

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, MARCH 1, 2006

10:02 A.M.

Reported by:
Christopher Loverro
Contract No. 150-04-001

COMMISSIONERS PRESENT

Joseph Desmond, Chairperson

Jackalyne Pfannenstiel, Vice Chairperson

Arthur Rosenfeld

James Boyd

John L. Geesman

STAFF and CONSULTANTS PRESENT

Scott Matthews for the Executive Director

William Chamberlain, Chief Counsel

Connie Bruins

Lance Shaw

Adel Suleiman

Chris Tooker

Gary Flamm

Bruce Maeda

Rob Hudler

Gabriel Herrera

ALSO PRESENT

Les Guliasi
Pacific Gas and Electric Company

Jeanne Sole
City and County of San Francisco

Greg Karras
Communities for a Better Environment

Alan Ramo, Director
Environmental Law and Justice Clinic
Golden Gate University

ALSO PRESENT

Mike Carroll, Attorney
Latham and Watkins
on behalf of Mirant

Tim Locke
California Building Performance Contractors
Association

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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

2 10:02 a.m.

3 CHAIRPERSON DESMOND: Good morning; I'd
4 like to welcome everyone here today. Please rise
5 and join me in reciting the Pledge of Allegiance.

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

8 CHAIRPERSON DESMOND: I note that I have
9 three blue cards here for agenda items number 8
10 and 10. Do we have anyone on the phone? No,
11 okay, thank you.

12 Very well, then, welcome, everyone. The
13 first item on the agenda -- before I move through
14 there is one calendar change that is agenda item
15 number 5, which is the Public Interest Energy
16 Research PIER program and Electricity and Natural
17 Gas Research Investment plan will be held and
18 moved to the March 15th business meeting.
19 Otherwise we'll go through this.

20 So, first item is the consent calendar.
21 Pennsylvania State University and Sacramento
22 Municipal Utility District.

23 COMMISSIONER ROSENFELD: Consent
24 calendar.

25 COMMISSIONER BOYD: Second.

1 CHAIRPERSON DESMOND: All those in
2 favor?

3 (Ayes.)

4 CHAIRPERSON DESMOND: Opposed? So
5 moved.

6 Agenda item number 2, Palomar Energy
7 Center. Possible approval of a petition to
8 correct noise level limits specified in the
9 existing condition of certification Noise-6, an
10 error in the calculation used by staff during the
11 licensing process must be corrected to accurately
12 reflect background and permitted noise levels.

13 Ms. Bruins.

14 MS. BRUINS: I'm Connie Bruins, the
15 Compliance Project Manager for the Palomar
16 project. The amendment before you this morning is
17 to correct noise level limits specified at two
18 locations during plant operations.

19 By way of background the Palomar project
20 is a 546 megawatt, natural gas fired, combined
21 cycle power plant in Escondido in San Diego
22 County. It was certified in August of '03; and
23 it's currently in commissioning phase 99 percent
24 complete. They expect to be commercial on or
25 about April 1, 2006. SDG&E plans to purchase and

1 operate the plant as soon as they are commercial.

2 As a summary of the petition this
3 amendment is required to correct a calculation
4 error that -- sorry, during the siting process
5 that caused noise level limits to be set at lower
6 levels than they should have been set.

7 For most power plants noise measurements
8 are conducted during the quietest portion of the
9 night when most people are trying to sleep. To
10 account for short-term anomalies the quietest
11 consecutive four hours are averaged to arrive at
12 the baseline.

13 At the Palomar site nighttime noise
14 levels are actually higher than daytime noise
15 levels due largely to the fact that the
16 neighborhood is in close proximity to a major
17 highway on which long-haul truck traffic runs at
18 night.

19 When staff performed its analysis for
20 the project they erroneously averaged together
21 several four-hour time periods throughout the day
22 and night to arrive at the baseline. Staff should
23 have used only the noisier periods throughout the
24 night.

25 This led to a background noise

1 measurement that is quieter than it should be, and
2 if not corrected will cause the project owner to
3 apply more stringent noise levels than intended or
4 necessary.

5 Staff's analysis also included possible
6 impacts of the noise levels on a hospital that is
7 proposed to be constructed near the project site.
8 Staff's analysis concluded that it is staff's
9 opinion that with the implementation of the
10 revised condition noise-6, the project will remain
11 in compliance with all applicable laws,
12 ordinances, regulations and standards pursuant to
13 Title 20, California Code of Regulations section
14 1769. And no significant environmental impacts
15 will result from the change.

16 The petition followed the usual public
17 process procedures. A notice of receipt and
18 staff's analysis were docketed, posted on the
19 Energy Commission website, and mailed to the post-
20 certification mailing list on December 22, 2005.

21 On January 2, 2006, a local resident,
22 Mr. Mark Rodriguez, requested backup
23 documentation; and we provided that documentation
24 to him on January the 3rd. On January the 9th he
25 again contacted the Commission requesting that the

1 public hearing, this business meeting, on the
2 amendment petition be delayed.

3 Staff advised Mr. Rodriguez that we
4 didn't see a need to delay the hearing at the
5 business meeting scheduled for February 1st, but
6 that he could participate in the business meeting,
7 he could provide additional written comments prior
8 to the business meeting, or that he could contact
9 Margret Kim, the Commission's Public Adviser for
10 further assistance.

11 On January the 10th Mr. Rodriguez
12 submitted a public records act request for various
13 documents, some of which had to do with the
14 amendment before us today. The Commission's legal
15 office sent the requested public records to Mr.
16 Rodriguez on January 23rd.

17 On January 12th staff discovered that
18 the initial calculations made for the analysis of
19 the proposed hospital were incorrect, in that the
20 permitted plant noise levels were taken from the
21 wrong table in the final staff analysis that was
22 published during the licensing process.

23 Although there was an error in staff's
24 calculations, the conclusions did not change from
25 those reached in the original analysis. Again,

1 those conclusions were that the project will
2 remain in compliance with all applicable LORS, and
3 no significant environmental impacts will result
4 from this change.

5 On January 27th an errata was published
6 to correct the error and to delay the business
7 meeting from February 1st to today. No other
8 comments from the public have been received to
9 date, including Mr. Rodriguez.

