

BUSINESS MEETING  
BEFORE THE  
CALIFORNIA ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

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

WEDNESDAY, OCTOBER 22, 2003  
10:10 a.m.

Reported by

James Ramos

Contract No. 150-01-006

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMISSION MEMBERS PRESENT

William J. Keese, Chairperson

Arthur H. Rosenfeld, Commissioner

John L. Geesman, Commissioner

STAFF PRESENT

William Chamberlain, Chief Counsel

Margret Kim, Public Advisor

Betty McCann, Secretariat

Bob Therkelsen, Deputy Director

Sherry Stoner, Transportation Technology

Office

Joseph Wong, El Monte Unified School District

Project Manager

Valerie Hall, Deputy Director, Energy Efficiency

and Demand Analysis

Peter Ward, Transportation Technology Office

Elaine Sison-Lebrilla, Geothermal Program Manager

Donald Kazama, Energy Efficiency and Demand

Analysis Division

Michael Messenger, Energy Efficiency and Demand

Analysis Division

Donald Aumann, PIER Buildings Team

Martha Brook, PIER Building Program

Scott Tomashefsky, Advisor to Commissioner Keese

Jennifer Tachera, Staff Counsel

STAFF PRESENT (continued)

Fernando DeLeon, Staff Counsel

ALSO PRESENT

Maura Clark, Rebuild America

Jeri Scott, Valero Cogeneration Project

Les Gulas, PG&E

Manuel Alvarez, Southern California Edison

Issa Ijalouney

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Proceedings	1
Items	
1. Consent Calendar	1
a. Commission Business Meeting Schedule	
b. Electricity Storage Association	
2. Southern California Association of Governments	1
3. Valero Refinery Company	5
4. Otay Mesa Generating Project	10
5. California Climate Action Registry	10
6. Energy Conservation Assistance Act Account Bond Fund	13
7. Department of Energy Clean Cities Program	16
8. U.S. Department of Energy (USDOE) SEP Award	17
9. Dynamic Pricing Report	19
10. Platts Research and Consulting	24
11. Gas Technology Institute	26
12. Exit Fee Regulations (Docket No. 03-CRS-01)	28
13. Committee Assignment	30
14. Minutes - Approval of Minutes from October 8, 2003 meeting	40
15. Commission Committee and Oversight	40
16. Chief Counsel's Report	41

17. Executive Director's Report	46
18. Public Advisor's Report	47
19. Public Comment	49
Adjournment	58
Certificate of Reporter	59

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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

10:01 a.m.

(The Pledge of Allegiance was recited in unison.)

COMMISSIONER KEESE: Good morning all.

I noticed the decor on the roof has changed slightly, I understand it's not a recent change. I'm sorry I haven't been around to notice it.

Consent calendar. Do we have a motion?

COMMISSIONER GEESMAN: So moved.

(Thereupon, the motion was made.)

COMMISSIONER ROSENFELD: Second.

(Thereupon, the motion was seconded.)

COMMISSIONER KEESE: Motion Geesman, second Rosenfeld.

All in favor?

(Ayes.)

Adopted three to nothing.

Item two, Southern California Association of Governments possible approval of a \$30,000 grant to analyze the economic impacts associated with adopting a regional resolution requiring that new commercial and multifamily construction exceed the state's energy efficiency standard.

MS. CLARK: Good morning, Commissioners.

1 My name is Maura Clark, and I am the Program  
2 Manager for Rebuild America program. Rebuild  
3 America is a DOE grant program that supports  
4 community-based organizations to build awareness  
5 of the benefits of energy efficiency.

6 In 2002 the Energy Commission received a  
7 \$150,000 grant from Rebuild America to fund three  
8 activities. One of these activities was to  
9 provide a \$30,000 grant to Southern California  
10 Association of Governments, which is SCAG.

11 And SCAG proposes to analyze the  
12 economic impacts of adopting a regional resolution  
13 requiring the new commercial and multifamily  
14 construction that would exceed the safe minimum  
15 state standards, which is Title 24.

16 The USDOE has approved the expenditure  
17 of these funds for this project. The purpose of  
18 this study is that the SCAG region consists of six  
19 counties -- Los Angeles, Orange, San Bernardino,  
20 Riverside, Ventura, and Imperial. Population is  
21 expected to go up by 35 percent over the next few  
22 decades.

23 Santa Monica, among other local  
24 agencies, has already adopted an ordinance  
25 requiring new construction to exceed Title 24

1 efficiency standards. SCAG will analyze current  
2 building energy use and future use, using the  
3 projected growth in the region and assuming no  
4 requirement to exceed the Title 24 standards.

5           Using Santa Monica's experience, SCAG  
6 will analyze the energy savings and the economic  
7 impact of the ordinance requiring more energy  
8 efficient construction. The focus of the analysis  
9 will be to cover new commercial and multifamily  
10 construction.

11           If the study finds that the ordinance is  
12 economically justified, SCAG will develop a  
13 regional resolution for adoption by the 187 cities  
14 and the six counties in the region.

15           After the resolution is adopted staff  
16 will develop educational and outreach materials to  
17 be distributed to its' members. This information  
18 will increase awareness of the energy savings and  
19 economic benefits of the model ordinance, and can  
20 serve as a model for other regions.

21           How the study fits in to the current  
22 process of the 2005 standards -- this study will  
23 be developed using the current Title 24 standards,  
24 with the flexibility to consider early use of the  
25 2005 standards, and the associated impacts of the

1 region.

2 All city and county ordinances that  
3 require new construction to exceed the Title 24  
4 standards must be approved by the Energy  
5 Commission before the city or county can legally  
6 enforce their ordinance.

7 The city and county must show that the  
8 resolution is cost-effective before the Energy  
9 Commission can improve it. One of the required  
10 elements that city or county must include in their  
11 application to the Energy Commission is the basis  
12 for their determination that the ordinance is  
13 cost-effective.

14 The results from the study will provide  
15 the economic justification needed by the local  
16 governments to require the buildings to exceed the  
17 Title 24 standards.

18 Since the results of the study impact  
19 new construction in the SCAG region, efficiency  
20 division will work closely with SCAG to ensure  
21 that the resulting regional resolution ordinance  
22 will meet the Commission's needs for approval if  
23 the city or county wants to adopt such a  
24 resolution.

25 This grant has been approved by the

1 Energy Policy Committee, and I'll be happy to  
2 answer any questions that you may have. Thank  
3 you.

4 COMMISSIONER KEESE: Thank you for that  
5 thorough explanation of a very interesting concept  
6 here. Any questions?

7 COMMISSIONER ROSENFELD: I know this is  
8 PIER-funded, and the R&D Committee is enthusiastic  
9 about this project, particularly since a lot of  
10 it's DOE money. So I move item three.

11 (Thereupon, the motion was made.)

12 COMMISSIONER KEESE: Motion moved,  
13 Rosenfeld.

14 COMMISSIONER GEESMAN: Second.  
15 (Thereupon, the motion was seconded.)

16 COMMISSIONER KEESE: Second, Geesman.

17 All in favor?

18 (Ayes.)

19 Opposed? Adopted three to nothing.

20 Thank you.

21 MS. CLARK: Thank you.

22 COMMISSIONER KEESE: Item three, Valero  
23 Refinery Company, possible approval of a petition  
24 from the Valero Refinery Company-California to  
25 extent the on-line date for Phase 2 of the Valero

1 Cogen Project to November 1, 2005.

2 MS. SCOTT: Good morning. My name is  
3 Jeri Scott, I'm the Compliance Project Manager for  
4 the Valero Cogeneration Project. The Valero  
5 Cogeneration Project is a 102 megawatt gas-fired  
6 cogeneration power plant located on the site of  
7 the Valero Refinery in the city of Benicia in  
8 Solano County.

