

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, OCTOBER 19, 2005

10:03 A.M.

Reported by:
Peter Petty
Contract No. 150-04-001

COMMISSIONERS PRESENT

Joseph Desmond, Chairperson

Arthur Rosenfeld

John L. Geesman

STAFF PRESENT

B.B. Blevins, Executive Director

William Chamberlain, Chief Counsel

Song Her, Acting Secretariat

Bruce Maeda

Jason Orta

Jim Holland

Peter Ward

Sue Kately

Barbara Byron

Tony Goncalves

Gabriel Herrera

Norm Bourassa

Chris Scruton

Rajesh Kapoor

Mark Rawson

Kae Lewis

Mike Magaletti

Arlene Ichien

PUBLIC ADVISER

Nick Bartsch

ALSO PRESENT

Loren Kaye
for General Electric Lighting

Gina Gray
Western States Petroleum Association
(via teleconference)

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I N D E X

| | Page |
|--|-------|
| Proceedings | 1 |
| Items | 1 |
| 1 Consent Calendar | 1 |
| 2 California Home Energy Efficiency Rating System | 1 |
| 3 Reconciliation of Retailer Claims, 2004 Report | 3 |
| 4 Appliance Efficiency Regulations | 5 |
| 5 2005 Department of Energy (DOE) Clean Cities State Energy Project (SEP) Grant Solicitation | 10 |
| 6 Petroleum Industry Information Reporting Act | 12 |
| 7 California Highway Patrol | 24/25 |
| 8 Western Governors Association | 25 |
| 9 Governor's Office of Emergency Services | 25 |
| 10 Wintec Energy, Ltd. | 27 |
| 11 Mountain View Power Partners III, LLC | 27 |
| 12 Platts Research and Consulting | 30 |
| 13 Southern California Edison | 32 |
| 14 National Renewable Energy Laboratory | 34 |
| 15 Department of Energy, Lawrence Berkeley National Laboratory | 36 |
| 16 University of California Davis, Office of the Chancellor for Research-Sponsored Program | 39 |
| 17 The Regents of University of California, Office of the President/CIEE | 41 |

I N D E X

| | Page |
|---------------------------------------|------|
| Items - continued | |
| 18 Order Instituting Rulemaking | 42 |
| 19 Minutes | 45 |
| 20 Commission Committee and Oversight | 45 |
| 21 Chief Counsel's Report | 46 |
| 22 Executive Director's Report | 48 |
| 23 Legislative Director's Report | 48 |
| 24 Public Adviser's Report | 49 |
| 25 Public Comment | 49 |
| Adjournment | 49 |
| Executive Session | 49 |
| Certificate of Reporter | 50 |

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

2 10:03 a.m.

3 CHAIRPERSON DESMOND: Please join me in
4 reciting the Pledge of Allegiance. We'll call
5 this meeting to order.

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

8 CHAIRMAN DESMOND: Good morning,
9 everyone, and thank you for joining us.

10 The first item is the consent calendar,
11 item number 1.

12 COMMISSIONER GEESMAN: I'll move the
13 consent calendar.

14 COMMISSIONER ROSENFELD: I second.

15 CHAIRMAN DESMOND: I'll call for the
16 vote.

17 All those in favor?

18 (Ayes.)

19 CHAIRMAN DESMOND: Opposed? So moved.

20 Item number 2, the California Home
21 Energy Efficiency Rating System. Possible
22 approval of an interim recertification of the
23 California Home Energy Rating System to change
24 their provider program to be consistent with the
25 2005 building efficiency system. Bruce Maeda.

1 MR. MAEDA: Bruce Maeda, Building and
2 Appliance Office.

3 There's a HERS regulations which --
4 stands for home energy rating systems, requires
5 certification and recertification of HERS
6 providers. They provide services, train raters
7 for field verification and diagnostic testing
8 purposes in conjunction with the building energy
9 efficiency standards.

10 Because of the relatively significant
11 changes in the 2005 building standards, we require
12 recertification of existing raters and CHEERS is
13 the first rater to come in for recertification.
14 And we've approved it subject to final
15 certification of their database. So we're asking
16 for interim recertification at this time.

17 CHAIRMAN DESMOND: Questions or
18 comments?

19 COMMISSIONER ROSENFELD: I move the
20 item.

21 COMMISSIONER GEESMAN: Second.

22 CHAIRMAN DESMOND: All those in favor?

23 (Ayes.)

24 CHAIRMAN DESMOND: Opposed? So moved.

25 Thank you, Mr. Maeda.

1 Item number 3 is reconciliation of
2 retailer claims, 2004 report. And possible
3 approval of the SB-1305 report, Reconciliation of
4 Retailer Claims. Mr. Orta.

5 MR. ORTA: Hello; I am Jason Orta from
6 the Renewable Energy Office. I am presenting the
7 reconciliation of retailer claims report for 2004.
8 This report is required by law by SB-1305 of 1997.

9 This report reconciles specific
10 purchases claims made by retail electric providers
11 in the state. Specific purchases claims are made
12 on the power content labels submitted by retail
13 providers to their customers and to the Energy
14 Commission. This shows their fuel mix of the
15 electricity products that they sell.

16 Retail providers that make specific
17 claims are required to submit annual reports to
18 the Energy Commission, reporting their sales and
19 procurement.

20 The Energy Commission received 28 annual
21 reports, 26 of them are from retail providers
22 including LADWP, SMUD, PG&E and Southern
23 California Edison. SDG&E and IID, the Imperial
24 Irrigation District, have begun claiming specific
25 purchases this year in 2005, and they will submit

1 a report in 2006.

2 The 26 retail providers also include, in
3 addition to the two IOUs, three ESPs, 20 munis,
4 and one electric cooperative.

5 These ESPs -- these retail providers,
6 excuse me, claimed 174,939 gigawatt hours in
7 specific purchases in 2004 from 739 facilities.
8 This represents an increase of 72,458 gigawatt
9 hours from the previous year.

10 In 2004 is the first time in which the
11 majority of the power sold in the state has been
12 claimed as specific purchases.

13 This report also includes an appendix
14 which lists the retail providers' progress in
15 meeting program requirements. The appendix shows
16 that 34 retail providers submitted quarterly power
17 content labels to the Energy Commission. And of
18 those 34, 21 of them made specific purchases
19 claims on their labels.

20 Retail providers that submit specific
21 purchases claims are also required to submit
22 annual true-up labels because the quarterly labels
23 are annual projections. And we received labels
24 from 16 of those providers, annual labels.