10 As an FYI, the owner of the proposed
11 hospital and SDG&E, the future owner of the
12 Palomar facility, have or are about to reach an
13 agreement whereby the hospital district agrees to
14 indemnify and hold SDG&E harmless for any and all
15 claims, obligations, liabilities, et cetera, that
16 may result from any shutdown or curtailment of
17 operations of the facility, or for any impact that
18 the project may have on the health condition of
19 any person as a result of being a patient; any
20 injuries caused by helicopter services to or from
21 the hospital, et cetera.

22 Our findings are that the petition meets
23 all the filing criteria of 1769 concerning post-
24 certification project modifications. And we
25 recommend that the Energy Commission approve the

1 revisions to noise-6.

2 That concludes my presentation.

3 Representatives are here from Palomar Energy, LLC,
4 as well as technical staff, if you have any
5 questions.

6 CHAIRPERSON DESMOND: Okay.
7 Commissioners, any questions? Commissioner
8 Geesman.

9 COMMISSIONER GEESMAN: This matter was
10 taken up by the Siting Committee; and although
11 we're not pleased by the knowledge of two separate
12 sets of staff calculational errors, we do believe
13 that the staff recommendation is the appropriate
14 one.

15 And as a consequence on behalf of the
16 Siting Committee I would recommend approval of the
17 petition and the revisions to the conditions of
18 certification that are included in our backup
19 materials.

20 COMMISSIONER BOYD: I'll second that
21 motion.

22 CHAIRPERSON DESMOND: Any further
23 discussion? Call for the vote.

24 All those in favor?

25 (Ayes.)

1 CHAIRPERSON DESMOND: Opposed? So
2 moved. Thank you, Ms. Bruins.

3 MS. BRUINS: Thank you.

4 CHAIRPERSON DESMOND: Agenda item number
5 3 is the Walnut Energy Center. Possible
6 consideration and approval of a petition to
7 correct transcription errors in the certification
8 of condition air quality-71. The emission day
9 rates for SOx and PM10 were unintentionally
10 reversed in the original condition of
11 certification. Mr. Shaw.

12 MR. SHAW: Good morning, Commissioners
13 and audience. I'm Lance Shaw. The petition is
14 filed on behalf of Walnut Energy Center Authority
15 to modify the air quality condition of
16 certification AQ-71, which has a transcription
17 error.

18 In background, the project is a 250
19 megawatt, gas fired, combined cycle power plant
20 located in the City of Turlock. It is owned and
21 operated by Walnut Energy Center Authority. The
22 project was certified February 18, 2004. It came
23 online yesterday, February 28, 2006.

24 The summary of the petition is to
25 correct an apparent transcription error in

1 condition of certification AQ-71.

2 Staff analysis. Staff has concluded
3 there will be no significant impacts because the
4 two limit amounts in the condition were
5 transcribed in error. Staff consulted with the
6 San Joaquin Valley Air Pollution Control District
7 and the District has issued its revised authority
8 to construct permit. Staff analysis was published
9 on February 8, 2006.

10 Public process. The petition to modify
11 was filed and docketed January 10, and was
12 modified January 31, 2006. Notice of receipt was
13 posted to the CEC website and mailed to the post-
14 certification mailing list on January 19, 2006.
15 No comments have been received to date.

16 Findings. The petition meets all the
17 filing criteria of section 1769(a) concerning
18 post-certification project modifications. Staff
19 recommends that the Commission approve the project
20 modification and associated revisions to air
21 quality-71 condition of certification.

22 Conclude.

23 CHAIRPERSON DESMOND: Thank you, Mr.
24 Shaw. Commissioner Geesman.

25 COMMISSIONER GEESMAN: Never let it be

1 said that we don't wash our laundry in public.
2 Siting Committee took this matter up, and on
3 behalf of the Committee I'd recommend that we
4 adopt the staff recommendation.

5 COMMISSIONER BOYD: I'll second the
6 motion.

7 CHAIRPERSON DESMOND: All those in
8 favor?

9 (Ayes.)

10 CHAIRPERSON DESMOND: Opposed? So
11 moved.

12 MR. SHAW: Thank you.

13 CHAIRPERSON DESMOND: Thank you, Mr.
14 Shaw.

15 Agenda item number 4, County of Alameda.
16 Possible approval of a \$3 million loan to the
17 County of Alameda to install an 850 kW solar
18 photovoltaic power system and energy efficiency
19 measures at the new Alameda County Juvenile
20 Justice Center. The facility is designed to
21 exceed the 2001 building energy efficiency
22 standards by 36 percent. The project is estimated
23 to save the County approximately \$351,100 annually
24 with a simple payback of 8.5 years. Mr. Suleiman.

25 MR. SULEIMAN: Thank you, Mr. Chairman.

1 Good morning to everyone. My name is Adel
2 Suleiman; I'm with the public programs office.

3 The County of Alameda is requesting a \$3
4 million loan from the Energy Commission to finance
5 the installation of an 850 kW solar photovoltaic
6 system and the implementation of energy efficiency
7 measures at the new Juvenile Justice Center in San
8 Leandro.

9 Examples of the energy efficiency
10 measures to be installed include higher
11 insulations walls and roof; minimizing the -- to
12 volume ratio of the building; cool roof; high
13 performance glass and windows; premiere efficiency
14 motors; high efficiency variable speed drives; CO2
15 sensors; as well as high performance lighting
16 systems including occupancy and daylight controls.

17 These efficiency measures will result in
18 exceeding the 2001 energy standards by 36 percent
19 which is equivalent to exceeding the 2005
20 standards by 20 percent.

21 This project is estimated to save the
22 County over 2 million kWh, 20,000 therms and 721
23 kW of electricity demand or approximately \$351,000
24 annually in reduced energy bills.

25 The total project cost for both the PV

1 system and the efficiency measures are \$6.7
2 million. PG&E is providing the County with a
3 \$2.25 million from the self-generation incentive
4 program for the PV portion; and \$200,000 from the
5 savings-by-design for the efficiency portion.

