

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, DECEMBER 13, 2006

10:02 A.M.

Reported by:  
Ramona Cota  
Contract Number: 150-04-001

COMMISSIONERS PRESENT

Jackalyne Pfannenstiel, Chairperson

James D. Boyd

Jeffrey D. Byron

John L. Geesman

Arthur H. Rosenfeld

STAFF and CONTRACTORS PRESENT

B.B. Blevins, Executive Director

William Chamberlain, Chief Counsel

Sandy Miller

Allan Ward

Payam Narvand

Gabriel Herrera

Nick Fugate

Martha Krebs

Philip Misemer

Maria Mueller

Martha Brook

Susan Gefter

Kerry Willis

Dr. James Reede

Gregory L. Wheatland

Mary Dyas

Jack Caswell

STAFF and CONTRACTORS PRESENT (CONTINUED)

Christopher Meyer

Bill Pfanner

Erin Bright

Dave Michel

Dick Ratliff

Chuck Mizutani

Mike Smith

PUBLIC ADVISER

Nick Bartsch

ALSO PRESENT

Ronald E. Suess, JD  
Bottle Rock Power Corporation

Steve Gilliland  
Avenal Energy Power Plant

Melissa Whitten  
Avenal City Manager

Michael Boyd (via teleconference)  
Californians for Renewable Energy

Robert Sarvey (via teleconference)

Jeanne M. Sol,, Deputy City Attorney  
City and County of San Francisco

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

2 10:02 a.m.

3 CHAIRPERSON PFANNENSTIEL: Good morning,  
4 we'll come to order. Please join me in the Pledge  
5 of Allegiance.

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

8 CHAIRPERSON PFANNENSTIEL: We have one  
9 change to the published agenda today. Item number  
10 14 has been pulled off of today's agenda. But  
11 with that we will consider the consent calendar.

12 COMMISSIONER ROSENFELD: I move the  
13 consent calendar.

14 COMMISSIONER GEESMAN: Second.

15 CHAIRPERSON PFANNENSTIEL: All in favor?

16 (Ayes.)

17 CHAIRPERSON PFANNENSTIEL: Consent  
18 calendar is approved.

19 Item number 2, possible adoption of the  
20 Renewable Committee's proposed New Solar Homes  
21 Partnership Guidebook. Mister Miller and  
22 Mr. Pennington.

23 MR. MILLER: Good morning,  
24 Commissioners. My name is Sandy Miller and I work  
25 in the renewable energy office. Today we are

1 asking for approval of a guidebook described in  
2 the program criteria for the New Solar Homes  
3 Partnership.

4 The incentive program has been developed  
5 in collaboration with builders and stakeholders of  
6 new homes for electric service areas of PG&E,  
7 Edison, San Diego Gas & Electric and Bear Valley  
8 Electric. If approved the program will go into  
9 effect January 1, 2007.

10 California can be expected to add at  
11 least one and a half million homes over the next  
12 ten years, by 2017. Most of these homes are going  
13 to be constructed in warm areas of the state.  
14 Almost all of the homes will rely on air  
15 conditioning, contributing to the growth of summer  
16 peak demand and to an increase in marginal power  
17 plants like the combustion turbine peaker.  
18 Efficient PV homes constructed under the New Solar  
19 Homes Partnership can mitigate the demand growth  
20 in California.

21 Back in January of this year the PUC  
22 issued a decision creating the California Solar  
23 Initiative with a goal of 3,000 megawatts of solar  
24 electric generating capacity in California by the  
25 end of 2016.

1                   In August 2006 the Governor signed  
2                   Senate Bill 1 to give further direction to the  
3                   \$3.3 billion program and brought in publicly-owned  
4                   utilities into the equation. As part of the CSI  
5                   and Senate Bill 1 the Energy Commission is to  
6                   establish an incentive program for new residential  
7                   construction, building on its experience in energy  
8                   efficiency standards and solar rebates.

9                   The goals are one, 400 megawatts of new  
10                  residential construction with solar by the end of  
11                  2016; and two, to achieve cost effectiveness in  
12                  solar by that same time period. The Energy  
13                  Commission has built on this goal by bringing  
14                  energy efficiency to the program as a fundamental  
15                  element.

16                 In order to enter the program each  
17                 residence must be designed and built to exceed the  
18                 Title 24 building standards by at least 15  
19                 percent. And the program is designed to encourage  
20                 builders to take the leap to installing solar PV  
21                 as a standard feature in their developments. We  
22                 see the New Solar Homes Partnership as a flagship  
23                 program that incorporates the benefits of energy  
24                 efficiency and solar photovoltaics.

25                 The program will base the incentive

1 payment on the estimated electrical output of the  
2 solar system as compared with the current practice  
3 of paying the incentive based on the name plate  
4 rating of the solar system. These requirements  
5 are intended to encourage greater efficiency and  
6 to ensure solar systems are installed to the  
7 maximum value of energy production.

8 The NSHP program has been built on the  
9 foundation of the Emerging Renewables Program or  
10 ERP. Since 1998 over 20,000 solar systems have  
11 been installed under the ERP.

12 The Renewable Energy Policy Committee  
13 recommended creating advisory committees to help  
14 with the process of designing a New Solar Homes  
15 Partnership. Two committees were created: One  
16 with stakeholders representing the new home  
17 construction area and one committee representing  
18 the affordable housing community. Six committee  
19 advisory committee meetings and four workshops  
20 have been held during this last year -- this past  
21 year.

22 For the guidebook the incentives start  
23 at \$2.50 and \$2.60 a watt. To qualify for the  
24 higher incentives builders must commit at the  
25 reservation stage that a minimum of 50 percent of

1 the homes in a subdivision will have solar systems  
2 and the enhanced energy efficiency requirements of  
3 the New Solar Homes Partnership. The incentives  
4 will decline throughout the program when specific  
5 volumes of megawatt capacity have been reached.

6 Excuse me.

7 The Energy Commission favors a pay for  
8 performance incentive structure, paying incentives  
9 after the fact based on the actual performance,  
10 which works well in the existing building market.

11 But we feel, we felt that this didn't  
12 work well in new construction, excuse me, so we  
13 developed an expected performance-based incentive  
14 as a proxy for this policy. Our EPBI incentive  
15 varies the rebate based upon how each system is  
16 designed and installed and where it is installed,  
17 taking into account the amount of sun available at  
18 that location modified by the amount of shading at  
19 the specific site.

20 We developed a tool called the CEC-PV  
21 calculator for the builder and administrator to  
22 use to determine the actual incentive. We are  
23 requiring independent verification of component  
24 quality, a system of field verification, and  
25 consistent with Senate Bill 1, have doubled the

1 system warranty requirements from five years,  
2 which is in the current ERP, to ten years for the  
3 New Solar Homes Partnership.

4 On the issue of affordable housing: The  
5 criteria in the guidebook that applies to  
6 affordable housing is basically the same as the  
7 rest of the program except that the incentive  
8 level is 25 percent higher.

9 We recognize that affordable housing has  
10 unique challenges and characteristics and we are  
11 looking forward to the proposals put out by the  
12 affordable housing advisory committee on Friday  
13 and later on during the month to help us formulate  
14 a proposed segment for the New Solar Homes  
15 Partnership Guidebook and hopefully that segment  
16 will be ready by the first part of next year.

17 The program will provide ongoing support  
18 to the affected industries in the forms of tools,  
19 training, marketing and outreach and the Go Solar  
20 California web site. We are embarking on a major  
21 outreach and marketing effort spending almost \$4.3  
22 million in the next three years. We are expecting  
23 partnership spending from utilities, solar  
24 companies and builders.

25 New home owners can save money from day

1 one by combining solar and energy efficiency and  
2 the right incentives.

3 Senate Bill 1 identifies a \$400 million  
4 budget for the NSHP. We will spend those funds in  
5 a more targeted manner so that the higher  
6 performing installations in high solar areas will  
7 receive significantly higher incentives than they  
8 were able to in 2006.

9 On the issue of administration: The  
10 Energy Commission will administer the NSHP program  
11 beginning January 1, 2007 but our goal is to  
12 transfer the administration functions to the  
13 utilities, thus providing a one-stop shop for  
14 builders to access the solar and efficiency  
15 incentives.

16 Finally, at a time when there is a  
17 growing concern where future energy supplies will  
18 come the NSHP offers a significant component to  
19 California's energy future. The NSHP can be an  
20 effective program to improve cost economies of  
21 solar and provide a signal to the solar industry  
22 that California's demand for solar will be growing  
23 over the next ten years and that it can continue  
24 to grow into the future.

25 An errata package has been made

1 available at the table outside and hopefully to  
2 all of you Commissioners and reflects minor non-  
3 substantive changes to the guidebook.

4 We request approval to the NSHP  
5 Guidebook today and are happy to answer any  
6 questions. And Allan Ward from the legal office  
7 is here to discuss the subject of CEQA.

8 MR. WARD: Good morning, my name is  
9 Allan Ward and I work in the legal office here at  
10 the Commission. Like we do for the adoption of  
11 all guidebooks and revisions to guidebooks we  
12 reviewed the applicability of the California  
13 Environmental Quality Act, or CEQA.

14 Based on the relevant law and the  
15 technical analysis performed by staff it is my  
16 opinion that the adoption of this guidebook is  
17 exempt from CEQA for one of two reasons. One,  
18 either it does not meet the definition of a  
19 project for purposes of CEQA because it is general  
20 policy making and it involves the creation of a  
21 government funding mechanism that does not approve  
22 individual specific projects.

23 Or two, it falls within the so-called  
24 common sense exemption to CEQA because it will not  
25 have a substantial or potentially substantial

1 adverse impact on the environment. Quite the  
2 contrary, it should have a very beneficial impact  
3 upon the environment.

4 If you approve the guidebook today we  
5 will be submitting a notice of exemption to this  
6 effect. Thank you.

7 CHAIRPERSON PFANNENSTIEL: Thank you,  
8 thank you both. Are there comments or questions?  
9 Commissioner Geesman.

10 COMMISSIONER GEESMAN: I would move the  
11 approval of the guidebook with its errata.

12 COMMISSIONER BYRON: I second it.

13 CHAIRPERSON PFANNENSTIEL: Before voting  
14 I would just like to comment that the guidebook  
15 reflects, describes a program that reflects a  
16 great deal of input, a lot of hard work. I think  
17 the staff is to be commended for going from a  
18 concept that we had just a little under a year ago  
19 I guess, to the program that is now before us for  
20 adoption.

21 It is the program that is the result of,  
22 as Sandy just said, six meetings of the advisory  
23 committee and a number of public workshops. We  
24 have tried to get input as widely, as broadly as  
25 we can, but holding firm to the idea that we

1 wanted to work with the builders to get the most  
2 effective, cost effective program we could. And  
3 that we wanted to build in energy efficiency at  
4 the highest levels we could.

5 The program goes way beyond what I think  
6 we would have been able to do on our own so I want  
7 to thank the parties who participated with us. I  
8 think that was developed into a better program.

9 With that is there -- I'm sorry, Sandy.

10 MR. MILLER: Counsel has advised that on  
11 the errata, that I need to go through the errata  
12 and get it on record what it actually is. So if  
13 you don't mind I'll just go through this very  
14 quickly.

15 CHAIRPERSON PFANNENSTIEL: Fine.

16 MR. MILLER: On page five of the errata.  
17 I think everybody should have this copy right  
18 here. Page five of the guidebook under the NSHP  
19 column, NSHP-2007 column. If you look at the  
20 incentive row the sentence should read: "EPBI for  
21 Affordable Housing is 25 percent higher." The  
22 words "than Title 24" should be stricken.

23 Page six, the "Check List Summary has  
24 been updated to reflect the Guidebook text. See  
25 attachment." Those are the next two pages. These

1 basically are pages that were revised to conform  
2 to the text of the guidebook. They were  
3 inadvertently not updated in the last guidebook  
4 revision.

5 Page eight, we propose to change the PUC  
6 web site to the Go Solar web site.

7 Page 21, we are changing the title of  
8 forms from NSHP-6 to NSHP-1.6 to have a more  
9 logical sequence to the forms. And we have added  
10 some text to the forms NSHP-1, NSHP-1.6 and NSHP-2  
11 and the text is highlighted in the forms.

12 And that is all of the errata, thank  
13 you.

14 CHAIRPERSON PFANNENSTIEL: Thank you.  
15 Commissioner Rosenfeld had a comment.

16 COMMISSIONER ROSENFELD: I just want to  
17 praise everybody involved again and say I think  
18 this is a really historic idea of combining the  
19 sizzle of solar with the familiar advantages of  
20 energy efficiency. I hope 49 other states and the  
21 whole world copies this brilliant piece of work.  
22 I am very happy.

23 CHAIRPERSON PFANNENSTIEL: Further  
24 discussion? Call for a vote. All in favor?

25 (Ayes.)

1                   CHAIRPERSON PFANNENSTIEL: Opposed?

2                   It's approved, thank you.

3                   MR. MILLER: Thank you.

4                   CHAIRPERSON PFANNENSTIEL: Item 3,  
5                   possible adoption of revisions to the Emerging  
6                   Renewables Program Guidebook to remove the  
7                   eligibility of solar energy systems as directed by  
8                   Senate Bill 1, Senate Bill 1250 and Senate bill  
9                   107. Good morning.

