

DOCKETED

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CALIFORNIA ENERGY COMMISSION

STAFF WORKSHOP

In the Matter of:)	Docket No. 15-OIR-05
)	
)	STAFF WORKSHOP Re:
Building Energy Use)	Benchmarking Provisions
Disclosure Program)	of AB 802 (Williams,
)	Chapter 590, Statutes of
)	2015)

CALIFORNIA ENERGY COMMISSION

THE WARREN-ALQUIST STATE ENERGY BUILDING

FIRST FLOOR, ART ROSENFELD HEARING ROOM

(HEARING ROOM A)

1516 9TH STREET

SACRAMENTO, CALIFORNIA

TUESDAY, NOVEMBER 10, 2015

10:00 A.M.

Reported By: Kent Odell

APPEARANCES

Staff Present

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Others Present (* Via telephone and/or WebEx)

Jonathan Changus, Northern California Power Agency

Maria Stamas, NRDC

Tim Tutt, SMUD

*Randy Walsh, San Diego Energy Desk

Matthew Hargrove, California Business Properties
Association

Valerie Winn, PG&E

Marc Costa, The Energy Coalition

Hanna Grene, Center for Sustainable Energy

*Barry Hooper, San Francisco Department of the Environment

*Rick Williams, CommEnergy

I N D E X

	<u>Page</u>
Welcome, housekeeping, and agenda	4
Erik Jensen, Appliances & Existing Buildings Office	
Presentation by Erik Jensen: Scoping Workshop: Building Energy Use Benchmarking and Public Disclosure	
AB 1103 program conclusion and transition to AB 802, summary of lessons learned	6
Rulemaking order of events and opportunities for public participation	6
Overview of AB 802 provisions related to building energy use disclosure and benchmarking	9
Discussion and Questions	17
Scope of Energy Commission regulations	29
Lunch break	69
Scope of Energy Commission regulations (cont.)	69
Discussion	83
Adjourn	94
Court Reporter's Certification	95
Transcriber's Certification	96

1 P R O C E E D I N G S

2 NOVEMBER 10, 2015

10:05 A.M.

3 MR. JENSEN: All right folks we're going to go
4 ahead and get started. Welcome everyone, thanks for coming
5 in. I recognize some, but not all of you. Looks like
6 we've got some new faces here; that's good to see.

7 (Off mic colloquy.)

8 I have been informed that I was not loud enough,
9 so welcome everyone.

10 Okay. Let's start with housekeeping items and
11 emergency exits. If something should go wrong there is a
12 door behind the gray wall there. There's one exit to the
13 room, there's one back there, one here. Either of these
14 ones take you to the same exit out into the atrium. That
15 one also goes out into the atrium. And you can leave
16 either through the entrance you came in to the Energy
17 Commission or there is an exit out there. Don't use that
18 one if it's not an actual emergency. The alarm will go off
19 and you'll be embarrassed.

20 Restrooms are right across the hallway here. And
21 then the snack bar you'll go up the stairs, ride the
22 elevator one floor, and the snack bar is right there.

23 So those are the housekeeping items.

24 Here's the agenda. We've already gotten through
25 the welcome and the housekeeping and we're on the agenda

1 now, so we're doing pretty well.

2 Okay. So we're going to talk about the
3 conclusion of 1103 at the end of this year, transition to
4 the new benchmarking program under AB 802, summary of
5 lessons learned under 1103. I'll explain what all happens
6 during the rulemaking process for the 802 Benchmarking
7 Program and the opportunities that you'll have to
8 participate in that.

9 I'll go over the provisions related to
10 benchmarking under 802. And we can then right before the
11 lunch break we'll discuss everything that has happened to
12 that point then we'll have the lunch break. And I'll go
13 over the scope of the regulations and have some scoping
14 questions that we'll discuss here in the room and you can
15 submit comments on.

16 So the current time-of-transaction energy use
17 disclosure program will be repealed January 1, 2016. So
18 through December 31, 2015 in the case of a sale, if escrow
19 is closing on or before December 31, 2015, compliance will
20 still be required with that program.

21 During 2016 there will be no building energy use
22 disclosure program. That's when the Energy Commission will
23 be working on developing the regulations, the rulemaking
24 process that we're -- this is technically a pre-rule making
25 workshop that we're having right now, but that's part of

1 the preliminary for the official rulemaking process, which
2 will take place during 2016.

3 And data gathered that we've gathered already
4 during the 1103 program will remain confidential and won't
5 be disclosed during the new program.

6 Okay. Lessons learned under AB 1103. There
7 needed to be a better process for building owners to get
8 energy usage data from utilities and that's been clarified
9 under AB 802. Utilities have had different policies and
10 procedures for providing energy usage data to building
11 owners and that's clarified under the new statute. And so
12 we'll talk about that a bit later.

13 Data collection and reporting should not
14 interfere with real estate transactions, but we still do
15 want energy use information to inform transactions and be
16 useful in investment decisions. So we'll talk about that
17 later.

18 And then lastly tenant input is necessary in the
19 rulemaking process. And I'll go into, a little later, why
20 the specific reasons we want to have tenant involvement and
21 ways that we think we can get that.

22 So this is the general outline of how things are
23 going to work. So we've got three things going on
24 currently: pre-rulemaking workshops to produce draft
25 regulations -- this is our scoping workshop, we're not

1 presenting any draft language here -- tentatively scheduled
2 for late January will be a workshop where we will present
3 draft regulations. That will also be a pre-rulemaking
4 workshop.

5 Also now we are working on some of our
6 infrastructure planning and development. Laith, do you
7 want to raise your hand? Go ahead.

8 Laith is our data lead and he's leading the
9 development of infrastructure, so if you're the technical
10 person for whatever entity you represent Laith is probably
11 the person you'll be working with.

12 And we're working on outreach now. This workshop
13 is an example and we've got some working groups that we
14 also participate in that we'll talk about a little later.

15 MS. WADHWA: Can I say something really quick;
16 can I have the microphone, please?

17 MR. JENSEN: You can, five minutes.

18 MS. WADHWA: Good morning everyone. This is Abhi
19 Wadhwa. I'm about to do something very maverick. I think
20 I missed -- I'm two minutes too late, but I just wanted to
21 come here and welcome you as we are embarking on the
22 rulemaking for this wonderful statute.

23 Erik usually doesn't show it, but this is him
24 being very excited. As we get into this rulemaking we at
25 the Energy Commission are very excited that we have a

1 wonderful statute to implement. It resolves a lot of the
2 issues potentially that we were facing under AB 1103. I
3 know for a fact that I've had heartburn over AB 1103 for
4 awhile.

5 We just really expect that this going to be a
6 landmark regulation. We need your support. We are going
7 to do this together. Every one of us is going to have a
8 role to make this successful. And we just want to knock it
9 out of the park. We are just extremely excited that we are
10 that this juncture.

11 And probably I should have said it at the
12 beginning, but before we go into the whole dry presentation
13 of what the scope is and what the statute allows us to do
14 and not allow us to do I just want to say, "Yay, us!"
15 Thank you.

16 (Applause.)

17 MR. JENSEN: Thanks, Abhi.

18 So that was Abhi Wadhwa. And so for those of you
19 that don't know her -- so we're all in the existing
20 Buildings Unit here. Abhi is the Supervisor, so she in
21 addition to being pretty heavily involved with us she's
22 also the person who signs the paychecks, and so thank you
23 for doing so.

24 Okay. So we'll have a draft reg workshop late
25 January. A couple months after that we will submit our 45-

1 day language to the Office of Administrative Law, and so
2 this is after we've had the draft reg workshops, taken in
3 comments from that. This is when the official rulemaking
4 clock starts. And then you'll have, you the public, have
5 45 days from when we submit to OAL to make comments.

6 And then if any substantial changes are needed we
7 will resubmit for 15-day public comments. If things go
8 very smoothly, we don't need the 15-day comment period, so
9 that depends on how good a job we do with the first round
10 of regs that we submit.

11 And then after those two things have happened the
12 regs go to the Secretary of State for approval and then go
13 into effect. And we are hoping to have those in effect by
14 2017 and I'll talk about why a little later.

15 So this is a quote from the statute, "Building
16 owners should have access to their buildings' energy usage
17 information, which enables understanding of a building's
18 energy usage for improved building management and
19 investment decisions."

20 So the main focus of this program will be
21 providing information about building performance. The next
22 step is for building owners to make improvements, use that
23 information to make improvements. And so we're going to
24 talk a little bit about that next step. And we'll be
25 looking for that in comments as well. A lot of that --

1 even if it's not part of this specific rulemaking we'll be
2 interested in our outreach activities during the
3 implementation and execution of this program.

4 So this is the general scope of this program --
5 has three main points. One is to clarify the obligations
6 of utilities to disclose energy consumption data to owners,
7 agents, and operators of covered buildings. Next is
8 identify what building characteristic, energy usage, and
9 operational data needs to be collected, how it should be
10 collected, and what information should be made public. And
11 lastly, specify when and how energy use benchmarking will
12 be publicly disclosed.

13 So there are four terms that are explicitly
14 defined in the statute and I'll just read through those.
15 Benchmark is, "To obtain information on the energy use in
16 an entire building for a specific period to enable that
17 usage to be tracked or compared against other buildings."

18 Covered building is either of the following: "Any
19 building with no residential utility accounts" or "Any
20 building with five or more active utility accounts,
21 residential or nonresidential."

22 Energy is, "Electricity, natural gas, steam, or
23 fuel oil sold by a utility to a customer for any uses
24 addressed by the ENERGY STAR Portfolio Manager System."

25 ENERGY STAR Portfolio Manager is, "The tool developed and

1 maintained by the United States Environmental Protection
2 Agency to track and assess the energy performance of
3 buildings."

4 So the two scheduled requirements for utilities
5 from the statute are by -- "On and after January 1, 2016:
6 maintain records of energy usage data." And, "No later
7 than January 1, 2017 provide energy usage data to the
8 owner, agent, or operator of a covered building on
9 request."

10 So this is why we want to have the regs in place
11 by this date. So it will be in law for utilities to
12 provide data starting no later than January 1, 2017. And
13 so we want to provide guidance to them on how to do so by
14 then.

15 Okay this table describes -- it looks a little
16 complicated, but I'll walk you through it and we'll get
17 through it together -- so this shows there are two. So
18 let's just take it from the top.

19 So the top row is number of utility accounts in a
20 building. And the bins are 1-2, 3-4, 5-16, and 17+.

21 Building type, there are two options. The one
22 option is res or mixed, mixed being any building that has
23 any residential in it. So that's one category. The other
24 category is nonresidential. That's a building with no
25 residential in it.

1 The third row is whole-building data access
2 required from utilities. So there's a data access
3 component and a disclosure component to this program. So
4 this is the data access component and we'll go through that
5 in a minute.

6 And then the last row is whether disclosure to
7 the Energy Commission and the public is required.

8 So let's go with the res and mixed first of all.
9 If there are one or two utility accounts the utilities are
10 not required to provide data to a building owner, same with
11 three or four.

12 Starting with five utility accounts, the utility
13 is required to provide data to the building owner, yeah so
14 five or more.

15 And then coming down to the disclosure line, if
16 one to two utility accounts or three to four, if the
17 building owner happens to have data even though it's not
18 required that the utility provide it, the building owner
19 may also submit to the Energy Commission for disclosure.

20 Between five and sixteen utility accounts, res or
21 mixed, the utility is required to provide energy usage to
22 the building owner. The building owner is not required to
23 submit it to the Energy Commission. They may do so if they
24 choose.

25 Seventeen or more utility accounts, the building

1 owner is required to submit to the Energy Commission. And
2 we've got the asterisk there, which tells us in the
3 footnote the Energy Commission will determine what gets
4 publicly disclosed. And we're going to talk about that a
5 little later. So that's res or mixed.

6 On the nonres side this box in the data access
7 row is the only place where customer permission is
8 mentioned.

9 So one to two utility accounts in a nonres
10 building, utilities may require customer permission before
11 they will release usage data to building owners. And so
12 the Energy Commission in the statute is given some
13 discretion over how that customer permission will be
14 granted. And we'll talk about that later, what happens in
15 that case, in either of those cases -- one being where the
16 customer does give permission, one where they do not.
17 That's TBD and we'll talk about that a little later.

18 And from there three or more utility accounts,
19 non-res, the utility is required to provide data on
20 request. And the building owner, if the building is larger
21 than 50,000 square feet, the building owner is required to
22 give it to the Energy Commission and some information about
23 the building will be made public. And that will be
24 clarified.

