

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, APRIL 27, 2005

10:00 A.M.

Reported by:  
Michael Mac Iver  
Contract No. 150-04-001

COMMISSIONERS PRESENT

Jackalyne Pfannenstiel

John L. Geesman

James D. Boyd

Arthur H. Rosenfeld

STAFF PRESENT

William Chamberlain, Chief Counsel

Scott Matthews, Executive Director

Song Her, Acting-Secretariat

Bruce Maeda

Roger Johnson

Mike Messenger

Katherine Nicholls

Norman Bourassa

Gina Barkalow

Marla Mueller

Kevin Kennedy

Cecile Martin

PUBLIC ADVISOR

Margret J. Kim

ALSO PRESENT

Randy Howard, LADWP

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

2 CHAIRPERSON PFANNENSTIEL: The meeting will  
3 come to order.

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

6 CHAIRPERSON PFANNENSTIEL: Good morning.  
7 Before we begin the agenda, I have an award to  
8 present. The California Energy Commission, along  
9 with the California Public Utilities Commission,  
10 has been recognized by the US Environmental  
11 Protection Agency for the important contributions  
12 our agencies have made in protecting the  
13 environment through energy efficiency. The 2005  
14 Energy Star award commends the Energy Commission  
15 for our leadership efforts in developing and  
16 supporting a strong foundation for the emerging  
17 home performance improvement industry.

18 The Energy Commission's Energy Efficiency  
19 Division's important study on whole house  
20 performance, contracting opportunities and  
21 barriers, and the PIER program support of a whole  
22 house contracting protocol are key in advancing  
23 the home performance concepts. These efforts are  
24 helping to develop a reliable and credible network  
25 of qualified home improvement contractors who can

1 assist and deliver whole house retrofits.

2 So I'd like to present the award. I see Val  
3 Hall here.

4 The award itself reads that the US  
5 Environmental Protection Agency extends its  
6 appreciation to the California Energy Commission  
7 for its commendable industry leadership and  
8 continued dedication to reducing greenhouse gas  
9 emissions through superior energy efficiency.

10 MS. HALL: The Efficiency Division would love  
11 to be here, but most of the staff are out doing  
12 program work right now, along the lines of this as  
13 a matter of fact. So it's been really nice to  
14 have received this.

15 EXECUTIVE DIRECTOR SCOTT: Excuse me, Madam  
16 Chair. Also we should acknowledge the PIER  
17 program because they are part and parcel to this  
18 work as well.

19 CHAIRPERSON PFANNENSTIEL: Thanks, Scott.

20 Before we begin on the calendar, I have a  
21 couple items to mention. Item Number 3 has been  
22 moved to the May 11th business meeting. And Item  
23 Number 10 has been pulled from today's agenda.

24 So with that, do I hear a motion for the  
25 consent calendar.

1 COMMISSIONER ROSENFELD: Motion.

2 COMMISSIONER GEESMAN: Second.

3 CHAIRPERSON PFANNENSTIEL: Moved and  
4 seconded.

5 In favor?

6 (Ayes.)

7 CHAIRPERSON PFANNENSTIEL: Four-nothing.

8 Item 2. Possible approval of eQuest/D2Comply  
9 software as an Alternative Calculation Method to  
10 use in demonstrating compliance with the 2001  
11 Building Energy Efficiency Standards for  
12 Nonresidential Buildings.

13 MR. MAEDA: I'm Bruce Maeda from the  
14 California Energy Commission staff.

15 This is actually a reapplication of a program  
16 that was submitted approximately two years ago and  
17 was resubmitted in October of last year, and  
18 basically it's passed all the requirements of an  
19 ACM for the 2001 standards. It's significantly  
20 different in that it uses a different engine than  
21 the current nonresidential programs which used  
22 02.1E as the computational program. This program  
23 uses 02.2, and it is also available on the  
24 internet just for purpose basically for  
25 downloading. It's development I believe is

1 sponsored by Southern California Edison and it, as  
2 I said, meets all the criteria and it has  
3 significant improvements and enhancements from the  
4 02.1E program.

5 CHAIRPERSON PFANNENSTIEL: Thank you.

6 Any discussion from the Commissioners?

7 COMMISSIONER ROSENFELD: The Committee is  
8 well aware of this, it seems like a good idea to  
9 me, so I move it.

10 CHAIRPERSON PFANNENSTIEL: Motion Rosenfeld.

11 COMMISSIONER GEESMAN: Second.

12 CHAIRPERSON PFANNENSTIEL: Second Geesman.

13 In favor?

14 (Ayes.)

15 CHAIRPERSON PFANNENSTIEL: Four-nothing.

16 Item 4. Possible approval of a Memorandum of  
17 Agreement between the California Coastal  
18 Commission and the California Energy Commission to  
19 ensure timely and effective coordination during  
20 the Energy Commission's review of an Application  
21 for Certification of a proposed site and related  
22 facilities in the coastal zone under Energy  
23 Commission jurisdiction.

24 MR. JOHNSON: Good morning Chair

25 Pfannenstiel, Commissioners. My name is Roger

1 Johnson, Manager of the Siting and Compliance  
2 office.

3 At the last business meeting, the Commission  
4 directed the staff to bring back this proposed  
5 Memorandum of Agreement between the Energy  
6 Commission and the Coastal Commission after we  
7 considered the need to obtain stakeholder input.  
8 Although the Energy Commission staff typically  
9 develops MOAs with other agencies without formal  
10 stakeholder input, we did meet with the two  
11 stakeholders that commented at the last business  
12 meeting. They did not offer any suggestions that  
13 would change the proposed process or schedule  
14 contained in the MOA, but they suggested that the  
15 MOA could suggest that there is more agreement on  
16 certain legal questions than there actually is  
17 between the Energy Commission and the Coastal  
18 Commission. And they suggested that the MOA would  
19 benefit from some clarification of both the legal  
20 definition of feasibility and this Commission's  
21 intent that its findings of fact will govern the  
22 issue of feasibility.

23 The staff does not believe that these  
24 recommendations are necessary to accomplish the  
25 primary purpose of the proposed MOA which is to

1 provide clarity and the expectations for how the  
2 two agencies would procedurally work together to  
3 execute their respective functions.

4 The MOA is not intended to provide a  
5 definitive answer to legal questions on which the  
6 agencies may continue to differ, and indeed we  
7 could not resolve such issues through such an  
8 agreement, if we wanted to.

9 In addition, the Coastal Commission took up  
10 the proposed MOA at their last meeting on April  
11 14th and they approved it unanimously. The staff  
12 requests that the Commission approve the MOA as  
13 currently drafted.

14 COMMISSIONER GEESMAN: Madam Chair?

15 CHAIRPERSON PFANNENSTIEL: Commissioner  
16 Geesman.

17 COMMISSIONER GEESMAN: The Siting Committee  
18 did a fair amount of work on this originally in  
19 response to Chairman Keese's request in coming out  
20 of the Morrow Bay decision that we attempt to  
21 clarify the working relationship with the Coastal  
22 Commission. I think that's the spirit in which  
23 the staff has drafted the MOA and which the  
24 Coastal Commission has adopted the MOA. I want to  
25 emphasize that the purpose has been to articulate

1 the timing of the Coastal Commission's 30413-D  
2 report and the information necessary for the  
3 Coastal Commission to complete that report.

4 But I do think it's important to clarify  
5 several different things largely that the MOA does  
6 not address. And I wonder if you and my  
7 colleagues would indulge me a couple questions for  
8 our General Counsel.

9 CHAIRPERSON PFANNENSTIEL: That sounds like a  
10 good idea. Proceed.

11 COMMISSIONER GEESMAN: One, I want to  
12 emphasize, and, Bill, please tell me if you think  
13 this is accurate, that there's nothing in the MOA  
14 that would change the way we approach the  
15 determination of feasibility. Most specifically I  
16 want to make certain that we are continuing the  
17 approach that we took in the Morrow Bay decision,  
18 which is to include a concept of legal feasibility  
19 which is consistent with the definitions of  
20 feasibility contained in CEQA and the Coastal Act  
21 and in some of our recent siting decisions so that  
22 in order to be feasible, to be considered feasible  
23 by this Commission, a Coastal Commission  
24 recommendation must be proportional to the impact  
25 and consistent with the Energy Commission's

1 findings of fact in conclusion.

