BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Investigate and Design Clean Energy Financing Options for Electricity and Natural Gas Customers.

Rulemaking R 20-08-022
April 1, 2021

COMMENTS OF K. DIXON WRIGHT ON THE ASSIGNED COMMISSIONER'S RULING SEEKING PARTY FEEDBACK ON TRACK 1 ISSUES RELATED TO CALIFORNIA HUB FOR ENERGY EFFICIENCY FINANCING PROGRAMS

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Clarification from Responder

The DOE Orange Button initiative seeks to increase the financial viability of clean energy projects with digital ecosystems that reduce soft costs, improve risk management and promote innovation to attract capital markets and financial service companies.

Orange Button focus for this response is limited to the advocacy that On-Bill Repayment should be authorized as envisioned by CHEEF as published in the January 31, 2020 outline, Solar and Storage acceptable, single loan limits of $5,000,000 with no loan loss reserve for third party lender.

The Orange Button collaboration group is made of industry volunteers that have offered their expertise and commentary in multiple venues in support of the DOE Orange Button initiative, collectedly referred to as "Orange Button".

As a collaboration of volunteers, the Orange Button structure is not appropriate for formal party status, so comments are submitted by Dixon Wright as Chairman of Surety Resource Connection.

Cost Allocation – NEM3

Orange Button advocacy for On-Bill Repayment is to significantly expand DER's by providing improved access to low-cost capital within a risk management structure for borrowers and improved access to surety credit for both borrowers and contractors.

This expansion overlaps with other significant considerations such as cost sharing, net metering and the impact of more DER's on the grid that exacerbate the Duck Curve problem. These issues are part of an extensive review of NEM2 and will result in an updated NEM3 that will address and resolve those challenges.

Orange Button supports the work to develop NEM3 and defers to that forum on issues of cost sharing, load shifting for resiliency, and grid maintenance with equitable cost allocation.

Executive Summary

The On-Bill Repayment platform can attract private capital and financial markets because the portfolio capabilities allow for scale, leverages the low default rate of utility payments, and enables lenders to independently determine pricing and underwriting criteria based on the individual and specific nature of each request without intervention by or burden to the utility. On-Bill Repayment should focus on opening a wide range of options -- for those challenged with energy equity to those most financially qualified.

The On-Bill Repayment platform should not be a "one size fits all" approach, or for a singular purpose or component. As many of the initial OIR comments and replies conveyed, energy projects being financed under On-Bill Repayment should be allowed to be any combination of components the borrower wants to install to achieve their own objectives, regardless of savings, and a lender is willing to finance.

Various mandates require solar/storage to fight climate change, there are business cases where resiliency for PSPS and other energy disruptions is essential, and there is growing general consumer desire for solar/storage that is creating a demand for solar installers that is greater than the supply. On-Bill Repayment introducing significant new funding for solar/storage will add to the high demand, creating opportunities for new businesses and expose consumers to contractor defaults. The On-Bill Repayment structure should enable the optional use of surety products and services to be incorporated into the lenders underwriting approach to manage the default risk of not only the solar installer for the benefit of the borrower, but surety on the borrower for the benefit of the lender.

Since the lender, borrower and possibly a surety have the total exposure under the loan, with no risk to utility or ratepayer, the utility should not impose requirements or restrictions on how the private capital and financial markets offer financial products and services, other than to acknowledge the lenders and surety independently operate under all applicable banking and insurance laws.

The utility should take no action or impose any policy that could be perceived as making the utility a party to the loan and subject the utility to laws that apply to lenders. Lenders are solely responsible for adherence to laws, and the borrower's sole recourse for issues relating to the loan are only against the lender under those appropriate laws and protections.

Should a lender act in a predatory or deceptive manner, or a contractor's sales approach misrepresents the project to the consumer, which has been a problem in the past, the oversight and remedies are with the regulatory agencies that oversee lenders, sureties and contractors, not any agencies that oversee the utility.

