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CALIFORNIA ENERGY COMMISSION

STAFF WORKSHOP

In the Matter of: Docket No. 15-OIR-05
) STAFF WORKSHOP Re:
Building Energy Use Benchmarking Provisions
Disclosure Program of AB 802 (Williams,
) Chapter 590, Statutes of
) 2015)

CALIFORNIA ENERGY COMMISSION

THE WARREN-ALQUIST STATE ENERGY BUILDING

FIRST FLOOR, ART ROSENFELD HEARING ROOM

(HEARING ROOM A)

1516 9TH STREET

SACRAMENTO, CALIFORNIA

TUESDAY, NOVEMBER 10, 2015

10:00 A.M.

Reported By: Kent Odell
APPEARANCES

Staff Present

Erik Jensen, Appliances & Existing Buildings Office CEC
Laith Younis, Appliances & Existing Buildings Office CEC
Galen Lemei, Office of the Chief Counsel CEC
Abhilasha Wadhwa, Appliances & Existing Buildings Office CEC
David Ismailyan, Appliances & Existing Buildings Office CEC

Others Present (* Via telephone and/or WebEx)

Jonathan Changus, Northern California Power Agency
Maria Stamas, NRDC
Tim Tutt, SMUD
*Randy Walsh, San Diego Energy Desk
Matthew Hargrove, California Business Properties Association
Valerie Winn, PG&E
Marc Costa, The Energy Coalition
Hanna Grene, Center for Sustainable Energy
*Barry Hooper, San Francisco Department of the Environment
*Rick Williams, CommEnergy
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MR. JENSEN: All right folks we're going to go ahead and get started. Welcome everyone, thanks for coming in. I recognize some, but not all of you. Looks like we've got some new faces here; that's good to see.

    (Off mic colloquy.)

    I have been informed that I was not loud enough, so welcome everyone.

    Okay. Let's start with housekeeping items and emergency exits. If something should go wrong there is a door behind the gray wall there. There's one exit to the room, there's one back there, one here. Either of these ones take you to the same exit out into the atrium. That one also goes out into the atrium. And you can leave either through the entrance you came in to the Energy Commission or there is an exit out there. Don't use that one if it's not an actual emergency. The alarm will go off and you'll be embarrassed.

    Restrooms are right across the hallway here. And then the snack bar you'll go up the stairs, ride the elevator one floor, and the snack bar is right there.

    So those are the housekeeping items.

    Here's the agenda. We've already gotten through the welcome and the housekeeping and we're on the agenda
now, so we're doing pretty well.

Okay. So we're going to talk about the conclusion of 1103 at the end of this year, transition to the new benchmarking program under AB 802, summary of lessons learned under 1103. I'll explain what all happens during the rulemaking process for the 802 Benchmarking Program and the opportunities that you'll have to participate in that.

I'll go over the provisions related to benchmarking under 802. And we can then right before the lunch break we'll discuss everything that has happened to that point then we'll have the lunch break. And I'll go over the scope of the regulations and have some scoping questions that we'll discuss here in the room and you can submit comments on.

So the current time-of-transaction energy use disclosure program will be repealed January 1, 2016. So through December 31, 2015 in the case of a sale, if escrow is closing on or before December 31, 2015, compliance will still be required with that program.

During 2016 there will be no building energy use disclosure program. That's when the Energy Commission will be working on developing the regulations, the rulemaking process that we're -- this is technically a pre-rule making workshop that we're having right now, but that's part of
the preliminary for the official rulemaking process, which will take place during 2016.

And data gathered that we've gathered already during the 1103 program will remain confidential and won't be disclosed during the new program.

Okay. Lessons learned under AB 1103. There needed to be a better process for building owners to get energy usage data from utilities and that's been clarified under AB 802. Utilities have had different policies and procedures for providing energy usage data to building owners and that's clarified under the new statute. And so we'll talk about that a bit later.

Data collection and reporting should not interfere with real estate transactions, but we still do want energy use information to inform transactions and be useful in investment decisions. So we'll talk about that later.

And then lastly tenant input is necessary in the rulemaking process. And I'll go into, a little later, why the specific reasons we want to have tenant involvement and ways that we think we can get that.

So this is the general outline of how things are going to work. So we've got three things going on currently: pre-rulemaking workshops to produce draft regulations -- this is our scoping workshop, we're not
Presenting any draft language here -- tentatively scheduled for late January will be a workshop where we will present draft regulations. That will also be a pre-rulemaking workshop.

Also now we are working on some of our infrastructure planning and development. Laith, do you want to raise your hand? Go ahead.

Laith is our data lead and he's leading the development of infrastructure, so if you're the technical person for whatever entity you represent Laith is probably the person you'll be working with.

And we're working on outreach now. This workshop is an example and we've got some working groups that we also participate in that we'll talk about a little later.

Ms. Wadhwa: Can I say something really quick; can I have the microphone, please?

Mr. Jensen: You can, five minutes.

Ms. Wadhwa: Good morning everyone. This is Abhi Wadhwa. I'm about to do something very maverick. I think I missed -- I'm two minutes too late, but I just wanted to come here and welcome you as we are embarking on the rulemaking for this wonderful statute.

Erik usually doesn't show it, but this is him being very excited. As we get into this rulemaking we at the Energy Commission are very excited that we have a
wonderful statute to implement. It resolves a lot of the issues potentially that we were facing under AB 1103. I know for a fact that I've had heartburn over AB 1103 for awhile.

We just really expect that this going to be a landmark regulation. We need your support. We are going to do this together. Every one of us is going to have a role to make this successful. And we just want to knock it out of the park. We are just extremely excited that we are that this juncture.

And probably I should have said it at the beginning, but before we go into the whole dry presentation of what the scope is and what the statute allows us to do and not allow us to do I just want to say, "Yay, us!"

Thank you.

(Appause.)

MR. JENSEN: Thanks, Abhi.

So that was Abhi Wadhwa. And so for those of you that don't know her -- so we're all in the existing Buildings Unit here. Abhi is the Supervisor, so she in addition to being pretty heavily involved with us she's also the person who signs the paychecks, and so thank you for doing so.

Okay. So we'll have a draft reg workshop late January. A couple months after that we will submit our 45-
day language to the Office of Administrative Law, and so this is after we've had the draft reg workshops, taken in comments from that. This is when the official rulemaking clock starts. And then you'll have, you the public, have 45 days from when we submit to OAL to make comments.

And then if any substantial changes are needed we will resubmit for 15-day public comments. If things go very smoothly, we don't need the 15-day comment period, so that depends on how good a job we do with the first round of regs that we submit.

And then after those two things have happened the regs go to the Secretary of State for approval and then go into effect. And we are hoping to have those in effect by 2017 and I'll talk about why a little later.

So this is a quote from the statute, "Building owners should have access to their buildings' energy usage information, which enables understanding of a building's energy usage for improved building management and investment decisions."

So the main focus of this program will be providing information about building performance. The next step is for building owners to make improvements, use that information to make improvements. And so we're going to talk a little bit about that next step. And we'll be looking for that in comments as well. A lot of that --
even if it's not part of this specific rulemaking we'll be interested in our outreach activities during the implementation and execution of this program.

So this is the general scope of this program -- has three main points. One is to clarify the obligations of utilities to disclose energy consumption data to owners, agents, and operators of covered buildings. Next is identify what building characteristic, energy usage, and operational data needs to be collected, how it should be collected, and what information should be made public. And lastly, specify when and how energy use benchmarking will be publicly disclosed.

So there are four terms that are explicitly defined in the statute and I'll just read through those. Benchmark is, "To obtain information on the energy use in an entire building for a specific period to enable that usage to be tracked or compared against other buildings."

Covered building is either of the following: "Any building with no residential utility accounts" or "Any building with five or more active utility accounts, residential or nonresidential."

Energy is, "Electricity, natural gas, steam, or fuel oil sold by a utility to a customer for any uses addressed by the ENERGY STAR Portfolio Manager System."

ENERGY STAR Portfolio Manager is, "The tool developed and
maintained by the United States Environmental Protection Agency to track and assess the energy performance of buildings."

So the two scheduled requirements for utilities from the statute are by -- "On and after January 1, 2016: maintain records of energy usage data." And, "No later than January 1, 2017 provide energy usage data to the owner, agent, or operator of a covered building on request."

So this is why we want to have the regs in place by this date. So it will be in law for utilities to provide data starting no later than January 1, 2017. And so we want to provide guidance to them on how to do so by then.

Okay this table describes -- it looks a little complicated, but I'll walk you through it and we'll get through it together -- so this shows there are two. So let's just take it from the top.

So the top row is number of utility accounts in a building. And the bins are 1-2, 3-4, 5-16, and 17+. Building type, there are two options. The one option is res or mixed, mixed being any building that has any residential in it. So that's one category. The other category is nonresidential. That's a building with no residential in it.
The third row is whole-building data access required from utilities. So there's a data access component and a disclosure component to this program. So this is the data access component and we'll go through that in a minute.

And then the last row is whether disclosure to the Energy Commission and the public is required.

So let's go with the res and mixed first of all. If there are one or two utility accounts the utilities are not required to provide data to a building owner, same with three or four.

Starting with five utility accounts, the utility is required to provide data to the building owner, yeah so five or more.

And then coming down to the disclosure line, if one to two utility accounts or three to four, if the building owner happens to have data even though it's not required that the utility provide it, the building owner may also submit to the Energy Commission for disclosure.

Between five and sixteen utility accounts, res or mixed, the utility is required to provide energy usage to the building owner. The building owner is not required to submit it to the Energy Commission. They may do so if they choose.

Seventeen or more utility accounts, the building
owner is required to submit to the Energy Commission. And we’ve got the asterisk there, which tells us in the footnote the Energy Commission will determine what gets publicly disclosed. And we're going to talk about that a little later. So that's res or mixed.

On the nonres side this box in the data access row is the only place where customer permission is mentioned.

So one to two utility accounts in a nonres building, utilities may require customer permission before they will release usage data to building owners. And so the Energy Commission in the statute is given some discretion over how that customer permission will be granted. And we'll talk about that later, what happens in that case, in either of those cases -- one being where the customer does give permission, one where they do not. That's TBD and we'll talk about that a little later.

And from there three or more utility accounts, non-res, the utility is required to provide data on request. And the building owner, if the building is larger than 50,000 square feet, the building owner is required to give it to the Energy Commission and some information about the building will be made public. And that will be clarified.

So the threshold for public disclosure for
commercial buildings is 50,000 square feet. For multi-family it's 17 utility accounts.

Okay, so we just went through some of the requirements for utilities and building owners.

