

## DOCKETED

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*Comment Received From: Debran Jones Reed*

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*Docket Number: 15-OIR-05*

**Resubmittal of SDG&E and SoCalGas Comments Docket 15-OIR-05 AB 802 Bldg Energy Use**

We herewith resubmit our comments filed earlier today to include the proper attachment to our letter. Please replace the previous document with this one. Thank you.

*Additional submitted attachment is included below.*



Heidi Barsuglia  
Director  
State Governmental Affairs

925 L Street, Suite 650  
Sacramento, CA 95814  
(916) 492-4244  
hbarsuglia@semprautilities.com

RESUBMITTAL: 4:39pm (Deleting previous incorrect attachment)

August 12, 2016

California Energy Commission Dockets Office, MS-4  
Docket No. 15-OIR-05  
1516 Ninth Street  
Sacramento, California 95814-5512

**RE: Docket: 15-OIR-05.** San Diego Gas & Electric Company and Southern California Gas Company  
Comments to Responses to the July 8, 2016 “Staff Proposal for AB 802 Draft Regulations”

The Sempra Energy Utilities, San Diego Gas & Electric (SDG&E) and Southern California Gas Company (SCG), respectfully submit these comments on the Commission Staff’s, “Staff Proposal for AB 802 Draft Regulations.” SDG&E and SCG also appreciate the AB 802 workshop held on July 22, 2016, 2016 that allowed for a better understanding of the proposed regulations. Our comments are organized by the proposed regulation sections to facilitate staff review.

We appreciate your consideration of these comments.

Yours sincerely,

SAN DIEGO GAS & ELECTRIC COMPANY  
 SOUTHERN CALIFORNIA GAS COMPANY  
 Building Energy Use and Public Disclosure Program Mandated Under Assembly Bill AB 802, TN #212341  
 AB 802 Draft Regulations Initial Staff Proposal Jul 22 2016 Workshop  
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	Reference	Comment	Recommendation
1	1680(a), 1681(b)(2), 1682(c)(1)(B)	The timeframe for which energy usage data is being requested is alternately referred to as the “previous calendar year” or “the time period for which energy use data is requested”. It is not apparent what the term “previous” is relevant to (previous to what?).	Based on the clarification provided at the July 22 workshop, add a new term “Benchmarking Timeframe” in Section 1680. Define as the 12-month calendar year period (Jan 1 – Dec 31) immediately prior to the year in which reporting to the Commission is required.
2	1680(e)	There seems to be a difference of opinion as to what constitutes a “condominium complex”.	Provide the Commission’s adopted definition of a condominium complex in Section 1680.
3	1680(e)	It’s not clear if buildings served by a common energy meters where energy use cannot be tracked individually will be assigned a single Building ID number for the “campus”, or will still be issued individual Building ID numbers.	Include in this subdivision how Building ID numbers will be assigned in such cases.
4	1680(e)(2)	We interpret this criterion to mean that a building can qualify as a “Covered Building” based on Utility Accounts of one fuel type only, i.e, five or more electric utility accounts <u>or</u> five or more gas utility accounts. This may prove problematic for single fuel utilities, such as Southern California Edison and Southern California Gas Company, as they may not be able to determine if the building qualifies as a Covered Building based on their supplied fuel type alone.	Where a building is served by multiple utility providers, the Building Owner or Owner’s Agent should state in their request that the building qualifies as a Covered Building under 1680(e)(2), and provide the utilities with the basis for such qualification. If however, the purpose of the subdivision’s language is to have a building qualify exclusively as a Covered Building for each individual fuel type, i.e., a building is considered to be a Covered Building for electrical energy usage data purposes, but not considered to be a Covered Building for natural gas energy usage data purposes, then the language of this subdivision should be revised to reflect this intent.

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5 1680(f)	It's not clear whether the exclusion of manufacturing and industrial plants applies only to the "specialized" areas of those plants, such as assembly lines, ship fabrication areas, and process facilities, or if it also includes any separately metered buildings on site which could otherwise be benchmarked, such as office buildings, cafeteria buildings, and the like.	Please clarify as per intent.
6 1680(f)(2)	Per statute, buildings with residential accounts must have at least 17 <i>residential</i> utility accounts to be disclosable.	Add the qualifier "residential" to the criteria statement in order to be consistent with the statute.
7 1680(f)(2)	This criteria statement uses the qualifying terminology "of each energy type", which implies that the building must have at least 17 residential electric Utility Accounts <i>and</i> 17 residential gas Utility Accounts in order to be considered a disclosable building.	If this was not the intent, we suggest the language be revised to clarify.
8 1680(g)	To the best of our knowledge, ENERGY STAR Portfolio Manager doesn't address what utilities would call "end uses" – lighting, HVAC, process equipment, water heating, etc. As used in this definition, what does "end uses" refer to?	Revise language to better convey intent.
9 1680(k)	This definition specifically requires written authorization as evidence that an Owner's Agent is acting on behalf of a Building Owner, implying that electronic authorization is not allowed.	If it was not the intent of this subdivision to exclude the possibility of electronic authorization, please revise.