For consumers that are challenged with energy equity the On-Bill Repayment platform should utilize multiple government programs to support lending and surety programs for both borrowers and contractors, including provisions that remove financing charges from the bill after missed payments, such that missed financing payments do not lead to disconnection.

<u>Alignment with Energy Financing OIR</u>

Orange Button advocacy aligns with key objectives of the Energy Financing OIR

Extracted from Ruling. - To evaluate the potential efficiencies of providing financing strategies that allow for larger or broader investments in multiple types of clean energy improvements through a single program. Specifically, this rulemaking aims to ensure that the financing programs backed by ratepayer funding are targeted to attract investment by third-party partners to increase their efficacy and scope.

3) Test financing as a strategy to generate energy savings

- Financing should complement available rebate and incentive offerings, but rebates and incentives would not be required.
- Bill neutrality would not be required.

The purpose of utilizing non-ratepayer funds is to remove complexity for Program participants and to facilitate broader participation by contractors and lenders.

What the customer receives through a financing program is not an "incentive" in the form of a subsidy on their equipment or installation, but access to capital at better rates and terms than they otherwise would receive, or a credit approval where they would otherwise not qualify.

Background – On-Bill Repayment

Orange Button has identified the On-Bill Repayment platform as particularly well suited for a digital ecosystem approach, has responded to prior requests for input, and offers this commentary as a continuation of prior submissions.

Website for On-Bill Repayment outreach and education - How the On-Bill Repayment structure can help attract Capital and Financial Markets to clean energy projects.

September 14, 2018

Impact Event during the Global Climate Action Summit – The Orange Button digital utility guarantee bond to support On-Bill Repayment introduced

November 28, 2018

Orange Button responded to a 2018 RFA by PG&E detailing the *Public Benefit* and how data interoperability enables *Commercial Interests* to innovate new products and services. On-Bill Repayment was the model to demonstrate how data interoperability could impact the ecosystem to provide consumers with better financing options, including the Orange Button digital surety bond.

September 24, 2019

Impact Breakfast 2019 Solar Power International – First Orange Button surety bond issued electronically.

October 19, 2020

Orange Button filed a response to the CPUC OIR recommending On-Bill Repayment be authorized.

On-Bill Repayment – Enabling Multiple Options

Because each On-Bill Repayment borrower secures project financing from the private sector, with no risk to utility or rate payors, the utility is freed from having to establish loan criteria. The private sector develops the amounts, underwriting terms, and pricing along with how to manage or mitigate losses.

The private sector has access to multiple government supported programs to incorporate into their lending and insuring capacities, with no risk to utilities or ratepayers, but accessible to address energy equity.

The private sector can utilize multiple funding structures:

- Traditional unsecured lending
- "Lease Lease Back", PPA's, Tax Equity, Energy Savings Contracts and others
- Asset backed lending – solar/storage system as security.
- Green Bond Funds
- Green Bond Funds where each borrower posted utility guarantee bond – Investment Grade.

The private sector can utilize multiple insurance and surety structures:

- Traditional insurance and surety.
- Asset backed surety credit – solar/storage system as security.
- Insurance and surety requirements on borrowers and contractors

The private sector can utilize multiple government support options:

- Guarantees issued by government programs to surety companies to support borrower utility guarantee bonds.
- Guarantees issued by government programs to surety companies to support solar installer performance and payment bonds.
- Access to capital loans to solar installers

Surety markets that provide utility guarantee bonds perform the underwriting for the project, freeing the utility of that function, and the surety establishes terms that are specific to each situation.

There are multiple types of borrowers that can all leverage the On-Bill Repayment platform, each having their loan program tailored to their specific situation and risk tolerance.

<u>Borrower Types</u>

Sophisticated Borrower – Traditional Stand Alone

- Borrower confident in their ability to qualify contractors and administer the construction.
- Financially qualified for loan capacity required, and willing to cover construction risk.
- Lenders offer financing terms based solely on borrower profile and the low default rate of utility payment obligations.
- Simple and straightforward, borrower hires contractor and owns the system, plus ITC credit.

