



# California Municipal Utilities Association

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July 18, 2014

California Energy Commission  
Re: Docket No. 14-EUDP-01  
1516 Ninth Street  
Sacramento, CA 95814

California Energy Commission

**DOCKETED**

**14-EUDP-01**

TN 73437

JUL 18 2014

**Re: Comments on Nonresidential Building Energy Use Disclosure Program or AB 1103 program**

Thank you for the opportunity to provide these comments following the July 2 workshop at the California Energy Commission (CEC) on barriers, challenges, and experiences from the CEC's Nonresidential Building Energy Use Disclosure Program (AB 1103 program).

As you are aware, the California Municipal Utilities Association (CMUA) represents the vast majority of California's consumer-owned utilities and represents its members' interests on both energy and water issues. Our members are committed to local economic development – including job creation – and have an excellent track record in providing reliable electricity at low rates to their customers. CMUA members have also demonstrated leadership on environmental initiatives including, reducing the impacts of climate change, meeting the State's 33 percent Renewables Portfolio Standard by 2020, expanding energy-efficiency programs, and advancing the development of electric vehicle charging stations.

As CMUA mentioned at the AB 1103 Program workshop, uploading data to the U.S. EPA ENERGY STAR® Portfolio Manager causes major concerns regarding privacy and security issues. Furthermore, in regard to developing a statewide web-based tool for transferring building energy use data, we urge caution due to significant differences among utilities and we support including all of our local utilities in evaluating possible solutions.

As we understand the program today, many of our members provide 12 months of historical energy use to their customers on request. One of our large utility members, Sacramento Municipal Utility District, developed a very robust web-based reporting system that can continually update energy use data monthly (based on building size and as directed by their customer). Typically, our medium and smaller sized electric utilities provide 12 months of energy usage information, upon request, directly to the

customer through an Excel spreadsheet, primarily due to the agency resources that are available, cost of developing a new data transfer tool, and data privacy/security issues.

CMUA believes that reasonable options exist to ensure the security of customer energy use data and suggests that the CEC clarify data privacy issues. Currently, there is an apparent conflict between the AB 1103 regulations and Government Code section 6254.16, which creates uncertainty regarding the disclosure of customer usage data.

**Government Code section 6254.16 states:**

Nothing in this chapter shall be construed to require the disclosure of the name, credit history, utility usage data, home address, or telephone number of utility customers of local agencies, except that disclosure of name, utility usage data, and the home address of utility customers of local agencies shall be made available upon request as follows:

- (a) To an agent or authorized family member of the person to whom the information pertains.
- (b) To an officer or employee of another governmental agency when necessary for the performance of its official duties.
- (c) Upon court order or the request of a law enforcement agency relative to an ongoing investigation.
- (d) Upon determination by the local agency that the utility customer who is the subject of the request has used utility services in a manner inconsistent with applicable local utility usage policies.
- (e) Upon determination by the local agency that the utility customer who is the subject of the request is an elected or appointed official with authority to determine the utility usage policies of the local agency, provided that the home address of an appointed official shall not be disclosed without his or her consent.
- (f) Upon determination by the local agency that the public interest in disclosure of the information clearly outweighs the public interest in nondisclosure.

On its face, Section 6254.16 appears to prevent a public agency's disclosure of customer utility usage data, even when such disclosure is requested by a non-customer building owner pursuant to the AB 1103 regulations and the customer information is uploaded to EPA's portfolio manager. Admittedly, section 6254.16 provides an exception to disclosure "to an officer or employee of another government agency when necessary for the performance of its official duties." Arguably, however, this exception may not be entirely on point or applicable given that the initial disclosure request is made by the building owner, and not a government officer or employee.

We ask that the CEC provide clarification on this issue. Perhaps, clarification could be made to section 1684(b) which currently provides "if a building has a utility or energy provider account for which the owner is not the customer of record, the utility or energy provider shall aggregate or use other means to reasonably protect the confidentiality of the customer." One suggestion is a revision of 1684(b) to provide for release of only the

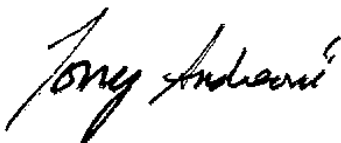
final building scores, without detailed energy usage data, in cases where aggregation is not sufficient or feasible.

In addition, the CEC may consider developing a written consent template from the tenant – customer, similar to what is provided through Proposition 39, but that somehow recognizes the requirement to provide data per AB 1103. This would not be unprecedented given that many of our members have worked closely with CEC’s Proposition 39 staff in developing a general data privacy form. Furthermore, many of our members have their own energy use data release authorization form that could be used for AB 1103 data release, possibly modified to reflect the requirement to provide data per AB 1103. We recognize that it is difficult to balance the data release requirements and customer consent protocols in the building owner/ building tenant cases.

And finally, the CEC should evaluate the potential for a central, statewide portal for outreach, information, and training for the AB 1103 program. While there are significant and numerous differences among utilities regarding data protocols, structures, and interaction capabilities, centralized training and outreach seems cost-effective. It may be appropriate to consider at some point developing this into a web-based statewide energy database that provides reliable security and displays only aggregate building data, but the differences among utility systems make this less likely to reduce overall costs.

We look forward to continued dialog and contributing to the analysis needed to help the State in modifying the AB 1103 program. Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Tony Andreoni". The signature is written in a cursive, flowing style.

Tony Andreoni, P.E.  
Director of Regulatory Affairs

cc: Dave Ashuckian, Deputy Director