

BUSINESS MEETING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

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

WEDNESDAY, NOVEMBER 14, 2001

10:00 a.m.

Reported By:

Valorie Phillips

Contract No. 150-01-006

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMISSIONERS PRESENT

William J. Keese, Chairman

Michal C. Moore

Robert Pernell

Arthur Rosenfeld

James Boyd, Ex Officio Member

STAFF PRESENT

Steve Larson, Executive Director

Bill Chamberlain, Chief Counsel

Bob Therkelsen, Deputy Director

Arlene Ichien

Jim McKinney

John Eash

Mike Batham

Dave Hatfield

Bill Blackburn

Kristy Chew

Darcie Houck

Jack Caswell

PUBLIC ADVISER

Grace Bos, Associate Public Adviser

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

2 CHAIRMAN KEESE: Call this meeting of
3 the Energy Commission to order.

4 Mr. Boyd, would you lead us in the
5 Pledge, please.

6 (Thereupon the Pledge of
7 Allegiance was recited in unison.)

8 CHAIRMAN KEESE: Thank you all.
9 Consent Calendar. We have two items.
10 Commissioner Moore.

11 COMMISSIONER MOORE: Motion on Consent
12 1a and b.

13 COMMISSIONER ROSENFELD: Second.

14 CHAIRMAN KEESE: Motion, Commission
15 Moore; second, Commissioner Rosenfeld.

16 All in favor?

17 (Ayes.)

18 CHAIRMAN KEESE: Opposed.

19 Adopted, four to nothing. Thank you.

20 Item 2, Sunrise Power Project, has been
21 moved to a Special Meeting that we will have next
22 Monday, 11/19.

23 Item 3, is off calendar.

24 Item 4, Inland Empire Energy Center, is
25 moved to our December 19th calendar, as is Item 5.

1 Item 6, the SMUD Cosumnes Power Plant
2 Project. Commission consideration of the
3 Executive Director's Data Adequacy Recommendation
4 for the SMUD Cosumnes Power Plant Project
5 Application for Certification.

6 MS. CHEW: Good morning, Chairman Keese
7 and Commissioners. My name is Kristy Chew. I am
8 the project manager on behalf of the Energy
9 Commission for the Cosumnes Power Plant Project,
10 Docket Number 01-AFC-19. To my left is Darcie
11 Houck, sitting in for Staff attorney Caryn Holmes,
12 for this project.

13 The Cosumnes Power Plant Project is a
14 proposed 1,000 megawatt combined cycle natural
15 gas-fired power plant located approximately a
16 thousand feet south of the decommissioned Rancho
17 Seco Nuclear Plant, in Sacramento County. The
18 application was originally deemed incomplete at
19 the October 17th Business Meeting. Since then,
20 the Applicant, Sacramento Municipal Utility
21 District, has submitted additional information.

22 SMUD has requested that the Energy
23 Commission review the application under the
24 provisions of the 12-month certification process.
25 Staff has reviewed the application and the

1 additional information, and has found the
2 application to be complete for the 12-month
3 certification process.

4 Staff recommends that the Commission
5 accept the application and assign a Committee. We
6 would be happy to answer any questions you may
7 have at this time.

8 Thank you.

9 CHAIRMAN KEESE: Thank you.

10 COMMISSIONER MOORE: See if there's
11 anyone in the public.

12 CHAIRMAN KEESE: Any public comment on
13 this?

14 MR. COHN: Steve Cohn, on behalf of
15 Sacramento Municipal Utility District, and we're
16 looking forward to getting into the thick of it
17 and working with you to get a permit.

18 CHAIRMAN KEESE: Thank you. Nice
19 thousand megawatts to the system.

20 Do we have a motion?

21 COMMISSIONER MOORE: Move the Executive
22 Director's recommendation to find this project
23 data adequate at this time.

24 CHAIRMAN KEESE: Motion by Commissioner
25 Moore.

1 COMMISSIONER ROSENFELD: Second.

2 CHAIRMAN KEESE: Second by Commissioner
3 Rosenfeld.

4 All in favor?

5 (Ayes.)

6 CHAIRMAN KEESE: Opposed?

7 Adopted, four to nothing.

8 Then I will entertain a motion. Item 7,
9 SMUD Cosumnes Power Plant Project, approval of a
10 Committee for the SMUD Cosumnes Power Project. I
11 will entertain a motion that Commissioner Pernell
12 preside, Commissioner Rosenfeld, second.

13 COMMISSIONER MOORE; Move the Committee
14 assignment.

15 CHAIRMAN KEESE: Commissioner Moore
16 moves.

17 COMMISSIONER ROSENFELD: Second.

18 CHAIRMAN KEESE: Commissioner Rosenfeld
19 seconds.

20 All in favor?

21 (Ayes.)

22 CHAIRMAN KEESE: Opposed?

23 Adopted, four to nothing.

24 Thank you. Good luck.

25 MR. COHN: Thank you.

1 CHAIRMAN KEESE: Item 8, Avenal Energy
2 Project. Commission consideration of the
3 Executive Director's Data Adequacy Recommendation
4 on the Avenal Energy Project.

5 MR. MCKINNEY: Good morning, Chairman
6 and Commissioners. I'm Jim McKinney, I'm the
7 CEC's project manager on the Avenal siting case.
8 Lisa DeCarlo is Staff counsel on this project.

9 On October 9, Duke Energy filed an
10 Application for Certification for a 600 megawatt
11 combined cycle plant in the City of Avenal in
12 Kings County. They're applying under the
13 Commission's 12-month review process.

14 Briefly, the project is a 600 megawatt
15 combined cycle two on one configuration. They
16 propose to use inland surface water from the Kern
17 County Water Agency for cooling purposes. There
18 are two short linears, about 1.3 miles for each.
19 The current site is zoned industrial, although the
20 current land use is irrigated agriculture.

21 Staff has reviewed the AFC. We find it
22 not data adequate in eight of 22 subject areas.
23 We think about half of these are ministerial, and
24 the rest will take a little bit more work with the
25 Applicant. We have had discussions with the

1 Applicant, and they think they can get us
2 supplemental information on November 27th.

3 COMMISSIONER MOORE: The 27th?

4 MR. MCKINNEY: November 27.

5 CHAIRMAN KEESE: Thank you.
6 Applicant.

7 MS. LUCKHARDT: Yes. We believe that we
8 can provide --

9 CHAIRMAN KEESE: For the record --

10 MS. LUCKHARDT: Oh, I'm sorry. This is
11 Jane Luckhardt, from Downey, Brand, Seymour and
12 Rohwer, on behalf of Duke Energy Avenal. With me
13 here today is Bob Cochran, from Duke Energy.

14 We have reviewed the list of requests
15 from Staff. On the whole, it's fairly simple to
16 respond to, and we feel that we will have no
17 problem responding by the 27th, as we proposed to
18 Staff. And there are a couple issues that we feel
19 we'll be able to work with Staff on, those dealing
20 with water resources and one small visual issue.
21 Staff seems willing to sit down with us. We think
22 we're going to be able to work this through, and
23 hope to be back in front of you as a data adequate
24 application on December 19th.

25 CHAIRMAN KEESE: Thank you.

1 Any public comment?

2 Do I have a motion?

3 COMMISSIONER MOORE: Move to accept the
4 Executive Director's --

5 CHAIRMAN KEESE: We have somebody --
6 yes. Go the podium, please.

7 MAYOR ELLIOTT: Can you hear me there?

8 CHAIRMAN KEESE: You have to get quite
9 close to it.

10 MAYOR ELLIOTT: Like that, huh?

11 CHAIRMAN KEESE: A little closer than
12 I've been, evidently.

13 MAYOR ELLIOTT: Oh, okay. My name is
14 Ray Elliott, I'm the Mayor of the City of Avenal.

15 Chairman and Members of the Energy
16 Commission, on behalf of the citizens of Avenal,
17 the City Manager, Staff and Council Members, I
18 would like to take this opportunity to thank all
19 of you for considering the preliminary application
20 for this electric power generating plant submitted
21 by Duke Energy. We could not have asked for a
22 more professional company and staff to work with
23 than Duke Energy's in the past months of
24 preliminary planning.

25 Now, Kings County has suffered the loss

1 of several large businesses in the past year due
2 to the huge increase in power cost. This has
3 increased our unemployment by 1,000 plus
4 employees, and this is a big percentage for a
5 small county. Construction and operation of a
6 plant like this size will help our employment
7 greatly. We really need to have this thing to
8 help out our unemployment.

9 The many public meetings and hearings
10 held in Avenal and Kings County have brought no
11 negative comments regarding this facility. Matter
12 of fact, the only comments we have received have
13 been when do they start construction, and when do
14 they start making power.

15 We're looking forward to a prompt
16 permitting and construction of this plant. And I
17 thank you very much for your consideration.

18 CHAIRMAN KEESE: Thank you. And I see I
19 have cards from a number of other individuals from
20 the city. Are you speaking for all of --
21 everybody, or --

22 MAYOR ELLIOTT: No, we have Mayor Pro
23 Tem Woolley here.

24 CHAIRMAN KEESE: All right.

25 MAYOR PRO TEM WOOLLEY: Good morning.

1 Bill Woolley, Mayor Pro Tem of the City of Avenal.

2 I just want to second the comments made
3 by Ray Elliott, and also mention in my other life
4 outside of politics, I'm a high school social
5 science teacher. And this project, even the
6 proposal of this project, was amazing in the
7 difference that it's made in the minds of some of
8 my students and how they view the city, because
9 we're a small rural community, basically
10 agricultural, and in talking to my students they
11 can hardly wait to graduate from high school and
12 leave, because they see it as a dead end area.
13 Having a multi-national corporation like Duke come
14 in and express an interest in the city to build a
15 power plant, has raised the city's self-esteem.

16 The students now look at the city a
17 little bit differently. They go well, you know,
18 if a company like Duke is interested in the city,
19 maybe I ought to go and get an education and come
20 back. And so it's been an exciting process. It's
21 given me a lot of insight into how state
22 government works by following this process. And
23 as a government teacher, that's been something I
24 can pass on to my students.

25 But I just would like to voice my

1 support and the support of my students at Avenal
2 High School for the Duke Energy Project. Thank
3 you.

4 CHAIRMAN KEESE: Thank you.

5 Mr. Doughty, is he going to speak?

6 MR. DOUGHTY: I was going to comment
7 that we've been working with Duke Energy for quite
8 some time -- Jim Doughty, I'm Director of Planning
9 and Development for the City of Avenal. And the
10 city is supporting this project, and has all
11 along. We've been working with Duke for a year
12 and a half, and they have been -- gone overboard
13 to try and please us in areas that we didn't even
14 ask them for. So we do support this project, and
15 appreciate working with them. We would appreciate
16 the Commission's trying to expedite it, and look
17 at it favorably.

18 CHAIRMAN KEESE: Thank you. Thank you
19 very much.

20 Anybody else? Okay.

21 Motion?

22 COMMISSIONER MOORE: Mr. Chairman, I
23 move the Executive Director's recommendation to
24 find this project data inadequate at this time.

25 COMMISSIONER ROSENFELD: Second.

1 CHAIRMAN KEESE: Motion, Commissioner
2 Moore. Second by Commissioner Rosenfeld.

3 CHAIRMAN KEESE: All in favor.
4 (Ayes.)

5 CHAIRMAN KEESE: Opposed?
6 Four to nothing.

7 Thank you. And glad to see support.
8 We'll be back, hopefully, on the 27th.

9 With that, Item 9 is put over.

10 Item 10, the Tesla Power Project.

11 Consideration of the Executive Director's Data
12 Adequacy Recommendation for the Tesla Power
13 Project.

14 MR. CASWELL: Good morning, Chairman.
15 Good morning, Commissioners. I'm Jack Caswell,
16 Staff Siting Project Manager, and to my left is
17 Darcie Houck.

18 On October 12th, Midway Power LLC filed
19 an Application for Certification seeking approval
20 from the Energy Commission to construct and
21 operate the Tesla Power Project on a 60 acre
22 portion of 160 acre parcel in Alameda County. The
23 site is approximately a half-mile north of the
24 PG&E Tesla Substation.

25 This project as proposed will be a 1,120

1 megawatt natural gas combined cycle power plant.
2 The Applicant has requested a six-month review of
3 their application.

4 Currently, 12 technical areas under the
5 12-month review are inadequate, as well as 10
6 technical areas under the six-month process are
7 inadequate. Problematic areas are Air Quality,
8 Biological Resources, Land Use, and Water Quality
9 are the main issues here.

10 The Applicant agrees at this time that
11 the current application is incomplete, and they
12 are diligently working with us to correct those
13 inadequacies. At this time, Staff would like to
14 request that this project be put over to another
15 Business Meeting.

16 CHAIRMAN KEESE: Okay. Does the
17 Applicant have any --

18 MR. GRATTAN: Yes. Good morning,
19 Commission and public.

20 CHAIRMAN KEESE: Good morning.

21 MR. GRATTAN: My name is John Grattan,
22 for the record, and I represent FPL Energy. And
23 next to me is Scott Busa, who is the project
24 manager from FPL Energy.

25 And we have enjoyed working with Staff

1 up to this point, and will continue to enjoy
2 working with Staff.

3 (Laughter.)

4 MR. GRATTAN: And the one comment I'd
5 like to make for the record is that we recognize
6 those areas currently of inadequacy. We think
7 that we can fix them and stay within the six-month
8 process, and we wish that the Commission would
9 reserve decision on that until we come back with
10 our application.

11 CHAIRMAN KEESE: We clearly will.

12 COMMISSIONER MOORE: Mr. Chairman, I
13 have a question for Staff. And Jack, what is the
14 land use issue that you find incomplete at this
15 point?

16 MR. CASWELL: There's an issue of a
17 Williamson Act for that property.

18 COMMISSIONER MOORE: The property is
19 under a Williamson Act contract?

20 MR. CASWELL: Correct.

21 COMMISSIONER MOORE: And that --

22 MR. CASWELL: And also a Alameda County
23 Measure D, which further kind of solidifies that
24 direction, which is a measure to preserve open
25 lands in Alameda County.

1 COMMISSIONER MOORE: Mr. Grattan, I can
2 probably turn to you, then, for the answer. Did
3 the Applicant or the property owner, the current
4 property owner -- actually, I should start there.
5 Is the current property owner FPL, or is FPL a
6 lessor of the property?

7 MR. BUSA: This is Scott Busa, Project
8 Manager for the Tesla Project.

9 We have an option to purchase the
10 property, currently.

11 COMMISSIONER MOORE: And the current
12 property owner, I'm assuming it's in Ag 40, or
13 some similar kind of zone?

14 MR. BUSA: Ag 160.

15 COMMISSIONER MOORE: Ag 160. And is
16 there a notice of non-renewal that's been filed
17 with the county by that landowner?

18 MR. BUSA: No, sir, there hasn't. We
19 believe that the use of a power plant on the
20 subject property will be compatible with the
21 Williamson Act that's on the property currently.

22 COMMISSIONER MOORE: And that would be a
23 non-conforming variance submittal to the county?

24 MR. BUSA: No. We don't believe that
25 there is a variance required for that. We've been

1 in touch with Alameda County, and will be
2 providing additional information to Staff on their
3 thoughts on this, too.

4 MR. GRATTAN: Two different -- we
5 believe that the land use is consistent with the
6 General Plan and the zoning. And second, that the
7 use of a power plant on a portion of that property
8 is compatible under the Williamson Act.

