

## DOCKETED

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BEFORE THE CALIFORNIA ENERGY COMMISSION

In the Matter of: )  
 ) Docket No. 15-OIR-05  
Staff Proposal for Draft )  
Regulations to Implement Building )  
Energy Use Data and Public )  
Disclosure Provisions of AB 802 )  
\_\_\_\_\_ )

CALIFORNIA ENERGY COMMISSION

FIRST FLOOR

ART ROSENFELD HEARING ROOM

1516 NINTH STREET

SACRAMENTO, CALIFORNIA

FRIDAY, JULY 22, 2016

9:00 A.M.

Reported by:

Peter Petty

APPEARANCESCalifornia Energy Commission

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Benchmarking Program

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PUBLIC COMMENT

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Matthew Hargrove, California Business Properties Association

Jonathan Changus, Northern California Power Agency

Sachu Constantine, Center for Sustainable Energy

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P R O C E E D I N G S

9:10 A.M.

SACRAMENTO, CALIFORNIA, FRIDAY, JULY 22, 2016

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

1 is going to be a little different from previous workshops,  
2 but the general idea is we take comments from people in the  
3 room first. For those people, please come up to the  
4 microphone to talk. We want to make sure that people who  
5 are on WebEx and the recording will get what you're saying.  
6 After the people in the room have gone we will go to the  
7 people on the WebEx. And then after that we'll open up the  
8 phone lines and invite people on the phone lines.

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

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

23           Okay, here's the proposed agenda. As I mentioned,  
24 the program is going to be a little different from previous  
25 workshops, so I'll do a real quick overview of the bill,

1 which we've all seen before, briefly go over the key things  
2 that we heard in the previous workshops. And I'll just do a  
3 pretty brief overview of what we're proposing. I'll put up  
4 some of the main points from the regs and briefly describe  
5 them, but I won't read through the whole thing, as I've done  
6 before, which I hope you'll appreciate. I know I'll  
7 appreciate it, so I'm looking forward to that.

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

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

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

23           Okay, so just briefly, there are three things that  
24 the statute -- I just saw a comment on the WebEx that I have  
25 not yet introduced myself. My name is Erik Jensen. I'm

1 leading the regulation development for this program. This  
2 gentleman seated here is Laith Younis. He's leading the  
3 data infrastructure development for this program. And that  
4 just reminds me, Laith pointed out to me yesterday, in the  
5 presentation I posted online there are no slide numbers. I  
6 corrected that for what I printed that today. But people who  
7 are on the phone and on the WebEx don't have the slide  
8 numbers. So I'll try to remember, in addition to saying  
9 what slide number we're on, I'll try to describe the slide.  
10 Most of them are pretty fairly unique, so that should --  
11 hopefully that will go pretty well. But when we get to the  
12 discussion, if we need to clarify we can do that and we've  
13 got. Okay.

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

20 So firstly, beginning January 1 of this year,  
21 utilities were required to maintain at least the last 12  
22 months of energy use data for buildings to which they  
23 provide service. Starting January 1, 2017, utilities will  
24 be required to provide energy use data to a building owner,  
25 owner's agent or operator on request. So we will -- our

1 regulations will not be in effect at that point. Utilities  
2 are still required to do that starting January 1st, 2017.

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

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

17 So I already talked about the first two  
18 regulations we're looking at probably the second half of  
19 2017 for having the regulations in effect, and so that will,  
20 as I mentioned, lend some detail to the data access  
21 requirements and outline the -- or describe the benchmarking  
22 and reporting requirements.

23 So the rest, I think, so the rest of the timeline,  
24 I think, I think is the same as I what I -- I hope is the  
25 same as what I presented last time, so commercial reporting



1 will begin April 1st, 2018. Multi-family reporting, April  
2 1st, 2019.

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

5 MR. YOUNIS: No.

6 MR. JENSEN: Okay. Okay. Data that we receive in  
7 the first year from each of those building sectors will not  
8 be made public. The first. So the second reporting year  
9 for each of those building sectors is what we will make  
10 public. So April 1, 2019 will be the second reporting year  
11 for commercial buildings, and that will be the first year  
12 that we report that information, and it will be the  
13 information from that year; it won't be the information from  
14 2018. And then 2019 is the second reporting year for multi-  
15 family, and that will be -- excuse me, 2020 is the second  
16 reporting year for multi-family, and we'll report that in  
17 2020.

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

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

25 The third bullet is how to handle accounts that

1 are owned by the building owner.

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

5 Which party has responsibility for obtaining  
6 customer permission.

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

12  
13 What exactly starts the four-week data access  
14 clock. The statutes gives 28 days, 4 weeks for the utility  
15 to respond to a data request. But as you'll see, we're  
16 clarifying that that clock doesn't start as soon as a  
17 request is received. There are certain things that need to  
18 happen before the 28-day clock starts.

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

22 One more slide of themes from the workshop. So  
23 there has been some confusion about what's required for  
24 synchronizing building cycles and aggregating building-level  
25 data. We'll get into that a little bit. EPA just

1 submitted, within about the last two weeks, submitted a  
2 document on best practices for doing this. And so you  
3 should have a look at that and we can, as I said, we can  
4 talk more about that a little later.

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

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

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

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

23 MR. YOUNIS: All right, thank you, Erik. My name  
24 is Laith Younis. I'm going to be the Data Infrastructure  
25 Lead for AB 802 Benchmarking Program.

1           This is a revision of the document that you guys  
2 may have seen on March 25th workshop. I tried to clean it  
3 up a bit from some feedback that we got, as well as the  
4 changes that we implemented in this round are reflected  
5 here. Each color represents a group, a team. So we've got  
6 utility, the building owner or owner's agent as a requester,  
7 Energy Commission, and local programs. And you can follow  
8 these steps down to figure out -- this is very -- at a high  
9 level. As we involve comments, we'll get more and more  
10 granular in this.

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

25           Energy Commission will be looking for those

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

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

17           Okay, that's it. Thank you.

18           MR. JENSEN: Thank you, Laith.

19           So I just want to mention one thing here, and I'll  
20 get to this later. But the check for number of utility  
21 accounts, in this case -- so the distinction around three,  
22 that has to do with on the commercial side, whether customer  
23 permission is required for buildings. For buildings with  
24 one or more residential accounts there's no customer  
25 permission threshold. Buildings with fewer than five

1 accounts are not covered, so they're not within the scope of  
2 the program at all. Buildings with five or more are  
3 covered, but there's no customer permission requirement, so  
4 I'll get into that a little later.