This slide has some of the benchmark requirements for the Energy Commission. So as I mentioned, "Specify the manner in which customer permission will be requested when necessary."

So again that's only nonresidential buildings, one or two utility accounts -- looks like that's number two.

Number three, "Determine what information gets publicly disclosed." So some subset or some -- it won't necessarily be a subset of what's submitted to the Energy Commission. It could be a EUI, for example. I'll get to that a little later, but we need to determine exactly what is going to be publicly disclosed.

And then, "Determine whether compliance with a local or county benchmarking program fulfills the statewide requirements." So if there's a local program that's more stringent than this statewide program we don't want a building owner having to complete two reporting actions. We just want them to report either to the local government or to the State, have that data get where it needs to go automatically.
"Develop tools and metrics for public reporting."
And we have begun that. Already Laith has got some working
groups underway and we're working on that.

"Establish the infrastructure to collect energy
usage data, analyze it, and publicly report selected
metrics."

"And enforce compliance with the program." And
we're going to talk about that a little later.

Okay. So here's our moment of levity. So

Dilbert is demonstrating what a website would look like if
he had -- so he says, "It's not 100 percent complete. If
it had a user interface you would see something here, here,
and sometimes here. And then you'd be saying, 'I got to
get me some of that.'"

So that's a little where we are, we're at the
beginning stages of the program. Abhi found this and asked
that I put it in and I was happy to do so, because as I
mentioned she signs our paychecks. (Laughter.)

So we're at the beginning of the program here.

We've got a visualization for one thing that I'll show you
in a minute, but we're very much at the formative stages
and so we don't know exactly what all this is going to look
like. That's why we're waiting for, wanting to hear the
comments from all of you.

So what we have here is a mockup that Laith did.
It's adapted from the City of Philadelphia benchmarking website. And we've made it look like it's an Energy Commission website, but it's actually from Philadelphia's website.

And so we're showing here benchmark scores of these buildings. And the idea -- we're not -- we're wanting to be very open for now -- the general idea would be to have a statewide map that might show different things at different zoom levels. So if you were looking at a picture of the entire state, it might look like a heat map that might show in which areas of the State buildings perform better for policy purposes or maybe from the perspective of an energy consultant company that wants to know where they should target their business.

As you come in maybe to a city level, if you were say as a prospective building purchaser or tenant and you wanted to know in which building you should put your business you might want to look at specific buildings and how they're performing.

And examples here -- I think we'll talk a little later about the gray dots. Sorry, I'll get to that a little later.

We're showing on the right here you've got these pull-down menus. You can filter by building type or by what metric you're wanting to look at. The examples we
have here are square footage, building type, and year built. So that's the mockup of the map. And this is our current vision of what we can do for the public disclosure of energy use information.

Okay, that went pretty quickly. Laith, can you take us through -- let's see do we have any comments or questions in the room, first of all? Come on up if you do.

MR. CHANGUS: Good morning, this is Jonathan Changus with the Northern California Power Agency. I just wanted clarification I guess kind of quasi on the record, and perhaps it will be expanded upon in greater detail.

AB 1103 was on sort of a voluntary basis and point of sale. The language in the AB 802 specifies that upon request, utilities shall provide a building owner with energy use data. But it seems like instead of it being voluntary when a building owner comes to the utility the program will involve the CEC requiring all covered buildings to seek this information versus the building owner coming when they're seeking it. Is that accurate?

MR. JENSEN: So the building owner may request and will hopefully receive data whenever he or she wants to. The Energy Commission presumably will -- we don't have a schedule yet -- but presumably will set up a schedule for when the building owner will be required to submit that information to the Energy Commission.
So there will be a specific date by when that needs to happen. But the building owner can request whenever he or she wants. Does that answer the question?

MR. CHANGUS: Yes.

MR. JENSEN: Okay, great.

MR. LEMEI: If I can just flesh that out slightly. Erik got it right, but just to make it a little clearer.

The new statute as we understand it does two separate things. The first thing it does is it gives building owners access to their data upon request.

The second thing that it does is it requires the Energy Commission to establish a public benchmarking and disclosure program.

So I understood your question to draw on both of those two aspects. We see them as two essentially separate functions in the statute. Although obviously one will affect, and feed into, and have some interplay with the other.

Does that answer your question -- so Jonathan?

MR. CHANGUS: Yeah. That's an important clarification about the direction the new program is going versus something that's kind of on request as far as utility infrastructure and expectation of how much data needs to be collected and provided, what types of systems
we might want to develop in order to gather and manage that
data. If it's on a one-off when building owners come to us
is very, very different than when we should expect to be
required to do this for all buildings on some sort of
regular schedule in addition to upon request from
customers. That's a very different impact on the
utilities, so that's good to understand.

MR. LEMEI: Right. Great, thanks.

MR. JENSEN: So we've just had a request to make
some introductions, which I probably didn't do too well at
the beginning. So I'm Erik Jensen, I'm from the Existing
Buildings Unit here at the Energy Commission.

Laith Younis, as I mentioned is our Data Lead and
he'll be working on the infrastructure. Abhi Wadhwa is the
 Supervisor of the unit. David Ismailyan -- go ahead and
raise your hand -- is also in the unit.

And then the person who was just speaking was
Galen Lemei and he is from the Chief Counsel's Office.

Okay, next comment. Go ahead.

MS. STAMAS: This is Maria Stamas for NRDC.

Following up on Jonathan's comment I just wanted
to note that the legislation, in terms of requiring
building owners to provide information to the CEC for
public benchmarking, it actually says, "Either building
owners or the utilities will provide that information."
And so I was just wondering if that's still going to be open for discussion as part of the regulations or if the CEC has determined that.

MR. JENSEN: It absolutely is still open, so we'll talk about that a little later this afternoon.

MS. STAMAS: Okay.

MR. JENSEN: Great.

MS. STAMAS: And then one other comment. Just in terms of the matrix on Slide 12 and data access. I just wanted to clarify that. It's currently under law, even before 802, that if you are a building owner and you have consent no matter how many meters you have, that you're able to get that information as long you have consent. So I just wanted to clarify where it says, "No," that as long as you have consent you should still be able to get that information."

MR. JENSEN: Yes, so this is referring to specifically what's required per this statute. But you're talking not necessarily within the statute, correct?

MS. STAMAS: Yes. So I guess maybe the clarification is that here you are talking about access to the whole building's data aggregated and not tenant-specific units.

MR. JENSEN: Yeah, so I think I'm with you there. If anyone wants to offer clarification they can, but yes,
agreed. Yeah.

MS. STAMAS: Thank you.

MR. LEMEI: I think you stated it correctly. If you notice that under each of the numerical columns 1-2, there is residential is on the left-hand side and nonres is on the right-hand side. On the right-hand side for nonresidential it's absolutely correct that with tenant consent there is right to the -- the building owner has access to the energy use information data with tenant consent for all nonresidential buildings even with only one tenant.

On the residential side the definition of covered building is a building with -- I'm going to get the precise definition wrong, because I don't have it in front of me -- but essentially the definition of "covered buildings" starts for buildings with at least one residential tenant at 5.

MR. JENSEN: And that's five utility accounts?

MR. LEMEI: Correct.

MS. WADHWA: This is Abhi Wadhwa from the Energy Commission. But yeah, I think what you were trying to clarify -- and I'll take another stab at it just to be clear -- that that is the Energy Commission's position too. What we are showing here is what the AB 802 statute mandates all of us. It is not capturing everything
that's possible outside of the statute that has been happening anyway. So utilities in general will provide data to their customer if the proper consents have been obtained. And the statute does not prohibit that process to stop from happening.

MR. TUTT: Good morning, Tim Tutt from SMUD. I just have a clarifying question on this as well.

On the nonresidential side if a building has more than three utility accounts there is a requirement to disclose to the CEC and then to the public, I presume, energy use if it's over 50,000 square feet. So am I reading that right?

MR. JENSEN: That's correct. And I will just clarify this is for three or more, not greater than three.

MR. TUTT: Three or more, all the way up to a thousand or more?

MR. JENSEN: Yeah.

MR. TUTT: And I'm sorry, but I misstated it. What if it's less than 50,000 square feet, but still that many utility accounts? That's my question.

MR. JENSEN: Yes. So the current position -- so in the statute the 50,000 square foot threshold is mentioned in the legislative intent section of the bill, but not elsewhere. But so taking that our current position is that we will only require disclosure to the Energy
Commission for when the buildings are larger than 50,000 square feet. And if they're not, the utility would be required to provide the data to the building owner, but they would not be required to provide it to the Energy Commission.

Anyone else in the room?

MR. LEMEI: And just a clarification Erik. When you refer to disclosure to the Energy Commission you're referring to the public benchmarking program, correct?

MR. JENSEN: Yes.

MR. LEMEI: Okay.

MS. WADHWA: This Abhi Wadhwa. I also want to clarify that the 50,000 square foot threshold, as you can see, applies to the nonresidential building sector only.

The threshold for disclosure to Energy Commission and to the public for mixed use or residential buildings is set differently. It is at 17 or more accounts. The 50,000 square foot threshold is not for multi-family buildings, in short.

MR. JENSEN: Okay, that looks like that's it for the room. Laith, why don't you see what we've got online?

MR. WALSH: Good morning, this is Randy Walsh. Am I on?

MR. JENSEN: Yes, you are. Go ahead.

MR. WALSH: Hi, Randy Walsh from San Diego Energy
Desk. It looks like there's some good things in this 802.

If I'm looking at my agenda of the 10:15-10:30
slot was talking about the AB 1103 program conclusion and
the transition to AB 802. I'd be interested in hearing the
compelling business argument for repealing AB 1103. And
I'd like to get an idea of the stakeholder outreach that
was conducted before making this decision to repeal AB
1103.

And in terms of being supportive of AB 802, are
we to assume that with this new legislation and the number
of utilities that we're lining up to support this, that
there are no longer any more issues with utilities
releasing information?

MR. JENSEN: Let's take your questions one at a
time.

So first of all I don't know that we have anyone
here in the room who can speculate as to the -- we're
indicating that we do have someone here in the room.
Galen, why don't you go ahead?

MR. LEMEI: I'm not going to speculate, but I am
going to clarify.

MR. WALSH: Hi Galen.

MR. LEMEI: Hi Randy, good to speak with you.

Thanks for joining us today.

The Legislature passed AB 802 presumably for the
reason stated in the legislative intent portion of that bill. That said, it is true that the Energy Commission and Commissioner McAllister participated in the legislative proceedings as did many, many other stakeholders, many of whom are in this room.

But in terms of the compelling interest and the underlying reason for our transitioning from the AB 1103 to the AB 802, we could certainly surmise that some of the issues with implementation that we faced may have been part of the underlying rationale. But ultimately that was a decision of the Legislature, not a decision of the Energy Commission.

