
PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298



January 30, 2013

To: Chris Warner, Esq.
Pacific Gas & Electric Co.

From: Pete Skala, Program Manager - Demand-Side Analysis Branch
Energy Division, California Public Utilities Commission

Dear Chris:

We would like to schedule a follow-up meeting to address items related to PG&E's provision of data to CPUC energy efficiency evaluation contractors that were discussed at the meeting held on September 26, 2012, with you, CPUC General Counsel Frank Lindh, several other CPUC attorneys, me. The purpose of the follow-up meeting is to determine a path forward to directly share customer data with CPUC evaluation contractors in a timely and efficient manner.

Both of the CPUC prime energy efficiency evaluation contractors (Itron and DNVKema) signed nondisclosure/data security agreements ("NDAs") with PG&E after nearly a year of negotiations. Although the CPUC Legal Division informed the utilities that the CPUC wished to have a single consistent NDA between all IOUs and Energy Division contractors, the agreements that Itron and DNVKema signed with PG&E differed in substance. In addition, PG&E required Itron and DNVKema to undergo security reviews, which took approximately four months to complete. Thereafter, PG&E required Energy Division contractors to sign NDAs with their evaluation subcontractors, which took additional time and resulted in delays in providing data in response to evaluation data requests and fielding evaluation activities.

Since the NDAs have been signed, PG&E continues to provide responses to evaluation data requests to Energy Division rather than directly to the impact evaluators. This has not resulted in substantial delays, but is one of the activities the NDAs were intended to address.

More substantial problems exist for the ex ante review team, which does not have NDAs in place with any utility. There are two issues specific to the custom projects ex ante reviews as directed in D.11-07-030. First is the website security issue, and the second is the confidential/proprietary data issue. The IOUs have combined these separate issues and attempted to address them through an NDA solution.

Regarding the website security issue, I note the utilities are using website security concerns to remain out of compliance with D.11-07-030, which states that:

- OP 7: Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and Southern California Gas Company shall follow the custom project ex ante value review process set forth in Attachment B to this decision.

- Attachment B (the relevant wording to supplying information directly to ED website on pp B3): Each IOU shall keep a complete up-to-date electronic archive of all custom measures and projects. Each project should be added to the Archive as soon as possible after either identified in the pre-application stage or the date of the customer's application to the IOU, whichever is earlier.
- Attachment B (pp B6): Projects Energy Division selects for review will have their complete documentation from the IOU CMPA placed into an Energy Division Review CMPA which, with the Utility Custom Project Summary List, will be housed on an internet-accessible website that meets reasonable security and legal requirements. The Energy Division will be responsible to establishing and maintaining that website.

Regarding the confidential/proprietary data issue, the utilities are supplying the required custom projects summary lists to staff via the CPUC Secured FTP. The IOUs require staff to request selected projects and associated supporting documentations through a formal EEGA Data Request. Then the IOUs send the response to ED through the secured FTP. This results in a review tracking nightmare, and substantial delays in the review process. When a staff reviewer needs to request missing project information, staff once again needs to go through the EEGA DR and FTP process to get the material or a response from the IOUs. Again, adding substantial delay to the review process.

Consequently, after the protracted and unsuccessful effort to develop one, rather than multiple, utility-specific, nondisclosure agreements between the IOUs and Energy Division's contractors and subcontractors that address both the website security and confidentiality/proprietary data issues, in view of the noncompliance with D 11-07-030, and in light of Energy Division's wish to include uniform confidentiality and data security agreements in its contracts with evaluation contractors and consultants, we will no longer require energy efficiency evaluation contractors and consultants to sign nondisclosure agreements with, or be subject to data security requirements imposed by, the IOUs with respect to provision of any and all data related to energy efficiency evaluation activities. The agreements between the CPUC and its contracts are the sole requirements with which contractors and their subcontractors must comply. We will continue to direct contractors and consultants to work informally with IOU security experts to improve their compliance with the security protocols, and we will plan to discuss how to best coordinate these efforts (rather than directing these entities to incorporate potentially conflicting guidance from four different utilities) in our follow-up meeting.

We also understand that the IOUs are seeking formal CPUC guidance clarifying the CPUC's responsibility for confidentiality and data security requirements in order to relieve the utilities of any perceived obligation to enter into such agreements with CPUC contractors. To that end, prior to scheduling the meeting, we request that you provide us with a list of specific issues the CPUC needs to address or clarify and suggested language that would be sufficient to address this issue.

We would like to resolve this as soon as possible. Please provide three possible meetings dates within three weeks of the date of this letter. We will confirm one of those dates, and ask that you provide your response to the request above one week before the meeting date.

Sincerely,

(SIGNED ORIGINAL ON FILE)

Pete Skala

CC:
Pouneh Ghaffarian
Kay Hardy

Carmen Best
Jaclyn Marks