

BUSINESS MEETING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

WEDNESDAY, AUGUST 8, 2001

10:00 A.M.

Reported by:
Valorie Phillips
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMISSIONERS PRESENT

William Keese, Chairman

Michal Moore

Robert A. Laurie

James Boyd, Ex Officio

STAFF PRESENT

Kent Smith

Jonathan Blee

Nancy Tronaas

Dan Fong

Tim Schmelzer

PUBLIC ADVISER

Roberta Mendonca

ALSO PRESENT

Orville Moe
Onsite Power Systems, Inc.

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1 P R O C E E D I N G S

2 10:00 a.m.

3 CHAIRMAN KEESE: I call this meeting of
4 the California Energy Commission to order.
5 Commissioner Laurie, would you lead us in the
6 Pledge, please.

7 (Whereupon, the Pledge of Allegiance was
8 recited in unison.)

9 COMMISSIONER LAURIE: Mr. Chairman, --

10 CHAIRMAN KEESE: Commissioner Laurie.

11 COMMISSIONER LAURIE: -- before we get
12 into the consent calendar there's two points of
13 order I'd like to make.

14 First, in regards to Senate Bill 86X,
15 which the Commission took action on the July 11th
16 meeting, and its action was to recommend approval
17 with modifications.

18 I'm not sure I adequately offered my
19 concerns over that bill at the time. But what
20 that bill does, among other things, is put a six-
21 month time limit on initiating construction on a
22 power plant application. And upon a finding of no
23 good cause, the developer loses that license, and
24 it is forfeited to the Power Authority.

25 My concern is twofold. One, six months

1 is way too short. Two, I really don't like the
2 idea of forfeiture of a property right to the
3 government without compensation. Even though
4 after a year it could theoretically be lost.

5 Most importantly, I don't like the idea
6 of the Power Authority holding an inventory of the
7 right to build large power plants. It's unclear
8 today what the purpose of the Power Authority will
9 be. I'm very concerned that it's going to go into
10 competition with independent power producers, to
11 build large power plants, and thus disincentivize
12 the large producers from doing business here.

13 And I just don't believe that it's good
14 government to provide the Power Authority with
15 forfeited applications for large power plants. I
16 just want to make that clear and part of the
17 record, because I'm not sure I did that
18 satisfactorily on July 11th.

19 COMMISSIONER MOORE: Mr. Chairman, --

20 CHAIRMAN KEESE: Commissioner Moore.

21 COMMISSIONER MOORE: -- before we let
22 that item go, it seemed we did --

23 CHAIRMAN KEESE: I'm wondering if we
24 didn't plan to have a legislative report. Would
25 you like Mr. Schmelzer to be --

1 COMMISSIONER MOORE: What I'd like to
2 ask is if at the end of this meeting we could ask
3 Mr. Schmelzer to come back down.

4 It seems to me that the points that
5 Commissioner Laurie is raising are worth at least
6 debating one more time. And we may want to revise
7 the kind of recommendation that we made going out
8 of here on that bill. And I think we would all
9 benefit from further discussion of it.

10 So perhaps we can arrange to have Mr.
11 Schmelzer come down at the end of this meeting and
12 we could take this up again.

13 CHAIRMAN KEESE: Hopefully that will be
14 very quickly. Welcome, Mr. Boyd.

15 Commissioner Rosenfeld and Commissioner
16 Pernell are out of town on state business today.
17 What you see is what you get here.

18 Commissioner Laurie.

19 COMMISSIONER LAURIE: The second point,
20 and this is not on the agenda, and we can't really
21 discuss it, but it is a concern of mine. I
22 understand no action can be taken.

23 This deals with the issue of the
24 proposed contractual agreement between the Public
25 Utilities Commission and the Department of Water

1 Resources wherein PUC delegates its authority to
2 raise rates to bureaucratic dictate out of DWR.

3 I don't know, it's been suggested to me
4 that that action has been authorized by law under
5 legislation enacted in the special session. And I
6 don't know if that's correct or not.

7 I am concerned about good government
8 issues. The PUC has a constitutional authority
9 and responsibility over rate setting. It has a
10 public process. To lose that authority, and to,
11 by agreement or by law, have to respond to a
12 directive out of, and not directly accountable,
13 executive department is of great concern to me.

