

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Examine the Commission's Future Energy Efficiency Policies, Administration and Programs	Rulemaking 01-08-028 Filed August 23, 2001
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**CALIFORNIA COALITION FOR ENERGY EFFICIENCY
PROPOSAL FOR ADMINISTRATIVE STRUCTURE:
THE CALIFORNIA STANDARD OFFER PROGRAM
FOR ENERGY EFFICIENCY**

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**PROPOSAL FOR ADMINISTRATIVE STRUCTURE:
THE CALIFORNIA STANDARD OFFER PROGRAM
FOR ENERGY EFFICIENCY**

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I. Administrative Structure Name:

California Standard Offer Program for Energy Efficiency

II. Summary of the Proposal

Please prepare two or three paragraphs that both describe the proposal and discuss its strengths in meeting some or all of the criteria for evaluating administrative proposals.

This proposal establishes a system for energy efficiency programs under CPUC authority based primarily upon a continuously available Standard Offer, under which implementers would be paid solely for energy savings verified by independent EM&V contractors whose businesses are not dependent upon pleasing the sponsors of the programs they are measuring. Payments to implementers would equal some percentage of the CPUC-certified avoided cost benefit for the energy conserved by their efforts. The CPUC, through its System Director, could fine-tune the savings by offering higher payments for savings in particular sectors or regions, should that be desired.

This proposal eliminates the current severe conflicts of interest and administrative inefficiencies. The CPUC, through its System Director, would accept applications from any parties who wish to serve as Administrators and evaluate the applications under the criteria set forth in AB 117 (California Public Utilities Code 381.1). We believe that the AB 117 criteria do not allow the selection of Administrators for whom the achievement of actual cost-effective energy savings presents a financial conflict of interest. The Administrators selected by the System Director could include government entities, nonprofit and for-profit entities. There would always be multiple Administrators, so that the CPUC would have a concrete means for judging their relative performance. No entity

would be allowed to serve, at the same time, as both an Administrator and an implementer or EM&V contractor (in other words, no vertical integration). A Standard Offer system similar to this proposal has been operating in Texas for several years.

Administrators would contract with implementers, using a Standard Offer system that would encourage both achievement of cost-effective energy savings and innovation in applying new materials and methods to energy conservation. The Standard Offer contracts would be simple forms and be available continuously, so that smaller contractors can participate without the need for making complicated formal proposals. The proposal also includes means to implement programs without measurable savings, such as consumer education, at the System Director and Administrator level.

III. Overview of the Organizations in the Administrative Structure

Please describe each organization that will be involved in the administrative structure. Include an organizational chart that identifies the key organizations in the proposed structure and illustrates how they report to each other. Your written description and organizational chart should provide us with a clear understanding of how the organizations would work together to plan, manage and evaluate energy efficiency programs.

System Director

The System Director sets overall program targets, based on avoided costs, solicits and selects Administrators and conducts a yearly review of their achievements. The System Director is responsible for interfacing with the California Independent System Operator (Cal-ISO) and Load-Serving Entities to determine what needs to be done to ensure that energy efficiency is taken into account as a resource option. (Note: The California Public Utilities Commission (CPUC) may keep all of the responsibilities of the System Director, or delegate certain of its duties to the California Energy Commission (CEC) or a consultant that has no ties to administrators or Implementers. Alternatively, the CPUC could create a non-profit that would take on these roles.)

The System Director also drafts the basic Standard Offer and creates basic templates for applications, Implementer contracts, and reports. It sets minimum standards for approval of Implementers and establishes certain environmental requirements for installation, recycling or disposal. The System Director solicits, evaluates and licenses EM&V contractors. The System Director, together with the CEC and CPUC (if different

from the System Director), convenes an EM&V Committee that oversees periodic updates of the DEER database and commissions studies to research information in the database and to improve interfaces with the California Independent System Operator and Load-Serving Entities. The System Director also has a budget available for a Special Administrator to administer statewide education/information programs (non-energy savings), for example, advertising programs such as Flex-Your-Power, codes and standards advocacy, and training programs for building contractors and inspectors.

EM&V Committee

The EM&V Committee (selected and supervised by the System Director) is charged with periodically updating the DEER database that lists how much savings can be expected, for how long, from various services and measures installed in a variety of facilities. The Committee will also develop and list time-of-day values for all measures in order to track peak savings. All parties are encouraged to provide input, to ensure the highest quality data, but decision-making will be limited to the CPUC (and the System Director, if different), the CEC and/or public interest organizations and independent EM&V consultants (i.e., no administrators, Implementers nor load-serving entities). This Committee will replace CALMAC.

Administrators

Administrators of each territory are responsible for providing information to assist customers to participate and administering the Standard Offer in their territories — including processing applications and contracts, making sure Implementers meet minimum standards; reviewing reports; inspecting a portion of the installations; and processing payments. (Most details of the Standard Offer and customer information will be handled on-line.) Administrators have the option to change certain details of the Standard Offer in their territories in order to tailor programs to local priorities. For example, Administrators could set a higher (not lower) savings target to put focus on specific geographical or transmission-constrained areas. They may also provide general information and outreach programs out of their own budgets.

EM&V Contractors

EM&V Contractors conduct inspections of installations, on behalf of Administrators, and may also conduct studies for the EM&V Committee. They also assist Implementers

during the installation process to provide field measurements and recommendations for improving performance. (These activities are compensated by Administrators, not Implementers.) In special cases, Implementers may hire EM&V Contractors to test installations to determine if they achieve greater savings than listings on the DEER database. EM&V Contractors must obtain licensing from the System Director to conduct EM&V anywhere in the system.

(Implementers)

We are mindful that Implementers are not to be discussed in the proposal, we only mention them briefly here because in this “bottom-up” system, Implementers are responsible for some of the functions previously accorded to administrators, including deciding what measures they will provide, where and when they will operate, as well as marketing, outreach and training for their workers.)

Separation of Roles

Note: In order to minimize conflicts of interest, parties may only participate in one role for any given period (at least one year): Administration; Evaluation, Measurement & Verification (EM&V); or Implementation.

IV. Responsible Organizations for the Major functions in the Structure

ROLES AND RESPONSIBILITIES OF SYSTEM DIRECTOR

The System Director sets overall program targets, based on avoided costs; solicits and selects Administrators and conducts a yearly review of their achievements. The System Director is responsible for interfacing with the California Independent System Operator (Cal-ISO) and Load-Serving Entities to determine what needs to be done to ensure that energy efficiency is taken into account as a resource option. (Note: The California Public Utilities Commission (CPUC) may keep all of the responsibilities of the System Director, or delegate certain of its duties to the California Energy Commission or a consultant that has no ties to administrators or Implementers. Alternatively, the CPUC could create a non-profit that would take on these roles.)

