ASSIGNED COMMISSIONER’S SCOPING MEMO AND RULING AMENDING
SCOPE OF PROCEEDING TO SEEK COMMENTS AND TO SCHEDULE
WORKSHOPS ON ENERGY DATA CENTER

1. Summary

This ruling amends the scope of this rulemaking to invite comments and
schedule workshops pertaining to a Commission briefing paper, titled “Energy
Data Center,” which the Commission released in September, 2012.¹ Following
the comments and workshops, the Commission will determine whether to open
a new proceeding or to continue this proceeding to determine whether funding
an Energy Data Center is in the public interest.

¹ “Energy Data Center,” a Briefing Paper prepared by Audrey Lee, Ph.D., Energy
Advisor to President Michael Peevey, and Marzia Zafar, Interim Director of the
Commission’s Policy and Planning Division, September 2012 (Briefing Paper), available
at http://www.cpuc.ca.gov/NR/rdonlyres/8B005D2C-9698-4F16-BB2B-
D07E707DA676/0/EnergyDataCenterFinal.pdf. This paper is included as
Attachment A to this ruling.
The Briefing Paper noted that as the energy sector joins the information age, much data concerning energy usage is now available, but that access to that information is often difficult to obtain. The paper surmised: “Consolidating that information in one location, such as a data center, should help improve state energy policies and create new market opportunities to save energy.”

This Scoping Memo solicits comments and schedules workshops pertaining to this Briefing Paper. This ruling adopts a procedural timetable for examining the issues identified in the Briefing Paper and to determine the next steps pertaining to the Energy Data Center, if any. Consistent with Pub. Util. Code § 1701.5, the deadline for the conclusion of this proceeding is 18 months from the date of this ruling.

2. Background

For some time, this proceeding has addressed issues pertaining to the privacy, security and use of the three terabyte’s of data that Smart Meters and the Smart Grid will soon produce and transmit daily. For this reason, this proceeding is the natural place to provide parties with an opportunity to respond to this Briefing Paper.

3. Highlights of Briefing Paper

The Briefing Paper provides an overview of the issues raised by the creation of an energy data center, as well as both the potential costs and benefits that would result from such a center.

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2 Id. at 1.
The Briefing Paper observes:

Aggregated data that does not contain personally-identifiable information, is not subject to the Commission’s Privacy Rules, nor is a Non-Disclosure Agreement (NDA) required to obtain such information. This is noted in D.11-07-056 and affirmed in D.12.08-045.3

The Briefing Paper also contains an appendix that indicates the current methods that third parties, including researchers, use to obtain access to customer-specific data.4

The Briefing Paper identifies current challenges that organizations face when they seek to conduct research pertaining to the effectiveness of various State and Commission energy-related programs, such as energy efficiency and demand response. The Briefing Paper notes a central challenge:

In order to provide aggregated and anonymized data, the obvious question is how does one determine what is aggregated enough or anonymized enough.5

To make an energy data center possible, the Commission would need to decide what constitutes appropriately aggregated and anonymized data.

The Briefing Paper envisions three possible roles for the data center:

3 Id. at 1.

4 In addition, the Investor-owned Utilities (IOUs) file various reports related to their energy efficiency programs; however, these are not disaggregated to the extent envisioned for the data center. In addition these filings report on energy savings, rather than customer energy consumption patterns. For Example the CPUC’s Energy Efficiency Groupware Application (EEGA) at http://eega.cpuc.ca.gov/ is a public repository of IOU submitted reports and data on California energy efficiency programs and savings achievements.

5 Id. at 2.
1. A depository that contains aggregated and anonymized data and then makes it available to the public or qualified organizations.

2. An independent research center with access to customer-specific data that publishes results in an aggregated and anonymized form.

3. A service center for transferring data to governmental organizations that have a non-disclosure agreement with the Commission.

Each of these roles produces different benefits and imposes different costs and organizational challenges.6

The Briefing Paper also envisions two different ways that the energy data center could obtain the data. Under the first route, the energy data center would receive data from the Commission pursuant to the terms of a non-disclosure agreement with the Commission.7 Under the second route, the energy data center would receive data from the utilities pursuant to a non-disclosure agreement with the utility.

A goal of the research center would be to encourage “independent research and analysis of current state, Commission and utility programs using customer-specific data but publishing results of that data in an aggregated and anonymized form that protects customers’ privacy.”8

6 The role(s) of the data center may overlap, supplement, or complement current Commission oversight of the energy efficiency and demand response portfolios.

