

**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)**

**JOINT PARTIES REPLY COMMENTS TO ADMINISTRATIVE LAW JUDGE'S
RULING REGARDING 2013 BRIDGE FUNDING AND MECHANICS OF PORTFOLIO
EXTENSION**

JUNE 30, 2011

DONALD GILLIGAN

**PRESIDENT
NAESCO
1615 M STREET, NW
WASHINGTON, DC 20036
978-740-8820 (OFFICE)
DGILLIGAN@NAESCO.ORG**

**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)**

**JOINT PARTIES REPLY COMMENTS TO ADMINISTRATIVE LAW JUDGE’S
RULING REGARDING 2013 BRIDGE FUNDING AND MECHANICS OF PORTFOLIO
EXTENSION**

I. INTRODUCTION

In accordance with the May 27, 2011 *Administrative Law Judge’s Ruling Regarding 2013 Bridge Funding and Mechanics of Portfolio Extension* (ALJ Ruling), the National Association of Energy Service Companies (NAESCO) submits the following reply comments on behalf of itself and the following parties: **The California State University**, California Energy Efficiency Industry Council, Natural Resources Defense Council, Local Government Sustainable Energy Coalition (LGSEC), Pacific Gas and Electric Company, San Diego Gas & Electric, Southern California Gas Company, Southern California Edison Company and EnerNOC (hereafter referred to as “Joint Parties”)¹

¹ As noted in the body of these comments, some Joint Parties do not take positions on certain issues presented in the ALJ Ruling and thus do not join the other Joint Parties in offering comments on areas of agreement specifically noted. In addition, some of the Joint Parties will submit individual reply comments to the ALJ Ruling, which are intended to respond to opening comments more specifically applicable to the particular party and not covered in the areas of agreement expressed in these Joint Parties reply comments.

II. JOINT PARTY REPLY COMMENTS

In accordance with the ALJ Ruling, on June 22, 2011, parties to this proceeding met and conferred regarding opening comments in an attempt to come to agreement on as many issues as possible. The Joint Parties agree on the following general concepts and recommend that the Commission use these as a guide in planning any potential program cycle extension.

The Joint Parties agree that the 2010-2012 Energy Efficiency Program Cycle should be extended for a fourth year, through 2013, to allow parties, the Commission, and the Energy Division to focus on effective planning of the 2014-2016 program cycle. In support of that goal, the Commission should treat 2013 as a true extension to the 2010-2012 cycle and as such, any changes to the extension year itself should be as minimal as possible. Furthermore, the Joint Parties urge the Commission to only rule on topics that are well within the scope of an extension year under the current proceeding and leave other related topics to be resolved within the appropriate concurrent proceeding.

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

For purposes of program budget, the extension year for 2013 should be treated as though it were the fourth year of a four-year energy efficiency program cycle from 2010-2013. The total budget for each IOU for the 2010-2013 cycle should be up to four-thirds of the budget approved 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?

Each IOU should be permitted to tailor its budget request based on its individual circumstances and apply unspent funds to augment its budget request or to offset customer collections, as appropriate for each of its respective portfolios.

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

In deciding what programs to extend, all programs on target to achieve goals/budgets should continue at up to 4/3 of 2010-2012 budgets, subject to adjustments to reflect forecasted program performance as well as to fine tune the programs to optimize performance. The Joint Parties do not support proposals that call for wholesale elimination of programs during the 2013 extension year. Generally, Utility, Local Government Partnerships and Third Party Implementers' programs that are meeting performance expectations according to the criteria governing the program's established objectives should be extended.

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

To promote program continuity with Local Government Partnerships and Third Party Implementers, contracts should be amended to continue through 2013 rather than begin a new contracting process. With respect to the extension of third party and local government programs, no Commission action is necessary beyond administration of the existing advice letter process, which is an adequate and transparent process for program adjustments. The IOUs acknowledge the importance of discussing proposed adjustments with the participating local government or third party to provide an opportunity for resolving any program concerns prior to filing an advice letter to the Commission. The IOUs also recognize the importance of listening to the input of Local Governments and Third Parties as a part of this Advice Letter process. Each IOU compliance advice letter will explain the basis for the adjustment, the expected goals/objectives to be achieved, the revised budget, and, present other pertinent information.

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?

The extension year filing by the IOUs should be through a compliance advice letter filed by each IOU. Each IOU will indicate how they have conferred with Local Government Partnerships and Third Party Implementers in advance of the Advice Letter being filed. For any proposed modifications to Local Government Partnerships and Third Party Implementer programs, the IOUs should include in their advice letters the following items: (1) a statement explaining the criteria and considerations used to evaluate their programs; (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 filing.

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?3 Why or why not?