25 So the threshold for public disclosure for

1 commercial buildings is 50,000 square feet. For multi-
2 family it's 17 utility accounts.

3 Okay, so we just went through some of the
4 requirements for utilities and building owners.

5 This slide has some of the benchmark requirements
6 for the Energy Commission. So as I mentioned, "Specify the
7 manner in which customer permission will be requested when
8 necessary."

9 So again that's only nonresidential buildings,
10 one or two utility accounts -- looks like that's number
11 two.

12 Number three, "Determine what information gets
13 publicly disclosed." So some subset or some -- it won't
14 necessarily be a subset of what's submitted to the Energy
15 Commission. It could be a EUI, for example. I'll get to
16 that a little later, but we need to determine exactly what
17 is going to be publicly disclosed.

18 And then, "Determine whether compliance with a
19 local or county benchmarking program fulfills the statewide
20 requirements." So if there's a local program that's more
21 stringent than this statewide program we don't want a
22 building owner having to complete two reporting actions.
23 We just want them to report either to the local government
24 or to the State, have that data get where it needs to go
25 automatically.

1 "Develop tools and metrics for public reporting."
2 And we have begun that. Already Laith has got some working
3 groups underway and we're working on that.

4 "Establish the infrastructure to collect energy
5 usage data, analyze it, and publicly report selected
6 metrics."

7 "And enforce compliance with the program." And
8 we're going to talk about that a little later.

9 Okay. So here's our moment of levity. So
10 Dilbert is demonstrating what a website would look like if
11 he had -- so he says, "It's not 100 percent complete. If
12 it had a user interface you would see something here, here,
13 and sometimes here. And then you'd be saying, 'I got to
14 get me some of that.'"

15 So that's a little where we are, we're at the
16 beginning stages of the program. Abhi found this and asked
17 that I put it in and I was happy to do so, because as I
18 mentioned she signs our paychecks. (Laughter.)

19 So we're at the beginning of the program here.
20 We've got a visualization for one thing that I'll show you
21 in a minute, but we're very much at the formative stages
22 and so we don't know exactly what all this is going to look
23 like. That's why we're waiting for, wanting to hear the
24 comments from all of you.

25 So what we have here is a mockup that Laith did.

1 It's adapted from the City of Philadelphia benchmarking
2 website. And we've made it look like it's an Energy
3 Commission website, but it's actually from Philadelphia's
4 website.

5 And so we're showing here benchmark scores of
6 these buildings. And the idea -- we're not -- we're
7 wanting to be very open for now -- the general idea would
8 be to have a statewide map that might show different things
9 at different zoom levels. So if you were looking at a
10 picture of the entire state, it might look like a heat map
11 that might show in which areas of the State buildings
12 perform better for policy purposes or maybe from the
13 perspective of an energy consultant company that wants to
14 know where they should target their business.

15 As you come in maybe to a city level, if you were
16 say as a prospective building purchaser or tenant and you
17 wanted to know in which building you should put your
18 business you might want to look at specific buildings and
19 how they're performing.

20 And examples here -- I think we'll talk a little
21 later about the gray dots. Sorry, I'll get to that a
22 little later.

23 We're showing on the right here you've got these
24 pull-down menus. You can filter by building type or by
25 what metric you're wanting to look at. The examples we

1 have here are square footage, building type, and year
2 built. So that's the mockup of the map. And this is our
3 current vision of what we can do for the public disclosure
4 of energy use information.

5 Okay, that went pretty quickly. Laith, can you
6 take us through -- let's see do we have any comments or
7 questions in the room, first of all? Come on up if you do.

8 MR. CHANGUS: Good morning, this is Jonathan
9 Changus with the Northern California Power Agency. I just
10 wanted clarification I guess kind of quasi on the record,
11 and perhaps it will be expanded upon in greater detail.

12 AB 1103 was on sort of a voluntary basis and
13 point of sale. The language in the AB 802 specifies that
14 upon request, utilities shall provide a building owner with
15 energy use data. But it seems like instead of it being
16 voluntary when a building owner comes to the utility the
17 program will involve the CEC requiring all covered
18 buildings to seek this information versus the building
19 owner coming when they're seeking it. Is that accurate?

20 MR. JENSEN: So the building owner may request
21 and will hopefully receive data whenever he or she wants
22 to. The Energy Commission presumably will -- we don't have
23 a schedule yet -- but presumably will set up a schedule for
24 when the building owner will be required to submit that
25 information to the Energy Commission.

1 So there will be a specific date by when that
2 needs to happen. But the building owner can request
3 whenever he or she wants. Does that answer the question?

4 MR. CHANGUS: Yes.

5 MR. JENSEN: Okay, great.

6 MR. LEMEI: If I can just flesh that out
7 slightly. Erik got it right, but just to make it a little
8 clearer.

9 The new statute as we understand it does two
10 separate things. The first thing it does is it gives
11 building owners access to their data upon request.

12 The second thing that it does is it requires the
13 Energy Commission to establish a public benchmarking and
14 disclosure program.

15 So I understood your question to draw on both of
16 those two aspects. We see them as two essentially separate
17 functions in the statute. Although obviously one will
18 affect, and feed into, and have some interplay with the
19 other.

20 Does that answer your question -- so Jonathan?

21 MR. CHANGUS: Yeah. That's an important
22 clarification about the direction the new program is going
23 versus something that's kind of on request as far as
24 utility infrastructure and expectation of how much data
25 needs to be collected and provided, what types of systems

1 we might want to develop in order to gather and manage that
2 data. If it's on a one-off when building owners come to us
3 is very, very different than when we should expect to be
4 required to do this for all buildings on some sort of
5 regular schedule in addition to upon request from
6 customers. That's a very different impact on the
7 utilities, so that's good to understand.

8 MR. LEMEI: Right. Great, thanks.

9 MR. JENSEN: So we've just had a request to make
10 some introductions, which I probably didn't do too well at
11 the beginning. So I'm Erik Jensen, I'm from the Existing
12 Buildings Unit here at the Energy Commission.

13 Laith Younis, as I mentioned is our Data Lead and
14 he'll be working on the infrastructure. Abhi Wadhwa is the
15 Supervisor of the unit. David Ismaliyan -- go ahead and
16 raise your hand -- is also in the unit.

17 And then the person who was just speaking was
18 Galen Lemei and he is from the Chief Counsel's Office.

19 Okay, next comment. Go ahead.

20 MS. STAMAS: This is Maria Stamas for NRDC.

21 Following up on Jonathan's comment I just wanted
22 to note that the legislation, in terms of requiring
23 building owners to provide information to the CEC for
24 public benchmarking, it actually says, "Either building
25 owners or the utilities will provide that information."

1 And so I was just wondering if that's still going to be
2 open for discussion as part of the regulations or if the
3 CEC has determine that.

4 MR. JENSEN: It absolutely is still open, so
5 we'll talk about that a little later this afternoon.

6 MS. STAMAS: Okay.

7 MR. JENSEN: Great.

8 MS. STAMAS: And then one other comment. Just in
9 terms of the matrix on Slide 12 and data access. I just
10 wanted to clarify that. It's currently under law, even
11 before 802, that if you are a building owner and you have
12 consent no matter how many meters you have, that you're
13 able to get that information as long you have consent. So
14 I just wanted to clarify where it says, "No," that as long
15 as you have consent you should still be able to get that
16 information."

17 MR. JENSEN: Yes, so this is referring to
18 specifically what's required per this statute. But you're
19 talking not necessarily within the statute, correct?

20 MS. STAMAS: Yes. So I guess maybe the
21 clarification is that here you are talking about access to
22 the whole building's data aggregated and not tenant-
23 specific units.

24 MR. JENSEN: Yeah, so I think I'm with you there.
25 If anyone wants to offer clarification they can, but yes,

1 agreed. Yeah.

2 MS. STAMAS: Thank you.

3 MR. LEMEI: I think you stated it correctly. If
4 you notice that under each of the numerical columns 1-2,
5 there is residential is on the left-hand side and nonres is
6 on the right-hand side. On the right-hand side for
7 nonresidential it's absolutely correct that with tenant
8 consent there is right to the -- the building owner has
9 access to the energy use information data with tenant
10 consent for all nonresidential buildings even with only one
11 tenant.

12 On the residential side the definition of covered
13 building is a building with -- I'm going to get the precise
14 definition wrong, because I don't have it in front of me
15 -- but essentially the definition of "covered buildings"
16 starts for buildings with at least one residential tenant
17 at 5.

18 MR. JENSEN: And that's five utility accounts?

19 MR. LEMEI: Correct.

20 MS. WADHWA: This is Abhi Wadhwa from the Energy
21 Commission. But yeah, I think what you were trying to
22 clarify -- and I'll take another stab at it just to be
23 clear -- that that is the Energy Commission's position too.

24 What we are showing here is what the AB 802
25 statute mandates all of us. It is not capturing everything

1 that's possible outside of the statute that has been
2 happening anyway. So utilities in general will provide
3 data to their customer if the proper consents have been
4 obtained. And the statute does not prohibit that process
5 to stop from happening.

6 MR. TUTT: Good morning, Tim Tutt from SMUD. I
7 just have a clarifying question on this as well.

8 On the nonresidential side if a building has more
9 than three utility accounts there is a requirement to
10 disclose to the CEC and then to the public, I presume,
11 energy use if it's over 50,000 square feet. So am I
12 reading that right?

13 MR. JENSEN: That's correct. And I will just
14 clarify this is for three or more, not greater than three.

15 MR. TUTT: Three or more, all the way up to a
16 thousand or more?

17 MR. JENSEN: Yeah.

18 MR. TUTT: And I'm sorry, but I misstated it.
19 What if it's less than 50,000 square feet, but still that
20 many utility accounts? That's my question.

21 MR. JENSEN: Yes. So the current position -- so
22 in the statute the 50,000 square foot threshold is
23 mentioned in the legislative intent section of the bill,
24 but not elsewhere. But so taking that our current position
25 is that we will only require disclosure to the Energy

1 Commission for when the buildings are larger than 50,000
2 square feet. And if they're not, the utility would be
3 required to provide the data to the building owner, but
4 they would not be required to provide it to the Energy
5 Commission.

6 Anyone else in the room?

7 MR. LEMEI: And just a clarification Erik. When
8 you refer to disclosure to the Energy Commission you're
9 referring to the public benchmarking program, correct?

10 MR. JENSEN: Yes.

11 MR. LEMEI: Okay.

12 MS. WADHWA: This Abhi Wadhwa. I also want to
13 clarify that the 50,000 square foot threshold, as you can
14 see, applies to the nonresidential building sector only.

15 The threshold for disclosure to Energy Commission
16 and to the public for mixed use or residential buildings is
17 set differently. It is at 17 or more accounts. The 50,000
18 square foot threshold is not for multi-family buildings, in
19 short.

20 MR. JENSEN: Okay, that looks like that's it for
21 the room. Laith, why don't you see what we've got online?

22 MR. WALSH: Good morning, this is Randy Walsh.
23 Am I on?

24 MR. JENSEN: Yes, you are. Go ahead.

25 MR. WALSH: Hi, Randy Walsh from San Diego Energy

1 Desk. It looks like there's some good things in this 802.

2 If I'm looking at my agenda of the 10:15-10:30
3 slot was talking about the AB 1103 program conclusion and
4 the transition to AB 802. I'd be interested in hearing the
5 compelling business argument for repealing AB 1103. And
6 I'd like to get an idea of the stakeholder outreach that
7 was conducted before making this decision to repeal AB
8 1103.

9 And in terms of being supportive of AB 802, are
10 we to assume that with this new legislation and the number
11 of utilities that we're lining up to support this, that
12 there are no longer any more issues with utilities
13 releasing information?

14 MR. JENSEN: Let's take your questions one at a
15 time.

16 So first of all I don't know that we have anyone
17 here in the room who can speculate as to the -- we're
18 indicating that we do have someone here in the room.
19 Galen, why don't you go ahead?

20 MR. LEMEI: I'm not going to speculate, but I am
21 going to clarify.

22 MR. WALSH: Hi Galen.

23 MR. LEMEI: Hi Randy, good to speak with you.
24 Thanks for joining us today.

25 The Legislature passed AB 802 presumably for the

1 reason stated in the legislative intent portion of that
2 bill. That said, it is true that the Energy Commission and
3 Commissioner McAllister participated in the legislative
4 proceedings as did many, many other stakeholders, many of
5 whom are in this room.

