

BEFORE THE PUBLIC UTILITIES COMMISSION
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Rulemaking 09-11-014
(Filed November 20, 2009)

**THE DIVISION OF RATEPAYER ADVOCATES' COMMENTS
IN RESPONSE TO ADMINISTRATIVE LAW JUDGE'S RULING REGARDING
ENERGY EFFICIENCY FINANCING**

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I. INTRODUCTION

The Division of Ratepayer Advocates (DRA) submits these comments in response to the January 10, 2012 “Administrative Law Judge’s Ruling Regarding Financing (Ruling), which requests comments on: the Energy Division’s proposal for energy efficiency (EE) financing during the 2013-2014 transition period.¹ The ruling also requests comments on two reports entitled “Energy Efficiency Finance in California: Needs and Gaps, a Preliminary Assessment and Recommendations” prepared under the direction of the Energy Division by Harcourt Brown & Carey, Inc. (HBC study)² and “On Bill Repayment: Unlocking the Energy Efficiency Puzzle,” prepared by the Environmental Defense Fund (EDF).³

DRA supports the use of financing as a tool with the potential to increase energy efficiency savings at a lower cost to the ratepayers who fund the energy efficiency portfolios of Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas).⁴ DRA remains concerned, however, about the complexity and risk of unintended consequences associated with on-bill repayment (OBR). Moreover, it appears that implementation of OBR as envisioned by the Energy Division and EDF would require revising Section 779.2(a) of the Public Utilities Code.

DRA therefore recommends that the Commission consider DRA’s proposal to allocate \$150 million per year for the next five years to a program administered by the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) to increase energy efficiency projects. This is a more straightforward option that is less likely to produce unintended consequences, yet it would achieve most of the goals sought by the on-bill repayment proposals of the Energy Division or EDF.

¹ Energy Division’s recommendations are appended to the Ruling as Attachment A, “Energy Division Proposal on Energy Efficiency Finance Activity for 2013-2014 (1/5/2012) Proposed Changes to Utility Energy Efficiency Portfolios for the 2013-2014 Transition Period” (Staff Proposal).

² “Energy Efficiency Finance in California: Needs and Gaps, a Preliminary Assessment and Recommendations,” prepared by Harcourt Brown & Carey, Inc. under the direction of the Energy Division and published July 8, 2011 is appended to the Ruling as Attachment B (HBC Report).

³ “On Bill Repayment: Unlocking the Energy Efficiency Puzzle,” a proposal prepared by the Environmental Defense Fund (EDF) is appended to the Ruling as Attachment C (EDF Proposal).

⁴ DRA’s comments refer collectively to PG&E, SCE, SDG&E and SoCalGas as Utilities.

II. DISCUSSION

A. DRA's Proposal for Energy Efficiency Financing

DRA has recommended that the Commission establish a Consolidated Financing Program in the service territories of the Utilities by executing a contract with CAEATFA to administer the program, and that the Commission allocate a minimum of \$150 million annually to the program for the next five years.⁵ One hundred million dollars would be for residential and small business financing, while \$50 million would be for industrial, agricultural and larger commercial customers.⁶

DRA recommended that CAEATFA be tasked with leveraging this \$150 million in ratepayer capital. It would work with financial institutions that, in turn, would provide the funding for residential and small business building retrofit projects through a variety of financing mechanisms, as well as financing for industrial, agricultural and larger commercial customers. While industrial, agricultural and larger commercial customers currently may be eligible to participate in utility on-bill financing (OBF) programs, such programs do not leverage private capital. Leveraging ratepayer capital with private capital several-fold should be a necessary condition of any financing program, as this is the most effective way to expand the resources available to the energy efficiency marketplace.⁷

The HBC Report would serve as a starting point from which CAEATFA can work with stakeholders to develop suitable mechanisms to increase the flow of private capital. These stakeholders include, but are not limited to, the financial industry, local governments, non-profit affordable housing organizations, real estate owners, real estate management companies, and energy service companies (particularly those that are interested in “Energy as a Service” (EaaS) business models targeting the residential and small business market space).

CAEATFA is well-suited to take on this responsibility and could provide the Commission with an option to move forward on energy efficiency financing in time for the

⁵ The Division of Ratepayer Advocates' Opening Comments in Response to Assigned Commissioner's Ruling and Scoping Memo Regarding 2013-2014 Bridge Portfolios and Post-Bridge Planning, Phase IV, filed November 8, 2011 in R.09-11-014 (DRA Bridge Portfolio Comments), pp. 2-5.