The Energy Commission was working to, and fully prepared, to implement AB 1103 unless and until legislative direction was given. And that's now occurred.

MR. WALSH: Is there any consideration given to the fact that most of the issues with AB 1103 could be or would be resolved with a majority of the language added to 802 -- that there was no need to repeal 1103? Most of the issues with AB 1103 would have been addressed in the language of 802.

MR. LEMEI: I think what you’re saying is you’re suggesting that AB 802 could have been added to AB 1103 without repealing AB 1103? That may have been possible. I don't know. I cannot speak to why the Legislature chose
one over the other in terms of that, in terms of an
approach.

MS. WADHWA: This is Abhi Wadhwa from the Energy
Commission. So I want to take a step back, Randy. I also
saw your comments on the AB 1103 docket. And I think this
is a good moment to kind of discuss with our stakeholder
group here, what has really happened with the transition
from 1103 to 802.

AB 1103 required a transaction-based disclosure
between private parties. It did not provide any authority
for the most part to the Energy Commission except to
provide a schedule of implementation, which greatly
restricted us in what we could or could not do with that
legislation.

Finally, it did not provide any clear direction
to the utilities on how confidentiality should be preserved
so that they could legitimately give the data out to
building owners without fearing that their customers'
privacy would be compromised. In resolving these issues AB
802 essentially started from scratch. It has not in its
wording taken out any provisions about what could or could
not happen on transaction-based disclosures.

You will see in our questions to you, that are
going to happen a little later, we keep that question open.

We did not think it was a good place for energy
use data to get disclosed when it is tethered so closely to a transaction that the timing of the transaction itself comes into jeopardy.

Nationally, the way these issues have been resolved is through annual disclosure to a specific agency, so that the disclosure is ready to go and available if the prospective buyer requests for it.

AB 802 sets the stage for that to happen if we so choose to go in that direction. But it does not mandate that during a transaction a building owner must or must not do something within a certain timeframe.

So the way we look at it AB 802 has a much broader universe with a lot more potential, which could include some kind of an education component or a real estate industry transformation component. And we would love to hear from stakeholders what do they think is the best process to make that happen. But almost everybody here who was in this room knows that the way it was narrowing down transaction requirements in AB 1103 it was not working.

MR. WALSH: Thank you.

MR. JENSEN: So Randy, I think you also had a question about data from the utilities. Would you repeat that question, please?

MR. WALSH: The question is really the level of
support from utilities. AB 1103 had language in there that required the utilities to cooperate in providing information. And for years the CEC has been getting pushback and noncompliance from the utility companies. So the question is -- I saw the line of people that represented different utility companies in different utility interests -- they lined up. And they supported AB 802.

So my question is, have we now resolved any data release issues with these utility companies around the state of California? Or are we going to be having the same arguments and same fights for the next three or four years before we can come to any sort of a resolution that lets us move forward?

MR. JENSEN: Well, certainly from the Energy Commission perspective we're encouraged by the utilities being given explicit guidance for aggregation levels and providing energy use data. I hope that the utilities appreciate this as well. They're essentially given legal cover from doing so, which is something that they felt was lacking under 1103. And so I certainly hope that this will go a long way toward resolving those issues.

MR. WALSH: Well, hopefully there's somebody in the audience that will comment on this also. Thanks Erik.

MR. JENSEN: Yeah. All right, do we have anyone
else?

Okay. Do we have anyone else on the WebEx or on the phone who would like to comment?

Okay we got through this very quickly. In the agenda we're supposed to be taking a lunch break right now. I think staff are going to huddle for a couple of minutes and we'll decide what to do. And we will be back on shortly, so just wait a couple minutes.

(Pause in workshop.)

(Workshop resumes.)

MR. JENSEN: Okay folks, welcome back. We're going to go ahead and move into our scoping questions and we'll see what -- we'll definitely take a lunch break, don't worry about that, but we'll see exactly at what point it falls.

Okay, so we've got our scoping questions organized by category. The first slide has to do with utility data access. I think the plan here, I think I'll just read through these four questions and explain them a little bit. And then we'll take comments and questions on the questions.

So here we go. So first question, "By when should all utilities be required to match buildings to meters?"

So the statute requires utilities to provide
energy use data on request from building owners. And as we
discussed during the 1103 proceeding for those of you who
were here it's very important that building owners be able
to provide a building address and have the utilities give
them energy usage data for that address. And it's not at
all ideal for a building owner to have to run around
gathering account numbers or meter numbers to provide those
to the utility. So that's why this is important.

We would certainly like to have all utilities
have their databases set up, ready for, with meters matched
to buildings by January 1, 2017. If you have reasons that
you won't be able to do this we would like to hear that.

Laith is currently facilitating a working group
with the CPUC on this exact topic. If there are utilities
or others here who are interested in this topic and aren't
yet aware of the working group and would like to be
involved please contact Laith. I'll have his contact
information up a little later.

For smaller utilities we would urge you to work
collaboratively in coming up with solutions for this.
Large utilities we certainly hope you're well on your way
to having meters matched to buildings. And we'd like to
hear where you are on this, so please address this either
in your comments here in the room or in your written
comments.
And it looks like we've got a comment from Galen.

MR. LEMEI: I just wanted to -- on the off-chance that anyone in this room isn't wonked out enough to understand what this is really talking about and I doubt that's the case, because we're all pretty wonky here -- this is just the simple idea that the statute gives owners of covered buildings access to their data, period. That's what the statute does.

And it doesn't require -- and in certain cases it allows them that access to data without tenant consent above a certain aggregation threshold of three or more.

So in order to accomplish that the utility needs to be able to provide that information upon request without any unusual hoops such as knowing each of the accounts of each of the tenants, which would operate as a de facto or in order for the building owner to get that information they'd essentially need to get the tenant’s consent.

So this meter-matching concept is just the simple idea that the utility needs to be able to provide the statutorily-required information upon request on the basis of an address for a covered building.

MR. JENSEN: Great. Thank you, Galen.

Okay. Next question is, "By when should utilities implement data exchange services with Portfolio Manager?"
So for those who are not familiar with this a utility can set up a connection with Portfolio Manager and then upload energy usage data from their database into the customer's account, a Portfolio Manager account. And so we would certainly like for all utilities to have this. And certainly for the large utilities it certainly seems like it would make sense to have this. It would make their processes more efficient.

For the smaller utilities if it doesn't at all make sense -- if there's a very small number of covered buildings in your territory, there's a good argument that you should not be required to set up data exchange services -- we certainly are interested in hearing those arguments as well. So please address that in your comments.

"How should utilities confirm whether a data request is from a building owner?"

So this is one important distinction between 1103 and 802 here -- 1103, because it was a time-of-transaction program the building owner would be more likely to have documents in hand that would prove clearly that they're the owner of the building. That's going to be less likely to be the case if it's not a time-of-transaction program. And so we're looking for creative ways here where a building owner can demonstrate that they are in fact the building owner without having to go to great lengths to produce this
specific document.

Last question, "How should utility account be defined when multiple fuel types are under the same account?"

So an example of this is if one utility provides multiple fuel types, and so if one customer receives multiple fuel types from one utility, those can be under one account and so it will need to be clarified how that aligns with the statute references to numbers of utility accounts. And so we'd like to hear your thoughts on that.

So that concludes the scoping questions for utility data access, so do we have questions and comments in the room?

MS. WADHWA: This is Abhi Wadhwa from the Energy Commission. Erik, I would just like to add that we want to hear general comments on all the possible use cases that we should consider in defining utility account.

For example, a utility account could be a master-metered situation where the building owner is providing or paying for the electricity or gas use in a multi-family building for all the residences. In that case, would you consider that a single utility account, but then nothing to aggregate it against, because all of the aggregation is already within the meter?

I believe that the intent of the statute was to
preserve confidentiality. And in such a situation, in a master-metered situation, even if it's just one utility account, confidentiality is essentially preserved above a certain threshold. So in that case do we capture that in the utility account definition?

So there are possibly other use cases of one to many situations where on one utility account it's serving multiple customers or multiple utility accounts are serving one customer. There's many, many different use cases to consider. And we'd like to see in your comments a documentation of those, so we can react appropriately.

MR. JENSEN: Great. Thank you, Abhi.

MR. HARGROVE: Good morning, Matthew Hargrove with the California Business Properties Association here today to represent BOMA California, NAIOP of California, International Council of Shopping Centers, and a couple other commercial real estate groups.

In regards to these four questions -- wait, I think this is the right section -- one of the clarifications we would like is, is the Energy Commission contemplating a scenario in which the building owner never actually receives any of this information from the utility, but the utility can actually benchmark the building in a way that provides the benchmarking information back to the building owner?
In other words, the way 1103 was set up, which we found was kind of an issue for some building owners was it had to get all the information, had to put it into ENERGY STAR. For some of your smaller companies if they didn't have an energy staff, would have to go out and hire a contractor, have to find somebody to do that information.

What we see, hopefully somewhere down the road through this legislation -- now maybe not 2017, but maybe 2030 -- is utilities being able to do what they do on the residential side. In some instances now it's simply benchmarking the building with the data that's available and providing that as a report back to the building owners.

My read of the statute is, is that scenario can happen in the future and probably as an interim step some utilities are going to be able to do that quicker than others. Is that scenario accounted for under these questions and the thinking of the staff right now, the statute? Thank you.

MR. JENSEN: So, yeah. So to answer your question we absolutely are considering a variety of benchmarking models. And we will talk about that more a little later. But yes, we're open to different parties being sort of the main actor in benchmarking the building. Go ahead, Galen.

MR. LEMEI: And just you stepped away from the
microphone, but I had a clarifying question about your question. Were you asking about the benchmarking aspect of this specifically or are you --

MR. HARGROVE: Just the mandatory benchmarking.

MR. LEMEI: Just the -- okay, right. Yeah. And that's what he said.

MR. CHANGUS: This is Jonathan Changus from the Northern California Power Agency. And I guess my first comment in response to Matt's is one size doesn't fit all as far as what utilities can be able to do in what types of buildings. And so going forward with that proposal will require greater conversation.

My two comments directly about Number 2 NCPA, represents a number of the smaller utilities that do have fewer of these types of buildings and such.

One of the things that we thought that was a significant improvement in the AB 802 language over 1103 was the option to providing the data -- not necessarily having to log into a customer's Portfolio Manager account -- but making sure they're equipped with the data to conduct the benchmarking on their own. And we think that's a fairly important component and difference and so hopefully that will be reflected and we'll have some written comments along those ways.