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

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

19           Building identification number, that's a number  
20 that's -- it will be recognized statewide. And that will be  
21 assigned to each disclosable building by the Energy  
22 Commission. They'll be listed on the Energy Commission  
23 website. We don't know when we'll have that in place. We  
24 might not have it in place by the time the regulations go  
25 into effect. So you'll see a couple of places in here,

1 well, yeah, a couple of places in here where we say -- refer  
2 to the building number, building identification number when  
3 it becomes available. So that helps us with, you know,  
4 synchronizing the building owners, utilities, and Energy  
5 Commission, making sure we're all talking about the same  
6 building. So it's a good thing to have, but we might not  
7 have it in place by the time the regs go into effect.

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

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

20           We'll get to customer permission cases later.

21           On the residential side, a building with fewer  
22 than five utility accounts is not covered, so it's not  
23 within the scope of the program. A building with five or  
24 more is covered. There's no customer permission for  
25 residential buildings.

1           Now, I want to be clear about what we mean by a  
2 covered building. So in some other programs, programs for  
3 which the building owner is required to disclose something  
4 or report something are called buildings. It's different  
5 here, so what we -- and this comes from statute, a covered  
6 building is one for which utilities need to provide data on  
7 request from a building owner or owner's agent.

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

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

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

20           Disclosable building, on the commercial side all  
21 buildings over 50,000 square feet are going to be  
22 disclosable. We'll talk about the distinctions for those  
23 with fewer than three, but this a change from our March 25th  
24 workshop, all commercial over 50,000 square feet are  
25 disclosable.



1           On the residential side, buildings with 17 or more  
2 utility accounts over 50,000 square feet are going to be  
3 disclosable.

4           Utility account is an agreement between a customer  
5 and a utility to serve, to deliver energy to a building.  
6 And then we've got two clarifications on this one.

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

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

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

25           So on the commercial side, again, all buildings

1 are covered buildings. Within that, all of the buildings  
2 above 50,000 square feet are disclosable buildings.

3           On the residential side you have buildings.  
4 Buildings with fewer than five utility accounts are not  
5 covered buildings. The blue section, yep, the blue section  
6 is covered buildings, so five or more utility accounts,  
7 regardless of square footage. And then within that, only  
8 buildings with 17 or more utility accounts and greater than  
9 50,000 square feet are disclosable buildings.

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

19           Okay, so the first thing, okay, now let's talk a  
20 little about the distinction between the data access program  
21 and the benchmarking and reporting program. So data access,  
22 as I mentioned before, that's the part that utilities need  
23 to be ready for January 1st, 2017. This is voluntary. A  
24 building owner can ask for it. It doesn't have to be tied  
25 to the benchmarking and reporting program. And then the

1 benchmarking and reporting program, that's something  
2 building owners of certain buildings will be required to do.  
3 The benchmarking and reporting program relies heavily on the  
4 data access aspect of the program. They need to have the  
5 access to the data to do the benchmarking and the reporting.  
6 So they're tied together but they're distinction  
7 portions/aspect of the program. And as I mentioned earlier,  
8 so when we're talking about covered buildings, generally  
9 we're talking about the data access provisions. When we  
10 talk about disclosable buildings, that's the benchmarking  
11 and reporting portion of the program.

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

25           And lastly, they'll need to provide an indication

1 of whether the request is made for compliance with the  
2 benchmarking and disclosure program. So here's a place  
3 where the utility needs to be able to know whether this is a  
4 request just for data for the building owner to have his or  
5 her use, or whether it's for the benchmarking and reporting  
6 program.

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

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

25           Laith may or may not go into a little more detail

1 on this later, but if the utility is trying to automate  
2 their association of meters with buildings, there's a margin  
3 for error there. They may not know exactly which meters are  
4 associated with which buildings, and so this is a check for  
5 that.

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

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

24           On March 25th, you know, we sort of had this open-  
25 ended -- we said a building owner could choose the manner of

1 the transmission, and we only want -- we want to limit that  
2 so that the utilities don't have to, you know, respond to  
3 strange requests. They only have a maximum of two different  
4 ways to do that.

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

13           And then customer -- as we'll see later, with  
14 customer permission there will be a maximum of -- there's a  
15 60-day time period for the utility to attempt to get  
16 customer permission. We'll get into that a little later.

17           If there is -- we're getting into that right now.  
18 It's not later, it's the very next thing on my list.

19           So customer permission, if a commercial building  
20 fewer than three utility accounts, two options. The  
21 building owner can provide a signed lease or waiver at the  
22 time they make the request where the utility customer is  
23 agreeing to share their data with the building owner. There  
24 is -- again, there needs to be a distinction there so the  
25 utility will know whether this is a request just for data

1 access or for compliance with the Benchmarking and Reporting  
2 Program. And so they're going to be looking for -- in the  
3 lease or waiver they're looking for that acknowledgment. So  
4 the customer needs to acknowledge to what they are agreeing.

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

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

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

25           Okay, Laith, do you want to talk about -- I mean,

1 there's just the numbers. Do you want to -- okay. Okay,  
2 that's fine.

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

8           The commercial building number is a little under  
9 400,000. This has increased from what we showed on March  
10 25th for two reasons. One is because we are now -- not for  
11 covered. Sorry.

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

19           Multi-family, we aren't able to use the exact  
20 terms that we use in regs on the multi-family side. In regs  
21 we're trying to be faithful to the statute, but because of  
22 the terms that CoStar uses we have -- and, I mean, I'm  
23 talking about search terms, not the term of our  
24 subscription, we have to use properties when we're searching  
25 for multi-family in CoStar. So anyway, covered -- so this



1 is properties with five or more units, that's what we have  
2 to search in CoStar. We're getting about 117,000  
3 properties.

4  
5           And, okay, this is approximate covered buildings  
6 and properties by utility. We sort of wanted to just give a  
7 sense of the scale here. So some of the larger utilities  
8 have hundreds of thousands of commercial covered buildings.  
9 Multi-family, we get a range of the max possible and the min  
10 possible because, as I mentioned, we're not able to do our  
11 searches with the exact same terms as we're using in the  
12 regs. And then you can sort of see how it tapers off. And  
13 we're not including every utility here. And the cutoff was  
14 fairly arbitrary as it gets down to some utilities that  
15 don't even have -- wouldn't have a bar to show on here,  
16 using this scale we just cut it off. So this is just to  
17 give an idea of the scale.

18           Okay, let's get into the benchmarking and  
19 disclosure section.

20           First of all, if you're in a jurisdiction that has  
21 a local benchmarking and reporting ordinance, and if the  
22 Energy Commission has deemed that that ordinance fulfills  
23 the same purpose as our regulations, you won't need to  
24 report twice. So we'll work with that jurisdiction, make  
25 sure the data infrastructure is in place behind the scenes.