9 The project, owned and operated by  
10 Valero Refinery Company-California, was certified  
11 on October 31st, 2001. The project was designed  
12 to be constructed in two 51 megawatt phases, with  
13 both phases required to be online no later than  
14 December 31st, 2002.

15 Initially Valero proposed to file  
16 separate applications for each phase, a four month  
17 expedited process application for phase one in  
18 response to Executive Order number D-26-01, and a  
19 standard 12-month process application for phase  
20 two.

21 However, Commission staff encourage  
22 Valero to combine both applications into a single  
23 four month process application. A special  
24 requirement under the four month process was that  
25 commercial operation would commence before the end

1 of 2002.

2 Phase one is constructed and has been  
3 operational since December 31, 2002. The purpose  
4 of the petition is to amend the language in  
5 general condition 10, the project operation  
6 requirement, to allow for an extension of the  
7 online date for the construction of phase two from  
8 December 31st, 2002 to November 1st, 2005.

9 Valero states in their petition that  
10 during the same process they stated that any  
11 commitment to complete phase two was contingent on  
12 Valero's funding decisions, electricity market  
13 conditions, and resolution of any legislative or  
14 regulatory uncertainties.

15 Valero contends that an extension will  
16 allow more time to consider the viability of phase  
17 two, given the uncertainty of price and  
18 opportunity of sales of the surplus energy the  
19 project would generate. The Bay Area Air Quality  
20 Management District Application To Construct  
21 Permit currently expires on November 1st, 2003,  
22 but can be administratively renewed through  
23 November 1, 2005.

24 Valero anticipates that, upon Energy  
25 Commission approval of extension, the Bay Area Air

1 District will agree to the two year extension of  
2 the ATC permit. The Notice of Receipt was mailed  
3 to the project mailing list on December 18, 2002.  
4 Staff analysis was posted on the Energy Commission  
5 website and mailed on September 26, 2003, to those  
6 individuals who requested a copy.

7 To date, no comments on staff analysis  
8 have been received. This petition meets all the  
9 filing criteria of Section 1769. There will be no  
10 new or additional unmitigated significant  
11 environmental impacts or violation of the LORS  
12 associated with this change, and the required  
13 findings of Section 1769A3 can be made.

14 Staff believes the following statements  
15 demonstrate that Valero has shown good cause as to  
16 why phase two was not constructed. Number one,  
17 Valero cooperated with staff during the  
18 certification process by agreeing to combine the  
19 two phases of the project into one application.

20 Number two, phase one of the project was  
21 constructed and operational by the December 31st  
22 deadline. There will be no potential for  
23 environmental impacts because the site is already  
24 prepared for the construction of phase two.

25 The Bay Area will likely

1 administratively extend the ATC to November 2005  
2 because the ATC has not changed for this project,  
3 nor are there any new regulations and/or laws that  
4 will affect the current ATC.

5           And lastly, the electricity market  
6 uncertainty has made it difficult for Valero to  
7 commit resources to phase two at this time. Staff  
8 recommends that the Energy Commission approves  
9 this petition, and staff's recommended revisions  
10 to the general condition ten. Thank you. Are  
11 there any questions?

12           COMMISSIONER KEESE: Any questions?  
13 Commissioner Geesman.

14           COMMISSIONER GEESMAN: This item was  
15 reviewed and approved by the Siting committee, so  
16 I would move the staff's recommendation.

17           (Thereupon, the motion was made.)

18           COMMISSIONER KEESE: Motion,  
19 Commissioner Geesman.

20           COMMISSIONER ROSENFELD: Second.

21           (Thereupon, the motion was seconded.)

22           COMMISSIONER KEESE: Second,  
23 Commissioner Rosenfeld.

24           All in favor?

25           (Ayes.)

1           Opposed? Adopted three to nothing.

2 Thank you.

3           Item four is over. It will be  
4 rescheduled.

5           Item five, California Climate Registry.

6 Let me mention at this time that we had noticed a  
7 special business meeting for October 29th. We  
8 have notice that that meeting will not be held.  
9 That meeting is over, for the record.

10           Item five, California Climate Action  
11 Registry. Possible approval of a grant for  
12 \$200,000 to support registry software upgrading,  
13 hosting and maintenance, development of the forest  
14 management and sequestration protocols, support  
15 ongoing recruitment of potential Registry members,  
16 and to support effort to implement Ab 1493.

17           MS. STONER: Good morning,  
18 Commissioners, my name is Sherry Stoner, I'm from  
19 the Transportation and Technology Office, and I'm  
20 substituting for Pierre this morning to present  
21 this item to you.

22           The Budget Act of 2003 includes language  
23 which directs the Energy Commission to provide a  
24 grant to the Climate Action Registry in the amount  
25 of \$200,000. The money will be used to support

1 four of the Registry's ongoing programs.

2           Although the Registry is expected to  
3 become self-supporting, it will take several years  
4 to build up the income to make that possible.  
5 This is the first year for participants to gain  
6 experience with reporting and certifying their  
7 greenhouse gas emissions.

8           Additional expenses are being incurred  
9 to start up the Registry, and the small number of  
10 early volunteer participants could not absorb the  
11 full financial burden of Registry operations in  
12 the early years.

13           The staff supports this request for  
14 \$200,000 in grant funding to assist the Registry  
15 in its efforts to expand and develop new and  
16 revised tools necessary for efficient and  
17 transparent reporting and certification of their  
18 participant's greenhouse gas emissions.

19           COMMISSIONER KEESE: Thank you.

20           COMMISSIONER ROSENFELD: The R&D  
21 Committee, again, was happy with it, so I move  
22 item five.

23           (Thereupon, the motion was made.)

24           COMMISSIONER KEESE: Moved, Commissioner  
25 Rosenfeld.

1 COMMISSIONER GEESMAN: Second.

2 (Thereupon, the motion was seconded.)

3 COMMISSIONER KEESE: Second,  
4 Commissioner Geesman. Any comments?

5 All in favor? We have comment?

6 MR. GULIASI: I'm here to support your  
7 awarding the grant. PG&E joined the California  
8 Climate Action registry in 2002 as a charter  
9 member, and we've been actively involved in the  
10 technical advisory committee, working with your  
11 staff and the staff of the Registry and others.

12 Our involvement with the Registry stems  
13 from our company's longstanding environmental  
14 commitment, and specifically to our commitment to  
15 address greenhouse gas emissions. As a charter  
16 member of the Registry, PG&E will publicly  
17 disclose and certify our company's greenhouse gas  
18 emissions.

19 We're now preparing our carbon and oxide  
20 emissions inventory. We see the Registry as an  
21 important partnership in our efforts to address  
22 global climate change by facilitating others to  
23 track and report emissions. For the past several  
24 months PG&E has been among the most active users  
25 of the Registry software.

1           We are seeing firsthand the growing  
2 value of the software in tracking and reporting  
3 emissions. We therefore support your proposed  
4 funding for the software upgrades, and thank you  
5 once again for acknowledging me.

6           COMMISSIONER KEESE: Thank you. We  
7 congratulate PG&E for stepping forward on this  
8 issue.

9           All in favor?

10          (Ayes.)

11          Opposed? Adopted three to nothing.

12          Item six, Energy Conservation Assistance  
13 Act Account Bond Fund. Possible approval of a  
14 loan to the El Monte Unified School District for  
15 \$1,310,000 to install four 60-kilowatt natural  
16 gas-fired microturbine cogeneration systems, a 60-  
17 ton absorption chiller, and etc.

18          MR. WONG: Good morning Commissioners.  
19 My name is Joseph Wong, and I'm the Project  
20 Manager for this loan. El Monte Unified School  
21 District is consolidating all their small kitchen  
22 operations in various schools into one big center  
23 kitchen, and has found a cogen project very  
24 feasible for this site.