The other piece is recognizing that Portfolio
Manager doesn't always capture all building types accurately. We have a number of customers, a number of utilities that don't fit into a good Portfolio Manager box, so to speak. And so figuring out some alternatives or how we're going to address those, especially for the public disclosure program in which you're not really comparing apples to apples, because the energy profile of a large data center or whatever the tech company might be may not lend itself to an easy comparison to others. And could include some fairly sensitive operational data that -- all other things being equal -- you probably wouldn't want to disclose, given some of the competitive nature of the industry.

So there's a lot of other issues that's kind of down in the weeds a little and we will be providing more comments as the regulations proceed, but wanted to flag that early.

MR. JENSEN: Great. Thank you.

MS. WADHWA: This is Abhi Wadhwa from the Energy Commission.

Jonathan, while I have your ear I just wanted to again request for comments specifically from utilities, no matter what your size. We'd like to see what method you prefer based on your customer size and your infrastructure.

Do you think it would easier for you to do a data
dump directly to the Energy Commission for all building owners who would fall under the public disclosure program? Would that be easier versus account of your customer base to then envision whether it would be easier if those requests were coming one at a time? But we'd like to get a sense of that from all the utilities to be able to do a better infrastructure design.

MR. CHANGUS: Okay. Yeah, I think understanding Galen's clarification to my earlier question about kind of the bifurcation of the statute in two separate pieces: the building owner benchmarking purposes versus the public benchmarking disclosure. We're working through what that might mean and understanding what buildings are going to maybe be required at what time. And kind of understanding the new interpretation of the statute from the CEC is going to kind of inform a lot of those discussions. So look forward to continuing that conversation.

MR. LEMEI: And this is Galen. One of the nice features of AB 802 in contrast to AB 1103 is that the ENERGY STAR Portfolio Manager is identified as a resource rather than a mandate, so one of the things that we will be talking about is how to make best use of that resource.

MS. STAMAS: Hi. I'm Maria Stam from Natural Resources Defense Council. In just the scope of the data access portion of the proceeding in 802, it looks like this
will cover whole building data, so aggregated data for residential above five accounts and commercial and mixed -- or commercial above three.

For buildings that fall underneath that threshold or for large buildings where the building owner wants to get tenant-specific information and they need to get consent for both scenarios I'm wondering if the California Energy Commission is considering also putting in their regulation some protocols or methods to make that process smooth and easy, both for the building owner and the tenant to give informed consent?

MR. JENSEN: So I think I'm going to ask Galen to weigh in on this. So the specific case where the Energy Commission clearly has some authority over this is in nonres 1-2 customer accounts where the Energy Commission is given discretion in the statute to specify how customer permission is provided.

Galen do you want to talk about the cases that Maria is asking about?

MR. LEMEI: Sure. I'm not sure that I fully understood your question, because the way the statute is written in terms of defining covered buildings a first aggregation threshold at three or more, but then defining covered buildings is all nonresidential, but if it's a residential account only at five or more. And then of
course there's a separate, higher threshold for the
benchmarking for benchmarking residential buildings or
buildings with one residential account.

I'm not sure I fully understood which of those
categories you were asking about. But in terms of the
broader question is the Energy Commission contemplating
regulatory guidance, particularly in the manner in which
consent's obtained? The answer is yes.

This statute is interesting in that it gives the
Energy Commission a primary mandate in the establishment of
a public benchmarking program. But it also provides
direction to the Energy Commission to provide regulatory
guidance on the what I'll call the Private Disclosure
Program -- the aspect component specifically with respect
to the manner in which tenant consent's obtained.

So the Energy Commission plans to provide the
regulatory guidance that's helpful, necessary, and
appropriate to make that program work -- the data access
aspect work optimally. Although we recognize and
acknowledge that our primary statutory mandate is with
respect to the public benchmarking program.

MS. STAMAS: Thanks.

MR. JENSEN: Do you have anyone else in the room?
Okay, let's go to the WebEx.

UNIDENTIFIED MALE SPEAKER: (Indiscernible)
MR. WALSH: Erik, Randy again.

UNIDENTIFIED MALE SPEAKER: Oh, sorry.

MR. JENSEN: Go ahead, Randy.

MR. WALSH: Can you go back to that slide the --

UNIDENTIFIED MALE SPEAKER: So the AB 802 proceeding --

MR. JENSEN: Hang on, hang on.

UNIDENTIFIED MALE SPEAKER: -- or regulation is going to -- from this it's going to make buildings that (indiscernible) or nonresidential --

MR. JENSEN: Hang on, excuse me. Excellent. Randy, go ahead. Randy, are you still on?

MR. WALSH: I'm here.

MR. JENSEN: Okay.

MR. WALSH: Okay. Can you go to Slide 19?

MR. JENSEN: Yes.

MR. WALSH: So just a couple of comments. For Portfolio Manager to give accurate outputs we need to include all energy, which includes onsite generation.

It's typically a number that would be pulled from a submeter on the site, but I just wanted to throw this out there so that you guys are looking for your definition so that they're written in such a way that they're not excluding the solar information that we might need.

My initial answer to question one would be the
year 2007. Do you guys have an idea of the scope of work or the scale or the preparedness of the utilities around the State to be able to match these buildings to the meters?

MR. JENSEN: No, we don't, but that's the purpose of the question. We're interested in hearing from the utilities how far along they are in having this ready to go.

MR. WALSH: When you're saying how far along they are, was there an official start date on which they were to undertake this process?

MR. JENSEN: No. Galen, go ahead.

MR. WALSH: Okay.

MR. LEMEI: Well, Randy I hear you pointing out that the statute requires that the building owners should be afforded access to this information upon request, beginning on January 1st, 2017. And you are correct in that regard. I think this question is asking the practical question of asking utilities who are participating in this process to speak to their level of preparedness.

MR. WALSH: I understand. And so as of today the CEC does not have a good idea or a clear picture or a thorough report on the preparedness for them to comply with AB 802?

MR. JENSEN: Correct.
MR. WALSH: Okay.

On the second question my answer would be at least the data exchange, which is now called "web Services," their new technology is "Web Services." I would say that that would have been six months after the unveiling of the new platform. Do you at this time have an idea of how many utilities throughout the state are ready to participate in web services?

MR. JENSEN: We do. It's not too many, it's about five or six and they're the larger utilities. Does that answer your question?

MR. WALSH: To a degree, yes.

MR. JENSEN: Okay.

MR. WALSH: As part of that, I'd like to draw the CEC's attention to the fact that there's at least two of those side utilities that right now, before they will agree to upload data through Web Services that I, as a user, have to agree that they can access the information. And I want to just be on record that I oppose the utilities requiring that in order for us to use Web Services and to use ENERGY STAR Portfolio Manager with automatic updates.

There's nothing in any of the AB 1103 legislation that requires us to provide that to them. There's nothing in the AB 802 Regulation that requires us to provide that to them. And so I'd like that to go to either be
completely prohibited or to an option-in choice for us.

The number three, most of the time -- not in every case -- but in most of the time there will be a house account, a house meter account. And that is typically in the owner's name. It may be in the managing agent's name, but it's in the owner's name. So I think just a simple confirmation that whoever is making the request is the authorized account holder for that building meter or building account should be sufficient.

And in terms of number four -- and I was hearing what Abhi was offering and I heard it sounds like you're going to get to the EUI conversation -- but it's important that we get that information coming by fuel type. We can't really have the utilities aggregating it or running their own UI calculations and giving us that calculated number. We need that by the utility type in that measured way: kWh or therms or whatever it might be.

So just want to make sure we're not looking to get everything aggravated -- aggregated -- maybe aggravated -- but aggregated from the utilities in that high level.

MR. JENSEN: Okay, great.

And then Randy, to address I think it was the very first thing you said, regarding onsite generation. So just to reiterate the definition of energy provided in the statute refers to energy that's sold by a utility to a
customer. So I absolutely take your point that it's important to also consider onsite generation. And so we'll look at how we can do that creatively. But at least the statute definition of energy does not include onsite generation.

MR. WALSH: Understood. It's really probably more of an educational component for users.

MR. JENSEN: Yeah.

Okay, do we have anyone else on WebEx?

UNIDENTIFIED MALE SPEAKER: And so unless -- yes, let's go through the list. Unfortunately I have to leave -- oh geez, it's 11:00 o'clock.

MR. JENSEN: Who is this talking? Go ahead, could you introduce yourself?

UNIDENTIFIED MALE SPEAKER: (Indiscernible) for whatever reason I can't --

MR. JENSEN: Okay. If anyone is on WebEx, go ahead.

(Technical issues with audio.)

Okay, last chance. Is there anyone on WebEx that would like to make a comment?

MS. WADHWA: Erik, I think Valerie is waiting to comment on Randy's questions, so if it's okay can we pause and let her take a shot at this?

MR. JENSEN: Yes, it doesn't look like we've got
anyone anyways.

    MS. WINN: Great. Thanks, Abhi. Valerie Winn with PG&E, and I know there have been some questions raised by stakeholders on how do the utilities feel about the data access and all of these questions.

    And I have to say we're seeing a lot of these questions for the first time today. Certainly we were and remain supportive of AB 802. It did resolve many of the issues that we had with respect to data aggregation from AB 1103. And so we're really looking forward to working with the Energy Commission in advancing this benchmarking program.

    We are participating in other discussions that Laith is leading on matching buildings to meters. We think that's going to be an important part of this program. And I think Galen has mentioned there have already been a couple of meetings and discussions on that. And we'll continue to work with the Energy Commission over the next year on implementing that.

    You know, it's when should we be required to do things versus when will we have all the infrastructure in place? Don't know, but I think there have been really good, productive discussions so far and we'll continue to do that.

    I know there are a number of questions that
you're asking here in scoping. I don't have particular responses to provide today, so I look forward to continuing the discussion and hearing a little bit more about what you would like to see us address particularly in our comments. That's very helpful for us, so thank you.

MR. JENSEN: Great. Thank you, Valerie. And we do have a slide near the end with some specific things we want utilities to address. And so we'll get to that at the end.

MR. COSTA: Good morning, Marc Costa with the Energy Coalition, just a couple of quick comments.

For the first question I'm curious to know how will that process be quality controlled, because I know that there is a lot that can go wrong when you match service accounts, because of the volume of the data. So at what percent match is acceptable or how would we test out whether or not those are the correct matches? So I don't know if you have any upfront feedback on that.

MR. JENSEN: So I do, at least a little bit.

So some programs require the utility to make their list of meters and buildings available for inspection. But a program implementer, that's an option. Another is when the building owner could verify the list if they want to. In Portfolio Manager if the utility submits the data they could just list, "These are
the meters that we think are supposed to be associated with this building." And the building owner could verify that.

