasing agreement at County Recorders' or Assessors' Offices. For example, the Recorder's Document Reference and Indexing Manual (2008), published by the County Recorder's Association of California, provides the list of documents – by title – that all Recorder's Offices in the state will accept for filing, as long as certain requirements are met. Notice of the OBR obligation associated with the meter on the property can be effected by filing a document entitled "Agreement" at the Recorder's Office and meeting certain procedural requirements (e.g., the notice of agreement succinctly describing the agreement and providing the address (and/or Assessor's Parcel Number) of the property with which the notice and agreement are concerned, with the notice signed by the FI and owner and be notarized). The recommended contents of notice are specified below.

b. To achieve notice to current tenants at the time financing is undertaken, a form of consent from current tenants could be required, whether by a lease amendment or separate consent form, as discussed above.

c. To achieve notice to subsequent tenants, a form of consent via a term of the lease agreement or separate agreement, as discussed above.

We urge the IOUs and EFEE to consider that notice to and written consent from current property owners and landlords and current tenants, and subsequent property owners and landlords and subsequent tenants, will be more meaningful if the party consenting to the OBR program is well informed. Therefore, we suggest that the notice and written consent indicate information pertinent to an informed consumer choice (e.g., whether the OBR payment amount is fixed or variable, if there is an OBR payment floor or ceiling for any given payment cycle, etc.).

(END OF APPENDIX C)

APPENDIX D

DATA COLLECTION PROJECT AND PARTICIPANT DATA

Project and Participant Data, including but not limited to:

1) Cost to perform the retrofits and all other in-job costs (including the costs of audits).
2) Building type, age, square footage.
3) Projected energy savings and utility savings as a result of retrofits.
4) Actual average utility bill savings each month as a result of retrofits.
5) Other ancillary benefits such as avoided costs, improved air quality, water conservation benefits, etc.
6) Contractor who performed the work.
7) Zip code of the participant.
8) Average income of the participant, and average FICO score, if known.
9) Debt-to-income ratio of the participant.
10) Loan and rebate amounts.
11) Loan repayment structure.
12) Interest rate/s.
13) When the loan was issued.
14) Lender/s and other sources of funding for the loan.
15) Maturity date of loan.

(END OF APPENDIX D)

APPENDIX E

QUALFICATION OF FINANCIAL INSTITUTIONS - LENDER SERVICE AGREEMENTS (LSA)

The EEFE has reasonable flexibility, subject to Commission oversight, to negotiate with FIs to achieve basic minimum standards for loan terms and underwriting criteria based on similar in-service residential programs, while maximizing the leverage of ratepayer monies. The negotiations shall be memorialized in a Lender Service Agreement (LSA).

Minimum LSA standards shall include requirements that protect the integrity of the CE funds, ensure that CE funds are expanding access to attractive capital, ensure service quality control, and ensure data sharing with the EEFE. These latter requirements apply to all programs approved in this decision. Use of alternative underwriting criteria (e.g., utility bill payment history) should be encouraged.

The LSAs should require financial institutions to conform with terms of the pilot program in which they are participating and establish any additional requirements related to the use of credit enhancement funds. The LSAs should provide for and outline the process by which the Commission or IOUs can suspend or terminate a financial institutions' participation in the pilot and its access to credit enhancement funds.

The EEFE shall work closely with the Master Servicer to develop some standardization of LSA provisions which reflect the Commission's guidance herein. The EEFE shall establish minimum FI qualification standards, based on Fannie Mae, housing authority or other well-established protocols. Our preliminary guidance is below:

FI Participation

At a minimum, participating financial institutions should meet the following requirements:

- Possess all required state and federal licenses;

- Be in good standing with its regulators; and
- Possess a minimum credit rating.

Financial institutions will be able to conform to Utility requirements for:

- Non-disclosure agreements on data;
- Internal system data security design specifications;
- Data transfer protocols;
- Program status reporting;
- Management and transfer of credit enhancements (particularly loan loss reserves);
- Review and approval of marketing collateral;
- Length of time to execute agreements.

