

1 COMMISSIONER BYRON: Second.

2 CHAIRPERSON PFANNENSTIEL: All in favor?

3 (Ayes.)

4 CHAIRPERSON PFANNENSTIEL: Thank you,  
5 Mazi, it's approved.

6 MR. SHIRAKH: Thank you.

7 CHAIRPERSON PFANNENSTIEL: Item 14,  
8 possible adoption of proposed amendments to the  
9 California HERS Program Guidelines and the HERS  
10 Technical Manual, which is proposed for adoption  
11 by reference in the regulations. Good morning,  
12 Ms. Lam.

13 MS. LAM: Good morning, Chairman  
14 Pfannenstiel.

15 CHAIRPERSON PFANNENSTIEL: And  
16 Mr. Pennington, sorry.

17 MS. LAM: Good morning, Chairman  
18 Pfannenstiel and Commissioners. I am Helen Lam  
19 from the buildings and appliances office and  
20 project manager for the HERS Base II regulations.  
21 To my right is Bill Pennington, manager of the  
22 buildings and appliances office.

23 This morning staff and the Efficiency  
24 Committee recommend adoption of the proposed  
25 amendments to the California HERS program

1 regulations. I would like to give you some  
2 background on the proposed regulations and the  
3 regulatory development process that we followed.

4 As you know Public Resources Code  
5 Section 25942 directs the Energy Commission to  
6 establish a statewide HERS program for residential  
7 dwellings. The overall goal of this program is to  
8 provide reliable information to differentiated the  
9 energy efficiency among California homes and guide  
10 investment and cost-effective home energy  
11 efficiency measures.

12 In 1999 the Energy Commission adopted  
13 the Phase I California HERS program regulations  
14 under this statutory authority to utilize HERS  
15 raters to provide field verification and  
16 diagnostic testing services for showing compliance  
17 with the California Building Energy Efficiency  
18 Standards. Under the Phase I regulations the  
19 basic HERS program infrastructure for training and  
20 certification of raters, quality assurance and  
21 uniform reporting and data management was  
22 established.

23 In 2005 the Energy Commission adopted  
24 the AB 549 report to the Legislature titled,  
25 Options for Energy Efficiency in existing

1 buildings. The AB 549 report identified a need  
2 for the Energy Commission to complete Phase II of  
3 the California HERS program to address the  
4 remaining elements of Public Resources Code  
5 Section 25942 to provide energy efficiency ratings  
6 for existing residential buildings.

7 The purpose of the proposed regulations  
8 before you today is to extend the basic HERS  
9 program structure adopted in Phase I regulations  
10 to meet statutory direction necessary to provide  
11 oversight for whole house home energy ratings of  
12 existing and newly constructed homes.

13 These elements include consistent,  
14 accurate and uniform ratings based on a single,  
15 statewide scale, reasonable estimates of potential  
16 utility bill savings and reliable recommendations  
17 on cost-effective measures to improve energy  
18 efficiency and labeling procedures that meet the  
19 needs of home buyers, home owners, the real estate  
20 industry and mortgage lenders.

21 According to the AB 549 report there are  
22 over 13 million existing residential buildings in  
23 California. More than half of the existing  
24 buildings were built before the first energy  
25 efficiency standards were established in 1978.

1 While many have been upgraded over time, these  
2 older buildings represent a large reserve of  
3 potential energy and peak demand savings.

4 The AB 549 report concluded that home  
5 energy ratings will provide valuable information  
6 regarding existing conditions of energy consuming  
7 features in a home and the cost-effectiveness of  
8 alternatives to improve their energy use. The  
9 information may be important to the value and  
10 desirability of particular property and is  
11 necessary if owners are considering investing in  
12 energy efficiency improvements.

13 Implementing Phase II of the HERS  
14 program proceeding will establish an oversight  
15 function for home energy ratings consistent with  
16 the legislative intent. The HERS program will be  
17 a fundamental element of strategies for improving  
18 the efficiency of existing homes. The proposed  
19 amendments establish a systematic process for the  
20 delivery of whole house home energy ratings that  
21 provide California home owners and home buyers  
22 with information about the relative energy  
23 efficiency of the homes that they live in or homes  
24 that they are considering for purchase and  
25 evaluation of the cost effectiveness of options to

1 achieve greater energy efficiency in those homes.

2 The proposed amendments set up a  
3 structure to ensure that these ratings and cost-  
4 effective analyses are technically accurate, done  
5 with quality and avoid conflicts of interest to  
6 protect consumers. These amendments govern what  
7 is to be addressed by whole house home energy  
8 raters, how they are to be established, and the  
9 procedures for persons providing the services of a  
10 HERS provider or HERS rater.

11 The HERS pre-rulemaking activities  
12 included a staff workshop in May and an efficiency  
13 Committee workshop in August of this year to  
14 obtain public comments on the draft HERS  
15 regulations and the HERS Technical Manual, which  
16 is incorporated by reference.