6 But in terms of the compelling interest and the
7 underlying reason for our transitioning from the AB 1103 to
8 the AB 802, we could certainly surmise that some of the
9 issues with implementation that we faced may have been part
10 of the underlying rationale. But ultimately that was a
11 decision of the Legislature, not a decision of the Energy
12 Commission.

13 The Energy Commission was working to, and fully
14 prepared, to implement AB 1103 unless and until legislative
15 direction was given. And that's now occurred.

16 MR. WALSH: Is there any consideration given to
17 the fact that most of the issues with AB 1103 could be or
18 would be resolved with a majority of the language added to
19 802 -- that there was no need to repeal 1103? Most of the
20 issues with AB 1103 would have been addressed in the
21 language of 802.

22 MR. LEMEI: I think what you're saying is you're
23 suggesting that AB 802 could have been added to AB 1103
24 without repealing AB 1103? That may have been possible. I
25 don't know. I cannot speak to why the Legislature chose

1 one over the other in terms of that, in terms of an
2 approach.

3 MS. WADHWA: This is Abhi Wadhwa from the Energy
4 Commission. So I want to take a step back, Randy. I also
5 saw your comments on the AB 1103 docket. And I think this
6 is a good moment to kind of discuss with our stakeholder
7 group here, what has really happened with the transition
8 from 1103 to 802.

9 AB 1103 required a transaction-based disclosure
10 between private parties. It did not provide any authority
11 for the most part to the Energy Commission except to
12 provide a schedule of implementation, which greatly
13 restricted us in what we could or could not do with that
14 legislation.

15 Finally, it did not provide any clear direction
16 to the utilities on how confidentiality should be preserved
17 so that they could legitimately give the data out to
18 building owners without fearing that their customers'
19 privacy would be compromised. In resolving these issues AB
20 802 essentially started from scratch. It has not in its
21 wording taken out any provisions about what could or could
22 not happen on transaction-based disclosures.

23 You will see in our questions to you, that are
24 going to happen a little later, we keep that question open.

25 We did not think it was a good place for energy

1 use data to get disclosed when it is tethered so closely to
2 a transaction that the timing of the transaction itself
3 comes into jeopardy.

4 Nationally, the way these issues have been
5 resolved is through annual disclosure to a specific agency,
6 so that the disclosure is ready to go and available if the
7 prospective buyer requests for it.

8 AB 802 sets the stage for that to happen if we so
9 choose to go in that direction. But it does not mandate
10 that during a transaction a building owner must or must not
11 do something within a certain timeframe.

12 So the way we look at it AB 802 has a much
13 broader universe with a lot more potential, which could
14 include some kind of an education component or a real
15 estate industry transformation component. And we would
16 love to hear from stakeholders what do they think is the
17 best process to make that happen. But almost everybody
18 here who was in this room knows that the way it was
19 narrowing down transaction requirements in AB 1103 it was
20 not working.

21 MR. WALSH: Thank you.

22 MR. JENSEN: So Randy, I think you also had a
23 question about data from the utilities. Would you repeat
24 that question, please?

25 MR. WALSH: The question is really the level of

1 support from utilities. AB 1103 had language in there that
2 required the utilities to cooperate in providing
3 information. And for years the CEC has been getting
4 pushback and noncompliance from the utility companies. So
5 the question is -- I saw the line of people that
6 represented different utility companies in different
7 utility interests -- they lined up. And they supported AB
8 802.

9 So my question is, have we now resolved any data
10 release issues with these utility companies around the
11 state of California? Or are we going to be having the same
12 arguments and same fights for the next three or four years
13 before we can come to any sort of a resolution that lets us
14 move forward?

15 MR. JENSEN: Well, certainly from the Energy
16 Commission perspective we're encouraged by the utilities
17 being given explicit guidance for aggregation levels and
18 providing energy use data. I hope that the utilities
19 appreciate this as well. They're essentially given legal
20 cover from doing so, which is something that they felt was
21 lacking under 1103. And so I certainly hope that this will
22 go a long way toward resolving those issues.

23 MR. WALSH: Well, hopefully there's somebody in
24 the audience that will comment on this also. Thanks Erik.

25 MR. JENSEN: Yeah. All right, do we have anyone

1 else?

2 Okay. Do we have anyone else on the WebEx or on
3 the phone who would like to comment?

4 Okay we got through this very quickly. In the
5 agenda we're supposed to be taking a lunch break right now.

6 I think staff are going to huddle for a couple of
7 minutes and we'll decide what to do. And we will be back
8 on shortly, so just wait a couple minutes.

9 (Pause in workshop.)

10 (Workshop resumes.)

11 MR. JENSEN: Okay folks, welcome back. We're
12 going to go ahead and move into our scoping questions and
13 we'll see what -- we'll definitely take a lunch break,
14 don't worry about that, but we'll see exactly at what point
15 it falls.

16 Okay, so we've got our scoping questions
17 organized by category. The first slide has to do with
18 utility data access. I think the plan here, I think I'll
19 just read through these four questions and explain them a
20 little bit. And then we'll take comments and questions on
21 the questions.

22 So here we go. So first question, "By when
23 should all utilities be required to match buildings to
24 meters?"

25 So the statute requires utilities to provide

1 energy use data on request from building owners. And as we
2 discussed during the 1103 proceeding for those of you who
3 were here it's very important that building owners be able
4 to provide a building address and have the utilities give
5 them energy usage data for that address. And it's not at
6 all ideal for a building owner to have to run around
7 gathering account numbers or meter numbers to provide those
8 to the utility. So that's why this is important.

9 We would certainly like to have all utilities
10 have their databases set up, ready for, with meters matched
11 to buildings by January 1, 2017. If you have reasons that
12 you won't be able to do this we would like to hear that.

13 Laith is currently facilitating a working group
14 with the CPUC on this exact topic. If there are utilities
15 or others here who are interested in this topic and aren't
16 yet aware of the working group and would like to be
17 involved please contact Laith. I'll have his contact
18 information up a little later.

19 For smaller utilities we would urge you to work
20 collaboratively in coming up with solutions for this.
21 Large utilities we certainly hope you're well on your way
22 to having meters matched to buildings. And we'd like to
23 hear where you are on this, so please address this either
24 in your comments here in the room or in your written
25 comments.

1 And it looks like we've got a comment from Galen.

2 MR. LEMEI: I just wanted to -- on the off-chance
3 that anyone in this room isn't worked out enough to
4 understand what this is really talking about and I doubt
5 that's the case, because we're all pretty wonky here --
6 this is just the simple idea that the statute gives owners
7 of covered buildings access to their data, period. That's
8 what the statute does.

9 And it doesn't require -- and in certain cases it
10 allows them that access to data without tenant consent
11 above a certain aggregation threshold of three or more.

12 So in order to accomplish that the utility needs
13 to be able to provide that information upon request without
14 any unusual hoops such as knowing each of the accounts of
15 each of the tenants, which would operate as a de facto or
16 in order for the building owner to get that information
17 they'd essentially need to get the tenant's consent.

18 So this meter-matching concept is just the simple
19 idea that the utility needs to be able to provide the
20 statutorily-required information upon request on the basis
21 of an address for a covered building.

22 MR. JENSEN: Great. Thank you, Galen.

23 Okay. Next question is, "By when should
24 utilities implement data exchange services with Portfolio
25 Manager?"

1 So for those who are not familiar with this a
2 utility can set up a connection with Portfolio Manager and
3 then upload energy usage data from their database into the
4 customer's account, a Portfolio Manager account. And so we
5 would certainly like for all utilities to have this. And
6 certainly for the large utilities it certainly seems like
7 it would make sense to have this. It would make their
8 processes more efficient.

9 For the smaller utilities if it doesn't at all
10 make sense -- if there's a very small number of covered
11 buildings in your territory, there's a good argument that
12 you should not be required to set up data exchange services
13 -- we certainly are interested in hearing those arguments
14 as well. So please address that in your comments.

15 "How should utilities confirm whether a data
16 request is from a building owner?"

17 So this is one important distinction between 1103
18 and 802 here -- 1103, because it was a time-of-transaction
19 program the building owner would be more likely to have
20 documents in hand that would prove clearly that they're the
21 owner of the building. That's going to be less likely to
22 be the case if it's not a time-of-transaction program. And
23 so we're looking for creative ways here where a building
24 owner can demonstrate that they are in fact the building
25 owner without having to go to great lengths to produce this

1 specific document.

2 Last question, "How should utility account be
3 defined when multiple fuel types are under the same
4 account?"

5 So an example of this is if one utility provides
6 multiple fuel types, and so if one customer receives
7 multiple fuel types from one utility, those can be under
8 one account and so it will need to be clarified how that
9 aligns with the statute references to numbers of utility
10 accounts. And so we'd like to hear your thoughts on that.

11 So that concludes the scoping questions for
12 utility data access, so do we have questions and comments
13 in the room?

14 MS. WADHWA: This is Abhi Wadhwa from the Energy
15 Commission. Erik, I would just like to add that we want to
16 hear general comments on all the possible use cases that we
17 should consider in defining utility account.

18 For example, a utility account could be a master-
19 metered situation where the building owner is providing or
20 paying for the electricity or gas use in a multi-family
21 building for all the residences. In that case, would you
22 consider that a single utility account, but then nothing to
23 aggregate it against, because all of the aggregation is
24 already within the meter?

25 I believe that the intent of the statute was to

1 preserve confidentiality. And in such a situation, in a
2 master-metered situation, even if it's just one utility
3 account, confidentiality is essentially preserved above a
4 certain threshold. So in that case do we capture that in
5 the utility account definition?

6 So there are possibly other use cases of one to
7 many situations where on one utility account it's serving
8 multiple customers or multiple utility accounts are serving
9 one customer. There's many, many different use cases to
10 consider. And we'd like to see in your comments a
11 documentation of those, so we can react appropriately.

12 MR. JENSEN: Great. Thank you, Abhi.

13 MR. HARGROVE: Good morning, Matthew Hargrove
14 with the California Business Properties Association here
15 today to represent BOMA California, NAIOP of California,
16 International Council of Shopping Centers, and a couple
17 other commercial real estate groups.

18 In regards to these four questions -- wait, I
19 think this is the right section -- one of the
20 clarifications we would like is, is the Energy Commission
21 contemplating a scenario in which the building owner never
22 actually receives any of this information from the utility,
23 but the utility can actually benchmark the building in a
24 way that provides the benchmarking information back to the
25 building owner?

1 In other words, the way 1103 was set up, which we
2 found was kind of an issue for some building owners was it
3 had to get all the information, had to put it into ENERGY
4 STAR. For some of your smaller companies if they didn't
5 have an energy staff, would have to go out and hire a
6 contractor, have to find somebody to do that information.

7 What we see, hopefully somewhere down the road
8 through this legislation -- now maybe not 2017, but maybe
9 2030 -- is utilities being able to do what they do on the
10 residential side. In some instances now it's simply
11 benchmarking the building with the data that's available
12 and providing that as a report back to the building owners.

13 My read of the statute is, is that scenario can
14 happen in the future and probably as an interim step some
15 utilities are going to be able to do that quicker than
16 others. Is that scenario accounted for under these
17 questions and the thinking of the staff right now, the
18 statute? Thank you.

19 MR. JENSEN: So, yeah. So to answer your
20 question we absolutely are considering a variety of
21 benchmarking models. And we will talk about that more a
22 little later. But yes, we're open to different parties
23 being sort of the main actor in benchmarking the building.

24 Go ahead, Galen.

25 MR. LEMEI: And just you stepped away from the

1 microphone, but I had a clarifying question about your
2 question. Were you asking about the benchmarking aspect of
3 this specifically or are you --

4 MR. HARGROVE: Just the mandatory benchmarking.

5 MR. LEMEI: Just the -- okay, right. Yeah. And
6 that's what he said.

7 MR. CHANGUS: This is Jonathan Changus from the
8 Northern California Power Agency. And I guess my first
9 comment in response to Matt's is one size doesn't fit all
10 as far as what utilities can be able to do in what types of
11 buildings. And so going forward with that proposal will
12 require greater conversation.

13 My two comments directly about Number 2 NCPA,
14 represents a number of the smaller utilities that do have
15 fewer of these types of buildings and such.

