

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 05-M-0090 – In the Matter of the Systems Benefits Charge III

COMMENTS
OF THE
NATIONAL ASSOCIATION OF ENERGY SERVICE COMPANIES

March 4, 2005

The National Association of Energy Service Companies (NAESCO) submits these comments in response to the Commission's NOTICE SOLICITING COMMENTS issued on January 28, 2005.

NAESCO's current membership of about 100 organizations includes firms involved in the design, manufacture, financing and installation of energy efficiency equipment and the provision of energy efficiency services in the private and public sectors. NAESCO numbers among its members some of the most prominent companies in the world in the HVAC and energy control equipment business, including Honeywell, Johnson Controls, Siemens, Trane and TAC Americas. Our members also include many of the nation's largest utilities: Pacific Gas & Electric, Southern California Edison, New York Power Authority, and TU Electric & Gas. In addition, ESCO members include affiliates of ConEdison, PEPCo, FirstEnergy, Sempra, Northeast Utilities, Equitable Resources, Alliant and Southern Company. Prominent national and regional independent members include American Synergy Corporation, Custom Energy, Onsite Energy, EnergySolve, Conservation Services Group, Citizens Conservation Corporation, AMERESCO, UCONS, Chevron Energy Solutions and Energy Systems Group.

NAESCO members have been delivering services to New York institutional, business and residential customers for more than 20 years. NAESCO and its members have been actively involved in the development of the System Benefits Charge, and NAESCO currently serves on the System Benefits Charge Advisory Group.

NAESCO offers the following comments for consideration by the Commission.

1. To what extent have the goals and objectives established by the Commission been achieved?

NAESCO believes that to date the SBC program has made a good start at achieving the goals of the Commission, but the work of providing New Yorkers with a cost-effective portfolio of energy supply and demand options is far from over. We believe that the acquisition of a significant amount of demand reduction through the SBC programs will lower overall energy costs for New York ratepayers and ameliorate New York's energy resource constraints.

2. Should the SBC program continue beyond its current expiration date of June 30, 2006? If so, for what duration should the SBC be extended and at what funding level?

NAESCO believes that the SBC should be extended indefinitely, until there is empirical evidence that the competitive market is supplying New York ratepayers with a cost-effective portfolio of energy supply and demand resources. We recommend that the Commission conduct a market analysis every five years to determine if the competitive market has matured to the point that the SBC is no longer necessary.

3. Have conditions changed since the establishment of the SBC that would necessitate a change in the overall goals and objectives of the SBC? If so, what changes are recommended?

NAESCO observes that the establishment of the SBC was part of the so-called deregulation settlements that were negotiated with the various New York utilities in the late 1990s. At the time, the SBC, along with a number of other aspects of the settlements, was viewed as a transitional measure that would be required for a few years, and would then be made superfluous by a robust competitive market that would supply New York ratepayers with a cost-effective portfolio of energy supply and demand options. Unfortunately, for reasons beyond the control, and even the imagination, of the Commission, the utilities, and the other parties to the settlements, the competitive market has failed to develop according to expectations. Today, only a tiny percentage of the largest customers has access to a competitive market for electricity supply, because competitive suppliers have shown little interest in, or ability to serve, the vast majority of customers.

Even worse, many of the competitive generators that New York was counting on to build new power plants to supply its future electricity needs have gone out of business, leaving financial institutions to try to salvage tens of billions of dollars of their investments. In the wake of this debacle, one of the major premises of the deregulation settlements – that merchant

generators would meet New York's future electricity supply needs without long term utility contracts – has vanished. Today, New York is faced with the prospect of using the good faith and credit of the utilities, and ultimately of the ratepayers, to secure new electricity supplies.

Facing these realities, utilities have once again become the *de facto* managers of the portfolios of supply and demand resources which are required to meet the needs of their customers. And, it is unfortunately once again necessary for the Commission to exercise its oversight of the utilities' portfolio management, using principles of least cost planning. In this new environment, SBC is not just a short-term transitional program, but rather an essential long-term element of New York's energy resource portfolio, the procurer of energy efficiency resources. NAESCO thus suggests that the primary goals of the SBC must now be to firmly establish energy efficiency as a reliable resource equivalent to new energy supply and to procure all cost-effective energy efficiency resources, because New York needs all the cost-effective energy resources it can get.