17 Staff engaged in numerous meetings and  
18 discussions involving the Efficiency Committee and  
19 stakeholders both before and after the workshops  
20 to refine the proposed regulations and the HERS  
21 Technical Manual.

22 On October 3, 2008 the Energy Commission  
23 published a Notice of Proposed Adoption together  
24 with the 45 day language express terms to start  
25 the formal rulemaking process.

1           The Efficiency Committee held a hearing  
2           on October 15, 2008 to receive public comments on  
3           the 45 day language. Subsequent to the Committee  
4           Hearing written comments were filed by several  
5           stakeholders. The Efficiency committee concluded  
6           that changes to the 45 day language were necessary  
7           in order to further include the HERS program to  
8           respond to public comments.

9           Therefore the Efficiency Committee  
10          postponed the adoption of the proposed 45 day  
11          language and released further amendments to the  
12          proposed regulations through 15 day language on  
13          December 1, 2008 to start the 15 day public  
14          comment period.

15          These proposed regulations, including  
16          both 45 day and 15 day language changes are before  
17          you today for adoption and staff is here to answer  
18          any questions you may have.

19          CHAIRPERSON PFANNENSTIEL: Thank you,  
20          Ms. Lam. Are there questions? We do have a  
21          number of parties who have asked to speak on this  
22          but first questions from the Commissioners.

23          Okay, let's move into the comments.  
24          Mr. Chapman, would you like to speak to this item?

25          MR. CHAPMAN: Thank you for your

1 kindness, and also for this day for you. Quite an  
2 accomplishment for you.

3 CHAIRPERSON PFANNENSTIEL: Thank you.

4 MR. CHAPMAN: A quick question of staff.  
5 Building performance contractors. How would you  
6 limit their scope as a rater? What language would  
7 you use to limit their scope, or is it limited?

8 MR. PENNINGTON: There are five or six  
9 pages in the HERS Technical Manual that describe  
10 the duties of a building performance contractor  
11 and how they would address energy assessments as  
12 well as the construction process for installing  
13 improvements and the post-construction process to  
14 evaluate the quality of those improvements.

15 Under these regulations they are a  
16 category of whole house home energy raters that  
17 have special considerations and special oversight  
18 from the Commission and by providers that oversee  
19 them. I don't know if that is responsive to your  
20 question.

21 MR. CHAPMAN: No, that's very  
22 responsive, thank you, Bill.

23 Will there -- When the provider gives  
24 them the rating so they are recognized as raters  
25 will they be doing new construction as well as

1 existing homes or just existing homes?

2 MR. PENNINGTON: These regulations  
3 address newly constructed homes as well as  
4 existing homes for the purpose of doing whole  
5 house home energy ratings. There will be ratings  
6 as a result of that for all homes that are in the  
7 market so that, you know, a potential purchaser of  
8 a home can differentiate the energy efficiency of  
9 both new homes and existing homes.

10 MR. CHAPMAN: Thank you very much.

11 CHAIRPERSON PFANNENSTIEL: Thank you  
12 Mr. Chapman. Charles Sutterstrom, Pacific Gas and  
13 Electric Company.

14 SPEAKER IN THE AUDIENCE: He stepped  
15 out.

16 CHAIRPERSON PFANNENSTIEL: Robert Scott  
17 of CHEERS.

18 MR. SCOTT: Robert Scott, California  
19 Home Energy Efficiency Rating Services or CHEERS.  
20 And good morning, I appreciate the opportunity to  
21 make comments.

22 CHEERS as a Commission-approved HERS  
23 provider supports adoption of HERS Phase II of the  
24 California home efficiency regulations. I think  
25 it is really important to understand that

1        establishing this framework is going to be very  
2        important, especially considering the kind of  
3        activity that we are going to perhaps see in the  
4        coming months and years. And so having some  
5        common structure, something that we can depend on,  
6        I think is enormously important.

7                    This is, I think, what a lot of us have  
8        been working for and it is now about to arrive.  
9        With that being said, with the regulations come an  
10       awful lot of work in terms of implementing this  
11       and doing things and I would encourage the  
12       Commission to direct staff to work with the  
13       stakeholders, including HERS providers, utilities,  
14       industry associations and such in helping us put  
15       the tools together so we can actually do this in  
16       the time frame that is being proposed here of  
17       August.

18                   I think we have a lot of things to work  
19       with with HERS software, with databases, with the  
20       way we handle utility rates. All of these things  
21       need to be handled very carefully. And I think  
22       that if we collaborate and do this we should come  
23       up with something really good and be able to  
24       respond. So thank you very much.

25                   CHAIRPERSON PFANNENSTIEL: Thank you,

1 sir. Mike Bachand, CalcERTS.

2 MR. BACHAND: Thank you, Commissioners.  
3 Mike Bachand from CalcERTS. Congratulations to  
4 you Chairman Pfannenstiel. I want to personally  
5 thank you on behalf of myself and the HERS  
6 industry for the support that you and also  
7 Commissioner Rosenfeld especially have given to  
8 our efforts in the field to help the Commission  
9 reach its energy efficiency goals.

