

## DOCKETED

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*Comment Received From: Steven G. Lins*

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## **Comments of SMUD on Proposed Regulations Implementing AB 802**

Comments of the Sacramento Municipal Utility District on Proposed Regulations Implementing AB 802

*Additional submitted attachment is included below.*

**STATE OF CALIFORNIA  
BEFORE THE CALIFORNIA ENERGY COMMISSION**

<b>In the matter of:</b>	)	Docket No. 15-OIR-05
	)	
<b>Building Energy Use Disclosure Program</b>	)	SMUD Comments on AB 802 Benchmarking Revised Express Terms (Proposed Regulations)
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	)	
	)	
	)	September 29, 2017

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**Comments of the Sacramento Municipal Utility District  
on Proposed Regulations Implementing AB 802**

Thank you for the opportunity to provide comments on the Revised Express Terms for the Building Energy Use Disclosure and Public Benchmarking Program to be implemented by the California Energy Commission (“CEC” and “Commission”) pursuant to Assembly Bill No. 802 (Williams, Chapter 590, Statutes of 2015)(“AB 802”).

Driven by our core value of environmental leadership, the Sacramento Municipal Utility District (“SMUD”) supports increased energy efficiency in existing buildings and promotes the efficient use of energy by its customers. SMUD believes the AB 802 benchmarking structure will enhance this core value, and we are committed to working with the Commission and stakeholders to ensure a successful implementation of AB 802.

SMUD would like to thank the CEC staff for the changes reflected in this draft. For instance, Section 1682(a)(1)(D) requires the owner of a Covered Building, or the Owner’s Agent, to seek written permission from Utility customers for access to their accounts before requiring the Utility to do so. While SMUD has a few suggested process changes to this section, as described below, SMUD appreciates this change. Additionally, the current draft allows a Utility to grant the request of a building owner or Owner’s Agent for aggregated Energy use data by recurring automatic upload, which addresses a comment SMUD made in writing on April 10, 2017. SMUD recommended that a Utility be granted the option to provide a usage history report. We believe this could streamline the process and remove privacy issues in situations where securing permission is problematic, since the Utility would be simply releasing summarized usage data to the existing customer of record. Furthermore, SMUD appreciates the clarifications in Section 1682(a)(1)(B). SMUD does not have the capability to verify that the person making the request is authorized to do so, as SMUD’s processes do not

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track nor verify the identity of all building owners. Therefore, SMUD appreciates the more descriptive forms of verification included in the language.

While many of SMUD's requested changes and clarifications have been addressed, SMUD would like to take this opportunity to reiterate a few technical concerns, as well as present additional comments for CEC consideration.

**Section 1681:** The definition of "active" seems too broad, as it could refer to Energy sources that are not provided by the Utility in question, particularly with the additional "... postal address ..." component. There is likely to be multiple Energy sources from different Utilities during the time period for which Energy use data is requested. Also, it would be worthwhile to clarify that the term "postal address" means "street address." Some SMUD customers, including potentially large apartment buildings, have postal addresses that are post office boxes, rather than referring to the street address of a building. To address these issues, SMUD proposes amending the language as follows:

- (a) Active: A Utility Account is considered "Active" if (1) it is receiving Energy that the Utility provides at the time of the request, and (2) the ~~postal~~ street address that the Utility Account is currently serving received any Energy type the Utility provides at any time during the time period for which Energy use data is requested.

**Section 1682(b)(1):** Providing the last four characters of the meter is problematic. This data is one method SMUD uses to authenticate an account upon receiving a request from a customer – we ask that the meter number data be provided and if the requester can provide that information, the request is authenticated. If SMUD was required to provide this information upon request, it would defeat this method of authentication. However, this may be information the building owner could provide that would verify authorization to receive Energy use data.

**Section 1682(b)(2):** The amount of Energy use data required by Section 1682(b)(2) seems to vary significantly based on the request date. For example, a request in December may be for 23 or 24 months of data, while a request in January may be for just 12 or 13 months. This data should be more uniformly required for just the most recent 12 months, as there would not be any verifiable accuracy in benchmarking data by including data varying between 12 and 24 months for each building.

Additionally, this section does not take into account any changes in building tenants. SMUD is concerned about releasing data that pre-dates the current customer of record, as our customer data is confidential. Even though the building may have an Active Account or accounts, and the request may have the consent of the current customer of record associated with that account or accounts, that consent does not transfer back in time to a previous occupant of the building. Without that consent, SMUD cannot release the data. This issue could arise, for instance, with buildings where the tenants change frequently, such as shopping malls.

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**Section 1682(b)(3)(A)(ii) and Section 1682(b)(4)(A)(ii):** Section 1682(a)(1)(D) states that a building owner must obtain the written permission of any Utility customers for accounts serving a postal address in the building. Therefore, if the building owner does not provide this permission for all of its tenants with Utility accounts, SMUD believes that the request is incomplete. Per Section 1682(b)(3)(B), if the request does not contain all information provided in (a)(1) of this section, which includes written permission of the Utility customers, the Utility must notify the person who submitted the request to inform them information is missing, and what information is needed. This process somewhat conflicts with the process in Section 1682(b)(4)(A)(ii), which requires a Utility, within 14 calendar days of receiving a data request, to follow up with each customer that has not already granted permission. To smooth out this process, SMUD recommends that if the application is missing permission from all Utility customers, the Utility informs the building owner that the permissions are missing. The building owner then has 30 days to obtain written permission from the remaining Utility customers. If the building owner is unable to do so within the 30 days, they will notify the Utility, and the Utility will have 14 calendar days to follow up with the remaining customers.

Proposed amended language is pasted below:

1682(b)(3)(A)(ii) If the request is one for which permission is required pursuant to subdivision (b)(4) of this section and permission has not already been granted by each Utility customer other than the building owner with a Utility Account serving a postal address in the building, the Utility shall notify the building owner or Owner's Agent that it ~~will request permission.~~ the data request is incomplete, and the building owner or Owner's Agent will have 30 calendar days to request permission from each Utility customer with a Utility account serving a street address in the building. If the building owner cannot obtain permission in 30 calendar days, the Utility will notify the building owner or Owner's Agent that the Utility will request permission.

1682(b)(4)(A)(ii) If the building owner or Owner's Agent has not obtained permission from ~~any one or more~~ customers pursuant to subdivision (b)(4)(A)(i) of this section, the Utility shall contact the building owner or Owner's Agent to provide notice that the data request is incomplete. The building owner or Owner's Agent will have 30 calendar days to request permission to share Energy use data from those Utility customers that have not already granted permission. If the building owner or Owner's Agent has not received a response after 30 days, the building owner or Owner's Agent will contact the Utility. The Utility must, within 14 calendar days of receiving notice that the building owner was unable to obtain permission from all Utility customers, a data request, send to each customer who has not already granted permission, a request for permission to share the Customer's Energy use data with the building owner or Owner's Agent

**Comments of the Sacramento Municipal Utility District  
on Proposed Regulations Implementing AB 802**

Thank you again for the opportunity to comment on the Revised Express Terms.

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STEVEN G. LINS  
Chief Assistant General Counsel  
Sacramento Municipal Utility District  
P.O. Box 15830, MS A311  
Sacramento, CA 95852-0830

/s/

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DANIELLE ROBERTS  
Government Affairs Representative 1  
Sacramento Municipal Utility District  
P.O. Box 15830, MS A313  
Sacramento, CA 95852-0830

cc: Corporate Files [LEG 0501]