4. If assuming continuation of the SBC, how should programs be prioritized to meet these goals and objectives?

NAESCO recommends that the Commission prioritize programs based on a long-term plan to acquire all cost-effective energy efficiency resources that builds broad-based ratepayer support because all ratepayers see that they benefit from the acquisition of energy efficiency resources. In the past, the prioritization of utility DSM programs and the SBC program has been a matter of juggling a limited budget while maintaining equity among different classes of ratepayers. NAESCO suggests that the new goals for SBC require that this old prioritization be scrapped, and replaced with a new approach that is based on what we have learned about the marketplace during the last seven years.

First, we must scrap the old notion that the SBC is targeting only the most cost effective energy efficiency resources. The new approach is that we are trying to acquire all energy efficiency resources that are less expensive than new supply resources. Thus, program designers no longer have to balance the incentives provided to large industrial customers, which might produce energy efficiency resources that cost 1x, against incentives provided to residential customers, which produce energy efficiency resources at 2x or 3x. Program designers must now figure out how to get all of the available, cost-effective energy efficiency resources from both the industrial and the residential customers. The program portfolio must be both broad and deep,

that is, it must capture resources from all available customer classes, and it must be comprehensive in its approach, to capture all of the resources available at each customer site.

Second, we must understand that today's electricity and natural gas markets respond much more to the laws of supply and demand than did the regulated markets of ten years ago. If New York lowers demand through the SBC program, it lowers the market price of electricity and the market price of natural gas (since electricity generation is a major consumer of natural gas) for all ratepayers, not just those ratepayers who participate in SBC programs. NYSERDA and the New York ISO have performed a number of studies to try to quantify the value of this effect in New York. Other organizations, including NAESCO, have performed similar studies of New York and other markets. NAESCO recommends that the Commission make a thorough investigation of this effect a part of its deliberations and a quantification of the market effect a finding of fact in this matter.

5. How might SBC programs be adjusted given the Commission's order, issued September 24, 2004, regarding a Renewable Portfolio Standard (Case No. 03-E-0188)?

NAESCO believes that the Renewable Portfolio Standard (RPS) provides a useful precedent for the SBC programs. NAESCO suggests that if the Commission believes that renewable energy is cost-effective in New York, then it must see that energy efficiency is significantly more cost-effective, and create significantly more employment and other economic benefits. Why not then extend the notion of the RPS into an EEPS, or Energy Efficiency Portfolio Standard, and require that utilities procure a portion of their supply portfolio in energy efficiency resources. NAESCO suggests that rather than make the EEPS requirement a fixed percentage of the supply portfolio, that the standard be all cost-effective (cheaper than supply options) energy efficiency resources.

6. In what ways might the current SBC fund collection and allocation process be improved?

NAESCO believes that SBC III funding should be accelerated to ensure that there is no break or gap in the programs between SBC II and SBC III, and to eliminate the need for NYSERDA to cut the incentives for some programs below their optimal level, and thus cut the resources the programs are producing, in order to stretch the available SBC II resources.

7. What specific programs should be eliminated, expanded or created?

If the Commission accepts the goal for the SBC of acquiring all cost-effective energy efficiency resources, then NAESCO suggests that the program design logic on which a number of programs are built must be re-examined. Currently, NYSERDA, like all administrators of SBC-type programs around the country, is in the business of triaging limited budget dollars across a set of programs that can use a lot more money. In this management process, NYSERDA of necessity abandons certain cost-effective energy efficiency resources as too expensive or too hard to reach, just as a battlefield doctor abandons a wounded soldier who could be saved in order to save more soldiers with the limited resources available.

With this logic, incentives for commercial lighting retrofits, for example, are being carefully trimmed in the SBC program, and in programs all around the country, on the theory that the commercial lighting market has been “transformed” and the limited budget dollars can be more effectively spent on other technologies. That means that commercial building owners and tenants know, or else should know, that T12 fluorescent systems are inefficient and should be replaced, and building codes now require T8 fluorescent systems for new buildings. Program incentives are based not on the energy saved by retrofitting what actually exists in the field (old T12 systems), but rather on retrofitting a theoretical baseline of what should exist in the field (standard T8 systems). Meanwhile, program administrators readily admit that as much as 50% of the commercial building lighting market is still T12 technology, and that many of the buildings that are not retrofitted are owned and/or leased by people with little knowledge of energy efficiency and few financial resources to implement energy efficiency retrofits. The lowered incentives are not sufficient to get these people to retrofit their buildings.

Like the battlefield doctor, New York is abandoning a resource that is cost-effective, readily available and that we know how to acquire (because New York has run successful programs in the past), at a time when New York desperately needs new energy resources. NAESCO urges the Commission to re-examine this fundamental aspect of program design logic, and to supply NYSERDA with the mandate and the funding it needs to acquire these energy efficiency resources.

