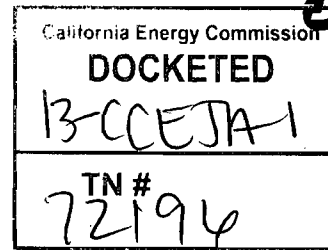


Schneider Electric U.S.A

October 25, 2013

Marcia Smith
California Energy Commission
Docket No. 13-CCEJA-1
1516 9th Street
Sacramento, CA 95814



RE: Schneider Electric Comments in Response to the Proposition 39 Program Implementation Draft Guidelines

Dear Ms. Smith,

As a global specialist in energy management, Schneider Electric offers integrated solutions across multiple market segments, including in utilities, infrastructure, industry, buildings, and data centers. As part of a major presence in the United States, in California we have 2,700 employees at more than two dozen facilities. We also support thousands of additional direct and indirect jobs in California by working with more than 270 vendors and suppliers located throughout the state.

Schneider Electric welcomes the opportunity to offer the following comments and observations on the *Proposition 39: California Clean Energy Jobs Act – 2013 Program Implementation Draft Guidelines* ("Guidelines") developed by the California Energy Commission ("CEC" or "Commission"). We applaud the CEC's hard work to produce thoughtful and concise Guidelines. In particular, we commend the Commission for including the following items in the Guidelines:

- a requirement for energy benchmarking;
- guidelines for sequencing of facility improvements;
- an emphasis on the need for deep retrofits;
- flexibility to submit several plans within a fiscal year;
- funding awards for training;
- funding awards for energy managers and enabling districts to use a third party as appropriate, and
- project tracking and reporting.

We agree that all of these elements are necessary for successful program implementation.

As a leader in energy management and sustainability solutions, Schneider Electric has extensive experience with implementing energy efficiency projects and programs for a variety of customers, including schools. Based upon this experience, we believe that consistent program rules and a clear and simple process are paramount for creating the market certainty necessary to produce cost effective projects that deliver the energy savings and jobs benefits desired by the State. In evaluating the proposed draft Guidelines, we have identified some concerns that, unless resolved, could create unnecessary project delays and program costs, thereby minimizing the energy savings and job creation envisioned by Proposition 39 ("Prop 39"). Accordingly, Schneider Electric provides the following recommendations for the CEC's consideration.

Projects in Development

Avoid the delay of projects that are currently being planned or developed.

Specifically, if a local educational agency (LEA) has selected a company/vendor through a formal selection process that reflected applicable state and local procurement laws and prior to the final Guidelines approval date, the LEA should in no way be required to repeat any part of the process. If an LEA has already selected the partner best suited to meet its needs, requiring them to reissue RFPs/RFQs will be burdensome, expensive, and create unnecessary delay.

Leveraging Award Funding

Expand the potential sources of financial leverage.

For many LEAs and community colleges, one of the best ways to implement comprehensive projects will be to leverage Prop 39 funds with other sources of funding. The Guidelines, on page 11, introduce the subject of financial leverage and list some possible sources of funds that LEAs might utilize to leverage Prop 39 funds. We suggest, however, that the CEC expand the Guidelines by allowing the use of grant programs like Prop 39, all of the sources of leverage listed on page 11 of the Guidelines, and other forms of matching funds or private financing that LEAs can contribute (e.g., bonds, loans, or municipal leases).

Program Clarity to Promote Market Consistency

Include definitions of key terms that are consistent with the industry norm.

Specifically, the terms “project” and “measure” in the Guidelines do not correspond to the common usage of these terms in utility incentive programs specifically and the energy efficiency industry generally. As a result, this lack of clarity will create unnecessary confusion among vendors, practitioners and LEAs. This confusion could lead to additional work, delays in applications, inaccurate calculations and reporting, etc.

In the construction industry, a “project” typically consists of the work to be performed by a contractor. For an energy service company (ESCO) or general contractor, the work is the entirety of the project (all measures, all technologies, all buildings). For a subcontractor, the work is a related set of measures, typically a “technology,” that require a certain skill set or licensing. A “measure” is a specific retrofit defined by the construction specifications. Similarly, in utility incentive programs, a “measure” is typically a specific retrofit that is defined by construction specifications, with its corresponding cost/benefit calculations.

We suggest that the CEC simply re-define key project related terms used in the Guidelines so they correspond to the industry norm. Suggested key terms, and their common usage as we understand them, are as follows:

- A “measure” is a specific retrofit, (e.g., the replacement of incandescent exit signs with LED exit signs).
- A “technology” is the grouping of a set of related measures (e.g., all lighting measures).
- A “project” is all of the work that is done under the terms of a single contract, which typically includes multiple measures, and often includes multiple technologies and multiple buildings owned by the same LEA.

Cost Effectiveness Determination

Schneider Electric would like to raise several issues with respect to the CEC's proposed approach to cost effectiveness determination. These comments focus on the formula and assumptions behind the savings to investment ratio (SIR), which is described in the Guidelines on pages 19 and 47-49. Our issues are as follows:

Savings to Investment Ratio (SIR) Formula

Account for LEA matching funds in SIR calculations.

For the purposes of determining the SIR for eligibility of Prop 39 funds, the Guidelines currently allow for "Rebates," "Other Grants," and "Non-Energy Benefits" to be subtracted from the project installation cost when calculating the SIR. However, LEAs and community colleges typically use other matching funds to finance energy efficiency projects, such as bonds, deferred maintenance dollars, loans, and/or municipal leases. We believe that such LEA capital contributed toward a project should be subtracted from the project installation cost when determining the savings to investment ratio (SIR) for potential Prop 39 projects. This will ensure that LEAs who have already acted to reduce energy consumption and have relatively low Energy Use Indices (EUI) will not be penalized for prioritizing deeper energy retrofits. By doing so, the LEAs will better utilize their full allocation of funding. Similar to the *California Community Colleges Proposition 39 Implementation Guidelines* document that the California Community Colleges Chancellor's Office (CCCCO) released in October 2013, the CEC Guidelines should state that project costs for purposes of the SIR calculation will be net (or minus) any utility incentives, grants, or matching funds used to finance the project.