9 COMMISSIONER MOORE: What's the
10 footprint of the plant itself?

11 MR. BUSA: Thirty acres.

12 COMMISSIONER MOORE: And the current
13 crop that's on the land?

14 MR. BUSA: It's used for grazing.
15 There's no crops growing in that area.

16 COMMISSIONER MOORE: Thank you.

17 Mr. Chairman, if there's no other
18 comment, I'll --

19 COMMISSIONER PERNELL: I have a
20 question.

21 CHAIRMAN KEESE: Okay. One question.

22 COMMISSIONER PERNELL: This is to Staff.

23 Is there any -- you want it to be brought back.

24 Is there any date that you're looking at?

25 MR. CASWELL: Currently, we are

1 targeting the November -- excuse me, December 19th
2 Business Meeting. The Applicant has indicated
3 that they can provide additional information to us
4 by November 19th, for review, so the December 19th
5 Business Meeting would be the targeted --

6 COMMISSIONER PERNELL: Okay.

7 MR. CASWELL: -- business date, at this
8 time.

9 CHAIRMAN KEESE: Okay.

10 Any public comment?

11 Motion by Commissioner Moore.

12 COMMISSIONER PERNELL: Second.

13 CHAIRMAN KEESE: Second by Commissioner
14 Pernell, data inadequacy.

15 All in favor?

16 (Ayes.)

17 CHAIRMAN KEESE: Opposed?

18 Adopted, four to nothing.

19 Thank you. We'll see you, and hope
20 you're just as happy when you get back next time.

21 (Laughter.)

22 CHAIRMAN KEESE: Item 11 is over.

23 Item 12. IShow.Com. Possible approval
24 of Contract 400-01-021 for \$600,000 to develop and
25 produce streaming online training videos for the

1 Energy Efficiency Standards for Residential and
2 Nonresidential Buildings for building department
3 personnel, et cetera.

4 MR. EASH: Good morning, Mr. Chairman,
5 Commissioners, Commission Staff, and members of
6 the public. My name is John Eash. I'm the
7 Commission contract manager for this project.

8 I want to thank you for this opportunity
9 to speak on behalf of the proposed ERPA funded
10 Contract Number 400-01-021. This contract will
11 provide, as you stated, Mr. Chairman, online
12 Internet streaming training videos. The target
13 audiences of this project are building
14 departments, builders, and consumers.

15 It is extremely important that builders
16 know how to properly install energy efficient
17 systems and devices, so that these systems work as
18 intended. It is equally important that building
19 departments understand how to enforce the energy
20 efficiency standards. This contract will expand
21 the current online videos that we have to include
22 more than 100 three- to eight-minute videos that
23 will help provide better, more energy efficient
24 buildings.

25 Because of the weakened economy and the

1 financial uncertainty of state funding, it is even
2 more important now to provide a bigger bang for
3 the buck. This contract will allow many more
4 persons to receive information and training, using
5 less funding and less staff that would a
6 conventional training program. In addition to the
7 online streaming videos and the Internet text
8 links that are provided, this contract will
9 provide the same information on CD-ROMs that will
10 be mailed to builders and building departments.

11 The contract also includes a pilot
12 interactive Webcast, or simulcast, where between
13 1,000 and 10,000 persons will be trained
14 simultaneously. That training will be recorded
15 and also streamed on the Web for continuing use.

16 Finally, the contract includes a
17 partnership with the Department of State Architect
18 to provide streaming videos and CD-ROMs that will
19 enhance the California High Performance Schools
20 Program by showing how to achieve energy
21 efficiency in schools, and encouraging school
22 boards, architects, and contractors to strive to
23 build such schools. Using the multimedia systems
24 of this contract to provide training and
25 information allows the Commission, one, to move

1 the message of energy efficiency and alternative
2 energy sources and systems; also, to provide a
3 training on the Title 24 2001 Energy Efficiency
4 Standards; and also to provide information on the
5 direction of the 2005 standards to the public in a
6 more efficient and effective manner than the
7 conventional training methods.

8 Finally, we are fortunate, indeed, to
9 have had private sector funding having a value of
10 approximately \$250,000, to date, that helped
11 initiate this project. It is time now for us to
12 step up to the plate and provide funding for this
13 very important training contract. I urge you to
14 approve this contract.

15 CHAIRMAN KEESE: Thank you.

16 COMMISSIONER PERNELL: Mr. Chairman.

17 CHAIRMAN KEESE: Commissioner Pernell.

18 COMMISSIONER PERNELL: Mr. Chairman,
19 this contract did come before the Energy
20 Efficiency Committee and was approved out of
21 there. And if there's no questions from the dais,
22 I would move Staff recommendation.

23 COMMISSIONER MOORE: I have one
24 question.

25 CHAIRMAN KEESE: Commissioner Moore.

1 COMMISSIONER MOORE: John, why did you
2 make the choice to have streaming video on this,
3 when the majority of the world that's out there is
4 still connecting through 2088, or 3036. They're
5 not going to be able to take much advantage of a
6 streaming video. Why did you not make a choice to
7 have things that they could simply download and
8 then run remotely? I realize you're going to mail
9 a CD-ROM out, as well. But why the emphasis on
10 streaming, when the majority of people who could
11 make use of this service can't take advantage of
12 that in a very effective way?

13 MR. EASH: Okay. Well, I think that the
14 first thing is, first of all, we do, in providing
15 Quicktime as one of the encoded --

16 COMMISSIONER MOORE: But I'm not talking
17 about -- Quicktime's fine.

18 MR. EASH: Well, that can be downloaded.

19 COMMISSIONER MOORE: I'm talking about
20 the connection. I mean, if --

21 MR. EASH: You can also download it.

22 COMMISSIONER MOORE: You can download
23 the files.

24 MR. EACH: Quicktime allows you to
25 download. Actually, Quicktime does download

1 simultaneously to the streaming. So you can
2 download these files. That's the first thing. If
3 you want to download them or if it's better for
4 you to download them. My belief is that as
5 broadband continues to get better and better, that
6 within the next few years we're looking towards
7 the future, that streaming will be more of a, you
8 know, I have cable modem at home and it's
9 wonderful to watch these things, so.

10 COMMISSIONER MOORE: Yeah. Not in
11 Mendocino County.

12 MR. EASH: We also provide a slide show
13 that you can click on that, if you have a 56K
14 modem, and you get a slide show with streaming
15 audio. So, one of the reasons for selecting the
16 streaming mode of delivery is that often people
17 will not wait for the files to download. So if
18 you have a 56K modem, we have this set up so that
19 you'll get a slide show along with streaming
20 audio, and you can, you know, it just moves right
21 forward.

22 COMMISSIONER MOORE: Second the motion.

23 EX OFFICIO MEMBER BOYD: Mr. Chairman, a
24 question, though.

25 CHAIRMAN KEESE: Mr. Boyd.

1 EX OFFICIO MEMBER BOYD: Mr. Eash, you
2 described the target audience that has been
3 selected for this training. What kind of success
4 to date, and what kind of feedback have you gotten
5 from that target audience, relative to the
6 products that you're describing here? Is there a
7 receptive, are people waiting with open arms or
8 are you going to have to sell this to the target
9 audience?

10 MR. EASH: Well, a couple of things.
11 We've had a few building departments who have
12 given us very positive feedback on what they've
13 seen. We haven't marketed yet that much to
14 builders. One of the things is we have about 28
15 -- I believe 28 files online right now, under four
16 modules. And so, yeah, I kind of wanted to get
17 something online before we really started to
18 market this so we had a diversity that would allow
19 for different audiences that might want to see
20 these various files. So, we have had, I believe
21 in July, even as new as it was then, we had
22 something like 2,000 hits on the actual streaming,
23 you know. That was just on the Web -- on the
24 splash pages.

25 So we, I think we've had pretty good

1 feedback to date. Part of the contract does call
2 for one of the subcontractors, which is D&R
3 International, out of Washington, D.C., who's the
4 prime Energy Star contractor for the Department of
5 Energy, to do some marketing on this. In
6 addition, the BCAP Newsletter is placing this in
7 their January newsletter, talking about -- that
8 goes to all the states' energy offices and others,
9 and we're promoting it through the Blueprint, that
10 I'm editor of, which is a publication here at the
11 Commission. It has about 4500, including all the
12 building departments, and we're starting to
13 promote it there.

14 We kind of wanted to wait until we had
15 some things online before we really went to market
16 this.

17 EX OFFICIO MEMBER BOYD: Thank you.

18 CHAIRMAN KEESE: Thank you. We have a
19 motion by Commissioner Pernell, second by
20 Commissioner Moore.

21 Any public comment?

22 All in favor?

23 (Ayes.)

24 CHAIRMAN KEESE: Opposed?

25 Adopted, four to nothing.

1 Thank you. I'm looking forward to
2 experimenting with that.

3 Item 13. ALM Turbine, Inc. Possible
4 approval of Contract 500-01-012 for \$2,867,270 to
5 co-fund continuing development of a novel gas
6 turbine design with superior emissions.

7 MR. BATHAM: Good morning,
8 Commissioners. My name is Michael Batham. I'm
9 the team lead for the Advanced Generation portion
10 of the Public Interest Energy Research Program.

11 What you have before you is the possible
12 approval of a contract with ALM Turbines. This
13 contract is one of nine. It's actually the third
14 one of the nine that's been before you now, that
15 was approved by the R&D Committee on September the
16 6th. All of these contracts have been reviewed in
17 response to a solicitation that was issued and
18 evaluated by a team of Staff and Department of
19 Energy personnel.

20 On my right is David Hatfield, who's the
21 project manager for this particular project, and
22 he'll describe -- excuse me -- the technical basis
23 of the project and answer any questions that you
24 may have.

25 CHAIRMAN KEESE: Thank you.

1 MR. HATFIELD: Good morning, Chairman,
2 Commissioners.

3 COMMISSIONER MOORE: I have just one
4 question of Staff, Mr. Chairman. And that is, on
5 the proposal as it comes to us, a couple of items
6 that come -- that are of interest. One is the
7 reduce complexity of the blade materials and
8 cooling; eliminate the turbine nozzles and vanes.

9 My question is, does this contract and
10 the other eight that are involved in the sequence,
11 anticipate that these are the kind of improvements
12 that would be able to retrofit existing
13 facilities, as opposed to -- for the installed
14 bases, is where I'm going -- as opposed to just
15 new turbines coming on. Because to get things
16 into the stream, the development stream, is
17 typically a multi-year process, but retrofitting
18 can be much faster, getting out the industry.

19 So is that part of the target that we're
20 dealing with on these items?

21 MR. BATHAM: Of the nine projects, five
22 of them deal with turbines. The other four deal
23 with fuel cell technologies. Of the five turbine
24 projects, this one is not amenable to a retrofit
25 situation. Two of the other ones directly are,

1 but this one is for a new type of turbine
2 development.

3 So, no, this one is not for
4 retrofitting.

5 COMMISSIONER MOORE: Thank you.

6 CHAIRMAN KEESE: Thank you.

7 MR. HATFIELD: Good morning. My name is
8 David Hatfield. And the ALM Turbine concept is
9 derived from Russian aerospace and military
10 applications brought to us by some immigrant
11 expatriates.

12 The development would include a novel
13 combustor type that depends on very high swirl
14 rates to stabilize the combustion and to minimize
15 pollutant emissions. The development also
16 eliminates the necessity for what's called the
17 nozzles, which direct the exit gases from the
18 combustor into the first stage blades. There is
19 also the elimination of inter-stage veins, or
20 stationary blading, which -- all of which
21 contribute to losses in the power turbine portion
22 of the machine.

23 In addition, there will be a fairly high
24 rate of recycling of exhaust gas that will
25 contribute to the mitigation of combustion

1 pollution, and the overall system performance
2 should be in the 40-plus percent range at about
3 350 kW capacity, which is phenomenal in that size
4 range.

5 COMMISSIONER MOORE: It's 40 percent for
6 the add on, or 40 percent for the entire --

7 MR. HATFIELD: Forty percent fuel to
8 electricity protection efficiency, for the whole
9 system.

10 COMMISSIONER MOORE: Thank you.

11 MR. HATFIELD: Typical efficiencies for
12 micro-turbines in that range to date are less than
13 30 percent.

14 COMMISSIONER MOORE; And the highest
15 efficiencies that we're seeing is in the combined
16 cycle larger machines, in the 60-plus percent?

17 MR. HATFIELD: Sixty, max. If you take
18 the exhaust heat all the way to condensation,
19 which you can do in a combined heat and power
20 scenario, where you're not condensing steam at the
21 end and wasting that energy, you can achieve
22 efficiencies well over 80 percent, but that's not
23 in electrical efficiency. That's thermal energy
24 use on the back end.

25 COMMISSIONER MOORE: Thank you.

1 CHAIRMAN KEESE: Thank you. Any other
2 comments? Any public comment?

3 Do I have a motion?

4 COMMISSIONER ROSENFELD: So move.

5 CHAIRMAN KEESE: Motion, Commissioner
6 Rosenfeld.

7 COMMISSIONER PERNELL: Second.

8 CHAIRMAN KEESE: Second, Commissioner
9 Pernell.

10 All in favor?

11 (Ayes.)

12 CHAIRMAN KEESE: Opposed?

13 Adopted, four to nothing. Thank you.

14 Item 14. Sunline Transit Agency.

15 Possible approval of a State Energy Program match-
16 share grant for \$470,000, which was awarded in May
17 2001, through U.S. DOE, to work on a hydrogen
18 reformer to convert natural gas to pure hydrogen
19 for fuel cell bus use.

20 Mr. Blackburn.

21 MR. BLACKBURN: Good morning, Mr.

22 Chairman, Commissioners, Mr. Boyd, and Staff. I'm
23 Bill Blackburn, with the Transportation Technology
24 office.

25 The U.S. Department of Energy has

1 awarded a grant to the Energy Commission under the
2 State Energy Program, the 2001 power technologies
3 area, the title is Hydrogen Reformer Field
4 Verification.

5 Through this competitive process,
6 Sunline Transit Agency was selected as a subaward
7 recipient. DOE is providing \$470,000 for this
8 program, which is being matched by Sunline's cost
9 share of approximately \$487,000. Sunline will
10 perform field verification of a hydrogen reformer
11 unit and auxiliary equipment at its Thousand Palms
12 natural gas fueling station.

13 Data will be collected on the reformer,
14 a unit that produces hydrogen gas from pipeline
15 gas. This work will be useful in furthering the
16 technology and safety associated with onsite
17 hydrogen production for vehicle refueling, and
18 supports our work with the California Fuel Cell
19 Partnership.

20 Quickly, I'll highlight the details of
21 the project. The proposed project term is from
22 January 2nd, 2002, to September 30th, 2004. The
23 total cost of the project is \$957,658. The Energy
24 Commission is not contributing financially to this
25 project. Rather, we are going to administer the

1 funds and help manage the project. The project
2 will include mainly data collection that will
3 involve reformer reliability, maintenance,
4 hydrogen storage, hydrogen safety, write-up on
5 codes and standards, and, of course, quarterly and
6 final reports will be involved.

7 Most of the equipment utilized under
8 this project is owned by Sunline Transit, and will
9 remain with them. Therefore, no ownership issues
10 should occur.

11 We are requesting approval of this grant
12 agreement with the Department of Energy and
13 Sunline Transit.

14 COMMISSIONER MOORE: Bill, could you
15 just spend a couple of minutes, or a minute, and
16 talk about where the project is going to be
17 located in the industrial facility, and
18 relationship, because there's a safety issue here
19 that we considered in Committee, and it ought to
20 be at least on the floor.

21 MR. BLACKBURN; Sure. The reformer
22 actually is in place right now at the Thousand
23 Palms site that Sunline Transit operates. And, to
24 my knowledge, there really are no safety issues at
25 present. They have -- it's a fairly unpopulated

1 area, it's kind of in an industrial area, and in
2 the middle of the desert. And they do have a
3 couple of reformers currently. There's also
4 hydrogen production through electrolysis unit.
5 And it will basically be a project where they're
6 going to very carefully monitor the, you know, the
7 energy inputs, the cost, reliability,
8 maintainability, things like that. And then cover
9 some issues of codes and safety surrounding that.