7 The Briefing Paper notes that the Government Code limits the entities with which the Commission can enter into a non-disclosure agreement to other governmental entities.

8 Briefing Paper at 3.
The Briefing Paper discusses the conceptual costs and benefits that would be associated with an energy data center. In addition, the Briefing Paper presents an overview of Pub. Util. Code § 394 and its core concern of protecting consumer privacy.

The Briefing Paper concludes that the Commission should open a rulemaking to consider the creation of an energy data center.

4. Scope of Proceeding

The Commission wishes to receive comments on the energy data center proposed in the Briefing Paper and to sponsor workshops to explore the many issues that such a proposal would raise.

The scope of the proceeding is to determine how the Commission should consider an energy data center. At this time, it is unclear whether the examination of an Energy Data Center is best conducted through another phase in this proceeding or through a separate proceeding.

To ensure that the Commission addresses this matter efficiently, the Commission will establish a new service list in this proceeding to facilitate the receipt of comments and replies on the Briefing Paper and to schedule workshops. We do not, however, determine at this time whether this proceeding is the best forum for considering an energy data center.

Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company are named as respondents and are parties to this phase of the proceeding and shall be included in the initial service list in this proceeding.

All entities wishing to be included on the initial service list shall notify the process office by November 20, 2012. Entities other than respondents shall comply with Rules 1.4(a) and Rule 1.4(b) to become parties in this proceeding.
The Commission will establish an initial service list for this phase of the proceeding as soon as practicable thereafter.

Comments on the Briefing Paper are due on November 30, 2012 and should be filed and served on the service list established for this phase of the proceeding. Reply comments are due December 14, 2012.

Comments shall address any issue pertaining to the creation of an Energy Data Center, but should address the following questions, some of which were posed in the Briefing Paper.

- Is a rulemaking necessary under current practices to make aggregated and anonymized data available to the public? Should the Commission establish an energy data center?

- What is the value of an energy data center for utility customers and what could the cost be?

- How should the energy data center be set up? We have proposed one model but others may be possible within the confines of statues, rules, and codes. What are the responsibilities of the energy data center beyond providing aggregated data to utility customers and the general public? Should additional research and evaluation of Commission programs be included? How would they differ from existing research and evaluation being conducted by the Commission?

- How could a data center be funded? Cap-and-trade auction revenue administrative funds, electric program investment charge funds, energy efficiency evaluation, measurement, and verification funds, a new source from utility customers? (Note, no decision on funding will be reached in this phase.)

- How can the Commission ensure the protection of customer-specific energy usage data at the energy data center and provide the necessary oversight? Are cyber security requirements necessary? Are further guidelines
for aggregation necessary for the data center? If so, what should those specific guidelines be?\textsuperscript{9}

In addition, comments and replies should address how the Commission should proceed, whether through another phase of this proceeding or through another proceeding. Comments and replies should also propose a schedule that will lead to a decision concerning the energy research center by the end of 2013.

The Commission will schedule two days of workshops in January to address the structure of the research data center, the benefits and costs of such a center, and issues pertaining to its funding.

Following the workshops, the Commission will determine the next steps. The possible next steps could be either an order of the Commission changing the scope of this proceeding further or an order of the Commission initiating a new proceeding. In the case of a new proceeding, the record of this proceeding pertaining to the energy data center will be joined to the record of the new proceeding.

It is also possible that the information resulting from comments and replies will indicate that it is not advisable for the Commission to create an energy data center. In that case, the Commission will notify parties via a ruling.

5. Relationship to Other Commission Actions

On October 11-12, 2012, the Commission held workshops on tariffs under which customers can provide their data to third parties. These workshops aim to implement policies previously adopted in decisions (Decision (D.) 12-08-045,

\textsuperscript{9} \textit{Id. at} 7-8.
D.12-08-047, and D.11-07-056) adopted in this proceeding. Advice letters are expected to be filed by November 21 (Ordering Paragraphs 14, D.12-08-045).

As part of the workshop discussions, participants also discussed the broader issues associated with data security and access to aggregated and anonymous data. Participants are asked to include their proposals in the comment cycle initiated in this ruling.

6. Proceeding Category, Ex Parte Rules, and Need for Hearing

This proceeding has previously been characterized as quasi-legislative and it has been anticipated that this proceeding would not require evidentiary hearings (EH). No party disputed either of these determinations.

As amended, this proceeding will not at this time affect rates. The proceeding will only lead to a decision to further pursue an Energy Data Center in this proceeding or in another proceeding.

