

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 11, 2006

10:07 A.M.

Reported by:
Peter Petty
Contract Number: 150-04-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMISSIONERS PRESENT

Jackalyne Pfannenstiel, Chairperson

Arthur H. Rosenfeld

Jeffrey D. Byron

STAFF and CONTRACTORS PRESENT

B.B. Blevins, Executive Director

William Chamberlain, Chief Counsel

Harriet Kallemeyn, Secretariat

John Wilson, Advisor

Gloria Orlando

Garret Shean

Jack Caswell

Gary Fay

Kerry Willis

Dick Ratliff

Jason Orta

Rob Hudler

Jim Holland

Marla Mueller

Rajesh Kapoor

Steve Williams

Paul Kramer (via teleconference)

PUBLIC ADVISER

Nick Bartsch for Margret Kim

ALSO PRESENT

Allan J. Thompson, Attorney
on behalf of Niland

Henryk Olstowski
Imperial Irrigation District Energy

Scott A. Galati, Attorney
Galati and Blek
on behalf of Blythe Energy Project

Gary L. Palo
FPL Energy

Greggory Wheatland, Attorney
Ellison, Schneider and Harris
on behalf of Los Esteros Critical Energy Facility

Michael A. Argentine
Calpine Corporation

Gary Rubenstein (via teleconference)
Sierra Research

Rene Gurza, Senior Deputy City Attorney
(via teleconference)
City of San Jose

Richard Buikema (via teleconference)
City of San Jose

Robert Sarvey (via teleconference)

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P R O C E E D I N G S

10:07 a.m.

CHAIRPERSON PFANNENSTIEL: This is the Energy Commission October 11th business meeting. Please join me in the Pledge of Allegiance.

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

CHAIRPERSON PFANNENSTIEL: Before we begin with our business agenda, I have an award to announce. We like to take the opportunity when one of our people has been recognized to make sure that the entire community recognizes this.

So this is an award that was presented to John Wilson, who we all know and love, and who has been with us for a long time, serving many many valuable roles.

COMMISSIONER ROSENFELD: And he's sitting out there disguised, wearing a tie.

(Laughter.)

CHAIRPERSON PFANNENSTIEL: Right, nobody would recognize him.

And this is awarded to John from the American Council for an Energy Efficient Economy, whom we all know as just ACEEE. It's a 2006 Champion of Energy Efficiency Award. Champions of

1 power supply efficiency to, besides John Wilson of
2 the Energy Commission, Chris Calwell of ECOS
3 Consulting, Andrew Fanara of the USEPA, and Noah
4 Horowitz of NRDC, for their research, advocacy,
5 management and partnership abilities in working to
6 transform a key technology market.

7 And I believe Commissioner Rosenfeld has
8 some words to say on this.

9 COMMISSIONER ROSENFELD: I couldn't
10 resist the temptation of turning the savings that
11 are going to materialize from this into gallons of
12 gasoline and tons of CO2. And I also want to take
13 this occasion to thank not only John, who was
14 certainly the leading zealot in this activity, but
15 also in working on energy efficiency with Tim
16 Tutt. I think this is a wonderful arrangement.
17 Commissioners get to be Chairs and all these hard-
18 working senior advisers do the honest work. And I
19 think it's just as it should be.

20 I really did want to wave around the
21 savings. This is an old power supply which is
22 sitting around my office. It actually says Apple
23 Computer. It used to run a computer. It's about
24 5 watts. They've come down recently to about 2.5
25 watts. And this is a modern cellphone power

1 supply of, according to our new standards, it will
2 be less than .5 watt. So the savings is something
3 like 2.5 watts.

4 That sounds pretty good, but I wanted to
5 say if you think of these things, these vampires
6 sitting there sucking electricity 24 hours a day
7 for ten years, that turns out to be an amount of
8 gasoline, which is sort of worth thinking about,
9 it's a gallon. That is getting rid of this gets
10 rid of a gallon of gasoline, which you don't know
11 when you bring it home from the store.

12 To put it a little bit further, we got
13 into the power supply business by measuring some
14 houses on a nice spring or fall night when they
15 shouldn't be drawing a lot more electricity than
16 what the refrigerator's cycling. And it turns out
17 that the tv which never turns off, and the garage
18 door opener which never turns off, and your
19 battery chargers which never turn off, that the
20 house is running around 80 watts that are normally
21 unaccounted for.

22 We're going to get that down to a third
23 or a quarter with these standards, which will have
24 a payback time of a few months.

25 What is 80 watts for a year? Well, it

1 turns out to be a barrel of gasoline. A barrel,
2 if you don't know, is 42 gallons. So that's the
3 sort of thing we're going to save from houses in
4 California. And this movement will sweep the
5 United States. And it'll end up saving something
6 like 5 percent of electricity in the United
7 States.

8 Now, I remind you that California
9 electricity is only 7.5 percent of the whole
10 United States. So we're talking about saving half
11 to one California for the next like 10 or 20
12 years.

13 I think that deserves commendation;
14 thank you.

15 CHAIRPERSON PFANNENSTIEL: Thank you,
16 John.

17 (Applause.)

18 COMMISSIONER ROSENFELD: And here's the
19 photo op.

20 (Photographs taken.)

21 (Applause.)

22 MR. WILSON: If I could say just a few
23 things. It was about five years ago when Art and
24 I talked about, you know, a couple of areas where
25 I should try to focus my efforts and make an

1 impact. And this was one of them. And I'm really
2 glad it worked out, because I can't remember what
3 the other one was.

4 (Laughter.)

5 MR. WILSON: This really was a team
6 effort. In my long experience at the Commission
7 you don't accomplish big things without a big
8 successful team of people. And there is a team on
9 this plaque, and of course, there are many other
10 people who aren't on this plaque who really
11 deserve a lot of credit, as well.

12 Dealing with electronics, this was a
13 global effort, so it included Chinese and Koreans
14 and Australians and Europeans. And even more
15 importantly for the Commission, many people who
16 are in California, and in fact in this room,
17 people like Pat Eilert with PG&E, and of course,
18 our own essential appliance staff, people like Jim
19 Holland and Bill Pennington and Betty Chrisman and
20 other people. So I want to thank all them, as
21 well, for making this possible. Thanks.

22 CHAIRPERSON PFANNENSTIEL: Thank you,
23 John.

24 (Applause.)

25 CHAIRPERSON PFANNENSTIEL: On to other

1 business. We have in front of us a consent
2 calendar.

3 COMMISSIONER ROSENFELD: I move the
4 consent calendar.

5 COMMISSIONER BYRON: I second.

6 CHAIRPERSON PFANNENSTIEL: In favor?
7 (Ayes.)

8 CHAIRPERSON PFANNENSTIEL: Consent
9 calendar is approved.

10 Item number 2, Collaborative for High
11 Performance Schools. Possible approval of co-
12 sponsorship of a web-based training series for the
13 Collaborative for High Performance Schools, using
14 the Energy Commission's WebEX service, and the
15 Energy Commission logo. Ms. Orlando.

16 MS. ORLANDO: Good morning, Chair
17 Pfannenstiel, Commissioners. My name is Claudia
18 Orlando and I'm in the public programs office.

19 I'm here today to request your approval
20 of a co-sponsorship of a series of training events
21 for the Collaborative for High Performance
22 Schools.

23 The Collaborative for High Performance
24 Schools, or CHPS, is a private, nonprofit
25 organization with the goal of increasing the

1 performance of school facilities by providing
2 information and technical services directly to
3 district and their design teams.

4 CHPS began in November of 1999 when the
5 Energy Commission called together Pacific Gas and
6 Electric, San Diego Gas and Electric and Southern
7 California Edison to discuss the best ways to
8 improve the performance of California's schools.

9 It was projected that California school
10 construction to accommodate unhoused pupils and to
11 repair existing facilities could cost taxpayers up
12 to \$50 billion over the next ten years. Schools
13 spend almost \$7 million currently annually on
14 energy, and between 20 and 40 percent of this can
15 be saved.

16 Out of this partnership CHPS grew to
17 include a diverse range of government, utility and
18 nonprofit organizations with the unifying goal to
19 improve the quality of education in California K-
20 12 schools.

21 Current Board members include the Energy
22 Commission, the Integrated Waste Management Board,
23 Sacramento Municipal Utility District, Los Angeles
24 Unified School District and the San Diego City
25 Unified School District. The Division of State

1 Architect, Office of Public School Construction
2 and California Department of Education serve as
3 advisory board members.

