**Task 4 – Small Business Definition**

[Task 4 – PURPOSE 1](#_Toc483351330)

[Task 4 – RECOMMENDATION #1 2](#_Toc483351331)

[Task 4 – RECOMMENDATION #2 4](#_Toc483351332)

[Task 4 – RECOMMENDATION #3 6](#_Toc483351333)

[Task 4 – RECOMMENDATION #4 [OLD] 8](#_Toc483351334)

# Task 4 – PURPOSE

The aim of the Task 2 Working group is to finalize a state-wide definition of small business which will be utilized to set a threshold for energy efficiency programs being treated through the “direct to default” guidelines. This definition can be utilized by any offering which currently works with small customers as well as for any new approved offerings targeting this market for any sector (commercial, industrial etc.).

## Comments (5/24/17)

Staff raised concerns that the process is getting too complicated; suggested that very small businesses that are unlikely to do anything on their own should be automatically deemed to be early-replacement/retirement. PAs would still need to collect information, but it would not need to go through any POE process (or any review?).

**Staff Proposal: All small businesses that meet the definition get deemed early retirement. (**Note – Staff proposed this for small customers (defined in Task 4), not necessarily for small projects; that requires more discussion). Goal is to have a very expedited process (“pass-through”) for very small businesses (i.e., micro businesses).

Q – What would we do for a small project (e.g., <$5k) but where the customer does not meet the small business definition?

* Stakeholders suggested this is the purpose of small tier in Task 2.
* Sasha noted that small projects at a large facility/customer is not necessarily the same as a same-sized project for a small customer. For example, the large customer may have an energy manager and capacity to analyze and pursue energy opportunities. Rich noted, however, that large customer may be more likely to pursue these small projects if the program requirement are less onerous (e.g., decisions can be made at the maintenance level). Sasha agreed that we may still want to consider a path for those projects, but that it may not be the same as the solution for a small customer.
* Spencer – need to consider the costs of data collection requirements, data collection costs $ and too much data collection can make some projects not cost-effective for customers.

## Comments (5/10/17)

No comments on the purpose as described above.

# Task 4 – RECOMMENDATION #1

Based on the feedback received from multiple stakeholders on the initial proposal, the following thresholds are being proposed for the specific purpose of treating sites below this threshold through the “direct to default” pathway:

**Criteria for Commercial Customers:**

If the customer satisfies ANY ONE of the following criteria, it will be considered a small business customer:

* Low Energy User
	+ 250 kW of average demand
	+ 1.5 million kWh/year
	+ Gas – 50,000 therms/year
* Total square footage of the site – Less than 50,000 ft2
* Registered or certified small business

**Criteria for Industrial Customers:**

If the customer satisfies ANY ONE of the following criteria, it will be considered a small business customer:

* Low Energy User
	+ 400 kW of average demand
	+ 2.5 million kWh/year
	+ 100,000 therms/year
* Number of full time employees – Less than 10
* Registered or certified small business

## Comments (from 5/24/17)

* Mark suggested this definition could satisfy both small customers and small projects (this was discussed at an early meeting)

## Comments (5/10/17)

* Keith – the focus was meant to be small customers and not small projects; the intent was to allow a pathway for small *customers* to participate in the programs. Prefer the tariff recommendation because it focuses on the customer
* Josiah – agree the definition should be customer-focused. The numbers in Rec3 and Rec4 are too low for some customers who should qualify (e.g., too low for taqueria). The numbers in Recommendation #1 proposal are between 100 and 300 kW based on review of other small commercial programs in other states.
* Mushtaq – values in this proposal (Recommendation #1) are based on experience on the type of customers and projects served in the programs; the types of projects from SB customers are small; Rec 1 incorporates previous feedback on full time employees, existing certification, higher energy thresholds (e.g., for manufacturing customers). There are no projects at 20 kW (possibly because not cost-effective with review requirements)
* Halley – need clarification on “Average demand”; requested the change to bundle all the energy-related criteria to “low energy user” (see edits above)
* Peter – Staff needs the recommendation to be backed up by data to demonstrate the rationale behind how we define what is a small customer. Without data, Staff default to the tariff requirements (Rec 3 & 4)
* Mark – SoCalGas proposed energy because it is data all IOUs have consistent access to; consider looking at project size relative to business size; consider not-profits/municipal (e.g., a high school); consider special treatments for other customer classes (e.g., double numbers for non-profit)
* Kay – purpose is to reach small businesses that have not been served because they (customers/businesses/projects) are too small. The point is to serve small businesses that have been ignored; we should not see large projects going D2D
* Josiah – goal is to provide a path for small businesses to participate in custom projects (customers have various barriers – e.g., language); majority of businesses are single entities; these Rec 3/4 is out of step with other state’ small business definitions.
* Halley – the D2D pathway gives opportunity to create program designs for other customers that would not fit Rec 3/4 requirements (e.g., program designed for taquerias); YES. it should be reiterated that Direct to Decision can be for ANY CUSTOMER SIZE. A small business won’t automatically get direct to default/decision. that's a program approval thing for which this definition COULD but doesn’t need to be used for. Other options are D2D and low-rigor POE
* Kay - Utility definition for small business is not the same as what we are looking for here
* **Staff will not accept criteria that are not backed by some data and compelling argument. Stakeholders have the opportunity to provide an evidence-backed recommendation to adopt criteria beyond what is accepted in Recommendation #3**