10 COMMISSIONER MOORE: Mr. Chairman, this
11 has come through the Fuels and Transportation
12 Committee, and I'll simply say for us to
13 visualize, for the federal government to visualize
14 a hydrogen future, we're not going to get there
15 without experimenting quite a bit with reformers
16 and trying to understand how they locate, what
17 kind of pressures drive them, and what proximity
18 they need to be to the existing or future gas
19 facilities.

20 So I'm very pleased to sponsor this, and
21 offer a motion for approval.

22 CHAIRMAN KEESE: Motion by Commissioner
23 Moore.

24 COMMISSIONER ROSENFELD: Second.

25 CHAIRMAN KEESE: Second by Commissioner

1 Rosenfeld.

2 Any other comment? Any public comment?

3 All in favor?

4 (Ayes.)

5 CHAIRMAN KEESE: Opposed?

6 Adopted, four to nothing. Thank you.

7 Item 15. Commission consideration of
8 requests of the Planning and Conservation League
9 and several other organizations that the Energy
10 Commission reconsider Resolution Number 01-1017-
11 02, pertaining to waiver of statutory provisions
12 in Public Resources Code Section 25552 relating to
13 the four-month siting process.

14 Mr. Hoffman is on the line? Mr.
15 Hoffman, are you on the line? Do we have anybody
16 else on the line who's interested in this issue?

17 Okay. No, we don't have to open them up
18 yet. I'm just going to -- we're going to take him
19 later. I just wanted to confirm how many people
20 we have on the line. Is that the only one?

21 STAFF: There are three, but he's the
22 only one who wishes to speak.

23 CHAIRMAN KEESE: Okay. We will get Mr.
24 Hoffman later.

25 What I'm going to suggest we do first is

1 that Mr. Therkelsen explain the issue for us, and
2 then we will move. And I believe Sandra, are you
3 going to be the lead? We'll start with Sandra
4 after that, on behalf of the applicants.

5 If there's anybody in the room who
6 hasn't submitted their name, feel free. I believe
7 I've got a deck of cards here already.

8 Mr. Therkelsen.

9 DEPUTY DIRECTOR THERKELSEN: Good
10 morning, Commissioners. My name is Bob
11 Therkelsen, I'm the Deputy Director for System
12 Assessment and Facility Siting here at the
13 Commission.

14 Just as a brief background, in terms of
15 the resolution that you considered and adopted at
16 the last Business Meeting, basically what that
17 resolution did was take Executive Order D-2601,
18 that was issued by the Governor back in February,
19 and allowed the Commission to waive two provisions
20 of the simple cycle permitting process under
21 Section -- Public Resources Code Section 25552.

22 Basically, what it did was allowed major
23 stationary sources to be permitted under the four-
24 month process, and it allowed projects, simple
25 cycle projects, to remain in a simple cycle

1 configuration for more than three years.
2 Currently, Section 25552 limits project that can
3 go through the four-month permitting process to
4 minor stationary sources, and requires them at the
5 end of three years to convert from a simple cycle
6 configuration to either a cogeneration or a
7 combined cycle configuration.

8 The Executive Orders expire on December
9 31st of this year. And the reason the resolution
10 was restricted to only those power plant
11 applications that were accepted by the Commission
12 before that date was because the Executive Order
13 expires.

14 The other reason that they were limited
15 to power plants that could be online by August of
16 2002 was, again, because the Executive Order is
17 very clear that plants that are -- that that
18 waiver is available to have to be online by August
19 of 2002.

20 The resolution left in place all other
21 permitting requirements in that section of the
22 law. It also only applied to natural gas-fired
23 power plants. It did not apply to diesel-fired
24 power plants or any other fuel type used in power
25 plants.

1 What that resolution did not do was
2 lessen any environmental, air quality, or other
3 standards. It did not reduce abatement controls.
4 It did not reduce offset requirements. It did not
5 reduce any of those. It did not change them in
6 any way, shape, or form.

7 The reason the resolution was proposed
8 by the Staff was the fact that we feel that it's
9 necessary to continue to bring some additional
10 generation online for 2002, particularly power
11 plants that have contracts with the state, the
12 Department of Water Resources. It was also done
13 to provide some clarity to developers. It was an
14 issue that had been raised at a workshop back in
15 September, whether or not the Commission was going
16 to use the Executive Order to waive those two
17 restrictions or not. And it was also intended to
18 help facilitate the replacement of older, dirty,
19 simple cycle power plants that provide peaking
20 power for the state. And let me say that I think
21 there has been some confusion in terms of what the
22 resolution did, and what it did not do.

23 The other thing I think that is
24 confusing is the nature of peaking power plants in
25 the state. The generation system in the state

1 requires a certain number of peaking power plants
2 to respond to high load days. Typically, that
3 peaking power is provided by either hydroelectric
4 or simple cycle gas turbines. And in our state,
5 we have roughly 3,000 megawatts of simple cycle
6 gas turbines, or, I should say of simple cycle
7 fossil fuel power plants, to respond to our
8 peaking needs.

9 Out of those 3,000 megawatts, about 60
10 percent of them are 60 years old, or -- are 60
11 years old -- 60 percent of them, I'm sorry, are 20
12 years old or older. The emissions from those
13 older power plants are typically between 50 and
14 100 parts per million, in terms of their NOx
15 emissions, and several of those older plants
16 actually run on distillate fuels rather than on
17 natural gas. The hope is that this movement, in
18 terms of permitting some additional simple cycle
19 power plants in the state, will be able to help
20 displace many of those older plants.

21 So that is a brief overview of what the
22 resolution did, and what it did not do.

23 One of the things that I ought to
24 mention in terms of the difference between major
25 and minor simple cycle, or stationary sources, is

1 that the BACT requirements, the Best Available
2 Control Technology requirements, for the two kinds
3 of facilities are the same. It's the same at five
4 parts per million for a major as for a minor
5 stationary source. Many of the plants that we are
6 expected to be filed shortly have emissions
7 ranging between 5 and 2.5 parts per million of
8 NOx. The other thing is offset requirements are
9 the same for major and for minor stationary
10 sources.

11 The thing that's probably the primary
12 difference between the two types are the total
13 number of, if you will, volume of emissions that
14 come out, and because they're typically larger
15 plants that are a major stationary sources than
16 minor. And also, there's some additional federal
17 permit requirements for major stationary sources.

18 One thing that I do want to clarify is
19 that large combined cycle projects, the kind that
20 you considered this morning in terms of data
21 adequacy, would not be permissible under this
22 process, because the resolution limits, and, in
23 fact, the four-month process is limited for
24 projects that can be online next year. The
25 resolution uses the Executive Orders to further

1 limit those to plants that can be online by 2002.
2 Larger combined cycle projects take two years to
3 build, and would not be able to qualify for this
4 permitting process.

5 If you have any questions, I'd be more
6 than willing to answer them.

7 CHAIRMAN KEESE: I'd like to ask one
8 question, and that is, at this time how many
9 additional projects do you see in the horizon
10 before the end -- on the horizon, before the end
11 of the year, and what would be your best
12 guesstimate as to what we'll see in the way of
13 filings?

14 DEPUTY DIRECTOR THERKELSEN: Currently,
15 there are four projects that have applications
16 before the Commission that this would apply to.
17 Two projects that you approved last week as data
18 adequate, the two GWF projects, the resolution
19 could apply to. There also is a Calpine Gilroy
20 Project that has an application before the
21 Commission that is looking at being supplemented
22 to potentially be found adequate.

23 And then there is a Spartan project,
24 which also could conceivably come under the four-
25 month process. Right now they're applying under

1 the six-month, so they may not change to the four-
2 month process. But they could conceivably come
3 under that, and it would apply to them.

4 There are five other projects that we're
5 aware of that may -- and I underline the word may
6 -- file with the Commission between now and the
7 last Business Meeting, or be able to be found
8 adequate between now and the last Business Meeting
9 in December. Those five projects are primarily
10 located in northern California, in various areas
11 where we do need some additional power.

12 CHAIRMAN KEESE: Thank you.

13 DEPUTY DIRECTOR THERKELSEN: So there's
14 only a small handful of projects.

15 COMMISSIONER PERNELL: Mr. Chairman.

16 CHAIRMAN KEESE: Commissioner Pernell.

17 COMMISSIONER PERNELL: Mr. Therkelsen,
18 of those projects you just mentioned, other than
19 the two that has been deemed data adequate, are
20 there any others that are data adequate at this
21 time?

22 DEPUTY DIRECTOR THERKELSEN: There's one
23 project, the Los Esteros Energy Center, that has
24 been found data adequate by the Commission. And
25 one question that has not been answered in my mind

1 is whether or not that is a major stationary
2 source, and if that is the case, then it would
3 either need to have a waiver on a project by
4 project basis, or it would need to have applied to
5 this resolution, or it may have to change
6 permitting if that's not applicable.

7 That would be the only other project I'm
8 aware of that's currently found data adequate and
9 before the Commission.

10 COMMISSIONER PERNELL: So of those, we
11 only have one.

12 DEPUTY DIRECTOR THERKELSEN: We only
13 have one.

14 COMMISSIONER MOORE: Mr. Chairman, I
15 have a question of Mr. Therkelsen.

16 CHAIRMAN KEESE: Commissioner Moore.

17 COMMISSIONER MOORE: Can you outline the
18 reason behind the determination to go with a
19 resolution that's broad-based, as opposed to a
20 case by case waiver.

21 DEPUTY DIRECTOR THERKELSEN: Well, first
22 of all, I guess I consider the resolution to be a
23 rifle bullet in the sense that it is limited, very
24 limited in terms of the period of time of when it
25 changes.

1 The reason for going with a broader
2 resolution, though, as opposed to case by case, is
3 in reality it's accomplishing the same thing, and
4 that's using the Executive Orders to waive certain
5 restrictions to be able to allow projects to be
6 permitted under Section 25552.

7 And frankly, I think doing it up front,
8 so everyone knows what the rules are before we go
9 through the data adequacy process, is a more
10 forthright process for the developers. They have
11 more certainty what's going to be required and not
12 required, rather than doing it on a case by case
13 basis and having them expend some time and money
14 in the permitting process before that
15 determination is made.

16 COMMISSIONER MOORE: Thank you.

17 EX OFFICIO MEMBER BOYD: Mr. Chairman.

18 CHAIRMAN KEESE: Mr. Boyd.

19 EX OFFICIO MEMBER BOYD: Mr. Therkelsen,
20 I have two questions. First, you made reference
21 to there are some distillate fuel peakers out
22 there. Can you be more specific? Do you have a
23 number of distillate fueled peakers that are
24 actually out there and running in this day and
25 age?

1 DEPUTY DIRECTOR THERKELSEN: I don't
2 have that number right before me. The number I've
3 got before me is there's about 19 percent of those
4 peaking plants that are in the inventory and at
5 3,000 megawatts, that are distillate fueled. So
6 that's probably, what, maybe ten projects.

7 EX OFFICIO MEMBER BOYD: Okay. I was
8 just trying to get some magnitude of dirty
9 distillate fuel --

10 DEPUTY DIRECTOR THERKELSEN: Right.

11 EX OFFICIO MEMBER BOYD: -- peakers
12 running out there.

13 Number two, why do you think so many
14 members of the public have, to quote you,
15 misunderstood the action the Commission took, and
16 therefore this has become an issue yet before the
17 Commission?

18 DEPUTY DIRECTOR THERKELSEN: Well, I
19 think there's probably two reasons for that.
20 Number one, the Commission did act rapidly on
21 this. The resolution, et cetera, was available
22 for people that called up and asked for
23 information on it, but probably wasn't as widely
24 distributed in a timely fashion as it could have
25 been.

1 And secondly, the word "waiver" this
2 summer has come to mean, in many people's mind,
3 you're waiving permit requirements, you're buying
4 into mitigation banks, et cetera. And so that
5 word triggers that kind of response. These
6 waivers are not waivers of environmental
7 requirements. These plants will have to comply
8 with BACT, they will have to have all their
9 offsets from the day they begin operation, which
10 is different than some of the waivers that were
11 applied to power plants this summer.

12 EX OFFICIO MEMBER BOYD: Thank you.

13 CHAIRMAN KEESE: Thank you.

14 COMMISSIONER PERNELL: I have one final
15 question.

16 CHAIRMAN KEESE: Commissioner Pernell
17 has a question.

18 COMMISSIONER PERNELL: Mr. Therkelsen,
19 the projects that is conceived that might be under
20 this process, did they start off as four-month
21 projects, or six-month, or 12-month?

22 DEPUTY DIRECTOR THERKELSEN: All of
23 these projects, in terms of their discussions with
24 the Staff, have been always described as, and
25 discussed as, four-month projects. One project

1 that I mentioned, the Spartan project, did --
2 currently is before us as a six-month. There were
3 discussions with them about being a four-month
4 project. But all of the rest of them were always
5 conceived of as being four-month projects.

6 COMMISSIONER PERNELL: Let me clarify.
7 Four months under the resolution, or four months
8 under the previous Executive Order?

9 DEPUTY DIRECTOR THERKELSEN: Well, four
10 months under Section 25552, with questions in
11 their mind, does the resolution apply -- I should
12 say, do the Executive Orders apply to us or not.

13 Let me state that several of these
14 projects have contracts with the Department of
15 Water Resources, and those contracts are for more
16 than three years, which, in terms of providing
17 peaking power capability, which is the reason for
18 their requesting that that three-year limitation
19 be waived.

20 And, again, peaking power is something
21 that we need to have a certain amount of in the
22 state, because of this quick start-up capability.

23 CHAIRMAN KEESE: All right. Ms.
24 Spelliscy.

25 MS. SPELLISCY: Good morning. My name

1 is Sandra Spelliscy. I'm General Counsel with the
2 Planning and Conservation League. And I want to
3 thank you for giving us the opportunity to speak
4 to you this morning, and your willingness to take
5 a second look at this issue, which I think is very
6 important.

7 We are here today to urge you to
8 reconsider the action that you took on October
9 17th, and to rescind the resolution that relates
10 to the four-month siting process.

11 As you all know, the process was first
12 established under AB 970, which was passed by the
13 legislature and signed by the Governor in the fall
14 of 2000. In February of 2001, the Governor did
15 sign an Executive Order which both extended some
16 of the deadlines that were found in AB 970, and
17 also gave the authority for some waiver of
18 restrictions under certain circumstances.

19 Interestingly, the resolution references
20 AB 970, but it does not mention SB 28x, which was
21 a bill that amended Public Resources Code Section
22 25552 in May of 2001. That was a bill which,
23 again, was passed by the legislature several
24 months after the Governor's Executive Order. It
25 extended in the statute the deadlines that were

1 first enacted in AB 970, but it specifically
2 restated those restrictions to the four-month
3 siting process that the legislature had first set
4 forth in AB 970.

5 And to respond to a couple of Mr.
6 Therkelsen's comments. All of the things that he
7 stated this morning that the Energy Commission was
8 looking at and was trying to do, in terms of the
9 resolution, were the very things that the
10 legislature looked at and discussed, and was
11 dealing with when it passed its legislation. So
12 the fact that we're looking at what are the best
13 ways to expedite siting of peakers, what
14 restrictions should or should not be on those --
15 that expedited process, was something that was
16 very carefully considered by the legislature. And
17 they made a statement when they passed SB 28x, and
18 that statement was signed by the Governor and was
19 enacted into law.

20 In terms of whether or not the
21 resolution allows waiver of many different
22 environmental protections, of course it goes
23 without saying that the resolution did not attempt
24 to waive any offset requirements or waive any BACT
25 requirements. Those, of course, are requirements

1 under federal law. The state and the Commission
2 does not have any authority to waive any of that,
3 so that certainly would've not been appropriate in
4 the resolution. So I don't think that those
5 issues, those are not the issues that we're
6 looking at today.

