

Conflict of Interest Policy  
(Joint IOU Proposal)

I. INTRODUCTION

This Conflict of Interest Policy (“Policy”) applies to the energy efficiency (“EE”) program established by California Public Utilities Commission (“CPUC” or “Commission”) in Rulemaking (“R.”)13-11-005 and subsequent proceedings (the “EE Proceeding”). The purpose of this Policy is to allow EE market participants who are potential providers of energy efficiency supplies, services, or programs under discussion at the California Energy Efficiency Coordinating Committee (“CAEECC”) to participate in and contribute to CAEECC-sponsored meetings without creating a potential or actual conflict of interest.

This Policy provides transparency through advance notice, public posting of meeting materials, and disclosure of implementer interests to enable stakeholders to monitor the potential influence of attendees on CAEECC meeting outcomes. It seeks to avoid conflicts by maintaining Business Plan discussions at a level consistent with the Business Plan Guidance Document,<sup>1</sup> including, but not limited to, avoiding discussion of matters such as vendor scoring, evaluation, and selection. This Policy should be interpreted in a manner consistent with the best interests of California’s energy customers, in an equitable manner, prioritizing those actions that result in the best/highest public outcomes towards meeting California’s energy goals by driving down energy waste and consumption through energy efficiency efforts.

II. BACKGROUND

A. Overview of the CAEECC

The CAEECC is a public forum for providing input into the development and management of the California EE Portfolio operated by Program Administrators<sup>2/</sup> under the auspices of the Commission. The CAEECC was conceived to facilitate public discussions between Program Administrators and other stakeholders on matters relating to the design and implementation of programs and activities that comprise the California EE portfolio.<sup>3/</sup> CAEECC subcommittees

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<sup>1</sup> See Business Plan Guidance Document, dated May 2, 2016, prepared by Commission Staff. The relevant excerpts from this document appear in the Appendix.

<sup>2/</sup> The term “Program Administrators” refers to Pacific Gas and Electric Company (“PG&E”), San Diego Gas & Electric Company (“SDG&E”), Southern California Edison Company (“SCE”), Southern California Gas Company (“SoCalGas”) [jointly, the four investor-owned utilities (“IOUs”)] in California, Marin Clean Energy (“MCE”), and the two renewable energy networks, BayREN and SoCAL regional energy networks (“RENS”).

<sup>3/</sup> CAEECC Members include the four IOUs, two RENs, a community choice aggregator, MCE, a representative of California Advanced Lighting Controls (Doug Avery), the California Energy Commission (“CEC”), City and County of San Francisco, Dept., of the Environment, a Local Government Program managed by PG&E, Sheet Metal Workers Union Local 104, the International Brotherhood of

address market scoping and strategies for meeting the energy savings needs of individual sectors. Subcommittee meetings are open to Market Actors as well as Implementers, representatives of local governments, and all members of the public. CAEECC will hold its meetings in a manner that minimizes the possibility for a conflict of interest and that allows Market Actors, including Implementers, to engage in CAEECC discussions to the fullest extent possible.

The term “Market Actor” refers to an entity or a parent, affiliate or subsidiary of such entity, that may provide or offer to provide for compensation equipment, devices, plans, knowledge, services or a combination of the foregoing, to design, market, produce or evaluate energy savings pursuant to one or more of the EE Proceedings, including, but not limited to, the Rolling Portfolios authorized in D.15-10-026. Market Actors include Implementers

An “Implementer” is an entity or a parent, affiliate or subsidiary of such entity that (1) engages or may engage in the program design, implementation, marketing, and/or evaluation of an EE program conducted by a Program Administrator supervised by the CPUC, which (2) may seek EE funds administered by a Program Administrator, and (3) is not a Program Administrator. An Implementer may financially benefit from choices made in the CAEECC and subsequent processes influenced by the CAEECC process. The term “Implementer” includes potential Implementers.