10 And also before you go I would like to  
11 answer a question a little bit better. You asked  
12 me about six months, are we interested in being in  
13 the existing homes market. The answer is, of  
14 course, yes. It is a huge part of our business.  
15 We have supported staff with vigorous and  
16 passionate mostly, mostly public comments about  
17 what we think the HERS Phase II rulemaking should  
18 look like. And we appreciate that opportunity so  
19 we would like to thank you for that.

20 And I would also like to give a personal  
21 thanks to Bill Pennington for answering and  
22 responding to some serious issues that came up  
23 very last minute. He called a couple of meetings  
24 sort of on the instant basis with the appropriate  
25 people and so we would like to say thanks for his

1 gracious help with that. And we would like to be  
2 allowed to continue to put in our passionate but  
3 well-meaning comments to these proceedings.

4 CHAIRPERSON PFANNENSTIEL: You're  
5 invited to do so.

6 MR. BACHAND: Thank you. And we also  
7 hope that whoever fills your chair again in the  
8 future will have your wisdom and your forethought  
9 in carrying on this effort, thanks.

10 CHAIRPERSON PFANNENSTIEL: Thank you  
11 very much, Mr. Bachand.

12 Mike Hodgson from ConSol. Although I  
13 see you say CBIA and ConSol.

14 MR. HODGSON: Good morning, Madame  
15 Chair, Commissioners and staff. I am Mike Hodgson  
16 representing the California Building Industry  
17 Association, which is a trade association of  
18 California home builders, as well as my own  
19 company ConSol, an energy consulting firm based in  
20 Stockton, California.

21 First I will take a personal side.  
22 Chairman Pfannenstiel, thanks for your service to  
23 California while at the Energy Commission. I  
24 compliment you on your leadership, on your  
25 problem-solving ability, your consensus ability

1 and your tolerance.

2 CHAIRPERSON PFANNENSTIEL: Thank you.

3 MR. HODGSON: It's been a good ride I  
4 think for the Energy Commission and I think it has  
5 been very productive and useful working with not  
6 only the Commissioners but staff during the last  
7 five years. The level of contentiousness and  
8 animosity has been reduced drastically and I think  
9 that is both towards leadership as well as towards  
10 leadership within staff.

11 CHAIRPERSON PFANNENSTIEL: Thank you.

12 MR. HODGSON: Comments on the  
13 rulemaking. CBIA fully supports the adoption of  
14 the Phase II rulemaking. Our primary objective of  
15 sponsoring AB 549 was to rate homes in the state  
16 of California. New homes are very efficient, old  
17 homes are not. We want that to be very well known  
18 and very well publicized.

19 We have attended workshops, expressed  
20 our concerns, and we have two remaining concerns  
21 which we have made in public comments and also at  
22 both workshops. The first concern has to do with  
23 the rating scale and the second concern on the  
24 flexibility of the rating certificate. These  
25 comments staff is aware of and has responded to

1       satisfactorily but I just want to bring them to  
2       the Commissioners' awareness.

3               The first comment, we submitted a recent  
4       public comment on the rating scale which is  
5       currently from zero, which is zero energy homes,  
6       to 250. And in looking at existing housing stock,  
7       about 60 percent of the housing stock by our  
8       estimate would be beyond the scale. So beyond  
9       250. And so we need to know or we need to have  
10      that prominently on the certificate to say, if you  
11      are a 425 that, you know, you need to improve  
12      yourself, or if you are a 350.

13              So our suggestion to expand the scale is  
14      probably not appropriate at this time since we are  
15      in 15 day language and going to adopt. But we  
16      would like the ability to revisit that in the very  
17      near future if the signals to the consumers are  
18      not getting through.

19              The second issue, which is more serious  
20      to us, is there's a lot of us in the building  
21      industry and the energy efficiency world that are  
22      trying to promote energy efficient mortgages,  
23      either on a first time cost-effectiveness, on a  
24      day one cost-effectiveness, on a life cycle cost-  
25      effectiveness. There's lots of different ways to

1 try to do this.

2 We have been working with energy  
3 efficient mortgages for over ten years from FHA,  
4 VA, Freddie, Fannie, Ginny, et cetera. There's  
5 kind of a new world out there in the last 90 days.  
6 There is a group run through the National  
7 Association of Home Builders and the Appraisal  
8 Institute trying to get a uniform procedure for  
9 qualifying utility, energy efficiency savings on  
10 to mortgage qualification documents. We don't  
11 know what that is going to look like. we don't  
12 know where it is going to be on the desktop  
13 underwriter, which is the actual mechanism that a  
14 lot of these secondary mortgage groups use to  
15 qualify people for lending.

16 So what we would like to know is, in the  
17 certificate which is jam-full of information, and  
18 it is very appropriate that it is, is we would  
19 like some flexibility on that certificate if this  
20 group comes up or if Freddie says, I'd like it on  
21 the upper left hand corner and I want this, this  
22 and this, we want to be able to say, you betcha.  
23 We want to give it to you under this certificate  
24 that is approved by the HERS rulemaking.

