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<td>Building Energy Use Disclosure and Public Benchmarking Program Mandated under Assembly Bill 802</td>
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MR. JENSEN: Thank you all for being here. Thank you. I recognize most of you. Thanks, also, for coming to the March 25th workshop. We appreciated your input and feedback there, and then the written comments. And we incorporated a lot of those into what you’ll see today, and I’ll talk a little bit about that later.

So first of all, if something should go wrong, we exit this room. So there are two exits, one behind Jonathan in the corner there, one, the doorway most of you came in through. You’ll be out in the central area, and then you can get out either through the fire exit back that way or through the main entrance that most of you probably came in through.

Restrooms are right across the hallway back here. Snack bar, if you go either up the stairs or one floor up on the elevator you’ll be -- if you go up the stairs you’ll be facing the snack bar. If you go up the elevator you’ll have to wrap around. You’ve all been -- most of you have been here, so you probably know where the snack bar is.

When it comes time to do comments the general -- we’re going to see how this works out this time. The format
is going to be a little different from previous workshops, but the general idea is we take comments from people in the room first. For those people, please come up to the microphone to talk. We want to make sure that people who are on WebEx and the recording will get what you’re saying. After the people in the room have gone we will go to the people on the WebEx. And then after that we’ll open up the phone lines and invite people on the phone lines.

For people on WebEx and phone, please have your phone on mute on your end. We have you muted from here. But when we unmute the phone lines, we’d like to be able to give you a chance to speak. If we hear all sorts of background noises, we can’t do that. So please, unless you want to speak, please have your phone on mute.

The last thing I want to mention here, please take -- I just want to mention that it takes about a week, sometimes a little longer, for us to get the transcript out. And so if there’s anything that you particularly want to comment on, make sure you’re making notes on that part because you’ll need to be able to incorporate what you hear into your comments, and you won’t get the transcript right away.

Okay, here’s the proposed agenda. As I mentioned, the program is going to be a little different from previous workshops, so I’ll do a real quick overview of the bill,
which we’ve all seen before, briefly go over the key things that we heard in the previous workshops. And I’ll just do a pretty brief overview of what we’re proposing. I’ll put up some of the main points from the regs and briefly describe them, but I won’t read through the whole thing, as I’ve done before, which I hope you’ll appreciate. I know I’ll appreciate it, so I’m looking forward to that.

We’ll do a quick break after I present the presentation, go into an open comment period. Depending on how that goes, we can go to lunch and come back or we can all just leave if no one has any more comments after that, so we’ll see how that goes.

So as most of you have probably seen in the initial notice that we sent out we said that the comment deadline was going to be August 5th. Because we gave you not very much time to look at the regs before this workshop we wanted to move that back a bit, so it’s now 5:00 p.m. on Friday, August 12th. And at the end of the presentation you’ll see more information on how to submit comments.

All right, let’s see, anything, Laith anything up front that I’m overlooking, or should I go ahead and launch? All right.

Okay, so just briefly, there are three things that the statute -- I just saw a comment on the WebEx that I have not yet introduced myself. My name is Erik Jensen. I’m
leading the regulation development for this program. This gentleman seated here is Laith Younis. He’s leading the data infrastructure development for this program. And that just reminds me, Laith pointed out to me yesterday, in the presentation I posted online there are no slide numbers. I corrected that for what I printed that today. But people who are on the phone and on the WebEx don’t have the slide numbers. So I’ll try to remember, in addition to saying what slide number we’re on, I’ll try to describe the slide. Most of them are pretty fairly unique, so that should -- hopefully that will go pretty well. But when we get to the discussion, if we need to clarify we can do that and we’ve got. Okay.

All right, with that let’s go ahead and start on the statute requirements. So there are three broad requirements within this portion of this statute. There are other things that other divisions here at the Energy Commission handle, but we have our hands full just with these points. And so I’ll just talk about these ones.

So firstly, beginning January 1 of this year, utilities were required to maintain at least the last 12 months of energy use data for buildings to which they provide service. Starting January 1, 2017, utilities will be required to provide energy use data to a building owner, owner’s agent or operator on request. So we will -- our
regulations will not be in effect at that point. Utilities are still required to do that starting January 1st, 2017.

We have some -- we lend some detail in the regulations to how we want to see that happen, but the main point here is it needs to happen anyway, even though the regs won’t be in effect. Having said that, that’s all voluntary. So this is just if a building owner wants to have data, but at that point it won’t be for compliance with the Benchmarking and Reporting Program.

Lastly, the statute requires the Energy Commission to create a program to benchmark and disclose energy use information for certain buildings. And I’ll go into, you know, the details of what those buildings are. The statute does not give us a specific date for that. I think we’re going to -- the timeline is the very next thing, so we’ll talk about that next.

So I already talked about the first two regulations we’re looking at probably the second half of 2017 for having the regulations in effect, and so that will, as I mentioned, lend some detail to the data access requirements and outline the -- or describe the benchmarking and reporting requirements.

So the rest, I think, so the rest of the timeline, I think, I think is the same as I what I -- I hope is the same as what I presented last time, so commercial reporting
will begin April 1st, 2018. Multi-family reporting, April 1st, 2019.

And we’ve got a comment. Do you have anything, Laith, or am I --

MR. YOUNIS: No.

MR. JENSEN: Okay. Okay. Data that we receive in the first year from each of those building sectors will not be made public. The first. So the second reporting year for each of those building sectors is what we will make public. So April 1, 2019 will be the second reporting year for commercial buildings, and that will be the first year that we report that information, and it will be the information from that year; it won’t be the information from 2018. And then 2019 is the second reporting year for multi-family, and that will be -- excuse me, 2020 is the second reporting year for multi-family, and we’ll report that in 2020.

Okay, key themes from the workshop, previous workshop. Master meter buildings, it was unclear how to handle that, and we’ll show you how we do that. Similarly -- so the first bullet is multiple users under just one utility account.

The second bullet is when you have multiple utility accounts under just one user.

The third bullet is how to handle accounts that
are owned by the building owner.

Fourth is clarification of aggregation, what energy types we’re counting to reach the various aggregation thresholds in the program, and so I’ll get into that later.

Which party has responsibility for obtaining customer permission.

What the default should be when a customer doesn’t respond to a request for customer permission, so whether the default is to have that customer automatically -- have their data automatically shared or automatically not shared, we’ll explain that later.

What exactly starts the four-week data access clock. The statutes gives 28 days, 4 weeks for the utility to respond to a data request. But as you’ll see, we’re clarifying that that clock doesn’t start as soon as a request is received. There are certain things that need to happen before the 28-day clock starts.

And then we’re going to -- so we initially had proposed that certain utilities would be required to implement web services, and we’re no longer proposing that.

One more slide of themes from the workshop. So there has been some confusion about what’s required for synchronizing building cycles and aggregating building-level data. We’ll get into that a little bit. EPA just
submitted, within about the last two weeks, submitted a
document on best practices for doing this. And so you
should have a look at that and we can, as I said, we can
talk more about that a little later.

Speaking of going to a docket, I want to mention
to people who are on the phone and on WebEx, we won’t have
the full regulation text in this presentation, so you should
go get it from the docket if you want to have it in front of
you when we get to that language.

All right, garden-style apartments and
condominiums, we’re going to get into how we handled those,
same with industrial and mixed-use buildings. We’ll show
our specific list of publicly disclosed metrics.
Implementation schedule, I think we’ve already done.
Triple-net and long-term leases, the question of who is
ultimately responsible for the disclosure requirements,
we’ll talk about that.

Data flow processes, Laith is going to talk about
that. We’ve got a diagram for that. And we’ll explain and
go into the building identification number in more detail.

Okay, so I think Laith is up. He’s going to talk
about the general process flow for the program.

MR. YOUNIS: All right, thank you, Erik. My name
is Laith Younis. I’m going to be the Data Infrastructure
Lead for AB 802 Benchmarking Program.
This is a revision of the document that you guys may have seen on March 25th workshop. I tried to clean it up a bit from some feedback that we got, as well as the changes that we implemented in this round are reflected here. Each color represents a group, a team. So we’ve got utility, the building owner or owner’s agent as a requester, Energy Commission, and local programs. And you can follow these steps down to figure out -- this is very -- at a high level. As we involve comments, we’ll get more and more granular in this.

But basically, you can follow the utility’s actions as receiving the data request from the requester, authenticate that owner or owner’s agent, check the number of utility accounts going through the vetting process on their side. If it’s below three utility accounts, customer permission is required. If it’s over three utility accounts the data will be sent to the building owner or owner’s agent. And then when the requester completes that request there would be the time period Erik talked about. And then receive utility data or a notice of why they weren’t able to receive the data. And lastly, if disclosure is required the building owner will be asked to populate Portfolio Manager and answer operational characteristics. So that’s kind of its own section. Those two are interconnected.

Energy Commission will be looking for those
building owners to share their data, if they are disclosable buildings, to the Energy Commission. And we’ll be going through a compliance process to make sure that we got all the buildings we were supposed to, cleaning up the data, making sure there’s, you know, not any bad EUIs or bad addresses for the eventual posting on a CEC front-end website for everyone to be able to benefit from.

Lastly, any existing local programs or programs that come on in the future will be able to export their data directly into this website. So a building owner will only need to make their submission once. It will either be to us at the CEC or through San Francisco or any other local ordinance that exists, and then that data will be piped directly to our presentation, is how we envision that. So a building owner will have to only make their data available once.

Okay, that’s it. Thank you.

MR. JENSEN: Thank you, Laith.

So I just want to mention one thing here, and I’ll get to this later. But the check for number of utility accounts, in this case -- so the distinction around three, that has to do with on the commercial side, whether customer permission is required for buildings. For buildings with one or more residential accounts there’s no customer permission threshold. Buildings with fewer than five
accounts are not covered, so they’re not within the scope of the program at all. Buildings with five or more are covered, but there’s no customer permission requirement, so I’ll get into that a little later.

Okay, so we’re getting into the regs here. And this is intentional that I’m skipping some. I’m going to hit on some of the important points in here. It’s all important, but I want to be efficient with our time. We can talk about anything you want to when we get to the discussion period, so here we go.

So active utility account, what we’re talking about here is an account that received service during the period for which data is being requested, so it’s not at the time the request is made. So say it’s multi-family, if there are four accounts in the building right now, but if there were six during the calendar year for which data is being requested, that’s okay. That’s a covered building because of this clarification on active utility account.

Building identification number, that’s a number that’s -- it will be recognized statewide. And that will be assigned to each disclosable building by the Energy Commission. They’ll be listed on the Energy Commission website. We don’t know when we’ll have that in place. We might not have it in place by the time the regulations go into effect. So you’ll see a couple of places in here,
well, yeah, a couple of places in here where we say -- refer
to the building number, building identification number when
it becomes available. So that helps us with, you know,
synchronizing the building owners, utilities, and Energy
Commission, making sure we’re all talking about the same
building. So it’s a good thing to have, but we might not
have it in place by the time the regs go into effect.

Covered building, so every commercial -- I’m going
to use the term, if this is okay I’ll -- the statute makes a
distinction between buildings that have no residential
accounts and buildings that have one or more residential
accounts. It’s a little faster for me to say commercial and
multi-family, so I’d like to reserve the right to do that,
but we’re careful in the regulations to adhere to the
statute.

So after that clarification, let’s see here, so
covered building, on the commercial side all buildings are
covered buildings. So if a building doesn’t have any
residential accounts, it’s covered.

We’ll get to customer permission cases later.

On the residential side, a building with fewer
than five utility accounts is not covered, so it’s not
within the scope of the program. A building with five or
more is covered. There’s no customer permission for
residential buildings.
Now, I want to be clear about what we mean by a covered building. So in some other programs, programs for which the building owner is required to disclose something or report something are called buildings. It’s different here, so what we -- and this comes from statute, a covered building is one for which utilities need to provide data on request from a building owner or owner’s agent.

And then disclosable buildings, which we’ll get to next, are a subset of the covered buildings, and those are the buildings for which a building owner needs to report to the Energy Commission.

So those are the two -- that’s the distinction between commercial and residential for covered.

And then we have an additional point on covered buildings, which is that you have multiple buildings served by a single meter so that you can’t tell which usage is attributed to which building, that group of buildings that’s served by the one meter is to be considered a single building.