Financial Institutions should also be required to demonstrate how credit enhancements will expand customer access or improve interest rates or terms

(END OF APPENDIX E)

APPENDIX F

THE EEFE PROGRAM IMPLEMENTATION PLAN

The PIP for the EEFE shall include the following:

1. Competitive solicitation/ RFP process for an EEFE Manager, a Master Servicer, lease originators, and other technical assistance as identified (e.g,, information technology, financial)
2. Creation of an IT –driven platform designed to support the core processes and functions that make OBR possible
3. Development of procedures for various EEFE responsibilities

a) For all financing types:

   (i) Approval of forms and protocols for data transfer between utilities and FIs, as proposed by Master Servicer

   (ii) Development of SLAs

b) For OBR:

   (i) Approve placement of financing on utility bill

   (ii) Reconcile utility service disconnection procedures with FIs

   (iii) Manage, with Master Servicer input, the process for transmission of information between utilities and FIs

4. Develop standards for approving FIs for pilot participation and for objective evaluation of FI qualifications based on established protocols
5. Develop protocols for collection of energy project, customer energy use, and borrower financial data, for sharing of data, and for third party access to aggregated, anonymous data; work with the Master Servicer, Commission, and the data working group

6. Develop framework for type and frequency of reporting to EEFE by utilities and FIs; ensure quarterly reports on pilots' progress by EEFE to Commission through Tier 2 Advice Letter or other means as directed by Energy Division.
7. Implement and enforce Commission-approved changes to policies and rules for pilot programs
8. Coordinate with existing customer and contractor-facing tools such as Energy Upgrade California
9. Provide a mechanism to make minor, mid-course modifications to the pilot programs as needed to better meet the individual objectives of a particular program; material and/or substantive changes to pilot programs should be authorized by Assigned Commisisoner Ruling, if needed
10. Develop a proposed start-up budget, not to exceed $4 million for 2013-2014 for all EEFE costs, including contract agents such as the MS

(END OF APPENDIX F)

APPENDIX G

EEFE CORE FUNCTIONS

The EEFE will initially be limited to a series of core functions to facilitate rapid implementation. Other, non-critical complementary functions may have a lead time that make them impossible to launch by the third quarter of 2013. The EEFE will be tasked with a range of critical responsibilities necessary to design and implement the financing pilots including:

1. Competitive solicitation, through the administration of RFPs that may be issued, including for (but not limited to):
    a. A master servicer
    b. A lease originator
    c. An ongoing financial technical assistance/advisory services provider
2. Development of procedures for various EEFE responsibilities:
    a. For all financing types:
        i. Approval of forms and protocols for data transfer between utilities and financial institutions, as proposed by master servicer
        ii. Development of service level agreements (SLA)
    b. For on bill repayment and EFLIC:
        i. Approve placement of financing on the utility bill
        ii. Reconcile utility service disconnection procedures with those of financial institutions
        iii. Manage, with master servicer input, a process for transmitting information about payments, accounts, disconnection between utilities and financial institutions

3. Coordination with multiple stakeholders including the CPUC, investor owned utilities, third party program implementers, contractors and others.
4. Formulation of standards for approving financial institutions for pilot participation and objective evaluation of financial institution qualifications.
    a. We do not propose specific qualification standards in this document, but instead note that Commission staff will work with EEFE to ensure some standardization of FI qualifications across EE programs.
5. With master servicer input, promulgation of protocols, in coordination with CPUC and data working group, and based on utility or standard financial industry practice, for collection of energy project, customer energy use, and borrower financial data, and for sharing such data, including protocols for providing third party access to aggregated, anonymous data.
6. Develop reports on pilot progress for program sponsors and stakeholders.
7. Implement and enforce approved changes to policies/rules for pilot programs.
8. Coordinate with existing customer and contractor-facing tools such as Energy Upgrade California.
9. Comply with reporting requirements to the Commission as set forth in Sections 5 and 11.
10. Initiate consultations with CAEATFA to ensure that core functions are complementary with CAEATFA protocols and requirements to ensure a smooth transition to CAEATFA takeover of EEFE role.