AND

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 Parties support the concept and understand the benefit of incorporating updated information when appropriate to improve program design. However, this is best carried out when the updated information has been fully vetted, disputes have been resolved, and values have been approved by the CPUC. Since there continue to be significant outstanding disputes surrounding the EM&V reports from the 2006-2008 programs and there is no current timeline or process for a potential resolution, the Parties recommend that values not be updated for the cycle extension. In addition, any attempt to update ex-ante values for the extension year would likely be mired in the same unresolved disputes as the current 2006-2008 EM&V results, thereby unduly diverting party

and Commission resources from addressing the outstanding policy issues that need to be resolved to successfully plan for the next program cycle. Therefore, the Parties strongly recommend that instead of focusing on updating values for the extension year, the Commission should initiate efforts now to resolve the key outstanding disputes and policy issues well in advance of the next program cycle.

LGSEC does not join in the Joint Parties' reply comment for questions 6 and 7.

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?

Updates to 2008.2.05 of the 2008 Data Base for Energy Efficient Resources (DEER) values should only be made where specific errors were identified and modifications were mutually agreed to by both Energy Division (ED) and the IOUs, pursuant to the March 25, 2011, workshop, as listed below. Acceptance of these updates does not imply agreement with the process by which these modification agreements were reached.

Large office lighting schedule for linear fluorescent technologies

HVAC package unit updates for Title 24

General T24 updates (primarily HVAC)

General lighting updates (primarily Linear Fluorescent)

LGSEC does not join in the Joint Parties' reply comment for question 8.

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

The Commission has already adopted the energy savings goals for 2013 in D.09-09-047, which should be used for 2013 as shown in the table below:

	GWh	MW	MMTherms
PG&E	1213	234	15.6
SCE	1,139	240	0
SoCalGas	0	0	36
SDG&E	152.5	30	4.5

These goals reflect the current version of DEER and associated energy assumptions. If the Commission adopts further revisions to the savings assumptions, the goals would need to be revised accordingly. Parties recommend that the final budget be set at a level that ensures the utilities are able to meet the required goals.

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

The Joint Parties recognize that the intended purpose of the extension year is to allow additional time for the Commission, Energy Division, and parties to address key unresolved issues and adequately and fully prepare for the next program cycle, with an on-time start for all implementers. We therefore reached agreement on the proposed schedule for the extension year process to resolve this issue as soon as possible so that all involved can focus attention on preparation for the next program cycle. The Joint Parties therefore recommend that the Commission adopt the extension year proposed schedule (attached as “Attachment A” hereto) in its subsequent ruling on the extension year.

Furthermore, the schedule for completing necessary policy updates and program planning activities is a critical piece of effective program planning for the 2014-2016 program cycle. To that end, the Joint Parties also offer a suggested schedule for preparation of the next program cycle that highlights the importance of moving quickly to resolve the numerous outstanding policy

issues and guidance needed to ensure on-time start for 2014. (attached as “Attachment B”), The suggested schedule is informed by the current portfolio planning process and the recent history of events leading up to the 2010-2012 portfolios. The Joint Parties recognize that a year and a half from program planning to implementation is not ideal, but is realistic given recent experience.

In addition, at the CPUC led workshop on February 16, 2011, numerous parties verbally supported moving to an extended program cycle that would offer longer planning horizons, and would also require adjustments to the programs along the way. If the Commission decides to proceed with this approach, the suggested schedule in Attachment B would need to be modified to allow for a transparent public process to discuss the merits of this option and to develop additional guidance (if needed) to ensure a clear process for such an extended program cycle.

The Joint Parties also stress that if the program planning schedule is not adhered to, the Commission will have to revisit how best to proceed for the next program planning process. Any deadlines missed will make it highly unlikely that the utilities and parties will have sufficient time to adequately plan for the next portfolio with a transparent public process, which is critical to ensure that the next portfolio cycle is designed to the highest standards and will meet California’s key energy policy goals.

Respectfully submitted by,



Donald D. Gilligan
President
NAESCO

June 30, 2011

ATTACHMENT A: EXTENSION YEAR SCHEDULE

	Activity	Target Date
1	<ul style="list-style-type: none">• Extension year Ruling	Early August 2011
2	<ul style="list-style-type: none">• IOU file proposals for extension year (21 days from line 1 per 5/27/11 ALJ Ruling)	Early September 2011
3	<ul style="list-style-type: none">• Protest Period for Extension Year Compliance ALs - 20 day comments period, 5 day response	Early Oct 2011
4	<ul style="list-style-type: none">• ED review and approval of Extension Year Compliance ALs	December 2011