7 We have, I think, tried to convey to you
8 our feeling that the Commission does not have the
9 authority to attempt a blanket waiver of the
10 provisions of the statute at this point; that
11 there simply is not the emergency situation that
12 is necessary to be found under the Government Code
13 and under the Governor's emergency powers, that
14 allows you to do this at this point. And I think
15 we feel very, very strongly that there is a
16 difference between answering the question of
17 whether or not we still remain in an energy policy
18 crisis in this state, because I think there are a
19 lot of people in this room that agree with you in
20 that sense, that our energy policy is in flux.
21 And we are facing a lot of problems as we go
22 forward.

23 But, as I've said to many of you
24 individually, when the Governor invokes his
25 emergency powers under the Emergency Services Act,

1 it really has the effect of turning the
2 constitution on its head. It's a very, very
3 serious act that's undertaken by the Governor, and
4 I think any actions that are taken pursuant to
5 that have to be very, very narrowly tailored and
6 constrained. And it's simply not arguable at this
7 point in time that we really face the kind of
8 emergency contemplated under the Emergency
9 Services Act, the real immediate threat to
10 physical health and safety of the public in
11 California that affords you the opportunity to go
12 forward in the manner that you did.

13 So, again, we would urge you to think
14 very carefully about those questions that I posed,
15 whether or not we're in a policy crisis, versus
16 whether or not we really are in the kind of
17 immediate threat situation that you think about
18 when you read some of the words in the Government
19 Code. And, you know, let me just remind you what
20 they say. They're talking about a sudden and
21 severe energy shortage, rapid and unforeseen --

22 CHAIRMAN KEESE: Let me ask you a
23 question, then. You heard the position of the
24 Energy Commission, that we feel that there still
25 is a shortfall in the amount of generation that

1 will be necessary to offer us reasonable security
2 next year, so that we would like to see more
3 generation online next year. Is that -- and I
4 don't know whether you accept that or not. That's
5 our judgment. And you're saying that -- and to
6 take action to meet that, you don't believe is an
7 emergency.

8 MS. SPELLISCY: I don't think it falls
9 within the confines of the Emergency Services Act.
10 And I think that, also, that is contradicted by
11 your very agency's -- your very Commission's own
12 Staff analysis about the situation that we face
13 next year. There's -- you see evidence from the
14 Department of Water and Power that they think that
15 we don't need it, we may not need to contract for
16 any more supply. We see the fact that the state
17 is having to sell power at a loss to the taxpayers
18 these days. I think there are a lot of indicia
19 that argue against the kind of emergency that
20 really makes it possible for you to invoke the
21 powers under the Executive Order.

22 And I think the other thing that I would
23 really urge the Commission to look at is whether
24 or not it's possible for the Commission to reach
25 the goals that it's trying to reach within the

1 statutory authority that it's been granted, and --
2 CHAIRMAN KEESE: Okay. Well, that would
3 lead me to the second question, which is, were we
4 to convert all of these to a six-month process and
5 get them expedited and built rapidly, you
6 mentioned that doing the four-month process has a
7 health -- has a health impact. What, since you
8 would acknowledge, I think you did, previously,
9 that we could do these under the six-month
10 process, and there would be no requirement of a
11 waiver, and they could be sited.

12 MS. SPELLISCY: Well, I don't think it's
13 the six-month process, because my understanding is
14 the six-month process is for combined cycle
15 plants, under AB 970. Is that not correct?

16 CHAIRMAN KEESE: Mr. Therkelsen, would
17 you --

18 DEPUTY DIRECTOR THERKELSEN: Yeah. My
19 understanding is -- it would help if I turned on
20 the microphone. My understanding is that the six-
21 month process applies to any of the technologies.

22 MS. SPELLISCY: Okay. I'd have to go
23 back and look at --

24 CHAIRMAN KEESE: So -- so my --

25 MS. SPELLISCY: -- but I think what

1 we're -- what I'm --

2 CHAIRMAN KEESE: -- my question is, if
3 we did this in an expedited six-month process,
4 versus the four-month process we're doing, where
5 do you see the health concern?

6 MS. SPELLISCY: I think that --

7 CHAIRMAN KEESE: How do we impact health
8 by doing it under one process versus another?

9 MS. SPELLISCY: There was a reason why
10 the legislature imposed the restrictions on the
11 four-month expedited process. And --

12 CHAIRMAN KEESE: I understand that.

13 MS. SPELLISCY: -- it may be that the
14 Commission does not agree with those reasons. But
15 the fact is that the -- I think what the
16 legislature was looking at was the fact that
17 single cycle plants are dirtier, even state of the
18 art single cycle plants do emit more pollution
19 than combined cycle, and that -- so that --

20 CHAIRMAN KEESE: But they can be sited
21 under the six-month program.

22 MS. SPELLISCY; Well, I'm not sure about
23 that, and I would like to go back and look at the
24 statute. But I think that the fact is --

25 CHAIRMAN KEESE: Well, clearly under the

1 12 they could be?

2 MS. SPELLISCY: Yes. Under the 12 they
3 clearly could.

4 CHAIRMAN KEESE: Okay. So if they could
5 be sited under one process, and you're objecting
6 to their being site in the under, I understand
7 your objection. I don't understand your reference
8 to the health impact this would have.

9 MS. SPELLISCY: There are two things I
10 think you need to look at. The first is that when
11 the Commission acts under the statutory authority
12 that's been granted to it by the legislature, then
13 everybody knows what the rules of the game are.
14 And one of the great difficulties and
15 disappointments that we've had with the Governor's
16 Executive Orders, and what the Commission has had
17 to do over the past nine months in terms of siting
18 power plants, particularly under the 21-day siting
19 process, is that the rules of the game have been
20 made up as you go along. And it has not served
21 the public well, it has not served this Commission
22 well. I don't anybody's been happy with that.

23 I think this resolution is, again,
24 another example of the fact that the rules get
25 made up as you go along. So if we have a

1 statutory authority under which these plants would
2 fall, then I think the Commission has, you know,
3 every right and obligation to go forward and site
4 them under those. And we did have a very
5 productive discussion with your General Counsel
6 about the fact that even under the 12-month
7 process, it's probably likely that should there be
8 no environmental problems with the project, that
9 you could site it much quicker than 12 months.

10 And from my perspective, that would be
11 the preferable course to take.

12 CHAIRMAN KEESE: Okay, I do understand
13 that. I had a little problem with your explaining
14 the health difference between one process versus
15 the other, how that would have a negative impact
16 on the public health. And I think maybe you're
17 backing off of that position.

18 MS. SPELLISCY: Well, I think that under
19 the statutory authority that was given to you by
20 the legislature to do a four-month expedited
21 process, what the legislature was saying, and what
22 those of us who were involved in the legislation
23 were saying was, this -- we're acknowledging that
24 you're really speeding things up here, and we
25 don't really know what the impact of that is going

1 to be, so we are narrowing that to a very small
2 subset of plants, plants that would not be a major
3 stationary source, because we know that just, you
4 know, intrinsically, they wouldn't pollute as much
5 as something that was a major stationary source.
6 And also, plants that would agree at the outset to
7 switch over to a cleaner and more efficient
8 products, which is a combined cycle product.

9 Now, whether or not the Commission
10 agrees with what the legislature determined in the
11 statute, I don't think is the issue. Because that
12 was the policy decision that was made, and there's
13 a way to go about changing that policy if there's
14 a disagreement there. But we -- the legislature
15 chose to narrowly define the four-month expedited
16 process, because they knew that it was something
17 that was, you know, that could have an impact on
18 looking at environmental and health issues, could
19 have an impact on public participation. So they
20 really wanted to narrow it to this very specific
21 subset of plants.

22 And I, you know, so I think that our
23 message is the legislature has spoken on that
24 issue, we think that the Commission --

25 CHAIRMAN KEESE: I -- I acknowledge that

1 message. I will --

2 MS. SPELLISCY: -- should follow that --

3 CHAIRMAN KEESE: -- reiterate what Mr.

4 Therkelsen said, that we -- I, as a Commissioner,
5 I believe all my fellow Commissioners, apply
6 exactly the same health standard, exactly the same
7 air standard, exactly the same water standard, to
8 every one of these projects, whether they were in
9 the 21-day, the four-month, or the six-month. We
10 apply exactly the same standard. There is no
11 slippage there. So that --

12 MS. SPELLISCY: Well, I don't think that
13 you can quite make that statement, because, of
14 course, CEQA was waived under the 21-day process,
15 so you had no CEQA analysis done under the 21-day
16 process. We did not see alternative analysis
17 done, which normally would be required under CEQA.
18 And we did not see a cumulative impact analysis
19 done.

20 So it simply is not the same. And, I
21 also don't think that this Commission wants to say
22 that they can do everything in an expedited way,
23 because, in fact, you know, what's the point of
24 having the Warren-Alquist Act and the process that
25 you have if you can do everything in three weeks,

1 or in four months. And I think --

2 CHAIRMAN KEESE: Well, we're --

3 MS. SPELLISCY: -- that's the point that
4 we're trying to make.

5 CHAIRMAN KEESE: -- I hear your point.
6 Thank you.

7 MS. SPELLISCY: Okay. So, I, you know,
8 I think that this discussion also goes to broader
9 issues about the direction we'd like to be seeing
10 the state go in terms of energy policy, and, you
11 know, and we want to compliment you on the hard
12 work that this Commission has done in terms of
13 renewables, in terms of demand side management.
14 And we would like to see more of that. But I
15 think some of my colleagues are going to speak to
16 that more.

17 So I think that we're here today to just
18 send a very plain message, which is that the time
19 for siting power plants under Executive Orders is
20 over. And I don't think the public will tolerate
21 it anymore. And I think we have the possibility
22 to figure out a path where we can work together to
23 do this appropriately, under the authority the
24 Commission has under the law, and we would really
25 urge you to take that path today.

1 Thank you.

2 CHAIRMAN KEESE: Okay. Thank you.

3 Mr. Addison.

4 MS. ICHIEN: Chairman Keese, if I may,
5 before the next speaker.

6 CHAIRMAN KEESE: Yeah. Yes, Arlene.

7 MS. ICHIEN: I'm Arlene Ichien, Chief
8 Counsel's Office.

9 CHAIRMAN KEESE: Real close to the
10 microphone.

11 MS. ICHIEN: For the record, I just want
12 to confirm what Mr. Therkelsen's understanding
13 was, and that is it was correct that the six-month
14 process is not restricted to any technology, and
15 that any technology can apply for the process,
16 assuming that it meets all the informational
17 requirements.

18 CHAIRMAN KEESE: Thank you.

19 COMMISSIONER PERNELL: Ms. Ichien, can
20 we, under the six-month process, site a plant in
21 four months? Is there anything restricting us
22 from doing that?

23 MS. ICHIEN: Procedurally, in the
24 regulations, I don't believe there is anything
25 restricting the Commission from doing that, if all

1 the facts are such that a decision can be reached,
2 you know, more expeditiously than in six months.

3 COMMISSIONER PERNELL: Thank you.

4 CHAIRMAN KEESE: Mr. Therkelsen, would
5 you -- I see you -- no. All right.

6 We have Mr. Addison.

7 MR. ADDISON: Good morning, Chair and
8 Commissioners. My name is Tom Addison. I'm with
9 the Bay Area Air Quality Management District, the
10 regional air pollution agency in the San Francisco
11 Bay Area. One of our obligations is the
12 regulation of stationary sources, including power
13 plants.

14 My remarks today will be from and on
15 behalf of the Bay Area Air Quality Management
16 District. I did want to make sure that you'd
17 received a letter yesterday evening from the
18 statewide association of air districts, the
19 California Air Pollution Control Officers
20 Association.

21 CHAIRMAN KEESE: I received that letter
22 this morning. I don't believe -- late this
23 morning, just before the hearing. I don't believe
24 we've gotten to share it here, but I will refer to
25 it. You may -- you're perfectly welcome to refer

1 to it, if you would like.

2 MR. ADDISON: Okay. Well, thank you.

3 I'd like to begin my remarks by
4 stressing what a positive collaboration my agency
5 has had with the Commission and with your Staff
6 over a range of issues, certainly during the past
7 year and a half over the energy crisis that we've
8 both been so engaged in. And our relationship has
9 been a very positive one. I think that we've
10 worked together to expedite bringing new power
11 online and doing so in an environmentally
12 sensitive manner. And I think that that really
13 has been, for us, one of the things that's gone
14 right about the last -- about the situation that
15 we found ourselves in for some time now.

16 And our objectives during that process
17 have been to make sure that while the state has
18 power, we're protecting air quality, and to make
19 sure that the breathers of the San Francisco Bay
20 Area are protected and not subjected to increases
21 in emissions from that new power.

22 We, during last year's -- during the
23 year 2000, we were very involved in the discussion
24 on AB 970, as well as this past year we were very
25 involved in the discussion on SB x28. And, in

1 fact, those were bills that we initially had some
2 concerns with and worked in the legislative
3 process to try to get some amendments to, and
4 ended up supporting those bills and testifying in
5 their support as they went through the process
6 after some of the protections that we wanted to
7 see were put in them. And one of the protections
8 that is the subject, of course, of the discussion
9 on your agenda today are the waiving the two
10 restrictions that plants receiving -- simple cycle
11 peaking plants receiving the four-month expedited
12 process are subject to.

13 And so we feel a little bit as if the
14 rules of the game were changed on us midstream.
15 We spent a lot of time this past year in the
16 legislature on the specific content of SB x28, and
17 we feel now as if that work has been cast aside.
18 And we're a little uncomfortable with how that has
19 happened. So we have some concerns about process,
20 and that's really what the primary concern about
21 process for us is.

22 The second concern that we've got is
23 that we are concerned about the potential air
24 quality impacts of the resolution that you adopted
25 on October 17th. I think it's fair to say that we

1 don't at this point know exactly what that air
2 quality impact will be. And that's actually what
3 concerns us. We think that there's potential for
4 air quality impacts there. We think the potential
5 is that simple cycle plants continuing after three
6 years at five ppm, as opposed to going to
7 something cleaner like two and a half, will lead
8 to some increase in emissions.

9 I think one of the key unknowns for us
10 is exactly how many of these plants will come
11 online and be proposed in front of you, and be
12 permitted during the next -- before the end of the
13 year. And it's helpful to hear your Staff's
14 perspective on what those numbers may be. I'd
15 just say that we don't have any sense of comfort
16 or security or knowledge that that is the universe
17 that you'll see, and we're concerned that that
18 universe might be bigger.

19 And so for those reasons, we're here
20 today to ask you to reconsider your action. We're
21 hopeful that you will. We don't think that this
22 is a question of any intention on the part of the
23 Commission to waive environmental protections. We
24 think that your intentions are good. We're
25 concerned somewhat about the process and about the

1 potential outcome.

2 And that's really what I'm here today to
3 express to you on behalf of the Bay Area Air
4 District. I would say that the statewide
5 association of air districts, the California Air
6 Pollution Control Officers Association, had some
7 similar concerns. Apologize for the tardiness of
8 their letter. But essentially, their concerns I
9 think are fairly similar.

10 So that's just what I wanted to share
11 with you this morning.

12 CHAIRMAN KEESE; Okay. And you
13 acknowledge, or do you acknowledge that if these
14 -- or are you suggesting that if we move these
15 from the four-month process to the six-month
16 process, that's the process issue for you? You'd
17 -- we wouldn't have to waive anything in the six-
18 month process. We waived two of the conditions
19 under the four-month process. All of these plants
20 would be justified, under the six-month would be
21 judged by the same rules and could be permitted in
22 a six-month process.

23 So it's the process of moving them in
24 the four-month process, versus the process of
25 moving them in the six that you have a concern

1 about.

2 MR. ADDISON: That's essentially right.

3 I mean, we think that because of the fact that we
4 have been in a quite critical energy supply
5 situation, and I'm not here today to say that the
6 situation, that the crisis is over, or something
7 like that. But because of the fact that we have
8 been in such bad supply conditions, the Governor,
9 the legislature, and both in 2000 and 2001, have
10 said well, let's set up a fast process, a four-
11 month process, for people who meet certain
12 conditions. But let's only have that expedited
13 process provided that the folks who get the
14 benefit of that expedited permit meet these two
15 conditions. And now, removing that, we wonder if
16 that's the appropriate thing to do, frankly.