The System Director also drafts the basic Standard Offer and creates basic templates for applications, Implementer contracts and reports. It sets minimum standards for approval of Implementers and establishes certain environmental requirements for

installation, recycling or disposal. The System Director solicits, evaluates and licenses EM&V contractors. Together with the CEC and CPUC (if different from the System Director), it convenes an EM&V Committee that oversees periodic updates of the DEER database and commissions studies to research information in the database and to improve interfaces with the California Independent System Operator and Load-Serving Entities. The System Director also has a budget of 5% of total funds available for a Special Administrator to administer statewide education/information programs (non-energy savings), for example, advertising programs such as Flex-Your-Power, codes and standards advocacy and training programs for building contractors and inspectors.

Selection of Administrators

The CPUC, or a committee that must be headed by the CPUC and may include the System Director (if different from the CPUC), the CEC and public interest representatives (but no Administrators or Implementers), will solicit and select one or more Administrators. As provided in the Community Choice law, any parties may apply to the CPUC to become administrators of a particular geographical area (such as a Community Choice city or group of cities, or a utility territory) or the whole system. Proposals for administrators will be weighed according to the criteria outlined in AB 117.

Yearly Review of Administrators and Programs

The CPUC will oversee a yearly review of the entire system, based on reports from each Administrator. The review will be conducted in a public proceeding and will include determination of whether each Administrator has met its goals and will be eligible to continue, or whether a new Administrator is needed in that jurisdiction.

Program Targets

The California Public Utilities Commission (CPUC) sets the statewide target (floor) for PGC-funded energy savings, based on its calculations of “avoided cost.” Individual Administrators may raise but not lower this target.

The Basic Standard Offer

The CPUC drafts the basic terms of the Standard Offer, establishing the statewide floor for saving energy in various customer sectors (e.g. the Texas system provides 100% of

avoided costs for hard-to-reach residential and small commercial¹, 50% for other residential and small commercial, 35% for large commercial, industrial and agricultural). The CPUC may set a premium for reducing energy at “peak” (hours of greatest energy use) but will also provide baseload savings, in order to ensure bill reductions for a wide range of customers. It will also set limits for dividing an Administrator’s overall pot of funds among different sized contracts suitable for larger or smaller operations. For example, no one contractor may tie up more than 20% of the funds at one time.

Templates

The CPUC drafts templates for Implementer applications, contracts and reports for administrators to use as-is or change as needed (with approval by the CPUC). The goal is to standardize and streamline the process for Implementers, in order to assist Implementers who work statewide, lower the threshold for participation by smaller operations, allow all program providers to focus more on the job and less on the paperwork, but make sure Administrators have enough information to see that contractors are responsible. Applications, for example, will not exceed four pages.

Minimum Standards for Implementers

The System Director develops criteria to determine minimum standards that Implementers must meet, including necessary licenses and insurance for the work they do. Implementers must abide by consumer protection laws and Contractor State Licensing Board rules and regulations. The CPUC may require disclosure of certain financial information and criminal convictions. Individual Administrators may also set further standards. For instance, for larger operations they may require a deposit to ensure performance, but for small programs they may have less stringent rules in order to encourage participation by new, local entities. The CPUC or individual Administrators may decide to deny participation to certain types of Implementers, for instance, companies with shaky finances, a history of multiple bankruptcies, or convictions for environmental crimes.

Education/Information Programs (non-Energy Savings)

¹ Texas also provides 100% for low-income residential, although this sector is not currently included in this system in California.

The System Director has a budget of 5% of total funds to select a Special Administrator for some statewide education and information (non energy-saving) programs, including advertising programs such as Flex-Your-Power, codes and standards advocacy, and training for contractors and building inspectors. (Administrators also have the option of providing such programs in their territories).

Evaluation, Measurement & Verification

Licensing of EM&V Contractors

The System Director oversees a standard, statewide system for Evaluation, Measurement & Verification (EM&V). It will conduct periodic (at least yearly) solicitations for EM&V contractors to license them for conducting EM&V anywhere in the system.

Roles and Responsibilities of EM&V contractors

EM&V Contractors conduct inspections of installations on behalf of Administrators, and may also conduct studies for the EM&V Committee. Administrators shall make 1% of the total funds in their jurisdictions available for EM&V assistance to Implementers during the installation process to provide field measurement and recommendations for improving performance. In special cases, Implementers may hire EM&V Contractors to test installations to determine if they achieve greater savings than listed on the DEER database.

EM&V Committee

The System Director selects and oversees an EM&V Committee charged with periodically updating the DEER database that lists how much savings can be expected, for how long, from various services and measures installed in a variety of facilities. The Committee also develops and lists time-of-day values for all measures, in order to track peak savings. All parties are encouraged to provide input, to ensure the highest quality data, but decision-making will be limited to the CPUC (and the System Director, if different), the CEC and/or public interest organizations and independent EM&V consultants (i.e., no administrators, Implementers nor load-serving entities). This Committee will replace CALMAC.

Statewide EM&V Studies

The EM&V Committee oversees solicitations and selection for Statewide Studies of energy efficiency potential or other issues seen as necessary to determine DEER values. (All such studies must be awarded to the low bidder for comparable work.)

Other EM&V Issues

Measures which are not yet on the DEER list, or which Implementers have reason to believe will produce better savings than the list indicates, may be measured by licensed EM&V contractors (at the expense of the Implementer) and proposed to the responsible Administrator for payment, which shall be forthcoming unless the Administrator desires to pay for a second opinion or, in extreme cases, to appeal to the EM&V Committee. The statewide EM&V Committee will promptly mediate any disputes arising from such requests.

The California Energy Commission (CEC) is urged to create codes and standards for certain technologies or biological measures so that they may be included on the DEER list — for example, solar water heaters, tree planting, passive solar construction methods for heating and cooling, and other innovative technologies.

Interfaces with Cal-ISO and Load-Serving Entities

The System Director, in consultation with the EM&V Committee, has the responsibility for active, ongoing interfaces with the California Independent System Operator and Load-Serving Entities including investor-owned utilities, municipal utilities and water districts. The purpose of these interactions is to determine and provide whatever data and procedures are necessary to ensure that energy efficiency will be taken into account as a verifiable resource by Cal-ISO and Load Serving Entities. The System Director may convene studies as necessary to support this function.

Compensation for System Director Activities

Compensation for the above activities (including fees of the EM&V Committee, Statewide Studies and Soft Programs) is capped at 3% of overall PGC funds, except for certain payments that will be made as follows:

- Administrators pay for EM&V of installations in their jurisdictions;
- Implementers pay for EM&V if they desire to request it for special cases.