⁶ DRA Bridge Portfolio Comments, p.3.

⁷ DRA Bridge Portfolio Comments, pp. 2-5.

transition period of 2013-2014. CAEATFA was established by legislation⁸ and has broad authority to enter into contracts with public and private entities,² and receive grants and loans¹⁰ as well as the broad authority to employ a host of financing mechanisms to leverage public monies with private capital. The “financial assistance” that CAEATFA is authorized to use includes:

“any combination, of the following:

- 1) Loans, loan loss reserves, interest rate reductions, proceeds of bonds issued by the authority, insurance, guarantees or other credit enhancements or liquidity facilities, contributions of money, property, labor, or other items of value, or any combination thereof, as determined by, and approved by the resolution of, the board.
- (2) Any other type of assistance the authority determines is appropriate.”¹¹

CAEAFTA’s expertise and experience is in working with the financial industry to facilitate its participation in clean energy markets.¹² CAEATFA is overseen by a board that includes the State Treasurer (who serves as chair), the State Controller, the Director of Finance, and representatives from the Public Utilities Commission and the Energy Commission. Thus, an oversight board is already in place.

⁸ Public Resources Code §26000 et seq.

² Public Resources Code § 26011(e) provides that CAEATFA may contract with a person, partnership, association, corporation or public agency” with respect to a project authorized by CAEATFA.

¹⁰ Public Resources Code § 26040(a) provides that CAEATFA may “receive and utilize grants or loans from the federal government, a public agency, or any other source for carrying out the purposes of this division.

¹¹ Public Resources Code §26003(e)(1)-(2).

¹² Examples of programs administered by CAEAFTA include: Senate Bill (SB) 71, which provides sales and use tax exemptions for manufacturers that produce clean energy products; SB 77, which provides assistance in the development of PACE bond resource programs to aid local jurisdictions in financing distributed generation of renewables, energy efficiency and water efficiency improvements; Qualified Energy Conservation Bonds, which are designed to provide low interest financing to promote alternative energy and energy efficiency in state, local, tribal facilities. CAEATFA’s role is to act as a conduit to bridge the borrower and the bond purchaser in the creation of these Qualified Energy Conservation Bonds. Finally, CAEATFA is implementing AB x1 14, which requires CAEATFA to administer the Clean Energy Upgrade Program, including establishing a loan loss reserve program for residential energy efficiency upgrades.

The contract with CAEATFA regarding operation of the Consolidated Financing Program would be negotiated and overseen by the Commission, with additional contracts between the Utilities (acting jointly) and CAEATFA for payment of program expenses. It would be similar to the current arrangement between SDG&E and the California Center for Sustainable Energy, which is the program administrator for the California Solar Initiative in SDG&E's service territory.¹³ The release of ratepayer funds from the Utilities to CAEATFA would be pursuant to the terms of the contract. The full Commission could delegate to the Assigned Commissioner on energy efficiency the authority to negotiate and execute the agreement with CAEATFA, consistent with Commission directives, including direction that the Utilities pay CAEATFA for transactions within the scope of the contract.

B. Response to Questions

As directed in the ACR, DRA provides the following response to questions listed in Section 6A of the Ruling.

- 1. CPUC staff suggests five goals for a financing program. The Ruling asks whether parties agree with the suggested programmatic goals, whether they would eliminate any goals, and whether they would add others.**
 - **Utilize financing to help reduce the total cost of energy services, i.e. the combined cost of consumed energy and payments for efficiency improvements that lead to maximizing efficiency. Call upon these mechanisms to introduce new business models and marketing approaches that will help expand the level of efficiency market activity.**

DRA supports this as a goal, but recommends that the Commission consider the uncertainty associated with forecasting energy savings, and how that would be treated under the proposed OBR program. There is no evidence in the record supporting the reliability of predicting energy savings using modeling software currently in use. It is DRA's understanding that ED is reviewing the utilities' Energy Upgrade California savings estimates modeling inputs and assumptions for reasonableness under its Commission-directed role in reviewing custom *ex ante* savings prior to freezing.¹⁴

¹³ <http://energycenter.org/index.php/incentive-programs/california-solar-initiative>.

¹⁴ Phone call with Energy Division analyst Peter Lai, January 20, 2012.

