DOCKETED

Docket Number:	15-OIR-05
Project Title:	Building Energy Use Disclosure and Public Benchmarking Program Mandated under Assembly Bill 802
TN #:	212763
Document Title:	Bright Power, Inc. Comments on AB 802 Draft Regulations Initial Staff Proposal July 22, 2016 Workshop
Description:	N/A
Filer:	System
Organization:	Bright Power, Inc.
Submitter Role:	Public
Submission Date:	8/12/2016 11:46:00 AM
Docketed Date:	8/12/2016

Comment Received From: Andrew McNamara
Submitted On: 8/12/2016
Docket Number: 15-OIR-05

Bright Power, Inc. Comments on AB 802 Draft Regulations Initial Staff Proposal_Jul 22 2016 Workshop

Additional submitted attachment is included below.

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

Submitted on: 08/12/2016

Docket Number: 15-OIR-05

Bright Power, Inc. Comments on AB 802 Draft Regulations Initial Staff Proposal_Jul 22 2016 Workshop

Additional submitted attachment is included below

August 5, 2016

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

Re: Docket Number: 15-OIR-05

Bright Power, Inc. Comments on AB 802 Draft Regulations Initial Staff Proposal_Jul 22 2016 Workshop

Bright Power, Inc. respectfully submits these public comments in response to the Initial Staff Proposal presented at the California Energy Commission (Energy Commission) July 22, 2016 staff workshop on Building Energy Use Benchmarking and Public Disclosure.

Bright Power, Inc. agrees wholeheartedly with the intent of AB 802: "to support strategies that enhance energy efficiency" and give building owners "energy usage information which enables understanding of a building's energy usage for improved building management and investment decisions" (quotations are from the law). In order to achieve this intent, the law recognizes the need provide a consistent data access and formatting across the range of energy providers throughout California. Access to quality whole building data and the requirement to disclose is an important step toward measuring and reducing the carbon impact of the buildings in California. We agree with much of the law, but **after reviewing the initial staff proposal, we are concerned that certain provisions therein may cause the law to (1) not provide data requisite to successfully benchmark in Portfolio Manager and (2) exclude the vast majority of multifamily properties in the state**.

We respectfully submit these comments in the hopes of addressing these two concerns:

Suggested Revision #1 – Ensure appropriate data disclosure in Section 1681(b)(2)

Summary: The content and granularity of the data provided by the Utility companies needs to be consistent with the granularity of the data that Portfolio Manager requires for analysis (i.e., 'bills' of less than 65 days). As such, data should be provided in approximately the same length of time as the average bill for the utility company (typically monthly). It should also be broken down by service classification to enable analysis by usage type within a given property.

Existing wording – Section 1681(b)(2): For each Energy type, the Utility shall identify, aggregate and provide all Energy usage for the requested building for at least the previous calendar year and all available usage for the year in which data is requested

Proposed Wording – Section 1681(b)(2): For each Energy type, the Utility shall identify, aggregate the data by utility service classification and provide all Energy usage separated by billing period or monthly totals representative of the quantity used in the period specified. Utility shall provide all Energy usage for the requested building for at least the previous calendar year and all available usage for the year in which data is requested.

Detailed Comments on intent of Proposed Wording:

- "by utility service classification" – a mixed use property containing multiple different types of users (typically commercial and residential) should be aggregated separately to enable meaningful analysis of opportunities for savings. Benchmarking is most effective when different segments of a building are separately analyzed. If privacy becomes a concern because less than 17 accounts associated with a service classification existed, then utilities should be allowed to group multiple residential service classifications together to protect data privacy.
- "billing period or monthly totals" -- Data provided should be aggregated monthly or into the standard billing period for the Utility - not one yearly usage. In order to generate a grade to compare buildings in the EnergyStar Portfolio Manager software, data must be entered in time periods of no more than 65 days. If a goal of the of this regulation is to generate Energy Star Portfolio Manager scores then data needs to be provided with the required granularity.
- "representative of the quantity used in the period specified" – Aggregate data needs to be provided for the time period in which it is actually used, not simply the month in which the bill was issued (a common way for utilities to report usage). If proration of usage is used (i.e., the re-apportioning of data into whole calendar months, rather than the actual billing period), that proration should occurs should account for when energy was actually used based on the meter read dates.
- The above changes cause little additional burden on Utility providers, and since data is still aggregated across multiple apartment units, there should be no additional compromise to residential tenant security.
- Monthly data separated by service classification will give an owner "understanding of a building's energy usage for improved building management and investment decisions", supporting the law's intent.