25 The appendix, also because of the

1 interest in the renewable portfolio standard,
2 shows the renewable content percentage of each
3 provider's default products. There are three ESPs
4 in California that sell 100 percent renewable
5 products. But of the nonESPs the other remaining
6 retail providers, the default product -- the
7 renewable percentage for the default product range
8 from 1 percent to 61 percent.

9 I'm recommending the adoption of this
10 report.

11 COMMISSIONER GEESMAN: I'll move the
12 item.

13 COMMISSIONER ROSENFELD: I'll second.

14 CHAIRMAN DESMOND: No questions. I'll
15 call for the vote.

16 All those in favor?

17 (Ayes.)

18 CHAIRMAN DESMOND: Opposed? So moved.
19 Thank you.

20 MR. ORTA: Thank you.

21 CHAIRMAN DESMOND: Next item is number
22 4. This is the appliance efficiency regulations
23 and possible adoption of the amendments to
24 appliance efficiency regulations published as
25 express terms of proposed regulations, the 15-day

1 language, dated September 30th. We do have a
2 speaker, Mr. Kaye, and we have GE Lighting will
3 also address us after staff does. Mr. Holland.

4 MR. HOLLAND: Good morning,
5 Commissioners. I also passed out a errata sheet
6 for you earlier. I'm Jim Holland of the appliance
7 program. And I'm here to address item number 4 on
8 the agenda.

9 Within the order adopting regulations
10 and directing additional rulemaking which was
11 issued on December 15, 2005, at the completion of
12 the last major appliance regulations rulemaking,
13 the Commission directed the Efficiency Committee
14 to continue the rulemaking to consider and take
15 appropriate action on the following issues:

16 Whether the requirements for walk-in
17 refrigerators and freezers to have automatic door-
18 closers should be limited to doors no greater than
19 a particular size.

20 Number two, whether there should be an
21 efficiency standard for refrigerated bottles and
22 canned beverage cabinets regardless if the
23 cabinets do or do not have doors.

24 Number three, whether the ECM motor
25 requirements for walk-in refrigeration, evaporator

1 fan motors should be modified, postponed or
2 eliminated.

3 Number four, whether there should be
4 efficiency standards for full spectrum or enhanced
5 spectrum general service incandescent lamps and
6 non-vertical metal halide luminaires.

7 Number five, whether more stringent
8 standards for general service incandescent lamps
9 should be considered.

10 And finally, number six, whether there
11 should be marking and data reporting requirements
12 for power supplies and consumer audio and video
13 equipment.

14 Each of the above items have been
15 considered and numerous changes were made to the
16 appliance efficiency regulations after a number of
17 meetings with consultants and industry
18 representatives. Some of the proposed changes are
19 time-sensitive in that the changes need to be made
20 to standards which will go into effect on January
21 1, 2006. Hence, they need to adopt these changes
22 prior to the effective date of the affected
23 standards.

24 The amendments before you today
25 represent the result of ten months of work to

1 resolve most of the above six issues.

2 It should be emphasized that current
3 rulemaking is intended to resolve these issues and
4 to generally clean up the regulations rather than
5 to address new efficiency issues.

6 The Efficiency Committee has scheduled a
7 Committee workshop on October 26th to discuss with
8 interested parties the possibility of implementing
9 more stringent lighting standards than those
10 already adopted.

11 Appliance program staff today proposes
12 that the Commission adopt the proposed 15-day
13 language amendments to the appliance efficiency
14 regulations published on September 20, 2005 with
15 two small exceptions that are noted in your draft
16 adoption order.

17 The first exception is that the words,
18 and averaged, as specified in 10CFR section 43024,
19 paragraph R, and the definition of average lamp
20 efficacy should not be adopted.

21 The second exception is that the
22 nonsubstantive changes included in the errata
23 sheet that we handed out earlier should be
24 adopted.

25 And that concludes the staff

1 presentation.

2 CHAIRMAN DESMOND: Thank you.

3 Questions?

4 Mr. Kaye.

5 MR. KAYE: Thank you, Mr. Chairman,
6 Members. Loren Kaye with Culpallow (phonetic)
7 Advocates here pinchhitting for GE Lighting.

8 I just wanted to state for the record
9 that on behalf of GE Lighting and also you've
10 received comments from NEMA, that we appreciate
11 all the effort that staff has taken to work with
12 us and the lighting industry on these efficiency
13 standards. There's been a lot of back-and-forth.
14 And also especially want to note the participation
15 by Commissioner Pfannenstiel, Commissioner
16 Rosenfeld and their Advisors, Mr Wilson and Mr.
17 Tutt.

18 We've made an awful lot of progress on
19 these, the tier 1 standards. These are perhaps
20 the easy ones, the low-hanging fruit. And I think
21 that we're in pretty good shape on this. As staff
22 mentioned there's going to be starting up the next
23 phase, the tier two standards, later this month,
24 which is going to be probably more difficult
25 because it's reaching further into the efficiency

1 issues. But for now we're satisfied with the
2 progress we've made on the tier one, and support
3 the adoption of these regulations.

4 CHAIRMAN DESMOND: Thank you. Further
5 questions or comments? With that, I'll look for a
6 motion.

7 COMMISSIONER ROSENFELD: I move the item
8 4.

9 COMMISSIONER GEESMAN: Second.

10 CHAIRMAN DESMOND: Call for the vote.

11 All those in favor?

12 (Ayes.)

13 CHAIRMAN DESMOND: Opposed? So moved.

14 Thank you.

15 Item number 5 is the 2005 Department of
16 Energy Clean Cities State Energy Project grant
17 solicitation. Possible approval of a request to
18 enter into grant agreements with 13 project
19 applicants in the amount of \$1.770 million that
20 have been awarded grant funds under the
21 solicitation. Mr. Ward.

22 MR. WARD: Good morning, Chairman,
23 Commissioners. Peter Ward representing the
24 Transportation Division.

25 This is the annual solicitation that we

1 were quite successful in this last year in helping
2 project proponents achieve approval for their
3 grant projects in the total of \$1.770 million.
4 It's approximately one-third of the national money
5 coming to California.

6 We've had about one-third of the money
7 for the last two or three years. I'm hoping we
8 can do that in the future, as well. These are
9 important. This is the primary funding for
10 alternative fuels development in the state at this
11 point.

12 And we're seeking approval for staff to
13 enter into sub-recipient agreements with all the
14 project proponents so that we can establish and
15 administer the grants for all these projects.