ATTACHMENT B – POST 2013 SUGGESTED PLANNING SCHEDULE

	Activity	Target Date
1	<ul style="list-style-type: none"> • CPUC initiates public process for: <ul style="list-style-type: none"> ○ Policy rules update (e.g., cost effectiveness, PRG role, etc.) ○ Strategic plan potential updates/modifications 	July 2011
2	<ul style="list-style-type: none"> • Extension year Ruling 	Early August 2011
3	<ul style="list-style-type: none"> • IOU file proposals for extension year (21 days from line 2 per 5/27/11 ALJ Ruling) 	Early September 2011
4	<ul style="list-style-type: none"> • Protest Period for Extension Year Compliance ALs - 20 day comments period, 5 day response 	Early Oct 2011
5	<ul style="list-style-type: none"> • ED review and approval of Extension Year Compliance ALs 	December 2011
6	<ul style="list-style-type: none"> • Potential study for 2013-2022 completed 	December 2011
7	<ul style="list-style-type: none"> • CPUC ruling on: <ul style="list-style-type: none"> ○ Policy rules (e.g., cost effectiveness, PRG role, etc.) ○ Strategic plan updates/modifications (if any) 	December 2011
8	<ul style="list-style-type: none"> • CPUC begins public process to update: <ul style="list-style-type: none"> ○ Guidelines for portfolio applications (including reporting requirements) ○ Performance metrics/market transformation indicators ○ Ex-ante planning assumptions to be used in portfolio applications ○ EM&V structure and protocols for post 2013 ○ Risk/reward mechanism for post 2013 (in separate proceeding) 	January 2012
9	<ul style="list-style-type: none"> • CPUC issues final decision(s)ruling providing certainty on assumptions and other guidance to be used by IOUs in developing their next program cycle portfolio applications, including: <ul style="list-style-type: none"> ○ Guidelines for portfolio applications (including reporting requirements) ○ Performance metric/market transformation indicators ○ Specific updated ex-ante planning assumptions to be used in portfolio applications (DEER, RASS, CEUS, etc.) ○ EM&V structure and protocols for post 2013 ○ Risk/reward mechanism for post 2013 (in separate proceeding) 	June 2012
10	<ul style="list-style-type: none"> • CPUC begins public process for its EM&V plans of the new portfolios (post-2013) 	June 2012
11	<ul style="list-style-type: none"> • CPUC establishes goals 	June 2012
12	<ul style="list-style-type: none"> • IOUs submit portfolio applications (5 months from line 9 assumption date) 	November 2012
13	<ul style="list-style-type: none"> • CPUC issues proposed decision on next program cycle 	Begin. of April 2013

14	<ul style="list-style-type: none"> • CPUC issues final decision 	Begin. of June 2013
15	<ul style="list-style-type: none"> • IOUs file next program cycle Portfolio Compliance ALs (60 days from line 14) 	Begin Aug 2013
16	<ul style="list-style-type: none"> • CPUC finalizes EM&V plans for post 2013 programs 	October 2013
17	<ul style="list-style-type: none"> • IOUs file gas PPP surcharge rates effective January 1, 2014 	October 31, 2013
18	<ul style="list-style-type: none"> • ED review and approval of 2014-2016 EE Portfolio Compliance ALs 	November 2013
19	<ul style="list-style-type: none"> • IOUs file update to Annual Electric True-up rates effective January 1, 2014 	Dec 2013
20	<ul style="list-style-type: none"> • Implementation of new portfolios begins 	January 1, 2014

ATTACHMENT C DESCRIPTION OF MEMBERSHIP ORGANIZATIONS

Several of the Joint Parties are membership organizations that are briefly described below.

The **National Association of Energy Service Companies (“NAESCO”)** is a national organization that numbers among its members some of the world's leading energy services companies, including: AECOM Energy, Aireko Energy Solutions, Ameresco, APS Energy Services, Burns & McDonnell, CCI Group, Chevron Energy Solutions, Clark Energy Group, Clear Energy Contracting, CM3 Building Solutions, Comfort Systems USA Energy Services, ConEdison Solutions, Constellation NewEnergy, Control Technologies and Solutions, Eaton Corporation, Energy Solutions Professionals, EnergySolve Companies, Energy Systems Group, Excel Energy, FPL Energy Services, Fulcrum Group, Green Campus Partners, Hess Corporation, Honeywell, Johnson Controls, M360, McClure Energy, NORESKO, NXEGEN, Onsite Energy, Pepco Energy Services, Schneider Electric, Siemens Industry, Synergy Companies, Trane, UCONS, Wendel Energy Services and Wipro. 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 deliver between \$4 and 5 billion in energy efficiency projects annually to institutional, commercial, residential and industrial customers nationwide, and have delivered hundreds of millions of dollars or projects to California consumers.

The **Local Government Sustainable Energy Coalition (LGSEC)** is a statewide membership organization of cities, counties, associations and councils of government, special districts, and non-profit organizations that support government entities. Each of these organizations may have different views on elements of these comments, which were approved by the LGSEC’s Board. A list of our members can be found at www.lgsec.org.

The **California Energy Efficiency Industry Council (Efficiency Council)** is a statewide trade association of non-utility companies that provide efficiency products and services in California. Our member businesses, now numbering 55, employ over 4,000 Californians throughout the state, and they include energy service companies, engineering and architecture firms, contractors, implementation and evaluation experts, financing experts, workforce training entities, and manufacturers of energy efficiency products and equipment. The Efficiency Council’s mission is to support appropriate energy efficiency policies, programs, and technologies that create sustainable jobs and foster long-term economic growth, stable and reasonably priced energy infrastructures, and environmental improvement. Our member list can be found at www.energycouncil.org.