4 High Performance Schools are designed
5 and sited for efficient use of energy, materials
6 and water; and daylighting is a primary source of
7 illumination. CHPS has created a six-volume set
8 of design and maintenance operation guidelines for
9 building environmentally and sustainable schools;
10 and has provided training and information to many
11 school districts and design teams.

12 Other states such as Massachusetts, New
13 York and Washington are using these guidelines for
14 their public school construction projects.

15 Governor Schwarzenegger's executive
16 order S-2004 directed the Division of State
17 Architect to work with the Energy Commission and
18 the Office of Public School Construction to
19 recommend guidelines for public school
20 construction to encourage them to be resource and
21 energy efficient. As a result of that task, the
22 Division of State Architect has recommended the
23 use of the CHPS guidelines for those guidelines.

24 During the next general election there
25 is a bond measure, that if passed by the voters,

1 will provide \$100 million of incentive funds for
2 schools to use the CHPS criteria in new
3 construction and modernization projects.

4 CHPS is planning two series of training
5 events for 2006/2007. These events are for K-12
6 school districts and their design teams, and is
7 open to the public. The training includes
8 information on the use of daylighting and
9 electrical lighting, site planning and water
10 efficiency, HVAC and building envelope and
11 material selection and waste management.

12 PG&E has offered to co-sponsor these
13 events by committing \$25,000 to develop the
14 curriculum, compensate the presenters and
15 publicize the training events. Sacramento
16 Municipal Utility District is also co-sponsoring
17 the event by hosting the second series of events
18 in Sacramento and providing lunch to the
19 attendees.

20 CHPS is interested in hosting a series
21 of training events on the web to accommodate
22 limited-travel budgets and available staff time of
23 school district personnel. CHPS has requested the
24 Energy Commission to co-sponsor these training
25 events by hosting the training on the Energy

1 Commission's WebEX service and the use of the
2 Energy Commission's logo.

3 Staff has discussed this with
4 Information Services Branch, and Information
5 Services Branch supports this staff request, and
6 estimates it will cost the Energy Commission a
7 total of \$4000 of in-kind service for these
8 events.

9 Staff supports CHPS' request to host the
10 training events on the Energy Commission's WebEX
11 service. As a co-sponsor the Energy Commission
12 will demonstrate support for energy efficiency and
13 sustainable design and construction in California
14 public school modernization and new construction
15 projects.

16 Chair Pfannenstiel and Commissioners,
17 staff is requesting your approval of this co-
18 sponsorship. And I will answer any questions at
19 this time.

20 CHAIRPERSON PFANNENSTIEL: Thank you,
21 Claudia. Are there questions?

22 COMMISSIONER ROSENFELD: I move item 2.

23 COMMISSIONER BYRON: I would also like
24 to just comment before I second; my wife was on
25 the school board and I assisted our local district

1 with some energy issues a number of years ago.
2 And they're hungry for this information, I know.
3 It never ceases to amaze me how many different
4 things this Energy Commission is involved with.
5 And this obviously is leveraging our skills and
6 our money a great deal. Thanks to PG&E and SMUD.
7 But I highly second this. I think it's great, and
8 thank you for doing it.

9 MS. ORLANDO: Okay, thank you.

10 CHAIRPERSON PFANNENSTIEL: All in favor?

11 (Ayes.)

12 CHAIRPERSON PFANNENSTIEL: It's
13 approved, thank you.

14 Item 3, Possible approval of the
15 Presiding Member's Proposed Decision, final
16 initial study, proposed negative declaration and
17 any Committee-sponsored errata on the Niland Gas
18 Turbine Plant application for small power plant
19 exemption. Mr. Shean.

20 MR. SHEAN: Good morning, Commissioners;
21 I'm Garret Shean, the Hearing Officer on this
22 case.

23 In the spring of this year the Imperial
24 Irrigation District filed an application for a
25 small power plant exemption for a project near the

1 community of Niland, which is at the foot of the
2 Salton Sea.

3 The project is a 93 megawatt peaking
4 facility which is adjacent to its Niland
5 substation.

6 The staff conducted a series of
7 workshops all leading to the preparation of a
8 draft and then a final initial study, which found
9 that with mitigation related principally to the
10 potential for noise impacts to three adjacent
11 neighbors and the residents of a trailer park on
12 the east side of the community of Niland, that
13 there were not net significant environmental
14 impacts. And therefore prepared a mitigated
15 negative declaration.

16 I would just like to indicate that
17 following that the Committee noticed its
18 prehearing conference. There is no opposition to
19 the project. We then conducted an evidentiary
20 hearing. And we have before you the Presiding
21 Member's Proposed Decision and the mitigated
22 negative declaration and the initial study for
23 your adoption. There are no errata.

24 And therefore, I would -- the Committee
25 urges the full Commission to adopt the Presiding

1 Member's Proposed Decision.

2 And I will just indicate that all of the
3 procedure was conducted in a manner that's
4 consistent with the CEQA requirements for this
5 final initial study and the negative declaration,
6 with the assistance of Mr. Caswell, who was doing
7 this function on behalf of the staff.

8 I think the applicant and maybe the
9 staff have some comments, but other than that, the
10 Committee urges you to adopt the Presiding
11 Member's Proposed Decision.

12 Thank you.

13 CHAIRPERSON PFANNENSTIEL: Thank you,
14 Mr. Shean. Does staff have comments?

15 MS. WILLIS: Good morning; my name is
16 Kerry Willis. I'm senior staff counsel. And with
17 me is Jack Caswell, who was our project manager.
18 And our only comment is that the project went very
19 smoothly; applicant and staff worked together
20 cooperatively.

21 We had one issue, as Mr. Shean had said,
22 in the noise area. And that was resolved during
23 our publicly noticed draft initial study workshop.
24 So it was really a great project to work on, and I
25 want to thank both the staff and the applicant for

1 all their efforts.

2 CHAIRPERSON PFANNENSTIEL: Thank you.
3 Applicant?

4 MR. THOMPSON: Sensing we're on the
5 verge of an affirmative vote, I think we would
6 prefer that Mr. Olstowski has the opportunity to
7 say a few words after the vote, words of thanks,
8 if that is acceptable.

9 CHAIRPERSON PFANNENSTIEL: That's fine.
10 Is there then, are there questions, or is there a
11 motion to adopt the PMPD?

12 COMMISSIONER BYRON: Commissioner Boyd
13 was the lead Commissioner on this. Forgive me if
14 I'm not using the right phrase. He unfortunately
15 couldn't be here today. I was the second, and
16 joined this project a little bit late in the game.
17 But thank you, Mr. Shean, for taking me out there
18 to Niland. It was a wonderful visit.

19 And my congratulations to the staff,
20 Kerry and Jack, -- I'm sorry, Ms. Willis, Mr.
21 Caswell. This was a great one to get started on
22 obviously, and I think the staff did an excellent
23 job.

24 I'd like to move that we accept the
25 staff's recommendation.

1 COMMISSIONER ROSENFELD: Second.

2 CHAIRPERSON PFANNENSTIEL: All in favor?

3 (Ayes.)

4 CHAIRPERSON PFANNENSTIEL: Thank you,
5 all. There are some comments left.

6 MR. OLSZOWSKI: First I'd like to thank
7 the Commission for approving this small power
8 plant exemption for the Niland Gas Turbine Plant.
9 And I also would like to thank the CEC Staff; I,
10 too, believe that the CEC Staff and our
11 development team worked very well together. Went
12 through and addressed any issues that arose as
13 issues.

14 This small power plant exemption process
15 is new to me. It's the first time I've been
16 through it. And I just wanted to note one
17 interesting, I guess the most interesting event of
18 the whole process was, I guess it was the draft
19 initial study workshop in Niland.

20 That was an interesting event for two
21 reasons. One is there was some interesting
22 individuals that participated in that workshop.
23 But the other interesting fact was it was 110
24 degrees outside, and inside where we were having
25 the workshop, it was 120 degrees.

1 And I guess if we ever go through this
2 process again, and I guess if the CEC Staff want
3 to come down and have a workshop, we do have air
4 conditioned facilities there in Niland, even.

5 So with that, again I want to thank all
6 who participated. We look forward to maybe doing
7 this again some time.

8 CHAIRPERSON PFANNENSTIEL: Thank you
9 very much. Thank you, staff.

10 Item number 4, Blythe Energy Project
11 Transmission Line Modification, docket 99-AFC-08.
12 Possible approval of the Presiding Member's
13 Proposed Decision on the petition to modify the
14 Commission decision on the Blythe Energy Power
15 Plant Project transmission line modification. Mr.
16 Caswell.