ROLES AND RESPONSIBILITIES OF ADMINISTRATORS

Administrators of each territory are responsible for providing information to assist customers to participate and for administering the Standard Offer in their territories — including processing applications and contracts, making sure Implementers meet minimum standards; reviewing reports; inspecting a portion of the installations; and processing payments. (Most details of the Standard Offer and customer information will be handled on-line.) Administrators have the option to change certain details of the Standard Offer in their territories in order to tailor programs to local priorities. For example, Administrators could set a higher (not lower) savings target to put focus on specific geographical or transmission-constrained areas or to direct some funds for innovative pilot programs. They may also provide “soft” (non-energy saving) programs out of their own budget.

Administrators are required to make sure Implementers meet minimum standards set by the System Director. They may set higher standards. For instance, for larger operations, they may require a deposit to ensure performance, but for small programs they may have less stringent rules in order to encourage participation by new, local entities. Individual Administrators may decide to deny participation to certain types of Implementers, for instance, companies with shaky finances, a history of multiple bankruptcies, or convictions for environmental crimes. As long as the standards are met, Administrators may not discriminate against any particular Implementers or technology being used.

Payment processing

Administrators are required to base payments on the amounts of energy saved, according to the publicly stated criteria posted in their Standard Offers. Most payments are based on the statewide DEER database list. Measures that aren't on the list will be handled as described in “Other EM&V Issues,” above. Administrators are required to accept the judgment of licensed EM&V contractors evaluating special measures or get a second opinion (paid for by the administrator). As a last resort, Administrators may appeal to the CPUC's EM&V Committee as outlined above.

Each Administrator is also required to provide basic information on its website to assist customers to participate in the program. This must include a list of all EE Implementers currently operating in the jurisdiction, including their areas of

specialization (without indicating preference for any of them). It should link to lists of EE Implementers in surrounding jurisdictions as well, to assist customers located near the edge of the territories.

Information on other clean energy programs

Administrators' websites are required to link to information about other statewide clean-energy programs, such as demand-response and self-generation. They could also include general information about energy use and efficiency, and/or referrals to statewide information programs, for example, if Flex-Your-Power is offered by the System Director.

Compensation for Administrators

Administrative costs are capped at 10% of total funds in each jurisdiction; of this, 2% must be made available for EM&V.

ROLES AND RESPONSIBILITIES OF PROGRAM IMPLEMENTERS

We are mindful that Implementers are not to be discussed in the proposal; we only mention them briefly here because, in this “bottom-up” system, Implementers are responsible for some of the functions previously accorded to administrators, including deciding what measures they will provide, where and when they will operate, as well as marketing, outreach and training for their workers. Implementers are encouraged (by market dynamics) to collaborate with other specialists to perform more comprehensive measures at each site.

ADMINISTRATIVE FUNCTIONS AND RESPONSIBILITIES

1. Policy Oversight:

Determines overall policy direction and priorities, including short- and long-term energy efficiency and procurement goals (e.g., gwh, MW and therm savings from energy efficiency); approves funding for program portfolio and evaluation, measurement and verification (EM&V).

The CPUC and/or System Director (if different from the CPUC) provides overall policy direction and priorities. The mechanism of the Standard Offer itself automatically encourages longer-term energy efficiency, because payments are based on the amount of energy savings over time, therefore rewarding long-term savings to whatever degree the CPUC desires. Procurement goals are easily integrated, if desired, as part of the Standard

Offer. Individual Administrators are able to target short-term energy efficiency goals, where needed in the case of power plant retirement or transmission constraints. Administrators approve funding for the program portfolio through the Standard Offer, and approve budgets for EM&V.

2. Quality Assurance:

Establishes policies, protocols and evaluation criteria for measurement program performance (e.g., energy savings) and the effectiveness of programs in meeting policy goals. Periodically evaluates the effectiveness of the overall structure for managing and administering the Energy Efficiency portfolio.

The proposed system offers robust Quality Assurance at several levels. Most importantly, it directly links program payment with energy saving achievements (determined by independent EM&V), guaranteeing the effectiveness of the program in meeting policy goals. The quality of installations and hence the level and persistence of energy savings are carefully monitored by licensed EM&V contractors who are responsible to Administrators and the System Director rather than Implementers, thereby ensuring objectivity and removing incentives to overestimate savings as a marketing tool for future EM&V contracts. The System Director, in consultation with the EM&V Committee, establishes policies, protocols and evaluation criteria for measuring energy savings and conducts an annual review of the achievements of each Administrator's portfolio (important when selecting Administrators for the following year). The System Director and/or Administrators may establish and enforce non-energy savings goals, such as environmentally responsible recycling or disposal of hazardous materials.

3. Research and Analysis in Support of Policy Oversight:

Provides research and recommendations to assist in development of the Energy Efficiency policy goals and priorities, program performance goals and funding levels, including evaluation of the remaining potential to achieve additional energy or peak savings, in both the short- and long-term. Provides other research tasks, as needed, related to procurement and Public Goods Charge funded activities.

The System Director, through the EM&V Committee, commissions studies to support the further refinement and credibility of the deemed savings database (DEER), in particular to evaluate peak savings. The System Director and/or Administrators may commission further research, within their budgets, for instance to assist Administrators and

Implementers to determine the market potential for existing or new measures. In addition, the Implementers (who most closely interact with the actual Market) have the incentive to do their own research and analysis in order to maximize energy savings, because payments are based directly on the amount of energy and peak savings they achieve.

4. Program Choice:

Develops the portfolio(s) of programs to meet the short- and long-term goals. Solicits and/or develops and selects programs in the portfolio mix; submits general program description and budgets for approval.

The Standard Offer system relieves Administrators of the costly, time-consuming burden of soliciting and selecting programs as well as the uncertainty over whether the portfolio they select will accomplish program goals. In this system, Implementers collectively design and determine a diverse, innovative and effective portfolio of programs guaranteed to meet short and long-term goals. Furthermore, the simple, straightforward and brisk “rolling” application and selection process of the Standard Offer provides a steady stream of work at a quantity and pace exactly tailored to the capabilities of each Implementer. There are none of the abrupt pauses or uncertainty inherent in a protracted solicitation/selection process. This assists the development of decentralized highly-sustainable infrastructure that will constantly increase the quality and capacity of the energy efficiency resource. In addition, the System Director and individual Administrators have highly effective tools available if they wish to encourage greater emphasis on particular customer sectors or activities (such as air conditioning) or geographical areas (such as underserved populations or transmission-constrained regions). These tools include raising incentives for energy savings at peak times or for savings in particular customer sub-sectors or geographical regions. They may also offer contracts for small “pilot” programs to explore or demonstrate the market potential for new technologies or applications.