However, DRA recommends that the Commission direct the Energy Division to conduct randomized pre/post on-site measurements to determine the validity of the modeling.¹⁵

The Staff Proposal acknowledges that “modeled energy savings are not perfectly reliable,”¹⁶ yet the forecasted energy savings would form the basis for the monthly loan repayment.¹⁷ If the energy savings equal or exceed the predictions the customer’s bill including both the cost of energy and the cost of the loan repayment, the customer’s bill would be lower. However, what should happen in instances in which the customer’s energy usage remains the same, but the expected savings do not materialize? Should the customer have any recourse? If so, in what form and from whom? These questions might appear more in the nature of implementation questions to be deferred until after consideration of broad policy questions, but DRA believes they are critical to resolve at the outset before committing substantial resources to a financing model that would not serve the interests of ratepayers.

- **Broaden the range of borrowers who are able to undertake energy efficiency investments and who fall within loan and program eligibility and/or qualifying criteria, compared to current rates of efficiency in the market.**

Expanding the pool of borrowers who can implement energy efficiency investments is a worthwhile goal. DRA cautions, however, that this goal should be tempered with the recognition that it is not prudent for all consumers to assume more debt. The financial circumstances of individual customers and the continuing uncertain state of California’s economy must be considered. This is especially important given the risk that energy savings may not materialize as predicted, and that the addition of the loan to monthly energy costs may increase a customer’s total monthly utility bill, notwithstanding the intent to include “an adequate margin of safety” for uncertainty. Any energy efficiency financing program should ensure that customers who assume

¹⁵ An additional source of data that will soon be available is current on-bill financing of the San Francisco Mayor's Office of Housing. One years worth of post-retrofit energy savings data will be available from seven energy efficiency retrofitted properties in March 2013. The project and savings data are described in DRA's December 9, 2011 Reply Testimony in Application A.11-05-017 et al., at pp. 8-12.

¹⁶ Staff Proposal, p. 7.

¹⁷ EDF Proposal, p. 13 (“Allowable debt service will be no more than estimated savings with an adequate
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debt to implement energy efficiency projects do not risk their access to basic utility service in the event that they lose their job (and cannot pay back the loan) or that expected energy savings are not realized.

Nearly two years ago, the Commission opened R.10-02-005, “Order Instituting Rulemaking to Establish Ways to Improve Customer Notification and Education to Decrease the Number of Gas and Electric Utility Service Disconnections.” Among the goals of the rulemaking were identifying “more effective ways for the utilities to work with their customers and develop solutions that avoid unnecessary disconnections without placing an undue cost burden on other customers” and reducing “the number of residential gas and electric utility service disconnections due to nonpayment by improving customer notification and education.”¹⁸ DRA supported these goals and believes that the Commission has taken positive steps to achieve them. It would be unfortunate, if in its efforts to achieve deeper and more comprehensive energy efficiency retrofits, the Commission approved a financing mechanism that would risk the ability of some customers to maintain their utility service. The OBR proposals of both the Energy Division and EDF assume that the risk of disconnection would be reduced through OBR because the program would result in lower overall utility bills for customers. However, there is not enough data about achieved savings to support that assumption.

- **Facilitate lower interest rates that lenders charge to cover their risks; obtain interest rate levels in the market that attract borrowers and facilitate expanded energy efficiency investment.**

DRA agrees that interest rate for energy efficiency loans should be priced at a level that will attract borrowers and maximize deep energy efficiency retrofits. However, any program to facilitate low interest rates should ensure that the low interest rates are not accomplished in a manner that does not unnecessarily increase risk to the residential consumer. Lenders may prefer loans that are secured by the meter, based on belief that “customers understand that non-payment of the bill can result in utility shut-off leading to further losses such as spoiled food and healthy risks inherent in lack of climate

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margin of safety.”).

¹⁸ R.10-02-05, OIR, p. 1.

control.”¹⁹ Thus, the Commission should reject a lower interest rate that is achieved via the threat of utility disconnection in favor of less risky methods, including loan loss reserves, interest rate buy downs, and loan guarantees.

- **Inform borrowers and lenders of the predicted financial performance of energy efficiency improvement projects, and develop a database of efficiency loan repayment history to inform subsequent loans.**

DRA agrees that developing information about the predicted performance of energy efficiency improvement projects and about database of loan repayments are important goals. DRA recommends, however, that the Energy Division staff present data regarding the accuracy of current methods of predicting energy savings from home retrofits before rolling-out an on-bill repayment program. Doing so, at a minimum, would allow consumers understand the likelihood that the forecasted bills savings will materialize. DRA believes a better way to state the goal would be: “Inform borrowers and lenders of the predicted and *actual* financial performance of energy efficiency improvement projects...”

