

**DOCKETED**

<b>Docket Number:</b>	18-AAER-05
<b>Project Title:</b>	Commercial and Industrial Air Compressors
<b>TN #:</b>	227640
<b>Document Title:</b>	Order Denying the Petition for Rulemaking Hearing
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**STATE OF CALIFORNIA**

**STATE ENERGY RESOURCES  
CONSERVATION AND DEVELOPMENT COMMISSION**

***IN THE MATTER OF:***

***ATLAS COPCO NORTH AMERICA  
AND QUINCY COMPRESSORS***

***PETITION FOR RULEMAKING  
HEARING***

**Docket No. 18-AAER-05**

**ORDER DENYING THE PETITION  
FOR RULEMAKING HEARING**

**I. INTRODUCTION AND PROCEDURAL HISTORY**

On January 9, 2019, at a public hearing, the California Energy Commission (Commission) adopted efficiency standards and reporting requirements for commercial and industrial air compressors (air compressors).

On February 1, 2019, after the public comment period closed and the Commission had adopted the regulations, legal counsel for Atlas Copco North America and Quincy Compressors submitted a proposed regulatory advisory to the air compressors docket.

On March 6, 2019, Atlas Copco North America and Quincy Compressors filed a petition requesting that the Commission initiate a rulemaking hearing under California Code of Regulations, title 20, section 1221 and Government Code section 11340.6, for the purpose of amending or repealing the efficiency standards and reporting requirements for air compressors. Specifically, the petition requested that the Commission change the adopted regulatory language to allow Petitioners to:

1) Rely on previously conducted test results to certify compliance with California's efficiency standards: (1) regardless of the date of the test, (2) even if the testing occurred prior to lab approval by the Commission, and (3) even if the testing was conducted before the federal test method was approved by the Department of Energy (DOE). (Exhibit 1 to the petition.)

2) Rely on test results from a single machine to certify compliance with California's commercial and industrial air compressor efficiency standards. (Exhibit 1 to the petition.)

3) Use test results based upon the ISO1217- 2009 test method to certify compliance with California's efficiency standards. (Exhibit 1 to the petition.)

On March 13, 2019, the Commission's Executive Director certified that the petition was complete and contained the informational requirements of CCR title 20, section 1221.

On April 5, 2019, Commission Staff filed a response to the petition recommending denial of the petition because changes to the adopted regulatory language are not necessary. According to the staff recommendation, no ambiguities exist regarding the use of results from DOE compliant tests to certify models into the Commission's database, the use of test results generated prior to laboratory approval, or the number of machines that need to be tested.

On April 10, 2019, the Commission held a hearing to consider the petition.

## **II. FINDINGS**

Based on the record, the Commission finds that:

1) Public Resources Code section 25218 empowers the Commission to adopt any rule or regulation, or take any action it deems reasonable and necessary to carry out its statutory duty. Public Resources Code section 25402 authorizes the Commission to adopt technologically feasible and cost effective regulations that will reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy for appliances that require a significant amount of energy. Thus, the Commission has the authority to initiate a rulemaking amending or repealing previously adopted regulatory language, as requested in the petition.

2) On January 9, 2019, the Commission adopted efficiency standards and reporting requirements for commercial and industrial air compressors.

3) The Commission adopts, amends, or repeals regulations, which implement, interpret or make specific any provision of Division 15 of the Public Resources Code or any other statute enforced or administered by the Commission. (Cal. Code Regs., tit. 20, section 1220.) In this case, the Commission implemented and made specific its appliance efficiency mandate under Public Resources Code section 25402.

4) The Commission determined whether the adopted regulatory language contains ambiguities, whether there has been a change in law, or whether the regulatory language has become obsolete, to warrant the amendment or repeal of the regulatory language related to air compressors. We do not find such conditions and agree with Staff that initiating a rulemaking to amend or repeal the regulatory language related to testing and certification of air compressors is not necessary. (Staff Memo, p.5.)

5) The Commission's adopted language does not prohibit manufacturers from using test results to certify an appliance to the Commission's database, whether those tests were performed prior to or after the test lab was approved, or whether the test was performed

prior to the DOE's approval of the test method, as long as the tests were performed according to the test procedure. . (Staff Memo, p.4.)

6) The Commission's adopted language does not require more than a single unit to be tested for certification purposes. Moreover, the Commission's adopted language did not include the DOE's sampling requirements for air compressors. (Staff Memo. pp. 3-4.)

7) The Commission's adopted language does not prohibit manufacturers from certifying that their historical ISO 1217:2009 test data is in accordance with the test procedure in CCR, title 20, section 1604 (i.e., the DOE test procedure).<sup>1</sup> Federal law preempts the Commission from accepting test results from a test procedure inconsistent with the DOE test procedure.<sup>2</sup> (Staff Memo, p. 3.)

### **III. CONCLUSION AND ORDER**

For the reasons stated above, the Petition is hereby DENIED.

**IT IS SO ORDERED.**

### **CERTIFICATION**

The undersigned Secretariat to the Commission does hereby certify that the foregoing is a full, true, and correct copy of an Order duly and regularly adopted at a meeting of the California Energy Commission held on April 10, 2019.

AYE: Hochschild, Scott, Douglas, McAllister  
NAY: None  
ABSENT: None  
ABSTAIN: None

Original Signed by:

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Cody Goldthrite  
Secretariat

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<sup>1</sup> Transcript of Energy Commission January 9, 2019, Business Meeting, p. 31.

<sup>2</sup> United States Code, title 42, section 6297(a).