On September 19, 2013, the California Public Utilities Commission (CPUC or Commission) approved a pilot on-bill repayment program that permits nonresidential customers of the state’s large investor-owned utilities (IOUs) to obtain private capital for energy efficiency retrofits and distributed generation and demand response projects, with repayment made on the customer’s utility bill. Through this pilot, the Commission aims to test the hypothesis that the utility bill repayment mechanism will attract new private capital, overcome lending barriers, and lower borrowing costs for energy efficiency and clean energy projects in the commercial and industrial sector.

Nonresidential On-Bill Repayment without Credit Enhancement

The Commission’s decision regarding the energy efficiency finance pilot programs (D.13-09-044 or Decision) authorizes a nonresidential on-bill repayment pilot that does not utilize ratepayer-funded credit enhancements (OBR), as well as several other programs that are backed by credit enhancements (as described further below). A minimum of 70 percent of the funding provided under the nonresidential OBR pilot must be applied to eligible energy efficiency measures (i.e. measures approved by the Commission to qualify for the IOUs’ rebate or incentive programs), as well as distributed generation projects and demand response projects. Each utility will be required to make a list of eligible energy efficiency measures available on its website.

The nonresidential OBR pilot without credit enhancement provides for termination of utility service for nonpayment of the OBR obligation, and also requires the IOUs to utilize their existing collection practices for delinquencies and defaults. The OBR program will not charge fees to participating financial institutions. If a customer makes only a partial payment, the payment will be allocated pro rata between the energy charge and the OBR charge. As historic default and delinquency rates on utility bills are extremely low, this pilot will test whether OBR can result in lowered cost of capital for energy retrofits and distributed generation projects.

The Commission did not approve an element of the OBR program advocated by some financial institutions, project developers, and other stakeholders that would have provided that the OBR obligation remain “attached” to the utility meter for the property, thereby applying to subsequent customers on a sale, lease, or other transfer of the property if not fully repaid prior to transfer. The Decision provides that the OBR obligation may transfer upon written consent of the subsequent property owner or subsequent tenant.

The IOUs will be required to file a joint program implementation plan for the OBR program by December 18, 2013. The details of the OBR program will be set forth in a tariff to be developed by the IOUs, in consultation with financial institutions, real estate professionals, CPUC staff, and the California Alternative Energy & Alternative Transportation Financing Authority (CAEATFA). Under the Decision, by December 30, 2013, the IOUs are required to file an Advice Letter requesting Commission approval of a uniform OBR tariff. The nonresidential OBR pilot program is expected to launch in July 2014 and is authorized through 2015.

Other Approved Energy Efficiency Finance Pilots

The Commission also approved several additional pilot energy efficiency financing programs as part of the Decision, including:

Single Family Loan Program: This pilot permits direct and indirect loans (i.e. contractor-originated financing) of private capital for eligible energy efficiency measures on single-family residences, backed by a ratepayer-funded loan loss reserve established to cover lender losses in the event of default. Up to 20 percent of the loan value may be supported by the loan loss reserve. The Decision authorizes $25 million in ratepayer funds for the loan loss reserve, with one-third of this amount directed to higher credit enhancements for low and moderate income homeowners.

1 Pacific Gas & Electric Company (PG&E), Southern California Electric Company (SCE) Southern California Gas Company (SoCalGas), and San Diego Gas & Electric Company (SDG&E).
2 The concept of On Bill Repayment is further described in WSGR’s Innovations and Opportunities in Energy Efficiency Finance (May 2013).
Energy Financing Line Item Charge: This pilot enables residential customers of PG&E to repay financing for energy projects on their utility bills. Unlike the nonresidential OBR pilot without credit enhancement described above, however, this pilot does not permit service disconnection for nonpayment, does not permit the obligation to transfer to subsequent customers, and, in the event of partial payment, prioritizes repayment of the energy charge. The underlying loans would be backed by the loan loss reserve under the Single Family Loan Program described above. The Commission authorized $1 million in credit enhancement under the loan loss reserve for this pilot.

Master-Metered Multifamily with On-Bill Repayment: For the affordable, master-metered multifamily residential sector, this pilot would permit on-bill repayment. Unlike the nonresidential OBR pilot without credit enhancement, under this pilot the IOUs would not be permitted to shut off electrical service for nonpayment of the obligation. This pilot would be supported by a debt service reserve fund to cover nonpayment or underpayment of monthly financing charges. The Commission authorized $2.9 million in credit enhancement under the debt service reserve fund for this pilot.

On-Bill Financing: The Decision continues an existing program which provides ratepayer-funded, zero interest loans to nonresidential customers for energy efficiency projects, and provides for the possibility of utility service disconnection for nonpayment. Single end-use lighting measures can comprise no more than 20 percent of total project costs financed under this program. Emerging lighting measures with higher efficiencies may be excluded from the 20 percent limit. These details will be resolved via Commission approval of an Advice Letter to be submitted by the IOUs.

Small Business OBR with Credit Enhancement: The Commission also authorized a version of the OBR pilot for small business customers of the IOUs. Obligations would be backed by the loan loss reserve described above, with a cap of $200,000 of credit enhancement value per loan.

Small Business Lease Financing: The Decision approves an equipment lease financing pilot, backed by the loan loss reserve. CAEATFA will conduct an RFP to select at least two, and up to four, lease providers for the program. There will be both on-bill and off-bill repayment programs within this pilot. The Commission authorized a total of $14 million in funds to implement this pilot and the Small Business OBR with Credit Enhancement pilot.

For loans provided under these pilots that utilize ratepayer-funded credit enhancements (i.e. the loan loss reserve or the debt service reserve fund), a minimum of 70 percent of the capital provided via the financing program must be applied to eligible energy efficiency measures. Up to 30 percent of financing eligible for credit enhancements can be used to finance other improvements (e.g. asbestos removal, solar installations).

Additional Details

It is expected that CAEATFA will act as an administrative “hub” for all of the pilots, including management of the flow of funds and data. CAEATFA will also have the authority to enact requirements for the EE pilot programs, including qualifications for participating financial institutions and financial products. CAEATFA is also expected to hire a master servicer to manage ratepayer-funded credit enhancements and data. The master servicer will be a financial institution, loan servicer, or similar entity with knowledge of energy efficiency, distributed generation, and demand response financing. CAEATFA expects to issue the master servicer RFP by December of 2013.

Under the Decision, and prior Commission orders, the IOUs are required to create a publicly-available database, including information on customer type, host site characteristics, utility payment history, credit scores, energy project repayment history, energy project performance, and bill impacts of energy projects. The Commission’s intent in establishing the database is to help financial institutions and customers assess the risk of energy efficiency finance products and for the Commission to better evaluate the programs. The database will be managed by CAEATFA. By November 30, 2013, the IOUs are required to provide seven to ten years of aggregated monthly utility bill payment history to the CPUC, segregated by customer class (residential, commercial and industrial). The Decision also requires a public workshop on the financing database.

These pilots are authorized through the end of 2015. The CPUC will then evaluate these programs and determine whether to continue to authorize them as part of a forthcoming Commission proceeding.

If you are interested in learning more about California’s new OBR program or other energy efficiency finance opportunities, please contact Sheridan Pauker or Charlotte Kim in the firm’s energy and clean technology practice.