Those are a couple of options that we've considered so far. I don't know if Laith wants to talk about this. If not I think that's okay.

(Colloquy off mic.)

Okay, so those are just a couple of things we've looked at and we're aware that this is a pretty important issue, because we don't want energy usage to be under or over-reported.

MR. COSTA: Okay. And then just as a general recommendation it's having held this data in my hands at times, implementing certain CPUC programs, it's really helpful to see a corporate view or an end cost report from a customer that has multiple accounts. And to blindly try to match those addresses at the meter level with an actual building is nearly -- it's very difficult, unless you have a facility list from that customer to match it to. So just keeping in mind at the staff level those nuances and maybe just take a crack at it, so that those inner workings are known as you manage the process. It could be very helpful.

Same thing with going and just using Portfolio Manager a little bit and getting down into the weeds there, so that we can see where we can drop in certain authorizations like in question three, right? There's
already authorizations built in to Portfolio Manager when you want to link an account through Web Services. So there might be some places to incorporate scissor-form authorization within the Portfolio Manager infrastructure.

But other than that, yeah I think just on that number one just having some very specific parameters on the level of detail and the match percents.

And leveraging some work that's already been done in the Southern California area. I know the Energy Atlas has really -- at the UCLA level -- have done a lot of this work and mapped and matched to a high-competence interval a lot of the service accounts.

And just keep in mind those are going to change over time, so a maintenance plan for that turnover and change at that account level could be helpful too.

MR. JENSEN: Thanks Marc.

MS. WADHWA: Marc, thank you so much. This is Abhi Wadhwa from the Energy Commission. You bring up some great points. And I know these are sort of one or two examples here and there, but this is exactly the kind of feedback we would love to see in written comments as much as possible.

We are trying to give you buckets under which to comment on, so utility building to meter matching is kind of its own beast, which has lots of layers within it.
We did attend a presentation from UCLA and I believe they matched the buildings to a parcel, so they restricted it to be a parcel. And while that use case may work for what their end goal was it may not work for what a building owner might need to be looking at his or her own energy use to be able to make improvements.

So what we are looking for, and Erik is going to get that slide fairly quickly here, we want the utilities to identify those use cases, the one you just mentioned where a building owner might have a facility with multiple buildings. It's quite possible that the aggregated data does not give him what he wants. So we would definitely like to start fleshing this out more.

You also mentioned concerns with Portfolio Manager on some functionality, which if it could be added to Portfolio Manager. We considered that in the infrastructure bucket, so if you can address that in your comments. You have more experience, more hands-on experience using Portfolio Manager and knowing its limitations. And you are our eyes and ears, so by all means don't hesitate and give us that in comments as well.

MR. JENSEN: Anyone else in the room?

Okay. And last -- Galen, go ahead.

MR. LEMEI: I just want to make one over-arching comment here and that is that these scoping questions that
you've asked -- and this is really across the board --
these are questions that we've come up with on our side;
questions that we have as we look at implementing these two
mandates although this is particularly focused on the data
access mandate. Please don't view this as exhaustive. We
welcome scoping comments broadly on additional topics.

MR. JENSEN: Okay, last -- Laith, do we have
anyone else on the WebEx?

MR. YOUNIS: Yeah. We have one written question.
Can you hear me okay?

MR. JENSEN: Okay, sure.

MR. YOUNIS: "Will the CEC take on the burden of
making sure these tenants, the tenants understand the law
if they're in a commercial one-to-two tenant scenario?"

MR. JENSEN: I'm glad you asked. We're going to
get to that shortly.

That's it? Okay, let's move right along.

Okay. The next two slides have to do with tenant
involvement. And the first question in that category is,
"How can tenant participation in the rulemaking process be
encouraged?"

And there are two points at which tenant
participation is important. One is, as we discussed
earlier for nonres buildings, one or two utility accounts,
utilities are allowed to request customer permission before
providing the data. And so that's one point where the tenants will need to be involved. They'll need to decide whether to have their data provided or not.

The other is for operational characteristics tenants are necessary. And the three common things that we mention here are number of employees, hours of operation, and number of computers. Those all play some part in the driving the benchmark score for a building. And so that's that one.

Next, "How do building owners obtain operational characteristics from tenants? How can this process be improved?"

So if you're involved with benchmarking programs currently and you can talk to us about how tenants are involved or if you've got ideas about how our program should be involved, even if you're not currently involved in a benchmarking program, we'd be interested in hearing that.

Let me go back up to number five. So I explained why tenant involvement is important. For that reason we would like to have tenants be heard at future proceedings. And so if you have thoughts on how we could involve them in the rulemaking process we'd be interested in hearing that.

Last question on this slide, "What should be the Energy Commission's role in helping building owners obtain
tenant information for benchmarking?"

So one example would be the Energy Commission could provide a template for a letter that building owners would give to their tenants explaining that this is in fact a legitimate request. And explaining why they are taking up their tenants' time in doing this. If something like that would be useful.

Or if you'd like the Energy Commission to stay out of the way you can let us know that as well.

Now let's go to the next slide. And this is specific to the case for nonresidential buildings with one or two utility accounts. And these are just two paths:
when the customer requests to have the customer give their -- when the building owner requests the customer to give permission to have their data provided.

So and the questions are, "When a tenant chooses to provide data what should the public disclosure obligation be for the building owner?" And, "When a tenant chooses not to provide data what should the public disclosure obligation be for the building owner?"

So do we have comments or questions in the room on tenant involvement?

MR. HARGROVE: So Matthew Hargrove again.

My question is that these questions seem to presuppose that the building owner has to go to the tenant
to ask for release of the information. Is that just in a situation where you're trying to involve the tenant? Because my understanding is that primarily the way this works is me as a building owner go to my utility that provides service to the building and ask for release of the information.

MR. JENSEN: So if I'm understanding the question only for a nonresidential building with one or two utility accounts is the utility allowed to require customer permission before data is released.

MR. HARGROVE: Okay.

MR. JENSEN: So that is the case in which some participation from the tenant is required. That's the only case in which it's required.

MS. WADHWA: Sorry Erik, I have to interject. Erik is incorrect. Tenant participation is also potentially required above an aggregation threshold of three to obtain operational characteristics. So if you want an accurate score or an accurate benchmark to be reported you need to be involving the tenants. It is much easier to bypass them with the current statute, but it is still not ideal.

MR. HARGROVE: So the operational characteristics aside, I mean what has been the most hang-up on some of this is getting the actual energy information.
So my concern is how this moves forward getting the energy information to the building owner in those situations where you have a triple net lease situation. Or you have a building owner that's not a part of the contractual obligations between the tenant and the utility. That's always been the hang-up on all of this, right?

So I just want to make sure that as we move forward the way that the statute is written is if the building owner does get consent from tenants that's all well and good, that helps the process move forward. That might be something that some building owners might put in their leases, moving forward. But if you do have a situation where you don't get that consent or for whatever reason the baseline of the mandate still is incumbent upon the utility to provide that information upon request.

MS. WADHWA: So are you saying if the tenant in a one or two service account situation does not consent are you saying the statute interprets that data should still be released to the building owner?

MR. HARGROVE: Well, no. If they don't consent to us and it doesn't come from the utility, because that's the old 1103 saw that we had right, then that's where the question comes is then what happens?

MS. WADHWA: That's right. So that would be the second slide.
Erik, could you go down one please? "When a tenant chooses not to provide data what should the public disclosure obligation be for the building owner?"

MR. HARGROVE: So that's where you get to the situation where we would, at that point, the only public disclosure that we can do is ask and answer. And if the answer was no --

MS. WADHWA: No. It's possible the building owner still has his own account information. And we would provide guidance in our regulations what his obligations are to then disclose the data pieces that he has available to him. So he still has his own operational data. And he also has default values available within Portfolio Manager that he can use for the tenant's space. And he has his own utility data.

MR. HARGROVE: That's not necessary.

MS. WADHWA: So I'm not saying I'm giving the answer here I'm just saying that's why it's a scoping question. We would determine it.

MR. HARGROVE: That's something to look at, but that's not necessarily the case. There's many buildings where the building owner doesn't have those -- access to those informations in those types of buildings.

MR. JENSEN: So just to verify.

MR. HARGROVE: So (indiscernible) suppose that --
MS. WADHWA: Not even to his own energy-use data?

MR. HARGROVE: No. I mean, there's many situations where it's a triple-net full-service lease building where or -- I'm sorry. Where it's a triple-net lease situation where the tenant will contract directly with the utility and the building owner does not have access to that information. That is why I just wanted to clarify that.

And that again was the issue what we had a lot of times with 1103. And that's where I would come to this microphone a lot in saying, "We're letting the perfect be the enemy of the good in moving forward with this regulation." And you know, if we get stuck in some of those eddies on this we're going to get bogged down again.

MR. JENSEN: Yeah, so Matt does question number nine -- does that accurately represent your question or is there a further clarification that you want to make beyond this?

MR. HARGROVE: I think that -- well, the question is what triggered my question.

MR. JENSEN: Okay.

MR. HARGROVE: Is where is staff looking at going at in those very small situations where that happens? I know that doesn't happen a lot.

And we want to make sure, you know there's a lot
of times is the tenant doesn't sign that consent form because they don't want their information released. They don't sign that consent form because their building or their part of a company that's owned by an LLC somewhere, that's owned by a REIT -- that they just don't feel they have the ability or the authority to sign some consent form that releases that information to the building owner.

So that's a whole different situation. That's how that tripped us up a lot in the transactional piece of this. And what we've always asked for on that side of things is when a new customer signs up for service with a utility build that consent into the sign-up for service.

And we know that that causes different issues for the utilities and they're going to start throwing things at me. But ultimately again I'm talking ten years down the road here, is for the way the commercial real estate works in those types of buildings those consent for service, you know, they sign up. At least once a year they're paying their bill to the utility and those consent for service should be built into that side of the equation.

Not on the side where you have a third party coming and saying, "Give me some information that you feel is private."

MR. LEMEI: Can I ask a clarifying question?

You've used the term "triple net lease" a couple of times
and that's not a term I'm familiar with.

MR. HARGROVE: Yeah. That's a term we should all know and love.

MR. LEMEI: Okay. No doubt.

MR. HARGROVE: Because that's a situation. So in commercial real estate there's many different ways where a tenant may lease a building. It's business to business contracts, everything from there are full service leases where the tenant doesn't pay for any of their utilities or any of their janitorial service or anything like that to triple-net lease on the other side where the tenant is basically they move in and they're responsible for everything.

MR. LEMEI: Okay. Thanks.