10                  MR. NARVAND: Good morning,  
11                  Commissioners. My name is Payam Narvand, I work  
12                  in the renewables office of the Commission. We'll  
13                  give you a little bit of a background in that we  
14                  are seeking today a possible adoption of revisions  
15                  to the existing Emerging Renewable Program.

16                  In 1998 the California Energy Commission  
17                  created a new Renewable Energy Program to increase  
18                  renewable electricity production and consumption  
19                  statewide with funding collected from the rate  
20                  payers of four investor-owned utilities in  
21                  California.

22                  Pursuant to Senate Bill 1038 and Senate  
23                  Bill 183 the Emerging Renewables Program, formerly  
24                  called the Emerging Renewables Buy-Down Program  
25                  was created to stimulate market demand for small

1 scale renewable energy systems and reduce the  
2 initial cost of the system to the customer.

3 The Emerging Renewables Program has been  
4 a very successful program. As the Commission is  
5 aware this program has been fully administered in  
6 house by the California Energy Commission. Since  
7 it's inception in 1998 the ERP contributed to the  
8 purchase and installation of over 21,000 renewable  
9 energy systems worth 91 megawatts of installed  
10 capacity and representing approximately 314  
11 million worth of rebate payments.

12 Pursuant to Senate Bill 1 and the CPUC's  
13 decision, which created the California Solar  
14 Initiative as Sandy Miller mentioned, starting on  
15 January 1, 2007 solar technologies on existing  
16 buildings, both residential and commercial, will  
17 fall under the CSI program.

18 The Energy Commission will manage the  
19 New Solar Homes Partnership program for new  
20 residential construction. As a result of this the  
21 current Emerging Renewables Program Guidebook will  
22 be revised to describe the requirements for  
23 receiving funding only for the installation and  
24 operation of eligible small wind and fuel cell  
25 systems.

1           Other highlights of revisions do include  
2           maintaining the current rebate level for fuel  
3           cells at \$3 per watt and for wind systems at \$2.50  
4           per watt for the first seven and a half kilowatts  
5           of capacity and \$1.50 per watt for incremental  
6           capacity above seven and a half kilowatts, up to  
7           30 kilowatts.

8           Other highlights of revisions include  
9           removing existing program components such as the  
10          Pilot Performance-Based Incentive Program and the  
11          Solar Schools Program and New Housing Sections.

12          Finally, other clarifications are of a  
13          non-substantive nature.

14          CHAIRPERSON PFANNENSTIEL: Thank you.

15          MR. NARVAND: Counsel has advised me  
16          that he would like to make some comment on CEQA.

17          MR. HERRERA: I just want to get the mic  
18          from you, Payam. Good morning, Gabriel Herrera  
19          with the Commission's legal office.

20          As Allan Ward mentioned with the New  
21          Solar Home Partnership, the legal office has  
22          evaluated the application of CEQA to the adoption  
23          of the Emerging Renewables Program guideline  
24          revisions and has concluded that CEQA does not  
25          apply. And that the adoption is exempt because

1 the project deals with government funding  
2 mechanisms and the continuation of administrative  
3 procedures, both of which are exempt pursuant to  
4 Title 14 of the California Code of Regulations  
5 Sections 15378 in that those activities are not  
6 considered a project under CEQA.

7 This activity is also exempt because it  
8 falls under the common sense exemption, again,  
9 because there is no possibility that this activity  
10 may have a significant effect on the environment.

11 And with that if there are any  
12 questions.

13 CHAIRPERSON PFANNENSTIEL: Questions or  
14 discussion? Is there a motion?

15 COMMISSIONER GEESMAN: I'll move the  
16 adoption of the guidebook.

17 COMMISSIONER BYRON: Second.

18 CHAIRPERSON PFANNENSTIEL: All in favor?  
19 (Ayes.)

20 CHAIRPERSON PFANNENSTIEL: Thank you.  
21 The guidebook is adopted.

22 Item 4, possible adoption of proposed  
23 changes to the Overall Program Guidebook to  
24 identify the New Solar Homes Partnership as a  
25 program element, identify funding for the Emerging

1 Renewables Program and the New Solar Homes  
2 Partnership, Senate Bill 1250, clarify definitions  
3 and make other administrative changes.

4 Mr. Herrera.

5 MR. HERRERA: Good morning,  
6 Commissioners. We are here to seek the approval  
7 of proposed revisions to the Overall Program  
8 Guidebook for the Renewables Energy Program. This  
9 guidebook describes how the Commission administers  
10 its renewable energy program, including the  
11 program elements, and includes information and  
12 requirements that apply overall such as auditing  
13 and record keeping definitions, et cetera.

14 The guidebook was initially adopted in  
15 February of 2003 and what the proposed revisions  
16 would do would one, identify the New Solar Home  
17 Partnership as a program element within the  
18 renewable energy program. And the reason it falls  
19 within the renewable energy program is that it  
20 receives funding pursuant to law under the  
21 Renewable Resource Trust Fund.

22 Secondly, it would identify the funding  
23 available for both the New Solar Home Partnership  
24 and the Emerging Renewables Program. And it would  
25 clarify definitions and it would make other minor,

1 administrative changes. For example, the last  
2 time it was revised I believe Joe Desmond was the  
3 Chairman so we need to acknowledge that the  
4 Chairmanship has changed.

5           Regarding CEQA: Again, the legal office  
6 has evaluated the application of CEQA to the  
7 adoption of this guidebook and has concluded that  
8 it is not a project under CEQA and is therefore  
9 exempt. Again, because it deals with general  
10 policy and procedure making and it is also exempt  
11 under the common sense exemption because there is  
12 no possibility that it may have a significant  
13 effect on the environment.

14           And with that if there are any questions  
15 I would be more than happy to answer them.

16           CHAIRPERSON PFANNENSTIEL: Are there  
17 questions or discussion?

18           Hearing none is there a motion?

19           COMMISSIONER GEESMAN: I move the  
20 approval of the guidebook.

21           COMMISSIONER BYRON: Second.

22           CHAIRPERSON PFANNENSTIEL: All in favor?

23           (Ayes.)

24           CHAIRPERSON PFANNENSTIEL: The guidebook  
25 is approved, thank you.

1           Item number 5, possible approval of  
2           contract 400-06-012 for \$74,500 with Amerit  
3           Consulting, Inc. for temporary support staff to  
4           help process renewable energy rebate energy  
5           applications during high volume periods. Good  
6           morning.

7           MR. FUGATE: Good morning,  
8           Commissioners. My name is Nick Fugate and I am  
9           with the renewables office.

10           The item before you is a potential  
11           contract with Amerit Consulting for \$74,500 to  
12           provide temporary staff support to the Emerging  
13           Renewables Program. The Emerging Renewables  
14           Program provides rebate incentives to customers  
15           who install eligible renewable energy systems,  
16           mostly solar, on their homes and businesses in  
17           California.

18           The program has seen an unprecedented  
19           volume of applications this calendar year, making  
20           it necessary to acquire temporary help to meet  
21           peak workload demand.

22           Over previous years the Emerging  
23           Renewables Program has seen periodic spikes in its  
24           volume of applications. These drastic increases  
25           correspond exactly to scheduled drops in the

1 rebate level. Now with the transition from the  
2 Emerging Renewables Program to the new Solar Homes  
3 Partnership on January 1, 2007 we expect to see a  
4 sharp rise in program demand in the final weeks of  
5 this calendar year.

6 Acquiring the services of Amerit is a  
7 critical step in our plan to close out the solar  
8 portion of the Emerging Renewables Program and  
9 launch the New Solar Homes Partnership. This  
10 temporary support will allow us to process  
11 applications and respond to public inquiries in a  
12 timely and efficient manner and will allow program  
13 staff to focus on the more technical aspects  
14 associated with the transition.

15 I would be happy to answer any of your  
16 questions.

17 CHAIRPERSON PFANNENSTIEL: Thank you.  
18 Are there questions? Discussion?

19 COMMISSIONER GEESMAN: I move approval  
20 of the contract.

21 COMMISSIONER BYRON: Second.

22 CHAIRPERSON PFANNENSTIEL: All in favor?

23 (Ayes.)

24 CHAIRPERSON PFANNENSTIEL: The contract  
25 is approved.

1                   COMMISSIONER GEESMAN: We probably ought  
2 to just take note of the fact that there were  
3 dozens and dozens and dozens of students that  
4 worked on this particular program over the years  
5 all night on some of these other application  
6 spikes. I'm happy that we're finally choosing to  
7 contract outside to pick up that peak workload.  
8 We sure could have used the help in past years.

9                   But it's a real tribute to the success  
10 of the program that we do have these large volumes  
11 of applications.

12                   CHAIRPERSON PFANNENSTIEL: Thanks. Item  
13 6, possible approval of work authorization MR-060  
14 for \$3 million over three years with the  
15 University of California, Davis, Institute of  
16 Transportation Studies. This work authorization  
17 is under the UC Master Research Agreement Number  
18 500-02-004 with the Regents of the University of  
19 California, Office of the President/CIEE, for a  
20 Plug-In Hybrid Electric Vehicle Research Center.  
21 Good morning.

22                   MS. KREBS: Good morning, Madame  
23 Chairman and Commissioners. My name is Martha  
24 Krebs, I am the Deputy Director for the  
25 Commission's Energy Research and Development

1 Division.

2 Today staff is bringing to the business  
3 meeting the first research contract for the new  
4 transportation R&D program in the PIER program. I  
5 want to review the recent history and  
6 implementation of the transportation research area  
7 and provide context for the proposed project.

8 The Legislature authorized PIER To  
9 undertake transportation R&D in SB 76, the trailer  
10 bill for the FY 05/06 PIER budget. The bill  
11 authorized up to a third of the natural gas R&D  
12 budget for transportation. And while authorizing  
13 R&D in the electricity program did not establish a  
14 limit.

15 The Legislature directed the PIER  
16 program to co-plan the natural gas area with the  
17 Air Resources Board. PIER received PY for the  
18 program in FY 06/07 and the program now has two PY  
19 with a third to join soon.

20 The R&D Committee allocated 10.2 million  
21 of natural gas funds over the last two calendar  
22 years and 11 million of electricity funds for FY  
23 05/06 and FY 06/07.

24 The initial investments, which will be  
25 brought forward beginning today, represent a

1 bootstrapping approach to moving the program  
2 forward on an urgent basis. And these are based  
3 on the consensus, the existing consensus within  
4 the Energy Commission, the Air Resources Board  
5 staff and a group of utility representatives. The  
6 next set of investments will come from more  
7 systematic R&D planning and road mapping processes  
8 that are underway now.

9           We expect the Commission's  
10 transportation research to be in the general areas  
11 of vehicle technology, alternative fuels and  
12 transportation systems. These areas have been  
13 arrived at in consultation with the transportation  
14 committee and the fuels and transportation  
15 division staff.

16           We believe these areas at the highest  
17 level span the likely space of needed research for  
18 California and are consistent with our  
19 authorization and with California policy. And we  
20 believe this will be borne out by the systematic  
21 planning that will involve the broad stakeholder  
22 community.

23           PIER staff has identified four immediate  
24 research project areas. They are the 2006 Natural  
25 Gas Research Program. Eleven projects have been

1 identified by CEC and the Air Board staff. The  
2 projects represent near-term, no regrets research  
3 chosen according to their fit with transportation  
4 energy policy, stakeholder support and high rate  
5 payer benefit potential.

6 Five of the projects will be managed by  
7 the ARB staff, three by the fuels and  
8 transportation division staff and the remainder  
9 within PIER. The interagency agreement being  
10 developed with the ARB for the five projects is  
11 scheduled to be heard at the January 17 R&D  
12 Committee meeting.

13 We are creating -- A second project is  
14 the creation of a research road map for natural  
15 gas vehicles. This effort has broad stakeholder  
16 support including Sempra, PG&E and the Air Board.  
17 The road map will be completed in February.

18 A request for proposals for innovative  
19 bio-fuels technologies has been released by the  
20 renewables program and will close on January 4,  
21 2007.

22 The fourth project is before you today,  
23 which is to start a three million, three year  
24 research program for plug-in hybrid electric  
25 vehicles by establishing a research center at UC

1 Davis within the Institute for Transportation  
2 Studies located on campus. Philip Misemer will  
3 speak to that project after I conclude.

4 Initiating these projects gets the  
5 transportation research area started but sustained  
6 technology development requires the strategic  
7 framework of the research plan mentioned earlier.  
8 Critical input to the integrated research plan  
9 will come from road maps developed for specific  
10 technology solution areas.

11 I have mentioned the road map for  
12 natural gas vehicle research. A research road map  
13 for plug-in hybrids will be developed by UC Davis  
14 in the proposed research center.

15 Additional road maps will need to define  
16 public interest research opportunities within  
17 other initiative areas such as vehicle efficiency,  
18 in-state ethanol production, in-state bio+diesel  
19 production and land use planning.

20 These road maps will identify critical  
21 opportunities for leveraging federal and private  
22 investments. PIER staff will also convene an  
23 advisory group to help provide the analysis to  
24 make choices among these and other research  
25 initiatives for road map development.