14 I'm not aware that the Energy Commission
15 is participating in that particular rulemaking,
16 although we participate in many PUC actions of a
17 similar nature.

18 So that is of concern to me, Mr.
19 Chairman. I intend to make inquiry as to what, if
20 anything, we are doing about that issue. And I
21 will bring it back to the Commission as may be
22 appropriate.

23 COMMISSIONER MOORE: Mr. Chairman, on
24 that issue, as well, it seems to me we could make
25 a little headway, make Commissioner Laurie's

1 inquiry a little easier and ask Mr. Schmelzer to
2 pull out the section of the bill that passed,
3 which I frankly can't remember the number for,
4 that allows the DWR to effectively impose their
5 rates through a PUC non-discriminatory action. In
6 other words, they don't have the ability to resist
7 or make a different rate than what's implied by
8 the DWR purchases.

9 So perhaps we can ask him to fill us in
10 a little bit on that, and speed this up, at the
11 time we --

12 CHAIRMAN KEESE: Yeah, let's make that
13 more general. Mr. Smith and Mr. Schmelzer, at the
14 end of this meeting perhaps, if you can give us an
15 opening enlightenment to Commissioner Laurie's
16 question.

17 COMMISSIONER LAURIE: That --

18 CHAIRMAN KEESE: -- complete answer, but
19 if --

20 COMMISSIONER LAURIE: That's fine, I
21 appreciate your patience, Mr. Chairman. That's
22 all I have, thank you.

23 CHAIRMAN KEESE: All right, consent
24 calendar. Do I have a motion?

25 COMMISSIONER MOORE: Move consent.

1 COMMISSIONER LAURIE: Second.

2 CHAIRMAN KEESE: Moved by Commissioner
3 Moore; second by Commissioner Laurie.

4 All in favor?

5 (Ayes.)

6 CHAIRMAN KEESE: Opposed? Adopted three
7 to nothing.

8 Item 2, Sunrise Simple Cycle Injection
9 Well Amendment. Possible approval of the
10 construction of a 2.5 mile underground pipeline to
11 two wastewater injection wells to dispose of
12 wastewater associated with the simple cycle
13 effluent from CTG washes.

14 Good morning.

15 MS. TRONAAS: Good morning; I'm Nancy
16 Tronaas; I'm the Compliance Project Manager for
17 this item.

18 This amendment is for the construction
19 of a 2.5 underground pipeline and two injection
20 wells for the existing operational simple cycle
21 project.

22 And staff has analyzed this and has
23 determined there will be no environmental impacts.
24 We have recommended a new and revised conditions
25 of certification. And find the project amendment

1 to be in compliance with LORS.

2 And we do recommend approval. And we
3 have not received any comments from the public to
4 date.

5 COMMISSIONER LAURIE: Mr. Chairman, this
6 matter has been through the Siting Committee.
7 It's the Siting Committee's finding that there
8 would be no detriment to the public, no additional
9 environmental impact. And thus, really no basis
10 for not allowing the amendment to go forth.

11 Upon that basis I would move the
12 recommendation.

13 CHAIRMAN KEESE: Motion by Commissioner
14 Laurie.

15 COMMISSIONER MOORE: And second with a
16 comment that in the siting process we anticipated
17 that this would be happening, so this is coming up
18 in the sequence that we predicted. Second the
19 motion.

20 CHAIRMAN KEESE: Second by Commissioner
21 Moore. Any public comment?

22 All in favor?

23 (Ayes.)