Disclosable building, on the commercial side all buildings over 50,000 square feet are going to be disclosable. We’ll talk about the distinctions for those with fewer than three, but this a change from our March 25th workshop, all commercial over 50,000 square feet are disclosable.
On the residential side, buildings with 17 or more utility accounts over 50,000 square feet are going to be disclosable.

Utility account is an agreement between a customer and a utility to serve, to deliver energy to a building.

And then we’ve got two clarifications on this one.

First of all, if you have multiple postal addresses served by one agreement we consider each of those postal addresses a utility account.

And it goes the other way, also. If you have multiple agreements serving one postal address, we just will consider that one utility account. The general idea here is that we’re intending to be faithful to the legislative intent to use utility accounts as a proxy for users and not actually, you know, not actually mean the number of agreements between customers and utilities, but we feel that, you know, in terms that they were setting these thresholds to get at, you know, privacy, how they felt privacy would best be protected. And we felt that individual users which were -- and we’re using postal addresses as an indicator of that, as the appropriate way to do that.

So this shows sort of the relationships among buildings, covered building and disclosable buildings.

So on the commercial side, again, all buildings
are covered buildings. Within that, all of the buildings above 50,000 square feet are disclosable buildings.

On the residential side you have buildings. Buildings with fewer than five utility accounts are not covered buildings. The blue section, yep, the blue section is covered buildings, so five or more utility accounts, regardless of square footage. And then within that, only buildings with 17 or more utility accounts and greater than 50,000 square feet are disclosable buildings.

Okay, so this brings us to the -- oh, so one other change is I’m going to try and get through the whole thing here, and then we’ll do the discussion at the end of that. It’s important to see how there are lots of cross references to previous and future sections in here, and we want to make sure we sort of get across how it all works together before we go to the discussion. So that’s why I’m just running through like this, and then we’ll discuss it all when we get to the end.

Okay, so the first thing, okay, now let’s talk a little about the distinction between the data access program and the benchmarking and reporting program. So data access, as I mentioned before, that’s the part that utilities need to be ready for January 1st, 2017. This is voluntary. A building owner can ask for it. It doesn’t have to be tied to the benchmarking and reporting program. And then the
benchmarking and reporting program, that’s something building owners of certain buildings will be required to do. The benchmarking and reporting program relies heavily on the data access aspect of the program. They need to have the access to the data to do the benchmarking and the reporting. So they’re tied together but they’re distinction portions/aspect of the program. And as I mentioned earlier, so when we’re talking about covered buildings, generally we’re talking about the data access provisions. When we talk about disclosable buildings, that’s the benchmarking and reporting portion of the program.

Okay, so a building owner or owner’s agent can request data. To do so they’ll need to provide the building address, building identification number, if available, information that verifies that this person is, in fact, the building owner or owner’s agent, and an indication of whether the building has a utility account serving multiple postal addresses. So this goes back to the proposed definition of utility account. I mean, the utility only knows how many agreements they have between them and customers in the building. They may not know how many users within the building are under each agreement. And so the building owner needs to provide that information to the utility.

And lastly, they’ll need to provide an indication
of whether the request is made for compliance with the benchmarking and disclosure program. So here’s a place where the utility needs to be able to know whether this is a request just for data for the building owner to have his or her use, or whether it’s for the benchmarking and reporting program.

So when we get to customer permission a little later, the utility, if it’s a commercial building with fewer than three utility accounts, the utility needs to know what type of customer permission they should be looking for, so I’ll get into that later. But there will be a distinction between a customer agreeing only to have their information shared with the building owner and a customer agreeing to have their information be shared publicly under the benchmarking and reporting program.

Okay, so the utility is required to -- will be required to share a few pieces of non-energy information, and then energy use data. The non-energy information includes the list of meter numbers serving the buildings, so this is so the building owner can go check if they’d like to. A list of customers associated with the building. Again, this is so the building owner can make sure that the customers the utility has on file as being in that building are, in fact, in that building.

Laith may or may not go into a little more detail
on this later, but if the utility is trying to automate
their association of meters with buildings, there’s a margin
for error there. They may not know exactly which meters are
associated with which buildings, and so this is a check for
that.

The utility also will provide the building
identification number, if available. So those are the three
pieces of non-energy information.

And then they need to provide energy use data and
this is per -- let’s see here. So the utility will need to
identify, aggregate, and provide all energy use for the
requested building for at least the previous calendar year
and usage for the current year in which data is requested,
up to the data of the request. And depending on, for
utilities that don’t have data exchange services with
Portfolio Manager, they’ll need to just use the spreadsheet
that Portfolio Manager provides to send usage to the owner.
Utilities that have data exchange services, at the building
owner’s option, can either send the data directly to the
building owner’s Portfolio Manager account, or use the
spreadsheet template to send it to the building owner. And
those are the -- well, yeah. And those are the only two
methods we’re allowing.

On March 25th, you know, we sort of had this open-
ended -- we said a building owner could choose the manner of
the transmission, and we only want -- we want to limit that
so that the utilities don’t have to, you know, respond to
strange requests. They only have a maximum of two different
ways to do that.

So when a utility receives a request, even when
there isn’t customer permission involved, we’re giving 14
calendar days for them to verify that it’s a valid request,
that it includes all the information it’s supposed to
include, that the person submitting the request is, in fact,
the building owner or authorized to act on behalf of the
building owner. So they get 14 days for that before the 28
days provided by statute begin.

And then customer -- as we’ll see later, with
customer permission there will be a maximum of -- there’s a
60-day time period for the utility to attempt to get
customer permission. We’ll get into that a little later.

If there is -- we’re getting into that right now.

It’s not later, it’s the very next thing on my list.

So customer permission, if a commercial building
fewer than three utility accounts, two options. The
building owner can provide a signed lease or waiver at the
time they make the request where the utility customer is
agreeing to share their data with the building owner. There
is -- again, there needs to be a distinction there so the
utility will know whether this is a request just for data
access or for compliance with the Benchmarking and Reporting Program. And so they’re going to be looking for -- in the lease or waiver they’re looking for that acknowledgment. So the customer needs to acknowledge to what they are agreeing.

So let’s see here. So, okay, if the building owner does not provide that, it’s then the utility’s responsibility to try to get it, and we go into some detail on how they’re required to do that. They’re required to contact the utility customer, send a follow-up, keep the building owner informed on how that’s going. If after 60 days they don’t get a response from the customer, then they close the request and they notify the building owner that they didn’t get permission.

We had our meter mapping call with the utilities a couple days ago. It’s clear that there are going to be some details on this that we’ll need to work out. It’s not all that straightforward for utilities to send a bunch of customer permission requests to their customers, so we’re going to work on those details.

Lastly here, if there’s an interruption in Portfolio Manager so that utilities aren’t able to use their data exchange platform to upload directly to Portfolio Manager, they’ll need to just use the template and send the data directly to the building owner.

Okay, Laith, do you want to talk about -- I mean,
there’s just the numbers. Do you want to -- okay. Okay, that’s fine.

Okay, so these are approximate numbers. The commercial -- on the -- so this is covered buildings again, so this is buildings for which data is required upon request. And these are from CoStar which is a real estate subscription service.

The commercial building number is a little under 400,000. This has increased from what we showed on March 25th for two reasons. One is because we are now -- not for covered. Sorry.

So this is the covered number -- okay, so covered just increased because CoStar is showing a larger number now, even for the same search terms. And so they can have for -- they can be adding more buildings to their database. So it’s not necessarily more buildings being constructed, but the number included in CoStar is higher, even with the same search parameters.

Multi-family, we aren’t able to use the exact terms that we use in regs on the multi-family side. In regs we’re trying to be faithful to the statute, but because of the terms that CoStar uses we have -- and, I mean, I’m talking about search terms, not the term of our subscription, we have to use properties when we’re searching for multi-family in CoStar. So anyway, covered -- so this
is properties with five or more units, that’s what we have to search in CoStar. We’re getting about 117,000 properties.

And, okay, this is approximate covered buildings and properties by utility. We sort of wanted to just give a sense of the scale here. So some of the larger utilities have hundreds of thousands of commercial covered buildings. Multi-family, we get a range of the max possible and the min possible because, as I mentioned, we’re not able to do our searches with the exact same terms as we’re using in the regs. And then you can sort of see how it tapers off. And we’re not including every utility here. And the cutoff was fairly arbitrary as it gets down to some utilities that don’t even have -- wouldn’t have a bar to show on here, using this scale we just cut it off. So this is just to give an idea of the scale.

Okay, let’s get into the benchmarking and disclosure section.

First of all, if you’re in a jurisdiction that has a local benchmarking and reporting ordinance, and if the Energy Commission has deemed that that ordinance fulfills the same purpose as our regulations, you won’t need to report twice. So we’ll work with that jurisdiction, make sure the data infrastructure is in place behind the scenes.
You’ll just need to report to your local jurisdiction, that data will come to us, get included in the statewide program, as well, and your obligation is done. We’re going to be adding more detail eventually to the process that we’ll use to decide what the requirements are for a local ordinance to be listed on our website, but that’s what will happen eventually. There will be a list on our website so, you know, it will be real clear whether you need to report to the state or just to your local jurisdiction.

The schedules, I talked about earlier, starting in 2018 with commercial reporting, 2019 with multi-family reporting, and then one year later for both of those, in the second year of reporting for each, will begin public disclosure.

So I list the steps that are required for the benchmarking and reporting process. Some of them won’t have to happen if you’ve done them already. Open a Portfolio Manager account. Request data, as described in the Data Access section.

If there are three or more utility accounts -- so we’re proposing to have three different links on the Energy Commission website, one for if you have three or more utility accounts or customer permission, so -- or fewer than three utility accounts with customer permission, you’ll click one link. Using the Custom Report Template in
Portfolio Manager, you’ll press a button and certain information, which we’ll get to later, will get transferred over from your utility -- from your Portfolio Manager account to the Energy Commission’s Portfolio Manager account.

If you have fewer than three utility accounts without customer permission, there will be a link for that. You’ll still need to open a Portfolio Manager account, enter the building characteristic information go to this link, transmit your data. Your building characteristic information will be reported, but no energy use data will come over. So that will go up on our website, so this is, you know, to verify compliance. We’ll, you know, we’ll see that the building owner complied in this case, and we just don’t have energy use information for that building.

Lastly, if there are fewer than three utility accounts and the building is one of the -- the owner is one of the occupiers of the building, and if there is -- if the owner is the only occupant of the building, or if you have the owner and one other tenant and that tenant provides permission, the owner will need to either provide their energy use data, or they can get an exemption -- they can request an exemption from our executive director. So we’ll establish a process for that based on if they make the claim that their energy use data would constitute a trade secret,
they can make an appeal. If that’s granted, we’ll have a
link for energy use data unavailable. And so it will be the
same process as for the previous case. You’ll enter the
building characteristic information, but no energy use data
will come through. And we’ll include that on our website,
as well.

Again, as in the Data Access section, if there is
an interruption in Portfolio Manager the building owner
needs to complete the process once Portfolio Manager
resumes.

Okay, so public disclosure, so that’s the
benchmarking and reporting process, reporting to the Energy
Commission.

So I’ve gone over several times now the schedules.
That’s what we’re talking about on one and two.

So the publicly disclosed metrics, we’ve got the
whole list. And I think we’ll probably want to look at the
list later during the discussion. Let’s hold off on that
for now. So building characteristic information, latitude
and longitude. Certain self-reported metrics in Portfolio
Manager. Certain energy use-related metrics. So just
generally -- so the entire list will be reported for
buildings with three or more utility accounts, and buildings
where customer permission has been provided for buildings
with fewer than three -- for buildings where customer
permission hasn’t been provided or the building owner has
gotten a trade secret exemption, any energy use-related
metrics will not be included, so it will just be the
building characteristic information.

We’ve got a few exemptions it the building is
scheduled to be torn down, if it hasn’t yet been occupied
for a year or, as I mentioned earlier, if it’s in a
jurisdiction that has a local program that’s listed on our
website, no need to report. And we have this allowance in
here. If something should happen, if say Portfolio Manager
changes its name, if a different product comes up that might
better meet the needs of the program, we are proposing that
we can have the option to require a different program
instead.

