BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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

REPLY COMMENTS BY THE DIVISION OF RATEPAYER ADVOCATES ON THE PROPOSED DECISION OF ADMINISTRATIVE LAW JUDGE (ALJ) MELANIE M. DARLING – DECISION IMPLEMENTATING 2013-2014 ENERGY EFFICIENCY PILOT PROGRAMS.

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I. INTRODUCTION

The Division of Ratepayer Advocates (DRA) respectfully submits the following Reply Comments in response to comments of the parties on *Proposed Decision of Administrative Law Judge (ALJ) Melanie M. Darling – Decision Implementing the 2013-2014 Energy Efficiency Financing Pilot Programs*, dated June 25, 2013 (Proposed Decision or PD).[1]

II. DISCUSSION

A. Extend EE financing by one year

DRA generally supports the schedule proposed by Southern California Gas (SoCalGas), and at same time strongly urges the Commission to extend the EE finance pilots through 2015 using the EE finance budget allocated for the 2013-2014 cycle, as proposed by PG&E.[2] This would allow enough time to establish the pilots and gather data to inform future scale up of financing programs.[3] According to the schedule provided by SoCalGas in its Opening Comments and at the August 16, 2013 Workshop, the first energy efficiency finance pilots will not become available until February 2014 for off-bill pilots and June 2014 for on bill pilots, *at the earliest*.[4] This represents a delay of over one year for a two-year pilot. At best, the pilot would run for six to eight months. This is an insufficient amount of time to both ramp up and ramp down the pilots. It is also an insufficient amount of time to generate significant data history on bill and debt repayment and actual energy savings in a manner that would meet the needs of financial institutions, one of the primary purposes of the pilot.[5] Furthermore, it would not be reasonable to expend the necessary Commission, investor owned utilities (IOUs),

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[1] *Proposed Decision of Administrative Law Judge (ALJ) Melanie M. Darling*, *Decision Implementing 2013-2014 Energy Efficiency Financing Pilots*, A.12-07-001, dated June 25, 2013 (referred to below as "Proposed Decision" or "PD").

[2] PGE, p. 3.

[3] In the August 16, 2013 Workshop, ALJ Melanie Darling states that "there is room to make the argument. [to] extend [the EE Finance pilots] an additional year " in reply comments and that "it is conceivable that [this] could be addressed [in this proceeding]. Reporter's Transcript of August 16, 2013 Workshop in Proceeding A.12-07-011, pdf, p. 70.

[4] Reporter's Transcript of August 16, 2013 Workshop in Proceeding A.12-07-001, pp. 66-67.

[5] D.12-05-015, p. 108.

and other State agency resources to implement an EE finance pilot that would run for only six months.

Now would be the optimal time, early in the pilot set up phase, to determine that the program should run an additional year. This would enable CAEATFA to request an extension to its budgetary authority to fulfill its EE pilot program responsibilities into 2015 and to similarly develop the associated contracts for the trustee and Master Servicer. Doing so would preclude the need to duplicate this process after a six to eight month pilot period.

While the original scope of the proceeding was to "evaluate the reasonableness of *2013 and 2014* [energy efficiency programs]", (emphasis added)[6] the Assigned Commissioner (AC) and ALJ could not have envisioned the substantial delays in the commencement of the pilots when the Scoping Memo was originally issued.[7] The Commission's EE Program Guidance Decision on Energy Efficiency also recognized that "due to the complexity of the legal, policy, and practical issues surrounding design of financing options in various markets, it seems prudent to design an approach where financing programs and budgets can ramp up over time based on practical experience and market participation by various customer segments."[8] In order to adhere to the intent of the Scoping Memo and the Commission's Guidance Decision it is prudent to extend the pilot program period by one year.

B. Loan terms

DRA limits its comments in this section to the residential sector. The California Housing Partnership Corporation's (CHPC's) Opening Comments argue for allowing Financing Institutions (FIs) to "freely negotiate" loan terms and conditions directly with borrowers "as long as they meet certain minimum standards".[9] DRA disagrees with CHPC as this would not be a prudent approach for the use of ratepayer dollars, in the single family sector

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[6] *Scoping Memo*, Ruling #1, p. 12.

[7] *Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge*, A.12-07-001, August 27, 2012, p.3.

[8] D.12-05-015, p.107.

[9] CHPC Opening Comments to the PD, filed August 5, 2013, p.10.

loan loss reserve pilot (LLR).[10] CHPC's comments do not specify what these minimum standards should be or how they should be developed. Additionally, there is no support on the record for CHPC's recommendation.

Allowing FIs to control loan terms exposes customers to potentially risky lending practices without adequate protections. Additionally, allowing FIs to negotiate loan terms on a loan-by-loan basis results in high transaction costs, both for the borrower and the FI. From the borrower's perspective, the need to negotiate every EE loan from scratch is a supply side hurdle. Introducing supply side hurdles to EE will inevitably reduce the number of potential customers as transaction cost is an important factor in customer decision making.