2 GENERAL COUNSEL CHAMBERLAIN: There's nothing  
3 in the MOA that would be inconsistent with that.

4 COMMISSIONER GEESMAN: I think I also want to  
5 clarify and seek your response that the MOA is not  
6 intended to create any rights or obligations  
7 beyond existing law and, therefore, could not  
8 constitute an independent basis for challenge to  
9 an Energy Commission decision.

10 GENERAL COUNSEL CHAMBERLAIN: I think that's  
11 correct.

12 COMMISSIONER GEESMAN: Thirdly, I'd like to  
13 clarify that the MOA does not obligate the Energy  
14 Commission to delay a siting case or to consider a  
15 Coastal Commission report, if the report is not  
16 filed in a timely manner.

17 GENERAL COUNSEL CHAMBERLAIN: That's correct.  
18 In fact, the MOA would not be necessary for the  
19 Commission to control the timing of that kind of a  
20 filing in any case.

21 COMMISSIONER GEESMAN: And, finally, I'd like  
22 to clarify that the MOA is not intended to alter  
23 the relationship between the Coastal Commission  
24 and local government agencies with regard to the  
25 enforcement of the Coastal Act and that,

1           therefore, the MOA only applies to Coastal  
2           Commission recommendations that would be within  
3           the Coastal Commission's authority to impose  
4           absent the preemption of the Warren-Alquist Act.

5           GENERAL COUNSEL CHAMBERLAIN: I would agree  
6           with that with the one caveat that the Warren-  
7           Alquist Act itself may grant the Coastal  
8           Commission powers that the Coastal Act itself  
9           would not grant. So it's possible that they may  
10          still have some authority even if a local agency  
11          is in charge of determining what's necessary under  
12          the Coastal Act for compliance.

13          COMMISSIONER GEESMAN: But that would flow  
14          from the Warren-Alquist Act?

15          GENERAL COUNSEL CHAMBERLAIN: That's right.

16          COMMISSIONER GEESMAN: I wonder if you could  
17          memorialize this colloquy in a written legal  
18          opinion that you file with us and which would be  
19          available for reliance by any parties or members  
20          of the public in the future.

21          GENERAL COUNSEL CHAMBERLAIN: Certainly.

22          COMMISSIONER GEESMAN: Madam Chair, with that  
23          clarification, I would like to move that we adopt  
24          the MOA with the Coastal Commission as drafted.

25          CHAIRPERSON PFANNENSTIEL: Thank you,

1 Commissioner Geesman.

2 COMMISSIONER BOYD: Second.

3 CHAIRPERSON PFANNENSTIEL: Is there further  
4 discussion from the Commission?

5 I would just before we vote like to note that  
6 I am glad that we're going to have a written  
7 clarification on some of these issues. I thought  
8 that the whole point of the MOA was clarification,  
9 not a change but a clarification of relationships,  
10 and I think it does that well. And so to the  
11 extent there remains any uncertainties around it,  
12 I think having it in writing is a very positive  
13 step.

14 COMMISSIONER BOYD: Madam Chair, I certainly  
15 want to agree with that. As a survivor of the  
16 Morrow Bay hearings, I definitely want to second  
17 and third those feelings and I am grateful for the  
18 colloquy that took place and the clarification as  
19 a result. And I second the motion to approve.

20 CHAIRPERSON PFANNENSTIEL: Thank you,  
21 Commissioner Boyd.

22 All in favor?

23 (Ayes.)

24 COMMISSIONER PFANNENSTIEL: Carried four  
25 nothing.

1           Item 5. Possible approval of contract 400-  
2           04-016 for \$58,600 to develop seven case studies  
3           of California customers who have successfully  
4           installed equipment to reduce or shift peak use in  
5           response to price signals.

6           Mr. Messenger.

7           MR. MESSENGER: Good morning. Mike  
8           Messenger, CEC staff.

9           What you have in front of you today is really  
10          a follow-up to earlier work that we have done  
11          asking customers about what would it take for them  
12          to be interested in installing systems that will  
13          automatically reduce peak in response to either  
14          price signals or emergency signals. And what  
15          customers said to us is better than having  
16          agencies develop policies or having programs or  
17          having auditors come to the site, they would like  
18          to see case studies of similar buildings where  
19          this equipment has been installed, and they would  
20          like it to be available on the internet. So this  
21          contract simply accomplishes that.

22          We went out for bid, asked for some firms  
23          that are good in terms of doing glossies and  
24          things that catch the customers eye and gives them  
25          the relevant facts in terms of costs and benefits

1 of these particular systems. And this contract  
2 will essentially do that, we will have the  
3 contractor go out, interview the customers and  
4 collect all the data and it will be published on  
5 the web and available with a limited amount of  
6 copies and hard copy.

7 So I ask for your approval of this contract.

8 COMMISSIONER ROSENFELD: I want to point out,  
9 as you know very well, that we got six or seven of  
10 these done. Years ago during the crisis they were  
11 invaluable and the idea of adding more seems like  
12 a very good idea to me. So I move the item.

13 CHAIRPERSON PFANNENSTIEL: Is there a second?

14 COMMISSIONER BOYD: Second.

15 CHAIRPERSON PFANNENSTIEL: Second

16 Commissioner Boyd.

17 Comments, Commissioner Geesman?

18 COMMISSIONER GEESMAN: How does this  
19 reconcile and adjusted to reflect the PUC's recent  
20 decision not to move forward with critical peak  
21 pricing?

22 MR. MESSENGER: I don't think there's any  
23 direct connection with that decision. What this  
24 is about is the installation of hardware to  
25 respond either to price signals or to emergency

1 signals on the customer's own volition. The fact  
2 that the PUC didn't have enough information to  
3 adopt the CPD tariffs or couldn't agree on how to  
4 do that and decided to do it for next summer, I  
5 don't think affects this contract. We still, I  
6 think, believe it's state policy to try and get  
7 people to manage their energy use on peak through  
8 the installations of these types of equipment.  
9 And case studies I think is an effective way to do  
10 that, particularly given the absence of a tariff.

11 COMMISSIONER GEESMAN: I don't disagree with  
12 what you said, but it strikes me that we've spent,  
13 well, it's probably four years now, a lot of  
14 money, and when I say we, I mean the state, in  
15 pursuing a particular price motivated approach to  
16 shifting consumption off peak. I continue to be  
17 of the belief that we don't have a lot to show for  
18 it, and that as we get closer to the big decision  
19 of whether to go forward or not, I'm just  
20 concerned that we have adequately thought through  
21 whether this is the optimal approach or not. I'm  
22 a little distressed that in the course of pursuing  
23 the approach that we've been on for several years  
24 we have been quite disdainful of mechanical  
25 cycling devices, an artifact in the 1970s, or a

1 command-and-control approach that isn't  
2 sufficiently high tech.

3 I think we should go forward with the  
4 contract and I intend to vote for it, but I also  
5 think that it's worthy given the decision the PUC  
6 made and some of the observations in that decision  
7 that we do a pretty exhaustive rethink as to  
8 whether we've been on the right trajectory or not.

9 MR. MESSENGER: Okay. I will take that back  
10 and discuss it with the Committee. And I agree  
11 that we should have fallback options, in the event  
12 that the PUC decides not to move ahead, we need to  
13 have other options of which direct cycling is one  
14 of them.

15 COMMISSIONER ROSENFELD: Just for the record,  
16 Commissioner Geesman, this is sort of a glass half  
17 full, glass empty problem. Yes, the PUC said that  
18 we wouldn't have default critical peak pricing for  
19 the summer of '05, but we expect to have the same  
20 thing for the summer of '06.