Okay, here we have disclosable -- numbers of
disclosable buildings. Okay, this is the one. So on the
commercial side this has increased for two reasons. One was
the change in position from the March 25th workshop, we’re
now including buildings with fewer than three utility
accounts, and also, as Laith mentioned earlier, the increase
just in numbers in the CoStar database. So the commercial
number has increased for two reasons. So we’re now looking
at about 18,500 commercial disclosable buildings. On the
multi-family side we’re looking at about 21,000 properties
with 17-plus units and greater than 50,000 square feet.
Similar -- and this is the same chart as before, but for
disclosable buildings rather than covered.

And then we’ve got a violations and enforcement
section. We list two violations, each for building owners
and utilities. The first one is failure to either complete
the submission on the part of the building owner or comply
with the requirements on the part of the utility. And the
second violation for each party would be to intentionally
share incorrect information.

So that’s the brief version. That’s the entire
thing. I think we’re going to take a brief break. And
let’s come back when that clock says five minutes after
10:00 and we will discuss all of this. So we’ll be back
shortly.

(Off the record at 9:49 a.m.)

(On the record at 10:09 a.m.)

MR. JENSEN: I’ve had a few -- let me share the
screen. Zoom. I had a few questions and comments already.
I’m going to respond to those before we start the in-room
comments.

First of all, someone asked where to find the
slides. I will show that right now. So if you are at
energy.ca.gov/benchmarking, in the upper right-hand here we
have this e-filing box. If you click Docket Log for this
Proceeding, currently then these are in reverse
chronological order of when they were submitted to the docket. So currently the very top item there is the presentation. Go down two more items, those are the regs, in case you don’t have those yet. So I think we can close that.

Folks who are on WebEx and wanting to use chat, there are two participants on the WebEx listed as Energy Commission Existing Buildings Unit. One is the presenter, one is the host. Please submit your chat to the host, that’s Laith. He’s on a laptop and he’ll get the questions and relay them to me so I don’t have to switch over from the presentation.

Someone wanted me to clarify, when I said -- participation in the data access program is voluntary. I need to be clear that a building owner requesting data is voluntary. It’s not voluntary for the utilities to provide that data. Starting January 1, 2017, they need to do that.

Okay, and then that is related to -- someone asked me to go over this diagram again. So on both the left and right diagram the blue area or the covered buildings area are buildings for which utilities need to provide data on request. So covered buildings, that has to do with data access. And then the green circle on both sides are disclosable buildings, and that has to do with the required Benchmarking and Disclosure Program. So those are buildings
for which the building owner is required to get their data and report it to the Energy Commission. So I hope that clears it up. And if not, please let me know in the -- through the chat.

Okay, lastly, we had a question about why we’re waiting until 2018 to start our required reporting when it’s supposed to be in effect in January 1, 2017. So I want to make a couple of distinctions here.

So first of all, the statutory requirement going into effect by January 1, 2017 is -- for data requests, that’s the data access portion of the program. We wanted building owners to have at least a year of voluntary data access so they can be familiar with this process if they want to before any required action. And this is consistent with other programs. Generally somewhere in the second quarter of the year is generally where the reporting is required. And so we wanted to put that in after, so it’s the very first second quarter after one year of permissive data access being in place. So, I mean, we feel that that’s the -- we thought that that was the most appropriate place to put it, so that’s why we have that there.

So, okay, those are all the things that I wanted to address before we got back into it.

We’re going to go ahead now to people in the room. Come on up to the microphone here. Make sure the green
light is on on that microphone. If it isn’t, press the button. And let’s go ahead. And please introduce yourself before you make your comment.

MR. RAYMER: Thank you. Bob Raymer with the California Building Industry Association, representing 3,000 member companies involved in residential and light commercial, and in general still very supportive of the AB 802 effort. We were supportive of 1103, but it became clear that there were some problems implementing this. So over the past years we were, of course, supportive of 802 last year in the legislature, and look forward to continuing working with the Energy Commission and the utilities in getting 802 applied out in the field.

Specifically, just one request. As we go through the proposed regulations there’s references to submittal this or request for waiver for that. To the extent that the Energy Commission could work with the utilities and the commercial construction industry to perhaps work out some common format forms. A lot of times, you know, with the energy efficiency standards we, of course, have the energy conservation manuals. Whether it’s just -- there’s more than enough forms as you go through those documents. And so to the extent that you can develop some common formats that individuals can use when requesting information or whatever, that would be greatly appreciated. We could also make this
stuff available on our websites as a service to the members
to help get the information out. So thank you.

MR. JENSEN: Great. Thanks Bob.

MS. WINN: Good morning. Valerie Winn with
Pacific Gas and Electric Company.

I wanted to thank you for the efforts on getting
the draft regulation out. We think it really reflects a lot
of the feedback we had provided in our earlier comments.
There are a few areas where we do have some concerns, and
we’ll certainly be addressing those in our written comments
that are due in early August.

But the one section where we do have concern is
the language in 1681(b)(1) where the draft regulation would
require us to provide a list of meter numbers and a list of
customers in a building. That information is not required
by the statute, and it would require us to disclose what is
personally identifiable information for our customers that
could be used in various ways. So that’s information that
should not be required for us to provide to a building
owner.

MR. JENSEN: Valerie, can I ask a clarifying --

MS. WINN: Uh-huh.

MR. JENSEN: So is your concern the association of
specific meters with specific customers, what you’re
referring to as PII?
MS. WINN: Well, the meter number itself can be used by a customer in like -- in our systems to get online and get information.

MR. JENSEN: Okay.

MS. WINN: So providing that information to someone else would essentially give that person access that they should not have.

MR. JENSEN: Okay.

MS. WINN: Yeah.

MR. JENSEN: Thank you.

MS. WINN: And certainly the statute does not require a provision of that meter information.

The other concern we have, of course, is I think as we start implementing this regulation we’ll learn a few things. But there is concern over what is the utilities’ role for working with the customer or residents in a building versus what should be the building owners’ role. So I think we’ll need to -- we don’t want to necessarily be the middle man in that relationship. But, you know, we want to be able to work through these things and figure out the best ways to address issues that doesn’t put us in the middle of that building owner-tenant relationship.

And I guess, and the last thing, you know, of course, is we’ve been working pretty actively with Laith and with others through the meter mapping process just to -- we
don’t collect information on a whole building basis. It is utility accounts. So we appreciate the efforts to do some of that mapping, but we don’t necessarily track things by whole building.

All right, thanks.

MR. JENSEN: Thank you, Valerie.

MR. HARGROVE: Hello. Matthew Hargrove with the California Building -- CBPA, California Business Properties Association. I was trying to get Bob’s job. We’re here. We represent a whole bunch of commercial real estate groups, as you know, including BOMA California, NAIOP of California, IREM, ICSC, and a number of others. I’m going to reserve the right to come up a couple times, depending on how the conversation goes. But I did want to follow PG&E because we feel that they have a very good point in their section.

We have another point later on which we feel is similar in a later section, and that is generally in some of the areas we think that the regulations disclose publicly more information than is probably necessary. The last comment, we agree on some of this. We probably don’t need as much information as is in the regulation right now, requiring the utilities to give it back to us. We’ve always viewed this as kind of aggregated information once it gets into Energy Star, as long as we can do what we need to do with it, that’s fine. And if the regulation is requiring
the utilities to provide information they’re uncomfortable with, that isn’t necessary to go through the benchmarking then. It’s not something we need.

Later on in the regulations, after that under Public Disclosure, and this is where earlier you mentioned where you had the whole list of things that would go up on a website for a public disclosure, we feel there’s just a lot of things in here that don’t need to be publicly disclosed. It’s not useful information for the public to have. Ultimately we think the public disclosure that needs to be had is where the Commission was a few years ago, is a red, yellow or green bear, kind of a general aggregated score for wherever these buildings are under the benchmark. But things like providing on a public website the open comments field for somebody who’s doing the benchmarking, there might be some information put in that open comment that somebody who’s doing the benchmarking might not want public. It might be a question or some information about the building that’s particular to that.

MR. JENSEN: Let me clarify that one. So this is for the building owner only to include comments. So, for example, if they had a score they felt is low, if they’re going to be improving the buildings they could just put that out there, we’re doing a project next year that should improve the score of the building. So that’s what we were
MR. HARGROVE: Again, just in general for some of this, as you read this it says that this is going to go out on a public website. And it just seems like it’s a lot of information in the regulations saying that it’s going to go out on a public website, that is far beyond just kind of the aggregated score and how well that building is doing. Does that make sense?

MR. JENSEN: It does make sense. I’d appreciate in your written comments if you tell us specifically which items you have a problem with.

MR. HARGROVE: No problem. And again, some of this is proprietary in terms of -- is proprietary in terms of operating a building, things like hours of operation per week, how many tenants are in there, what are the number of occupants, there’s things like that in a competitive market which we may or may not want disclosed publicly, and we feel doesn’t undercut what the program is trying to accomplish, if that makes sense. So we’ll provide that publicly in our comments.

Under section 1681 for Data Access, and we know that this has been a long evolution and there’s been a lot of back and forth, and that there’s some concerns with the utilities on who they’re releasing the information to, and we want to make sure it’s being released to who it should be
released to. We feel that that Data Access section A, subsection (1), subsection (c), might be a little more restrictive than will make the program work in the real world.

What we would suggest is currently the four major IOUs are using a form called the CISR form or the scissor form, that that be included in there, that right now the way that this is written is it’s pretty strict. You have to show a deed or you have to show a document a lot of agent representatives might not have access to. But that CISR form basically has you attest that you should get that information under penalty of the law. We think that that is something that could be easily written in here and would be acceptable, and would like it regulated towards the best case scenario and not the worst case scenario, if that makes sense. We think that will make this all work a little bit more smoothly. As long as the utilities are good with the language that’s put in there, you could cut and paste from the CISR, we think that that would work very well.

I’ll leave it at that for now.

We also would like to commend you on adding some sections in here recognizing the local programs and recognizing that if you comply with the local program, as long as it fits the big things, that you don’t have to report twice. We think that’s a really good piece of this
program and we appreciate that.

We’re still getting comments in from our members. But we want to make sure that you know, in general the comments we’re getting are fairly positive. This is a long way from where we were five years ago, and we appreciate that. There are still some folks that are a little uncomfortable with the amount of specific information that we have to release publicly under this law, but I think as we work through that we’ll be able to express that. But generally, our members have been fairly positive in their comments.

MR. JENSEN: Great.

MR. HARGROVE: Thank you.

MR. JENSEN: Thanks, Matt.


And I wanted to begin with echoing some of the comments here of appreciation for the staff and the inclusion of a number of key points that we raised in our comments in the regulation proposal that we’re discussing today. In particular, you know, the ability to use a spreadsheet instead of having to connect with data exchange services is a very key point for a lot of NCPA members, and we appreciate that flexibility being reflected again in the statute -- or in the regulations, as it was in the
legislation.

It is also something of a crazy mixed up world we live in when I find myself offering support for both comments from PG&E and Matt Hargrove all on the same day. But the concern about the customer meter number and name, there are some issues there that we wholeheartedly support what Valerie expressed from PG&E. And we’ll also explore in our written comments a little bit more about concerns Matt expressed with regard to what’s being made public later on, and maybe we can tighten some of that up.

But in general I think it’s come a long way from where we had seen it with 1103. And I just commend you on the work so far. And we’ll have some additional suggestions and clarifications, especially kind of as we go along and buildings change hands and we make sure that folks that were previously appropriate to receive this information don’t continue to do so, and what does that process look like? We’ve touched that in previous comments, and we’ll continue to explore it and look forward to addressing that further on with you guys and the other stakeholders.

Thanks.

MR. JENSEN: Great. Thank you.

MR. CONSTANTINE: Good morning. I’m Sachu Constantine. I’m the Director of Policy at the Center for Sustainable Energy, also echoing earlier comments.
Great praise to staff, and thanks for addressing
the comments the way you have and pulling this document
together. We think it shows great progress towards a strong
802 Benchmarking and Disclosure Program. And we, in fact,
are thrilled with some of the adjustments that you’ve made
in response to earlier comments, for example, the postal
code workaround on master metered buildings. I think that’s
a great step forward.