25 We discussed this with staff. We

1 believe there is flexibility. There is a  
2 tremendous amount of information on that page.  
3 Not that you want to lose necessarily some of it.  
4 But six font is probably a little bit small for me  
5 to read and for underwriters to read. So we want  
6 to know that if we do these improvements and save  
7 \$43 a month, that that consumer then can purchase  
8 either a larger home or more stuff in the home or  
9 just qualify. There's all sorts of issues.

10 So what we are here to do is support the  
11 rulemaking. We would like assurances that there  
12 is flexibility if we have wrong signals. Staff  
13 has said there is going to be an annual review  
14 process. We are not really sure what that is.  
15 We'd like to understand that better. And we want  
16 to make sure that we accommodate the mortgage  
17 industry. Thank you for your time.

18 COMMISSIONER ROSENFELD: Mike I have a  
19 question for you.

20 MR. HODGSON: Yes.

21 COMMISSIONER ROSENFELD: I think the  
22 last point you made is particularly important  
23 because there's all this national discussion now  
24 of more money for retrofit as an economic stimulus  
25 so you certainly have our attention. What I

1       wasn't quite clear about is, does that require  
2       changes in the 15 day language or are you just  
3       telling us to stay alert?

4               MR. HODGSON:  I don't think it requires  
5       changes in the 15 day language, assuming that the  
6       certificate that is approved through this process  
7       is flexible.  Right now, Commissioner Rosenfeld,  
8       there's -- I would say 85 percent of that page is  
9       preordained with text and information and then  
10      there is a small portion where you can put logos.

11              What I would like to be able to do,  
12      assuming we have some type of agreement from one  
13      of the major underwriters or hopefully this group  
14      of underwriters to say, we would like this  
15      information on utility savings based on some scale  
16      to be put in the upper right hand corner of your  
17      energy saving certificate.  I would like the  
18      flexibility to come back to staff and say, can we  
19      put it in the upper right hand corner.  I think  
20      the natural answer for us is, yes.  We hope the  
21      flexibility is there through the approval process  
22      if that's true.  What we want to do is stimulate  
23      the market for energy efficiency --

24              COMMISSIONER ROSENFELD:  Darn right.

25              MR. HODGSON:  -- put into existing

1 housing. I know we all agree on that. We just  
2 want to make sure we have flexibility on how to do  
3 it.

4 COMMISSIONER ROSENFELD: Who could I  
5 ask? Bill Pennington, do you think you have the  
6 flexibility now? Are you comfortable with leaning  
7 it that way?

8 MR. PENNINGTON: We think that the  
9 connectiveness of this process to energy efficient  
10 mortgages is potentially a huge opportunity. In  
11 the past energy efficient mortgages have kind of  
12 fallen on their face and have been largely  
13 unsuccessful. There is a new interest in trying  
14 to do better than that that Mike is referring to  
15 here and it could be very important for this  
16 program to connect to that in order to promote  
17 improvements in energy efficient buildings.

18 The regulations lay out the type of  
19 information that should be, should appear on a  
20 certificate and provide a detailed sample of what  
21 that would look like. But the regulations dictate  
22 very few of the items on that certificate in terms  
23 of its exact look and its exact placement.

24 So we would intend to work with -- In  
25 fact, ConSol may help us be a, may be a catalyst

1 for helping us to work with the mortgage lenders.  
2 And so we are very anxious to work through that.  
3 And we think we have the flexibility to make  
4 adjustments that are needed. With the current  
5 language, if we find that there is a barrier there  
6 then there would be a regulatory way to change it.

7 COMMISSIONER ROSENFELD: Good.

8 CHAIRPERSON PFANNENSTIEL: Thank you, I  
9 think that's a good answer. I think that that  
10 then should give Mike the assurance that staff at  
11 least believes that there is sufficient  
12 flexibility to do what you need to have done.

13 MR. HODGSON: I would like staff and the  
14 Commissioners to believe that there's flexibility  
15 that we can do this. Because if there's not we'll  
16 be back.

17 CHAIRPERSON PFANNENSTIEL: In adopting  
18 this the Commissioners so direct the staff to work  
19 with you and others to make those changes as they  
20 would --

21 MR. HODGSON: Right. I mean, we have  
22 mutual interests here. I mean, we want to promote  
23 efficiency in existing homes. California has 13.2  
24 million of those over --

25 COMMISSIONER ROSENFELD: All leaking.

1                   MR. HODGSON: Not all, but I would say  
2 about 70 to 80 percent of them.

3                   COMMISSIONER ROSENFELD: Most, I correct  
4 myself.

5                   MR. HODGSON: Yes. And two-thirds built  
6 prior to any energy code at all. Lots of  
7 opportunity.

8                   CHAIRPERSON PFANNENSTIEL: Thank you.

9                   MR. HODGSON: Thank you for your time.

10                  CHAIRPERSON PFANNENSTIEL: Erik Emblem  
11 from the Joint Committee on Energy and  
12 Environment.

13                  MR. EMBLEM: Good morning, Madame  
14 Chairman, distinguished Commissioners. As  
15 everybody else I want to commend Chairman  
16 Pfannenstiel on your tenure and acknowledge a lot  
17 of accomplishments. I'm glad to hear you are  
18 still going to be around out there so that's good.

