**BLUE TEXT indicates notes collected during Meeting #4**

During the discussions in the Track 2 Working Group (T2WG) meetings, it was identified that several parties had very different interpretations of the direction provided in Commission Resolution E-4818. This Resolution was authored by Commission staff and presented to the Commission for vote, which passed. It is appropriate for Commission staff to provide the below specific clarifications on the direction as well as discussion contained within the Resolution.

The below four issues were brought up in the T2WG meetings. Clarifications are provided for each issue following the issue statement.

1. Whether Direct-to-Decision and Direct-to-Default are applicable to projects, programs, or equipment.

*Commission staff clarification:*

*Direct-to-Decision and Direct-to-Default (D2D) options are qualified by Commission staff at the program level via submissions from the Program Administrators (PAs).* ***Once D2D option(s) for a program(s) are approved by Commission staff, projects or measures proposed within those program(s) are then able to be qualified for Accelerated Replacement (AR) treatment via the D2D simplified protocol rather than the tiered Preponderance-of-Evidence (PoE) protocol.*** *Commission staff will develop a process for the submission, review and approval of D2D program options. (Staff must propose a “simplified D2D protocol” that serves as an expedited process)*

*The following Resolution E-4818 Ordering Paragraph (OP) 18 provides the overall direction on the D2D submission, review and approval requirements:*

*18. We direct the Program Administrators to adhere to the direct-to-decision and direct-to-default standards as stipulated in the corresponding sections of this Resolution, and summarized below:*

* *Program designs, program rules and customer eligibility criteria are submitted to the Commission for approval, with a strong argument or data supported case indicative of inducing accelerated replacement.*
* *Program rules must specify eligibility criteria and the evidence of program eligibility and/or program influence that will be collected for each installation.*
* *Specified evidence must be collected for each installation as part of the program implementation, and this evidence be made available to the Commission upon request and submitted as supporting documentation with energy savings claims.*

**Q – Will projects that come through approved programs be selected for ex ante review?** Concerns are that the POE requirements may still be arbitrary and selected projects may be selected and halted based on different interpretation of program eligibility requirements; Concerns about the implications of mid-stream stoppages of program activity; concern that this is not a solution for programs (doesn’t offer expedited path in reality); lack of clarify on what passes eligibility is a problem] Stakeholders concerned that the process will not operate as an expedited process in operation. Note comments from Athena on flow chart page 2 about the paths still converging – there is no expedited path.

Staff Comments: (Kay) – Program rules specify requirements for project data; the language does not mandate case-by-case review but PAs/implementers must collect the project information. The expectation is that a project will be accepted if the project complies with the rules of the program. ((Christie) The review is not intended to be the same as EAR. Review will be to check the programs are being implemented the way the program was designed and that projects comply with program rules; program approvals is intended to be an expedited process. (Peter) There will still be some projects selected for review; review will focus on whether the projects follow the program rules. (Jeff) PAs will submit a program that describes criteria for eligible customers and equipment. Staff will review the program rules and approve. Staff may include in the proposal approval that they want to see the first 10 projects (For example, or some other QC check) to review that projects comply with the approved proposal. If Staff determine that the projects don’t comply with approved proposal, there may be a need to stop projects or program to resolve. (Peter) Any “fixes” would be prospective only. (Sasha) We need to be able to check that the programs are operating as expected; we need to be able to collect the data and check the programs are working according to program rules.

**Clarification**

* Eligibility (including POE requirements) for D2D programs is established in the approved program rules.
* Implementers must collect project-specific information as specified in the approved program rules.
* Projects in approved D2D programs are not exempt from ex ante review – but EAR will follow an expedited process (“simplified POE protocol”. [?]
* D2Decision has auto baseline. Baseline selection for D2Default will follow “simplified POE protocol”. [?]
* “Simplified POE Protocol” - Need to develop process/procedures to make this actually operate as an expedited program. Process should work for both custom and deemed programs. The protocol for custom should be similar to the existing process for deemed.
1. What is allowed for broken/non-operating equipment and equipment that are performing sub-optimally. Can broken/non-operating equipment qualify for Repair Eligible? (Task 3)

*Commission staff clarification:*

***OP 4 of Resolution E-4818*** *is clear in its direction on this point.*

*4. We direct the Program Administrators to apply a normal replacement baseline where the existing equipment is not operational or not meeting the existing service requirements. This applies to all types of equipment, including add-on equipment.*

*The previous draft baseline decision flowchart offered by Commission staff was unclear or incorrect on this point and Commission staff will provide a corrected version.*

Clarification: For Add-on equipment, use the standard practice baseline. <<follow up Paden/Staff>>

Clarification - (Rob) Resolution language allows broken add-on equipment to go BRO or normal replacement. Confusion about whether the policy has conflicts <<follow up Rob/Christie>>

Kay/Peter recommend the stakeholders make a recommendation wrt clarification on add-on equipment. [ACTION] Ryan suggests coming up with a few common measures and ask Staff whether they see these example measures as BRO, add-on, etc. Then propose some language on how to handle such measures.

**T2WG Recommendation: To resolve potential conflicts in existing resolution language, PROPOSE to add language in E-4818 1.3.6.3 to the OP 4.**

*Sub-optimal equipment performance, where the equipment is still operational and meeting the service requirements, is not precluded for “existing conditions” baseline treatment by this OP. However, the phrase “meeting the existing service requirements” may need clarification as well. Commission staff will provide guidance on this topic and will solicit input and comments from stakeholders.*

*Commission staff observes that stakeholder may have been confused by the discussion in the Resolution starting at the bottom of page 31, including table 6, which discusses and provides scenarios of non-functional and sub-optimal performance. However, as noted in that discussion and table, those scenarios are* ***not adopted*** *as defining “repair eligible” equipment by the Resolution.*

1. Whether small businesses are allowed under Direct to Decision and/or Direct to Default path. What is the purpose of small business definition? (Task 4)

*Commission staff clarification:*

*The purpose of defining “small business” is to support program D2D option designs that would elect to target a “small business” segment. This definition, once adopted, can be used in PA submittals to Commission staff for review and approval of D2D options which use the “small business” designation for identification of a class of customers eligible for D2D treatment.  This designation will only be one aspect of the eligibility for D2D treatment within a program with an approved D2D option; all the other requirements set forth in E-4818 OP 18, listed above, also apply. However, Commission staff anticipates that D2D treatment proposals for programs targeting small business will likely gain approval swiftly and without difficulty pending a small business definition that meets the Commission staff understanding of small business (as defined in Task 4).*

Clarification – do we have a working definition of “underserved”? What qualifies as underserved? [No specific definition] The idea is based on low participation of market in existing programs; other characteristics include access to capital. “Underserved” has not been used in our previous discussions of small business definition. **(Made edits to remove “underserved” from the clarification language)**

1. The last bullet point of OP 18 seemed contradictory to the idea that the D2D options allow the bypass of the tiered PoE requirements. (text of OP 18 in question: “All projects qualifying for an accelerated replacement baseline under a direct-to-decision or direct-to-default condition must fulfill appropriate tiered preponderance of evidence requirements for equipment viability.”)

*Commission staff clarification:*

*CPUC staff considers the inclusion of this last bullet as a typo, and is exploring the options to correct this ASAP.*

*No disagreement/discussion on this item.*