1           The integrated transportation research  
2 plan will be completed by the -- late in 2007. We  
3 hope that this approach will ensure that the  
4 Commission's and California's goals of greenhouse  
5 gas and petroleum reduction have the needed  
6 foundation of good science and technology.

7           Thank you. And now I ask Phil Misemer  
8 to introduce the project.

9           MR. MISEMER: Good morning,  
10 Commissioners. My name is Philip Misemer, I am  
11 the transportation subject area lead for PIER.

12           PIER staff is asking the Commission to  
13 start a \$3 million, 3 year research program for  
14 plug-in hybrids by establishing a plug-in hybrid  
15 electric vehicle research center within the  
16 Institute for Transportation Studies at UC Davis.

17           California's transportation system  
18 accounts for its greatest share of greenhouse gas  
19 emissions and virtually all of its petroleum  
20 dependence. The plug-in hybrid electric vehicle  
21 has the potential to solve both of these problems.

22           Our 2005 integrated energy policy report  
23 notes that plug-in hybrids are an on-road electric  
24 drive technology option that can bridge the gap  
25 between today's hybrids and the zero emission

1 vehicles of the future.

2 The joint ARB/Energy Commission report  
3 on reducing California's petroleum dependence  
4 shows plug-in hybrids providing the greatest  
5 direct net benefit to consumers over other fuel  
6 substitution options.

7 The proposed research center will  
8 operate within the context of California's unique  
9 electricity supply mix, transportation system,  
10 consumer behaviors and regulatory frameworks.  
11 Plug-in hybrid electric vehicle research topics  
12 such as utility load impacts, emissions modeling,  
13 consumer driving mode preferences, vehicle to grid  
14 modeling and analysis, and component optimization  
15 modeling all fit within public interest research  
16 criteria.

17 These research topics are being  
18 considered by the Department of Energy. The  
19 research center will provide necessary expertise  
20 in an open and collaborative setting in which to  
21 coordinate and leverage research with other  
22 institutions such as the Department of Energy.

23 There is also broad stakeholder  
24 consensus that this research is clearly linked to  
25 electricity rate payer benefits. The research

1 center is supported by investor-owned utilities,  
2 the Air Resources Board, EPRI and the Department  
3 of Energy, Nissan, and the South Coast Air Quality  
4 Management district.

5 Establishing the research center sends  
6 an unambiguous signal of the Commission's  
7 intentions to support research that is connected  
8 to electricity rate payers.

9 The research center will establish a  
10 plug-in hybrid research advisory council for  
11 strategic direction. The advisory council will be  
12 a multi-institutional group to provide high-level  
13 guidance on R&D opportunities, priorities and  
14 commercialization pathways. Advisory council  
15 members will be selected from organizations within  
16 the plug-in hybrid research development,  
17 demonstration, and commercialization spheres.

18 The advisory council will provide  
19 recommendations for development of the plug-in  
20 hybrid research road map and will help disseminate  
21 research results to a broader stakeholder  
22 audience, including their own organizations.

23 Thus far the Department of Energy,  
24 that's their Energy Efficiency and Renewables --  
25 EERE.

1 MS. KREBS: Renewable Energy.

2 MR. MISEMER: Renewable Energy, thank  
3 you, group, EPRI, Southern California Edison,  
4 Pacific Gas & Electric, San Diego Gas & Electric,  
5 Daimler-Chrysler and Nissan have committed to  
6 advisory council membership.

7 I submit to you that the proposed  
8 research center will provide good science needed  
9 to constructively inform policy makers, regulators  
10 and industry. Thank you and may I address your  
11 questions.

12 CHAIRPERSON PFANNENSTIEL: Are there  
13 questions? Commissioner Geesman.

14 COMMISSIONER GEESMAN: I think today is  
15 an important milestone in our transportation  
16 efforts and I think this project is a worthy one  
17 to lead that effort with.

18 I'd really emphasize the importance that  
19 our activities in this areas serve as a center or  
20 a hub of other research activities in plug-in  
21 hybrids going on in the United States and  
22 elsewhere around the world. We're best and most  
23 effective when we work with others and there is a  
24 great deal of activity going on in this area.

25 I think you've identified many of the

1 key stakeholders. The challenge that we face is  
2 trying to pull them into our efforts in a true  
3 collaboration where we can benefit from their  
4 knowledge and they can benefit from ours.

5 This is a particular area of opportunity  
6 for our utilities and I think that each of the  
7 companies has an effort underway that we ought to  
8 encourage and try and nurture. And it falls upon  
9 us, I think, to share those views with our  
10 colleagues at the Public Utilities Commission  
11 going forward. If this is a productive area for  
12 future development the utilities ought to be  
13 directly involved and the state ought to be  
14 supportive of that.

15 I will move approval of the contract.

16 COMMISSIONER BOYD: Madam Chair, I would  
17 like to jump on top of my colleague, Commissioner  
18 Rosenfeld, who as the other member of the Research  
19 Committee was about to second the motion. But I  
20 want to --

21 COMMISSIONER ROSENFELD: With pleasure  
22 but I'll let you do it.

23 COMMISSIONER BOYD: All right. As Chair  
24 of the Transportation Committee I would like to  
25 second the motion and second the sentiments and

1        comments of Commissioner Geesman. He and I served  
2        on the Transportation Committee for a long time.  
3        We think alike. I appreciate his probing  
4        questions of the staff. The staff probably  
5        doesn't appreciate either one of us on occasion in  
6        that arena.

7                    But I do agree that this is a fairly  
8        significant event. The 2005 IEPR contained a very  
9        strong recommendation that this agency policy  
10       encourage exploration of plug-in hybrid vehicle  
11       technology, at a time when it wasn't really very  
12       popular yet.

13                   There has been flurry of activity on the  
14       part of the auto industry first expressing  
15       interest and then withdrawing some of that  
16       interest in the case of some. Therefore I think  
17       the role of this center is appropriate to draw  
18       people's attention to the fact that California  
19       cares a lot about this, California intends to  
20       pursue this.

21                   But I certainly agree with Commissioner  
22       Geesman that this really needs to act as a magnet  
23       to draw everybody else into it and to create a  
24       very large collaborative and a synergism to make  
25       this technology possible.

1                   And with regard to the comments about  
2                   the PUC I am reminded that on Monday when we had  
3                   our joint public meeting with the Public Utilities  
4                   Commission on the Energy Action Plan the PUC did,  
5                   in effect, solicit an interest in the  
6                   transportation arena and really solicited us to  
7                   please bring them into this arena and work with  
8                   them. So I think the point is excellent and in  
9                   the past they have needed some reminding about the  
10                  value of investing in this particular arena.

11                  So I think this is a very good project  
12                  to move forward on. It is a part of a broader  
13                  plan that was laid out for us here this morning  
14                  that many of us have put a lot of time into and I  
15                  think will pay dividends for the transportation  
16                  leg of the three-legged energy stool that is now  
17                  getting shored up by the work of this agency.

18                  So with your permission --

19                  COMMISSIONER ROSENFELD: With my  
20                  pleasure.

21                  COMMISSIONER BOYD: -- my colleague, I  
22                  will second the motion.

23                  CHAIRPERSON PFANNENSTIEL: Do we have  
24                  other discussion on this?

25                  All right, the proposed work

1 authorization has been moved and seconded. All in  
2 favor?

3 (Ayes.)

4 CHAIRPERSON PFANNENSTIEL: Opposed? It  
5 has been approved. Thanks.

6 MR. MISEMER: Thank you.

7 CHAIRPERSON PFANNENSTIEL: Item 7,  
8 possible approval of Amendment 1 to Contract  
9 500-05-026 for an increase of \$736,690 and a time  
10 extension of one year with the Gas Technology  
11 Institute. Good morning.

12 MS. MUELLER: Good morning. I'm Marla  
13 Mueller; I work in the PIER Environmental program.

14 This is a request for approval of an  
15 increase of \$736,690 and one additional year to  
16 contract 500-05-026 with the Gas Technology  
17 Institute to investigate the potential safety,  
18 performance, emissions, and air quality impacts of  
19 increased variability in delivered natural gas in  
20 California. The project addresses the issues of  
21 interchangeability of LNG and other off-spec gasses  
22 in air quality implications. Lawrence Berkeley  
23 National Lab is a major subcontractor on this  
24 project.

25 This amendment will allow GTI to proceed

1 to Phase II of the project as provided in the  
2 original agreement. Phase II focuses on indoor  
3 air quality. This would include testing as-  
4 installed effectiveness and efficiencies of  
5 residential range hoods during the planned field  
6 study of residential gas appliance emissions.  
7 Range hoods could be an effective way to address  
8 emissions and increases in emissions from stoves.

9 Major parameters would include airflow,  
10 noise levels, energy use and indoor pollutant  
11 concentrations. Also indoor pollutant exposures  
12 from natural gas appliances and exposure resulting  
13 from potential changes to natural gas appliances  
14 would be quantitatively evaluated using a model to  
15 simulate emissions, dilutions, transport and  
16 pollutant dynamic processes.

17 Finally, a risk assessment would be  
18 conducted to quantify potential health effects  
19 resulting from incremental exposure from expected  
20 changes in natural gas properties.

21 The 2005 Integrated Energy Policy Report  
22 identifies a need to import LNG and states that in  
23 considering LNG projects currently proposed for  
24 California the state must address safety,  
25 environmental and gas quality issues associated

1 with these projects in an efficient and equitable  
2 manner.

3 The tests have indicated that natural  
4 gas with higher ethane and propane produce higher  
5 emissions of oxides of nitrogen, a precursor to  
6 ozone. And tests have indicated that under normal  
7 operation natural gas pollution from the use of  
8 appliances in homes can exceed the standards and  
9 guidelines established for indoor air quality.

10 Although the CPUC recently adopted  
11 standards for natural gas they acknowledged the  
12 need for additional research to fill data gaps.  
13 Also the California Air Resources Board has not  
14 yet adopted standards for natural gas for vehicles  
15 and are interested in obtaining more information  
16 on the air quality implications of LNG.

17 Thank you for your consideration.

18 CHAIRPERSON PFANNENSTIEL: Questions or  
19 discussion? Is there a motion?

20 COMMISSIONER ROSENFELD: I move the  
21 item.

22 COMMISSIONER GEESMAN: Second.

23 CHAIRPERSON PFANNENSTIEL: All in favor?

24 (Ayes.)

25 CHAIRPERSON PFANNENSTIEL: The item is

1 approved.

2 MS. MUELLER: Thank you.

3 CHAIRPERSON PFANNENSTIEL: Thank you.

4 Item 8, possible approval of contract  
5 500-06-023 with Pacific Gas & Electric Company for  
6 \$667,000 to conduct research related to energy-  
7 efficient gas cooling, water heating, and food  
8 service equipment. Ms. Brook.

9 MS. BROOK: Good morning, I'm Martha  
10 Brook with the PIER Buildings program sitting in  
11 for Brad Meister.

12 The projects in this proposal were  
13 selected for funding through the research concept  
14 solicitation sponsored by the PIER Natural Gas  
15 Program two years ago. PG&E will use their Food  
16 Service Technology Center to conduct the  
17 commercial cooking and water heating research.

18 In addition to being a nationwide  
19 clearinghouse of information on food service  
20 equipment performance the Food Service Technology  
21 Center has expertise in all aspects of energy  
22 efficiency in the food service sector.

23 Food service operations are the most  
24 energy intensive activities in commercial  
25 buildings and represent about 20 percent of all

1 natural gas used in the commercial sector.

2 Much of the proposed work will gather  
3 on-site food service equipment and system  
4 performance information that will be used to  
5 identify the best opportunities for future  
6 technology development and will also provide the  
7 baseline information required to develop new  
8 voluntary efficiency standards such as Energy Star  
9 as well as Title 20 appliance regulations.

10 The PIER Building's Efficiency Program  
11 will use the results of this work to guide a  
12 natural gas research solicitation plan for 2007.  
13 A web-based tool that will guide the design of  
14 energy efficient water heating systems for food  
15 service facilities will also be developed.

16 The proposed contract also includes a  
17 small project to develop design guides and  
18 specifications for natural gas driven cooling  
19 equipment. PG&E led the effort several years ago  
20 to produce publicly available chilled water design  
21 tools for electrical equipment. This project will  
22 provide comparable information for gas-driven  
23 cooling equipment.

24 The R&D Committee has approved this item  
25 and I'm here to answer any questions that you may

1 have.

2 CHAIRPERSON PFANNENSTIEL: Thank you. I  
3 think before we have any discussion or a motion I  
4 am just going to indicate that I am going to  
5 recuse myself from this item because of a past  
6 relationship with PG&E.

7 With that, questions or discussion?  
8 Yes, Commissioner Byron.

9 COMMISSIONER BYRON: I will support  
10 this. Having only reviewed it in the last few  
11 days I am not very familiar with the project.

12 I just would like to caution staff to  
13 make sure that we don't necessarily follow the  
14 tendency of other agencies within the state to  
15 contract with IOUs just because it is convenient  
16 to do so. I'd like to make sure that in future  
17 contracts that we consider a solicitation process  
18 for these, these large R&D projects.

