



MEMORANDUM

To: LGSEC Members

From: Jody London, Regulatory Consultant

SUBJECT: Energy Commission Activity Regarding Building Energy Use Disclosure

DATE: July 14, 2014

This memo provides a summary of recent actions by the California Energy Commission (“CEC”) regarding implementation of Assembly Bill 1103, Building Energy Use Disclosure. On July 2, the LGSEC participated in a day-long workshop on this topic. On July 3, the CEC issued a notice of emergency suspension for two years of implementation of the requirement for buildings 5,000 - 10,000 square feet to disclose their energy usage. The CEC cites problems with compliance for larger buildings as a reason for the delay. On July 21, the LGSEC will submit written comments to the CEC. The CEC will vote on the emergency suspension on July 22.

Summary of July 3 Workshop

The July 3 workshop included a report from CEC staff on the status of compliance with AB 1103 thus far; presentations from the Cities of Boston, Chicago, San Francisco, and Los Angeles on their work around disclosure of building energy usage; a discussion with realtors and building managers; and a presentation from investor-owned and municipal utilities on their work in this area. The workshop was led by CEC Commissioners Andrew McAllister and Karen Douglas. They were joined on the dais by Brian Stevens, Advisor to CPUC President Peevey. You can see all the materials at [AB 1103](#).

The workshop started with an overview from CEC staff of compliance with the current program. Bottom line: compliance is not great. The CEC is working with the U.S. EPA Energy Star program and Portfolio Manager, which is designed primarily for commercial buildings. The people on the dais expressed interest in smooth implementation and good communication between the utilities (who hold the data) and building owners.

The local government panel featured representatives from Chicago and Boston, both of which have relatively successful building energy use disclosure ordinances, as well as San Francisco and Los Angeles. Barry Hooper from San Francisco pointed out that different size buildings are managed differently, and this can influence how one both obtains the building energy use data, and transmits it to the owner. In response to questions, the representative from Boston said that privacy concerns have not been an issue in Boston. He distinguished

between data about consumption by fuel type, and billing data. Boston is looking only at whole building data, not individual tenant usage. Representatives from the California Building Industries Association expressed strong interest in figuring out how to provide building energy usage information; they see it as a great tool to show value in building upgrades. PG&E's lawyer pushed back on the question of how many accounts must be aggregated; the presentations thus far had shown other cities requiring between 2 and 5 accounts, much lower than PG&E desires and the CPUC required in its recent decision on energy usage data in certain situations (D.14-05-016).

Throughout the day, local government representatives expressed support for the CEC's work to implement AB 1103, and encouraged the CEC's focus on customers. We urged the CEC to establish a statewide platform that could be used by all local governments, such that data can be compared and implementation costs can be mitigated through economies of scale.

Speakers on the building owners and realtors panel all agreed they would like to have better access to building energy usage data. They reported it is easier to obtain building usage data in some utility service territories than others. In particular, the data release form some of the utilities require is intimidating to tenants. Some of the speakers suggested that a change is needed in State legislation to the current requirement that every building must comply because this is not proving to be feasible. Asked about alternatives to a legislative solution, one speaker suggested that the focus could move to implementation of [AB 758](#), which requires the CEC to develop a comprehensive program to increase energy efficiency in existing buildings. One speaker also noted the challenge in multi-tenant buildings of the split incentive, where owners are not motivated to invest in efficiency, even though tenants may be.

The final panel of the day was the investor-owned and municipal utilities. The Sacramento Municipal Utility District ("SMUD") opened with a positive report on its ability to provide energy usage data to customers. As the discussion moved to the investor-owned utilities ("IOUs"), questions came from the CPUC and CEC decision makers about why the IOUs are so wed to the "15/15" rule for releasing data, when other cities across the country and even other utilities in California are able to release data aggregated at much lower levels. PG&E's lawyer dominated this discussion, arguing that customer privacy concerns trump in this regard. It was clear that IOU resistance is a major barrier to getting the data.

It is worth noting that PG&E actually provides usage data to a large number of its customers. Upon questioning, it became clear that those are mainly buildings with one or two tenants from whom it is relatively easy to obtain the data release forms, they are not large commercial buildings with multiple tenants. There is definite interest from the policy makers for a Statewide database. It looks like the CEC will continue to work with EPA Portfolio Manager, and heard the need for a help desk function.

Next Steps

As indicated above, the CEC will vote July 22 on whether to suspend implementation of AB 1103 for buildings between 5,000 and 10,000 square feet, citing compliance barriers.

July 21 is the deadline for submitting comments both on the suspension and on the more general issues associated with AB 1103. The LGSEC is developing comments; a draft will be available early this week. Please let me know if you'd like to be involved in reviewing it. And of course, please contact me with any questions or comments. If you would like to see my unedited notes from the day, please let me know.