

July 12, 2010

U.S. Department of Energy  
Office of the General Counsel  
1000 Independence Avenue, SW  
Room 6A245  
Washington, DC 20585

RE: NBP RFI: Data Access

Dear Sir or Madam:

These comments are submitted on behalf of the Building Owners and Managers Association (BOMA) International in response to the Request for Information issued by the Department of Energy (DOE) concerning Implementing the National Broadband Plan by Empowering Consumers and the Smart Grid: Data Access, Third Party Use, and Privacy.

BOMA International is an international federation of more than 100 local associations and affiliated organizations. Founded in 1907, its 18,000-plus members own or manage more than 9 billion square feet of commercial properties. BOMA International's mission is to enhance the human, intellectual and physical assets of the commercial real estate industry through advocacy, education, research, standards and information.

BOMA International appreciates the opportunity to submit these comments. We look forward to working with DOE as it moves forward on these and other Smart Grid issues that impact the commercial real estate industry.

Sincerely,

Karen W. Penafiel  
Vice President, Advocacy

## **Building Owners and Managers Association (BOMA) International Comments Regarding Implementing the National Broadband Plan by Empowering Consumers and the Smart Grid: Data Access, Third Party Use, and Privacy**

These comments respond to the Request for Information issued by the Department of Energy concerning Implementing the National Broadband Plan by Empowering Consumers and the Smart Grid: Data Access, Third Party Use, and Privacy. Federal Register, Vol. 75, No. 90, 26203, May 11, 2010. The comments are submitted by the Building Owners and Managers Association (BOMA) International.

BOMA International has long been a leader in promoting energy efficiency and encouraging the retrofit of our nation's existing building stock. We are excited to work with the Department of Energy and other federal agencies on implementing Smart Grid technologies in a way that fosters continued improvements in energy efficiency while respecting the privacy rights of commercial office buildings and their tenants.

### **In response to question 1: *Who owns energy consumption data?***

BOMA International believes that the property owner owns the consumption data, and should be entitled to full privacy protections. In tenant spaces that are separately metered, the tenant owns the data. However, to allow building owners and managers to accurately benchmark their energy usage, prioritize retrofit opportunities, and assess the effectiveness of energy efficiency programs or technologies in their building, the owner/manager must be allowed access to whole-building, aggregate monthly energy consumption and cost, which the utilities must be compelled to provide upon request of the building owners or manager.

### **In response to question 12: *When, and through what mechanisms, should authorized agents of Federal, State or local governments gain access to energy consumption data?***

Agents of Federal, State or local governments should be able to gain access to aggregate energy consumption data for their jurisdiction, but not individual building data without the express authorization of the property owner. BOMA understands the needs of Federal, State and local governments to measure energy performance, measure success rates of government programs and outreach, etc. This data, however, should never be used to identify or single out "worst performers" or to set targets or mandates for energy efficiency retrofits.

### **In response to question 13: *What third parties, if any, should have access to energy information? How should interested third-parties be able to gain access to energy consumption data, and what standards, guidelines, or practices might best assist third parties in handling and protecting this data?***

Property owners and managers of investor-owned commercial real estate are committed to improving the sustainability of their assets, namely by reducing their energy consumption. In order to establish a baseline of energy performance, the first step is to benchmark

consumption and costs using ENERGY STAR's Portfolio Manager benchmarking tool. In order to benchmark, owners and managers need access to whole-building aggregate utility consumption and cost data. For this data to be meaningful, it needs to be provided in aggregate on a monthly basis, for each fuel type used by the building. Ideally, at least a one- to two-year history of monthly data enables owners and managers to establish a baseline and to monitor progress of sustainability initiatives.

It is important to create transparency among governments, building owners, property managers, tenants, and utilities. In regards to benchmarking energy performance of investor-owned real estate, the biggest barrier to transparency lies in utilities' ownership of whole-building energy consumption data, and in many cases the owner's lack of access to this data – a barrier whether we are speaking about smart meters, disclosure of energy performance, or improving building energy performance. In multi-tenant buildings, it is common for tenants to be directly metered and billed by the utility company, making it extremely difficult for the owner or property manager to obtain aggregate building utility data needed for benchmarking in ENERGY STAR Portfolio Manager. The rules and processes established by individual utilities are highly varied and sometimes make it extremely cumbersome for the owner or manager, requiring them to gather authorization from each tenant to access their data. If there was a universal approach for utilities to provide aggregate data as described above, and to do so in a timely manner without a significant amount of effort on the part of the owner or manager, it would greatly advance energy efficiency in the real estate industry by providing insight into current performance and the ability to track progress over time.

Further, many jurisdictions are starting to mandate benchmarking and require reporting on certain standard energy metrics (e.g. California, D.C., Seattle, and New York City). While BOMA International does not support mandatory disclosure under any circumstances, we do believe that DOE should aim for consistency with any benchmarking requirements with regards to the energy information that is made available to third-parties. This would facilitate consistency for national building owners and managers, whose portfolios span multiple jurisdictions.

**In response to question 14: *What forms of energy information should consumers or third parties have access to?***

Property owners and managers should have access to whole-building, aggregate monthly energy consumption and cost. It is essential to gauge current energy performance, monitor and track progress of goals over time, and to verify and communicate demonstrable energy efficiency and sustainability accomplishments effectively to all stakeholders.

Utilities must be required to supply this data at no cost to the owner/tenant. In addition, this information must also be supplied, free of charge, to any representative of the owner/tenant that has been designated by completing a simple request that enables them to become a “duplicate customer of record.”

Data must be archived by the utility for at least five years and supplied upon request to current and future owners and tenants and their representatives.

**Additional Comments: *Who pays?***

BOMA International believes that any enhanced metering infrastructure, such as the installation and maintenance of smart meters, should be at the cost of the utility, not the building owner.