Although an investigation into the costs and merits of a data center may lead to disputes of facts that would require EHs, the scope of this current proceeding will not adopt findings on costs or the merits of a data center – its sole scope at this time is to determine whether and how to examine this matter in this proceeding or in another proceeding. If a new proceeding is initiated, the Commission will join the record developed in this proceeding pertaining to an Energy Data Center to the new proceeding.

Pursuant to Rule 8.2(a), a quasi-legislative proceeding does not have any ex parte restrictions or reporting requirements.
7. Tentative Schedule

At this time, the tentative schedule is as follows:

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
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<tbody>
<tr>
<td>Opening Comments on Briefing Paper and related issues</td>
<td>November 30, 2012</td>
</tr>
<tr>
<td>Reply Comments on Briefing Paper and related issues</td>
<td>December 14, 2012</td>
</tr>
<tr>
<td>Workshop</td>
<td>January 2013</td>
</tr>
<tr>
<td>Commission Decision(s) and/or Ruling further Amending Scope to Initiate an examination of the merits of an Energy Data Center</td>
<td>Late February 2013</td>
</tr>
</tbody>
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8. Notice of Intent to Claim Compensation

Because of the amended scope set for this proceeding, it is reasonable to construe the Commission’s Rules as permitting the establishment of a new date for the timely receipt of a notice of intent to claim compensation by those who have not previously been found eligible for an award of compensation in this proceeding.

Consistent with Rule 17.1(a)(2) of the Commission’s Rules of Practice and Procedure, a notice of intent to claim compensation may be filed until 30 days after “the time for filing responsive pleadings (e.g., protests, responses, answers,
or comments).” In this instance, comments on the Briefing Paper are due November 30, 2012 and the deadline for filing a notice is December 31, 2012.

Consistent with Rule 17.2, parties that were found eligible for an award of compensation previously in this proceeding remain eligible for an award in this new phase of the proceeding without a new demonstration of eligibility.

9. Final Oral Argument
   Since no EHs are scheduled, no final oral argument is anticipated.

10. Presiding Officer
    Pursuant to Rule 13.2 (c), the presiding officer shall be the assigned Commissioner.

11. Deadline Extended
    Pursuant to § 1701.5, this ruling amending the scope of the proceeding extends the deadline to permit the resolution of all issues set for this proceeding. The new deadline for resolution of all issues in this proceeding is May 13, 2014, which is within 18 months of the mailing of this ruling.

12. Service List/Filing and Service of Documents
    The initial service will be established on the Commission’s website and will include respondents and all who notify the docket office by November 20, 2012. The parties shall notify the Commission’s Process Office of any address, telephone, or electronic mail (e-mail) change to the service list established.

    Those wishing to become a party to this phase may do so by notifying the Commission before November 20, 2012, filing comments or replies, or by filing a motion for party status at any time pursuant Rules 1.4(a) and Rule 1.4(b) of the Commission’s Rules of Practice and Procedure. Parties shall file and serve all pleadings as set forth in Article 1 of the Rules. All documents shall be served
electronically, as set forth in Rule 1.10.

**IT IS RULED** that:

1. The scope of this phase of the proceeding is set forth above.
2. The categorization of this proceeding is quasi-legislative. Hearings are not required.
3. This phase of this proceeding is initiated to receive comments and replies addressing the issues identified in this Scoping Memo pertaining to “Energy Data Center,” a Commission Briefing Paper, which is included as Attachment A to this ruling.
4. Participants of the October 12, 2012 Commission-held workshop on data security and access to aggregated and anonymous data should include their proposals in the comment cycle initiated in this ruling.
5. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company are respondents to this phase of the proceeding.
6. To become parties in this proceeding, entities other than respondents shall notify the Commission of their interest by November 20, 2012 or by filing opening or reply comments, by filing a motion for party status. Entities shall comply with Rules 1.4(a) and Rule 1.4(b) to become parties in this proceeding.
7. The Executive Director shall cause this Assigned Commissioner Ruling to be served on the Respondents, all load serving entities listed in the Commission’s official records, the California Energy Commission, the California Independent System Operator, and the service lists for Rulemaking (R.) 07-01-041 (Demand Response), R.06-04-010 (Energy Efficiency), R.08-02-007 (Procurement Rulemaking), R.05-12-013 (Long Term Resource Adequacy Rulemaking),
8. The temporary service list, which includes the entities referenced in ruling paragraph 7, is appended as Attachment B to this ACR and shall be used for service of all pleadings until a service list for this proceeding is established. A service list for this proceeding shall be created by the Commission’s Process Office and posted on the Commission’s Website (www.cpuc.ca.gov) as soon as it is practicable after November 20, 2012. Parties may also obtain the service list by contacting the Process Office at (415) 703-2021.