16 One of the things that we thought that was a
17 significant improvement in the AB 802 language over 1103
18 was the option to providing the data -- not necessarily
19 having to log into a customer's Portfolio Manager account
20 -- but making sure they're equipped with the data to
21 conduct the benchmarking on their own. And we think that's
22 a fairly important component and difference and so
23 hopefully that will be reflected and we'll have some
24 written comments along those ways.

25 The other piece is recognizing that Portfolio

1 Manager doesn't always capture all building types
2 accurately. We have a number of customers, a number of
3 utilities that don't fit into a good Portfolio Manager box,
4 so to speak. And so figuring out some alternatives or how
5 we're going to address those, especially for the public
6 disclosure program in which you're not really comparing
7 apples to apples, because the energy profile of a large
8 data center or whatever the tech company might be may not
9 lend itself to an easy comparison to others. And could
10 include some fairly sensitive operational data that -- all
11 other things being equal -- you probably wouldn't want to
12 disclose, given some of the competitive nature of the
13 industry.

14 So there's a lot of other issues that's kind of
15 down in the weeds a little and we will be providing more
16 comments as the regulations proceed, but wanted to flag
17 that early.

18 MR. JENSEN: Great. Thank you.

19 MS. WADHWA: This is Abhi Wadhwa from the Energy
20 Commission.

21 Jonathan, while I have your ear I just wanted to
22 again request for comments specifically from utilities, no
23 matter what your size. We'd like to see what method you
24 prefer based on your customer size and your infrastructure.

25 Do you think it would easier for you to do a data

1 dump directly to the Energy Commission for all building
2 owners who would fall under the public disclosure program?
3 Would that be easier versus account of your customer base
4 to then envision whether it would be easier if those
5 requests were coming one at a time? But we'd like to get a
6 sense of that from all the utilities to be able to do a
7 better infrastructure design.

8 MR. CHANGUS: Okay. Yeah, I think understanding
9 Galen's clarification to my earlier question about kind of
10 the bifurcation of the statute in two separate pieces: the
11 building owner benchmarking purposes versus the public
12 benchmarking disclosure. We're working through what that
13 might mean and understanding what buildings are going to
14 maybe be required at what time. And kind of understanding
15 the new interpretation of the statute from the CEC is going
16 to kind of inform a lot of those discussions. So look
17 forward to continuing that conversation.

18 MR. LEMEI: And this is Galen. One of the nice
19 features of AB 802 in contrast to AB 1103 is that the
20 ENERGY STAR Portfolio Manager is identified as a resource
21 rather than a mandate, so one of the things that we will be
22 talking about is how to make best use of that resource.

23 MS. STAMAS: Hi. I'm Maria Stamas from Natural
24 Resources Defense Council. In just the scope of the data
25 access portion of the proceeding in 802, it looks like this

1 will cover whole building data, so aggregated data for
2 residential above five accounts and commercial and mixed --
3 or commercial above three.

4 For buildings that fall underneath that threshold
5 or for large buildings where the building owner wants to
6 get tenant-specific information and they need to get
7 consent for both scenarios I'm wondering if the California
8 Energy Commission is considering also putting in their
9 regulation some protocols or methods to make that process
10 smooth and easy, both for the building owner and the tenant
11 to give informed consent?

12 MR. JENSEN: So I think I'm going to ask Galen to
13 weigh in on this. So the specific case where the Energy
14 Commission clearly has some authority over this is in
15 nonres 1-2 customer accounts where the Energy Commission is
16 given discretion in the statute to specify how customer
17 permission is provided.

18 Galen do you want to talk about the cases that
19 Maria is asking about?

20 MR. LEMEI: Sure. I'm not sure that I fully
21 understood your question, because the way the statute is
22 written in terms of defining covered buildings a first
23 aggregation threshold at three or more, but then defining
24 covered buildings is all nonresidential, but if it's a
25 residential account only at five or more. And then of

1 course there's a separate, higher threshold for the
2 benchmarking for benchmarking residential buildings or
3 buildings with one residential account.

4 I'm not sure I fully understood which of those
5 categories you were asking about. But in terms of the
6 broader question is the Energy Commission contemplating
7 regulatory guidance, particularly in the manner in which
8 consent's obtained? The answer is yes.

9 This statute is interesting in that it gives the
10 Energy Commission a primary mandate in the establishment of
11 a public benchmarking program. But it also provides
12 direction to the Energy Commission to provide regulatory
13 guidance on the what I'll call the Private Disclosure
14 Program -- the aspect component specifically with respect
15 to the manner in which tenant consent's obtained.

16 So the Energy Commission plans to provide the
17 regulatory guidance that's helpful, necessary, and
18 appropriate to make that program work -- the data access
19 aspect work optimally. Although we recognize and
20 acknowledge that our primary statutory mandate is with
21 respect to the public benchmarking program.

22 MS. STAMAS: Thanks.

23 MR. JENSEN: Do you have anyone else in the room?

24 Okay, let's go to the WebEx.

25 UNIDENTIFIED MALE SPEAKER: (Indiscernible)

1 MR. WALSH: Erik, Randy again.

2 UNIDENTIFIED MALE SPEAKER: Oh, sorry.

3 MR. JENSEN: Go ahead, Randy.

4 MR. WALSH: Can you go back to that slide the --

5 UNIDENTIFIED MALE SPEAKER: So the AB 802

6 proceeding --

7 MR. JENSEN: Hang on, hang on.

8 UNIDENTIFIED MALE SPEAKER: -- or regulation is
9 going to -- from this it's going to make buildings that
10 (indiscernible) or nonresidential --

11 MR. JENSEN: Hang on, excuse me. Excellent.

12 Randy, go ahead. Randy, are you still on?

13 MR. WALSH: I'm here.

14 MR. JENSEN: Okay.

15 MR. WALSH: Okay. Can you go to Slide 19?

16 MR. JENSEN: Yes.

17 MR. WALSH: So just a couple of comments. For
18 Portfolio Manager to give accurate outputs we need to
19 include all energy, which includes onsite generation.

20 It's typically a number that would be pulled from
21 a submeter on the site, but I just wanted to throw this out
22 there so that you guys are looking for your definition so
23 that they're written in such a way that they're not
24 excluding the solar information that we might need.

25 My initial answer to question one would be the

1 year 2007. Do you guys have an idea of the scope of work
2 or the scale or the preparedness of the utilities around
3 the State to be able to match these buildings to the
4 meters?

5 MR. JENSEN: No, we don't, but that's the purpose
6 of the question. We're interested in hearing from the
7 utilities how far along they are in having this ready to
8 go.

9 MR. WALSH: When you're saying how far along they
10 are, was there an official start date on which they were to
11 undertake this process?

12 MR. JENSEN: No. Galen, go ahead.

13 MR. WALSH: Okay.

14 MR. LEMEI: Well, Randy I hear you pointing out
15 that the statute requires that the building owners should
16 be afforded access to this information upon request,
17 beginning on January 1st, 2017. And you are correct in
18 that regard. I think this question is asking the practical
19 question of asking utilities who are participating in this
20 process to speak to their level of preparedness.

21 MR. WALSH: I understand. And so as of today the
22 CEC does not have a good idea or a clear picture or a
23 thorough report on the preparedness for them to comply with
24 AB 802?

25 MR. JENSEN: Correct.

1 MR. WALSH: Okay.

2 On the second question my answer would be at
3 least the data exchange, which is now called "web
4 Services," their new technology is "Web Services." I would
5 say that that would have been six months after the
6 unveiling of the new platform. Do you at this time have an
7 idea of how many utilities throughout the state are ready
8 to participate in web services?

9 MR. JENSEN: We do. It's not too many, it's
10 about five or six and they're the larger utilities. Does
11 that answer your question?

12 MR. WALSH: To a degree, yes.

13 MR. JENSEN: Okay.

14 MR. WALSH: As part of that, I'd like to draw the
15 CEC's attention to the fact that there's at least two of
16 those side utilities that right now, before they will agree
17 to upload data through Web Services that I, as a user, have
18 to agree that they can access the information. And I want
19 to just be on record that I oppose the utilities requiring
20 that in order for us to use Web Services and to use ENERGY
21 STAR Portfolio Manager with automatic updates.

22 There's nothing in any of the AB 1103 legislation
23 that requires us to provide that to them. There's nothing
24 in the AB 802 Regulation that requires us to provide that
25 to them. And so I'd like that to go to either be

1 completely prohibited or to an option-in choice for us.

2 The number three, most of the time -- not in
3 every case -- but in most of the time there will be a house
4 account, a house meter account. And that is typically in
5 the owner's name. It may be in the managing agent's name,
6 but it's in the owner's name. So I think just a simple
7 confirmation that whoever is making the request is the
8 authorized account holder for that building meter or
9 building account should be sufficient.

10 And in terms of number four -- and I was hearing
11 what Abhi was offering and I heard it sounds like you're
12 going to get to the EUI conversation -- but it's important
13 that we get that information coming by fuel type. We can't
14 really have the utilities aggregating it or running their
15 own UI calculations and giving us that calculated number.
16 We need that by the utility type in that measured way: kWh
17 or therms or whatever it might be.

18 So just want to make sure we're not looking to
19 get everything aggravated -- aggregated -- maybe aggravated
20 -- but aggregated from the utilities in that high level.

21 MR. JENSEN: Okay, great.

22 And then Randy, to address I think it was the
23 very first thing you said, regarding onsite generation. So
24 just to reiterate the definition of energy provided in the
25 statute refers to energy that's sold by a utility to a

1 customer. So I absolutely take your point that it's
2 important to also consider onsite generation. And so we'll
3 look at how we can do that creatively. But at least the
4 statute definition of energy does not include onsite
5 generation.

6 MR. WALSH: Understood. It's really probably
7 more of an educational component for users.

8 MR. JENSEN: Yeah.

9 Okay, do we have anyone else on WebEx?

10 UNIDENTIFIED MALE SPEAKER: And so unless -- yes,
11 let's go through the list. Unfortunately I have to leave
12 -- oh geez, it's 11:00 o'clock.

13 MR. JENSEN: Who is this talking? Go ahead,
14 could you introduce yourself?

15 UNIDENTIFIED MALE SPEAKER: (Indiscernible) for
16 whatever reason I can't --

17 MR. JENSEN: Okay. If anyone is on WebEx, go
18 ahead.

19 (Technical issues with audio.)

20 Okay, last chance. Is there anyone on WebEx that
21 would like to make a comment?

22 MS. WADHWA: Erik, I think Valerie is waiting to
23 comment on Randy's questions, so if it's okay can we pause
24 and let her take a shot at this?

25 MR. JENSEN: Yes, it doesn't look like we've got

1 anyone anyways.

2 MS. WINN: Great. Thanks, Abhi. Valerie Winn
3 with PG&E, and I know there have been some questions raised
4 by stakeholders on how do the utilities feel about the data
5 access and all of these questions.

6 And I have to say we're seeing a lot of these
7 questions for the first time today. Certainly we were and
8 remain supportive of AB 802. It did resolve many of the
9 issues that we had with respect to data aggregation from AB
10 1103. And so we're really looking forward to working with
11 the Energy Commission in advancing this benchmarking
12 program.

13 We are participating in other discussions that
14 Laith is leading on matching buildings to meters. We think
15 that's going to be an important part of this program. And
16 I think Galen has mentioned there have already been a
17 couple of meetings and discussions on that. And we'll
18 continue to work with the Energy Commission over the next
19 year on implementing that.

20 You know, it's when should we be required to do
21 things versus when will we have all the infrastructure in
22 place? Don't know, but I think there have been really
23 good, productive discussions so far and we'll continue to
24 do that.

25 I know there are a number of questions that

1 you're asking here in scoping. I don't have particular
2 responses to provide today, so I look forward to continuing
3 the discussion and hearing a little bit more about what you
4 would like to see us address particularly in our comments.
5 That's very helpful for us, so thank you.

6 MR. JENSEN: Great. Thank you, Valerie. And we
7 do have a slide near the end with some specific things we
8 want utilities to address. And so we'll get to that at the
9 end.

10 MR. COSTA: Good morning, Marc Costa with the
11 Energy Coalition, just a couple of quick comments.

12 For the first question I'm curious to know how
13 will that process be quality controlled, because I know
14 that there is a lot that can go wrong when you match
15 service accounts, because of the volume of the data. So at
16 what percent match is acceptable or how would we test out
17 whether or not those are the correct matches? So I don't
18 know if you have any upfront feedback on that.

19 MR. JENSEN: So I do, at least a little bit.

20 So some programs require the utility to make
21 their list of meters and buildings available for
22 inspection. But a program implementer, that's an option.