Sophisticated Borrower – Complex Transaction

- Borrower seeks more complex structures like “lease, lease-back”, power purchase agreements (PPA), tax equity, shared solar/storage or any number of combinations.
- Lenders would offer financing terms based on borrower profile, specific structure of project, and the low default rate of utility payment obligations.
- Structure is established, borrower hires contractor and structure determines ownership of the system, ongoing maintenance, qualifies for ITC credit.

Sophisticated Borrower – Surety Based Risk Management

Utility Guarantee Payment Bond on borrower

- Financially qualified for utility guaranty bond and willing to cover construction risk.
- Lenders would offer low-cost financing terms based on utility guarantee bond.
- Confident in their ability to qualify contractors and administer the construction.

- Simple and straightforward, borrower posts utility payment guarantee bond, hires contractor and owns the system, responsible for ongoing maintenance, qualifies for ITC credit.

Risk Adverse Borrower – Surety Based Risk Management – Contractor Bonded

Performance and Payment Bonds on Contractor

- Prefers prequalified contractors that are backed by a surety company.
- Prefers a structured third-party construction administration process that includes risk management to protect borrower.
- Financially qualified for loan capacity required but prefers to transfer the construction risk.
- Lenders would offer financing terms based on borrower profile, bonded contractor, and the low default rate of utility payment obligations.
- Cost of financing includes loan interest rate and premium for contractor's performance and payment bonds.
- Simple and straightforward, borrower hires bonded contractor and owns the system, responsible for ongoing maintenance, qualifies for ITC credit.

Risk Adverse Borrower– Surety Based Risk Management – Borrower and Contractor Bonded

Utility Guarantee Payment Bond on borrower

Performance and Payment Bonds on contractor

- Qualifies for a utility guarantee payment bond.
- Lenders would offer low-cost financing terms based on utility guarantee bond.
- Prefers prequalified contractors that are backed by a surety company.
- Prefers a structured third-party construction administration process that includes risk management to protect borrower.
- Financially qualified for loan capacity required but prefers to transfer the construction risk.
- Cost of financing includes loan interest rate, premium for utility guarantee bond, premium for contractor's performance and payment bonds.

- Simple and straightforward, borrower posts utility payment guarantee bond, hires bonded contractor and owns the system, responsible for ongoing maintenance, qualifies for ITC credit.

Risk Adverse Borrower – Energy Equity – Surety Based Risk Management

Utility Guarantee Payment Bond on borrower

Performance and Payment Bonds on contractor

- Qualifies for a utility guarantee payment bond with support from government program.
- Lenders would offer low-cost financing terms based on utility guarantee bond.
- Needs prequalified contractors that are backed by a surety company.
- Needs a structured third-party construction administration process that includes risk management to protect borrower.
- Financially qualified for loan capacity with government program support and needs to transfer the construction risk.
- Cost of financing includes loan interest rate, premium for utility guarantee bond, premium for contractor's performance and payment bonds.
- Simple and straightforward, borrower posts utility payment guarantee bond backed by government program, hires bonded contractor and owns the system, responsible for ongoing maintenance, qualifies for ITC credit.

<u>On-Bill Repayment – Catalyst for Enabling Multiple Options</u>

Enabling low-cost financing is an objective of Orange Button and the CPUC OIR, and risk is a primary driver of finance cost. Enabling risk management approaches that reduces risk will have a corresponding impact on reducing finance costs, particularly as the various risk management approaches can be evaluated over time for their effectiveness.

To promote private sector consideration of risk factors to support lower cost financing the Orange Button is applying to the Department of Energy Loan Programs Office (DOE LPO) and the

California Climate Catalyst Revolving Loan Fund (Cal CC) for 1% interest rate financing based on risk being assumed by the utility payment surety bond.