17 MR. CASWELL: Good morning, Madam
18 Chairman, Commissioners. I'm Jack Caswell, the
19 Commission's Project Manager for the Blythe Energy
20 Project amendment petition.

21 Ed Bouillon, the Hearing Adviser for
22 this matter, had a schedule conflict, and I was
23 requested to fill in and present the Presiding
24 Member's Proposed Decision before you today.

25 The amendment requests basically three

1 options, to increase the transmission capacity for
2 the Blythe Energy Project, to allow them to
3 deliver the full capacity of that project into the
4 southern California electrical market.

5 At the Committee's evidentiary hearings
6 all parties were in agreement, and there were no
7 public comments received at that time. And I
8 don't believe and I verified that today that there
9 have been none since that evidentiary hearing.

10 The Committee and the staff are
11 recommending approval of the proposed decision for
12 the Blythe Energy Project license amendment. And
13 I'm available to answer any questions, as well as
14 representatives of Blythe Energy.

15 And my co-sponsors of that staff
16 assessment, draft environmental assessment, which
17 are BLM, Bureau of Land Management, are on the
18 phone, and Western Area Power Administration, they
19 are on the phone, as well. One coming from
20 southern California and the other in Colorado.

21 CHAIRPERSON PFANNENSTIEL: Thank you.
22 Let's start with applicant. Are there comments or
23 anything that you'd like to address us on?

24 MR. GALATI: I think we would like to
25 wait for the vote, and have our project manager

1 speak, as well --

2 CHAIRPERSON PFANNENSTIEL: That's fine.

3 Are there then parties on the phone wishing to
4 make comments, or just there to answer questions?

5 MR. CASWELL: John, are you on the line?

6 John Kalish?

7 SECRETARIAT KALLEMEYN: Mr. Kalish

8 indicated he did not wish to speak.

9 MR. CASWELL: Okay. Mark Wieringa for
10 Western Area Power Administration, are you on the
11 line?

12 SECRETARIAT KALLEMEYN: Also indicated
13 he did not wish to speak.

14 CHAIRPERSON PFANNENSTIEL: All right,
15 that's fine.

16 SECRETARIAT KALLEMEYN: Mr. Kramer does
17 wish to speak.

18 CHAIRPERSON PFANNENSTIEL: Okay, Mr.
19 Kramer.

20 MR. KRAMER: (inaudible) answer
21 questions.

22 CHAIRPERSON PFANNENSTIEL: I'm sorry,
23 Paul, could you start again. We lost the
24 beginning of what you said.

25 MR. KRAMER: Okay, just here to answer

1 questions if you have any.

2 CHAIRPERSON PFANNENSTIEL: Thank you.

3 Are there questions on this project?

4 Is there a motion?

5 COMMISSIONER BYRON: Madam Chair, I've
6 read all the material and I notice that the
7 Presiding Member's Proposed Decision has been
8 signed by Commissioners Geesman and Boyd, who are
9 the assigned Commissioners to this. In their
10 absence I move the staff's recommendation for the
11 Blythe Energy Project.

12 COMMISSIONER ROSENFELD: And I second
13 it.

14 CHAIRPERSON PFANNENSTIEL: I think that
15 it is a bit unusual that neither of the
16 Commissioners on that Committee are here. We've
17 talked with them; we've read the material; and I
18 think given that, the three of us then are ready
19 to take a vote on it. It's been moved and
20 seconded.

21 All in favor?

22 (Ayes.)

23 CHAIRPERSON PFANNENSTIEL: It's been
24 approved. Thank you. Yes, Mr. Galati.

25 MR. GALATI: Scott Galati on behalf of

1 Blythe Energy. I'd like to introduce Gary Palo on
2 behalf of FPL.

3 MR. PALO: Thank you, Scott. Madam
4 Chair, and fellow Commissioners, on behalf of
5 Blythe Energy and its parent, FPL Energy, I would
6 personally like to thank the Commission for
7 approving this amendment to our Blythe facility
8 license, which was earlier approved by the
9 Commission in the year 2001.

10 And specifically I'd like to thank Ms.
11 Allen and Mr. Caswell, and the staff that report
12 in through them, who oversaw this project on
13 behalf of the Commission. It was a very long,
14 lengthy process that involved very complex
15 transmission studies prepared by utilities,
16 reviewed by the California Independent System
17 Operator. It involved coordination with two large
18 federal agencies, Western Area Power
19 Administration and Bureau of Land Management.

20 And it was not only, I'm sure, somewhat
21 of a struggle at times for the staff, but also for
22 us, as the applicant, as well, just due to the
23 complexity and the size of the transmission line
24 project.

25 And we appreciate very much their effort

1 and the coordination that went into this. It's
2 very meaningful to us. And hopefully with the
3 implementation of one or both of the components of
4 the project, it'll allow our facility to deliver
5 electric energy and capacity into the SP-15
6 transmission area, which essentially represents
7 the load center of southern California.

8 So, thank you, again, and we appreciate
9 the excellent relationship that has resulted from
10 our going forward with this over the last couple
11 of years. Thank you.

12 CHAIRPERSON PFANNENSTIEL: Thank you
13 very much. Okay.

14 Item number 5, Los Esteros Critical
15 Energy Facility Phase 2, docket 03-AFC-2.
16 Possible adoption of the revised Presiding
17 Member's Proposed Decision for the Los Esteros
18 Critical Energy Facility Phase 2. Mr. Fay.

19 MR. FAY: Thank you, Chairman
20 Pfannenstiel. The Los Esteros Critical Energy
21 Facility Phase 2, or Los Esteros 2, is the second
22 part of a multi-phased generation plant. The
23 first phase received a permanent license from this
24 Commission on March 16, 2005. Phase 1 is a 180-
25 megawatt simple cycle facility.

1 The phase 2 project before you now is to
2 convert the simple cycle facility to a 320
3 megawatt combined cycle plant. This would be done
4 through the addition of HRSG tube sections and
5 associated evaporator drums and piping, HRSG duct
6 burners and a nominal 140 megawatt steam turbine
7 generator. Also a six-cell cooling tower,
8 ancillary equipment and a 230 kilovolt
9 transmission connection with the Silicon Valley
10 project switching station.

11 The Committee conducted evidentiary
12 hearings for the phase 2 project in June 2005; and
13 published its Presiding Member's Proposed
14 Decision, or PMPD, on October 7, 2005. And that
15 document stated that due to a zoning nonconformity
16 the Committee could not then recommend licensing.

17 After the PMPD was issued, the
18 Commission Staff continued its previous and
19 ongoing efforts to meet and consult with the City
20 of San Jose in an attempt to correct or eliminate
21 the project's nonconformity with the City's zoning
22 designation.

23 However, in spite of staff's numerous
24 efforts, they were not successful. And on May
25 26th of this year staff filed a motion to

1 override.

2 Other parties in the case and the City
3 of San Jose filed responses to the staff's
4 override motion. And on June 28th of this year
5 the Committee held a hearing to take additional
6 evidence and to hear argument as to whether or not
7 the Commission should override the existing zoning
8 pursuant to its authority under Public Resources
9 Code 25525.

10 At that time staff was the only party
11 that prefiled additional formal testimony, which
12 it sponsored into evidence at the evidentiary
13 hearing. The City of San Jose did not prefile
14 testimony; did not send witnesses to the hearing;
15 and did not have any City representation at the
16 hearing.

17 Following the hearing the Committee
18 issued a revised PMPD on September 21, 2006.

19 The parties in this case have filed
20 their written comments on the revised PMPD. Those
21 were due October 6th. And the revised PMPD now
22 recommends that the Commission override the
23 existing zoning nonconformity pursuant to Public
24 Resources Code 25525, and go ahead and license the
25 Los Esteros 2 project.

1 In preparing the errata to the revised
2 PMPD, the Committee took into account the comments
3 that were filed October 6th, and can now recommend
4 to you that the revised PMPD and the Committee
5 errata be adopted today by the Commission.

6 And I believe you have before you copies
7 of the revised PMPD and the errata. If there are
8 any questions I'd be happy to answer them.

9 CHAIRPERSON PFANNENSTIEL: Mr. Fay, I
10 think just for purposes of the Commissioners who
11 were not on the Committee, which the Committee was
12 myself and Commissioner Geesman, you might just
13 say a few words about how our Committee arrived at
14 the conclusion we did, which is that an override
15 was, in fact, indicated in this proceeding.

