BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Reform the Commission's Energy Efficiency Risk/Reward Incentive Mechanism.	Rulemaking 12-01-005 (Filed January 12, 2012)

COMMENTS OF THE NATIONAL ASSOCIATION OF ENERGY SERVICE COMPANIES (NAESCO) ON THE ADMINISTRATIVE LAW JUDGE'S RULING SOLICITING COMMENTS ON MODIFIED METHODOLOGY AND USE OF DATA TO DERIVE INCENTIVE EARNINGS AMOUNTS

Submitted by:

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The National Association of Energy Service Companies (NAESCO) appreciates the opportunity to submit comments on the above-referenced matter.

NAESCO is the leading national trade association of the energy services industry. NAESCO numbers among its members some of the world's leading energy services companies, including: ABM Energy, AECOM Energy, Aireko Energy Solutions, Ameresco, Burns & McDonnell, CM3 Building Solutions, Chevron Energy Solutions, Clark Energy Group, Clear Energy Contracting, Climatec, CM3 Building Solutions, Comfort Systems USA Energy Services, ConEdison Solutions, Constellation New Energy, Control Technologies and Solutions, Eaton Corporation, Energy Solutions Professionals, Energy Systems Group, Excel Energy, Next Era Energy Services, Green Campus Partners, Honeywell, Johnson Controls, M360, McClure Energy, Navitas, NORESCO, NXEGEN, Onsite Energy, Pepco Energy Services, Schneider Electric, Siemens Industry, Synergy Companies, Trane, UCONS, Wendel Energy Services, Willdan 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.

During the last twenty years, NAESCO member companies have delivered several billion dollars worth of energy efficiency, renewable energy, demand response, distributed generation and combined heat and power projects to California residential, commercial, industrial and institutional customers have delivered thousands of Guaranteed Energy Savings Projects across the US as well as across the globe. Nationally, NAESCO member company projects have produced:

• $45 billion in projects paid from savings

- $50 billion in savings – guaranteed and verified
- 400,000 person-years of direct employment
- $30 billion of infrastructure improvements in public facilities
- 450 million tons of CO_2 savings at no additional cost

During this time NAESCO has been an active party in the California Public Utility Commission (Commission) proceedings (e.g., R0911014) that have formulated California's energy efficiency and renewable energy policies and designed and implemented California's energy efficiency and renewable energy programs. NAESCO is also active in similar proceedings in states around the country.

Summary

NAESCO's comments are summarized as follows.

1) NAESCO supports the first part of the proposed incentive structure – a management fee of 2% of each year's portfolio expenditures. NAESCO proposed such a management fee several years ago in related proceedings.

2) NAESCO strongly disagrees with the second part of the proposed incentive structure – an additional performance bonus based on performance metrics rather than energy savings, because we believe this structure, if adopted by the Commission, will do irreparable harm to the establishment of energy efficiency as the "first resource" in state and national energy policy.

Discussion

NAESCO offers the following arguments in support of its summary comments above.

1) NAESCO supports the first part of the proposed incentive structure – a management fee of 2% of each year's portfolio expenditures. NAESCO proposed such a management fee several years ago in related proceedings.

NAESCO believes that the utilities should be paid a management fee for collecting, managing and disbursing billions of dollars of ratepayer funds in the 2010-2102 program cycle in a highly professional manner. The utilities operated a complex set of programs, and managed the work of hundreds of subcontractors, under an evolving set of directions from the Commission and with a high degree of appreciation of the concerns of an amazingly comprehensive universe of program stakeholders. To NAESCO's knowledge, the utilities have operated the program cycle with no hint of financial mismanagement or scandal, as they have during previous cycles, with no hint of financial mismanagement, which is a significant accomplishment in itself.

NAESCO believes that the proposed fee of two percent (2%) is fair, as it seems to be a kind of standard for fees paid to other managers of large investment funds, though NAESCO observes that other fund managers generally operate in a much simpler environment than the utilities.

2) NAESCO strongly disagrees with the second part of the proposed incentive structure – an additional performance bonus based on performance metrics rather than energy savings, because we believe this structure, if adopted by the Commission, will do irreparable harm to the establishment of energy efficiency as the "first resource" in state and national energy policy.