Energy Cost Escalation Rate

Increase the Energy Cost Escalation Rate.

The Energy Cost Escalation Rate of 2.1% noted in the Guidelines is much lower than typical escalation rates for energy efficiency projects. Rates for these projects currently range from 3-5%. Moreover, the Department of Energy (DOE) generally recommends a 3.4% escalation rate.

Discount Rate

Decrease or eliminate the Discount Rate.

The Discount rate of 5.1% noted in the draft Guidelines is significantly higher than the current average private market cost of capital for a K-12 LEA or community college energy efficiency project, significantly higher than the rate of inflation, and much higher than DOE recommendations. In addition, the net-present-value (NPV) approach to the investment criteria paints an unnecessarily adverse picture of the potential return on investment.

Thus, we believe that any discount rate for the future cost of money should be avoided. If the discount rate must be used, we believe a discount rate in the range of 2-3% is more reasonable.

Annual Maintenance Savings

Remove the 2% of project cost cap for Annual Maintenance Savings.

The Guidelines set a maximum value of 2% of the project installation cost per year for annual maintenance. This number seems arbitrary and unrealistically low for many measures, which will eliminate from consideration some measures that are actually very cost effective (e.g., LED lighting in auditoria where changing a bulb involves the use of a cherry picker). We suggest that the CEC remove the 2% cap, and for those measures that exceed the 2% threshold, require the grantee to submit documentation to demonstrate annual operations and maintenance savings higher than 2% of the measure installation cost.

Effective Useful Life for Measures

Allow the useful life of equipment to differ from those in Exhibit F if product data supports longer life expectancy periods.

For example, a standard long-life fluorescent T8 lamp is rated for 36,000 hours, which can be verified on its spec sheet. In a K-12 setting (average burn-hours of 2,500 hours/year), the life expectancy of the lamp is 14 years. When compared to the 4-year requirement in Exhibit F, this approach could significantly change the outcome in an SIR calculation, possibly meaning the difference between meeting the SIR requirement and falling below it.

Project Tracking and Reporting

Measurement and Verification (M&V)

Require use of the International Performance Measurement and Verification Protocol (IPMVP) for measurement of energy usage savings and verification of project completion.

While we admire the CEC's inclusion of required project "Tracking and Reporting," we believe a more effective and optimal outcome would result from adoption of industry accepted standards for measurement and verification (M&V) of energy savings. Specifically, the CEC should require LEAs to use the IPMVP for project M&V.

The IPMVP provides an overview of current best practice techniques available for measuring and verifying savings from energy efficiency projects. It is a proven system that has been used successfully for over a decade. The IPMVP is recommended by the DOE and many other organizations, is familiar to project engineers, ESCOs and contractors, and is employed by California utility incentive programs. Use of the IPMVP for project M&V is standard practice for the energy efficiency industry, and as stated in the *California Community Colleges Proposition 39 Implementation Guidelines* document that was released in October 2013, has already been adopted by the Chancellor of the Community Colleges for implementing Prop 39. Requiring its use for LEAs would contribute greatly to fostering a program 1) with consistent rules and market certainty and 2) that aligns with practices employed in California utility incentive programs and adopted by the CCCCOC for allocating Prop 39 funds to community colleges.

Inter-Agency Coordination

Continue to coordinate closely with the California Community Colleges Chancellor's Office (CCCCO) on Prop 39 Guidelines implementation.

Public Resources Code Section 26235(a) requires the CEC to establish Guidelines, in consultation with the State Superintendent of Public Instruction, the Chancellor of the California Community Colleges, and the California Public Utilities Commission (CPUC). The Guidelines clearly state that the CCCCOC is exempt from following the draft Guidelines for fiscal year 2013-2014 but may be required to follow the final Guidelines (or future amended Guidelines) for fiscal years 2014-2015 through 2017-2018. As a result of the CCCCOC exemption for 2013-2014, coordination and communication between the CEC and the CCCCOC could break down in the near term as the CEC rushes to complete the Guidelines so that LEAs can begin to access Prop 39 resources as quickly as possible.

However, we urge the CEC to continue coordination and communication with the CCCCCO now and through final adoption of the Guidelines.

In addition to the references that we used from the CCCCCO's *California Community Colleges Proposition 39 Implementation Guidelines* document that was released in October 2013, the CCCCCO, in partnership with the investor-owned utilities and the CPUC, has already created a variety of useful Prop 39 implementation tools and approaches that could potentially be utilized by the CEC and LEAs. These include but are not limited to the following:

- Process Flow Diagram (including a "Roles and Responsibilities Matrix")
- Prop 39 Funding Applications
- Cost Effectiveness Calculator
- Project Completion Form
- Final M&V Report

While we recognize that implementation issues for LEAs and community colleges might be different at times, it seems that numerous opportunities exist for information sharing and learning from the CCCCCO experience.

Conclusion

Schneider Electric is grateful for the opportunity to participate in this discussion and looks forward to helping with achieving the goals of Prop 39 implementation. If you have any questions, please contact us using the information below.

Sincerely,



Katie Papadimitriou
Director, State & Local Government Affairs
Schneider Electric, U.S.
(847) 925-3146
Katie.Papadimitriou@schneider-electric.com



Darren C. Bouton
Principal
DCB Strategies
(916) 716-8620
Darren@DCBStrategies.com