Suggested Revision #2 – Clarify the definition of "Disclosable"

Summary: **A Disclosable Building, as currently described in the regulation is ambiguous, potentially excluding 70%[1] of California multifamily properties from disclosure**, and should be updated for clarity. In this recommendation we highlight existing wording that would support two different interpretations of the draft rules. **We recommend that the entire document be revised to align with #2: Inclusive Multifamily Interpretation.**

1. **Exclusive Multifamily Interpretation**: that a **building** is the disclosable entity AND disclosure only applies to buildings with **more than 17 of every type of utility account** (i.e., electric and gas). **This interpretation would result in only 10% of California Multifamily buildings being required to disclose by the law**[1] based on analysis of Bright Power's customers. The typical California multifamily property is garden style with many buildings on one campus that add

[1] The percentages of multifamily properties required to disclose is estimated based on Bright Power's database of over 500 California Multifamily properties (~4,500 buildings) actively subscribing to EnergyScoreCards.

up to over 50,000 square feet of interior space, but no single building that is greater than 50,000 square feet. Additionally, buildings that are greater than 50,000 square feet and might meet this definition frequently have central water heating and thus fewer than 17 gas accounts. The Exclusive Multifamily Interpretation would exclude those types of buildings from the definition of Disclosable. While the individual energy use of each building on such a property may be modest, the overall energy usage of such properties is substantial and statewide we believe represents the majority of multifamily energy usage. Below is selected language in the regulation which could be construed as excluding multifamily:

- **Section 1680 (f)**: Disclosable Building – A Covered Building of any property type defined by ENERGY STAR Portfolio Manager, except manufacturing and industrial plants, meeting any of the following:
  - **(2):** 17 or more Utility Accounts of each Energy type serving the building and more than 50,000 square feet of Gross Floor Area.
- Many other areas of the document that are written around "Buildings" should be re-rewritten around "Properties".

2. **Inclusive Multifamily Interpretation**: that the Disclosable entity is defined at the **property level** (campus and garden style properties thus included) rather than individual building level **AND** a property with **fewer than 17 residential Utility Accounts** for each energy type **is still classified as Disclosable** as long as those utility accounts serve more than 17 physical addresses. **This interpretation would result in 80% of Multifamily properties being required to disclose**. Below is selected language in the regulation which supports the Inclusive Multifamily Interpretation:
   - **Section 1680 (i):** Gross Floor Area - The total property square footage, measured between the principal exterior surfaces of the enclosing fixed walls of the building(s). This includes all areas inside the building(s), including lobbies, tenant areas, common areas, meeting rooms, break rooms, atriums (count the base level only), restrooms, elevator shafts, stairwells, mechanical equipment areas, basements, and storage rooms.
   - **Section 1680 (m)**: Utility Account - An agreement between a Utility and its customer to provide Energy to a pre-determined location, subject to the following exceptions:
     - **(1)** Where multiple postal addresses within a building are served by the same Utility Account for a single Energy type, those separate postal addresses will be deemed to be separate Utility Accounts.
     - **(2)** Where a single Utility customer has multiple Utility Accounts for service of a single Energy type, those Utility Accounts will be deemed to be a single Utility Account.

Additional Comments:

- As written, the regulation would exclude a building with direct metered tenant electricity but central gas paid by the owner/property – since there wouldn't be 17 gas accounts to meet the "17 accounts of each energy type" requirement. Since there would

still be 17+ accounts included in the aggregation itself, tenant privacy wouldn't be compromised.

- In order to ensure the inclusive interpretation, it may also be useful to provide specific examples of common building types that are included. We think there is a particular need for clarity around two common types described above and simple examples could be provided along the lines of:
    - "For example, a garden style property with 20 buildings of 4 units each (80 units total) and 80,000 square feet of gross building area would be required to disclose, and the utility should aggregate energy usage data across the entire property, not separately for each building."
    - "For example, an apartment building of over 60,000 square feet and 70 residential units that 71 electric accounts and only 1 commercial gas account serving the entire building **is** required to disclose based on the fact that the gas account serves 70 units, each of which constitutes a separate mailing address."

About Bright Power: Bright Power is a leading provider of energy and water management services to real estate owners throughout the United States with offices in Oakland, CA and New York, NY. As a leading national provider of benchmarking software and services since before the first U.S. mandatory benchmarking and disclosure law was enacted (NYC's LL84), Bright Power has a unique perspective on what makes benchmarking laws work. We have seen benchmarking laws poorly implemented, where the act of benchmarking is a laborious data entry chore and the ability to extract insights for any stakeholder is extremely limited and difficult. Our EnergyScoreCards software is already a leading method for Benchmarking Compliance in New York City, Washington D.C., Philadelphia, and Seattle. Our service has always been about much more than compliance – rather we see benchmarking as the first step in reducing energy and water use in the built environment.

We appreciate your time and attention and encourage you to reach out directly to the authors of this document with further questions. Authors: Andrew McNamara (amcnamara (at) brightpower.com) , Veronica Thomas (vthomas (at) brightpower.com, Jon Keck (jkeck (at) brightpower.com), and Jon Braman (jbraman (at) brightpower.com)