There are a few tweaks that we’d still like to
see, a few adjustments to try to improve this program. And
related to that issue of units, for example, in the
disclosable buildings you have the 17-meter threshold. We’d
like to clarify that. It should be 17-unit threshold. And
I think that’s a very important -- 17 units in the building,
it’s the same idea. There may be less than 17 meters in
some buildings but more than 17 units, and we think that’s
the proper threshold for that disclosable building.

Also the condo exception that you have in there
seems to really serve no particular practical purpose and is
more a direct result of lobbying than any policy concern or
technical concern. So we would like to see that condo
exemption removed.

Throughout the document we think there needs to be
clarification on what kind of electronic permissions are
allowed and are proper for the various kinds of permission
that are in here. I think we’re moving very quickly in the marketplace to electronic platforms, and I think we need some clarity on that in these guidelines.

In addition, we think that the 28-day turnaround time for data from the utilities is too long and will cause backups and problems for our implementers out there, and we’d like to see that shortened. I do understand that there are constraints. The utilities do face constraints pulling all that data together, and obviously it will take some time, but we think that threshold is too long at this point.

I’d also like to point out very broadly, this is a very complex issue, 40,000 disclosable buildings out there. We think there needs to be, not necessarily in the regulations here, but there needs to be a recognition by CEC and all the stakeholders that some amount of technical handholding, real and/or virtual training on the disclosure procedures is going to be required. And the managers, the building managers out there, and I think that was referred to earlier, some sort of standardized formatting and understanding of how the process works, that’s going to be an important part of this. Absolutely critical that we start that right from the get-go in January of 2017 so that when we get out to 2018 and reporting is required, everyone is operating on the same playbook or from the same playbook.

I guess, well, I’ll reserve, perhaps, comments
again for later. But I think this is great progress. I think with some tweaks like this and continued collaboration between all the stakeholders, utilities, building managers, we’re going to see a great roll out of 802, so thank you.

MR. JENSEN: Great. Thank you. Let me respond to a couple of those things.

So on multi-family buildings, if I said -- so we’re using utility accounts, regardless of the building type. And more specifically, when you look at our definition of utility accounts, we are using postal addresses. So a building that has 17 or more residential units, presumably with separate postal addresses, that would count -- we would call that 17 utility accounts, regardless of number of meters.

MR. CONSTANTINE: Because of the definition that you had --

MR. JENSEN: Yeah.

MR. CONSTANTINE: -- had earlier.

MR. JENSEN: And so the --

MR. CONSTANTINE: That’s great.

MR. JENSEN: Great.

MR. CONSTANTINE: That’s great.

MR. JENSEN: So the CoStar number I had up, that’s how we have to do the search in CoStar is by number of units. But we’re talking about utility accounts and postal
addresses therefore.

On the condominium issue, we would actually like to hear in comments what people feel about this and whether they feel strongly one way or the other. We didn’t see a good argument for including them. But if you and others feel strongly the other way, that would be great. So that’s all I want to say about that.

The 28-day requirement for -- 28 days is the maximum given by statute for a utility to respond to provide data. So we have a couple things we want to have happen before the clock starts, so we want to make sure it’s a valid request. We want to make sure there’s customer permission, if that’s required. But then we’re allowing what’s allowed by statute.

And I want -- so those are the only comments I have. We’ll see if Galen wants to add any clarification there.

MR. LEMEI: Yeah. This is Galen Lemei, Counsel to staff on the AB 802 benchmarking effort. Thanks for the comments.

And I just wanted to ask in written comments, this goes to you and anyone else who addresses the issue specifically of condominiums, but really the regulations in general, given that there are these two different pieces of the statute or the regulations and the statute, the data
access piece and the public disclosure piece, it would help
to clarify if the request is to allow building owners, which
is an ambiguous concept when you’re talking about the owner
of a condominium having access to their data. I think that
that’s where we really struggled to try to give the
statute meaning for data access to condominiums, which is a
potentially different issue than a public disclosure program
applying. But given that the public disclosure program uses
the data access infrastructure, that was a challenge, as
well.

So just putting a fine point in your written
comments, what exactly your recommendation is and how you
might recommend implementing that recommendation would be
helpful to us.

MR. CONSTANTINE: Okay. Thank you for that
clarification, and we will attempt to, in turn, clarify our
answer and response in written comments.

If I might, there was actually one other issue
which I didn’t bring up. And it’s not necessarily a change
or a tweak to the regulation here. But to the issue of what
kind of data is disclosed, and meter identification number
in particular, without addressing PII specifically, we’ve
heard from large portfolio managers, companies that manage a
number of the buildings that are either, well, disclosable
buildings among others, that they need those meter
identification numbers to check the accuracy of the data that they’re getting. Because they’re managing across such a large number of units and square footage and buildings, they really need that kind of specificity to get a check on the data and this whole process.

So I’ll just throw that out there, that recognizing there are PII concerns and other concerns, some of that data is, in fact, helpful for mapping this process.

So thank you.

MS. SVEC: This is Jennifer Svec on the phone. Is it okay if I speak with regards to condos? I represent the California Association of Realtors.

MR. JENSEN: Sure. Go ahead.

MS. SVEC: We have a concern with a reference to condos being mentioned under covered buildings. It’s very confusing. Condominiums are not included as a multi-family structure. They are single-family, one to four owner-occupied, or sold so they’re individually rented. And so we believe that this confuses the issue by adding condos. And in the discussion of AB 802, condos were not under discussion. It was multi-family apartment buildings, not condominiums because they’re not multi-family structures.

MR. JENSEN: Okay. Thank you, Jennifer.

Before we go to the next comment, I want to clarify one thing and maybe ask a question back to Valerie
and Jonathan.

So I hear what you’re -- I hear your concerns about the customer names and the meter numbers. So just as I mentioned earlier, that’s to help so a building owner can check and make sure that the meters that they get are, in fact, associated with the building. The customer names are to check that those are, in fact, people who are associated with the building. So that’s the reason for it.

And then my question is if you’ve got -- if you want to either mention here or in your written comments, if you’ve got any other good methods that a utility and building owner can work together to verify that the usage that’s being associated with the building is, in fact, with the building, is correct, we’d appreciate hearing that.

Okay, go ahead.

MR. PHILIPP: Thank you. Good morning. I’m Gregory Philipp with the law firm Boutin Jones. I just wanted to make a few comments. I apologize if some of this has been covered in prior sessions. This is the first one of these I’ve attended.

First, I just wanted to echo a lot of the concerns that were voiced by Mr. Hargrove regarding proprietary information. A lot of what’s going to apparently be made publicly available seems to go well beyond the scope of assessing energy efficiency. And if that’s the goal, I
wonder why these additional facts are needed? It seems like the perspective might have been to ask about what could be useful, rather than what is necessary. And it does also seem likely that a lot of this information, if publicly available, could be used for improper purposes. And I wonder if that is an avenue that’s been thoroughly explored, specifically the issues of number of occupants, occupancy percentage, hours of operation. Those don’t seem directly relevant and they do seem potentially capable of being misused if publicly available.

Also, the comment Mr. Hargrove made about the open comments field, and your response to it seems totally reasonable in the hands of experts; right? Someone who is entering a lot of these, the experienced property manager who has dozens of these properties will know what should go there and what shouldn’t go there. My concern is for the non-experts who are only using this occasionally for one or two properties and they won’t know what that’s supposed to be used for, and they won’t realize the scope of how far an error could reach, that distinction between expert users and non-expert users seems to be one that maybe gets lost in the translation. So I would ask that you consider the occasional user and what could go wrong.

MR. JENSEN: Okay.

MR. PHILIPP: Totally unrelated, the next comment
I have is the penalties provision. It struck me as overly harsh, $500 a day to $2,000 a day. I realize that’s the amount authorized in the section that the statute specifically authorizes. But it seems to me the statute also authorizes the Commission to set penalties at a different amount, potentially a lower amount, maybe one more in line with the scope of harm, societal harm caused by a failure to disclosure; $500 a day seems wildly out of proportion to the harm that would result from a delay in disclosure.

MR. JENSEN: I just want to clarify, are you getting that from the IEPR regulations where they set those levels or somewhere else?

MR. PHILIPP: I’m getting it from the code section that was referenced in the statutory -- in the regs, so --

MR. JENSEN: Right. Okay. Got it.

MR. PHILIPP: -- 5302.

MR. JENSEN: Okay. Okay.

MR. PHILIPP: Thank you. Related to that, it seems to me that the penalties kick in 30 days after notice of noncompliance. And I think if I’m counting the days right compliance could, in the worst case scenario, take up to 130 days from initiation. That raises the possibility of a really inequitable gap. A hundred days of penalties after you’ve started trying to comply is completely inequitable,
and there needs to be, I think, a protection for good-faith efforts to comply while the utilities and the tenants work through their statutorily-allowed or regulatory allowed time periods.

MR. JENSEN: Could you say your name again please?

MR. PHILIPP: Gregory Philipp.

MR. JENSEN: Thank you.

MR. PHILIPP: Thank you.

MR. JENSEN: Bryan, morning.

MR. COPE: Good morning. Bryan Cope with Southern California Public Power Authority.

I also will mimic all the others in the room pretty much that support Staff’s effort. And thank you very much for the opportunity to speak this morning.

I actually have a few questions and some input based upon the meter mapping discussion we had earlier this week, if we could.

First off, in section 1680, a point of clarification, if you could. In section (m)(1), it seems inconsistent and contrary to me because what you’re asking or what you’re suggesting is that if you have multiple postal addresses in a building that are served by the same utility account for a single energy type, those separate postal addresses will be deemed to be separate utility accounts. That doesn’t seem possible in that if it’s one
utility account you can’t take six postal addresses and say
they’re six different units because you don’t have the unit
specificity if it’s on one account. Does that make sense or
am I missing something on that?

MR. JENSEN: That makes sense. Our interpretation
of the statute is that the levels they gave were intended to
obfuscate usage sufficiently to protect privacy. And so we
feel that it’s appropriate to look at the number of
individual users in a building rather than the number of
agreements between the building and the utility.

MR. COPE: Okay. So you’re just doing it for an
accounting point, so that if there are six apartments under
one account that will be deemed to be six utility accounts?

MR. JENSEN: That’s right.

MR. COPE: All right. Thank you. I wasn’t clear
when I read that. I appreciate the clarification.

The next section, 1681, to Matt’s point, I believe
the CISR form could be considered a good option, although I
want to recognize that not all the utilities are going to
be -- particularly, the POUs might not be willing to accept
the CISR which is used by the IOUs on a straight one-off
basis. So perhaps using the CISR as a template, that could
be considered a starting point for other utilities to mimic
or to replicate in some fashion. That might be a good
option.
To that point, in section (a)(2) of section 1681, we talk about the request for -- or the request shall be made in writing or a secure electronic method, I agree that there needs to be standardization made and make sure that we are all on the same understanding of what the proper platforms would be.

To that point, I want to let you all know that the California POUs have been working to standardize some forms and templates. We were actually thinking about presenting them back in March, but we thought that might be jumping the gun. We’re at this point. I think the Commission would be very helpful to the utility and to the customers if you could develop some standard forms and templates that everyone could use so that if there’s a property manager working in San Diego, as well as in Edison’s service territory and some of the POUs in Southern California, they would have at least the same understanding as to what the request forms look like or what different data transfer forms look like. I think as standardized as you can make this for all the participants, it will be much better.

And we will be -- with your concurrence, I would propose that we can be adding those as part of our comments in the middle of August, so at least you can get that as a starting point.

MR. JENSEN: That sounds great. And we are -- we
have been planning to provide standardized forms or examples of forms, and we would love to work with you to do that.

And I think Galen might have a comment.

MR. LEMEI: Yeah. This is Galen. Thank you for that suggestion. And I really appreciate the suggestion for standardization.

A question that I have for both you and Matt Hargrove is -- you don’t need to answer it now but could answer it in your written comments -- is whether your concern is that the CISR form is not consistent with the regulatory language or whether you’d like it to be called out in addition to what’s already called out? The intent of the waiver provision was for it to be broad and for it to encompass any number of possible solutions, including the suggestion of the lease agreement that came from the statute, but also anything else that has the required content, that was our suggestion. That said, we appreciate the recommendation for standardization for templates, for forms.

And this leads me to a second question. It would help if in your written -- there’s two different ways to use forms. One way to use forms is to put them out as templates that allow for standardization but are not required. And if that’s the pathway, there’s no need to do that through a regulatory process. Those can be put out. They’re
voluntary, but they’re a tool but not a requirement.