23 Another is when the building owner could verify
24 the list if they want to. In Portfolio Manager if the
25 utility submits the data they could just list, "These are

1 the meters that we think are supposed to be associated with
2 this building." And the building owner could verify that.

3 Those are a couple of options that we've
4 considered so far. I don't know if Laith wants to talk
5 about this. If not I think that's okay.

6 (Colloquy off mic.)

7 Okay, so those are just a couple of things we've
8 looked at and we're aware that this is a pretty important
9 issue, because we don't want energy usage to be under or
10 over- reported.

11 MR. COSTA: Okay. And then just as a general
12 recommendation it's having held this data in my hands at
13 times, implementing certain CPUC programs, it's really
14 helpful to see a corporate view or an end cost report from
15 a customer that has multiple accounts. And to blindly try
16 to match those addresses at the meter level with an actual
17 building is nearly -- it's very difficult, unless you have
18 a facility list from that customer to match it to. So just
19 keeping in mind at the staff level those nuances and maybe
20 just take a crack at it, so that those inner workings are
21 known as you manage the process. It could be very helpful.

22 Same thing with going and just using Portfolio
23 Manager a little bit and getting down into the weeds there,
24 so that we can see where we can drop in certain
25 authorizations like in question three, right? There's

1 already authorizations built in to Portfolio Manager when
2 you want to link an account through Web Services. So there
3 might be some places to incorporate scissor-form
4 authorization within the Portfolio Manager infrastructure.

5 But other than that, yeah I think just on that
6 number one just having some very specific parameters on the
7 level of detail and the match percents.

8 And leveraging some work that's already been done
9 in the Southern California area. I know the Energy Atlas
10 has really -- at the UCLA level -- have done a lot of this
11 work and mapped and matched to a high-competence interval a
12 lot of the service accounts.

13 And just keep in mind those are going to change
14 over time, so a maintenance plan for that turnover and
15 change at that account level could be helpful too.

16 MR. JENSEN: Thanks Marc.

17 MS. WADHWA: Marc, thank you so much. This is
18 Abhi Wadhwa from the Energy Commission. You bring up some
19 great points. And I know these are sort of one or two
20 examples here and there, but this is exactly the kind of
21 feedback we would love to see in written comments as much
22 as possible.

23 We are trying to give you buckets under which to
24 comment on, so utility building to meter matching is kind
25 of its own beast, which has lots of layers within it.

1 We did attend a presentation from UCLA and I
2 believe they matched the buildings to a parcel, so they
3 restricted it to be a parcel. And while that use case may
4 work for what their end goal was it may not work for what a
5 building owner might need to be looking at his or her own
6 energy use to be able to make improvements.

7 So what we are looking for, and Erik is going to
8 get that slide fairly quickly here, we want the utilities
9 to identify those use cases, the one you just mentioned
10 where a building owner might have a facility with multiple
11 buildings. It's quite possible that the aggregated data
12 does not give him what he wants. So we would definitely
13 like to start fleshing this out more.

14 You also mentioned concerns with Portfolio
15 Manager on some functionality, which if it could be added
16 to Portfolio Manager. We considered that in the
17 infrastructure bucket, so if you can address that in your
18 comments. You have more experience, more hands-on
19 experience using Portfolio Manager and knowing its
20 limitations. And you are our eyes and ears, so by all
21 means don't hesitate and give us that in comments as well.

22 MR. JENSEN: Anyone else in the room?

23 Okay. And last -- Galen, go ahead.

24 MR. LEMEI: I just want to make one over-arching
25 comment here and that is that these scoping questions that

1 you've asked -- and this is really across the board --
2 these are questions that we've come up with on our side;
3 questions that we have as we look at implementing these two
4 mandates although this is particularly focused on the data
5 access mandate. Please don't view this as exhaustive. We
6 welcome scoping comments broadly on additional topics.

7 MR. JENSEN: Okay, last -- Laith, do we have
8 anyone else on the WebEx?

9 MR. YOUNIS: Yeah. We have one written question.
10 Can you hear me okay?

11 MR. JENSEN: Okay, sure.

12 MR. YOUNIS: "Will the CEC take on the burden of
13 making sure these tenants, the tenants understand the law
14 if they're in a commercial one-to-two tenant scenario?"

15 MR. JENSEN: I'm glad you asked. We're going to
16 get to that shortly.

17 That's it? Okay, let's move right along.

18 Okay. The next two slides have to do with tenant
19 involvement. And the first question in that category is,
20 "How can tenant participation in the rulemaking process be
21 encouraged?"

22 And there are two points at which tenant
23 participation is important. One is, as we discussed
24 earlier for nonres buildings, one or two utility accounts,
25 utilities are allowed to request customer permission before

1 providing the data. And so that's one point where the
2 tenants will need to be involved. They'll need to decide
3 whether to have their data provided or not.

4 The other is for operational characteristics
5 tenants are necessary. And the three common things that we
6 mention here are number of employees, hours of operation,
7 and number of computers. Those all play some part in the
8 driving the benchmark score for a building. And so that's
9 that one.

10 Next, "How do building owners obtain operational
11 characteristics from tenants? How can this process be
12 improved?"

13 So if you're involved with benchmarking programs
14 currently and you can talk to us about how tenants are
15 involved or if you've got ideas about how our program
16 should be involved, even if you're not currently involved
17 in a benchmarking program, we'd be interested in hearing
18 that.

19 Let me go back up to number five. So I explained
20 why tenant involvement is important. For that reason we
21 would like to have tenants be heard at future proceedings.
22 And so if you have thoughts on how we could involve them in
23 the rulemaking process we'd be interested in hearing that.

24 Last question on this slide, "What should be the
25 Energy Commission's role in helping building owners obtain

1 tenant information for benchmarking?"

2 So one example would be the Energy Commission
3 could provide a template for a letter that building owners
4 would give to their tenants explaining that this is in fact
5 a legitimate request. And explaining why they are taking
6 up their tenants' time in doing this. If something like
7 that would be useful.

8 Or if you'd like the Energy Commission to stay
9 out of the way you can let us know that as well.

10 Now let's go to the next slide. And this is
11 specific to the case for nonresidential buildings with one
12 or two utility accounts. And these are just two paths:
13 when the customer requests to have the customer give their
14 -- when the building owner requests the customer to give
15 permission to have their data provided.

16 So and the questions are, "When a tenant chooses
17 to provide data what should the public disclosure
18 obligation be for the building owner?" And, "When a tenant
19 chooses not to provide data what should the public
20 disclosure obligation be for the building owner?"

21 So do we have comments or questions in the room
22 on tenant involvement?

23 MR. HARGROVE: So Matthew Hargrove again.

24 My question is that these questions seem to
25 presuppose that the building owner has to go to the tenant

1 to ask for release of the information. Is that just in a
2 situation where you're trying to involve the tenant?
3 Because my understanding is that primarily the way this
4 works is me as a building owner go to my utility that
5 provides service to the building and ask for release of the
6 information.

7 MR. JENSEN: So if I'm understanding the question
8 only for a nonresidential building with one or two utility
9 accounts is the utility allowed to require customer
10 permission before data is released.

11 MR. HARGROVE: Okay.

12 MR. JENSEN: So that is the case in which some
13 participation from the tenant is required. That's the only
14 case in which it's required.

15 MS. WADHWA: Sorry Erik, I have to interject.

16 Erik is incorrect. Tenant participation is also
17 potentially required above an aggregation threshold of
18 three to obtain operational characteristics. So if you
19 want an accurate score or an accurate benchmark to be
20 reported you need to be involving the tenants.

21 It is much easier to bypass them with the current
22 statute, but it is still not ideal.

23 MR. HARGROVE: So the operational characteristics
24 aside, I mean what has been the most hang-up on some of
25 this is getting the actual energy information.

1 So my concern is how this moves forward getting
2 the energy information to the building owner in those
3 situations where you have a triple net lease situation. Or
4 you have a building owner that's not a part of the
5 contractual obligations between the tenant and the utility.
6 That's always been the hang-up on all of this, right?

7 So I just want to make sure that as we move
8 forward the way that the statute is written is if the
9 building owner does get consent from tenants that's all
10 well and good, that helps the process move forward. That
11 might be something that some building owners might put in
12 their leases, moving forward. But if you do have a
13 situation where you don't get that consent or for whatever
14 reason the baseline of the mandate still is incumbent upon
15 the utility to provide that information upon request.

16 MS. WADHWA: So are you saying if the tenant in a
17 one or two service account situation does not consent are
18 you saying the statute interprets that data should still be
19 released to the building owner?

20 MR. HARGROVE: Well, no. If they don't consent
21 to us and it doesn't come from the utility, because that's
22 the old 1103 saw that we had right, then that's where the
23 question comes is then what happens?

24 MS. WADHWA: That's right. So that would be the
25 second slide.

1 Erik, could you go down one please? "When a
2 tenant chooses not to provide data what should the public
3 disclosure obligation be for the building owner?"

4 MR. HARGROVE: So that's where you get to the
5 situation where we would, at that point, the only public
6 disclosure that we can do is ask and answer. And if the
7 answer was no --

8 MS. WADHWA: No. It's possible the building
9 owner still has his own account information. And we would
10 provide guidance in our regulations what his obligations
11 are to then disclose the data pieces that he has available
12 to him. So he still has his own operational data. And he
13 also has default values available within Portfolio Manager
14 that he can use for the tenant's space. And he has his own
15 utility data.

16 MR. HARGROVE: That's not necessary.

17 MS. WADHWA: So I'm not saying I'm giving the
18 answer here I'm just saying that's why it's a scoping
19 question. We would determine it.

20 MR. HARGROVE: That's something to look at, but
21 that's not necessarily the case. There's many buildings
22 where the building owner doesn't have those -- access to
23 those informations in those types of buildings.

24 MR. JENSEN: So just to verify.

25 MR. HARGROVE: So (indiscernible) suppose that --

1 MS. WADHWA: Not even to his own energy-use data?

2 MR. HARGROVE: No. I mean, there's many
3 situations where it's a triple-net full-service lease
4 building where or -- I'm sorry. Where it's a triple-net
5 lease situation where the tenant will contract directly
6 with the utility and the building owner does not have
7 access to that information. That is why I just wanted to
8 clarify that.

9 And that again was the issue what we had a lot of
10 times with 1103. And that's where I would come to this
11 microphone a lot in saying, "We're letting the perfect be
12 the enemy of the good in moving forward with this
13 regulation." And you know, if we get stuck in some of
14 those eddies on this we're going to get bogged down again.

15 MR. JENSEN: Yeah, so Matt does question number
16 nine -- does that accurately represent your question or is
17 there a further clarification that you want to make beyond
18 this?

19 MR. HARGROVE: I think that -- well, the question
20 is what triggered my question.

21 MR. JENSEN: Okay.

22 MR. HARGROVE: Is where is staff looking at going
23 at in those very small situations where that happens? I
24 know that doesn't happen a lot.

25 And we want to make sure, you know there's a lot

1 of times is the tenant doesn't sign that consent form
2 because they don't want their information released. They
3 don't sign that consent form because their building or
4 their part of a company that's owned by an LLC somewhere,
5 that's owned by a REIT -- that they just don't feel they
6 have the ability or the authority to sign some consent form
7 that releases that information to the building owner.

8 So that's a whole different situation. That's
9 how that tripped us up a lot in the transactional piece of
10 this. And what we've always asked for on that side of
11 things is when a new customer signs up for service with a
12 utility build that consent into the sign-up for service.

13 And we know that that causes different issues for
14 the utilities and they're going to start throwing things at
15 me. But ultimately again I'm talking ten years down the
16 road here, is for the way the commercial real estate works
17 in those types of buildings those consent for service, you
18 know, they sign up. At least once a year they're paying
19 their bill to the utility and those consent for service
20 should be built into that side of the equation.

21 Not on the side where you have a third party
22 coming and saying, "Give me some information that you feel
23 is private."

24 MR. LEMEI: Can I ask a clarifying question?
25 You've used the term "triple net lease" a couple of times

1 and that's not a term I'm familiar with.

2 MR. HARGROVE: Yeah. That's a term we should all
3 know and love.

4 MR. LEMEI: Okay. No doubt.

5 MR. HARGROVE: Because that's a situation. So in
6 commercial real estate there's many different ways where a
7 tenant may lease a building. It's business to business
8 contracts, everything from there are full service leases
9 where the tenant doesn't pay for any of their utilities or
10 any of their janitorial service or anything like that to
11 triple-net lease on the other side where the tenant is
12 basically they move in and they're responsible for
13 everything.