#### B. Identifying the Potential for a Conflict of Interest

Market Actors may participate in multiple functions of the CAEECC. For example, a Market Actor could provide input into a Business Plan and then become a Program Implementer who delivers a program in the Business Plan. A potential or actual conflict of interest arises if a Market Actor gains an unfair advantage by unduly or improperly influencing the design of a Business Plan or selection of an implementation plan to its own commercial advantage.

This Policy seeks to minimize the risk that the participation of Market Actors in CAEECC-sponsored meetings could lead to conflicts of interest. This Policy, as set forth in more detail below, ensures, among other things, that (1) CAEECC meetings do not provide confidential or other information that would allow certain Market Actors unique competitive advantages in future solicitations; (2) discussions do not create unreasonable bias in favor of a Market Actor’s services or products; and (3) EE program solicitations for proposals, and/or offer evaluation criteria are discussed and adopted outside of the CAEECC proceedings. In addition to the adoption of this Policy, (1) the CAEECC charter will be updated to reflect the adoption of this Policy; and (2) specific Requests for Proposals (RFP), criteria, evaluation and other such matters will be addressed by the Peer Review Groups as provided by the CPUC.

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Electrical Workers Union, California (“IBEW”), the California Energy Efficiency Industry Council (“CEEIC”), consultants and implementers, Lincus, an implementer, LG-NVC, a consultancy. CalCERT, CSE, the current Marketing, Education and Outreach (“ME&O”) administrator, the County of Santa Barbara, a representative of San Joaquin Valley, the Greenlining Institute, and the CPUC’s Office of Ratepayer Advocates.

### C. Preferred Approach Toward a Solution

Our shared strategy for preventing conflicts of interest continues to encourage maximum stakeholder participation in Business Plan development processes and input from Market Actors concerning products, market sectors, need, delivery systems, etc. to best inform the development of implementation plans.

While CAEECC meetings are public forums, they should be moderated in a way that minimizes the potential for Market Actors in attendance to gain any unfair advantage by ensuring no sensitive information (as more fully described herein) regarding potential solicitations will be discussed at CAEECC-sponsored meetings. This is consistent with the CPUC's conflict of interest standards for utility participation as a respondent in utility energy procurement solicitations or energy efficiency peer review group activities. When procuring supply and demand side resources (including energy efficiency), the utility, with input from entities that do not have a financial interest in the procurement, establishes the performance or evaluation criteria for the resource being procured. If the utility infrastructure side submits a proposal into the solicitation, infrastructure personnel cannot participate in the adoption of selection criteria or process, such as scoring, ranking, deliberations, and selection.<sup>4/</sup> The same would be the case here. Non-public information pertaining to specific requests for information (RFIs), RFPs, criteria, or weighting of such criteria will not be discussed at a CAEECC-sponsored meeting.

An open and transparent CAEECC meeting process will be adopted to allow Market Actors to contribute ideas for the development of Business Plans and generic implementation plan concepts, not designs for plans on which they intend to bid. However, if any participant observes that a conflict of interest is developing or has occurred, the participant should raise the issues as soon as possible at the meeting, or notify the co-chairs and/or Facilitator. If necessary, the violation can be raised to the CPUC Energy Division for appropriate resolution.

## III. CONFLICT OF INTEREST POLICY

A. The following rules shall apply to all CAEECC-sponsored meetings:

1. Each Participant in the CAEECC agrees to review and abide by the CAEECC Conflict of Interest Policy. "Participant" includes the entity represented by each person attending a CAEECC meeting, in person, virtually (i.e., via webinar), or telephonically.

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<sup>4/</sup> See, CPUC Decision 07-12-052, pp.201-208.