24 CHAIRMAN KEESE: Opposed? Adopted three
25 to nothing.

1 MS. TRONAAS: Thank you.

2 COMMISSIONER LAURIE: A point of
3 inquiry, Mr. Chairman.

4 CHAIRMAN KEESE: Yes, Commissioner
5 Laurie.

6 COMMISSIONER LAURIE: Commissioner
7 Moore, did you want to -- this was your case, was
8 it not?

9 COMMISSIONER MOORE: Yes, it was. And
10 that's why I indicated that we had anticipated
11 that this would be coming up. And so this is
12 perfectly in line with --

13 COMMISSIONER LAURIE: Yeah, then I
14 apologize. I should have deferred to you --

15 COMMISSIONER MOORE: Oh, not --

16 COMMISSIONER LAURIE: -- for the motion.

17 COMMISSIONER MOORE: -- not a problem.
18 This is appropriate and timely.

19 CHAIRMAN KEESE: Item 3 -- that's three
20 to nothing.

21 Item 3, Hungarian Energy Office.
22 Possible approval of a memorandum of understanding
23 to renew the cooperative agreement for the
24 exchange of energy analysis, efficiency and
25 licensing information, technical cooperation and

1 exploration of business opportunities for
2 California energy companies in Hungary.
3 Commissioner Laurie.

4 COMMISSIONER LAURIE: Mr. Chairman, if I
5 may. This is a renewal of an existing agreement.
6 The format is duplicative of that agreement that
7 we approved and executed with the Chinese
8 manufacturing organization just a few weeks ago.

9 The circumstances in eastern Europe are
10 very interesting. That is, Hungary and Poland are
11 entering the European Union. Wonderful
12 opportunities exist, I believe, for California
13 companies, much more so than in many other places
14 of the world.

15 I believe this MOU will allow for a
16 proper exchange of information and opportunities,
17 increased opportunities for California companies
18 with our assistance, which is our job.

19 Based upon that I would move the
20 proposed MOU.

21 COMMISSIONER MOORE: Mr. Chairman, I'm
22 going to second the motion, and I want to make a
23 comment on this, that I think is important as you
24 and the other Commissioners look forward.

25 One of the things that we've commented

1 on in the past is the increasing speed with which
2 globalization is occurring. Certainly one of the
3 closest ties that we have as the United States,
4 and as a nation, and California is a state, is to
5 some of the European countries.

6 And the industrial expansion has
7 occurred at say much faster rates than in other
8 places on the globe.

9 And to see some of the rebuilding that's
10 going on and be able to influence it with some of
11 the technological advances that we have here is
12 not only exciting, but profitable and perhaps, in
13 a broad policy basis, capable of changing the way
14 these nations develop.

15 So I just want to commend Commissioner
16 Laurie for taking the helm on this. And commend
17 to all of you who will remain after I go, the idea
18 that this is a great forum not only to advance
19 California technology, but to, in fact, change
20 policy direction.

21 So, see it for something much beyond the
22 MOU that's ahead of us. Thank you.

23 CHAIRMAN KEESE: We had a motion by
24 Commissioner Laurie; we have a second by
25 Commissioner Moore. Any further comment?

1 COMMISSIONER LAURIE: I'd just like to
2 note Mr. Bartsch's assistance. Without Nick's
3 participation none of this would be possible.
4 It's going to open great doors throughout eastern
5 Europe. And I would call for the question, Mr.
6 Chairman.

7 CHAIRMAN KEESE: All in favor?

8 (Ayes.)

9 CHAIRMAN KEESE: Opposed? Adopted three
10 to nothing. Thank you.

11 I probably should have mentioned,
12 although we're going quite expeditiously, items 5,
13 6 and 7 are moved to the agenda of the 22nd of the
14 month.

15 And items 8 and 9, the Colusa Power
16 Plant, have been moved to the August 15th agenda.
17 It's my understanding we will have a
18 recommendation for the August 15th meeting.

19 With that, we'll take up item 4,
20 California Department of Transportation. Possible
21 approval of interagency agreement 600-01-004 for
22 \$81,049 to establish four LPG fueling stations.

23 Good morning.

24 MR. FONG: Good morning; my name is Dan
25 Fong; I work for the Transportation Technology

1 Office.

2 The staff has before the Commission a
3 proposed interagency agreement with Caltrans for
4 the purpose of establishing four liquified
5 petroleum gas fueling sites.

6 This proposal was brought before our
7 Fuels and Transportation Committee and was
8 approved by them.

9 As background, staff received in the
10 budget year of 2000/2001 a petroleum violation
11 escrow account appropriation of \$6 million for the
12 purpose of establishing alternative fueling
13 infrastructure.