25          And they are applying for the \$1.3

1 million loan to install a cogen system and  
2 absorption chiller at this central kitchen, and  
3 over 600 HVAC controls at various schools.

4 This system will reduce about 236 KW  
5 peak electric demand, and save about half of the  
6 electricity estimated to be used at this site.

7 This cogen system will save over \$158,000  
8 annually, and has a single payback of 8.2 years.

9 The staff has reviewed this project, and  
10 recommends approval of this loan.

11 COMMISSIONER KEESE: Thank you. I note  
12 it's an innovative approach, a little bit  
13 different from most of the ones that we've seen on  
14 these funds. And this is from bond funds, do I  
15 understand?

16 MR. WONG: Yes.

17 COMMISSIONER KEESE: And we're about  
18 halfway through the --

19 MR. WONG: After the approval of this  
20 loan we surpassed 50 percent of the procedure's  
21 that we've sold.

22 COMMISSIONER KEESE: Thank you. Do we  
23 have a motion?

24 COMMISSIONER ROSENFELD: I move.

25 (Thereupon, the motion was made.)

1 COMMISSIONER GEESMAN: I second.

2 (Thereupon, the motion was seconded.)

3 COMMISSIONER KEESE: Motion Rosenfeld,  
4 Second Geesman. Any other discussion?

5 All in favor?

6 (Ayes.)

7 Opposed? Adopted three to nothing.

8 Thank you.

9 MR. WONG: Thank you.

10 MS. HALL: I'm sorry, Commissioners. I  
11 would like to clear up a slight confusion during  
12 the motion of agenda item number two. It was  
13 mentioned that this was actually part of the PIER  
14 program or PIER funding, and this is actually  
15 through DOE's SEP grant that is not associated  
16 with PIER. So I just wanted to clear that up for  
17 the records.

18 I'm sorry, and for the record my name is  
19 Valerie Hall, I'm the Deputy Director for Energy  
20 Efficiency and Demand Analysis.

21 COMMISSIONER KEESE: Okay. And I  
22 believe that, in the back of the material that was  
23 made clear.

24 MS. HALL: Thank you.

25 COMMISSIONER KEESE: Item seven,

1 Department of Energy Clean Cities Program.  
2 Possible approval to negotiate Clean Cities grant  
3 agreements with 18 project applicants awarded  
4 \$2,480,000 for alternative fuel school bus  
5 acquisition, etc.

6 MR. WARD: Good morning, Commissioners.  
7 My name is Peter Ward, I'm with the Transportation  
8 Technology office. I'm also the statewide  
9 coordinator for the Clean Cities Program in  
10 California. I'm pleased to present this item for  
11 your potential approval of 18 specific grants for  
12 alternative fuels infrastructure, coalition  
13 support, and vehicle acquisition.

14 The coalitions were very successful in  
15 applying to DOE. We received 36 applications and  
16 we had 20 initially granted, and 18 have now made  
17 the final cut, for a total of \$2.48 million, which  
18 is about three times what we got last year. So  
19 it's a very successful year for us.

20 COMMISSIONER KEESE: Thank you. Let me  
21 ask one question. There's enough different  
22 project involved here, as far as the school buses  
23 themselves are concerned, what portion of the  
24 school buses are we subsidizing?

25 MR. WARD: These grants are for the

1 incremental difference between a diesel school bus  
2 and an alternative fuels school bus.

3 COMMISSIONER KEESE: And can you give me  
4 a dollars guess as to about how much that is?

5 MR. WARD: I would say it's between \$25  
6 and \$35,000.

7 COMMISSIONER KEESE: Any other questions  
8 here?

9 COMMISSIONER ROSENFELD: I move the  
10 item.

11 (Thereupon, the motion was made.)

12 COMMISSIONER GEESMAN: Second.

13 COMMISSIONER KEESE: Motion by  
14 Rosenfeld, seconded by Geesman.

15 All in favor?

16 (Ayes.)

17 Opposed? Adopted three to nothing.

18 Item eight. U.S. Department of Energy  
19 Sep Award. Possible approval to accept \$54,310  
20 from the USDOE SEP Special Project Award to update  
21 a Energy Commission 1982 study assessing potential  
22 geothermal direct-use market and generic  
23 applications for project in California. Good  
24 morning.

25 MS. SISON-LEBRILLA: Good morning. My

1 name's Elaine Sison-Lebrilla, I'm the Geothermal  
2 Program Manager. In late spring staff, with  
3 Committee approval, submitted an application to  
4 DOE's states energy program to update the Energy  
5 commission's report dated 1982.

6 We recently got approval that we  
7 received this award for \$54,310, and we are  
8 seeking approval to spend this money and to  
9 initiate the project and do the resource  
10 assessments for the lower geothermal resources.  
11 And to publish and disseminate the results of the  
12 report via presentations at geothermal  
13 conferences, and also make the report available  
14 via the CEC website.

15 COMMISSIONER KEESE: Thank you. It  
16 seems appropriate that an '82 study might be  
17 updated.

18 COMMISSIONER GEESMAN: I would move the  
19 item.

20 (Thereupon, the motion was made.)

21 COMMISSIONER ROSENFELD: Second.

22 (Thereupon, the motion was seconded.)

23 COMMISSIONER KEESE: Motion Commissioner  
24 Geesman, second Commissioner Rosenfeld. Any  
25 discussion?

1 All in favor?

2 (Ayes.)

3 Opposed? Adopted three to nothing.

4 Item nine. Dynamic Pricing Report.

5 Discussion of possible approval of the  
6 Commission's report to the Legislature on dynamic  
7 pricing, mandated by Senate Bill 1976.

8 MR. KAZAMA: Good morning Mr. Chairman,  
9 and Commissioners. I'm Don Kazama of the Energy  
10 Efficiency and Demand Analysis Division and the  
11 report manager. And with me is Michael Messenger,  
12 also of the Energy Efficiency and Demand Analysis  
13 Division, who is representing the author team who  
14 prepared this report.

15 SB 1976 directs the Energy Commission,  
16 in consultation with the California Public  
17 Utilities Commission, to report on the status of  
18 the process for assessing the feasibility of  
19 dynamic pricing tariffs in California.

20 This report was prepared with extensive  
21 public input through workshops and through the  
22 release of several prior drafts for review and  
23 comment. This report addresses the seven main  
24 legislative requirement of SB 1976.

25 And these are how realtime prices will

1 be calculated, and what options are available for  
2 knowing what the realtime prices will be ahead of  
3 time; facilitating customer response to dynamic  
4 pricing; different options available for different  
5 customer classes; estimates of the potential peak  
6 load reduction and demand savings from tariffs  
7 such as this; options for incorporating demand  
8 response in the wholesale electricity market,  
9 including California ISO operations; and lastly,  
10 options for ensuring customer protection,  
11 especially to disadvantaged customer groups.

12 This report addresses the next steps  
13 that should be taken by the Energy Commission and  
14 the CPUC regarding the work that is already  
15 underway assessing the feasibility for dynamic  
16 tariffs for California.

17 This report was approved by the Demand  
18 Response Committee, and we bring this report  
19 forward to you today for approval to submit to the  
20 Legislature by October 30th of this year. I'd be  
21 happy to answer any questions you may have.

22 COMMISSIONER KEESE: Thank you very  
23 much. Questions here?

24 COMMISSIONER ROSENFELD: Yes, Mr.  
25 Chairman, a comment. We wrote this in time

1 collaboration with the PUC and the assigned  
2 Commissioner's staff of PUC advisors have been  
3 working with us.

