

**BEFORE THE CALIFORNIA ENERGY COMMISSION**

In the matter of:  
Nonresidential Building Energy Use  
Disclosure Program

Docket No. 14-EUDP-01

**COMMENTS OF THE  
LOCAL GOVERNMENT SUSTAINABLE ENERGY COALITION  
ON PROPOSED REVISIONS TO AB 1103 REGULATIONS**

JODY S. LONDON  
Jody London Consulting  
P.O. Box 3629  
Oakland, California 94609  
Telephone: (510) 459-0667  
E-mail:  
jody\_london\_consulting@earthlink.net

For THE LOCAL GOVERNMENT  
SUSTAINABLE ENERGY COALITION

March 6, 2015

## I. Introduction

The Local Government Sustainable Energy Coalition (“LGSEC”) appreciates the opportunity to assist the California Energy Commission (“CEC” or “Commission”) in refining its building benchmarking program, undertaken in compliance with Assembly Bill 1103. The LGSEC concurs with the Commission that implementing regulations must be revised to ensure building owners and operators have ready access to whole-building energy use data during a transaction, and continues to urge the Commission to use the legislative authority and intent of AB 1103 to provide building owners and operators with access to whole-building data for ongoing facilities management.

Energy data access for building benchmarking is a critical issue for local governments. Information about energy usage trends in our communities, when usage occurs, and what types of fuels are being used, are critical to our ability to help enforce State and local building codes, develop and assess impact of energy action and climate action plans, and similar programs that promote sustainability, reduce greenhouse gas emissions and stimulate green jobs. Similarly, California critically needs an effective energy disclosure policy to achieve the State’s building energy goals. Many existing buildings will not be subject to comprehensive codes and standards for many years, if at all; and funding is simply not available in the amount necessary to create incentives for improvements in all these buildings. Disclosure is a relatively low-cost method of engaging this market segment, enabling policymakers to make data-driven decisions, and complements the existing codes and standards and incentive programs.

## II. Regulatory Action is Necessary to Whole Building Aggregation

One of the strengths of the July 2, 2014 workshop was the examination of what is happening in cities across the country, juxtaposed with California utilities’ inconsistent approaches which are uniformly more cumbersome for data access. In contrast, cities and across the country, working with their utility companies, are using aggregation thresholds between 2 and 5 accounts.

Because energy data access is a common interest of local governments, every California investor-owned utility (“IOU”), along with LADWP, voluntarily and publicly entered into agreements with cities in their service territories; these agreements were convened by the White House and US Department of Energy as an “Energy Data Accelerator”, and commenced in December 2013. Participating cities and utilities committed to:<sup>1</sup>

---

<sup>1</sup> DOE Better Buildings Energy Data Accelerator Partnership Agreement  
[http://www1.eere.energy.gov/buildings/betterbuildings/accelerators/documents/BBI\\_EnergyDataAcceleratorAgreement\\_january17-2014.pdf](http://www1.eere.energy.gov/buildings/betterbuildings/accelerators/documents/BBI_EnergyDataAcceleratorAgreement_january17-2014.pdf)

- Within the first 12 months, identify a locally viable approach to provide access to whole-building-aggregated monthly energy usage to commercial and multifamily building owners
- Within 24 months of enrollment, roll out this approach to provide for at least 20% of multifamily and commercial buildings.

In addition, on November 13, 2014, the Secretary of the U.S. Department of Housing and Urban Development, Julian Castro, issued an open letter to all utilities across the nation to “support and participate in efforts to facilitate access to utility usage data for owners of multifamily residential buildings in HUD’s portfolio, including electronic, aggregated whole-building data.”

In fact, a number of states (e.g., New York, Oklahoma, and Colorado, as well as Washington, D.C.) have already adopted legislation that recognizes that ready access to data is fundamental and established guidelines for its delivery to energy customers, see [RAP\\_AggregatedCustomerDataReport\\_Final\\_2013\\_JUL.pdf](#).