14 A solicitation was issued last year
15 resulting in a number of projects. However, there
16 was a balance of funds that remained from that
17 solicitation of \$81,049.

18 Since the Caltrans project is consistent
19 with that original solicitation, staff feels that
20 it would be appropriate for the Commission to then
21 share in this project with Caltrans for
22 establishing some LPG fueling sites.

23 CHAIRMAN KEESE: Thank you. The Fuels
24 Committee, Commissioner Moore and I, did hear this
25 and approved it.

1 COMMISSIONER MOORE: And I, on behalf of
2 the Fuels Committee, I will move the item.

3 COMMISSIONER LAURIE: Second.

4 CHAIRMAN KEESE: Motion, Commissioner
5 Moore; second, Commissioner Laurie. Any public
6 comment?

7 All in favor?

8 (Ayes.)

9 CHAIRMAN KEESE: Adopted three to
10 nothing. Thank you.

11 And, as I mentioned, items 5 through 9
12 are over. I don't believe we have to discuss them
13 any further, do we, Mr. Smith?

14 MR. SMITH: No.

15 CHAIRMAN KEESE: Item 10, we have no
16 minutes. Committee and Oversight? Chief
17 Counsel's Report? Do we have anything other than
18 the executive session, sir?

19 MR. BLEES: No, sir.

20 CHAIRMAN KEESE: We will have an
21 extremely brief executive session, since all three
22 Commissioners independently are in support of the
23 proposed legal action recommended by counsel. We
24 will have a very brief meeting after we're done
25 here in executive session

1 Executive Director's Report?

2 MR. SMITH: Just that the Executive
3 Director will be back in the office on Monday.

4 (Laughter.)

5 CHAIRMAN KEESE: I hope his --

6 COMMISSIONER MOORE: If he comes off the
7 raft --

8 CHAIRMAN KEESE: -- his sojourn on the
9 Colorado River in a raft has been successful.

10 Public Adviser's Report?

11 MS. MENDONCA: Nothing specific at this
12 time. Thank you very much.

13 CHAIRMAN KEESE: Thank you. Under
14 public comment I have Mr. Orville Moe who would
15 like to speak on renewable fuel projects -- a
16 renewable fuel project.

17 MR. MOE: A renewable fuel project, yes,
18 thank you for recognizing me. I know your meeting
19 will be brief today, but we are working with UC
20 Davis here this week, and we're expanding the
21 project that we started a couple years ago in
22 renewable digester fuel using waste, green waste.

23 And I have here, and available to the
24 Commission, if they would choose, I'm not going to
25 read it. It's a proposal from the Cal State

1 University, which is the new university in
2 Camarillo, taking over the old hospital site.

3 And they have a 28 megawatt proposal
4 here where they are going to use their existing
5 turbine system, which was installed some years
6 ago, but has been shut down because of the high
7 cost of fuel to them at that site.

8 And we're proposing to fuel that with
9 renewable digester fuel.

10 This program has just recently gotten
11 underway with the help of a nonprofit group called
12 Gold Coast Innovations. Steve was with me here a
13 minute ago, but he ran off to put some more
14 nickels in the parking meter.

15 And so if you would like a copy of this
16 I'll make that available to the staff.

17 CHAIRMAN KEESE: Yes, yes, we clearly
18 will. And I think probably the best way to start
19 it is with Mr. Smith, and we'll see that it gets
20 to the proper places.

21 MR. MOE: Thank you very much. I'll
22 make this --

23 COMMISSIONER LAURIE: What's the name of
24 the new campus?

25 MR. MOE: It's Channel Islands

1 University.

2 COMMISSIONER LAURIE: Channel Islands.

3 MR. MOE: Yeah, Cal State Channel
4 Islands University.

5 COMMISSIONER LAURIE: And it's at the
6 Camarillo Hospital site?

7 MR. MOE: It's at the old Camarillo
8 Hospital site. It's some 280 acres, I believe.
9 And it adjoins the wastewater treatment plant,
10 which is used by Oxnard and Camarillo.

11 And, of course, you're probably familiar
12 with our efforts at Las Virgenes where we
13 installed a gas recovery system in a fuel cell
14 power plant there.