17 CHAIRMAN KEESE: Thank you. That --

18 COMMISSIONER PERNELL: Mr. Chairman.

19 CHAIRMAN KEESE: Okay, Commissioner
20 Pernell.

21 COMMISSIONER PERNELL: Let me just say
22 first I'd like to commend you for being here, and
23 echo your statement about working collaboratively
24 together with the air districts and the
25 Commission. And we want to see that continue.

1 One of the things, I guess this is a
2 process question, and that is, your knowledge of
3 our actions before it happened, did you -- were
4 you aware that we were going to take up the
5 resolution on October 17th, or did you find out
6 sometime later?

7 MR. ADDISON: Commissioner Pernell, we
8 found out actually on the 18th. Now, that's -- I
9 understand that it was noticed. I, you know, I'm
10 not saying that that's -- we were as diligent as
11 reading your agendas as we should have been. And
12 I think that we fairly got some blame there. We
13 did not pick this action up on your part until
14 after it had happened.

15 Typically, because of the fact that
16 we've got such -- because we're interacting so
17 closely with your Staff, and have been for over
18 the last year, something like this, we thought
19 that we would've heard about at a, you know, low
20 staff to staff level. And so we were actually
21 surprised to learn, on the 18th, that the
22 Commission had taken this action. I'm not saying
23 that that's the fault of Commission Staff. It was
24 published in your agenda, I understand. We -- we
25 missed it. We certainly, I think, own some of the

1 responsibility for that. But we did not find out
2 until after the fact.

3 COMMISSIONER PERNELL: Okay. Thank you.

4 CHAIRMAN KEESE: Mr. Addison, in the --
5 I'm going to step aside in the nature of
6 communication. I met with my Staff, not our
7 Staff, but my Staff, on three siting cases
8 yesterday, each of which the Bay Area's documents
9 have slipped by a week to two weeks, which has
10 delayed our process a week or two weeks from
11 committed dates. So if you would take that
12 message back. It would be nice if deadlines could
13 be met.

14 MR. ADDISON: Absolutely. I think one
15 of the challenges that we face sometimes is
16 getting complete information. But I'd be -- I
17 would -- I'd be more than happy to talk with staff
18 and try to expedite our internal work on those
19 three facilities, and I'd love to get like what
20 the specifics are from Staff, so I can try to make
21 sure that we're doing our part of it.

22 CHAIRMAN KEESE: Thank you.

23 I will try, for the record, to indicate
24 what Mr. Wallerstein's concern was, as I
25 understood his letter.

1 He questioned whether the waiver applied
2 to sitings that we had done previously that had
3 higher emissions levels, such as 25 parts per
4 million, and he hoped that it would apply only in
5 the future. I am assured that it does not apply
6 to earlier approved cases.

7 DEPUTY DIRECTOR THERKELSEN: Mr.
8 Chairman, this is Bob Therkelsen. You are
9 correct. The resolution only applies to projects
10 being permitted underneath the four-month process.
11 All of those projects that had different emission
12 limits for a limited period of time were done
13 under the emergency siting process. This does not
14 apply to those projects.

15 CHAIRMAN KEESE: So those projects which
16 we insisted will retrofit within three years --

17 DEPUTY DIRECTOR THERKELSEN: That's
18 correct. And all those --

19 CHAIRMAN KEESE: -- continue on.

20 DEPUTY DIRECTOR THERKELSEN: Right. And
21 all of those would --

22 CHAIRMAN KEESE: Thank you. I, as I
23 say, I was handed this just before the meeting
24 this morning.

25 Anne Simon.

1 MS. SIMON: Thank you, Chairman Keese,
2 and Members of the Commission. My name is Anne
3 Simon. I'm Senior Attorney at Communities for a
4 Better Environment, which is a statewide urban
5 environmental health and justice organization. We
6 and our members have been involved in several
7 specific siting projects with the Commission
8 recently, and I would like to thank the Commission
9 Staff at this point for the openness with which
10 they have shared information with us and other
11 members of the community in those projects.

12 I am urging the Commission to reconsider
13 and rescind the resolution. And I want to focus
14 on some air quality issues, particularly in regard
15 to the waiver of the major stationary source
16 restriction in the legislation that the
17 Commission's resolution purports to make.

18 There are some irreducible federal
19 requirements under the Clean Air Act that the
20 purported waiver, under the Commission's
21 resolution, will not allow major stationary
22 sources considered under the four-month process to
23 meet. So that even were the Commission's policy
24 decision to be accepted, and I think we join the
25 reservations that Ms. Spelliscy identified to you,

1 the resolution and the process of trying to do the
2 waiver would be self-defeating, would create a lot
3 of problems for members of affected communities,
4 for the Staff, and for applicants.

5 Major stationary sources, under the
6 Federal Clean Air Act, have to go through a
7 process of having alternatives identified and
8 considered thoroughly, in order for the new source
9 review process to be in compliance with the
10 Federal Clean Air Act. There is nothing in the
11 timeline that the Staff has published for the
12 four-month process, since there are no
13 regulations, that even suggests that an
14 alternatives review that would be acceptable under
15 the Federal Clean Air Act would be done for major
16 stationary sources allowed under the four-month
17 process.

18 A second Federal Clean Air Act problem
19 that would be created is that there is an
20 irreducible minimum public comment period of 30
21 days on proposed new source review conclusions
22 made by the air districts in the Determination of
23 Compliance process. I don't see how from data
24 adequacy to Commission decision in four months is
25 going to include legitimate public comment on a

1 legitimate local or regional air district
2 determination that would meet the requirements of
3 the Federal Clean Air Act.

4 Those two points alone, it seems to me,
5 ought to lead the Commission to abandon the notion
6 of either a blanket waiver, or a case by case
7 waiver of the major stationary source restriction,
8 because it can't be accomplished within the
9 confines of the Federal Clean Air Act.

10 I would also like to follow up briefly
11 on the point that, Chairman Keese, you made
12 earlier about potential health impacts. As the
13 representative of the Bay Area Air District
14 pointed out, the -- and as Mr. Therkelsen pointed
15 out, the Best Available Control Technology
16 standard for simple cycle power plants is more
17 than twice as dirty as the standard for combined
18 cycle plants. So even meeting the BACT standard,
19 simple cycle power plants that are permitted under
20 the four-month process and under the second prong
21 of the waiver to continue indefinitely will be
22 essentially, by definition, twice as dirty as a
23 combined cycle plant which the legislation
24 contemplated would replace, within a finite and
25 known period of time, an emergency -- an

1 essentially response to the emergency simple cycle
2 power plant. And this matters in terms of volume
3 of emissions, as Mr. Therkelsen pointed out, and
4 as the representative of the Bay Area District
5 alluded to. If there are a lot of emissions at
6 twice the volume, then you do have a health
7 problem.

8 CHAIRMAN KEESE: Do you have a health
9 difference whether these plants are sited under
10 the four-month or the six-month process? Is there
11 a health difference between those two processes?

12 MS. SIMON: Well, my guess is that under
13 the six-month process, for which the Commission
14 has promulgated actual regulations, and for which
15 there is a CEQA review process, and under which
16 there might barely be time for an acceptable
17 process under the Federal Clean Air Act to take
18 place, the examination of alternatives would show
19 that under the six-month process, these clustered
20 simple cycle projects, the large simple cycle
21 projects, shouldn't be built.

22 And, yes, there would then be a health
23 difference because that project wouldn't be built,
24 or the Commission would ask for it to be done as a
25 combined cycle project. These 200, 180 megawatt

1 clusters that are before the Commission, clusters
2 of simple cycle engines really should be looked at
3 as combined cycle projects, and I believe that if
4 the Staff were given the opportunity under the
5 six-month regulations, and if members of the
6 public were given the opportunity to come, and
7 agencies like the Bay Area District were allowed
8 to do their jobs, those projects would fail under
9 either the six-month or the 12-month project of
10 this Commission, and that would be a health
11 improvement.

12 CHAIRMAN KEESE: It's a -- this is a --
13 I don't want to get into a real long discussion
14 here, but if we consider the efficiencies that
15 peaking plants run at versus the efficiencies that
16 combined cycle power plants run at, we acknowledge
17 and recognize that there is a need for a certain
18 amount of peaking power that will only operate
19 when the prices are higher, and will serve to meet
20 that peaking need. And the economics of building
21 a combined cycle plant to be operated as a peaker
22 probably do not exist.

23 So that to suggest that everything
24 that's going to be built in the future is combined
25 cycle, I would hate to leave that in anybody's

1 understanding.

2 MS. SIMON: If I might just make one
3 comment in response to that, Chairman Keese. Then
4 put hours restrictions in the certification of the
5 peakers.

6 CHAIRMAN KEESE: That is a --

7 MS. SIMON: We are concerned that if
8 peaker --

9 CHAIRMAN KEESE: -- very valid
10 suggestion.

11 MS. SIMON: -- that these projects have
12 the advantages of permitting that you have
13 identified, then they must live by the
14 restrictions to really be peakers, and not be
15 dirty baseload plants in disguise.

16 Thank you very much.

17 CHAIRMAN KEESE: Thank you. Understand.

18 COMMISSIONER PERNELL: Question, Mr.
19 Chairman.

20 CHAIRMAN KEESE: Question. Sorry.

21 COMMISSIONER PERNELL: I'm sorry.

22 MS. SIMON: I'm sorry, Commissioner
23 Pernell.

24 COMMISSIONER PERNELL: It sounds like
25 your suggestion is to put hours limitations on the

1 peakers. Would that then allow you to support the
2 resolution?

3 MS. SIMON: No, Commissioner Pernell.
4 Unfortunately, it would not, because --

5 (Laughter.)

6 COMMISSIONER PERNELL: Just thought I'd
7 ask.

8 MS. SIMON: No. Because of the Federal
9 Clean Air Act problems that I've identified. I do
10 not think that putting hours restrictions on
11 permits that can't properly be issued under the
12 Federal Clean Air Act is going to solve the
13 problem.

14 CHAIRMAN KEESE: Okay. Mr. Harris,
15 would you approach the microphone. Mr.
16 Chamberlain would like to give us some advice.

17 CHIEF COUNSEL CHAMBERLAIN: Well, I'd
18 just like to clarify a couple of points in
19 response to Ms. Simon's statement.

20 First of all, the waivers that have been
21 done in no way change whatever procedural
22 requirements there are in the Federal Clean Air
23 Act. If it turns out that because of a 30-day
24 comment period we can't make it in four months, it
25 takes four months and two weeks, or something like

1 that, we would have to do that.

2 Second, I think it's important for the
3 Commission to recognize that the four-month
4 process does include a full CEQA analysis,
5 including a consideration of alternatives. I
6 don't know that there's a difference between the
7 consideration of alternatives that we would do
8 under CEQA, and the one that is done under the
9 Federal Clean Air Act. But if there is, we would
10 have to do both.

11 CHAIRMAN KEESE: Thank you.

12 Mr. Harris.

13 MR. HARRIS: Thank you, Chairman Keese
14 and Commissioners. My name is Jeff Harris, I'm
15 with the law firm of Ellison, Schneider and
16 Harris. I'm here on behalf of Calpine Corporation
17 today, and I'm here in support of the resolution
18 that you all have passed, and would urge you to
19 ratify that decision here again today.

20 I want to talk about two major issues.
21 Really, the legal authority to do what you've
22 done, and then the policy implications. And there
23 hasn't been as much discussion about the legal
24 authority. There's absolutely no question that
25 you have the authority to take the action that

1 you've taken. Absolutely no question. There are
2 least three separate legal authorities that give
3 you this power. That's the Emergency Powers Act,
4 it's the Warren-Alquist Act in specifically
5 Section 25705, which defines the Commission's
6 emergency powers. And there's also the Executive
7 Orders. And your action is consistent with all
8 three of those legal authorities.

9 And so to the extent people have raised
10 the question as to whether there ought to be --
11 whether the resolution ought to have occurred in
12 the first place, and whether you have the
13 authority to do it, there's absolutely no
14 question. You had that authority. I think you
15 also acted judiciously. Your authorities under
16 25705 are broad. You've taken a very narrow
17 approach here, and I think that's the proper
18 approach.

19 In terms of questions of the emergency,
20 I have two points. Number one, north of Path 15,
21 people who are smarter than me on these issues
22 tell us we may have problems this winter with the
23 area north of Path 15, essentially northern
24 California. There's sufficient in state
25 generation. A lot of that's in the south, and

1 because of the constraints on -- north of Path 15,
2 it can't get to the north. And so I think it's
3 speculation in terms of whether we are really
4 where we need to be. And so I point out the Path
5 15 issue for your consideration, as well.

6 In addition, the authorities that I
7 cited have provisions for the ending of the
8 declaration of a state of emergency. That can be
9 done by the Governor or the legislature. That has
10 not occurred today, so while people may want to
11 debate with you today as to whether or not under
12 current circumstances there is an emergency, that
13 emergency has been declared and has not been
14 rolled back. And so, again, you're acting well
15 within your authority here. And I want that to be
16 clear.

17 Two other points. Let's move on to the
18 policy issues. The first one that came up is the
19 major stationary source issue. I think that's an
20 important issue for you to take under
21 consideration. And I think you've been unfairly
22 attacked here. People have said that you have
23 somehow compromised public health or the
24 environment, as it relates to air quality. That's
25 absolutely patently false.

1 The myth is that these projects would
2 not be in compliance with Federal and State Clean
3 Air Act. Again, that is not true. Those projects
4 are in full compliance with the Clean Air Act. As
5 proof of that, even in the 21-day process that you
6 had in place earlier this year, even in that 21-
7 day process, there was full compliance with the
8 Federal Clean Air Act and the State Clean Air Act.
9 And, in fact, in those projects I worked on we had
10 our Energy Commission license before we had our
11 air district license, because it was a longer
12 process. So there were absolutely no shortcuts
13 taken in the 21-day process as it relates to air
14 quality. And there are no shortcuts proposed in
15 the four-month process or the six-month, or the
16 12-month process.

17 So to the extent that people have said
18 that you're compromising public health, from an
19 air quality perspective, that's patently false.

20 In terms of the three-year provision
21 that's also on the table today, there are a lot of
22 issues that have been discussed on that.

23 Certainly there are questions in my mind about the
24 economics of a three-year project, but setting
25 aside that developer question, you have a bit of

1 an inequity here right now, as well, with the 21-
2 day process, and I want to point out between 21
3 days and four months.

4 In the 21-day process, the term of the
5 license was in some cases for the term of the DWR
6 contracts, which were, in some cases, 20 years.
7 In this four-month process now, we're talking
8 about limiting that license to three years. And
9 so you have this inequity where projects sited in
10 21 days may have a license that's good for 20
11 years, and the process that goes through a more
12 rigorous four-month review would have a license
13 that's limited to three years. And so just on the
14 equities, I think there's a serious question
15 there. And I think you've made the right policy
16 balance in looking at those.

17 In terms of what these simple cycle
18 projects will do, I think there's been a good
19 discussion of that. One point that's been
20 emphasized is that they will replace these older,
21 less efficient units. And I think that's a valid
22 point. Absolutely valid point. The new units,
23 and we're talking about two and a half or five
24 parts per million, versus the older ones which are
25 in some cases uncontrolled, are much higher.

1 These are cleaner units.

2 The other facet that hasn't been
3 discussed today that I want to raise to your
4 attention, as well, from an environmental
5 perspective, is that having peaking power that's
6 natural gas eliminates the need for diesel. And
7 we've seen diesel generation proliferate. If you
8 were driving through the Bay Area early this year,
9 you heard ads for diesel generators. Everybody
10 ought to go buy a diesel generator. Diesel is
11 nasty stuff, from a public health perspective.
12 And what you're talking about here in some sense
13 is weighing a simple cycle natural gas against
14 people having to go out and get the diesel
15 backups, and running those facilities. I know the
16 Bay Area District is concerned about that. It
17 came up at least in one matter that I was involved
18 in.