1 You'll just need to report to your local jurisdiction, that  
2 data will come to us, get included in the statewide program,  
3 as well, and your obligation is done. We're going to be  
4 adding more detail eventually to the process that we'll use  
5 to decide what the requirements are for a local ordinance to  
6 be listed on our website, but that's what will happen  
7 eventually. There will be a list on our website so, you  
8 know, it will be real clear whether you need to report to  
9 the state or just to your local jurisdiction.

10 The schedules, I talked about earlier, starting in  
11 2018 with commercial reporting, 2019 with multi-family  
12 reporting, and then one year later for both of those, in the  
13 second year of reporting for each, will begin public  
14 disclosure.

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

20 If there are three or more utility accounts -- so  
21 we're proposing to have three different links on the Energy  
22 Commission website, one for if you have three or more  
23 utility accounts or customer permission, so -- or fewer than  
24 three utility accounts with customer permission, you'll  
25 click one link. Using the Custom Report Template in

1 Portfolio Manager, you'll press a button and certain  
2 information, which we'll get to later, will get transferred  
3 over from your utility -- from your Portfolio Manager  
4 account to the Energy Commission's Portfolio Manager  
5 account.

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

16           Lastly, if there are fewer than three utility  
17 accounts and the building is one of the -- the owner is one  
18 of the occupiers of the building, and if there is -- if the  
19 owner is the only occupant of the building, or if you have  
20 the owner and one other tenant and that tenant provides  
21 permission, the owner will need to either provide their  
22 energy use data, or they can get an exemption -- they can  
23 request an exemption from our executive director. So we'll  
24 establish a process for that based on if they make the claim  
25 that their energy use data would constitute a trade secret,

1 they can make an appeal. If that's granted, we'll have a  
2 link for energy use data unavailable. And so it will be the  
3 same process as for the previous case. You'll enter the  
4 building characteristic information, but no energy use data  
5 will come through. And we'll include that on our website,  
6 as well.

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

11           Okay, so public disclosure, so that's the  
12 benchmarking and reporting process, reporting to the Energy  
13 Commission.

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

16           So the publicly disclosed metrics, we've got the  
17 whole list. And I think we'll probably want to look at the  
18 list later during the discussion. Let's hold off on that  
19 for now. So building characteristic information, latitude  
20 and longitude. Certain self-reported metrics in Portfolio  
21 Manager. Certain energy use-related metrics. So just  
22 generally -- so the entire list will be reported for  
23 buildings with three or more utility accounts, and buildings  
24 where customer permission has been provided for buildings  
25 with fewer than three -- for buildings where customer

1 permission hasn't been provided or the building owner has  
2 gotten a trade secret exemption, any energy use-related  
3 metrics will not be included, so it will just be the  
4 building characteristic information.

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

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

1 Similar -- and this is the same chart as before, but for  
2 disclosable buildings rather than covered.

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

10           So that's the brief version. That's the entire  
11 thing. I think we're going to take a brief break. And  
12 let's come back when that clock says five minutes after  
13 10:00 and we will discuss all of this. So we'll be back  
14 shortly.

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

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

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

21           First of all, someone asked where to find the  
22 slides. I will show that right now. So if you are at  
23 [energy.ca.gov/benchmarking](http://energy.ca.gov/benchmarking), in the upper right-hand here we  
24 have this e-filing box. If you click Docket Log for this  
25 Proceeding, currently then these are in reverse

1 chronological order of when they were submitted to the  
2 docket. So currently the very top item there is the  
3 presentation. Go down two more items, those are the regs,  
4 in case you don't have those yet. So I think we can close  
5 that.

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

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

18           Okay, and then that is related to -- someone asked  
19 me to go over this diagram again. So on both the left and  
20 right diagram the blue area or the covered buildings area  
21 are buildings for which utilities need to provide data on  
22 request. So covered buildings, that has to do with data  
23 access. And then the green circle on both sides are  
24 disclosable buildings, and that has to do with the required  
25 Benchmarking and Disclosure Program. So those are buildings

1 for which the building owner is required to get their data  
2 and report it to the Energy Commission. So I hope that  
3 clears it up. And if not, please let me know in the --  
4 through the chat.

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

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

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

24           We're going to go ahead now to people in the room.  
25 Come on up to the microphone here. Make sure the green



1 light is on on that microphone. If it isn't, press the  
2 button. And let's go ahead. And please introduce yourself  
3 before you make your comment.

4 MR. RAYMER: Thank you. Bob Raymer with the  
5 California Building Industry Association, representing 3,000  
6 member companies involved in residential and light  
7 commercial, and in general still very supportive of the AB  
8 802 effort. We were supportive of 1103, but it became clear  
9 that there were some problems implementing this. So over  
10 the past years we were, of course, supportive of 802 last  
11 year in the legislature, and look forward to continuing  
12 working with the Energy Commission and the utilities in  
13 getting 802 applied out in the field.

14 Specifically, just one request. As we go through  
15 the proposed regulations there's references to submittal  
16 this or request for waiver for that. To the extent that the  
17 Energy Commission could work with the utilities and the  
18 commercial construction industry to perhaps work out some  
19 common format forms. A lot of times, you know, with the  
20 energy efficiency standards we, of course, have the energy  
21 conservation manuals. Whether it's just -- there's more  
22 than enough forms as you go through those documents. And so  
23 to the extent that you can develop some common formats that  
24 individuals can use when requesting information or whatever,  
25 that would be greatly appreciated. We could also make this

1 stuff available on our websites as a service to the members  
2 to help get the information out. So thank you.

3 MR. JENSEN: Great. Thanks Bob.

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

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

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

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

22 MS. WINN: Uh-huh.

23 MR. JENSEN: So is your concern the association of  
24 specific meters with specific customers, what you're  
25 referring to as PII?

1 MS. WINN: Well, the meter number itself can be  
2 used by a customer in like -- in our systems to get online  
3 and get information.

4 MR. JENSEN: Okay.

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

8 MR. JENSEN: Okay.

9 MS. WINN: Yeah.

10 MR. JENSEN: Thank you.

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

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

23 And I guess, and the last thing, you know, of  
24 course, is we've been working pretty actively with Laith and  
25 with others through the meter mapping process just to -- we

1 don't collect information on a whole building basis. It is  
2 utility accounts. So we appreciate the efforts to do some  
3 of that mapping, but we don't necessarily track things by  
4 whole building.

5 All right, thanks.

6 MR. JENSEN: Thank you, Valerie.

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

16 We have another point later on which we feel is  
17 similar in a later section, and that is generally in some of  
18 the areas we think that the regulations disclose publicly  
19 more information than is probably necessary. The last  
20 comment, we agree on some of this. We probably don't need  
21 as much information as is in the regulation right now,  
22 requiring the utilities to give it back to us. We've always  
23 viewed this as kind of aggregated information once it gets  
24 into Energy Star, as long as we can do what we need to do  
25 with it, that's fine. And if the regulation is requiring

1 the utilities to provide information they're uncomfortable  
2 with, that isn't necessary to go through the benchmarking  
3 then. It's not something we need.