15 COMMISSIONER MOORE: Right. I was just
16 going to add that. In fact, what I'll ask the
17 Chairman to do is to refer this to the Renewables
18 Committee so that we can comment on it. There may
19 be an opportunity to help out with this through
20 the renewables program.

21 And only to add that Orville was
22 instrumental in getting really a state-of-the-art
23 facility at Las Virgenes up and running, and it is
24 working; it's absolutely world-class facility. I
25 got down there for the dedication, and it's

1 something that I hope we can replicate in other
2 places in the state.

3 MR. MOE: Well, we're hoping, with the
4 help of the University system, to do something
5 like that here. We're also working with a number
6 of agencies, including well, the race track at
7 Santa Anita, for disposing of their horse manure
8 and all of that.

9 It's been difficult for us, being a
10 relatively small company, to keep track of all of
11 the different bills and renewables and non-
12 renewables and this and that and the next thing
13 that's gone on.

14 So, I've been working with Marwan to --
15 CHAIRMAN KEESE: And you're at the right
16 place.

17 MR. MOE: -- and he's kept me abreast of
18 most everything that's happening.

19 But, as you know, this is pretty tough
20 ground up here for us to track, and even for the
21 university system to track.

22 And there's a lot of opportunity to take
23 advantage of the work that's been done at UC
24 Davis, and is expanding, by the way. We're more
25 than doubling the size of the prototype plant.

1 And our crew is over there this week, which is why
2 I'm here.

3 And we really appreciate your help and
4 support. And it's just, you know, keep us on the
5 book so we know what's going on.

6 We've also expanded to the Midwest now,
7 so I'm also operating an office in Minnesota with
8 the help of the University of Minnesota at Duluth.
9 And I've been up there setting up that office.

10 Thank you.

11 CHAIRMAN KEESE: Well, thank you for
12 your update. And we will, these are projects of
13 interest. We're thrilled that the program has
14 been extended for another ten years, so we'll be
15 in that business.

16 MR. MOE: Thank you.

17 CHAIRMAN KEESE: All right. What order,
18 Mr. Schmelzer, do you have an inkling of what
19 we're interested in?

20 MR. SCHMELZER: The slightest.

21 (Parties speaking simultaneously.)

22 COMMISSIONER LAURIE: Why don't you step
23 forward and we will initiate the inquiry.

24 (Laughter.)

25 MR. SCHMELZER: Commissioner Laurie, I

1 think I'm here on your request, so.

2 COMMISSIONER LAURIE: If I may, --

3 CHAIRMAN KEESE: Commissioner Laurie.

4 COMMISSIONER LAURIE: -- Tim, I want to
5 talk about 86X. You sent a note indicating that
6 we did take action at the July 11th meeting. And
7 I recognize that.

8 As a reminder, 86X is that bill that
9 increases penalties for violations of licensing
10 conditions. It also imposes a six-month
11 limitation on initiation of construction.

12 During the Siting Committee and
13 otherwise, I've indicated my concern about the
14 six-month period, and that issue is addressed in
15 the communication to the Resources Agency.

16 But what's not addressed is the whole
17 issue of the role of the Power Authority. I don't
18 think the state government had to reinvent the
19 wheel on termination of licenses.

20 For probably 40 years the Subdivision
21 Map Act has told us what to do about what happens
22 when your entitlement expires. And that is you
23 lose your right to proceed to develop.

24 However, you can come in and seek an
25 extension. If you do seek an extension the

1 governmental entity has a right to grant it or not
2 grant it, it's discretionary. And if they choose
3 to grant it, there's discretion to modify the
4 conditions.

5 That, to me, is a much preferable way to
6 go than to, without compensation, which arguably
7 is zero if you lose your license, have that
8 entitlement go to the government.

9 I'm especially concerned because the
10 role of the Power Authority is today, as yet,
11 unclear. If we start providing the Power
12 Authority with free entitlements to build 700
13 megawatt power plants, I'm not sure anybody has
14 given any thought to how is that going to impact
15 the private market. How is that going to impact
16 our ability to get the independent producers of
17 the world to come in and want to build power in
18 competition with a State Power Authority?

