

BUSINESS MEETING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Business Meeting)
)
_____)

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

WEDNESDAY, NOVEMBER 19, 2003
10:05 A.M.

Reported by:
Peter Petty
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMISSIONERS PRESENT

Robert Pernell, Acting Chairman

Arthur H. Rosenfeld

John L. Geesman

STAFF PRESENT

William Chamberlain, Chief Counsel

Scott Matthews, Executive Director's Office

Betty McCann, Secretariat

Kelly Birkinshaw

Ann Peterson

Gabriel Herrera

Suzanne Korosec

Joseph Wang

Alec Jenkins

Gareth Occhiuzzo

Susanne Garfield

Nancy Libonati

Joseph O'Hagan

Fernando DeLeon

PUBLIC ADVISER

Margret J. Kim

ALSO PRESENT

Les Guliasi

Pacific Gas and Electric Company

ALSO PRESENT

Michael Theroux
Theroux Environmental
representing Chateau Energy

Issa Ajlouny (via teleconference)

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P R O C E E D I N G S

10:05 a.m.

ACTING CHAIRMAN PERNELL: I'd like to call this meeting to order. Commissioner Geesman, would you lead us in the Pledge of Allegiance, please.

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

ACTING CHAIRMAN PERNELL: Good morning, everyone, and welcome. Before we start our regular agenda I'd like to turn the mike over to Commissioner Geesman.

COMMISSIONER GEESMAN: Thank you, Mr. Vice Chair acting as Chair. I had requested the time originally under Committee reports because I am the Presiding Member of one of the less well identified Committees at the Commission, the Committee of Appreciation for your service over the last five years.

Now, our two other colleagues were not able to be here today, so I want to reserve some of my remarks for a future meeting when they will be here. But, as an initial token of our admiration I'd like to present you with just a small indicator of the value with which we regard

1 you.

2 (Laughter.)

3 ACTING CHAIRMAN PERNELL: Oh, no.

4 (Applause.)

5 COMMISSIONER GEESMAN: For those of you
6 who read the Sunday paper you may have seen this.
7 At the top it says, "Robert Pernell was appointed
8 Commissioner for the California Energy Commission
9 by Governor" -- they don't identify who -- "in
10 1998. Born in New Orleans, one of seven children,
11 moving to Sacramento at the age of 14. He served
12 in the U.S. Army; dug trenches for the Sacramento
13 Municipal Utility District; and served organized
14 labor, later returning to SMUD. He is founder and
15 served as President of the Meadowview Community
16 Action, Incorporated. He received his BA degree
17 from CalState University of Sacramento in 1980.
18 Robert Pernell."

19 And it has a very attractive sketch of
20 Robert as perhaps a slightly younger individual
21 than he is today.

22 (Laughter.)

23 COMMISSIONER GEESMAN: But, Robert, from
24 all of us, our deep congratulations to you.

25 (Applause.)

1 ACTING CHAIRMAN PERNELL: Well, thank
2 you, Commissioner. I'll sit this back here,
3 because I really need to talk to my staff about
4 this.

5 (Laughter.)

6 ACTING CHAIRMAN PERNELL: Well, I got to
7 say that that was certainly a surprise. I was
8 told that someone else was getting an
9 appreciation, otherwise I would have put it at the
10 end of the agenda when everybody left. But, you
11 know, it's a reflection of what this Commission or
12 how this Commission feels about its Commissioners.
13 And I just want to thank everyone here. And I'll
14 talk to Al and Rosella later.

15 (Laughter.)

16 COMMISSIONER ROSENFELD: Robert, I just
17 got to tell you I didn't know about this New
18 Orleans business. I was born in Birmingham and I
19 spent the first six years of my life in New
20 Orleans.

21 ACTING CHAIRMAN PERNELL: Really, we
22 should go back some time and --

23 (Laughter.)

24 ACTING CHAIRMAN PERNELL: Probably
25 around Mardi Gras, that's always a good time.

1 UNIDENTIFIED SPEAKER: Were you
2 separated at birth?

3 (Laughter.)

4 ACTING CHAIRMAN PERNELL: Yeah, we're
5 twins, you can tell. You can tell the intelligent
6 one, though, you know.

7 COMMISSIONER ROSENFELD: I'm the older
8 twin.

9 (Laughter.)

10 ACTING CHAIRMAN PERNELL: Okay, what a
11 way to start a meeting. Also, as a matter of
12 personal privilege from the Chair I just want to
13 announce that the CEC and California Kids have put
14 out this new calendar for '04. And we do this
15 every year and we have a contest. And I want to
16 recognize Suzanne for bringing this to my
17 attention so that I can announce it.

18 I also want to announce, and this is for
19 future reference because we need their help every
20 year, the co-sponsors of this calendar. And it
21 is, of course, the Energy Commission, East Bay
22 Municipal Utility District, Renewable Energy
23 Programs, SMUD - Sacramento Municipal Utility
24 District, PG&E, California ISO, the PIER Program -
25 Public Interest Energy Research, and California

1 State and Consumer Service Agencies.

2 So we want to thank everyone; and
3 everyone can grab a calendar, one calendar, on
4 your way out or at your convenience.

5 All right, Commissioners, we're on the
6 consent calendar and we have a number of items.
7 I'll read the items, all of them, and then we'll
8 take action on the consent calendar.

9 a. Commission co-sponsorship. This is a
10 co-sponsorship for Anaheim Spring Home and Garden
11 Show.

12 COMMISSIONER GEESMAN: You know, I'll
13 move this without your need to read the full
14 consent calendar.

15 COMMISSIONER ROSENFELD: And I'll second
16 it.

17 ACTING CHAIRMAN PERNELL: All right,
18 it's been moved and seconded that we approve the
19 consent calendar.

20 All those in favor?

21 (Ayes.)

22 ACTING CHAIRMAN PERNELL: Opposed? Ayes
23 have it.

24 Item number 2. California Department of
25 Conservation. Possible approval of contract 500-

1 03-018 for \$130,000 to make a preliminary
2 evaluation of the potential of geologic
3 sequestration of carbon dioxide in California.
4 This is part of the consent item 1(g), the West
5 Coast Regional Carbon Sequestration Partnership.

6 And, staff, would you brief the Board on
7 this?

8 MR. BIRKINSHAW: Absolutely. Good
9 morning, Commissioners. For the record my name is
10 Kelly Birkinshaw. I'm the Environmental Area
11 Manager in the Public Interest Energy Research.

12 What I have for you this morning are two
13 funding agreements that, in part, fund a regional
14 carbon sequestration partnership. It's, as you
15 mentioned, Commissioner Pernell, item 1(g) and
16 item number 2.

17 These two agreements, as I said, in part
18 fund the development of this partnership that's in
19 concert with a grant agreement that we have with
20 the Department of Energy for \$1.6 million; will do
21 a fairly comprehensive assessment of carbon
22 sequestration potential, both geologic and
23 terrestrial in the States of Alaska, Washington,
24 Oregon, California, Nevada and Arizona.

25 I guess from my vantage there really are

1 two major objectives of this partnership. The
2 first is to develop the data analysis needed to
3 understand carbon sequestration potential, and to
4 help inform both national and state policy
5 relative to carbon sequestration.

6 And then secondly it sets the stage for
7 a possible phase two proposal to the Department of
8 Energy in which we would seek funding for pilot
9 scale demonstrations of the best options that we
10 identify through this program.

11 The region that we've been able to put
12 together, I think, forms a fairly coherent study
13 unit; 11 percent of U.S. anthropogenic emissions
14 are from this region. We see commonality,
15 particularly in the terrestrial carbon
16 sequestration arena in Washington, Oregon and
17 northern California. And similarly commonality in
18 geologic opportunities in California, Nevada and
19 Arizona and Alaska.

20 The program builds upon some earlier
21 PIER research, particularly with the Kearney
22 Foundation and Winrock International in which we
23 were able to develop technology, as well as
24 protocols for assessing terrestrial carbon
25 sequestration in forestry and food and

1 agriculture. And, in fact, we're able to extend
2 this earlier research basically to the entire
3 region encompassed by this program.