16 MR. FAY: I'd be happy to. As
17 Commissioner Pfannenstiel knows, we were, in June
18 of 2005, at an evidentiary hearing and a
19 representative of the City of San Jose was on the
20 phone connection. And made it very clear that the
21 City's plans were to deliver a zoning change
22 during July of 2005, and that they anticipated the
23 City Council would adopt that zoning change in
24 August of 2005.

25 And the representative from the planning

1 department who spoke on behalf of the City said he
2 anticipated no problem with this course of action.

3 And so the Committee went ahead and held
4 back on issuing the PMPD anticipating the City
5 action. It didn't come. And staff made repeated
6 comments, and still nothing was moving forward.
7 The deadlines were passed, and the City had not
8 even moved it to the planning commission, let
9 alone the City Council.

10 At that point the Committee decided that
11 it had to issue the PMPD, and just called it as it
12 was; that is, that there was a nonconformity and
13 the project could not be licensed due to the
14 nonconformity.

15 But the Committee chose to forego, or at
16 least withhold, any action of override under 25525
17 out of an interest in working with the City, and
18 tried to reach some understanding. And directed
19 staff to continue that. And they did for another
20 ten months.

21 And finally they became so frustrated
22 that they filed their motion. And unless you want
23 me to, I don't need to detail all of the problems.
24 But there have been a great many problems with
25 communication, misunderstanding of CEQA,

1 misunderstanding of the Warren Alquist Act.

2 And I think the City continues to
3 disagree with the Committee's proposed action.
4 And if they were here today they would make it
5 very clear that they don't think --

6 CHAIRPERSON PFANNENSTIEL: They, in
7 fact, are here today. And they're on the phone.

8 MR. FAY: I'll let them speak for
9 themselves.

10 CHAIRPERSON PFANNENSTIEL: But before I
11 think we turn to them I'll ask the staff and the
12 applicant for comments. Mr. Ratliff.

13 MR. RATLIFF: Well, the staff, first of
14 all, believes that the override decision is
15 necessary. And we would propose to respond to
16 comments in that regard when the time comes.

17 I would also say that we were gratified
18 with regards to the substance of the decision that
19 the decision includes a willingness in the area of
20 air quality to reconsider the issue of what the
21 appropriate restriction for ammonia slip should
22 be. This was an issue that the staff adjudicated
23 with the applicant. The decision relies on the
24 evidence put forward by expert testimony by the
25 Air District and the applicant. We acknowledge

1 that.

2 But we hope in the future we can get the
3 Commission to revisit this issue with regard to
4 ammonia slip, and try to get better evidence
5 before the Commission about what that appropriate
6 level would be for districts that are not going at
7 a 5 parts per million level.

8 But otherwise I would just like to
9 reserve comment to respond to any other further
10 arguments that may be made today.

11 CHAIRPERSON PFANNENSTIEL: Yes, thank
12 you. Mr. Wheatland for applicant.

13 MR. WHEATLAND: Yes, good morning. I'm
14 Gregg Wheatland for the applicant. With me today
15 is Mike Argentine, the Project Manager. And I
16 believe that Mr. Rubenstein, Gary Rubenstein, is
17 on the phone if there are any questions arising
18 regarding air quality.

19 The applicant strongly supports the
20 revised PMPD. The applicant believes that the
21 facts of this case are exactly the type of
22 situation that the override statute was intended
23 to address. It is a situation in which there is
24 an impasse with the City, and for which there has
25 been a substantial delay in the City's processing

1 of our rezoning application.

2 This is also a situation in which the
3 City has failed its duty as a responsible agency
4 to work with the Commission; the statute provides
5 an obligation for a responsible agency to
6 cooperate with the Commission and to provide
7 information as necessary to insure that the
8 Commission's environmental documents are the best
9 that they can be. And the City simply hasn't
10 fulfilled that obligation, nor addressed the
11 concerns that it has with respect to air quality
12 issues in a timely manner.

13 So we believe that this is exactly the
14 situation that is appropriate for an override.
15 And we strongly support the revised PMPD.

16 CHAIRPERSON PFANNENSTIEL: Thank you. I
17 think we should turn to Rene Gurza, who is
18 representing the City of San Jose, who is on the
19 phone. Mr. Gurza.

20 MS. GURZA: Thank you, Chair, and --

21 CHAIRPERSON PFANNENSTIEL: Ms. Gurza.

22 MS. GURZA: -- good morning, Commission.
23 I hope that you can hear me. We're having trouble
24 hearing you, and we're not sure if the problem is
25 one way or two way. So, first I think I just want

1 to ask if you can hear me okay.

2 CHAIRPERSON PFANNENSTIEL: We hear you
3 just fine.

4 MS. GURZA: Okay.

5 CHAIRPERSON PFANNENSTIEL: Would you
6 identify yourself, please, for our record.

7 MS. GURZA: Absolutely. My name is Rene
8 Gurza and I am a Senior Deputy City Attorney with
9 the City Attorney's Office in the City of San
10 Jose.

11 And I actually am here with two
12 representatives from the City's planning division,
13 Ms. Susan Walton, who's a principal planner; and
14 Mr. Rich Buikema, who is also with the planning
15 division and is the staff person that one of the
16 earlier speakers was referring to as the planner
17 who attended the hearing. And I believe you're a
18 senior planner with the City of San Jose.

19 So, we're all here and we thank you for
20 the opportunity to address you via telephone
21 conference this morning.

22 As you may know, the City is not
23 necessarily opposed to the project. The only
24 reason that we wanted to participate in this
25 hearing is because we continue to be very troubled

1 and concerned about the characterizations being
2 made of City Staff, and what we believe are
3 misleading representations by CEC counsel
4 regarding the City's due diligence and its
5 willingness to process the proposed rezoning for
6 the subject site, and the position that there's a
7 need for a LORS override in this matter.

8 The City's position throughout this
9 entire process for this project is that the City
10 simply wants and needs to comport with state law,
11 specifically CEQA.

12 CEC Counsel originally advised us that
13 there was no final adopted environmental document
14 by the CEC for this project. And so after
15 discussions with CEC Counsel it was decided that
16 the City should undertake its own CEC analysis and
17 clearance in order to break the logjam that was
18 occurring in trying to fit CEQA with the Warren
19 Alquist Act.

20 And so with the support of the CEC
21 Counsel, the City originally went down the path of
22 performing its own analysis in terms of building
23 upon previous environmental documents and analyses
24 that had been prepared for the project.

25 So we were simply responding to CEC

1 Staff direction. And then in the middle of the
2 process, and we're not quite sure why, CEC Staff
3 said that they wanted to switch gears, and that
4 they wanted us to issue what's known as an
5 addendum under CEQA which simply says, we've
6 analyzed it, the new project, there's no
7 additional environmental impact. And so we'll
8 simply issue an addendum that says previous
9 environmental analyses are adequate.

10 But, as you know, the CEC, itself, is
11 preparing a new environmental document, so don't -
12 - doesn't believe that that's the case. And so
13 we're not quite sure why we were told to switch
14 gears in the middle of our CEQA process.

15 But really, all the City wants to do is
16 comply with state law, both CEQA and the Warren
17 Alquist Act, as explained in more detail in the
18 papers that we've submitted.

19 So I'm not quite sure what the problem
20 is. CEC Counsel directed -- well, not so much
21 directed, but firmly requested that the City adopt
22 what can only be called a mitigated addendum to
23 say that there's no new impact from the revised
24 project.

25 And unfortunately, as explained in our

1 papers that were submitted, there is no such thing
2 as a mitigated addendum under state law, so we
3 couldn't comply with the CEC Counsel's direction.

4 And I really don't want to take up all
5 of your time to go over what's in our papers, but
6 we simply wanted to participate in the hearing to
7 let you know that we aren't causing unwarranted
8 delays. We don't think there's an impasse. We're
9 willing to take a rezoning forward. We just need
10 to comply with CEQA in the fashion in which we do
11 that.

12 Thank you.

13 CHAIRPERSON PFANNENSTIEL: Thank you,
14 Ms. Gurza. We certainly all want to comply with
15 state law. Mr. Ratliff, do you have a comment or
16 response to this?

17 MR. RATLIFF: Yes, I do. As I think is
18 obvious from the foregoing, I think we have -- the
19 staff has profound differences of opinion about
20 the legal issues involved in what kind of
21 environmental documentation is necessary for the
22 City to prepare.

23 We've had a fairly lengthy discourse
24 with the City about this. Originally they had
25 proposed to go with the staff's environmental

1 documents, as is set forth in the Warren Alquist
2 Act; relying on either the FSA or the PMPD.