CHPC's recommendation assumes a benefit that lenders are unlikely to offer in the Single Family sector, in consideration of their own transaction costs. CHPC's comments suggest that direct negotiations with borrowers would allow lenders to offer a range of loan terms that would accommodate 'varying conditions of the properties and the credit ratings of the borrowers'.[11] DRA disagrees with this suggestion. As observed by LGSEC, "it is not practical to expect lenders will be willing to create multiple products or multiple processes at different levels of an LLR enhancement." Rather, the Commission should do what most other successful programs have done and direct negotiations that aim towards a manageable set of loan terms. Given the relatively limited funds for the Single Family LLR[12], this should be done with a select and small group of lenders, as suggested in several DRA comments in this proceeding[13]. For example, CAEATFA's comparably-sized ABX1 14 EE financing LLR program has only three to five lenders.[14]

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[10] The multifamily sector presents a different scenario discussed later in this section.

[11] CHPC Opening Comments to the PD, filed August 5, 2013, p. 10.

[12] LLR funds are limited to $26 million.

[13] DRA Opening Comments on ALJ Ruling Requesting Supplement Information and Comments on Expert Consultant Financing Pilot Proposals, December 14, 2013, p. 6. DRA Opening Comments on the Proposed Decision, August 5, 2013, pp. 3-6.

[14] See CAEATFA Clean Energy Upgrade Financing Program, "List of Participating Financial Institutions" available at http://www.treasurer.ca.gov/caeatfa/abx1_14/institutions.pdf..

Conditions in the multifamily sector (MF) provide an exception to the DRA's recommendation that direct negotiations between FIs and borrowers be prohibited. It is DRA's understanding that CHPC, as a private entity in the EE finance arena, has already accomplished in the master-metered, low income, multifamily sector (the subject of Commission MF pilots) what DRA recommends for the single family sector. This is a case in which the private sector is a step ahead of, or working in tandem with, State initiatives in serving the objectives of the State. In the MF sector, CHPC has surveyed a number of potential lenders on behalf of a suite of MF sector customers to arrive at a narrow selection of two lenders and reasonably negotiated loan terms. DRA agrees with CHPC that there is no need for CAEATFA to re-negotiate loan terms for this specific sector (i.e. – the master-metered, low income MF sector). DRA continues to advocate that CAEATFA play a similar role as CHPC in the Single Family sector.

C. Clarity to lenders and Overcoming Logistical Obstacles

DRA agrees with Local Government Sustainable Energy Commission (LGSEC) that a standard form (Financial Institution "Partnership Agreement") should be developed prior to the selection of lenders for the EE finance pilots. This creates legibility in enrollment requirements and reduces hassle and other transactions costs for lenders. Additionally, to overcome preventable logistical obstacles, the pilots should be informed by lessons learned from previous EE finance administrators of ARRA and CAEATFA-financed loans, some of which are outlined in the comments of LGSEC.[15]

D. Essential use customers should be exempted from the disconnection requirements of commercial OBR

DRA agrees with PG&E comments that 'essential use customers' as defined by the Commission,[16] should be categorically exempted from service disconnection requirements

[15] See LGSEC Comments on Proposed Decision, August 6, 2013.

[16] See D. 91548 (1978), D.01-04-006, D. 01-05-089, D.01-09-020, and D.02-04-060.

associated with commercial OBR.[17] These customers provide "essential public health, safety, and security services" and should not face utility disconnection.[18]

E. The Commission should not spend ratepayer dollars on energy efficiency for schools, which already receive Prop 39 funds

DRA disagrees with Global Green's recommendation to make EE finance strategies, funded by utility ratepayers, available to schools, specifically schools that receive Proposition 39 (Prop 39) funding. Prop 39, which passed in 2012, allocates over $550 million *annually* for energy efficiency improvements in schools, a budget that is a twenty times greater than the total IOU financing budget for the commercial and industrial sector including associated administrative and marketing costs, and more than half of the total annual CPUC energy efficiency budget Limited financing dollars, funded by ratepayers, are better applied towards underserved markets (one of the objectives of EE financing) and buildings that operate during peak summer hours (to serve EE Strategic Plan goals).

F. "CHEEF" is an appropriate name for the Energy Efficiency Financing Hub

DRA has no objection to the IOUs' recommendation to change the name of the Hub from Energy Efficiency Financing Entity, or EEFE, to California Hub for Energy Efficiency Finance, or CHEEF.

III. CONCLUSION

DRA respectfully submits these reply comments for the Commission's consideration.

[17] PGE, p.8.

[18] See page 2 of 3 of: http://www.pge.com/tariffs/tm2/pdf/ELEC_FORMS_79-1038.pdf . These customers include hospitals, municipal services, and (for illustrative example) petroleum refineries that are electric service providers.

Respectfully submitted,

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