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

20           MR. JENSEN: Let me clarify that one. So this is  
21 for the building owner only to include comments. So, for  
22 example, if they had a score they felt is low, if they're  
23 going to be improving the buildings they could just put that  
24 out there, we're doing a project next year that should  
25 improve the score of the building. So that's what we were

1 picturing there.

2 MR. HARGROVE: Again, just in general for some of  
3 this, as you read this it says that this is going to go out  
4 on a public website. And it just seems like it's a lot of  
5 information in the regulations saying that it's going to go  
6 out on a public website, that is far beyond just kind of the  
7 aggregated score and how well that building is doing. Does  
8 that make sense?

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

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

21 Under section 1681 for Data Access, and we know  
22 that this has been a long evolution and there's been a lot  
23 of back and forth, and that there's some concerns with the  
24 utilities on who they're releasing the information to, and  
25 we want to make sure it's being released to who it should be

1 released to. We feel that that Data Access section A,  
2 subsection (1), subsection (c), might be a little more  
3 restrictive than will make the program work in the real  
4 world.

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

20           I'll leave it at that for now.

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

1 program and we appreciate that.

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

12           MR. JENSEN: Great.

13           MR. HARGROVE: Thank you.

14           MR. JENSEN: Thanks, Matt.

15           MR. CHANGUS: Hi. Jonathan Changus with the  
16 Northern California Power Agency.

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



1 legislation.

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

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

21           Thanks.

22           MR. JENSEN: Great. Thank you.

23           MR. CONSTANTINE: Good morning. I'm Sachu  
24 Constantine. I'm the Director of Policy at the Center for  
25 Sustainable Energy, also echoing earlier comments.

1           Great praise to staff, and thanks for addressing  
2 the comments the way you have and pulling this document  
3 together. We think it shows great progress towards a strong  
4 802 Benchmarking and Disclosure Program. And we, in fact,  
5 are thrilled with some of the adjustments that you've made  
6 in response to earlier comments, for example, the postal  
7 code workaround on master metered buildings. I think that's  
8 a great step forward.

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

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

23           Throughout the document we think there needs to be  
24 clarification on what kind of electronic permissions are  
25 allowed and are proper for the various kinds of permission

1 that are in here. I think we're moving very quickly in the  
2 marketplace to electronic platforms, and I think we need  
3 some clarity on that in these guidelines.

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

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

25 I guess, well, I'll reserve, perhaps, comments

1 again for later. But I think this is great progress. I  
2 think with some tweaks like this and continued collaboration  
3 between all the stakeholders, utilities, building managers,  
4 we're going to see a great roll out of 802, so thank you.

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

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

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

17 MR. JENSEN: Yeah.

18 MR. CONSTANTINE: -- had earlier.

19 MR. JENSEN: And so the --

20 MR. CONSTANTINE: That's great.

21 MR. JENSEN: Great.

22 MR. CONSTANTINE: That's great.

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

1 addresses therefore.

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

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

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

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

21           And I just wanted to ask in written comments, this  
22 goes to you and anyone else who addresses the issue  
23 specifically of condominiums, but really the regulations in  
24 general, given that there are these two different pieces of  
25 the statute or the regulations and the statute, the data

1 access piece and the public disclosure piece, it would help  
2 to clarify if the request is to allow building owners, which  
3 is an ambiguous concept when you're talking about the owner  
4 of a condominium having access to their data. I think that  
5 that's where we really struggled to try to give the  
6 statute meaning for data access to condominiums, which is a  
7 potentially different issue than a public disclosure program  
8 applying. But given that the public disclosure program uses  
9 the data access infrastructure, that was a challenge, as  
10 well.

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

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

18           If I might, there was actually one other issue  
19 which I didn't bring up. And it's not necessarily a change  
20 or a tweak to the regulation here. But to the issue of what  
21 kind of data is disclosed, and meter identification number  
22 in particular, without addressing PII specifically, we've  
23 heard from large portfolio managers, companies that manage a  
24 number of the buildings that are either, well, disclosable  
25 buildings among others, that they need those meter

1 identification numbers to check the accuracy of the data  
2 that they're getting. Because they're managing across such  
3 a large number of units and square footage and buildings,  
4 they really need that kind of specificity to get a check on  
5 the data and this whole process.

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

9           So thank you.

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

13           MR. JENSEN: Sure. Go ahead.

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

23           MR. JENSEN: Okay. Thank you, Jennifer.

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

1 and Jonathan.

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

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

15           Okay, go ahead.

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

21           First, I just wanted to echo a lot of the concerns  
22 that were voiced by Mr. Hargrove regarding proprietary  
23 information. A lot of what's going to apparently be made  
24 publicly available seems to go well beyond the scope of  
25 assessing energy efficiency. And if that's the goal, I



1 wonder why these additional facts are needed? It seems like  
2 the perspective might have been to ask about what could be  
3 useful, rather than what is necessary. And it does also  
4 seem likely that a lot of this information, if publicly  
5 available, could be used for improper purposes. And I  
6 wonder if that is an avenue that's been thoroughly explored,  
7 specifically the issues of number of occupants, occupancy  
8 percentage, hours of operation. Those don't seem directly  
9 relevant and they do seem potentially capable of being  
10 misused if publicly available.

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

24           MR. JENSEN: Okay.

25           MR. PHILIPP: Totally unrelated, the next comment

1 I have is the penalties provision. It struck me as overly  
2 harsh, \$500 a day to \$2,000 a day. I realize that's the  
3 amount authorized in the section that the statute  
4 specifically authorizes. But it seems to me the statute  
5 also authorizes the Commission to set penalties at a  
6 different amount, potentially a lower amount, maybe one more  
7 in line with the scope of harm, societal harm caused by a  
8 failure to disclosure; \$500 a day seems wildly out of  
9 proportion to the harm that would result from a delay in  
10 disclosure.

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

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

16 MR. JENSEN: Right. Okay. Got it.

17 MR. PHILIPP: -- 5302.

18 MR. JENSEN: Okay. Okay.

19 MR. PHILIPP: Thank you. Related to that, it  
20 seems to me that the penalties kick in 30 days after notice  
21 of noncompliance. And I think if I'm counting the days  
22 right compliance could, in the worst case scenario, take up  
23 to 130 days from initiation. That raises the possibility of  
24 a really inequitable gap. A hundred days of penalties after  
25 you've started trying to comply is completely inequitable,

1 and there needs to be, I think, a protection for good-faith  
2 efforts to comply while the utilities and the tenants work  
3 through their statutorily-allowed or regulatory allowed time  
4 periods.