16 COMMISSIONER GEESMAN: I'll move the
17 item but with the observation that 1.7 million
18 represents one-third of the nationwide money, and
19 this is the primary source of funding for
20 alternative fuels efforts in California. It would
21 seem that between our government and the national
22 government we're doing a pretty poor job.

23 But I know, Peter, that you've worked on
24 this for many years and it's a very successful
25 program. I'd just like to see a couple digits

1 added to the funding in the --

2 MR. WARD: As would I. Nationally it's
3 only \$5 million for the entire nation. I think
4 that's woefully under-funded.

5 CHAIRMAN DESMOND: I also had a
6 question. Clean Energy, as the recipient of seven
7 of the 13 projects. Are we getting enough
8 interest across or --

9 MR. WARD: Well, they are very diligent,
10 shall I say, in grant writing. They have people
11 strictly devoted to that effort and they really
12 beat the bushes for all these projects quite well.
13 And have been successful over many years.

14 CHAIRMAN DESMOND: Thank you.

15 MR. WARD: Um-hum.

16 COMMISSIONER GEESMAN: I moved the item.

17 COMMISSIONER ROSENFELD: I second.

18 CHAIRMAN DESMOND: I'll call for the
19 vote.

20 All those in favor?

21 (Ayes.)

22 CHAIRMAN DESMOND: Opposed? So moved.

23 Thank you.

24 MR. WARD: Thank you.

25 CHAIRMAN DESMOND: Item number 6 is the

1 Petroleum Industry Information Reporting Act. And
2 pursuant to PRC code, section 25350, possible
3 adoption of new and proposed amendments to the
4 Petroleum Industry Information Reporting Act
5 regulations as identified by the Office of
6 Administrative Law in its notice of disapproval
7 dated August 8, 2005.

8 Written public comment on this issue was
9 to be received by the Energy Commission by
10 September 30th. The scope of the issue was to be
11 received by the -- the comment was, and is,
12 limited to those areas of the rulemaking package
13 identified by the OAL as deficient.

14 The proposed regulations will increase
15 reporting requirements for petroleum refiners and
16 establish new reporting requirements for petroleum
17 marketers, importers, exporters and fuel station
18 operators.

19 Ms. Kately.

20 MS. KATELY: Thank you, Mr. Chairman,
21 Commissioners, my name is Sue Kately. I'm a
22 Supervisor in the Energy Commission's
23 Transportation Fuels Office. Just have a couple
24 of things I'd like to say on the record for you
25 for this item.

1 The item before you is a request to
2 adopt revisions to regulations that increase the
3 Energy Commission's authority to collect data on
4 crude oil and petroleum product production,
5 inventory, shipment, sales, prices and product
6 movements. We request your support.

7 The action we're requesting today is
8 limited to the language in the 15-day notice
9 published by the Energy Commission on September
10 13, 2005.

11 I have three things I'd like to briefly
12 bring to your attention. First, the regulations
13 adopted by the Energy Commission on April 13th
14 were denied by the Office of Administrative Law on
15 August 8th based on noncompliance with the clarity
16 and reference standard of Government Code section
17 11349.1, failure to meet the requirements for
18 incorporation by reference; a defective notice of
19 proposed regulatory action; and an incomplete
20 rulemaking file.

21 Energy Commission Staff addressed these
22 deficiencies by modifying the regulations to
23 address the clarity reference and incorporation by
24 reference requirements; placed all documents
25 related to this rulemaking into the rulemaking

1 file and issued a new notice.

2 The written comment period, as you said,
3 was, for these revised regulations, closed on
4 September 30th. The Energy Commission received
5 comments from the Western States Petroleum
6 Association and Chevron.

7 Most of their comments were outside the
8 scope of this notice. Their comments focused
9 primarily on the site map and flow diagram
10 requirements set forth in appendix C, sections 7
11 and 8. They also expressed concerns on the
12 process the Energy Commission will use to develop
13 the final reporting forms and instructions,
14 concerns about the actual effective date of the
15 reporting requirements, and some edits and
16 suggestions for the proposed regulations and
17 instructions.

18 The forms and instructions are no longer
19 referenced in the regulations. The regulations,
20 themselves, now identify the specific information
21 that will be required in the forms. That said,
22 draft forms and instructions are in the rulemaking
23 record and staff intends to hold workshops and
24 work with stakeholders as needed to take further
25 comment on the proposed forms and instructions

1 once the regulations are approved.

2 And a moment on what that means by once
3 the regulations are approved. Following this
4 business meeting, if these regulations are
5 approved, we will file our package with the Office
6 of Administrative Law. They have 30 days to give
7 us their response back on whether they approve or
8 deny them.

9 If they're approved they'll go to the
10 Secretary of State. And 30 days after that they
11 will take effect.

12 In addition, following that, the
13 Executive Director would issue a notice of the new
14 forms. And the actual reporting requirements
15 would take effect 30 days after the Executive
16 Director's notice is issued.

17 Staff anticipates that the filings with
18 the OAL will be completed in the next couple of
19 weeks, and then we would move on to the OAL
20 process almost immediately.

21 Last, I must also point out that after
22 the notice was issued staff realized sections 1B
23 in both appendices A and B in the monthly and
24 weekly refiners reports should have included a
25 list of the data headings from forms CEC W800 and

1 CEC M10.

2 Song has copies of an addendum that I'd
3 like to pass out to the Commissioners. And we'd
4 like to have these modifications added to the
5 rulemaking package that we're asking for approval
6 today. These are nonsubstantive modifications
7 that can be made prior to the submittal to OAL.

8 Staff recommends the Commission adopt
9 these proposed regulations with the nonsubstantive
10 changes I distributed. I would also like to point
11 out the staff will follow the Commission's
12 directive to return six months after these
13 regulations take effect to discuss implementation
14 issues.

15 Separately from the adoption of these
16 regulations, staff recommends that the Commission
17 take action in the near future to initiate a
18 rulemaking to address the industry concerns
19 expressed regarding appendix C, sections 7 and 8,
20 with respect to site maps and flow diagrams.

21 Thank you. I'd be happy to respond to
22 your questions.

23 CHAIRMAN DESMOND: Before we do that I
24 also want to note we have Ms. Gina Gray on the
25 line, who will be making some comments here. But

1 first, any questions from the Commissioners?

