



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

**FILED**

08/23/23

04:59 PM

R2211013

Order Instituting Rulemaking to Consider  
Distributed Energy Resource Program  
Cost-Effectiveness Issues, Data Access and Use,  
and Equipment Performance Standards.

Rulemaking 22-11-013  
(Filed November 17, 2022)

**COMMENTS OF  
LOCAL GOVERNMENT SUSTAINABLE ENERGY COALITION ON  
ADMINISTRATIVE LAW JUDGE RULING**

STEVEN MOSS  
296 Liberty Street  
San Francisco, CA 94114  
Telephone: (415) 643.9578  
Email: [steven@moss.net](mailto:steven@moss.net)

Lead Regulatory Economist for  
LOCAL GOVERNMENT SUSTAINABLE ENERGY COALITION

August 23, 2023

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

Order Instituting Rulemaking to Consider  
Distributed Energy Resource Program  
Cost-Effectiveness Issues, Data Access and Use,  
and Equipment Performance Standards.

Rulemaking 22-11-013  
(Filed November 17, 2022)

**COMMENTS OF  
LOCAL GOVERNMENT SUSTAINABLE ENERGY COALITION ON  
ADMINISTRATIVE LAW JUDGE RULING**

Pursuant to instructions detailed in the *Administrative Law Judge’s Ruling Requesting Party Comments on the Scope of Work for Consultant and the Data Working Group* issued July 17, 2023 (ALJ Ruling), the Local Government Sustainable Energy Coalition (LGSEC) respectfully submits the following Comments, which are timely filed.

**I. COMMENTS**

LGSEC is a statewide membership network of more than 35 cities, counties, and regional entities that reflect nearly two-thirds of the state’s electricity demand, representing policy interests related to clean energy and climate resilience. LGSEC built the blueprint for the state’s energy strategy through the formation of Local Government Partnerships, Regional Energy Networks (RENs), and Community Choice Aggregations (CCAs). Collectively and individually, LGSEC members advance balanced energy and climate solutions that help meet California’s decarbonization goals through knowledge exchange, learning opportunities, and statewide collaboration.

Access to quality data at the appropriate detail level is essential for local governments (LGs) to effectively undertake an expanding array of climate-related responsibilities, many of which are state-mandated. These include developing climate action plans, supporting building

and transportation electrification, creating and enforcing local climate and energy ordinances, complying with state climate policy laws, bolstering community resiliency, and, especially in the case of CCAs and RENs, crafting and implementing equitable conservation, energy efficiency, and integrated demand-side management strategies. Collectively, according to the California Air Resources Board Climate Action Portal Map (CAP-Map)<sup>1</sup>, there are 7,791 climate strategies that support Executive Order B-55-18 calling for Carbon Neutrality by 2045. These plans span from buildings to transportation, with associated energy impacts.

LGSEC strongly supports these local actions and believes that proper access to energy and grid data is essential to determine evolving implications and opportunities related to grid reliability and energy affordability.

LGSEC welcomes the creation of a Data Use and Access Working Group (DWG or Working Group) and engagement of a consultant to administer and facilitate the process, produce a DWG report with recommendations, and provide technical support. However, previous similar assignments have resulted in mixed success, with LGs investing significant time and resources identifying essential use cases and tractable data transfer protocols, only to be stymied by unresolved barriers, particularly related to investor-owned utilities' (IOU) assertions associated with their interpretations of "privacy." As a result, in developing the scope and DWG process, LGSEC strongly encourages the California Public Utilities Commission (CPUC or Commission) to adopt practices that expeditiously identify and directly overcome barriers to LG access to critical data, as discussed further below.<sup>2</sup>

---

<sup>1</sup> <https://webmaps.arb.ca.gov/capmap/>.

<sup>2</sup> As a result of the failure of California Assembly Bill 1103, the state legislature recreated AB 802 to more explicitly mandate that even the most basic monthly energy consumption data be made available for building energy benchmarking.

### **A. Draft Scope of Work for Consultant**

LGSEC generally supports the Draft Consultant Scope of Work. However, the following tasks require that the Consultant have an ability to rely on appropriate and unbiased legal expertise:

3) Identify barriers to obtaining the data, 4) Provide recommendations and/or solutions to existing barriers 5) Identify unresolved barriers, gaps and/or issues 6) Identify any applicable privacy laws by use case.

Past experience suggests that the IOUs will jealously guard access to data for a host of reasons, some of them legitimate. However, LGs and other stakeholders do not have the same capacity as the IOUs to field teams of lawyers to advocate for their interests. The Commission should retain an attorney that has not previously worked for the IOUs to represent the state's interest in ensuring that ratepayer privacy is appropriately protected while LGs are given proper access to data that is essential for them to fulfill their state-mandated responsibilities.