21 COMMISSIONER GEESMAN: Well, last year we  
22 expected to have it for the summer of '05 which  
23 identified a pending emergency in Southern  
24 California. Our '04 IEPR update reiterated the  
25 fact that the taxpayers have spent some \$30

1 million paying for meters for the large customers.  
2 So I would think that the question was pregnant,  
3 if you will, for the summer of '05.

4 COMMISSIONER BOYD: I want to join this  
5 debate just a little bit and agree with  
6 Commissioner Geesman. Seeing Dave in the  
7 audience, I know he's been used as the foil two or  
8 three times when we talk about our demand forecast  
9 and getting into debates about demand response and  
10 reliability or nonreliability and that number, and  
11 then we all pledge to efficiency, efficiency as  
12 the manta. And it just seems we just don't have  
13 the sense of urgency behind that to deliver on  
14 this. I remember Commissioner Geesman many times  
15 reminding us of how much money and how many meters  
16 we have out there whenever we put them to use. So  
17 if it takes a little more gasoline on this fire I  
18 just want to contribute that too that there needs  
19 to be a sense of concern or urgency that will move  
20 this along. And this is no criticism of our  
21 Commissioners trying to do this, it's just that  
22 somehow or another it does seem to lag a little  
23 farther behind that it should be. With that  
24 said --

25 CHAIRPERSON PFANNENSTIEL: Mike, before we

1 take a vote, let me ask a couple questions.

2 First, this is geared specifically to  
3 commercial customers; is that correct?

4 MR. MESSENGER: We've left open the option  
5 that if we can find residential customers that  
6 have done this, we will do that, but our intent is  
7 to make it primarily for commercial customers.

8 CHAIRPERSON PFANNENSTIEL: Well, there are  
9 only seven case studies, so I would assume that  
10 those seven would be useful on building types?

11 MR. MESSENGER: Yes.

12 CHAIRPERSON PFANNENSTIEL: Do all of these  
13 customers currently have, all of the customer  
14 types being studied here, are they currently on  
15 time-varying rates?

16 MR. MESSENGER: Yes. And they also -- most  
17 of them, if not all of them, have interval meters  
18 installed as well.

19 CHAIRPERSON PFANNENSTIEL: And so the point  
20 of the work is to show how customers who are on  
21 time-varying rates with interval meters can make  
22 the best use of them to shift load most  
23 effectively?

24 MR. MESSENGER: Right. And probably most  
25 importantly, for some commercial customers there's

1 a belief that having automatic shift strategies  
2 leads to some kind of inconvenience or discomfort  
3 to their customers or their tenants, and it's  
4 important to have a case study where we actually  
5 interview the people and say do you in any way  
6 feel inconvenienced or experience discomfort from  
7 the employees or customers when these systems are  
8 working. And so that kind of observation is best  
9 spread sort of by case studies and word of mouth  
10 as opposed to experts saying don't worry, trust  
11 us.

12 CHAIRPERSON PFANNENSTIEL: So the view is  
13 that this isn't essentially a new program, this is  
14 rather making the existing programs, the existing  
15 rates, the existing meter, the existing hardware  
16 that much more effective in getting the response,  
17 is that the point?

18 MR. MESSENGER: Correct. And distributing  
19 that information to customers who are considering  
20 this right now in terms of whether they want to do  
21 anything.

22 CHAIRPERSON PFANNENSTIEL: Thank you.

23 Is there further discussion or further  
24 questions?

25 Well then why don't we vote on the approval

1 of this contract. It's been moved and seconded.

2 All in favor?

3 (Ayes.)

4 CHAIRPERSON PFANNENSTIEL: Carried four-  
5 nothing.

6 Thank you.

7 MR. MESSENGER: Thank you.

8 EXECUTIVE DIRECTOR SCOTT: Madam Chair.

9 CHAIRPERSON PFANNENSTIEL: Yes.

10 MR. SCOTT: A technical interruption, if I  
11 may. We're getting feedback from this mike that's  
12 at the podium, so if the speakers could all sit  
13 down at one of the microphones at the table, that  
14 would eliminate the feedback that we're getting  
15 and it will fix the problem.

16 CHAIRPERSON PFANNENSTIEL: Thank you. I  
17 appreciate that.

18 Item 6. Possible approval of Contract 170-  
19 04-001 Amendment 1, of \$60,000 in one year to  
20 extend the hearing reporter services for Siting  
21 Committee Hearings, workshops, and other  
22 identified Siting Committee proceedings.

23 MS. NICHOLLS: Good morning, thank you. My  
24 name is Katherine Nicholls and I'm from the  
25 hearing office.

1           And the item you have before you this morning  
2           is merely an amendment to an existing contract  
3           awarded last fiscal year to Peters Shorthand  
4           Reporting Corporation. This is the first  
5           amendment of a contract that was awarded for one  
6           year but held a second and third option for an  
7           extension of the contract. The purpose of the  
8           contract is to retain hearing reporter services  
9           for Siting Committee hearings and workshops and  
10          other proceedings and to produce verbatim  
11          transcripts of Siting Case Committee hearings and  
12          proceedings. I'm requesting a one-year extension  
13          in the amount of \$60,000.

14           CHAIRPERSON PFANNENSTIEL: Thank you.

15           Discussion or a motion.

16           COMMISSIONER ROSENFELD: I move.

17           COMMISSIONER GEESMAN: Second.

18           CHAIRPERSON PFANNENSTIEL: Moved Rosenfeld,  
19          seconded Geesman.

20           In favor?

21           (Ayes.)

22           CHAIRPERSON PFANNENSTIEL: Four-nothing.

23           Thank you.

24           MS. NICHOLLS: Thank you.

25           CHAIRPERSON PFANNENSTIEL: Item 7. Possible

1 approval of Contract 500-01-035 Amendment 1, for  
2 \$100,000 and an 18-month contract extension to  
3 develop a cooling airflow design tool for under  
4 floor air distribution systems.

5 MR. BOURASSA: Good morning, Commissioners,  
6 Executive Director. My name is Norm Bourassa from  
7 the PIER Buildings Program.

8 I'm presenting in place of Martha Brook who  
9 is at a Southern California meeting today.

10 This \$100,000 amendment proposes to add a  
11 deliverable to an existing contract with UC  
12 Berkeley. During the last two years, the UC  
13 Berkeley Center for the Environment researchers  
14 have collected empirical data and developed models  
15 to estimate the energy performance of under floor  
16 air distribution, otherwise known as UF-80  
17 systems.

18 Semiannually the researchers conduct Industry  
19 Advisory Board meetings, and at these meetings the  
20 attending industry partners have voiced a need for  
21 under floor air system design tools. At the 2004  
22 fall meeting, the UC Berkeley researchers proposed  
23 to develop a cooling airflow design tool built  
24 upon the findings in the existing contract. The  
25 PIER Buildings Program proposes to co-fund the

1       airflow design tool development through this  
2       amendment. This airflow design tool will be match  
3       funded by the US General Services Administration.

4             The R&D Committee has approved this and I'm  
5       here to answer any questions you might have.

6             CHAIRPERSON PFANNENSTIEL: Any questions,  
7       discussion?

8             COMMISSIONER ROSENFELD: I move the item.

9             CHAIRPERSON PFANNENSTIEL: Motion Rosenfeld.

10            COMMISSIONER GEESMAN: Second.

11            CHAIRPERSON PFANNENSTIEL: Second Geesman.

12            In favor?

13            (Ayes.)

14            CHAIRPERSON PFANNENSTIEL: Carried four-  
15       nothing.

16            Thank you.

17            I understand we want 8 and 9 to be taken  
18       together. So let me read them both.

19            Item 8. Possible approval of Contract 500-  
20       04-021 for \$405,254 to create an energy module for  
21       the internet version of PLACES.

22            And Item 9. Possible approval of Contract  
23       500-04-026 for \$199,872 to provide technical  
24       assistance for energy modeling work in the PIER  
25       environmental subject area, including an energy

1 module for the internet version of PLACES planning  
2 tool.