3 That was still the case at the hearing
4 that was held in 2005 in June. We found out last
5 August that they would not do that because they
6 felt like they had a CEQA problem.

7 Again, we have a profound disagreement
8 about whether that is a problem. But it really
9 doesn't matter who's right about this, because the
10 City indicated that they would not go that route.
11 So the first route, then, after some vacillation,
12 was blocked.

13 We then met with the City, the City
14 Attorney and the head of the City planning
15 department to try to see if we could propose an
16 additional way to overcome what seemed to be a
17 developing impasse. And at that meeting we agreed
18 upon the use of the addendum in CEQA to augment
19 the prior environmental documents that had been
20 prepared for the three-year licensing. And we
21 left that meeting, frankly, feeling pretty good
22 because we thought we had gotten an agreement
23 about how to get from point A to point B.

24 And unfortunately, to make a long woeful
25 story short, after about four or five months,

1 actually six months, the City rather abruptly
2 declared that it would not go forward on that
3 path, either. And that that route was closed.

4 Now, I don't know what staff counsel
5 supposedly informed the City that they should
6 prepare an environmental document that is an EIR,
7 but it was not me, I can tell you that. Because
8 that, which is the City's current proposal, is
9 contrary to the Warren Alquist Act, which says
10 that the only lead agency for power plants is the
11 Energy Commission; and that the Energy
12 Commission's license preempts all local permits.

13 So the proposal that the City has
14 somehow arrived at, that it should become the lead
15 agency, that it should issue its own permit with
16 its own environmental mitigation conditions, is
17 one that the staff, I believe, has never approved
18 of. Certainly I've never approved of it. And
19 would, in any case, not be a way to get from point
20 A to point B.

21 So I think you're left with actually no
22 possible routes to get from point A to point B, to
23 approve this decision, unless you override, in
24 these circumstances.

25 So, in sum, I think that whoever -- it

1 doesn't really matter whether the staff or the
2 City of San Jose is right about the
3 appropriateness of the vehicles that were
4 originally chosen to try to get from point A to
5 point B, the City's rejection of those processes
6 basically leaves the Commission with no choice but
7 to override.

8 CHAIRPERSON PFANNENSTIEL: Thank you.

9 We also have on the phone Robert Sarvey, who would
10 like to speak to this item. Mr. Sarvey.

11 MR. SARVEY: Yeah, thank you,
12 Commissioner. I sympathize with the City of San
13 Jose in the situation. They see the mitigation
14 that's being offered for nitrogen deposition from
15 NOx emission ammonia, with an ERC from 1985 from
16 the Potrero Power Plant. This, as Mr. Fay is
17 fully aware, is the same 1985 ERC that's being
18 used to mitigate the emissions from the San
19 Francisco Electric Reliability project in this
20 case and that case.

21 And this case and in the San Francisco
22 project, nitrogen emissions were actually
23 discontinued before the baseline for either one of
24 these was ever figured. So, it's a worthless ERC
25 and it does nothing to deal with ammonia issues,

1 nitrogen deposition.

2 And I think that's where the City's
3 stuck, and I think the emission here is actually
4 creating a cumulative impact in the Bay Area --
5 used to mitigate ammonia emissions that are
6 causing nitrogen deposition on serpentine soils.
7 And the Commission refuses to look at that. So I
8 think that really (inaudible).

9 And finally I wanted to say how
10 disappointed I am that with all the activity
11 surrounding this override and all the effort put
12 forth, that no one ever put any effort forth to
13 contact the Silicon Valley Bicycle Coalition.
14 That path remains unrepaired, due to damage in
15 2001. And the Commission has the responsibility
16 to deal with the issue, and I don't think
17 everybody throwing their hands up in the air and
18 say, we don't know who to give this \$35,000 to is
19 a solution.

20 So I would like to see the Commission
21 contact the Silicon Valley Bicycle Coalition and
22 come up with a reasonable solution to this issue.

23 Thank you.

24 CHAIRPERSON PFANNENSTIEL: Thank you,
25 Mr. Sarvey. Are there responses back, anything in

1 addition? Yes, Mr. Wheatland.

2 MR. WHEATLAND: Is Mr. Rubenstein on the
3 phone?

4 CHAIRPERSON PFANNENSTIEL: Yes, he is.

5 MR. WHEATLAND: I would like him to
6 briefly address the question of the ERCs for this
7 project.

8 CHAIRPERSON PFANNENSTIEL: Mr.
9 Rubenstein.

10 MR. RUBENSTEIN: Thank you. The part
11 about Mr. Sarvey's comment that confuses me
12 somewhat relates to the role he places -- to give
13 to the NOx emission reduction credits. The
14 principal mitigation for nitrogen deposition for
15 this project is, in fact, related to the providing
16 of habitat. And there's an analysis that's in the
17 record that demonstrates that even with the
18 increased NOx emissions associated with this
19 project, that the habitat that was previously
20 provided is sufficient to mitigate the impact.

21 The issue of the NOx emission reduction
22 credits were an additional mitigation measure
23 requested by the Commission Staff that the
24 applicant agreed to do, but which we believe was
25 not, in fact, necessary to mitigate those impacts.

1 It was just an additional benefit.

2 But in any event, the provision of
3 emission reduction credits from emission sources
4 that -- have routinely been accepted by the
5 Commission for mitigation of both air quality and
6 biological resource impacts. And I don't believe
7 that this project's any different in any -- from
8 any of the other cases where it's been accepted.

9 CHAIRPERSON PFANNENSTIEL: Thank you,
10 Mr. Rubenstein.

11 I think before we discuss the item up
12 here, we also have Mr. Buikema from the City of
13 San Jose who would like to respond, I guess, to
14 the staff's comments before. Mr. Buikema.

15 MR. BUIKEMA: Thank you very much. I
16 was quoted at a previous hearing indicating that
17 the City of San Jose would utilize the final staff
18 assessment as the EIR-equivalent document for this
19 process to provide CEQA clearance for the City's
20 zoning action.

21 That's a correct statement. And I think
22 that remains to be the case. That assumed that
23 there would be some type of certification action
24 on behalf of the CEC to document the final staff
25 assessment as a EIR-equivalent document. As it

1 stands now the final staff assessment is
2 essentially a staff recommendation, and there's
3 not adequate certainty on the part of the City
4 that the conditions of certification for the
5 purposes of mitigating environmental impacts will,
6 in fact, be part of the final CEC license.

7 So the City of San Jose (inaudible) the
8 final staff assessment, given there was some type
9 of certification action to provide us an adequate
10 level of certainty.

11 And there's been a lot of critique as
12 far as how long the City of San Jose has taken to
13 review this application. I just want to respond
14 that we had promptly responded, properly provided
15 comments to the applicant on the proposed project,
16 and the necessary revisions to the plans.

17 Part of the delay or length of time to
18 be attributed to the applicant who, in fact,
19 requested that the application be put on hold in
20 May of 2005 to allow for additional modifications
21 to the plans. So, the delay is not all as a
22 result of inaction or -- by the City of San Jose
23 Staff. That concludes my comments.

24 CHAIRPERSON PFANNENSTIEL: Thank you,
25 Mr. Buikema. Are there other comments on the PMPD

1 that's before us?

2 I'd like to say, as the Presiding Member
3 of this Committee, that there were some issues in
4 the case; and they were ones that took some time
5 to resolve, including the air quality one.

6 One that remains uncomfortably
7 unresolved to me is the one Mr. Sarvey raised,
8 which is the Bicycle Coalition. We know and we're
9 all aware and it was raised several times in the
10 proceedings, that the bicycle path got damaged
11 during construction. Whether or not it was
12 because of construction was not resolved.

13 And that the applicant put aside some
14 money to repair the bicycle path. And that
15 through any number of reasons, wasn't able to get
16 the path repaired, both because we weren't able to
17 find who was responsible, and we weren't able to
18 find who would take the responsibility for
19 repairing it, doing the physical repair. Who
20 owned that land; whether that path was going to
21 remain as a prime bicycle path.

22 A small amount of money, but a major, I
23 think, unresolved kind of problem here. We
24 finally reached the point of having the money,
25 which I believe sits in an account waiting for the

1 City or perhaps the State Department of
2 Transportation to use it to repair the path.

3 I think there's nothing more that we
4 determined this Commission could do along those
5 lines. We have investigated and explored to the
6 best of our ability and nudged and pushed, and as
7 I say, put the money into that.