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# Task 4 – RECOMMENDATION #2

Customer is a California certified small business based on the eligibility requirements listed below.

**Small Business Eligibility Requirements**

In order for a small business to be eligible for certification, the small business must meet the following requirements:

* Be independently owned and operated;
* Not dominant in field of operation;
* Principal office located in California;
* Owners (officers, if a corporation) domiciled in California; and,
* Including affiliates, be either,
	+ A business with 100 or fewer employees; an average annual gross receipts of $15 million or less, over the last three tax years;
	+ A manufacturer\* with 100 or fewer employees; or,
	+ A microbusiness. A small business will automatically be designated as a microbusiness, if gross annual receipts are less than $3,500,000; or the small business is a manufacturer with 25 or fewer employees.

\* For Small Business Certification purposes, a manufacturer is a business that is both of the following:

1. Primarily engaged in the chemical or mechanical transformation of raw materials or processed substances into new products.
2. Classified between Codes 31 to 339999, inclusive, of the North American Industrial Classification System (NAICS) Manual, published by the United States Census Bureau, 2007 edition.

<http://www.dgs.ca.gov/pd/programs/osds/sbeligibilitybenefits.aspx>

If you have any questions regarding the Small Business Certification eligibility requirements and benefits, please contact OSDS Help at (916) 375-4940 or by email.

## Comments (from 5/24/17)

This definition is used in the new Recommendation 5 provided by Ecology Action.

## Comments (5/10/17)

We did not discuss this recommendation. Staff has requested Recommendation #3 (next page), but will consider expanding criteria is stakeholders provide compelling data.

# Task 4 – RECOMMENDATION #3

Use the definition of small business as adopted by the CPUC for use in IOU tariffs.

Decision 10-10-032 (as corrected by Decision 10-11-037) - DECISION REVISING TARIFF RULES FOR SMALL BUSINESS CUSTOMERS

At 1

1. Summary

Today’s decision revises certain tariff rules for “small business”1 customers of electric and gas utilities.

1 A small business customer is defined as a non-residential customer with an annual electric usage of 40,000 kilowatt hours (kWh) or less, or an energy demand of 20 kilowatt (kW) or less, or annual consumption of 10,000 therms of gas or less. Alternatively, a small business customer is a customer who meets the definition of “micro-business” in California Government Code Section 14837 (Section 14837). Section 14837 defines a micro-business as a business, together with affiliates, that has average annual gross receipts of $3,500,000 or less over the previous three years, **or** is a manufacturer, as defined in Section 14837 subdivision (c), with 25 or fewer employees. The California Department of General Services is authorized to amend the gross receipt amount. In January 2010 DGS increased the gross receipt amount from $2,750,000 to the current amount of $3,500,000. (see, California Office of Administrative Law, Regulatory Action Number 2000-1110-01S.) This definition does not include fixed usage or unmetered rate schedule customers.

OP 3.

Alpine Natural Gas Operating Company, Golden State Water Company, Mountain Utilities, PacificCorp, Pacific Gas and Electric Company, San Diego Gas & Electric Company, Sierra Pacific Power Company, Southern California Edison Company, Southern California Gas Company, Southwest Gas Company, and West Coast Gas Company shall inform non-residential customers subject to back-billing that they may self-certify as a micro-business under Government Code Section 14837.

## Comments (from 5/24/17)

No specific comments; Staff still supports this recommendation.