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

6 MR. PHILIPP: Gregory Philipp.

7 MR. JENSEN: Thank you.

8 MR. PHILIPP: Thank you.

9 MR. JENSEN: Bryan, morning.

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

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

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

18 First off, in section 1680, a point of  
19 clarification, if you could. In section (m)(1), it seems  
20 inconsistent and contrary to me because what you're asking  
21 or what you're suggesting is that if you have multiple  
22 postal addresses in a building that are served by the same  
23 utility account for a single energy type, those separate  
24 postal addresses will be deemed to be separate utility  
25 accounts. That doesn't seem possible in that if it's one

1 utility account you can't take six postal addresses and say  
2 they're six different units because you don't have the unit  
3 specificity if it's on one account. Does that make sense or  
4 am I missing something on that?

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

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

14 MR. JENSEN: That's right.

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

17 The next section, 1681, to Matt's point, I believe  
18 the CISR form could be considered a good option, although I  
19 want to recognize that not all the utilities are going to  
20 be -- particularly, the POUs might not be willing to accept  
21 the CISR which is used by the IOUs on a straight one-off  
22 basis. So perhaps using the CISR as a template, that could  
23 be considered a starting point for other utilities to mimic  
24 or to replicate in some fashion. That might be a good  
25 option.

1           To that point, in section (a)(2) of section 1681,  
2 we talk about the request for -- or the request shall be  
3 made in writing or a secure electronic method, I agree that  
4 there needs to be standardization made and make sure that we  
5 are all on the same understanding of what the proper  
6 platforms would be.

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

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

25           MR. JENSEN: That sounds great. And we are -- we

1 have been planning to provide standardized forms or examples  
2 of forms, and we would love to work with you to do that.

3 And I think Galen might have a comment.

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

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

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

1 voluntary, but they're a tool but not a requirement.

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

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

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

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

24 MR. JENSEN: Okay. So our -- that's a good  
25 question. Our proposal was that these specific documents we

1 list here are intended to meet that reasonable certainty.

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

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

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

23 MR. COPE: Understood. Thank you.

24 To finish that off then, I just want to clarify,  
25 flexibility is important for all of the program



1 implementers, for all utilities, as well as stakeholders or  
2 the building owners. And I think ultimately things like  
3 reasonable certainty and deciding what's right and what's  
4 wrong is going to be -- should be given to the utilities,  
5 particularly regarding data release issues. Ultimately,  
6 they are the ones who could be ultimately liable for that,  
7 even recognizing the wording in the statute.

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

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

24           And so if you're just going to leave an open-ended  
25 utility shall deliver whenever they get a request that meets

1 all the standards and requirements, then you're going to be  
2 burdening our member staff significantly to comply with  
3 something that they might not have the capability to  
4 achieve.

5           And I think in general -- oh, I did have a  
6 question after hearing this morning, that's right, in --  
7 gosh, I'm not even sure. How about we just go to page five  
8 at the very top, at the end of section 1681, section (c), I  
9 just want to clarify, it says,

10           "The utility shall provide to the building owner or the  
11 agent energy use data for which customer permission has  
12 been received, and when possible the utility shall  
13 aggregate the usage data across utility accounts."

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

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

24           MR. COPE: But if there's five --

25           MR. JENSEN: -- data access program.

1 MR. COPE: There are five -- okay. Let's say  
2 there's 20 accounts in the building.

3 MR. JENSEN: Okay.

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

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

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

12 MR. LEMEI: Here, this is Galen speaking.

13 MR. JENSEN: Go ahead.

14 MR. LEMEI: Let me clarify.

15 MR. COPE: Thank you.

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

18 MR. COPE: Yeah, I agree.

19 MR. LEMEI: Starting with non-residential  
20 buildings, with respect to non-residential buildings, all of  
21 them are covered buildings. And when requests are made  
22 there's an obligation by the utility to provide the  
23 information. However, below a certain threshold, and I'd  
24 say below the three-account threshold, which means that  
25 where there is one or two accounts in the building as

1 defined then consent must be given or must be obtained  
2 before the information can be provided to the building  
3 owner. Above that threshold, consent is not needed.  
4 There's no need for tenant consent. And information is  
5 provided irrespective of -- well, consent isn't a concept  
6 because the legislature determined that above that threshold  
7 the information is sufficiently aggregated to protect  
8 customer privacy.

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

15           The legislature does authorize and encourage the  
16 Energy Commission to, when speaking to that process for  
17 tenant consent, also include building residential buildings  
18 below the aggregation threshold as allowing utilities to use  
19 that same process for consent to cover such buildings.  
20 There's not a formal requirement and they're not formally  
21 covered buildings, but there appears to be a hope in the  
22 legislature that utilities might use that consent-based  
23 process that is established by regulation for residential  
24 buildings below the threshold, but they're not formally  
25 covered buildings under the statutory scheme.

1           Then there is a higher threshold, a 17-account  
2 threshold for residential buildings to be disclosable  
3 buildings, which is a different issue. But again, that  
4 threshold is not the same threshold, and a different meaning  
5 than the three-account threshold that applies only to non-  
6 residential buildings by virtue of the fact that three-  
7 account buildings aren't covered buildings in the first  
8 instance.

9           Did that make sense?

10          MR. COPE: Yeah, almost.

11          MR. LEMEI: Okay. Sorry.

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

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

24           And with regards to customer consent, customer  
25 consent is not required per section (c)(2)(A). It says that

1 anything with three or more active utility accounts, the  
2 information shall be delivered by the utility upon request  
3 by the owner, but it specifically says that the information  
4 shall not be deemed customer utility information, which then  
5 says that if you have five residential utility accounts or  
6 more or five non-residential under the definition of covered  
7 building, that you are not required to get consent.

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

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

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

24           We'll also offer formal written comments because I  
25 think this is more complicated than the conversation that

1 we're having today. Thank you.

2 MR. LEMEI: Thank you.

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

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

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

21 MR. COPE: Understood.

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

24 MR. COPE: Good to know. Thank you.

25 MR. JENSEN: Great.

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

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

20 MR. JENSEN: Thank you.

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

23 MR. JENSEN: That's only fair.

24 MR. HARGROVE: Matthew Hargrove with the  
25 California Business Properties Association. Just a couple



1 of things.

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

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

21 Most of our members will have no problems with  
22 this at all. In fact, many of our members will say it  
23 should be an annual thing because that ends up being a  
24 competition in the marketplace thing. But I want the Energy  
25 Commission to think through the staffing that's necessary of

1 what you're about to mandate on that, which is what you're  
2 basically doing here, you're mandating a best practice as a  
3 minimum activity. So you're mandating the best case  
4 scenario as the minimum requirement to happen. And many of  
5 these cities where you have this as a best case scenario,  
6 they have, along with that, a lot more staffing than the  
7 Energy Commission has to communicate, to help buildings work  
8 through issues, to proactively go out and tell people that  
9 they need to do this benchmarking.

