

**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)
Application of San Diego Gas & Electric Company (U 902-M) to adopt Energy Efficiency Rolling Portfolio Business Plan Pursuant to Decision 16-08-012.	Application 17-01-014 (Filed January 17, 2017)
Application of Pacific Gas and Electric Company for Approval of 2018-2025 Rolling Portfolio Energy Efficiency Business Plan and Budget (U 39-M).	Application 17-01-015 (Filed January 17, 2017)
Application of Southern California Gas Company (U 904-G) for adoption of its Energy Efficiency Rolling Portfolio Business Plan and related relief.	Application 17-01-016 (Filed January 17, 2017)
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 REPLY
COMMENTS TO RESPONSES TO ATTACHMENT B OF THE SCOPING MEMO AND
RULING OF ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGES**

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June 29, 2017

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Pursuant to Rule 2.6 of the Rules of Practice and Procedure of the California Public Utilities Commission (“CPUC” or “Commission”), the National Association of Energy Service Companies (“NAESCO”) hereby responds to the supplemental applications 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) for approval of their Energy Efficiency Rolling Portfolio Business Plans, which were filed on May 15, 2017 and for which the applicants provided supplemental information on June 12, 2017.

The Commission consolidated the SCE, SDG&E, PG&E, SoCalGas and Marin County Energy (MCE) business plan applications for coordinated consideration. (Joint Ruling dated

January, 30, 2017, p. 2.) The consolidated hearing also includes motions for three regional energy network (REN) business plan proposals that were directed by a ruling in Rulemaking 13-11-005. NAESCO has not reviewed the MCE or REN applications and does not make any response to these proposals. As directed by the June 9, 2017 Administrative Law Judges' Ruling Modifying Schedule, NAESCO submits these reply comments on the comments of other parties on the supplemental information submitted by the Investor Owned Utilities and other issues raised by their applications.

IOUs' Proposed Budgets

NAESCO agrees with ORA that the Commission should not approve the IOUs' proposed budgets because the BPs do not provide justification for their costs or staffing in light of the Commission's direction on third party designed and implemented programs. As ORA notes, "the IOU budget supplemental responses show that the IOUs' BP budgets and planning for in-house resources do not reflect the substantial resource redeployment that a reasonable response to the Commission's recent policy directives would require." (ORA Comments, page 4). NAESCO is concerned that if the Commission were to approve the IOUs' Business Plans (BPs) and their budgets as proposed, which appear to essentially maintain the current staffing levels, the IOUs will not have the incentive to restructure their staffs to facilitate the cost-effective implementation of new, innovative 3P Programs, which is the Commission's clearly stated policy objective.

Use of IOU Account Representatives

ORA proposes that IOUs be prohibited from requiring that 3Ps be required to use IOU personnel in program design and delivery. (ORA Comments, pages 6 – 7) NAESCO agrees. Simply put, in a portfolio that is primarily 3P Programs, there will be no need for IOU staff participation in many 3P Programs. NAESCO is concerned that superfluous IOU staffers will get in the way, complicating the already complex and time-consuming (typically 1-2 years) development process for comprehensive ESCO public sector projects. Moreover, there would be little if any customer value in IOU participation and the net effect of the requirement would be less savings to offset the cost of IOU staff participation. Requiring 3Ps to use IOUs personnel would not only be anti-competitive, as ORA notes, but would hamstring the innovation that the

Commission seeks by making 3P Programs dependent on the IOU personnel that the 3Ps don't control for critical program functions. Both SDG&E (SDG&E Comments, page 17) and SoCal Gas (SocCal Gas Comments, page 26) state that 3Ps will design and deliver programs. Therefore, 3Ps should have the ability to propose their own marketing and delivery channels. NAESCO agrees with ORA that for 3P Programs, the IOUs should follow the model that PG&E established for its competitive Distribution Resource Plan Request for Offers (RFO). In that RFO, PG&E stated that 3Ps may at their discretion propose using PG&E account representatives for customer acquisition.

Internal Governance

NAESCO also agrees with ORA objections to the proposed governance of statewide programs. The IOUs propose using "Program Councils" as oversight bodies for statewide administration. Use of these "councils" would obscure accountability, and add unnecessary bureaucratic costs and delays to programs. NAESCO has observed over many years that when energy efficiency portfolio administrators form loose, cross functional, cross organizational decision-making groups, those groups exhibit a tendency for very delayed decision making, settling on the least common denominator, or simple inaction through discussion after discussion and meeting after meeting. This inaction can lead to the effective countermanding, through administrator inaction, of the core Commission policy for timely execution of Commission orders. NAESCO agrees with ORA that, "The Commission should instead create clear structures of authority and accountability by clarifying that Lead PAs should retain decision-making authority in all manners related to RFPs, program management, implementation plans, key performance indicators and program delivery." (ORA Comments, page 9.) With over 20 statewide programs, the number of personnel involved in "Program Councils" would defuse authority and accountability and add significant inefficiencies and costs to the energy efficiency portfolios. It is NAESCO's understanding that in addition to "Program Councils", the IOUs are planning "Portfolio Councils" and "Executive Councils" The Commission can prevent the bureaucratic mushrooming of inefficiencies and the costs that these "councils" will create by ensuring that the BPs and budgets it approves do not include any costs allocated to these functions.