19 CHAIRPERSON PFANNENSTIEL: Okay. Are  
20 there questions?

21 COMMISSIONER ROSENFELD: I move Item 8.

22 COMMISSIONER GEESMAN: Second.

23 CHAIRPERSON PFANNENSTIEL: All in favor?

24 (Ayes.)

25 CHAIRPERSON PFANNENSTIEL: And I recused

1 myself.

2 MS. BROOK: Thank you.

3 CHAIRPERSON PFANNENSTIEL: Thank you.

4 Item 9, consideration and possible  
5 adoption of the Presiding Member's Proposed  
6 Decision and Errata recommending certification of  
7 the Pastoria Energy Facility Expansion, a simple-  
8 cycle peaker unit adjacent to the existing  
9 Pastoria Energy Facility on the Tejon Ranch, south  
10 of Bakersfield, in Southern Kern County.

11 MS. GEFTER: Okay.

12 CHAIRPERSON PFANNENSTIEL: Good morning.

13 MS. GEFTER: Good morning. I'm Susan  
14 Gefter, hearing officer on the committee to  
15 certify the Pastoria expansion project.

16 We work the siting cases and these are  
17 primarily fossil fuel projects. And so it's quite  
18 a contrast after sitting through all the other  
19 items this morning dealing with renewables and,  
20 you know, efficiency projects so I wanted to  
21 change the approach now.

22 What we do in our office is we look at  
23 the environmental impacts of these fossil fuel  
24 projects and I am going to give you some  
25 background on this proposal. The new expansion

1 project is a nominal 160 megawatt natural gas-  
2 fired simple-cycle generator, which will be  
3 located at the same site as the existing 750  
4 megawatt combined-cycle Pastoria facility, which  
5 the Commission certified in 1999. It's located on  
6 the Tejon Ranch about 30 miles south of  
7 Bakersfield in Kern County.

8 According to Calpine, the applicant,  
9 this new project will provide peaking power to the  
10 Southern California grid in view of the 2005 IEPR  
11 that talks about the need for peaking power in  
12 Southern California. Calpine does not expect this  
13 project to begin operation until 2011, which is  
14 about five years from now. Calpine proposed that  
15 the simple-cycle project be certified to operate  
16 at full capacity on a year-round basis.

17 Concerns about efficient use of natural  
18 gas by the peaker and the potential effects on air  
19 quality are discussed in the efficiency section of  
20 the PMPD, which you have before you today. To  
21 address the concerns the committee originally  
22 drafted Condition EFFIC-1, which was based on a  
23 similar condition adopted by the Commission for  
24 the Modesto Irrigation District's Ripon SPPE  
25 project in 2003.

1           The committee's proposed EFFIC-1  
2           condition would have monitored the number of  
3           megawatt hours generated by this peaker and would  
4           have required conversion to combined-cycle if the  
5           project operated at full capacity on a year-round  
6           basis. The parties objected to EFFIC-1 condition  
7           arguing the market would act as a deterrent to  
8           full time peaker operation.

9           Since Condition AQ-56 already requires  
10          the project owner to maintain records specifying  
11          the project's use of natural gas the committee  
12          subsequently removed the EFFIC-1 condition. The  
13          Condition AQ-56 is required by the air district in  
14          any event and is already part of the PMPD.

15          The electricity generated by the new  
16          project will be transmitted over the existing  
17          Pastoria transmission line by a new Lebeck  
18          substation, which connects into Edison's Pastoria  
19          substation.

20          The new project does not require any  
21          changes to the existing Pastoria facility's, fuel  
22          or water supplies but it may require upgrades to  
23          the transmission system and related facilities.  
24          The Cal-ISO will make the final determination  
25          regarding grid upgrades when the project comes on

1 line.

2 The existing 750 megawatt combined cycle  
3 plant obtains cooling water from the State Water  
4 Project's California Aqueduct at the Edmonston  
5 pumping plant, which is about one and a half miles  
6 from the power plant site. The existing plant was  
7 certified in 1999, before the 2003 IEPR, which  
8 questioned the use of inland water for power plant  
9 cooling.

10 Staff recommended Condition SOIL&WATER-4  
11 in this case then to limit the combined water use  
12 for both plants to the existing annual water use  
13 that is now in effect for the existing combined-  
14 cycle facility. In other words, the new plant  
15 will not use any additional water from the  
16 aqueduct. Under the new condition the project  
17 owner must also install a metering device to  
18 ensure compliance with this requirement. And the  
19 PMPD has incorporated Condition SOIL&WATER-4.

20 In addition to the PMPD the committee  
21 issued an errata which incorporates some  
22 corrections and clarifications of the record but  
23 doesn't change any substantive items. The errata  
24 was issued on November 15 and was circulated to  
25 the parties and Commissioners have copies of the

1       errata.

2               There are a couple of updates to the  
3       errata that I want to put into the record. In the  
4       Introduction section of the PMPD at page nine the  
5       dates of the PMPD conference and today's hearing  
6       are corrected in the errata.

7               Also in the introduction to the PMPD the  
8       last paragraph on page three and continuing to  
9       page four is replaced. Since the committee  
10      deleted the efficiency condition we need to change  
11      the Introduction to say that:

12                       "Calpine also proposed that  
13                       the simple-cycle project be  
14                       available to operate at full  
15                       capacity 8760 hours per year.  
16                       Concerns about the efficient use of  
17                       natural gas by the simple-cycle  
18                       unit are discussed in the section  
19                       on power plant efficiency.  
20                       Condition AQ-56 requires a project  
21                       owner to maintain records  
22                       specifying the project's use of  
23                       natural gas."

24      There was quite a bit of discussion in the  
25      committee about a peaker running full time. And a

1 lot of the discussion focused on the need for the  
2 Commission perhaps to establish a policy on that  
3 since we are receiving a lot of applications right  
4 now for large size peakers that want to run full  
5 time and there are efficiency and air quality  
6 implications as a result of that. In this case,  
7 however, the committee decided that the evidence  
8 did not require the imposition of a condition.

9 We have here today representatives from  
10 the applicant to answer any of your questions and  
11 also staff has a few comments to clarify the  
12 errata. With that I'll introduce you to the  
13 parties.

14 CHAIRPERSON PFANNENSTIEL: Thank you.  
15 Why don't we ask staff to give us their comments  
16 on the errata.

17 MS. WILLIS: Thank you. My name is  
18 Kerry Willis, I am senior staff counsel, and with  
19 me is Dr. James Reede who is our project manager.  
20 Staff reviewed the PMPD and the errata. We were  
21 pleased with the changes proposed in the errata,  
22 specifically the deletion of the efficiency  
23 condition EFFIC-1 and the inclusion of portions of  
24 staff's supplemental testimony. However, we did  
25 have a few minor changes to offer at this time and

1 Dr. Reede will do so.

2 DR. REEDE: Good morning, Commissioner  
3 Pfannenstiel and Commissioners. My name is  
4 Dr. James Reede and I am the Energy Facility  
5 Siting Project Manager that was assigned to the  
6 Pastoria Expansion Project.

7 The two changes that we have relating to  
8 the errata are, number one, under Facility Design  
9 on page two. In the fourth line after, When a,  
10 prior to CBO, enter the word delegate so that it  
11 reads: When a delegate CBO has been identified,  
12 duties are delegated. Then strike the words local  
13 authorities and please insert the words that  
14 entity, comma, and the Commission requires a  
15 Memorandum of Understanding. Basically this is to  
16 conform with our standard condition when we have a  
17 CBO. So that sentence would now read:

18 "When a delegate CBO has been  
19 identified, duties are delegated to  
20 that entity, and the Commission  
21 requires a Memorandum of  
22 Understanding with the delegated  
23 CBO, et cetera."

24 CHAIRPERSON PFANNENSTIEL: Thank you.

25 Is that -- Are there others?

1 DR. REEDE: Yes. There is only one  
2 other on page five. The third line at the very  
3 right where it says Staff concedes. Strike  
4 concedes and please insert Staff explained.

5 In the next line where it says Staff  
6 believes, however, strike the word however,  
7 please, so that it reads:

8 "Staff believes that the  
9 availability of sufficient peaking  
10 power is necessary to prevent grid  
11 outages."

12 And those are the extent of our comments,  
13 Commissioner Pfannenstiel.

14 CHAIRPERSON PFANNENSTIEL: Thank you,  
15 Dr. Reede. Applicant.

16 MR. WHEATLAND: Good morning, I am Greg  
17 Wheatland, counsel for the applicant. The  
18 applicant supports the PMPD; the applicant  
19 supports the errata and the applicant supports the  
20 staff's additional clarifications.

21 CHAIRPERSON PFANNENSTIEL: Thank you.  
22 Discussion among the Commissioners? Commissioner  
23 Boyd.

24 COMMISSIONER BOYD: Yes, thank you. As  
25 the presiding and last standing Commissioner on

1       this committee I would first note that -- with  
2       Ms. Gefter's permission since we have not talked  
3       about this but I find the staff's errata  
4       recommendations as acceptable.

5               Therefore I am prepared to move the  
6       Commission adopt the Committee's PMPD with the  
7       errata as amended today and that we incorporate  
8       these documents into the final decision regarding  
9       the Pastoria Energy Facility Expansion.

10              However, I would like to say, as you  
11       have heard today, we seem to be on the threshold  
12       of perhaps a policy issue here with regard to  
13       natural gas efficiency and peakers. This is a  
14       fairly small unit. And in deference to this  
15       Commission's findings with regard to the  
16       electricity supply in Southern California, as you  
17       heard, we opted to agree as a committee with the  
18       staff on the need for this facility.

19              And in spite of the possible extensive  
20       use of this facility and thus dealing with the  
21       fact that a simple-cycle facility has a far  
22       greater heat rate than a combined-cycle facility  
23       we nonetheless, as you have heard, do recommend  
24       approval. However, I would like to suggest and  
25       perhaps suggest that both the electricity and

1 siting committee may want to look at this issue in  
2 the future.

3           Because as I indicated at Monday's  
4 meeting, the joint meeting with the PUC on the  
5 Energy Action Plan, we are moving into an era of  
6 extremely large peakers that are proposed as  
7 simple-cycle machines that have a different  
8 efficiency rate than certainly combined-cycle  
9 units. And we just need to be cognizant of the  
10 question of efficiency.

11           We're very good in our concerns for  
12 efficiency, particularly in the electricity area.  
13 We have moved into efficiency in the natural gas  
14 area. Natural gas is an issue of concern. And I  
15 just would suggest that as we look at siting cases  
16 in the future we possibly be guided by  
17 considerations by the Electricity Committee and  
18 the Siting Committee on the subject.

19           But with that little issue aside I'd  
20 move adoption, as I indicated.

21           CHAIRPERSON PFANNENSTIEL: Thank you,  
22 Commissioner Boyd. I think that that point is  
23 well taken. I know there has been discussion  
24 about these large peakers that are coming to us.  
25 And I think trying to develop a policy guideline

1 is warranted at this time.

2 So we have a motion. Do we have a  
3 second?

4 COMMISSIONER GEESMAN: I'll second the  
5 motion. I'd like to echo Commissioner Boyd's  
6 comments and broaden them slightly to the themes  
7 that were prominently featured in the 2005 IEPR in  
8 terms of the seeming indifference of the  
9 regulatory process to fuel costs and fuel  
10 efficiency and the need to address with  
11 considerable urgency the modernization of the  
12 generating fleet through the long-term procurement  
13 proceeding at the Public Utilities Commission.

14 Now in our recent Energy Action Plan  
15 meetings we've received assurances that the CPUC  
16 staff is on the same page, at least for the next  
17 several years, with the ramifications of our  
18 recommendations in the 2005 IEPR.

19 But I think it ought to be pretty clear  
20 by the passage of AB 32, by the passage of SB  
21 1368, by the efforts that this agency and other  
22 state agencies have underway in the greenhouse gas  
23 area that there is a great deal of urgency  
24 attached to the efficiency with which we burn  
25 fossil fuels in the electric generating sector.

1 And our applicant community would be well advised  
2 to pay heed to that.

3 So I will second the motion.

4 CHAIRPERSON PFANNENSTIEL: Thank you.  
5 Yes, Commissioner Byron.

6 COMMISSIONER BYRON: A small additional  
7 item, perhaps at a different level. Both  
8 Commissioner Boyd and I were struck yesterday at  
9 siting hearing. This is not an esoteric issue. A  
10 member of the public commented on this very item.  
11 In fact he identified himself I believe as a farm  
12 worker. So people are well aware of this concern  
13 and this Commission is quite concerned about the  
14 increased number of these peakers and certainly  
15 the size of them.

16 CHAIRPERSON PFANNENSTIEL: The item has  
17 been moved and seconded. All in favor.

18 (Ayes.)

19 CHAIRPERSON PFANNENSTIEL: It's  
20 approved, thank you.

21 MS. GEFTER: Thank you very much.

22 CHAIRPERSON PFANNENSTIEL: Item 10,  
23 possible approval of the Executive Director's data  
24 adequacy recommendation for the Bullard Energy  
25 Center, LLC's Application for Certification of the

1 Bullard Energy Center.

2 MS. DYAS: Good morning, Chairman and  
3 Commissioners. My name is Mary Dyas. I'm a  
4 siting project manager.

5 On November 6, 2006 Bullard Energy  
6 Center, LLC, submitted an Application for  
7 Certification for the Bullard Energy Center  
8 project. This project is in response to PG&E's  
9 request for offer and a contract signed between  
10 Bullard Energy, LLC and PG&E earlier this year.