In California, no utility to date has either met the commitment to identify a mechanism to provide aggregated whole-building monthly energy use data to building owners, or prepared for implementation. Utilities indicate to their city partners that they require explicit permission or direction from state regulators in order to provide whole-building monthly energy use data to owners and operators of facilities where any number of tenants are responsible for energy use purchases.

In contrast, much greater success has been achieved in markets outside of California. Combining the results of a recent survey of 20 utility/city pairs enrolled in the Energy Data Accelerator (EDA) across the nation with additional public data, we find:

Table: Scale Utilities currently offering whole-building data access

Category of Utility	Rough Scale <sup>2</sup>	Privacy problems reported to date
EDA participant utilities currently providing whole-building data for buildings with tenants above a threshold	6 utilities (out of 17 in EDA), with total customer base >8.6 million customers	None, with up to 7 year history of providing whole-building data
EDA participant utilities preparing	2 (of 17), with total	No customer

<sup>2</sup> Estimates of utility customer base represent the total number of customers served by the utility (derived from websites, annual reports, and similar public sources from the utility). The total number of sites utilizing aggregation is much smaller. Conversely, any customer could express concerns with a utility’s practices in general.

to implement whole-building data offering	customer base of ~3 million customers	objection reported
Utilities not participating in EDA currently providing whole-building data for buildings with tenants above a threshold	5 utilities, with total customer base of >5 million	None

Therefore, the LGSEC urges the Commission to adopt the proposed changes to Section 1684(b) which would require utilities to provide whole-building aggregated monthly data to building owners and operators as a “Virtual Meter”. The Virtual Meter provides a reasonable balance between information minimization and effective implementation of AB1103.

### **III. Aggregation Threshold**

The LGSEC supports the Commission’s recognition that complexity and unnecessary paperwork for the building owner/operator is the primary barrier to compliance with AB1103, and the Commission’s reading that AB1103 applies regardless of the number of tenants in a building. We therefore support the requirement to upload Virtual Meter data to Portfolio Manager (1682(b), and suggest that the Commission emphasize the term “upload” from that section in its enforcement efforts with utilities.

### **IV. Ensure AB 1103 Supports the Legislature’s Goals**

We urge the Commission to make clear in the Proposed Regulations that requirements for utilities to provide Virtual Meter information to building owners and operators in Section 25402.10(b) are not restricted to a pending transactions that require disclosure under Section 25402.10(d)(2). As noted in the LGSEC’s comments to the June 2, 2014 workshop, Section 25402.10(b) permits a building owner to obtain and use whole-building energy use information for energy management (including maintaining and monitoring benchmarks), and for routine operations such as maintenance. The Commission must be explicit that owners may put Virtual Meter information to use for building management; if the Commission fails to do so, then the disclosure is reduced to a perfunctory exchange at transaction, because the new owner will be unable to obtain updated information for management and tracking improvements. Further, we encourage the Commission to make a finding of fact that delivery of Virtual Meter information for buildings with four or more meters to a building owner preserves the privacy and confidentiality of tenants. We suggest a threshold of zero for transactional compliance because the law applies without regard to consent, but we suggest a threshold of 4 meters for energy management and other purposes because recent research by Pacific Northwest National Laboratories, reviewing a massive amount of

energy use data, indicates that after monthly energy use is aggregated for four or more meters, essentially no information could be inferred about individual meters.<sup>3</sup>

## **V. Conclusion**

The CEC has made great strides reworking AB 1103 regulations to make it considerably more practical to comply, and should take additional steps outlined above to provide useful information for building energy management. The LGSEC supports the revisions proposed by the Commission, with the recommended changes.

---

<sup>3</sup> PNNL (2014), *Commercial Building Tenant Energy Usage Data Aggregation and Privacy*, <https://buildingdata.energy.gov/cbrd/resource/1666>