

January 30, 2017

Energy Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

**Re: Resolution E-4818**

Dear Sir or Madam:

I am writing, on behalf of the National Association of Energy Service Companies (NAESCO) to comment on Resolution e-4818. NAESCO supports the consensus process directed by the Commission - convening stakeholders, using a moderator, developing consensus or near-consensus positions – and believes that this process is a model for future policy development. Unfortunately, in this case, the Working Group (T1WG) participants worked diligently to develop policy recommendations, only to have them largely abandoned or ignored in the resulting Resolution. If the Resolution is adopted, many T1WG participants will be unable to justify the considerable time spent in WG participation against the minimal resulting impact, and future participation will be seriously eroded.

NAESCO believes that the Resolution contains serious errors, which we urge the Commission to correct, as follows:

1. NAESCO believes that the Resolution does not meet the intent of AB 802 or D.16-08-019. The Resolution does not simplify the subjectivity, ambiguity and sheer mass of regulations currently in force, doesn't allow the use of existing conditions baselines except in a limited range of circumstances, and doesn't provide the decisions and clarity necessary to enable program delivery. Section 3.13 from D.16-08-019 provides details on the Items Deferred to Working Groups. In the measure level treatment on page 47 and 47, it instructs the working group “to develop a consensus set of recommendations...[that] should be brought back.” It does not allow for a subset of consensus recommendations to be included nor does it allow for the addition of new policies that were not part of the working group discussions and recommendations.
2. NAESCO believes the Resolution adopts arbitrary numbers without justification. Section 1.3.6.3 (Installation Type: BRO) includes a new definition for “repair eligible” that the Resolution admits was not discussed by T1WG:

*“We acknowledge this was not discussed in the WG but find that the recommendations of the WG with respect to application of existing conditions baseline call for clarifying policy surrounding the distinction between normal repairs and improvements that qualify for EE program support.”*

The Resolution's definition of "repair eligible" requires at least a 20% reduction in overall annual system efficiency along with other requirements. This was not discussed in the T1WG and is not justified in the Resolution. In another example, Section 1.5.6 (Direct to Default Baseline Assignment) now says, "Under no circumstances should ratepayer incentives be applied where simple payback is less than 12 months before incentives." That was not discussed by the WG and appears to adopt a new policy outside the WG process.

3. The Resolution defers several issues (listed below) to T2WG, which was not the direction in the Decision. NAESCO supports the opportunity to work through some of these issues, and believes the Commission should direct the T1WG to complete its work on them prior to approving the Resolution.
  - Section 1.3.1.1 – Clarity on application of code baseline
  - Section 1.3.8 – qualification standards and evidence to determine repair eligible / repair indefinitely
  - Section 1.5.3—develop consensus recommendations for what should constitute Tier 1 and Tier 2 POE requirements
  - Section 1.5.5—recommend statewide definition of small sized business and associated evidentiary requirements to verify this classification (POE rigor)
4. The Resolution changes the Baseline Table 1.1, which results in no change to the current downstream calculated baseline. Per AB 802, the baseline should be existing conditions. Per D.16-08-019, an existing conditions baseline was intended to be applied to non-industrial and agricultural processes. The "Existing Buildings/Downstream" row should have existing conditions as the baseline.
5. The Resolution allows the Program Administrators (PAs) to change the baseline for any measure from its default category to Normal Replacement, which leaves a huge grey area for classifying projects. Per the T1WG discussion, which is incorrectly reported in the Resolution, the intent of the T1WG is to get a high percentage of projects correctly identified (80-90%). Adding PA discretion will create added administrative cost applying a different set of rules to the same measures with very little additional grid impact adjustment.
6. The facilitator excluded "not in scope" topics from T1WG discussion, only to have them appear in the final resolution. An example is EUL of REA measures to be capped at the RUL of the host equipment. This was part of the facilitator's report but it was not discussed as it was determined to be out of scope. It was included for completeness. Several working group members commented on this language in the draft report from the facilitators and the response was that it was not in scope.

NAESCO therefore respectfully urges the Commission to reject Resolution E-4818 as it is currently written, to direct the T1WG to address the issues it has left unresolved (see #3 above), and to direct the Energy Division to prepare and submit a revised Resolution that accurately captures the consensus of the T1WG.

Sincerely,

A handwritten signature in black ink, appearing to read "Donald Gilligan". The signature is stylized with a large, sweeping initial "D" and a long horizontal stroke extending to the right.

Donald Gilligan  
President