11 The proposed project is a 200 megawatt  
12 natural gas, simple-cycle peaking facility geared  
13 to meet electric generation load during periods of  
14 high demand. This facility would be located  
15 within the city limits of Fresno.

16 Staff has reviewed the application for  
17 certification and has found that this application  
18 is inadequate for the 12-month process in 11  
19 technical areas. Staff and the applicant are  
20 working toward data adequacy and believe that the  
21 application will be data adequate at the  
22 Commissioner's January 3rd Business Meeting.

23 Therefore we recommend that you find the  
24 application data inadequate at this time. Do you  
25 have any questions?

1           CHAIRPERSON PFANNENSTIEL: Are there any  
2 questions? Is there a motion, then, to approve  
3 the Executive Director's data inadequacy finding?

4           COMMISSIONER BYRON: I'll move the item.

5           COMMISSIONER GEESMAN: Second.

6           CHAIRPERSON PFANNENSTIEL: All in favor?

7           (Ayes.)

8           CHAIRPERSON PFANNENSTIEL: Thank you.

9           So therefore we do not need a committee assignment  
10 for Bullard.

11           Now Item 11, possible approval of the  
12 Executive Director's data adequacy recommendation  
13 for E&L Westcoast, LLC's Application for  
14 Certification of the Colusa Generating Station.

15           MR. CASWELL: Good morning,  
16 Commissioners. I'm Jack Caswell, the siting unit  
17 project manager assigned to the Colusa Generating  
18 Station.

19           On November 6 E&L Westcoast, LLC  
20 submitted an Application for Certification of the  
21 Colusa Generating Station. The project is in  
22 response to PG&E's request for offer and a  
23 contract signed between PG&E and E&L Westcoast,  
24 LLC earlier this year.

25           The proposed project is a 660 megawatt

1 natural gas combined-cycle generating facility  
2 using dry cooling technology with a zero liquid  
3 discharge system. This facility would be located  
4 in Colusa County, approximately 14 miles north of  
5 the community of Williams and 4 miles west of I-5  
6 near the existing PG&E gas compressor station off  
7 of Dirk Road.

8 On December 6 staff filed a data  
9 adequacy recommendation with the Commissioners  
10 recommending against data adequacy for both the  
11 applicant's requested six-month review of the  
12 project and the 12-month review of qualifications.  
13 However, on December 12, 2006 the applicant  
14 docketed supplemental AFC information and is no  
15 longer asking for consideration for a six-month  
16 review of the project.

17 Based on this request the Application  
18 for Certification and the Supplemental information  
19 filed by the applicant staff is recommending that  
20 the application be considered as adequate for the  
21 12-month process and that a committee be assigned.

22 CHAIRPERSON PFANNENSTIEL: Thank you.

23 Are there questions? Is there a motion?

24 COMMISSIONER GEESMAN: I'll move it.

25 COMMISSIONER BYRON: Second.

1 CHAIRPERSON PFANNENSTIEL: All in favor?

2 (Ayes.)

3 CHAIRPERSON PFANNENSTIEL: So the data  
4 adequacy recommendation is approved.

5 A committee assignment will be -- I  
6 propose a committee of Commissioner Geesman  
7 presiding and Commissioner Boyd as the Associate  
8 member. Is there a motion for that Committee?

9 COMMISSIONER BYRON: If Commissioner  
10 Rosenfeld would allow me I'd like to endorse that,  
11 that committee assignment. (Laughter)

12 COMMISSIONER ROSENFELD: With pleasure.

13 CHAIRPERSON PFANNENSTIEL: Would  
14 Commissioner Rosenfeld consider a second?

15 COMMISSIONER ROSENFELD: Second.

16 CHAIRPERSON PFANNENSTIEL: All in favor?

17 (Ayes.)

18 CHAIRPERSON PFANNENSTIEL: That  
19 committee is assigned, thank you all.

20 Item 12, possible approval of a petition  
21 to amend the Energy Commission's decision to allow  
22 the restart of operation, and the completion of 11  
23 design changes at Bottle Rock Geothermal Power  
24 Plant.

25 MR. MEYER: Good morning, Chairman

1 Pfannenstiel, Commissioners. My name is  
2 Christopher Meyer, I am the compliance project  
3 manager for the Bottle Rock Power Plant.

4 Just a brief background on the project.  
5 It was certified as a 55 megawatt geothermal power  
6 plant in 1980, back when it was owned by the  
7 Department of Water Resources. It started  
8 operation in 1985.

9 Due to insufficient steam resources  
10 operations were suspended in 1990. At that point  
11 it was approved to have a reduced level of  
12 monitoring and reporting at that point.  
13 Subsequently it was approved for an ownership  
14 change to Bottle Rock Power Corporation in 2001.  
15 They continued to be under suspended operations.  
16 And that was -- Those suspended operation  
17 approvals were extended up until November of this  
18 year.

19 Back in August Bottle Rock Power  
20 Corporation submitted a petition to the Commission  
21 to restart operations, have a name -- excuse me,  
22 an ownership change from a California LLC, a power  
23 corporation, to Bottle Rock Power LLC, a Delaware  
24 LLC. But the same principals that we're dealing  
25 with. And also to make 11 design changes at the

1 facility.

2 The project -- excuse me. During the  
3 public process we did a public tour and a workshop  
4 on September 15. Many of the local residents  
5 participated in this and Bottle Rock Power  
6 Corporation was kind enough to have a tour of the  
7 facility where they explained a lot of the  
8 potential changes in design to the residents of  
9 the area.

10 And I had to beg anyone to come up with  
11 a comment because no one could find any objections  
12 that they raised. Some of these changes, one in  
13 particular would be a vacuum pump which would  
14 potentially eliminate one of the issues during  
15 operation, which was noise from steam flows. So  
16 that should significantly reduce one of the  
17 complaints back when the plant was operating from  
18 the local residents. The residents expressed  
19 pleasure in that change. And as I say, no other  
20 concerns.

21 During the public review process only  
22 one comment was received and that was actually  
23 from the project owner. It was on air quality  
24 condition 1-3, which in the staff analysis is on  
25 page 26. It was a request to add the language,

1 and/or hydrogen peroxide, after the language on  
2 iron chelate. This is something that we had taken  
3 out because the iron chelate was sort of a future  
4 technology but our staff analysis and air quality  
5 permits both addressed the use of hydrogen  
6 peroxide. So the Air Board and our staff has no  
7 issues with this addition.

8 And at this point staff recommends the  
9 change. The change in the air quality language  
10 has been reflected in the proposed order.

11 CHAIRPERSON PFANNENSTIEL: Thank you.  
12 Questions of staff? Commissioner Geesman.

13 COMMISSIONER GEESMAN: I'll move  
14 approval of the petition.

15 COMMISSIONER BYRON: I'll second it. I  
16 note the applicant is there.

17 CHAIRPERSON PFANNENSTIEL: Right.

18 COMMISSIONER BYRON: I don't believe  
19 we've met but I'd really like to thank you for  
20 efforts to keep this resource available. I wish  
21 you good fortune in continued operation of the  
22 plant.

23 CHAIRPERSON PFANNENSTIEL: Comments from  
24 applicant?

25 MR. SUESS: None at all except I was

1 going to point out that this has actually been  
2 about a five-year effort that has reflected a  
3 tremendous amount of cooperation with the staff  
4 and with the Commission to allow this to pretty  
5 much come back to life again. To make its  
6 transition from DWR and find ways.

7 This is also a project which is a  
8 recipient of a grant that is allowing it also to  
9 do some demonstration on exploratory drilling  
10 techniques, which is also another invaluable  
11 characteristic. So we're very excited to reach  
12 this threshold point.

13 CHAIRPERSON PFANNENSTIEL: Thank you.  
14 It has been moved and seconded. All in favor?

15 (Ayes.)

16 CHAIRPERSON PFANNENSTIEL: It's  
17 approved, thank you.

18 Item 13, determination of whether  
19 Federal Power Avenal, owner and operator of Avenal  
20 Energy Power Plant, has complied with the Energy  
21 Commission's August 16, 2006, Order 06-0816-03, to  
22 submit specified information by September 25,  
23 2006.

24 MR. PFANNER: Madame Chairman, Members  
25 of the Commission. My name is Bill Pfanner and I

1 am the project manager for the Avenal Application  
2 for Certification update.

3 Just as means of a background, the AFC  
4 for this project was submitted in 2001 and staff  
5 prepared and published the preliminary staff  
6 assessment in 2002. At that time the applicant  
7 requested and was granted suspension, which has  
8 been continued each year until 2007.

9 And on August 16, 2007 (sic) the  
10 Commission directed Federal Power Avenal LLC, the  
11 applicant, to provide by September 25, 2006 all  
12 information identified in order number 06-0816-03  
13 titled Commission Order on Information  
14 Requirements. And that has been provided here  
15 today.

16 The order specified that the Avenal AFC  
17 would be terminated if the specified information  
18 was not provided by September 25. On September 25  
19 the applicant submitted five copies of the AFC  
20 updated information for staff to review.

21 Staff has completed its review of the  
22 information and identified that in four technical  
23 areas the AFC update submittal does not adequately  
24 provide the required information. In our  
25 presentation we have attachment A, which provides

1 an overview of the significantly deficient  
2 technical areas as specified by the Commission.  
3 Those include biological resources, transmission  
4 system engineering, water resources and air  
5 quality.

6 We would note that staff was fairly  
7 liberal in their analysis and in areas where there  
8 was information that staff thought they could  
9 continue but that they would need to do some kind  
10 of data request in the future they identified  
11 such. And there are nine technical areas that are  
12 included also in Table 1 where staff said the  
13 submittal was sufficient but they would require  
14 additional information.

15 I would also note that in our Attachment  
16 A we have identified some areas where subsequent  
17 to the September 25th date the applicant has  
18 submitted information which does remedy some of  
19 the outstanding information but not all. But  
20 staff's analysis was per the order and that was  
21 reviewing the information submitted by September  
22 25, 2006.

23 I'd be happy to answer any questions you  
24 may have.

25 CHAIRPERSON PFANNENSTIEL: I would like

1 to hear from Applicant on this.

2 MR. GILLILAND: Okay. Good morning,  
3 Commissioners. Thank you for the opportunity to  
4 be here. I am Steve Gilliland, President and CEO  
5 of Federal Power Avenal. With me is Jane  
6 Luckhardt from Downey Brand as well as some other  
7 consultants and the city manager of the City of  
8 Avenal, Melissa Whitten, who would like to have an  
9 opportunity to speak as well.

10 The position that Federal takes on the  
11 staff report is -- I'd like to divide my remarks,  
12 if I could, into two categories. One that I would  
13 call big picture objectives, and the second  
14 category, which I would call rebuttal of or  
15 comments on the staff report.

16 As far as the big picture issues. This  
17 particular project will add to the gas-fired  
18 natural gas-fired electrical generation capacity  
19 here in California. A need which we believe is  
20 important to be met from a generation perspective.

21 Secondly the project, and I believe that  
22 the Commissioners should be looking at this as  
23 well, this \$400-plus million investment will be  
24 put down into a city that is seeking substantial  
25 economic investment and will add to the benefit of

1 the city.

2 And the third aspect that I would ask  
3 you to put into consideration would be that this  
4 process, if continued, will be less -- relying on  
5 less staff support than if we went back to the  
6 beginning of the process. So if you were to  
7 reject us, for example, today, it would be our  
8 intention to resubmit and that process of  
9 resubmission will certainly be more demanding of  
10 staff resources than continuing this process from  
11 this point.

12 Let me go to the second category of  
13 issues, which are some rebuttals. And I'll be  
14 happy to answer in detail as much as you would  
15 like but I am not going to waste a lot of your  
16 time going through this.

17 The first comment on the rebuttals is  
18 that we had no opportunity prior to the issuance  
19 of the memorandum to correct any inaccuracies, and  
20 there are some, so we will try to address those  
21 here. We have tried to address some of those with  
22 subsequent to September 25th information to staff.  
23 The interaction that we have had with staff  
24 relative to the submission was one, one-hour long  
25 phone call. Which I think some of the comments

1 that you will see that we will make in conflict  
2 with staff's requirements is a result of the  
3 limited amount of contact that we have had.

4 Let me go through the four categories  
5 which Mr. Pfanner related to, biological  
6 resources, transmission system engineering, water  
7 resources and air quality. And I'll take them in  
8 that order. Relative to biological resources it  
9 is the applicant's position that we have  
10 substantially been in compliance with the August  
11 table and requirement, your order earlier.

12 And that is a result of really three  
13 things. In the first instance staff commented  
14 that a schedule was not included. In fact a  
15 schedule is included.

16 In the second instance there is a  
17 comment that update the biological assessment.  
18 The biological assessment was not updated and in  
19 fact that is not a document, that is a process.  
20 And we and our consultants have been in contact  
21 with USFWS and DFG related to all of the  
22 activities that are contemplated by their  
23 approvals.