9. Parties serving documents in this phase of the proceeding shall comply with Rule 1.10 regarding electronic service. Any documents served on the assigned Commissioner and Administrative Law Judge (ALJ) shall be both by e-mail and by delivery or mailing a paper format copy of the document.

10. The assigned Commissioner or ALJ may adjust the schedule identified herein and refine the scope of this phase as needed until the completion of workshops.

11. This phase of the proceeding is classified as quasi-legislative, as that term is defined in Rule 1.3(d). Parties shall file responses addressing the questions identified in this ACR, and the scope, schedule, and other procedural issues by November 30, 2012. Parties shall file replies to the responses by December 14, 2012.

12. A party that expects to request intervenor compensation for its participation in this phase of the rulemaking shall file its notice of intent to claim intervenor compensation in accordance with Rule 17.1(a)(2) of the Rules. In this case, the deadline for filing a Notice of Intent to Claim Compensation in
proceeding is December 31, 2012 for those parties who have not done so in an earlier phase of this proceeding.

13. Since there are no planned evidentiary hearings at this time, there will be no oral argument.

14. *Ex parte* communications for this phase of the proceeding are governed by Rule 8.2(a) at this time.

15. A further revision of the scope of this proceeding to determine how to create an energy data center shall be done either by a Commission order in this proceeding or, alternatively, a Commission order will initiate a new proceeding on an energy data center.

Dated November 13, 2012, at San Francisco, California.

/s/ MICHAEL R. PEEVEY
Michael R. Peevey
Assigned Commissioner
ATTACHMENT A
Energy Data Center

BRIEFING PAPER

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Energy Advisor
to President
Michael Peevey

Marzia Zafar
Interim Director
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PLANNING
DIVISION

September 2012
Summary
Aggregated customer energy usage information is available, but access to that information is often difficult. Consolidating that information in one location, such as a data center, should help improve state energy policies and create new market opportunities to save energy.

Introduction
The energy sector is moving and transforming itself to operate within the information age. The granularity of energy consumption information that is available now compared to ten years ago is enormous and can be immensely useful.

With the deployment of advanced meters, the customer is now able to get information about their usage the next day. Going forward that information will be made available to the customer instantaneously. Such information may help individual customers better manage their own usage and lower their bills, and enable third parties to offer additional services directly to customers.

More granular customer usage data can help policy makers adopt more effective policies. It can allow 1) a better understanding of how and when customers consume energy; 2) an evaluation of current programs; 3) the tailoring of energy efficiency and demand response programs; 4) improved planning and maintenance of utility and grid operations; and 5) a better understanding of new varieties of generation or demand response programs and their impacts on the distribution grid. The geographical and time granularity of data can give us a better understanding of consumption of different sectors and segments of California.

Third parties offering innovative programs and products directly to customers also have a clear interest in obtaining customer data in order to show benefits from the program or product to potential customers. With more granular data, companies could also invent new energy saving products for customers.

Customer-Specific Data versus Aggregated and Anonymous Data
In the Commission Privacy Rules governing energy usage data, there is a difference between customer-specific data that would reveal personally identifiable information and aggregated and anonymous data that would not violate customers’ privacy. This whitepaper will mainly address the need for aggregated and anonymous data. Aggregated data that does not contain personally-identifiable information, is not subject to the Commission’s Privacy Rules, nor is a Non-Disclosure Agreement (NDA) required to obtain such information. This is noted in D.11-07-056 and affirmed in D.12.08-045. The Appendix section “Current Methods for Obtaining Customer-Specific Data” addresses access to customer-specific data in more detail.

Current Challenges to Accessing Aggregated Data
Currently, many organizations request access to customer usage information to research customer usage patterns and to measure the effectiveness of various State and Commission energy-related programs, such as energy efficiency and demand response. Yet, such information is not readily available. When a utility does make it available, it is often out of scope, aggregated beyond what is necessary to protect customer privacy and not useful to the requestors, and outdated. An ongoing concern is whether, and to what extent if any, the utilities act against the interests or wishes
of the customer and erect barriers to limit the opportunity for authorized third parties to obtain customer usage information. An additional concern is whether the utility acts as barrier against the sharing of aggregated data with governmental organizations that are seeking data for research or operational purposes.