2. Each CAEECC member, other than a Program Administrator, must disclose whether it or a parent, affiliate, or subsidiary of such member, is currently an Implementer or is planning to become an Implementer.
  3. Participants advocating goods or services will self-identify and provide a full disclosure that they are, or plan to be, providers of the goods or services that are potentially marketable to EE programs.
- B. Conflicts of interest will be minimized by establishing open meetings and transparent communications.
1. Allow full public participation in meetings by providing reasonable notice and accessibility. Notify parties on the CAEECC service list and post on the internet.
  2. The chair/facilitator of each committee, sector sub-committee, and working group will prepare and post an agenda that identifies each meeting as either a Business Plan or implementation plan meeting after conferring with at least one of the CAEECC co-chairs.
  3. A designated CAEECC representative will take detailed meeting minutes, that provide general information about each topic discussed, identifies each speaker, and monitors compliance with the Conflict of Interest Policy. The meeting minutes shall be posted on CAEECC's internet site, [www.caeecc.org](http://www.caeecc.org), or any successor site.
    - a. All Participants must identify themselves by name and company affiliation, if any, before speaking.
    - b. Meeting minutes should include a brief description of the content of each speaker's comments.
  4. Allow Participants to raise any perceived conflicts of interest to CAEECC co-chairs, the meeting facilitator, or Energy Division Staff, either at the CAEECC meeting or within 15 days thereof.
- C. CAEECC meetings will be limited to non-proprietary issues and topics that do not include non-public information about specific RFPs, criteria, evaluation, and other such matters to avoid potential influence by Market Actors.

1. Business Plans should not contain information that is so specific that it could advantage one Market Actor over another due to their contribution. Examples of information that should not be included are listed in the “Business Plan Guidance Document” dated May 2, 2016, prepared by Commission Staff, as such guidance may be amended from time to time.
2. CAEECC meetings will not be used as a forum by which Program Administrators establish or offer selection criteria, evaluation, scoring, and ranking, or discuss proposals and compile the “short list” of potential Implementers.
3. Discussions shall remain at a level such that information can be exchanged to improve upon implementation plan proposals but that no potential or actual conflict of interest will arise.
4. No non-public information will be discussed by any Participant. Examples of non-public information include, but are not limited to the development and adoption of evaluation criteria, scoring and ranking methods, and selection criteria for solicitations, and the deliberation on and selection of vendor-specific proposals and/or contract negotiations.
5. CAEECC-meeting Participants’ participation in the Program Administrators’ development of Implementation Plan concepts shall be limited to non-vendor specific terms, such as customer segment, geographic territory, goals, program mobilization process, technology-type (but not specific brands), and timing. Information provided to Program Administrators to develop Business and Implementation plan concepts should support PAs in providing future bid documents that facilitate innovative and value-added proposals by all qualified Market Actors.

APPENDIX

Excerpts from page 2 of the ““Business Plan Guidance Document” prepared by the Energy Division Staff of the California Public Utilities Commission dated May 2, 2016

Staff recommends that **Business Plans** not contain information that is so specific that it could advantage market actors who contribute to their development. Listed below are some examples of the types of information that staff recommend not be included in the Business Plans to avoid this potential conflict:

- Vendor-specific technologies (i.e. rather than stating an intent to deploy “smart thermostats”, Business Plans would instead refer to a broader category of solutions, such as “energy management technologies”);
- Specific budget amounts directed towards specific activities (i.e. Business Plans would describe budgets for a suite of programmatic efforts, or at the sector level, rather than specific budgets for individual interventions<sup>5</sup>); and
- Any references to or rating of (implied or otherwise, positive or negative) implementer work already underway that could give an appearance of bias or preference – Business Plans can describe the success or shortcomings of such work, without referring specifically to implementer firms.

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<sup>5</sup> As stated in D. 15-10-028, business plans should include information such as “Although this may simply be stated as “for investment of Y dollars we can expect to achieve X towards Strategic Plan objectives from Z programs/strategies/interventions...”; however, this statement in a business plan should not be so specific as to reveal how much will be spent on a particular widget or programmatic activity.