24 In the third instance there was a  
25 comment that staff was not informed of the nature

1 and outcome of the USFWS and DFG interaction and  
2 in fact that was not a requirement of the table  
3 that you all approved in August of this year.

4 Finally you have to keep in mind that  
5 these other third party regulatory bodies have  
6 their own schedules and just because we pick up  
7 the phone and call and ask them to be responsive  
8 doesn't necessarily mean they are going to be so.  
9 So that's our comments on biological resources.

10 Relative to transmission system  
11 engineering we have three comments. There was a  
12 comment in the staff report that said we did not  
13 provide a one-line diagram of the Avenal  
14 substation. That is not true, that was in figure  
15 2.3.3-6.

16 The second point is that we did not  
17 provide a one-line of the Gates substation, which  
18 is a PG&E substation. That is not true, that was  
19 included in page two of the facility study and  
20 pages two and three of appendix B to the facility  
21 study.

22 Issues as to whether the detail on  
23 those, either of those is sufficient in our view  
24 is something that should be dealt with and handled  
25 with an interaction data request or a phone call

1 to us saying, gee, we'd like some more  
2 information. We received no comments on that  
3 until the issuance of the memo.

4 And the third point was to submit in the  
5 event that the supplemental information, our  
6 interconnection study and the facility study of  
7 the new transmission line did not contemplate a  
8 June '09 interconnection date to submit letters  
9 from PG&E and the Cal-ISO documenting that it did.

10 On this one I screwed up. I have and  
11 have subsequently sent to Mr. Pfanner a PG&E  
12 e-mail dated November 2, 2004 that specifically  
13 says that no new interconnection study is  
14 required. So we were compliant, we just weren't  
15 compliant by the date on that aspect.

16 Vis-...-vis water resources, I have three  
17 comments on that. There was a staff comment  
18 relating to the documentation that was provided by  
19 us was not sufficient to describe the situation.  
20 In the comments that came out through the one-hour  
21 phone call subsequent to the issuance it appeared  
22 to us that staff had not found all of the  
23 references. We have subsequently provided a list  
24 of all of the references where the water resources  
25 are dealt with in the update application.

1                   Secondly, there was no explanation of  
2                   how desal complies with Commission policy relative  
3                   to the no use of inland fresh water for cooling.  
4                   I guess that was my mistake. I didn't, I didn't  
5                   make it explicit that desalinated Pacific Ocean  
6                   water is not inland fresh water.

7                   And in the third instance staff said  
8                   that we didn't determine that dry cooling was  
9                   infeasible. In fact on the contrary in section  
10                  6.1 of the update document we said that dry  
11                  cooling was feasible. And that in the event that  
12                  this Commission found a desalinated water option  
13                  unpalatable that we would, in fact, modify the  
14                  plant design to include dry cooling.

15                  On the fourth aspect, air quality. Air  
16                  quality in our view is -- and the document that  
17                  you have including the appendix is actually an  
18                  excellent summary of everything related to the  
19                  update on air quality and we have no changes or  
20                  comments on that.

21                  In fact, the San Joaquin Valley Air  
22                  Pollution Control District has issued its notice  
23                  of complete application. They did so on the 22nd  
24                  of November. They did not do so by the 25th of  
25                  September. But everything vis-...-vis air quality

1 as noted in the staff report is -- we are  
2 comfortable with in that it is an accurate  
3 representation.

4 Let me maybe then summarize then. We  
5 believe we have largely been compliant with the  
6 August 16th order with the exceptions largely  
7 being related to not meeting the September 25th  
8 date. Certainly the key element in all of that is  
9 the responsiveness of third parties, including  
10 governmental third parties that needed information  
11 documentation for us to be able to be compliant  
12 fully.

13 Keep in mind that this particular  
14 project is a significant economic event for the  
15 city of Avenal. The public tax coffers over the  
16 life of the project will collect approximately  
17 \$200 million from the project. The construction  
18 jobs related to this -- and these will be largely  
19 union construction labor -- will be over \$100  
20 million in wages. The operating jobs from this  
21 project will be over \$3 million a year.

22 And the desalinization option, if you  
23 take into account the increased capital cost from  
24 dry cooling, you take into account the five  
25 percent loss in efficiency. I noted with interest

1 your earlier discussion here today about natural  
2 gas consumption. There is a five percent decrease  
3 in efficiency as a result of the dry cooling  
4 option. There is also a five percent reduction in  
5 the capacity of the plant, approximately 300  
6 megawatts.

7 Those three categories adding to over  
8 \$400 million of additional costs that rate payers  
9 in California would be subject to in the event of  
10 the dry cooling option, which we agreed in our  
11 update was economically feasible, simply more  
12 costly.

13 The last benefit that I would point out  
14 related to the desal option is that because of the  
15 scenario and the contractual arrangements that we  
16 have and the fact that this facility will be  
17 started up and shut down multiple times over the  
18 course of a day or multiple times over the course  
19 of a week there will be over 300 million gallons  
20 per year of fresh water that will not be consumed  
21 by the plant that will go into the fresh water  
22 consumption watershed in California and that is  
23 enough water for approximately 5,000 homes. And  
24 that would come along with this desalinated water  
25 option.

1                   So in summary we respectfully request  
2                   that the current Avenal AFC not be terminated and  
3                   that the project continue on the certification  
4                   path. And with that and your permission could we  
5                   ask Melissa Whitten, the city manager, to have a  
6                   remark or two.

7                   CHAIRPERSON PFANNENSTIEL: Certainly, I  
8                   think that would be fine. Is she -- There she is.  
9                   Please come forward.

10                   MS. WHITTEN: Good morning again. I am  
11                   Melissa Whitten, city manager city of Avenal. I  
12                   am here on behalf of the city council and the  
13                   citizens of Avenal.

14                   We continue to support this project. As  
15                   I stated in May I have been involved since the  
16                   inception and it is a very, very important project  
17                   to the city and also to our overall economic  
18                   development plan.

19                   As I stated in May, if this is  
20                   terminated, even though they are looking at  
21                   reapplying it could have adverse effects regarding  
22                   our \$3.1 million EDA grant. And the EDA is very  
23                   well aware that this item is on the agenda today  
24                   and are very concerned about that and we are as  
25                   well.

1                   We continue to strongly support. We  
2 understand its significance. Not only for our  
3 region but for the state of California. We'd just  
4 appreciate your consideration today and we are  
5 hoping for a good outcome.

6                   I do have a letter of support from the  
7 mayor and city council too that I would like to  
8 provide. Thank you very much.

9                   CHAIRPERSON PFANNENSTIEL: Mr. Pfanner.

10                  MR. PFANNER: I would like to make a  
11 brief response in terms of the comments by the  
12 applicant.

13                  CHAIRPERSON PFANNENSTIEL: Would you  
14 check that your mic is on.

15                  MR. PFANNER: Staff does stand by their  
16 November 22nd memorandum in that we did meet, have  
17 a telephone conference and go over the information  
18 that the applicant felt was provided. And staff  
19 still feels that information is not adequate.

20                  We would also note that the applicant  
21 had input and was well aware of the requirements  
22 of what information needed to be submitted by  
23 September 25th. And if there were third party  
24 issues they should have addressed that before  
25 rather than after.

1           We would also like to note that staff  
2           would have a much more difficult time with an  
3           application that is kind of half of a project and  
4           we have to try to go back and get a full project  
5           description rather than a new AFC coming in where  
6           we would be able to do data adequacy and data  
7           requests. And a new AFC would not have any loss  
8           to the city of Avenal and would not hurt their  
9           financial situation.

10           CHAIRPERSON PFANNENSTIEL: May I just  
11           ask, was any of the information that was just  
12           provided by the applicant new to you? Did you  
13           already know that when you filed the material that  
14           we have in front of us or did you hear some new  
15           information today?

16           MR. PFANNER: No, all the information  
17           today we have already heard. After we had  
18           prepared our November 22nd memorandum we had a  
19           phone conversation and the applicant told us where  
20           they thought we were wrong. Staff has reviewed  
21           that and feels, no, we stand by our memorandum.

22           CHAIRPERSON PFANNENSTIEL: Questions or  
23           discussion. Commissioner.

24           COMMISSIONER BOYD: Well Madame Chair I  
25           still remain bothered by this situation. I really

1       feel badly, quite frankly, for the city of Avenal  
2       who, using strong language on my part, may have  
3       been strung out for a very long time about the  
4       economic value of this plant to their community.  
5       there is no question it would be of value to the  
6       community if it were ever built. We have no  
7       assurances that this project will ever be built.

8                 We have roughly 8,000 megawatts of power  
9       plants in a queue already approved to be built  
10       within California. We're quite cognizant of the  
11       needs of California for power. Many of us are  
12       sitting on power plant siting cases on a weekly  
13       basis.

14                And I just question the applicant's real  
15       intent here with regard to this project. It's  
16       been around a long, long time. I just don't feel  
17       that the questions were that hard to answer. I  
18       guess I still remain troubled and would have to be  
19       convinced that there is a degree of sincerity here  
20       that I have a tough time detecting.

21                Therefore I find myself still in a  
22       position of feeling as the staff does. We have a  
23       staff here with a lot of knowledge, well over-  
24       taxed and a lot of integrity with regard to how  
25       they carry these processes out. And I think this

1 Commission has bent over backwards to accommodate  
2 the applicant and I don't feel that we have been  
3 fulfilled yet.

4 CHAIRPERSON PFANNENSTIEL: Questions?  
5 Commissioner Geesman.

6 COMMISSIONER GEESMAN: Well, I would  
7 apologize to Commissioner Boyd, I think I  
8 perpetuated this. He was not at the meeting where  
9 we responded to the applicant's request to give  
10 them one more chance. And at that meeting I  
11 indicated I thought that would be a good idea. I  
12 confessed a fair amount of doubt that you would be  
13 able to meet the requirements that the staff laid  
14 out but you provided us with assurances that you  
15 could and would.

16 I don't think this fits the profile of a  
17 case that ends well. And as a consequence I don't  
18 think we would be doing you any particular favors  
19 in terms of the ultimate likelihood that a plant  
20 here will be built by continuing this process any  
21 longer.

22 I think that if, in fact, you feel that  
23 you do have a good, viable project I would suggest  
24 you get your ducks in order and come back to us  
25 with a new application. I just don't see any

1 value to be served by continuing on with what  
2 seems to be an increasingly stale record and a  
3 very, very difficult time bringing it up to the  
4 standards that the staff can use to just conduct  
5 its basic processing.

6 We have got finite resources in our  
7 permitting system. We really need to expend them  
8 on live cases. Cases that will actually result in  
9 infrastructure being built when we approve a  
10 project. Those that don't fit that criteria I  
11 think it's right for us to say no, let's not spend  
12 any more time on this.

13 COMMISSIONER BOYD: Commissioner  
14 Geesman, no apology was necessary. I concurred in  
15 that action. I thought it was very fair of the  
16 agency to provide yet another chance. I just  
17 don't feel it has been fulfilled, as you  
18 indicated.

19 CHAIRPERSON PFANNENSTIEL: I was here at  
20 the discussion when we agreed to seek the  
21 additional information and try to keep this  
22 project alive and I very much supported that  
23 conclusion at the time. Both because we do need  
24 credible, new power plants in California and  
25 because it seemed like this was one that was close

1 enough and close enough.

2 But I feel a little bit like Lucy and  
3 the football that, you know, one more time and it  
4 will be okay. I am not feeling that it has  
5 happened at this time.

6 You know, we rely on the staff expertise  
7 in terms of evaluating the input of the  
8 information, whether it's sufficient, whether it's  
9 credible, whether it's everything they need to do  
10 the analysis. And they have come back to us and  
11 said it isn't.

12 And I think based on that there is very  
13 little place for us to go at this point but to  
14 find that the applicant has not complied. But let  
15 me leave it to my fellow Commissioners. Is there  
16 a motion -- I'm sorry, yes, please.

17 MR. GILLILAND: Can I have a follow-up  
18 on that, please?

19 CHAIRPERSON PFANNENSTIEL: Of course.

20 MR. GILLILAND: It appeared to me,  
21 Commissioners, in the discussion here today that  
22 the focus of the concern and the remarks is  
23 whether the plant will ever be built and whether  
24 continuing this process would be counterproductive  
25 in terms of the use of staff's time. And as I

1       said in my remarks, I understand that.

2                   I don't know -- Since a request was not  
3 part of the August order I don't know what it is  
4 the Commission would like in terms of saying, give  
5 us some proof or documentation that this plant  
6 will be built. That was not part and parcel of  
7 the order in August, you know.

8                   So I'm sort of at a loss that that is  
9 the element of decision-making. I am not at a  
10 loss as the result of if you follow the strict  
11 constructionist mode of the August order that  
12 certain things -- and we could take the air piece,  
13 which I think as I said is a good example. The  
14 air piece is now complete pursuant to the  
15 description of what was in the August order but it  
16 was not complete by the date of September 25th.

17                   I think that that's sort of a reasonable  
18 piece of information to kind of take into account.  
19 But keep in mind that trying to convince the  
20 Commission that the plant would be built. I am  
21 here telling you the plant will be built. And I  
22 guess you either believe me or you don't. But  
23 there was no request as part of the August  
24 proceeding that prove to us the plant is going to  
25 be built was part of that scenario.