6 The total cost of the PV system alone is
7 \$5.9 million; and it's estimated to save the
8 County approximately \$165,000 annually. And the
9 total cost of the efficiency measures is \$852,000
10 and is estimated to save the County approximately
11 \$187,000 annually.

12 The combined project cost with the
13 incentives is \$4.25 million of which the loan will
14 provide \$3 million and the County will pay the
15 balance of \$1.25 million. The requested \$3
16 million loan has a simple payback of approximately
17 8.5 years.

18 I would also like to add the County of
19 Alameda is a strong believer in energy efficiency
20 and renewables. They received five previous loans
21 from the Energy Commission since 1999 totaling
22 over \$7 million. Four of these loans are
23 currently in repayment and never had a single
24 default on any payment.

25 The Energy Commission Staff has

1 evaluated and determined that this loan request is
2 technically feasible and meets all the
3 requirements for a loan under the Energy
4 Conservation Assistance Act and/or the bond fund
5 program.

6 This project, due to the size, further
7 advances the PV technology and helps meet the
8 state renewable portfolio standards goals. Staff
9 is seeking your approval of this item.

10 CHAIRPERSON DESMOND: Thank you.
11 Commissioner Pfannenstiel.

12 COMMISSIONER PFANNENSTIEL: This was
13 discussed at length at the Efficiency Committee.
14 I think it's a great example of just what we're
15 trying to accomplish. It has enormous levels of
16 energy efficiency there; 20 percent above our
17 stringent 2005 standards. And combining that with
18 the solar program. As somebody who's been very
19 active in the green buildings program in
20 California, this is the kind of investment that
21 we're looking for the state to be making.

22 I think the staff did a really good job
23 working with the County bringing this all
24 together. So I strongly support the staff
25 recommendation.

1 COMMISSIONER ROSENFELD: I'd like to
2 make one remark. I also think this is a great
3 project. It's putting photovoltaics on a more
4 than usually efficient building. That's exactly
5 what we're trying to do.

6 Being the numerical guy in the crowd,
7 though, I do actually want to say that this is so
8 interesting. I've had some emails back and forth
9 with Adel which resulted in his giving the numbers
10 he just gave this morning.

11 It's interesting because the kilowatt
12 hour savings from the photovoltaics and from the
13 efficiency measures are going to be equal, within
14 about 1 percent. But the cost of the efficiency
15 measures is only one-eighth of the total cost.
16 That is the ratio of the investment in the PV and
17 in the efficiency measures, which is saying the
18 same amount of kilowatt hours, are eight-to-one.

19 So this is actually a good example of
20 where energy efficiency is properly subsidizing
21 photovoltaics, and I think that's great.

22 CHAIRPERSON DESMOND: Thank you.

23 COMMISSIONER PFANNENSTIEL: With that I
24 move the motion.

25 COMMISSIONER ROSENFELD: Second.

1 CHAIRPERSON DESMOND: All those in
2 favor?

3 (Ayes.)

4 CHAIRPERSON DESMOND: Opposed? So
5 moved. Thank you very much.

6 MR. SULEIMAN: Thank you.

7 CHAIRPERSON DESMOND: As I indicated
8 earlier, agenda number 5 has been held over to the
9 business meeting on the 15th.

10 Agenda item 6 is the Aspen Environmental
11 Group. Possible approval of contract 700-05-002
12 with Aspen Environmental Group for \$18,636,000
13 providing engineering and environmental technical
14 assistance in power plant licensing. The
15 contractor will help staff evaluate power plant
16 proposals and provide technical support in
17 electricity, transmission system engineering and
18 natural gas, siting trends in policy planning.
19 Mr. Tooker.

20 DR. TOOKER: Good morning,
21 Commissioners. I'd like to provide a little
22 background on this contract. This is the third
23 three-year contract that the siting division has
24 proposed for providing technical support services
25 to our licensing and planning programs.

1 The first two contracts were awarded
2 also to Aspen Environmental Services. At the time
3 we awarded the second contract to Aspen, there
4 were a number of complaints filed; there were
5 concerns on the part of other bidders there was
6 not ample opportunity in the structure of the
7 contract to allow for other participation of
8 contractors.

9 As a result of that, in structuring this
10 contract we prepared a request for qualifications
11 which separated the planning from the siting work
12 support. And we issued that RFQ; received bids;
13 and conducted evaluations and scorings separately
14 for planning and for siting. And as a result of
15 that process, we selected Aspen once again, which
16 was far superior in its proposal and its offerings
17 to the other bidders.

18 And we're here today to ask approval of
19 that contract.

20 CHAIRPERSON DESMOND: Thank you.
21 Commissioner Geesman.

22 COMMISSIONER GEESMAN: I'd move approval
23 of the contract.

24 COMMISSIONER BOYD: Second.

25 CHAIRPERSON DESMOND: All those in

1 favor?

2 (Ayes.)

3 CHAIRPERSON DESMOND: Opposed? So
4 moved.

5 DR. TOOKER: Thank you.

6 CHAIRPERSON DESMOND: Thank you, Mr.
7 Tooker.

8 Item number 7, appliance efficiency
9 regulations. Report of the Efficiency Committee's
10 plans to continue to a later business meeting the
11 adoption of the proposed amendments to appliance
12 regulations for lighting equipment. This is an
13 information-only item. Mr. Flamm.

14 MR. FLAMM: My name is Gary Flamm,
15 technical staff at the Energy Commission. Good
16 morning, Commissioners.

17 I believe Commissioner Pfannenstiel
18 would like to make this presentation.

19 COMMISSIONER PFANNENSTIEL: Thank you,
20 Gary. Yes, let me start by laying out the
21 proposal. The Efficiency Committee proposes that
22 we not adopt the appliance efficiency language
23 that we put forth in our 45-day language.

24 Some background on this item is that in
25 December of '04 the Energy Commission adopted

1 changes to our appliance efficiency regulations
2 for certain appliances.

3 But at that time in its adoption order
4 the Commission directed the Efficiency Committee
5 to further pursue a couple items, couple appliance
6 items, specifically lighting, which is the subject
7 here. And to hold additional hearings on that.