5. Portfolio Management of Energy Efficiency Programs:

Responsible for general administration, and coordination of programs, including tracking program savings and expenditures against program savings goals and budgets; develops reports on individual and comparative program performance; reviews program performance and proposes funding or design changes based upon experience to date; oversees contracting and program implementation process; implements quality assurance tracking protocols; reviews and approves invoices; generates required reports and

maintains centralized system for reports to regulators, legislators, advisory groups, and others.

Each Administrator is responsible for general administration and coordination of programs in its jurisdiction, including tracking program savings and expenditures against program savings goals and budgets, reviewing program performance, and developing reports on individual programs and comparative program performance, which are submitted quarterly to the System Director. The Administrator implements the Standard Offer in its territory through its website, processes applications, writes contracts, reviews savings claims, deploys EM&V contractors to inspect a percentage of installations or to verify unusual claims, and approves payments. An administrator has latitude to make changes in the Standard Offer, within certain limits established by the System Director, in order to foster greater savings. It also provides assistance and recommendations, through its EM&V team, for Implementers to improve performance. The System Director regularly reviews the performance of each Administrator and maintains a centralized system for reports to regulators, legislators, advisory groups and others.

6. Management of Portfolio-Level EM&V:

Establishes EM&V plan for the portfolio of programs, selects evaluation firms and manages portfolio-level EM&V consistent with adopted policies, protocols and budget priorities; provides feedback on the overall objectivity and accuracy of EM&V program results and makes recommendations for improvements; recommends portfolio-level EM&V studies, other evaluation priorities, or funding modifications as needed. The EM&V activities described under #7 feed into this EM&V function.

The System Director establishes an EM&V plan for the portfolio of programs. The process is simplified by the practice of basing most savings claims on a database of deemed savings that is increasingly fine-grained compared to the current DEER.

7. Management of Individual Program EM&V:

Selects evaluation firms and manages the evaluation of individual programs consistent with EM&V protocols; oversees verification of program milestones, load impacts, completion of cost-effectiveness evaluations and other appropriate measurements.

Each Administrator selects evaluation firms and manages the evaluation of individual Implementers' programs consistent with EM&V protocols, including deemed savings, and oversees verification of program milestones, load impacts, completion of cost-effectiveness evaluations and other appropriate measurements.

8. Fiscal Agent:

Responsible for holding and dispersing funds.

This system has no need for a fiscal agent but has no conflict with one either. Any of a number of entities could serve as fiscal agent. The first such agents are the investor-owned utilities (IOUs), which collect the PGC funds (and perhaps other funds to be used for EE purposes) from ratepayers. The CPUC might allow the IOUs to temporarily hold the funds, as they are collected, then pay them to the System Director and/or the Administrators. The Legislature has made the CEC the fiscal agent for some renewable resource funds collected by the IOUs, and we see no barrier to a CPUC order directing the IOUs to pay the funds, as collected, to the CEC or other governmental entity, if that is desired.

9. Dispute Resolution:

Resolves disputes among administrative entities and Implementers, including third-party contractors.

This proposal includes several layers of dispute resolution, with the aim to provide mechanisms for rapid resolution of disputes by objective and knowledgeable decision-makers. All contracts involving the System Director, Administrators, and Implementers contain standard dispute resolution language, set forth below. In addition, breaches of contract can be pursued in the courts, if the Dispute Resolution Mechanism described below is pursued at least through the level of the Assigned Administrative Law Judge (ALJ), at which point administrative remedies would be deemed exhausted.

A. Dispute between Customer and Implementer.

First, the Implementer is required to resolve disputes with Customers rapidly and to include an approved dispute-resolution mechanism in all contracts with Customers. Second, if a Customer remains dissatisfied after pursuing that mechanism, such a dispute is then referred to the Administrator of the program for resolution.

The Implementer must promptly put into place the remedy ordered by the Administrator. If the Implementer contests that the remedy is necessary or appropriate, then the Implementer can seek reimbursement from the Administrator for the cost of the remedy. Should the Administrator decline reimbursement, that becomes a dispute between the Implementer and the Administrator.

If the Customer disagrees with the remedy ordered by the Administrator, that becomes a dispute between the Customer and the Administrator.

B. Dispute between Implementer and EM&V contractor.

A dispute between an Implementer and an EM&V contractor (typically regarding the amount of energy savings being achieved) is referred to the Administrator of the program for resolution. The decision of the Administrator is subject to review by the System Director, with the advice of the EM&V Committee.

C. Dispute between Customer or Implementer or EM&V contractor and Administrator.

First, the Administrator is required to include an approved dispute-resolution mechanism in all contracts with Implementers and to resolve disputes between Customers, Implementers, and EM&V contractors rapidly. Second, if a Customer or Implementer or EM&V contractor remains dissatisfied after pursuing that mechanism, such a dispute is then referred to the System Director for resolution.

The Administrator must promptly put into place the remedy ordered by the System Director. If the Administrator contests that the remedy is necessary or appropriate, then the Administrator can seek reimbursement from the System Director for the cost of the remedy. Should the System Director decline reimbursement, that becomes a dispute between the Administrator and the System Director.

If the Customer or Implementer or EM&V contractor disagrees with the remedy ordered by the System Director, that becomes a dispute between the dissatisfied party and the System Director.

D. Dispute between Customer or Implementer or EM&V contractor or Administrator and the System Director.

First, the System Director is required to include an approved dispute-resolution mechanism in all contracts with Administrators and to resolve disputes with Customers, Implementers, and Administrators rapidly. Second, if a Customer or Implementer or EM&V contractor or Administrator remains dissatisfied after pursuing that mechanism, such a dispute is then referred to the Assigned ALJ.

The System Director must promptly put into place the remedy ordered by the Assigned ALJ. If the System Director contests that the remedy is necessary or appropriate, then the System Director can seek reimbursement from the Commission for

the cost of the remedy (to be paid from PGC funds). Should the Assigned ALJ deny reimbursement, that decision can be pursued through the normal channels applicable to ALJ orders (to the Assigned Commissioner, to the Commission itself, and eventually by writ of review to the courts).

If the Customer, Implementer, EM&V contractor, or Administrator disagrees with the remedy ordered by the Assigned ALJ, the aggrieved party can also challenge that decision through the normal channels applicable to ALJ orders.

E. Standard Dispute Resolution Contract Language.

1. The Parties shall deal in good faith and attempt to informally resolve potential and actual disputes arising out of or relating to this Agreement promptly by negotiations by responsible officers of each Party.
2. Either Party may give the other Party written notice of any dispute. Representatives of the parties shall communicate as often as they reasonably deem necessary to exchange information and attempt to resolve the dispute and may agree to mediation. If the matter has not been resolved within thirty (30) days of receipt of the written notice, either Party may activate the Dispute Resolution Mechanism (described above).
3. All negotiations and any mediation conducted pursuant to this clause are confidential and shall be treated as compromise and settlement negotiations under California Evidence Code 1119.
4. Notwithstanding the foregoing provisions, a Party may seek a preliminary injunction or other provisional judicial remedy, if such action is necessary to avoid irreparable damage or to preserve the status quo.
5. Each Party is required to continue to perform its obligations under this Agreement that are not related to the dispute, pending final resolution of a dispute arising out of or relating to this Agreement, including the timely and proportional payments of amounts not in specific dispute.