4 One of the primary products of this will
5 be supply curves which we will have identified
6 opportunities, the amount of carbon that can be
7 sequestered and their relative costs.

8 We've been able to put together, I
9 think, a really impressive team to implement the
10 program. We are coordinated very closely with the
11 Western Governors Association for the program. We
12 have, as part of our team, other state agencies
13 including the Department of Conservation, Food and
14 Agriculture and Forestry. We have representatives
15 of the oil and gas industry and major utility
16 companies, as well as University of California and
17 national laboratories here in California.

18 I guess in a general sense the scope of
19 this program is to identify and analyze
20 information that gives us relationships between
21 sources of CO2 and possible sinks. In doing so
22 we'll be examining capture, transport and geologic
23 storage options; terrestrial sequestration
24 opportunities, particularly in land use changes.
25 We'll be examining regulatory issues for possible

1 implementation of carbon sequestration projects in
2 the future. Monitoring and verification issues;
3 and, of course, economic and environmental
4 efficacy of these possible projects.

5 A real key element in this whole program
6 is public outreach and education.

7 I think one of the key deliverables of
8 the program will be an action plan in which we do
9 the technology assessments and identify in ranked
10 order the options that are best suited for this
11 region. And, again, as I said, would form the
12 basis of a phase two proposal to the Department of
13 Energy.

14 That really concludes my comments. I'd
15 ask your approval of this funding agreement. And
16 I'd be happy to answer any of your questions.
17 Thank you.

18 ACTING CHAIRMAN PERNELL: Thank you.
19 Any questions from the Board? Commissioner
20 Geesman.

21 COMMISSIONER GEESMAN: When do you
22 envision that action plan being ready?

23 MR. BIRKINSHAW: This is a two-year
24 program. We're just getting it off the ground
25 now. So I would envision the action plan, itself,

1 being available probably the first quarter of
2 2005.

3 COMMISSIONER ROSENFELD: Mr. Chairman,
4 your Committee, of course, R&D Committee, and so
5 I'm ready to make the motion.

6 ACTING CHAIRMAN PERNELL: Moved by
7 Commissioner Rosenfeld.

8 COMMISSIONER GEESMAN: Second.

9 ACTING CHAIRMAN PERNELL: Second by
10 Commissioner Geesman.

11 All those in favor?

12 (Ayes.)

13 ACTING CHAIRMAN PERNELL: Opposed? Ayes
14 have it. Thank you.

15 MR. BIRKINSHAW: Thank you very much.

16 ACTING CHAIRMAN PERNELL: Item number 3.
17 Renewable Resources Development Report.
18 Discussion and possible approval of the Energy
19 Commission's report to the Legislature on
20 renewable energy resource potential. This report
21 is required by Senate Bill 1038 and is due to the
22 Legislature by December 1, '03.

23 MS. PETERSON: Good morning,
24 Commissioners. We're here today --

25 ACTING CHAIRMAN PERNELL: Ms. Peterson.

1 MS. PETERSON: Yes. We're here today
2 for the Commission to consider adopting the
3 renewable resources development report. My name
4 is Ann Peterson and I was the Project Manager for
5 this work.

6 I'd like to recognize my co-authors of
7 this report, Pam Doughman, who's running the slide
8 projector, and Todd Lieberg, who is in the
9 audience.

10 Senate Bill 1038 requires that the
11 Energy Commission develop a comprehensive
12 renewable resource plan. Senate Bill 1038 also
13 requires the CPUC to develop a transmission plan
14 for renewable electricity generation. Both of
15 these reports are due to the Legislature on
16 December 1, 2003.

17 Senate Bill 1078 requires that 20
18 percent of retail electricity sales be met with
19 renewable resources by the year 2017. The energy
20 action plan goal moves up that date to 2010.

21 In developing the renewable resources
22 development report we conducted a public workshop
23 in June of this year. On July 1, 2003, we
24 provided to the California Public Utilities
25 Commission a preliminary renewable resource

1 assessment to use for the development of their
2 plan.

3 On October 1st of this year we released
4 a staff draft renewable resources development
5 report for public comment. That report was
6 revised. And then approximately ten days ago we
7 released the Committee final RRDR.

8 Next slide, please. This graphic
9 illustrates the amount of renewables that we
10 anticipate getting online this year, which is
11 about 12 percent, along with meeting both the RPS
12 and the accelerated RPS. And as you can see, the
13 requirements for the RPS are quite small relative
14 to the technical potential of renewables in
15 California, which we have estimated to be 260,000
16 gigawatt hours per year. And this is only for
17 California technical potential. This graphic
18 doesn't include the other states in the Western
19 Electricity Coordinating Council states.

20 Next slide. In 2002 California had over
21 7000 megawatts of renewable capacity. Geothermal
22 was the largest in both energy and capacity with
23 the major areas being the Geysers, Imperial and
24 Inyo Counties. Biomass is widely distributed
25 across the state, mostly where the fuel sources

1 are. Wind is concentrated at Altamont Pass,
2 Tehachapi and Riverside County.

3 Small hydro is scattered across the
4 state's canals, rivers and creeks. And
5 concentrating solar power can be found in the
6 southeast desert of Kern and San Bernardino
7 Counties.

8 Next slide. Between 1985 and 1990
9 approximately 5000 megawatts of renewable capacity
10 was added to California's electricity system,
11 mostly as a result of the Public Utilities'
12 Regulatory Policies Act of 1978. Between 1994 and
13 1998 there was a decline in renewable generation
14 with the end of high fixed-price contracts and low
15 energy payments. Since 1998 renewables are back
16 on the rise with financial incentives that are
17 available. And we expect, with implementation of
18 the RPS, this trend to continue.

19 Next slide. The PV market in California
20 has undergone substantial growth in recent years.
21 Through mid 2003 44 megawatts of grid-connected PV
22 had been installed in California. Seventy-five
23 percent of this capacity has been added since the
24 beginning of 2002. California's the third largest
25 market for PV after Japan and Germany.

1 Next slide. This graphic illustrates
2 the estimated 2001 baseline, 2003 interim
3 procurement, the estimated additional renewable
4 energy required to meet the RPS and the
5 accelerated RPS. Achieving the accelerated --
6 excuse me, accelerating the RPS is part of the
7 strategy outlined in the energy action plan to
8 maintain fuel diversity in electricity generation.

9 First, we reduce demand of electricity,
10 especially during peak periods. Second,
11 accelerate the development of electricity from
12 renewables. And third, replace/repower
13 inefficient gas-fired generation.

14 Next slide. Here's an illustration of
15 projects that have been proposed throughout
16 California and the western states -- I guess these
17 are just in California, from RFPs and from our own
18 program. We've filtered the data to eliminate
19 duplicate projects and projects that have been
20 proposed in various solicitations total more than
21 26,000 gigawatt hours per year which is more than
22 adequate to meet the accelerated RPS. And these
23 proposed projects are primarily wind and
24 geothermal.

25 Next slide. There's a great variation

1 in renewable resource potential in the various
2 studies that we've been able to find. For wind,
3 geothermal and biomass estimates we've used the
4 data that was available from the PIER program; and
5 for solar we used previous studies.

6 And this just illustrates that there's a
7 great deal of significant renewable resources in
8 California left to be claimed.

9 Next slide. There's also significant
10 resources available in the Western Electricity
11 Coordinating Council states. WECC has the
12 potential to supply several times over the
13 region's electricity needs with renewables.
14 Estimates of technical potential don't take into
15 account the barriers for getting the electricity
16 generated to market. The total technical
17 potential for WECC is more than 3.7 million
18 gigawatt hours per year, 2.7 million of those
19 gigawatt hours comes from wind.

20 Next slide. A number of renewable
21 technologies are expected to be competitive with
22 conventional electricity by 2005. Technologies
23 that are most cost competitive include wind,
24 select biomass applications and geothermal. With
25 technology advances more renewables will become

1 competitive with conventional electricity
2 generation.

