

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

Order Instituting Rulemaking to Examine the Commission's Post-2008 Energy Efficiency Policies, Programs, Evaluation, Measurement and Verification, and Related Issues.	Rulemaking 09-11-014 (Filed November 20, 2009)
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**OPENING COMMENTS OF THE NATIONAL ASSOCIATION OF ENERGY SERVICE
COMPANIES (NAESCO) ON THE RULING OF ALJ FARRAR RULING REGARDING
2013 BRIDGE FUNDING AND THE MECHANICS OF PORTFOLIO EXTENSION**

Submitted by:

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NAESCO appreciates the opportunity to submit these comments on the May 26, 2011 Ruling by Administrative Law Judge ("ALJ") Farrar ("Ruling") in this matter.

NAESCO is a national trade association whose mission is to promote efficiency as the first priority in a portfolio of economic and environmentally sustainable energy resources and to encourage customers and public officials to think energy efficiency first when they are making energy resource procurement or energy policy choices. NAESCO numbers among its members some of the world's leading energy services companies, including: AECOM Energy, Ameresco, APS Energy Services, Burns & McDonnell, CCI Group, CM3 Building Solutions, Chevron Energy Solutions, Clark Energy Group, Clear Energy Contracting, Comfort Systems USA Energy Services, ConEdison Solutions, Constellation Energy Projects and Services, Control Technologies and Solutions, Eaton Corporation, Energy Solutions Professionals, EnergySolve Companies, Energy Systems Group, Excel Energy, FPL Energy Services, Green Campus Partners, Hess Corporation, Honeywell, Johnson Controls, McClure Energy, NORESKO, NXEGEN, Onsite Energy, Pepco Energy Services, Schneider Electric, Siemens Industry, Synergy Companies, Trane, UCONS, and Wendel Energy Services. Its members also include many of the largest utilities in the United States: Duke Energy, the New York Power Authority, Pacific Gas & Electric, and Southern California Edison.

NAESCO member companies have delivered hundreds of millions of dollars worth of energy efficiency, renewable energy and distributed generation projects to thousands of California commercial, institutional and industrial customers, and tens of thousands of residential customers, during the past twenty years.

NAESCO Comments

As per the Ruling, NAESCO's comments are organized below as responses to specific questions posed by ALJ Farrar. NAESCO notes that it has held extended discussions with other parties, and intends to continue such discussions, as per ALJ Farrar's Ruling, with the intention of reaching a Settlement before the filing of Reply Comments.

1. What should annual budgets during the bridge period be based on?

- a. 2012 expenditures?**
- b. 2010-2012 average expenditures?**
- c. 2012 expenditures plus growth rate?**
- d. Other?**

NAESCO recommends that an addition of a year to the 2010-2012 energy efficiency (EE) Program Cycle should be considered an extension of the current program cycle and not a bridge year. NAESCO recommends that the budget for 2010-2013 EE Program Cycle be expanded to total four-thirds of the budgets approved for the respective utility program administrators in D.09-09-047.

2. Should unspent funds from 2010-2012 be applied to the bridge period, potentially reducing the level of new collections required? Why or why not? If so, what allocation methodology should apply to natural gas and electric revenue requirements from left over (a) natural gas Public Purpose Program surcharges, (b) electric Public Goods Charge, and (c) procurement funding sources?

NAESCO recommends, as stated in our response to Question 1, that the total budget for the 2010-2013 cycle should be four-thirds of the 2101-2012 budget approved in D.09-09-047. To the extent that an investor-owned utility (IOU) has prior period unspent uncommitted funds available, that IOU may request CPUC authorization to use these funds to reduce the amount of authorized EE funding collected in customer rates or to request authority to augment its EE program funding above otherwise authorized amounts. For each IOU, the allocation of any available unspent funds will follow the allocation of EE funding and expenditures authorized for each IOU for the current 2010-2012 EE portfolio cycle.

3. What specific criteria should the Commission use to determine which programs to extend?

- a. Track record of performance?**
- b. Cost-effectiveness?**
- c. Energy savings?**
- d. Other?**

NAESCO recommends that all programs – Statewide, IOU core, third party, and government partnerships -- that are generally on target to achieve their goals within their budgets, should continue at their 2012 budget levels subject to adjustments to reflect forecasted program performance. Programs that are exceeding expectations or operating below expectations should be re-evaluated and adjusted based on demonstrated progress or potential to succeed during the extension year based on the program’s established objectives.

NAESCO recommends that the decision to increase or decrease a particular program’s funding level, to adjust its scope of work and/or goals, or to eliminate the program, be done through a transparent process, relying on criteria and considerations appropriate to the type of program and its desired outcome. For Third Party and Local Government programs, the process for decisions on adjustments should also involve engagement and collaboration between the IOU and each affected Third Party or Local Government program implementer, which engagement is based on a mutual understanding and agreement on objectives being judged.

