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Bright Power, Inc. Comments: On Rulemaking Scoping Questions for Building Energy Use Benchmarking and Public Disclosure (AB 802)

Bright Power is a leading provider of energy and water management services to real estate owners in California and throughout the United States.

Additional submitted attachment is included below.

Comment Received From: Andrew McNamara on behalf of Bright Power, Inc.

Submitted on: 12/31/2015

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Additional submitted attachment is included below

December 31, 2015

California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

Re: Docket Number: 15-OIR-05

**Bright Power, Inc. Comments on Rulemaking Scoping Questions for
Building Energy Use Benchmarking and Public Disclosure (AB 802)**

Bright Power, Inc. respectfully submits these public comments in response to the Rulemaking Scoping Questions presented at the California Energy Commission (Energy Commission) staff workshop on Building Energy Use Benchmarking and Public Disclosure.

Bright Power is a leading provider of energy and water management services to real estate owners throughout the United States with offices in Oakland, CA and New York, NY. Our EnergyScoreCards software is the leading method for Benchmarking Compliance with New York City's Local Law 84 of 2009. This year our Energy Analyst team will help buildings owners benchmark over 1,200 properties under that law using EnergyScoreCards, more than any other provider. Additionally, we provide benchmarking services in a number of other markets including Washington D.C., Philadelphia, and Seattle. Our service has always been about much more than compliance – rather we see benchmarking as the first step in reducing energy and water use in the built environment. Next, we work directly with multifamily properties conducting energy audits and retrofit projects and then re-benchmarking them to demonstrate improvement.

What we have come to realize in our work with building owners across the country is that a well-crafted benchmarking law can be the foundation upon which improved energy and water efficiency is built: it can show policy-makers and researchers the makeup of building energy use across the state, it can show owners where the opportunities for improvements are in their portfolios, and it can show tenants the properties with the highest consumption. However, we have also seen benchmarking laws poorly implemented, where the act of benchmarking is a laborious data entry chore and the ability to extract insights for any stakeholder is extremely limited and difficult.

As such, we think we have a unique perspective on what makes benchmarking laws work, and what makes them fail. We have prepared the below comments in response to the questions proposed by the Energy Commission. In addition to the specific items highlighted below, *Bright Power strongly supports the comments of the California Benchmarking Collaborative as submitted on December 22 of this year* and encourages the Energy Commission to closely review and adopt the recommendations therein. Our comments build upon the California Benchmarking Collaborative comments and are broken into the following categories: (I) Clarify Applicability of AB 802; (II) Put strong teeth into the law – penalties for non-compliance; and (III) Optimize Content, Format, and Flow of Benchmarking Information.



I. Clarify Applicability of and Compliance under AB 802

1. **Adopt a clear definition of a covered property.** As stated in the California Benchmarking Collaborative Comments, it should be made clear that multiple buildings on the same property are subject to the law. It is essential that multifamily “garden style” complexes with many small buildings on the same property are mandated to participate and made eligible to receive aggregated data. Garden Style apartment complexes represent a significant portion of the real estate in California. We recommend the commission adopt a broad definition of a covered property, and might consider one along the following lines adopted from New York City’s Local Law 84: “One or more buildings on a single lot that have a combined square footage larger than 50,000 square feet.”
2. **Create a list of specific, posted, public list of covered buildings.** This helps clarify for building owners which of their properties need to comply (and helps companies like ours know who to reach out to). It also makes enforcement of the laws much easier. NYC and Washington, DC have these lists and it has greatly enhanced enforcement of violations to the laws.
3. **Additionally, on an annual basis, publish a list of those buildings in compliance and those out of compliance.** This helps the private sector to target buildings not in compliance and bring up the overall compliance rate of the program. It also helps owners to understand if the professionals they hire have been successful in achieving compliance.

II. Put strong teeth into the law – penalties for non-compliance

If owners, or the service providers they’ve hired to do benchmarking, do not submit correct information, penalties for non-compliance should be applied if benchmarking data was not correctly re-submitted within six months. Make the cost of doing nothing greater than the cost of proper benchmarking. Benchmarking almost always costs less than \$1000/property/year. A fine of \$2000/property/year (\$500 per quarter) has proven to be a good motivator for New York City.

III. Optimize Content, Format, and Flow of Benchmarking Information

There is real risk that the information gathered for AB 802 will not be valuable. We have seen this play out in other markets with mandatory benchmarking. Especially information for larger properties can be very complex. If the data going in to the process is not correct and consistent year over year, the quality of the analysis will suffer. California needs to ensure that input data is complete, correct, easy to request and process, and useful for analysis that can help drive building improvements. California can learn from the successes and stumbles of other benchmarking laws by enacting the following:

1. **Make it possible for aggregate data to be requested by property identifier and service address(es) rather than just by service address:** Some larger properties with multiple buildings may have hundreds of service addresses, correctly listing all of these for aggregate data requests will undoubtedly cause errors on the part of building owners and service providers. Utility providers traditionally do not have a notion of “properties”. They have a notion of the “service addresses” at which service is delivered. How service addresses

should be grouped into the buildings to be benchmarked is not something utility providers can easily determine, and depends on what is considered a “building”. In New York City, Consolidated Edison enriched its database of service addresses with the Borough, Block, and Lot (BBL) identifier of the building they belong to in order to address this problem for 2014 benchmarking. This greatly reduced the amount of time it took to request data and correctly map received data to the right property. It is not clear whether California has such a common identifier or has plans to introduce one, but we recommend that utility providers enrich their database with building identifiers wherever they are available.