MS. WADHWA: Matt, could you do us a favor? And I think you mentioned too, full-service leases and triple-net leases. Is there any other mechanisms?

MR. HARGROVE: Yeah, there is.

MS. WADHWA: And you don't have to tell us right now, but could you just give it in writing?

MR. HARGROVE: There's a million different scenarios.

MS. WADHWA: Okay.

MR. JENSEN: Could you tell us what all million of them are?
MS. WADHWA: Not in your comment -- in your written comments.

MR. HARGROVE: It's just that that's been kind of the issue on 1103 all along. Is the original statute as written was a very "one size fits all" statute and that one size that it fitted was basically an owner-occupied, large building with a staff of energy consultants on staff that can do all this stuff. That was the issue with that.

The reason why 802, we were very supportive of, is because it gives flexibility to look at all these different scenarios.

On the commercial side, again these are all business to business transactions. It's not like renting an apartment or renting a home.

It's depending on the -- if it's a shopping mall there's a lot different considerations that goes on. When you have a multi-tenanted shopping mall where you do have common areas, you might have solar on the roof; some of these transactions are kind of complicated. Much different than if it's an industrial building or a warehouse. And again that was a lot of the issues that we had 1103.

Somebody who is in your industrial warehouse building might have a lot more issues with releasing their energy information than the shoe store does in a shopping mall. They're different types of businesses with different
concerns and issues.

And the big problem that we had a lot of times with 1103 was that issue where your tenant was signing up directly for service with the utility. At that point even though I own or I manage the building I am not a part of that contractual relationship. And that's kind here where we are. You know, our first meeting that we had with PG&E five years ago was that issue. And we kind of talked around it. We had a bill that went in that tried to fix that and we're back to that.

And what I'm saying is, let's try and figure that out and move forward, but let's let the reg be flexible. There can be different ways that this can be taken care of.

There's some buildings that don't use ENERGY STAR at all in order to benchmark their buildings. There's a lot of companies that have proprietary ways of benchmarking and they might be able to do that on these one and two buildings. So let's not get really, really focused in the regs on some of these details, because there might be multiple ways in order to meet the spirit of this.

And that was my question earlier in terms of the utilities being able to just benchmark some of this stuff if they have all the characteristics of the building in providing that. That would be a situation where that might
be able to take care of some of these one and two tenanted buildings by providing an ultimate benchmarking score and some of the metrics that we need back without having to deal with all the issues in terms of the information transfer.

   So we look forward to work shopping this more often and being part of the stakeholder group.

   MS: GRENE: Hi, good morning. My name's Hanna Grene. I'm with Center for Sustainable Energy.

   I so appreciate the opportunity to start a discussion during our workshop today and look forward to providing written comments or I should say continue a discussion.

   I wanted to address a few questions on Slide 20 there. Thank you, six and seven, in particular.

   Six, first of all I just wanted to do a sort of quick level setting on benchmarking from commercial real estate in California. And remind all of us in the room, even though I think we know this, we're in the weeds. We're getting to the wonky details. But I think it's relevant to know that the largest commercial real estate management firms have or are benchmarking in ENERGY STAR Portfolio Manager already.

   You know, benchmarking is an industry standard for I would say comfortably the largest three to five
management firms across this whole State. It's something
they do for all of their properties across owners. And in
fact, the top couple of firms have been recognized by EPA's
ENERGY STAR Program as ENERGY STAR leaders for years.

So some of these issues about obtaining
operational characteristics from tenants might be bigger
questions for smaller buildings, you know, towards the
50,000 square foot or for a sort of individually, not
professionally managed buildings. But I think the vast
majority of buildings covered under the public benchmarking
program are already obtaining operational characteristics
from tenants.

Of course, there are opportunities to improve the
process. And getting into number seven with the Energy
Commission's role I think having consistency and having
consistent, Statewide tools that can be drawn upon from
local governments with their own policies -- and from the
large commercial management and portfolio owners across the
State, who are going to have properties in different
utility territories -- having consistent tools that they
can use to reach out to tenants to do outreach is
fantastic.

I should say many of the large firms are already
taking that tenant outreach upon themselves, and reaching
out to their brokers and individual property managers, even
now.

I also think number seven is an opportunity where we can learn from the successes of local government policies. Within California looking at San Francisco, and learning from some of the tenant engagement that they've -- tools that they've provided and stakeholder discussions that they've had and then looking at other cities across the country.

MR. LEMEI: Thank you.

MR. JENSEN: Anyone else in the room?

All right, let's see who we've got on WebEx.

MR. WALSH: Are we on WebEx?

MR. JENSEN: Yeah, go ahead.

MR. WALSH: This is Randy.

MR. JENSEN: Randy, go ahead.

MR. WALSH: A couple of things on Slide 20. I hear what Matthew is offering in terms of defining the different kinds of lease agreements that may be in place. I think it might be useful also for the CEC to come up with a list of definitions that we can all agree on.

I think that in number six, my interpretation of operational characteristics is related to the size of the building, the type of the building.

The data that I need to collect from the tenants is what I refer to as "occupancy characteristics."
MR. JENSEN: Let me interrupt for just a second. So the categories of data that we need for a complete benchmark, and the terms that we use at the Energy Commission pretty commonly, are "building characteristics," "energy use data" and "operational characteristics."

And I think that the three things I mentioned earlier, "number of employees," "hours of operating," "operational hours" and "number of computers," I think those are pretty commonly referred to as "operational characteristics."

And the things you mentioned, like type and size of buildings are pretty commonly are referred to as "building characteristics."

And so if I'm incorrect on that please do let me know that in your comments, but I think we'd like to, at least for the purpose of this workshop, stick with those terms.

So sorry for the interruption, then go ahead.

MR. WALSH: Yeah. I find it's a little clearer to break that out. And Ahbi seems to have answered my question, but if there is specific language in 802 that requires tenants to cooperate, then I think owners are going to be fine with that.

I think something that's important to understand is that real estate is a bundle of rights. And when these

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lease agreements are signed owners are signing away some of their rights to use the property or to gather information about the property. And so in most cases there is no contractual or legal requirement that these tenants provide any information that the owner is asking for.

Hanna, I hear your comments about these big operators already benchmarking. I'd like to also draw the distinction between the established operating hours listed in lease agreements by the time periods in which heat or air conditioning will be provided. And the actual -- I'm going to use my phrase -- occupancy characteristics of the tenants, which according to ENERGY STAR Portfolio Manager may or may not align with what's outlined in the lease.

So unless those big operators are actually locking their building at 5:00 o'clock when the HVAC system goes off, chances are good they're having to reach out to every single tenant in their properties in order to get accurate information, in order to accurately create the profile in Portfolio Manager. So it has potentially a lot of work.

So what Matthew was offering it sounded to me like a lot of what your comments are related to -- the collection of the energy use. And it seems like 802 has resolved all of that. And that this question was not related at all in to getting energy information. It sounds
like we've already got that piece worked out.

MR. JENSEN: So, yeah that's -- go ahead.

MR. WALSH: No, I think that might be all that I had. Can you go to the next slide?

Oh, so just a reminder that the default values are available in ENERGY STAR Portfolio Manager. I'm assuming we have the same opportunity in 802 to make a reasonable effort to collect the data and if it's not -- if we can't collect it that we can use these default values. So that being the case there's a process that needs to be worked through.

MR. JENSEN: Let me interrupt, let me interrupt. I wouldn't assume that. We'll clarify that through the rulemaking process, but please go ahead.

MR. WALSH: I think it's important. And I'm offering that to say that in some cases this may be difficult and it may be time-consuming, but you can create a project, you can create a profile. It will be as accurate as the information that you have, but it is possible to do that. Thanks.

MR. JENSEN: Thank you.

Okay, do we have -- okay, who is it?

Okay. Barry Hooper, go ahead.

MR. HOOPER: Hi. Yes, can we go back one slide please? This is Barry Hooper with the City and County of
San Francisco Department of the Environment.

And in terms of encouraging tenant participation in the rulemaking process one option might be reaching out to organizations that more frequently have tenant membership. A couple of examples that come to mind -- and no, there is not a commercial tenant's organization that comes to mind that exclusively focuses on that issue -- but the U.S. Green Building Council local chapters, as well as in San Francisco the Business Council on Climate Change, are each groups primarily composed of business organizations that are more frequently tenants than owners or managers and have staff as well as participants with some expertise on these topics.

So I think we'd be happy to help connect you, connect the Commission staff with tenants groups that might have comments.

And just as a closing comment, I do think this is a rich discussion and I would just like to put in a note that it is very valuable in implementing San Francisco's ordinance that the building operating characteristics have been part of what is collected by the building owner in the course of benchmarking in order to provide really critical context for the energy consumption information.

So I do think that this is a really great area for continued thought that can't be fully delegated to the
utility.

MR. JENSEN: Great. Yes, we think so too. And we certainly would like to take you up on your offer to connect us with groups that could get us in touch with tenants.

MR. HOOPER: Great.

MR. JENSEN: Laith, anyone else?

All right, let's see. Why don't we go ahead and take lunch now. And we will return at 10 minutes after 1:00, so that's an hour and a half.

Thank you and we will all see you then.

(Off the record at 11:42 a.m.)

(On the record at 1:20 p.m.)

MR. JENSEN: All right, folks thanks for your patience. We're going to start in about three more minutes.

All right folks, we're going to go ahead and get started. Sorry for the delay, but here we go. Okay, so before the break we talked about tenant involvement. And now we're going to get into disclosure to the Energy Commission and the public.

So I think we'll go through these two slides. We've got two slides on this topic and then we'll take questions after going through both of them.

So the first question is, "What is the easiest
way for a building owner to get the benefits of benchmarking:"

So we want you to interpret this question very broadly. The general idea here is that we want building owners to have information on the performance of their buildings, and then understand the importance of this information.

So the point of this question is to get our program design so the standard model for a benchmarking program is for the building owner to be responsible for entering building characteristic information, get the energy use information from the utilities, and enter operational information. So that's certainly one option.

Another option would be the Energy Commission getting -- entering the building data from a real estate information service -- getting energy use information from utilities. And then the building owner, the only required participation from building owner as far as getting the data entered would be for getting the tenant usage operational characteristics.

So with the first method I mentioned, with the building owner being the primary actor that requires the engagement of the building owner. And so they are very aware of the process. And all of the information is passing through them, so they are familiar with it.
One of the drawbacks of this method is that they need to become at least familiar enough with Portfolio Manager to do this. And so Energy Commission resources would be needed just to help with guiding the building owners through compliance and not toward sort of explaining the importance of this information with the option of having the Energy Commission perform most of the movement of data.