3 MS. BARKALOW: Hi, my name is Gina Barkalow  
4 and I'm with the PIER environmental area.

5 And as you said, these two items are linked  
6 together. The first one is approval for a  
7 contract with Ecointeractive to develop an energy  
8 module for the PLACES planning tool. The PLACES  
9 planning tool is a land use and transportation  
10 software planning tool, and this project will  
11 expand the model to allow for energy analyses,  
12 including distributed generation options and  
13 larger planning processes. And we feel that this  
14 is a very important and useful aspect, it will be  
15 an important aspect of the model.

16 And the second contract is with the Gas  
17 Technology Institute for technical assistance to  
18 the PIER environmental area in the area of energy  
19 modeling, but particularly to help with the  
20 testing and validation of the energy module in the  
21 PLACES planning tool.

22 CHAIRPERSON PFANNENSTIEL: Questions?

23 Commissioner Geesman.

24 COMMISSIONER GEESMAN: I attended a dinner I  
25 think last week during which each of the

1 California Councils of Government made a  
2 presentation of their long-term land use planning  
3 projections, and several of them went out of their  
4 way to sing the praises of the PLACES program and  
5 how valuable it has proven in their work. And  
6 that's not an uncommon experience when I encounter  
7 either members of the planning profession or local  
8 government officials. You have a very strong  
9 cadre of enthusiasts out there.

10 And I would certainly like to move both Items  
11 8 and 9.

12 COMMISSIONER ROSENFELD: Second. And  
13 actually I'll make a remark. And I support two  
14 programs that seem to have strong backing, one is  
15 PLACES as you just said, the other is 0-2. We've  
16 worked on both of them. I think both of them have  
17 made major contributions to the study.

18 CHAIRPERSON PFANNENSTIEL: And so that's a  
19 second on Items 8 and 9?

20 COMMISSIONER ROSENFELD: Yes. I forgot to  
21 say the second, I'm sorry.

22 CHAIRPERSON PFANNENSTIEL: I also would like  
23 to comment that I think the PLACES work is, you  
24 know, it seems like it has an incredible potential  
25 and I'm hoping that this additional PIER support

1 will allow it to move towards fulfilling that  
2 potential. I think it's an under-utilized tool at  
3 the moment.

4 Any further discussion?

5 COMMISSIONER BOYD: Well, I'll make it  
6 unanimous in terms of support for PLACES. Even  
7 before I came on the Commission, I was extolling  
8 the virtues of PLACES and trying to get it  
9 recognized. So it has nothing but potential for  
10 that which afflicts us, land use planning  
11 decisions out there. And I hope that it just  
12 makes even greater contributions to that problem.  
13 So I would join in a third, if it were possible.

14 CHAIRPERSON PFANNENSTIEL: I think we need to  
15 vote separately.

16 Item 8 has been moved and seconded.

17 In favor?

18 (Ayes.)

19 CHAIRPERSON PFANNENSTIEL: Carried four-  
20 nothing.

21 Item 9 has been moved and seconded.

22 In favor?

23 (Ayes.)

24 CHAIRPERSON PFANNENSTIEL: Carried four-  
25 nothing.

1 Thank you.

2 MS. BARKALOW: Thank you very much.

3 CHAIRPERSON PFANNENSTIEL: So we move on to  
4 Item 11. Possible approval of research funds  
5 allocated in PIER Work Authorization MR-026  
6 Project 2 under Contract 500-02-004 for \$150,000  
7 to Altrostratus, Inc.

8 Good morning.

9 MS. MUELLER: Good morning. I'm Marla  
10 Mueller with the PIER Environmental Program.

11 First, I would like to clarify that this is a  
12 fresh research concept. The air quality research  
13 work authorization approved on March 17, 2004,  
14 would cover the \$150,000 for this project.

15 Construction of buildings and roads can cause  
16 temperatures to rise in urban areas. These areas,  
17 referred to as urban heat islands, may have  
18 temperatures two to ten degrees hotter than the  
19 surrounding countryside. Higher temperatures can  
20 result in increased use of air conditioning,  
21 requiring more electricity, which results in  
22 increases powerplant emissions, including ozone  
23 precursors and greenhouse gases. Higher  
24 temperatures also increase other ozone precursor  
25 emissions, enhance formation of smog, and

1 adversely impact air quality.

2 Heat island reduction measures include using  
3 light surfaces and vegetation to reflect more of  
4 the heat. The Commission funded phase one of the  
5 heat island study in 2002 to develop a model for  
6 assessing heat island impacts and to evaluate  
7 several mitigation strategies in Central and  
8 Southern California. This project was  
9 successfully completed in February of 2005.

10 Results from that modeling study suggest that  
11 implementing surface modification strategies in  
12 California would be beneficial in terms of energy  
13 use and ozone air quality. Modeling in phase one  
14 was reasonable for initial assessment of proposed  
15 strategies, but finer scale modeling in urban  
16 areas is needed for the results to be used in  
17 developing policies for regulations to promote  
18 surface modifications.

19 The purpose of phase two is to develop a  
20 finer resolution meteorological model and to apply  
21 it to one or more regions in California. The  
22 study is expected to demonstrate an improvement in  
23 the accuracy of evaluating potential air quality  
24 and energy use impacts of urban surface  
25 modification.

1           The primary objective of this project is to  
2           develop a heat island control modeling system that  
3           is reasonably sound and acceptable to California's  
4           regulatory agencies and ultimately lead to a more  
5           serious consideration of the state implementation  
6           plans in California.

7           Thank you.

8           CHAIRPERSON PFANNENSTIEL: Thank you.

9           Are there questions or discussion?

10          COMMISSIONER ROSENFELD: I will just make the  
11          remark that not only as Gina says, heat islands  
12          typically are five to ten degrees fahrenheit  
13          hotter than the surroundings, but in LA it's about  
14          seven degrees fahrenheit now, it's going up one  
15          degree every eight years, and it's been hard to  
16          get the attention of South Coast Air Quality  
17          Management District. Some models have been a  
18          little flakey, and we have done a great job in  
19          making the models more believable. So I'm very  
20          happy with this. I move it.

21          COMMISSIONER GEESMAN: Second.

22          CHAIRPERSON PFANNENSTIEL: Motion Rosenfeld,  
23          second Geesman.

24          In favor?

25          (Ayes.)

1 CHAIRPERSON PFANNENSTIEL: Thank you.

2 Item 12. Possible approval of research funds  
3 allocated in PIER Work Authorization MR-026  
4 Project 3 under Contract 500-02-004 for \$1 million  
5 to UC Riverside.

6 MS. MUELLER: This is also a request for  
7 approval of a research concept. The air quality  
8 research Work Authorization approved on March  
9 17th, 2004, would cover the \$1 million for this  
10 project.

11 California's need for powerplants and the  
12 resulting air emissions can conflict with  
13 California's need to improve air quality. In  
14 addition to strict ozone standards, much of the  
15 state is still trying to meet -- there is a new  
16 eight-hour ozone standard. This new standard is  
17 more restrictive and will request significantly  
18 more emission reductions to achieve compliance.

19 In the past, ozone has been modeled over a  
20 few days to try to identify how to reduce ambient  
21 ozone levels. However, with the new ozone  
22 standard, air management districts are considering  
23 developing emissions control strategies based on  
24 an evolving new type of modeling referred to as  
25 seasonal modeling. In seasonal modeling, a full

1 season of emissions in the basins would be  
2 modeled. Results from seasonal modeling may  
3 require changes to control strategies for  
4 powerplants.

5 The purpose of this project is to develop an  
6 ozone modeling system to improve the understanding  
7 of interactions of emissions, chemistry,  
8 meteorology, and sensitivity of pollution to local  
9 versus upwind sources in Central California.  
10 Sophisticated modeling analysis tools will be  
11 developed to assess interactions and  
12 uncertainties. Powerplants and other emission  
13 sources will be modeled in space and time which  
14 will help in the design strategies to bring that  
15 region into compliance with ozone standards while  
16 providing for the needed electricity generation  
17 and improved public health and safety and the  
18 environment.

