CASE 07-M-0548 – EPS PROCEEDING
NAESCO RESPONSES TO STAFF'S QUESTIONS TO THE PARTIES

The National Association of Energy Service Companies (NAESCO) appreciates the opportunity to provide comments to the New York Department of Public Service Staff as they develop their proposal for the implementation of the Efficiency Performance Standard (EPS) for New York's investor-owned utilities.

NAESCO's current membership of about 85 organizations includes firms involved in the design, manufacture, financing and installation of energy efficiency and renewable energy equipment and the provision of energy efficiency and renewable energy services in the private and public sectors. NAESCO members deliver about $4 billion of energy efficiency and renewable energy projects each year. 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/Tour Andover. 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 several utilities that have a strong presence in the New York Market including of ConEdison, Pepco Energy Services, Constellation, PP&L and Direct Energy. Prominent national and regional independent members include Custom Energy, DMJM Harris, NORESCO, Onsite Energy, EnergySolve, Ameresco, UCONS, Chevron Energy Solutions, Synergy Companies, Wendel Energy Services, WESCO and Energy Systems Group. NAESCO member companies have delivered energy efficiency projects to New York institutional, government, industrial, commercial and residential customers for the past twenty years and have delivered demand response, retail commodity energy supply including green power products, and renewables since the transition in the New York market to retail competition in the late 1990s

NAESCO currently serves on the New York System Benefits Charge Advisory Group, the Program Advisory Groups for the California utility energy efficiency programs, the Energy Efficiency Task Force of the Western Governors Alliance, and the Leadership Group of the National Action Plan for Energy Efficiency. This experience gives us a basis for answering some of the Staff's questions, but we do not have the expertise required to provide useful answers to all of the questions. These comments will therefore focus on those areas where we feel we have the institutional expertise to provide value.

Summary of Comments

NAESCO's comments are summarized as follows:

Q1) One market segment with significant untapped energy efficiency potential is large commercial office buildings. The Commission should target this segment with an approach that combines mandatory benchmarking, incentives, time-of-use rates and, if necessary, mandatory measures.

Q2-Q3) The Commission should set goals for both electricity and natural gas programs that mandate program administrators (NYSERDA and utilities) to acquire all cost-effective energy efficiency.

Q2-Q3) Goals should be set for administrators to achieve certain levels of energy and demand reduction, not for particular programs or technologies. Program administrators should have flexibility to develop and administer portfolios of programs that meet the approved goals, within the guidelines for cost-effectiveness established by the Commission, and with the advice and approval of stakeholder Advisory Groups that report to the Commission.

Q12) Program portfolios should include the full range of energy efficiency technologies and demand response technologies, including distributed generation (DG) and combined heat and power (CHP). Technologies should be bundled for the ease of consumers to acquire and implement these technologies as part of a comprehensive change in their energy management practices, rather than operated as separate programs, even though different technologies may have different types and levels of incentives.

Q13) Administrators should offer combined gas and electric programs to all classes of customers to minimize program administration and transaction costs and to present a coherent set of options to each customer.

Q15) Electric and gas utilities should have the option of administering programs that are complementary to the Energy $mart program portfolio. Utility programs should be developed by a collaborative process, similar to the process that the Commission mandated in the 2005 ConEd rate case.

Q16) NAESCO believes that the Commission should work with the New York state university and community college systems to try to significantly increase the training and education of energy efficiency and renewable energy engineers and technicians. There is an acute industry need for well trained engineers and technicians and working to accelerate educational opportunities leading to significant new job creation opportunities seems to be a very useful role for a public agency.

Q17) Utilities should be allowed to earn a profit or incentive for administering successful programs; incentive levels should be set to push utilities to implement all cost-effective energy efficiency before other supply options.

Q21) NYSERDA has developed one of the most successful portfolio of energy efficiency programs in the country, which has consistently delivered very excellent cost/benefit ratios, effectively leveraging System Benefit Charge funds for all rate payers. Therefore, the NYSERDA Energy $mart portfolio of programs should remain essentially intact and administered by NYSERDA. Program modifications should be incremental, proposed by NYSERDA, and reviewed and approved by the Advisory Group, subsequent to this proceeding.

Q25) Funding for electric and gas utility programs should be sufficient to allow them, in combination with the NYSERDA Energy $mart programs to acquire all cost-effective energy efficiency resources in their service territories. Funding for utility energy efficiency programs should come from the sources utilities normally use to procure energy supply, not from additions to the System Benefit Charge.