Another way to use forms is to create required forms. In that case they need to be probably adopted as part of the regulatory process. And then the requirement is you use this form, and that’s the requirement.

I think that it was our inclination to use forms in the former way, no pun intended, and have them be resources but not requirements, especially as the program rolled out. If that’s consistent with your recommendation, that would be helpful to clarify that, or if you had a different recommendation, clarify that, as well.

MR. COPE: To continue then, in 1681, also, it goes back to the point we were just talking about on CISR forms and what Galen was talking about. The whole term there in the first line of section (1)(c) about reasonable certainty, you know, who has that authority to decide what’s reasonably certain that the owner -- even if they show you a deed, how can you be certain that it is the most current deed? I mean, those things are very manageable.

So I’m just concerned that this reasonable certainty isn’t defined. If you’re going to hold to this, there needs to be some definition as to who determines what is reasonably certain.

MR. JENSEN: Okay. So our -- that’s a good question. Our proposal was that these specific documents we
list here are intended to meet that reasonable certainty.

Galen, I don’t know if you want to comment on what
the utility’s obligation would be to verify that if one of
these documents is provided that it is, in fact, legitimate?

MR. LEMEI: Right. The intent was for the
provision of a lease that is valid on its face to meet that
standard. The alternative is to be specific and
prescriptive about an attempt to cover every possible
permutation that might come up so as to specify who and what
exactly needs to be done in order to ensure that the person
who is submitting the request has authority to make that
request. And, of course, we all know that there is no way
to, in all circumstances, have absolute certainty that the
person who is submitting the request is who they say they
are.

Words like reasonable certainty are used in other
contexts to establish norms and set expectations, and
obviously in specific instances can be used to apportion
liability, for example, in the negligence context. That’s
not -- that isn’t our intent here. Our intent here is to
use that as a way to establish norms and standards within
the realm of reason.

MR. COPE: Understood. Thank you.

To finish that off then, I just want to clarify,
flexibility is important for all of the program
implementers, for all utilities, as well as stakeholders or the building owners. And I think ultimately things like reasonable certainty and deciding what’s right and what’s wrong is going to be -- should be given to the utilities, particularly regarding data release issues. Ultimately, they are the ones who could be ultimately liable for that, even recognizing the wording in the statute.

But I just wanted to let you know that if I had to go one way or the other, I would always err on the side of providing that decision making to the utility in this regard.

So next, in section (b) of 1681 under utility requirements, there is not specification in subsection (1) about how often the utility shall deliver the information to customers. In our previous comments we had suggested that the Commission should implement some requirement or specification that we shouldn’t be required to give this to building owners every month or, you know, perhaps once a year would be reasonable. But, you know, if a utility wants to provide this usage information to a building owner on a monthly basis, that’s great, more power to them. There are many utilities of our membership that don’t have those resources to do that kind of thing.

And so if you’re just going to leave an open-ended utility shall deliver whenever they get a request that meets
all the standards and requirements, then you’re going to be burdening our member staff significantly to comply with something that they might not have the capability to achieve.

And I think in general -- oh, I did have a question after hearing this morning, that’s right, in -- gosh, I’m not even sure. How about we just go to page five at the very top, at the end of section 1681, section (c), I just want to clarify, it says, “The utility shall provide to the building owner or the agent energy use data for which customer permission has been received, and when possible the utility shall aggregate the usage data across utility accounts.”

So I’m curious that if only two of the five accounts or customers in the building have agreed, are you saying that the utility should aggregate those two customers’ usage data and submit it, and then just identify that, oh, this is only two out of five; is that what we’re looking for?

MR. JENSEN: So on the residential side there’s no customer permission. So anything with fewer with five utility accounts on the residential side is not a covered building, and so it’s not within the scope of this --

MR. COPE: But if there’s five --

MR. JENSEN: -- data access program.
MR. COPE: There are five -- okay. Let’s say there’s 20 accounts in the building.

MR. JENSEN: Okay.

MR. COPE: And only six of them give permission for the usage. Do you want us to report -- no, Galen, please?

MR. JENSEN: So there’s no customer permission on -- let me see. There’s no customer permission on the residential side. Only in --

MR. COPE: But is (c) only regarding residential then? Did I miss that?

MR. LEMEI: Here, this is Galen speaking.

MR. JENSEN: Go ahead.

MR. LEMEI: Let me clarify.

MR. COPE: Thank you.

MR. LEMEI: And this goes back to the statute, but it’s a little hard to follow.

MR. COPE: Yeah, I agree.

MR. LEMEI: Starting with non-residential buildings, with respect to non-residential buildings, all of them are covered buildings. And when requests are made there’s an obligation by the utility to provide the information. However, below a certain threshold, and I’d say below the three-account threshold, which means that where there is one or two accounts in the building as
defined then consent must be given or must be obtained before the information can be provided to the building owner. Above that threshold, consent is not needed. There’s no need for tenant consent. And information is provided irrespective of -- well, consent isn’t a concept because the legislature determined that above that threshold the information is sufficiently aggregated to protect customer privacy.

In the residential context, because buildings are not covered buildings for which there is an obligation to provide energy use data, unless you have more than five accounts in the building, the aggregation threshold of three never comes into play, and the need for consent never comes into play, with one slight exception.

The legislature does authorize and encourage the Energy Commission to, when speaking to that process for tenant consent, also include building residential buildings below the aggregation threshold as allowing utilities to use that same process for consent to cover such buildings. There’s not a formal requirement and they’re not formally covered buildings, but there appears to be a hope in the legislature that utilities might use that consent-based process that is established by regulation for residential buildings below the threshold, but they’re not formally covered buildings under the statutory scheme.
Then there is a higher threshold, a 17-account threshold for residential buildings to be disclosable buildings, which is a different issue. But again, that threshold is not the same threshold, and a different meaning than the three-account threshold that applies only to non-residential buildings by virtue of the fact that three-account buildings aren’t covered buildings in the first instance.

Did that make sense?

MR. COPE: Yeah, almost.

MR. LEMEI: Okay. Sorry.

MS. SVEC: Galen, this is Jennifer Svec on behalf of the California Association of Realtors.

I’m sorry to jump in but I think it’s important to point out, the statute and PRC 25402.10 specifically defines covered buildings. It was negotiated between the California Association of Realtors and other stakeholders and the commissioner. Covered buildings do cover residential or non-residential very specifically in the definition, which is what’s creating the confusion is the regs are trying to redefine a statutorily defined definition and I think that’s creating confusion, and we need to go back to the statutory definition.

And with regards to customer consent, customer consent is not required per section (c)(2)(A). It says that
anything with three or more active utility accounts, the information shall be delivered by the utility upon request by the owner, but it specifically says that the information shall not be deemed customer utility information, which then says that if you have five residential utility accounts or more or five non-residential under the definition of covered building, that you are not required to get consent.

So I just want to go back to the statute. The statute is very clear. There was a lot of work that went into this. And I think that the regulations really should follow what is contained within the statute that was created in conjunction with the regulatory scheme in that same statutory section. I think that will help alleviate some of the confusion that we’ve having in the current drafting.

MR. LEMEI: So, Jennifer, let’s address the issue that you’re speaking to separately. I was attempting to offer clarification. And if I misspoke, I apologize. And if there’s a problem with the regulations or you’d like to speak to an issue in the regulations, let’s deal with that separately. Because right now Bryan is still in the middle of his comments.

MS. SVEC: I understand. I just -- there was some clarification that he was asking for that I had, as well.

We’ll also offer formal written comments because I think this is more complicated than the conversation that
we’re having today. Thank you.

MR. LEMEI: Thank you.

MR. COPE: Thank you. I thought I was done, but I remembered, I had talked to Laith real quickly.

During the meter mapping call, and we’ll talk about this a little bit in our written comments but I want to let you all know, we spoke about calendarization issues. And I’m hoping that the Commission doesn’t stick with only the EPA suggested methodology if they’re -- because there is and there probably are -- there is at least one other methodology that I know some of our members are using to calendarize multi-month bills. And so the EPA proposed methodology, while it’s sound and analytically robust, isn’t being used everywhere. And so to hold to that one standard could be problematic and costly for members to implement.

MR. JENSEN: So my initial response is that it’s fine if -- we’re not requiring in the regulations that someone use a particular method for calendarizing. If you wouldn’t mind describing that method in your comments, that would be great.

MR. COPE: Understood.

MR. JENSEN: But, yeah, at this point we’re not requiring a specific method for calendarization.

MR. COPE: Good to know. Thank you.

MR. JENSEN: Great.
MR. CONSTANTINE: Good morning again. Sachu Constantine, Director of Policy from CSE. Thank you for indulging a second comment here. It’s actually just an additional commendation for staff, but it is sort of an indirect response to some of the comments before.

The disclosure elements that you have in the draft regs here are largely in line with best practices in other cities that cities have already implemented, Kansas City, New York City, and those are the best practices. And we really commend you for including that in these regs. In those cities this issue of improper use has never really come up. It simply has not been an issue, and we expect that to be the case here. Perhaps we think that Californians are better at finding improper uses for this data than other states. San Francisco, which has a similar best practice regulation in place, has not found that to be the case. And we just want to commend you for recognizing that and putting this kind of a disclosure framework in place, so thank you.

MR. JENSEN: Thank you.

MR. HARGROVE: He went twice, so I feel like I should go twice.

MR. JENSEN: That’s only fair.

MR. HARGROVE: Matthew Hargrove with the California Business Properties Association. Just a couple
of things.

I do want to clarify my comment earlier on the
CISR was not to use the CISR form for this but a process
like that, you know, with some language in there that you
would say this is -- I deserve this information. And that
piece of the reg, as it’s written to us, looked like it was
being written prescriptive. We know that you’re trying to
write it more broadly, but just the way it’s written it
looks like you have to have those things in there, and it
didn’t sound like it was open-ended or would include that
type of process where you can attest that you need this
information without actually having to provide the deed, so
that’s the thing.

The other comment we wanted to bring up, and this
is kind of a thought process here, and it follows on the
last comments, that’s why I’m coming up, is the way we read
the regs is that once this program is up and running, this
is an annual -- if you’re a disclosable building it’s every
year, you have to do it annually. And that is a best
practice that we just heard.

Most of our members will have no problems with
this at all. In fact, many of our members will say it
should be an annual thing because that ends up being a
competition in the marketplace thing. But I want the Energy
Commission to think through the staffing that’s necessary of
what you’re about to mandate on that, which is what you’re
basically doing here, you’re mandating a best practice as a
minimum activity. So you’re mandating the best case
scenario as the minimum requirement to happen. And many of
these cities where you have this as a best case scenario,
they have, along with that, a lot more staffing than the
Energy Commission has to communicate, to help buildings work
through issues, to proactively go out and tell people that
they need to do this benchmarking.

So, I mean, we’re wondering if you are through
this doing it annually right off the back, mandating more
than you’re actually able to staff and assist. So you have
18,000 buildings. I guarantee you that 17,700 of them are
going to have questions about this reg. Are you going to be
able to deal with 17,700 questions right off the bat?

So that’s, again, that’s just something that I
think that you guys should think through because you’re
staffing is nowhere. I mean, San Francisco’s staffing on
this is probably five times what you guys are going to be
able to dedicate to this. And I just -- you know, you don’t
necessarily want to create issues for you on the statewide
basis, especially with this one where we have concerns with
folks over the civil penalty issues.

Now a lot of folks within my industry are very
comfortable with the civil penalty language because we know
that is current law, and that the Energy Commission currently has the ability to levy civil penalties on a lot of different things, but you haven’t chosen to move forward on that. But as 18,000 new buildings come online with this, that is causing some concern, especially if you are mandating the best practice on this. I think you’re going to unnecessarily be causing concern and unnecessarily be putting a burden on you that you’re not staffed for, you’re definitely not funded for.

So some thought might be put in here about either phasing in to getting down to that annual year or having more of a horizon for the first five years of the program for allowing some of those stragglers that will be here to come along with that.

MR. JENSEN: Okay.

MR. HARGROVE: Thank you.