On-Bill Repayment – Catalyst Funding

Utility Guarantee Payment Bond on borrower

Performance and Payment Bonds on contractor

- Borrower qualifies for a utility guarantee payment bond, some with support from government programs.
- DOE LPO or Cal CC offer 1% financing terms based on utility guarantee bond. Lending is not based on ROI to lender, but on accelerating capital markets entry with low-cost funding based on proven track record and data analytics.
- Prequalified contractors that are backed by a surety company.
- Structured third-party construction administration process that includes risk management to protect borrower and lender from contractor default.
- Cost of financing includes 1% loan interest rate, 1.5% premium for utility guarantee bond, 2.5% premium for contractor's performance and payment bonds. Total of 5% cost of financing.
- Simple and straightforward, borrower posts utility payment guarantee bond backed by government program, secures 1% loan, hires bonded contractor and owns the system, responsible for ongoing maintenance, qualifies for ITC credit.

Next Steps – Recommendation

There is considerable advancement in data administration to reduce costs, increase efficiency and enable AI. Innovations enabled by data analytics are being implemented in multiple industries, market segments and regulatory environments that are involved in the production of energy, from the initial permit through procurement, financing, construction and ongoing operations.

To accelerate the transition to digital Orange Button is hosting an Earth Day event on April 22nd to demonstrate the digital ecosystem with digital surety bonds and standardized contracts, and how data interoperability could be leveraged by the On-Bill Repayment platform to attract capital and financial markets to clean energy projects.

- PG&E has filed an advice letter for an On-Bill Finance pilot with potential collaboration from Orange Button to explore innovative approaches.

- In support of the PG&E Pilot Orange Button has a call for concept proposals to explore innovative approaches a digital ecosystem could enable, and a number of industry stakeholders has offered to participate.

  Each participant's concept proposal is in support of the initial CPUC OIR and would apply to the April 1st ruling. Each concept proposal contains the following response format:

  1. Is not confidential and is offered as part of the DOE Orange Button effort to explore ways to modernize the construction process by accelerating the transition to digital to enable innovations that reduce project cost and increase financial viability.

  2. Contemplates the entire construction process will be administered as a digital ecosystem leveraging the DOE Orange Button and XBRL taxonomy for data interoperability, with smart contracts, digital surety bonds and insurance and

electronic communications with the school district along with all subcontractors and supply chain.