6. If the dispute is resolved with finality in favor of a Party, in whole or in part, at any stage of the dispute resolution process, the System Director shall authorize payment of all or a portion of the withheld amounts within five (5) business days of such resolution.

10. Program Implementers.

Implements programs based on contracts/agreements with portfolio manager; recruits customers, collects data on program milestones and provides periodic reports on progress towards goals; delivers program directly and/or hires contractors/firms to deliver program

Most simply, all Implementers in the Standard Offer program implement programs based on contracts with Administrators, recruit customers, collect data on program milestones and provide periodic reports on progress.

V. Match with Selection Criteria—Please describe how your proposed structure addresses each of the listed evaluation criteria in Attachment 3.

Criteria for Evaluation of Administration Proposals

1. Promotes Integrated Resource Planning and Energy Efficiency

Goals: The administrative structure ought to wholly support and inform these public policy goals. How does the proposed structure provide the following:

- a. Capability of administering a portfolio of cost-effective energy efficiency programs that can meet the Energy Action Plan resource goals, Commission goals for per capita reductions in energy use, and resource adequacy requirements.

The proposed administrative structure is specifically designed to guarantee cost-effective energy efficiency savings to most effectively meet Energy Action Plan resource goals, Commission targets for per capita reductions in energy use, and resource adequacy requirements limited budgets. While current programs can spend their budgets without achieving the promised energy savings, the administrative structure proposed herein can only expend its budget in proportion to demonstrated energy savings. Moreover, it greatly simplifies administration and streamlines program selection and oversight, thereby reducing administration costs so that a higher portion of the budgets can go to providing energy savings. It eliminates portfolio micromanagement while ensuring implementation of a wide variety of programs that respond to local needs, environmental priorities and customer choice.

- b. Capability, including infrastructure, to create sustainable savings over time.

The proposed system facilitates development of the infrastructure necessary for delivery of energy savings, while ensuring that that infrastructure will be as lean as possible and still get the job done. At the same time it has disincentives for creating excessive administrative infrastructure that boosts costs while providing no energy savings. This is because the system avoids the top-down, command/control structure in favor of a bottom-up system that places most decisions in the hands of service providers in the marketplace.

It nurtures development of decentralized infrastructure (for both Administration and implementation) thereby developing a more resilient system that can respond more directly to local and regional needs as well as market and climate conditions. This makes it more sustainable over time. It is also more appropriate for the size and diversity of California.

Most importantly, the system is fully protected against failures on account of bad business decisions or the failure of any entity, because payments are linked only to energy savings. If the energy is not saved, no money is paid. The risk of failure is borne entirely by Implementers, whereas in the current system and other grants-type programs, ratepayers are at risk and the money goes away when any program fails to meet its goals. In this system, the marketplace will determine the success of each program. A program that does not result in the expected energy savings will secure proportionately reduced funding, while that which delivers the expected savings or more will receive full funding. In this fashion, those service providers that can sustain themselves by providing energy savings on a consistent basis will be those that the system will encourage and reward. Those that do not at first succeed must learn to improve their approach or retire from the marketplace. This will encourage and reward the infrastructure which can best create and deliver savings over time.

The savings themselves will be sustainable over time by the direct reward (in higher incentive payments) for longer-lived savings. The incentives for each type of program are a percentage of the life-cycle avoided cost benefits. Thus, other considerations equal, a program which installs measures with an average of a 5year life will receive incentives only about one third as much (adjusted for present value

considerations) as a program whose measures average 15 years of life. This will encourage service providers to install long-lived measures. As it does now, the Commission will set the Effective Useful Life (EUL) for each measure to assure that the measure life is reasonable.

- c. Communication and coordination with entities responsible for supply-side portfolio management and transmission planning to ensure that all resource options are considered in a least-cost, integrated manner.

The Administrator reports to the System Director on a periodic basis (e.g., monthly or quarterly) as to the electric and gas savings realized in each sector (e.g., residential, commercial, industrial/agricultural), and further provide breakdowns by any geographic region desired. The System Director communicates this through an ongoing interface with the California Independent System Operator and Load Serving Entities (including investor-owned utilities, municipal utilities and water districts). This allows the supply side and transmission entities to quickly include actual (as opposed to promised or assumed) savings into consideration. The information is readily available because incentives for programs in each sector are based upon a percentage of the avoided costs for supply-side and transmission planning alternatives. The energy efficiency programs in this system, by definition, must be the least cost alternative since they are priced at a set percentage (below 100%) of the costs of the alternatives.

The Commission, in setting the avoided costs, must and does consider the needs and costs of the supply side and transmission planning entities. The local Administrator is able to apply those needs and costs on a more fine-grained basis by setting incentives and rewards for energy savings that more closely reflect local needs and costs. For example, if San Francisco were to be experiencing a transmission shortage and higher costs to satisfy that shortage, the avoided costs for that county would be proportionately higher. And to the extent that they were time differentiated (e.g., winter evening peaks), the incentives would be proportionately higher for savings during that period. This would automatically direct and reward more effort to providing energy savings at that location and time period.

Moreover, by setting the percentage of avoided costs and the total “pot” of funds available for any particular target region, the Administrator can more accurately predict

the amount of savings to be expected. For example, were we to assume that SDG&E's service area were provided with a "pot" of \$25 million, we could reasonably project annual savings of 100 million kWh, 29,000 kilowatts and 1.8 million therms². As the "pot" is further broken down to specific subgroups and as experience is gathered on market response, this projection will become more accurate and more closely tied into program planning.

The system is also self-correcting. Should the program be under-subscribed in any area, the Administrator can shift funding to another area that will produce greater savings. Should individual programs or Implementers fail to deliver the savings, the budget dollars go back into the pot for use by those who can deliver the savings. Should experience at any time indicate an anomaly in market response, the incentives can be shifted up or down to reflect market needs and opportunities.

2. Organizational Focus and Mission: The organizational focus and mission should be compatible with Criteria #1.

- a. Describe the organizational focus and vision of the entities proposed in your structure.

The focus and vision of the System Director is to ensure that the entire system is operating as it should to guarantee real energy savings according to the targets and that energy efficiency is taken into account as a real resource by the Independent System Operator, Load-Serving Entities and State regulators, Legislators and the Governor.