2 COMMISSIONER GEESMAN: Let's hear from
3 Ms. Gray first. I do have a couple questions, --

4 CHAIRMAN DESMOND: Okay.

5 COMMISSIONER GEESMAN: -- but I'd like
6 to hear Ms. Gray.

7 CHAIRMAN DESMOND: Ms. Gray is here
8 representing the Western States Petroleum
9 Association. Go ahead. She's on the phone.

10 MS. GRAY: Yes. Good morning,
11 Commissioners. Can you hear me?

12 CHAIRMAN DESMOND: Yes, fine.

13 MS. GRAY: Thank you. My name, for the
14 record, is Gina Gray and I'm testifying today on
15 behalf of Western States Petroleum Association.
16 I'll be brief, and we do appreciate you listening
17 to our two minutes of testimony.

18 As you know, WSPA has participated with
19 staff over many months of discussion on the finer
20 points of the proposed PIIRA revision. And we
21 provided extensive comments during the April
22 hearing this year, as well.

23 We recognize the majority, not all, of
24 the comments that WSPA submitted on September 30th
25 may be deemed by the Commission and OAL to be not

1 relevant to the 15-day package, which is the
2 subject of this agenda item today.

3 We felt compelled, however, to be clear
4 about our ongoing high level of concern relative
5 to the new requirements for annual refinery site
6 maps and flow diagrams.

7 First, a few words about two other
8 items. We appreciate hearing your assurances that
9 the Commission will, in fact, call for a six-month
10 review of reporting experience after reporting is
11 initiated. This will enable us all to take stock
12 of our experience with the reporting and determine
13 if certain weekly or monthly reports are
14 problematic or in need of revision.

15 We're also glad to hear we will have
16 another opportunity to review the draft final
17 forms and instructions before they are sent to us
18 to be completed. Our September 30th comments
19 contain 21 detailed comments on the form. And we
20 all understand the form development is a work in
21 progress that will benefit from future meetings
22 with our industry and other affected parties.

23 We assume that implementation of the
24 revised regulation will not be initiated until
25 next year, so there will be plenty of time to meet

1 with staff.

2 Now, in terms of our outstanding concern
3 about the new requirements placed in appendix C,
4 section 7 and 8, which mandate we provide detailed
5 refinery site maps and flow diagrams. We
6 initially noticed these requirements had been
7 placed in the rules in January. And requested
8 discussion on the issue, which unfortunately the
9 discussion never took place.

10 In April we testified that these very
11 detailed and to-scale requirements were causing us
12 a great deal of concern, particularly in terms of
13 a security threat. We have recently initiated
14 discussions with the California Office of
15 Emergency Services and are confident that if a
16 meeting or workshop and a hearing were held on
17 these two new requirements that we would all
18 benefit. With the request of the workshop and
19 hearing and our end-of-September comment letter,
20 and we'd like to strongly agree with staff's
21 recommended course of action today.

22 And finally, I would like to clarify
23 what might be a mis-impression that in making this
24 statement WSPA is representing less than all of
25 our members to which these requirements apply. In

1 fact, they all have been supportive of this
2 position.

3 Thank you, and I'd be happy to answer
4 any questions.

5 CHAIRMAN DESMOND: Thank you, Ms. Gray.
6 Commissioner Geesman.

7 COMMISSIONER GEESMAN: Gina, it's John
8 Geesman. I want to get a better sense, although
9 this is not immediately in front of us today, but
10 as it relates to these site maps and flow
11 diagrams, do your members make filings of those
12 types of documents with local governments when you
13 seek conditional use permits?

14 MS. GRAY: Commissioner Geesman, I think
15 the response I would provide is I know there have
16 been references in the past hat similar types of
17 documents are often filed, particularly in the
18 environmental impact reports, et cetera, at
19 various levels of government. You may see some of
20 these what are called flow diagrams, et cetera,
21 provided.

22 I think once you get into the subject,
23 though, there are some differences that we're
24 seeing between what staff has requested in the
25 regulation, a very much more detailed level,

1 including things that are sort of -- piping, in
2 terms of flow rates, things that typically have
3 not been provided to anyone else. Including some
4 concern over issues like the request that these
5 site maps and flow diagrams be in an edit-able,
6 electronic format.

7 And as I mentioned, the Office of
8 Emergency Services, as well, with their
9 responsibilities, would also like to sit down, I
10 think, and have a discussion with both the
11 Commission and ourselves about the issue.

12 COMMISSIONER GEESMAN: I appreciate
13 that. And although I'm not on our Transportation
14 Committee any longer, I would ask that when we do
15 have those workshops and hearings that you go to
16 some length to try and clarify the different types
17 of information that are filed with local
18 governments, and in many instances are available
19 in public libraries, and those which our staff is
20 requesting and which would be, as I understand it,
21 subject to the confidentiality provisions of our
22 PIIRA statute, which, to the best of my knowledge,
23 has worked quite effectively for the 23 or 24
24 years that it's been in effect.

25 MS. GRAY: We will certainly endeavor to

1 do so. Thank you.

2 COMMISSIONER GEESMAN: And I have a
3 question for Sue. The timeframe that you recited,
4 when do you actually anticipate convening such a
5 workshop? Are you going to wait for OAL?
6 Presumably it's going to be before the Executive
7 Director puts a proposal out for forms and
8 instructions. Or will it be in response to such a
9 proposal?

10 MS. KATELY: From the forms and
11 instructions we can probably move forward on that
12 before the end of the year or the beginning of the
13 year.

14 With respect to initiating a new
15 rulemaking, we would file that sometime around the
16 end of the year, I supposed; and then have
17 hearings in the spring of '06.

18 COMMISSIONER GEESMAN: And then the six-
19 month review that the Commission has previously
20 placed quite a bit of importance on, is the
21 trigger date for that the beginning of the
22 reporting obligation, or is the trigger date for
23 the OAL approval of the regs?

24 MS. KATELY: I think the most important
25 part of this review will be what happens when we

1 actually implement the requirements. So I would
2 have the effective date of the reporting
3 requirements, is what I would suggest to you would
4 be a workable idea --

5 COMMISSIONER GEESMAN: Yeah, I want to
6 strongly agree with that, if there was an
7 ambiguity in the prior description. I think that
8 it ought to be triggered with the effectiveness of
9 the actual reporting, itself.

10 MS. KATELY: Okay.

11 COMMISSIONER GEESMAN: Mr. Chairman, I'm
12 prepared to move the item.

13 CHAIRMAN DESMOND: Okay. Any further
14 discussion?

15 COMMISSIONER ROSENFELD: I second.

16 CHAIRMAN DESMOND: All right.

17 All those in favor?

18 (Ayes.)