3. Aligns with the NIST Framework and Roadmap for Smart Grid Interoperability Standards, Release 4.0.

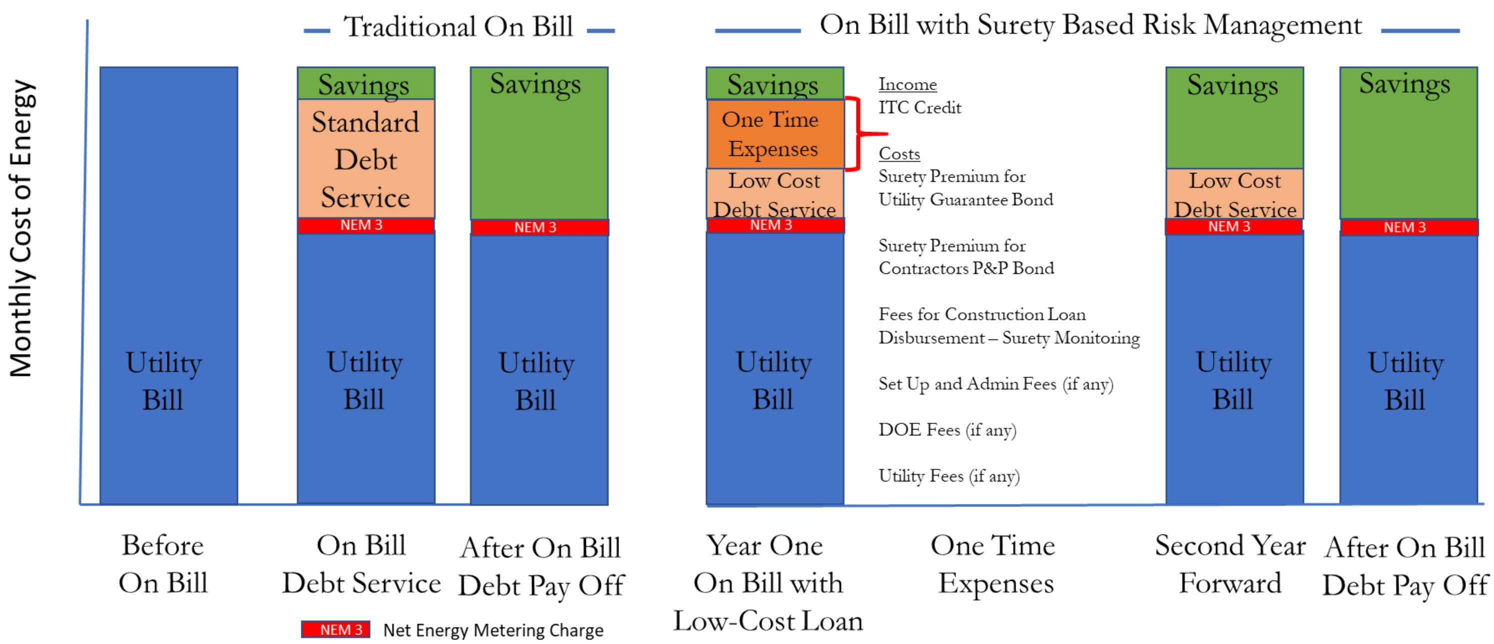
4. Contemplates being a source of research and data in support of:
The California Public Utilities Design Clean Energy Financing Options investigation (CEFO) Order Instituting Rulemaking: R.20-08-022

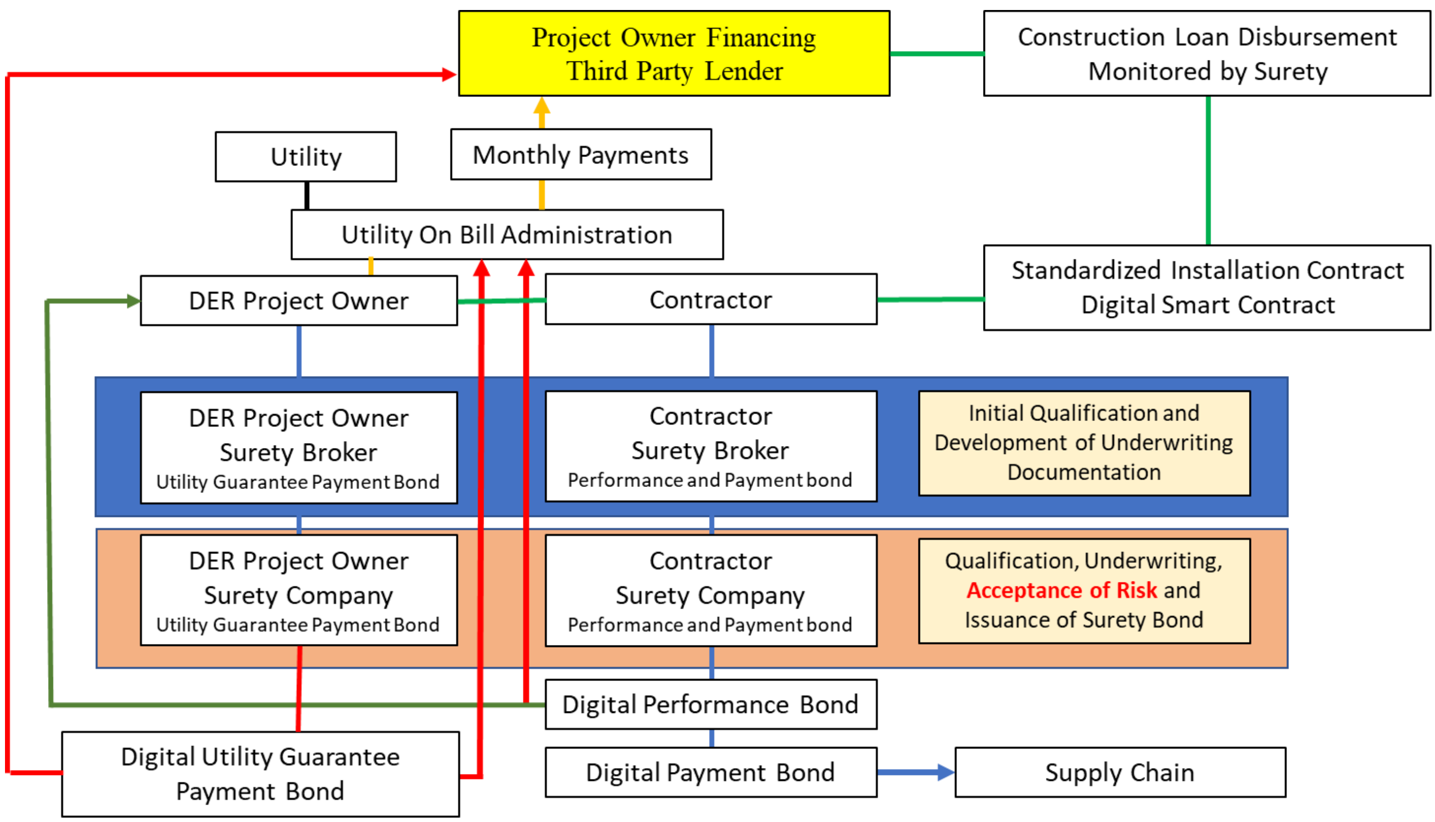
Expansion of the XBRL Taxonomy and Orange Button Taxonomy Viewer

