

DOCKETED

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Additional submitted attachment is included below.

September 29, 2017

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

Subject: Docket Number: 15-OIR-05

California Housing Partnership Corporation, Natural Resources Defense Council, and Association for Energy Affordability Final Comments on Proposed Regulations for Building Energy Use Benchmarking and Public Disclosure (AB 802)

Introduction and Background

The California Housing Partnership Corporation (CHPC), Natural Resources Defense Council (NRDC), and Association for Energy Affordability appreciate the opportunity to provide final public comments in response to the California Energy Commission's (CEC) Final Proposed Regulations to implement the Building Energy Usage Data Access, Benchmarking, and Public Disclosure Provisions of Assembly Bill 802 (AB 802).

Access to consistent and accurate energy use data enables affordable multifamily building owners to target the most cost effective energy upgrades, thus ensuring the long-term sustainability and affordability of these properties. Further, benchmarking is becoming a prerequisite for participation in many federal and state energy efficiency and renewable incentive programs in order to establish a baseline against which realized savings can be measured.

We raise several issues of unique concern to the multifamily housing and affordable housing sectors.¹ While we greatly appreciate the CEC's efforts to implement AB 802, the below minor recommendations will be critical for ensuring that low-income households throughout the state benefit from the value of data access and benchmarking.

In summary, our recommendations include:

1. We urge the CEC to revise how building ownership is defined and verified by utilities to facilitate a reasonable process for owner submission of data requests.
2. We urge the CEC to require utilities to deliver building owners with the customer names, addresses and unit numbers associated with the data request, along with a full list of meter numbers to enable owners to verify the accuracy of provided data, as the CEC provided in a previous version of regulations.
3. We request that the CEC remove the three-month period restriction on making data requests.
4. We recommend the CEC develop outreach, training and educational resources that specifically target the low-income multifamily housing sector.
5. The CEC should use authority granted under AB 802 to ensure a streamlined pathway exists for tenant-level data with customer consent in the next round of regulations.

¹ CHPC and NRDC also submitted joint comments to 15-OIR-05 on December 31, 2015, August 12, 2016, and April 10, 2017.

1. We urge the CEC to clarify how building ownership is defined and verified by utilities to facilitate a reasonable process for owner submission of data requests.

Since the last version of the Final Proposed Regulations, the CEC has adopted some changes that will likely make it difficult for owners to make and receive data requests. For example, potential owner verification issue arises in Section 1682 (B)(i): by generally requesting that owners submit an “attestation that the person submitting the request is the Building Owner or Owner’s Agent,” the CEC opens the door to broad interpretation by utilities to impose potentially burdensome rules around establishing ownership or rules that are inconsistent, i.e. vary widely by service territory. We recommend that the CEC provide clear guidelines in the regulations in order to prevent an onerous or unreasonable process for building owners.

Specific recommendations:

We urge the CEC to modify the following:

Section 1681 (B)(i):

Building Owner – This may be demonstrated through an attestation that the person submitting the request is the building owner or Owner’s Agent, or is authorized to act on behalf of the building owner or owner’s agent. An electronic or paper waiver signed by the owner or owner’s agent will suffice as attestation, and should remain valid until there is a change in ownership. This waiver may come in the form of a signed letter or contract granting the owner or owner’s agent authority to request data for all accounts associated with the building.

2. We urge the CEC to require utilities to deliver building owners with the customer names, addresses and unit numbers associated with the data request, along with a full list of meter numbers to enable owners to verify the accuracy of provided data, as the CEC provided in its previous version of regulations.

The CEC’s current version of Section 1682(b) limits the information provided to building owners to verify the accuracy of the whole-building energy usage data provided by utilities to only “the last four characters of the meter number for each meter serving the building.” Many multifamily building owners own and operate thousands of units of housing and do not retain complete records of all the meter numbers associated with their buildings. As a result, using the last four characters of the meter number to verify whether the utilities have in fact included the correct collection of accounts will significantly impair owners’ ability to ensure the accuracy of the energy data received.

