

May 8, 2012

VIA E-MAIL
DOCKET@ENERGY.CA.GOVCalifornia Energy Commission
Dockets Office, MS 4
Re: Docket Number 12-AB1103-1
1516 Ninth Street
Sacramento, CA 95814-5512Re: AB 1103: Pacific Gas and Electric Company's Comments on the Nonresidential Building
Energy Use Disclosure Program Proposed Regulations**I. INTRODUCTION**

Pacific Gas and Electric Company ("PG&E") appreciates the opportunity to comment on the California Energy Commission's ("CEC") proposed regulations for the Nonresidential Building Energy Use Disclosure Program ("Program"). PG&E's comments include concerns regarding the customer data privacy provisions as well as more specific changes to the language of the proposed regulations.

II. ASSURANCE OF DATA PRIVACY IS NEEDED

PG&E has reviewed the customer data disclosure requirements included in Section 1685 of the proposed regulations and believes the language is improved and intends to protect private customer data from disclosure without the customer's consent. However, PG&E is not yet certain that the privacy protections and data disclosure requirements in Section 1685 completely align with CPUC and State data privacy requirements. For example, the CPUC privacy rules require customer consent before a utility may disclose customer-specific energy usage data to a third-party (including the CEC or a third-party building owner) for a use that is not a "primary use" by the utility.¹ Similarly, the California Information Practices Act restricts the collection of personal information by a state agency without the prior written voluntary consent of the individual.² In addition, when a state agency does collect personal information from individuals, it must provide specific notice to the individuals from whom it is collecting the information.³

¹ CPUC Decision 11-07-056, pp. 47-48

² California Civil Code 1798.24

³ California Civil Code 1798.17

Because the personal information proposed for disclosure under Section 1685 is personal information about the utility's customers, the CEC's regulations must comply with the CPUC privacy rules as well as the California Information Practices Act.

We respectfully suggest that prior to adoption of the regulation, the CEC and the CPUC work together to ensure the proposed regulations are properly aligned with CPUC data privacy requirements and the Information Practices Act. Once these requirements are met, PG&E expects to be able to provide the information required under the regulations and play a role in effectively implementing AB 1103 for all buildings.

PG&E does not believe this issue can be resolved by approaching compliance on a case-by-case basis. This would not prove compatible with the US Environmental Protection Agency's (US EPA) Automated Benchmarking System ("ABS"). Additionally, it is neither in our customers' interest, nor the interest of the program that large numbers of buildings covered by the regulation be handled case-by-case. Further, PG&E believes that self-reporting, or a manual reporting method, is not a viable option for AB 1103 implementation to succeed at scale. If this method were employed, owners would still need to approach their tenants or the utilities for energy use data, which would then be entered manually by the owners: the mutual benefits of ABS would be lost. For example, under ABS building energy data is uploaded each month into the EPA's system, keeping the benchmarking results current at all times while also improving the accuracy of the data, lessening the administrative and cost burden on all concerned, and giving the building owner a constantly updated view of the building's energy performance. Although PG&E believes an "opt-out" provision for ABS should be provided for customers who ask for it, PG&E also believes that a robust ABS is an essential element of full-scale, effective AB 1103 implementation.

III. ADDITIONAL CORRECTIONS

The table below sets forth specific changes to the language of the proposed regulations to ensure consistency with US EPA requirements and maximize the number of buildings captured by the program.

Section	Current Language	Proposed Change	Explanation
Section 1682 (j)	"compares a building's energy use to national averages"	"compares a building's energy use to national medians."	The language should be corrected to reflect the recent change made by US EPA.
Section 1683 (c)	"On or after January 1, 2014, for a building with a total floor area measuring at least 5,000 square feet and	"On or after January 1, 2014, for a building with a total floor area measuring at least 1,000 square feet and	The intent of the regulations is to capture "all buildings." This would be better

	up to 10,000 square feet.”	up to 10,000 square feet.”	served by reducing the square footage minimum. Many buildings under 5,000 square feet are currently eligible for ENERGY STAR scores, and this number is expected to increase. Additionally, many ineligible buildings are currently being benchmarked using Portfolio Manager and the other performance metrics it provides.
Section 1685 (a)(4)	“Provide space use characteristics as specified by Portfolio Manager for the building type, if the type is available.”	“Provide space use characteristics as specified by Portfolio Manager for each space type making up the total building square footage.”	More than one space type can be used to characterize the building. The space type “Other” is available and should be used when a building’s usage cannot be categorized according to the types available in Portfolio Manager.
Section 1685 (a)(5)	“Request all utility and energy provider companies... to release energy usage data...or the owner may manually enter all energy use data”	“Request all utility and energy provider companies... to release energy usage data... and/or the owner may manually enter all energy use data”	Meters within the same building may need to use the manual option while others may not. Having the flexibility to select the most appropriate reporting option will be important to owners.
Section 1685 (b)	“If a building has more than one account, a utility shall aggregate or use other	“If a building has one or more accounts for which the building owner is not the	Removing the stipulation of “more than one account” will ensure that all

	means to reasonable protect each account holder's data"	customer of record, a utility shall aggregate or use other means to reasonable protect each account holder's data"	buildings will be able to comply with the regulation while being assured that their information is protected.
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IV. CONCLUSION

PG&E appreciates the CEC's attention to these issues and continued cooperation throughout the development of this program. Should you have any questions about PG&E's comments, please do not hesitate to contact me.

Sincerely,

/s/

Claire E. Halbrook

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