1                   COMMISSIONER GEESMAN: I think where you  
2 are falling down is you are not proving to us that  
3 the plant will be permitted. And getting the  
4 plant permitted is a prerequisite to getting the  
5 plant built.

6                   So I think you should look at the  
7 discussion we have had here today as representing  
8 our deep and abiding doubts that you have the  
9 wherewithal to get the plant permitted.

10                  CHAIRPERSON PFANNENSTIEL: And that was  
11 the discussion we had that led to the order that  
12 is being discussed today. With that do I hear a  
13 motion to -- I guess we adopt the staff  
14 determination that Avenal has not complied with  
15 the order of August 16th.

16                  CHAIRPERSON PFANNENSTIEL: I would so  
17 move.

18                  COMMISSIONER GEESMAN: Second.

19                  CHAIRPERSON PFANNENSTIEL: All in favor?

20                         (Ayes.)

21                  MR. GILLILAND: Thank you for your  
22 consideration.

23                  CHAIRPERSON PFANNENSTIEL: Thank you.

24                  Item 14 has been held.

25                  Item 15, possible approval of agreements

1 for purchase of 2006 model year diesel school  
2 buses for school districts to replace their  
3 existing pre-April 1977 school buses. Good  
4 morning.

5 MS. BRIGHT: Good morning,  
6 Commissioners. My name is Erin Bright. I work in  
7 the emerging fields and technology office here at  
8 the Commission. Let's see.

9 The Commission administers the lower  
10 emissions school bus program for the California  
11 Air Resources Board. The Air Resources Board has  
12 budgeted 5.5 million for the 2005/2006 budget year  
13 to go to the Phase 5 of this program, which we're  
14 currently in.

15 For this phase of the program we have  
16 selected 22 school districts that have been  
17 identified by the Air Resources Board as owning 41  
18 of the oldest school buses in California and those  
19 model years range from 1951 to 1973.

20 And so today we are requesting -- we are  
21 asking you to look at the contracts for three of  
22 the school districts, Oxnard, Muroc and Marysville  
23 Joint Unified for a total of seven buses and that  
24 would be a total of \$831,649 between the seven  
25 buses. They're 2006 model year buses.

1                   CHAIRPERSON PFANNENSTIEL: Thank you. I  
2 think we need to perhaps read into the record each  
3 of these contracts and take separate votes on  
4 them.

5                   MS. BRIGHT: Okay.

6                   CHAIRPERSON PFANNENSTIEL: So I'll start  
7 with Item 15a, possible approval of Contract  
8 600-06-004 for \$475,226 with Oxnard Union High  
9 School District for purchase of four 2006 model  
10 year diesel school buses to replace their school  
11 district's existing pre-April 1977 school buses.  
12 Is there a motion on that?

13                   COMMISSIONER BOYD: Madame Chair, I so  
14 move. The Transportation Committee did review and  
15 recommend approval of this item.

16                   COMMISSIONER BYRON: Second.

17                   CHAIRPERSON PFANNENSTIEL: All in favor?

18                   (Ayes.)

19                   CHAIRPERSON PFANNENSTIEL: Item 15b,  
20 possible approval of Contract 600-06-005 for  
21 \$237,616 with Marysville Joint Union School  
22 District for purchase of two 2006 model year  
23 diesel school buses to replace their school  
24 district's existing pre-April 1977 school buses.

25                   COMMISSIONER BOYD: Move approval.

1 COMMISSIONER BYRON: Second.

2 CHAIRPERSON PFANNENSTIEL: In favor?

3 (Ayes.)

4 CHAIRPERSON PFANNENSTIEL: C, possible  
5 approval of Contract 600-06-006 for \$118,808 with  
6 Muroc Joint Unified School District for purchase  
7 of one 2006 model year diesel school bus to  
8 replace the school district's existing pre-April  
9 1977 school bus.

10 COMMISSIONER BOYD: Move approval.

11 COMMISSIONER BYRON: Second.

12 CHAIRPERSON PFANNENSTIEL: All in favor?

13 (Ayes.)

14 CHAIRPERSON PFANNENSTIEL: All approved,  
15 thank you.

16 Item 16. Possible approval of 11 grant  
17 applications, totaling \$979,577, for Solicitation  
18 Cycle 06-01 of the Energy Innovations Small Grant  
19 Program. Good morning.

20 MR. MICHEL: Good morning,  
21 commissioners. I am Dave Michel and I manage the  
22 PIER Energy Innovations Small Grant Program.

23 Item 16 on the agenda contains 11  
24 competitively selected small grant projects that  
25 have been approved for Commission consideration by

1 the RD&D Committee.

2 The projects were selected from 58 grant  
3 applications received from solicitation 06-01.  
4 Thirty passed initial screening and advanced to  
5 technical review. Twenty exceeded the minimum  
6 scoring in technical review to advance to our  
7 final scoring committee, the program and technical  
8 review board.

9 In terms of the program areas seven are  
10 renewable-related technologies, two are  
11 environmentally preferred advance generation and  
12 two are in the energy systems integration area.  
13 In terms of the applicants, seven technologies are  
14 offered by small businesses, three in the academic  
15 community and one individual.

16 The total funding requests for the 11  
17 projects is \$979,577, which is well within the  
18 available program funding. I recommend the 11  
19 grant projects for Commission consideration and  
20 approval, thank you.

21 CHAIRPERSON PFANNENSTIEL: Is there  
22 discussion or are there questions?

23 COMMISSIONER BYRON: If I may. I'd like  
24 to thank you, Mr. Michel and the staff, for the  
25 condensed version of this in order to review it.

1 It's appreciated very much, thank you.

2 MR. MICHEL: Thank you.

3 CHAIRPERSON PFANNENSTIEL: I believe,  
4 unfortunately, that we need to read each of the  
5 11, is that correct, Mr. Chamberlain, into the  
6 record on this, rather than accepting them all as  
7 one motion?

8 MR. CHAMBERLAIN: I believe you could do  
9 it as one motion if you chose to do so.

10 CHAIRPERSON PFANNENSTIEL: I think I  
11 would choose --

12 COMMISSIONER BOYD: I think we've always  
13 done it that way in the past.

14 CHAIRPERSON PFANNENSTIEL: I think we  
15 will choose to do so.

16 COMMISSIONER BOYD: Yes.

17 CHAIRPERSON PFANNENSTIEL: Is there a  
18 motion for all 11?

19 COMMISSIONER ROSENFELD: In which case I  
20 move all the items.

21 COMMISSIONER BOYD: Second.

22 CHAIRPERSON PFANNENSTIEL: All in favor?

23 (Ayes.)

24 CHAIRPERSON PFANNENSTIEL: Thank you.

25 MR. MICHEL: Thank you.

1                   COMMISSIONER BOYD: Thank you.

2                   CHAIRPERSON PFANNENSTIEL: Thank you,  
3 Mr. Chamberlain.

4                   Item 17, consideration of two petitions  
5 granted by the Energy Commission at its November  
6 29, 2006, Business Meeting. The Commission will  
7 consider whether to rescind or modify the final  
8 decision on the San Francisco Electric Reliability  
9 Project.

10                  And I would say that we have Mr. Sarvey  
11 and Mr. Boyd on the line to speak to this item but  
12 we will start with the staff. Mr. Ratliff.

13                  MR. RATLIFF: Well the staff has opposed  
14 the Petitions for Reconsideration. We believe  
15 they raise no issues that weren't -- the mic is  
16 on. I'm sorry, I guess my voice just doesn't --

17                  The staff opposes the Petitions for  
18 Reconsideration inasmuch as they raise no issues  
19 that weren't fully considered at the evidentiary  
20 hearings and that are addressed, I think quite  
21 adequately, by the Final Decision.

22                  With regard to Mr. Sarvey's petition we  
23 also believe that it is error in saying that the  
24 -- the basis of that petition is that the  
25 declarations of the applicant were not filed in

1 the proceeding. We believe that they were so we  
2 think that that should also, that petition should  
3 also be rejected.

4 CHAIRPERSON PFANNENSTIEL: Thank you. I  
5 think we should hear from the petitioners.  
6 Mr. Sarvey.

7 MR. SARVEY: I looked at the  
8 declarations that were included in the record. I  
9 think that Mr. Boyd has filed a petition to have  
10 the applicant and the staff's reconsideration  
11 stricken. They weren't timely filed. I think  
12 that that issue should be dealt with before we  
13 proceed with the actual procedural issues.

14 CHAIRPERSON PFANNENSTIEL: Fine.  
15 Mr. Boyd.

16 MR. BOYD: To briefly state what or why  
17 we're here is on the 21st of November CARE filed a  
18 notice to correct or cure violations of the  
19 Meeting Act in that CARE didn't receive a written  
20 copy of the agenda for the meeting on the 29th.  
21 There had been a meeting on the 29th. Because of  
22 that fact we are now reconsidered today. And  
23 included with that demand to correct or cure is a  
24 motion to strike that response to Intervenor's  
25 motion for reconsideration on time.

1           Commission staff filed its response to  
2           our November 1, 2006 Petition for Reconsideration  
3           on November 20 and the applicant filed its  
4           response to that on November 21, 2006. And our --

5           I mean, I am not an attorney but it  
6           appears to us that Title 20, California Code of  
7           Regulations Section 1716.5, it's part of our  
8           motion here, it's pretty clear that any party can  
9           file a motion or petition with a presiding member  
10          regarding any kind of notice for application  
11          proceedings.

12          Response to the Commission by other  
13          parties shall be filed within 15 days of the  
14          filing of the petition unless otherwise specified  
15          by the presiding member.

16          To our knowledge the presiding member  
17          didn't provide any leave for the other parties to  
18          file outside that 15 day requirement and therefore  
19          that's why we were requesting that those responses  
20          be stricken as untimely.

21          So I basically concur with Mr. Sarvey  
22          that we should probably deal with that first  
23          before dealing with the substantive portions of  
24          our, of our Request for Reconsideration.

25          The only problem there is, because it

1 appears you didn't notice it on your agenda today  
2 it may be not possible for you to consider it on  
3 your agenda today. And in that case what I would  
4 request is, if staff is present, if staff would  
5 just, you know, withdraw it's response of November  
6 20th. Then that would make the need for a motion  
7 to strike to be moot.

8 Since I didn't hear that the applicant  
9 was present I don't think I could, you know -- I  
10 don't know that they're not there but if they are  
11 there I'd ask --

12 CHAIRPERSON PFANNENSTIEL: Yes, the  
13 applicant is present.

14 MR. BOYD: Okay, then I would also ask  
15 that the applicant withdraw its response of  
16 November 20th as well. Since both parties are  
17 present clearly they also have ample opportunity  
18 for their positions to be heard today.

19 So I'd like to deal with that first,  
20 thank you.

21 MR. RATLIFF: Commissioners, if I may.  
22 Staff believes that the provision that Mr. Boyd  
23 alludes to is one that applies to interlocutory  
24 orders of the Commission. It specifically refers  
25 to the Presiding Member and the purpose of that

1 provision is to make sure that the proceeding  
2 commences in a timely manner.

3 With regard to a Petition for  
4 Reconsideration the petition to the full  
5 Commission, it is not to the Presiding Member of a  
6 siting committee. And because of the legal  
7 deadlines imposed by statute there is no such  
8 similar need for a deadline for such petitions.

9 There certainly is no prejudice on the  
10 petitioners to know in advance of the hearing what  
11 it is that the staff or the other parties may have  
12 to say about the nature of the petition. So I  
13 think there is absolutely no basis for this  
14 seeming new sport of trying to strike various  
15 staff or other party briefs. I think that's a  
16 practice in other forums that I won't go into but  
17 it makes no sense, I think, in the current  
18 situation.

19 CHAIRPERSON PFANNENSTIEL:

20 Mr. Chamberlain.

21 MR. CHAMBERLAIN: I would concur with  
22 Mr. Ratliff in his reading of the regulations. I  
23 also believe that at best the petitioners here  
24 would have had a reasonable argument -- I'm not  
25 sure it's reasonable but they would have had an

1 argument that because the filing of the staff and  
2 the applicant came in late in the process perhaps  
3 they didn't have an adequate opportunity to  
4 prepare for arguing the case on the 29th.

5 That obviously became moot when the  
6 Commission granted the petitions and is now  
7 considering them on the merits today. The  
8 petitioners have had now more than three weeks to  
9 consider these documents so I think you can  
10 proceed to consider these on the merits now.

11 CHAIRPERSON PFANNENSTIEL: Does the  
12 applicant have any comment?

13 MS. SOL : With regards to this issue,  
14 Your Honor, I similarly interpreted the  
15 regulation. I was looking in the regulations for  
16 regulations that related to Petitions for  
17 Reconsideration and didn't find them so I went to  
18 the statute and the statute didn't have a  
19 deadline.

20 But all that being said I think that the  
21 issue is moot because I am here today and I am  
22 prepared to make my comments orally.

23 CHAIRPERSON PFANNENSTIEL: That's fine.  
24 I'm sorry, could you identify yourself for the  
25 record, please.

1 MS. SOL : Excuse me. I'm Jeanne Sol  
2 for the City and County of San Francisco.

3 CHAIRPERSON PFANNENSTIEL: Mr. Boyd,  
4 should we move to Mr. Sarvey's comment or  
5 petition?

6 MR. BOYD: And then you'll come back to  
7 me on the substantive portion of our  
8 reconsideration. Is that what you're saying?