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<b>10</b> 1680(k)	<p>In this subdivision and 1681(a)(2), “written” and “electronic” authorization methods are referred to. However, there seems to be some disagreement as to the definition of “written” and “electronic”. For example, are faxes, PDF’s, and emails considered electronic or written? There’s also been discussion as to the difference between electronic and “digital” authorizations.</p>	<p>Provide the Commission’s adopted definitions for “written” and/or “electronic” authorizations in Section 1680 of the regulations.</p>
<b>11</b> 1680(k)	<p>An Owner’s Agent may be authorized by a Building Owner to act on their behalf for some purposes, but not for others. It should be clearly indicated that the Owner’s Agent is authorized to act on the Building Owner’s behalf for the particular purpose of benchmarking.</p>	<p>Append to the end of this definition “for the purposes of benchmarking”.</p>

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12	1680(m)(1), 1681(a)(1)(D)	It appears that the language here is intended to be applied exclusively to the criterion for “Covered Building” and “Disclosable Building” as defined in 1680(e)(2) and 1680(f)(2), respectively. The only resulting effect that we can see would be to require the benchmarking and disclosure of larger, “master-metered” multi-family and residential/non-residential mixed use buildings and complexes that would otherwise be exempt from AB 802 requirements due to not meeting minimum Utility Account quantity thresholds. However, the energy usage data recorded by such master meters would still be considered as belonging to the Building Owner or Owner’s Agent. It is our belief that one of the primary intents of the AB 802 statute is to protect the individual energy usage data of individuals and businesses from being exposed, and that the language of these subdivisions would effectively circumvent this protection.	If our interpretation is correct, we recommend the deletion subdivisions 1680(m)(1) and 1681(a)(1)(D) in their entirety. If our interpretation and the resulting impacts are not in accordance with the Commission’s intent, the language should be revised to provide clarity.
13	1681(a)(1)	The Building Owner or Owner’s Agent will also need to specify the ENERGY STAR Portfolio Manager account Username to which the energy usage data is to be uploaded.	Add the ENERGY STAR Portfolio Manager account Username to the information required.
14	1681(a)(1)(C)	Utilities will need to verify both the person and the company submitting the request. The second use of the word “person” in the second sentence would be incorrect in cases where a business owns the building, rather than an individual.	Change the first two occurrences of “person” to “person and company”. Change the last occurrence of “person” to “person or company”.

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15	1681(b)(1)(B)	The term “associated” is ambiguous and may lead to confusion.	Revise to read: “A list of all utility customers receiving utility service in the building”.
16	1681(b)(2)	The timeframe for which the utility is required to provide energy usage data (“previous calendar year and all available usage for the year in which data is requested”) is inconsistent with the timeframe for which the Building Owner or Owner’s Agent is being directed to request it (“previous calendar year”) in 1682(c)(1)(B).	Make the energy usage data timeframe requirement of this subdivision consistent with that of 1682(c)(1)(B).
17	1681(b)(2)(B)	The statute doesn’t explicitly allow uploading energy usage data to an Owner’s Agent’s Portfolio Manager account, only to the Building Owner’s account.	Remove the first instance of “Owner’s Agent’s” from this methodology description.
18	1681(b)(4)	The wording of this paragraph is confusing and internally inconsistent, particularly since Condition (2) describes a building which isn’t, by definition, a Covered Building, and is exempt from the regulations and statute. Also, the “Active” qualifier used in the 1680 definitions has been omitted.	Consider removing Condition (2) as it appears to be redundant, and only serves to make the requirement difficult to understand.
19	1681(b)(4)	Because the Building Owner and/or Owner’s Agent has knowledge of their own energy usage data in the Covered Building, their Utility Account should be excluded when determining if customer authorization is required. From a privacy standpoint, this exclusion would make privacy protection as effective as in those cases where the Building Owner or Owner’s Agent has no Utility Accounts in the Covered Building.	Add to this requirement the following sentence: “For the purpose of this subdivision only, the Utility Accounts of the Building Owner or Owner’s Agent shall not be considered when determining the need for customer authorization”.

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<b>20</b> 1681(b)(4)(A)(i)(1)	When using the word “permission”, to whom such permission is being given to must be specified.	Revise “...in which the customer gives permission to the sharing of his or her energy use data...” to “...in which the customer gives permission to the utility for the sharing of his or her energy use data...”
<b>21</b> 1681(b)(4)(A)(i)(2), 1681(b)(4)(B)	Utility account contact information is primarily for the purpose of billing and emergency notifications, and is sometimes associated with offsite Accounts Payable groups. Additional contact information may be available for certain customers and for specific purposes, but not for all, and may not be current. Requiring the utility, rather than the Building Owner or Owner’s Agent, to send authorization requests could lead to delays in receiving customer permission, as the recipient tries to determine who in their company is authorized to sign such documents.	Revise the pertinent parts of the regulation to require Building Owners or Owner’s Agents to provide and follow up on the authorization requests to their tenants. This would help to ensure that customer permission is obtained in a timely manner. The utilities can help to facilitate this process.
<b>22</b> 1681(b)(4)(A)(iii)	This authorization exemption for Building Owners should also apply to Owner’s Agents, as common area or “house meter” accounts are often in the name of a Property Manager as opposed to the Building Owner.	Add the term “or Owner’s Agent” after each instance of “Building Owner”.
<b>23</b> 1681(b)(5)	This restriction may in some cases impede the utility’s ability to achieve compliance with the statute and regulations, and in cases where the Building Owner or Owner’s Agent is also a customer of the utility, may impact the utility’s obligation to serve.	Delete subdivision 1681(b)(5) in its entirety.