The proposed incentive structure, quite simply, seems to be conceding the main argument of the opponents of energy efficiency – that energy efficiency can't be reliably quantified, and so can never be more than a useful ancillary to the business of energy supply. The proposed structure seems to be saying that because we can't pay the utilities on the basis of actually energy savings delivered, because we can't figure out how to determine that, we're instead going to pay them on the basis of what amounts to good conduct – how responsive they have been to the directives of the Commission and the Energy Division.

Imagine, for a moment, if someone had proposed to institute a similar compensation system for billions of dollars of taxpayer expenditures at the California Department of Transportation: DoT is longer going to pay contractors for delivering new roads on schedule and on budget, but rather is going to pay contractors based on whether they spent the entire amount budgeted for the road projects and how quickly and cheerfully they responded to the construction change directives of the Department's engineers. NAESCO respectfully suggests that such a hypothetical DoT payment system would not ever be put forth as a reasonable procurement process for a tangible and measurable good.

Furthermore, the proposed incentive structure appears to undermine the work of the Commission, and virtually all of the stakeholders in this proceeding, during the last two decades. In the early 1990's,for example, the Commission used to permit the number of flyers promoting the idea of energy efficiency that were placed by utilities in their customer's bill envelopes to serve as a successful metric for which incentives were paid. The utilities, NAESCO, and many other stakeholders worked in multiple collaboratives in the 1990's to move beyond the notion that process was equivalent to the actual achievement of verified energy savings. Millions of dollars were spent by multiple parties including the ratepayers of California in changing the way energy efficiency was procured, measured, and verified as a long term resource.

Over time, the Commission, with the support of many NAESCO member companies and their employees, as well as hundreds of other stakeholders in this proceeding, has established energy efficiency as the first resource in the "loading order" of California state energy policy, because it is the cheapest, most reliable and most environmentally benign energy resource. We all did this work incrementally, testing and refining technologies and savings verification techniques in painstaking house-by-house, building-by-building efforts. We have advanced from the early days when customers were incredulous at our claims that new lighting systems could reduce energy usage by 50% and produce better quality light to sophisticated programs in which we can substitute quick-response demand response technologies for spinning reserves. Many of us have spent these decades also working for the establishment of energy efficiency as the first energy resource nationally, and we are finally seeing a widespread acceptance of our arguments, an acceptance that is increasingly national and bipartisan. In this work, California, with its flat per capita energy usage curve, is always held out as the model of what an "efficiency first" policy can accomplish.

The opponents of energy efficiency, who tend also to be the owners and/or promoters of energy supply alternatives – coal, oil, natural gas, nuclear – have countered the work of energy efficiency advocates by saying the while energy efficiency may be a laudable moral virtue, it cannot serve as the foundation of energy policy because it is too amorphous and hard to measure. If ratepayers invest in a power plant, they argue, you can meter the output, and there is no question about what the ratepayers are getting for their money. If you invest in energy efficiency, they say, you never really know exactly what you are getting, because you can't meter the output and even the energy efficiency advocates can't seem to agree on what the programs actually produce.

We appreciate the difficulty that the Commission and stakeholders have had during the past few years with the issues of program EM&V, but we must implore the Commission not to just throw up your hands and give up the effort. The fact is that the utilities and the other program stakeholders have delivered an enormous resource during the 2010-2012 program cycle, and that resources has saved, and will save, California ratepayers billions of dollars. To not recognize that accomplishment is not fair to the utilities and all of the other stakeholders, to the ratepayers of California who deserve to know that their money was well spent, and to the nation that needs to know that the California energy policy – efficiency first – works and so should be adopted as a foundation of national policy.

Conclusion

Based on the above arguments, we urge the Commission to quickly approve and pay a management fee to the utilities for their exemplary work in managing the 2010-2012 program portfolio. We also strongly urge the Commission to scrap the notion of substituting process and "performance" for actual verifiable energy savings as the second metric in the proposed incentive structure. Rather, we urge the Commission to aggressively manage a process that solves the issues involved in the EM&V of previous program cycles, and lays the foundation for the next generation of California energy efficiency programs. Moving back to embracing the metrics of two decades ago when there is so much successful program data demonstrating the value of proved and producing energy savings would be a disaster for California and the nation as a whole.

Respectfully submitted by,

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