19 CHAIRMAN DESMOND: Opposed? So moved.

20 Thank you.

21 MS. KATELY: Thank you.

22 MS. GRAY: Thank you.

23 CHAIRMAN DESMOND: Thank you, Ms. Gray.

24 Moving on. Item number 7, California
25 Highway Patrol. Possible approval of contract

1 150-05-006R for \$15,500 for an interagency
2 agreement with the CHP to provide funding for
3 inspecting and/or escorting shipments of
4 transuranic nuclear waste in California and to
5 reimburse travel necessary to attend meetings to
6 prepare for these shipments. Ms. Byron.

7 MS. BYRON: Good morning, Commissioners.
8 Items 7, 8 and 9 in the agenda are related. Item
9 number 8 is a continuing contract whereby the
10 Western Governors Association provides the
11 California Energy Commission funds to continue to
12 prepare for shipments of nuclear waste from
13 federal defense facilities to the waste isolation
14 pilot plan in New Mexico.

15 In item 8 we're requesting the
16 Commissioners' approval of contract with WGA to
17 provide the estimated annual amount of -- it
18 should be \$253,000 instead of \$250,000 as in the
19 agenda.

20 Items 7 and 9 passed through most of
21 these WGA funds on to the Office of Emergency
22 Services and the California Highway Patrol. Item
23 7 passes \$15,500 to the CHP primarily for shipment
24 inspections and escorts. And item 9 passes
25 through \$186,000 to the Office of Emergency

1 Services to continued emergency response
2 preparation along shipments routes in California.

3 In addition, these funds are disbursed
4 to western states on a quarterly basis. And as a
5 result we modify these three contracts quarterly.
6 Although the full annual funding to California
7 from WGA is \$253,000, WGA only provides on a
8 quarterly basis an amount not to exceed \$63,250
9 per quarter.

10 So we are also requesting that the
11 Commission delegate to the Executive Office,
12 approval authority for these quarterly
13 modifications so that that would streamline this
14 administrative burden.

15 And I request your approval of items 7,
16 8 and 9. Thank you.

17 CHAIRMAN DESMOND: 7, 8 and 9. Okay.
18 We'll take those together collectively.
19 Questions?

20 COMMISSIONER GEESMAN: I'll move the
21 three items, Mr. Chairman, and also the delegation
22 to the Executive Director.

23 COMMISSIONER ROSENFELD: I'll second.

24 CHAIRMAN DESMOND: All those in favor?

25 (Ayes.)

1 CHAIRMAN DESMOND: Opposed? So moved.

2 Thank you.

3 MS. BYRON: Thank you.

4 CHAIRMAN DESMOND: Likewise, we'll take
5 the next two items together, items 10 and number
6 11, which is the Wintec Energy, Ltd., possible
7 approval of contract, amendment 1, reducing the
8 funding award by \$262,460 from Wintec Energy, Ltd.
9 to Mountain View Power Partners, LLC, as new
10 owner.

11 And item number 11, Mountain View Power
12 Partners. Possible approval of contract for the
13 same amount, \$262,460, assigning a portion of the
14 funding award to Mountain View as the new owner.

15 Mr. Goncalves.

16 MR. GONCALVES: Thank you, Chairman,
17 Commissioners. Pursuant to the new renewable
18 resources account notice of auction 500-00-504,
19 which was this account's second auction, Wintec
20 Energy, Ltd., was awarded \$367,444. Subsequent to
21 their award, Wintec Energy has sold a portion of
22 the rights to the project to Mountain View Power
23 Partners, Ltd., III.

24 This particular project was a 4.6
25 megawatt wind project with seven wind turbines.

1 Two of these turbines are separately metered and
2 Wintec is requesting to retain ownership of those
3 two. And has sold the remaining five to Mountain
4 View Power.

5 What is before you is Wintec's request
6 to assign a portion of their award, in the amount
7 of \$262,460, to Mountain View Partners, and to
8 retain the remaining \$104,994.

9 CHAIRMAN DESMOND: Okay. Can you tell
10 me a little bit more about Mountain View Power
11 Partners?

12 MR. GONCALVES: I don't have a lot of
13 information --

14 MR. HERRERA: Chairman, good morning.
15 Specifically what type of information --

16 CHAIRMAN DESMOND: Well, I guess we had
17 a project here; we had seven turbines owned by one
18 company selling that off. The question I'm just
19 asking is in the assignment of the contract award,
20 was there any evaluation made about the
21 qualifications of Mountain View Power Partners.
22 Or is there a need to?

23 MR. HERRERA: Well, there is, in fact.
24 One of the things the Energy Commission needs to
25 look at is whether the recipient of that award is,

1 in fact, eligible. Whether the project has been
2 changed; their requirements; and the Energy
3 Commission's adopted guidelines for this program
4 that prohibit utility ownership. So that's one of
5 the issues that we looked at.

6 The submittal, the information provided
7 by Mountain View Power Partners demonstrated to
8 staff's satisfaction, Legal Office's satisfaction,
9 that they met, in fact, the eligibility criteria.
10 It was based upon that review that we recommended
11 to the Renewables Committee, and the Renewables
12 Committee agreed, to this assignment

13 CHAIRMAN DESMOND: Thank you. That was
14 the question.

15 MR. GONCALVES: Thank you.

16 COMMISSIONER GEESMAN: I'll move the
17 item.

18 COMMISSIONER ROSENFELD: I will second.

19 CHAIRMAN DESMOND: We have a motion and
20 a second.

21 All those in favor?

22 (Ayes.)

23 CHAIRMAN DESMOND: Opposed? So moved.

24 Thank you.

25 MR. GONCALVES: Thank you.

1 CHAIRMAN DESMOND: Item number 12,
2 Platts Research and Consulting. Possible approval
3 of contract 500-03-005, amendment 1, adding
4 \$260,000 for a total contract amount of \$516,546
5 and extending the term three years to continue to
6 produce and distribute a series of new briefs and
7 trade journal articles summarizing PIER program
8 research in the buildings end-use energy
9 efficiency area, while increasing article
10 placement activities and direct outreach to trade
11 associations and educational professionals.

12 Mr. Bourassa.

13 MR. BOURASSA: Good morning,
14 Commissioners, Director and attendees. My name's
15 Norm Bourassa; I'm with the PIER buildings
16 program.

