BEFORE THE PUBLIC UTILITIES Commission

OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) for Approval of Energy Efficiency Rolling Portfolio Business Plan.	Application 17-01-013 (Filed January 17, 2017)
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In the matter of the Application of Marin Clean Energy for Approval of its Energy Efficiency Business Plan.	Application 17-01-017 (Filed January 17, 2017)

NATIONAL ASSOCIATION OF ENERGY SERVICE COMPANIES FINAL REPLY COMMENTS ON THE BUSINESS PLANS OF SCE, PG&E, SDG&E, & SOCALGAS

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Pursuant to Rule 2.6 of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission"), the National Association of Energy Service Companies ("NAESCO") hereby submits its final reply comments on the September 25 comments of other parties on Business Plans of Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), Pacific Gas and Electric Company (PG&E), and Southern California Gas Company (SoCalGas), which were filed on January 18, 2017. NAESCO appreciates the opportunity that the Commission and the staff have given stakeholders to submit multiple comments on the key issues in this proceeding, as well as the opportunity to submit these reply comments.

Summary of Comments

NAESCO's Reply Comments are summarized as follows.

1. The wisdom of the Commission's policy of directing the IOUs to move EE programs to Third Parties has been reinforced by the Opening Comments of September 25, which document the fact that the IOUs' strategy for managing EE programs differs from Commission policy.

2. The Commission should clarify that Customer Outreach and Marketing are elements of program design.

3. Use of existing supply-side IEs and PRGs would result in inadequate oversight.

4. The Commission should reject PG&E's request to redefine Third Party Programs.

5. The Commission should adopt ORA's proposal for accounting for account representative time.

6. The calculations of the Levelized Cost of Energy (LCOE), as exemplified by ORA Exhibit E, are fundamentally flawed, and undermine the accomplishment of California EE policy goals.

Discussion

NAESCO offers the following arguments in support of it comments.

1. **The wisdom of the Commission's policy of directing the IOUs to move EE programs to Third Parties (3Ps) has been reinforced by the Opening Comments of September 25 submitted by ORA, which document the fact that the IOUs' strategy for managing EE programs differs from Commission policy.**

ORA's comments document the fact that the IOUs have not accepted either the California Loading Order or Commission EE policy and have not yet aligned their program management strategy with Commission orders. Two examples make the point.

First, ORA's thorough documentation of the fact that SoCalGas used ratepayer EE funds to oppose new federal standards for furnace efficiency (ORA Sept. 25 Comments, pages 5 – 12, and Appendix C) seems to be either a glaring example of a Program Administrator (PA) putting its corporate strategy ahead of its fiduciary responsibility to ratepayers or a misappropriation of ratepayer funds. SoCalGas apparently opposed the new standards in order to protect its throughput from erosion due to reduced usage by more efficient furnaces or customers' switching to heat pumps to avoid the higher cost of new gas furnaces. NAESCO suggests that the remedies proposed by ORA are the bare minimum that the Commission should impose, and that the Commission should consider more severe penalties, up to and including a phase-out of SoCalGas as a PA, starting in 2018.

Second, ORA's documentation of identical internal emails sent by EE Directors at each IOU to all IOU EE staff on September 16, 2016 (Appendix D), illustrates that the IOUs' strategy for EE programs differs significantly from Commission strategy by suggesting that promoting the IOU role and achieving corporate goals is the primary focus of any EE strategy going forward, rather than achieving greater orders of magnitude of energy savings. IOU's emphasized that,

> "maintaining the connectivity between the IOU and their customers is considered critical for success. Customers will largely continue to engage in energy efficiency programs through the local utility website, through the use of local marketing campaigns, local outreach efforts, and engagement from account executives." (SCE response to ORA data request ORA_SCE-1-SW (2016) in Appendix D)

These emails from IOU leadership were sent a month after the Commission established a new, very different program design and implementation approach in D.16-08-018. This documentation substantiates NAESCO's previous observations in this proceeding that the IOUs have clearly put their own corporate strategic interests ahead of Commission orders in their Business Plans. The IOUs have repeatedly stated their preference for using IOU personnel for program design and implementation whereas the Commission stated that program design and implementation is presumed to be done by 3Ps.

