

NAESCO Advocacy Update September 2017

NAESCO continues to work on several major programs and legislative issues that are important to the growth of the ESCO industry.

Performance Contracting Challenge

NAESCO continues to work with the FPCC to ensure the implementation of the \$2 billion extension of the Challenge announced in October, 2016 with its new focus on both water and energy efficiency, and is also supporting the FPCC's effort to get the Trump Administration to raise the goal to \$10 billion. FEMP has announced the next round of IDIQ awards to 21 ESCOs, and has published a revised estimate of \$200-300 billion for the US performance contracting potential market. [Market Potential Report](#)

Policy Agenda for the New Administration

NAESCO worked with the EE Strategy Group coalition to develop a "wish list" of EE programs that we think should be part of the Trump Administration's infrastructure program, which now seems to be delayed until 2018, because the Congress is dealing with other issues, such as the stabilization of the Affordable Care Act, tax reform, disaster relief and the 2018 federal budget. All indications are that performance contracting has strong support in the Administration because it is perhaps the best example of a public-private partnership.

179D Deduction

NAESCO is once again coordinating a 179D Working Group of NAESCO members, to secure the extension of the Section 179D deductions for energy efficiency work in commercial buildings. We are working once again with the lobbying firms Van Ness Feldman and Prime Policy Group, with whom we were successful in getting extensions that covered the 2014 through 2016 tax years. We are positioning the extension of 179D to be part of either comprehensive tax reform or a more limited tax extenders package.

HUD Programs and Procedures

NAESCO and a number of ESCOs have re-established bi-monthly conference calls, hosted by HUD, to discuss several chronic problem areas in the HUD PHA ESPC program, including the difficulties of implementing ESPC projects with the Rental Assistance Demonstration (RAD) program that is changing the federal funding of PHAs, the lack of knowledge of local HUD staff and PHA managers about the HUD Rate Reduction Incentive program, and the HUD initiative to stimulate EE projects in federally assisted multifamily housing.

State Issues

NAESCO state advocacy has focused on four states where we have defended the industry against potentially damaging legislation, two states that offer legislative opportunities to improve ESCO industry opportunities in the short term, and two precedent-setting states where we are working to assure that multi-year proceedings to re-vamp energy efficiency programs and utility regulation offer new opportunities for ESCOs.

Illinois

NAESCO organized a group of ESCOs and their lobbyists to defeat legislation that was sprung on us at the end of the state legislature's 2016 session. The promoters of the 2016 legislation introduced the same legislation (SB 1287) in early 2017. NAESCO has organized a 2017 lobbying campaign, funded by a 9-member ESCO Working Group, to fight the legislation, which has not advanced in the state Senate. The legislature is now scheduled to meet for only a few days in late October and early November, so we think that SB 1287 represents a low-level threat for 2017, though it will stay alive during 2018. The ESCO Working Group is also drafting an RFP template for K-12 projects as an alternative to a template being drafted by the SB 1287 proponents.

Wisconsin

Governor Walker has introduced, as part of his budget package, a provision that would revoke the Revenue Limit Exemption (RLE) for K-12 ESPC projects. The RLE allows school districts that implement ESPC projects to avoid the referenda that are normally required to raise school district debt limits because ESPC projects pay for themselves from savings. NAESCO is working to defeat the legislation and continue the RLE, but recent developments, like the pending deal to provide up to \$3 billion to persuade the electronics manufacturer Foxconn to locate in Wisconsin, are making the legislature inclined to suspend the RLE for 1-2 years.

Ohio

In late December, Governor Kasich vetoed legislation, heavily promoted by fossil fuel interest groups that would have made the suspension of the state's EERS and RPS goals permanent. Unfortunately, the legislation has been reintroduced in the 2017 legislative sessions, has already passed the House and is scheduled for Senate action later in the year. NAESCO is working with the national Business Energy Coalition (BEC) to defeat this legislation, as well as coordinating pro-EE advocacy activities with BEC in Arizona, Connecticut, North Carolina, Colorado, Maryland and Michigan.

North Carolina

The state budget for the Department of Environmental Assistance and Customer Service (DEACS) was cut by the House, threatening the funding for the Utility Savings Initiative, whose staffers oversee the state's successful ESPC program. NAESCO is working with the Business Energy Coalition, a national organization of manufacturers of energy efficient equipment, to restore the DEACS budget in the Senate and through the budget conference committee process.

Connecticut and Rhode Island

The state legislatures in both states are threatening to appropriate ratepayer funding for EE programs to fill holes in the state general funding budget. NAESCO is again working with the Business Energy Coalition to combat these funding grabs.

California

In California, a multi-year proceeding of the CPUC that is re-working the structure of the ratepayer-funded EE programs has reached a critical phase. Utilities filed their 10-year EE Business Plans in January and the CPUC ruled that the Plans had to be supplemented with additional information by mid-June. NAESCO and other parties believe that the Plans, as supplemented, do not conform to explicit CPUC guidance and rulings and have requested the Commission to address issues such as the minimum 60% of the portfolio that is to be outsourced to third parties, doubling the state's implementation of energy efficiency (SB 350), and modifying the programs to recognize savings above existing conditions, with M&V based on normalized meter readings (AB 802). We expect to Commission orders on the 2018 programs, as well as additional Commission guidance on the major issue by the end of 2017.

New York -- Reforming the Energy Vision

The New York State Public Service Commission is in the middle of a proceeding to restructure the state's utility industry to enable customers to implement the full range of Distributed Energy Resources (DERs) -- EE, RE, DR, CHP, DG -- with utility support rather than resistance.

- The first stage of the proceeding established the fact that widespread DERs are technically feasible and valuable to all ratepayers, and the NY Public Service Commission (PSC) ordered each of the utilities to begin pilot DER programs.
- The second stage moves the utility revenue model away from the old centralized system, in which utility financial health and profitability are dependent on kWh throughput, to a system in which the utility acts as the operator for a complex network of DERs.

It is important to note that while the PSC is moving ahead with this development, it is maintaining its commitment to NYSERDA and utility-administered EE and R&D programs, as well as to the DER financing initiative of the Green Bank and Energize New York. NAESCO served as part of the Best Practices Working Group, which surveyed EE programs around the country and made recommendations about initial programs that the utilities should implement.