



## MEMORANDUM

**TO:** Members of the Local Government Sustainable Energy Coalition

**FROM:** Jody London, Regulatory Consultant

**SUBJECT:** Local Government Access to Energy Usage Data

**DATE:** August 2, 2011

Last Thursday the California Public Utilities Commission (“CPUC”) adopted a decision in its Smart Grid Proceeding on customer privacy and energy data (D.08-07-056). The lengthy Decision implements Senate Bill 1476, a 2010 California bill that dictated certain customer protections.<sup>1</sup> The Decision adopts rules regarding privacy and security for energy usage data. It directs the utilities to perform pilot programs that provide customers with real-time price information, and to develop implementation plans for deploying Smart Meter Home Area Networks. The LGSEC, with significant leadership and analysis by Shawn Thompson from the City of Irvine, successfully intervened in this case specifically to get CPUC direction to the utilities to provide customer energy usage data to local governments for use in our energy and climate planning activities. That is the focus of this memo.

The Decision states clearly that local governments should receive energy usage data for what the CPUC considers “primary purposes.” On p. 34, the Decision says:

All entities receiving data for energy efficiency or energy efficiency evaluation purposes pursuant to Commission authorization receive and handle such data under strict controls, either as a result of a specific authorization by the Commission for a governmental entity to perform energy efficiency programs or, in the case of non-governmental entities, in a contract between the Commission and the non-governmental third party. As the statutory language makes clear, **providing access to this information when used for demand response, energy management, or energy efficiency programs by government agencies** and by other third parties under contract with and on behalf of the Commission **qualifies for treatment equal to that given to information used for system, grid or operational activities necessary for the provision of energy services.** Providing usage data to governmental entities that implement energy efficiency programs or evaluate energy efficiency programs authorized and overseen by the Commission and to other third parties carrying out energy efficiency or energy efficiency evaluation programs under contract with and authorized by the Commission **is not a discretionary act for the utility**, and it is not reasonable to

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<sup>1</sup> You can find the Decision online at [Smart Grid Privacy Rules](#)

hold utilities liable for the uses of this data. Therefore, **the utilities have no new liability concerning how this data is used.** (emphasis added)

This language would, in my opinion, govern the work local governments are doing as part of utility partnership programs, because those programs are provided by direction of the CPUC.

The LGSEC also indicated to the CPUC that we want to be able to use energy usage data in developing climate action plans and other sustainability initiatives. There is a section of the Decision dedicated to our issues (pp. 128-129). The most relevant passage makes clear that there is no reason for the utilities to delay providing this data to local governments:

Concerning access to aggregate consumption data by local government, this decision makes it clear that the Commission **can order access to usage data outside of the tariff process** that will be subject of future applications. The Commission currently considers requests from local government for access to usage data on a case-by-case basis, and this decision leaves that current process in place and unchanged .... **the adoption of this decision should not hamper local government access to data.** In particular, the six-month timetable for filing applications with tariffs to make data available via the backhaul **should not affect the availability of data to local governments.** (emphasis added)

At an all-party meeting last month with Commissioner Florio, I asked specifically for guidance on whether local governments are covered by the information flow rules. The Administrative Law Judge assured me that local governments should receive information, in fact we are considered as special entities. His specific words were “you have a special window at the Energy Division” if there is a dispute. In further discussion with Energy Division staff about who we should call, I was advised we should contact Energy Division Director Julie Fitch or Demand Side Programs Branch Manager Jeanne Clinton (Clinton reports to Fitch).

Local governments will be required to abide by the rules established in the Decision about how data is treated and handled. It is not clear to me whether the utilities will have the ability to assess charges on local governments for providing this information; the utilities have fee structures for providing similar data to community choice aggregators. We will have to review the compliance tariffs on this issue when they are submitted in six months.

I encourage those of you who have been working to obtain customer usage data to approach the utilities with this Decision in hand. If the utilities continue to insist that they cannot provide usage data for certain customers, we will certainly contact staff, as directed by the Administrative Law Judge. We also may find it necessary to file a Petition for Clarification, to put the question of data for particular classes of customers for use by local governments squarely before the CPUC. This last step is more timely and costly, so we hope the informal methods will be sufficient.

As always, please contact me with any questions or comments.