On-Bill Finance and On-Bill Repayment programs

Research about the feasibility of cross-cutting uses of funding and potentially the ability to leverage private capital.

CPUC should engage with Orange Button and participate in the PG&E On-Bill Finance Pilot


Traditional On Bill
On Bill with Surety Based Risk Management
Monthly Cost of Energy
Utility Bill
Savings
Standard Debt Service
NEM 3
One Time Expenses
Low Cost Debt Service
Income
ITC Credit
Costs
Surety Premium for Utility Guarantee Bond
Surety Premium for Contractors P&P Bond
Fees for Construction Loan Disbursement – Surety Monitoring
Set Up and Admin Fees (if any)
DOE Fees (if any)
Utility Fees (if any)
Before On Bill
On Bill Debt Service
After On Bill Debt Pay Off
Year One On Bill with Low-Cost Loan
One Time Expenses
Second Year Forward
After On Bill Debt Pay Off
NEM 3 Net Energy Metering Charge


Project Owner Financing Third Party Lender
Construction Loan Disbursement Monitored by Surety
Utility
Monthly Payments
Utility On Bill Administration
DER Project Owner
Contractor
Standardized Installation Contract Digital Smart Contract
DER Project Owner Surety Broker Utility Guarantee Payment Bond
Contractor Surety Broker Performance and Payment bond
Initial Qualification and Development of Underwriting Documentation
DER Project Owner Surety Company Utility Guarantee Payment Bond
Contractor Surety Company Performance and Payment bond
Qualification, Underwriting, Acceptance of Risk and Issuance of Surety Bond
Digital Performance Bond
Digital Utility Guarantee Payment Bond
Digital Payment Bond
Supply Chain

Questions to Parties

1. What are the potential costs and benefits of authorizing CAEATFA to leverage its existing CHEEF operations and platforms, which were built largely with IOU ratepayer funds, if any, to ensure their programs are available to customers that may switch fuel providers, with incremental costs allocated to non-ratepayer funds CAEATFA identifies?

We do not have knowledge or an opinion with respect to costs required by CAEATFA but understand considerable work has been undertaken and accomplished to establish the functionality for On-Bill Repayment. Including the Master Servicer development of the Data Exchange Protocol (DEP) and the Cash Flow Protocol (CFP). We further understand each IOU has undertaken significant programming of their billing systems to match the DEP and CFP.