Discussion

Q1) One market segment with significant untapped energy efficiency potential is large commercial office buildings. The Commission should target this segment with an approach that combines mandatory benchmarking, incentives, time-of-use rates and, if necessary, mandatory measures.

The large commercial office building market segment has significant potential for energy savings. During the past decade, many of the major players in the energy efficiency arena, including utilities, NYSERDA, ESCOs and the US EPA, have tried unsuccessfully to make inroads into the market. The owners of the buildings, often represented in public forums by the

Building Owners and Managers Association (BOMA), maintain that they cannot make investments in energy efficiency with paybacks longer than 1-2 years, because longer term investments interfere with their ability to quickly resell or refinance buildings. NAESCO suggests, therefore, that the Commission needs to use all of the tools at its disposal to break through this barrier, including, if all else fails, setting mandatory energy efficiency standards. The lesson from Europe seems to be that only mandatory energy reductions tied to carbon reduction laws and regulations, stimulate large commercial buildings to make significant energy use reductions.

Q2-Q3) The Commission should set goals for both electricity and natural gas programs that mandate program administrators (NYSERDA and utilities) to acquire all cost-effective energy efficiency.

NAESCO thinks that the way for New York to achieve the "15 by 15" goal is for the Commission to set goals that are significantly higher than currently exist and which send an unequivocal message to program administrators (NYSERDA and utilities) that the energy efficiency paradigm has changed. NAESCO suggests that the goal be set so that utilities are mandated to acquire all cost-effective energy efficiency. We leave to more expert parties the establishment of the precise tests for cost-effectiveness. But we suggest that the goal of "all cost-effective energy efficiency" removes the arbitrary "rationing" that has limited energy efficiency to a designated amount of MW or MWH, or a maximum budget, for the entire history of DSM programs. We believe that the removal of these limits will be necessary if the state is to achieve the "15 by 15" goal.

Q2-Q3) Goals should be set for administrators to achieve certain levels of energy and demand reduction, not for particular programs or technologies. Program administrators should have flexibility to develop and administer portfolios of programs that meet the approved goals, within the guidelines for cost-effectiveness established by the Commission, and with the advice and approval of stakeholder Advisory Groups that report to the Commission.

NAESCO further suggests that once the Commission establishes the overall energy efficiency goals, that it not try to micro-manage the program portfolios of the various administrators. The universe of statewide programs will be too varied, and the market will continue to change and evolve at a pace that virtually precludes short-term micro management of the program portfolios by the Commission. Rather, it should set short and long-term targets for each administrator, and allow each administrator to establish its own portfolio through a stakeholder process, and then approve that portfolio, providing it meets the Commission's targets. The Commission should then hold the administrators responsible for the attainment of their targets through regular performance reviews, with the explicit understanding that if an administrator does not meet its targets, the Commission will replace the administrator.

The California utility-administered energy efficiency programs were initially caught in a negative cycle in which the California Public Utilities Commission engaged in continuous tinkering with program design. The programs were revised before there was time to generate results from which to draw analytically solid conclusions. When that micro-management cycle was broken and the CPUC, in response to the concern of the utilities and the third-party stakeholders, began to take a longer term perspective in measuring program metrics, the amount of energy savings generated from these programs expanded significantly. There is no question that the Commission needs to measure performance and shift resources across programs as necessary. However, based on the California experience, NAESCO suggests that the programs be allowed to run for a sufficient amount of time to generate meaningful results before changes are instituted and programs redesigned.

Q12) Program portfolios should include the full range of energy efficiency technologies and demand response technologies, including distributed generation (DG) and combined heat and power (CHP). Technologies should be bundled for the ease of consumers to acquire and implement these technologies as part of a comprehensive change in their energy management practices, rather than operated as separate programs, even though different technologies may have different types and levels of incentives.

NAESCO suggests that program portfolios contain the full range of technologies that save energy and optimize the utilization of gas and electric system resources. Demand response and DG/CHP programs are critical parts of these program portfolios. NAESCO suggests that the realization of the full potential of DG/CHP will require the Commission to revisit the DG/CHP rate cases that were decided a few years ago. We understand that is not a pleasant prospect for any of the interested parties, but we observe that the present standby rate structure is a major barrier to the development of the full potential of DG/CHP in New York.