NAESCO suggests that the rationale for the IOU strategy is that the utility industry is in the midst of what appears to be a once-in-a-century reworking of its business and regulatory models. The last thing that utilities need, as they grope their way into the future, are aggressive EE programs that reduce throughput 2-3% annually, as the leading states have demonstrated is possible (see: *ACEEE 2017 State Scorecard* at http://aceee.org/state-policy/scorecard). The effect of throughput reductions is compounded if delivered by programs designed and implemented by 3Ps unconstrained by artificial IOU budget limitations. So, the IOUs are trying to ensure that they control the 3P program as much as possible and that they limit the spending on EE programs to a level well below what is required to achieve state policy goals.

The Commission recognized the divergence of IOU business strategies and state energy policy several years ago, when it ordered the IOUs to transition their program portfolios to 3Ps, so that the development and implementation of EE can operate independently of the constraints in the IOU business model transition. We urge the Commission to reinforce its orders by addressing several key areas of program management, discussed below, in which the IOUs seem to be trying to undermine the Commission orders.

2. The Commission should clarify that Customer Outreach and Marketing are elements of program design.

PG&E states that the cost of IOU administration of 3P contracts includes marketing: "PG&E supports Southern California Gas' (SoCalGas) recommendation that compliance with the third-party requirement includes budgets for third-party programs (which would include the costs PG&E incurs in administering the program, such as contract management, <u>customer outreach</u>, etc.), (PG&E Sept. 25 Comments, page 6, emphasis added.) PG&E seeks to inappropriately mix administrative costs and implementation costs. Contract management is an administrative function, whereas customer outreach is an implementation function, part of the design and implementation of programs that should be subject to competition. PG&E's stated intention would allow the IOUs to retain a customer outreach function, even if third parties did not desire such services, by charging those costs to an administrative account. The Commission should explicitly clarify that customer outreach and marketing cannot be allocated to administrative accounts, and are part of the third party design and implementation for which the IOUs will be issuing competitive solicitations. This stated intention by the IOUs to fund marketing costs out of administrative budgets is another reason why the Commission needs more detailed budgets before it can issue Business Plan approval, otherwise the Commission would be approving budgets that inappropriately misclassify costs.

3. The Commission should reject PG&E's request to redefine 3P Programs.

PG&E askes that programs proposed and designed by the Commission staff and its consultants be considered 3P programs. (PG&E Sept. 25 Comments, page 11) NAESCO strongly disagrees. Having the Energy Division (ED) in the role of a program designer and proposer is not an element of any administrative structure approved by the Commission. (See Figure 10 from D.05-01-055 for ED's role.) ED is not a "third party" in any sense that the term has ever been used in energy efficiency proceedings at the Commission, either by the Commission or energy efficiency stakeholders. The ED is staff for the Commission, not a program designer. For ED to perform the role of program design creates potential and actual conflicts of interest. Depending on how the Commission decides the ongoing issue in this proceeding of program approval, the ED may be placed in a position of being asked to approve a program that it, or one of its consultants, designed. In addition, since the ED approves EM&V consultants, it would be in the position of approving the EM&V consultants who would evaluate the programs that the ED designed. Finally, the Commission's clear intent in D.16-08-019 was that non-IOU implementers design and implement programs. California has a large, diverse, experienced number of non-IOU, third party energy efficiency implementers. They are abundantly capable of designing the wide array of the innovative programs that the Commission desires.