4           However, just yesterday we got a very  
5 supportive three page set of comments from the  
6 Energy Division which we haven't had a chance to  
7 incorporate since we briefed all of you. So  
8 although I'm going to move that we adopt the  
9 report I think it has to be understood that we  
10 have to tailor it a little bit to take into  
11 account these last comments.

12           Is that okay with you, Don?

13           MR. KAZAMA: That is correct,  
14 Commissioner. And I'd like to stress that this is  
15 a status update, and it directs the activities of  
16 the demand response team going forward from today  
17 on to actually implement these kinds of tariffs in  
18 California. So there is much work to be done yet,  
19 yes.

20           COMMISSIONER ROSENFELD: I move adoption  
21 of the report.

22           (Thereupon, the motion was made.)

23           I think Messenger's trying to say  
24 something.

25           MR. MESSENGER: I just want to say I did

1 have a chance to review the comments, and I think  
2 several of the comments are useful in clarifying  
3 what the report said from the Energy Division.

4 And it would be my hope that since  
5 they're minor and they're not changing the  
6 substance of the report that you'd be willing to  
7 delegate responsibility back to the Committee to  
8 look at any small edits we make before we send it  
9 out to the Legislature.

10 COMMISSIONER ROSENFELD: That's exactly  
11 what I have in mind.

12 COMMISSIONER KEESE: So the motion we  
13 have in front of us is to adopt the report and  
14 allow the Committee to make minor editorial  
15 changes with it. Anything substantive in  
16 editorial?

17 COMMISSIONER ROSENFELD: I believe there  
18 may be editorial, but minor.

19 COMMISSIONER KEESE: Minor editorial  
20 changes. So we have a motion from Commissioner  
21 Rosenfeld.

22 COMMISSIONER GEESMAN: I'm going to  
23 second it.

24 (Thereupon, the motion was seconded.)

25 I would like to make a comment of

1 congratulating Commissioner Rosenfeld and the  
2 staff that he's assembled to work with the Demand  
3 Response Committee and PUC staff as well for the  
4 extraordinary persuasiveness they have had over  
5 the couple of years now that this issue has been  
6 such a live topic.

7 I think they've done a lot to break down  
8 some barriers and remove some ignorance that was  
9 brought to this subject matter. A lot of people  
10 were surprised, I know, to see the strong  
11 endorsement the Governor-elect made of bringing  
12 realtime pricing to large customers, but knowing  
13 Commissioner Rosenfeld's powers of persuasion, I  
14 wasn't surprised at all.

15 COMMISSIONER KEESE: Thank you. Mr.  
16 Alvarez?

17 MR. ALVAREZ: Good morning,  
18 Commissioners. Manuel Alvarez, Southern  
19 California Edison. I guess I just wanted to  
20 encourage you to support the report. We found  
21 this particular process, working with Mr. Kazama  
22 and Mr. Messenger, quite rewarding in terms of the  
23 dialogue that took place, the initial draft, and  
24 the reaction to the various comments that people  
25 made.

1           This product is a finer product for  
2 that. And we encourage your adoption. Thank you.

3           COMMISSIONER KEESE: Thank you very  
4 much. Any other comments?

5           COMMISSIONER ROSENFELD: Thank you,  
6 Manuel. Motion.

7           (Thereupon, the motion was made.)

8           COMMISSIONER GEESMAN: Second.

9           (Thereupon, the motion was seconded.)

10          COMMISSIONER KEESE: We have a motion  
11 and a second.

12          All in favor?

13          (Ayes.)

14          Opposed? Adopted three to nothing.

15          Item ten, Platts Research and  
16 Consulting. Possible approval of Contract 500-03-  
17 014 for \$25,860 for a two-year subscription in the  
18 E Source Information Services.

19          MR. AUMANN: Commissioners, CEC staff  
20 and members of the public, good morning, I'm Don  
21 Aumann, a member of the PIER Buildings Team.  
22 Today we're presenting a \$25,860 contract proposal  
23 with the E Source Group at Platts Research and  
24 Consulting. This contract will renew for the  
25 Commission a two-year subscription with E Source,

1 which provides extensive information resources on  
2 advanced energy technologies.

3           These resources are important to assist  
4 Commission staff in program and research planning,  
5 and include a bi-monthly newsletter, bi-monthly  
6 report on technologies and strategic issues, an  
7 updated technology atlas, and access to an  
8 extensive archive of resources.

9           CEC staff recommends approval of this  
10 contract, and the R&D Committee has reviewed this  
11 project and recommends it's approval. Are there  
12 any questions?

13           COMMISSIONER ROSENFELD: I move the  
14 item.

15           (Thereupon, the motion was made.)

16           COMMISSIONER GEESMAN: Second.

17           (Thereupon, the motion was seconded.)

18           COMMISSIONER KEESE: Motion and second.

19 Any other comments?

20 All in favor?

21 (Ayes.)

22 Opposed? Adopted three to nothing.

23 Yes, I think this can be very helpful, and I  
24 understand that you're going to do everything to  
25 make sure that we can fully utilize the

1 information researched.

2 MR. AUMANN: Yes, that's my charge.

3 COMMISSIONER KEESE: And the information  
4 is going to be made available?

5 MR. AUMANN: Our staff will be hearing  
6 more from me.

7 COMMISSIONER KEESE: Thank you.

8 Item 11, Gas Technology Institute.  
9 Possible approval of Contact 500-03-013 for  
10 \$997,053 to investigate mold-resistant and  
11 energy -efficient residential building  
12 construction practices.

13 MS. BROOK: Good morning, I'm Martha  
14 Brook with the PIER Building Program. This  
15 contract will fund the investigation of mold  
16 resistant and energy efficient residential  
17 building construction assemblies and practices.

18 This research is part of the PIER  
19 Buildings Program portfolio in the area of energy  
20 related indoor environmental quality. The mold  
21 issue is prompting increasing public interest and  
22 litigation concerns, yet the nature of the problem  
23 in California is not well characterized.

24 While experts in mitigation site  
25 moisture intrusion as the main cause of mold

1 issues, some in the building community blame tight  
2 building envelopes mandated by energy codes, such  
3 as Title 24.

4           This project will provide Title 24 and  
5 California builders with information on mold  
6 resistant and energy efficient residential  
7 construction techniques. California health  
8 agencies, and the California Department of  
9 Insurance are participating in this project. Key  
10 consultants in the Title 24 development process  
11 are also part of the research team.

12           Specific California builders will be  
13 identified during the project initiation. We  
14 anticipate that the outcomes of this project will  
15 be energy efficient, mold resistant, and cost-  
16 effective building assemblies, proven in  
17 California home demonstrations, as well as  
18 recommendations for standard revisions based on  
19 research findings.

20           The R&D Policy Committee has reviewed  
21 this project and they recommend its' approval, and  
22 I'm here to answer any questions.

23           COMMISSIONER KEESE: Thank you.

24           COMMISSIONER ROSENFELD: I just wanted  
25 to commend Martha Brook for a tight collaboration

1 between the Title 24 Committee gang and you, and I  
2 think this is a very effective use of PIER  
3 activities, so of course I move the item.

4 (Thereupon, the motion was made.)

5 COMMISSIONER GEESMAN: Second.

6 COMMISSIONER KEESE: Move by  
7 Commissioner Rosenfeld, second by Commissioner  
8 Geesman. Any other comments?

9 All in favor?

10 (Ayes.)

11 Opposed? Adopted three to nothing.

12 Thank you.

13 Item 12, Exit Fee Regulations.  
14 Discussion of possible adoption of regulations  
15 governing data collection and customer exemptions  
16 from cost responsibility surcharges or exit fees.