For demand response programs, incentives should continue to support the highly successful programs administered by the NYISO as well as new distribution level programs that are being developed by some utilities. The current mix of demand response incentives offered by NYSERDA in the Con Edison territory has proven to be an effective strategy for supporting investment in demand response. Program enhancements should include, but not be limited to, funds to support R&D and applications of advanced direct load control technologies as well as additional funds to support replacement and/or retrofitting of older diesel engineers to meet the new US EPA New Source Performance Standard emissions levels.

NAESCO further suggests that the program administrator be charged with packaging the full range of programs, technologies and incentives applicable to a particular customer into a single bundle, to simplify customer decision-making and to maximize the energy efficiency resources that are realized from each customer. This does not mean homogenizing the various incentives, rather it means doing the accounting of the applicable incentives internal to the program, rather than forcing the customer to deal with a number of different programs and program administrators to piece together the incentive package.

Q13) Administrators should offer combined gas and electric programs to all classes of customers to minimize program administration and transaction costs and to present a coherent set of options to each customer.

NAESCO suggests that, as a general rule, program administrators should bundle the full spectrum of gas and electric energy efficiency and demand response technologies for presentation to a customer, as noted above. There may be some logical exceptions to this bundling, such as, for example, industrial customers for whom a bundled offering might be more confusing that helpful. But for the vast majority of customers, bundling electric and gas offerings will reduce program administration and project transaction costs, -- simplify implementation for customers, and generate interest by an expanded base of customers who might otherwise decline to participate because of the perceived complexity of the different program options and the lack of technological or analytical resources to analyze how the incentives for the different options would affect their all in rates. The precedents for this kind of multi-utility bundling go back to the statewide Mass-Save program in Massachusetts in the early 1980s. As noted above, NAESCO understands that bundling would involve blending incentive streams that have different parameters. But we believe that is a back-room accounting function that should be handled by program administrators.

Q15) Electric and gas utilities should have the option of administering programs that are complementary to the Energy $mart program portfolio. Utility programs should be developed by a collaborative process, similar to the process that the Commission mandated in the 2005 ConEd rate case.

NAESCO thinks that electric and gas utilities should have the option of offering energy efficiency and demand response programs to their customers. We do not make this suggestion because we are dissatisfied with NYSERDA program administration (see below), but rather because we think that the achievement of the "15 by 15" goal will require more administrative resources, and more innovative program approaches, than a single organization, no matter how dedicated and competent, can reasonably be expected to muster. We urge the Commission, however, to be very careful in entertaining program proposals from the utilities. NAESCO thinks that the roles of the utilities is to complement, not replace, the Energy $mart programs administered by NYSERDA. It is absolutely essential that programs remain as uniform as possible statewide. We suggest, for example, that the utilities should look for opportunities to use their "competitive advantages" such as detailed customer knowledge, to create and deliver bundled offerings that are tailored to their customers and that extend the reach of energy efficiency programs into underdeveloped market segments, like large commercial buildings.

NAESCO is not, however, advocating that utilities go back into the business of delivering energy services directly to customers, as some utilities did in the early 1990s. There is a robust competitive marketplace of private companies in New York that utilities can use to provide all of the services that they will need, just as NYSERDA, NYPA and LIPA have successfully used this private marketplace. These private companies have a history of delivering services more economically than utilities, which is the primary reason that utilities got out of the business. The "15 by 15" initiative should not be used as a vehicle for trying to revive or re-create an outmoded service delivery model.

Q16) NAESCO believes that the Commission should work with the New York state university and community college systems to try to significantly increase the training and education of energy efficiency and renewable energy engineers and technicians. There is an acute industry need for well trained engineers and technicians and working to accelerate educational opportunities leading to significant new job creation opportunities seems to be a very useful role for a public agency.

Utilities, energy service companies and large customers all know that the shortage of energy engineers and technicians is impeding the potential growth of energy efficiency programs. This shortage is not unique to New York; it is a national, even an international, problem. The significant job opportunities arising from this shortage may not be well known to the New York state university and community college system officials who design programs of study at their institutions. NAESCO urges the Commission to undertake a systematic effort to encourage the university and community college systems to expand their energy engineering and technical training programs, utilizing dedicated federal training funds that may soon become available (Clinton-Sanders Amendment).