The focus and vision of Administrators is to see that the Standard Offer is functioning fairly and speedily in their territories, that Implementers are saving energy and being promptly compensated, that the savings are properly measured and verified, that Ratepayers and Implementers are aware of the system's opportunities, and that the status of the system is regularly reported to the System Director.

- b. How does the administrative structure ensure that energy efficiency is a core component of the responsibility and focus of the responsible organizations?

² Assumes 10% (\$2.5 million) goes for administration, \$2.5 million for gas savings, and \$20.0 million for electric savings, with the average incentive being set at 40% of avoided costs (less for large C&I and higher for residential or small commercial HTR) with an average measure life of ten years and a typical savings load factor of 40%.

Aside from a reasonable amount of administrative costs (approximately 3% for the System Director, 5% for “soft” programs and 10% for Administrators), all payments are based on bona fide, cost-effective energy savings.

- c. How does the structure minimize the effort of customers to participate in all available demand side programs regardless of funding source: e.g., energy efficiency, demand-response, self-generation?

Each administrator’s website provides information on all clean energy programs on its website or links to other websites where that information can be found (see “Information on other clean energy programs” under Administrator’s role, above).

- d. Are there any conflicts based on the organizational focus and mission (financial or non-financial) of program administrators with respect to pursuing cost-effective energy efficiency? If so, what are they?

Conflicts of interest are greatly reduced by requiring entities to choose only one of three roles for a given period of time: administration, implementation or EM&V.

Other checks and balances in our proposal will prevent some of the conflicts of interest in the current system. For instance, EM&V providers are accountable to and paid by the CPUC or each Administrator, rather than being paid by Implementers.

The Standard Offer program gets around the traditional conflict of interest of utilities, who have a conflict of interest with energy efficiency because their primary mission is selling energy. By definition, an Implementer can’t get money from this program unless they save energy. The worst they could do is grab it, hold it for a year, lose their deposit, and the money would go back into the pot for next year. They couldn’t hurt the program if they wanted to.

Nor could someone hurt it if they didn’t want to. They can only hurt themselves, because the only way to get paid is to save energy.

Nevertheless, the CPUC and Administrators could decide, as they did in Texas, that utilities are not allowed to be Implementers because that would give them a competitive advantage in relating to customers regarding procurement. If and when California provides “direct access” for procurement, utilities may be considered inappropriate as Implementers for that reason. The Community Choice law, AB 117, prevents utilities from procuring energy for Community Choice cities but is silent on whether they can offer energy efficiency programs.

3. **Accountability and Oversight:** The administrative structure ought to provide checks and balances throughout the process. How does the proposed structure consider and ensure the following:

- a. **Measurement and monitoring of administrative effectiveness**

The System Director measures and monitors the effectiveness of the Administrators. This is greatly assisted by the simultaneous operation of multiple Administrators throughout the state. Currently, it is very difficult for the Commission to determine whether a given IOU-Administrator is pursuing its tasks efficiently, because there is no clear yardstick for comparison. In the current system, if the SDG&E Administrator appears to be achieving results that are less cost-effective than the PG&E Administrator, for example, that is currently ascribed to differing climate conditions and other factors that make their relative performance not directly comparable. With multiple Administrators, however, some operating in the same climate zones, the System Director can make quite direct comparisons on performance, with the actual achievement of cost-effective energy savings the primary criterion for success.

This system also allows the System Director to determine the relative performance of entities that have not previously been allowed to function as Administrators (i.e., all entities that are not California IOUs). This may lead to conclusions about the relative effectiveness of IOU Administrators v. nonprofit administrators v. for-profit administrators, among others.

- b. **Program evaluation/load impact estimates that are both objective and unbiased**

Objective and unbiased program evaluation and load impact estimates is a key advantage of this proposal. Currently, the fox is measuring and evaluating the output of the henhouse (which output is deemed good, even if the fox eats most of the eggs). For example, the EE programs operated by the IOUs are measured and evaluated by EM&V contractors hired by the utilities themselves. Statewide EM&V studies are performed by EM&V contractors that depend on contracts with the IOUs for their corporate survival. It is hard to imagine a system less likely to produce objective and unbiased results.

Under the California Standard Offer Program, all EM&V is performed by contractors who are hired by and responsible to parties other than the entity that has done

the work under scrutiny. The proposal also includes mechanisms for implementers to add new measures and techniques by asking the EM&V contractor and EM&V Committee to examine the new methods, thus reversing the current system's reluctance to allow such methods.

c. Efficient, non-redundant program costs or efforts, including ability to minimize the costs of achieving additional energy savings

This proposal is rooted in market mechanisms, as payments are based on achievement of actual energy savings. If an implementer incurs unnecessary costs, the result is reflected in its own bottom line. As each implementer has a continuous opportunity to save energy (with costs that are significantly less than avoided costs), each can achieve any desired economy of scale (within the overall limits on the portion of funds going to a single implementer).

d. Remove or mitigate conflicting financial interests to ensure ongoing objective implementation and verification of programs

This proposal could remove all conflicting financial interests, because both Administrators and implementers are paid on the basis of actual measured energy savings. If the IOUs are allowed to serve as Administrators or implementers, however, conflicts may remain. It may continue to be more profitable overall for an IOU Administrator to promote additional energy sales (once rates are set) rather than effectively save energy. This could be avoided by disqualifying all companies with conflicts of interest from bidding on the Administrator positions. If an IOU were an implementer, however, it would be paid, like any other implementer, only for cost-effective energy savings verified by independent EM&V contractor. Failure to achieve such savings would not, therefore, consume PGC funds or preclude their more effective use by other implementers.

e. Accountability of portfolio and program managers to policy oversight organization

The proposal includes the opportunity for the Commission, through the System Director, to implement any EE policies desired. As noted earlier, the nature of the energy savings achieved could be fine-tuned by modifying the incentives (avoided cost payments) offered to implementers through the Standard Offer. If more savings of a particular type

or for particular customer categories or in a particular region were desired, then a payment closer to full avoided cost would be offered for such savings. (The avoided cost of such savings may well be higher to begin with, considering transmission constraints, load shape, and other factors).

f. Ensure accountability for use and management of funds

All funds and transactions would be subject to audit by the CPUC, including its Office of Ratepayer Advocates. An annual audit is recommended.

4. **Administrative Effectiveness:** How does the proposed structure consider and ensure the following:
 - a. Collaborative process and involvement of stakeholders, e.g., consumer groups, trade allies, manufacturers, retailers, publicly owned utilities and contractors.

The California Standard Offer Program encourages collaboration among Implementers, trade allies, manufacturers, retailers, public and private utilities and consumer groups, because the system offers increased benefits for those who provide comprehensive installations at each site. All of the stakeholders have incentives to be involved in the system and to partner with each other, because the Standard Offer works the same way regardless of what type of entity or entities provides the savings. Everyone is welcome to participate in the program, provided that each entity chooses only one role: (Administration, EM&V or implementation) and meet the criteria for that role.