17 MR. TOMASHEFSKY: Good morning,  
18 Commissioners. For the record, my name is Scott  
19 Tomashefsky, Advisor to Chairman Keese, and  
20 technically, for this particular project I am  
21 pleased to bring forth for your consideration  
22 these proposed regulations that will establish  
23 rules to determine whether customers who choose to  
24 self-generate or depart the utility systems will  
25 be eligible for an exemption from the cost-

1 responsibility surcharge, commonly known as exit  
2 fees, CRS, what have you.

3 In your package you should have an  
4 adoption order proposal, regulations in strikeout  
5 version, and a clean version. Hopefully you have  
6 those in your packages, and for the public we're  
7 making some copies of the regulations for the back  
8 table.

9 Just for general background, April 3rd  
10 the CPUC had issued decision 0304030, which  
11 established the ground rules for imposing a CRS.  
12 At that time the PUC had indicated that we would  
13 be the logical entity to determine whether  
14 customers would be eligible for CRS exemptions,  
15 based on our data collection responsibilities, and  
16 in response to that our agency initiated  
17 proceeding 03-CRS-01 on May 28th to assist in that  
18 effort, under the guidance of the Renewables  
19 Committee.

20 Recognizing data collection authority  
21 and proceedings also are designed to enhance our  
22 data collection activities as it relates to  
23 distributed generation. With the intent on using  
24 much of this information to improve our own  
25 internal analytical capabilities for distributed

1 generation.

2 In terms of where we have come from  
3 since May, we have had a series of three staff  
4 workshops in June, August and September. We've  
5 had a Renewables Committee workshop in July, a  
6 Renewables Committee hearing in September. We've  
7 had a very good, productive stakeholder  
8 collaboration with some of the people who are  
9 actually sitting behind me.

10 We had regulations that were submitted  
11 to the Office of Administrative Law in July,  
12 starting the 45 day clock. Comments were due on  
13 Monday, although the parties that filed were able  
14 and willing to file comments early to enable us  
15 the opportunity to incorporate those changes.

16 Comments being submitted by Edison, San  
17 Diego PG&E, General Services, and a joint parties  
18 representing a group of small DG developers. Just  
19 for a note, Edison filed some comments yesterday  
20 in response to the joint party comments that were  
21 submitted, and Manuel may talk about that for a  
22 minute afterwards.

23 And we've also had some voice mail  
24 communications from MRW, representing Nestle,  
25 Alcantar (sp) representing cogen groups, and UCCSU

1 representative. So we've had some very good  
2 comments. Most of the comments made were very  
3 much editorial, and clarifying the actual  
4 definitions that are used in the regulations.

5 We have continued to check back with OAL  
6 in terms of making sure tha these are what they  
7 would consider to be administrative, editorial,  
8 grammatical change type comments, and that's been  
9 the response that we've received back to this  
10 point.

11 Some of the more controversial comments  
12 that have been submitted in discussion have really  
13 been focused on PUC type of issues, so we've been  
14 trying to keep our scope very narrow in focus, and  
15 we are intending to provide some input to the PUC  
16 in terms of some of those clarifications in a  
17 motion that would attach the adoption notice and  
18 the regulations, probably within the next couple  
19 of weeks.

20 So, in essence, assuming approval is  
21 attained today, staff would develop a final  
22 statement of reasons with regulations to be  
23 submitted to OAL around the first part of  
24 November.

25 We're looking at about November 7th.

1 That would give OAL 30 working days to approve  
2 those regs, which would be towards late December,  
3 and another 30 days for the Secretary of State's  
4 office to publish them and make them effective.

5 So in essence, if things go well, we  
6 should have regulations effective operating the  
7 first part of February.

8 Parallel tracks associated with this  
9 proceeding. We are, have been continuing to  
10 develop an exemption request form, which basically  
11 is the mechanics for getting a request. That's  
12 been part of this proceeding as well. And as I  
13 said before, the motion for clarification would be  
14 filed as well.

15 I do want to express my gratitude to  
16 those folks that have been involved in the  
17 stakeholder group. It's been a good effort and  
18 very productive, with sleeves rolled up, including  
19 all sides of the fence. With that, I offer it up  
20 for questions or comments and your consideration.

21 COMMISSIONER KEESE: Thank you. Any  
22 questions before we hear from Mr. Alvarez?

23 COMMISSIONER GEESMAN: Just a comment,  
24 Mr. Chairman, because I think we are heavily  
25 indebted to your Advisor for carrying the load on

1 this, and it's something that was a high priority  
2 at the Commission, which is why we kidnapped your  
3 Advisor to accomplish it.

4 We need to get these regulations in  
5 effect as quickly as we can in order to give some  
6 meaning to the PUC's departing load decision. And  
7 we've really been tremendously dependent on him,  
8 and I just want to offer my thanks to you and  
9 certainly my thanks to Scott as well.

10 And, a kind of pointed note to the  
11 Executive Office that you guys really need to  
12 address the staffing area in DG in order to avoid  
13 similar diversions of Commissioner Advisors into  
14 work that is probably more properly done within  
15 the line staff.

16 MR. TOMASHEFSKY: Thank you,  
17 Commissioner Geesman. I also want to acknowledge  
18 Darcie Houck, our staff counsel. She's been very  
19 much involved in this process, and has been  
20 responsible for making sure that the regs actually  
21 read the way that they do. And so I appreciate  
22 that. And also to Mark Rawson for being in the  
23 middle of all this.

24 COMMISSIONER KEESE: Thank you. Mr.  
25 Alvarez?

1           MR. ALVAREZ: Good morning,  
2 Commissioners. I'd also like to compliment Scott  
3 and the staff and all the stakeholders. It was a  
4 worthwhile process.

5           There are two items that I want to bring  
6 to your attention. One is a letter that I  
7 submitted to you this morning, and I provided it  
8 electronically to Scott earlier today. It's just  
9 some commentary on some of the comments made by  
10 the joint parties in this proceeding.

11           As you will notice in the letter, it  
12 acknowledges that many of those issues belong  
13 before the PUC, and they are not items for your  
14 discussion today. And in fact it's our  
15 understanding that the way the regulations are  
16 drafted they are not incorporated into the  
17 language.

18           But we felt it was necessary to bring  
19 those to your attention because I believe we will  
20 still go forward with those at the PUC if this  
21 motion that Scott was mentioning gets filed.

22           The second item I want to bring to your  
23 attention is perhaps a more generic item dealing  
24 with what are the criticisms that the utilities  
25 -- and specifically sometimes Edison -- receives

1 from the distributed generation community, and  
2 this notion that barriers or restrictions or walls  
3 or conflicts are put up in the development of DG.

4 As we entered this process we were  
5 cognizant of those criticisms, even though we  
6 believe some of them are rhetorical and not  
7 legitimate. They are there and we have to  
8 confront them. During the course of this process  
9 we tried to suggest, for the Committee's  
10 consideration, a single process for the exemption  
11 determination.

12 And we suggest that in fact the  
13 exemption process be linked to the rule 21  
14 process, which is the interconnection of  
15 distributed generation and those applications.  
16 The Committee has not accepted that suggestion,  
17 and in fact what we have now is basically a  
18 regulatory process for the exemption process and  
19 the rule 21 process.

20 And I guess what I want to caution the  
21 Commission, and the concern that I think will  
22 develop as we proceed in implementing these  
23 particular regulatory structures is -- from a  
24 pragmatic perspective, the customer on the ground  
25 is going to see two different regulatory systems

1 in order to complete a distributed generation  
2 project.

3 One for the exemption process, and then  
4 one for interconnection. We understand the  
5 complexities, the jurisdictional elements between  
6 interconnection and exemption processes that were  
7 created. But it was our hope at the beginning  
8 that we could kind of streamline that, and perhaps  
9 there is still some opportunity further down the  
10 road to make that happen.