8 So in the course of 2005 the Committee
9 held two workshops and a hearing; well, the
10 hearing was earlier this month. But we had, the
11 Efficiency Committee had published on January 5,
12 2006, a notice of proposed action or 45-day
13 language on this subject. That 45 days would be
14 effective today.

15 And so we're suggesting, we're proposing
16 that, in fact, it not go into effect today, but
17 rather, based on the latest information from the
18 latest workshops, that we instead issue 15-day
19 language going forward on this subject.

20 So we are seeking a continuation of this
21 proceeding.

22 CHAIRPERSON DESMOND: Thank you,
23 Commissioner Pfannenstiel. Any further comment?
24 No. Okay.

25 We'll move on then. Agenda item number

1 8, and I would note I have two blue cards from
2 speakers here. So when we're done with the
3 presentation.

4 This is the California Building
5 Performance Contractors Association, CBPCA. And
6 possible approval of a CBPCA as a home energy
7 rating system HERS provider for training,
8 certification and oversight of HERS raters to
9 perform field verification services. Mr. Maeda.

10 MR. MAEDA: Under Title 20 the
11 Commission adopted regulations to regulate the
12 essentially procedures and requirements for HERS
13 providers. HERS providers, as mentioned, train
14 raters, HERS raters, which are used primarily in
15 the building energy efficiency standards to verify
16 certain quality installation of HVAC equipment and
17 envelope measures in the standards.

18 This would be the third HERS provider
19 that we propose to have approved today. But it
20 does include a new feature. Under the 2005
21 standards we adopted measures for including third-
22 party quality control programs within the HERS
23 provider, HERS rating system, home energy rating
24 system provider applications.

25 These third-party quality control

1 programs essentially go through an extensive data
2 gathering process and verification process of the
3 installers; do additional training on installers
4 to allow HERS raters to sample fewer measures and
5 verify them, and saving money for the installers
6 and for the whole system as a whole.

7 Staff has reviewed this application over
8 the course of several months, many months actually
9 at this point, and we are satisfied with the
10 application and the information presented to us.
11 And we recommend its approval.

12 CHAIRPERSON DESMOND: Thank you.
13 Commissioners, do you have any questions of Mr.
14 Maeda.

15 Mr. Locke with CBPCA had asked to speak.
16 Is he present? Tim Locke?

17 MR. LOCKE: Can I yield at this point?

18 CHAIRPERSON DESMOND: Certainly. Mr.
19 Mohassi (phonetic), also from CBPCA, did you need
20 to speak to this issue?

21 MR. MOHASSI: I'd just yield at this
22 point and wait to see if we need to make a --

23 CHAIRPERSON DESMOND: Okay. Is there a
24 motion?

25 COMMISSIONER PFANNENSTIEL: So moved.

1 COMMISSIONER ROSENFELD: Second.

2 CHAIRPERSON DESMOND: All those in
3 favor?

4 (Ayes.)

5 CHAIRPERSON DESMOND: Opposed? So
6 moved. Thank you.

7 Agenda item number 9, ENERGYPRO 4.1.
8 Possible approval to decertify the software
9 program ENERGYPRO version 4.0 and replace with
10 ENERGYPRO version 4.1 for use in complying with
11 the 2005 residential building energy efficiency
12 standards. Mr. Hudler.

13 MR. HUDLER: Good morning,
14 Commissioners. Staff is requesting for this move.
15 We had found that, you know, in ENERGYPRO, which
16 is one of the primary programs used for compliance
17 with the building standards, that there was some
18 flexibility in the program which certain
19 compliance people were taking advantage of.

20 And Martyn had voluntarily given us this
21 information. Martyn has, since that point in
22 time, made the modifications to the program so
23 that this flexibility is no longer available.

24 And we would hope this would resolve any
25 of the continued problems we might have.

1 CHAIRPERSON DESMOND: Thank you. Quick
2 question I had. Is there any cost to the users of
3 this to go from 4. --

4 MR. HUDLER: No, no, --

5 CHAIRPERSON DESMOND: No, okay.

6 MR. HUDLER: -- Martyn is going to re-
7 release it, --

8 CHAIRPERSON DESMOND: Providing --

9 MR. HUDLER: Yes.

10 CHAIRPERSON DESMOND: Okay, thank you.

11 COMMISSIONER PFANNENSTIEL: I'd move the
12 item.

13 COMMISSIONER ROSENFELD: I second it.

14 CHAIRPERSON DESMOND: All those in
15 favor?

16 (Ayes.)

17 CHAIRPERSON DESMOND: Opposed? So
18 moved. Thank you.

19 MR. HUDLER: Thank you.

20 CHAIRPERSON DESMOND: Agenda item number
21 10. I would note I have one, two, three, four
22 speakers looking to address the subject.

23 This is Potrero Unit Number 7 project.
24 Possible consideration and approval of the
25 Committee order denying request for continued

1 suspension in order terminating the Potrero Unit 7
2 project, docket 00-AFC-04. I have here Mr.
3 Valkosky, but --

4 COMMISSIONER GEESMAN: Mr. Chairman.

5 CHAIRPERSON DESMOND: Yes.

6 COMMISSIONER GEESMAN: Mr. Valkosky had
7 a doctor's appointment come up and I indicated
8 that I would take the matter for him. It might be
9 most expeditious if we heard from the parties
10 first.

11 CHAIRPERSON DESMOND: Please. First up,
12 Jeanne Sole, City and County of San Francisco.

13 MS. SOLE: Good morning, Commissioners.
14 I appreciate the opportunity to address you on
15 behalf of the City and County of San Francisco.
16 We are urging you to please adopt the order of the
17 siting commission. We believe that this
18 proceeding should be terminated.

19 The proceeding has been in effect now
20 for five years, but since 2002 there has been very
21 little action. Furthermore, since the proceeding
22 has been active, there have been a number of
23 resources that have come into place that made the
24 project completely unnecessary.

25 It was always a problematic project as

1 far as the City was concerned, because it's too
2 big. It's bigger than what is needed to address
3 the problem.

4 It has a single point of failure which
5 means that the generation can't be considered for
6 purposes of planning.

7 And it's located in a community which is
8 a community of color that has been
9 disproportionately impacted by industrial
10 activity. And in particular, generation.

