

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Consider
Smart Grid Technologies Pursuant to Federal
Legislation and on the Commission's Own
Motion to Actively Guide Policy in
California's Development of a Smart Grid
System.

Rulemaking 08-12-009
(Filed December 18, 2008)

**REPLY COMMENTS OF
THE LOCAL GOVERNMENT SUSTAINABLE ENERGY COALITION
ON PROPOSED DECISION ADOPTING RULES TO PROVIDE ACCESS TO ENERGY
AND USAGE-RELATED DATA**

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FOR Local Government Sustainable Energy
Coalition

April 1, 2014

TABLE OF CONTENTS

I.	Introduction	1
II.	The Commission Can and Should Require Data Be Provided for Whole Buildings	1
III.	Non-Disclosure Agreements Are Not Required In Every Instance	1
IV.	Other Parties Support Disaggregation by Census Block.....	2
V.	15/20 Disaggregation Rule Should Be 5 Meters	2
VI.	Disaggregation Thresholds Can Be Uniform	3
VII.	Customer Accounts Should Not Be Combined	4
VIII.	Disregard SCE’s Suggestion to Strike Findings 29 and 33	4
IX.	“Usage-Related” Data Should Be Defined.....	4
X.	The Record Has Closed.....	5

I. Introduction

In accordance with the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission” or “CPUC”), the Local Government Sustainable Energy Coalition (“LGSEC”)¹ submits these reply comments on the Proposed *Decision Adopting Rules to Provide Access to Energy Usage and Usage Related Data While Providing Privacy of Personal Data* (“PD”). The final decision must require data be provided for whole buildings, take a nuanced approach to requirements for non-disclosure agreements, allow disaggregation by census blocks, adopt a 5-meter disaggregation threshold for all customer classes, maintain the release of data by meter rather than by customer, define “usage-related” data, and not allow the introduction of new information into the record as attachments to Opening Comments.

II. The Commission Can and Should Require Data Be Provided for Whole Buildings

The Proposed Decision suggests that the question of how data should be provided for energy benchmarking purposes should be determined by the California Energy Commission (“CEC”). Some parties, including the LGSEC and NRDC, find that the CPUC can and should require the utilities to provide this information.² The CPUC’s reluctance to address this issue, when it has the authority to do so, will only delay the process of benchmarking buildings, limiting the efficacy of ongoing energy efficiency programs, particularly those focused on consumer behavior. The LGSEC is aware of at least 4 California cities that are not pursuing benchmarking programs and policies today because of the challenges building owners face in accessing data for buildings with tenants. The final decision should direct the utilities to provide energy usage data for all buildings that have 5 or more meters.

III. Non-Disclosure Agreements Are Not Required In Every Instance

The utilities suggest that non-disclosure agreements (“NDA”) should be applied to any entity that requests energy usage data.³ The Commission should maintain the requirement in the Proposed Decision for the utilities make certain information publicly available, in electronic format. This should not require a NDA, as the information will be on a public web site.

¹ Across California, cities, counties, associations and councils of government, special districts, and non-profit organizations that support government entities are members of the LGSEC. Each of these organizations may have different views on elements of these comments, which were approved by the LGSEC’s Board.

² NRDC, *Opening Comments*, pp. 3-6; LGSEC, *Opening Comments*, pp. 11-15.

³ SCE, p. 7; SoCalGas, p. 4; PG&E, p. 12.

The LGSEC wishes to clarify its opening comments regarding NDAs (pp. 2-3). The Proposed Decision states that NDAs will not be necessary for local governments receiving aggregated and anonymized data. The LGSEC supports these finding and conclusions.

The Commission should disregard suggestions from the utilities that NDAs be required in order to release any data to local governments. The LGSEC understands that NDAs are required to protect Personally Identifiable Information (“PII”). When data has been aggregated and/or anonymized, PII is protected so NDAs are superfluous (and merely delay access to data). The Commission should not further burden and delay the process of obtaining energy usage data by imposing additional requirements for NDAs.

We described in our opening comments how it is common practice for local governments to engage subject matter experts for assistance developing climate action plans, energy action plans, and other documents that rely on energy usage data. Local governments would lose flexibility under their existing and standard contract arrangements should the Commission retain the rule that prohibits the release of data to another third party. In this context – local governments needing to share energy usage data with entities under contract to the local governments – it would be reasonable for the Commission to require a NDA between the local government entity and its contractor(s) that protects the confidentiality of data received from the utilities in accordance with CPUC rules.

IV. Other Parties Support Disaggregation by Census Block

Other parties join the LGSEC in suggesting that the final decision should order the provision of data by census block, rather than zip code.⁴ As illustrated in our opening comments, zip codes can contain tens of thousands of accounts, making the utility of data at a zip code level quite low. The Commission should require data be published at the finest geographic scale that meets the aggregation threshold, which we suggest should be 5 meters.

V. 15/20 Disaggregation Rule Should Be 5 Meters

The Proposed Decision would adopt an improvement over the “15/15” rule adopted in Decision 97-10-035 as California was opening up retail electricity markets to competition. The Proposed Decision would require that any request have at least 15 accounts, and that no single account constitute more than 20% of the total consumption in any time interval requested. The LGSEC advocated in our opening comments (p. 5) that while this is an improvement, there are

⁴ ORA, *Opening Comments*, p. 6.

other jurisdictions that have lower aggregation thresholds and are still able to protect consumer privacy. The Pacific Northwest National Laboratory is conducting the first - and to our knowledge only - empirical study of the possibility of identifying an individual tenant's energy use from usage data summed to the monthly and whole-building levels.⁵ Comments by many parties to the contrary, this is the sole peer-reviewed statistical documentation of how the possibility of identification declines as meters are summed. The statistical analysis, which will be available within the year, represents a substantial opportunity to improve the basis for the Commission to set a threshold such that building monthly total energy consumption can be disclosed without compromising tenant privacy. The Commission should reserve the opportunity for the Energy Access Data Committee to review the results of new data and further revise the aggregation threshold in light of new study results as they become available.

