

DOCKETED

Docket Number:	15-OIR-05
Project Title:	Building Energy Use Disclosure and Public Benchmarking Program Mandated under Assembly Bill 802
TN #:	221354
Document Title:	CMUA and SCPPA Comments On the Revised Express Terms of Proposed Regulations for AB 802
Description:	Comment by California Municipal Utilities Association (CMUA) and Southern California Public Power Authority (SCPPA)
Filer:	System
Organization:	California Municipal Utilities Association (CMUA) and Southern California Public Power Authority (SCPPA)
Submitter Role:	Public
Submission Date:	9/29/2017 4:28:09 PM
Docketed Date:	9/29/2017

Comment Received From: CMUA and SCPA

Submitted On: 9/29/2017

Docket Number: 15-OIR-05

On the Revised Express Terms of Proposed Regulations for AB 802

Additional submitted attachment is included below.

BEFORE THE CALIFORNIA ENERGY COMMISSION

In the Matter of:

*Building Energy Use Disclosure Program
Mandated Under AB 802*

Docket No. 15-OIR-05

**RE: Revised Express Terms of Proposed
Regulations for AB 802
(Williams, Chapter 590, Statutes of 2015)**

**CALIFORNIA MUNICIPAL UTILITIES ASSOCIATION AND SOUTHERN
CALIFORNIA PUBLIC POWER AUTHORITY COMMENTS ON THE REVISED
EXPRESS TERMS OF PROPOSED REGULATIONS FOR AB 802**

The California Municipal Utilities Association and Southern California Public Power Authority (“Joint POUs”) appreciate the opportunity to provide these joint comments to the California Energy Commission (“Commission”) on the Revised Express Terms of Proposed Regulations (“Proposed Regulations”) for Assembly Bill (“AB”) 802 implementation, released on September 14, 2017. These Proposed Regulations were released following a previous draft from Commission staff on February 23, 2017. The Joint POUs appreciate the efforts of Commission staff in these Proposed Regulations, and suggest the following revisions below to make utility implementation more effective. The Joint POUs thank the Commission and Commission staff in advance for this review and urge the Commission to make the following changes ahead of the planned October 11, 2017 hearing date.

I. DISCUSSION

A. Sections 1681 and 1682. Request Time and Processing.

As noted in past comments, the previous draft in February allowed for requestors to provide Building ID information to the utilities “if available.”¹ Including Building ID information “if available” would be helpful in managing owner requests, given that there are instances when Building ID information is unavailable, and could enable faster and more accurate retrieval of

¹ See strikethroughs at Proposed Section 1682(a)(1)(B) (September 14, 2017).

building information when the information is available. Fast retrieval is important because the Commission has established a rapid timeframe for utilities to review and respond to owner requests in proposed Section 1682(b). Since the Building ID numbers have been removed, the Joint POUs encourage the Commission to consider measures to allow sufficient time for utilities to respond to owner requests. For example, since many requests are expected at the beginning of the year, a period of 28 days (rather than 14) would be helpful in managing the response to a peak in requests.

B. Section 1682(a). In Light of Removed Verification Language, Utilities Should Retain the Ability to Verify Usage Requestors.

In the new Proposed Regulations, utility verification of building ownership has changed to an attestation from the claimed owner or customer account identification. In many instances, this change is a helpful improvement, but there are some limited instances where clarification is needed. For example, removing independent confirmation of ownership can increase the opportunity for fraudulent requests, such as repeated requests from a non-customer. The Joint POUs suggest that the Proposed Regulations in subsection (a)(1) should clarify that a utility retains the ability to, if desired, follow-up and determine with reasonable certainty that the person submitting a request for usage data is in fact the building owner or owner's agent.

C. Section 1682(b)(7). Consistency in Annual Delivery of Usage Data.

The Proposed Regulations provide that information required by the regulations should not be provided by the utility more than once in a three-month period.² Given that the Proposed Regulations are structured for an annual submittal of usage data from building owners,³ and the content of this data submittal contains annual demand and intensity information,⁴ it is unclear what utilities providing information to building owners on a shorter, quarterly basis would achieve. The

² Proposed Section 1682(b)(7).

³ Proposed Section 1683(a).

⁴ Proposed Section 1684(c)(3)(P)-(Q).

Joint POUs recommend that the Commission should specify in the Proposed Regulation that utilities should be required to supply usage data on no more than an annual basis, which would provide consistency in usage data provision.

D. Section 1682(b)(4)(A). Utilities Should Play an Appropriate Role in Verifying Customer Permission

The Joint POUs believe the change in Section 1682(a)(1)(D) concerning requests for customer permission is helpful, but are concerned that the later discussion in Section 1682(b)(4) presents an inappropriate role for utilities in retrieving customer permission for building owners. When the building owner *is not* a utility customer, proposed Section 1682(b)(4)(ii) can require the utility to contact its customer and request permission for the release of energy use data on behalf of the non-customer building owner, and then follow-up with the non-customer building owner on the request. This requirement results in the utility acting on behalf of the non-customer requestor in its relationship with a customer, which is not appropriate or practical. AB 802 and the Proposed Regulations already envision building owners to have agents and representatives of their own for this purpose.⁵ For example, proposed Section 1682(a)(4)(i) already permits the building owner or its agent to request the information from the customer. Energy usage information can certainly be something of value to a customer, and this information also impacts the customer's privacy. The customer may want something in exchange from the owner prior to granting consent to the information's release. Given the objective of a utility to protect customer privacy, a utility contacting customers on behalf of non-customer owners will lead to customer confusion in the utility's role. For these reasons, the Joint POUs request that proposed Section 1682(a)(4)(ii) be removed, and that Section 1682(a)(4)(i) be utilized given the Proposed Regulation's contemplation of owner agents and representatives.

⁵ See Cal. Pub. Res. Code sec. 25402.10(c) (providing role of the agent); Section 1682(b)(4)(i) (agent contacts).

II. CONCLUSION

The Joint POU's appreciate the opportunity to provide these comments to the Commission on these Proposed Regulations, and thank the Commission and Commission staff for their efforts in AB 802 implementation.

Respectfully submitted,

/s/ Dan Griffiths

Dan Griffiths
Braun Blasing Smith Wynne, P.C.
915 L Street, Suite 1480
Sacramento, CA 95814
(916) 326-5812
griffiths@braunlegal.com
Attorneys for the California Municipal
Utilities Association

/s/ Bryan Cope

Bryan Cope
Southern California Public Power Authority
1160 Nicole Court
Glendora, CA 91740
(626) 793-9364 ext. 214
bcope@scppa.org