



Energy Efficiency Finance Pilots
Proposed Decision Key Issues



Proposed Decision - Key Issues

The Proposed Decision correctly requires a written consent to transfer an on-bill repayment ("OBR") obligation to a subsequent customer.

The Decision should not require the IOUs to shut off energy service for non-payment of bank loans

The Decision should be clear that OBR Pilots are to support energy efficiency and should not include Demand Response or Distributed Generation

The Decision should ensure that the OBF program continues to support SMB customers and should not include the proposed restrictions on lighting measures.



Written Consent

The Proposed Decision correctly requires a written consent to transfer an on-bill repayment (“OBR”) obligation to a subsequent customer.

- EDF’s comments suggest:
 - An OBR loan should be automatically transferred to a subsequent customer without a written consent to assignment.
 - The IOUs and financial institutions can circumvent bankruptcy, foreclosure, and contract laws if the decision describes the obligations as fee-based charges.
- Legal requirements:
 - The fact that the IOUs are billing for a loan does not change the nature of the underlying obligations; they remain unsecured debts between lenders and customers.
 - Even if the OBR loan were a utility charge, utilities cannot require the next occupant to pay for the energy charge of the previous customer to obtain utility service.
 - Bankruptcy, foreclosure and contract law, as applicable, would preclude the forced transfer of the loan to the next occupant.



No shut off

The Final Decision Should Not Require Shut Off For Non-Payment of OBR Loans.

- The Commission does not have jurisdiction over private contract disputes.
- The Commission cannot resolve disputes under the OBR loans or enforce the customers' compliance with the loan agreements.
- The IOUs must comply with bankruptcy law, which would preclude service disconnection if certain procedural requirements are followed.
- "Essential use customers" as defined by the Commission (and individually approved by the IOUs), which include fire, police, prisons, hospitals, skilled nursing facilities, certain media outlets, and other government agencies, should be categorically exempted from service disconnection if this is included in the final decision.



Focus on Energy Efficiency

The Decision should be clear that the OBR Pilots are to support Energy Efficiency and should not include Demand Response or Distributed Generation.

- EE funds should only be used for EE measures.
- There is no evidence in the record regarding the availability of, or need for, financing for distributed generation or demand response.
- The CPU would need to create rules for solar and/or DR including potential loan amounts, the types of eligible projects, eligible ownership structures, installation size, loading order requirements, and bill impacts.
- Several parties ask for credit enhancements for solar loans. The Commission appropriately determined in D.12-11-015 (p. 65) that EE funds may only be used for credit enhancements for EE measures.



Continue success of OBF

The Decision should ensure that the OBF program continues to support SMB customers and should not include the proposed restrictions on lighting measures.

- The time lag between the change to OBF and the availability of OBR will be disruptive for contractors and administrators
- The change to the OBF program will disproportionately impact Small Business customers who rely on OBF to make EE investments.
- Government entities are using significantly more OBF \$\$ and should not be excluded from any limitations on use of funds for lighting measures.