START-UP EEFE AND CE HOLDING ACCOUNT

The EEFE shall establish trust accounts at a national bank to hold ratepayer funds as credit enhancement under the following conditions:

- The EEFE (trustor) will establish a trust in a bank to hold ratepayer-funded credit enhancements at two stages: upon FI approval of the financing (Holding Account), and at the point when the FI releases the funding and closes the transaction (CE POOL Account)
- The trustee will have a fiduciary duty to ratepayers, IOUs and to the lending institutions, depending on the accounts; the Holding Account trust will be established for the benefit of ratepayers and the IOUs for the purpose of holding CE funds preliminarily allocated pending final release of the financing and closing of the transaction.
- The CE POOL Account trust will be established for the benefit of the lending institutions; the trustee may invest up to 90% of the funds in limited-term fixed income securities (e.g., investment in Treasury bills for Debt Service Reserve); and the trust must specify when ratepayer funds are returned to the EEFE (i.e., when a loan is repaid);
- Ratepayer CE funds will be deposited into the CE Pool Account only when loans are funded;

If SDG&E/SoCalGas acts as the Start-up EEFE (trustor), it may use its own money to initially fund EEFE start-up costs and credit enhancements; If so, then the three large electric IOUs (PG&E, SCE, and SDG&E) should enter into cost-sharing and co-funding agreements to reimburse the IOU acting as the Start-up EEFE Manager for both: their share of the costs incurred by SDG&E/SoCalGas to operate as the Start-up EEFE Hub Manager; and the monies advanced to fund credit enhancements, if any; and

- The Commission expressly requires that SDG&E/SoCalGas must, when establishing the trust, retain authority to order the transfer of the ratepayer-funded credit enhancement to CAEATFA when CAEATFA is designated the Permanent EEFE Manager.

(END OF APPENDIX G)

APPENDIX H

MASTER SERVICER FUNCTIONS

The Master Servicer will be an agent of the EEFE. As a state agency, CAEATFA may be subject to state contracting rules (e.g., a competitive solicitation conducted by CAEATFA), so in anticipation of a separate solicitation and contracting process by CAEATFA, the Start-up EEFE Manager should expect to contract with an Interim Master Servicer.

The Master Servicer will conduct at least the following major functions:

For all market sectors and functions:

1. Receive notification from participating originators immediately (electronically) upon closing of any financial product.
2. Set up a financial product master file according to criteria provided by the EEFE. Such criteria will include such elements as borrower name, address, financial product amount, interest rate, maturity, borrower credit information, relevant energy project information.
3. Develop and update financial product servicing data files to be maintained through the life of the financial product.

(END OF APPENDIX H)

APPENDIX I

CONTRACTOR MINIMUM QUALIFICATIONS

The EEFE shall establish minimum qualifications for contractor participating in the EE Financing pilot programs. These qualifications should include:

1) Licensing to perform all aspects of the scope of work.
2) Insurance and bonding requirements.
3) Compliance with all state, county and city labor laws.
4) Provide customer and supplier references.
5) Better Business Bureau Accreditation.
6) Plans demonstrating that the contractor intends to work towards meeting the standards set in the contractor guideline.
7) Hold OSHA-10 certification.
8) Maintenance of a Certified Payroll System and Preventative Maintenance Scheduling System.

(END OF APPENDIX I

APPENDIX J

Attachment A—Response to Ruling Requesting Supplemental Information and Comments on Expert Consultant Financing Pilot Proposals

MEMORANDUM

TO: Frank Spasaro

FROM: Matthew, Mark, David, Aaron, Dave

DATE: December 13, 2012

RE: Timelines and deadlines for meeting EE financing program goals

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California Energy Efficiency Financing—Pilot Phase-In Timing and Deadlines

In Decision 12-11-015 on the EE 2013-2014 program portfolio,[10] the Commission indicated that regarding "new pilot programs associated with the energy efficiency financing programs…[w]e expect that the pilots will be able to be launched in the first quarter of 2013."[11]

While there are some indications that this ability-to-launch deadline may be relaxed, this memo assumes that it is not, and lays out potential steps and timing for a phased pilot implementation as well as potential timelines and deadlines. Our analysis (and experience elsewhere) concludes that it is viable – and in fact optimal – to conduct a staged/phased implementation of the pilots in which (1) progress can be made quickly with existing resources, personnel and systems while (2) the EE Financing Hub management, infrastructure and governance are designed and launched.