Perhaps even more frustrating, each utility interprets state law and the Commission’s rules differently, and has a different relation with representatives from state or local government. For example, PG&E has a uniform NDA in place, and, subject to certain conditions, generally will make customer-identifiable data available to government entities.1 Other utilities take a far more reluctant stance on making customer-identifiable data available to governmental third parties.

In order to provide aggregated and anonymized data, the obvious question is how does one determine what is aggregated enough or anonymized enough. To date, this question has been negotiated between governmental entities, utility representatives, and Commission representatives.2 At least one utility has proposed adoption of the 15/15 Rule as a methodology to determine what is sufficiently aggregated.3 As noted below, the Privacy Rules did not create a methodology or a definition of what is aggregated; rather, the Privacy Rules maintained a flexible approach that only requires that “the release of data does not disclose or reveal specific customer information because of the size of the group, rate classification, or nature of the information.”4 By eliminating the utility as the gate-keeper for obtaining aggregated and anonymized data, it may allow for a more open process for governmental organizations and other researchers to obtain this type of data.

Currently, customer-specific data is available to governmental entities like state universities or local government through an NDA with the Commission. See Appendix section “Current Methods for Obtaining Customer-Specific Data”.

Energy Data Center as a Possible Solution

The creation of an energy data center could provide greater availability, geographically and temporally, of aggregated and anonymized customer energy usage data in the long run, thereby lowering potential utility barriers to this data.5

There are three possible roles for the energy data center:

1. Aggregate and anonymize customer-specific data such that it protects customers’ privacy and make it available to the public in a timely manner. This data needs to be aggregated to protect customer privacy, but disaggregated enough to be useful.

1 More recently, PG&E insisted on a certain level of cyber-security assurance for any third party obtaining data pursuant to this NDA. In addition, for purposes of the NDA, the data is treated as a “trade secret” of PG&E; this is done to ensure that customer-identifiable data in the hands of a governmental entity is not subject to a Public Records Act request.

2 Commission Staff will hold a workshop in mid-October to discuss how utilities define aggregated data and the necessary levels of aggregation.


4 D.11-07-056, Attachment D at Section 6(g).

5 Nevertheless, the Commission currently maintains exclusive jurisdiction over the investor-owned utilities in the State and has the power to direct utilities to share data with third parties should the Commission so choose. See P.U. Code § 8380(e)(3) which provides the Commission with authority to direct the release of customer identifiable information without a customer’s consent.
The temporal level of data could be monthly usage or more granular, depending on what is practical and most useful. Organizations seeking aggregated data not being provided by the energy data center could make special requests and compensate the center accordingly, inversely depending on the value of the requested aggregated data to utility customers.

2. Provide independent research and analysis of current state, Commission, and utility programs using customer-specific data but publishing results of that analysis in an aggregated and anonymized form that protects customers’ privacy. This research could be done by the data center at the request of the Commission and/or on its own accord. With access to customer-specific information, the data center may have freer rein to do analysis of specific Commission and utility programs, and be able to release results in an aggregated and anonymized form. To the extent that a governmental entity would like to work with the data center and access customer usage information to perform joint research, that governmental entity would need to sign an NDA with the Commission to maintain the privacy and security of customer information, and would need to state the purpose for which it seeks customer data (see item 3).

3. Facilitate the transfer of customer-specific data to a governmental organization, provided that governmental organization has an NDA with the Commission. If a request for data information would release customer identifiable data, even though the data would be made available by the data center, an NDA would still need to be signed between the governmental organization and the Commission. The data center would not be allowed to enter into NDAs on its own with other governmental organizations. The Commission would still need to oversee and enter into those NDAs with other governmental organizations. Pursuant to the NDA, the Commission will ensure the protection and privacy of customer-specific data, and that governmental organization will be bound by the Commission’s Privacy Rules.

There are two possibilities for the transfer of the customer-specific data from the utility to the energy data center:

1. The energy data center would have an NDA with the Commission. Under that NDA, the data center would need to ensure that unauthorized release of identifiable customer data does not occur. When operational, the utility would send customer-specific information to the Commission on an ongoing basis through a data request. The Commission would in turn send the data to the data center under the NDA, in a secure and protected manner on an ongoing basis.

2. Alternatively, the Commission could direct the utilities to give customer-specific data to the energy data center, pursuant to an NDA between the data center and the utility.