Q17) Utilities should be allowed to earn a profit or incentive for administering successful programs; incentive levels should be set to push utilities to implement cost-effective energy efficiency before other supply options.

NAESCO believes that utilities must be allowed to earn a fair profit on their administration of energy efficiency and demand response programs, because they are businesses that do not engage in substantial, long-term programs unless they can make a profit. NAESCO suggests that the potential for profit be entirely performance-based and related to meeting Commission energy savings targets, not program activity levels. Utilities should be able to recover their reasonable program costs, plus earn a profit that is slightly higher than the profit they could earn from the sales of energy that their programs save. Utilities should also be at risk for a percentage of program costs if the programs do not meet the Commission's savings targets. NAESCO further thinks that "de-coupling" utility profitability from kWh or therm throughput, which is the subject of another Commission proceeding, is an essential component of providing utilities the proper incentives to administer energy efficiency programs.

Q21) NYSERDA has developed one of the most successful portfolios of energy efficiency programs in the country, which has consistently delivered exceptional benefit/cost ratios, effectively leveraging System Benefit Charge funds for all rate payers. Therefore, the NYSERDA Energy $mart portfolio of programs should remain essentially intact and administered by NYSERDA. Program modifications should be incremental, proposed by NYSERDA, and reviewed and approved by the Advisory Group, subsequent to this proceeding.

NAESCO believes, based on two decades of experience with energy efficiency program administration, that NYSERDA is perhaps the best program administrator in the country. Its staff is technically competent; its administrative costs are very low; and, its program Evaluation, Monitoring and Verification processes are thorough, sensible and utilize some of the most expert consultants available. NAESCO members, like other stakeholders in the NYSERDA programs, are sometimes frustrated with the pace at which NYSERDA processes projects or makes necessary program changes. But we are impressed that NYSERDA always listens to its stakeholders and has no other agenda than to continually improve its programs.

With that said, we think that there can and should be changes made to the Energy $mart program portfolio, but these changes should be made utilizing the process we outlined above: the Commission sets aggressive energy savings targets; NYSERDA meets with its stakeholders (the longstanding Program Advisory Group) to determine what program changes are required to achieve the targets; and, the Commission reviews and approves the resulting program plan. We urge the Commission not to contemplate wholesale or radical changes to the Energy $mart portfolio, no matter how attractive these changes may seem in theory. Energy efficiency programs are relatively complex and fragile constructs. It has taken years of concerted effort by NYSERDA and all program stakeholders to achieve the momentum and level of success that Energy $mart programs enjoy. We therefore believe that program changes should be incremental and gradual. We do not think that "15 by 15" initiative will be well served by disruptive changes to the program portfolio, which will reduce the current level of production significantly.

Q25) Funding for electric and gas utility programs should be sufficient to allow them, in combination with the NYSERDA Energy $mart programs to acquire all cost-effective energy efficiency resources in their service territories. Funding for utility energy

efficiency programs should come from the sources utilities normally use to procure energy supply, not from additions to the System Benefit Charge.

If the Commission accepts NAESCO's, and we hope other parties', suggestion that an appropriate goal is the acquisition of all cost effective energy efficiency, then the Commission must allow the program administrators to access to the funding necessary to achieve that goal. The necessary funding levels should be determined by the program administrators and their stakeholder groups, and reviewed and approved by Staff and the Commission. NAESCO cautions that programs in other states with ambitious goals, like Texas, have been hamstrung when their regulatory Commissions refused, for extraneous reasons, to approve the funding that virtually all parties agreed was necessary to achieve the goals. We believe that the Commission should direct that funding over and above the current level of SBC funds not be collected as additional rate surcharges, but rather should be collected from the sources that utilities use to finance energy procurement. This may involve the amortization of program costs over the useful life of the resources, just as other utility assets are amortized over their useful life rather than expensed. The purpose of the "15 by 15" initiative is not to add costs to customer bills, but rather to substitute less expensive and more reliable energy efficiency resources, appropriately financed, for more expensive and less reliable generation resources.

Conclusion

NAESCO hopes that these comments are useful to Staff as they consider how to assemble the proposed EPS program. NAESCO looks forward to working with Staff and with other stakeholders in this proceeding to develop an effective and economical EPS program for New York.

Respectfully submitted by,

Donald Gilligan
President, NAESCO
1615 M. Street, NW
Washington, DC 20036
781-793-0250
donaldgilligan@comcast.net