10           So, I mean, we're wondering if you are through  
11 this doing it annually right off the back, mandating more  
12 than you're actually able to staff and assist. So you have  
13 18,000 buildings. I guarantee you that 17,700 of them are  
14 going to have questions about this reg. Are you going to be  
15 able to deal with 17,700 questions right off the bat?

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

24           Now a lot of folks within my industry are very  
25 comfortable with the civil penalty language because we know

1 that that is current law, and that the Energy Commission  
2 currently has the ability to levy civil penalties on a lot  
3 of different things, but you haven't chosen to move forward  
4 on that. But as 18,000 new buildings come online with this,  
5 that is causing some concern, especially if you are  
6 mandating the best practice on this. I think you're going  
7 to unnecessarily be causing concern and unnecessarily be  
8 putting a burden on you that you're not staffed for, you're  
9 definitely not funded for.

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

15           MR. JENSEN: Okay.

16           MR. HARGROVE: Thank you.

17           MR. JENSEN: Thanks, Matt. Yeah, so we do think  
18 it's important. We've got -- in San Francisco currently and  
19 in Los Angeles soon we are going to have -- a lot of the  
20 disclosable buildings will be in those jurisdictions and  
21 other jurisdictions that may implement ordinances later. I  
22 realize that none of that is immediate, and so I appreciate  
23 the point you're making about what our immediate staffing  
24 need will be. But, yeah, so those in local jurisdictions,  
25 they will have help lines. Our plan is to sort of, you

1 know, assist the jurisdictions as needed, as opposed to the  
2 individual building owners in those jurisdictions. But I  
3 absolutely hear the concern you're raising.

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

15 Thank you.

16 MR. JENSEN: Great. Thank you.

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

19 MS. WADHWA: Matt, with regard to your last point,  
20 this is Abhi Wadhwa from CEC, I wanted to just address that  
21 we are aware of the difficulty of addresses not being  
22 consistent. And if you notice in the reg language, that's  
23 why you see the building ID concept in there. To the extent  
24 that disclosable buildings are required to go through these  
25 regulations, we are aware that there will be some, you know,

1 cross mapping needed. And while we are not making it  
2 mandatory on either ourselves or the utilities to implement  
3 that concept, we have put that in there as sort of looking  
4 ahead, looking into the future if such problems come and  
5 Energy Commission needs to pick up that tab to give some  
6 more clarity, we would be able to do that.

7 MR. LEMEI: And this is Galen Lemei.

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

17 MR. JENSEN: Go ahead, Kim.

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

1           But generally, we will be submitting comments.  
2 We've got quite a number of comments. Right now I just want  
3 to point out, probably I've got three that have come to mind  
4 just at the workshop.

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

11           "A utility shall not require anything from the building  
12 owner other than the information listed in subdivision  
13 (a), and if required the information in subdivision  
14 (b) (4) (A)."

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

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

25           And so when I was talking later about I'm just

1 wondering if there are other -- I'm looking for suggestions  
2 on other methods that could be used to verify usage  
3 associated with a building. So we were initially -- our  
4 proposal is specific, the specific things that we listed.  
5 But if there's objection from the utilities on those, we're  
6 open to hearing other options.

7 MS. CRESENCIA: Okay.

8 MS. WADHWA: Kim -- I'm sorry. Go ahead.

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

17 MR. JENSEN: Okay.

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

21 Under SDG&E you have 1,174, and the legend down  
22 below is blue, multi-family, red, commercial. I guess  
23 because those numbers, the bars are close together, you  
24 know, there isn't the need to provide two separate numbers.  
25 So is that together, multi-family and commercial is 1,174 or

1 they roughly -- each one of those is 1,174, so you're  
2 talking more like 2,300 total?

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

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

6 MR. JENSEN: Each.

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

9 MR. JENSEN: Right.

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

13 MS. WADHWA: Kim --

14 MR. JENSEN: Thank you.

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

18 This is actually a request to both PG&E and other  
19 utilities, as well as the comment you just made, the concern  
20 about meter numbers that utilities have expressed. If you  
21 could please leave in your comments why you feel that this  
22 information is not already in the hand of the building  
23 owner. Just to recognize that this information is being  
24 provided to the building owner who already has, in our mind,  
25 access to the meter numbers. But it's a confirmation method



1 to make sure none of the meter numbers got dropped,  
2 especially in light of the building address and meter  
3 matching not being so far advanced. You don't have to  
4 comment right now. But the issue which would really help us  
5 move past that would be if we hear comments why utilities  
6 feel this information is not already in building owner's  
7 possession.

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

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

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

25 MR. JENSEN: So the way you just said it I would

1 be fine with. If a utility said if you want to share meter  
2 numbers with us, you can, I have intended for that specific  
3 question to fit within what we're proposing here. So I was  
4 not intending for that to be disallowed by these  
5 regulations.

6 MS. CRESENCIA: Okay. Yeah. That's how it's  
7 being interpreted, that --

8 MR. JENSEN: Okay.

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

11 MR. JENSEN: Okay. Okay.

12 MS. CRESENCIA: Okay.

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

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

24 MR. JENSEN: Okay. Thank you.

25 MS. CRESENCIA: Just as an example, there are

1 applications where we have online -- it's a legacy  
2 application online. But the only information that someone,  
3 if they had an account and a full meter number, could go in  
4 and create an identity as if they were that customer. So  
5 that's where -- the things we want to safeguard against that  
6 type of activity.

7 MR. JENSEN: Got it. Okay. Thank you. Okay.

8 It doesn't look like we have anything more in the  
9 room at this time.

10 I've gotten three questions through chat that I  
11 want to address right now.

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

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

21 Another question is: Will the data from local  
22 ordinances be provided on the Energy Commission website?

23 So, yes, for a building for which the building  
24 owner needed to report through the local program, that will  
25 get to us. That building will be on our website, so, yes.

1 And then the local programs have their own websites also.

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

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

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

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

23           So that's my response. Galen can add anything if  
24 he wants to. And then if someone wants to request further  
25 clarification, they should feel free to do so.

1 MR. LEMEI: Yeah. This is Galen.

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

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

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

23 MR. JENSEN: Okay. Thanks Galen.

24 I want to respond to one more question before we  
25 open up the WebEx audio.

1           So someone asked to whom comments should be  
2 submitted?

3           So the Docket Number is 15-OIR-05. If you go to  
4 the page we were on earlier, [energy.ca.gov/benchmarking](http://energy.ca.gov/benchmarking),  
5 there's a link specifically for submitting a comment to the  
6 docket.