It is important to note that the Government Code limits the entities that the Commission can enter into NDAs with to other governmental entities. Therefore, the energy data center will have to be a governmental entity. For example, the data center could be part of a University of California campus.
Utility Customer Benefits of an Energy Data Center

There are many benefits of an energy data center that provides aggregated and anonymized data to the public. The utility customer benefits of the structure of an independent center are:

- address the need by other governmental organizations and the public to obtain aggregated and anonymized data
- overcome many deficiencies in our current practice (see section “Current Challenges to Accessing Aggregated Data”)
- reducing the time-frame for a governmental organization to obtain customer-identifiable data (where the governmental organization only has an NDA with the Commission),

The utility customer benefits of the aggregated and anonymized data itself are:

- an understanding of customer usage profiles and patterns;
- an ability to guide and modify existing and future Commission-directed and other state energy programs from energy efficiency to distributed generation to the smart grid;
- an evaluation on how well utility programs perform;
- identification of rate impacts across climate zones and rate impacts of certain types of customers within a climate zone (For example, currently there is little information about how each neighborhood within the county of San Francisco consumes energy; does Pacific Heights use more energy than the Tenderloin District.);
- the creation of new opportunities in the market for the development of energy saving products

Many other benefits are possible and should be contemplated.

Under current rules, it is possible for an energy data center to be set up without a Commission-initiated data center. A governmental entity like a University of California campus could establish an NDA with the Commission for customer-specific data across all the energy utilities under the Commission’s jurisdiction, and then make that data available to the public in an aggregated and anonymized form that does not violate customers’ privacy. (See Appendix section “Current Methods for Obtaining Customer-Specific Data”). Unfortunately, this process usually results in a long delay for governmental organizations to access customer-specific data due to staffing and resource constraints within the Commission. It is in this respect that creating a centralized depository to enable governmental organizations to access aggregated and anonymized customer data would be beneficial, with appropriate rules in place to protect the privacy of individual customers and the security of their data.
Obligation to Protect Customer Privacy in Setting up Energy Data Center

Clearly, ensuring that customer data is kept confidential, private and secure is an overriding goal of the state and the Commission. The Commission’s rules, and state law, provides for the sharing of customer data for certain purposes without customer consent, but also allows for the customer to provide their own consent to other third parties. In the cases where there is no customer consent, the Commission must be careful in directing the release of customer information to a third party for a specific purpose, but also ensuring customer privacy of that data. On the other hand, aggregated data that does not contain personally-identifiable information, is not subject to the Commission’s Privacy Rules, nor is an NDA required to obtain such information. Therefore, the Commission must ensure that the creation of an energy data center will not violate the Commission’s Privacy Rules.

Privacy Rules

As early as 1997, before the installation of advanced meters, the Legislature recognized that customer usage information is confidential. In P.U. Code Sec. 394.4(a), the Legislature stated:

Customer information shall be confidential unless the customer consents in writing. This shall encompass confidentiality of customer specific billing, credit or usage information. This requirement shall not extend to disclosure of generic information regarding the usage, load shape, or other general characteristics of a group or rate classification, unless the release of that information would reveal customer specific information because of the size of the group, rate classification, or nature of the information.

SB 1476 provided additional details around the confidentiality of customer usage data generated by advanced meters. SB 1476 noted that “an electrical corporation or gas corporation shall not share, disclose, or otherwise make accessible to any third party a customer’s electrical or gas consumption data, except as provided in subdivision (e) or upon the consent of the customer.” Subdivision (e) provides for three exceptions:

1) Nothing in this section shall preclude an electrical corporation or gas corporation from using customer aggregate electrical or gas consumption data for analysis, reporting, or program management if all information has been removed regarding the individual identity of a customer;

2) Nothing in this section shall preclude an electrical corporation or gas corporation from disclosing a customer’s electrical or gas consumption data to a third party for system, grid, or operational needs, or the implementation of demand response, energy management, or energy efficiency programs, provided that, for contracts entered into after January 1, 2011, the utility has required by contract that the third party implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure, and prohibits the use of data for

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6 Indeed, in order to support the maxim of data minimization contained in the Commission’s Privacy Rules and the Fair Information Practice Principles, a third party should only receive “as much covered information as is reasonably necessary” and should “maintain covered information only for as long as reasonably necessary.” D.11-07-056, Attachment D at 5(a) and (b).

7 P.U. Code Sec. 8380(b)(1).
a secondary commercial purpose not related to the primary purpose of the contract without the customer’s consent; and,

3) Nothing in this section shall preclude an electrical corporation or a gas corporation from disclosing electrical or gas consumption data as required or permitted under state or federal law or by an order of the commission.