8 But I think that Mr. Sarvey is correct,
9 that it's a shame that having gone all through
10 this we weren't able to fix the path. At some
11 point in the proceeding I think we all were close
12 to volunteering to going down there on a Sunday
13 and trying to do it, ourselves.

14 But, in fact, we were alerted that we
15 couldn't even do that. I think Mr. Fay is going
16 to speak to this. But he knows it was one of my
17 frustrations during the proceeding. There were
18 big issues that we were able to resolve, and yet
19 some that we never quite were able to resolve.

20 Mr. Fay, did you want to speak to that?

21 MR. FAY: Yes, I just think it's only
22 fair to mention how persistent the Chair was in
23 trying to get this resolved and repaired. And not
24 just throw up her hands about the extremely
25 divided jurisdiction and the awkward fact

1 situation.

2 And yet in spite of her repeated
3 efforts, the more that we got into it the more the
4 facts revealed that nobody was taking
5 responsibility for the ground on which the bicycle
6 path then crossed. Nor even whether that was to
7 be the route for the bicycle path in the future.

8 So the whole question of repair was up in the
9 air.

10 However, it was resolved through the
11 sole condition of certification in the land use
12 section, Land-1, that found on page 312 of the
13 revised PMPD, and it requires the applicant to
14 make a one-time payment of up to \$23,000 as
15 determined by the CPM on the project.

16 So the Commission Staff has discretion
17 on making the call on this. And that the project
18 owner has to notify all the identified potential
19 responsible agencies. And that, so far, has
20 included the City of San Jose, Caltrans, the Water
21 Pollution Control Plant that is nearby.

22 And so if it can be fixed, staff has a
23 tool to require the applicant to pay for repair up
24 to that amount.

25 CHAIRPERSON PFANNENSTIEL: Thank you,

1 Mr. Fay. Doesn't completely resolve it, but I
2 think it's s close as we're going to be able to
3 come, given our authority here.

4 We did resolve the other issues in this
5 case, and the PMPD is, in fact, does contain the
6 substance of our findings and the Committee's
7 conclusions on this. The override issue we came
8 to reluctantly.

9 We believed at the outset that we should
10 be able to resolve this with the City of San Jose,
11 and we so advised the staff and the applicant.
12 And went as far with the City as we felt we could
13 in trying to resolve what ended up being, I think,
14 as Mr. Ratliff said, kind of a legal dispute. And
15 finally concluded to accept the decision on
16 substance. And that meant overriding the LORS of
17 the City.

18 So, with that, we have in front of us a
19 PMPD that the Committee supports. And so I would
20 like to make the motion that the Commission adopt,
21 as its decision in this case, the revised
22 Presiding Member's Proposed Decision for the Los
23 Esteros Critical Energy Facility Phase 2, as well
24 as the errata issued by the Committee. Is there a
25 second?

1 COMMISSIONER ROSENFELD: I second.

2 CHAIRPERSON PFANNENSTIEL: All in favor?

3 (ayes.)

4 CHAIRPERSON PFANNENSTIEL: Thank you,
5 all.

6 MR. WHEATLAND: Thank you very much.

7 MR. ARGENTINE: Can we make a quick
8 statement.

9 CHAIRPERSON PFANNENSTIEL: Of course you
10 may.

11 MR. ARGENTINE: I just want to thank the
12 staff for all of their work associated with this
13 project, and also the Presiding Committee. I got
14 to the project, myself, very late. I didn't enter
15 it until March 2006, so I missed most of the work.
16 But I recognize very strongly the work that both
17 the staff, and specifically Bill Will and Dick
18 Ratliff. Because I know this project was
19 difficult. And, of course, the Presiding
20 Committee.

21 So, thank you very much on behalf of
22 Calpine.

23 CHAIRPERSON PFANNENSTIEL: Thank you.

24 Item number 6 on our agenda. Possible
25 approval of the SB-1305 report, Reconciliation of

1 Retailer Claims 2005, requiring the Energy
2 Commission to annually prepare and submit a report
3 to the California Public Utilities Commission
4 about retail power source claims made to
5 customers. Mr. Orta.

6 MR. ORTA: Good morning, Commissioners.
7 This is Jason Orta, the lead on the SB-1305 power
8 source --

9 CHAIRPERSON PFANNENSTIEL: Jason, would
10 you see if your mike is on? See if the green
11 light is bright?

12 MR. ORTA: There we go.

13 CHAIRPERSON PFANNENSTIEL: There you go.

14 MR. ORTA: This is Jason Orta, the lead
15 on the SB-1305 power source disclosure program.

16 Staff is recommending the adoption of
17 the draft, Reconciliation of Retailer Claims
18 Report for 2005. This report finds that 30 retail
19 providers claimed 194,182 gigawatt hours of
20 specific purchases, of which 26,561 gigawatt hours
21 was renewable.

22 The generation claimed came from 807
23 generating facilities of which 479 are renewable.
24 These 807 generating facilities produced 288,280
25 gigawatt hours in 2005.

1 Of the 479 renewable facilities claimed,
2 440 are either registered with the Energy
3 Commission's renewable energy program, or
4 certified as eligible with the renewable portfolio
5 standard.

6 Also included is an appendix, and that
7 appendix shows that the Energy Commission has
8 received power content labels from 33 providers,
9 of which 25 claim specific purchases on their
10 power content labels for 2005.

11 Thirty retail providers have claimed
12 specific purchases, and all 30 have submitted
13 annual reports to the California Energy
14 Commission.

15 The retail providers that have submitted
16 power content labels and have claimed specific
17 purchases on their labels to their customers
18 include the following: PG&E, Southern California
19 Edison, SDG&E, LADWP and SMUD.

20 Staff recommends that the Energy
21 Commission adopt the 2005 reconciliation report.

22 CHAIRPERSON PFANNENSTIEL: Thank you,
23 Mr. Orta. Are there questions? Is there a
24 motion?

25 COMMISSIONER ROSENFELD: I move the

1 item.

2 COMMISSIONER BYRON: I'll second it.

3 CHAIRPERSON PFANNENSTIEL: All in favor?

4 (Ayes.)

5 CHAIRPERSON PFANNENSTIEL: Thank you.

6 MR. ORTA: Thank you.

7 CHAIRPERSON PFANNENSTIEL: Item number
8 7, possible approval of the City of Los Altos
9 Hills adoption and enforcement of a local
10 ordinance for low-rise residential buildings that
11 requires energy efficiency standards more
12 stringent than the 2005 building energy efficiency
13 standards. Mr. Hudler.

14 MR. HUDLER: Good morning,
15 Commissioners. My name is Rob Hudler with the
16 building standards appliance office.

17 The City of Los Altos Hills has applied
18 to implement an ordinance that would be 15 percent
19 more efficient than the current Title 24 standards
20 of 2005. It applies to single family homes.

21 I would like to commend the City; it's a
22 small jurisdiction with not many resources. And
23 for them to take on an action like this, they do
24 have to be commended.

25 Again, staff is requesting the

1 Commission's approval. If you have any questions
2 I'd be more than happy to answer them.

3 CHAIRPERSON PFANNENSTIEL: Let me just
4 clarify. First of all you said 15 percent, 1-5
5 percent more stringent?

6 MR. HUDLER: Right.

7 CHAIRPERSON PFANNENSTIEL: And the
8 reason for this is that anytime a jurisdiction
9 wants to be more stringent, then by law the Energy
10 Commission has to make a finding that their
11 ordinance is cost effective for them, is that
12 correct, and that it --

13 MR. HUDLER: Yes. Under Administrative
14 Code 10106 there are two requirements. A, that
15 they have to be technically feasible and
16 technically correct. And we are required to
17 review that carefully.

18 They're also required to provide us with
19 an approved cost analysis, which we have to
20 essentially accept on face value.

21 CHAIRPERSON PFANNENSTIEL: Then, having
22 concluded that, I would just like to comment that
23 we should thank and congratulate and offer our
24 support and kudos to Los Altos Hills, that we wish
25 that more jurisdictions in California would be

1 willing and able, I think, to go out with building
2 standards more stringent than the state standards,
3 which are, of course, the most stringent in the
4 country.

5 I think this is good news, and you know,
6 we want to celebrate this.

7 Further questions, discussion?

8 COMMISSIONER ROSENFELD: I move the item
9 with pleasure.

10 COMMISSIONER BYRON: If I may ask before
11 I second, when's the last time, Mr. Hudler, that
12 we had one these? Are there a number of cities
13 that have done this in the past?