NAESCO further recommends that for each program for which an IOU is proposing an adjustment for the extension year, the IOU will file with its Advice Letter a statement explaining its proposed adjustment, which will include: (1) a list of the criteria used and considerations included; (2) the rationale for the choice of criteria; (3) the expected goals/objectives to be achieved; (4) the revised budget; and, (5) any pertinent information that would substantiate their decision. For Third Party or Local Government Partnership programs, the IOU will also include a statement noting whether the affected implementer supports or disputes the proposed program adjustment, so that the Commission and the Energy Division will be alerted to program issues that may require their further attention.

4. Do parties have any specific concerns or proposals with regard to extending bridge funding contracts for the following types of programs? Do these concerns or proposals require Commission action? If so, what action is required and why?

- a. Local Government Partnerships**

b. Other third-party programs

NAESCO supports the participation of local governments and third-party implementers in the discussion of whether programs are effective and how to adjust programs to make them more effective. The IOUs currently meet frequently with local government partners to collaborate on program initiatives. NAESCO recommends the following specific procedures:

a. Existing IOU contracts with Local Government Partnerships and Third Party Implementers should be extended through 2013, rather than terminated at the end of 2012 and renegotiated for 2013. Extensions of contracts should be treated as though they were part of a four-year energy efficiency program cycle from 2010-2013, amended as required based on previously defined success criteria and forecasted program performance (see discussion above).

b. The IOUs should collaborate with Local Government Partnerships and Third Party Implementers in negotiating appropriate adjustments to budgets, scopes of work, and specific goals and program objectives for the extension year based on previously defined success criteria and forecasted program performance.

c. Programs and other work that support the Commission's Long-term Energy Efficiency Strategic Plan will continue through the 2013 extension year.

d. The Commission should establish a timeline for extending and amending Local Government Partnership and Third Party Implementer contracts that allows sufficient time to for the contracting parties complete their internal approval processes, revamp their staffing (if required) and execute their contract extensions and amendments with no interruption in program delivery.

e. The Commission should continue the current rules for shifting funds between programs and between program categories through 2013.

5. If the IOUs were to submit a bridge funding request, what key information should they include to facilitate parties' review, ensure transparency, and substantiate any adjustments to their portfolios?

NAESCO recommends that the extension year filing by the IOUs be a compliance Advice Letter. As noted above in our answer to Question 3, NAESCO further recommends that

the IOUs will file with their Advice Letters (1) a statement explaining the criteria used and considerations included in their evaluation of programs; (2) the rationale for the choice of criteria; (3) the expected goals/objectives to be achieved; (4) the proposed budget; and, (5) any pertinent information that would substantiate their filing. After the filing, NAESCO supports a “meet and confer” with all interested stakeholders to discuss any areas of disagreement, if any.

6. Is it feasible to update utility 2010-12 cycle high impact measures ex-ante values that consider the most recently available Evaluation, Measurement and Verification (EM&V) results in the portfolio adjustments submitted in a bridge funding request? Why or why not?

NAESCO recommends that values not be updated in the cycle extension. The two primary reasons for this are (a) Commission Direction in D. 09-09-0471 enforces frozen values for the duration of the cycle and NAESCO contends that this is an extension of the current cycle, not a separate program year and (b) there is insufficient time (even without outstanding assumption value disputes) to update the portfolio in advance of an extended program cycle year.

The primary reason a cycle extension was proposed was to allow time for appropriate preparation and planning of the next program cycle, so as to avoid the kind of complex, unresolved issues that we have in the current program cycle.² This preparation and planning entails a lengthy process of resolving outstanding policy issues,³ completing EM&V studies, incorporating study results into IOU portfolio planning, vetting the proposed EE plans through the Commission Application Process, and approving the plans by the Commission in time for Utilities to implement the portfolio effectively. This process was determined to be too lengthy to be appropriately implemented in a 2013-2015 EE Program Cycle, hence the recommendation for a cycle extension.

NAESCO believes that it would be counter-intuitive to attempt to include updates into the 2013 cycle extension. The resources that all parties (Energy Division (ED), the IOUs, Stakeholders) have to address these issues are limited and should be applied to fully planning the next program cycle. A mid-cycle update would hinder planning of the next program cycle by

D.09-09-047, p. 390, Ordering Paragraph 48

² As occurred in the 2006-2008 cycle regarding the RRIM as well as are occurring now with the Joint IOU PFM of D. 09-09-047

³ CPUC. “Assigned Commissioner’s Ruling Soliciting Comments,” November 17, 2010. p.2

diverting resources that should be used to plan for the next cycle to the task of a mid-cycle update – essentially a trimmed down version of a full cycle application process. The delay this updating process would cause to the next program cycle’s planning would essentially nullify the additional time the extension year allows for planning. Therefore, NAESCO strongly urges the Commission and all parties collectively focus efforts on ensuring timely resolution of these issues to ensure a clear program planning process that leads to a program portfolio that achieves the aggressive and long term vision of the Commission, while also enabling an on-time start.