## Comments (from 5/10/17)

Staff supports this Recommendation because it has already been litigated. Staff requires T2WG to make a case using data for any expansion to this recommendation. Stakeholders must present the data and present the logic behind the proposal based on those data.

This recommendation offers several paths to quality. Staff confirmed that:

* a business that has <=25 employees qualifies as small business even if it does not meet the energy levels
* “self-certification” form (e.g., the SCE form 904) would be allowed to prove a customer in this definition. (Mark asked for consistency in this application – if we are accepting self-cert in this case, we should do so for POE)

A stakeholder noted that the language states “small business” in some places and “small-sized businesses” in others; we should not be locked into existing definitions of small business

Ryan/PG&E – like the idea of using existing tariffs because they have already been agreed on, BUT these numbers are very small and the intent of the Task 4 was to let customer for which POE not worthwhile go D2D. Would like to align the threshold numbers (in small business definition) with data.

PG&E stated that is it on board with Recommendation #3

SCE tentatively endorses Recommendation 3

**Stakeholders may provide alternative recommendations to Staff if they want to expand the recommendation**

# Task 4 – RECOMMENDATION #4 [OLD]

Use the existing definitions used by IOUs for program eligibility; consider combining these to be consistent.

**PG&E Tariff rules**

SMALL BUSINESS CUSTOMER: A non-residential Customer who: (1) has a maximum billing demand of 20 kW, or less, per meter during the most recent 12 month period, or (2) has an annual usage of 40,000 kWh, or less, during the most recent 12 month period, or (3) meets the definition of a “micro-business” under California Government Code 14837. This definition does not include non-residential Customers who are on a fixed usage or unmetered usage rate schedule.

**SCE Tariff Rules:**

Small Business Customer: For purposes of assessing deposits and effectuating certain rebills in accordance with Decision 10-10-032 and Decision 10-11-037, in Rule 1, Rule 7.A, Rule 11.B, and Rule 17.C and D, a Small Business Customer is a non-residential customer with either a demand of 20 kW or less during the previous calendar year, or an annual usage of 40,000 kWh or less during the previous calendar year. For customers with more than one service account, SCE will aggregate monthly usage data over that calendar year, and will aggregate the maximum peak annual demand for each service account. This definition of Small Business Customer excludes customers on rate schedules for fixed usage and unmetered service (Schedules LS-1, LS-2, DWL, OL-1, TC-1, Wi-Fi-1, and WTR). Per Decision 10-10-032 and Decision 10-11-037, to be treated as a “Small Business Customer” under this definition, non-residential customers who do not meet the above-described electric demand or usage criteria, or for whom SCE lacks 12 months of data from the previous calendar year, may self-certify as a “Micro-Business” under California Government Code 14837 by submitting SCE Form 14-904, Southern California Edison Company Micro-Business Self-Certification Affidavit.

Small Business Customer – California Climate Credit: For purposes of receiving the California Climate Credit from the State of California, customers are designated as Small Business Customers and are eligible to receive the California Climate Credit if they are a non-residential customer receiving service under a General Service or Agricultural Pumping rate schedule with an electric Billing Demand that does not exceed 20 kW in more than three months within the previous twelve-month period. For customers that lack twelve months of billing data, Small Business Customer eligibility is based on the customer’s rate schedule in addition to the number of times the customer has exceeded 20 kW. Customers who meet the eligibility criteria for Small Business Customers but who are designated as Emissions-Intensive and Trade-Exposed (EITE) are not considered Small Business Customers under this definition and are not eligible to receive the California Climate Credit. Customers receiving generation services from the City of Cerritos, the City of Corona and the Eastside Power Authority are not eligible to receive the California Climate Credit.

**SDG&E Tariff Rules**

SMALL BUSINESS CUSTOMER: Nonresidential metered service customers whose annual usage is equal to or less than 40,000 kWh or whose demand is equal to or less than 20kW. Small Business Customers shall also include customers who self-certify that they fully meet the criteria for “Micro business”, as set forth in Section 14837 (d)(2) of the California Government Code. For the purposes of Schedule GHG-ARR, a small business customer is defined as an entity “with monthly demand not exceeding 20 kilowatts in more than three months in a twelve-month period”.