Bidding Plans

NAESCO also agrees with ORA that the IOUs' bidding plans should be rejected. PG&E (30 planned RFPs in 2018) and SoCalGas (14 RFPs in 2018) plans balkanize markets. (See ORA Comments, pages 13 -14) Rather, as ORA notes, the Commission should direct PG&E, SDG&E and SoCal Gas to use SCE's approach -- fewer bids, organized by broad market sectors. Only after broad solicitations are completed will the Commission know if there are any "gaps" to be filled. Creating numerous, relatively small bids, as proposed by PG&E and SoCalGas, unnecessarily increases administrative costs while potentially creating market confusion. As noted above, the IOUs have not demonstrated that they have reallocated internal resources to be able to carry out extensive bidding, as evidenced by their inability to provide staffing and administrative cost estimates beyond 2018.

NAESCO has an additional concern with the IOUs bidding plans, related to the IOUs' under-resourcing the bidding function. In D.16-08-016, Conclusion of Law 58, the Commission stated "... In cases where utility program administrators propose to continue staffing program design and/or delivery functions with utility personnel, they should explain why this continues to be necessary." The IOUs have not provided any such explanations in their Business Plans, and there is no process now in place for the IOUs to meet the Commission's specified burden of proof when they propose to implement their own programs. Therefore, in their bidding processes, the IOUs can in essence overrule Commission direction on demonstrating the necessity for an IOU-designed and implemented program by simply not committing enough resources to the bidding function, thus eliminating the possibility of making their entire portfolios subject to competitive bidding.

Independent Evaluator and Procurement Review Group

NAESCO disagrees with both SDG&E's proposal that the IOUs pick their PRG members, since this would not create a genuinely independent review body. (SDG&E Comments, page 20) and SoCalGas' proposal that its Independent evaluator report to it. (SoCal Gas Comments, page 29). A direct contractual and therefore financial relationship between the IOU and an evaluator cannot result in the independence that the Commission needs for adequate review. The PRG should be made up of independent, non-financially interested parties who are capable of providing meaningful oversight for the Commission. The Independent Evaluator should be someone with extensive experience in designing and implementing energy efficiency

policy and programs. The members of the PRG should apply for approval to the Energy Division, which should chair the PRG, and the Commission should take steps to ensure that the Independent Evaluator is truly independent.

NAESCO also disagrees with the position of the Council for Energy and Demand Management in California (CEDMC) that the requirement to bid out at least 60 percent of the portfolio justifies that implementation remains with the IOUs, in effect, removes concerns about self dealing. (CEDMC Comments, page 20.) SoCal Gas makes a similar claim. (SoCalGas Comments, page footnote 66, page 28) First, the IOUs have not provided any justification for keeping in house energy efficiency programs that they intend to implement. As noted above, the IOUs may avoid this requirement by simply not bidding out more than 60 percent of the portfolio. Second, the IOUs always have a potential choice—implement their own programs or implement third party-designed and implemented programs. This notion that the utilities remain the program administrator and implementor at will is the very definition of a “self dealing” issue. PG&E was clear in its Business Plan that a program that maintains “retains customer relationship(s)” is of higher priority than one that is innovative, thus replacing the Commission’s public purpose strategy for the EE portfolios with an element of PG&E’s corporate strategy. (See PG&E Business Plan, page 35) The IOUs’ potential conflicts in choosing their own programs over those designed and implemented by the 3Ps call for a clear restatement of the Commission preference for the IOUs to deploy 3P Programs and a prohibition against IOUs substituting their own IOU-staffed and delivered energy efficiency programs unless and until they have justified these programs to the satisfaction of the Commission. And, all programs, whether PA Programs or 3P Programs, should require review by independent IE/PRG evaluators, who will review the IOUs’ bidding outcomes, and not just processes as advocated by the CEDMC.

Conclusion

NAESCO respectfully suggests that the IOU Business Plans (BPs), as originally submitted in January and as supplemented in May and June, clearly do not meet the Commission’s explicit direction and guidance in fundamental areas, including:

- Justification of their overall budgets and the internal components (administrative costs and staffing) of those budgets;

- Clear delineation of which programs are PA Programs, with justifications for each program so designated;
- Clear delineation of which programs are 3P Programs and an understanding of the meaning of the Commission's directive that 3P programs are to be proposed, designed and implemented by 3Ps, unencumbered with vestigial elements of the IOU programs;
- A detailed and workable schedule (based on successful program management precedents in California and other jurisdictions) for bidding those programs to 3Ps;
- A workable, cost-effective administrative structure, staffing and costs (again based on successful precedents in other jurisdictions) required to manage portfolios in which the PAs' primary responsibilities are bidding and contract administration; and,
- A truly independent IE/PRG function designed to assure that the programs and bidding procedures in the new PA portfolios are fair, independent of potential PA bias, and in the best interests of ratepayers.

Given the failure of the PAs to develop BPs that meet Commission directives and guidance, NAESCO respectfully suggests that the Commission should schedule evidentiary hearings, and/or settlement negotiations mediated by the Commission, that will allow other parties to present evidence that will fill the gaps in the PA BPs, and provide the full record that the Commission needs to formulate its decisions on the new PA EE portfolios. NAESCO intends to file a motion for such hearings and/or settlement negotiations.

Respectfully submitted by,

A handwritten signature in black ink, appearing to read "Donald Gilligan", with a long horizontal flourish extending to the right.

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