19 And I'm very concerned about that,
20 because I don't hear anybody talking about that.
21 And I'm not sure that that issue was discussed
22 satisfactorily or thoroughly enough at the July
23 11th meeting. If not, it was my failure to do so.

24 So, that was my concern.

25 CHAIRMAN KEESE: Do you have any update

1 on the -- is that a correct analysis of the bill
2 the way it exists today?

3 MR. SCHMELZER: Yeah, I mean the short
4 summary of the bill is it requires construction
5 within six months, or the Commission can revoke
6 the license, unless there's a finding of good
7 cause by the Commission.

8 COMMISSIONER LAURIE: So my
9 understanding, Tim, is that unless there's a
10 finding of good cause, the Commission must revoke
11 the license?

12 MR. SCHMELZER: That's -- yes, that's, I
13 think, correct.

14 COMMISSIONER LAURIE: Yeah, okay.

15 MR. SCHMELZER: And then if that
16 happens, then the Power Authority would have a
17 period of 90 days in which it could decide whether
18 to use that license or not.

19 So it essentially becomes their project
20 to pursue or not. So, yeah, that --

21 COMMISSIONER MOORE: And let's stay with
22 that point for a just a second, because I think
23 this is underlying what Commissioner Laurie is
24 getting to.

25 Is there then a responsibility during

1 that 90 days to acquire the license in the classic
2 sense that they would have to pay a fee to acquire
3 it? Or does it simply revert to them at no cost?

4 MR. SCHMELZER: I would say that the
5 bill is unclear, at best, on that issue. It
6 really doesn't discuss how that transaction takes
7 place.

8 COMMISSIONER LAURIE: I think the
9 theory, Dr. Moore, is that upon revocation or
10 forfeiture that it would be argued the value of
11 the license is zero, and therefore it is not a
12 property right for which the state would have to
13 pay.

14 COMMISSIONER MOORE: Tim, let me ask
15 another question. And that is, is there an
16 opportunity available today to modify the position
17 that we took on that bill if we saw fit? Could we
18 send over another recommendation that said, oh, by
19 the way, we left this part out, the bill should be
20 tightened up here or there?

21 MR. SCHMELZER: That's always, yes.
22 There's never a time I know of when you can't.
23 So, of course.

24 COMMISSIONER MOORE: Well, why don't we
25 pursue this --

1 CHAIRMAN KEESE: Yeah, I would suggest,
2 since we are meeting next week, that we ask Mr.
3 Schmelzer to probe this issue. Since the
4 indication I have here is it's not really dealt
5 with except in the way that Commissioner Laurie
6 has indicated.

7 MR. SCHMELZER: Yeah, I mean the bill
8 just says that the Power Authority shall adopt
9 regulations with regard to how it's going to
10 implement, you know, this transaction. And that's
11 it, you know. It doesn't talk about compensation,
12 per se, or anything.

13 COMMISSIONER MOORE: It seems to me this
14 is worth another look, and that since the
15 Legislature is not due back until the 20th, is
16 that right?

17 MR. SCHMELZER: Yes, that's correct.

18 COMMISSIONER MOORE: We might want to
19 take one more shot at this and see if we can
20 refine the analysis and the opinion that we sent
21 over.

22 CHAIRMAN KEESE: Let's have a report to
23 us and we'll take it up at the next meeting, on
24 the 13th.

25 MR. SCHMELZER: Yeah, no problem.

1 COMMISSIONER MOORE: And you may have
2 Commissioners talking with you about opinions
3 before that actually takes place.

4 Tim, the other --

5 MR. SCHMELZER: Okay.

6 COMMISSIONER MOORE: -- the other item
7 that we had was one that I've been concerned
8 about, and that is the requirement for the PUC to
9 set a rate based on a DWR purchase, or based on
10 the bill that the DWR incurs for electricity
11 purchases.

12 And I couldn't remember what the bill
13 number was that set that up, or the citation,
14 which was going to be included to make the PUC --

15 MR. SCHMELZER: You know, I didn't get
16 enough clarity as to what the request was to --

17 CHAIRMAN KEESE: Okay, well, then --

18 MR. SCHMELZER: -- prepare to answer the
19 question, but --

20 CHAIRMAN KEESE: -- let me switch it to
21 Mr. Smith. Have we commented to the PUC on that
22 issue? Is that -- that is an item up in front on
23 the PUC agenda, I understand.