RESIDENTIAL AND SMALL COMMERCIAL CUSTOMER: Residential and Small Commercial shall mean all residential customers and any commercial customer that has a maximum peak demand of less than 20 kilowatts per P.U.Code § 331(h). Demand of less than 20 kilowatts shall be determined as having been met if: (1) SDG&E has a demand meter in place and the customer has had maximum demands below 20 kW for at least nine out of the preceding 12 months, or, (2) where SDG&E does not have a demand meter in place and the customer's maximum monthly consumption has been below 12,000 kwh for at least nine out of the preceding 12 months. In addition it shall mean any customer served on Schedule A or Schedule A-TC.

**SoCalGas Tariff Rules**

Small Nonresidential Service: Service to customer metered facilities where usage does not exceed 10,000therms/year based on the most recent 12 months of usage. Small Nonresidential Service shall also include service to customer metered facilities who demonstrate to the satisfaction of the Utility that they fully meet the criteria for micro-business as set forth in Section 14837 of the California Government Code.

## Comments

We did not discuss this recommendation because it is effectively the same as Recommendation #3.

# Task 4 – RECOMMENDATION #5 (NEW from 5/24/17 meeting)

A hybrid proposal that blends prior recommendations into a middle path, is in line with national and state definitions of “small business”, and sets thresholds based on incentives limits as a way to gauge portfolio risk. A customer will be considered a “small business” if any of the following criteria are satisfied:

* Fit the “small business” definition in the California Government Code Section 14837
* Have < 100 kW of average demand, or usage of <500,000 kWh/year (electric customers)
* Have gas consumption < 25,000 therms/year (gas customers)

## Evidence/Argument to Support Recommendation #5

**Definition of “small business” in other jurisdictions:**

* Federal definition of “small business” is based on revenue and/or number of employees. Varies by sector, but is approximately equivalent to CA Government Code definition of “small business”
* States that set “small business” definition at or above 100kW or 500,000 kWh: OR, MA, CT, WA, WI, MI (480,000 kWh)
* States that set “small business” definition below 100kW or 500,000 kWh: NONE
* From ACEEE review paper of small business EE across USA [[1]](#footnote-1)
	+ “Definition of Small Business” **–** The eligibility criteria applied by utilities to define eligible small businesses varies across program sponsors. In three quarters of instances (76%, N=25), the criteria is found to be defined in terms of peak demand. A 100 kW threshold is the most commonly applied limit (32%) for qualifying commercial customers, followed by 200 kW (24%). A facility square footage limit (e.g., <25k or 50k sq. ft.) is used in just over 10% of programs, while other criteria including total employees and annual spending make up the remainder (12%).

**Portfolio Risk: The math of “small business” definition in California:**

* Proposed definition of <20kW / 40,000 annual kWh is too low in practical terms.
	+ 40,000 kWh \* .08 (average % electric savings from retrofit) \* $0.08 (incentive amount) = $256 maximum possible incentive.
	+ 500,000 kWh \* .08 (% savings) \* $0.08 (incentive) = $3,200 maximum possible incentive.

[ACTION] Need to look at similar analysis on the gas side – Mark suggested 50,000 therms as threshold for small business

**Absence of other evidence**

* No evidence has been presented to justify adopting a definition of “small business” that diverges from the above widely accepted definitions.
* We should not use the CA Government Code definition of “micro business” as the definition “small business” without compelling justification.

## Comments (5/24/17)

* Jeff – concerned that the expanded definition opens the small business door to too many customers; argues that path should be limited to the $3.5M limit
* Jeff – requesting that IOUs provide data for each claim: customer’s annual kWh, kW, therms [ACTION]
* Peter – reminded that there are other pathways (e.g., D2D) for projects that don’t meet the staff-recommended proposal (recommendation #3)
* Kay – We are trying to create a simple process to support a category of hard-to-reach small customers; the intent is not to expand to all small business customers <<follow up>>
* Shawn Fife – For SCG industrial customers, the largest 8% of customers (<50,000 therms) use 98% of energy; smallest 92% use only 2% of energy.
* Paden – noted E-4818 language on payback periods – SCG has a 20 year payback limitation; suggested looking at cost caps on projects rather than incentive values.
* Peter – it’s hard for staff to ignore what commission has already adopted (small business tariff rules; also want to avoid PAs breaking projects into multiple small projects or high volumes of small projects.
* Alice suggested that T2WG direction to develop a definition of small business implies a new definition is welcome; at minimum we should mention the existing tariff definition.
1. *Small and Medium Sized Business Customers* http://aceee.org/files/proceedings/2010/data/papers/2045.pdf [↑](#footnote-ref-1)