14 MR. LEMEI: Okay. Thanks.

15 MS. WADHWA: Matt, could you do us a favor? And
16 I think you mentioned too, full-service leases and triple-
17 net leases. Is there any other mechanisms?

18 MR. HARGROVE: Yeah, there is.

19 MS. WADHWA: And you don't have to tell us right
20 now, but could you just give it in writing?

21 MR. HARGROVE: There's a million different
22 scenarios.

23 MS. WADHWA: Okay.

24 MR. JENSEN: Could you tell us what all million
25 of them are?

1 MS. WADHWA: Not in your comment -- in your
2 written comments.

3 MR. HARGROVE: It's just that that's been kind of
4 the issue on 1103 all along. Is the original statute as
5 written was a very "one size fits all" statute and that one
6 size that it fitted was basically an owner-occupied, large
7 building with a staff of energy consultants on staff that
8 can do all this stuff. That was the issue with that.

9 The reason why 802, we were very supportive of,
10 is because it gives flexibility to look at all these
11 different scenarios.

12 On the commercial side, again these are all
13 business to business transactions. It's not like renting
14 an apartment or renting a home.

15 It's depending on the -- if it's a shopping mall
16 there's a lot different considerations that goes on. When
17 you have a multi-tenanted shopping mall where you do have
18 common areas, you might have solar on the roof; some of
19 these transactions are kind of complicated. Much different
20 than if it's an industrial building or a warehouse. And
21 again that was a lot of the issues that we had 1103.

22 Somebody who is in your industrial warehouse
23 building might have a lot more issues with releasing their
24 energy information than the shoe store does in a shopping
25 mall. They're different types of businesses with different

1 concerns and issues.

2 And the big problem that we had a lot of times
3 with 1103 was that issue where your tenant was signing up
4 directly for service with the utility. At that point even
5 though I own or I manage the building I am not a part of
6 that contractual relationship. And that's kind here where
7 we are. You know, our first meeting that we had with PG&E
8 five years ago was that issue. And we kind of talked
9 around it. We had a bill that went in that tried to fix
10 that and we're back to that.

11 And what I'm saying is, is let's try and figure
12 that out and move forward, but let's let the reg be
13 flexible. There can be different ways that this can be
14 taken care of.

15 There's some buildings that don't use ENERGY STAR
16 at all in order to benchmark their buildings. There's a
17 lot of companies that have proprietary ways of benchmarking
18 and they might be able to do that on these one and two
19 buildings. So let's not get really, really focused in the
20 regs on some of these details, because there might be
21 multiple ways in order to meet the spirit of this.

22 And that was my question earlier in terms of the
23 utilities being able to just benchmark some of this stuff
24 if they have all the characteristics of the building in
25 providing that. That would be a situation where that might

1 be able to take care of some of these one and two tenanted
2 buildings by providing an ultimate benchmarking score and
3 some of the metrics that we need back without having to
4 deal with all the issues in terms of the information
5 transfer.

6 So we look forward to work shopping this more
7 often and being part of the stakeholder group.

8 MS: GRENE: Hi, good morning. My name's Hanna
9 Grene. I'm with Center for Sustainable Energy.

10 I so appreciate the opportunity to start a
11 discussion during our workshop today and look forward to
12 providing written comments or I should say continue a
13 discussion.

14 I wanted to address a few questions on Slide 20
15 there. Thank you, six and seven, in particular.

16 Six, first of all I just wanted to do a sort of
17 quick level setting on benchmarking from commercial real
18 estate in California. And remind all of us in the room,
19 even though I think we know this, we're in the weeds.
20 We're getting to the wonky details. But I think it's
21 relevant to know that the largest commercial real estate
22 management firms have or are benchmarking in ENERGY STAR
23 Portfolio Manager already.

24 You know, benchmarking is an industry standard
25 for I would say comfortably the largest three to five

1 management firms across this whole State. It's something
2 they do for all of their properties across owners. And in
3 fact, the top couple of firms have been recognized by EPA's
4 ENERGY STAR Program as ENERGY STAR leaders for years.

5 So some of these issues about obtaining
6 operational characteristics from tenants might be bigger
7 questions for smaller buildings, you know, towards the
8 50,000 square foot or for a sort of individually, not
9 professionally managed buildings. But I think the vast
10 majority of buildings covered under the public benchmarking
11 program are already obtaining operational characteristics
12 from tenants.

13 Of course, there are opportunities to improve the
14 process. And getting into number seven with the Energy
15 Commission's role I think having consistency and having
16 consistent, Statewide tools that can be drawn upon from
17 local governments with their own policies -- and from the
18 large commercial management and portfolio owners across the
19 State, who are going to have properties in different
20 utility territories -- having consistent tools that they
21 can use to reach out to tenants to do outreach is
22 fantastic.

23 I should say many of the large firms are already
24 taking that tenant outreach upon themselves, and reaching
25 out to their brokers and individual property managers, even

1 now.

2 I also think number seven is an opportunity where
3 we can learn from the successes of local government
4 policies. Within California looking at San Francisco, and
5 learning from some of the tenant engagement that they've
6 -- tools that they've provided and stakeholder discussions
7 that they've had and then looking at other cities across
8 the country.

9 MR. LEMEI: Thank you.

10 MR. JENSEN: Anyone else in the room?

11 All right, let's see who we've got on WebEx.

12 MR. WALSH: Are we on WebEx?

13 MR. JENSEN: Yeah, go ahead.

14 MR. WALSH: This is Randy.

15 MR. JENSEN: Randy, go ahead.

16 MR. WALSH: A couple of things on Slide 20. I
17 hear what Matthew is offering in terms of defining the
18 different kinds of lease agreements that may be in place.
19 I think it might be useful also for the CEC to come up with
20 a list of definitions that we can all agree on.

21 I think that in number six, my interpretation of
22 operational characteristics is related to the size of the
23 building, the type of the building.

24 The data that I need to collect from the tenants
25 is what I refer to as "occupancy characteristics."

1 MR. JENSEN: Let me interrupt for just a second.
2 So the categories of data that we need for a complete
3 benchmark, and the terms that we use at the Energy
4 Commission pretty commonly, are "building characteristics,"
5 "energy use data" and "operational characteristics."

6 And I think that the three things I mentioned
7 earlier, "number of employees," "hours of operating,"
8 "operational hours" and "number of computers," I think
9 those are pretty commonly referred to as "operational
10 characteristics."

11 And the things you mentioned, like type and size
12 of buildings are pretty commonly are referred to as
13 "building characteristics."

14 And so if I'm incorrect on that please do let me
15 know that in your comments, but I think we'd like to, at
16 least for the purpose of this workshop, stick with those
17 terms.

18 So sorry for the interruption, then go ahead.

19 MR. WALSH: Yeah. I find it's a little clearer
20 to break that out. And Ahbi seems to have answered my
21 question, but if there is specific language in 802 that
22 requires tenants to cooperate, then I think owners are
23 going to be fine with that.

24 I think something that's important to understand
25 is that real estate is a bundle of rights. And when these

1 lease agreements are signed owners are signing away some of
2 their rights to use the property or to gather information
3 about the property. And so in most cases there is no
4 contractual or legal requirement that these tenants provide
5 any information that the owner is asking for.

6 Hanna, I hear your comments about these big
7 operators already benchmarking. I'd like to also draw the
8 distinction between the established operating hours listed
9 in lease agreements by the time periods in which heat or
10 air conditioning will be provided. And the actual -- I'm
11 going to use my phrase -- occupancy characteristics of the
12 tenants, which according to ENERGY STAR Portfolio Manager
13 may or may not align with what's outlined in the lease.

14 So unless those big operators are actually
15 locking their building at 5:00 o'clock when the HVAC system
16 goes off, chances are good they're having to reach out to
17 every single tenant in their properties in order to get
18 accurate information, in order to accurately create the
19 profile in Portfolio Manager. So it has potentially a lot
20 of work.

21 So what Matthew was offering it sounded to me
22 like a lot of what your comments are related to -- the
23 collection of the energy use. And it seems like 802 has
24 resolved all of that. And that this question was not
25 related at all in to getting energy information. It sounds

1 like we've already got that piece worked out.

2 MR. JENSEN: So, yeah that's -- go ahead.

3 MR. WALSH: No, I think that might be all that I
4 had. Can you go to the next slide?

5 Oh, so just a reminder that the default values
6 are available in ENERGY STAR Portfolio Manager. I'm
7 assuming we have the same opportunity in 802 to make a
8 reasonable effort to collect the data and if it's not -- if
9 we can't collect it that we can use these default values.
10 So that being the case there's a process that needs to be
11 worked through.

12 MR. JENSEN: Let me interrupt, let me interrupt.
13 I wouldn't assume that. We'll clarify that through the
14 rulemaking process, but please go ahead.

15 MR. WALSH: I think it's important. And I'm
16 offering that to say that in some cases this may be
17 difficult and it may be time-consuming, but you can create
18 a project, you can create a profile. It will be as
19 accurate as the information that you have, but it is
20 possible to do that. Thanks.

21 MR. JENSEN: Thank you.

22 Okay, do we have -- okay, who is it?

23 Okay. Barry Hooper, go ahead.

24 MR. HOOPER: Hi. Yes, can we go back one slide
25 please? This is Barry Hooper with the City and County of

1 San Francisco Department of the Environment.

2 And in terms of encouraging tenant participation
3 in the rulemaking process one option might be reaching out
4 to organizations that more frequently have tenant
5 membership. A couple of examples that come to mind -- and
6 no, there is not a commercial tenant's organization that
7 comes to mind that exclusively focuses on that issue -- but
8 the U.S. Green Building Council local chapters, as well as
9 in San Francisco the Business Council on Climate Change,
10 are each groups primarily composed of business
11 organizations that are more frequently tenants than owners
12 or managers and have staff as well as participants with
13 some expertise on these topics.

14 So I think we'd be happy to help connect you,
15 connect the Commission staff with tenants groups that might
16 have comments.

17 And just as a closing comment, I do think this is
18 a rich discussion and I would just like to put in a note
19 that it is very valuable in implementing San Francisco's
20 ordinance that the building operating characteristics have
21 been part of what is collected by the building owner in the
22 course of benchmarking in order to provide really critical
23 context for the energy consumption information.

24 So I do think that this is a really great area
25 for continued thought that can't be fully delegated to the

1 utility.

2 MR. JENSEN: Great. Yes, we think so too. And
3 we certainly would like to take you up on your offer to
4 connect us with groups that could get us in touch with
5 tenants.

6 MR. HOOPER: Great.

7 MR. JENSEN: Laith, anyone else?

8 All right, let's see. Why don't we go ahead and
9 take lunch now. And we will return at 10 minutes after
10 1:00, so that's an hour and a half.

11 Thank you and we will all see you then.

12 (Off the record at 11:42 a.m.)

13 (On the record at 1:20 p.m.)

14 MR. JENSEN: All right, folks thanks for your
15 patience. We're going to start in about three more
16 minutes.

17 All right folks, we're going to go ahead and get
18 started. Sorry for the delay, but here we go. Okay, so
19 before the break we talked about tenant involvement. And
20 now we're going to get into disclosure to the Energy
21 Commission and the public.

22 So I think we'll go through these two slides.
23 We've got two slides on this topic and then we'll take
24 questions after going through both of them.

25 So the first question is, "What is the easiest

1 way for a building owner to get the benefits of
2 benchmarking?"

3 So we want you to interpret this question very
4 broadly. The general idea here is that we want building
5 owners to have information on the performance of their
6 buildings, and then understand the importance of this
7 information.

8 So the point of this question is to get our
9 program design so the standard model for a benchmarking
10 program is for the building owner to be responsible for
11 entering building characteristic information, get the
12 energy use information from the utilities, and enter
13 operational information. So that's certainly one option.

14 Another option would be the Energy Commission
15 getting -- entering the building data from a real estate
16 information service -- getting energy use information from
17 utilities. And then the building owner, the only required
18 participation from building owner as far as getting the
19 data entered would be for getting the tenant usage
20 operational characteristics.

21 So with the first method I mentioned, with the
22 building owner being the primary actor that requires the
23 engagement of the building owner. And so they are very
24 aware of the process. And all of the information is
25 passing through them, so they are familiar with it.