- b. Coordination and integration of energy efficiency program designs with building and appliance efficiency standards

This system provides excellent coordination and integration with building and appliance efficiency standards, because the highly refined deemed savings and the optional EM&V support for special installations make it possible to target very specific energy savings opportunities and technologies. In addition, there are information and education programs that are targeted to contractors and building inspectors.

- c. Demonstrate flexibility to adapt programs to evolving market conditions/opportunities, including consideration of local needs

The Standard Offer program nimbly adapts to evolving market conditions/opportunities, because implementers can seek approval for any new product or technique. Implementers benefit financially from finding new and more effective energy savings methods, even if such methods are applicable only in certain local conditions. The

existing system provides no means for implementation of such specialized measures or methods.

d. Encourage innovation in program delivery and design

Operations that are more likely to pursue innovative ideas, including small businesses or neighborhood non-profits, are able to test their ideas for program delivery or design, because there is a wide variety of contract sizes (starting as low as \$5,000), and great opportunities for “pilot” programs. Furthermore, there is no need to convince anyone that it’s a good idea — no need to write laborious applications and wait for months worrying about whether the program will be selected and finally get started after the spark may have long since been extinguished. The quick turnaround of the Standard Offer makes it possible to take a risk when the passion is high or the market is just right.

e. Respond quickly to input from customers and Implementers (those out in the field)

The system responds quickly to input from Implementers, because the Standard Offer is simple and approvals are available quickly, within as little as five days. The system responds quickly to input from customers, because those who are doing the work out in the field (the Implementers) are motivated to provide customers with good services in order to obtain the highest rewards and gain word-of-mouth to help market to other customers.

f. Respond quickly to state policy direction

Because of the rapid turnaround of the Standard Offer, the system is able to respond to higher or lower energy savings targets and other policy direction within weeks or months, not years.

g. Efficient and timely process for contracting, managing and encumbering funds

Nothing could be more timely or efficient than the Standard Offer process, which involves simple, to-the-point applications and contracts, clear guidelines for encumbering funds (75-120 days to complete 40% of the work, or the Implementer must return the money to the pot) and prompt payment.

h. Timely and transparent decisionmaking process

The Standard Offer process mandates extremely rapid, unbiased and transparent decision making for all programs. Selection of Administrators takes place yearly or every other year in a fully transparent process.

- i. Ensure that all potential Implementers are treated fairly during the selection process

The California Standard Offer guarantees that all Implementers are treated fairly, without possibility of bias, on a first-come, first served basis.

- j. Holds sufficient legal and financial standing to enter into and enforce contracts with varying levels of risk, and to bear those risks

The CPUC holds sufficient legal and financial standing to enter into and enforce contracts throughout the system, whether contracts for System Director (if different from the CPUC), Administrators or Implementers.

5. Implementation Considerations: Each administrative option will have implementation requirements that should be considered in the selection process. These include:

- a. What are the startup and ongoing costs of the structure/ organization(s), including (at a minimum) a qualitative discussion of staffing and contracting requirements by functional area?

Startup costs are minimal to create a System Director and develop all procedures required to implement the program. These could easily be handled by existing CPUC staff, perhaps supplemented by CEC staff. Ongoing staffing requirements for System Director and Administrators would be far lower than the current administrative burden carried by the CPUC and utilities. We propose a total budget of 3% of total funds for the System Director, of which approximately 1% covers administrative staff and 1% supports the EM&V Committee. Administrators receive 10% of total funds, of which approximately 2% would be needed for administrative staff and 4% for EM&V.

- b. What are the necessary steps and requirements to ensure smooth transfer of functional responsibilities from current structure to the proposed structure?

Immediately after the decision approving the system, expected in July 2004, CCEE recommends that the CPUC convene workshops to obtain parties' input on the formation of the System Director, the selection process for Administrators and the EM&V Committee, the terms and conditions for Implementers and EM&V contractors and the creation of templates for the Standard Offer.

If the CPUC decides to contract out or form a non-profit for the role of System Director, these procedures should result in having a System Director in place by late 2004, along with fully developed recommendations for a roll-out of the system.

For the first solicitation for Administrators, we propose that the System Director issue the Request for Proposals for Administrators within 30 days of its own formation, set the proposal deadline 60 days later, and announce winners 45 days after that, which would be approximately one year from today, early April, 2005. Initial Administrators remain in place until January 2007. Thereafter, any party may apply to administer any part of the system and will be weighed and accepted or rejected in a fully transparent process, according to the criteria outlined in AB 117 as further developed by the System Administrator. The CPUC should allow such applications every other year at least, or on an ongoing basis if it sees fit. After the first year, the CPUC could establish a maximum period (up to four years) that Administrators may remain in place without challenge.

- c. What is the long-term prognosis for the sustainability of the proposed structure/organization(s)?

The California Standard Offer system and administrative structure are sustainable indefinitely, as long as there are Public Goods funds and/or procurement funds available for Energy Efficiency. The prognosis is excellent, as it is already a tried and true system and is adaptable for California's particular needs and capabilities. With frequent opportunity for competition among those seeking to perform as Administrators and implementers, the marketplace will ensure that firms and other entities step forward to make most effective use of the available funds. Since the proposed structure has great flexibility, provides maximum benefits for ratepayers, and offers advantages for all participants with no party left on the sidelines, the California Coalition for Energy Efficiency believes the system will gain wide support for adoption and maintain that support over the long haul.

- d. What is required to ensure funding and institutional sustainability of effort over time?

This system is the most efficient and effective method for delivering energy savings, and the integrity of its results will ensure continued funding and institutional sustainability.

- e. What is the contingency plan if this administrative structure does not work, or another one is deemed necessary?

The Commission can revert back to the current system at any time, but we don't believe that will ever be necessary.

- f. What are the flexibility considerations for future years, which may see a significant increase or significant reduction in responsibilities?

The California Standard Offer Program is extremely flexible. The system can be operated much the same way at any level of funding.

- g. What legislation, if any, is required to implement the proposed administration structure(s)?

We believe that no legislation is necessary. The CPUC already has near plenary authority to direct how PGC funds (and other funds which could be devoted to energy efficiency) are to be spent. The main restriction on CPUC authority here is AB 117, and this proposal complies with the requirements of AB 117 by allowing any person or entity to apply to become an Administrator, applying the AB 117 criteria to evaluation of the applications.

- h. How will the proposed structure make customer information accessible for the purpose of managing and delivering energy efficiency programs, and retain customer confidentiality?

