

**From:** [Barbara Morford](#)  
**To:** [Secretary, BPUBoard \[BPU\]](#)  
**Cc:** [Michael McGuinness](#); [Barbara Morford](#)  
**Subject:** [EXTERNAL] BPU Docket No. QO21071023  
**Date:** Thursday, January 20, 2022 11:44:24 AM

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Dear Secretary Camacho-Welch:

On behalf of the 820 members of NAIOP NJ, the Commercial Real Estate Development Association, thank you for the opportunity to share our comments and concerns relative to the Board of Public Utilities' Building Energy and Water Benchmarking Straw Proposal.

NAIOP NJ acknowledges that climate change is real, and we commend the BPU and Governor Murphy's Administration for efforts to minimize its damaging effects on the natural and built environments, and our citizens. We consider energy benchmarking a valuable tool that provides building owners and managers with information needed to implement and evaluate efficiency measures. Many of our members have been benchmarking for some time, and are very focused on building performance and sustainability due to ESG (Environmental, Social and Governance), a global business consideration of increasing importance to commercial real estate as investors are evaluating these non-financial factors as they analyze risks and growth opportunities.

However, members have raised concerns about the Straw Proposal's "Public Disclosure" and "BPU" data disclosure requirements. We understand that, currently, the EPA simply requires third-party certification for Energy Star Building Labels, and we recommend that the New Jersey program do the same. Given that Energy Star Scores (half being above average and half being below average) are often misunderstood or misinterpreted by the general public, we see no value (only potential negative consequences) in "displaying a poster in the building". The "building-level database" should be an opt-in choice, and the "program report" should include information in the aggregate, with specific buildings identified only if the owner agrees. Also, "transactional disclosure" should apply only upon the buyer's request during its sale contract due diligence period.

Finally, and appreciative of the potential benefits of requiring BPU disclosure of scores or its access to any EPA Portfolio Manager Energy Star benchmarking account data, for security and privacy concerns, disclosure of this nature should be an opt-in choice.

We also caution the BPU that fines and high costs (time and money) for compliance are counterproductive in an already expensive and overly regulated state. By the BPU's own admission, significant training and education will be required for everyone involved in this process (owners and managers, utilities, and consultants). Requiring benchmarking compliance for participation in other BPU programs and incentives may be reasonable, making a building's compliance status public when non-compliance may be due to a clerical error or an appeal is not reasonable.

Thank you for your consideration. NAIOP NJ looks forward to serving as a resource as the BPU finalizes and implements this program.

Sincerely,

Michael G. McGuinness

Chief Executive Officer

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