11 The City has attempted to address the
12 reliability need through a project that is smaller
13 and that will have a smaller impact, and is more
14 flexible. That project is underway. The final
15 staff assessment was issued a week ago. And the
16 City is diligently moving forward with that
17 project.

18 In addition, the Jefferson-Martin line
19 has been pretty much coming close to being in
20 service. And the Hunter's Point Power Plant will
21 be able to shut down as a result of that. And the
22 ISO, at the end of last year, approved the
23 TransBay cable.

24 So there are a number of additional
25 resources that are going to be in place to address

1 the reliability needs of San Francisco. And we
2 believe that this project is not the right
3 solution to the problem. And so this proceeding
4 should be terminated.

5 CHAIRPERSON DESMOND: Thank you, Ms.
6 Sole. Next I have Mr. Greg Karras, Senior
7 Scientist with Communities for a Better
8 Environment.

9 MR. KARRAS: Thank you, Commissioners.
10 Greg Karras, Communities for a Better Environment.
11 We support the recommendation to terminate
12 proceedings. I'll be brief.

13 I think your recommendation laid it out
14 well. The record's hopelessly stale. There
15 hasn't been diligence. In the time since there
16 was the last substantive proceedings on behalf of
17 CBE I personally have moved forward in helping
18 with the implementation of alternative energy
19 plans and also taking a closer look at the broader
20 issue of the cooling water impacts, one of the
21 major impacts of the plant.

22 And so I can tell you that the
23 recommendation is absolutely right. Everything's
24 changed, there's a lot of new information.
25 There's a whole different grid there on the

1 Peninsula. Support the recommendation.

2 CHAIRPERSON DESMOND: Thank you. Mr.
3 Alan Ramo, Director at the Environmental Law and
4 Justice Clinic, Golden Gate University.

5 MR. RAMO: Good morning, Commissioners.
6 I've been involved with this project initially on
7 behalf of the Southeast Alliance for Environmental
8 Justice since it began in May 2000.

9 We opposed it initially because we felt
10 it was over-ambitious, insensitive to the
11 environment, inconsistent with principles of
12 environmental justice We felt there was a better
13 way to do things.

14 Not surprisingly, the City of San
15 Francisco, which was essential to the success of
16 this project, opposed it. The National Marine
17 Fisheries Service questioned it. The Regional
18 Board questioned it. BCDC blocked it.

19 It is no surprise that this project,
20 that the hearings for this project stopped in May
21 2003 and the project's been suspended ever since.
22 Things have really changed.

23 The ISO does have a new plan worked
24 through with the community, with the City, that
25 makes this project unnecessary. In fact, the

1 existing facility will lose its RMR contract in a
2 year or so. Hunter's Point is shutting down;
3 problems are being solved. We don't need to rely
4 on this project.

5 There's new data on problems with once-
6 through cooling from the existing facility, let
7 alone a combined facility as proposed here. That
8 was the flaw in the design. The alternatives that
9 Mirant wanted required City cooperation. And
10 that's, as you've heard, not there. There's no
11 way this project is viable.

12 You have a lot of important business to
13 do. Your staff is working very hard on projects
14 that are viable. Those projects deserve your
15 attention. There's no need to keep this on the
16 docket for some strategic purpose. The public
17 needs clarity from this Commission as to where
18 we're doing, what direction we're going to follow.
19 And as long as this project is in a suspended
20 state, there remains doubts in the community of
21 whether the Commission is in accord with the ISO.

22 I urge you to support the recommendation
23 and continue to move us forward on these issues.

24 Thank you.

25 CHAIRPERSON DESMOND: Thank you.

1 Lastly, Mr. Mike Carroll, Latham and Watkins, on
2 behalf of Mirant.

3 MR. CARROLL: Good morning. Mirant
4 appreciates the consideration the Committee and
5 the Commission has given to its request that these
6 proceedings be continued in a suspended state.

7 And while obviously it had been our
8 desire for the suspension to be continued, we do
9 acknowledge that the record is dated in many
10 respects. And we do respect and accept the
11 decision of the Committee.

12 Notwithstanding what you just heard
13 regarding developments that have occurred, or may
14 have occurred during the pendency of this
15 suspension, Mirant does continue to believe that
16 the future of electric reliability in San
17 Francisco is still very uncertain, and that the
18 path forward is unclear.

19 Mirant also believes that the Potrero
20 Power Plant will be a part of the future plan in
21 some capacity.

22 So we accept the decision of the
23 Committee and we look forward to bringing another
24 project before the Commission in the future.

25 Thank you very much.

1 CHAIRPERSON DESMOND: Thank you.

2 Commissioner Geesman.

3 COMMISSIONER GEESMAN: Mr. Chairman, you
4 assigned this item to the Siting Committee I think
5 four weeks ago. And our decision did not attempt
6 to address the merits of the project originally
7 proposed or whatever may be done at that site in
8 the future.

9 Instead we looked at it from the
10 standpoint of our own internal process and
11 concluded that should there ever be a desire to
12 move forward with a project at that particular
13 site, it would be a lot better from the standpoint
14 of our licensing responsibilities if a completely
15 new filing were made.

16 If there's anything of relevance in the
17 existing record, it can be incorporated in a new
18 filing and brought up to date, subjected to our
19 staff's ordinary data adequacy requirements. Mr.
20 Ramo, I think, made an extremely important point
21 in saying we've got a lot of work to do. And it's
22 important from that standpoint that we focus on
23 live projects and move our siting cases along
24 accordingly.

25 It doesn't serve anybody's interests,

1 probably least of all the local community, to
2 allow stale records to accumulate without
3 decisions on our part.

4 So, on behalf of the Siting Committee I
5 would recommend that we adopt the order denying
6 continued suspension, and terminate this
7 proceeding.

8 COMMISSIONER BOYD: As the Second Member
9 of the Siting Committee, I agree with Commissioner
10 Geesman's statement of why it is we did what we
11 did. And I'll second the motion.

12 CHAIRPERSON DESMOND: I appreciate the
13 clarification from the Siting Committee.

14 All those in favor?

15 (Ayes.)