7. If most recently available EM&V results were to be used to inform changes to the program portfolios, what steps would be necessary to accomplish this task?

The steps necessary to update the portfolio values are similar to the steps taken to plan a program cycle. The process begins with ED and the IOU’s completing Impact studies and then vetting those studies for inclusion into DEER database and for non-DEER work paper creation. From here, goals will need to be adjusted to be consistent with the savings values used to measure progress against the goals. Once goal and DEER values are aligned, portfolios need to be designed to be cost effective based on the new savings assumptions. IOUs will then submit their newly designed portfolios for approval and these submissions will be vetted thru the Commission process. Once the full vetting process is complete, the portfolios will receive approval from the Commission. The final approval will need to be several months before the cycle extension begins to be in time to implement the newly approved portfolio.

Given the extensive requirements involved in updating the values, it is difficult and burdensome for all involved stakeholders to incorporate updated values into a one year cycle extension, given the focus is on appropriately planning the next portfolio cycle. Additionally, it is a resource burden on Energy Division and Interveners who may struggle to give full attention to the future program cycle while still trying to complete all of the tasks necessary with a mid-cycle portfolio update – essentially two program cycle design processes in eighteen months. For these reasons, NAESCO proposes carrying the current values through to the end of the program cycle and giving full attention to resolving the key outstanding policy issues in advance of planning for the next program cycle.

8. Is it feasible to update version 2008.2.05 of the 2008 Data Base for Energy Efficient Resources (DEER) with codes that are applicable in 2013, and with corrections to software errors identified by the DEER team?

NAESCO does not feel that it is feasible, or consistent with Commission Decision⁴, to update DEER 2008.2.05. The DEER database is a complex tool used to evaluate work products and was approved for use in the 2010-2012 program cycle. Additionally, given the complications that the current and past portfolios have experienced with DEER databases and updating of savings values, NAESCO does not recommend any updates occur for fear of further complications and a lack of focus on ensuring future program cycles are appropriately planned, measured and evaluated.

As is determined in Commission decision⁵, NAESCO is fully supportive of the correction of mutually agreed upon errors in DEER. This is also consistent with correcting mutually agreed upon software errors identified in DEER. If parties or the ED DEER team find errors in DEER and all parties are amenable to correcting these errors, than the errors should be corrected.

9. Elaborate on the basis for attributing savings to goals during the bridge funding period.

NAESCO recommends that the 2010-2012 energy efficiency program assumptions should remain unchanged for the one-year cycle extension through 2013. Savings should be attributed to goals consistent with the basis on which the goals were created. That is, the goals were created with a set of data compiled around the same time the savings assumptions we use today were compiled. For this reason, savings attribution values and goals should remain as a consistent set of data.

NAESCO believes that changing the basis for attributing savings during the extension year is not consistent with Commission policy⁶ as the utilities and implementers are directed to use the same values established in planning for reporting. The cycle extension year should

⁴ D.09-09-047, p. 390, Ordering Paragraph 48

⁵ D. 09-09-047 pg. 44, "Energy Division, in consultation with the utilities, should develop a process by which new measures values can be added to the frozen measure datasets and mutually agreed errors in the frozen values can be corrected."

⁶ D.09-09-047, p. 390, Ordering Paragraph 48

continue this Commission policy and attribute savings in the same manner as the 2010-2012 program cycle was intended.

In 09-09-047, the CPUC set goals for 2013 that were adjusted for DEER updates. NAESCO recommends that the Commission use the same adjustment methodology to update the IOUs' goals for 2013.

10. Are there any other issues that have not been addressed regarding bridge year funding, mechanics, and the procedural schedule?

NAESCO recommends, as we discussed in our answer to Question 9 above, that during the remaining time in the current program cycle, including the extension year, that all stakeholders should work to ensure that the next program cycle starts in a timely manner and on a firm foundation, with all outstanding policy issues resolved, necessary planning completed, and all savings assumptions and EM&V methodologies in place. In order to accomplish this, NAESCO recommends that the Commission and parties focus on resolving the key issues, including promulgating a planning framework that specifies that a consistent set of assumptions should be used for the potential study, goals, and DEER for the next program cycle, and that these program planning elements should be adopted by the CPUC with sufficient time prior to the IOUs' preparing the next cycle program portfolios with other stakeholders.

We further recommend that the Commission adopt and promulgate a realistic schedule for the planning and approval of the program portfolios for the next program cycle.

In conclusion, NAESCO looks forward to working with all interested parties during the next two weeks to reach the Settlement envisioned in ALJ Farrar's Ruling.

Respectfully submitted by,



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