

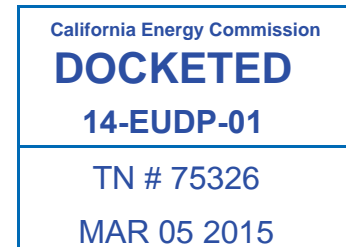


California Municipal Utilities Association

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March 5, 2015

California Energy Commission
Re: Docket No. 14-EUDP-01
1516 Ninth Street
Sacramento, CA 95814-5512



Re: **AB 1103 Program Comments – Nonresidential Building Energy Use Disclosure Program**

Thank you for the opportunity to provide comments following the February 20, 2015, workshop at the California Energy Commission (CEC) on proposed regulatory language amendments to the Nonresidential Building Energy Use Disclosure Program (AB 1103 program). In addition to CMUA's comments, several of CMUA's members will provide comments on the proposed rule amendments.

The California Municipal Utilities Association (CMUA) represents the vast majority of California's consumer-owned utilities and members' interests on both energy and water issues. CMUA members have demonstrated leadership on environmental initiatives including, reducing the impacts of climate change, expanding energy-efficiency programs, and advancing the development of electric vehicle charging stations.

CMUA supports the current Emergency Rule and proposed rule language edits to section 1682(b) eliminating the reporting of building energy use for buildings with a total gross floor area of at least 5,000 square feet (sf) and up to 10,000 sf. We agree with the CEC's rationale to further simplify as the reporting obligations for this sector were forecasted to create significant time and cost impacts to CMUA's members. CMUA also supports the CEC's proposed change whereby a utility may aggregate energy use data for buildings with multiple tenants.

However, as expressed in our July 18, 2014, comment letter, CMUA continues to have concerns with Section 1684, Data Releases, Report regarding privacy and security issues. As currently proposed under section 1684(b), the CEC added language: "Utilities and energy providers shall not require tenant consent to provide energy use data to the building owner or operator." is a violation of California's existing customer privacy requirements as identified in Government Code section 6254.16.¹

For example, if a utility has one tenant in a building and provides the building's usage data without the tenant's consent, then the tenant's privacy has been compromised. CMUA

¹ Reference to Government Code Section 6254.16, & Civil Code Section 1798.98, & PUC Section 8381

recommends the new language highlighted above be stricken. Furthermore, in cases where our members have permission to provide 12-months of energy use data, requiring that the utility upload energy use data into Portfolio Manager is not realistic given the demands and limited technical resources for medium and smaller sized utilities. The potential cost and resource burden placed on some of our members requires additional reporting options to comply with the AB 1103 program.

As we mentioned in our July 18, 2014, comment letter, Government Code section 6254.16 prevents 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 Portfolio Manager. Section 6254.16 provides an exception for disclosure "to an officer or employee of another government agency when necessary for the performance of its official duties." However, this exception is not applicable in this situation given that the initial disclosure request is made by the building owner, and not a government officer or employee.

CMUA also has concerns with revised section 1684(d). The current revision opens the door to additional uses of customer data beyond the use contemplated by Public Resources Code Section 25402.10. All data disclosed pursuant to the regulation should be treated as confidential without further consideration by the CEC as to what it wishes to treat as confidential. To require POUs, or building owners with no desire, to declare that customer information is confidential in order for the CEC to make its determination consistent with section 2505 of Title 20, Division 2, is unreasonable. Existing statutory law clearly recognizes the confidential nature of utility customer information by expressly exempting it from disclosure under the California Public Records Act. The existing provision is correct as a matter of policy – the CEC should treat the data as confidential.

And finally, after hearing the many concerns identified at the CEC's workshop on the need to better inform the property ownership community about the AB 1103 requirements, CMUA continues to recommend that the CEC consider a central statewide portal and an expanded outreach effort for information sharing and training.

We look forward to continued dialog 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, CEC Efficiency Division Deputy Director