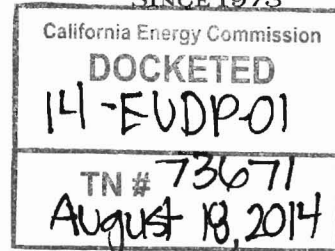




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DONALD R. STEPHENS
LANE B. STEPHENS

August 13, 2014

To Whom It May Concern:

The purpose of this letter is to document the issues we have encountered in our attempts to comply with the Energy Commission regulations found at California Code of Regulations, title 20, sections 1680 through 1684 (“Regulations”). These regulations were meant to implement, interpret, and make specific Assembly bill 1103 (Stats. 2007, Chapter 533) as amended by AB531 (Stats. 2009, Chapter 323), which is codified at Public Resources Code section 25402.10 (Statute). They require an owner of a non-residential building to benchmark the building’s energy use data and disclose this data prior to the sale, lease or financing of the entire building, using the U.S. Environmental Protection Agency’s (EPA) Energy Star® Portfolio Manager (“Portfolio Manager”) tool. The Portfolio Manager is accessed via the EPA Portfolio Manager website.

We continue to work on benchmarking our buildings but feel it is important that we document the problems we have had in this regard to date.

We own and manage approximately 3.5 million square feet of industrial/R&D/office space in the Bay Area and most of our properties are not exempt building types. When we initially started this process, finding someone to answer our questions was problematic. PG&E provides gas and electricity to the majority of our buildings and we can get energy use history from them if we can give them the address of the building and the meter number of the gas and/or electric meter(s). For questions about the way the website worked (how to complete the forms, what information was expressly required and what information could be estimated, etc.), we had to email someone at Energy Star®. Questions about the actual requirements and options of the

Statute (AB-1103) have to be directed to the California Energy Commission by email. This is incredibly time consuming. Ideally, there would be one source for all implementation questions and the exchange could be done by telephone.

We have had a lot of problems with the website, which inexplicably crashes – always after a significant amount of data has been entered, necessitating starting the process again. In addition, almost every time we logged onto the website, we have had to have a confirmation email sent to us, even though the username and password were never changed. When I finally did get to talk to a person about this, he admitted that they were having trouble with the website.

Other issues we have had are as follows:

- In order for the energy provider to download the usage history (on the website) for a specific building, the meter number is required. This is often difficult to obtain given most of our leases are NNN, so the tenant is responsible for their own utilities and therefore has to provide the meter number to us. Many of our tenants are very private and have concerns about giving us access to their energy use data. This meter number has to be entered into the Portfolio Manager website for each building and then we have to indicate that PG&E (or whoever the provider is) can have access to our building information so that they can download the history. There seems to be a step we are missing as we have on multiple occasions received a response from PG&E stating that we have not “authorized” them to give us the data. It is not clear on the website what step is missing so that PG&E is authorized.
- The Disclosure Report on a building which is generated after all the information is entered and the energy use history has been provided by PG&E expires after 30 days. Our process (of sale and/or lease) generally lasts longer than 30 days. It appears as though the process

has to start all over again. We asked this question of someone at Energy Star® and they agreed that this was the case. However, as stated, we have yet to produce a report.

- After a building has been sold, we cannot delete it from our Portfolio ... ever. It appears you can indicate that the building has been sold but in order to complete this section you need a vast amount of information (name of entity, address, etc.), and the property still cannot be deleted.

So after several months, we have several properties that have their profiles entered, their meter numbers entered, and they have been shared with PG&E. The bad news is that several of these properties have been sold. Do we continue putting energy into properties even though no one has requested this report? Is it sufficient that we offer the past year's energy usage direct from PG&E in lieu of producing a Disclosure Report via Portfolio Manager? Are we required to produce the report on request or do we automatically produce a report when a sale/full lease is eminent? Are we required to produce the report or do we simply give access to the Portfolio Manager for potential purchasers?

These are a few of the questions and frustrations we have up to this point. Please get back to us as soon as possible so we can continue our efforts to comply. Thank you.

Sincerely,



Nicholas W. Stephens
D.R. Stephens & Company