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

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

10          MR. JENSEN: Okay.

11          MR. YOUNIS: (Indiscernible.)

12          MR. JENSEN: Let's do hands first. So let's take  
13 those.

14          MR. YOUNIS: (Indiscernible.)

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

16 What's the last name?

17          MR. YOUNIS: (Indiscernible.)

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

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

20          MR. JENSEN: Yes, we can.

21          MR. NESBITT: Yeah. I'm a HERS rater.

22           I guess the first thing is a question. I'm trying  
23 to understand, especially related to multi-family, what a  
24 covered building is. So if I have a five-unit single  
25 building on a property, that's covered, that's clear. But

1 now if I have three duplexes on one property, is it covered?

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

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

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

22           MR. JENSEN: That's right. Yeah.

23           MR. NESBITT: In the past when I've submitted a  
24 utility request for utility data for a customer, I've gotten  
25 one year's worth of data. And that process actually went

1 fairly fine, spreadsheet, no problem. The thing is online  
2 the customer could get two years of data.

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

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

18           So where we often fail is not in the intent of  
19 what we want to do, it's in the implementation, so making  
20 sure that processes actually work and work easily. I like  
21 the idea of a common application to submit for requests for  
22 data from all the different utilities, rather than there  
23 being -- you know, we have a problem. We have statewide  
24 programs, and then they're administered by multiple  
25 utilities or other administrators, and then each of them



1 have their own process. And people who work across  
2 jurisdictions, it just makes life much more difficult.

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

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

18 But what I need as an energy auditor, what I need  
19 as a homeowner or a building owner might need, or even a  
20 tenant might need is not specific information necessarily  
21 about other property, but either by zip code, by city, by  
22 county, or by larger region, depending on whether it's rural  
23 or urban or depending on the building type, having access to  
24 end-use intensity is probably maybe, you know, the first  
25 thing that's useful, but to be able to compare my building,

1 you know, my three-bedroom house to other three-bedroom  
2 houses in my area, and ideally on occupancy, too, so I can  
3 make a real comparison.

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

12           So I think that's all I have for now.

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

23           So, Laith, what do we have next?

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

25           MR. JENSEN: San Diego Energy Desk, go ahead.

1 MR. WALSH: Yeah. Thanks. Can I just do a quick  
2 check? Can you hear me okay?

3 MR. JENSEN: You sound great. Yep.

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

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

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

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

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

20 MR. WALSH: Hi, Galen.

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

25 MR. WALSH: Okay. So state and city and county

1 would be required to comply?

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

4 MR. WALSH: Hi, Abhi.

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

10 MR. WALSH: Okay.

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

13 MR. WALSH: Okay. So there's, right now, no  
14 exemption.

15 I've looked at this and it is a little confusing.  
16 A single-tenant building, like a Home Depot that's over  
17 50,000 square feet that has a single meter serving that  
18 building, they would still fall under disclosable building;  
19 correct?

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

22 MR. WALSH: Okay. Some of the -- responding to  
23 some things that have already been said, it seems like some  
24 terminology and some definitions haven't really been aligned  
25 yet. Probably need to take another stab at that.

1           For instance, I don't see -- I don't necessarily  
2 see a definition of building in here. I see covered  
3 building and I see disclosable building. I just think a  
4 definition regarding building might be helpful. And maybe  
5 something that follows along with the Energy Star Portfolio  
6 Manager definition.

7           There is -- let me see, page three, section  
8 1681(b), utility requirements, paragraph two, second line,  
9 "The requested building for at least the previous calendar  
10 year." So if you're determining the reporting period is a  
11 calendar year; correct?

12           MR. JENSEN: That's correct.

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

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

22           MR. JENSEN: Correct.

23           MR. WALSH: Okay. Still on that same section,  
24 (d), paragraph one, how am I going to know -- my client  
25 would be the building owner -- how am I going to know that I

1 have the actual energy use for each month for each tenant's  
2 suite or for each meter accurately represented in this  
3 information that I'm going to get? And part of that is the  
4 owner is really not going to get anything useable. I'm not  
5 going to be able to see which tenancy is using the most  
6 electricity. All I'm really going to be getting, because  
7 it's aggregated data, is the whole building data, which  
8 means then that I have to maybe undertake another evaluation  
9 process.

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

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

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

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

1 Valerie might want to.

2 MS. WINN: Yeah. Hi.

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

7 MR. WALSH: Yeah.

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

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

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

23 MR. JENSEN: I haven't heard anyone saying they're  
24 planning to terminate anything, but it looks Valerie is  
25 going to clarify again.

1 MR. WALSH: Okay.

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

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

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

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

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

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

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

25 MR. WALSH: Yeah. Well, yeah. Yeah.



1 MR. JENSEN: So the regs as currently proposed  
2 don't limit the number of requests. We heard from Bryan  
3 that he would like to see a limit to the number of requests.  
4 Does that answer your question?

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

11 MR. JENSEN: So whether a utility wants to have  
12 recurring upload is, I think is a separate issue.

13 Bryan, you don't have to -- so I'm not quite clear  
14 what the question is, so we can -- okay. Okay.

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

17 MR. WALSH: Yes.

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

25 So maybe, yeah, try again right now, if you want

1 to. Otherwise, please include your question in your written  
2 comments.

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

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

16 MR. JENSEN: Okay.

17 MR. WALSH: -- through (indiscernible).

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

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

22 MS. WADHWA: Hi.

23 MR. WALSH: Okay.

24 MS. WADHWA: This is Abhi Wadhwa from Energy  
25 Commission.

1 I would just rephrase what Erik said. We're not  
2 precluding continuous benchmarking from happening in our  
3 current regulations. That is a process that's been  
4 happening throughout. And nothing in the proposed  
5 regulations precludes you from requesting monthly energy use  
6 data on an ongoing basis, if you wanted that.

7 MR. WALSH: Okay. But then there's not -- and I  
8 don't even know how it came about that we were able to  
9 access information that way. But would the utilities be in  
10 a position to say, hey, we're doing this once a year, do  
11 that for this disclosure, and then go to these individual  
12 portals and pull the data from there? I just want to make  
13 sure we're not going to get stymied from getting that  
14 information in the quickest and easiest way possible.  
15 So I think it could be the nature of the concern. I think  
16 that's fine.

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

22 Is the reporting date that April 1st date?

23 MR. JENSEN: For buildings with three or more  
24 utility accounts, yes. And for buildings with fewer than  
25 three utility accounts it's June 1st to allow time for the

1 customer permission.

2 MR. WALSH: Okay. So is that defined in reporting  
3 dates?

4 MR. JENSEN: Yes.

5 MR. WALSH: Okay. All right. Then I guess I just  
6 didn't see that.

7 You've got in here some workaround for these  
8 two -- I'm sorry, page one here, two or more -- section  
9 1680(e), the second part of that,

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

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

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

22 And this is important because if that is all of a  
23 sudden treated as one building, you know, there's a  
24 potential that you can get a score on that building. And in  
25 reality that's not an apples-to-apples comparison to take

1 the building with a single meter.