These timelines and deadlines recommended herein are designed to balance the Commission's strong desire to see pilots implemented rapidly with the reality that the pilot recommendations are ambitious and will require a significant investment in infrastructure, as well as strategic and political choices with long-term consequences that we believe should not be rushed. Establishing a phased implementation schedule will enable pilot sponsors to begin making progress on achievable short-term milestones and provide the CPUC and other key decision makers with additional time to determine an appropriate and effective long-term financing program management structure.

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[10] Decision Approving 2013-2014 Energy Efficiency Programs and Budgets, November 8, 2012.
[11] Ibid, at p. 109.

Because of the varying complexity of these pilots, this memo assumes for discussion sake that all Consultant pilot program recommendations ("Recommendations") will be accepted by the CPUC and therefore breaks down implementation steps, timing and deadlines by sector. With a final Ruling or Decision on the pilots currently scheduled for February or March,[12] but uncertainty remaining, we describe estimated timing for completion of key activities and deadlines in terms of months after a Ruling or Decision[13] is issued. (For example, "D+3" means an activity would be conducted three months after the issuance date.) We are also assuming that the decision would have sufficiently clear direction in it to allow implementation actions to be taken without an extended further regulatory process.[14]

Overall, we believe there are some best practices for launching pilot programs that necessitate investments in scalable infrastructure:

- Where necessary, use transitional operational and administrative methods to launch the pilots (e.g. Excel spreadsheets as bridges to the build-out of automated platforms);
- Delegate responsibilities for fulfillment of early stage deliverables to trusted organizations/companies/agencies that have a history of successful execution of similar activities in similar situations;
- Use short-term contracts for early stage implementation with a clear emphasis (including financial incentives) on meeting performance goals and deliverables; and
- Ensure that all strategic decisions around long-term management and infrastructure are coordinated with early stage implementation so that the early stage deliverables can inform, and be integrated into, the development of the long term platform(s).

EE Financing Hub

Pilot Period Phase in

The Recommendations suggest a two-phase approach to Hub implementation and management:

[12] Administrative Law Judge's Ruling Requesting Supplemental Information and Comments on Expert Consultant Financing Pilot Proposals, Nov. 16, 2012, at p. 7.
[13] Although it may be either a Ruling or a Decision, the term "Decision" and "D" is used here for simplicity.
[14] Additionally, as this memo was written in a compressed time period and before final Commission guidance on the pilots has been issued, it will be appropriate to update this timeline and provide additional granularity. We recommend scheduling a consultant team-led implementation planning exercise in the coming weeks to jointly conduct this refinement and "next generation" plan creation.

1. *IOU manages initial Hub implementation.* This phase entails a single lead IOU procuring[15] the resources that are required to launch the pilot program and to translate the final decision rules into preliminary pilot policies and protocols.
2. *Hub transferred to non-IOU Hub Manager*. Once the Hub is adequately up and running, the Hub would be transferred to a different entity (e.g. CAEATFA, utilities, or a new or existing not-for-profit or for-profit organization) for long-term management (with appropriate governance and oversight structures).

Pilot Period Deadlines

1a. (D+1) RFPs for master servicer, lease originator, and ongoing financial technical assistance/advisory services drafted and issued

1b. (D+2) Service level agreements and approval process for financial institutions and finance companies developed and finalized

1c. (D+2) Establish utility disconnection procedures for EE OBR financing and identify clearly how they are triggered and executed

1d. (D+3) Finalize protocols for data warehouse information collection and dissemination

1e. (D+4) Contracts signed and work begins for each role described in 1a

1f. (D+5) Finalize data transfer/information sharing protocols for financial institutions, finance companies and utilities

2. (D+~12-24) Transfer Hub responsibilities to long-term manager/entity

Single Family

Pilot Period Phase in

The Recommendations call for two pilots and two-sub pilots. We recommend a phased approach in this sector:

1. *Pilot and Middle Income Sub-Pilot Implementation.* This phase entails implementing the two pilots (WHEEL and LLR) as well as the middle income sub-pilot.