In D.11-07-056, the Commission provided additional direction to the utilities regarding the availability of customer data and what is necessary to ensure that customer data is kept confidential, private and secure. In that decision, the Commission adopted a set of Privacy Rules, based on the Fair Information Practice Principles, which govern the utility treatment of customer usage information generated by advanced meters. It outlined under what circumstances customer usage information can be shared without customer consent, what requirements are imposed upon the utility and those that receive customer usage information to ensure data is kept confidential, private and secure, and what rights customers have to share data with other third parties. Notably, as it regards the availability of aggregated customer data, the Privacy Rules state:

Availability of Aggregated Usage Data. Covered entities shall permit the use of aggregated usage data that is removed of all personally-identifiable information to be used for analysis, reporting or program management provided that the release of that data does not disclose or reveal specific customer information because of the size of the group, rate classification, or nature of the information.

In addition, the Privacy Rules outlined an additional principle of privacy practices: an entity should only collect, store, use and disclose only as much data as is necessary to accomplish the purpose for which it is required or authorized by the customer.

Rulemaking

The Commission should consider opening a rulemaking to consider the creation of an energy data center and the benefits it can offer. Should the Commission open a rulemaking to facilitate access to aggregated and anonymized customer usage data, it is imperative to stay within the confines of existing privacy statutes and Commission rules.

The rulemaking at a minimum will need to address the following questions:

- Is a rulemaking necessary under current practices to make aggregated and anonymized data available to the public? Should the Commission establish an energy data center?
- What is the value of an energy data center for utility customers and what is the cost?
- How should the energy data center be set up? We have proposed one model but others may be possible within the confines of statues, rules, and codes. What are the responsibilities of the energy data center beyond providing aggregated data to utility

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8 D.11-07-056 at Attachment D (Privacy Rules).
10 D.11-07-056, Attachment D at Section 6(g).
11 D.11-07-056, Attachment D at Section 5.
customers and the general public? Should additional research and evaluation of Commission programs be included?

- How should it be funded? Cap-and-trade auction revenue administrative funds, electric program investment charge (EPIC) funds, energy efficiency evaluation, measurement, and verification (EM&V) funds, a new source from utility customers?
- How can the Commission ensure the protection of customer-specific energy usage data at the energy data center and provide the necessary oversight? Are cyber security requirements necessary? Are further guidelines for aggregation necessary?
- A following phase of the rulemaking would determine the data center selection method.
Appendix

Current Methods for Obtaining Customer-Specific Data

The current practice for obtaining customer-specific energy usage data depends upon the purpose for which a third party is collecting the data.

Through customer consent: One way of obtaining customer-specific usage information is through the Green Button DownloadMyData application, where customers can download and share their usage information. The Green Button DownloadMyData is available on customers’ My Account webpage through their utility, and can be shared with any third party the customer chooses. Starting next year, the utilities are expected to implement the next iteration, Green Button ConnectMyData\(^{12}\), which would allow an authorized third party to automatically obtain customer-specific usage data, when authorized by the customer, in a machine-to-machine transaction. The data that will be the hourly usage information currently collected by the advanced meters, for at least the prior 13 months. At this time, this capability will be limited to only residential customers; the availability of commercial and industrial customers’ data is expected to be delayed due to software issues and other constraints.

In addition, third parties such as an Energy Services Provider (ESP), can also obtain customer usage information through a Customer Information Service Request (CISR) form.\(^{13}\) This form allows a customer to consent to the sharing of their usage information with a third party.

By contractors to a utility: Utility contractors implementing energy efficiency or demand response programs can sign an NDA with each utility.\(^{14}\) The NDA covers what data will be shared between the utility and the third party contractor, terms under which the data is being provided, and any responsibilities assigned to the utility and third party to ensure the privacy and security of customer identifiable data.

By Community Choice Aggregator: State statutes provide for a Community Choice Aggregator (CCA), to obtain customer identifiable usage data to support their operations. In order to obtain this information, the CCA must also sign an NDA with the utility to preserve customer privacy, much the same way as a utility contractor would.\(^{15}\)

Through an order of the Commission: According to SB 1476 subdivision (e), “Nothing in this section shall preclude an electrical corporation or a gas corporation from disclosing electrical or gas consumption data as required or permitted under state or federal law or by an order of the commission.”

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\(^{12}\) Currently, the Commission is considering an effort by SDG&E, SCE and PG&E to support the Green Button ConnectMyData application, which will develop a process to enable a customer-authorized third party to obtain the hourly, next day customer usage data in a standardized manner and obtain data directly from the utility. See A.12-03-002, et al.