3 Next slide. There are a number of
4 challenges to increase the amount of renewables in
5 California's electricity system. These include
6 expanding the transmission system to accommodate
7 renewables. Whether there's adequate public goods
8 charge funds to support any above market costs in
9 meeting the renewable portfolio standard, a
10 determination of which renewable resources meet
11 least-cost and best-fit considerations in the
12 utility procurement solicitations, financing costs
13 for renewable generation, and how the publicly
14 owned utilities will respond to the requirements
15 as outlined in Senate Bill 1078.

16 Next slide. PIER is the largest source
17 of funding for electricity-related public interest
18 research in California. Wind energy research
19 activities that PIER is undertaking include
20 harnessing low-speed resources with identification
21 of new wind sites and improved turbines.

22 Biomass research activities include
23 making biomass power cleaner and expanding the
24 capability of using lower cost fuels. Geothermal
25 research activities include reduced risk and cost

1 of exploration and improved resource management.
2 Solar research is focused on optimizing solar
3 storage technologies. And for all technologies
4 PIER is working on increasing the operational
5 compatibility and overcoming transmission impacts.

6 Next slide. In conclusion, California
7 has been a leader in developing its renewable
8 resources, and we expect that to continue. The PV
9 market has undergone substantial growth in recent
10 years. We believe there's plenty of renewable
11 resources available to meet the RPS and the
12 accelerated RPS with the significant untapped
13 renewable resources available in both California
14 and the western states.

15 The cost of renewables continues to
16 decline with some technologies nearly competitive
17 with conventional sources of power.

18 The key policy issues to watch include
19 transmission constraints, adequacy of public goods
20 charge funds, and the role of publicly owned
21 electric utilities in meeting the RPS goals. And
22 lastly, to continue to supporting research on
23 renewable technologies.

24 This concludes my presentation today.
25 We ask for your approval to adopt this report, and

1 I'd be happy to answer any questions that you
2 have.

3 ACTING CHAIRMAN PERNELL: Thank you, Ms.
4 Peterson. A very good presentation. I do have
5 one question for Ms. Peterson. I do have one blue
6 card, Les, PG&E. It also says that you're in
7 support.

8 MR. GULIASI: Yes, I'm in support.

9 COMMISSIONER ROSENFELD: You'd better
10 be.

11 MR. GULIASI: Thank you and good
12 morning. My name is Les Guliasi from Pacific Gas
13 and Electric Company. Just to open this up to say
14 that I was just in New Orleans and --

15 (Laughter.)

16 MR. GULIASI: -- if you're going to
17 organize a trip, please include me. I had a great
18 time.

19 I want to congratulate you on this
20 report. We didn't file any written comments on
21 the final draft, and I'll just make a couple brief
22 remarks today.

23 This is an important report, there's no
24 question about it. The report contains in one
25 place in one document a very comprehensive and

1 complete picture of where California is today in
2 developing the renewable portfolio standard in
3 compliance with Senate Bills 1078 and 1038.

4 The report, as we just heard, assesses
5 the various renewable technologies, looks at
6 trends in resource development, addresses some of
7 the key policy issues and the challenges we face
8 in achieving the legislatively mandated goals.

9 PG&E participated in both phases, phase
10 one and phase two, of this proceeding, both here
11 and at the CPUC. We've commented and provided
12 written comments on some of the issues going back
13 to the phase one.

14 I just want to, again, state my thanks
15 for incorporating some of the comments we made in
16 your final draft. We had some concerns about the
17 definition of incremental geothermal. And you
18 took our comments to heart and made some changes
19 and adopted some of those changes in your final
20 report. That was very important for us.

21 I've come before you a couple of
22 different times, both in the context of the IEPR
23 and the energy action plan, and have reported to
24 you on the status of PG&E's renewable portfolio
25 standard implementation. I'm not going to repeat

1 my comments there. Just remind you I tried to
2 caution you a little bit and tried to urge you not
3 to seek new legislation at this time; to
4 accelerate the goal, I pointed out some of the
5 challenges, some of the hurdles that we face, some
6 of which have been addressed already this morning.

7 My basic comment has been just give us a
8 chance to see how implementation works. Just give
9 us a year or so before you rush forward to the
10 Legislature and ask them to enact new additional
11 legislation.

12 The staff report estimates that PG&E
13 will meet the 20 percent target by the year 2013
14 under conservative assumptions. And under more
15 aggressive assumptions the staff estimates that we
16 could achieve that 20 percent target by 2010, your
17 accelerated date.

18 At the end of 2002 we were at about 10.4
19 percent of renewables in our portfolio. By the
20 end of this year we'll be at about we estimate
21 12.6 percent or so, which is, I think a healthy 20
22 percent increase. We think that just kind of
23 going forward without a lot of aggressive action
24 we'll be at about 15 percent by the year 2008.

25 And what we need to do next, you know,

1 is just take some next steps in looking forward
2 besides facing the various implementation issues
3 before us and addressing some of these challenges
4 and getting over some of these hurdles.

5 The big thing for us next will be a
6 renewable solicitation, and we're hoping that will
7 take place sometime by mid next year, depending on
8 the outcome of our bankruptcy proceeding,
9 returning the company to a creditworthy status.
10 And then actions taken by the PUC.

11 So, optimistically by mid year we can be
12 out there with the solicitation and that will give
13 us more information going forward.

14 Thank you very much and congratulations
15 on a very well done report.

16 ACTING CHAIRMAN PERNELL: Thank you,
17 Les. Questions for -- any questions?
18 Commissioner Geesman.

19 COMMISSIONER GEESMAN: Well, I want to
20 say this is a remarkable report. I think that
21 you've created a real resource document that
22 others will be able to easily access in one place
23 that provides a good explanation of where we are
24 in California in 2003.

25 You've succinctly outlined the policy

1 challenges that the various state agencies and the
2 Legislature face; but you've also done more in
3 terms of trying to place a general locational
4 reference around the different resources that I
5 think will truly be of value to a lot of different
6 interests in the state going forward.

7 I think if this document were made
8 required reading material in Congress we would not
9 be hung up in a senseless debate as to whether a
10 10 percent nationwide RPS standard is achievable.
11 And I think the House of Representative, in
12 particular, could benefit by a little closer study
13 of how easy it has been in California to get to
14 where we are.

15 I think today is a day that we truly
16 should celebrate the accomplishment of the staff
17 because this is a remarkable document. And I
18 would move that we adopt it.

19 COMMISSIONER ROSENFELD: I'm proud to
20 second it.

21 ACTING CHAIRMAN PERNELL: It's been
22 moved and seconded. Thank you, Les. I thought it
23 was a question for you, but you can't vote, so.

24 I would just -- on the question I would
25 also say that, you know, this document is -- a lot

1 of work has gone into it. And you know, it's
2 typical of what's been happening at the Commission
3 ever since I've been here. We've been putting out
4 good reports. We've been working hard. And, you
5 know, it's just another example of the great
6 professional staff that we have.

7 So, I want to thank you, Ann, and your
8 staff. And, Commissioner, do you want to say
9 something on the question?

10 COMMISSIONER ROSENFELD: I'm ready.

11 ACTING CHAIRMAN PERNELL: Okay, the
12 question has been called for.

13 All those in favor?

14 (Ayes.)

15 ACTING CHAIRMAN PERNELL: Opposed? Ayes
16 have it. Thank you, again, excellent report.

17 Okay, we're now on item 4. Solar Energy
18 and Distributed Generation grant program.
19 Possible approval of guideline revisions to the
20 Solar Energy Program Element Guidebook to clarify
21 the requirements for modifying funding award
22 reservations.

23 MR. HERRERA: Good morning,
24 Commissioners, Gabriel Herrera. I'm with the
25 Commission's Legal Office, and I am --

1 ACTING CHAIRMAN PERNELL: You're not
2 Melinda.

3 MR. HERRERA: I am not Melinda, I am
4 pinch-hitting for Melinda who couldn't be here
5 unfortunately. And so she asked me to take over
6 in her stead. And so I'm doing that.

7 Commission Staff is seeking the
8 Commission's approval of changes to the guidelines
9 that govern the Commission's solar energy and
10 distributed generation grant program. And as you
11 recall, that's a grant program that provides
12 funding for consumers who install solar energy
13 systems for domestic water heating, for swimming
14 pools; provides a maximum rebate up to \$750.