There's a risk that the building owner would be not as engaged, particularly if the Energy Commission does a poor job of outreach and education, so that's -- of course, would not be our plan. That's the possibility though.

So those are just a couple of options. I think Matt Hargrove mentioned the possibility of having utilities do the benchmarking. And so these are all options we'd like you to consider. And if you've got other suggestions we would like to hear those as well.

Next question, "Is annual disclosure to the Energy Commission appropriate?"

This is just about the frequency of disclosure. Our suggestion is that it is appropriate. If building owners feel that it's an onerous enough obligation that it should be less frequent than annually, we'd like to hear that.
Last question, "When should a building's benchmark first be publicly disclosed?"

So what we're talking about here is there will be a delay of some time between when a building owner first submits data for a building to the Energy Commission and when that building's information is made public.

For example, say if a building owner gets a low score on their building and they're interested in making improvements to their building, and having their improved score be what is publicly disclosed, they would need enough time to make their improvements. And then have their energy usage reflect the improvements. And so this is just so how far from the first disclosure to the Energy Commission do you think it should be until the Energy Commission discloses the score for that building?

Next slide is monthly weather-adjusted energy use intensity appropriate for public disclosure. So the frequency -- that's the low granularity -- is that appropriate for -- and we're interested in all the perspectives on whether that is sufficient for decision-making purposes and whether that is sufficient to -- not too intrusive into the privacy of individual tenant data. "What unique program elements would lead to higher rates of energy efficiency improvements and program compliance?"
So I'd like you to define compliance however you like. So if sort of on one end is simply if a building is entered in the program at all some might consider that compliance. Sort of the other extreme would be having every building in the program with all data entered and all of that data verified as accurate. So that's sort of one continuum of what could be meant by compliance.

Another perspective is building improvements, so it may not -- so traditional compliance there's kind of the continuum that I just talked about. But another perspective is toward measuring the success of the program is how many building improvements are being made.

So that's certainly -- you know, as I shared the quote from the statute at beginning -- that the purpose of this program is to provide building owners with information. And so if they have that information and if they're making improvements that's really what we're going for ultimately.

And so that's what this question is about. "How should public disclosure of building benchmarks be used to drive real estate demand for energy-efficient buildings?"

So I mentioned earlier that we're interested. We do not want to interfere with real estate transactions, but we certainly do want this information to be available, and for prospective purchasers or tenants to be able to look at
when considering along with other aspects of the building.

So the information on buildings will be available on a website that buyers are welcome to go look at. This question is about, "Should there be something more? Is there a better way to get that information in front of these prospective buyers and tenants, so they can have this be a more apparent metric that they can look at?"

So those are the slides on disclosure to the Energy Commission and public. Do we have questions or comments in the room?

MR. COSTA: Hi, Marc Costa from the Energy Coalition. If you go back on that slide, just a couple quick questions, I think maybe forward one.

One thing that seemed very helpful in some of the Southern California discussions around benchmarking ordinances have been about maybe allowing a one-year time until there is disclosure that may not be public. And then the second round of disclosure would be made public just in case you want to improve your score or you want to do something like that to really give help out to the tenants and the building owners.

But when we had that first question on the slide, it just popped in my mind saying, "Well, what are we defining as building? Like what is going to be this covered facility?" And so I was just curious to the
Commission what's our definition of that, so that we can really be on the same page?

MR. JENSEN: Yeah. Thank you for bringing that up. That's not as obvious as it first might seem and that's something that we need to clarify in our -- certainly prior to releasing our draft regs. If it looks like -- and so hopefully we'll hear about this in the comments -- if it looks like a standard dictionary definition of "building" isn't sufficient for the regs we'll certainly need to clarify that further. So thank you for bringing that up.

MR. COSTA: Okay.

MR. HARGROVE: Matthew Hargrove with the California Business Properties Association, just two quick comments on this.

One, in many respects a lot of my members would say, "Disclose as soon as possible." A lot of our members are very large companies that are already doing this stuff. The quicker that we start disclosing the quicker we're able to distinguish that our buildings are way more efficient than other buildings.

But the Energy Commission might want to think through what that does to the market, what you're doing to smaller building owners that aren't necessarily currently doing this stuff. If you rush into this are you putting
them at some type of competitive disadvantage that they
don't thought through? There's nothing in the legislation
that prioritizes this, so I would say do it in a manner
that actually makes sense for what the actual goal of the
program is. And if that's rolling it out in some way that
just hurts small building owners and continues along with a
lot of other policies in California that have small
companies sell their buildings to larger companies just
think through the economics of that.

And then more generally I would say, don't move
towards the disclosure program until you've got the actual
benchmarking piece of this working.

I think a big piece of why 1103 kind of went
sideways in a lot of the discussions was that mention of
putting red bears and green bears in people's doorways was
there from the very beginning of that conversation before
the basic parts of that regulatory program was in place,
before people were even comfortable doing the benchmarking
that had never done benchmarking before. They immediately
were thinking, "Oh, my gosh. I've never benchmarked and
now I'm going to be judged on benchmarking?"

So part of this would just be do it when the core
parts of the program are working and the benchmarking's
well and folks are comfortable with it. This is a
statewide program in the largest state in the nation, so
don't put the proverbial cart in front of the horse.

MR. JENSEN: Thank you.

Go ahead, Abhi.

MS. WADHWI: Hi Matt, this is Abhi. I just wanted to address what you've said. I think we are on the same page. In case it wasn't clear through the way we framed our questions --

Erik, could you go one slide up? No. One slide down, sorry. Okay.

So when we asked this question, in sequence to each other, "Is annual disclosure appropriate and when should what is disclosed be made public?" that's kind of our thinking too.

As you know, this program draws highly from our anticipated vision for the public benchmarking program that we put down in the Energy Efficiency Action Plan. And in that we did conjecture that we would want to give building owners a chance to make improvements before their score is made public or before their benchmark is made public. So that's exactly the thinking here.

What we want to hear in your comments is, "How much time is appropriate?" So if the disclosure is being made annually to the Energy Commission in thinking through it we'd realized well, if they then take a year to take decisions, contract out, get their building improved, then
it will take another year after that for the data to show
improved benchmark, because 12 months of data would make
one annual benchmark.

So it kind of ties to the question of, "Is a
monthly weather-adjusted energy use index then the
appropriate thing to disclose?" so that you're not tied
into that one-year cycle.

If you were only disclosing annual benchmark then
we would have to wait, not just one year in which they
would make the improvements, but then another year for
their data to collect before those improvements would
reflect. So those are the kind of thoughts we are looking
for you to give us. I totally understood that it's a new
program and making the benchmark public the first time the
building owner has done it, is not the most prudent way to
go.

And Matt, one more thing -- you mentioned smaller
building owners. And then you mentioned let the benchmark
itself be successful before you turn it into a public
disclosure program. I'm wondering how would we know,
because it's not like if they are benchmarking privately.
And if they are below the public disclosure requirement
threshold, then how would we be made aware whether they are
now on the path to benchmarking?

MR. HARGROVE: I don't know the answer to that.
I guess what we would advocate though is just don't rush into it. Just to rush into a disclosure just to have disclosure, just to have a website up. Don't have public shaming be your first step on this.

Of course, I'm here representing industry. And again, I want to make the distinction that many of my members are ready to go with this right now. A lot of the big companies that were mentioned earlier, the folks that have very large portfolios in California don't have any problem with this, didn't have a problem with 1103. Where you get the issue here is kind of at the margins and with some of the buildings in the portfolio.

So our only caution with this is just -- and it's a judgment call on your part and we know you're going to make that judgment call -- is think through the issue and just don't jump too quickly to the public shaming piece of this. Get the reg up and running, get some data in.

And I know you need to write regs now, that you probably want to put that in your time horizon of when the disclosure happens. And I don't have an answer for that except to say use some judgment and think through some of the things here.

If you have public shaming starting in three years that's not going to help, I think, the core of this program. And overall I don't think it's going to help
drive energy efficiency improvements. It's going to cause a lot of folks to slam their desks and say, "This is another crazy government regulation. What's going on here?" And I do think that we would love to partner with the Energy Commission as we had been doing on this to make sure that we get the information out there.

You know, the 1103 -- you guys, we tried to roll that out with the bigger buildings first and we tried to move it to the smaller buildings and it never worked out. But I think that that phasing that you guys had done there was kind of the right general approach. And it's just figuring out how to make that happen.

We want to be there supporting every step of the way. Most of the members of BOMA, CBPA, ICSC are again doing this, believe in it. Even before 1103 was a mandate we were telling people, "You've got to do it. You're in California. First of all you're going to have to do it pretty soon, but it just makes good business sense." So it's that intersection of where you make that good business sense cross with the policy goals here.

And we know you want a piece of this to goose along a lot of folks that are going to do this on the natural, right? We know that that's a piece of this. And we want to help make that happen without our phones ringing off the hook saying, "That this is crazy and we can't do
this. And we can't get consultants here and we can't get
the information" and all that.

So that -- it was just a caution.

MS. WADHWI: Okay. Thank you. Thanks Matt. And
again, thank you so much. I think we are on the same page.
I believe I speak for the Commission when I say
that our general policy stance is carrots, not sticks. We
want to encourage compliance through education and making
building owners see the business benefit of it instead of
saying, "We are going to come after you with a hammer,
because you didn't do it." Definitely, thank you.

MR. CHANGUS: Jonathan Changus with the Northern
California Power Agency again. I want to echo Matt's
comments about figuring out the issues that need to be
addressed for equipping building owners with energy usage
data as a separate, and probably a more doable in the
short-term process compared to the public disclosure piece.

And that's where we, as he mentioned, we ran into
a bust on 1103. I think that there's distinct and separate
issues between those two. And that there is a higher level
of comfort of being able to work with building owners and
what they can do with their building versus then trying to
make that into a public bit where we open up a whole other
can of worms. And so I think that's a really good point.
And we look forward to working on that.
And then I think from a process standpoint what does that like in needing to promulgate regs? I think, as we discussed, they really are two separate programs and so, being able to finalize them before it with one might be the way to go.

I think there's also a really important conversation about how this is actually used later on. You know, how does it interact with ever-increasing and more stringent nonresidential codes and standards on which additional permits are going to be need to be pulled to do certain things in order to satisfy more RECIP (phonetic) codes. And so now we know we have a building that needs to be improved, but what does the process look like for them?

I think that's another area down the road of, "Yes, it's important to get this information, but how then do we move on it?" And what are some of the other programs that may be touched by it?

So in summary we will express this more in written comments, focusing more on what needs to happen to equip the building owners with their energy usage data as kind of a short term. And we're then going to have to spend some time thinking about the far more complicated issues that come with public disclosure.

MR. JENSEN: Anyone else in the room?