\(^{13}\) An example of a utility CISR form can be found here: [http://www.sce.com/NR/rdonlyres/FDF989BB-8BE5-4158-BAB5-2F9EC69E1DF5/0/BIP_CISR_Form.pdf](http://www.sce.com/NR/rdonlyres/FDF989BB-8BE5-4158-BAB5-2F9EC69E1DF5/0/BIP_CISR_Form.pdf). A CISR form can be used by any other third party seeking customer usage information. For example, solar providers can use a CISR form to obtain customer usage information to help site a solar installation, run billing estimates, and perform bill audits on behalf of prospective and current customers. The Commission recently issued a resolution directing utilities and these third parties to develop a more streamlined process for obtaining customer data. See Resolution E-4481 (____) at Ordering Paragraph 8 (directing parties to work in conjunction with utility Green Button efforts prescribed in D.11-07-056).

\(^{14}\) As directed by P.U. Code 8380(e)(2), customer consent is not required for this purpose.

\(^{15}\) In the alternative, a customer can sign a consent form to allow the utility to share their data with an ESP or CCA. In addition, the Commission recently issued Decision 12-08-045 which expanded the Privacy Rules to cover ESPs that serve residential and small commercial customers, and CCAs.
By governmental entities through an NDA with the Commission: There remain other parties who, for one reason or another, seek customer data to do general electricity sector research or to support Commission or state authorized programs. In limited circumstances, another method for providing customer identifiable data to an organization has been practiced by the Commission when the requests come from the state or local government or other governmental research organizations. When a representative from another governmental seeks customer identifiable information, and cannot come to an agreement on an NDA with the utility, the Commission may act as an intermediary to bridge the desires of the governmental or research organization and the concerns of the utility. There are several reasons for the Commission to be involved in this process, including utility concerns around providing data to a competitor, the requests themselves would result in the release of customer identifiable data without customer consent, or concerns related to NDAs and Public Records Act requests.

Other States:

In other states, such as Vermont and Wisconsin, which have independent administrators of energy efficiency programs, that allows them to package access to customer data and programs together, those entities have reached separate agreements with the local utilities to provide those administrators with access to customer data. These independent energy efficiency administrators are responsible for managing the statewide energy efficiency portfolio, provide funding directly to energy efficiency providers, and provide research and results of its efforts on energy efficiency programs in the state. For example, in Vermont, the Public Service Board directed the Vermont utilities to share customer usage information with the administrator, but sharing of that data with other third parties is explicitly limited to only energy efficiency purposes. Further, Vermont allows for aggregation of customer data to be made available; Vermont defines an acceptable aggregated level to be no smaller than the “town level.” In Wisconsin, on the other hand, the energy efficiency administrator enters into an agreement with the utilities that specifies how the administrator will handle the data, including a) that it will protect the confidentiality of customer information, b) specifies how long the administrator will retain the information, c) specifies when the administrator will destroy the information, and d) states that it will pay a monetary penalty for any unauthorized release of data.

The Colorado Public Utility Commission has gone even further by adopting a “15/15 Rule” to govern the release of aggregated customer data. The 15/15 Rule adopted by the Colorado PUC is, essentially, the same rule adopted by the Commission in 1997 as part of the Direct Access proceeding and is applicable in that context only. The 15/15 Rule states that an aggregation

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16 The Commission can only enter into NDAs with other governmental organizations.

17 Customer-identifiable data that is obtained from the utility, even under an NDA, may not be sufficiently protected from Public Records Act requests from other governmental bodies, such as law enforcement. The Public Records Act generally prohibits the release of customer-identifiable usage information, with several exceptions, notably, upon the request of law enforcement or a Court-issued warrant or subpoena. As noted in fn. 16, infra, classifying customer-identifiable data as a utility trade secret provides additional protection, but may limit a third party’s full use of the data.

18 To some extent, having a third party administrator of energy efficiency programs would greatly enhance the viability of and improve the availability of both aggregated and anonymized customer data and identifiable customer data to third parties.


20 Id.


22 4 COLO. CODE REGS. 723-3 Part 3 §3031(b)(c).

23 The “15/15 Rule” was adopted in D.97-10-031 and is included in Schedule CCA-INFO.
sample must have more than 15 customers and no single customer’s data may comprise more than 15 percent of the total aggregated data. While this may be a useful standard methodology, it is not without its critics.

(END OF ATTACHMENT A)
ATTACHMENT B
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