15 And the way the program is structured is
16 that consumers may come forward and seek a
17 reservation for a rebate in advance of installing
18 a system. They're issued a reservation; and then
19 once the system is installed they come back and
20 they seek payment from the Energy Commission.

21 What the proposed changes here do would
22 clarify to what extent a consumer can modify their
23 system after they've been issued a reservation,
24 but before that system is installed.

25 Specifically it would allow the consumer

1 to change locations. and that would be helpful,
2 for example, for developers who came to the Energy
3 Commission and sought multiple applications for
4 funding in advance, or perhaps community
5 developers who did the same thing.

6 The Renewables Committee has been
7 briefed on these proposed changes, and I believe
8 the Renewables Committee is recommending that the
9 Commission adopt the proposed changes. These
10 changes would be incorporated in the Commission's
11 overall program guidebook for the program.

12 ACTING CHAIRMAN PERNELL: All right.
13 Commissioner Geesman.

14 COMMISSIONER GEESMAN: Yes, the
15 Committee's considered this and is making a
16 recommendation that these changes be adopted.

17 ACTING CHAIRMAN PERNELL: Is that a
18 motion?

19 COMMISSIONER GEESMAN: It is, but I
20 believe you may have public comment on this item
21 from Chateau Energy or --

22 MR. THEROUX: We're going to reply on
23 the next item.

24 COMMISSIONER GEESMAN: On the next item,
25 okay. Then I will make a motion to adopt the

1 proposed changes in the guidebook.

2 COMMISSIONER ROSENFELD: Second.

3 ACTING CHAIRMAN PERNELL: All right,
4 it's moved and seconded on Committee
5 recommendations on item number 4.

6 All those in favor?

7 (Ayes.)

8 ACTING CHAIRMAN PERNELL: Opposed? Ayes
9 have it. That will be the order.

10 Item number 5. New Renewables Program.
11 Possible approval of guideline revisions to a)
12 allow online winning bidders to avoid under-
13 generation penalties by voluntarily reducing their
14 funding awards or by adding generation capacity to
15 their projects. And b) maintain the 50 percent
16 penalty level until July 1 of '04 for the funding
17 awards and winning bidders from the October 2000
18 and June 2001 auctions who are not yet online.

19 Suzanne.

20 MS. KOROSSEC: Good morning,
21 Commissioners. I'm Suzanne Korosec with the New
22 Renewables Program. The Renewables Committee is
23 proposing revisions to the guidelines for the new
24 renewables program to encourage auction winners
25 that are not online to continue development, and

1 those that are online to generate as much energy
2 as possible to help with the state's accelerated
3 RPS goal.

4 First, the Committee is proposing to
5 extend the date by which it will consider further
6 reducing or terminating funding awards for winners
7 in the second and third auctions from July 1st of
8 2003 to July 1st of 2004.

9 By doing this the Committee hopes to
10 provide a measure of certainty to these projects
11 to assist them in obtaining financing and power
12 purchase agreements.

13 Second, the Committee is proposing to
14 allow online projects that are not meeting the
15 minimum generating requirements for the program to
16 either voluntarily reduce their generation and
17 thereby reduce their funding award, which would
18 free up money to be used in later RPS
19 solicitations, or alternatively to add generating
20 capacity to their project so that they could meet
21 the generation requirements.

22 Finally, the Committee is proposing to
23 eliminate the limitation on the amount annual
24 funds projects can receive. Currently the
25 guidelines limit projects to receiving 25 percent

1 of their awards in each of the first three years
2 of operation. However, because of delays these
3 projects have experienced because of the
4 uncertainty in California's market, and because
5 these awards do have an end date, many projects
6 that will be coming online won't receive their
7 funding awards for the full five-year funding
8 period.

9 To encourage these projects to generate
10 as much as possible during the reduced funding
11 award period that they'll have, the Committee is
12 proposing to get rid of the 25 percent limitation
13 on the annual amount of funds they can receive.

14 The Committee believes that these
15 guideline changes will encourage development of
16 renewable projects and help to insure that the
17 state meets the accelerated RPS goal of 20 percent
18 by 2010 and asks that you adopt the guideline
19 changes.

20 ACTING CHAIRMAN PERNELL: Thank you.
21 Questions from the Board? We do have someone in
22 the audience. Michael, you're up.

23 MR. THEROUX: Thank you, Commissioners
24 and staff. First I'd like to applaud the work
25 that's been completed here --

1 ACTING CHAIRMAN PERNELL: I'm sorry,
2 Michael, you have to state your name for the
3 record, kind of threw you off there.

4 MR. THEROUX: Michael Theroux, Theroux
5 Environmental, representing Chateau Energy today.

6 Certainly agree these are appropriate
7 and necessary changes to the most recent new
8 renewables guidebook. I believe that they do not
9 quite go far enough. We have developed four
10 sentences to add to the guidebook and we'll
11 present those both in email to staff, and I've got
12 a copy of those today, as a suggestion, something
13 to consider.

14 These four sentences address
15 specifically the increased access to due process
16 for those that were part of this new renewables
17 account option. And, in particular, address one
18 level of difficulty that some have experienced,
19 and certainly Chateau has. And that is that the
20 laws have changed in the midst of this process.

21 We understand that the marketplace has
22 changed, but when legislative changes intercede
23 and override the timelines that the Commission has
24 established, I believe that that needs to be
25 addressed.

1 If I may, within the guidebook on page
2 20, in the section on coming online, in the last
3 paragraph on that page the guidebook addresses
4 specifically the manner in which projects should
5 come online. And states, in part: All projects
6 are expected to come online by the date specified
7 in the applicable notice of auction."

8 We would add: Changes in legislation
9 are beyond a developer's control and may result in
10 delays to a project coming online by the date
11 specified. Under those conditions the developer
12 may petition, in accordance with the Commission's
13 overall program guidebook, for new project-
14 specific award timeline."

15 "The new project-specific timeline shall
16 restart the percentage of award reduction from the
17 date the project can reasonably be expected to
18 come online, considering the impacts resulting
19 from the changes in legislation or other
20 overriding circumstances."

21 "Payments will be made for five years
22 from the online date in accordance to the Public
23 Utilities Code section 383.5(c)(2)(B)."

24 We hope that this allowance for due
25 process and observance of overriding

1 considerations be duly considered by the
2 Commission and the staff, and are open for
3 questions.

4 ACTING CHAIRMAN PERNELL: Thank you.
5 Any questions? Commissioner Geesman.

6 COMMISSIONER GEESMAN: Michael, have you
7 talked previously to the staff about this?

8 MR. THEROUX: Yes, we have, sir.

9 COMMISSIONER GEESMAN: And their
10 response?

11 MR. THEROUX: We have now supplied
12 multiple requests in a petition form, and have not
13 found reply, formal reply to our requests to that
14 petition. Primarily we are looking for due
15 process.

16 We understand that this is a difficult
17 issue to try to change the guidebooks. I would
18 direct you to the schedule, itself, though, that
19 is proposed for the new guidelines in the third
20 auction; and indicate that in the midst of that
21 schedule on September 12th, our most important
22 energy legislation recently has been passed, the
23 RPS, 1078 and the energy program with 1038.

24 And those bills, in and of themselves,
25 and the accompanying legislation under the

1 Assembly AB-2770, directly impinge upon at least
2 one project, that of Chateau Energy.

3 Those are overriding considerations and
4 we have not found access to full consideration of
5 the petitions that we have filed both here and at
6 the Public Utilities Commission. We would ask the
7 staff once more to observe the request that we
8 have proposed at the Committee level and at the
9 staff level, and the consideration that perhaps
10 this is simply pointing to an area that does need
11 to be changed.

12 We will meet in the future, again, I'm
13 sure.

14 COMMISSIONER GEESMAN: Mr. Chairman, I
15 would suggest that Chateau Energy's petition be
16 something that the Renewables Committee take up.
17 To my knowledge we've not previously addressed it
18 as a Committee. I don't think that it needs to
19 hold up action on the recommendations that the
20 staff's making and the Committee's making today;
21 but I can assure Mr. Theroux that he will get a
22 full consideration at the Committee of the issues
23 that he's raised.