24 MR. SCHMELZER: Yeah, and it's garnered
25 much press, too.

1 CHAIRMAN KEESE: And we have not --

2 MR. SMITH: No, not to my knowledge, we
3 have not.

4 CHAIRMAN KEESE: Commented on it.

5 COMMISSIONER MOORE: Well, Tim, what's
6 your understanding of the section? And do you
7 remember what bill it's contained in?

8 MR. SCHMELZER: I have --

9 COMMISSIONER MOORE: I want to say 1X or
10 6X.

11 MR. SCHMELZER: Well, 1X was the bill
12 that established the authority for the state to
13 procure power. And there was some subsequent
14 legislation relating this setting up the bonding
15 authority that probably amended some of the
16 sections you're talking about.

17 This has not been a particular focus of
18 mine, so I don't believe I'm going to be speaking
19 with a very high level of expertise here. But,
20 generally speaking, the section that you're
21 discussing requires the Public Utilities
22 Commission to establish a rate sufficient to have
23 the DWR recover its costs.

24 COMMISSIONER MOORE: But the salient
25 point here is that, at least as I'm recalling the

1 debate, which has been surfacing more in the
2 popular press than anything else, is that there's
3 no hearing required.

4 In other words, right now we'd have a
5 general rate case that would occur before we would
6 have a tariff that comes out of the PUC
7 establishing such a rate.

8 And my understanding is that that
9 process is suspended for the amount necessary to
10 cover those specific DWR purchases. Am I
11 recalling this correctly?

12 MR. SCHMELZER: To my knowledge, and I
13 hate to be caveating this so much, but again, this
14 isn't something I've been particularly focused on.
15 The order in front of the PUC, and probably based
16 on legislation, requires that it's basically a
17 direct pass-through. That there's not a
18 subsequent review prior to DWR procuring the --

19 CHAIRMAN KEESE: Mr. Schmelzer, let me
20 ask if there's any member of the public who feels
21 qualified to enlighten us on this issue, in the
22 least?

23 COMMISSIONER MOORE: Mr. Chairman, --

24 CHAIRMAN KEESE: I see all the heads
25 ducking. Recognizing that this is, as I

1 understand it, on the PUC agenda, there must be a
2 background paper for the PUC that could enlighten
3 us?

4 MR. SMITH: I would presume that's --
5 we have not been following --

6 MR. BLEES: There's a host of them.

7 CHAIRMAN KEESE: Can you enlighten us?

8 MR. BLEES: There's a host of background
9 papers on this subject that --

10 CHAIRMAN KEESE: Can you enlighten us,
11 Mr. Boyd?

12 MR. BOYD: I'm not going to go too far
13 to enlighten you.

14 (Laughter.)

15 MR. BOYD: Since I'm only ex officio
16 here, and -- but, --

17 CHAIRMAN KEESE: Ex officio means you
18 supply --

19 MR. BOYD: -- my understanding of the
20 issue is that the PUC is considering an action now
21 which would result somewhat in setting a policy
22 that would assure that the DWR/the people of the
23 State of California get their money back through
24 rate systems that assure that.

25 So the PUC does have to take an action.

1 Having taken that action, I think the die is cast
2 for the future.

3 But it really is cast about the existing
4 structure or system which had DWR step in at the
5 last second to keep the lights on in the absence
6 of anyone else's ability to do so. Buy power
7 sufficient to build a small net short reserve, and
8 to become a player in the arena, such that the
9 prices were affected.

10 Having done that they're not exactly
11 real active anymore. Now it's we have taken a
12 mortgage, for better or for worse, we have to pay
13 off the mortgage. And this rate system would
14 assure that.

15 There is a great debate about the amount
16 of the rates and the fairness and the equity, et
17 cetera, et cetera.

18 COMMISSIONER MOORE: Jim, I may have
19 asked my question badly, because it sounds to me
20 as though you really do know more than we do about
21 this --

22 MR. BOYD: You've heard all I know,
23 though.

24 COMMISSIONER MOORE: My question --

25 MR. BOYD: Because I, too, have not

1 delved deeply into this.