MR. JENSEN: Thanks, Matt. Yeah, so we do think it’s important. We’ve got -- in San Francisco currently and in Los Angeles soon we are going to have -- a lot of the disclosable buildings will be in those jurisdictions and other jurisdictions that may implement ordinances later. I realize that none of that is immediate, and so I appreciate the point you’re making about what our immediate staffing need will be. But, yeah, so those in local jurisdictions, they will have help lines. Our plan is to sort of, you
know, assist the jurisdictions as needed, as opposed to the individual building owners in those jurisdictions. But I absolutely hear the concern you’re raising.

MR. HARGROVE: And lastly, one issue that’s come up that I want to bring up since I’m here is we have some instances where our street addresses don’t match with what the local utilities street addresses for that meter. And we’ve had some members just -- as this is not mandated that hasn’t been an issue, but we’ve had some members express concern that there be some way to figure out with the local utility when there are issues when you’re not in agreement on where that meter is located. I’m not sure how you’d address that in your reg, but that is one of those, as folks think through this, a small issue that has popped up.

Thank you.

MR. JENSEN: Great. Thank you.

MR. JENSEN: Do you want to go ahead Abhi? I’m sorry if I’m missing it.

MS. WADHWA: Matt, with regard to your last point, this is Abhi Wadhwa from CEC, I wanted to just address that we are aware of the difficulty of addresses not being consistent. And if you notice in the reg language, that’s why you see the building ID concept in there. To the extent that disclosable buildings are required to go through these regulations, we are aware that there will be some, you know,
cross mapping needed. And while we are not making it
mandatory on either ourselves or the utilities to implement
that concept, we have put that in there as sort of looking
ahead, looking into the future if such problems come and
Energy Commission needs to pick up that tab to give some
more clarity, we would be able to do that.

MR. LEMEI: And this is Galen Lemei.

Matt, also in recognition of that real-world
problem, that was one of the reasons for requiring the
utility to provide some information about meter numbers back
to the building owner to allow some form of verification by
the building owner that they’re getting the right building,
the right information. We’ve heard some concerns about that
from stakeholders. So understanding that that was why that
was there might help commenters speak to the value of that
particular piece.

MR. JENSEN: Go ahead, Kim.

MS. CRESENCIA: Kim Cresencia, San Diego Gas and
Electric, Project Manager. I have been working in the
capacity over the past several months representing both
SDG&E and SoCal Gas, but we do have SoCal Gas representation
as well, here at the workshop. And we have a number of
folks on the phone, as well. And there were times when I
might represent both, you know, collectively or
individually.
But generally, we will be submitting comments.

We’ve got quite a number of comments. Right now I just want to point out, probably I’ve got three that have come to mind just at the workshop.

One, want to echo PG&E’s comment about, again, and you just mentioned right now, Galen, providing a list of meters and customer names and such. And Erik, you had made a comment that the utilities and the building owners would work together in some cooperative fashion. However, under the data access provisions there is this subsection (5),

“A utility shall not require anything from the building owner other than the information listed in subdivision (a), and if required the information in subdivision (b)(4)(A).”

So they seem to conflict, you know, somewhat, telling us to work together, but they are not -- they don’t have to -- we are the ones providing all the information and they’re not giving us anything back.

MR. JENSEN: Let me clarify. So our proposal is to -- we wanted to see specific pieces of information that the utility would provide and the building owner would use to verify that the usage that’s being provided is, in fact, associated with that building. And I heard some objections from the utilities to providing that information.

And so when I was talking later about I’m just
wondering if there are other -- I’m looking for suggestions on other methods that could be used to verify usage associated with a building. So we were initially -- our proposal is specific, the specific things that we listed. But if there’s objection from the utilities on those, we’re open to hearing other options.

MS. CRESENCIA: Okay.

MS. WADHWA: Kim -- I’m sorry. Go ahead.

MS. CRESENCIA: Okay. The second comment that I would have right today is that you talk about like some statewide templates. And earlier at the meter mapping call this week, cost structures, you know, what is statute and what is regulation, and working with the utilities on that. And I would -- we would suggest, again, that you would hold workshops on development of those standardized templates and other artifacts that might come out.

MR. JENSEN: Okay.

MS. CRESENCIA: And then my third comment is on slide, I think this is 20, disclosable buildings and properties by utility. Can you go to that slide?

Under SDG&E you have 1,174, and the legend down below is blue, multi-family, red, commercial. I guess because those numbers, the bars are close together, you know, there isn’t the need to provide two separate numbers. So is that together, multi-family and commercial is 1,174 or
they roughly -- each one of those is 1,174, so you’re
talking more like 2,300 total?

MR. JENSEN: So that is the same number for both, 
Laith is telling me.

MS. CRESENCIA: Okay. So roughly 1,200 --

MR. JENSEN: Each.

MS. CRESENCIA: -- diclosable building? Oh, 1,200 
each?

MR. JENSEN: Right.

MS. CRESENCIA: Okay. All right. That’s it. We 
will be providing comments. And again, thank you for 
publishing the regs.

MS. WADHWA: Kim --

MR. JENSEN: Thank you.

MS. WADHWA: -- before I let you go, this is Abhi 
Wadhwa from Energy Commission. I apologize about my 
coughing earlier.

This is actually a request to both PG&E and other 
utilities, as well as the comment you just made, the concern 
about meter numbers that utilities have expressed. If you 
could please leave in your comments why you feel that this 
information is not already in the hand of the building 
owner. Just to recognize that this information is being 
provided to the building owner who already has, in our mind, 
access to the meter numbers. But it’s a confirmation method
to make sure none of the meter numbers got dropped,
especially in light of the building address and meter
matching not being so far advanced. You don’t have to
come right now. But the issue which would really help us
move past that would be if we hear comments why utilities
feel this information is not already in building owner’s
possession.

MS. WINN: Hi. Valerie Winn for PG&E. And I’ll
just quickly remark on that.

If the building owner has that meter information
and wants to provide it to us for his building, we’d be
happy to get that information from them. We simply can’t
disclose that customer-specific information back to the
landlord. That is if they give us the information, that
would be great, but we can’t provide it to them.

MS. CRESENCIA: And then that, along those lines,
five seems to tell the utilities that we can’t ask them to
provide that meter information, even if they have it. So I
think that’s how I think it’s being interpreted is that they
can only -- and I think on a separate call they said they
only have to give us what’s included in (a) and nothing
more, even if we said, hey, by the way, can you give us
meter numbers if you have them, (5) seems to imply, no, we
can’t because the regulations are saying they don’t have to.

MR. JENSEN: So the way you just said it I would
be fine with. If a utility said if you want to share meter numbers with us, you can, I have intended for that specific question to fit within what we’re proposing here. So I was not intending for that to be disallowed by these regulations.

MS. CRESENCIA: Okay. Yeah. That’s how it’s being interpreted, that --

MR. JENSEN: Okay.

MS. CRESENCIA: -- it’s telling us that you can’t ask for anything, so --

MR. JENSEN: Okay. Okay.

MS. CRESENCIA: Okay.

MR. JENSEN: And then Kim and/or Valerie, how would you feel about requiring some portion of the meter numbers, say the last six digits or something but not the whole meter number, does that help at all or no?

MS. WINN: Yeah. I think Kim and I would agree, we probably need to consult with our experts. But, you know, to the extent that those last six digits can be used to identify the customer account, that would be problematic. Just, you know, the list of meter numbers and the list of customers in the building, that would just be a challenge from our privacy experts.

MR. JENSEN: Okay. Thank you.

MS. CRESENCIA: Just as an example, there are
applications where we have online -- it’s a legacy application online. But the only information that someone, if they had an account and a full meter number, could go in and create an identity as if they were that customer. So that’s where -- the things we want to safeguard against that type of activity.

MR. JENSEN: Got it. Okay. Thank you. Okay. It doesn’t look like we have anything more in the room at this time.

I’ve gotten three questions through chat that I want to address right now.

First of all, someone asked whether we will provide more detail through the rule-making process on what’s going to be -- how the determination will be made who gets on the list of local ordinances.

And the answer is, yes, both during the rule-making process, and the regs will include more detail on that. So we won’t just say -- so the regs will include what the process if for an ordinance to be submitted to the Energy Commission and considered for inclusion on this list.

Another question is: Will the data from local ordinances be provided on the Energy Commission website? So, yes, for a building for which the building owner needed to report through the local program, that will get to us. That building will be on our website, so, yes.
And then the local programs have their own websites also.

So if I’m missing -- I apologize if I’m missing the point of the question but, yeah, whatever data -- or not necessarily whatever data but the data that comes to us from the local programs will be on our website.

Someone asked to go back to why we’re not including condominiums. I’m going to -- I need to apologize. I was distracted while, I think, Galen was addressing this earlier. So I’m going to -- I’ll go for it, and then I’ll see if he wants to add any detail.

So in our minds, both on the reporting side, it’s not necessarily clear who’s going to -- who would be responsible for this. There isn’t a single person or entity that owns an entire condominium building. Shares in the building are owned by the occupants of the building, so we would need to work out who would be ultimately responsible for reporting.

On the disclosure side, we questioned what the usefulness of this would be. If someone is, you know, considering the purchase of one unit in a condominium we didn’t -- we thought that the energy performance of the entire building might be of limited usefulness.

So that’s my response. Galen can add anything if he wants to. And then if someone wants to request further clarification, they should feel free to do so.
MR. LEMEI: Yeah. This is Galen.

The only clarification that I would offer, and this is really directed at the concern that I think Jennifer articulated about the mentioning of condos, is that my understanding is that they, absent any guidance from the Energy Commission on point, there would be nothing directed to condominiums one way or another. And because condominiums are buildings as that term is naturally used and understood, absent that provision, then condos would be subject to both the public disclosure and the data access portions of the statute and regulation.

Now, you know, I confess that I am not privy to all of the conversations that might have gone into the drafting of the legislation. I only have access to the record of the legislature which, to my knowledge, there is no specific mention of condominiums in the official legislative record. So I just wanted to respond to Jennifer’s point in that regard, if it was -- if that was -- if my notes are correct in that regard.

But again, really appreciate and look forward to your comments as to how you would prefer to see that addressed in our regulations.

MR. JENSEN: Okay. Thanks Galen.

I want to respond to one more question before we open up the WebEx audio.
So someone asked to whom comments should be submitted?

So the Docket Number is 15-OIR-05. If you go to the page we were on earlier, energy.ca.gov/benchmarking, there’s a link specifically for submitting a comment to the docket.

So with that we’re going to -- how do we do this, Laith? Do we have any hands up?

MR. YOUNIS: (Off mike.) We do have hands up.

MR. JENSEN: Okay.

MR. YOUNIS: (Indiscernible.)

MR. JENSEN: Let’s do hands first. So let’s take those.

MR. YOUNIS: (Indiscernible.)

MR. JENSEN: Colin on WebEx, go ahead. Okay.

What’s the last name?

MR. YOUNIS: (Indiscernible.)

MR. JENSEN: Okay. George on WebEx, go ahead.

MR. NESBITT: George Nesbitt. Can you hear me?

MR. JENSEN: Yes, we can.

MR. NESBITT: Yeah. I’m a HERS rater.

I guess the first thing is a question. I’m trying to understand, especially related to multi-family, what a covered building is. So if I have a five-unit single building on a property, that’s covered, that’s clear. But
now if I have three duplexes on one property, is it covered?

And it’s very, very common in multi-family or certain types of multi-family that there are multiple buildings, and they can be anything from duplexes up to much larger buildings. And, you know, you’re using, you know, terms, utility account, address, units. You know, some of these properties are master metered. Some of them may actually only have one address, at least street address, although there may be apartment addresses. So I don’t know if you can clarify that any.

MR. JENSEN: Sure. So the number of account threshold are at the building level. So our definition of building refers specifically to structures, so we’re not using at the property level. This is inconsistent with some of the other benchmarking programs that do use the property or parcel level. But this is -- what we’re doing is consistent with the statute, so we’re referring to individual structures.

MR. NESBITT: Okay. Which means on some properties some buildings might fall under it and some don’t, which from -- anyway, okay.

MR. JENSEN: That’s right. Yeah.

MR. NESBITT: In the past when I’ve submitted a utility request for utility data for a customer, I’ve gotten one year’s worth of data. And that process actually went
fairly fine, spreadsheet, no problem. The thing is online the customer could get two years of data.

