



**RULE 43**

ON-BILL REPAYMENT PILOTS

**A. APPLICABILITY**

This Rule is applicable to natural gas service to non-residential End-Use Customers, and to residential master-metered multifamily End-Use Customers, who meet the criteria specified in Section E.2, below, and receive service under a Utility gas rate schedule.

The On-Bill Repayment (OBR) Pilots are designed to facilitate billing for loans or leases between Customers and Participating Financial Institutions (FIs) on the Customers' Utility bills (Bills) to finance the purchase or lease and installation of Qualified Measures (as defined below) by Customers at the Customers' Premises.

OBR is available for loans funded and closed by Participating FIs on or before December 31, 2015, or as otherwise directed by the California Public Utilities Commission (CPUC).

**B. DEFINITIONS**

The definitions of capitalized terms used in this Rule are either defined in this Rule or are defined in Rule 1, Definitions. Unless otherwise stated, all references to "Customer" in this Rule will refer to Utility customers who have elected to participate in OBR.

**Affordable Multi-family Building:** means a multi-family property with deed restrictions that require the owner to keep rents affordable with income qualifying households occupying at least 50% of units, and the cost of electricity/gas is absorbed in the rental for the individual dwelling unit, there is no separate identifiable charge by such customer to the tenants for electricity/gas, and the rent does not vary with electric/gas consumption.

**California Hub for Energy Efficiency Financing (CHEEF):** A central enabling entity through which energy users, financial institutions, energy efficiency providers and Participating Utilities can participate in a program to help finance the installation of Qualified Measures. The CHEEF may act through agents or third-party service providers.

**Eligible Lease:** A lease from a Participating Lessor to a Customer for lease of one or more Qualified Measures that satisfy the requirements for participation in OBR in the OBR Rules.

**Eligible Loan:** A loan from a Participating Lender to a Customer for one or more Qualified Measures that satisfy the requirements for participation in OBR in the OBR Rules.

**Lease Agreement:** An agreement between Customer and Participating Lessor to rent or lease one or more Qualified Measures to be installed at the Customer's Premise and recover the Lease Charges through On-Bill Repayment.

**Lease Charge(s):** Amounts due during a billing period from a Customer to a Participating Lessor for an Eligible Lease, including any late fees, late payments, or any other fees as calculated by the Participating Lessor pursuant to the Lease Agreement.

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**B. DEFINITIONS** (Continued)

**Loan Agreement:** An agreement between a Customer and a Participating Lender to finance Customer's purchase and installation of Qualified Measures at Customer's Premise and recover the Loan Charges through On-Bill Repayment.

**Loan Charge(s):** Amounts due during a billing period from a Customer to a Participating Lender for an Eligible Loan, including any interest, late fees, late payments, and any other fees as calculated by the Participating Lender pursuant to the Loan Agreement.

**On-Bill Repayment:** A process whereby OBR Charges, as defined below, are included in a Customer's Bill, paid concurrently with the Utility Charges and forwarded to the Participating FI.

**OBR Charge:** A Loan Charge and/or Lease Charge relating to work performed at the Customer Premise associated with the Customer's account and included on a Customers' Bill pursuant to the Loan or Lease Agreement.

**OBR Rules:** Rules and requirements for participation in OBR established by the CHEEF.

**Participating FI:** A financial institution approved for participation in OBR by the CHEEF, which may be either a Participating Lender or Participating Lessor, as the case requires.

**Participating Lender:** A lender approved for participation in OBR by the CHEEF. Participating Lenders must be approved by the CHEEF pursuant to the standards in the OBR Rules, as may be modified from time to time, and must sign all agreements required by the OBR Rules.

**Participating Lessor:** A lessor selected for participation in OBR by the CHEEF. Participating Lessors must be selected by the CHEEF pursuant to its competitive procurement process and agree to comply with standards and regulations in the OBR Rules, as may be modified from time to time, and must sign all agreements required by the OBR Rules.

**Participating Utility:** Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and/or Southern California Gas Company.

**Qualified Measures:** Energy Efficiency measures included in the program implementation plans for OBR and approved by the CPUC for Customers to install at the location associated with the same account to which the OBR Charges will be billed. Which measures qualify as Qualified Measures is subject to CPUC approval and may change from time to time. Distributed generation and demand response measures are also qualified, per individual pilot rules.

**Utility Charges:** Charges rendered by Utility for gas service, deposits, and related charges approved by the CPUC. OBR Charges are not Utility Charges.