With these costs already incurred the benefit to authorizing CAEATFA can be realized immediately, as DEP and CFP enable data interoperability, which Orange Button can facilitate the digital ecosystem utilizing confident in the data being “apples to apples”.

The benefit of a digital ecosystem ability to work with DEP and CFP will result in a broad group of capital markets and financial service firms developing innovative approaches to leverage the data for streamlined administration and improved risk management.

Deferring any comment relative to cost sharing, burden allocation and NEM3 topics.

a. If a clean energy project occurs that transitions a customer from an IOU fuel source (for example, natural gas) to a separately provided fuel source (such as municipally offered electricity), which entity should fund the cost of financing that project? Explain any legal considerations associated with your answer.

On-Bill Repayment charges should cover costs directly associated with the transaction, including future cost allocations as determined in the NEM3 resolution.

Deferring any comment relative to general cost sharing, burden allocation and NEM3 topics.

b. Does the cost-sharing methodology proposed by CAEATFA (Attachment B) adequately track and report the cost sharing between IOU and non-IOU funding resources supporting the CHEEF programs? If not, please describe what you would change and provide proposed modifications to the tables provided in Attachment B.

Deferring any comment relative to cost sharing, burden allocation and NEM3 topics.

c. Should incremental costs to expand the CHEEF programs to non-utility customers be covered solely by non-IOU funding sources? Why or why not?

Deferring any comment relative to cost sharing, burden allocation and NEM3 topics.

d. Should CAEATFA be authorized to extend its credit enhancement to cover total eligible outstanding loans, or should the credit enhancement only cover that portion of the loans that supports measures/projects funded by IOU ratepayers?

The singular On-Bill Repayment model advocated by Orange Button is for third party lending with no loan loss reserve, or risk borne by the IOU ratepayer.

There are many variables that would apply to other models that may involve ratepayer risk, and we defer on those options other than we support multiple options being offered.

2. CAEATFA's program and operating costs vary considerably depending on whether they are supporting the administration of ongoing financing programs or simply servicing loans already issued. For what period of time should the Commission authorize CAEATFA's operating costs to support administration of ongoing and potentially new programs? When developing your response, recognize that Decision (D.) 17-03-026 clarified that the Commission intends to provide energy efficiency funding to support the "full lifecycle" of the loan programs.

CAEATFA should be supported on an ongoing basis and modified as warranted to keep up with changing conditions.

a. If you recommend CAEATFA be authorized to administer programs on an ongoing basis, should the previously approved budget be re-authorized, granting another ~$75 million to support all expenditures needed to operate the CHEEF programs over the next three, five, or 10 years?

We do not have the expertise to offer an opinion with respect to the CAEATFA budget, but support the budget being sufficient to administer the programs.

b. Explain your rationale.

The statewide On-Bill Repayment program requires coordination that CAEATFA is best qualified to administer.

3. Would authorizing the use of existing, already-approved funding to provide subordinate debt or co-lending options in CAEATFA's Affordable Multi-Family (AMF) program be appropriate under CAEATFA's existing authority?

Not related to third party financing On-Bill Repayment, so deferring any comment.

4. Does subordinate debt or engaging in co-lending result in interest rate reductions for the CHEEF's program customers? Does subordinate debt or engaging in co-lending lower or raise the risk of default or affect the affordability of participating in CHEEF programs?

Not related to third party financing On-Bill Repayment, so deferring any comment.

5. D.17-03-026 addressed a number of issues related to the energy efficiency pilot programs, including providing CAEATFA full authority as the decision maker for the CHEEF pilots, and to utilize its own public input and rulemaking processes, as needed, to develop implementation details. Do you think D.17-03-026 provided a broad authority for CAEATFA to modify its CHEEF programs, including those that are no longer pilots, as necessary to improve implementation and program success, or is additional authority or guidance necessary on this issue?