16 CHAIRPERSON DESMOND: Opposed? So
17 moved. Thank you.

18 Agenda item number 11, Net Metering
19 Resolution. Possible approval of the Renewable
20 Committee's resolution encouraging Pacific Gas and
21 Electric Company to draft and support legislation
22 to raise the net metering cap for customers in the
23 PG&E service territory. Mr. Herrera. And I'll
24 note that Mr. Guliasi would like to address the
25 Committee, as well, afterwards.

1 MR. HERRERA: Good morning,
2 Commissioners. Gabe Herrera with the Commission's
3 Legal Office. Just a point of clarification
4 before I break into this. That is that the
5 resolution actually asks for three things. Not
6 only are we seeking the Commission's approval of a
7 resolution to encourage PG&E to support new
8 legislation, but we are also, in the interim,
9 encouraging them to voluntarily continue their net
10 energy metering tariffs. And that they pursue
11 CPUC approval, if necessary, expeditiously.

12 By way of background, Public Utility
13 Code section 2827 requires that electric service
14 providers, like PG&E, establish net energy
15 metering tariffs, and that they offer those
16 tariffs on a first-come/first-serve basis to
17 eligible customers until the aggregate peak demand
18 for those customers reaches one-half of 1 percent.

19 For PG&E, PG&E has established that net
20 energy metering cap is 91.2 megawatts. And that,
21 it's my understanding, is based on peak demand in
22 July of 2005.

23 In January of this year PG&E notified us
24 that they were getting close to reaching their net
25 energy metering cap. And they would pass that cap

1 within a couple months. And they asked the Energy
2 Commission to post certain information on our
3 website that notified prospective applicants of
4 the Commission's emerging renewables program of
5 this, and that PG&E may no longer offer net energy
6 metering tariffs to new customers once they reach
7 the cap. Unless the Legislature takes action to
8 extend the cap.

9 This is a problem for the Energy
10 Commission because as you know, net energy
11 metering tariffs encourage the installation of PV
12 systems and other renewable energy distributed
13 generation systems, and would certainly thwart our
14 efforts in terms of the emerging renewables
15 program.

16 It would also affect the Public
17 Utilities Commission's self-generation incentive
18 program, as well as implementation of the
19 Governor's Million Solar Roof Initiative, as
20 recently approved by the CPUC under the California
21 Solar Initiative.

22 So we certainly have a strong interest
23 in encouraging PG&E to continue their net energy
24 metering tariffs indefinitely, and certainly as
25 long as it takes for the Legislature to take

1 action, assuming they choose fit to do so.

2 I've got a summary of where we are right
3 now from staff in terms of total megawatt capacity
4 for net energy metering customers that qualify for
5 this tariff. Just pull that out.

6 Completed to date under the self-
7 generation incentive program there are 31
8 megawatts, under the Energy Commission's emerging
9 renewables program there are 42 megawatts, for a
10 total of 73. This data is current as of
11 yesterday.

12 Approved applications under the self-
13 generation incentive program equals 38 megawatts;
14 approved applications under the Energy
15 Commission's emerging renewables program is 14
16 megawatts for an additional 52 megawatts. So that
17 total right there is 125 megawatts if all those
18 systems get installed as we anticipate.

19 In addition, the self-generation
20 incentive program has under its review and
21 received applications totaling 36 megawatts; and
22 the Energy Commission an additional 8 megawatts
23 for a total of 44.

24 So when you add all that up it equals
25 169 megawatts, far in excess of the 91.2 megawatts

1 that is the cap for PG&E. So, we would thereby
2 encourage PG&E to voluntarily continue their net
3 energy metering tariff until the Legislature acts.

4 I've reviewed the statute and on its
5 face there's nothing precluding PG&E from doing
6 so. So I would encourage the Commission to pass
7 this resolution.

8 CHAIRPERSON DESMOND: Thank you.

9 Commissioner Geesman. The Renewables Committee is
10 making this recommendation, along with the staff.
11 The utilities are going to be an indispensable
12 part to the success of the California Solar
13 Initiative that the CPUC adopted last month.

14 And our 2004 Integrated Energy Policy
15 Report update addressed this question of net
16 metering and suggested that as each utility
17 approached its cap, that that cap be lifted.

18 As a result of considerable leadership
19 last year by San Diego Gas and Electric the
20 Legislature, with San Diego Gas and Electric's
21 support, lifted the San Diego cap. And I think
22 there's no mistaking one of the principal reasons
23 why San Diego is the leading photovoltaic market
24 in California, it's a result of, I think, a very
25 cooperative and encouraging utility.

1 The PG&E service territory, PG&E
2 customers, much larger in size and scale than San
3 Diego. And as a consequence I think the
4 contribution that we should expect from PG&E in
5 the future will be much larger.

6 And in that spirit we would recommend
7 that PG&E continue its existing net metering
8 tariff; seek CPUC support for doing that until the
9 Legislature is able to provide the same type of
10 adjustment that it did with San Diego's tariff
11 last year.

12 CHAIRPERSON DESMOND: Thank you. Mr.
13 Guliasi, would you -- or, Commissioner
14 Pfannenstiel did you have a question?

15 COMMISSIONER PFANNENSTIEL: Just a
16 comment. I think that it's pretty clear that
17 California has strongly supported the concept of
18 moving forward in the solar program. And we're
19 doing so through two new programs emerging, one
20 here, one at the Public Utilities Commission.

21 Both of those programs have, as a
22 foundation to them, net metering. And I think
23 that we all are aware that the initial legislation
24 does have these caps there. But we're also
25 equally aware that the caps were voluntary, the

1 utilities could voluntarily go beyond the cap.

2 And I think when we had our discussion
3 in the Renewables Committee and embodied in this
4 resolution that's before us today is to suggest
5 these programs are being developed this year, the
6 course of 2006, for implementation beginning of
7 2007.

8 And it would be a terrible blow to the
9 programs if we didn't have the utilities as
10 partners in these programs. And I think this is
11 an opportunity for PG&E to step up, working with
12 the PUC, to become part of the new programs going
13 forward.

14 Yes, we all expect that the Legislature
15 will weigh in at some point. But I think that the
16 program guidelines that we're developing as we
17 speak require us all to be on the same page on
18 this. I think the resolution, then, is asking
19 PG&E to be a partner with us in these new solar
20 efforts.