**C. TERRITORY**

The OBR Pilots are available throughout Utility's service area, subject to the availability of Participating FIs.

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**D. RATES**

All charges and provisions of the Customer's otherwise applicable rate schedule shall continue to apply. Each OBR Charge will appear as a separate line item (or multiple line items) on the Bill, as determined by the CPUC in coordination with the CHEEF.

**E. CUSTOMER ELIGIBILITY**

1. Customer must have an Eligible Loan or Lease with a Participating FI and authorize Utility to include the OBR Charge on the Bill. Customers must be current on their Utility charges and OBR Charges at the time the OBR Charge is first added to the Bill (i.e. not in default or in arrears).
2. Owners of Affordable Multi-family Buildings where the electric and gas services are either entirely or primarily master-metered, and do not live on the Premises are eligible to participate in OBR.
3. Customer must purchase or lease and install Qualified Measures funded through the Eligible Loan or Lease at the Premise associated with the Customer Account.
4. If Qualified Measures are primarily installed to reduce electric usage, Customer must be an electric distribution customer of Utility for the Premises where the Qualified Measures are installed. If Qualified Measures are primarily installed to reduce natural gas usage, Customer must be a gas distribution customer of Utility for the Premise where the Qualified Measures are installed.

**F. BILLING AND PAYMENT OF OBR CHARGES**

1. Utility is authorized to include OBR Charge on a Bill until the Eligible Loan or Lease is fully repaid and discharged unless otherwise instructed by the CHEEF or as provided herein. Upon Customer's authorization, Utility will include the OBR Charge as a line item or items on the Customer's Bill as calculated and transmitted by the Participating FI and communicated to the Utility by the CHEEF. Utility may rely on instructions received from the CHEEF and its agents and is not required to verify the amount of the OBR Charge or undertake any other verification or inquiry with respect to the transactions giving rise to the OBR Charge. OBR Charges may increase or decrease from month to month based on the Eligible Loan or Lease terms.
2. Utility will include or remove OBR Charges on the Bill only pursuant to instructions from the CHEEF or as otherwise required by law. Participating FIs shall inform the CHEEF if the Customer has initiated a dispute resolution process under the terms of the Eligible Loan or Lease. The CHEEF may instruct Utility to remove OBR Charges from the Bill pending the resolution of any dispute between a Customer and Participating FI. If Utility receives instructions from the CHEEF, or other court of competent jurisdiction, to remove OBR Charges, Utility will remove such charges from the Bill no later than the second billing cycle after such instructions are received. All collection and enforcement action with respect to an Eligible Loan or Lease shall be and remain the responsibility of the Participating FI.
3. In the event a Customer uses OBR to install Qualified Measures consisting of both gas and electric measures pursuant to the terms of an Eligible Loan or Lease, and is a Customer of more than one Participating Utility, then the OBR Charges attributable to such Eligible Loan or Lease will be placed on the Bill of the Participating Utility for which the greatest savings are expected to accrue, as determined by the Participating Utilities.

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**F. BILLING AND PAYMENT OF OBR CHARGES** (Continued)

- 4. Customer shall pay OBR Charge along with all other charges on the Bill in accordance with the payment terms applicable to the Bill. All payments shall be made to Utility. Utility will forward the OBR Charge payments received to the CHEEF.
- 5. If Utility does not issue Customer a Bill because of either voluntary or involuntary termination of Utility service, Utility shall notify the CHEEF within 10 days of service termination, unless the CPUC, in consultation with the CHEEF, determines that a later date is sufficient. In the case of involuntary service termination not associated with non-payment provided in Rule 11, Utility shall keep OBR charge on the Bill unless it is determined that the customer will close its account for all service at the site. On and after such notification, Utility will have no further responsibility for collecting and remitting OBR Charges unless the responsibility to pay such OBR Charges is assumed by a subsequent Customer at the Premises, pursuant to Section H below.
- 6. Partial Payment: Utility's billing system applies partial payment to the components of the bill in accordance with existing tariff rules. Because non-payment of non-residential OBR Charges subject the Customer's account to service disconnection, payments will be applied to past due OBR Charges prior to current charges. Residential service is not subject to disconnection.

If a Customer makes only partial payment on a Bill, the partial payment will be applied to the following components of the Bill according to the priority of these components:

- a. Utility charges, which include utility service and credit establishment charges;
- b. Energy-related charges, which include charges based on energy consumption and tariff schedules;
- c. Other applicable products and services charges, which include all other services billed by the Utility such as OBR charges.