24 MR. THEROUX: Thank you, sir. I will --

25 ACTING CHAIRMAN PERNELL: Do you have

1 your petition in its entirety so that we can be
2 sure that Commissioner Geesman gets a copy of it?

3 MS. KOROSSEC: We do have the Commission
4 inhouse, Commissioner Pernell.

5 MR. THEROUX: Yes.

6 ACTING CHAIRMAN PERNELL: Would staff
7 like to respond?

8 MS. KOROSSEC: No, other than to say that
9 part of the delay has arisen because there was an
10 ownership change with the project and we were
11 waiting until we had sufficient documentation of
12 that ownership change before we were proceeding
13 with the petition.

14 ACTING CHAIRMAN PERNELL: All right.
15 What the Chair will do is move the recommendation
16 back to the Committee, but I would agree, unless
17 there's some objection, that we just move forward
18 with our vote. And the assurance that the
19 Committee will evaluate their petition and
20 consider it appropriately.

21 MR. THEROUX: Yes. Thank you very much,
22 Commissioners. I would ask again that this is a
23 broader point than just Chateau. The need for
24 clear reference to due process, I do believe, is
25 appropriate for amendment two as modification to

1 the new renewables resource account guidelines.
2 And that was the specific point that we entered
3 into today.

4 Thank you very much.

5 ACTING CHAIRMAN PERNELL: Thank you.
6 Commissioner Geesman.

7 COMMISSIONER GEESMAN: I would move the
8 Committee recommendation that we adopt these
9 proposed changes to the guidelines.

10 COMMISSIONER ROSENFELD: Second.

11 ACTING CHAIRMAN PERNELL: It's been
12 moved and seconded that we adopt the changes to
13 the guidelines which is item number 5.

14 All those in favor?

15 (Ayes.)

16 ACTING CHAIRMAN PERNELL: Opposed? The
17 ayes have it. Thank you very much.

18 Item number 6. City of Compton.
19 Possible approval of a \$635,087 loan to the City
20 of Compton to install energy efficient light
21 emitting diodes, LEDs, for traffic lights. This
22 project is estimated to save about \$116,000
23 annually in reduced energy costs and has a simple
24 payback of 3.8 years.

25 Commissioner Rosenfeld.

1 COMMISSIONER ROSENFELD: Do we want to
2 hear from staff?

3 ACTING CHAIRMAN PERNELL: It came before
4 the Committee, but if you want to hear from staff
5 you may.

6 COMMISSIONER ROSENFELD: No, I'm happy
7 to move it.

8 COMMISSIONER GEESMAN: I'll second it.

9 ACTING CHAIRMAN PERNELL: All right,
10 it's been moved and seconded that the Committee
11 accepts staff recommendations for a loan to the
12 City of Compton.

13 All those in favor?

14 (Ayes.)

15 ACTING CHAIRMAN PERNELL: Opposed? Ayes
16 have it.

17 Item number 7. County of Marin.
18 Possible approval of a loan to the County of Marin
19 for \$154,042 to install variable speed drives on
20 the HVAC system at the Civic Center Building.
21 This project is estimated to save \$49,865 annually
22 and has a simple payback of 3.1 years.

23 COMMISSIONER ROSENFELD: So variable
24 speed drives beat out traffic lights, 3.1 years
25 versus 3.4 years.

1 (Laughter.)

2 COMMISSIONER ROSENFELD: I move the
3 item.

4 COMMISSIONER GEESMAN: Second.

5 ACTING CHAIRMAN PERNELL: It's been
6 moved and seconded that the Committee accepts
7 staff recommendations on the County of Marin.

8 All those in favor?

9 (Ayes.)

10 ACTING CHAIRMAN PERNELL: Opposed? Ayes
11 have it. That'll be the order, thank you very
12 much.

13 Item number 8. Small grant program
14 solicitation. Possible approval of nine projects
15 recommended for funding for the cycle 03-01 Energy
16 Innovations small grant programs. Those
17 recommendations are: Novel technologies, 72,060;
18 University of Arizona, 75,000; SOAR Technologies,
19 75,000; Eneftech/LBNL, 75,000; Material Methods,
20 LLC, 74,996; Cobalt Energy, 75,000; Distributed
21 Power Technologies, LLC, 74,970; University of
22 California Los Angeles, 74,993; and Starburst
23 Foundation, 74,998.

24 COMMISSIONER ROSENFELD: Mr. Chairman,
25 I've been thoroughly briefed by Alec Jenkins once.

1 I don't particularly want to hear it all again, so
2 I move the item.

3 COMMISSIONER GEESMAN: I will second it,
4 although I'm tempted to regale the audience with a
5 description of the solar still that the Starburst
6 Foundation is doing, but we'll --

7 (Laughter.)

8 COMMISSIONER GEESMAN: -- pass up that
9 opportunity and simply second the motion.

10 ACTING CHAIRMAN PERNELL: All right,
11 it's been moved and seconded with some curiosity.
12 On the question, all those in favor?

13 (Ayes.)

14 ACTING CHAIRMAN PERNELL: Opposed? Ayes
15 have it. Thank you very much.

16 Item number 9, Joint Agency Support
17 Contracts. Possible approval of contracts to
18 receive funds over three fiscal years to co-fund a
19 joint agency support contract managed by the
20 Commission to analyze DMV data:

21 Department of Transportation contract
22 R600-03-001 to receive 75,000. Department of
23 Parks and Recreation contract R600-03-002 to
24 receive 115,000. And Department of General
25 Services contract R600-03-003 to receive 120,000.

1 And keeping in mind this is money that
2 we're getting. Staff, would you brief the Board.

3 MR. OCCHIUIZZO: Yes, good morning. Gary
4 Occhiuzzo with the Commission's Transportation and
5 Fuels Office.

6 This agenda item does represent external
7 funds being provided to the Commission to support
8 its joint agency DMV data project. Staff is
9 requesting Commission approval to receive and
10 spend a total of 310K over three fiscal years from
11 Caltrans, Department of Parks and General
12 Services, together with 25K of Commission funds
13 per fiscal year to operate the data project
14 through June of 2006.

15 Under the terms of this three-year
16 interagency agreement the second and third year
17 budgets are contingent upon funding availability.
18 The funds will reimburse Commission-managed
19 consulting support and Teale costs for turning raw
20 DMV vehicle data into usable statistics to meet
21 program needs of the Commission and the other
22 funding partners.

23 DMV will contribute a total of six
24 databases to the project over this three-year
25 period, one each October and April. Vehicle

1 population data from the Commission's joint agency
2 DMV data project have been an essential input to a
3 variety of legislative projects that have direct
4 or indirect Commission responsibilities.

5 Recent projects include petroleum
6 dependency reduction under AB-2076; the Integrated
7 Energy Policy Report of SB-1389; vehicle
8 greenhouse emission standards of AB-1493; the
9 clean school bus program under AB-1390; and the
10 fuel efficient tire program of SB-1170.

11 During the last fiscal year the
12 Commission's DMV data project responded to 65 data
13 requests, 35 of which were external to the
14 Commission, including 15 from DMV, itself.
15 Noteworthy requests from DMV included a detailed
16 account of dedicated electric vehicles for the EV
17 parking decal requirements of AB-1314; an
18 extraction of a three-quarter-million vehicle
19 sample from selected California zip codes for the
20 National Highway Traffic Safety Administration.
21 NHTSA was responding to a congressionally mandated
22 rulemaking activity regarding tire inflation
23 warning systems for new vehicles.

24 The transportation programs of the
25 Commission, Caltrans, Parks and General Services,

1 and other government agencies typically focus on a
2 variety of vehicle population details which are
3 unavailable from DMV or other sources.

4 Consequently, over the past ten-plus
5 years Commission Staff, with DMV's cooperation,
6 have developed and continue to maintain a joint
7 agency partnership for supplying the detailed
8 vehicle registration data that are required by
9 agency programs.

10 For this reason staff requests approval
11 of this item. That concludes my comments.

12 ACTING CHAIRMAN PERNELL: Commissioners,
13 what's your pleasure?

14 COMMISSIONER GEESMAN: Mr. Chairman,
15 this came before the Transportation Committee and
16 I would like to move its adoption.