19                  On the HERS II. The committee that I  
20 represent was formed by California SMACCNA,  
21 representing contractors throughout the state.  
22 That's the sheet metal and air conditioning  
23 contractors and we deal primarily with the heating  
24 and air conditioning systems within buildings,  
25 from residential all the way to industrial/

1 commercial.

2 And we are here today to support the  
3 adoption of the HERS II and to commend staff on  
4 the process. I think that this is a monumental  
5 document and there's a lot there. It's taken a  
6 lot of hard work and a lot of collaboration with a  
7 lot of interesting and well-meaning people.

8 With that I would like to raise some  
9 caution flags. One, we just talked about  
10 mortgages. I had the pleasure of serving on a  
11 bank board for ten years and being on a loan  
12 committee for about five of those and being on  
13 internal review for five of those, so I understand  
14 the underwriting process of mortgages.

15 And as we know America is in some unique  
16 times as a result of some poor oversight and maybe  
17 regulation review that wasn't done. So as we  
18 create a process that becomes a part of an  
19 underwriting process and the mortgage, the  
20 mortgage industry is going to look at you for  
21 enforcement. That you enforce what you have  
22 approved. And that the enforcement is uniform and  
23 that it is something that they can, that they can  
24 verify, it is verifiable.

25 And I think there is a caution because

1       there is a lot here.  There's an awful lot here  
2       and there is a lot of subjectivity in this  
3       process.  And in saying that, we support it so it  
4       is not like we are saying that -- I don't think  
5       there is a better way to go about it then you have  
6       gone about it.  But I want to just reflect on the  
7       HERS process.  I want to go back a little bit to  
8       my own experience.

9                 I bought a house here in May of last  
10       year, about six blocks from here.  And it had a  
11       HERS rater that did the process.  It's a townhome.  
12       There's four different models in one building.  I  
13       was the only owner to ask for a copy of the HERS  
14       certificate and ask for the energy modeling.

15                Lo and behold, the model I am in was not  
16       reviewed on any of them for review.  I've  
17       discussed this with -- I don't want to mention any  
18       names, companies or anybody but on the HERS  
19       certificate it verified equipment that is not in  
20       my unit.  Made by a manufacturer that is not  
21       installed in the unit.

22                I just want to call your attention that  
23       we know we have some problems with ongoing  
24       verification and enforcement of existing codes and  
25       standards and that we are doing things and the

1 Energy Commission has taken some very positive and  
2 proactive processes to address these.

3 But with HERS II we are going into a  
4 different realm. We are creating criteria for  
5 underwriting mortgages. And the mortgage industry  
6 obviously is kind of high on everybody's scale.  
7 So it's just kind of a caution flag.

8 One of the recommendations I have and  
9 for you to consider, and that has to do with  
10 oversight of the people who are actually going to  
11 be watching this, and that's the providers. And  
12 my thought is, perhaps we should look to require  
13 providers to become ISO certified, become ANSI  
14 certified. ISO does have a process for  
15 certification entities to become certification.

16 And it is painful but it is very, very  
17 well put together. And it requires people to  
18 self-audit, take care of themselves and then it  
19 has an outside review by peers that go in and  
20 review their process. And it might make your  
21 world a little easier.

22 Maybe if we look out three years from  
23 now in the next code cycle and take a look at that  
24 as a possible venue for looking at building the  
25 credibility on the HERS system. Because I think

1       it is needed and I think the HERS system has a lot  
2       of liability. California is blazing the trail for  
3       the whole country. And I see other states  
4       emulating what you are doing here, and rightfully  
5       so. Basically they are stealing all the work you  
6       have done.

7                So again, we are in favor of this. We  
8       commend everybody for the hard work, Bill and your  
9       staff. It's just a great job. And the caution  
10      flag is on monitoring it.

11             And one other thing, and this is  
12      something you will hear from me on some other  
13      issues in the future. Is this was developed for  
14      the residential sector. And we feel strongly that  
15      it is applicable or transferrable to the non-  
16      residential sector. And we would be happy to work  
17      with you on pointing out those issues and it is  
18      not really appropriate in this meeting. But we  
19      think this is good and we think that the statute  
20      gave you the authority to promulgate this for  
21      residential application. But we think it would be  
22      out of the purview of the statute to take it into  
23      anything other than residential applications.  
24      Thank you for letting me speak.

25             CHAIRPERSON PFANNENSTIEL: Thank you

1 very much. Bob Knight from the California  
2 Building Performance Contractors Association.