A Customer's failure to pay any of the components of the Bill (other than for master-metered residential properties) will subject the Customer to service termination as set forth in Rule 9.

- 7. Termination of Utility Service for Non Payment of OBR Charges: Unless otherwise prohibited by law, non-payment of OBR Charges by Customers other than those who reside in a residential or multi-family Premise, shall subject Customers to Utility service disconnection, consistent with the provisions of Rule 9, Discontinuance of Service, on the same terms and conditions under which Utility will disconnect the Customer for failure to pay Utility Charges. Utility will reconnect service for a CPUC-authorized service fee when the criteria for reconnection, as specified in Rule 11, Discontinuance of Service, have been met and delinquent OBR Charges and Utility Charges have been paid. In order to be reconnected, Customer must only pay delinquent OBR Charges and not any accelerated balance of the Loan or Lease. Upon remedy of delinquent OBR Charges, Customers that have been terminated will also be required to meet the criteria of Rule 6, Establishment and Re-Establishment of Credit.

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**RULE 43**

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**F. BILLING AND PAYMENT OF OBR CHARGES** (Continued)

- 8. Utility Provision of Data on Collection Events: Utility shall provide the CHEEF at the request of the CPUC, in consultation with the CHEEF, accurate and timely data on customer-specific collection events that Utility initiates in keeping with Rule 11 and procedures cited above.
- 9. Past-Due and Liability for Disconnection Notice: Per the CHEEF's request, Utility shall issue non-residential Customers with past-due OBR charges a notice specific to OBR Customers reminding them of the liability of disconnection and a possible timeline for it, in coordination with the processes and protocols Utility has in place for past-due notification.
- 10. Declaration of Event of Default Under Loan or Lease Agreement: If the Participating FI elects to declare an event of default under the Loan or Lease Agreement it may demand immediate repayment of the entire principal and interest amounts outstanding (acceleration of loan repayment). If the FI chooses to accelerate the loan repayment, the FI must instruct the CHEEF to request the Utility remove all OBR Charges from the Bill. No accelerated loan repayments shall be eligible to be serviced as an OBR Charge. The Participating FI shall be fully responsible for collecting all further amounts due under the Loan or Lease Agreement from the Customer.
- 11. Customer Bankruptcy: If a Customer enters into bankruptcy protection under the United States Bankruptcy Code, the Utility upon notice, shall remove all OBR Charges from the Bill. If Utility service was disconnected due to non-payment of Utility Charges or Loan Charges, service shall be reconnected if required to comply with Bankruptcy Law provided the Customer complies with Rule 11. The Participating FI shall be fully responsible for collecting all further amounts due under the Loan or Lease Agreement from the Customer.
- 12. Security Deposit: If Customer has or is required to provide a security deposit to establish or re-establish credit with Utility in order to connect or reconnect service, the OBR Charges will not be included in the calculation of the security deposit pursuant to Rule 6. The Security Deposit and interest earned on the deposit, if any, will not apply to delinquent or current Loan or Lease Charges and Participating Lender or Lessor will have no claim on or interest in the Security Deposit and interest earned on the deposit, if any.
- 13. Prepayment of OBR Charges: Utility is not responsible for collecting, receiving or remitting any amounts to be attributable to prepayment of Customer's Eligible Loan or Lease. If, in accordance with the Loan or Lease Agreement, the Customer elects to pay some or all of the outstanding Eligible Loan or Lease balance independent of the OBR Charge, the Customer is expected to send such payment directly to the Participating FI, rather than to Utility. Utility is not authorized to keep funds a customer intended to pre-pay all or a substantial portion of the Loan or Lease balance.
- 14. Bill Impacts: OBR Charges may increase the amount of the Bill. OBR Charges may or may not be offset in whole or in part by a reduction in Customer's energy usage resulting from the installation of Qualified Measures and Customer shall not be entitled to claim any reduction in OBR Charges based on the extent to which Qualified Measures achieve their anticipated benefits. OBR Charges must be paid by Customer whether or not the Qualified Measures result in a reduction in Customer's energy usage or Bill savings. Utility disclaims any warranty including warranty of merchantability or fitness for a particular purpose regarding any Qualified Measures.

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**F. BILLING AND PAYMENT OF OBR CHARGES** (Continued)

- 15. Loan Disclosures: Nothing in this Rule shall relieve Participating FIs from any obligation by law to make disclosures or to provide periodic statements or other information to Customers with respect to Eligible Loans and Leases. Utility assumes no responsibility with respect to such disclosures and reporting by virtue of providing OBR services pursuant to this Rule Schedule.
- 16. Payment Arrangements: Utility may extend payment arrangements as defined by Rule 11 to Customers with OBR Charges on their Bills, according to the specific directions provided by the master servicer on behalf of the CHEEF in consultation with the CPUC. Such payment arrangements will be according to agreements directly between the Financial Institution and customer, and will not include involvement by the utility provider.