- **Assure or guarantee loan repayments, at acceptable risk exposures, if lenders are not yet ready to offer loans at reasonable terms to target borrowers undertaking desirable efficiency projects.**

DRA supports the investigation of tools to guarantee repayments as a means to secure reasonable interest rates and believes that it a more reasonable approach to securing low interest rates for residential customers than the threat of disconnecting utility service.

2. Do the financing program elements in the Staff Proposal address the most important needs and gaps in the energy efficiency improvement market as far as financing availability is concerned? Why or why not?

The Staff Proposal supports the use of OBR to encourage deeper retrofits, to leverage ratepayer capital with private capital, and to expand the pool of borrowers who can undertake energy efficiency improvements. OBR can potentially address the issue of split incentives, which occurs when the party that owns the property does not pay the utility bills and would therefore not see the benefits of most upgrades.

¹⁹ “On-Bill Financing for Energy Efficiency Improvements: A Review of Current Program Challenges, Opportunities, and Best Practices, by Catherine Bell,” Steven Nadel, and Sara Hayes, published December, 2011 by the American Council for an Energy-Efficient Economy, p. 3.

DRA believes that its proposal to authorize CAEATFA to administer energy efficiency finance has the potential to address these goals and gaps at lower risk to participating ratepayers, with the exception of the split incentives issue. DRA agrees that the split incentives issue can be an obstacle to commercial and residential energy efficiency retrofits, as the renter generally is not willing to make improvements to property he or she does not own, while the owner generally is not willing to make improvements that will result in a lower utility bill that he or she does not pay.

The EDF and Staff proposals recommend addressing this issue by tying the loan obligation to the meter. While this might appear to solve the problem of split incentives, DRA questions whether this is in fact a viable solution given that properties are not rented 100 percent of the time. What happens when the tenant leaves? Is that landlord responsible for loan payments until the property is rented again? Is the loan obligation held in abeyance until the property becomes occupied, thereby extending the life of the loan? Are ratepayers responsible for loan payments when the property is vacant? The Commission should resolve these issues before authorizing a tariff that ties an energy efficiency loan obligation to the meter.

3. Is the emphasis on OBR appropriate? Why or why not? Would you prefer emphasis on other mechanisms such as OBF or loan guarantees, etc.?

DRA does not support the proposed OBR program, because residential customers would face the risk of disconnection in the event of nonpayment of their utility bills. Moreover, the Commission's expertise is not in regulating the financial institutions who would be the lenders in the OBR program. Yet as homeowners and businesses in California and the United States have learned from the financial crisis of the last decade, it is imperative to closely oversee the activities of banks and financial institutions to prevent fraud, manipulation and negative financial consequences for consumers. Neither the Commission nor the Utilities is ideally suited to review the loan practices and agreements that would part of an OBR program.

In contrast, CAEATFA is well equipped to deal with financial institutions and currently is developing regulations for its Clean Energy Upgrade program, expected to be implemented this year. In contrast to the proposed OBR program, which faces a host of hurdles before it could begin, DRA's proposal to use CAEATFA as the administrator could be implemented by the start of the transition period. It would also pose significantly less risk to participating residential customers, who would face the risk of disconnection of basic utility service under the proposed OBR program. CAEATFA could investigate the use of loan loss reserves, loan

guarantees and other mechanisms to develop financial products suited to various market segments.

4. Are there additional elements that you think should be addressed in 2013-2014 and, if so, what are these elements and what evidence can you cite for why these issues also should be addressed?

DRA reserves the right to respond in reply comments to the responses of other parties to this question.

5. Do you agree with the suggested funding levels in the Staff Proposal? If you propose different funding levels, please explain why.

DRA proposes \$150 million per year for the next five years as a reasonable start to funding more energy efficiency projects, while at the same time proposing a decrease in the remaining budget for rebate and incentive programs. DRA's proposal does not include the \$10 million included in the Staff Proposal for "one time billing changes," presumably to upgrade the Utilities' computer billing systems to accommodate OBR. The actual cost of such upgrades cannot be known until the Utilities file a Billing and Collections tariff that describes in granular detail the product that will be offered to banks. As part of defining and developing this product, hardware and software requirements must be developed, which includes any changes in billing, accounting, and customer care operational systems. Utility service representatives will need to be trained on how to handle customer questions and disputes regarding the bank loans, and on how to handle requests for utility service from new customers. The latter will require having information readily available to check whether there is a bank "lien" on the meter and, if so, the methods, procedures and system support that is needed to facilitate the assumption of the bank loan balance by the new customer. Of course, the utility representative would need to deny utility service to the new customer if the new customer refuses to assume the outstanding bank loan.