Recently I pulled down my own data. I got eight years of data. And I just checked my Energy Star Portfolio account and I got two-and-a-half years of data, although it hasn’t updated since December. You are specifying a minimum amount of data that should be provided if it exists. It maybe wouldn’t hurt to say, you know, provide more if you have it. Why not give all the data?

When I set up -- you know, I do energy auditing. I do computer modeling. I’m computer savvy. When I set up my Energy Star Portfolio account, the process of figuring out how to get my data uploaded from the utility was extremely difficult, extremely difficult, not only from Energy Star Portfolio Manager’s information, but from the utility’s information. It took me a long time to get it right.

So where we often fail is not in the intent of what we want to do, it’s in the implementation, so making sure that processes actually work and work easily. I like the idea of a common application to submit for requests for data from all the different utilities, rather than there being -- you know, we have a problem. We have statewide programs, and then they’re administered by multiple utilities or other administrators, and then each of them
have their own process. And people who work across
jurisdictions, it just makes life much more difficult.

On the issue of condos, condos are an ownership
type, they’re not a building type. They span anything from
a duplex up to a high-rise building. And in the Energy Code
and the Building Codes they are considered and treated and
permitted like any other multi-family apartment building, or
for sale. It doesn’t -- there’s no distinction.

What’s important, sort of the issue of disclosure.
Well, first, access to information. People having energy
use data, the whole idea is that they can get data and maybe
it’s useful for them to make action on. And having their
own data is useful. Benchmarking can be more useful in the
sense that it provides you, am I better or worse? If I’m
worse, that’s motivation, hopefully, to do something,
whereas if you’re better maybe it’s not motivation but it
lets you compare.

But what I need as an energy auditor, what I need
as a homeowner or a building owner might need, or even a
tenant might need is not specific information necessarily
about other property, but either by zip code, by city, by
county, or by larger region, depending on whether it’s rural
or urban or depending on the building type, having access to
end-use intensity is probably maybe, you know, the first
thing that’s useful, but to be able to compare my building,
you know, my three-bedroom house to other three-bedroom houses in my area, and ideally on occupancy, too, so I can make a real comparison.

So having -- disclosing addresses, building names and other things isn’t necessarily useful. It’s having access to certain data points that are useful to compare. Knowing where that building is makes no difference. So in that sense I think disclosure, you know, there is such a thing as disclosing too much. The problem is we don’t have access to this kind of comparative data, and that’s what we really need as an industry, as owners, all of us.

So I think that’s all I have for now.

MR. JENSEN: Okay. Great. I agree, George, and we’re certainly planning, through our website, to have users be able to look at, you know, in addition to at the building level to be able to look at, you know, the statewide level, statewide, county, city, have it, you know, whatever level they want. And they can get -- you know, see a heat map or what the picture looks like at each of those levels. We’ll also be, you know, issuing rolled up reports with some of that information. So I think that will be -- I hope that will serve the purpose that you’re talking about.

So, Laith, what do we have next?

MR. YOUNIS: (Off mic.) (Indiscernible.)

MR. JENSEN: San Diego Energy Desk, go ahead.
MR. WALSH: Yeah. Thanks. Can I just do a quick check? Can you hear me okay?


MR. WALSH: Yes. Thanks. Hi. Thanks for the opportunity to speak today. Just a couple of questions first.

I want to just reiterate that I am on record opposing AB 802. And the commercial real estate is also beginning to express some opposition to this. So I just want to be sure that this isn’t presented as the entire real estate industry is behind it.

That being said, I’ve got a lot -- I made a lot of notes here. I’ll do most of this in writing. But let me just ask you some higher level questions.

Will this apply to governmental buildings, city/state/federal-owned buildings and/or occupied buildings?

MR. JENSEN: Galen, would you like to respond to that?

MR. WALSH: Hi, Galen.

MR. LEMEI: Hi, Randy. This is Galen. The regulations do not speak to building ownership. But in the case of federal buildings specifically, there may be preemption issues.

MR. WALSH: Okay. So state and city and county
would be required to comply?

MS. WADHWA: Hi, Randy. This is Abhi Wadhwa from Energy Commission. The regulations as currently written --

MR. WALSH: Hi, Abhi.

MS. WADHWA: -- don’t make a distinction if the government building, whether it’s state or city, happens to fall within the parameters defined by the regulations, the size threshold and whatever other thresholds are defined, then it would be a disclosable building.

MR. WALSH: Okay.

MS. WADHWA: But it has not currently made a distinction between what type of ownership it is.

MR. WALSH: Okay. So there’s, right now, no exemption.

I’ve looked at this and it is a little confusing. A single-tenant building, like a Home Depot that’s over 50,000 square feet that has a single meter serving that building, they would still fall under disclosable building; correct?

MR. JENSEN: That’s correct, unless they want to try for the trade secret exemption, that’s correct.

MR. WALSH: Okay. Some of the -- responding to some things that have already been said, it seems like some terminology and some definitions haven’t really been aligned yet. Probably need to take another stab at that.
For instance, I don’t see -- I don’t necessarily see a definition of building in here. I see covered building and I see disclosable building. I just think a definition regarding building might be helpful. And maybe something that follows along with the Energy Star Portfolio Manager definition.

There is -- let me see, page three, section 1681(b), utility requirements, paragraph two, second line, “The requested building for at least the previous calendar year.” So if you’re determining the reporting period is a calendar year; correct?

MR. JENSEN: That’s correct.

MR. WALSH: Okay. So then I think it was Bryan from Southern California Power Authority was, I think, raising this issue.

So in order for that to happen SDG&E and PG&E are going to have to get us the 14 months, probably the 14 months of data. You’re not necessarily addressing the facts that they have to give us 14 months of data; right? You’re just saying as long as the data that they give to us covers that calendar year, the requirement is met?

MR. JENSEN: Correct.

MR. WALSH: Okay. Still on that same section, (d), paragraph one, how am I going to know -- my client would be the building owner -- how am I going to know that I
have the actual energy use for each month for each tenant’s
suite or for each meter accurately represented in this
information that I’m going to get? And part of that is the
owner is really not going to get anything useable. I’m not
going to be able to see which tenancy is using the most
electricity. All I’m really going to be getting, because
it’s aggregated data, is the whole building data, which
means then that I have to maybe undertake another evaluation
process.

So I want to be sure that the ability to request
individual-level meter data with a CISR form will remain in
place so that I can do a project and get individual tenants’
data with their authorization. And I probably then would
have to build a different portfolio profile in Portfolio
Manager.

MR. JENSEN: Okay. Let me do -- sort of do three
different things here.

So number one is the purpose of this program is to
provide building-level energy use data to building owners
and to the market, and I think you’re clear on that.

Number two is I don’t believe -- so I don’t know
whether the utilities are planning to stop their process of
providing tenant-level -- customer-level data when
appropriate permissions have been provided. And they can --
they can comment on that if they want to, and it looks like
Valerie might want to.

MS. WINN: Yeah. Hi.

And, Randy, certainly for PG&E, there are a number of ways that customers can access their data usage through web-based programs. We have our, you know, our Share My Data programs, Download My Data --

MR. WALSH: Yeah.

MS. WINN: -- Green Button programs. Those programs and the provision of data through those platforms won’t be changing because of this benchmarking regulation. Those are completely separate from this.

MR. WALSH: Okay. That’s helpful. And I have been able to pull stuff off of those tenant access portals, I think you’re calling them. But I still want to be able to get raw -- data that’s rawer or more raw, like the 15-minute interval data that sometimes is not available through the onsite -- I’m sorry, the site portals. So that’s usually why I use the CISR form.

So I want to make sure that’s going to stay in place so that I can still get whatever kind of data I need, unless you guys are planning to terminate that all together and just let everything come out through those portals?

MR. JENSEN: I haven’t heard anyone saying they’re planning to terminate anything, but it looks Valerie is going to clarify again.
MR. WALSH: Okay.

MS. WINN: Yeah. And, you know, Randy, I’m really not the expert on the CISR forms and 15-minute interval data. We could take that offline and discuss. But I’m not aware of any changes to those existing processes.

MR. WALSH: Okay. Okay. Then in terms of sort of conceptually, Erik, this is a one-time reporting.

What is your expectation of the owner in terms of working with that Energy Star Portfolio Manager account or that building profile?

If this is -- if we can only request one time for complying with this disclosure program, what are you expecting the owners to do with that information the rest of the year?

And are you also requiring us, and I think Matthew was picking up on this a little bit, are you also requiring us to submit all new documentation every year when it’s time for us to be preparing these reports?

MR. JENSEN: Okay. So I heard three questions.

The first one was, I think, about number of requests per year. Are you referring to -- so there was some discussion earlier about limiting the number of requests per year. Is that what you’re -- was that your first point?

MR. WALSH: Yeah. Well, yeah. Yeah.
MR. JENSEN: So the regs as currently proposed don’t limit the number of requests. We heard from Bryan that he would like to see a limit to the number of requests. Does that answer your question?

MR. WALSH: Well, kind of, but let me ask Bryan. Is Bryan saying he doesn’t want to fulfill more than one request in order to comply with AB 802, or is he saying that they don’t -- they’re recommending that we not be able to collect data monthly throughout the year for all the tenants in our buildings?

MR. JENSEN: So whether a utility wants to have recurring upload is, I think is a separate issue. Bryan, you don’t have to -- so I’m not quite clear what the question is, so we can -- okay. Okay.

Randy, please just -- so please maybe include your question in your written comments.

MR. WALSH: Yes.

MR. JENSEN: So the building owner should only need to make one request to comply with the benchmarking and reporting portion of the program, and that will happen between the end of the calendar year for which data is being reported and when the disclosure is due for that reporting for that year, and that’s all. That’s the only request they’re required to make.

So maybe, yeah, try again right now, if you want...
to. Otherwise, please include your question in your written comments.

MR. WALSH: Well, I think that helps. So you were only speaking to the disclosure. So then in terms of complying with AB 802, there really should only be one request from an owner, so that sounds fine.

But that is not really going to be workable for us throughout the course of the year. So then we may need a regular feed of data or -- and those systems are in existence now. So as long as those are not going to be taken away, then my expectation would be that I would be doing a disclosure profile for a building, and then I would be doing a working profile for the building. That working profile would then be set up for the monthly data feed through the web services --

MR. JENSEN: Okay.

MR. WALSH: -- through (indiscernible).

MR. JENSEN: Okay. So we’re not proposing to require recurring upload for utilities.

Let me -- if someone else wants to make -- it looks like we’re going to have a response in the room here.

MS. WADHWA: Hi.

MR. WALSH: Okay.

MS. WADHWA: This is Abhi Wadhwa from Energy Commission.
I would just rephrase what Erik said. We’re not precluding continuous benchmarking from happening in our current regulations. That is a process that’s been happening throughout. And nothing in the proposed regulations precludes you from requesting monthly energy use data on an ongoing basis, if you wanted that.

MR. WALSH: Okay. But then there’s not -- and I don’t even know how it came about that we were able to access information that way. But would the utilities be in a position to say, hey, we’re doing this once a year, do that for this disclosure, and then go to these individual portals and pull the data from there? I just want to make sure we’re not going to get stymied from getting that information in the quickest and easiest way possible.

So I think it could be the nature of the concern. I think that’s fine.

I wanted to just ask if you can tell me, what is the reporting date? According to -- I’m going through my pages here -- page eight, (e), exemptions, paragraph two, “The building is scheduled to be demolished one year or less from the reporting date.”

Is the reporting date that April 1st date?

MR. JENSEN: For buildings with three or more utility accounts, yes. And for buildings with fewer than three utility accounts it’s June 1st to allow time for the
MR. WALSH: Okay. So is that defined in reporting dates?

MR. JENSEN: Yes.

MR. WALSH: Okay. All right. Then I guess I just didn’t see that.

You’ve got in here some workaround for these two -- I’m sorry, page one here, two or more -- section 1680(e), the second part of that,

“Two or more covered buildings on the same parcel, campus or site that are served by one common energy meter without sub-metering, such that their energy use cannot be tracked individually, shall be considered one covered building.”

So that definition of one covered building does not fit the definition of building, according to Energy Star Portfolio Manager.

So what is the expectation there? So is this just the way we’re going to get energy use? And this is not commenting at all about the energy -- about the way this profile is going to be set up in Portfolio Manager?