11 But as we see it today, once the project  
12 developer is on the ground talking to customers  
13 about development project it's going to appear  
14 that there's a complexity in the system that  
15 probably is not necessary. So with that, I'll  
16 encourage your adoption of the express language so  
17 we can move forward. Thank you.

18 COMMISSIONER KEESE: Thank you very  
19 much. Any other comments on this issue?

20 COMMISSIONER GEESMAN: Let me make one.  
21 Manuel raises a good point, and there were several  
22 similar good points raised by other parties in the  
23 proceeding, which raised similar issues. A lot of  
24 people think that getting us to intrude PUC  
25 jurisdiction is like holding a bone in front of a

1 hungry dog, and the committee consistently  
2 attempted to advise the parties "keep the bones  
3 away from us."

4 We will religiously observe the limits  
5 of our jurisdiction and not attempt to usurp any  
6 jurisdictional authority on this matter from the  
7 PUC. So issues that are raised with respect to  
8 interpretation of a PUC decision, issues that are  
9 raised with respect to implementation of other PUC  
10 regulated programs, we simply decline to take  
11 action on.

12 And there are a number of streamlinings  
13 and improvements and clarification that can in  
14 fact be accomplished. But the Committee's desire,  
15 and I think ultimately in the best interest of all  
16 the stakeholders will be the two Commissions  
17 collaborate on resolving those matters rather than  
18 us unilaterally have it done.

19 COMMISSIONER KEESE: Thank you. Do I  
20 have a motion?

21 COMMISSIONER GEESMAN: Yes, I will move  
22 adoption of the proposed regulations.

23 (Thereupon, the motion was made.)

24 COMMISSIONER KEESE: Motion,  
25 Commissioner Geesman.

1 COMMISSIONER ROSENFELD: Second.

2 (Thereupon, the motion was seconded.)

3 COMMISSIONER KEESE: Second,

4 Commissioner Rosenfeld.

5 All in favor?

6 (Ayes.)

7 Opposed? Adopted three to nothing.

8 Thank you everybody.

9 Item 13, Committee Assignment. Possible  
10 approval of a committee Assignment for the 2004  
11 Integrated Energy Policy report update and the  
12 2005 Integrated Energy Policy report.

13 Mr. Therkelsen and Mr. Matthews, are you  
14 -- I see you're listed as carrying this item.

15 MR. THERKELSEN: This is the  
16 recommendation, and we should have the order in  
17 front of you?

18 COMMISSIONER KEESE: We have an order in  
19 front of us, and essentially what we have is the  
20 identical language that was present when we  
21 created the first Integrated Energy Policy report  
22 Committee of Commissioner Boyd and myself. In the  
23 order we have renamed that Integrated Energy  
24 Policy Report the 2003 Integrated Energy Policy  
25 Report, and the new Committee is a 2005 Integrated

1 Energy Policy Report Committee.

2 The timing of this, we believe, is  
3 significant, because while we have not yet  
4 finalized the 2003 report due November 1st, we are  
5 already organizing in preparation for its update  
6 in the 2005, which will be starting I believe  
7 within a matter of weeks. This is going to be an  
8 ongoing process and we recognized that when we  
9 committed ourselves to the first one.

10 Anything else to add, Mr. Therkelsen?

11 MR. THERKELSEN: Just that the '04  
12 effort is an update process. A couple of  
13 substantive issues were probably addressed, and  
14 then we'll redo the entire report.

15 And one of the things that we've been  
16 saying throughout the '03 process is that it's our  
17 first effort, and we'll know a lot more about the  
18 future in the future, and so we'll need to adjust  
19 the numbers as we go forward. And this is the  
20 process to do that.

21 COMMISSIONER KEESE: And the  
22 recommendation is that Commissioner Geesman chair  
23 it, and that for continuity, Commissioner Boyd,  
24 the Chair of this current one, will continue as  
25 the number two on that Committee as they move

1 forward over the next two years.

2 Do I have a motion?

3 COMMISSIONER ROSENFELD: Motion to  
4 adopt.

5 (Thereupon, the motion was made.)

6 COMMISSIONER KEESE: Motion, Mr.  
7 Rosenfeld.

8 COMMISSIONER GEESMAN: Second.

9 (Thereupon, the motion was seconded.)

10 COMMISSIONER KEESE: Second Mr. Geesman.  
11 All in favor?

12 (Ayes.)

13 Opposed? Adopted three to nothing.

14 Do we have the minutes from the October  
15 8th meeting before us? Do we have a motion?

16 COMMISSIONER GEESMAN: So moved.

17 (Thereupon, the motion was made.)

18 COMMISSIONER ROSENFELD: Second.

19 (Thereupon, the motion was seconded.)

20 COMMISSIONER KEESE: Motion has been  
21 seconded.

22 All in favor?

23 (Ayes.)

24 Opposed? Adopted three to nothing.

25 Anything under Commission Committee and

1 Oversight?

2 Chief Counsel's Report?

3 MR. CHAMBERLIN: Yes, Mr. Chairman. Two  
4 weeks ago I let you know that we had received  
5 notification that Bill Powers would be filing a  
6 challenge to the Commission's Palomar decision.  
7 He did file that, and we received it on the 14th,  
8 a week ago yesterday.

9 Under the California Rules Of Court,  
10 Rule 56, the Commission is not required to respond  
11 to these petitions, but if it wishes to it has  
12 only five days to do so. This is sort of an  
13 opportunity to suggest to the court that there  
14 really is no reason for them to take the case.

15 I generally try to do that, if it's at  
16 all feasible to do it. Because I think that once  
17 the court takes a case and issues an order for  
18 full briefing there's a lot of work to be done and  
19 there's a lot more jeopardy to the Commission's  
20 decision. So I have here the document that I  
21 filed on Monday on your behalf, which I will  
22 distribute to you.

23 I also need a closed session with the  
24 Commission on another matter of potential  
25 litigation. And Jennifer Tachera is here to give

1 you a report on interventions.

2 MS. TACHERA: Good morning,  
3 Commissioners. Legal Office continues to be  
4 active in the PUC/FERC arenas. I want to spend  
5 just a minute going over the major cases. In the  
6 LED proceedings we have three competing proposed  
7 decisions, the ALJ and Lynch proposed decisions  
8 would essentially terminate the program after this  
9 year.

10 The Kennedy decision is much more  
11 favorable, so naturally we are supporting that.  
12 Mike Smith and Susan Brown have been extremely  
13 helpful to the Legal Office in putting together  
14 our pleadings.

15 In the PG&E general rate case we've  
16 weighed in with the Mothers For Peace in  
17 connection with the Diablo Canyon Independent  
18 Safety Committee. We're awaiting a decision in  
19 that, and it's apt to be separate from the general  
20 rate case decision.

21 In the transmission proceeding the PUC  
22 has sponsored a couple of workshops having to do  
23 with the transmission plan for renewables. The  
24 assigned ALJ in this case issued a ruling on  
25 October 15th, indicating that the draft renewables

1 plan would probably be out the end of October with  
2 a two week turnaround period for comment.

3 They're treating this as a report to the  
4 Legislature rather than a formal PUC decision.

5 In energy efficiency we're moving into a  
6 collaborative role and will be working with the  
7 PUC in a series of six workshops on ongoing energy  
8 efficiency policies.

9 And we have one new proceeding having to  
10 do with community choice abrogation. This was  
11 just filed. It raises some pretty interesting  
12 issues as far as this being a variant on direct  
13 access.

14 So that's what we've been up to.

15 COMMISSIONER KEESE: Thank you very  
16 much. Are there any questions here?

17 COMMISSIONER GEESMAN: I did have a  
18 question of Jennifer. I note you're the  
19 designated attorney in the procurement case. Some  
20 time ago, I think either in the winter of '03 or  
21 the spring -- and I believe under the Chairman's  
22 signature, I don't think it was one of our  
23 committees -- but we communicated with the PUC a  
24 sense of concern about the amount of information  
25 in procurement that was being held confidential.