19 Also, interbasin and short-term trading will  
20 be investigated to define the implications of  
21 interbasin and short-term pollution credit trading  
22 and to define approaches for such a trading  
23 system, if it is found to be beneficial. This  
24 project will be closely coordinated with the  
25 California Air Resources Board and with the

1 Central California Ozone Study.

2 Thank you.

3 CHAIRPERSON PFANNENSTIEL: Thank you.

4 Discussion?

5 COMMISSIONER ROSENFELD: I move this item.

6 COMMISSIONER GEESMAN: Second.

7 COMMISSIONER BOYD: I would like to just  
8 mention, if I might, I have a deep familiarity  
9 with the project in question, or really with the  
10 study, and Marla has provided me additional  
11 information. I just want to say that this will be  
12 a very positive contribution to what is over a  
13 decade-long study of air pollution in the central  
14 valley.

15 Recently while in Washington on other  
16 business, I was conscripted to give testimony in  
17 support of the study, which is a huge  
18 public/private partnership that has carried on for  
19 a very long time, and one of the reasons was  
20 because of the energy element, when it relates to  
21 activities in the San Joaquin Valley in  
22 particular. So I look forward to this making a  
23 very significant contribution to that study, but  
24 to our business in siting powerplants and trying  
25 to find offset emissions for the powerplants in

1 what is in perhaps the worst air quality basin the  
2 state. So this should be a very significant  
3 contribution to that air quality report.

4 CHAIRPERSON PFANNENSTIEL: The item has been  
5 moved and seconded.

6 All in favor?

7 (Ayes.)

8 CHAIRPERSON PFANNENSTIEL: It carries four-  
9 nothing.

10 Thank you.

11 Item 13. Consideration and possible decision  
12 to initiate enforcement activities, including  
13 issuing a subpoena, for certain load serving  
14 entities.

15 And, Mr. Matthews, do you have any discussion  
16 on this?

17 EXECUTIVE DIRECTOR MATTHEWS: Yes. You  
18 recall, Commissioners, that at the last business  
19 meeting, you adopted an order and a subpoena  
20 related to data collection efforts by the 2005  
21 Energy Report proceeding. The subpoena was issued  
22 against APS Energy Services, although we did have  
23 verbal indication that they were putting their  
24 filing in overnight mail for delivery that day.

25 The filing did in fact show up and we found

1 it to be one of the better filings that we  
2 received in this process.

3 Also at that meeting last time, Kevin Kennedy  
4 reported that we were working with LADWP on their  
5 March 1st filing trying to clarify exactly the  
6 level of information we got and trying to resolve  
7 some conflicts we had with LA to see that we in  
8 fact had a sufficient filing. And Kevin is going  
9 to report on the progress of that effort.

10 MR. KENNEDY: Good morning, Commissioners.  
11 I'm Kevin Kennedy, the Program Manager for the  
12 2005 Integrated Energy Policy Report proceeding.

13 As Scott mentioned, at the last business  
14 meeting, the Commission adopted an order to LADWP  
15 directing them to either confirm the information  
16 that staff had filled into Forms S-1 and S-2 or  
17 provide the corrected Forms S-1 and S-2. The  
18 information staff was using was the filings we had  
19 received which were not in the format we had  
20 requested, and we had been working with them to  
21 try to come up with a relatively complete set of  
22 information in the format that we needed.

23 Since the last business meeting, David Shukin  
24 and other members of the Electricity Office staff  
25 went down to LADWP on Friday and spent a good part

1 of the day working through many of the issues that  
2 we had with them on the forms the questions and  
3 concerns we had. And on Monday we did receive a  
4 filing from LADWP that included corrected  
5 information on Forms S-1 and S-2.

6 We were somewhat surprised though that those  
7 forms stopped in June of 2009. The report, as we  
8 had requested, was through 2016. For much of the  
9 information the staff has been working with we  
10 have been able to fill out information at least  
11 through 2014. Not included in the forms, we  
12 attached with the order, staff had made some  
13 preliminary attempts at extrapolating additional  
14 information to try to get all of the information  
15 filled out for the full period.

16 In the last day or so, we have had a number  
17 of exchanges with Randy Howard from LADWP in order  
18 to try to make sure we understand what we see,  
19 what they were intending with the filing that they  
20 provided on Monday.

21 And while we have some general indication of  
22 what they intended with the information they  
23 provided and how they expected us to deal with the  
24 latter portions of the forecast period, staff does  
25 still believe that it's very important for us to

1 get clear information from LADWP for the full  
2 forecast period.

3 There's a number of things that in the  
4 columns for the later time period that were  
5 deleted by LA. It can't simply be it was correct  
6 in the information that we provided. There were  
7 some inconsistencies that needed to be worked  
8 through, questions that we had had about  
9 particular data. In some places, the corrections  
10 they did provide for the earlier period were not  
11 consistent with the information we had for the  
12 latter period.

13 So in terms of the order itself, we had asked  
14 them either to provide corrected forms by Monday  
15 or at the business meeting today to acknowledge  
16 that the information we had provided is correct.

17 Randy Howard is here today to explain from  
18 LADWP's perspective what they intended and some of  
19 their -- you know, what they feel they are able to  
20 do at this stage. I think it may be useful for  
21 the Commissioners to hear from LADWP and get some  
22 sort of explanation of what they intended with the  
23 information they provided at this point.

24 CHAIRPERSON PFANNENSTIEL: Thank you, Mr.  
25 Kennedy.

1           Would Mr. Howard like to address us now?

2           MR. HOWARD: Good morning, Commissioners.

3 Randy Howard from Los Angeles Department of Water  
4 and Power.

5           I thank you for the opportunity to come  
6 before you. I did speak before the Commission  
7 over the phone at the last general meeting making  
8 a firm commitment on behalf of LADWP that we would  
9 fulfill these data requests and the issues and the  
10 clarifications that were requested of us.

11           We did have a very good meeting on Friday, I  
12 appreciate the three members who came down. We  
13 brought to the meeting our manager of grade  
14 operations, our manager of wholesale marketing,  
15 our manager of long-term power contracts, our  
16 manager of power systems planning, and our manager  
17 of power systems regulatory affairs. We brought  
18 all the right people to the room. Thirty-seven  
19 items were listed by staff here that needed some  
20 clarification, some of them quite simple, some a  
21 little more complicated. We went through each one  
22 of those items and we thought we had clearly  
23 provided a response to those items. We did clean  
24 up the forms providing clarification on those  
25 forms.

1           The issue as to going to 2009. We thought we  
2           had addressed that in the response, and that was a  
3           new item to me yesterday afternoon that that was  
4           an issue.

5           On behalf of LADWP, we had plenty of  
6           documents that we provided to the Commission.  
7           While it was not in the form of the data forms, it  
8           was responsive to the data requests, and most of  
9           the information to fill out each one of those  
10          boxes on the data forms was within that  
11          information, it just needed some clarification in  
12          some cases.

13          In the later years where LADWP has not  
14          formulated specific plans, we indicated within the  
15          letter that we were okay with the proxy that the  
16          staff had already completed and clearly put that  
17          in the letter that LADWP was okay with that proxy  
18          proceeding, because that certainly is one approach  
19          to it. We have not yet formulated those plans.

20          Kevin last night left me a message and we had  
21          some discussion this morning as to some other  
22          alternatives, and that would be that we're in the  
23          middle of developing a new ten-year integrated  
24          resource plan. On our Board agenda for May 3rd,  
25          is our formal renewable portfolio standard policy.

1 We have not provided that to staff as of yet  
2 because it has not been adopted. He has indicated  
3 that working with Imperial Irrigation District,  
4 that the Commission did grant confidentiality over  
5 some working plans with the expectation they would  
6 no longer be confidential once they were adopted.  
7 That is a new approach to us, we will take a close  
8 look at that, and we will probably be able to  
9 refine some of those later years, if we do adopt a  
10 policy internally that we can release.