And this is important because if that is all of a sudden treated as one building, you know, there’s a potential that you can get a score on that building. And in reality that’s not an apples-to-apples comparison to take
the building with a single meter.

    MR. JENSEN: So --
    MR. WALSH: So I'm --
    MR. JENSEN: So Portfolio --
    MR. WALSH: It just kind of comes back to the vernacular and the definitions. They’re not necessarily lined up, and I think that’s going to be very, very confusing as this starts to go out.

    MR. JENSEN: Okay. So Portfolio Manager allows the user to enter a property which includes a field for the number of buildings, and so that’s what we would expect the building owner to do in this case. And I think that would -- I think that’s pretty clear.

    MR. WALSH: Okay. Okay. Then that negates the possibility of getting an Energy Star rating because you’re defining it as -- okay.

    MR. JENSEN: That’s right.
    MR. WALSH: Okay. That can work.

    The gross floor area on that same page, item I, that looks to me the gross floor area definition, at least on the commercial side. And I was trying to look it up while we’re listening here, if that matches with the garden style multi-family properties, because I’m not sure that it necessarily would.

    And then similarly in the -- right now this
extensive list of data points that are going to be disclosed, on page seven under (d), paragraph three, you know, I agree with what Matthew is saying and with what Gregory Philipp was saying, that some of this is definitely proprietary. And most of these things are kind of resolved with whatever your energy use intensity is or what your score is. And they probably have less, on their own, they have less value.

But to me this looks to be the list of property characteristics and occupancy characteristics for commercial buildings. And I’m just not so sure that it matches up with the multi-family. And I can’t see it online so far to prove that it does or it doesn’t, but it seems like it’s a completely different set.

MR. JENSEN: Okay. So let’s take those separately.

So first of all, thanks for pointing out that the definition we’re giving for gross floor area refers to properties and not buildings, so we’ll correct that.

And then the -- thank you also for pointing out that the list of disclosure metrics might not be applicable to residential. We’ll take a look at that, as well.

MR. WALSH: Okay. And then one other piece on here. If you are imagining this only being on an annual cycle, and I haven’t done anything to track the operating or
occupancy characteristics in that building profile for the 12-month period.

Is your expectation that I’m going to enter data effective December 31st which would then become the proxy for the entire year, which may or may not be accurate or correct modeling of the property?

And I think this would be important because if I’m modeling a building once a month, tracking those metrics, my overall score is going to be much different because it’s going to be much more reflective of the actual use of that space.

Then if we’re going public with this information and I’m using data that’s been managed over a 12-month period versus data that’s been managed once for a 12-month period, you’ve got some integrity issues there. And maybe that isn’t the word there, but you could be modeling a 10,000 square foot building each month for 12 months versus that one time and you can potentially get different scores on them.

MR. JENSEN: Yeah. I think that’s --

MR. WALSH: And so --

MR. JENSEN: I think that’s a great point. And so we’ll clarify that we will want the building and operating characteristics that are reported to align to be those that are, you know, in place, at least the majority of the year
for which energy use data is reported.

MR. WALSH: And then it’s going to be important to somehow be able to track -- well, to align the energy use, also, which is why I think there needs to be some way for us to reconcile this before turning this over to the state.

Just some other small things in here, but I think that’s fine.

And just a suggestion. The ownership of buildings, that’s recorded. Counties, building registrations, all sorts of things. So, yeah, I would be concerned about you guys -- the utilities being kept up to date with that ownership. But I’m just wondering if you could pull that data in from some other sources, which means that every change of ownership is registered. And then really all we do need is the CISR form that Matthew and I think Bryan were also referring to. And it might just save everybody a lot of time, too.

MR. JENSEN: Okay.

MR. WALSH: And I think that’s it. Thanks. I’ll get some other stuff in writing to you. Appreciate it.

MR. JENSEN: Great. Thanks, Randy.

Okay. Okay, it looks like that’s it for hands.

I’ve had a question.

Someone wanted me to confirm that for a building that has one of more residential accounts, if the building
has five or more total utility accounts, and again that’s per fuel type, there’s no customer permission in that case. That’s a covered building, so just wanted to make that clear.

Let’s see what else, if we’ve gotten anything else. Okay, hang on. Let’s see what I’ve got. Okay, I don’t have anything more here.

We’re going to go to the phone lines. So as I said earlier, we’re going to unmute all of the phone lines. So please have your phone muted so that we don’t get background noises, unless you want to speak. So we’re going to open the phone lines at this time.

UNIDENTIFIED FEMALE: (Over phone line.) Oh, no, we’re flying. Yeah, we’re not driving. I mean, if I was driving that would be --

MR. JENSEN: Okay, so we’re getting --

(Back feed from phone line.)

MR. JENSEN: Okay, it looks like -- do we have anyone on the phone who wants to comment?

MR. SPAIN: Yes. This is SDG&E.

MR. JENSEN: Great. Go ahead.

MR. SPAIN: This is Terry Spain with SDG&E. I had a question that pertains to some of the time periods mentioned within the proposed regulations, not the compliance schedule but as far as the benchmarking periods
and the time periods for which energy usage data is requested. There are certain terms used, such as current calendar year, previous calendar year, the calendar year that reporting is required. It’s not completely clear as to which months the requested benchmarking information, which 12-month period, calendar-month period is supposed to be reported to the Commission.

Now previous calendar year could depend upon when the actual request was received by the utility, or does it pertain to the year in which the report is due? It’s not clear within the regulations as to what the basis is.

MR. JENSEN: Okay. So thanks, Terry. So the calendar year that needs to be reported is the one that precedes the year in which the report is due. So that request would need to come in between the end of the calendar year for which you’re requesting data, because you need the complete year of data, and the beginning -- excuse me, and the due date. So we’re suggesting February 1st as the data that building owners request their data. So we’ll clarify that, though, Terry. Thank you.

MR. SPAIN: All right. Thank you.

I had a second question as well. And that question pertains to, I believe it’s section 1681(b) as in boy, (4), capital (B) as in boy. And the way we read this, I believe it was discussed earlier, if, for instance, you
had two accountholders, two customers in a building, that situation would require customer permission from both customers before their data could be uploaded.

Now what you’re saying here is that if only one of the customers provides permission, then the utility is supposed to go ahead and upload the data for the other customer, and then let the building owner know that one customer’s information is not included in the aggregate. Is that a correct interpretation?

MR. JENSEN: So that is -- that’s correct for data access. So the --

MR. SPAIN: Yes.

MR. JENSEN: Yeah. So, yes, that one -- yes, the way you just said it is correct. So this building would be -- would not be -- let me back up.

So for the reporting to the Energy Commission, for this building you would use the link for “Energy Use Data Not Available” and so you would just -- you would not provide energy use data for this building under the benchmark program. I realize you’re with a utility and I’m saying you as though you’re a building owner. But, yeah, the way you said it was just right for data access.

MR. SPAIN: Okay. Because the clause that we were having some concern with says that “And that energy use data for the utility accounts for which permission has not been
received will not be provided.” But since we had received permission for one of the two customers, that clause implies that we would be providing the energy usage information for the customer that did provide the permission, which would cause several problems.

MR. JENSEN: So that’s the intention. The way you just described it is the intention. Can you go into more detail on the problems that you see?

MR. SPAIN: Well, first of all, if you have -- if a building has two customers, let’s take an easy case where there’s no building owner accounts, it’s a building which has two utility accounts, basically two customers are occupying that building, that requires the utility to get their permission before uploading their information. So we send out the authorization forms. One customer returns it says, yeah, that’s fine, go ahead, I hereby give you permission to use my energy usage data in the aggregate and uploaded to the building owners Portfolio Manager account. The other tenant refuses.

According to how we interpret this passage here is that what we’re supposed to do then is tell the building owner, hey, we couldn’t get permission from the second customer, we’ve only got it for one. And then we’re supposed to go and upload the information that we do have for the one that gave permission.
Now that comes with several problems, one of which, that individual customer’s energy usage is now exposed, potentially publicly if it’s over 50,000 square feet, and at least to the building owner if it’s under.

Secondly, it’s technically a violation because we are intentionally providing data that we know to be incomplete. Well, we’re not allowed to do that under the proposed regs, so there’s a conflict there, and an issue with customer privacy.

MR. JENSEN: Okay, let me offer one clarification, and then I think Galen wants to respond.

The clarification is we do not want to publicly disclose buildings for which we don’t have all energy use data. So if you had one customer giving permission and one customer not, we would want the building owner to use the link for “Building Energy Use Data is Unavailable”.

Okay, Galen, go ahead.

MR. LEMEI: Yeah. This is Galen. I wanted to respond to two aspects of your premise that I think are not entirely accurate.

The first is that when -- and again, we’re talking about a special case where there are two accountholders for a building with no residential accounts. And first we’re talking about a request that is not facilitating -- so irrespective of the building size, this particular request
is not facilitating compliance. And it’s important that the utility know that because the consent is different when it is facilitating compliance.

But when it’s not facilitating compliance, what the utility is going to do is inform the accountholders, both of the accountholders, that in this case are not the building owner, that their data has been requested by the building owner pursuant to this provision. And when they give their consent, and this is the key distinction, they are not consenting to their information being aggregated or provided if and only if it’s aggregated. They are consenting to their information being provided to the building owner, period.

Now it’s true that their information will be aggregated to the extent possible, which means that if there happened to be two accountholders in the building the data will be aggregated across those two accountholders. If this happens to be a single-account building occupied by a single tenant then all of that information would be provided in a non-aggregated form to the building owner, and the tenant accountholder is consenting to that information being provided. If there’s two accountholders and one of them consents and the other does not, again, the accountholder has consented to that information being provided.

Does that make sense?
MR. SPAIN: Yes, that makes more sense now. Thank you.

MR. LEMEI: Okay. And then the second point, which is consistent with what Erik was just speaking to, is that in addition to us not intending to have public disclosure of energy use data, a partial public disclosure where not all information is available, again, the form of the consent that goes to the non-building owner accountholder is different. So it’s important just --

MR. SPAIN: Okay. That is an important clarification. We’ll need to design for that in our system.

MR. LEMEI: Right.

MR. SPAIN: All right. Thank you for that clarification.

MR. JENSEN: Great. Thanks, Galen.

Anyone else on the phone?

So, Bob Levine, are you trying to speak? Okay. Anyone else on the phone?

Okay, so I’m done with -- it looks like Galen wants to say something.

MR. LEMEI: Yeah. This is Galen.

I don’t know if Jennifer is still on the line.

But if you are still on the line and wanted to explain the concern that you were explaining earlier, which you were -- I know that you were speaking quickly in specific response
to, boy, I think it was in response to Bryan, but I might have that wrong. But if you were here and you did want to take a little time to articulate the concern that you were raising, I wanted to give you the opportunity to do that. Or if you’re not on the line and want to do that in written comments, that’s fine, too.

MR. JENSEN: Okay. I think we are all done here. So thanks very much for coming.

Let’s see. Oh, let’s go -- let’s do this. Okay, there are some comment guidelines. Please provide section and subsection references in your comments. Be specific about what you think is unclear, what clarification you’d like to see. Last time some of the utilities provided very specifically exactly what they would like the regulations to look like. That’s very helpful to us if you can provide specific language. Tell us, you know, please go into detail about why you feel specific changes are necessary, again, sort of referencing not just sections of the regs. But if your comment has to do with authority that the Energy Commission may or may not have to do something, please also reference the statute as appropriate.

If you’ve got any recommendations, Matt mentioned we need to be careful when thinking about staffing levels for implementing this. We’d appreciate your suggestions on that, as well.
So, okay, last slide here.

So go to the Energy Commission benchmarking page, 15-OIR-15 is the proceedings, and there’s a link for that on the benchmarking page. So that’s where you want to submit your comments in response to the workshop. If you’ve got any specific questions, if you want to just get a quick response from me or Laith, here’s our contact information, as well. Again, comments are due by 5:00 p.m. Friday, August 12th, initial notice set August 5th, now it’s August 12th.

And we’re done for the day, so thanks very much.

(Whereupon the meeting adjourned at 11:58 a.m.)
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.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of July, 2016.

[Signature]

PETER PETTY
CER**D-493
Notary Public
CERTIFICATE OF TRANSCRIBER

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 transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.

[Signature]

MARTHA L. NELSON, CERT**367

July 27, 2016