3 DR. KNIGHT: Good morning, I am Bob  
4 Knight. I am representing the California Building  
5 Performance Contractors Association on behalf of  
6 Randel Riedel, the managing director, who is sick,  
7 and I appreciate the opportunity to say a few  
8 words. And they are going to be fewer words than  
9 I expected to speak because this is turning into  
10 something of a love fest on behalf of this  
11 process, which I share.

12 I am very much in support of the new  
13 HERS regulations. And I am particularly grateful  
14 to Bill for including CBPCA in a lot of time we  
15 spent on the phone in separate discussions trying  
16 to make sure we understood the needs of home  
17 performance contractors and the role that they can  
18 play in this.

19 And that's what is new about these  
20 regulations really. That it is no longer just  
21 raters doing ratings and perhaps audits quite  
22 independent of whoever does the work. This is a  
23 new model, pioneered by the EPA and DOE, Home  
24 Performance with Energy Star, which is the program  
25 that we offer in California that integrates into

1 one step the analysis and the remediation of a  
2 home, subject to external, independent  
3 verification and quality assurance.

4 We think that model is needed. Just a  
5 moment for perspective. If you look at AB 32, the  
6 IEPR and the California Energy Efficiency  
7 Strategic Plan we are looking at a need to reduce  
8 energy use in the existing housing stock in  
9 California by about 40 percent between 2012 and  
10 2020. That's roughly an order of magnitude better  
11 than what all the utility programs to date have  
12 been doing. So it is a staggering goal.

13 According to the Inter-governmental  
14 Panel on Climate Change, it is only California's  
15 part of what everybody is going to have to do. So  
16 there is nothing, even though it seems incredibly  
17 ambitious, it's needed. We are all going to have  
18 to do it. And this is a time for new ways of  
19 doing things, a time for change, not just sticking  
20 with the old models. So we are particularly  
21 appreciative that the home performance contractor  
22 community has been inserted into this as part of  
23 the new HERS II proceeding.

24 And I could go on and on about  
25 describing what we do and why it is so important

1 and how we take care of issues such as conflict of  
2 interest and quality assurance and so forth but I  
3 think that has been well-settled in both written  
4 comments and in the workings of the staff.

5 So once again I want to cite my support  
6 and my thanks to the staff and I am looking  
7 forward to the implementation of these  
8 regulations. Thank you for this opportunity.

9 CHAIRPERSON PFANNENSTIEL: Thank you,  
10 Mr. Knight. Charles Sutterstrom, PG&E. Could you  
11 pronounce it correctly, I can't. Your handwriting  
12 threw me.

13 MR. SEGERSTROM: Good morning, Charles  
14 Segerstrom, PG&E Codes and Standards Program.

15 CHAIRPERSON PFANNENSTIEL: Segerstrom,  
16 thank you.

17 MR. SEGERSTROM: Good morning, Madame  
18 Chairman and other Commissioners.

19 I rise in support of adoption of this  
20 regulation today, because it is an urgent matter  
21 with regard to implementation of home energy  
22 rating programs for the existing housing stock.  
23 We see a potential avalanche of programs coming  
24 the way of existing homes, for good reason, even  
25 though the existing home programs have represented

1 high hanging fruit with regard to cost-  
2 effectiveness. It is now time to build a ladder  
3 to reach to that fruit and this process enables  
4 that. PG&E supports it wholeheartedly,  
5 appreciates the opportunity to comment.

6 CHAIRPERSON PFANNENSTIEL: Thank you  
7 very much. I have no other blue cards for people  
8 -- Yes, somebody else who would like to speak to  
9 this.

10 MR. CONLON: Thank you, Madame Chair and  
11 Commissioners. I rise too in support. My name is  
12 Tom Conlon, I am here representing GeoPraxis and  
13 Energy Checkup, a service of GeoPraxis. And I  
14 won't belabor the love fest I think it was called,  
15 because I certainly want to just support all of  
16 those positive statements about this proceeding  
17 and the work of the staff and consultants that  
18 went into it.

19 What I do want to focus us on as we move  
20 forward in the wake of Commissioner Pfannenstiel  
21 as chair is that we are reaching for higher fruit  
22 and it is going to be a challenge to get there.  
23 And I think the process we have just been through  
24 is a give-me to no one, to no group in the  
25 California community, and that indicates the

1 Commission is probably doing its job.

2 As an organization that is responsible  
3 for over 30,000 energy ratings in California prior  
4 to these regulations being put into effect I  
5 believe it probably affects us and our business  
6 more directly than anyone else in this room. And  
7 so we know we are going to have to bring our  
8 standards up to meet these new requirements.

9 We are actually quite supportive of  
10 doing so and we want you to understand that we  
11 know it is going to take a lot of work. Not just  
12 by ourselves but also by the providers and the  
13 staff of the Commission and making sure that the  
14 playing field is level.

15 I would like to push us beyond though  
16 simplistic understanding of energy efficiency as  
17 the sole goal of the California Title 24  
18 regulations, and especially now the existing home  
19 standards. Because Title 24 remains the basis of  
20 the software procedures and the technical  
21 requirements that we have in front of us we  
22 continue to point ourselves towards relative  
23 energy efficiency relative to a baseline or a  
24 reference home.