1           And we expressed some concern about  
2 wanting to bring greater transparency to the  
3 procurement process. I've never heard of any  
4 response.

5           MS. TACHERA: Well, the confidentiality  
6 phase is sort of a mini-issue that's being handled  
7 by Fernando. I don't know if we have an update?

8           MR. DELEON: I do recall the letter that  
9 we did send to the Commission, I believe it was in  
10 the late winter, requesting that there be greater  
11 transparency. There has been no response to that  
12 letter.

13           COMMISSIONER GEESMAN: Yes. From my  
14 reading in the press this is an issue that has  
15 snowballed quite a bit since we dispatched that  
16 letter, and I wonder if there is some procedural  
17 way to raise its importance or get some resolution  
18 of it.

19           Because I think that, having registered  
20 the strong opinion that this Commission did  
21 register, we are duty-bound to follow up in some  
22 fashion. And I'm thinking out loud here, so it's  
23 going to require more thought on your part, but it  
24 just seems to me that we ought to do something to  
25 make certain that those issues are addressed.

1           MR. DELEON: We can do one of two  
2 things. We can certainly do a followup letter  
3 informally asking the CPUC the status of that  
4 letter and what they're planning to do, or we  
5 could actually do a formal filing in the  
6 procurement proceeding on the issue transparency.

7           COMMISSIONER KEESE: I'll make a  
8 suggestion. We have a preliminary meeting coming  
9 up in two weeks with the PUC and the Power  
10 Authority. If you could outline the issue for us  
11 maybe we'll bring it up informally at first, and  
12 then follow up?

13           COMMISSIONER GEESMAN: That's an  
14 excellent idea.

15           MR. DELEON: That sounds like a good  
16 idea. We certainly can do an issue memo.

17           COMMISSIONER KEESE: And if you don't  
18 mind, John, we'll let Commissioner Geesman bring  
19 up the issue. So if you will outline what our  
20 previous action was, and send them a copy of the  
21 request and the status. Bring it up at that  
22 meeting.

23           MR. DELEON: I will do that.

24           COMMISSIONER KEESE: I trust there will  
25 be room on the agenda to include that, Mr.

1 Matthews?

2 MR. MATTHEWS: I'm sure there will be.

3 COMMISSIONER KEESE: And we did receive  
4 the request for executive session, and we'll do  
5 that afterwards.

6 The Executive Director's Report?

7 MR. MATTHEWS: Mr. Therkelsen is  
8 briefing the independent review panel today down  
9 in southern California, and so I have the joy of  
10 presiding for him here today. And other than  
11 that, I think the only thing we haven't discussed  
12 is the transition. We're in the process of  
13 preparing some materials, at the stage that we'll  
14 be sending to the Commissioner's review.

15 This is my sixth transition, they've all  
16 been a little bit different. This one seems to be  
17 going smoother than other ones, and I anticipate  
18 that in another couple of weeks we'll start  
19 hearing from people to get briefings.

20 COMMISSIONER KEESE: Thank you. This is  
21 only my second transition. They've both been  
22 interesting.

23 Public Advisor's Report. I welcome  
24 Margret Kim, who has left the dais up here to be  
25 our Public Advisor. Any report?

1 MS. KIM: Thank you, Mr. Chairman. I'd  
2 like to briefly highlight some of the events next  
3 week where we've invited members of the public to  
4 participate.

5 On Monday the 27th we have Salton Sea  
6 Geothermal Project evidentiary hearing. On  
7 Tuesday October the 28th we have that workshop on  
8 the PIER building energy efficiency program where  
9 they will unveil the results of California's  
10 significant efforts in public building energy  
11 efficiency RD&D over the last three years.

12 And last, on Thursday October 30th,  
13 there'll be a stakeholder workshop to seek input  
14 on the draft report, needs assessment for a  
15 western renewable energy generation information  
16 system. That's all.

17 COMMISSIONER KEESE: Thank you very  
18 much. Under Public Comment, I understand Issa  
19 Ijalouney is on the phone. Issa, welcome.

20 MR. IJALOUNEY: Can you hear me?

21 COMMISSIONER KEESE: Yes we can.

22 MR. IJALOUNEY: Good morning,  
23 Commissioners, I appreciate the time. I thought I  
24 had to drive all the way up there, so you saved on  
25 pollution from my car. So I appreciate it.

1           It's been a long time, but I'm very  
2     passionate and concerned about this power plant.  
3     You know, we tried our legal things and weren't  
4     successful. But as this power plant is being  
5     built I really wanted to follow the decision that  
6     you carefully wrote for Metcalf Energy Center.

7           And I have three major things I want to  
8     bring up. I'll say them really quick, and then --  
9     I know I only have five minutes. And then if you  
10    have any questions, great.

11          But first, I did write a formal  
12    complaint dated 5/31/03 to all the Commissioners.  
13    I got a response from the CEC dated 7/17/03. I  
14    feel that that response was not a true  
15    representation of the events and I'd like to take  
16    that a little further and would like to know how I  
17    would do that.

18          Bottom line, I just want to be treated  
19    just like any other citizen in this area, because  
20    I know other citizens are e-mailing Steve Munro or  
21    other people and can talk to other staff members,  
22    and I've been told I can't talk to any staff  
23    members unless a lawyer's present or on the phone.

24          I think it's just basically trying to  
25    block me from trying to participate in trying to

1 protect my family and my community.

2 Secondly, in the decision on page two,  
3 it made it very clear that the online date for  
4 Metcalf was supposed to be the summer of 2003.  
5 Page eight and nine talks about if there's no  
6 proof of need, meaning that the Applicant has  
7 taken the responsibility of profits and losses on  
8 their own.

9 Page 21 again states the online of  
10 summer 2003 from Calpine, the Applicant. Page 24,  
11 verification of compliance, concerns of mine --  
12 and I'm going to go into that page 24 right now --  
13 to remind myself what the heck I was going to say.

14 It says -- oh, it talks about a lot of  
15 the people in the community being concerned about  
16 the compliance being met. It actually mentioned  
17 my name, and you say that on 24.

18 On page 25 staff was supposed to post a  
19 monthly compliance report on the Commission's web,  
20 and by that recent e-mail the CEC staff found that  
21 they were not doing that, and now they have  
22 started to do that, but it eliminated us from a  
23 lot of information that was easy access through  
24 the website.

25 Now we do appreciate that it is on the

1 web. But going further on that page 25, you talk  
2 about "finally, we have added construction  
3 milestones as part of the compliance plan. The  
4 purpose of this condition is to ensure that the  
5 project actually proceeds in a timely fashion."

6 On page 26 you talk about the  
7 construction milestone as part of the compliance  
8 plan, and then on page 30 and 31 you talk about  
9 the compliance report. And I'm going to skip that  
10 now because I really want to get on to the  
11 milestone.

12 The original, you know, as I said on  
13 page two and page 21, it really addresses that  
14 this power plant is needed, and that it should be  
15 on by November 2003, and that milestones should be  
16 set from 30 days of the decision being active.

17 Well, the first milestone set was May  
18 3rd, 2004, when -- it was approved and effective I  
19 think it was October 24th, 2001. I just think it  
20 was basically recklessly not being attentive to  
21 the decision. You know, been through the whole  
22 hearing, and I know Commissioner Geesman you  
23 remember that Calpine felt they could do it in a  
24 year and a half, two years. They stated that over  
25 and over.

1           And construction started on the first,  
2 in January of 2002, that's when they actually  
3 started construction and they put the beginning  
4 operation date on the first milestone of May 1st,  
5 2004.