We urge the CEC to instead provide owners with customer names, addresses, unit numbers, and the complete meter numbers associated with each building to support the verification process. Most owners retain a list of tenant names for their properties and have the ability to physically read each individual physical meter—thus this is not a privacy concern. However, the burden on owners to physically verify this information, including in some cases burdening tenants in their apartment dwellings, will significantly impair most owners’ ability to verify the accuracy of energy usage data. It should be noted that tenant privacy is still upheld because the building utility data is aggregated prior to delivery. Since building owners typically have a list of tenants’ names and unit numbers, comparing the existing tenant list with a customer list from the utility is a more feasible way for owners to verify the accuracy of the data.

Specific recommendation

We recommend the CEC amend its regulations as follows:

1682(b)(1):

For each Energy type, the Utility shall deliver the following information to the Building Owner or Owner's Agent:

- (A) ~~The last four characters of the~~ A list of meter numbers for each all meters serving the building.
- (B) The building address and list of all units associated with the building
- (C) A list of all Utility customers associated with the building.

3. We request that the CEC remove the three-month period restriction on making data requests.

In the most recent version of the Final Proposed Regulations, the CEC added Section 1682 (b)(7), which limits the number of times a customer can request data to once every three months (for those requests not made for compliance with the Benchmarking and Public Disclosure requirements). We recommend that the CEC remove this section, as it will limit the ability of multifamily affordable building owners to track their data on an on-going basis. Many building owners use utility data as a way to find (and correct) potential maintenance issues. Limiting data availability to once per quarter will inhibit an owner's ability to use benchmarking as an operations and maintenance tool.

4. We recommend the CEC third party implementer for outreach and education develop training and educational resources that specifically target the low-income multifamily housing sector.

AB 802 has the potential to offer many benefits to multifamily buildings owners and the low-income residents they serve. However, understanding how to request energy usage data from utilities and how to comply with the state-benchmarking component will be a learning process, and building owners often lack the time and staff capacity to seek out this information. We recommend that the CEC require the third party implementer for AB 802 outreach and education strategies to provide building owners who serve low-income communities with extra resources and support as the regulations are implemented. This is a recognized best practice by ACEEE and critical for actually capturing the energy and bill savings that are projected for benchmarking policies across the country.²

5. The CEC should use its authority granted under AB 802 to ensure a streamlined pathway exists for access to tenant-level data with customer consent for properties of all sizes in the next round of regulations.

AB 802 specifically grants the CEC authority to streamline the individual tenant consent process for building owner access to data:

² See "Benefits of Benchmarking Initiatives in the Multifamily Market," ACEEE (2017). Available at: <http://aceee.org/print/sector/local-policy/toolkit/benefits-benchmarking>.

(f) For buildings that are not covered buildings, and for customer information that is not aggregated pursuant to subparagraph (A) of paragraph (2) of subdivision (c), the commission may adopt regulations prescribing how utilities shall either obtain the customer's permission or determine that a building owner has obtained the customer's permission, for the owner to receive aggregated energy usage data or, **where applicable, individual customer usage information, including by use of electronic authorization and in a lease agreement between the owner and the customer.**

However, the CEC's regulations **continue to remain silent** as to how residential and mixed-use buildings of all sizes obtain customer consent for tenant-level data. We strongly urge the CEC to address this issue in the next round of regulations and at its earliest convenience as recommended below.

Specific Recommendation:

At a minimum, **we recommend the CEC use its authority to require utilities to automate and streamline the tenant consent process for properties of all sizes by developing standard CISR forms that can be used statewide and across utilities.** PG&E's CISR form and automated data retrieval process is a potential model that we recommend be replicated by other utilities.³ Further, we recommend the CEC establish guidelines requiring the utilities to accept alternative forms of tenant consent outside of the CISR form process, such as rental lease language allowing landlords to access tenant energy use data, with consent, for properties of all sizes.

Conclusion

Our organizations appreciate the opportunity to provide these comments regarding the CEC's Proposed Final Regulations. We look forward to continuing to work with the California Energy Commission and interested stakeholders on the implementation of AB 802.

Respectfully submitted,

³ Ideally, IOU CISR forms should authorize the release of tenant energy data indefinitely until the tenant moves out or terminates consent, instead of requiring owners to re-submit the forms every three years.



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