19 So, again, from an economic -- or from
20 an environmental perspective, the action you're
21 talking about today will allow you to replace
22 older units and avoid the need for that much
23 dirtier diesel. So it's environmentally superior
24 in that respect.

25 Well, you know, you have the legal

1 authority to do what you've done. You're in full
2 compliance with the environmental laws, in
3 general. You're in full compliance with the Clean
4 Air Act, in particular. You're talking about an
5 environmentally preferable solution here in the
6 short term. In terms of those combined -- or
7 simple cycle projects being converted, I think
8 that the efficiencies of those projects may
9 challenge them to convert on their own. In other
10 words, the market may force them ultimately to
11 convert. That's going to require more supply,
12 obviously. But we think we may get to that point.

13 So our recommendation would be that you
14 ratify the decision you made earlier this year,
15 and move forward.

16 Thank you.

17 CHAIRMAN KEESE: Thank you.

18 COMMISSIONER PERNELL: Question, Mr.
19 Chairman.

20 CHAIRMAN KEESE: Commissioner Pernell.

21 COMMISSIONER PERNELL: Mr. Harris,
22 you've been involved in several processes with the
23 Energy Commission. Do you see any drawbacks, from
24 a Applicant perspective, on the six-month process
25 versus the four-month process?

1 MR. HARRIS: I think the six-month
2 process, although it does allow for simple cycle
3 and combined cycle, to me is much more suited to a
4 combined cycle facility. They're usually larger,
5 and they're -- the issues are a little more
6 complex.

7 In terms of the simple cycle project, I
8 think there is an advantage to having that two-
9 month difference in obtaining a license. And,
10 simply put, these projects are relatively simple
11 compared to the larger units. But you just don't
12 go to Home Depot and pull one off the shelf and
13 plug it in. There's a lot of lead time involved
14 in getting these things on the ground, getting
15 your permits in place, and getting them
16 constructed. And under the Executive Order, we're
17 talking about getting these projects online, I
18 think by next summer. Given the construction
19 timeframes and the permitting timeframes, it's
20 going to be difficult, I think, to move forward.
21 That two months is very significant in that, from
22 that perspective.

23 COMMISSIONER PERNELL: Thank you.

24 CHAIRMAN KEESE: Thank you.

25 Mr. Kennedy.

1 MR. KENNEDY: Hello, Chairman Keese and
2 Commissioners. Thank you very much for
3 reconsidering this resolution. My name is Danny
4 Kennedy. I'm with Greenpeace USA, based here in
5 California.

6 You're probably familiar with the fact
7 that some of our members have become concerned
8 about this from the couple of hundred faxes that
9 have been sent to your offices in the last few
10 weeks, just as a sense of the concern out there in
11 the community about this. And while others may
12 second-guess the legality of this, I'd like to
13 actually speak to the process issues first, in
14 terms of the political spirit of them.

15 I think that the whole energy crisis,
16 so-called, has been beset by this kind of energy
17 policy-making, posthaste, ad hoc, by fiat from the
18 Governor's Office, in the first instance, and
19 later by varying agencies, the Department of Water
20 and Power, the CEC, or the CPA, would like to be
21 in some position of power to do some policy-making
22 and setting of its own.

23 And there is great public concern about
24 that in the media, that this is a pattern that no
25 one's really in control, there's no overarching

1 vision of how to provide reliable, secure, clean,
2 stable energy for California. And instead,
3 there's this sort of ad hoc-ery going on. And the
4 pace with which you're trying to set this out by
5 allowing this waiver is continuing that sense out
6 there in the public.

7 And, you know, I can't underscore how
8 important that is, when you do have serious doubts
9 even amongst your own Staff as to whether this
10 fear you all have in your hearts about another
11 rolling blackout sometime in May, June, or July
12 next year, is going to happen or not. My bet is
13 it's not. Your conservation programs have worked.
14 You owe yourselves a big pat on the back for that.
15 And the people of California have been getting
16 those.

17 We could do more aggressive conservation
18 work in the interim period, and not require this
19 commitment, because there's been an overall bias,
20 as a result of this ad hoc decision-making and
21 policy setting, towards gas. It's 96 percent of
22 new generation coming online. Twenty-four to one,
23 the various bodies that have governed decision-
24 making about new generation capacity have
25 committed to a gas-based future. That is nothing

1 but an unreliable future, because we are dependent
2 on bandits from out of state who go bankrupt
3 overnight, as we saw with Enron Corporation last
4 week. We are dependent on an unreliable fossil
5 fuel, which is intermittent in supply and going to
6 become more constrained as their depletion rates
7 increase. And we are dependent on continuing to
8 pollute the air of California and the people of
9 California's good health.

10 And so that type of commitment is the
11 wrong one. And yet, that's where the momentum is,
12 and this is just accelerating or shifting up gears
13 or into a slow glide neutral kind of phase, where
14 more gas should come online just because someone
15 says that there's going to be blackouts which
16 haven't transpired since more than six months ago
17 now.

18 So that would be the big concern on the
19 sort of political and overarching nature of this.
20 I think that there are fundamental legal questions
21 that you have before you about whether a four-
22 month process would stand. You know, the 21-day
23 process, contrary to what Mr. Harris said, did not
24 stand up to the test of the Federal Clean Air Act.
25 The South Coast Air District did find that they

1 couldn't site under it because of problems.

2 You have the question from Mr. Pernel
3 about whether the six-month process could be
4 completed within four months. If the Staff
5 believed that could be done, try it. I, you know,
6 would encourage you to give it a go, but I wonder
7 whether the disproportionate impacts requirements
8 of the six-month process could be met in that
9 period, let alone the full public comment period
10 and the rest of it.

11 There are serious questions as to
12 whether this isn't just greasing the wheels to the
13 implementation of new simple cycle gas-fired power
14 plants. And as to your economics point, you know,
15 to be honest with you, solar power right now is
16 competitive with this gas generation, if you look
17 at the average parts per kilowatt hour that's
18 being spent on gas-fired peaker generation.

19 So the economic viability of combined
20 cycle is there. And we could be definitely going
21 to that technology, if not far better, going to
22 solar itself or wind power generation, or some
23 other means, mainly through demand-side
24 management, to contain what surge and peak load
25 demand there may be.

1 The problem with this basic policy that
2 has been coming out of the Governor's Office, and
3 the other agencies I mentioned, is we see it as
4 affirmative action for a gas-based future in
5 California. Greenpeace is very concerned that
6 California is, as the fifth largest economy in the
7 world, the sixth largest greenhouse gas emitter in
8 the world. It's committing itself to a fossil
9 fuel based future, and thereby committing itself
10 to gross liabilities and negligence and
11 responsibilities for global warming, and we're
12 very concerned about that, and aim to change that
13 in the California energy policy-making in the
14 future.

15 And our real concern here is that you
16 are foreclosing options. You're going towards
17 spending energy and time trying to expedite
18 unnecessary peaker generation, basically, because
19 whether or not the speculation, and the Governor,
20 as Calpine knows about speculation in the gas
21 market, whether or not the speculation that Path
22 15 is going to be constrained or not, whether
23 northern California is going to have it or not, we
24 could deal with that in other ways. There are
25 other solutions that we would commend that you

1 reconsider.

2 So, like the other groups here, and the
3 CAPCOA folk, and others, we definitely require
4 that you rescind this resolution. There is no
5 need for it. If the Staff is saying they can go
6 under the six-month process, then so be it.
7 Certainly, there should be no continuance of this
8 kind of waiver of these processes until all the
9 information, all the questions that have been
10 raised here about the legality and about the
11 impacts and the disproportionate nature of the
12 impacts of these single cycle peaker plants are
13 considered. And while you gather that further
14 information, I would require and request that you
15 would at least place in abeyance this resolution.

16 That's all, unless you have questions.

17 CHAIRMAN KEESE: Thank you. Thank you.

18 I, as I'm sure you're aware, this Commission has
19 strongly support demand responsiveness programs
20 for a number of years. That would be our
21 'druthers. We have strongly supported the
22 conservation and the public relations campaign,
23 and that would be our 'druthers.

24 We -- I still -- and I support them
25 personally. I still also personally believe that

1 if we have a dry year and a hot spell, we do not
2 have enough generation with conservation to get us
3 through early part of next summer. And so I am
4 absolutely convinced that we need more peakers.
5 And I guess we disagree on that, but I don't
6 disagree one iota with the other thoughts that you
7 gave to us --

8 MR. KENNEDY: And that's fine.

9 CHAIRMAN KEESE: -- which is, we must
10 increase our demand responsiveness abilities, we
11 must increase conservation, and renewables should
12 be the first order of business.

13 MR. KENNEDY: That's fine. But I just
14 question whether you, as the Chair of the
15 Commission, should waive legislative mandates on
16 your belief that the weather's going to be
17 difficult and contrary to our conservation
18 abilities.

19 CHAIRMAN KEESE: No. No, on the chance
20 that it's -- I don't believe that we can leave our
21 public out there on beliefs. We know, from
22 history, that if certain weather conditions
23 prevail, we know what demand will be. And we know
24 good and well that we can't meet it. So --

25 MR. KENNEDY: The real -- from flex your

1 power campaign that --

2 CHAIRMAN KEESE: -- the question is, do
3 we protect the public or not. And --

4 MR. KENNEDY: An aggressive conservation
5 program, like the one you've already undertaken
6 last year, could easily do what you need to do in
7 the next six months.

8 CHAIRMAN KEESE: It did it in a cool
9 year.

10 MR. KENNEDY: They could do it by June
11 2002, with more work. It's the same sort of
12 repeat of the flex your power program.

13 CHAIRMAN KEESE: Well, we're with you.
14 We support that.

15 I gather Fern Feto is -- that covers
16 both of you?

17 Bonnie Holmes.

18 COMMISSIONER PERNELL: I think she wants
19 to address us.

20 MS. FETO: I'd just like to reiterate
21 some of the comments that were made previously.
22 I'm --

23 COMMISSIONER PERNELL: Would you state
24 your name, please.

25 MS. FETO: -- with Greenpeace. Can you

1 hear me okay?

2 CHAIRMAN KEESE: We need your name,
3 though, for the record.

4 MS. FETO: Oh, my name is Fern Feto.
5 I'm with Greenpeace, the Clean Energy Campaign.

6 And I'd like to reiterate some of the
7 comments that were made by Greenpeace, as well as
8 Communities for a Better Environment.

9 I'd like to encourage the Commission to
10 rescind the resolution that was made on October
11 17th, for environmental health and social reasons.
12 I feel strongly that this resolution was made in a
13 hasty and perhaps rushed manner, and that it
14 should be rescinded.

15 And I would like to see this resolution,
16 if it is not rescinded in a timely fashion, that
17 it be made inoperable in the time that it's being
18 reconsidered. To sort of explain that further, if
19 you decide to push this decision off until the
20 next meeting, whether or not this resolution is
21 rescinded, I believe that it should be made
22 inoperable in that timeframe.

23 Okay.

24 CHAIRMAN KEESE: Thank you.

25 COMMISSIONER PERNELL: Thank you.

1 CHAIRMAN KEESE: Bonnie Holmes.

2 MS. HOLMES-GEN: Good morning. Bonnie
3 Holmes-Gen, with the American Lung Association of
4 California. And I wanted to join those who are
5 asking your Commission to remove the waiver that
6 was adopted, and to rescind that waiver, also.
7 And I wanted just to make a few quick points. I
8 think you've heard a lot already.

9 I want you to know that the American
10 Lung Association has been very concerned about the
11 pollution emissions from power plants, because of
12 the nitrogen oxide and particulate matter
13 emissions from fuel combustion, and because of the
14 lung health impacts from those emissions. And
15 because of that, the Lung Association adopted a
16 position statement last spring on electricity
17 generation and air quality.

18 And a few brief items from our statement
19 are that air quality and public health
20 considerations must be central to California's
21 plan for meeting short and long-term electricity
22 supply needs; that we urge state and local action
23 to ensure full compliance with State and Federal
24 Clean Air Acts and all state and federal and local
25 policies, regulations and standards to implement

1 those laws. And that we urge the state and local
2 agencies to give priority to the cleanest sources
3 of electricity; that first priority should be
4 given to energy conservation, efficiency, load
5 management. Second priority to the development of
6 clean renewable sources of energy. And as a third
7 priority, the next cleanest possible conventional
8 power sources.

9 So we are concerned that you have taken
10 action to waive the important statutory provisions
11 to protect our air quality, because, number one,
12 they were put in statutes specifically to protect
13 air quality and public health. And, number two,
14 we're concerned that it's essentially going
15 against the very good record of the Commission,
16 which has been very supportive of conservation and
17 renewables, and instead essentially giving a boost
18 up, or potentially increasing reliance on dirtier
19 sources of power, as opposed to cleaner
20 conservation efficiency or other much cleaner
21 sources.

22 You know, we don't -- we also don't
23 believe that there's a strong case at this point
24 for the need for additional peaking capacity.
25 That's certainly arguable. There have been

1 conflicting reports on what are the actual energy
2 needs for next year. But our main concern is
3 that, you know, and just to go back to the
4 adoption of the legislation, I mean, we were
5 uncomfortable with the establishment of a fast
6 track process in the first place. But we were
7 given some comfort with the fact that this fast
8 track process was only tailored to apply to a
9 narrow universe of facilities that were not major
10 polluters, and that would provide these guarantees
11 that within three years they would be a much
12 cleaner process, and more efficient, to pollute
13 less. And, you know, provide a much cleaner
14 source in terms of public health protection.

15 So our concern is that we're -- the
16 Commission's action is waiving these protections
17 that were put in place to protect public health,
18 and that it does go against the priority that we
19 have established in our policy that priority
20 should be given to energy conservation,
21 efficiency, renewables, as a first priority. So
22 we're concerned that this is giving a boost up to
23 dirtier sources of power, when, in fact, we may
24 find that we can go ahead and meet these needs
25 through other cleaner sources.

1 So we would ask you to rescind the
2 action that you've taken, and if that means
3 putting these peaker facilities into the six-month
4 process, or the 12-month, you know, whatever
5 process is the correct statutory provision for
6 these plants. But we do not believe they should
7 be considered in the fast track four-month
8 process.

9 CHAIRMAN KEESE: Thank you, Ms. Holmes.

10 COMMISSIONER PERNELL: Thank you.

11 CHAIRMAN KEESE: Mr. Jennings.

12 MR. JENNINGS: Good morning, Mr.

13 Commissioner, Mr. Chairman, Commissioners.

14 COMMISSIONER PERNELL: Good morning.

15 MR. JENNINGS: I'm Bruce Jennings. I'm
16 the Chief Consultant for the Assembly Environment
17 and Safety Committee. Hannah-Beth Jackson is the
18 Chair of that Committee, and she has asked me to
19 deliver some of her remarks to you this morning,
20 and sorry she can't be here in person. And
21 certainly appreciates a lot of the work that
22 you've provided for us in the past.

23 Dear Mr. Chairman and Commissioners, I
24 find the California Energy Commission's recent
25 adoption of Resolution 01-1017-02 unacceptable,

1 and join with my colleagues in the senate in
2 asking you to rescind this resolution.

3 The resolution directly conflicts with
4 specific statutory requirements and legislative
5 intent recently expressed in AB 970 and SB 28x.
6 As you know, these bills were carefully drafted in
7 recognition of the state's need for additional
8 electrical generation resources, and in close
9 consultation with the CEC.

10 The legislature has been highly
11 responsive to recommendations of the CEC with
12 respect to power plant siting, as well as energy
13 efficiency and renewable resources, and enacted
14 unprecedented legislation to address the energy
15 crisis in 2000 and 2001. According to its duties,
16 the legislature weighed the CEC's recommendations
17 against those of other parties and enacted laws
18 which reflect appropriate state policy.