PG&E also asks that programs proposed and designed via a collection of stakeholders and Program Administrators (PAs) should count as 3P programs. (PG&E Sept. 25 Comments, page 12) This sort of cozy arrangement is clearly not the intent of the Commission in D.16-08-019. If the Commission were to approve this approach, this method would be an easy way for IOUs to avoid competition and market tests for program design and implementation in the amount of many millions of dollars. They could collect friendly stakeholders and design programs together that meet the IOUs' stated intention of using their own websites, personnel and marketing campaigns. And, if the Commission were also to adopt the IOUs' proposals for contract approval, none of the IOU-stakeholder designed programs would be subject to Commission approval. Since there would be no competitive bidding, neither would there be any Independent Evaluator (IE) or Peer Review Group (PRG) oversight. Of course, the IOUs' chosen stakeholders would have strong incentives to design programs that resulted in funding for themselves. PG&E's proposal is completely at odds with a true competitive market. This Commission should reject PG&E's proposal.

4. **The Commission should adopt ORA's proposal for accounting for account representative time.**

In its most recent filing, PG&E now states that it will not require 3Ps to use account representatives (PG&E Opening Comments, page 14) for energy efficiency programs. The Commission should order the other IOUs to follow PG&E's lead. ORA offers a clear, administratively simple way to implement this policy: For all IOUs, all account representative time and costs for energy efficiency program activities should be charged to Non-tariffed products and services.

5. **Use of existing Supply Side IEs and PRGs would result in inadequate oversight.**

As noted above in NAESCO Comment #2, internal IOU communications uncovered in ORA's discovery indicate a concerted resistance to Commission policy. The IOUs state their preference for using their own websites, marketing campaigns, and personnel for program design and implementation, whereas the Commission stated that program design and implementation is presumed to be done by 3Ps. Given this resistance to Commission policy, the Commission needs IEs experienced in energy efficiency, and PRGs dedicated to energy efficiency, to ensure that the IOUs follow Commission priorities, and not their own corporate priorities.

The transition to program portfolios that are predominantly 3P designed and implemented, and thus free from the constraints of utility business strategies, will take several years. During this transition, the Commission needs IEs experienced in energy efficiency to ensure that the IOUs implement Commission policy. Supply side experience and some knowledge of energy efficiency policy are insufficient to supervise the bidding of billions of dollars' worth of EE programs. The IEs should be EE experts who can do detailed analyses of bid solicitations and bid responses, and comprehensive evaluations to ensure fairness and compliance with Commission and state policy.

As CLEAResults notes, IEs must have experience in demand side implementation. (CLEAResult Opening Comments, page 7) SCE, on the other hand, advocates the use of existing supply side IEs and PRGs for the IOUs' energy efficiency solicitations. However, supply side experts lack the knowledge and experience to perform this work. If EE is the first resource in state policy, shouldn't it have a dedicated group of EE experts as IEs, rather than using the “B Team” of supply side experts as IEs? The Commission would never consider using energy efficiency experts as supply side IEs, because it recognizes that supply side IEs need significant supply side experience. NAESCO suggests that demand side IEs should have an equivalent level of demand side experience.

An example of the problems caused by IEs that don’t understand EE is the development of the Future Capacity Market bidding program several years ago at ISO-New England. After the Federal Energy Regulatory Commission (FERC) ordered the ISO to include demand side resources in its auctions on an equal basis with supply-side resources, the ISO staff, which had superficial experience with EE, had to learn the “on the ground” basics, as illustrated by the negotiation it had with the demand side working group about how demand-side resources would be monitored and verified. The ISO’s initial position was that M&V is simple: each customer site has a meter with four-second resolution that is directly telemetered to the ISO headquarters. The opening position of the demand-side representatives, led by the utilities, was program evaluation reports that were two years in arrears. Bridging this gap involved more than a year of negotiations.

This example may seem irrelevant until one thinks about the recent LCR solicitations in southern California. Would these solicitations, and the evaluations of proposals, have looked the same if designed to maximize EE, rather than treating EE as a regulatory complication in a supply-side procurement? The IOUs would argue that the bidding requirements that many EE implementers found onerous or impossible – bid security, non-delivery penalties, etc. – are necessary for any responsible procurement. EE implementers would argue that the incremental nature of EE, in which thousands of individual installations produce the resource equivalent to a single power plant, provides a different kind of security, based in the diversity of resource delivery from a number of implementers. If an EE implementer delivers 95% of its contract deliverable, its 5% shortfall can be easily filled by another EE implementer in a well-designed portfolio, as the IOU EE portfolios have repeatedly demonstrated over many years. If a developer gets a power plant 95% complete, the plant is not operational and the shortfall is 100%. The LCR solicitation terms, designed to protect against the failure of the power plant developer, effectively precluded the optimal implementation of EE, a preferred resource.