11 So that's kind of the stage that we're at at  
12 this point. But we do believe we were responsive.  
13 We have provided our forecast, our demand  
14 forecast, out through 25 years. We have provided  
15 how we believe the energy numbers will increase.  
16 What seems to be lacking here and that we are  
17 dealing with is just what resources will be used  
18 to meet some of those needs. Again, until we  
19 adopt a formal RPS and some of those resources --  
20 we had indicated to staff we believe most of our  
21 growth will be met with renewables, but as to how  
22 we're going to do that, we're a little uncertain.

23 CHAIRPERSON PFANNENSTIEL: Thank you, Mr.  
24 Howard.

25 Are there questions from the Commission?

1 Commissioner Geesman.

2 COMMISSIONER GEESMAN: Mr. Howard, I find  
3 that profoundly unsatisfying. I listened to  
4 representatives from the Department throughout the  
5 2005 IEPR cycle, in fact throughout the 2004 IEPR  
6 update, and in the latter stages of the 2003 IEPR  
7 process, pledge your eager participation in  
8 statewide planning. And historically you have  
9 been an effective participant in our efforts.

10 But I think that the state of California is  
11 entitled to quite a bit more information and quite  
12 a bit more seriousness in the submittals that you  
13 provide us. As you well know, we have clashed in  
14 the past with the city over its renewables policy.  
15 We have clashed over the degree of  
16 interconnectedness with the rest of the Southern  
17 California grid. I recognize that it is the  
18 department's historical preference that you  
19 operate as if you're a separate planet, and I  
20 don't particularly begrudge you the ability or the  
21 right to do that, but to the extent that it is an  
22 interconnected electricity system, the state  
23 requires a level of participation and transparency  
24 and willingness to do so quite a bit beyond what  
25 we've seen over the course of the last year.

1           I recognize the Department's management has  
2           been subject to quite a bit of criticism over the  
3           last couple of years and I don't know of the  
4           extent to which these problems flow from willful  
5           defiance or simple managerial problems, but they  
6           need to be corrected and they need to be corrected  
7           right away.

8           I'll step outside the specifics of the March  
9           filing and focus on the transmission issue that I  
10          raised at our last meeting to illustrate that  
11          problem. It's my understanding from our staff  
12          that you're April filing contains no discussion of  
13          your plans to take over project sponsorship of the  
14          Palo Verde II project, and yet as I mentioned at  
15          our meeting two weeks ago, I have a letter from  
16          Enrique Martinez, the Chief Operating Officer of  
17          your power system, to Mr. Richard M. Rosenbloom,  
18          the Senior Vice President of Southern California  
19          Edison Company which is dated March 29th, before  
20          your April filing, in which the Department asserts  
21          its contractual rights to the project and says in  
22          accordance with this notice, LADWP requests that  
23          Edison not submit any further applications or  
24          filings for regulatory approvals, including the  
25          application for the Certificate of Public

1 Convenience and Necessity referenced in your March  
2 10th letter, until LADWP and Edison have worked  
3 out the details for the transfer of the  
4 construction, ownership, and operation of the  
5 project from Edison to LADWP. That's a rather  
6 central issue in terms of statewide planning for  
7 the electricity system. And on the face of it, it  
8 would appear that you filed inaccurate information  
9 with us in your April filing. Now, that's not the  
10 subject of today's discussion. The subject is the  
11 earlier filing which the staff indicates is  
12 deficient.

13 And I'm prepared, Madam Chair, to move that  
14 we go to the next step of enforcement and actually  
15 issue a subpoena in order to get the information  
16 that we very much need to perform our jobs as  
17 members of the Energy Commission.

18 CHAIRPERSON PFANNENSTIEL: Mr. Howard, do you  
19 have a response?

20 MR. HOWARD: Yes, I do.

21 I appreciate your concern, Commissioner  
22 Geesman. I think to lay out a little bit more, if  
23 you were able to look at the issues that were  
24 raised to us that needed some clarification, you  
25 will find that we provided probably 98 percent of

1 the data that was required or was requested and  
2 about two percent needed some clarification. And  
3 it wasn't that it was not provided, it needed  
4 clarification.

5 If you were to go through those items that  
6 were provided to us that needed clarification,  
7 some of the issues were related to several items  
8 asked for a breaking out among powerplants energy  
9 and capacity. Well, we look at it at the city  
10 gate, this is what comes in at the city gate, and  
11 we provided those numbers. The request was to  
12 break it out by units and break it out by other  
13 purchased power or agreements that might be there.  
14 Well, that's just not how we had provided it,  
15 that's not how we view it, because, again, it  
16 comes to city gate under a take or pay contract.

17 There were six items related to providing  
18 information on our hydroelectric generation  
19 related to one in two and one in five key rates.  
20 Well, as we explained to the staff, our  
21 hydroelectric, other than Hoover Dam, is not run  
22 in a river. It's related to our aqueduct system  
23 which serves water to the City of Los Angeles. We  
24 didn't provide it because we don't derate it  
25 because we only have a limited amount of water

1 supply that we can store within the city  
2 boundaries. We have to bring down the water on a  
3 scheduled manner and that's to serve the  
4 population. We don't derate it.

5 Those were clarifications. That's what was  
6 requested. It wasn't again that there were huge  
7 gaps. One of the items here was we provide data  
8 on combustion turbines. There was an assumption  
9 that we had separate combustion turbines versus  
10 the peaker units that were listed. So the peaker  
11 units were listed by staff, as well as combustion  
12 turbines. Well, they're one in the same. It was  
13 a nomenclature issue. We provided clarification  
14 of that.

15 We have a bio-gas facility listed as a fuel  
16 source in one of the documents we provided. They  
17 listed that as a separate resource. It's not. It  
18 is the bio-gas that comes from the terminal  
19 treatment facility into the statically generating  
20 station as the fuel source that comes in with  
21 natural gas jointly. So we didn't have additional  
22 energy capacity. Those are the types of  
23 clarifications that needed to be made. It wasn't  
24 again that we had gaping holes in the data. So we  
25 provided that back, we listed the items and the

1 issues, and we listed our response. We went  
2 through each one of these items with the staff  
3 when they came down. There was no hiding, there  
4 was no conspiracy to not provide data. It was  
5 clearly everything that was asked we felt we  
6 provided.

7 As for this new issue and the later years  
8 where we did not have developed data, we said we  
9 are comfortable with staff going forward and using  
10 the proxy. Now, because we didn't actually go  
11 through those later years and just asked the staff  
12 to go forward with their proxies, there are some  
13 clarifications we're going to need to make, it  
14 sounds like. That's a new item that was not asked  
15 of us before, at least we did not believe so. At  
16 this point, we are committed to doing that. We  
17 have indicated that to Kevin Kennedy and to staff,  
18 we will work through those issues.

19 I don't think there's any reason at this  
20 point to issue a subpoena. It's not that we are  
21 withholding information.

22 As to the Palo Verde Devers Line 2, there's a  
23 lot of work that went into the preparation and the  
24 providing of documents. We provided a ten-year  
25 transmission planning document. The document was

1       dated October 2004. At that phase in our planning  
2       process, we did not contemplate the ownership or  
3       construction of Palo Verde Devers Line II. We  
4       have been involved in that process with Southern  
5       California Edison and other parties for many, many  
6       years. A lot of discussions have occurred, a lot  
7       of joint participation.

8               We indicated in 2003 that we thought maybe we  
9       would be interested in building it, but again, a  
10      lot of activity going back and forth. But we have  
11      stayed engaged in that process.