2 COMMISSIONER MOORE: Yeah, my question
3 was, and perhaps I'll just flip it back to Mr.
4 Schmelzer, and we can get a response back next
5 week, it would be nice, if the PUC hasn't acted.

6 How much discretion does the PUC have in
7 their proceeding? Or are they literally dictated
8 to by the legislation that has already, in effect,
9 mandated an outcome?

10 That's my question. So, yes, I
11 understand that there's a docket item that they
12 are going to consider. What I don't know is
13 what's driving that docket, as to whether or not
14 it's mandatory, or it's discretionary. And
15 therein the genesis of my question.

16 CHAIRMAN KEESE: Okay, we'll have Mr.
17 Schmelzer assist us in finding it. Mr. Jaske
18 assist us in giving us an interpretation of it?

19 COMMISSIONER LAURIE: Okay, maybe just a
20 one- or two-page memo, Tim, by next week as to an
21 explanation of what the contract does, if there is
22 enabling legislation, or the contract is out there
23 by itself.

24 CHAIRMAN KEESE: Okay, thank you. Any
25 other questions from members?

1 COMMISSIONER LAURIE: Thank you, Mr.
2 Chairman, I appreciate that time.

3 CHAIRMAN KEESE: Mr. Boyd, any?

4 MR. BOYD: No, I just commend the
5 gentleman who gave the presentation on the
6 digester projects. I was sitting here thinking in
7 today's environment we need all of the alternative
8 approaches to these activities.

9 And I was encouraged to hear that
10 they've had such success in the past. And I can
11 only think they'll have even greater success in
12 the present and the future in light of the
13 recognized need of having fuel diversity in the
14 heavy dependence on natural gas, and the need to
15 move away from that.

16 So, here, here, more power to them.

17 COMMISSIONER MOORE: Right, but not just
18 that, especially in the area that you came from,
19 and looking back down to Norco, if you look at the
20 methane gas generation that's occurring just from
21 the cattle feed lot, the operations that are down
22 there.

23 This kind of technology can not only
24 make a difference in terms of energy generation,
25 but really knock down a major air pollutant in the

1 South Coast Basin. So it's got tremendous
2 reciprocal benefits, at least, as far as I'm
3 concerned, it's an absolute win/win.

4 MR. BOYD: I echo your sentiments
5 exactly.

6 CHAIRMAN KEESE: Not to prolong our
7 meeting, but let me mention that in the last week
8 I have spoken to one conference and attended
9 another conference, each of which have had a
10 significant amount to do with what we call server
11 firms, the buildings that house the broadband
12 activities, at up to 300 kilowatts per square
13 foot, and rising towards 500.

14 And I have come to the conclusion from
15 those two meetings that -- well, I'm informed from
16 those two meetings that everyone of these
17 facilities has redundant backup diesel generation.
18 So if they're using 40 megawatts, they back it up
19 with 50 megawatts of diesel generation.

20 I have come to the conclusion, which
21 they attest to, they have not had any concern
22 about electricity costs because the other dynamics
23 of the business are so great that the electricity
24 doesn't matter. And therefore they have done
25 absolutely nothing on energy efficiency because

1 electricity costs have not mattered.

2 There is a downturn, obviously, in that
3 business right now. One of the key participants
4 indicated he'd moth-balled one of his three
5 facilities.

6 This may be the time to introduce energy
7 efficiency and some things into that area. And I
8 am going to suggest that our staff get together
9 with some of these people and do it.

10 The astounding figure was the electrical
11 contractors, the general contractor, because 60
12 percent of the cost of these buildings is the
13 electrical system.

14 Any other comments here? Hearing none,
15 we will go into executive session briefly, right
16 down the hall.

17 The meeting is adjourned.

18 (Whereupon, at 10:35 a.m., the meeting
19 was adjourned.)

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CERTIFICATE OF REPORTER

I, VALORIE PHILLIPS, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Business Meeting; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said meeting, nor in any way interested in outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of August, 2001.

VALORIE PHILLIPS

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