8. How can future SBC funded programs be more responsive to the needs of New York's energy consumers?

9. How can SBC funded programs be marketed more effectively?

NAESCO will comment on these questions together because we think that both questions bear on the same subject. NAESCO believes that the energy efficiency industry needs more market research. We need to understand the emotional or psychographic components of consumer decision-making about energy efficiency investments, because our current knowledge is generally limited to technical and demographic factors. Some of the larger NAESCO member companies perform sophisticated market research, but the results of their studies are proprietary. NAESCO believes that NYSERDA could better target its program offerings to the needs of New Yorkers if it better understood all of the factors that motivate New Yorkers to invest in energy efficiency.

10. In what ways can NYSERDA improve its administration of the SBC?

NAESCO companies participate in a number of SBC programs, and NAESCO is represented on the SBC Advisory Group, so we are familiar with NYSERDA administration. As a national organization, NAESCO also knows a number of other DSM and SBC program administrators – utility, public agency and third party. Typical of many interested parties in programs like SBC, NAESCO and its members wish that NYSERDA could make decisions faster, and that all the decisions it makes could be favorable to our interests.

However, we live in the real world, and in that real world we realize, and we urge the Commission to realize, that NYSERDA is a model for energy efficiency program administration. Its administrative costs are low. It methodically grinds out the kind of incremental modifications that continually improve programs with minimum disruption. And unlike many administrators, NYSERDA works cooperatively with interested parties. The SBC Advisory Group structure is now being copied in other states, because it facilitates the constructive involvement of the full range of parties interested in the SBC program. NAESCO's particular experience was that NYSERDA listened when the ESCO industry said that the standard performance contract program needed some adjustments. NYSERDA implemented some, but not all, of our suggestions, and turned a struggling first-year performance contracting program into a major success from the second year to the present.

Going forward, NAESCO urges that the Commission and NYSERDA try to coordinate the SBC programs with energy efficiency programs offered by NYPA and LIPA. Programs are currently not coordinated and are actually competitive in addressing the needs of state facilities.

Coordinating the programs should, of course, involve the participation of all stakeholders, through the extension of the scope of the SBC Advisory Group.

11. Is the current NYSERDA program evaluation process adequate? How might it be improved?

NAESCO believes that the current NYSERDA evaluation process is thorough and provides a reasonable look at the wide variety of programs that NYSERDA operates. We think it might be improved in two ways. First, it should produce a definitive calculation of the value of the energy efficiency to the whole population of ratepayers, as discussed in our comment to Question #4 above. Second, it should strive to better quantify the results of market transformation programs, such as improved appliance efficiencies and improved building codes. This quantification will be critical as energy efficiency becomes an increasingly important component of the energy resource portfolio in New York.

12. Should SBC funds be extended to programs that encompass research and development into retail and/or wholesale market competitiveness issues, or transmission and/or distribution of the State's energy resources?

NAESCO is uncertain exactly what the Commission means by research and development on market competitiveness issues. It is not clear to NAESCO what a modest investment of SBC funds would accomplish that tens of billions of dollars of private investment in competitive market development has failed to accomplish. As for investing in transmission and distribution studies, a modest investment may be warranted to identify transmission bottlenecks and quantify their cost, assuming the NYISO is not doing the same research. NAESCO would be very leery of investing SBC funds in basic research in new technologies. Such research, we believe, is better funded by a national research organization like EPRI that can spread the costs over a national base of utilities.

13. Should the scope of the SBC program be expanded to include programs for natural gas customers?

NAESCO believes that the SBC program should be expanded to include natural gas, with the same guiding principle we suggest for electricity: New York should acquire all of the cost-effective natural gas energy efficiency that it can. The economic case for natural gas efficiency programs benefiting all ratepayers is even more compelling today than for electricity, given the

current and projected price volatility and bleak supply outlook for natural gas. The expanded SBC program should include a full range of offerings to capture the resources available in all customer classes, and should be funded at a level to enable the program to capture those resources within a reasonable (5-10 year) timeframe.

The natural gas SBC program should be co-terminus with the electricity SBC program and should be administered by NYSERDA. Gas and electric programs should be coordinated so that customers can implement energy efficiency for both energy sources in a single project. Program designers should be aware of the fact that the largest potential natural gas programs may in fact be electricity energy efficiency improvements, because these improvements lower the demand for natural gas used to generate electricity.

In conclusion, NAESCO appreciates the opportunity extended by the Commission to offer these comments, and stands ready to work with the Commission and other interested parties to extend and improve the SBC program.

Submitted by the National Association of Energy Service Companies by:

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