17 COMMISSIONER ROSENFELD: Second.

18 ACTING CHAIRMAN PERNELL: It's been
19 moved and seconded on staff recommendation on item
20 number 9.

21 All those in favor?

22 (Ayes.)

23 ACTING CHAIRMAN PERNELL: Opposed? Ayes
24 have it. That'll be the order. Thank you very
25 much.

1 MR. THEROUX: Thank you.

2 ACTING CHAIRMAN PERNELL: Number 10.

3 Mindstorm. Possible approval of contract 150-03-
4 001 for \$68,707 to develop the Energy Road video
5 project. This digital video is intended to
6 educate middle school students to understand the
7 workings of California's diversified energy
8 systems, showing how electricity is generated by
9 the different energy resources. This is a Bright
10 School funded program. And I understand -- it's
11 not? Who says that?

12 Okay, well, before I ask the ten
13 questions I have, this has been before at least
14 two Committees. I think it's been thoroughly
15 fleshed out. Commissioner Rosenfeld.

16 COMMISSIONER ROSENFELD: Moves.

17 ACTING CHAIRMAN PERNELL: Commissioner
18 Rosenfeld moves.

19 COMMISSIONER GEESMAN: Second.

20 COMMISSIONER ROSENFELD: Done.

21 ACTING CHAIRMAN PERNELL: Second by
22 Commissioner Geesman.

23 All those in favor?

24 (Ayes.)

25 ACTING CHAIRMAN PERNELL: Opposed?

1 Thank you, Susanne.

2 MS. GARFIELD: Thank you.

3 COMMISSIONER GEESMAN: Nice
4 presentation.

5 (Laughter.)

6 ACTING CHAIRMAN PERNELL: Item number
7 11, California Council on Science and Technology.
8 Possible approval of contract 500-02-021,
9 amendment 1, for \$157,000 to provide honorarium
10 for additional panel members and to provide funds
11 for panel technical support. This is a PIER
12 funded program. Commissioner Rosenfeld.

13 COMMISSIONER ROSENFELD: I'm ready to
14 move it.

15 COMMISSIONER GEESMAN: Second.

16 ACTING CHAIRMAN PERNELL: Moved by
17 Commissioner Rosenfeld; seconded by Commissioner
18 Geesman.

19 All those in favor?

20 (Ayes.)

21 ACTING CHAIRMAN PERNELL: Opposed? Ayes
22 have it. Thank you, Nancy.

23 MS. LIBONATI: Thank you.

24 ACTING CHAIRMAN PERNELL: Item number
25 12. Department of Fish and Game. Possible

1 approval of contract 500-03-017 for \$774,414 to
2 develop bioassessment tools to evaluate and
3 monitor the effects of hydropower operation on
4 streams and rivers in California.

5 Commissioner Rosenfeld.

6 COMMISSIONER ROSENFELD: I'd just be
7 happy to have a few seconds, a minute of briefing.

8 ACTING CHAIRMAN PERNELL: Okay. Staff,
9 would you brief the Board, please.

10 COMMISSIONER ROSENFELD: I figure these
11 people work so hard they deserve a minute or so in
12 the sunshine.

13 ACTING CHAIRMAN PERNELL: You're
14 correct.

15 MR. O'HAGAN: It's not necessary really.

16 (Laughter.)

17 MR. O'HAGAN: Good morning,
18 Commissioners. My name is Joe O'Hagan; I'm in the
19 PIER environmental area program.

20 This is a proposed interagency agreement
21 with the California Department of Fish and Game
22 Bioassessment Lab.

23 The purpose of the proposal is, as you
24 read, to develop bioassessment tools to provide
25 evaluation and monitoring methods for the effects

1 of hydropower operation on California streams and
2 rivers.

3 Bioassessment refers to the measurement
4 of the ecosystem health of a water body by
5 evaluating species or animal communities. The
6 Clean Water Act requires that we evaluate not only
7 individual constituents like pH and mercury levels
8 and whatnot, but also the overall ecosystem health
9 of the water body.

10 This bioassessment approach is, compared
11 to measuring those constituents, is a direct
12 measurement of the overall health of the
13 ecosystem.

14 Why are we interested in this? We were
15 approached by both the State Water Resources
16 Control Board and the California Department of
17 Fish and Game in regard to hydropower relicensing
18 under the Federal Energy Regulatory Commission.

19 As you know, California is looking at
20 over 4000 megawatts of hydropowered generation
21 being relicensed in the next 12 years. That's
22 well over a third of the nonfederal hydropower
23 generation within the state.

24 As part of their mandate, both the State
25 Water Resources Control Board and the Department

1 of Fish and Game require a bioassessment by the
2 hydropower operations on the water bodies affected
3 by their projects.

4 The problem is that these assessments
5 are somewhat generic. You can say that the water
6 body is good, fair or in poor condition, but you
7 have no linkage to what actually is causing that.
8 The purpose of this project is to try to develop
9 metrics that would support that linkage so that we
10 would have something you could really see what the
11 effects of the hydropower facility are on these
12 water bodies.

13 You know, such a development would be an
14 inexpensive easy way to conduct it, assessment
15 tool. And also it would be a very inexpensive
16 monitoring tool for the hydropower operators to
17 see if they're complying with their license
18 requirements.

19 ACTING CHAIRMAN PERNELL: Okay.
20 Commissioner Rosenfeld.

21 COMMISSIONER ROSENFELD: Sounds good to
22 me. I'd move item 12.

23 COMMISSIONER GEESMAN: Second.

24 ACTING CHAIRMAN PERNELL: All right,
25 it's been moved and seconded. The Commission

1 accepts staff's recommendation for item number 12,
2 Department of Fish and Game.

3 All those in favor?

4 (Ayes.)

5 ACTING CHAIRMAN PERNELL: Opposed? Ayes
6 have it. Thank you very much, Joe.

7 MR. O'HAGAN: Thank you, Commissioners.

8 ACTING CHAIRMAN PERNELL: I didn't want
9 you to do that, but --

10 MR. O'HAGAN: That's okay.

11 ACTING CHAIRMAN PERNELL: All right.

12 We're now on item 13, the minutes, approval of the
13 minutes from November 5th, '03 business meeting.

14 COMMISSIONER ROSENFELD: I move
15 approval.

16 COMMISSIONER GEESMAN: Second.

17 ACTING CHAIRMAN PERNELL: It's been
18 moved that we approve the minutes of November 5th
19 business meeting.

20 All those in favor?

21 (Ayes.)

22 ACTING CHAIRMAN PERNELL: Opposed? Ayes
23 have it.

24 Anything on the Commission Committee and
25 Oversight? Seeing none.

1 Chief Counsel's report.

2 MR. CHAMBERLAIN: Yes, Mr. Chairman.

3 Mr. Herrera brings to my attention that when you
4 adopted the renewable resource development report
5 there were some modifications, some changes that
6 had been proposed that were not brought to your
7 attention. And he simply wanted to be sure that
8 at this meeting the record reflected that the
9 Commission did intend to incorporate those
10 changes.

11 COMMISSIONER GEESMAN: Is this the
12 errata document that was, in fact, distributed?

13 MR. CHAMBERLAIN: Yes.

14 MS. PETERSON: Yeah, they're on the back
15 table. These are the small -- there's a few
16 comments received. We made some very slight
17 edits, some changes to the report.

18 COMMISSIONER GEESMAN: Mr. Chairman, my
19 motion certainly incorporated the errata page.

20 ACTING CHAIRMAN PERNELL: Did the second
21 incorporate the errata?

22 COMMISSIONER ROSENFELD: You bet.

23 ACTING CHAIRMAN PERNELL: Does that take
24 care of it, Mr. Chamberlain?

25 MR. CHAMBERLAIN: Yes, I think so.

1 Thank you.

2 ACTING CHAIRMAN PERNELL: Thank you.

3 MR. CHAMBERLAIN: The second item I
4 wanted to mention is I reported to you awhile back
5 on the East Altamont Energy project, which there
6 was a challenge in the California Supreme Court,
7 which we had responded to.

