



March 19, 2013

TO:

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Ed Randolph, CPUC, Director, Energy
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Redacted PG&E
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FROM: Elizabeth Kelly, MEA, Legal Director

RE: Preliminary Analysis of Data Access Issue

Dear MEA, CPUC and PG&E Representatives:

SUMMARY:

Marin Energy Authority (MEA) has been precluded to date from receiving essential data for MEA's operations by PG&E. These data include: (i) Advanced Metering Infrastructure (AMI) data for MEA CCA operations; and (ii) AMI data for MEA Energy Efficiency operations. This memorandum is intended to provide legal and regulatory references to the CPUC and to PG&E which detail that MEA is in compliance with the legal and Commission requirements to receive AMI data, for (i) CCA customers and (ii) customers throughout the CCA service territory.

This Memorandum is intended to clarify and frame the issues which – PG&E has previously claimed – have prevented PG&E from delivering and/or MEA from receiving AMI data.

ANALYSIS:

Due to the unique nature and sensitivity of AMI data, the requirements to receive such data are more restrictive than any requirements for MEA to receive standard usage data. As such, MEA herein solely addresses the more restrictive AMI data access requirements. MEA can provide additional information regarding standard usage data if required.

I. Data Requested by MEA

The data requested by MEA falls into two categories: (A) electricity data of customers enrolled in the MCE Clean Energy program, MEA's CCA program, and (B) electricity and gas data of customers in MEA's entire service territory in order to provide energy efficiency programs and services to those customers as approved by the Commission.

A. AMI Data for MEA generation-related CCA operations

PG&E is required to deliver AMI data to MEA, as a CCA, pursuant to statute, Commission rules and decisions, and PG&E's non-disclosure agreement. Please refer to final Commission Resolution E-4523, approved December 20, 2012, which specifically states that this has been resolved, and also Decision (D.) 12-08-045, approved August 23, 2012. MEA should already be receiving, but has not yet received, AMI data as requested.

B. AMI data for MEA Energy Efficiency operations

MEA is authorized to run energy efficiency programs – and has received funding for that purpose by the Commission – pursuant to Public Utilities Code Sections 381.1(d)-(e) and Section 381.1(f). Under Section 381.1(d)-(e), MEA is delivering Energy Efficiency programs to customers throughout MEA's service territory, whether or not they receive generation service from MEA. (See D.12-11-015.) Under Section 381.1(f), MEA is delivering Energy Efficiency programs to MEA generation service customers. (See Resolution E-4518.)

Energy Efficiency is a primary purpose of MEA. This is confirmed by the definition of “primary purposes” in D.12-08-045, Attachment B (applicable to CCAs):

- (c) Primary Purposes. The “primary purposes” for the collection, storage, use or disclosure of covered information are to—
- (1) provide or bill for electrical power or gas,
 - (2) provide for system, grid, or operational needs,
 - (3) provide services as required by state or federal law or as specifically authorized by an order of the Commission, or
 - (4) plan, implement, or evaluate demand response, energy management, or energy efficiency programs under contract with a Community Choice Aggregator or an Electrical Service Provider (when providing service to residential or small commercial customers), under contract with the Commission, or as part of a Commission authorized program conducted by a governmental entity under the supervision of the Commission. (D.12-08-045 at B2.)

The discussion of data set forth in D.12-08-045 is not constrained by: (i) whether the metering data is electric or gas, or (ii) for customers for whom MEA Energy Efficiency programs are available even if such customers do not receive CCA service. Rather, the Decision comprises the entire scope of AMI data for MEA's primary purposes.

In order to achieve these primary purposes, MEA has requested – but has not received – AMI data for its Energy Efficiency programs. Such data should include both electric and gas AMI data, and should be for all customers within MEA's service territory. The Commission has specifically provided that this information be delivered to us. As stated in D.12-08-045:

In our view, a policy of granting CCAs full access to customer usage data and holding CCAs responsible for protecting the advanced metering data that they obtain from PG&E, SCE and SDG&E provides the CCAs the same usage rights and responsibilities as a utility. Moreover, in this particular situation, such a policy provides CCAs with all rights to data that it requests. (Decision at 25.)

MEA believes there should be no further dispute on this issue.

II. PG&E Issues and Concerns, as Understood by MEA

PG&E has suggested that there are several critical path items that need to be completed prior to MEA receiving AMI data. Based upon its legal and regulatory analysis, MEA believes it has met all of the requirements to receive the data and addresses PG&E's concerns in turn.

A. PG&E claims it needs to perform a data and security audit of MEA operations

PG&E has claimed that it needs to perform a data and security audit of MEA operations. PG&E performs data and security audits of "third parties" with which it contracts for, for example, Energy Efficiency services. However, MEA is not a "third party." Rather, MEA is a CCA, which means that is required to conduct an independent audit. Specifically, Section 9(d) of Exhibit B of D.12-08-045 states:

Audits. Each Community Choice Aggregator or Electrical Service Provider (when providing service to residential or small commercial customers) shall conduct an independent audit of its data privacy and security practices in conjunction every three years following 2012 and at other times as required by order of the Commission. The audit shall monitor compliance with data privacy and security commitments, and the Community Choice Aggregator or Electrical Service Provider (when providing service to residential or small commercial customers) shall report the findings to the Commission.

As such, the privacy audit is an independent audit, not one performed by PG&E. This is the same requirement applied to PG&E. Both legally and from a policy perspective, this distinction makes sense. Whereas PG&E's "third parties" are contractors which PG&E must evaluate, MEA is in a very different situation. MEA serves electricity customers in PG&E's service territory and is both a collaborator with and a competitor of PG&E. MEA is also an independent administrator of energy efficiency programs and is not a subcontractor to PG&E; unlike PG&E's subcontractors such as a local government or a corporation, MEA is a load-serving entity which already has in place the infrastructure to protect customer data.

B. Alternately, PG&E claims it needs additional Commission clarification that MEA is authorized to receive the data

In the alternate, PG&E argues that if PG&E does not perform the privacy audit, PG&E would need additional clarification that MEA is allowed to receive such data. As noted above, the Commission has already provided clear and exacting requirements for PG&E to provide this data, and no further action by the Commission should be necessary.

C. PG&E has claimed that Data Access Proceeding needs to be resolved prior to delivering data

MEA believes that a further misunderstanding related to the Customer Data Access Proceeding has been resolved with PG&E. The technical aspects of delivering the AMI to data should not be delayed by the Commission's timeline in Application 12-03-002, *et al.*, the Commission's data backhaul proceeding.

RECOMMENDATIONS:

1. To the extent there is no dispute as to MEA's ability to receive AMI data for its CCA or Energy Efficiency operations, such data should begin to be delivered immediately.
2. To the extent PG&E disputes MEA's ability to receive data for its CCA or Energy Efficiency operations:
 - Any data that is undisputed should begin to be delivered to MEA immediately.
 - PG&E should immediately clarify its issues and concerns regarding data issues with MEA and Energy Division in writing, and specify:
 - The type of data – standard usage data or AMI data at issue;
 - The legal basis for PG&E's determination; and
 - Any perceived obstacles preventing PG&E from delivering, or MEA receiving, AMI data.
3. MEA requests that the Energy Division provide any necessary clarification to PG&E without delay to ensure that MEA begins to receive AMI data.