2. **Let utilities make an effort to gather a complete set of data for properties, but don't rely on it.** Listing service addresses included in a set of aggregate data for a building should be the minimum required. Without it there is a very high risk of under- or over-reporting energy data. Owners and service providers are in the best position to verify that the data is in fact complete and correct before they submit it in Portfolio Manager. The ultimate responsibility for this should not be with the utility company.
3. **Provide optimal data definition:**
 - **Data should be aggregated by service address and service classification.** Data aggregated by service address will help assure complete and correct sets of meters. Residential apartments, retail, and a data center should be analyzed separately, and they clearly have different drivers. To make data usable for analysis it should also be disaggregated by utility service classification. In the cases when the number of meters in the same service classification is below the allowable number allowed under the aggregated disclosure provision, then combine the aggregated data with the most similar other service classification, always striving to keep residential meters and commercial meters separated from each other.
 - **Provide accurate dates of service.** Show actual monthly meter read dates with corresponding usage and cost (i.e. September 16 – October 18 if that is the billing period). Do not simply put into monthly buckets (i.e., September, October, etc.) by prorating billing periods. While benchmarking reports are submitted with yearly totals, owners and service providers can only verify that that energy data is complete and use energy data for more in-depth analysis if it's provided on at least a monthly bill level.
 - **For additional information on Aggregated Utility Bill Information best practices, see attached Bright Power white paper and example data formats.**
4. **Standardize Aggregate energy data formats.** The most useful aggregated building data has all the information needed to verify that it is correct and complete, and comes in a machine readable format that is the same across utilities. We recommend that the format in which aggregated data is released be highly prescribed into a standardized format and data schema. Owners and service providers benchmarking buildings across the state and country should not have to adapt their processing mechanisms for each utility providers. Time spent on requesting and processing the data should be minimized as well, to keep the cost of benchmarking as low as possible. We recommend that a stakeholder committee, consisting

of a majority of non-utility representatives, defines the exact standard format after investigating requirements, best practices, and other energy use standards used in the industry. The committee should also evaluate the data provided by utility providers on an ongoing basis to ensure that what is provided continues to maximize the potential of disclosure. The committee should annually review the standard, with the authority to make binding recommendations.

5. **Explore options for truly machine readable data.** While Excel spreadsheets are definitely preferred over faxed or otherwise printed data, they still require file downloads and file processing. This may be acceptable one time, but not when it has to happen every year or more frequently. Web services are a much more modern way of exchanging data. It should be seriously investigated whether, especially for utility companies who already have Green Button Connect implementations, both data requests and delivery could potentially happen via this gateway.
6. **Ensure there is a role for professionals in the process.** Due to Portfolio Manager's data schema, there are limitations to the amount of data the utility can provide into the PM system. It should be explicitly allowed by the law that the ABUI data can pass through the owner and any designated third party organization that they might engage. This will unlock the potential for in-depth analysis that would enable far more accurate analysis of demand side energy measures. For example, Portfolio Manager cannot account for time-of-use (TOU) rates, TOU demand charges, hourly data, etc., which is a key factor in the value that energy retrofits and distributed generation can provide. Given the variety of ways that electric and gas tariffs may evolve going into the future, its limitations are likely to become more acute and it seems foolish to lock Portfolio Manager as the *only* pathway for data flow. That said, we at the same time recognize the importance of Portfolio Manager as the national standard for warehousing benchmarking data, and do fully support it as the ultimate portal into which submissions are made. *In short – we recommend the commission make Portfolio Manager the ultimate repository for benchmarking data, but not the only pathway through which aggregated data can flow.*
 - a. Having a role for professionals won't just improve the possible analysis, it will also improve compliance as demonstrated in markets like New York where there is a strong role for professionals to motivate the building owners that area already their clients.
7. **Require Owners to maintain building characteristic information.** Energy data is only part of the equation. Property square footage – segmented according to the same criteria as energy usage (residential space, commercial space, common area space), number of buildings, year of construction and other information must be kept up to date. This information is not static -- as buildings change hands and renovations/additions happen, these numbers change. Most benchmarking indices normalize energy usage for square footage or unit count, and if building characteristic numbers are wrong, so will the aggregated data. Solution – mandate that owners keep building characteristic information up to date with enforcement and penalties for non-compliance.

We appreciate your time and attention and encourage you to reach out directly to the authors of this document with further questions. Authors: Andrew McNamara (amcnamara@brightpower.com), Jeff Perlman (jperlman@brightpower.com), Klaar De Schepper (kdeschepper@brightpower.com).