25 And it will be hard to explain to

1 consumers that a 3200 square foot new home, which  
2 is more energy efficient than a comparable 3200  
3 square foot home but actually uses more energy on  
4 an absolute basis, has a -- that older home with  
5 the smaller footprint may actually be, it will  
6 appear to be a poorer rated home. And that is  
7 going to become a communications challenge to  
8 practitioners and the general public that the  
9 Commission will have to deal with moving forward.

10 And I believe that as we move into  
11 future proceedings, on the technical requirements  
12 we should start to look beyond just energy  
13 efficiency and look also into absolute energy  
14 performance of a building.

15 The final thing here is that these  
16 regulations are necessary but not a sufficient  
17 condition for the creation of the energy rating  
18 community and business that we expect the industry  
19 will produce. So I'd hope the Commission will  
20 move quickly into implementing the pilot program,  
21 programs perhaps that are envisioned and were  
22 envisioned of the AB 549 report to the Legislature  
23 as well as working with your counterparts at the  
24 Public Utilities Commission to encourage the  
25 utilities to provide support for these kinds of

1 programs.

2 As I understand it right now, there are  
3 no programs in the 2009 filings that will directly  
4 promote time of sale energy ratings. That's as a  
5 result of the most recent decision by San Diego  
6 Gas & Electric to remove funding for our program  
7 in the San Diego marketplace. And so because  
8 those programs are no longer funded I believe we  
9 have a potential gap in the marketplace and it  
10 will be difficult for parties to produce the  
11 results expected here under this program. Thank  
12 you for your consideration of my comments.

13 CHAIRPERSON PFANNENSTIEL: Thank you  
14 very much.

15 MR. PENNINGTON: Could I make a comment?

16 CHAIRPERSON PFANNENSTIEL: Of course,  
17 Mr. Pennington.

18 MR. PENNINGTON: Before you consider  
19 adoption of this I would like to have you  
20 recognize that this is Chairman Pfannenstiel's  
21 game here. She pushed this, pushed staff to get  
22 this done in her tenure. Kept us at it and, you  
23 know, provided a lot of encouragement to us.

24 COMMISSIONER BYRON: Well you just made  
25 it, though.

1                   MR. PENNINGTON: We just made it, you  
2 know. So from my vantage point this should be  
3 part of the best of Jackie. A list of things that  
4 go on resolutions.

5                   CHAIRPERSON PFANNENSTIEL: Thank you.

6                   MR. PENNINGTON: And congratulations.

7                   CHAIRPERSON PFANNENSTIEL: I appreciate  
8 that. In fact, I was thinking as people were  
9 talking that when I first came in one of my first  
10 major challenges here at the Commission was  
11 working on the AB 549 report, which was a required  
12 report for the Legislature on what we could do to  
13 achieve greater energy efficiency in existing  
14 buildings.

15                   So one of my greatest frustrations in my  
16 five years, and I think as Commissioner Rosenfeld  
17 said at the outset, that one of the things we  
18 haven't gotten as far as we wanted to was to  
19 capture that low-hanging fruit of the efficiency  
20 of existing buildings.

21                   We did the 549 report and in it we said  
22 we really needed time of sale legislation but at  
23 least we needed the HERS regulations. So I want  
24 to thank the staff and commend the staff, Bill and  
25 Helen and the whole group that -- and Bruce. The

1 people who have worked on this for several years  
2 to get in place the system that is necessary. It  
3 is absolutely essential for getting to that low-  
4 hanging fruit.

5 Now I look to my fellow Commissioners to  
6 say, now we have to take it the next step further.  
7 Whether it is legislation or what we can do absent  
8 legislation, we need to find a way of getting  
9 those buildings. And maybe we use the economic  
10 stimulus funding to get those 13 million  
11 residential buildings in California up to a Title  
12 24 standard. So I appreciate that.

13 Are there further questions or  
14 discussion for this item?

15 MR. CHAMBERLAIN: Madame Chairman.

16 CHAIRPERSON PFANNENSTIEL: Yes.

17 MR. CHAMBERLAIN: If I could just make a  
18 clarifying statement with respect to the express  
19 terms. I just notice that there are a few places  
20 in the express terms where it appears that defined  
21 terms have been used without capitalizing those  
22 terms and our office will go through these express  
23 terms and make those changes. Not changing the  
24 terms but just changing the capitalization to be  
25 sure there is clarity.

1                   CHAIRPERSON PFANNENSTIEL: Thank you,  
2 Mr. Chamberlain, I appreciate that. Other  
3 comments? Yes, Commissioner Douglas.

4                   COMMISSIONER DOUGLAS: I had just one or  
5 two brief comments. First I would really like to  
6 underscore the importance of these regulations and  
7 my very strong support for them.