1 One of the drawbacks of this method is that they
2 need to become at least familiar enough with Portfolio
3 Manager to do this. And so Energy Commission resources
4 would be needed just to help with guiding the building
5 owners through compliance and not toward sort of explaining
6 the importance of this information with the option of
7 having the Energy Commission perform most of the movement
8 of data.

9 There's a risk that the building owner would be
10 not as engaged, particularly if the Energy Commission does
11 a poor job of outreach and education, so that's -- of
12 course, would not be our plan. That's the possibility
13 though.

14 So those are just a couple of options. I think
15 Matt Hargrove mentioned the possibility of having utilities
16 do the benchmarking. And so these are all options we'd
17 like you to consider. And if you've got other suggestions
18 we would like to hear those as well.

19 Next question, "Is annual disclosure to the
20 Energy Commission appropriate?"

21 This is just about the frequency of disclosure.
22 Our suggestion is that it is appropriate. If building
23 owners feel that it's an onerous enough obligation that it
24 should be less frequent than annually, we'd like to hear
25 that.

1 Last question, "When should a building's
2 benchmark first be publicly disclosed?"

3 So what we're talking about here is there will be
4 a delay of some time between when a building owner first
5 submits data for a building to the Energy Commission and
6 when that building's information is made public.

7 For example, say if a building owner gets a low
8 score on their building and they're interested in making
9 improvements to their building, and having their improved
10 score be what is publicly disclosed, they would need enough
11 time to make their improvements. And then have their
12 energy usage reflect the improvements. And so this is just
13 so how far from the first disclosure to the Energy
14 Commission do you think it should be until the Energy
15 Commission discloses the score for that building?

16 Next slide is monthly weather-adjusted energy use
17 intensity appropriate for public disclosure. So the
18 frequency -- that's the low granularity -- is that
19 appropriate for -- and we're interested in all the
20 perspectives on whether that is sufficient for decision-
21 making purposes and whether that is sufficient to -- not
22 too intrusive into the privacy of individual tenant data.

23 "What unique program elements would lead to
24 higher rates of energy efficiency improvements and program
25 compliance?"

1 So I'd like you to define compliance however you
2 like. So if sort of on one end is simply if a building is
3 entered in the program at all some might consider that
4 compliance. Sort of the other extreme would be having
5 every building in the program with all data entered and all
6 of that data verified as accurate. So that's sort of one
7 continuum of what could be meant by compliance.

8 Another perspective is building improvements, so
9 it may not -- so traditional compliance there's kind of the
10 continuum that I just talked about. But another
11 perspective is toward measuring the success of the program
12 is how many building improvements are being made.

13 So that's certainly -- you know, as I shared the
14 quote from the statute at beginning -- that the purpose of
15 this program is to provide building owners with
16 information. And so if they have that information and if
17 they're making improvements that's really what we're going
18 for ultimately.

19 And so that's what this question is about. "How
20 should public disclosure of building benchmarks be used to
21 drive real estate demand for energy-efficient buildings?"

22 So I mentioned earlier that we're interested. We
23 do not want to interfere with real estate transactions, but
24 we certainly do want this information to be available, and
25 for prospective purchasers or tenants to be able to look at

1 when considering along with other aspects of the building.

2 So the information on buildings will be available
3 on a website that buyers are welcome to go look at. This
4 question is about, "Should there be something more? Is
5 there a better way to get that information in front of
6 these prospective buyers and tenants, so they can have this
7 be a more apparent metric that they can look at?"

8 So those are the slides on disclosure to the
9 Energy Commission and public. Do we have questions or
10 comments in the room?

11 MR. COSTA: Hi, Marc Costa from the Energy
12 Coalition. If you go back on that slide, just a couple
13 quick questions, I think maybe forward one.

14 One thing that seemed very helpful in some of the
15 Southern California discussions around benchmarking
16 ordinances have been about maybe allowing a one-year time
17 until there is disclosure that may not be public. And then
18 the second round of disclosure would be made public just in
19 case you want to improve your score or you want to do
20 something like that to really give help out to the tenants
21 and the building owners.

22 But when we had that first question on the slide,
23 it just popped in my mind saying, "Well, what are we
24 defining as building? Like what is going to be this
25 covered facility?" And so I was just curious to the

1 Commission what's our definition of that, so that we can
2 really be on the same page?

3 MR. JENSEN: Yeah. Thank you for bringing that
4 up. That's not as obvious as it first might seem and
5 that's something that we need to clarify in our --
6 certainly prior to releasing our draft regs. If it looks
7 like -- and so hopefully we'll hear about this in the
8 comments -- if it looks like a standard dictionary
9 definition of "building" isn't sufficient for the regs
10 we'll certainly need to clarify that further. So thank you
11 for bringing that up.

12 MR. COSTA: Okay.

13 MR. HARGROVE: Matthew Hargrove with the
14 California Business Properties Association, just two quick
15 comments on this.

16 One, in many respects a lot of my members would
17 say, "Disclose as soon as possible." A lot of our members
18 are very large companies that are already doing this stuff.
19 The quicker that we start disclosing the quicker we're able
20 to distinguish that our buildings are way more efficient
21 than other buildings.

22 But the Energy Commission might want to think
23 through what that does to the market, what you're doing to
24 smaller building owners that aren't necessarily currently
25 doing this stuff. If you rush into this are you putting

1 them at some type of competitive disadvantage that they
2 hadn't thought through? There's nothing in the legislation
3 that prioritizes this, so I would say do it in a manner
4 that actually makes sense for what the actual goal of the
5 program is. And if that's rolling it out in some way that
6 just hurts small building owners and continues along with a
7 lot of other policies in California that have small
8 companies sell their buildings to larger companies just
9 think through the economics of that.

10 And then more generally I would say, don't move
11 towards the disclosure program until you've got the actual
12 benchmarking piece of this working.

13 I think a big piece of why 1103 kind of went
14 sideways in a lot of the discussions was that mention of
15 putting red bears and green bears in people's doorways was
16 there from the very beginning of that conversation before
17 the basic parts of that regulatory program was in place,
18 before people were even comfortable doing the benchmarking
19 that had never done benchmarking before. They immediately
20 were thinking, "Oh, my gosh. I've never benchmarked and
21 now I'm going to be judged on benchmarking?"

22 So part of this would just be do it when the core
23 parts of the program are working and the benchmarking's
24 well and folks are comfortable with it. This is a
25 statewide program in the largest state in the nation, so

1 don't put the proverbial cart in front of the horse.

2 MR. JENSEN: Thank you.

3 Go ahead, Abhi.

4 MS. WADHWI: Hi Matt, this is Abhi. I just
5 wanted to address what you've said. I think we are on the
6 same page. In case it wasn't clear through the way we
7 framed our questions --

8 Erik, could you go one slide up? No. One slide
9 down, sorry. Okay.

10 So when we asked this question, in sequence to
11 each other, "Is annual disclosure appropriate and when
12 should what is disclosed be made public?" that's kind of
13 our thinking too.

14 As you know, this program draws highly from our
15 anticipated vision for the public benchmarking program that
16 we put down in the Energy Efficiency Action Plan. And in
17 that we did conjecture that we would want to give building
18 owners a chance to make improvements before their score is
19 made public or before their benchmark is made public. So
20 that's exactly the thinking here.

21 What we want to hear in your comments is, "How
22 much time is appropriate?" So if the disclosure is being
23 made annually to the Energy Commission in thinking through
24 it we'd realized well, if they then take a year to take
25 decisions, contract out, get their building improved, then

1 it will take another year after that for the data to show
2 improved benchmark, because 12 months of data would make
3 one annual benchmark.

4 So it kind of ties to the question of, "Is a
5 monthly weather-adjusted energy use index then the
6 appropriate thing to disclose?" so that you're not tied
7 into that one-year cycle.

8 If you were only disclosing annual benchmark then
9 we would have to wait, not just one year in which they
10 would make the improvements, but then another year for
11 their data to collect before those improvements would
12 reflect. So those are the kind of thoughts we are looking
13 for you to give us. I totally understood that it's a new
14 program and making the benchmark public the first time the
15 building owner has done it, is not the most prudent way to
16 go.

17 And Matt, one more thing -- you mentioned smaller
18 building owners. And then you mentioned let the benchmark
19 itself be successful before you turn it into a public
20 disclosure program. I'm wondering how would we know,
21 because it's not like if they are benchmarking privately.
22 And if they are below the public disclosure requirement
23 threshold, then how would we be made aware whether they are
24 now on the path to benchmarking?

25 MR. HARGROVE: I don't know the answer to that.

1 I guess what we would advocate though is just don't rush
2 into it. Just to rush into a disclosure just to have
3 disclosure, just to have a website up. Don't have public
4 shaming be your first step on this.

5 Of course, I'm here representing industry. And
6 again, I want to make the distinction that many of my
7 members are ready to go with this right now. A lot of the
8 big companies that were mentioned earlier, the folks that
9 have very large portfolios in California don't have any
10 problem with this, didn't have a problem with 1103. Where
11 you get the issue here is kind of at the margins and with
12 some of the buildings in the portfolio.

13 So our only caution with this is just -- and it's
14 a judgment call on your part and we know you're going to
15 make that judgment call -- is think through the issue and
16 just don't jump too quickly to the public shaming piece of
17 this. Get the reg up and running, get some data in.

18 And I know you need to write regs now, that you
19 probably want to put that in your time horizon of when the
20 disclosure happens. And I don't have an answer for that
21 except to say use some judgment and think through some of
22 the things here.

23 If you have public shaming starting in three
24 years that's not going to help, I think, the core of this
25 program. And overall I don't think it's going to help

1 drive energy efficiency improvements. It's going to cause
2 a lot of folks to slam their desks and say, "This is
3 another crazy government regulation. What's going on
4 here?" And I do think that we would love to partner with
5 the Energy Commission as we had been doing on this to make
6 sure that we get the information out there.

7 You know, the 1103 -- you guys, we tried to roll
8 that out with the bigger buildings first and we tried to
9 move it to the smaller buildings and it never worked out.
10 But I think that that phasing that you guys had done there
11 was kind of the right general approach. And it's just
12 figuring out how to make that happen.

13 We want to be there supporting every step of the
14 way. Most of the members of BOMA, CBPA, ICSC are again
15 doing this, believe in it. Even before 1103 was a mandate
16 we were telling people, "You've got to do it. You're in
17 California. First of all you're going to have to do it
18 pretty soon, but it just makes good business sense." So
19 it's that intersection of where you make that good business
20 sense cross with the policy goals here.

21 And we know you want a piece of this to go
22 along a lot of folks that are going to do this on the
23 natural, right? We know that that's a piece of this. And
24 we want to help make that happen without our phones ringing
25 off the hook saying, "That this is crazy and we can't do

1 this. And we can't get consultants here and we can't get
2 the information" and all that.

3 So that -- it was just a caution.

4 MS. WADHWI: Okay. Thank you. Thanks Matt. And
5 again, thank you so much. I think we are on the same page.

6 I believe I speak for the Commission when I say
7 that our general policy stance is carrots, not sticks. We
8 want to encourage compliance through education and making
9 building owners see the business benefit of it instead of
10 saying, "We are going to come after you with a hammer,
11 because you didn't do it." Definitely, thank you.

12 MR. CHANGUS: Jonathan Changus with the Northern
13 California Power Agency again. I want to echo Matt's
14 comments about figuring out the issues that need to be
15 addressed for equipping building owners with energy usage
16 data as a separate, and probably a more doable in the
17 short-term process compared to the public disclosure piece.

18 And that's where we, as he mentioned, we ran into
19 a bust on 1103. I think that there's distinct and separate
20 issues between those two. And that there is a higher level
21 of comfort of being able to work with building owners and
22 what they can do with their building versus then trying to
23 make that into a public bit where we open up a whole other
24 can of worms. And so I think that's a really good point.
25 And we look forward to working on that.

1 And then I think from a process standpoint what
2 does that like in needing to promulgate regs? I think, as
3 we discussed, they really are two separate programs and so,
4 being able to finalize them before it with one might be the
5 way to go.

6 I think there's also a really important
7 conversation about how this is actually used later on. You
8 know, how does it interact with ever-increasing and more
9 stringent nonresidential codes and standards on which
10 additional permits are going to be need to be pulled to do
11 certain things in order to satisfy more RECIP (phonetic)
12 codes. And so now we know we have a building that needs to
13 be improved, but what does the process look like for them?

14 I think that's another area down the road of,
15 "Yes, it's important to get this information, but how then
16 do we move on it?" And what are some of the other programs
17 that may be touched by it?

