

DOCKETED

Docket Number:	15-OIR-05
Project Title:	Building Energy Use Disclosure and Public Benchmarking Program Mandated under Assembly Bill 802
TN #:	212777
Document Title:	Southern California Edison Company Comments: Southern California Edison Company's Comments on Staff Proposal for Draft Regulations Regarding Building Energy Use Data Access, Benchmarking, and Public Disclosure Provisions of AB 802
Description:	N/A
Filer:	System
Organization:	Southern California Edison Company
Submitter Role:	Public
Submission Date:	8/12/2016 4:09:24 PM
Docketed Date:	8/12/2016

Comment Received From: Southern California Edison Company

Submitted On: 8/12/2016

Docket Number: 15-OIR-05

Southern California Edison Company's Comments on Staff Proposal for Draft Regulations Regarding Building Energy Use Data Access, Benchmarking, and Public Disclosure Provisions of AB 802

Additional submitted attachment is included below.

BEFORE THE CALIFORNIA ENERGY COMMISSION

In the matter of:

Building Energy Use Disclosure Program

Docket No. 15-OIR-05

RE: Building Energy Use Data Access
and Public Disclosure Provisions of
AB 802 (Williams, Chapter 590,
Statutes of 2015)

**SOUTHERN CALIFORNIA EDISON COMPANY'S COMMENTS ON STAFF
PROPOSAL FOR DRAFT REGULATIONS REGARDING BUILDING ENERGY USE
DATA ACCESS, BENCHMARKING, AND PUBLIC DISCLOSURE PROVISIONS OF
ASSEMBLY BILL 802**

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Dated: **August 12, 2016**

BEFORE THE CALIFORNIA ENERGY COMMISSION

In the matter of:

Building Energy Use Disclosure Program

Docket No. 15-OIR-05

STAFF WORKSHOP

RE: Building Energy Use Data Access
and Public Disclosure Provisions of AB
802 (Williams, Chapter 590, Statutes of
2015)

**SOUTHERN CALIFORNIA EDISON COMPANY’S COMMENTS ON STAFF
PROPOSAL FOR DRAFT REGULATIONS REGARDING BUILDING ENERGY USE
DATA ACCESS, BENCHMARKING, AND PUBLIC DISCLOSURE PROVISIONS OF
ASSEMBLY BILL 802**

I.

INTRODUCTION

Southern California Edison Company (SCE) respectfully provides the following comments on the California Energy Commission (CEC) staff’s proposed draft regulations to implement the building energy use data access and public disclosure provisions of Assembly Bill (AB) 802 (Williams, Chapter 590, 2015 Cal. Stats.), and the supporting information presented at the workshop held on July 22, 2016.

SCE generally supports CEC staff’s proposed draft regulations, with certain modifications as addressed below. Specifically, SCE recommends:

- Removing Section 1680(m)(1) as an exception to the definition of “Utility Account;”

- Removing Section 1681(b)(4)(A)(i)(2) requiring the Utility to notify the customer of the Building Owner’s request for the customer’s energy usage data; and
- Adding a third Building Owner violation category to Section 1683(a).

II.

DISCUSSION

A. Section 1680 - Definitions

Section 1680(m) defines a “Utility Account” for purposes of these proposed regulations as “[a]n agreement between a Utility and its customer to provide Energy to a pre-determined location subject to the following [two] exceptions.” The first exception provided in section (m)(1) states: “[w]here multiple postal addresses within a building are served by the same Utility Account for a single Energy type, those separate postal addresses will be deemed to be separate Utility Accounts.” However, SCE is concerned that this definition may result in a significant opportunity for a breach in data privacy and inappropriate disclosure.

Depending on the way the building is configured for electric service (specifically, in the case of master-metered buildings or other types of buildings where multiple tenants are served by a single meter), the Utility may not be able to independently verify the number of specific postal addresses (*i.e.*, tenants) within the building that are served by a single meter. In this case, the Utility would have to rely on the Building Owner or Owner’s Agent for information on the number of postal addresses within the building, essentially relying on the Building Owner or Owner’s Agent’s “self-certification” of the number of Utility Accounts within the building. Because the number of Utility Accounts governs the proper method for disclosing Energy use data (*i.e.*, whether the Utility must obtain tenant consent or simply aggregate the data), the Utility runs the risk of unintentionally violating Section 1681(b) and breaching data privacy laws if the Building Owner or Owner’s Agent provides inaccurate or false information. Therefore, SCE recommends that Section 1680(m)(1) be removed from the proposed regulations.

B. Section 1681 – Data Access

Section 1681(b)(4)(A)(i)(2) states: “In the absence of such a lease or waiver, the Utility shall notify the customer within 14 calendar days of receiving a data request that the customer’s Energy use data has been requested by the Building Owner or Owner’s Agent, and ask whether the customer allows the Utility to share his/her Energy use data with the Building Owner or Owner’s Agent. For buildings subject to subdivision (b)(4), the Utility may only share the Energy use data with the Building Owner or Owner’s Agent if the customer has provided permission.”

Requiring the Utility to notify the customer will result in costly system and process changes for SCE. Postal mail will be SCE’s default means of notification, since SCE does not currently have a comprehensive database of electronic (e-mail) contact information. It is also anticipated that only a small percentage of customers will view and respond to the notifications from the Utility.

Therefore, SCE recommends that Section 1681(b)(4)(A)(i)(2) be removed from the proposed regulations. Alternatively, SCE recommends that Section 1681(b)(4)(A)(i)(2) be modified to have the Utility work with the Building Owner or Owner’s Agent to facilitate the process of obtaining the appropriate customer permission, instead of requiring the Utility to notify the customer directly. For example, upon receiving a request for Energy use data from a Building Owner or Owner’s Agent, the Utility could provide a letter template and prepopulated Customer Information Standardized Request (CISR) form (*e.g.*, SCE CISR Form 14-796) – or similar form authorizing a third party to receive customer information – to the Building Owner or Agent to obtain the appropriate permission directly from their tenant(s) in the absence of a previously executed lease provision or waiver. This approach would increase efficiency in the process by eliminating the notification period (14 calendar days plus possible additional time waiting on the customer’s response to the notice), and would also eliminate the risk of customer non-responsiveness.

C. Section 1683 – Violations and Enforcement

Pursuant to the requirements imposed by these proposed regulations, there are many instances in which the Utility must rely solely on the information provided by the Building Owner or Owner’s Agent to determine if Energy use data can be shared with them. Utilities may not always have the necessary information to verify the information provided, exposing the Utility to liability in the event of an inappropriate disclosure (particularly customer-sensitive information) based on such information. Therefore, SCE recommends that the following (or substantially similar) language be added to Section 1683(a):

(3) Intentionally sharing incorrect or incomplete data with a utility.

SCE notes that the addition of this language eases some of its concern with Section 1680(m)(1) (as described in Section II.A., above); however, even with the addition of this language to Section 1683(a), SCE still recommends removing Section 1680(m)(1) from the proposed regulations.

III.

CONCLUSION

SCE appreciates the opportunity to provide comments on the CEC staff’s proposed draft regulations. SCE looks forward to continuing to work with the CEC, the other utilities, and other interested stakeholders in developing the regulations to implement the building energy use data access, benchmarking, and public disclosure provisions of AB 802.

Respectfully submitted,

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August 12, 2016