6. What issues, if any, do you see with emphasis on OBR in general?

In addition to the issues discussed in response to question 3, an emphasis on OBR requires ratepayers to pay for billing upgrades as the Utilities become a collections agent for third parties. Under DRA's proposal, that responsibility and its associated costs would remain with third party lenders.

7. What issues, if any, do you see with the suggestion to extend OBR to the residential market?

As discussed previously, DRA disagrees that OBR is an appropriate energy efficiency tool for residential customers, due to the risk that their utility service could be disconnected for nonpayment of the energy efficiency loan under the OBR program as proposed.²⁰

8. Do you recommend that OBF and/or OBR programs focus on or prioritize particular market segments (e.g., government, water and wastewater, small commercial, single-family residential, etc.) and if so, what is your justification?

Larger, more sophisticated customers are better equipped to evaluate the risk associated with OBR or on-bill-finance, so if the Commission determines to implement an OBR program, its focus should be on government, industrial, large commercial and agricultural, and water and waste water utilities.

9 The Staff Proposal identifies the inherent uncertainty over the pace of ratepayer-supported financing and thus the funding level necessary to support these loans. Will the “flexibility mechanisms” identified in the Staff Proposal (to require utilities to shift funds from other programs if financing demand exceeds the level of funds budgeted for financing, or to require the utilities to submit a motion for budget augmentation) suffice to ensure that financing program funds can respond to market demand? If not, what other approach(es) do you recommend?

DRA has recommended in the Commission Rulemaking to Address Utility Cost and Revenue Issues Associated with Greenhouse Gas Emissions, R.11-03-012, that the Commission direct the Utilities to allocate up to 10 percent of the allowance revenue they receive from sale of greenhouse gas (GHG) allowances to energy efficiency financing. That amount could exceed \$1.42 billion for the period from 2013-2020.²¹

²⁰ However, as discussed in response to question 13, it appears that Section 779.2(a) would need to be revised to implement the Staff Proposal or EDF proposal for OBR that disconnects utility service to residential customers for non payment of the energy efficiency loan.

²¹ See The Division of Ratepayer Advocates’ Updated Proposal for Using Cap-and-Trade Allowance Revenues, filed January 6, 2012 in R.11-03-012. A year by year breakdown the expected GHG allowance revenue available for energy efficiency financing from GHG allowance revenue under DRA’s proposal in that proceeding is provided in Appendix C of that filing.

- 10 Do you concur with the compendium of information and conclusions in the HB&C report? If not, what additional information do you believe should be considered, and what sources do you recommend for doing so?**
- 11. Do you dispute any of the primary findings and conclusions from either [the EDF or the HBC] study? If so, for what reasons, with what alternative data and findings, and with what implications for the suggested financing program goals as stated above?**

The HBC report presents compelling data that support the need for more energy efficiency financing and discusses options for addressing the barriers to such financing. DRA disagrees that OBR is the best way to surmount those obstacles, and recommends instead that the Commission authorize financing that is not tied to the customer's meter.

- 12. Are you aware of specific technical or financial barriers to proceeding with some kind of OBR mechanism for loans made by lenders other than the customer's/borrower's utility?**

DRA reserves the right to respond in reply comments to the responses of other parties to this question.

- 13. Please identify any legal impediments you see with associating OBR payment obligations with the meter rather than the individual borrower.**

The Energy Division proposal and the EDF proposal would both use the meter as a form of collateral to secure lower interest rates from lenders, relying on the ability of the Utilities to disconnect customers for nonpayment of their bills, including the energy efficiency loans.²² Disconnecting a customer's energy service for nonpayment of the customer's energy efficiency loan advanced by a third party appears inconsistent with the Public Utilities Code Section 779.2 (a).²³

Section 779.2 (a) prohibits a utility from disconnecting a residential customer for nonpayment of an obligation owed to an entity other than the utility:

“No electrical, gas, heat, telephone, or water corporation may terminate residential service for nonpayment of any delinquent account or other indebtedness owed by the customer or subscriber to any other person or corporation or when the obligation

²² Staff Proposal, p. 5; EDF Proposal, p. 14.