12             Late in March after we felt uncomfortable  
13      being able to proceed with Palo Verde Devers Line  
14      2, and that is the joint construction, and having  
15      firm transmission rates, we would make a financial  
16      commitment. But not necessarily having firm rates  
17      and being exposed to the Cal-ISO tariffs, the  
18      decision was made that we had contractual ability  
19      that we could build and construct that facility  
20      ourselves. We've had meetings with Southern  
21      California Edison. This past week we had a  
22      meeting with the Cal-ISO CEO and his senior staff  
23      to discuss that. We are interested in proceeding,  
24      we think we have the ability to do it. Were we  
25      withholding that we were going to do it, no. It

1 was not our intention to construct that line when  
2 we developed our 2004 ten-year transmission plan.

3 COMMISSIONER GEESMAN: But when you have a  
4 filing that needs to be made on April 1st, and  
5 you've written a rather definitive letter on March  
6 29th, where do you get off submitting something  
7 that you developed last October?

8 MR. HOWARD: I think that the letter of March  
9 29th indicated our request to Edison to stop  
10 moving forward, that we were going to consider  
11 doing this. We still have not brought that before  
12 our formal governing body and received approval to  
13 construct the facility.

14 COMMISSIONER GEESMAN: Well, I guess I have a  
15 problem with your general approach in the sense  
16 that the Internal Revenue Service and Franchise  
17 Tax Board don't give me the same level of leeway  
18 in determining what I file in my tax forms when I  
19 have to file them according to a deadline. And I  
20 think you have instead taken a substantially more  
21 casual view of what our requirements are. And I  
22 don't know how to more effectively convey to your  
23 management that this is serious stuff, the state  
24 is very dependent on the accuracy and timeliness  
25 of the information that it receives from the

1 utilities in the state. You occupy a central role  
2 in our electricity system. This Commission  
3 historically has been very deferential to the  
4 importance and unique standing that the municipal  
5 utilities have within our system, but you stretch  
6 that to the bounds of patience by your defiance on  
7 these questions.

8 When do you think you could respond to Mr.  
9 Kennedy's express need for clarification on the  
10 out years and the other gaps that appear to  
11 continue to be in your files?

12 MR. HOWARD: I believe we could respond  
13 probably within two days after we've had this  
14 discussion and it's clearly defined that these are  
15 the issues, as the issues are raised by staff as  
16 they go through the data.

17 And I'd like to go back to I think early on  
18 in this process we indicated that we were willing  
19 to participate, actually excited to participate,  
20 but we were going to take a different approach,  
21 that we were going to actually provide you with  
22 planning documents in which you see the initial  
23 data that goes in, you see how we take that data,  
24 how we formulate it, and then the outcome of those  
25 plans. And that was to give a different approach

1 as to just having data forms in which -- you know,  
2 I don't know exactly how they are going to be  
3 utilized in order to accomplish looking at long-  
4 term plans and activity. These are plans.

5 LADWP develops these plans for the purpose of  
6 serving our customers in the service obligation  
7 that we feel we have. We didn't develop those  
8 plans and those documents on behalf of how they  
9 can assist the balance of the state. So it was  
10 from a little different approach. But we thought  
11 it would be beneficial for the staff, recognizing  
12 most of the staff involved in this process it's  
13 new to them. It's new to my staff as well. We  
14 have not done this process to this level in many,  
15 many years. They are new staff members involved  
16 as well as here. We thought there was some  
17 benefit in doing this.

18 The staff that came down to meet with us, and  
19 we brought in all the right key people, we went  
20 through how we plan, in very detail how we were  
21 planning, how we're working on a new integrated  
22 resource plan, how we're developing that and what  
23 are the issues, what we need for greater  
24 reliability, how we look at the WEC standards, how  
25 we are currently scheduling our energy. We went

1 through all of that in order to, one, educate the  
2 staff on our system, which is a different system  
3 than most others, and again to ensure that we  
4 understood from the staff what it was they were  
5 looking for in the forms.

6 Again, there is no desire on our part to  
7 withhold anything from the Commission or the staff  
8 here and we're going to run through any of these  
9 issues, and that is our commitment.

10 COMMISSIONER GEESMAN: Madam Chair, call me a  
11 sucker, if you will, but I think in another  
12 triumph of hope over experience, I'm prepared to  
13 give Mr. Howard another week.

14 CHAIRPERSON PFANNENSTIEL: Mr. Howard, let me  
15 clarify something in that you said before we move  
16 on with this item. When Commissioner Geesman  
17 asked you how long it would take for you to  
18 respond to the outstanding data requests, the  
19 gaps, if you will, in the information, you said  
20 probably two days after something. I didn't catch  
21 quite what the something was?

22 MR. HOWARD: I just want to be sure that  
23 we're responding correctly to what the staff is  
24 asking us. So as the staff did previously, they  
25 outlined the 37 clarifications that they needed

1 from us so we were easily able to go through and  
2 provide a response to each one and then fix them  
3 within the data sets. And that's all we would be  
4 asking here is to ensure that we respond  
5 correctly, that those items are identified to us.  
6 And I think I have a good understanding, but again  
7 I want to make sure that it's correct.

8 CHAIRPERSON PFANNENSTIEL: Mr. Kennedy, how  
9 do you respond to that? Do you think you're close  
10 enough in terms of the understanding of what's  
11 needed?

12 MR. KENNEDY: I think that we probably are  
13 close enough in terms of understanding what we  
14 still need. And I would like to clarify as well  
15 that in some ways we are dealing with two slightly  
16 different sets of information. Much of the  
17 meeting on Friday, as I understand it, was very  
18 much focused on the portions of the forms and  
19 instructions we were able to fill out and were  
20 most directly related to the order that was  
21 adopted two weeks ago.

22 At this stage we are also interested in  
23 finding a way, and I think with some of the  
24 extrapolations that staff had initially done, and  
25 as I understand it from Mr. Howard in discussing

1 earlier, that type of approach will probably allow  
2 us to get to filling in the fairly large gaps that  
3 we weren't initially able to include in the tables  
4 that went with the order of two weeks ago. So  
5 we're interested in both of those sets of  
6 information, filling everything out through the  
7 entire reporting period.

8 COMMISSIONER BOYD: Madam Chair.

9 CHAIRPERSON PFANNENSTIEL: Yes. Commissioner  
10 Boyd.

11 COMMISSIONER BOYD: I'll join Commissioner  
12 Geesman in extending the opportunity approval one  
13 time. I'm reminding of two weeks ago when I think  
14 we spoke to a representative of another utility  
15 who said more or less the checks in the mail and a  
16 lot of other things that could have been left  
17 unsaid. And by George, as you heard earlier, from  
18 our Executive Director, the check was in the mail  
19 and we received the data. And I'm willing to  
20 accept the idea that this can be worked out and  
21 that within a week's time we have what we need.  
22 My patience is very thin as, you know, survivors  
23 from crawling out from under the collapse of the  
24 electricity crisis and wanting for the people of  
25 California never to have to go through that again,

1 and a recognition on the part of the legislature  
2 and everybody else that data is needed regardless  
3 of the source.

4 It should be understood we really do need  
5 this. I trust it is understood and therefore once  
6 -- at least I'm not hearing, well, gee, if we  
7 really thought you wanted it, you would have told  
8 us. So I'm willing to ride for a week or so and  
9 see what occurs here.

10 CHAIRPERSON PFANNENSTIEL: Well, let me  
11 emphasize that the Energy Commission does have an  
12 enormous state responsibility to use this data to  
13 put it in a statewide context. We need to assure  
14 that there are sufficient supplies, and that's a  
15 major part of our role and I think that's an  
16 increasing responsibility on us. In order to do  
17 that, we need all of the information. We need it  
18 to be accurate, we need it to be comprehensive and  
19 we need it to be timely. And this keeps moving  
20 down the road in terms of the time limits, and  
21 it's of enormous concern to me.

22 But I guess if were at a point of a couple  
23 days, we can look to that. I think procedurally  
24 I'm going to ask Ms. Holmes how we might think  
25 about -- we'll be back together again in two

1 weeks, but if we're going to move this on a one-  
2 week basis, we'll get the information in one week,  
3 do we look at a subpoena at this point dated a  
4 week from now or do we take some additional action  
5 at some later point.