**G. REQUIRED AGREEMENTS**

- 1. Loan or Lease Agreement: Customers participating in the OBR Pilots must execute a Loan or Lease Agreement with a Participating FI which specifies the repayment obligations in accordance with the OBR Rules and any other associated agreements required by the FI.
- 2. Customer Billing Agreement: Customer is required to sign an "Authorization To Add Charges To Add Charges To Utility Bill" form (Form 132-6264) with Utility that specifies the terms and conditions under which Utility will include the OBR Charges, along with confirmation of Utility disconnect provisions.
- 3. Customer must sign an "Authorization to Receive Customer Information or Act Upon a Customer's Behalf" form (Form 185-1000) to provide the CHEEF and a Participating Lender or Lessor authorization to access customer billing information and any other relevant customer specific data necessary to implement this program.

**H. TRANSFERABILITY OF OBLIGATION TO PAY OBR CHARGES**

- 1. Responsibility to pay OBR Charges may be voluntarily assumed by the subsequent customer of record at the same Premise. In order to assume OBR Charges, the subsequent customer at the same Premises must consent to assume the obligation to pay the balance due on the Eligible Loan or Lease in a writing as deemed appropriate by the Participating FI and must fully execute a Customer Agreement (Form 132-6264, "Authorization To Add Charges To Add Charges To Utility Bill") whereby the subsequent customer accepts and assumes the responsibility to pay the remaining OBR Charges on the Bill. Utility will include OBR Charges on the Bill of the subsequent customer only pursuant to instructions received from the CHEEF. At that point, the subsequent customer becomes the Customer for the purposes of this Rule.
- 2. In the event the Customer ceases to be the Customer of record at the Premises where the Qualified Measures funded by proceeds from the Eligible Loan or Lease are installed, and the subsequent customer does not assume responsibility to pay all further OBR Charges, Customer remains fully responsible for all remaining amounts due under the terms of the Eligible Loan or Lease to the Participating FI pursuant to the terms of the Loan or Lease Agreement, and Utility will have no further obligation to collect OBR Charges.

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**I. BILLING INQUIRIES OR DISPUTES**

1. Customer inquiries concerning Utility Charges should be directed to the Utility.
2. Customer inquiries concerning the OBR Charges should be directed to the Participating FI.
3. Where the Customer disputes its obligations to pay an OBR Charge, the dispute shall be resolved between the Customer and the Participating FI and the Utility shall not be a party to the dispute. Utility will continue to include the OBR Charge on the Bill pending dispute resolution unless otherwise instructed by the CHEEF or court of competent jurisdiction as set forth in Section BILLING AND PAYMENT OF OBR CHARGES, paragraph 2, above. Where the customer disputes its obligation to pay non-OBR charges, and impounds any disputed amount with the CPUC in accordance with Rule 10, customer payments for OBR charges will be allocated to the non-disputed charges including OBR charges consistent with the payment process used for current payments.
4. If a Customer subsequently contacts the CHEEF regarding the Utility billing service, rather than a dispute with the Participating FI, the Customer will be referred to the CPUC's Consumer Affairs Branch (CAB) for assistance through its dispute resolution process. Disputes with the Participating FI regarding any terms of the Eligible Loan or Lease must be resolved directly with the Participating FI and cannot be resolved by CAB.

**J. LIABILITY IN CONNECTION WITH OBR CHARGES AND CONDUCT BY PARTICIPATING LENDERS, LESSORS, CONTRACTORS, AND SERVICE PROVIDERS**

Utility shall not be liable to Customer for any damages caused by Participating FI's failure to perform any commitment to the Customer or misrepresentation to the Customer. The amount of the OBR Charges shall be provided to Utility by the CHEEF. Utility shall not be liable to Customer if the amount of such charges is inaccurate in any way or contains charges that are in violation of the Loan or Lease Agreement or any state or federal laws. The Participating FI is not Utility's agent for any purpose by virtue of the OBR billing procedures set forth in this Rule. Utility shall not be liable to the Customer for any damages resulting from any acts, omissions, or representations made by a Participating FI or a contractor or service provider in connection with soliciting customers for Qualified Measures or for the Eligible Loan or Lease.

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