19 I'm confounded as to why the CEC would
20 now take the counterproductive and legally
21 questionable step of attempting to suspend
22 provisions of a statute established and confirmed
23 with near unanimity by the legislature and signed
24 by the Governor. Had AB 970 and SB 28x been
25 written in a manner now proposed by the

1 Commission, I and others of my colleagues would
2 not have support them, and it is doubtful that
3 those measures would have passed.

4 I understand the CEC believes the legal
5 basis for its action lies in Executive Order
6 D2601, issued by the Governor on February 8th,
7 2001. Among other things, D2601 purported to
8 suspend the requirements of Section 2552 -- 25552,
9 rather, to the extent that they would prevent,
10 hinder, or delay the prompt mitigation of the
11 effects of this emergency. I disagree that D2601
12 provides a sufficient legal basis for the
13 resolution 01-1017-02, and believe that the CEC's
14 action, as well as any AFC issued pursuant to it,
15 risk legal challenge.

16 The underlying claims that the Governor
17 is authorized to assume the role of the
18 legislature and alter statutes during a state of
19 emergency, I believe that the Governor's authority
20 under the Emergency Services Act is limited to
21 genuine actions to address the conditions of a
22 legitimate emergency. Further, the act requires
23 the Governor to terminate the state of emergency
24 at the earliest possible date that conditions
25 warrant.

1 The conditions warranting the Governor's
2 declaration of emergency on January 17th,
3 conditions of disaster, extreme peril to the
4 safety of persons or property within the state
5 caused by a sudden or severe energy shortage, have
6 since been addressed to an extent that they no
7 longer constitute extreme peril to the safety of
8 people or property in any area of the state that
9 we are aware of. I currently -- rather, clearly,
10 current conditions do not meet any common or
11 statutory definition of a state of emergency.

12 To the extent that emergency conditions
13 may, in fact, exist, I don't consider siting power
14 plants in a manner inconsistent with clear
15 statutory guidelines designed to protect public
16 health a legitimate attempt to address any such
17 conditions. However, given the general
18 controversy over DWR's electrical procurement
19 activities, DWR's own statements that it doesn't
20 need additional power at this time, and the
21 significant dearth of renewable energy in the
22 state's energy portfolio, I see little reason for
23 the extension of regulatory incentives for the
24 construction and procurement of additional gas-
25 fired generation resources.

1 During the energy crisis, the
2 legislature has worked cooperatively with the
3 Energy Commission to enact measures to accommodate
4 increased construction and operation of power
5 plants without sacrificing public health or
6 environmental protections. I am dismayed by the
7 CEC's apparent abandon -- has abandoned this
8 cooperative relationship and inappropriately
9 assumed a legislative function.

10 I would urge you most strongly to
11 rescind your approval of Resolution 01-1017-02.
12 Sincerely, Hannah-Beth Jackson.

13 CHAIRMAN KEESE: Thank you, Mr.
14 Jennings. Would you mind sharing that letter with
15 us?

16 MR. JENNINGS: Yes, I can get this to
17 you later in the day.

18 CHAIRMAN KEESE: Okay. Appreciate that.

19 MR. JENNINGS: Thank you.

20 CHAIRMAN KEESE: Thank you.

21 Mr. Enrique Gallardo.

22 MR. GALLARDO: Thank you, Commissioners.
23 My name is Enrique Gallardo, and I'm with Latino
24 Issues Forum, which is a statewide public policy
25 and advocacy organization. And I want to build on

1 some of the comments that Mr. Kennedy made
2 regarding really what I see as a result of this
3 resolution, and that might be a crisis in public
4 confidence.

5 Now that the summer's over, we can look
6 back on our energy supply problems, and I think we
7 can look forward and make forward planning
8 policies, as opposed to responding to immediate --
9 what we see as immediate anticipated crises. And
10 I urge you to rescind the resolution because of an
11 effect that it might have on public perceptions of
12 the process, especially as it affects
13 disproportionately impacted communities.

14 You already went back and forth
15 regarding the environmental health consequences of
16 the resolution, and I ask you not to -- I'm not
17 going to discuss that, as I think that other
18 people were more able than I have discussed that.
19 What I want to focus on is on the public
20 participation procedures that have been downgraded
21 by the resolution, and how it really creates a
22 feeling of people who are having to shoulder too
23 much of the burden of energy production,
24 especially in certain communities.

25 People have discussed the environmental

1 health consequences. What I want to point out is
2 also that most of these -- a lot of these plants
3 are being built in certain communities,
4 specifically, low income and minority communities.
5 And I'd like to refer to a study that Latino
6 Issues Forum commissioned, and we just released,
7 actually today, and I have copies available, where
8 we -- where the persons conducting the study
9 looked at some of the proposed plants that were
10 proposed as of June 30, 2001. They didn't look at
11 all the plants, because not all the plant
12 locations were available on the -- by the CEC, but
13 they looked at 18 plants where the plant sites
14 were available. And they found that 16 out of 18
15 of the proposed plants in the area within six
16 miles of the facilities, the population was more
17 than 50 percent persons of color.

18 And I understand that under CEC's
19 process, this might trigger further study of
20 environmental justice consequences. And we feel
21 that these are the kinds of procedures that are
22 being streamlined, downgraded by the resolution.

23 I think when you step back and look at
24 the resolution and the consequences it has on the
25 public, what you can see is people who, even

1 though there's a claim that these processes
2 protect the environment as much as possible, as
3 much as any other process, and provide for public
4 participation as much as any other process, they
5 still see a streamlined process, a process that,
6 as some of the other speakers have stated, is
7 based on precarious statutory authority. And they
8 see the results, which is dirtier power plants in
9 their communities. And it's something that very
10 much disillusioned people, especially when they see
11 also that the whole issue of a power supply crisis
12 is contended, and currently that California is
13 selling power at a loss.

14 So I think it's really important to
15 address these issues, and to have more forward
16 thinking planning, as opposed to something that is
17 perceived as being hasty, and as a response to
18 immediacies.

19 So I join others in urging the
20 rescission of the resolution. And I also want to
21 reiterate that we feel that conservation is the
22 more effective way of addressing this problem.
23 And also, although it is beyond the scope of the
24 resolution being considered right now, I do want
25 to urge more stringent and adequate environmental

1 justice procedures in the plant siting process.

2 Thank you.

3 CHAIRMAN KEESE: Thank you. Appreciate
4 your comments.

5 COMMISSIONER PERNELL: I'd like to get a
6 copy of your commission report, and Ellie can get
7 it from you there. Thank you.

8 CHAIRMAN KEESE: Mr. Richlin.

9 MR. RICHLIN: Good morning, Chairman and
10 Members of the Commission. My name is Eli
11 Richlin, and I am an Energy Associate with the
12 California Public Research Group. The California
13 Public Interest Research Group is a statewide
14 advocate for the public interests.

15 CALPIRG would like to thank the
16 Commission for reconsidering the resolution in
17 question, and we would like to join with other
18 speakers today in respectfully urging the
19 Commission to rescind that resolution passed in
20 October. We believe that the resolution is not
21 sound energy policy for a few principal reasons.

22 First, California is already far too
23 over-dependent upon natural gas as an electricity
24 source. Currently, over a third of the state's
25 power comes from natural gas, and a large number

1 of new gas-fired plants have already been
2 permitted and are currently under construction.

3 As the recent CALPIRG report shows,
4 which I am submitting as formal testimony to the
5 Commission, our increased over-dependence on one
6 finite fuel source, which is an ever-increasing
7 supply and natural demand, is setting us up for
8 future power supply problems as well as price
9 spikes. We therefore oppose the fast tracking of
10 new gas-fired plants on the basis that the public
11 should have the ability to consider at length
12 whether any new gas-fired plants are actually in
13 the public interest.

14 Second, we believe that the Commission
15 is required to adhere to the legislature's
16 instructions regarding what kind of new plants
17 must not be fast tracked. We do not believe that
18 Governor Davis' Executive Order is still in
19 effect, since it has become clear that the state
20 has already contracted for power in excess of its
21 actual needs. Therefore, the Commission should
22 adhere to the policy directives put forth by the
23 legislature on this issue.

24 Thank you for your consideration of this
25 important energy issue. And, again, we urge that

1 the Commission does rescind the earlier
2 resolution.

3 Thank you.

4 CHAIRMAN KEESE: Thank you. For the
5 benefit of the public, we have two more, and one
6 that may be on the phone still.

7 Mr. Chris Chaddock.

8 MR. CHADDOCK: Hi. My name's Chris
9 Chaddock, and I don't associate with any of these
10 other groups. I just -- I guess I'm here in the
11 same room, but I'm not representing any of these
12 other groups. Strictly a general public member.

13 I've been coming to these meetings for
14 about two years now, and I'm basically here --
15 felt that there was a need to express my view on
16 this issue. In the last two meetings or so that I
17 was here -- that I was here, that it seemed to me
18 that some of the laws were stretched. As a
19 general public, I know I'm ignorant on some of the
20 facts that are behind the scenes, and stuff.

21 But just sitting in this room, it
22 appeared to me that as a person coming here to get
23 educated about it, to try to be honest in dealing
24 with the CEC and stuff, that there was behind the
25 scenes issues, or something out there that the

1 public didn't really see, or could understand.
2 And they seemed to stretch the laws, or there was
3 extortion, almost, on some of the people's parts
4 of what they wanted to do to get things through
5 the Energy Commission.

6 And that, to me, lacked, or reduced my
7 confidence. And being a public member, and coming
8 before the Commission hoping to get honest
9 changes, or to have some effective means as a
10 person who is going to be possibly beside a very
11 large power plant in the future here. And I just
12 wanted to let you know that from my public
13 confidence in a governing board, I have a lot of
14 questions. I was basically scared to come up here
15 and talk when you actually voted on this, thinking
16 that I shouldn't get involved in this because I
17 might hurt my chances and be coming up. Then, I
18 just, well, I'm just part of the process, then, if
19 I don't speak my mind.

20 CHAIRMAN KEESE: You're right.

21 MR. CHADDOCK: So I felt that I --

22 CHAIRMAN KEESE: We're glad you're here.

23 MR. CHADDOCK: -- did come before you
24 just to let you know that as a public member, it
25 seemed in question that the speed at which this

1 happened, how it happened, and everything, was in
2 question. I realize that the merit that some of
3 these gas-fired power plants and what they're
4 going to replace is probably extremely good. I'm
5 not saying what you did or should or should not
6 have done, it's just that the public view of this
7 seemed to be a question, at least in my -- as a
8 member.

9 And I do want to make one comment, that
10 I know may be a factor or not, but I thought that
11 there was a bill that the Governor was sitting on
12 that declared that this emergency power issue was
13 over, and he's going to sit on it until the end of
14 the year to let some of this stuff happen through
15 this.

16 CHAIRMAN KEESE: It passed one -- I
17 believe it passed one house of the legislature.
18 It didn't pass the other house. It was one of the
19 three ways that the state of emergency ends.

20 MR. CHADDOCK: End it, right. So it's
21 going to end officially at December 31st, I
22 assume.

23 CHAIRMAN KEESE: Right, December 31st.

24 MR. CHADDOCK: Okay. I just wanted to
25 let you know that people out here do question some

1 of the things that do go on, and some of us are
2 paying attention. Not many, but a few. Thank
3 you.

4 CHAIRMAN KEESE: Thank you, Mr.
5 Chaddock.

6 Mr. Grattan.

7 MR. GRATTAN: Good afternoon.

8 CHAIRMAN KEESE: And then we'll go to
9 Mr. Hoffman after this.

10 MR. GRATTAN: I'll be real quick. Our
11 firm represents developers, and I'll try not to
12 address things that haven't been already hit upon.

13 First, one thing that hasn't been
14 mentioned here, I mean there seems to be a
15 perception that this four-month process is greased
16 lightning and that there is no consideration being
17 given to the substance of a particular project.

18 Projects spend a lot of time preparing
19 an application and prepare a lot of time before
20 they're data adequate before the Commission.
21 They're given a very thorough review. The four-
22 month, what is seen as the four-months is really
23 the tip of the iceberg.

24 Second, public process, I think it's
25 clear from what other people have said that CEQA

1 does apply to the four-month process. With
2 respect to air, you cannot get a Commission
3 license under four-month, six-month, or 12-month,
4 unless you have your Final Determination of
5 Compliance from the air district. That Final
6 Determination of Compliance includes all the
7 procedures, all the protections that are given to
8 an applicant and the public in an authority to
9 construct, including, if it's NSR, new source
10 review, review of alternatives.

11 Next, I, with respect to the legality of
12 operating under the Governor's emergency order. I
13 heard my colleague, Jeff Harris, and he certainly
14 convinced me. I'm sure the Commission will also
15 want to hear from its General Counsel on that
16 important issue.

17 Finally, schedule. One thing that is
18 extremely important to applications which are in
19 the mill, and projects which can come online, or
20 should come online in summer 2002, it is
21 important, it is prudent that these projects come
22 online to serve summer load. What we are dealing
23 with for any of those projects right now is the
24 horror of winter construction. And however the
25 Commission goes on deciding whether to keep the

1 waiver in place, whether to keep waivers
2 previously granted in place, or whether to look at
3 some other alternative -- I've heard, you know,
4 the four-month processing an application under the
5 six-month process, but in four months -- it is
6 extremely important to remember that any
7 construction that'll be done for a plant to come
8 online in summer of 2002, it'll be winter
9 construction. And some of the great records we've
10 seen of getting plants on for summer 2001 may not
11 quite hold for 2002.

12 And the other thing I hear that DWR has
13 contracted for enough power, that may be well
14 true. But they're not going to get that power if
15 these plants don't get built.

16 Thanks.

17 CHAIRMAN KEESE: Thank you, Mr. Grattan.

18 On the phone, I believe we have Mr. Bob
19 Hoffman.

20 MR. HOFFMAN: Well, I guess now it's
21 good afternoon, Commissioners.

22 CHAIRMAN KEESE: It's a little late, but
23 at least you got to hear the rest of the story.

24 MR. HOFFMAN: That's right. Well, I'm
25 with the Paul Hastings Law Firm, and I'm speaking

1 on behalf of Pegasus Power Partners. And I'd like
2 to thank you for the opportunity to testify by
3 telephone. Otherwise, I wouldn't have been able
4 to participate today.

5 In the interest of time, I would like to
6 second all of the comments made by Mr. Harris. I
7 thought they were well articulated, and we
8 certainly agree with all of them. And I think if
9 you review his testimony, you'll see that he
10 covered all of the issues that are relevant to
11 your decision today.

12 I'd also like to second the comments of
13 Mr. Therkelsen, and particularly emphasize the
14 misconception that these plants are dirty plants,
15 and that there's going to be a public health
16 threat. That's clearly not the case. The plant
17 that is being built by Pegasus is as clean and
18 simple cycle as it would be in combined cycle.
19 And I think that that's very important to note.

20 I'd also like to emphasize that we
21 believe that the four-month process will be in
22 compliance with both CEQA and the Clean Air Act,
23 and, as has been discussed this morning, will be
24 protective of public health. And while the
25 opponents of the resolution have raised some

1 interesting process questions, I think that
2 substantively, the four-month process is a very --
3 is a very good process. As the gentleman before
4 me emphasized, to get to be data adequate is quite
5 a task, and companies have to act responsibly and
6 thoroughly in order to meet that standard.

7 So, to -- in answer to being brief, I
8 would just respectfully request that you stick
9 with your prior decision. We support the
10 resolution. And if you have any questions I would
11 be happy to answer them.

