

## DOCKETED

<b>Docket Number:</b>	15-OIR-05
<b>Project Title:</b>	Building Energy Use Disclosure and Public Benchmarking Program Mandated under Assembly Bill 802
<b>TN #:</b>	216939
<b>Document Title:</b>	City of Los Angeles Comments on Proposed Draft Regulations Implementing AB 802
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*Comment Received From: Barbara Romero*

*Submitted On: 4/11/2017*

*Docket Number: 15-OIR-05*

**Comments of the City of Los Angeles on Proposed Draft Regulations Implementing  
AB 802**

*Additional submitted attachment is included below.*



ERIC GARCETTI  
MAYOR

April 10, 2017

California Energy Commission  
Dockets Office MS-4  
1516 Ninth Street  
Sacramento, CA 95814-5512

**RE: Docket Number: 15-OIR-05; Comments of the City of Los Angeles on Proposed Draft Regulations Implementing AB 802**

Dear Sir/Madam:

I am hereby submitting the City of Los Angeles's (City's) comments and recommendations on the California Energy Commission's proposed regulations for the Building Energy Use Disclosure and Public Benchmarking Program mandated under AB802. These include input from the Los Angeles Department of Water and Power, the Los Angeles Department of Building and Safety, and the LA Energy and Water Efficiency Resource Center, a hub for information and resources to help covered buildings comply with the Los Angeles Existing Buildings Energy and Water Efficiency Ordinance.

We recognize that AB802 will play a significant role in meeting the state's energy efficiency targets as directed by SB350 and the goals of the City's Sustainable City pLAN. Buildings are the City's largest consumer of electricity and a major source of greenhouse gas emissions. Energy-efficient buildings will reduce the City's contribution to global warming, creating a healthier quality of life for all Angelenos.

We thank you for considering our feedback. If you have any questions, please contact Rebecca Andreassen of my staff at [Rebecca.Andreassen@lacity.org](mailto:Rebecca.Andreassen@lacity.org).

Sincerely,

A handwritten signature in blue ink that reads 'Barbara Romero'. The signature is fluid and cursive, with a long horizontal stroke at the end.

Barbara Romero  
Deputy Mayor, City Services

Reference	Comment	Recommendation
1681 (d)	Defines owner as “The Person listed as the Building Owner on the current deed or the most recent mortgage statement for the property.”	Previous experience with our nonprofit partners has found tracing ownership to an individual human being with the authority to sign documents is a difficult process, often intentionally set up to be so. Other cities throughout the country that have similar benchmarking requirements only require the data requester to have the account number and login information for a common area meter for the building for which they are requesting aggregated data. We recommend the Commission not require proof of ownership, and instead accept common meter access as permission to request aggregated data.
1681 (i)	Defines gross floor area as “The total building square footage measured between the principal exterior surface of the enclosing fixed walls of the building(s). This includes all areas inside the building, 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.”	At the local level we have received questions regarding whether parking lots are included in square footage calculations. We recommend adding parking lots to the definition of gross floor area.
1682 (a)(1)	Determines what information Utilities are able to request from Covered Buildings in order to provide energy use data. This is specified in section 1682 (b)(5).	In developing our current system to aggregate building data, additional details are needed from Building Owners or Owner’s Agent to aid in the process. The City recommends adding: “(F) Additional information required to match buildings with whole building data within the Utility.”

