

BEFORE THE CALIFORNIA ENERGY COMMISSION

REVISED DRAFT REGULATIONS)
Nonresidential Building Energy Use Disclosure Program)
Title 20, Division 2, Chapter 4, Article 9, Sections 1680-1685)
August, 2011)
CEC-400-2010-004-SD2)

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AB1103 PRE-RULEMAKING PROCEEDING

SOUTHERN CALIFORNIA EDISON COMPANY'S COMMENTS ON THE
AB1103 REVISED DRAFT REGULATIONS

Dated: **September 16, 2011**

I.

INTRODUCTION

Southern California Edison (SCE) staff attended the California Energy Commission's AB1103 Pre-Rulemaking Proceeding and Staff Workshop regarding the *Revised Draft Regulations, Nonresidential Building Energy Use Disclosure Program* ("AB1103 Draft Regulations") and provided oral comments. Pursuant to the pre-rulemaking proceeding, SCE welcomes the opportunity to also provide written comments. SCE's comments herein support the AB1103 Draft Regulations with some proposed modifications.

II.

DISCUSSION

A. Customer Privacy Issues

Maintaining the confidentiality of customers' energy usage data is a primary concern to Southern California Edison. Although the inclusion of all energy usage at a building is required in order to properly benchmark a building, it must be done in such a way as to maintain confidentiality. SCE would like to point out that the criteria set forth in Section 1685(b) concerning a utility company's release of energy usage data to the building owner does not address the requirement to preserve confidentiality. This section states, "...a utility company shall upload at least most recent 12 months of the entire building's energy usage data to the building owner's Portfolio Manager account. If a utility serves more than one customer within a building, the utility shall aggregate data before release." The aggregation of energy usage data by as few as two customers is not sufficient to preserve confidentiality. SCE has included the use of aggregation in its Automated Benchmarking System in order to preserve the confidentiality of customer

energy usage data; however, SCE utilizes the “15/15 Rule” regarding aggregation. The 15/15 Rule was previously adopted by the CPUC as part of the Direct Access Proceeding on the protection of customer confidentiality and was also applied during Community Choice Aggregation. Under this 15/15 Rule, as it pertains to AB1103, the following criteria must be met in order to perform aggregation and release energy usage data to a third party:

1. there must be at least 15 service accounts included in the aggregate; and,
2. no service account can account for 15% or more of the total energy usage.

In situations where the 15/15 Rule cannot be met, SCE requires submission of written authorization by the customer (i.e., tenant) to release the data to a third party (i.e., building owner). A completed Customer Information Standardized Request (CISR-S) form is used for this purpose.

It is SCE’s view that an Order issued by the California Public Utilities Commission (CPUC) would be required for SCE to address the issue of confidentiality in any other way which would degrade SCE ability to protect the confidentiality of customers’ energy usage data. SCE welcomes the opportunity to jointly discuss with the CEC and the CPUC the issue of customer confidentiality and how the customer’s right to privacy can be maintained in conjunction with the possible release of customers’ energy usage data as it pertains to AB1103.

At this time, given the potential differences in each IOU’s billing systems and approaches to addressing confidentiality, SCE recommends that the reference to aggregation be removed from the AB1103 Draft Regulations, thus enabling the IOUs to

address the issue of confidentiality in a manner consistent with existing law and CPUC regulation. Please see the proposed regulation language in Section B below.

B. Building Energy Usage, Meters & Accounts, and the Utilities' Role

Including the energy usage for the entire building over a 12-month period is needed in order for a building to be benchmarked properly. In tenant occupied buildings, the utility accounts needed in order to capture a full 12-months of energy usage may often include both active and inactive accounts. Also note that all energy sources and fuel types (e.g., on-site generation) need to be included in order to capture the entire energy usage for the building in Portfolio Manager. Therefore, SCE suggests that Section 1685(a)(3) regarding the building owner's responsibilities be modified as follows:

“(3) identify all sources of energy usage and data for the entire building, including active and inactive utility meters or utility accounts serving the building, so that 12-months of energy usage data for the entire building can be obtained.”

It is also important to recognize that there will be occurrences where building owners will not be able to contact tenants who have vacated the premises during the previous 12-month period; therefore, the ability for the building owner to “...use an approximation of the information” as stated in Section 1685(e) is an important section of the AB1103 Draft Regulations.

SCE would also like to call attention to the utilities' role in supplying the energy usage data as it relates to Section 1685(b). This section states, “...a utility company shall upload at least most recent 12 months of the entire building's energy use data to the building owner's Portfolio Manager account.” It is important to note that it is up to the

building owner who is using Portfolio Manager's Automated Benchmarking System to input all of the utility accounts necessary to capture the entire building's energy usage for 12 months, excluding other non-utility sources such as on-site generation. The utilities' role is to provide up to 12-months of energy usage data for the specified utility accounts only provided all confidentiality requirements are met. Also, SCE will upload energy usage data only after the information in the request has been validated. Therefore, SCE suggests that Section 1685(b) be modified as follows:

“(b) Within 15 days of receiving a valid request from a building owner to release the building's energy use data, a utility company shall upload the most recent 12 months of energy use data (if available) for the specified utility meters or utility accounts to the building owner's Portfolio manager account in a manner that preserves confidentiality. A utility may verify a request or ask for clarification before releasing data.”

Note that the reference to aggregation has also been removed as suggested in Section A above. SCE also recommends that the Abstract (paragraph 3) be modified as follows:

“The proposed regulations also require utilities serving the building to release the most recent 12 months of energy use data (if available) for the specified utility meters or utility accounts to an owner's U.S. EPA's Portfolio Manager account, upon validation of the owner's request.”

C. Mixed-Use Buildings

SCE recognizes the importance of including mixed-use buildings under AB1103; however mixed-use buildings comprised of residential and non-residential spaces will likely include residential tenant spaces and could pose significant issues due to data privacy concerns. Therefore, SCE recommends that mixed-use buildings consisting of residential and nonresidential spaces be excluded from the AB1103 Regulations. However, if the CEC wishes to include such mixed-use buildings, SCE recommends that they be included during the third implementation phase beginning July 1, 2013. This will

allow time for the utilities to address data privacy concerns regarding residential customers, to determine the impact of including the processing of residential accounts in their current ABS systems, and to develop, test, and implement the necessary changes to their ABS systems as needed.

It is also SCE's opinion that setting a threshold to trigger AB1103 compliance based upon square footage or energy usage may not be practical: square footage ignores the importance of energy usage (e.g., a smaller restaurant space may use much more energy than a larger aggregate of residential spaces); and, the energy usage profile of the building may not be known to a building owner with multiple tenants when the building owner is attempting to decide if he/she is required to comply with AB1103. Therefore, SCE recommends that a "trigger" not be used in the case of mixed-use residential and nonresidential buildings if such mixed-use buildings are to be included under the AB1103 Regulations. However, SCE would like to reiterate its recommendation that mixed-use buildings consisting of residential and nonresidential spaces be excluded from the AB1103 Regulations.