17 The contract amendment proposes to add
18 to an existing contract, as you just summarized,
19 with Platts Research and Consulting, to help the
20 PIER buildings -- PIER electric program, actually,
21 identify market outreach channels for PIER-
22 developed technologies and practices.

23 Total cost for the amendment is not to
24 exceed \$260,000; and extends the contract term by
25 three years.

1 The existing contract with Platts has
2 helped PIER develop more market connections with
3 the publication and distribution of the two-page
4 PIER technology briefs you just summarized.

5 The PIER program management has
6 determined that additional efforts could be used
7 to better inform the mainstream architectural,
8 engineering and construction industries,
9 communities of PIER-funded research projects that
10 are ready for the market.

11 So the goal of this amendment is to
12 continue exploring the PIER technology brief
13 methods and expand further in journal article
14 placements and to explore other techniques to
15 promote PIER products, specifically emarketing
16 type tactics.

17 This project is included in the 2005/
18 2006 PIER buildings budget; and the R&D Committee
19 has already approved this. I'll answer any
20 questions if there are any.

21 COMMISSIONER ROSENFELD: No questions.
22 I move it.

23 COMMISSIONER GEESMAN: Second.

24 CHAIRMAN DESMOND: I think this is a
25 very worthwhile activity for all research. It

1 doesn't do us any good if these reports sit on a
2 shelf and don't make their way into the larger
3 community. So I obviously would like to see this
4 for all PIER areas, as well.

5 So, with that, all those in favor?

6 (Ayes.)

7 CHAIRMAN DESMOND: Opposed? So moved.

8 Thank you.

9 MR. BOURASSA: Thank you.

10 CHAIRMAN DESMOND: Item number 13,
11 Southern California Edison. Possible approval of
12 contract 500-05-012 with SCE for \$250,000 to
13 develop and promote more efficient open
14 refrigerated display cases. This is a PIER
15 buildings funded project. Mr. Scruton.

16 MR. SCRUTON: Good morning,
17 Commissioners. I'm Chris Scruton with the PIER
18 buildings program.

19 Supermarkets are one of the most energy
20 intensive commercial building types in the United
21 States, with average annual energy use of 45 to 65
22 kilowatt hours per square foot in 69,000 stores
23 across the U.S. About 10 percent of those stores
24 are in California.

25 A major part of the load in these stores

1 is due to open refrigerated display cases. These
2 are the types that, merchandise, dairy and those
3 types of products.

4 Previous research has indicated that
5 over 70 percent of the load in these cases is due
6 to infiltration through the air curtain. Now,
7 this project is not proposing to put plastic
8 sheets in front of the cases or anything of that
9 sort, because that's been found to be unacceptable
10 to the merchandisers.

11 But they are proposing to develop
12 improvements to the air curtain where there does
13 appear to be a good potential for improvement.
14 It's also being supported by a major display case
15 manufacturer, as well as academic and utility
16 researchers.

17 This project is in the annual PIER
18 research plan. And the building staff recommends
19 approval of the project.

20 CHAIRMAN DESMOND: Thank you.

21 COMMISSIONER ROSENFELD: No questions, I
22 move it.

23 COMMISSIONER GEESMAN: Second.

24 CHAIRMAN DESMOND: All those in favor?

25 (Ayes.)

1 CHAIRMAN DESMOND: Opposed? So moved.

2 Thank you.

3 MR. SCRUTON: Thank you.

4 CHAIRMAN DESMOND: Item number 14 is the
5 NREL, National Renewable Energy Laboratory.

6 Possible approval of contract 500-05-015 for
7 \$35,000 with NREL to co-sponsor the 18th Annual
8 Clean Energy Growth Forum, planned for November
9 7th through 9th, 2005, in San Francisco.

10 And I would note that on the agenda item
11 the reference to the conference being a
12 demonstration of ultra-low NOx is incorrect. So,
13 we'll strike that.

14 MR. KAPOOR: Yeah. Good morning,
15 Commissioners. I'm Rajesh Kapoor from PIER
16 industrial program, again. Staff is requesting
17 approval to co-sponsor the conference on the 18th
18 National Renewable Energy Laboratory Industrial
19 Growth Forum. And it is scheduled for November
20 7th to 9th in San Francisco.

21 Chairman Joe Desmond and Commissioner
22 Art Rosenfeld, and PIER Director, Dr. Martha
23 Krebs, they're also speakers for this conference.
24 And the main objective of this conference is to
25 facilitate the private sector financing for

1 commercial addition of products developed through
2 PIER-sponsored research.

3 The National Renewable Energy
4 Laboratory, they began organizing these forums in
5 1995. And the goal of the energy forum is to
6 provide the clean energy companies with expert
7 advice on business, finance and technology
8 development strategies; and introduce them to the
9 venture capital community.

10 Commission, we are getting (inaudible)
11 for this event. And the California Energy
12 Commission has been participating in this forum
13 for the last eight years. So, I'm requesting --
14 staff is requesting the approval to co-sponsor
15 this conference.

16 CHAIRMAN DESMOND: Questions?

17 COMMISSIONER ROSENFELD: I think this is
18 a very nice continuing collaboration between DOE,
19 in the form of NREL, and the CEC. And so I, with
20 pleasure, move the item.

21 COMMISSIONER GEESMAN: I will second it
22 as long as they maintain their standards for high-
23 quality speakers.

24 CHAIRMAN DESMOND: In the interests of
25 putting a plug, not for myself, but I would point

1 out that there is quite a number of very
2 interesting workshops on both Monday, and just
3 looking over the list of companies that will be
4 exhibiting, I would note that they represent the
5 full spectrum of clean energy technologies. So I
6 actually am very excited by this particular event
7 here and look forward to participation in
8 November.

9 So, with that, all those in favor?

10 (Ayes.)

11 CHAIRMAN DESMOND: Opposed? So moved.

12 Thank you.

13 MR. KAPOOR: Thank you.

14 CHAIRMAN DESMOND: Item number 15. This
15 is the Department of Energy, Lawrence Berkeley
16 National Laboratory. Possible approval of
17 contract 500-03-024, amendment 2, with Lawrence
18 Berkeley Lab for \$673,000 to cover additional
19 microgrid laboratory test bed expenses not
20 anticipated, and therefore not covered in the
21 original contract. Mr. Treanton.