12 CHAIRMAN KEESE: Thank you, Mr. Hoffman.
13 Appreciate your hanging in there.

14 Well, we have heard from the public on
15 this issue. Do we have any reaction from Members
16 of the Commission?

17 COMMISSIONER MOORE: Mr. Chairman, I
18 realize that I'm not in a position to offer any
19 kind of a motion regarding reconsideration,
20 considering that I was on the far side of the vote
21 that took place before. But I have listened with
22 interest to the comments that were made, and would
23 suggest that this is something that is worthy of
24 further debate. And that should the other
25 Commission Members feel the same, an appropriate

1 debate forum would be one in which we are all
2 present. And I would suggest respectfully that
3 that would probably be when Commissioner Laurie
4 was here at our next regular Business Meeting, and
5 has a chance to express himself and to vote.

6 Having said that, I would just like to
7 clarify one thing so it doesn't sit in the well of
8 public consciousness here, although I think I was
9 pretty clear in my remarks the last time. And
10 probably clear about my position in my remarks the
11 last time around.

12 But the -- you made a comment earlier
13 about the Commission supporting the numbers, the
14 comment on the adequacy of supply in the future.
15 If your comment, Mr. Chairman, was meant to
16 suggest that by the vote of the Commission we
17 embraced that kind of a concept, well, then I
18 would not be able to disagree with you because the
19 Commission, by its vote, has spoken.

20 As a member, as an individual member,
21 though, I would hasten to add that there are
22 different interpretations of what the forecast
23 actually entails, and what it means. And that my
24 comments on that and, in fact, the numbers on
25 that, which have been published through our

1 Committee here at the Commission, are, in my mind,
2 explicit. But that they may not be reflective of
3 what the Commission as a whole interpreted.

4 So as a member of the whole, I
5 acknowledge what -- that what you said is correct.
6 As an individual Commissioner who looks at those
7 numbers every day, and processes them, I -- to the
8 best of my ability, and I'll say that there may be
9 some disagreement with that -- but I would urge my
10 colleagues to take this up again at a time when
11 all five of us can debate it. And I would urge
12 that if that is the will of the Commission, if you
13 accede to that request -- and it is a request, I'm
14 not, as I said, I'm not in a position to make a
15 motion -- but that we take up the question of
16 whether or not to reconsider this at a meeting
17 when all five of us would be present. And I, Mr.
18 Chairman, you'll know what meeting that is by
19 looking at the schedule. And that at that time,
20 the question of whether or not a reconsideration
21 would be possible, would be taken up.

22 And I would assume that Commissioner
23 Laurie could avail himself of the tapes of this
24 meeting in order to be fully informed, and act.

25 Thank you.

1 CHAIRMAN KEESE: Thank you, Commissioner
2 Moore.

3 Commissioner Pernell.

4 COMMISSIONER PERNELL: Mr. Chairman,
5 thank you.

6 First, I'd like to thank everyone who's
7 here today, because it gives us a broader
8 perspective on the issue. And it raises some
9 questions in my mind, certainly. But I want to
10 commend you for coming and expressing your
11 opinion. And I know sometime when you're before,
12 whether it's legislative or regulatory bodies,
13 it's a little nerve-racking. But as a community
14 and as a community activist, which all of you are,
15 whether you know it or not, except for the
16 attorneys --

17 (Laughter.)

18 COMMISSIONER PERNELL: -- those are the
19 things to do to be heard. And so don't ever feel
20 shy about coming before anybody, because it is
21 your right to voice your opinion.

22 I also want to thank our sister agency,
23 the Air District, and it's true, we have been
24 working well together. And I want to continue
25 that, and not let this process interrupt that

1 collaborative effort that we have put together
2 over the last couple of years.

3 However, I would agree with my colleague
4 that we not take action today, because there's too
5 many questions that I have. There's questions of
6 legality, and I know that our General Counsel has
7 advised us well, and always has. But there is
8 legislative intent from both the Assembly and the
9 Senate, and whether or not there's a legal -- we
10 have the legal right to do what we're doing. And
11 I'd like to be able to flesh those questions out.

12 There's a question of whether or not we
13 can achieve the same result in a process that we
14 already have. I'd like to look at that. I would
15 tell you that it has been the Commission's legacy
16 to be inclusive. Whether it's the 12-month
17 process or the 21-day process, we've had people
18 come before us expressing their opinions in
19 various communities. May -- perhaps, this was
20 done too fast. People are telling me, both in
21 written communication and verbally, that they
22 didn't have a chance to respond. And because of
23 that, we are -- this meeting was put together with
24 the Chairman's request, and I commend him for
25 that, so that we can hear other opinions.

1 Having heard those, and having more
2 questions, I would agree that we need some time.
3 I don't think that it should be, you know, next
4 year, or anything. I think it should be as soon
5 as possible. But clearly, there are some
6 questions that in my mind I need more information
7 on.

8 There's also it was brought up here, and
9 I think it made sense, and I'll just put this
10 before the -- before my colleagues. And that is
11 that while we are considering our actions on this
12 issue, that no other projects be put in the queue
13 under this resolution, until we actually make a
14 permanent decision one way or another. And that
15 was brought up, I think that's -- by several
16 speakers, and I think that's a valid issue. And I
17 also want to suggest that to my colleagues.

18 And having done that, I would urge us to
19 resolve this as quick as possible. And I will
20 certainly, and has always had a open door process,
21 so I'm willing to listen to anybody on the issue.
22 But again, we have a responsibility to the State
23 of California to ensure that, to the best of our
24 ability, that we have adequate generation.

25 And let me just speak to that, because

1 we -- those who profess to be experts on this
2 issue have said that we're going to have rolling
3 blackouts last summer, and companies are going to
4 leave, and all of these really negative thoughts
5 by the experts. Well, they're the same experts
6 that are telling us we got enough generation. So
7 I think that we, to be prudent, we need to plan
8 for additional generation next year. The question
9 is, how do we do that, what's the best way, in
10 order to get to what our resolve is. And I think
11 that's something that's going to take a little bit
12 more time, at least from my perspective.

13 And I would agree with my colleague
14 that, Mr. Chairman, I would want to see it at
15 least put over to the next meeting, or sometime in
16 the future.

17 CHAIRMAN KEESE: Thank you.

18 Mr. Boyd.

19 EX OFFICIO MEMBER BOYD: Well, Mr.
20 Chairman, thank you for the opportunity. As a
21 non-voting member of this body, why, you don't
22 have to pay much attention to me. But as somebody
23 who's been around a long time in the regulatory
24 arena, and an observer of this process, I do worry
25 about the reality of the statement that perception

1 is reality, particularly in Sacramento.

2 And one of the gentlemen mentioned
3 earlier that the Commission and the members have
4 been attacked. Well, speaking for myself, I don't
5 feel attacked, but I do feel a definite air of
6 confusion that is bothersome. And I think those
7 who spoke before me referenced several issues and
8 several -- and references to the, quote,
9 expertise, or the fact of the moment kinds of
10 dilemmas that face us all.

11 So in my mind, setting aside the legal
12 authority question, and I would concur with
13 Commissioner Pernell's reference to the able
14 advice of Mr. Chamberlain on this subject, and I
15 see a need to afford some time for more discussion
16 of the issues. I think we got here, for whatever
17 reasons, I think this is why I asked Mr.
18 Therkelsen the question early on, without adequate
19 public discussion of all the issues behind the
20 question. And communication is education.

21 Certainly, I agree that deference to the
22 missing Commissioner is certainly important. But
23 I would like to suggest, if it is your thought to
24 continue this issue to another meeting so
25 Commissioner Laurie can be here, that you give

1 serious consideration to directing the Staff to
2 have a Staff workshop so that the next meeting
3 doesn't have to be another very public workshop so
4 you all can get the facts, that we have a Staff
5 workshop where the Staff can meet with the folks
6 assembled here, and others who have an interest,
7 to try to straighten out as best they can some of
8 the issues on the table.

9 I recognize the Commission is the court
10 of last resort, always, and people will bring
11 their cases here. But nonetheless, as I said
12 earlier, communication is education. And I, just
13 sitting here and knowing what many of us know from
14 living with this subject for the past year plus,
15 there are a lot of -- there is a lot of
16 misunderstanding on all sides of the issue, and I
17 think it would be helpful to try to resolve some
18 of those issues in a workshop setting, rather than
19 having to do it in front of this Commission, so
20 that next time you address the issue maybe some of
21 those issues resolve. People can speak to what
22 they feel are really current and factual issues.

23 So those are my thoughts on the issue,
24 Mr. Chairman.

25 CHAIRMAN KEESE: Thank you.

1 Mr. Larson, is that an acceptable --

2 EXECUTIVE DIRECTOR LARSON: If that's
3 what your wish, we'll do it.

4 EX OFFICIO BOYD: How diplomatic.

5 COMMISSIONER MOORE: Well, I'll weigh
6 in. I think Jim's come up with a different and
7 solid recommendation. Seems to me we can all
8 advance the cause if the Commission accedes, as I
9 indicated, to a request to postpone. I think that
10 the meeting, the right meeting would be the
11 December 19th -- 5th, meeting; that we ask the
12 Staff to conduct a public workshop in the
13 intervening period, in order to answer questions
14 and try to clear up what they perceive to be
15 misunderstandings about the recommendations. And
16 we'll have yet another point of view to consider
17 at some future meeting.

18 CHAIRMAN KEESE: Thank you.

19 COMMISSIONER PERNELL: Question, Mr.
20 Chairman. In terms of timing and how does that
21 affect the Staff workload, will someone address
22 that?

23 DEPUTY DIRECTOR THERKELSEN: Yes. This
24 is Bob Therkelsen, again.

25 Timing is going through my mind. I

1 think the last scheduled Business Meeting for the
2 Commission this year is on December the 19th.
3 Then, in theory, if projects are going to be
4 deemed adequate under this resolution, they would
5 have to be deemed adequate by that date.

6 In terms of --

7 COMMISSIONER MOORE: You're -- Mr.
8 Therkelsen, did --

9 CHAIRMAN KEESE: I'm not thinking that
10 long. I'm thinking of December 5th --

11 COMMISSIONER MOORE: Can I just add
12 something, Mr. Chairman. On at least three
13 occasions, on cases where I've had power plant
14 that I'm sitting on in the immediate past, we've
15 literally adjourned in the late morning, because
16 there has been some question or some issue that
17 can't be resolved. Where we've got all the actors
18 in one place, at one time, and literally adjourned
19 to a workshop. And perhaps we have all the actors
20 in one place at one time, and Mr. Therkelsen, you
21 and your Staff have the information that you
22 consider pertinent.

23 Perhaps it would not be untoward to say
24 make yourself available this afternoon, in this
25 hearing room, and at least conduct a series of

1 exchanges about the information that you have, and
2 perhaps that would get us a lot further along.
3 And I'm just suggesting everyone's here who has
4 really got a demonstrated interest in it. Perhaps
5 we just follow up on that and just -- rather than
6 have noticing requirements or anything else.

7 Mr. Chairman, that's just an open
8 suggestion, but it might well do to solve a lot of
9 people's problems all at once.

10 DEPUTY DIRECTOR THERKELSEN: Well,
11 Commissioner Moore, I think that's a very good
12 idea, because to do the noticing requirements, to
13 do all that process, is going to take time. And
14 if we have folks that are willing to continue to
15 this afternoon, to sit around and talk about the
16 relative issues --

17 COMMISSIONER MOORE: Yeah. The other
18 advantage of that, Bob, is that the points of view
19 that have been advanced are advanced. You don't
20 have to repeat those. You don't have to reinvent
21 them. We've got a pretty good understanding about
22 what people thought they were worried about, know
23 what you thought you were worried about. Perhaps
24 there can be a meeting of the minds, and we've got
25 all the information on the table, as it were,

1 right now. That's a suggestion.

2 CHAIRMAN KEESE: Thank you. Well, my
3 view, I appreciate the input today. I apologize
4 for pushing people, but we don't have a lot of
5 time on this issue. We must resolve this issue.
6 I'm going to go along with Commissioner Moore, but
7 we have to settle this at our next meeting on
8 November 5th, I believe. We have to settle this.

9 COMMISSIONER MOORE: December 5th.

10 CHAIRMAN KEESE: December 5th. I
11 believe I have tried to push people so we get
12 everything out here on the table today, everything
13 that anybody cares to introduce. I think we've
14 come up with some very good ideas. I'd like
15 everybody to be assured, on behalf of all my
16 colleagues, that we would share your view that
17 demand responsiveness and conservation come first,
18 that we would not have made it last summer were it
19 not for what the public did for us in
20 conservation. We are optimistic that we can hold
21 some of that conservation next year. History
22 indicates that programs such as that do taper off.
23 So we may see some tapering off.

24 We lost 40 percent of our ability to
25 import power last year. We hope that situation

1 changes, and we don't lose more of that. But
2 there are many important factors in this. We want
3 to continue to work with you cooperatively,
4 certainly, on the demand responsiveness phases, on
5 the renewable energy ideas. We're second to none
6 in the support of those issues at this Commission.
7 We have to figure a way to solve what we see as a
8 problem next year through our process. And I
9 think it's a process question now. I'd like to
10 see if we can settle it.

11 Mr. Larson, have you got a suggestion
12 for us?

13 EXECUTIVE DIRECTOR LARSON: Mr.
14 Chairman, we'd like to meet with those that are
15 interested at 2:00 o'clock here in this room,
16 today.

17 CHAIRMAN KEESE: All right. So what --

18 COMMISSIONER PERNELL: You might want to
19 make that announcement for those that didn't hear.

20 CHAIRMAN KEESE: Okay. What -- a Staff
21 workshop?

22 EXECUTIVE DIRECTOR LARSON: Yes.

23 CHAIRMAN KEESE: We will have a Staff
24 workshop here, 2:00 o'clock this afternoon. Mr.
25 Therkelsen will be present, and other Staff. And

1 we'll see if we can, if there is something that
2 you wish to present to the Commission out of the
3 group input. Anyone who is able to participate at
4 2:00 p.m. is certainly welcome and invited.

5 For those of you who for one reason or
6 another cannot, if you're interested in putting
7 things in writing to us, we will receive them. We
8 will take this up at November 5th. I believe that
9 on --

10 COMMISSIONER MOORE: December 5th.

11 CHAIRMAN KEESE: December 5th. I
12 believe that honors Commissioner Pernell's
13 suggestion that we would not site any cases
14 between now and then. We don't have any on --

15 COMMISSIONER PERNELL: We won't put any
16 cases under this process.

17 CHAIRMAN KEESE: We have none up until
18 December 5th. I don't know that we have any -- we
19 don't have an agenda for the December 5th, but
20 that would be the earliest we would have them. So
21 we will resolve this on December 5th, and know
22 where we're at at that time.

23 COMMISSIONER MOORE: Mr. Chairman, it
24 seems to me the secretary could probably maintain
25 the phone line, or establish the phone line again

1 for those who might want to call in and could be
2 part of that workshop, and they could listen as
3 well. We've got that link that could be
4 established.

5 COMMISSIONER PERNELL: Good point.

6 CHAIRMAN KEESE: So if there's anybody,
7 and that'll generally be anybody in the audience
8 here who is aware of this, the other members of
9 the public will not. That will -- we had this
10 issue posted as a consideration issue. I consider
11 it considered, and we will put it over without a
12 vote. Mr. Chamberlain --

13 CHIEF COUNSEL CHAMBERLAIN: Yes. The
14 Commission certainly can do that.

15 CHAIRMAN KEESE: Thank you.

16 Legislative Committee report is put over
17 to the next meeting. We have no minutes before
18 us. Does anybody have anything else they'd care
19 to bring up here at the dais?

20 Mr. Chamberlain.

21 CHIEF COUNSEL CHAMBERLAIN: I have no
22 report today, Mr. Chairman.

23 CHAIRMAN KEESE: Mr. Larson.

24 EXECUTIVE DIRECTOR LARSON: No report.

25 CHAIRMAN KEESE: No report.

1 Thank you. This meeting -- Public
2 Adviser, sorry. No report from the Public
3 Adviser.

4 Thank you. This meeting is adjourned.
5 (Thereupon the Business Meeting was
6 adjourned at 12:30 p.m.)

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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 the outcome of said Meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of November, 2001.

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