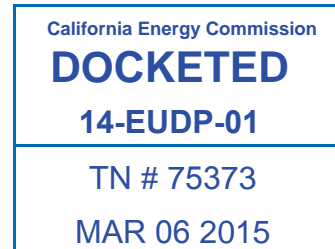




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March 6, 2015

**VIA E-MAIL DOCKET@ENERGY.
CA.GOV**

California Energy Commission
Dockets Office, MS-4
Re: Docket No. 14-EUDP-01
1516 Ninth Street
Sacramento, CA 95814-5512

Re: AB 1103 Draft Regulations: Comments of Pacific Gas and Electric Company

Introduction

Pursuant to the Notice of Staff Workshop dated February 10, 2015 regarding draft regulations implementing Assembly Bill (AB) 1103, Pacific Gas and Electric Company (PG&E) provides its preliminary comments based on the draft regulations presented at the February 20, 2015, public workshop. PG&E will provide further comments as appropriate if the Commission issues a formal notice of proposed rulemaking based on the draft regulations.

PG&E has actively participated in the AB 1103 process since 2009 and has worked diligently to comply with AB 1103's requirements. However, many buildings in PG&E's service territory have so few tenants that individual, private tenant-specific customer energy usage data can be "re-identified" from the energy usage data uploaded for the whole building. Therefore, aggregating customer energy usage data under AB 1103 without disclosing customer confidential information has been difficult.

Some parties have attempted to draw a distinction between disclosure of customer energy usage to "private" entities, such as landlords and building purchasers, versus disclosure of the information to the general "public." However, disclosure of private customer data to another party in a transaction where the customer has not authorized it is disclosure; AB 1103 makes no distinction between disclosure to other "private" parties and general public disclosure.

For these reasons, PG&E recommends that the Commission consider revising its draft regulations before issuing its Notice of Proposed Rulemaking, in order to establish a fact-based threshold for the number of meters that must be aggregated in order for the confidentiality of customer-specific energy usage to be preserved under the proposed revisions to 20 CCR Section 1684(b).

Background

PG&E appreciates the intent of the draft regulations, which is to improve the efficacy of the AB 1103 Nonresidential Energy Use Disclosure Program and address barriers to compliance. To this end, the February 10, 2015, Notice of Staff Workshop referenced the Commission's Ordering Instituting Informational Proceeding (OII) and a July 2, 2014 workshop on the same issues, and the comments received in response to the OII. On July 21, 2014, PG&E submitted its comments on the OII, recommending, in pertinent part that the Commission consider potential empirically supportable solutions for aggregating and anonymizing customer energy usage data that would mitigate the risk of confidential customer-specific data being disclosed to landlords and building owners without the consent of the customers/tenants

PG&E's comments also referenced the evidentiary record and decisions in the California Public Utilities Commission's (CPUC's) Rulemaking 08-12-009, such as CPUC Decision No. 14-05-016 on how to sufficiently aggregate and anonymize customer energy usage data to protect customer privacy. Specifically, CPUC Decision No. 14-05-016 evaluated an extensive record on the risks to customer privacy, and found as a matter of fact that:

For commercial or agricultural customers, data stripped of identifying information and aggregated to a monthly time period and aggregated to the zip code geographic level, where a zip code has 15 or more commercial or agricultural customers and no single customer constitutes more than 15% of total consumption, then that usage data is sufficiently aggregated to prohibit re-identification.¹

The draft regulations issued for public comment prior to the Commission's recent February 10, 2015, public workshop do not reference or evaluate these findings or PG&E's comments regarding the risks to customer privacy in implementing AB 1103 building energy usage disclosure under AB 1103. The draft regulations instead provide for mandatory disclosure of customer and tenant energy usage to building owners and landlords regardless of aggregation or anonymization, and also expand access to such customer-specific data without customer consent to include not only building owners and landlords, but also other third parties including building operators, prospective buyers, prospective lessees, any agent or broker, and the Energy Commission, its staff and potentially any member of the public. (Proposed regulations amending 20 California Code of Regulations 1681(a) and (b); 1683(b); 1684(b); 1684(d).

In Public Resources Code Section 25402.10(b), the Legislature expressly required that PG&E and other energy utilities upload customers' energy consumption data to the US Environmental Protection Agency's ENERGY STAR Portfolio Manager only "in a manner that preserves the confidentiality of the customer." (Public Resources Code Section 25402.10(b).)

¹ CPUC Decision No. 14-05-016, Finding of Fact 17, p. 140, May 1, 2014.
<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M090/K845/90845985.PDF>

The statute provides no authorization that the customers' energy consumption data be shared directly with building owners or any other third parties.

Recommendation

In light of the Legislature's direction on preserving the confidentiality of customers under AB 1103, and based on PG&E's earlier comments in the OII phase of this proceeding, PG&E recommends that the Commission consider revising its draft regulations before issuing its Notice of Proposed Rulemaking, in order to establish a fact-based threshold for the number of meters that must be aggregated in order for the confidentiality of customer-specific energy usage to be preserved under the proposed revisions to 20 CCR Section 1684(b). The Commission's aggregation threshold should take into account the similar fact-based threshold for aggregation and anonymization of customer energy usage data established by the California Public Utilities Commission in Decision No. 14-05-016.

PG&E looks forward to participating and supporting the CEC's next steps on considering proposed revisions to its AB 1103 draft regulations. Please contact me if you have any questions or wish to discuss matters further.

Sincerely,

/s/

Valerie Winn

cc: D. Ashuckian by email (dave.ashuckian@energy.ca.gov)
D. Johnson by email (daniel.johnson@energy.ca.gov)