We do not have the expertise to offer an opinion with respect to D.17-03-026, but generally support CAEATFA having the authority to administer its programs without the burden of multiple agency integration of policies and procedures.

a. How would program implementation changes affect the existing contracts administered by the IOUs (specifically, SoCalGas), if at all?

We do not have the expertise to offer an opinion.

b. Should the same level of autonomy be provided for CAEATFA to expand its programs to accommodate non-utility ratepayer funding and participation?

Third party lending under On-Bill Repayment utilizes non-utility ratepayer funding.

The statewide On-Bill Repayment program requires coordination that CAEATFA is best qualified to administer.

6. Should CAEATFA be authorized to expand its list of eligible measures for which its CHEEF financing mechanisms can be used, to other non-energy-efficiency clean energy and/or distributed energy resource measures, in advance of a Commission decision on additional funding sources?

Yes, all work contemplated under an On-Bill Repayment project should be covered without constraints, or subject to individual acceptability of certain aspects of the project.

The borrower under On-Bill Repayment will go through an underwriting review by the lender for the scope of work and total project cost. If the lender is comfortable with the amount being financed, regardless of what is being financed, then the utility should not have any issue as it bears no financial responsibility for the loan.

a. If so, how?

For On-Bill Repayment, all work should be acceptable as long as there is third party financing in place.

b. And with what limits, if any?

For On-Bill Repayment the limit outlined in January 2020 was $5,000,000.

However, that amount should be unlimited because the utility has no financial responsibility.

7. How could existing administrative contracts be expanded to allow for incorporation of non-ratepayer funds?

The contract with the master servicer for On-Bill Repayment should be expanded to enable ecosystem data interoperability with the Data Exchange Protocol (DEP), the Cash Flow Protocol (CFP) and the ability to import the digital utility guarantee bond provided by the borrower.

a. What metrics, key performance indicators, and evaluation efforts should be adopted to ensure adequate tracking of IOU and non-IOU funding for CAEATFA's CHEEF program infrastructure?

The master servicer for On-Bill Repayment will be able to provide a wealth of data on the projects administered, including energy equity.

b. How should the administrative costs be shared? Parties are encouraged to provide comments on this question that directly refer to the proposed CAEATFA methodology included in Attachment B.

Deferring any comment relative to cost sharing, burden allocation and NEM3 topics.

c. How often should a formal evaluation of CAEATFA's ongoing CHEEF programs occur?

We do not have the expertise to offer an opinion.

i. Should CAEATFA be required to host annual workshops providing parties to this proceeding an opportunity to receive updates about the program status and provide feedback on potential implementation changes?

Too many variables for a requirement to host a workshop, but it should be encouraged to solicit stakeholder input.

ii. Should a cost-sharing mechanism for evaluation costs be instituted based on CAEATFA's proposed methodology included in Attachment B? Or is there another preferable method for sharing specific evaluation costs?

Deferring any comment relative to cost sharing, burden allocation and NEM3 topics.

iii. Should an evaluation or workshop noticed to this Rulemaking's service list be required before CAEATFA is able to propose CHEEF program modifications? Why or why not?

No, there has already been considerable outreach and workshops.

8. Should a budgetary cap or time limit be set on the program administration role CAEATFA plays?

No, too many variables and if there were issues or problems, they would be addressed at that time, addressing the circumstance at that time.

a. Which, if any, of the CHEEF program designs could eventually operate through lenders and contractors without a third-party administrator?

We foresee On-Bill Repayment, given the coordination requirements, always being administered by CHEEF.

b. How long should the administrative contracts continue to be held by IOUs?

We do not have the expertise to offer an opinion.

9. Are any additional customer protections needed for CHEEF pilots or programs? Describe in detail.

Our comments are limited to On-Bill Repayment, which can experience similar issues as PACE where unqualified borrowers are offered financing they don't understand. Similar consumer protections should be considered for On-Bill Repayment as PACE.