NAESCO also disagrees with SDG&E's characterization -- that the role of the IEs and PRGs is to advise the IOUs. (SDG&E Opening Comments, page 20). Neither should the IEs' role be reduced to checking lists. NAESCO urges the Commission to clarify that the role of the IEs and PRGs is first to provide oversight for the Commission, and then to advise the IOUs. SDG&E also seeks to minimize the role of the IEs and PRGs by limiting oversight to bids over $5 million. The Commission should reject this arbitrary limit. Larger bids could easily be broken in to several smaller bids totaling less than $5 million. All bids should be subject to IE and PRG review.

6. **The calculations of the Levelized Cost of Energy (LCOE), as exemplified by ORA Exhibit E, are fundamentally flawed, and undermine the accomplishment of California EE policy goals.**

NAESCO suggests that the problem starts with the calculations of the Levelized Cost of Energy (LCOE) for EE programs, as exemplified by ORA Exhibit E. PG&E states that its LCOE "Targets are set based on the need to meet increasing goals with a lower budget." (Exhibit E, Page 37). As far as NAESCO knows, California state policy, as embodied in the Loading Order, is the acquisition of all cost-effective energy efficiency before acquiring any other resource. So, the applicable metric for the IOU's LCOE should not be whether the LCOE declines from year-to-year, but whether the LCOE for EE is less than the cost of the next resource in the Loading Order. The analyses requested by ORA and submitted by the IOUs do not reference this metric.

Furthermore, the LCOE analyses seem to contain a fundamental flaw in the calculation methodology, as described by PG&E (ORA, pages E-34 and E-35). The methodology appears to discount the dollar value of a saved unit of energy (e.g., kWh) over the life of the measure using a static value (2015) for the dollar value of the savings. NAESCO suggests that if the dollar value of the saved unit is discounted over the life of the measure, then the nominal dollar value of the saved unit must be escalated by the projected cost increases over the life of the measure.

Putting that technical criticism aside, the calculation of the LCOE by the IOUs, under the guidance of the ORA raises a fundamental question for the Commission, the answer for which determines whether the IOU Business Plans are reasonable. Is the goal of EE programs to deliver all of the EE that can be delivered with a constantly decreasing LCOE, or is it to deliver all EE that is less expensive, more reliable and less polluting than the alternative resources. These are two very different goals, and NAESCO respectfully suggests that the Commission state clearly which it is pursuing as part of its ruling on the Business Plans.

Conclusion

NAESCO is grateful for the effort that the Commission and its staff have made to consider the views of all stakeholders in this proceeding. We urge the Commission, in its order on the Business Plans to recognize the wisdom of its decision to move the California EE programs from IOU to 3P leadership, and to ensure that the implementation of all cost-effective EE will not be constrained by the struggles of the IOUs to develop new business models. We urge the Commission to address the apparent IOU attempts to undermine this decision in key areas, by, for example, requiring that 3P programs be designed and implemented (which includes marketing) by 3Ps and not instead to be saddled with the unnecessary costs of the legacy IOU EE program structure. We believe that the best way for the Commission to manage the transition of the portfolio to 3Ps is by standing up the very best set of EE experts it can recruit as the IEs and the PRG, and not to rely on the existing roster of supply-side IEs, who have neither the required EE expertise nor the independence from the IOUs.

Finally, we urge the Commission to address head-on the policy question that has been lurking around this proceeding, and is encapsulated in the presentation of the EE LCOEs in the ORA Initial Comments: is California going to implement all of the available and cost-effective EE, or is it going to continue to constrain the implementation of EE with arbitrary budget limitations?

Respectfully submitted by,

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