21 CHAIRPERSON DESMOND: Mr. Herrera,
22 although we're talking about PG&E here and San
23 Diego last year had the legislation to raise, how
24 close are we in the Southern California Edison
25 territory to the same issue?

1 MR. HERRERA: That is a good question,
2 Chairman. And unfortunately I don't have the
3 answer. And I think we're missing a lot of staff
4 people in the renewable energy office --

5 CHAIRPERSON DESMOND: Do we have a staff
6 estimate?

7 COMMISSIONER GEESMAN: The staff is
8 largely at a training session. I think the answer
9 is a considerably far piece away from the cap in
10 the Edison service territory.

11 CHAIRPERSON DESMOND: Okay.

12 COMMISSIONER ROSENFELD: Is it the same
13 percent cap?

14 COMMISSIONER GEESMAN: Yes.

15 CHAIRPERSON DESMOND: Okay.

16 MR. HERRERA: Apologize for that,
17 Chairman.

18 CHAIRPERSON DESMOND: That's okay; I
19 didn't know if it needed to be a broader
20 resolution.

21 Mr. Guliasi.

22 MR. GULIASI: Thank you. Good morning,
23 Commissioners and Staff. My name's Les Guliasi
24 representing PG&E.

25 I just wanted to provide a few comments,

1 then I'd be happy to answer any questions that you
2 may have of me.

3 I understand your rationale for
4 proposing this resolution. And I can appreciate
5 your desire to encourage PG&E to continue the net
6 metering tariff.

7 I believe our goals are the same, that
8 is we want to insure that there's no disruption in
9 the program and that customers continue to have
10 this tariff option available to them. And hearing
11 your words this morning, I want to assure you that
12 we do consider ourselves to be a partner in this
13 larger effort. And we're going to do our part to
14 insure that this program can continue.

15 Today we are going to file an advice
16 letter with the CPUC; the advice letter will
17 notify the Commission of the likelihood of
18 reaching the cap sometime later this year. And
19 the advice letter will seek approval from the
20 Commission to continue offering the tariff service
21 should we reach the cap. So there's no disruption
22 in the service to our customers.

23 We've shared drafts of that advice
24 letter with the -- and we've shared a draft of the
25 proposed tariff language changes to the staff and

1 to the Renewables Committee.

2 In drafting the advice letter we sought
3 the input of the renewables community,
4 particularly the stakeholders representing the
5 photovoltaic industry. And yesterday we met with
6 the CPUC, mainly staff members, to review our
7 draft filing. So we're going to file that advice
8 letter sometime later today.

9 The advice letter and CPUC approval will
10 meet the short-term goal, we believe, to insure
11 there's no disruption in the program that
12 customers can continue to receive this tariff
13 option. And we think it will build a bridge
14 between the time when we may reach the cap, which
15 we estimate to be sometime around late August, end
16 of August, and the first of the year.

17 The longer term solution to this problem
18 is a legislative fix. We believe that the
19 Legislature will address this issue during this
20 legislative session. And we are committed to
21 being an active and constructive party in that
22 legislative debate.

23 The draft resolution, in the fifth
24 paragraph, makes reference to the fact that PG&E
25 has made a decision to terminate the tariff. And

1 I want to assure you that we have made no decision
2 to terminate the tariff, the net metering tariff
3 at this point. And our advice letter is intended
4 to avoid any disruptions or adverse customer
5 impacts.

6 So I think that wording is perhaps a bit
7 harsh and perhaps a bit misleading. And you may
8 want to consider modifying that language.

9 I'd heard Mr. Herrera's presentation
10 about the numbers. And I would like to have the
11 opportunity to work with staff to review those
12 numbers and see if we are on the same page with
13 respect to projections, and where we might end up
14 with respect to the cap. And when we might hit
15 that cap.

16 So, I would welcome the opportunity to
17 speak with staff and get our staff engaged with
18 them to insure that we're all on the same page.

19 I guess I'd be happy to take questions
20 from you, but I want to first thank everybody here
21 at the Commission for encouraging the constructive
22 dialogue that we've had over the past few days.
23 Greg Johnson, Gabe Herrera, Tim Tutt and others
24 and the encouragement of the Committee were very
25 helpful and gave us some valuable input in helping

1 us see things more clearly and construct a draft
2 of the advice letter that we're submitting to the
3 PUC today.

4 Thank you. If you have any questions
5 I'd be happy to --

6 CHAIRPERSON DESMOND: Thank you, Les.
7 Questions or comments? Commissioner Geesman.

8 COMMISSIONER GEESMAN: Well, I would
9 suggest in response to Les' presentation that we
10 alter the first line of that fifth paragraph. And
11 it says now, "Whereas PG&E's decision to terminate
12 or alter its net energy metering tariffs will
13 adversely impact," I'd simply suggest that we say,
14 "Whereas a PG&E decision to terminate or alter its
15 net energy metering tariff would adversely
16 impact."

17 And with that amendment, I, in the
18 spirit of cooperation, move that we adopt the
19 resolution.

20 CHAIRPERSON DESMOND: Commissioner
21 Pfannenstiel.

22 COMMISSIONER PFANNENSTIEL: Just one
23 question. Les, what would happen if the
24 Legislature does not act this year? What would
25 happen to the metering cap?

1 MR. GULIASI: Well, that's a good
2 question. And the truthful answer is I'm not
3 sure. Let me just try to provide a little bit of
4 our -- share with you a little bit of our thinking
5 and our analysis here on this problem.

6 While Mr. Herrera said that on the face
7 of it, and the resolution says on the face of it,
8 there's nothing prohibiting PG&E from continuing
9 the tariff. That's a legitimate reading. And I
10 can understand why one would reach the conclusion
11 that we have, if you will, permission to
12 voluntarily continue the program in spite of
13 reaching the cap.

14 When we dug into it a little bit more
15 and looked at the legislative history, the answer
16 isn't as clear as one might think from a plain
17 reading on its face.

18 We believe that the Legislature put the
19 cap in place for a reason, and we believe a cap is
20 a cap. We're hopeful that the Legislature will
21 provide us a solution to this problem so we don't
22 face the problem this year, but we don't face the
23 problem in the future. So there does need to be a
24 legislative fix tot his problem.