18 So in summary we will express this more in
19 written comments, focusing more on what needs to happen to
20 equip the building owners with their energy usage data as
21 kind of a short term. And we're then going to have to
22 spend some time thinking about the far more complicated
23 issues that come with public disclosure.

24 MR. JENSEN: Anyone else in the room?

25 Okay, do we have anyone on WebEx? Anyone on

1 WebEx, if you'd like to make a comment go ahead.

2 MR. WALSH: This is Randy. No comment.

3 MR. JENSEN: Noted, thank you.

4 Okay, last call, anyone on WebEx?

5 All right, moving right along, so that concludes
6 the scoping questions.

7 We have a fairly concise list here of things that
8 we specifically want utilities to address in their
9 comments. And they are as follows.

10 "How many covered buildings are in your service
11 territory?" And we'd like multi-family, mixed-use, and
12 nonresidential numbers separately.

13 "What is your anticipated cost for fulfilling
14 data requests with Portfolio Manager, data exchange
15 services and with manual upload to Portfolio Manager?"

16 So this second option is only for utilities that
17 don't have a connection to Portfolio Manager or are not
18 planning to create such an option in the near future.

19 We would like to understand from utilities that
20 aren't yet connected to Portfolio Manager what your cost
21 effectiveness would be for -- whether you have a cost-
22 effectiveness argument for one method or the other, whether
23 a connection to Portfolio Manager or not doing so. And
24 we're interested in seeing how your costs were derived that
25 you provide.

1 "What aggregation protocols do you plan to use?
2 Please provide technical specifications if developed."

3 An example of what we're talking about here is in
4 a building with, say five utility accounts if the --
5 assuming the building cycles for the five accounts are not
6 aligned, you would need some method for being able to
7 provide monthly numbers until you can break up the billing
8 cycles for each account however you wish as long as it will
9 get the aggregated data that the building owner has
10 requested. So we're interested in seeing what your method
11 for doing this is.

12 And lastly, "What is your implementation plan for
13 matching buildings to meters by January 1, 2017?"

14 So please, in addition to all of the slides we
15 just went through these are four specific requests that
16 we'd like utilities to address. And I'm going to move on.

17 And then so for everyone, including utilities,
18 please respond to whichever scoping questions apply to you.
19 If you've got anything else that you would like to include
20 in the comments that we haven't thought of we're very
21 interested in hearing that as well. So please go ahead and
22 do that.

23 And now we are going to the open comment period,
24 so if there's anything that didn't get covered on any of
25 the previous slides -- and it looks like we've got at least

1 one.

2 MR. CHANGUS: Jonathan Changus with the Northern
3 California Power Agency. Just going back to those utility-
4 specific questions are those comments you're hoping for us
5 to provide by the 24th?

6 MR. JENSEN: Yeah, so I want to talk about this.
7 So we can certainly extend the deadline and it
8 looks like that would be good. I realize you're just
9 seeing this for the very first time now. Do you have any
10 thoughts on how long you would ideally have to provide
11 responses to these?

12 MR. CHANGUS: Yeah. I'd have to check with the
13 members, the holiday season being what it is. It's
14 important and we want to get it going. We know the CEC is
15 anxious to move, so we definitely don't want to be left
16 behind per se, but those are very specific questions that
17 we're just seeing. So it's going to vary between the
18 utilities about how many of them have investigated this
19 more fully, having represented utilities that are not part
20 of the big five here in California.

21 MR. JENSEN: Sure.

22 MS. WADHWI: Jonathan, I don't mean to put you on
23 the spot, but I just want to remind you hopefully within
24 the organizations that you work with hopefully they are
25 already working on these questions, because we asked them

1 at the AB 1103 Pre-rulemaking Workshop in August, as well.
2 And this is not to put you on the spot. This is just these
3 questions were raised at that workshop and technically the
4 comment period for that is also still open.

5 And Martha and I had requested to please submit
6 your cost analysis, because it will be helpful for us to
7 make the decisions. And we are fortunate that some aspects
8 of both these programs are similar and if any work is being
9 done, because those comments are anticipated then you would
10 hopefully be easily able to tap into that.

11 MR. CHANGUS: Yeah, happy to respond to that. I
12 think there was a lot of confusion about the future of AB
13 1103 with the passage of AB 802. I think a lot of
14 utilities are looking into this absolutely, but there was
15 also a suspension, there was a delay in comments to January
16 1st when AB 1103 would essentially be phased out. So yes,
17 we are absolutely taking a good long, hard look at some of
18 this. But I don't know how much that is pulled together
19 and ready to be provided by the 24th.

20 MS. WADHWI: Definitely we will extend the
21 deadline. Any rough guess, I mean we're not going to hold
22 you to it, but another month or any number that we should
23 work towards? Like should we go for December 31st to
24 extend the comment period?

25 MR. CHANGUS: That would be better than 11/24.

1 MS. WADHWI: Okay.

2 MR. CHANGUS: We'll follow up shortly with what
3 we think is possible. I need to touch base with the
4 members.

5 MS. WADHWI: Thank you.

6 MR. HARGROVE: Thank you, Matthew Hargrove, again
7 with CBPA. I just want to take the opportunity under open
8 comments to really thank the CEC staff and the CEC. I
9 don't think we would be at this point without all of you
10 here understanding that the statute on 1103 wasn't working
11 in the way that we thought it had, we thought it was going
12 to.

13 The new language in the statute, we think is
14 fantastic in terms of not giving us everything we've asked
15 for over the years, but setting up a situation that we can
16 at least come here and make the case with the Energy
17 Commission. We've been telling our members that the
18 statute has been changed and it makes it possible now for
19 us to engage with the State. And really have California
20 have a benchmarking, statewide law that works for all of
21 our industry on the whole. It's never going to work for
22 everyone, but we do think that we're in a much better spot
23 than we were under the previous statutory language.

24 On our side of things just because we have so
25 many different types of leases and stuff sometimes it might

1 sound like we have different opinions depending on what
2 companies I'm talking about. On the whole, we're very
3 supportive of this. Again, we thank the CEC.

4 The fact that this is no longer, at least
5 statutorily connected to the real estate transaction, we
6 think is huge. And we think that that is in and of itself
7 is going to end up more energy savings than anything else.

8 The way the previous law was written it only
9 focused on commercial real estate properties that were
10 being actively managed, bought, and sold. So all of those
11 properties that all of us know need to have energy-
12 efficient improvements that aren't being sold, aren't being
13 refinanced. They will no longer be just atrophying under
14 this law. And we think that the CEC and the utilities will
15 be able to reach those building owners and get them to
16 participate. And really, that's a good thing.

17 So again, on behalf of all of our groups thank
18 you for letting me come up to the podium five times and
19 speaking on this. We look forward to working with you on
20 the stakeholder processes and are feeling much better about
21 moving forward with this. And think our state can really a
22 shining example here. Thank you.

23 MR. JENSEN: Thank you.

24 Anyone else in the room? All right, let's see
25 what we have on WebEx.

1 MR. WALSH: This is Randy.

2 MR. JENSEN: Go ahead.

3 MR. WALSH: I hear what Matthew is saying and I
4 appreciate where he's coming from. But I think, overall,
5 this is a huge step back.

6 There was no reason to repeal AB 1103, it was
7 very specific language in very specific situation. I was
8 able to personally benchmark millions of square feet of
9 property throughout the state of California, in compliance
10 with AB 1103, with all of the barriers and challenges that
11 existed. And I'm not aware that I held up a transaction at
12 any point in time.

13 I think the giving up of the private disclosure
14 and now moving toward a public disclosure makes this a
15 completely different program. I don't think there was any
16 reason to give up on AB 1103. If the CEC and the CBPA were
17 able to get in front of a Legislature -- legislator as
18 quickly as they were -- to repeal one program and create
19 another program I think it would have been incumbent on
20 them to bring that same energy and take advantage of that
21 same opportunity to have improved AB 1103. Just because it
22 was a different kind of a program than what was out there.

23 I also want to register my objection to there
24 being no energy use disclosure program for a full year. I
25 see in some of Commissioner McAllister's press that has

1 gone out he's talking about the economic benefits. You
2 closed a number of us down. And I understand there's a
3 bias against us consultants trying to assist in this
4 process, but it's a reality.

5 We're here, we've been building our businesses,
6 we've been building our expertise, we've been counseling
7 members of the real estate community on the advantages of
8 compliance. And it just feels like there's been no
9 recognition of that effort whatsoever.

10 You guys have your own records about how many
11 millions of square feet benchmark energy use. Overall,
12 it's not what anybody wanted. But if you take into
13 consideration all of the difficulties we had in that
14 program I would say it's not such a bad start. And it's
15 unfortunate that that whole project was scrapped.

16 And again, a number of us are going to face some
17 pretty dire economic circumstances now. I think that's
18 unfortunate.

19 I think another element of this is I think you're
20 generally basing your assumptions that things are going to
21 happen once people have this information. And that if you
22 could only get this information in front of them, they'll
23 make these different decisions. I would put this back on
24 even EPA.

25 There are some situations where an owner has

1 significant enough control over a piece of property that
2 they can implement the changes that are going to improve
3 energy efficiency and where that owner is going to see a
4 benefit. Now if he's talking about triple-net leases, for
5 the most part the owner has no concern whatsoever what the
6 utility costs are. None of it being competitive in the
7 market, these are not costs that hit his bottom line or her
8 bottom line. These are costs that are contained within the
9 operating of the property. These are CAM costs that are
10 passed back to the tenants.

11 And I think this is an important distinction,
12 because I think there is this misperception that all the
13 owners are just waiting for the right piece of information
14 to be able to undertake these programs. There are, again,
15 contractual and legal barriers to them being able to have
16 control of quite a bit of their property once they sign
17 those lease agreements. Some of you will recognize that as
18 a split incentive. It exists, it's real. And I would
19 suggest that that's the biggest impediment to energy
20 efficiency improvement in these buildings.

21 MR. JENSEN: Okay. Thank you, Randy.

22 Do we have anyone else on WebEx?

23 MR. WILLIAMS: Yes, you do. You have Rick
24 Williams, with CommEnergy. Can you hear me?

25 MR. JENSEN: Yes, I can.

1 MR. WILLIAMS: Great, okay.

2 Well, I also built my business on AB 1103. It
3 was a bit of a shock when it got repealed. But I'm looking
4 forward to working with 802 in developing it and getting
5 through the education and certification.

6 But if we take a look at some of things that were
7 not good about 1103 -- for one, let me establish a big,
8 high ceiling -- the goal is to increase energy efficiency
9 and therefore have more people doing Portfolio Manager and
10 actually managing the energy out of their buildings. AB 11
11 fell short on that, because I did way over 200 different
12 profiles yet maybe I transferred 5 of these benchmarks on,
13 so that the new people would use them. So in terms of that
14 it didn't really work.

15 What I do look forward to with the 802 is the
16 fact that it promoted from the State, not just in legal
17 jargon that comes down to your lawyer, but actually
18 benefits: benefits to the owner, benefits to the realtor
19 in setting the guide. I went around teaching classes to
20 realtors all about making benchmark in the new CRE
21 (phonetic) tool. And that's what it was, it was going it
22 that way, and it will turn around here when it does.

23 But I think what we really need to do is work
24 with the owners and give them incentivized value why they
25 would want to do this, other than just being energy

1 efficient.

2 And to work with the title people who were
3 totally not in play with this, go work with them and get
4 them on board.

5 So with all that said let's move forward. I look
6 forward to additional comments. Thank you very much.

7 MR. JENSEN: Great. Thank you, Rick.

8 Anyone else on WebEx?

9 MR. HOOPER: This is Barry Hooper in San
10 Francisco. Just wanted to thank the Commission and
11 Commission staff for a really well organized discussion
12 today and looking forward to this program as it moves
13 forward.

14 MR. JENSEN: Great. Thank you, Barry.

15 Anyone else?

16 (No audible response.)

17 All right, so on the question of when comments
18 are due. For right now, let's leave this date up and I'll
19 talk with utilities and utility representatives about what
20 date might be more appropriate. We've got -- as I
21 mentioned we want to have our draft regs in place by late
22 January. And so it certainly does seem worthwhile if we
23 can -- to give you the opportunity to provide more informed
24 comments for us to work with.

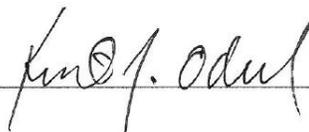
25 So we'll go with this for right now, because I

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