8 As you may recall, that challenge
9 occurred right around the same time that they
10 sought reconsideration, that the same petitioners
11 sought reconsideration before the Commission.

12 They filed a second challenge in the
13 Supreme Court, which had almost the same
14 allegations, 30 days after the Commission denied
15 their petition for reconsideration. We have filed
16 a very brief response to that indicating that,
17 first of all, it's unnecessary; they're already
18 there and they're going to have their day in
19 court, and that they don't get a second bite at
20 the apple simply because there's a reconsideration
21 period.

22 The Supreme Court, at some point, may
23 need to clarify the effect of a permissive
24 reconsideration statute. This has been an issue
25 that's come up in two or three cases now.

1 The final thing I wanted to report on
2 was that following the issuance of Executive Order
3 S2-03, which relates to rulemakings that are
4 ongoing, I got a memo from Don Wallace, who is the
5 Acting Secretary of Resources right now, asking
6 for a listing of all pending regulations. So that
7 he can provide those to the Governor's Office.

8 That's to be provided today. And I have
9 prepared it, I've prepared a memo that responds to
10 his request. There are really only three
11 rulemakings that are currently active here at the
12 Commission. One is the departing load rulemaking,
13 which was completed and is over at OAL, but falls
14 within the Executive Order. Unfortunately, if
15 that is delayed by the Executive Order, there may
16 be an adverse effect on business, because
17 investors can't risk the capital in possible
18 distributed energy projects until they know if the
19 exemptions that those regulations were supposed to
20 facilitate will be available.

21 Sometimes there are unintended
22 consequences of these things. Because I think the
23 Executive Order is intended to try to assist
24 business with regulations that are unduly
25 burdensome.

1 The other thing that could be affected
2 is the clothes washer regulations which are
3 currently scheduled to be adopted in early
4 December. And in this case there is a concern
5 because the statute requires the Commission to
6 complete this rulemaking by January 1, 2004. So
7 the Executive Order sort of puts you in a position
8 of having to choose between obeying the Executive
9 Order or obeying the statute. And I'm trying to
10 call that to their attention through this memo.

11 The other matter is a very minor matter.
12 We're doing an update of our conflict of interest
13 regulations.

14 There are other rulemakings that either
15 have been completed and we will need to report on
16 pursuant to that Executive Order. Or that have
17 been planned that may be delayed as a result of
18 the Executive Order. But they're not called for
19 in this particular report.

20 I'm going to give you a copy of what I'm
21 proposing to provide in case you might have any
22 comments on it.

23 ACTING CHAIRMAN PERNELL: Okay.
24 Question.

25 COMMISSIONER GEESMAN: Didn't we

1 recently adopt building standards?

2 MR. CHAMBERLAIN: Yes. I do mention
3 those; however, I mention those for informational
4 purposes. However, I don't believe they're
5 covered by the Executive Order because they go
6 through a different process. They go to the
7 Building Standards Commission.

8 I've included it because Bob Therkelsen
9 felt that we should be complete in our reporting.
10 But I've also indicated that we don't believe that
11 it's subject to this particular Executive Order.

12 COMMISSIONER ROSENFELD: So, Bill, if I
13 understand, our adoption of the building standards
14 is not an order, it's really just feeding into the
15 building standards.

16 MR. CHAMBERLAIN: It's not covered by
17 the review that is done by OAL under the
18 Administrative Procedure Act. And that's what
19 this Executive Order is --

20 COMMISSIONER ROSENFELD: Oh, okay.

21 MR. CHAMBERLAIN: Yeah. Right.

22 COMMISSIONER ROSENFELD: Thanks.

23 ACTING CHAIRMAN PERNELL: All right, any
24 other questions for Bill?

25 So, Bill, just so I can be clear, and I

1 think I know this, but let me just rephrase it.
2 Any regulations that don't have to have OAL review
3 are not covered under the Executive Order?

4 MR. CHAMBERLAIN: Yes. It may be
5 covered under some later executive order, or they
6 may modify it when they realize that they
7 neglected that. But for right now it does not
8 appear to me that the Executive Order covers
9 building standards.

10 ACTING CHAIRMAN PERNELL: Okay. Any
11 other questions? Thank you, Mr. Chamberlain.

12 Public Adviser's report.

13 PUBLIC ADVISER KIM: Just a couple of
14 items. I wanted to welcome our new Associate
15 Public Adviser whose name is Mike Monasmith, who
16 is sitting behind me.

17 ACTING CHAIRMAN PERNELL: I'm sorry,
18 what's his name?

19 PUBLIC ADVISER KIM: Mike Monasmith.

20 COMMISSIONER ROSENFELD: A little closer
21 to the mike.

22 PUBLIC ADVISER KIM: Mike Monasmith.

23 COMMISSIONER ROSENFELD: That's better.

24 ACTING CHAIRMAN PERNELL: Okay.

25 PUBLIC ADVISER KIM: And also just to

1 highlight a couple of upcoming Committee
2 Conferences. One is on Inland Empire Energy
3 Center project; it's on December 1st in Perris,
4 California.

5 COMMISSIONER GEESMAN: That's
6 P-e-r-r-i-s.

7 PUBLIC ADVISER KIM: Right. December
8 2nd is Modesto Irrigation District's Committee
9 Conference in Modesto.

10 ACTING CHAIRMAN PERNELL: All right,
11 thank you. And welcome to the Commission and to
12 the Public Adviser's Office.

13 All right, public comment?

14 We have someone on the phone -- hello?

15 MR. AJLOUNY: Can you hear me?

16 ACTING CHAIRMAN PERNELL: Yes.

17 MR. AJLOUNY: Okay.

18 ACTING CHAIRMAN PERNELL: Would you
19 state your name for the record, please?

20 MR. AJLOUNY: Issa Ajlouny.

21 ACTING CHAIRMAN PERNELL: Issa, do you
22 represent any particular organization or group?

23 MR. AJLOUNY: No. No, I'm just calling
24 because of my concerns about the Metcalf Energy
25 Center and what's going on there.

1 I spoke to the Commissioners on the 22nd
2 of last month, and this is a follow-up call.

3 ACTING CHAIRMAN PERNELL: Okay.

4 MR. AJLOUNY: All right. So, should I
5 begin?

6 ACTING CHAIRMAN PERNELL: Yes.

7 MR. AJLOUNY: Okay. On the 22nd I
8 brought up three concerns. And one of them was on
9 how my request through the staff, when I email a
10 question or so I pretty much get ignored, and I
11 get a delay in the response, weeks before I get a
12 response.

13 The second was on cultural-6 and some
14 issues with cultural-6.

15 And the third was on the milestone dates
16 being changed. And I know that the one date has
17 already been changed for Metcalf Energy Center as
18 far as to begin commercial operations; it was
19 changed I think it was from May of 2004 to
20 December of 2004.

21 And the reason it was changed was
22 because of a contract with DWR which, to me,
23 doesn't follow what you have, or what the
24 Commission put on page 44, the four conditions
25 that will allow a milestone to change.

1 As I understand it, Calpine has told us
2 publicly in a meeting, neighborhood meeting, that
3 they anticipate to change again, delay the begin
4 commercial operation to sometime the summer of
5 2005.

6 And I know that the first change did not
7 come through the Commissioners. And so I guess
8 the main concern today is that I did not get any
9 response to my three questions. And I did mention
10 in that business meeting how do I get, you know,
11 information on this. And Commissioner Keese says
12 that, you know, I'm creative and I'm sure you'll
13 find a way, that it doesn't automatically come to
14 me.

15 Well, since then they did have a change
16 to the Metcalf Energy Center, and I normally get
17 that in the mail. I know a lot of my neighbors
18 that are involved with the Metcalf Energy Center
19 received it, and I did not receive that in the
20 mail. So, it's actually gotten worse where I
21 didn't get notified.

22 And I'm just a little concerned that I'm
23 being ignored. I sent a note on the 11th and
24 still have not heard back from the staff.

25 So, that's my --

1 ACTING CHAIRMAN PERNELL: All right, we
2 have some compliance staff here. We'll hear from
3 them. But, again, because I'm not familiar with
4 it I don't want to rule today. What I'd like to
5 do is have you in touch with them and so we can
6 resolve the perceived delay.