8                   And secondly, Bill Pennington is exactly  
9 right. This is Jackie's leadership that helped us  
10 get here. I have had, I am not on the Efficiency  
11 Committee and I had really very little personal  
12 involvement in this rulemaking but I had multiple  
13 meetings with Jackie about time-of-sale and did  
14 what I could to cheer her on as this went forward.  
15 But she really, this is one where she and staff  
16 picked up the ball and ran.

17                   And I am so happy that we have in fact  
18 gotten to wrap this stage up. And I very much  
19 look forward to being part of the effort to figure  
20 out what we do next to pick this up and take full  
21 advantage of it. It is, it is absolutely  
22 foundational to actually be able to assess and  
23 rate the energy efficiency of existing homes and  
24 give people clear and transparent information on  
25 what can be done to improve the performance of

1 those homes.

2 And it opens the door, just having the  
3 system opens the door to amazing possibilities in  
4 terms of what we can do to reduce energy use in  
5 California and to benefit home owners and to  
6 provide better information to potential home  
7 buyers and so on. So it is a tremendous  
8 achievement and I very strongly support it.

9 CHAIRPERSON PFANNENSTIEL: Thank you.  
10 Are there --

11 COMMISSIONER ROSENFELD: I want to make  
12 one other remark following Karen's remark.

13 CHAIRPERSON PFANNENSTIEL: Of course,  
14 Commissioner Rosenfeld.

15 COMMISSIONER ROSENFELD: First of all,  
16 again, thanks Jackie, you pushed this tenaciously  
17 for five years. I want to say one bright light on  
18 the horizon. We have been talking so far about  
19 doing something at time-of-sale. We have not done  
20 so well with the California Association of  
21 Realtors.

22 The time to retrofit a home is when  
23 capital is available. There is a new idea on the  
24 horizon, which most of you know but I just want to  
25 say, I want to bring it in. The City of Berkeley

1 and the City of Palm Desert have invented this  
2 idea of a municipal financing district to do  
3 energy efficiency and renewable energy. That  
4 means that you don't have -- the capital will  
5 become available not only at the time of sale but  
6 any time that the homeowner requested that the  
7 City upgrade his or her premises. And the capital  
8 becomes available and you pay it back on your real  
9 estate taxes.

10 And we have to figure out how to  
11 incorporate that into this problem also. I have  
12 been trying to insert that into the discussions of  
13 retrofit stimulus -- economic stimulus packages  
14 that's going on at the federal level.

15 So I would like to move the item. But  
16 before doing that I want to add my praise of the  
17 staff and its amazing ability to work with all  
18 these stakeholders. You certainly pulled off a  
19 good show with everybody supporting this in  
20 principle and egging us on.

21 So I am very happy with what we got done  
22 under Jackie's terms and I would like to move the  
23 item. As I understand it, there are two  
24 publications in our binder. But by moving the  
25 regulations we incorporate the technical manual.

1 MR. PENNINGTON: That's correct.

2 COMMISSIONER ROSENFELD: So I move the  
3 HERS regulations.

4 CHAIRPERSON PFANNENSTIEL: Thank you.  
5 Further discussion? Yes, Commissioner Byron.

6 COMMISSIONER BYRON: Brief comment. I  
7 would like to acknowledge certainly the public  
8 participation here today. Thank you very much for  
9 being here and bringing all your love with you.

10 (Laughter)

11 COMMISSIONER BYRON: We don't always get  
12 this kind of --

13 VICE CHAIRMAN BOYD: Tis the season.

14 COMMISSIONER BYRON: Yes. But no, the  
15 public participation is extremely important to  
16 this, I would like to acknowledge that. It has  
17 been very helpful for this Commissioner to hear  
18 this discussion today. And of course,  
19 Mr. Pennington and staff, the accolades. The  
20 example that you set on how to do this I think is  
21 outstanding. A good example for how we should do  
22 everything here at the Commission. So my thanks  
23 to you as well.

24 CHAIRPERSON PFANNENSTIEL: The item has  
25 been moved. Is there a second?

1 COMMISSIONER DOUGLAS: Second.

2 CHAIRPERSON PFANNENSTIEL: All in favor?

3 (Ayes.)

4 CHAIRPERSON PFANNENSTIEL: Approved.

5 MS. LAM: Thank you.

6 MR. PENNINGTON: Thank you very much.

7 CHAIRPERSON PFANNENSTIEL: Thank you

8 very much, both of you.

9 Moving on then. Item 15, possible  
10 adoption of forms and instructions for the Demand  
11 Forecast and Resource Plan Data Request in support  
12 of the 2009 Integrated Energy Policy Report.

13 MS. GOUGH: Good morning. I am Andrea  
14 Gough. Over to my left is Jim Woodward and to his  
15 left Tom Gorin. We are part of the electricity  
16 supply analysis division. I am presenting for  
17 possible adoption by the Energy Commission two  
18 sets of forms and instructions in support of the  
19 2009 Integrated Energy Policy Report, fondly known  
20 as IEPR.

21 One set of forms and instructions  
22 support the Commission's own forecast of  
23 electricity demand. The other set of forms and  
24 instructions support the Commission's assessment  
25 of electricity resources plans by utilities and