Okay, do we have anyone on WebEx? Anyone on
WebEx, if you'd like to make a comment go ahead.

MR. WALSH: This is Randy. No comment.

MR. JENSEN: Noted, thank you.

Okay, last call, anyone on WebEx?

All right, moving right along, so that concludes the scoping questions.

We have a fairly concise list here of things that we specifically want utilities to address in their comments. And they are as follows.

"How many covered buildings are in your service territory?" And we'd like multi-family, mixed-use, and nonresidential numbers separately.

"What is your anticipated cost for fulfilling data requests with Portfolio Manager, data exchange services and with manual upload to Portfolio Manager?"

So this second option is only for utilities that don't have a connection to Portfolio Manager or are not planning to create such an option in the near future.

We would like to understand from utilities that aren't yet connected to Portfolio Manager what your cost effectiveness would be for -- whether you have a cost-effectiveness argument for one method or the other, whether a connection to Portfolio Manager or not doing so. And we're interested in seeing how your costs were derived that you provide.
"What aggregation protocols do you plan to use? Please provide technical specifications if developed."

An example of what we're talking about here is in a building with, say five utility accounts if the -- assuming the building cycles for the five accounts are not aligned, you would need some method for being able to provide monthly numbers until you can break up the billing cycles for each account however you wish as long as it will get the aggregated data that the building owner has requested. So we're interested in seeing what your method for doing this is.

And lastly, "What is your implementation plan for matching buildings to meters by January 1, 2017?"

So please, in addition to all of the slides we just went through these are four specific requests that we'd like utilities to address. And I'm going to move on. And then so for everyone, including utilities, please respond to whichever scoping questions apply to you. If you've got anything else that you would like to include in the comments that we haven't thought of we're very interested in hearing that as well. So please go ahead and do that.

And now we are going to the open comment period, so if there's anything that didn't get covered on any of the previous slides -- and it looks like we've got at least
MR. CHANGUS: Jonathan Changus with the Northern California Power Agency. Just going back to those utility-specific questions are those comments you're hoping for us to provide by the 24th?

MR. JENSEN: Yeah, so I want to talk about this. So we can certainly extend the deadline and it looks like that would be good. I realize you're just seeing this for the very first time now. Do you have any thoughts on how long you would ideally have to provide responses to these?

MR. CHANGUS: Yeah. I'd have to check with the members, the holiday season being what it is. It's important and we want to get it going. We know the CEC is anxious to move, so we definitely don't want to be left behind per se, but those are very specific questions that we're just seeing. So it's going to vary between the utilities about how many of them have investigated this more fully, having represented utilities that are not part of the big five here in California.

MR. JENSEN: Sure.

MS. WADHWI: Jonathan, I don't mean to put you on the spot, but I just want to remind you hopefully within the organizations that you work with hopefully they are already working on these questions, because we asked them
at the AB 1103 Pre-rulemaking Workshop in August, as well. And this is not to put you on the spot. This is just these questions were raised at that workshop and technically the comment period for that is also still open.

And Martha and I had requested to please submit your cost analysis, because it will be helpful for us to make the decisions. And we are fortunate that some aspects of both these programs are similar and if any work is being done, because those comments are anticipated then you would hopefully be easily able to tap into that.

MR. CHANGUS: Yeah, happy to respond to that. I think there was a lot of confusion about the future of AB 1103 with the passage of AB 802. I think a lot of utilities are looking into this absolutely, but there was also a suspension, there was a delay in comments to January 1st when AB 1103 would essentially be phased out. So yes, we are absolutely taking a good long, hard look at some of this. But I don't know how much that is pulled together and ready to be provided by the 24th.

MS. WADHWI: Definitely we will extend the deadline. Any rough guess, I mean we're not going to hold you to it, but another month or any number that we should work towards? Like should we go for December 31st to extend the comment period?

MR. CHANGUS: That would be better than 11/24.
MS. WADHWI: Okay.

MR. CHANGUS: We'll follow up shortly with what we think is possible. I need to touch base with the members.

MS. WADHWI: Thank you.

MR. HARGROVE: Thank you, Matthew Hargrove, again with CBPA. I just want to take the opportunity under open comments to really thank the CEC staff and the CEC. I don't think we would be at this point without all of you here understanding that the statute on 1103 wasn't working in the way that we thought it had, we thought it was going to.

The new language in the statute, we think is fantastic in terms of not giving us everything we've asked for over the years, but setting up a situation that we can at least come here and make the case with the Energy Commission. We've been telling our members that the statute has been changed and it makes it possible now for us to engage with the State. And really have California have a benchmarking, statewide law that works for all of our industry on the whole. It's never going to work for everyone, but we do think that we're in a much better spot than we were under the previous statutory language.

On our side of things just because we have so many different types of leases and stuff sometimes it might
sound like we have different opinions depending on what companies I’m talking about. On the whole, we’re very supportive of this. Again, we thank the CEC.

The fact that this is no longer, at least statutorily connected to the real estate transaction, we think is huge. And we think that that is in and of itself is going to end up more energy savings than anything else.

The way the previous law was written it only focused on commercial real estate properties that were being actively managed, bought, and sold. So all of those properties that all of us know need to have energy-efficient improvements that aren’t being sold, aren’t being refinanced. They will no longer be just atrophying under this law. And we think that the CEC and the utilities will be able to reach those building owners and get them to participate. And really, that’s a good thing.

So again, on behalf of all of our groups thank you for letting me come up to the podium five times and speaking on this. We look forward to working with you on the stakeholder processes and are feeling much better about moving forward with this. And think our state can really a shining example here. Thank you.

MR. JENSEN: Thank you.

Anyone else in the room? All right, let’s see what we have on WebEx.
MR. WALSH: This is Randy.

MR. JENSEN: Go ahead.

MR. WALSH: I hear what Matthew is saying and I appreciate where he's coming from. But I think, overall, this is a huge step back.

There was no reason to repeal AB 1103, it was very specific language in very specific situation. I was able to personally benchmark millions of square feet of property throughout the state of California, in compliance with AB 1103, with all of the barriers and challenges that existed. And I'm not aware that I held up a transaction at any point in time.

I think the giving up of the private disclosure and now moving toward a public disclosure makes this a completely different program. I don't think there was any reason to give up on AB 1103. If the CEC and the CBPA were able to get in front of a Legislature -- legislator as quickly as they were -- to repeal one program and create another program I think it would have been incumbent on them to bring that same energy and take advantage of that same opportunity to have improved AB 1103. Just because it was a different kind of a program than what was out there.

I also want to register my objection to there being no energy use disclosure program for a full year. I see in some of Commissioner McAllister's press that has
gone out he's talking about the economic benefits. You
closed a number of us down. And I understand there's a
bias against us consultants trying to assist in this
process, but it's a reality.

We're here, we've been building our businesses,
we've been building our expertise, we've been counseling
members of the real estate community on the advantages of
compliance. And it just feels like there's been no
recognition of that effort whatsoever.

You guys have your own records about how many
millions of square feet benchmark energy use. Overall,
it's not what anybody wanted. But if you take into
consideration all of the difficulties we had in that
program I would say it's not such a bad start. And it's
unfortunate that that whole project was scrapped.

And again, a number of us are going to face some
pretty dire economic circumstances now. I think that's
unfortunate.

I think another element of this is I think you're
generally basing your assumptions that things are going to
happen once people have this information. And that if you
could only get this information in front of them, they'll
make these different decisions. I would put this back on
even EPA.

There are some situations where an owner has
significant enough control over a piece of property that
they can implement the changes that are going to improve
energy efficiency and where that owner is going to see a
benefit. Now if he's talking about triple-net leases, for
the most part the owner has no concern whatsoever what the
utility costs are. None of it being competitive in the
market, these are not costs that hit his bottom line or her
bottom line. These are costs that are contained within the
operating of the property. These are CAM costs that are
passed back to the tenants.

And I think this is an important distinction,
because I think there is this misperception that all the
owners are just waiting for the right piece of information
to be able to undertake these programs. There are, again,
contractual and legal barriers to them being able to have
control of quite a bit of their property once they sign
those lease agreements. Some of you will recognize that as
a split incentive. It exists, it's real. And I would
suggest that that's the biggest impediment to energy
efficiency improvement in these buildings.

MR. JENSEN: Okay. Thank you, Randy.
Do we have anyone else on WebEx?

MR. WILLIAMS: Yes, you do. You have Rick
Williams, with CommEnergy. Can you hear me?

MR. JENSEN: Yes, I can.
MR. WILLIAMS: Great, okay.

Well, I also built my business on AB 1103. It was a bit of a shock when it got repealed. But I'm looking forward to working with 802 in developing it and getting through the education and certification.

But if we take a look at some of things that were not good about 1103 -- for one, let me establish a big, high ceiling -- the goal is to increase energy efficiency and therefore have more people doing Portfolio Manager and actually managing the energy out of their buildings. AB 11 fell short on that, because I did way over 200 different profiles yet maybe I transferred 5 of these benchmarks on, so that the new people would use them. So in terms of that it didn't really work.

What I do look forward to with the 802 is the fact that it promoted from the State, not just in legal jargon that comes down to your lawyer, but actually benefits: benefits to the owner, benefits to the realtor in setting the guide. I went around teaching classes to realtors all about making benchmark in the new CRE (phonetic) tool. And that's what it was, it was going it that way, and it will turn around here when it does.

But I think what we really need to do is work with the owners and give them incentivized value why they would want to do this, other than just being energy
efficient.

And to work with the title people who were totally not in play with this, go work with them and get them on board.

So with all that said let's move forward. I look forward to additional comments. Thank you very much.

MR. JENSEN: Great. Thank you, Rick.

Anyone else on WebEx?

MR. HOOPER: This is Barry Hooper in San Francisco. Just wanted to thank the Commission and Commission staff for a really well organized discussion today and looking forward to this program as it moves forward.

MR. JENSEN: Great. Thank you, Barry.

Anyone else?

(No audible response.)

All right, so on the question of when comments are due. For right now, let's leave this date up and I'll talk with utilities and utility representatives about what date might be more appropriate. We've got -- as I mentioned we want to have our draft regs in place by late January. And so it certainly does seem worthwhile if we can -- to give you the opportunity to provide more informed comments for us to work with.

So we'll go with this for right now, because I
don't want to choose a specific date right now. We'll talk
and come up with a better date later this week, I would
say.

This is my contact information, that's Laith's
contact information. So that's me for reg. development,
him for infrastructure development.

And with that, we are concluded. Thank you.

(Whereupon, at 1:55 p.m., the workshop
was adjourned)

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REPORTER’S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

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IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of December, 2015.

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