22 MR. RAWSON: Actually my name is Mark
23 Rawson.

24 CHAIRMAN DESMOND: Oh, Mark, you know, I
25 should look up.

1 MR. RAWSON: I'm presenting for Mr.
2 Treanton, who's out of the office.

3 CHAIRMAN DESMOND: Thank you.

4 MR. RAWSON: I'm the Team Lead for
5 PIER's energy systems integration group, which
6 this research is part of our portfolio.

7 The main purpose of the current contract
8 in the microgrids area with CERTS, which is the
9 Consortium for Electric Reliability Technology
10 Solutions, is geared towards conducting a full-
11 scale laboratory test of the microgrids concept in
12 a controlled laboratory environment. Really to
13 demonstrate and document its functionality from a
14 protections and safety perspective.

15 In the original contract, which was
16 executed and began back in March of 2004, Capstone
17 Microturbines was going to be one of the key
18 subcontractors in the contract and provide the
19 prime movers for this laboratory test.

20 In the intervening time the prime
21 contractor, LBNL, had been putting together a
22 contract, subcontract, with Capstone to provide
23 the prime movers for this demonstration. And at
24 the point where it was time for them to actually
25 sign the agreement to perform this work, Capstone

1 decided that this was not something they wanted to
2 pursue.

3 The result of that withdrawal from
4 Capstone was that we had to find a new prime mover
5 to move forward with this research. We lost the
6 better part of six months negotiating a
7 subcontract with Capstone and then the time
8 necessary to find a new prime mover for the work.

9 We've done so. We're happy to announce
10 that TecoGen is an engine manufacturer that's
11 going to participate in this laboratory test. The
12 result of losing Capstone and moving forward is
13 that we have lost time and money that this
14 amendment will help correct and get us back on
15 schedule for conducting this laboratory testing.

16 A related additional cost that this
17 amendment will cover is that we have secured a
18 utility-scale laboratory test site that's going to
19 perform this work. This is American Electric
20 Power, who has a test facility in Ohio. And in
21 the course of bringing them into the project to
22 conduct this test, and make sure that a utility
23 perspective is brought to bear on this technology
24 concept, there were also some additional costs in
25 terms of expanding the testing that they felt was

1 necessary to address some of the utility concerns
2 about the microgrid concept that we're bringing
3 forward.

4 So this amendment will also cover some
5 of the additional tests for the laboratory test
6 facility that weren't envisioned in the original
7 contract.

8 I'd be happy to answer any questions.

9 COMMISSIONER GEESMAN: I'll move the
10 item.

11 COMMISSIONER ROSENFELD: I'll second.

12 CHAIRMAN DESMOND: Call for the vote.

13 All those in favor?

14 (Ayes.)

15 CHAIRMAN DESMOND: Opposed? So moved.

16 Thank you, Mr. Rawson.

17 MR. RAWSON: Thank you very much.

18 CHAIRMAN DESMOND: Item number 16 is
19 University of California Davis, Office of the
20 Chancellor for research-sponsored programs.
21 Possible approval of contract 300-97-009,
22 amendment 9, adding \$70,000 and a one-year
23 extension to the existing agreement with the
24 University of California at Davis for student
25 interns to provide support for electric, natural

1 gas and petroleum forecasting demand and
2 infrastructure analysis. Ms. Lewis.

3 MS. LEWIS: Hello, I'm Kae Lewis, in the
4 efficiency division.

5 COMMISSIONER ROSENFELD: Turn on your
6 mike, Kae.

7 UNIDENTIFIED SPEAKER: It's on.

8 COMMISSIONER ROSENFELD: It's on? Can't
9 hear.

10 MS. LEWIS: Hello, I'm Kae Lewis, --

11 CHAIRMAN DESMOND: Okay, great.

12 MS. LEWIS: -- the efficiency division.

13 This is the annual renewal for our interagency
14 agreement with UC Davis for student interns that
15 are used by three divisions, efficiency, systems
16 assessment and transportation.

17 For the most part the students do --
18 they do a variety of activities, but primarily
19 data preparation and analytical work.

20 CHAIRMAN DESMOND: Okay.

21 COMMISSIONER GEESMAN: One of the best
22 investments we make. I'll move the item.

23 COMMISSIONER ROSENFELD: Second.

24 CHAIRMAN DESMOND: All those in favor?

25 (Ayes.)

1 CHAIRMAN DESMOND: Opposed? So moved.

2 Thank you, Ms. Lewis.

3 MS. LEWIS: Thank you.

4 CHAIRMAN DESMOND: Item number 17, which
5 was held from the previous meeting, which is the
6 Regents of University of California, Office of the
7 President, the CIEE.

8 And possible approval of contract 500-
9 02-004, amendment 3, to the Regents of the
10 University of California to augment the contract
11 spending authority by \$37 million, for a total of
12 \$87 million and a two-year extension to June 30,
13 2011. These are funds received from the Public
14 Interest Energy Research electricity federal and
15 PIER natural gas program. Mr. Magaletti.

16 MR. MAGALETTI: Good morning, Mr.
17 Chairman, Commissioners. I come before you asking
18 for your support to vote for an amendment to this
19 very important research agreement.

20 The Public Interest Energy Research
21 program, both the electricity side and now the
22 natural gas side, intends to use this to further
23 our research initiatives in such areas as demand
24 response, transmission planning and security,
25 seismic safety.

1 I would be willing to answer any
2 questions. I've also supplied you with some extra
3 briefing materials regarding the context of this
4 agreement and where you see it sits as far as our
5 major contractors.

6 CHAIRMAN DESMOND: Comments or
7 questions?

8 COMMISSIONER ROSENFELD: This has
9 obviously come before the Committee and I move the
10 item.

11 COMMISSIONER GEESMAN: Second.

12 CHAIRMAN DESMOND: Okay. I'll only
13 simply add that do appreciate the opportunity to,
14 since the last time, sit down with staff and get a
15 fuller understanding of this item.

16 So, with that, we'll call for the vote.

17 All those in favor?

18 (Ayes.)

19 CHAIRMAN DESMOND: Opposed? So moved.

20 Thank you.

21 MR. MAGALETTI: Thank you.

22 CHAIRMAN DESMOND: Item number 18, Order
23 Instituting Rulemaking. Consideration and
24 possible adoption of an order instituting
25 rulemaking to adopt, amend and repeal regulations

1 governing the Commission's data collection system
2 for energy forecasting and planning, and
3 regulations governing disclosure of Commission
4 records.