25 I can't tell you exactly what will

1 happen if we reach the cap and the Legislature
2 does not create a higher cap. We'll have to face
3 that decision when we get to it. And, you know,
4 cross that bridge.

5 But, our goal here is the same as yours,
6 that is to continue to provide the tariff service
7 to the customer so there's no disruption. Be we
8 have to see what happens in the legislative
9 debate, and see what the Legislature really means.
10 And if they really mean the cap to be the cap as
11 it exists today, or if it means something else.

12 CHAIRPERSON DESMOND: Les, I had a
13 question. And maybe this is more to the
14 Commission than anyone. But it's my understanding
15 the cap, raising the cap is merely intended as a
16 transitional strategy until such time as the PUC
17 puts in place the appropriate tariffs to prevent a
18 cost shifting. Not to move necessarily to just a
19 pure gen-to-gen calculation, but instead whether
20 it's a fixed demand component from the system
21 contribution plus the energy component.

22 And I don't want to lose sight of the
23 urgency for the PUC to address this issue at the
24 same time. And so outside of this resolution,
25 which is specific to PG&E, I guess I'm asking if

1 we should communicate via letter also to the PUC
2 urging them to take this issue up, while at the
3 same time continuing to address the raising of
4 this cap.

5 COMMISSIONER GEESMAN: I'm always a
6 little hesitant to intrude on their rate setting
7 authority. But I think it's a well considered
8 recommendation, and we ought to discuss that at
9 the Renewables Committee.

10 CHAIRPERSON DESMOND: Very good. That
11 would be fine. Commissioner Pfannenstiel.

12 COMMISSIONER PFANNENSTIEL: Well, I
13 think given Les' answer to the question about what
14 happens if, the answer is we really don't know
15 yet. There's several things to play out. Given
16 that, I think that this resolution is all the more
17 important that it conveys to PG&E the sense of the
18 Energy Commission in how important this is, and
19 encourages certain actions that are incorporated
20 here.

21 So, with that, I would move the
22 resolution.

23 CHAIRPERSON DESMOND: Okay, so we have a
24 resolution modifying the fifth paragraph --

25 COMMISSIONER PFANNENSTIEL: Yes, as

1 modified.

2 CHAIRPERSON DESMOND: As modified.

3 All those in favor?

4 (Ayes.)

5 CHAIRPERSON DESMOND: Opposed? So

6 moved. Thank you very much.

7 MR. GULIASI: Thank you for your time.

8 CHAIRPERSON DESMOND: Next item,

9 approval of the minutes for the February 15, 2006
10 business meeting.

11 COMMISSIONER ROSENFELD: I move the
12 minutes.

13 COMMISSIONER GEESMAN: Second.

14 CHAIRPERSON DESMOND: All those in
15 favor?

16 (Ayes.)

17 CHAIRPERSON DESMOND: Opposed? So

18 moved.

19 Number 13, Commission Committee
20 Presentations and Discussion. Anything from any
21 of the Commissioners?

22 I have one item then that I'll note on
23 behalf of the Electricity Committee. We will be
24 taking up consideration at the next business
25 meeting on whether the CEC will be a party to the

1 procurement proceeding and our role in
2 participating in that. So I just want to let
3 folks know that that will be at the next business
4 meeting.

5 Chief Counsel's report.

6 CHIEF COUNSEL CHAMBERLAIN: Yes, Mr.
7 Chairman, on that same subject yesterday the CPUC
8 had its prehearing conference in that proceeding.
9 And I thought the Commission might be interested
10 in knowing that Caryn Holmes tells me that the ALJ
11 in that proceeding expressed appreciation for the
12 fact that the Energy Commission's forecast and
13 information came to them in a format that did not
14 have to be burdened with the confidentiality
15 agreements that they have to handle in many other
16 cases.

17 In addition I have indicated to you that
18 I may need a brief closed session. You don't
19 believe that's necessary? All right, that's fine.
20 Thank you.

21 CHAIRPERSON DESMOND: Thank you. Item
22 number 15, Mr. Matthews.

23 MR. MATTHEWS: We're in the beginnings
24 of the budget hearings and the first one will be
25 on the Senate side on Monday. Commissioner

1 Desmond will be presenting and answering
2 questions. From what we hear so far and actual
3 assessment we have is from the Leg Analyst, which
4 was very positive in terms of our overall budget.

5 In other news, this is for Commissioner
6 Rosenfeld especially, being a walker here I walk
7 out in front of the building, and in the
8 summertime in the hottest place in this whole City
9 is right in front here because those trees have
10 been gone. They're now planted with something
11 called a Cleveland pear, which is a fruitless pear
12 tree. Beautiful blossoms in the springtime, white
13 blossoms, and deep reds in the fall.

14 COMMISSIONER ROSENFELD: On behalf of
15 the five of us, I'm pleased.

16 CHAIRPERSON DESMOND: Thank you. I'd
17 also note, just with respect to the budget, that I
18 had asked OGA, Government Affairs, just to prepare
19 a list. And the last several years there have
20 been numerous requests by the Legislature for the
21 CEC to prepare various reports, both one-time
22 reports, ongoing reports. I think there's over 15
23 bills that they came back with in the last few
24 years that have placed that additional burden on
25 us. So I thought it would be useful to prepare

1 that in advance of the budget hearings.

2 The Leg Director is not here. Do you
3 have anything on behalf --

4 MR. MATTHEWS: The entire office is out
5 with this cold that's been going around the
6 Commission, I'm afraid.

7 CHAIRPERSON DESMOND: Public Adviser's
8 report? Don't see anyone here.

9 Public comment. Any additional comments
10 from anyone here in the audience or on the phone
11 on any matter they wish to raise before the
12 Commission?

13 Very well, with that, we'll bring this
14 meeting to a close. Thank you very much.

15 (Whereupon, at 10:56 a.m., the business
16 meeting was adjourned.

17 --oOo--

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CERTIFICATE OF REPORTER

I, CHRISTOPHER LOVERRO, 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 9th day of March, 2006.

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