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<b>24</b> 1681(b)(5)	Requires the utility to provide the required energy usage data directly to the Building Owner or Owner’s Agent even in situations where Portfolio manager is unavailable for a short period of time.	Revise the subdivision to read: “If the utility is unable to send the information listed in subdivision (b)(2) due a prolonged interruption in ENERGY STAR Portfolio Manager, the utility shall notify...”
<b>25</b> 1682(a), 1682(e)(3)	1682(a) provides exemption for compliance with a local benchmarking program, whereas 1682(e)(3) provides exemption simply for coverage by a local benchmarking program.	Use either compliance or coverage consistently in both subdivisions depending on intent.
<b>26</b> 1682(c)(1)(B)	The language here implies that the Building Owner or Owner’s Agent is not permitted to use their own recorded energy usage information (in situations where the Building Owner is the sole owner/occupier of the building), and must submit a request to the utility.	Append the following to the beginning of the requirement: “If the Building Owner or Owner’s Agent needs or desires the utility to provide the aggregated energy usage data for the building, then...”

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<p><b>27</b> 1682(c)(1)(B)</p>	<p>The requirement for Building Owners or Owner’s Agent to submit their data requests to utilities by February 1 for the previous calendar year can be problematic for several reasons: (1) Some utilities and utility service accounts still use the monthly read method for collecting meter data; all of the data for a “previous calendar year” may not be available until near the end of January (e.g. a billing month with a 12/25/2017 start date and 1/27/2017 end date). (2) Even in situations where meter interval data is immediately available to the utility, post-meter processing by the Billing Department may be required before energy usage data is finalized, meaning that the finalized usage data for the calendar year may not be available until later in January. (3) Building Owners or Owner’s Agents could technically request energy usage data, and thereby start the 28 calendar day clock, before the requested data is available to and/or finalized by the utility.</p>	<p>Move the compliance dates described in 1682(c)(1)(C), 1682(c)(1)(C)(iii), 1682(c)(1)(C)(iv), 1682(d)(1), and 1682(d)(2) out three months into the future, i.e., February 1 becomes May 1, and so forth. Set an earliest request date of February 1 to ensure that all energy usage data has been collected and finalized by the utility before requests are received. The resulting “90-Day” submission period will also help to lessen the surge of effort required of all parties—Building Owners, benchmarking consultants, utilities, and the Commission—that could occur with the current, narrower compliance window.</p>
<p><b>28</b> 1682(d)(3)(H)</p>	<p>It’s unclear what “United States Environmental Protection Agency calculated” is referring to. If this has to do with Portfolio Manager, the user always self-selects the property type, making this requirement the same as 1682(d)(3)(I).</p>	<p>Clarification needed to communicate intent.</p>

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<b>29</b> 1682(d)(3)(J)	The total property area occupied by buildings and parking areas is not relevant when benchmarking with Portfolio Manager. Both building and parking areas may need to be entered separately, if parking energy usage is included in the exercise.	If needed, suggest revising to read: "Parking area, if parking lot or structure energy usage is included in energy usage data".
<b>30</b> 1682(e)(2)	It's not clear if "reporting date" refers to the date the report must be submitted by (April 1), or the date that the report was actually submitted.	Please revise to clarify intent.
<b>31</b> 1682(f)	As utilities are working to create automated solutions, the designation of other benchmarking tools instead of or in addition to ENERGY STAR Portfolio Manager could mean substantial software and procedural re-work at significant additional expense.	Comment for informational purposes only.
<b>32</b> 1683(a)(1)	A failure to complete a submission could be unintentional or accidental, or could be due to circumstances beyond the Building Owner's control.	Revise to read: "Willful failure to complete the submission as required in 1682(c)."
<b>33</b> 1683(a)(2)	Current wording makes it a violation to intentionally provide information that was thought to be correct at the time provided, but was later determined to be incorrect.	Revise to read: "With malice or intent, sharing data with the Energy Commission that is known to be inconsistent or not representative of the Building Owner's or Owner's Agent's existing records at the time of sharing."
<b>34</b> 1683(b)(1)	A failure to complete a submission could be unintentional or accidental, or could be due to circumstances beyond the Utility's control.	Revise to read: "Willful failure to complete the submission as required in 1682(b)."

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<b>35</b> 1683(b)(2)	Current wording makes it a violation to intentionally provide information that was thought to be correct at the time provided, but was later determined to be incorrect.	Revise to read: "With malice or intent, sharing data with the Building Owner or Owner's Agent that is known to be inconsistent or not representative of the utility's existing records at the time of sharing."