1682 (a)(2)	Determines that data request must be in writing or by a “secure electronic method”.	Clarity is needed on what is defined as a secure electronic method.
1682 (b)(1)	Identifies that Utilities will deliver the last four characters of the meter number for each meter serving the building and the building identification number, if available, to the Building Owner or Owner’s Agent	We recommend adding, “(C) Additional building information necessary to aid in the building verification process.”
1682 (b)(3)(B)	Notes that for requests that do not contain all the information needed, “the Utility shall notify the person who submitted the request that the rest is missing information and must be resubmitted, specifying what information is missing.”	The current language does not allow the Utility to request updated information if what was provided was incorrect. We request the language is changed to, “the Utility shall notify the person who submitted the request that their request contains <b>incomplete or incorrect information</b> and must be resubmitted, specifying what information is <b>incomplete or incorrect.</b> ”
1682 (b)(4)A	Explains the process by which Utilities must gather tenant waivers when required based on the number and type of Active Utility Accounts. While the direction is clear, there is an onus on the utility to secure tenant waiver to ensure the Building in question is able to receive Energy use data.	We recognize the role the Utility plays in securing permission from bill payers to provide meter data, even in aggregate form, the building owners. However, we urge the first request for a lease or waiver to come from the Building Owner or Owner’s Agent, noting the Utility will be in touch to secure the lease or waiver.
1682 (4)(A)(i)(2)	This subdivision notes it is the responsibility of the Utility, in the absence of a lease or waiver, to notify the customer that the customer’s Energy use data has been requested and to ask whether the customer allows the Utility to share said data with the Building Owner or Owner’s Agent.	We recommended adjusting this section so it reads as follows: “In the absence of such a lease or waiver, the Utility shall notify the customer within 14 calendar days of receiving a data request that the customer’s Energy use data has been requested by the Building Owner or Owner’s

		<p>Agent, and ask whether the customer allows the Utility to share their Energy use data with the Building Owner or Owner’s Agent <b>in the form of whole building aggregated energy use data.</b> For buildings subject to subdivision (b)(4) of this section, the Utility may only share the Energy use data with the Building Owner or Owner’s Agent if the customer has provided permission.</p> <p>We recommend the change so there is clarity in communication with Utility customers that their energy use data will be aggregated before it is shared with the Energy Commission. This is consistent with the description in section 1683 (C) PUBLIC DISCLOSURE</p>
<p>1682 (b)(4)(C) and 1683 (c)</p>	<p>States aggregated data will only be provided for accounts for which customer permission has been received.</p>	<p>While the City recognizes the need to encourage Building Owners or the Owner’s Agent to secure tenant waivers, we feel this creates a risk of data privacy infringement if benchmarking data is published with only partial tenant information included, as it may be possible to publicly identify the energy use of the reported tenants. It also creates a prisoner’s dilemma type of game, where tenants are better off if all provide waivers or no tenant provides waivers to ensure data privacy. We recommend requiring partial data to be provided to building owners for benchmarking, but the energy use data of buildings with partial information not be disclosed publicly. This language on public disclosure should be added to</p>

		section 1683 (c).
1682 (b)(5)	Subdivision states, “A Utility shall not require anything from the Building Owner or Owner’s Agent other than the information listed in subdivision (s) of this section.”	As mentioned above, we recommend amending this subdivision to state, “A Utility shall not require anything from Building Owner or Owner’s Agent except the information necessary to comply with AB 802 or a local ordinance that has been approved through the exemption process.” The goal with this language change is to ensure a Utility is able to gather information necessary for the building data verification process.
1683 (b)(1)(B)	Subdivision states building owners must now request data from utilities by March 1 of each year, rather than Feb 1.	The City supports this revised request timeline.
1683 (b)(2)(C)	States building owners must report to the CEC by June 1 of each year, rather than April 1.	The City supports this revised reporting timeline.
1683 (b)(4)	As the regulations currently stand, tenant waivers are required for Building Owner’s or Owner’s Agents to receive data for buildings with only one or two non-residential meters, other than the building owner. This essentially means if a building has a single tenant that is not the owner of the building, and this tenant decides not to provide the waiver, the Utility is unable to provide Energy data on that building and the Building Owner or Owner’s Agent is not able to submit a benchmarking report.	While the City recognizes this setup is necessary to ensure data privacy, we are concerned we may miss out on benchmarking data for a section of buildings as we require benchmarking for smaller buildings (20,000 square feet and up). We recommend including different regulations for single tenant buildings.
1683(c)(5)	States the CEC now reserves the right to collect data fields beyond those it will be publicly sharing.	We request clarity on how additional data requests from the Energy Commission will affect local

		ordinance programs that are deemed to fulfill the requirements of section 1683.
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