Data beyond behind-the-meter consumption information is necessary in order to identify and be able to act on distribution investment deferral opportunities. The selected consulting team should be familiar with transmission and distribution assets, planning, operations, and market structures. The team should have the capacity and expertise to navigate state and federal intricacies of data privacy, availability, or even its existence, and it should have knowledge of front-of-meter data.

### **B. Scope of Work for the Data Working Group**

LGSEC generally supports the proposed scope for the Working Group. As implied by reference to the Gas Decommissioning Order Instituting Rulemaking (OIR), it is essential that information about the gas system and its customers be included in the scope.

As previously discussed, early consideration should be given to how to avoid engaging in a resource-intensive process that correctly identifies use cases and associated data characteristic and transfer protocols, only to be stymied by (perceived or asserted) barriers. For example, separate work scope tracks could be pursued related to use cases and barriers, with the former expeditiously resolved on a faster track than the latter.

The Working Group's initial tasks will be to identify use cases and stakeholders and then craft a framework to deploy across parallel working groups specific to thematic data access needs. Starting with a framework agreement will ensure consistent evaluation across what will surely entail multiple sub-working groups for use cases. LGSEC recommends that CPUC Energy Division staff consult with the National Association of Regulatory Utility Commissioners, which is in the process of developing a grid data access framework.

If sufficient capacity can be offered to non-IOU entities, as recommended below, consideration should be given to engaging in a formalized adjudicatory process for the CPUC to strike the proper balance related to the inevitable conflicts that will emerge over how to overcome identified barriers.

An additional element with which the Working Group should grapple is the increasingly pressing need for data from non-IOU parties, including private vendors, air districts (e.g., backup generator installation), the California Energy Commission (CEC), and the CPUC (e.g., related to inverter data). Access to this information is essential for grid and LG electrification, resiliency planning, and program evaluation. For example, if a REN implements an energy efficiency program at a home that is equipped with solar and battery storage, and battery-related information is not available, how will the REN assess changes in energy consumption?

Obtaining these and distributed energy resource utilization profiles, based on actual measured data, as well as the level of aggregation, should be a working group topic.

Presently, Swell Energy, Tesla, and others consider their sales data proprietary. LGs may be in the best position to productively collect these data, by requiring low barrier permits, or even rebates, for installation of distributed energy resources.

### **C. Formation of the Data Working Group (Membership)**

LGSEC will work with its members to encourage diverse LG representation within the stakeholder cohort. This may require that “seats” be identified to represent LG interests (e.g., cities, counties, tribes, academic institutions, CCAs, RENs) which different representatives may occupy throughout the process. Given the importance of LG and Tribal representation, as part of its recruitment efforts, the Commission should pre-approve at least \$100,000 in funding for LGs and Tribes to participate in the DWG, either as part of the Consultant’s contract or under Decision 23-06-008.<sup>3</sup> These monies should be readily accessible by qualified entities occupying identifying DWG seats. LGSEC is available to serve as fund administrator as needed, helping to recruit and staff stakeholders.<sup>4</sup>

LGSEC is not clear on the role of the proposed State Agencies sub-group. However, given the importance of safeguarding LGs’, and the State’s, access to data to address identified use cases, the DWG should include representation from state agencies that have a specific interest in and/or knowledge of privacy considerations and climate policies. These could include the Attorney General’s Office, California Climate Action Team, California Natural Resources

---

<sup>3</sup> Decision 23-06-008 Re Phase 2 Decision Revising Electric Rule 20 and Establishing Local and Tribal Government Consultation Requirements signed by the Commission at its June 8, 2023 Commission Meeting.

<sup>4</sup> Enabling a single entity like LGSEC to administer the funds would have the benefit of enabling these stakeholders to afford to field qualified experts, particularly related to legal and data management services.

Agency, California Air Resources Board, CEC, and California Environmental Protection Agency. LGSEC recommends that state agencies be engaged early in the process to assist in developing a data access framework that can be leveraged for subsequent use case working groups, which will include one for state agencies.

## **II. CONCLUSION**

LGSEC appreciates Commissioner Houck and Assigned Administrative Judge Lao's consideration of these Comments.

Respectfully submitted,

/s/ Steven Moss  
Steven Moss  
M.CUBED  
296 Liberty Street  
San Francisco, CA 94114  
Telephone: (415) 643.9578  
Email: [steven@moss.net](mailto:steven@moss.net)

Legal Regulatory Economist for Local Government  
Sustainable Energy Coalition

August 23, 2023