7 So, why don't we hear from our
8 compliance staff.

9 MR. AJLOUNY: Right now?

10 ACTING CHAIRMAN PERNELL: Yeah, they're
11 coming up.

12 MR. AJLOUNY: Okay.

13 ACTING CHAIRMAN PERNELL: Hold on a
14 second.

15 MR. AJLOUNY: Thank you.

16 MR. DeLEON: Good morning,
17 Commissioners. My name is Fernando DeLeon and I'm
18 Staff Counsel. I've been dealing with Issa on his
19 requests.

20 We did get an email on the 11th, which
21 was a holiday. The project manager has been out
22 of the office, and we expect his return this
23 Friday. I spoke with him, or he left a message on
24 my email this morning indicating that he would be
25 back Friday. And that he is in the process of

1 responding to this particular request.

2 We were only aware of the three items
3 via the email last week. So, we're working on it.
4 And unfortunately, the project manager has been
5 out of the office.

6 MR. AJLOUNY: Okay.

7 COMMISSIONER GEESMAN: Actually my
8 recollection was that the three items were raised
9 at our business meeting, I believe he said October
10 22nd. And I think the indication from Mr.
11 Therkelsen at the time was that the Executive
12 Office would conduct some follow up.

13 MR. DeLEON: On the 22nd there were a
14 number of items, and I don't recall reading the
15 transcripts whether those three items were
16 specifically mentioned. He raised half a dozen,
17 or maybe even more, items. And I'm not aware of
18 the three items that he specifically mentioned in
19 the email. Those were new to us last week.

20 COMMISSIONER GEESMAN: Okay, if you've
21 reviewed the transcript I'd certainly defer to
22 your knowledge.

23 MR. AJLOUNY: Okay. This is Issa,
24 again. In the transcript it refers to those three
25 concerns that I had. So I don't --

1 ACTING CHAIRMAN PERNELL: Okay, could
2 you -- excuse me, could you repeat those three,
3 and then we know we have them. And we have
4 someone from the Executive Office, you know,
5 taking notes. So we'll know that we have this and
6 we'll get a response to you.

7 So, would you please repeat the three
8 concerns that you have?

9 MR. AJLOUNY: The one concern is
10 basically the communications between myself and
11 the staff. Apparently it's grown to the point
12 where I email a question and it turns into a
13 Public Records Act request, which I never ask for
14 that. I just have a quick question and I get
15 ignored. So the first concern is that can we just
16 open up a dialogue when I have a question? And it
17 gets responded to, just like any of my neighbors.

18 My neighbors have sent emails in to the
19 project manager, compliance manager, and they get
20 a response the next day. I go weeks without
21 getting a response. That's my first concern
22 which, again, is in the transcript.

23 Cultural-6. Some violations in
24 cultural-6, and I don't want to get into the
25 details here. But I want to know how the staff is

1 going to deal with cultural-6 condition of
2 certification violation.

3 And then the third one is the milestones
4 being changed, you know. How the first one got
5 changed just because DWR negotiated a long-term
6 contract with Calpine. I don't understand what
7 that has to do with your four conditions on page
8 44. And I don't want to go through and read them,
9 but there's four ways the way the milestones can
10 change, if they meet any one of the requirements.
11 And they haven't met any one of them.

12 And now Calpine is talking about
13 delaying the power plant again. So the biggest
14 concern is can we be assured that the
15 Commissioners get involved with any more delays in
16 this power plant? You have to remember,
17 Commissioner, I know you do, that this power
18 plant -- the City of San Jose said no to this
19 power plant, and the Commissioners overrode the
20 City of San Jose based on an emergency. And since
21 that emergency, I mean, this thing's been approved
22 over two years ago, and Calpine's only 5 percent
23 done.

24 There's a big concern in the community
25 of what kind of emergency is this. And the fact

1 that you should be -- I would imagine that as
2 Commissioners you'd be concerned that the
3 Commissioners overrode the City of San Jose, which
4 is really only the second time it's been done, and
5 then it's been treated as nothing but an
6 emergency.

7 ACTING CHAIRMAN PERNELL: All right,
8 Issa. Let me just be clear. Your first concern
9 is the response that you're getting back from the
10 staff.

11 The second one is the cultural-6. And
12 the third one is the milestones and how they're
13 being handled.

14 MR. AJLOUNY: Yes, as far as being
15 changed without meeting the decision that you
16 Commissioners came out with, specifically on page
17 44, stating the four ways that the milestones can
18 be changed.

19 ACTING CHAIRMAN PERNELL: Right. And we
20 have Mr. Matthews, who's representing the
21 Executive Office, and we also have compliance
22 staff here. We have Commissioners up here. And
23 everybody has heard you.

24 I would just ask that you give us some
25 time to respond.

1 MR. AJLOUNY: And that's great,
2 Commissioner. What would you think, I mean just
3 so I have a good perception of how long would you
4 like me to wait?

5 ACTING CHAIRMAN PERNELL: Well, let me
6 address that to the Public Adviser, who normally
7 interacts with the public.

8 PUBLIC ADVISER KIM: Right, we'd be
9 happy to follow up on this with the Executive
10 Office.

11 ACTING CHAIRMAN PERNELL: Can you hear
12 her?

13 MR. AJLOUNY: Yes.

14 ACTING CHAIRMAN PERNELL: Okay.

15 PUBLIC ADVISER KIM: Yeah, this is
16 Margret Kim, the Public Adviser. We would be
17 happy to look into this and get back to you,
18 especially with respect to communication with
19 staff and the request for a document and Public
20 Records Act issues.

21 MR. AJLOUNY: Okay. Again, I don't
22 really necessarily need the Public Records Act
23 request when I email a quick question to the
24 compliance manager, but --

25 PUBLIC ADVISER KIM: Right, so we will

1 look into that.

2 MR. AJLOUNY: -- but I do want to make
3 it very clear, Commissioner Pernell, that I stated
4 all three of these on the 22nd. If any of the
5 other Commissioners were there at that time, maybe
6 they'd remember, maybe they won't. But the
7 transcripts, you know, say that I stated them. I
8 mean I read them, myself, so.

9 ACTING CHAIRMAN PERNELL: Right. We're
10 not trying to deny that. What we want to do here
11 today is to insure that we understand what the
12 questions are; to put certain people in the mix so
13 that you can get a response.

14 MR. AJLOUNY: Okay, great.

15 ACTING CHAIRMAN PERNELL: All right?

16 MR. AJLOUNY: Thank you for your time

17 ACTING CHAIRMAN PERNELL: Thank you. Is
18 there anyone else on public comment?

19 Okay. Is there anyone else on public
20 comment? Okay.

21 Is there anything else?

22 UNIDENTIFIED SPEAKER: (inaudible).

23 ACTING CHAIRMAN PERNELL: Yes, I thought
24 we did.

25 COMMISSIONER ROSENFELD: We didn't.

1 Poor Scott.

2 ACTING CHAIRMAN PERNELL: All right,
3 Executive Director's report, please. I apologize,
4 Mr. Matthews.

5 MR. MATTHEWS: That's all right, I could
6 just be quiet. The Executive Director is, as we
7 speak, briefing the Senate Energy Committee on the
8 demand/supply balance and other issues as part of
9 an informational hearing. And so hopefully that
10 is going well. There was a lot of preparation for
11 that.

12 In addition to what Mr, Chamberlain
13 reported, we also need to look at all the
14 regulations that we've adopted since January 6,
15 1999. And the Legal Office is in the process of
16 creating that list, and then we'll need to do a
17 report for each of them that apply under the
18 Executive Order.

19 So we have some time to do all that, 90
20 days, after the Executive Order. So we'll be
21 working on that, as well.

22 ACTING CHAIRMAN PERNELL: All right.
23 Any questions for Mr. Matthews? Thank you.

24 Anything else to come before the
25 Commission? Is there anything else to come before

1 the Commission?

2 Hearing none, seeing none, the meeting's
3 adjourned.

4 (Whereupon, the Business Meeting was
5 adjourned.)

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CERTIFICATE OF REPORTER

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

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

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

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