6           Without any notice to the community or  
7 anything, things were changed to December 31st,  
8 2004. And in that decision to change it I got a  
9 document that says, it states that new milestones  
10 were negotiated with the Department of Water  
11 Resources, in connection with negotiating an  
12 electricity purchase agreement.

13           And that this constitutes good cause for  
14 changing the Energy Commission's construction  
15 milestone. I think that's totally irrelevant,  
16 especially when financial status has nothing to do  
17 with building the power plant.

18           And your milestones for, I'm losing my  
19 page -- there's four ways that you can change the  
20 milestones. Number one, the change in any  
21 milestone does not change the established  
22 commercial operation date milestone. They don't  
23 meet that.

24           The milestone is changed due to  
25 circumstances beyond the project owner's control.

1 I don't see how they meet that.

2 The milestone will be missed but the  
3 project owner demonstrates their good faith effort  
4 to meet the project milestone. I definitely don't  
5 see that.

6 And number four the milestone is missed  
7 due to unforeseen natural disasters or acts of God  
8 which prevent timely completion of the milestone.  
9 Those are all the four ways that the milestone can  
10 change.

11 I feel like this compliance and the CEC  
12 staff are taking your decision very lightly, and  
13 it really concerns me. And I can talk more on  
14 that, but I've got one more point that I'd like to  
15 talk about.

16 Oh, one last thing. Now Calpine, in our  
17 last community meeting last week, or two weeks  
18 ago, talked about now they're going to ask that  
19 the online date be changed to summer of 2005  
20 because they think it's more appropriate to be  
21 online in the summertime because that's when the  
22 need is going to be there. That's what they said  
23 in the meeting, okay.

24 The third thing is what if the  
25 compliance is, you know, you have the matrix and

1 it's supposed to be filled out, and we're supposed  
2 to be on the web every month like I just announced  
3 in the beginning. Well, I know that there's been  
4 issues with CEC cultural number six. And there  
5 has been no word of that in any document.

6 I've specifically asked CEC staff to  
7 notify me of any issues of condition of  
8 certification so I can be on top of it. And the  
9 community is basically being blinded to anything  
10 that's going on there. To basically hide any  
11 violations or any mis-interpretations of the  
12 conditions of certification.

13 And that's all I have to say. I'm sure  
14 I took my five minutes.

15 COMMISSIONER KEESE: Thank you, and  
16 since we don't have the relevant parties around  
17 it's difficult for us to include a dialogue on the  
18 last issues that you've discussed, but Mr. Munro  
19 has been in the audience hearing them, so I'm sure  
20 he will make us aware of anything that you've  
21 brought to our attention that he can confirm.

22 I would like to deal with your first  
23 issue, which I believe is a procedural issue. And  
24 I don't think you included it in your comment but  
25 you have filed a Freedom Of Information Act

1 request on the Commission, as I understand it,  
2 which invokes certain legal parameters on both you  
3 and ourselves.

4           And as I understand it that has  
5 inhibited you from making info requests outside of  
6 that formal process. Are you -- is it your  
7 interest to get back into the informal mode with  
8 us?

9           MR. IJALOUNEY: You know, Commissioner,  
10 I would love to get -- now first of all I don't  
11 understand what you meant. A Public Records Act  
12 request I did two or three years ago, in the  
13 beginning, my very first one when I learned about  
14 it, and got some valid information that I needed  
15 and, you know, everything was fine and I got back  
16 to making phone calls and getting answers to  
17 questions and things like that.

18           Until just recently when I put another  
19 Public Records Act request in again, and I was  
20 basically not being given the information I was  
21 asking for and it was being manipulated, I feel.  
22 And I finally got the information I asked for the  
23 first time that the staff gave to Fernando, but he  
24 basically held it back and played games with the  
25 words I was using, and everyone knew what I

1 wanted.

2           So I don't understand what you mean by  
3 formal or informal. I would love to be able to  
4 call and ask questions, and get the answers to my  
5 questions without being a burden to any of the  
6 staff. I understand they're very, very busy.

7           COMMISSIONER KEESE: Let me then ask a  
8 question to which I do not know the answer, and  
9 that is, if you withdraw your formal request does  
10 that put you back in the status where you're  
11 allowed informal. And we have our attorney  
12 present, so we will hear about it.

13           MR. DELEON: Fernando DeLeon, I'm staff  
14 counsel with the Energy Commission. As I  
15 understand your question, any time a public member  
16 requests information, specifically public records,  
17 we are bound by the California Public Records Act,  
18 and the timelines that are set in that Act.

19           Specifically we have to respond to the  
20 public member within ten working days, I'm sorry  
21 ten days.

22           COMMISSIONER KEESE: He's indicating  
23 that he believes that he now can't ask an informal  
24 question.

25           MR. DELEON: No, he has been asking

1 informal questions. In fact, last week I believe  
2 he asked a question and we responded to him by e-  
3 mail. It was not a Public Records Act request, it  
4 was just a request for information.

5 He also had a few complaints about the  
6 Metcalf project specifically, and we addressed  
7 those informally via the e-mail.

8 COMMISSIONER KEESE: So he has some  
9 formal requests in, and he has the informal, and  
10 both can be answered.

11 MR. DELEON: Yes. His current public  
12 recordsact request will be probably answered  
13 later today. He submitted it on October 13th.

14 COMMISSIONER KEESE: Okay. Very, very  
15 briefly, we can't engage in a dialogue here.

16 MR. IJALOUNEY: Okay. when I e-mail  
17 someone a question, like Steve Munro -- and I  
18 always copy Fernando because he doesn't want -- I  
19 was told I can't talk to anybody on staff without  
20 Fernando on the phone, or his presence, which I  
21 find highly unreasonable.

22 And then when I tried to do that route  
23 it took weeks to get together because everyone's  
24 schedule wasn't available. So they made it  
25 difficult. They're making it very difficult to

1 ask Steve Munro, who is the CPM for Metcalf, to  
2 talk to him or ask him a question or even e-mail a  
3 question.

4 I would e-mail him and three weeks would  
5 go by and I'd have to remind him. But my neighbor  
6 would e-mail him and the next day he would answer  
7 "you know I'm busy right now but I'll get back to  
8 you tomorrow" and he'd e-mail the answer.

9 So I can play the game and send all my  
10 questions through my neighbors, but I don't think  
11 that's the way to go.

12 COMMISSIONER KEESE: Thank you, Issa.  
13 Your five minutes of commentary are up.

14 MR. IJALOUNEY: Can I ask one more  
15 question, about the online dates. Do you have any  
16 comments on that?

17 COMMISSIONER KEESE: We have received  
18 comment here. As is our custom we will ask staff  
19 to comment to us on all the issues that have been  
20 raised, but we're not going to do it in a public  
21 forum.

22 MR. IJALOUNEY: Okay, and I'll get a  
23 copy of that?

24 COMMISSIONER KEESE: No, but you're  
25 welcome to ask -- you are capable of asking

1 questions, you've demonstrated your ability to ask  
2 questions. Feel free to continue to ask the  
3 question, but we will get the answer to satisfy  
4 ourselves that our process is proper.

5 MR. IJALOUNEY: Okay, thanks very much  
6 for your time, I appreciate it.

7 COMMISSIONER KEESE: Thank you. Any  
8 other public comment? Hearing none, this meeting  
9 is adjourned subject to our going into executive  
10 session in my office on a matter of legal import.  
11 Thank you.

12 (Thereupon the business meeting was adjourned to  
13 closed session at 11:20 a.m.)

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## CERTIFICATE OF REPORTER

I, ALAN MEADE, 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 workshop, nor in any way interested in outcome of said workshop.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of October, 2003.

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