14 MR. HUDLER: Well, actually so far, for
15 the 2005 standards cycle, we now have three
16 jurisdictions that have implemented; Marin County
17 adopted. We have also had Santa Monica and a
18 couple other jurisdictions.

19 There's actually three or four cities in
20 line now. For the next business meeting we will
21 have a proposal from Palm Desert. We have Winters
22 and a couple other jurisdictions also working on
23 local ordinances.

24 COMMISSIONER BYRON: Well, that answers
25 my next question. So one last, if I may. Is

1 there someone behind this, or is this -- in the
2 state, some organization, or does this come
3 grassroots within each of these cities?

4 MR. HUDLER: It's somewhat of the cities
5 communicating with each other. But it's pretty
6 much grassroots.

7 COMMISSIONER BYRON: Very good, thank
8 you. I second it.

9 CHAIRPERSON PFANNENSTIEL: All in favor?
10 (Ayes.)

11 CHAIRPERSON PFANNENSTIEL: Thank you,
12 Mr. Hudler, it's been approved.

13 MR. HUDLER: Thank you.

14 CHAIRPERSON PFANNENSTIEL: And thank you
15 to Los Altos Hills.

16 Item 8, docket 06-AAER-1, possible
17 adoption of the amendments to the appliance
18 efficiency regulations published as express terms
19 of proposed regulations on September 26, 2006.
20 These amendments would delay the effective date of
21 the standards for digital television adapters by
22 one year from January 1, 2007 to January 1, 2008.
23 Mr. Holland.

24 MR. HOLLAND: Thank you, Ma'am, you've
25 pretty much said everything I needed to say, but

1 I'll reiterate.

2 I'm Jim Holland from the buildings and
3 appliances office, and I'm requesting on behalf of
4 the Efficiency Committee and program staff,
5 approval of a proposed amendment to the appliance
6 efficiency regulations which consists of delaying
7 the effective date for digital television adapter
8 standards from January 1, 2007 to January 1, 2008.

9 This is the only change contained in the
10 proposed amendments. This delay is being proposed
11 in order to allow the Efficiency Committee to
12 explore various options that have recently come to
13 light regarding alternate means of limiting the
14 energy consumption of digital television adapters,
15 and to work with other agencies to formulate a
16 wider reaching set of standards for this product.

17 And I'd also like to add that as of 9:50
18 this morning we have received no public comment on
19 these amendments.

20 CHAIRPERSON PFANNENSTIEL: Thank you.

21 COMMISSIONER ROSENFELD: I move this
22 with pleasure, again.

23 COMMISSIONER BYRON: And having been
24 strongly encouraged by Commissioner Rosenfeld to
25 measure how much my televisions use in their off

1 position and such, I second this motion.

2 CHAIRPERSON PFANNENSTIEL: All in favor?

3 (Ayes.)

4 CHAIRPERSON PFANNENSTIEL: Thank you,
5 Mr. Holland.

6 MR. HOLLAND: Thanks.

7 CHAIRPERSON PFANNENSTIEL: Item 9,
8 University of California Riverside, sub-item (a).
9 Possible approval of an amendment to work
10 authorization MR-026 under UC master research
11 agreement number 500-02-004 with the University of
12 California at Riverside to add \$1,200,000 and
13 extend the term to March 30, 2011. Ms. Mueller.

14 MS. MUELLER: Good morning; I'm Marla
15 Mueller, and I'm with the PIER environmental area
16 program.

17 At the business meeting on March 17,
18 2004, the Commissioners approved a work
19 authorization with the University of California at
20 Riverside to administer the PIER EA air quality
21 research program. This augmentation would add
22 \$1.2 million and 30 months to that work
23 authorization.

24 The purpose of this augmentation is to
25 provide annual research and operational funds for

1 the PIER-EA air quality research program, the one
2 established at the University of California at
3 Riverside. This program addresses the important
4 issues of energy production and air quality.

5 The current PIER EA air quality research
6 program consists of 13 projects and approximately
7 \$10.5 million in ongoing contracts. The proposed
8 augmentation would allow for the continuation of
9 important research under the guidance and
10 direction of the Energy Commission Contract
11 Manager, while minimizing Commission Staff
12 resources. It provides an effective means for
13 insuring projects are conducted in accordance with
14 the contract. Funds are only expended for
15 legitimate project expenses. And the final
16 research products are a professional standard of
17 quality.

18 Consistent with the budget proposal of
19 05/06, research moneys would be used to conduct a
20 research project on air quality benefits of
21 distributed generation with CHP and continuous
22 emissions monitors for DG. As in the past, under
23 the air quality program, specific research
24 projects would be brought back to the R&D
25 Committee and business meeting prior to

1 contracting for the research.

2 And this is the subject of (b).

3 CHAIRPERSON PFANNENSTIEL: Are there
4 questions on part (a)?

5 COMMISSIONER BYRON: Just to make sure I
6 understand, did you cover both parts (a) and (b)
7 in your presentation?

8 MS. MUELLER: No, just part (a).

9 COMMISSIONER BYRON: Okay, thank you.

10 COMMISSIONER ROSENFELD: So I move part
11 (a).

12 COMMISSIONER BYRON: I second.

13 CHAIRPERSON PFANNENSTIEL: All in favor?
14 (Ayes.)

15 CHAIRPERSON PFANNENSTIEL: Part (b),
16 possible approval of using research funds
17 allocated in work authorization MR-026, not to
18 exceed \$500,000, to conduct research and realistic
19 application and air quality implications of
20 distributed generation and combined heat and power
21 in California. Ms. Mueller.

22 MS. MUELLER: With the approval of the
23 amendment to MR-026, now I'm asking for approval
24 of using these research funds that were just
25 allocated, not to exceed \$500,000, for the

1 University of California at Irvine to conduct
2 research on realistic application air quality
3 implications of DG and CHP in California.

4 The use of DG is expected to be a
5 significant contributor to California's
6 electricity growth profile. However, the use of
7 DG can potentially increase exposure to air
8 pollutants. It has been shown that when DG is
9 efficiently deployed in a manner that recovers
10 waste heat and uses it for heating and cooling,
11 environmental impacts of DG can be avoided.

12 Time-resolved information regarding
13 building load demand, both electrical and thermal,
14 are needed to accurately determine the
15 efficiencies and emissions of various applications
16 of DG and CHP systems to aid an optimal DG/CHP
17 system design and placement.

18 This project would investigate the
19 efficiencies of distributed generation power
20 combined with CHP. Measurements of the actual
21 heat and electricity and gas use would be
22 conducted on approximately 100 facilities
23 throughout the year to determine the potential for
24 installing DG CHP in the most efficient manner.

25 The air quality impacts assessments and

1 exposure rates would be estimated.

2 COMMISSIONER ROSENFELD: You said this
3 is University of California Irvine?

4 MS. MUELLER: This research would be
5 conducted by UC Irvine, yes.

6 COMMISSIONER ROSENFELD: So this money
7 flows to Riverside, and then back to Irvine, or
8 something like that?

9 MS. MUELLER: Yes, it goes through MR-
10 026 and then the UC Riverside program oversees the
11 research at Irvine.

12 COMMISSIONER ROSENFELD: Thanks.

13 CHAIRPERSON PFANNENSTIEL: Other
14 questions?

15 COMMISSIONER BYRON: Yes. Ms. Mueller,
16 having read this I was a little bit appalled on
17 that smog check that was done in southern
18 California, and I believe seven of eight DG units
19 were found to not be in compliance.

20 And, of course, it's extremely important
21 that these units meet the standards that have been
22 set for them, if DG is going to continue to play a
23 larger role, and we're going to continue to win
24 the argument that more efficient use of these
25 fuels and DG is a better use of these fuels.

1 They've got to meet the emission requirements.

2 So, I wholeheartedly support this. I
3 have a question. I don't mean to prejudge the
4 potential outcome of the research, but is it
5 possible then that we would see or perhaps require
6 continuous emission monitoring then for all DG
7 units in the future?

8 MS. MUELLER: Actually, the next
9 projects that I'll be bringing forward is to look
10 at a continuous emission monitor for distributed
11 generation. The DG that you're referring to is
12 for IC engines, --

13 COMMISSIONER BYRON: Um-hum.

14 MS. MUELLER: -- and that's where we're
15 seeing the biggest problem. And so that's what we
16 wanted to look at in our next research project
17 that we hope to bring forward.

18 I believe the South Coast has been
19 looking -- they have been looking at this already.
20 They're the ones that had done that study.