²³ All statutory references are to the Public Utilities Code unless otherwise specified.

represented by the delinquent account or other indebtedness was incurred with a person or corporation other than the electrical, gas, heat, telephone, or water corporation demanding payment therefore.”

Section 779.2(b) carves out an exception to the prohibition that a utility may not terminate residential service for a customer’s nonpayment of bills to entities other than the utility. That exception applies to telephone corporations operating within service areas (local exchange carriers) that provide billing services for other telephone corporations operating between service areas (interexchange carriers) pursuant to Commission-approved tariffs.²⁴

The Commission in D.00-03-029 eliminated the authority of local exchange carriers to disconnect local service for customers’ nonpayment of interexchange charges billed on their phone bill. The Commission acted in response to the practices of some companies in imposing unwarranted charges on consumers. D.00-03-029 recognized that “allowing one service provider to cease service for nonpayment to another” was a “commercially unusual practice” that had resulted in customers paying disputed charges merely because they feared their basic phone service would be disconnected if they did not pay their entire phone bill.²⁵ It therefore abolished the policy of allowing local exchange carriers to disconnect local service for nonpayment of interexchange service charges billed by the local carrier.²⁶

It appears that Section 779.2(a), which prevents disconnection of residential utility service due to “indebtedness owed by the customer or subscriber to any other person or corporation,” would need to be revised in order for OBR as proposed to EDF and the Energy Division, in order to allow the Utilities to disconnect utility service to residential customers who do not repay their energy efficiency loans to third party lenders. DRA does not recommend that the Commission support amendment or appeal of Section 779.2(a), which provides an important protection to residential customers against the loss of their utility service.

²⁴ Public Utilities Code Section 779.2(b); see also Public Utilities Code Section 779.2(c), which provides as exception for utilities that collect sanitation or sewerage charges for a public agency pursuant to provisions within the Government Code or Health and Safety Code.

²⁵ D.00-03-029, p. 24.

²⁶ D.00-03-020, p. 33 and Ordering Paragraph 4 at p. 57.

There are potential legal issues extending beyond the Public Utilities Code that must be considered before an OBR program can be implemented:

1. What are the regulatory and legal implications of On-Bill Repayment in laws, regulations, and ordinances governing tenant-landlord relationships, real estate transactions, and other commercial matters that might be impacted? What legal and regulatory obligations will a utility and the Commission have in this regard?
2. What role does the utility have in disputes between the lenders, to which it provides Billing and Collection services and the original borrower or the new tenant or property owner, to whom the utility provides an essential utility service? What is the role of the Commission in resolving these disputes? Is it realistic for the Commission not to be involved in such disputes when an essential utility service is subject to disconnection of an essential utility service or subject to the withholding of an essential utility service?
3. Under current law and regulatory rules, what are the implications of allowing the use of the utility meter as a form of “security” for financial institutions which would provide energy efficiency and distributed clean energy generation loans? What form of liens will be executed? Will the liens be tied to the utility, the tenant unit, or the entire property? How will the information flow to accommodate any disclosure requirements on real estate transactions and tenant-landlord agreements? How will these be enforced? Are there implications under federal laws, including the Sarbanes–Oxley Act of 2002 (Pub.L. 107-204, 116 Stat. 745 and/or the Dodd-Frank Wall Street Reform Consumer Protection Act of 2010?

DRA asked these questions in its November 16, 2011 Reply Comments in Response to Assigned Commissioner’s Ruling and Scoping Memo Regarding 2013-2014 Bridge Portfolios And Post-Bridge Planning, Phase IV. Though they remain unanswered they appear critical to moving forward with any OBR program. In addition, if the Commission decides to move forward with an OBR program, DRA recommends that it obtain a legal opinion from the California Department of Corporations and the United States Department of Justice on whether or not a utility would be governed by regulations and requirements applicable to regulated lenders if the utility provides On-Bill Repayment that includes disconnection or withholding of an essential utility service as part of a Billing and Collections tariff.

III. CONCLUSION

DRA respectfully requests that the Commission consider DRA’s proposal to allocate \$150 million per year for the next five years to a program administered by CAEATFA as an option to increase energy efficiency savings. Such an option would pose less risk of unintended consequences to residential ratepayers and would be less complicated than the on-bill repayment

proposal of Energy Division or EDF, yet could still achieve greater energy efficiency savings at a lower cost to ratepayers than current rebate-focused portfolios.

Respectfully submitted,

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