**Task 2 Recommendation**

T2WG – Tiered Preponderance of Evidence

**Proposal for Simplified POE Requirements for Smaller Custom Projects**

Submitted by Ecology Action

April 6, 2017

Updated 5/8/17 – Red text indicates key issues T2WG must address based on Staff comments

In Resolution E-4818 March 2, 2017 the PUC adopted the concept of a *‘Tiered’ approach in its preponderance of evidence guidance, whereby projects with smaller incentives would be held to a lower rigor standard.”*  The Resolution went on to adopt a new structure that employs three different tiers of evidence to support Accelerate Replacement claims:

* *“Full Rigor” for the largest projects with incentives greater than $100,000,*
* *“Tier 1, Medium Rigor” for projects with incentives between $25,000 and $100,000, and*
* *“Tier 2 Lower Rigor” for projects with incentives less than $25,000.*

Staff provided data that show the majority of custom projects/claims have incentives lower $25,000. The table below (from the 2013-2016 Summary tab) shows that projects with incentives <$25,000 make up:

* 97% of all custom projects
* 43% of total incentives

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **PROJECTS <$25,000** |  |  |  |  |
| **Percentage Projects <$25,000 Incentives** |
|   | 2013 | 2014 | 2015 | 2016 | Total |
| IOU |   |   |   |   |   |
| PGE | 97% | 98% | 98% | 98% | 98% |
| SCE | 95% | 96% | 96% | 96% | 96% |
| SCG | 98% | 99% | 97% | 99% | 99% |
| SDGE | 95% | 96% | 98% | 97% | 97% |
| Total | 97% | 97% | 97% | 98% | 97% |
|  |  |  |  |  |  |
| **Percentage Total Incentive for Projects <$25,000 Incentives** |
|   | 2013 | 2014 | 2015 | 2016 | Total |
| IOU |   |   |   |   |   |
| PGE | 37% | 42% | 49% | 48% | 43% |
| SCE | 39% | 42% | 41% | 43% | 41% |
| SCG | 26% | 40% | 46% | 55% | 43% |
| SDGE | 40% | 44% | 48% | 38% | 43% |
| Total | 37% | 42% | 46% | 46% | 43% |

Date file is available in the Meeting 3 folder on: <http://t2wg.cadmusweb.com/>

Direct link to data file: <http://t2wg.cadmusweb.com/Documents/Meeting%203%20-%20May%2010/DATA_CustomProjects_20170508.xlsx>

The T1WG spent considerable time developing a proposal for the requirements of each tier, but consensus was not reached and the PUC has postponed implementation until agreement can be reached on the specific evidence requirements of each Tier. This document describes Ecology Action’s proposal for the general evidence requirements at each step. We see this proposal as the first of two steps. The first is to agree on the principles of the required evidence at each tier. The second is to carefully articulate the specifics – to put the meat on the bones. This second step is critical to ensuring that these new rules are consistently understood and applied.

**Recommendation: Rename the Tiers for Clarity:**

* “Tier 1” (Lower Rigor) for projects with incentives less than $25,000
* “Tier 2” (Medium Rigor) for projects with incentives from $25,000 to $100,000
* “Tier 3” (Full Rigor) for projects with incentives greater than $100,000

Consider a step also to redefine the thresholds for Low/Medium Rigor, or break the Lower Rigor Path into very small and small projects.

Examples:

1. Consider a “Tier 0” (e.g., projects with incentives below $5,000) for which no rigor is warranted to required. (Discuss how to determine what that lower threshold would be.)
2. Consider lower limits on what gets into the Custom pipeline (e.g., projects below XX cannot go custom, must go deemed)
3. Consider naming a Tier for the Small Business / Direct to Default projects

**Tier 1 Requirements:** (Projects with Incentives up to $25,000)

1. Photographic evidence of existing equipment. Evidence will show equipment in operation when practical (example: operational photographs of exterior fixtures is often impractical for safety and cost concerns).

Staff concerned that photographs are not sufficient to show operation.

1. **Affidavit signed by customer and implementer** affirming that both the influence and RUL conditions for claiming Accelerated Replacement are satisfied for the project. This affidavit should contain language with sufficient consequences to make all involved parties bear repercussions of falsely claiming Accelerated Replacement. This could include customer and contractor having rebate & performance clawed back, or customer could be ineligible for EE program participation for a period of time, or other consequence.

Staff concerned this affidavit carries no weight; legal follow-up/consequences could never be enforced.

Since the majority of projects are in this category, Staff feels these Tier 1 Requirements are insufficient. Issues:

* Photographs are not sufficient to show operation.
* Signed affidavit carries no weight.
* T1WG recommendation included a questionnaire, but this proposal does not include questionnaire for this category.

**Tier 2 Requirements:** (Projects with Incentives from $25,000 to $100,000)

1. **Photographic evidence of existing equipment.**  Evidence will show equipment in operation when practical (example: operational photographs of exterior fixtures is often impractical for safety and cost concerns).

Staff concerned that photographs are not sufficient to show operation.