[15] It is assumed that such procurement would be competitively handled and in this memo "RFP" is used as shorthand for any appropriate competitive procurement process.

2. *Fund model development & Line Item Billing Sub-Pilot Implementation.* This phase entails developing a fund to complement/compete with existing capital sources as part of the WHEEL model of loan origination as well as implementing the LIB pilot after legal/regulatory issues are resolved.

Pilot Period Deadlines

1a. (D+2) Sign MOU with WHEEL sponsors

1b. (D+2) Fund subordinate debt account so that WHEEL lending can commence

1c. (D+2) Establish LLR rules and begin accepting financial institution applications

1d. (D+3) RFP for middle income pilot drafted and issued

1e. (D+3) Place funds in escrow for FI LLR access

1f. (D+4) Contract for middle income sub-pilot signed

1g. (D+6) Middle income sub-pilot publically launched

2a. (D+6) Complete feasibility analysis of fund model and make "go/no-go" decision

2b. (D+12) Launch fund model if 2a result was "go"

Multifamily

Pilot Period Phase in

The Recommendations call for a single pilot targeted at affordable master-metered multifamily buildings. This pilot can be implemented in a single phase.

Pilot Period Deadlines

1a. (D+1) Finalize tailored MF OBR pilot rules

1b. (D+1) Finalize "single point of IOU contact" protocols for each utility
2a. (D+2) Release RFP for "pipeline" development. This includes identification of "master account metered" properties and outreach to property owners.

2b. (D+2) Release RFP for accessing credit enhancements

2c. (D+3) Award RFP for credit enhancements

3a. (D+3) Develop coordinated building audit strategy and release RFP to qualifying properties

3b. (D+4) Release RFP for ongoing technical assistance during pilot period including tenant engagement and project M&V using low touch software solutions.

4a. (D+6) Target date for first projects commencing with installed energy efficiency improvements

Non-Residential

We break the non-residential sector down into two groups to describe phases/milestones: On-Bill Financing and On-Bill Repayment.

OBF

Pilot Period Phase in & Deadlines

OBF is already operating, so it does not require a phase in. It does have two recommended deadlines:

1a. (D+2) Finalize program eligibility and process rule changes

1b. (D+5) Implement rule changes in conjunction with introduction of OBR (non-large commercial)—this follows, by one month, the Hub Manager signing a contract with lease originator(s)

OBR

Pilot Period Phase in

We recommend that OBR be implemented in two phases.

1. *OBR with and without credit enhancement and lease pilot implementation.* This phase entails implementing OBR (including the lease pilot).
2. *Fund model development and energy savings insurance M&V sub-pilot and Line Item Billing Sub-Pilot Implementation.* This phase entails developing a fund to complement/compete with existing capital sources as part of the lease model implementing the third-party energy savings insurance as an alternative to standard IOU M&V processes.

Attachment A—Response to Ruling Requesting Supplemental Information and Comments on Expert Consultant Financing Pilot Proposals

Deadlines

1a. (D+1 to D+4) Develop lease financing RFP/sign contract (described in more detail in Hub section)

1b. (D+2) Establish OBR access rules (with and without credit enhancement)

1c. (D+3) Finalize subordinate debt and/or other credit enhancement rules and finalize financial institution application process

1d. (D+4) Fund subordinate debt account and/or other credit enhancement so eligible financial institutions can access it at pilot launch

1e. (D+5) Implement OBR (subject to Hub Deadline 1f. completion on-time)

2a. (D+6) Convene IOU/CPUC/Stakeholder working group on third party insurance-based M&V sub-pilot

2b. (D+6) Complete feasibility analysis of fund model and make "go-no go" decision

2c. (D+10) Complete IOU/CPUC/Stakeholder working group on third party insurance-based M&V sub-pilot

2d. (D+12) Launch fund model if 2b result was a "go"

(END OF APPENDIX J)