Parties differ about the 15/15 metric.⁶ The 15/15 metric is an arbitrary, non-statutory cutoff developed years ago in a different environment for a different set of circumstances – to prevent emerging energy service providers from skimming the investor-owned utilities' highest usage customers.⁷ It would be more instructive for the Commission to justify why it is not adopting the standards used in other jurisdictions, such as New York, Illinois, Washington, Texas, and the District of Columbia.⁸ Moving California toward a more reasonable, data-driven aggregation threshold would facilitate more meaningful analysis and result in better and more effective energy efficiency programs. The Commission should adopt a 5 meter aggregation threshold.

VI. Disaggregation Thresholds Can Be Uniform

Many parties join the LGSEC in suggesting that a uniform threshold can be used across customer for purposes of disaggregating data. However, parties disagree about what that threshold should be. The LGSEC suggests that 5 accounts be that threshold, consistent with the Proposed Decision's findings for a number of customer classes. PG&E argues this number should be 100 customers (PG&E Opening Comments, pp. 4-5). The utility is choosing the

⁵ Several parties to this proceeding – of diverse opinions on the matters examined herein – have contributed comments and/or data to this research, including EFF, NRDC, PG&E, IMT, CPUC staff, Sempra, and LGSEC member city San Francisco, as well as Xcel Energy and ComEd.

⁶ ORA, *Opening Comments*, pp. 2-4; Electronic Frontier Foundation, *Opening Comments*, p. 2; PG&E, *Opening Comments*, p. pp. 4-5.

⁷ *LGSEC Comments on Working Group Report*, pp. 3-4, July 29, 2013.

⁸ *Ibid.*, pp. 7-8.

higher threshold applied in the Proposed Decision to residential accounts, while the LGSEC is advocating for the lower threshold applied in the Proposed Decision to commercial and agricultural accounts. The lower threshold protects the privacy of all customers, and is consistent with the intent and purpose of the aggregation standard. The Commission should adopt a threshold of 5 meters, as discussed above.

VII. Customer Accounts Should Not Be Combined

Industrial customers suggest that data should be per customer, and not per account, as some large industrial customers have many accounts.⁹ While the LGSEC understands the concern about commercially sensitive information being revealed, adopting this suggestion would make it difficult to ascertain which facilities operated by a customer would most benefit from energy efficiency upgrades. For example, a campus (business, industrial, education, or otherwise) might have buildings on it of different vintage, taking service on different meters. Aggregating the usage of those buildings will mask their individual energy usage profile, rendering the data less useful for energy management purposes. Additionally, as noted in our opening comments (p. 6), certain large industrial entities are already required to report their energy usage and greenhouse gas emissions to the California Air Resources Board under AB 32. Energy usage in these facilities is already lawfully and publicly reported under AB32 and therefore should be made readily available without considering it PII or Covered Information.

VIII. Disregard SCE's Suggestion to Strike Findings 29 and 33

Southern California Edison suggests that Findings of Fact 29 and 33 should be stricken because local governments can petition the CPUC if they need information that is not ordered in the Decision.¹⁰ The Commission should disregard this suggestion. The Proposed Decision is clear (pp. 32-36) about the purposes for which local governments require data, and the urgency of providing those data. The point of the decision is to simplify the process of providing data, not complicate it by requiring parties to come to the Commission every time they have a problem.

IX. "Usage-Related" Data Should Be Defined

The Energy Institute at Haas and the California Center for Sustainable Communities at UCLA suggest the following definition for usage-related data: *Usage-related data includes, but*

⁹ Opening Comments of the California Large Energy Consumers Association and Energy Producers and Users Coalition, p. 2.

¹⁰ SCE *Opening Comments*, p. 5.

*is not limited to, all billing data, all program participation, and account information.*¹¹ PG&E also suggests a definition for “usage-related.”¹² Upon review of these comments, the LGSEC recommends that Commission define “usage-related” as including customer usage segment data such as customer class of specific individual customers, but not groups of customers, and not including non-usage data, such as income, financial status, credit and collections status, service changes, or billing information.

X. The Record Has Closed

The Proposed Decision denies a request by the Electronic Frontier to bring additional information in to the record well after the noticed final submittal of comments. The PD properly rules that the record for the proceeding closed after the reply comments on the Working Group report (pp. 107-109). Notwithstanding this ruling in the PD, EFF re-submitted as an attachment to its opening comments the previously rejected comments. The LGSEC objects not on the basis of good faith on the part of EFF's research partners, but because the timing obviated the possibility of reply by researchers of similarly excellent pedigree with differing professional opinions. While differential privacy in the form of data cubes but not blurring may allow nearly any statistical technique to be applied to *the data within the data cube*, many key research topics of interest to local governments involve associating usage with variables that utilities do not possess, but local governments and researchers do. Holding data within a utility-managed data cube may allow accurate regression on geographic trends in energy consumption, but does not allow accurate regression on energy consumption vs. building attributes, socioeconomic data, or any other factor outside the cube. It is this difference, in our opinion, that explains much of the difference between the CCSC and EFF comments regarding limitations on researchers who do not have access to underlying data for purposes of data cleaning, data development, and openness to the very innovative questions that motivate the concept of an Energy Data Center.

¹¹ EI at Haas, CCSC *Opening Comments*, p. 3.

¹² PG&E *Opening Comments*, pp. 3-4.

Respectfully submitted,

A handwritten signature in blue ink that reads "Jody S. London". The signature is fluid and cursive, with a long horizontal stroke at the end.

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