6 MS. HOLMES: In terms of the subpoena, you  
7 could adopt a subpoena today and you could push  
8 the date out at which the data would be due. The  
9 subpoena that you adopted last week for APS had a  
10 due date of 15 days after the subpoena was issued.  
11 You could adopt a subpoena and do 15 days plus  
12 seven. The subpoena would be in effect from  
13 today, or from the time it was served, but the  
14 date that the data would be due would be later.

15 Another option would be to ask the Executive  
16 Director to initiate a complaint proceeding within  
17 a week if the data is not in a week, that's  
18 another enforcement option that's available for  
19 the Commission. Or you can simply wait until the  
20 next business meeting and address the issue at  
21 that time. If you do that, however, there is this  
22 15-day minimum time period before you could seek  
23 any kind of judicial enforcement of the subpoena.

24 CHAIRPERSON PFANNENSTIEL: Thank you.

25 Commissioners, your procedural preference?

1 Commissioner Geesman.

2 COMMISSIONER GEESMAN: Could we issue a  
3 subpoena and not serve it for another week?

4 MS. HOLMES: Yes, you can.

5 COMMISSIONER GEESMAN: With the normal 15-day  
6 response time to begin when served?

7 MS. HOLMES: You can certainly use your  
8 subpoena and ask that it be docketed and served  
9 seven days hence from now, one week from now, and  
10 have the due date be 15 days after that, yes.

11 COMMISSIONER GEESMAN: I think that's  
12 probably the most logical thing to do.

13 CHAIRPERSON PFANNENSTIEL: It makes sense to  
14 me.

15 Do we have a motion to that effect?

16 COMMISSIONER GEESMAN: I would so move.

17 COMMISSIONER BOYD: I'll second it.

18 CHAIRPERSON PFANNENSTIEL: Moved and  
19 seconded.

20 In favor?

21 (Ayes.)

22 CHAIRPERSON PFANNENSTIEL: And it's carried  
23 four-nothing.

24 Thank you, Mr. Howard.

25 EXECUTIVE DIRECTOR SCOTT: Madam Chair, I

1 want to express the staff's appreciation for your  
2 efforts to try to get us this data. And this  
3 energy report is breaking new ground, it is  
4 exceedingly challenging. The more that staff is  
5 spending time trying to gather data and resolve  
6 these issues, the less time we have trying to do  
7 the actual work and produce the results as needed.  
8 So I just wanted to thank you on behalf of the  
9 staff.

10 CHAIRPERSON PFANNENSTIEL: Thank you, Mr.  
11 Matthews.

12 And thank you, Mr. Kennedy, as well.

13 Moving on to approval of the minutes from the  
14 April 13, 2005, business meeting. Do I hear a  
15 motion?

16 COMMISSIONER ROSENFELD: I move the minutes.

17 COMMISSIONER BOYD: Second.

18 CHAIRPERSON PFANNENSTIEL: Moved and  
19 seconded.

20 In favor?

21 (Ayes.)

22 CHAIRPERSON PFANNENSTIEL: Commission  
23 Committee and Oversight.

24 Any report from the Commission?

25 Hearing none, Chief Counsel Report.

1 Mr. Chamberlain.

2 CHIEF COUNSEL CHAMBERLAIN: Just one item,  
3 Madam Chair, I believe I need a very brief closed  
4 session on the wetlands case. This has to do with  
5 the Moss Landing powerplant. There are briefs due  
6 in a couple of weeks and I need to update you on  
7 that.

8 CHAIRPERSON PFANNENSTIEL: Thank you. We'll  
9 go into executive session at the conclusion of  
10 this meeting.

11 Executive Director report. Mr. Matthews.

12 EXECUTIVE DIRECTOR MATTHEWS: Yes, a couple  
13 of things. The sensor placement and orientation  
14 tool or SPOT developed by Architectural Energy  
15 Corporation through our PIER program won two  
16 awards at the annual International Light Fair in  
17 New York City. The software product won best new  
18 product in the category research, allocations,  
19 design analysis software, and it also won the  
20 show's overall energy award for recognizing  
21 excellence in lighting, energy management, and  
22 savings. So the awards just keep on coming.

23 We had our final budget hearing on the 18th.  
24 The outcomes of the budget hearing in the  
25 committees has been that our BCPs have been

1 approved. And the only open items on the Assembly  
2 side, but it echoes what the Senate intends to do,  
3 which will be to adopt trailor bill language  
4 directing us to do a report outlining the future  
5 staffing needs for the PIER program.

6 And my final item, I mentioned this last  
7 time, is on the remote access effort where in  
8 individuals will be able to at their screen from  
9 home or wherever you happen to be, be able to get  
10 into the Groupwise system so it has the look and  
11 feel of exactly being at your desk. We completed  
12 the pilot and the participants in the pilot have  
13 been exceedingly enthusiastic about it. We're now  
14 broadening that offer. Your advisors have been  
15 contacted to get you signed up to the extent that  
16 you want to do that. So that in combination with  
17 another pilot, which is to look at Blackberrys  
18 which should be available, and I'm volunteered for  
19 that. Thanks to technology, you now will be able  
20 to be at work no matter where you are.

21 (Laughter.)

22 COMMISSIONER GEESMAN: Unless somebody adopts  
23 control language in our budget preventing us from  
24 having Blackberrys.

25 CHAIRPERSON PFANNENSTIEL: Thank you, Mr.

1 Scott.

2 Leg report. Ms. Martin.

3 MS. MARTIN: I just wanted to give you a  
4 brief status of some of the initiatives that we  
5 have. You will remember that we had Assembly Bill  
6 1165 with Assembly Member Boge as our sponsor  
7 creating some certainty for our siting process as  
8 to which document a local government is to use for  
9 their environmental document. And that's passed  
10 through both the Assembly Utilities and Commerce  
11 Committee, as well as the Natural Resources  
12 Committee, and it's on it's way to the Senate.

13 Also AB-1732, sponsored by Assembly Member  
14 Lamalta, is going to give our new natural gas  
15 research and development program the same  
16 contracting allowances that we already have with  
17 the PIER Program. And that bill has passed  
18 through Natural Resources and also Utilities and  
19 Commerce and should be right on its way to the  
20 Senate.

21 Senate Bill 1059, Senator Gutierrez is  
22 sponsoring the transmission corridor bill. That  
23 bill has passed out of the Senate Energy Committee  
24 and it's also passed out of the Senate Local  
25 Government Committee and will be going to

1 appropriations.

2 And also, yesterday Senate Bill-1, the  
3 Governor's Solar initiative, passed out of the  
4 Utilities and Commerce, after vigorous discussion  
5 on a 10-to-0 vote. And that is going next to the  
6 Revenue and Taxation Committee because it now  
7 includes extension of the tax benefits that were  
8 most recently in a separate Senator Campbell bill.

9 CHAIRPERSON PFANNENSTIEL: Thank you.

10 Questions, discussion?

11 Thanks.

12 Public Advisor's report.

13 Ms. Kim.

14 PUBLIC ADVISOR KIM: Yes. I just wanted to  
15 remind everyone listening that the committee will  
16 be holding a workshop this week, Thursday and  
17 Friday, to discuss California's market potential  
18 for CHP and DG.

19 CHAIRPERSON PFANNENSTIEL: Thank you.

20 Public comment. I have no blue cards. Is  
21 there anyone on the phone? Okay. Any other  
22 business to bring before the Commission?

23 Hearing none, the meeting is held open for an  
24 executive session, but otherwise adjourned.

25 (Thereupon the meeting ended at 11:36 a.m.)

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CERTIFICATE OF SHORTHAND REPORTER

I, MICHAEL J. MAC IVER, a Shorthand Reporter, do hereby certify that I am a disinterested person herein; that I reported the foregoing California Energy Commission proceedings in shorthand writing; that I thereafter caused my shorthand writing to be transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said California Energy Commission proceedings, or in any way interested in the outcome of said California Energy Commission proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of May 2005.

Michael J. Mac Iver  
Shorthand Reporter