1. **Affidavit signed by customer and contractor or PA** affirming that both the influence and RUL conditions for claiming Accelerated Replacement are satisfied for the project. This affidavit should contain language with sufficient consequences to make all involved parties bear repercussions of falsely claiming Accelerated Replacement. This could include customer and contractor having rebate & performance clawed back, or customer could be ineligible for EE program participation for a period of time, or other consequence.

Staff concerned this affidavit carries no weight; legal follow-up/consequences could never be enforced.

1. **PA-administered customer interview or questionnaire** to verify influence and RUL of existing equipment.

Staff/ORA position in T1WG was that all surveys should be conducted by a an independent entity to make the POE determination. (This was articulated in the T1WG report.)

**Tier 3 Requirements:** (Projects with Incentives greater than $100,000)

Tier 3 projects should follow the “full rigor” process as articulated in Resolution E-4818.

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**Staff requires 3 components for POE**

See slide 21 from [Meeting 2 PPT](http://t2wg.cadmusweb.com/Documents/Meeting%202%20-%20April%2026/T2WG_20170426_MeetingPPT.pdf)

1. Equipment Condition
2. Survey/Questionnaire
3. Affidavit

These components should be required for all levels of rigor, but the amount/type of data would vary by rigor level.

**1. Equipment Condition. Provide records of data that show the equipment exists and is operating,** such as:

* Evidence of operation – operating data that demonstrates the equipment is operating
* Evidence of repair – past maintenance / repair records
* Photo/Video may be acceptable in some cases, although a photo of the equipment doesn’t establish working condition.

Discussion:

* Examples of measure-specific requirements (e.g., lighting, refrigeration equipment).
* Can Staff provide examples of the expected documentation?
* How can we standardize the documentation requirements so project developers know “what rock to find”?

**2. Survey, questionnaire or interview to establish influence.**

* Must discuss decision process and how program influenced
* Must be conducted by independent party with no financial ties to project (critical that this party not have financial ties to the project)

There is no established survey for this process. Would need to develop the appropriate questionnaire; may need to be measure and market-specific (e.g., industrial vs. commercial)

Example Questions:

* Low Rigor
	+ How many times has the equipment broken in last 5 years?
	+ What is the average cost of repair?
* Medium Rigor
	+ Is the equipment critical to operations?
	+ What are the non-energy benefits of the projects? (e.g., reliability)
	+ Has the project been capital-budgeted? For how long?
	+ Does the project eliminate labor or reduce labor costs?
* High Rigor
	+ For large projects, Staff does customer interviews.

Discussion:

* What survey/questionnaire instrument would be used?
* What entity would conduct the survey?
* How does this fit into the project development process?
* How long is the survey (e.g., what level of effort is warranted)?

**2. Affidavit. Staff requires “affidavit” with legal language and “consequences” of inappropriate findings**

Staff noted that past language from IOUs was not acceptable.

There is no existing form with appropriate language; T1WG need to develop this.

Staff provided **SCE Form 14-904** as an example of language that may be sufficient.

EXAMPLE AFFADAVIT: Southern California Edison Company Micro-Business Self-Certification Affidavit ([link here](https://www.sce.com/NR/sc3/tm2/PDF/14-904.pdf))

In accordance with Decision (D). 10-10-032 and (D). 10-11-037, qualifying non-residential customers (excluding fixed usage and non-metered customers) may benefit from certain deposit and backbilling rules that apply to residential customers. If your business (aggregated by service account) had an annual usage of under 40,000 kWh during the previous calendar year, or had a monthly demand of less than 20 kW during the previous calendar year, Southern California Edison (SCE) qualifies you for these deposit and backbilling rules automatically.

If, however, your business does not meet the above-described usage or demand criteria, or for whom SCE lacks 12 months of data from the previous calendar year to make this assessment, you may use this form to self-certify that you qualify as a Micro-Business under the California Government Code.

The customer of record on the affected account may certify as a Micro-Business by self-certifying per the instructions below.

**I. Customer Declaration**

I,\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(name), hereby certify that I am authorized to make this declaration as the Customer or as an authorized representative of the Customer \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name on account).

I have personal knowledge of the matters set forth herein and, if called upon as a witness, could and would testify competently thereto.

I understand that, notwithstanding my signature below, if the information provided by me is not accurate, my business will not be considered a “Micro-Business” by SCE.

I hereby certify that my business qualifies as a Micro-Business, as defined in California Government Code 14837 (and as adjusted by the California Director of General Services). As of December 27, 2010, a Micro-Business is defined under California law as a small business which EITHER, together with affiliates, has average annual gross receipts of three million five hundred thousand dollars ($3,500,000) or less over the previous three years, OR is a manufacturer primarily engaged in the chemical or mechanical transformation of raw materials or processed substances into new products (classified between Codes 31 to 33, inclusive, of the North American Industry Classification System), with 25 or fewer employees.

I declare, under penalty of perjury under the laws of the State of California, that the foregoing is true and correct. Executed this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_ at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*.* *(City, State)*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

**II. Customer Account Information**

Name on Account:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Current Service Account Number(s):\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Service Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City, State, Zip: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Meter Number(s): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_