5 I notice that Caryn Holmes is not here.
6 Go ahead, Ms. Ichien.

7 MS. ICHIEN: Ichien.

8 CHAIRMAN DESMOND: Ichien.

9 MS. ICHIEN: I'm Arlene Ichien from the
10 Chief Counsel's Office, and I'm sitting in for
11 Caryn Holmes of the same office.

12 I'm here to request adoption of an order
13 that would institute or authorize a rulemaking;
14 and also designate a Committee to oversee the
15 rulemaking proceeding.

16 And the rulemaking would be with respect
17 to adopting, amending or repealing regulations
18 that have to do with the Commission's data
19 collection for the IEPR, the Integrated Energy
20 Policy Report. And including implementing, if
21 needed, sections of SB-1037, which, among other
22 things, directs public utilities to report
23 annually to the Energy Commission about their
24 investments in efficiency savings, and demand
25 reduction programs.

1 And in addition, the rulemaking would
2 also address any amendments, as needed, regarding
3 our confidentiality or public disclosure
4 regulations to the extent that they're related to
5 collected data that's sensitive or confidential.

6 And I'm happy to answer any questions.

7 COMMISSIONER GEESMAN: I presume the
8 Executive Director will make certain that the
9 staff, all of the staff, attaches an appropriate
10 priority to this effort, since we haven't done it
11 for awhile, and we really do need to clean away
12 from of the underbrush of our existing regs. And
13 also reshape what we expect of the various
14 respondents in terms of our analytic process going
15 forward.

16 EXECUTIVE DIRECTOR BLEVINS: So noted.

17 CHAIRMAN DESMOND: Further comments?

18 COMMISSIONER GEESMAN: I'll move the
19 item.

20 CHAIRMAN DESMOND: Very good.

21 COMMISSIONER ROSENFELD: I'll second.

22 CHAIRMAN DESMOND: All those in favor?

23 (Ayes.)

24 CHAIRMAN DESMOND: Opposed? So moved.

25 Thank you.

1 MS. ICHIEN: Thank you.

2 CHAIRMAN DESMOND: Next item on the
3 agenda are the minutes, approval of the September
4 21, 2005 business meeting minutes.

5 COMMISSIONER ROSENFELD: I move the
6 minutes.

7 COMMISSIONER GEESMAN: Second.

8 CHAIRMAN DESMOND: All those in favor?

9 (Ayes.)

10 CHAIRMAN DESMOND: Opposed? So moved.

11 Commission Committee and Oversight. Any
12 discussions or matters here? All right, nothing.

13 COMMISSIONER GEESMAN: I will say that I
14 attended a meeting earlier this week in Washington
15 of the American Council on Renewable Energy. And
16 Chaired a panel where the Washington Director of
17 the Western Governors Association presented a
18 status report of the efforts underway at the
19 Western Governors Association. And most
20 specifically the Clean Energy Initiative that
21 Governor Schwarzenegger and Governor Richardson
22 from New Mexico had initiated a little more than a
23 year ago.

24 It was extremely well received. And
25 identified as one of the areas where ordinarily

1 disputatious western states seem to have been able
2 to at least preliminarily reach some very positive
3 agreements. And I think the group was truly
4 impressed by the efforts that have gone into the
5 WGA process.

6 CHAIRMAN DESMOND: I would simply add
7 for those attending this meeting here that that is
8 the CDEAC, the Clean and Diversified Energy
9 Advisory Council, consisting of over 30 volunteers
10 representing all sectors of the industry, who have
11 been working diligently for over a year now,
12 nearing the end of that task.

13 So, I know that sitting on that Advisory
14 Council, that we're looking forward to that final
15 report coming out on renewables.

16 Anything else? Okay, we'll just move on
17 then.

18 Chief Counsel's report?

19 MR. CHAMBERLAIN: Yes, Mr. Chairman. As
20 the Commission is aware, on Friday we filed an
21 opposition to the petition for certiorari filed by
22 the Air Conditioning and Refrigeration Institute
23 and some other trade associations related to the
24 Commission's appliance efficiency regulations. I
25 have copies of that opposition for you here today.

1 And I guess I'd like to note, first of
2 all, that Jonathan Blee did his usual excellent
3 work on this item. One of the things that we've
4 done that's very different in this item, however,
5 is that our page limit was 30 pages. This is 11
6 pages, and so I thought I should call that to your
7 attention. It's a very cost-effective use of
8 words.

9 (Laughter.)

10 MR. CHAMBERLAIN: Litigation appears to
11 be a growth industry. We have been served with
12 anticipated litigation by the three utilities
13 related to the Commission's data decision in mid-
14 September. And so we will keep you apprised of
15 the progress on that. We would anticipate that
16 briefing will occur during the rest of the year
17 and that it will be heard early next year.

18 The only other thing I need to mention
19 is that I need a brief closed session with the
20 Commission about an item that I have sent you an
21 email about.

22 CHAIRMAN DESMOND: That's correct, and
23 we'll have that today here. Any further?

24 MR. CHAMBERLAIN: No.

25 CHAIRMAN DESMOND: Okay. Executive

1 Director's report, Mr. Blevins.

2 MR. BLEVINS: Mr. chairman, one brief
3 item. I think the Commission is aware that we are
4 engaged with the Department of General Services,
5 California Air Resources Board and Ford Motor
6 Company to demonstrate hydrogen fuel cell
7 vehicles.

8 There are three vehicles involved, each
9 agency receiving one for demonstration purposes.
10 I just wanted to report that at the end of this
11 week I will be representing the Commission and
12 receiving our vehicle for testing and
13 demonstration purposes.

14 CHAIRMAN DESMOND: Drive safely, Mr.
15 Blevins.

16 MR. BLEVINS: I think we all have that
17 opportunity, thank you.

18 COMMISSIONER ROSENFELD: Really safely.

19 CHAIRMAN DESMOND: What's the value of
20 that car? A million dollars? All right.

21 Legislative Director's report. There's
22 no report, I don't believe, to be made here.

23 Anything from the Public Adviser's
24 Office?

25 MR. BARTSCH: Mr. Chairman, Members,

1 Nick Bartsch representing Margret Kim. We don't
2 have anything new to report.

3 CHAIRMAN DESMOND: Okay. Is there
4 anyone else on the phone, or anyone from the
5 public here in the meeting who would like to add
6 anything to today's discussion?

7 Barring none, we'll close this meeting.
8 Bring this -- and go into executive session.

9 Thank you very much.

10 (Whereupon, at 10:55 a.m., the business
11 meeting was adjourned into executive
12 session.)

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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 24th day of October, 2005.

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