2 MR. JENSEN: So --

3 MR. WALSH: So I'm --

4 MR. JENSEN: So Portfolio --

5 MR. WALSH: It just kind of comes back to the  
6 vernacular and the definitions. They're not necessarily  
7 lined up, and I think that's going to be very, very  
8 confusing as this starts to go out.

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

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

17 MR. JENSEN: That's right.

18 MR. WALSH: Okay. That can work.

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

25 And then similarly in the -- right now this

1 extensive list of data points that are going to be  
2 disclosed, on page seven under (d), paragraph three, you  
3 know, I agree with what Matthew is saying and with what  
4 Gregory Philipp was saying, that some of this is definitely  
5 proprietary. And most of these things are kind of resolved  
6 with whatever your energy use intensity is or what your  
7 score is. And they probably have less, on their own, they  
8 have less value.

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

15           MR. JENSEN: Okay. So let's take those  
16 separately.

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

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

23           MR. WALSH: Okay. And then one other piece on  
24 here. If you are imagining this only being on an annual  
25 cycle, and I haven't done anything to track the operating or

1 occupancy characteristics in that building profile for the  
2 12-month period.

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

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

12           Then if we're going public with this information  
13 and I'm using data that's been managed over a 12-month  
14 period versus data that's been managed once for a 12-month  
15 period, you've got some integrity issues there. And maybe  
16 that isn't the word there, but you could be modeling a  
17 10,000 square foot building each month for 12 months versus  
18 that one time and you can potentially get different scores  
19 on them.

20           MR. JENSEN: Yeah. I think that's --

21           MR. WALSH: And so --

22           MR. JENSEN: I think that's a great point. And so  
23 we'll clarify that we will want the building and operating  
24 characteristics that are reported to align to be those that  
25 are, you know, in place, at least the majority of the year

1 for which energy use data is reported.

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

6 Just some other small things in here, but I think  
7 that's fine.

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

18 MR. JENSEN: Okay.

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

21 MR. JENSEN: Great. Thanks, Randy.

22 Okay. Okay, it looks like that's it for hands.  
23 I've had a question.

24 Someone wanted me to confirm that for a building  
25 that has one of more residential accounts, if the building



1 has five or more total utility accounts, and again that's  
2 per fuel type, there's no customer permission in that case.  
3 That's a covered building, so just wanted to make that  
4 clear.

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

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

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

16 MR. JENSEN: Okay, so we're getting --

17 (Back feed from phone line.)

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

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

21 MR. JENSEN: Great. Go ahead.

22 MR. SPAIN: This is Terry Spain with SDG&E.

23 I had a question that pertains to some of the time  
24 periods mentioned within the proposed regulations, not the  
25 compliance schedule but as far as the benchmarking periods

1 and the time periods for which energy usage data is  
2 requested. There are certain terms used, such as current  
3 calendar year, previous calendar year, the calendar year  
4 that reporting is required. It's not completely clear as to  
5 which months the requested benchmarking information, which  
6 12-month period, calendar-month period is supposed to be  
7 reported to the Commission.

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

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

21 MR. SPAIN: All right. Thank you.

22 I had a second question as well. And that  
23 question pertains to, I believe it's section 1681(b) as in  
24 boy, (4), capital (B) as in boy. And the way we read this,  
25 I believe it was discussed earlier, if, for instance, you

1 had two accountholders, two customers in a building, that  
2 situation would require customer permission from both  
3 customers before their data could be uploaded.

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

10 MR. JENSEN: So that is -- that's correct for data  
11 access. So the --

12 MR. SPAIN: Yes.

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

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

23 MR. SPAIN: Okay. Because the clause that we were  
24 having some concern with says that "And that energy use data  
25 for the utility accounts for which permission has not been

1 received will not be provided." But since we had received  
2 permission for one of the two customers, that clause implies  
3 that we would be providing the energy usage information for  
4 the customer that did provide the permission, which would  
5 cause several problems.

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

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

20 According to how we interpret this passage here is  
21 that what we're supposed to do then is tell the building  
22 owner, hey, we couldn't get permission from the second  
23 customer, we've only got it for one. And then we're  
24 supposed to go and upload the information that we do have  
25 for the one that gave permission.

1           Now that comes with several problems, one of  
2 which, that individual customer's energy usage is now  
3 exposed, potentially publicly if it's over 50,000 square  
4 feet, and at least to the building owner if it's under.

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

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

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

17           Okay, Galen, go ahead.

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

21           The first is that when -- and again, we're talking  
22 about a special case where there are two accountholders for  
23 a building with no residential accounts. And first we're  
24 talking about a request that is not facilitating -- so  
25 irrespective of the building size, this particular request

1 is not facilitating compliance. And it's important that the  
2 utility know that because the consent is different when it  
3 is facilitating compliance.

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

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

25           Does that make sense?

1 MR. SPAIN: Yes, that makes more sense now. Thank  
2 you.

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

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

12 MR. LEMEI: Right.

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

15 MR. JENSEN: Great. Thanks, Galen.

16 Anyone else on the phone?

17 So, Bob Levine, are you trying to speak? Okay.

18 Anyone else on the phone?

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

21 MR. LEMEI: Yeah. This is Galen.

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

23 But if you are still on the line and wanted to explain the  
24 concern that you were explaining earlier, which you were --

25 I know that you were speaking quickly in specific response

1 to, boy, I think it was in response to Bryan, but I might  
2 have that wrong. But if you were here and you did want to  
3 take a little time to articulate the concern that you were  
4 raising, I wanted to give you the opportunity to do that.  
5 Or if you're not on the line and want to do that in written  
6 comments, that's fine, too.

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

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

22 If you've got any recommendations, Matt mentioned  
23 we need to be careful when thinking about staffing levels  
24 for implementing this. We'd appreciate your suggestions on  
25 that, as well.



1           So, okay, last slide here.

2           So go to the Energy Commission benchmarking page,  
3 15-OIR-15 is the proceedings, and there's a link for that on  
4 the benchmarking page. So that's where you want to submit  
5 your comments in response to the workshop. If you've got  
6 any specific questions, if you want to just get a quick  
7 response from me or Laith, here's our contact information,  
8 as well. Again, comments are due by 5:00 p.m. Friday,  
9 August 12th, initial notice set August 5th, now it's August  
10 12th.

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

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

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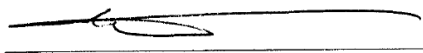
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I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under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

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



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PETER PETTY  
CER\*\*D-493  
Notary Public

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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.



MARTHA L. NELSON, CERT\*\*367

July 27, 2016