Customer information is not confidential now, because the IOU has the information and uses it. Also, it has been the CPUC's policy since the early 1990s that the IOUs provide customer-specific information to implementers of CPUC-approved energy efficiency programs, if such information is needed by the implementer. In the DSM Pilot Bidding program, for example, some implementers received customer-specific energy usage data in order to offer their services to customers who stood to gain the most benefit.

Customer-specific information can be as well protected in the hands of the System Director, Administrators, and implementers as they are in the hands of the IOUs. In past energy efficiency programs, implementers receiving such information agree to contract provisions with sanctions for unauthorized disclosure.

Customer information is not owned by the IOUs but is instead an inevitable byproduct of their regulated monopolies. Its use should not be limited to the IOUs, as such limitation provides them with huge anti-competitive advantage of other potential Administrators and implementers.

- i. What other legal issues must be address prior to implementation of the proposed administration structure(s)?

We are not currently aware of other legal issues requiring discussion but will respond to any offered by those commenting on this proposal.

VI. Summary

The California Coalition for Energy Efficiency (CCEE), which makes this proposal, is a broad-based coalition of groups and individuals who share a concern for maximizing the many benefits of energy efficiency to ratepayers, the economy, the environment, Native people, future generations, and low-income communities of color who suffer the most health and other damage from fossil-based power production facilities.

The California Coalition proposal for administration of energy efficiency in California seeks to increase the delivery of long-term, verifiable energy savings through a simple, bottom-up, fair and transparent process known as the “Standard Offer.” The Standard Offer is a well-known procedure, long used as part of energy efficiency programs in many States, which has reached its widest adoption and greatest success as the foundation for the successful energy efficiency program in Texas, which has been in place for four years.³

A Standard Offer is a procedure for offering contracting opportunities in a fair solicitation, open to all, under the same terms and conditions that apply to all applicants on a first-come, first served basis. The standardization of the procedure and the simplicity of application forms and contracts make it extremely efficient, unbiased and transparent. The whole process can be completed in a matter of days, unlike the lengthy, complex solicitation and selection process currently used for energy efficiency programs in California and typical programs in many other states.

The Standard Offer makes appropriate use of market-based mechanisms and public benefit criteria, and enhances both competition and cooperation. It encourages participation and decision making by local service providers as well as operations that

³ The four-year Texas program is thriving and highly successful — taking the State from near-zero to first or second in the nation for cost-effective EE. Public interest groups that proposed and helped develop the system are generally pleased with its results, although they have identified some areas that need further adjustment. Our proposal benefits from examining the pluses and minuses of the Texas experience as well as the longer and more highly developed, though overly complex and conflict-ridden California energy efficiency experience.)

can provide economies of scale. It is guaranteed cost-effective, and has already been proven to work in the real world.

Extremely flexible, the system we propose allows for a variety of administrative entities and different program designs that reflect local economic, environmental and social priorities and particular climate conditions, building stock and urban/ suburban/ rural settings. At the same time, it provides for a common, streamlined evaluation, measurement and verification (EM&V) protocol and ensures rigorous accountability in all parts of the system.

The proposal clarifies interfaces among energy efficiency programs, grid operators, load serving entities, and state energy agencies, enabling energy efficiency to fully compete against other resource options as envisioned in the Energy Action Plan.

It also provides a structure or model to attract participation by municipal power companies and irrigation districts, as well as utility energy efficiency procurement programs.

It solves many long-standing problems of the current system, namely: it eliminates the debate over one, two, three, five or ten year programs by providing a continuous stream of contracts, and prevents accumulation of market power by limiting the size and number of contracts any program provider can hold at one time. It contains checks and balances that reduce conflicts of interest, requiring any entity and its affiliates to choose only one of three roles for a given period of time: administrator, implementer or evaluator. It utilizes the knowledge and experience of all participants by allowing fair access for all law-abiding entities to participate for as long as they desire.

The California Coalition for Energy Efficiency proposal is compatible with all existing laws including Community Choice, requires no new legislation, and envisions a swift, smooth transition where all parties have reason to work collaboratively together to do their best, for their own good and the benefit of all California.

VII. Legal Analysis.

Extensive legal analysis of this proposal is not necessary, because it does not require the creation of new government entities or new types of transactions. Instead, it builds upon the experience of the CPUC's competitive bidding and third party EE programs. If any

party perceives legal deficiencies in this proposal, we will address those issues in the reply comments.

As noted above, the CPUC already has near plenary authority to direct how PGC funds are to be spent. Further, this proposal clearly complies with AB 117 by allowing any person or entity to apply to become an Administrator and by calling for application of the AB 117 criteria to evaluation of the applications. This proposal also meshes with the Community Choice aggregation provisions of AB 117, as noted in various earlier parts of this document.

This proposal calls upon the CPUC to designate a System Director, which would execute contracts with Administrators, which would execute contracts with Implementers and EM&V contractors, as needed. One question might be whether the CPUC itself has authority to enter into contracts with Administrators. We do not see why not, as the CPUC enters into contracts to procure a variety of services. One alternative would see the CEC as the System Director, and the CEC has extensive experience in contracting for energy-related services.

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Respectfully Submitted,

**For the CALIFORNIA COALITION
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Associates
Sarabecca Barnett
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Pamela Coxson, President
Fair Oaks Neighbors
Ardys De Lu
Carol Denney
David Dilworth
HOPE - Helping Our

Peninsula's Environment
Don Eichelberger,
Abalone Alliance
Joshua English
Davis Citizens Task
Force
Loretta Goclowski
Ernest Goitein, co-founder
of P.L.A.N.
People for Livable and
Affordable Neighborhoods
Elaine Hebert
Judith Iam
Iam Presentations
Harry Kershner
Lorene S. Lamb
Pat Martin

Irmi Meindl
Committee to Minimize
Toxic Waste
Perla Ni, Publisher
Stanford Social
Innovation Review
Mary Prophet
Women for Peace-SF
Laurie Salen
John Schaefer
Clean Power Works
Jeffrey Schmidt
Schmidt Creative
Nan Schweiger

CERTIFICATION OF SERVICE

R.0108028

I, Barbara George, certify that on this day April 8, 2004 I caused copies of the attached CALIFORNIA COALITION FOR ENERGY EFFICIENCY PROPOSAL FOR ADMINISTRATIVE STRUCTURE: THE CALIFORNIA STANDARD OFFER PROGRAM to be served on all parties by emailing a copy to all parties identified on the electronic service list provided by the California Public Utilities Commission for this proceeding, and also by hand-delivering an original and six paper copies to the CPUC Docket office, with a copy to Administrative Law Judges Meg Gottstein and Kim Malcolm and Presiding Commissioner Susan Kennedy.

Dated: April 8, 2004 at San Francisco, California.

DECLARANT

(Electronic service List attached to original only)

Service List R0108028

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