21 And I guess I don't know for sure what
22 the Commission's, if they're able to make that
23 requirement or not, but I believe that if we can
24 come forward with a good technology, the districts
25 would be very interested in adopting it in their

1 standards.

2 COMMISSIONER BYRON: Okay. Very good.

3 Thank you.

4 COMMISSIONER ROSENFELD: So I move item
5 (b).

6 COMMISSIONER BYRON: And I second.

7 CHAIRPERSON PFANNENSTIEL: All in favor?

8 (Ayes.)

9 CHAIRPERSON PFANNENSTIEL: It's been
10 approved, thank you.

11 MS. MUELLER: Thank you.

12 CHAIRPERSON PFANNENSTIEL: Item 10,
13 possible approval of contract 500-06-020 with
14 National Renewable Energy Laboratory for \$35,000
15 to co-sponsor the 19th NREL growth industry forum
16 on October 24th through 26, 2006. Good morning.

17 MR. KAPOOR: Good morning,
18 Commissioners. My name is Rajesh Kapoor and I am
19 a member of PIER Staff in the energy efficiency
20 research office.

21 Staff requests your approval of this
22 \$35,000 contract to co-sponsor the 19th annual
23 NREL industry growth forum. The conference will
24 be held in Philadelphia on October 24th through
25 26th in 2006.

1 Senate Bill 1250 signed by the Governor
2 last month expands the general goal of PIER
3 program to include a specific requirement to help
4 bring energy technologies to the market. PIER has
5 invested approximately 100 million to date in the
6 development of energy efficiency end-use
7 technologies.

8 The technology transfer of these
9 technologies to the market is an integral part of
10 PIER program. The purpose of this forum is to
11 provide clean energy companies with expert advise
12 on business, finance and technology development
13 strategies, and introduce them to the venture
14 capital community.

15 This forum is America's largest venture
16 capital event focused exclusively on companies in
17 developing clean energy products to sell energy
18 generation, energy efficiency, transportation and
19 energy infrastructure.

20 Although held this year on the east
21 coast, the forum is expected to attract a
22 significant participation by California companies
23 seeking to advance PIER-funded technologies. The
24 Energy Commission's co-sponsorship will help these
25 California companies develop their business plans,

1 marketing strategies and commercialization plans
2 for presentation to the venture capital firms and
3 other financial institutions while participating
4 in the forum.

5 This forum provides a unique opportunity
6 for these California companies to secure follow-up
7 private sector financing for PIER-funded
8 technologies.

9 Other co-sponsors include the National
10 Renewable Energy Laboratory, Pennsylvania's
11 Department of Environment Protection,
12 Pennsylvania's Department of Community and
13 Economic Development, the Clean Energy Alliance
14 and several private companies.

15 The Energy Commission, through it's
16 Public Interest Energy Research program, has been
17 participating in these forums for last eight
18 years. The R&D Policy Committee approved this
19 PIER-funded co-sponsorship at its meeting on
20 September 5, 2006. Commission Staff will receive
21 ten complimentary registrations.

22 Staff requests your approval for this
23 co-sponsorship. And do you have any questions?

24 COMMISSIONER BYRON: Mr. Kapoor, if I
25 may, of the last eight years how many of these

1 have been in California?

2 MR. KAPOOR: Last year in the month of
3 November was in California, in San Francisco. And
4 before that I don't know.

5 COMMISSIONER ROSENFELD: There have been
6 several.

7 COMMISSIONER BYRON: Okay, thanks.

8 MR. WILLIAMS: They alternate between
9 the east coast and the west coast.

10 COMMISSIONER BYRON: How good of us.
11 Thank you.

12 COMMISSIONER ROSENFELD: And I was at
13 the one last year, and I think it was a great
14 success.

15 COMMISSIONER BYRON: Well, may I move
16 the item?

17 COMMISSIONER ROSENFELD: Please.

18 COMMISSIONER BYRON: I so move.

19 COMMISSIONER ROSENFELD: Second.

20 CHAIRPERSON PFANNENSTIEL: All in favor?

21 (Ayes.)

22 CHAIRPERSON PFANNENSTIEL: It's been
23 approved, thank you.

24 MR. KAPOOR: Thank you.

25 CHAIRPERSON PFANNENSTIEL: Item 11,

1 possible approval of contract 500-06-021 with the
2 American Council for an Energy Efficient Economy
3 for \$25,000, to co-sponsor the emerging technology
4 summit 2006 to be held October 26/27, 2006.

5 MR. KAPOOR: My name is Rajesh Kapoor
6 and I am a member of the PIER Staff in the Energy
7 Efficiency Research Office.

8 Staff requests your approval of this
9 \$25,000 contract to co-sponsor the emerging
10 technologies summit 2006. The conference will be
11 held in Long Beach, California on October 26th and
12 27, 2006.

13 Senate Bill 1250 signed by the Governor
14 last month expands the general goal of PIER
15 program to include a specific requirement to help
16 bring energy technologies to the market. PIER has
17 invested approximately 100 million to date, in the
18 development of energy efficiency end-use
19 technologies. The technology transfer of these
20 technologies to the market place is an integral
21 part of the PIER program.

22 This conference provides a forum to
23 disseminate the latest research results for
24 improving energy use in industry and buildings,
25 and inform the participants about new emerging

1 technologies to save energy and reduce electric
2 and gas usage.

3 Commissioner Art Rosenfeld and PIER
4 program Deputy Director Martha Krebs are speakers
5 at this conference. Other co-sponsors include
6 Southern California Edison, Southern California
7 Gas Company, San Diego Gas and Electric Company,
8 Pacific Gas and Electric Company, New York State
9 Energy Research and Development Authority, and
10 federal Department of Energy.

11 R&D Policy Committee approve this PIER-
12 funded co-sponsorship at its meeting on September
13 18, 2006. Commission Staff will get eight
14 complimentary registrations to attend this summit.

15 Staff requests your approval of this
16 \$25,000 co-sponsorship. Do you have any
17 questions?

18 COMMISSIONER ROSENFELD: And for your
19 information, I think these are always held on the
20 west coast.

21 I have no questions; I move the item.

22 COMMISSIONER BYRON: And because
23 Commissioner Rosenfeld feels so strongly about
24 energy efficiency, I second the item.

25 CHAIRPERSON PFANNENSTIEL: All in favor?

1 (Ayes.)

2 CHAIRPERSON PFANNENSTIEL: Thank you,
3 it's approved.

4 MR. KAPOOR: Thank you.

5 CHAIRPERSON PFANNENSTIEL: We're holding
6 off on approval of the minutes.

7 Commission Committee presentations.

8 Any, Commissioner Byron and Commissioner

9 Rosenfeld?

10 COMMISSIONER ROSENFELD: No.

11 CHAIRPERSON PFANNENSTIEL: Nothing.

12 Chief Counsel report, Mr. Chamberlain.

13 MR. CHAMBERLAIN: Yes, Madam Chairman.

14 As the Commission is aware, federal law requires,
15 or establishes energy efficiency standards for 27
16 appliances. And the U.S. Department of Energy is
17 responsible for updating those standards
18 periodically on a schedule that's prescribed by
19 the statute.

20 Because DOE has missed their deadlines
21 in some cases by more than ten years, a consortium
22 of states led by the State of New York and also
23 including the State of California through its
24 attorney general, and through this agency's
25 participation, brought an action to seek

1 supervision by the federal courts of DOE's
2 carrying out of these.

3 Because these standards are estimated to
4 have saved \$200 billion already; and that the
5 updating could save even more than that, and also
6 2 percent of the United States carbon emissions.

7 We've had some positive developments in
8 terms of a possible settlement in this matter.
9 And I seek a closed session to discuss that with
10 you.

11 CHAIRPERSON PFANNENSTIEL: Fine. We
12 will have a closed session following this public
13 session.

14 Executive Director report.

15 EXECUTIVE DIRECTOR BLEVINS: Madam
16 Chairman, I don't have a report. And there is no
17 Leg Director report today.

18 CHAIRPERSON PFANNENSTIEL: No Leg
19 Director. Public Adviser report.

20 MR. BARTSCH: Madam Chair, Members, Nick
21 Bartsch representing Margret Kim. We do not have
22 anything to report, thank you.

23 CHAIRPERSON PFANNENSTIEL: Thank you.
24 Public comment. Since we have few members of the
25 public left at this hour, I hear no public

1 comment.

2 In which case, the public session is
3 adjourned. And we will convene in closed session
4 in my office. Thank you.

5 (Whereupon, at 11:23 a.m., the business
6 meeting was adjourned into closed
7 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 16th day of October, 2006.

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