9 CHAIRPERSON PFANNENSTIEL: We at some  
10 point --

11 MR. BOYD: We haven't even argued the  
12 reconsideration portion yet. All I have been  
13 arguing is on the motion to strike.

14 CHAIRPERSON PFANNENSTIEL: Right, I  
15 understand that.

16 MR. BOYD: Which apparently the  
17 applicant and Commission staff and Commission  
18 council do not believe this section of the  
19 regulations that I cited applies to the current  
20 proceedings. Apparently that's not considered by  
21 them part of the application proceeding for some  
22 reason that I fail to understand.

23 So I would -- If this is the appropriate  
24 time I'll move on to the matter for  
25 reconsideration and then Mr. Sarvey after that.

1 Or if you prefer, since his portion is fairly  
2 brief, you can go to him before me.

3 CHAIRPERSON PFANNENSTIEL: Mr. Sarvey.

4 MR. SARVEY: Yeah. Section (inaudible).

5 And as Mr. Boyd says, staff's response to the  
6 Petition for Reconsideration on November 20th was  
7 five days delinquent. The applicant filed their  
8 petition at six days delinquent.

9 Needless to say that had I or CARE filed  
10 our Petitions for Reconsideration later than 30  
11 days from the time provided we would not be  
12 discussing this matter at this Business Meeting.

13 I am feeling that the rules, practices  
14 and procedures must be applied. It is difficult  
15 enough for me to participate in the proceedings  
16 when I cannot afford experts and lawyers to assist  
17 me and I have a full time job.

18 I merely ask you to apply your rules  
19 consistently to provide the appearance of a clean  
20 playing field. There has been a pattern of  
21 willful disregard for the (inaudible) and the  
22 rules, practices and procedures by all parties  
23 except the Intervenors.

24 On June 26 the applicant filed their own  
25 opening brief late. Staff filed their reply brief

1 on July 11, it was late. The applicant failed to  
2 comply with the order to attach its r, sum, s and  
3 declarations to its testimony (inaudible) request  
4 for reconsideration.

5 Essentially what I am asking for is a  
6 level playing field. Otherwise you just might as  
7 well change the rules, practices and procedures to  
8 apply only to the Intervenor. So that covers my  
9 feeling on the motion to strike.

10 As far as my question about the  
11 declarations and r, sum, s, their record is not very  
12 strong. Say what you want, whether it was  
13 intended to be there or it should be there, it's  
14 not there and you have to provide your decision  
15 based on what is in the record. The r, sum, s and  
16 declarations are not in the record.

17 At this point I think that's about all  
18 the comments (inaudible).

19 CHAIRPERSON PFANNENSTIEL: Thank you,  
20 Mr. Sarvey. Now, Mr. Boyd, the substance of your  
21 Petition for Reconsideration.

22 MR. BOYD: Yes. I also was working in  
23 2006 (inaudible) on the CEC side. I sent a nine  
24 page letter on that day to the California  
25 Department of Water Resources, Barbara Hill, about

1 the San Francisco PUC in response to the DWR  
2 (inaudible) development project. On August 23,  
3 2006 (inaudible) docket number 3-66B. Only after  
4 requesting it (inaudible).

5 CARE also requested this document served  
6 on the parties, which never took place. This  
7 document declares that the applicant's  
8 representatives, the California Department of  
9 Water Resources and Cal-ISO carried out public  
10 business in 2006 without the opportunity for  
11 intervenors or the public to participate and make  
12 changes to the PRG, the design and conditions of  
13 operation.

14 I have been attempting to (inaudible)  
15 the additional requirement for the minimum amount  
16 of power that the PRG must produce to meet the  
17 California ISO action part of 48 megawatts per  
18 turbine for a total of 192 megawatts. In order to  
19 meet the Cal-ISO requirement additional chillers  
20 were required by all four turbines.

21 And according to the current design, the  
22 guarantee is a total output of only 197 megawatts.  
23 So it's short approximately 1.3 megawatts of  
24 designed output. There is just no evidence in the  
25 record of their performance guarantees by the

1 turbines.

2 No analysis on the effect of the  
3 chillers on the fine particulate matter produced  
4 by the entire four turbine project. (Inaudible)  
5 as a result of applicant's unproven operation.

6 Is it surprising that the Commission  
7 would seek to secure such information as opposed  
8 to -- the CEC never (inaudible). There is no  
9 documentation on the web site that (inaudible).

10 Another example comes from the August 14  
11 letter that points out that boilers (inaudible).

12 (Inaudible) at page six (inaudible) an  
13 additional \$5,248,000 was required for  
14 transmission upgrades, including a \$348,000  
15 generator without any impact in the red.

16 Therefore there is no reason that we are  
17 aware of other than (inaudible) the project not to  
18 require the applicant to cite all work to revise  
19 (inaudible) International Airport and require them  
20 to construct a transmission interconnect between  
21 San Francisco International Airport and the  
22 Potrero Substation.

23 (Tones sounded)

24 Are you still there?

25 CHAIRPERSON PFANNENSTIEL: Yes, we're

1 still here. Go ahead.

2 MR. BOYD: The transmission interconnect  
3 between the airport and the Potrero Substation  
4 unless, of course, some finding for an overriding  
5 consideration under CEQA that carries (inaudible).

6 The CEQA guidelines require evaluation  
7 of the merits of a range of reasonable  
8 alternatives to the project or to the location of  
9 the project. Which would (inaudible) of the  
10 project objective. The objectives are listed on  
11 page 15 of the PMPD. These objectives are  
12 approved by the City and County of San Francisco's  
13 -- electric reliability -- As facilities shut down  
14 more and more (inaudible).

15 The City of Pittsburg, California  
16 following the (inaudible) held by the City of  
17 Pittsburg (inaudible) Trans-Bay Cable Project  
18 final environmental impact report. Following a  
19 public hearing held by the City of Pittsburg held  
20 on November 6, 2000.

21 The evidence of the record is that the  
22 Trans-Bay Cable Project would likely have the  
23 least environmental impact overall. (Inaudible).

24 The evidence of the record is that  
25 infrastructure improvement, a combination of both

1 generation and transmission are necessary to  
2 preserve electric reliability in San Francisco.  
3 (Inaudible). The evidence of the record presently  
4 challenges the fact, PMPD page 15, that SFERP in  
5 and of itself will not achieve the purpose of  
6 achieving electric reliability.

7 To achieve the applicant's goal of  
8 minimizing local impact from electric generation  
9 the Trans-Bay Cable Project is clearly superior  
10 unless, of course, the Commission makes finds some  
11 finding of overriding consideration under CEQA  
12 that CARE is unaware of.

13 The PMPD only makes the Trans-Bay Cable  
14 Project as a preferred alternative. It says, by  
15 itself it would not meet Cal-ISO's requirement for  
16 generation north of the BART substation. This is  
17 46, page 46. The Cal-ISO requirement is that  
18 SFERP must provide 100 megawatts of generation  
19 (inaudible).

20 If SFERP in and of itself does not meet  
21 that requirement it requires the siting of a  
22 fourth turbine. The fourth turbine is not  
23 analyzed in the application or in the alternative  
24 now. Also, the record reflects that even with the  
25 fourth turbine that the airport project will not

1 meet the Cal-ISO generation standards of 100  
2 megawatts to achieve the project objectives of  
3 closing Potrero Unit 3.

4 As the decision stated, (inaudible)  
5 certification of SFERP does not necessarily result  
6 in the closure of the existing Potrero. In recent  
7 pleadings by Potrero before the CPUC it appears  
8 that their intentions were just the opposite. To  
9 re-power the facility's input development, of  
10 replacing and re-powering projects has been  
11 established as a priority and that caused great  
12 contrast between product developers. The electric  
13 corporations have been endorsed (inaudible)  
14 necessary investment.

15 That SFERP may facilitate or create the  
16 opportunities for such is clear. But only the  
17 power plant owner can decide to retire their  
18 generation unit. (Inaudible) page three, lines 21  
19 through 22.

20 SFERP like the Trans-Bay Cable as a SF  
21 International Airport alternative does not provide  
22 for closure of the Potrero 3 unit in and of  
23 itself. So the Trans-Bay Cable Project is the  
24 environmentally preferred alternative because it  
25 meets more of the project objectives and

1 (inaudible) of local generation than SFERP.

2 The SF International Airport alternative  
3 is superior to SFERP because it also reviews the  
4 impact on local generation increased reliability.  
5 (Inaudible).

6 The Commission must reject SFERP unless  
7 the Commission wishes to provide overriding  
8 (inaudible). If as the PMPD claims the Commission  
9 has no authority to determine propriety of the  
10 actions by Cal-ISO, a nonprofit, public benefit  
11 corporation, why then does the PMPD give such  
12 right to the Cal-ISO (inaudible) plan while giving  
13 them out what amounts to no (inaudible) of  
14 discrimination against residents based on racial  
15 and (inaudible)? There is also a nonprofit called  
16 the Benedict Corporation. And therefore we  
17 contend this violates the equal protection mandate  
18 of the federal --

19 CHAIRPERSON PFANNENSTIEL: Thank you,  
20 Mr. Boyd.

21 MR. BOYD: The issues that I raised are  
22 all issues that are outside the record because of  
23 the fact that this letter, this 79 page letter  
24 sent to DWR, was not served on all the parties and  
25 was not considered even though it was before the

1 record closed. That is, filed with the docket.

2 Thank you.

3 CHAIRPERSON PFANNENSTIEL: Thank you,  
4 Mr. Boyd. I am going to ask the staff to comment  
5 briefly and Ms. Sol, from the City to comment.  
6 And then I believe there is sufficient information  
7 for the Commissioners to seek either additional  
8 clarification or to call for a vote. So,  
9 Mr. Ratliff.

10 MR. RATLIFF: Yes. Mr. Boyd tries to  
11 make an issue of the CPUC letter. Not the CPUC,  
12 the San Francisco PUC letter that was submitted by  
13 Mr. Boyd to the docket. And which is, contrary to  
14 what he states, is a part of the record.

15 He suggests that there was some  
16 impropriety inasmuch as it was not served on all  
17 the parties by the staff but certainly Mr. Boyd  
18 could have himself provided by proof of service if  
19 he thought it was important to do so.

20 On review by the staff we reviewed the  
21 letter when it came in and saw no relevance of  
22 that letter to anything and no reason to serve it  
23 on the parties. In any case it was not testimony  
24 and there was nothing in the letter which I think  
25 has any real bearing or relevance to the decision

1 that is before you today.

2 Mr. Boyd has tried to make something of  
3 that letter. He says that the letter indicates  
4 that there are chillers to be used on the turbines  
5 for this project, as if that is something novel  
6 but in fact the project application described the  
7 chillers. The project amendment application again  
8 described the chillers and their use on this  
9 project.

10 There was no testimony with regard to  
11 higher PM10 levels as a result of the chillers.  
12 There is no indication and no evidence in the  
13 record that they result in higher levels of PM10.  
14 And certainly the conditions of certifications  
15 adopted with regard to project emissions apply to  
16 the turbines with the chillers.

17 Secondly Mr. Boyd raises the issue of  
18 the fourth turbine and the airport use being  
19 discussed in the San Francisco PUC letter. That  
20 also was discussed at the hearings. I don't know  
21 what relevance it really has to the decision but  
22 in any case it is not new information.

23 Mr. Boyd raised the Trans-Bay Cable as  
24 the preferable alternative. That was fully  
25 discussed by staff in its testimony and also by

1 the applicant. It was discussed by the ISO  
2 extensively in its testimony at hearings. The ISO  
3 testified that it was not a feasible alternative  
4 that would allow the shutdown of the Potrero  
5 facility because there would still be a  
6 requirement for in-city generation. Your decision  
7 reflects that and I don't understand why Mr. Boyd  
8 doesn't seem to see it.

9 Finally with regard to his statement  
10 that somehow an override is required because we  
11 don't prefer and choose to reject the project and  
12 pay for the Trans-Bay Cable. There is simply no  
13 basis for that in CEQA. So we think that all of  
14 those issues that he has just read from his  
15 original petition are in no way augmented by the  
16 reading of them at this hearing.

17 CHAIRPERSON PFANNENSTIEL: Thank you.

18 Ms. Sol,.

19 MS. SOL : Good afternoon,  
20 Commissioners. And I apologize, I don't want to  
21 take a lot of your time but I do want to state my  
22 position on the record. With regards to the CARE  
23 motion, it does not raise any issues that were not  
24 already considered.

25 The DWR letter, I still don't know who

1 put that letter into the record. It reflects the  
2 discussion, the appropriate discussion between the  
3 city and DWR about the reasonable cost of the  
4 project. But the project that the city is  
5 defending to DWR is the project that was approved  
6 by the Commission. If at any time there is an  
7 amendment to that project we will come to you.  
8 There are rules for doing that. But at this time  
9 what we're doing is justifying the project that  
10 you approved.

11 And we don't see how the letter can be  
12 interpreted otherwise. Our project always  
13 included chillers. There is a statement about  
14 trying to get the most mileage out of the plant  
15 when we do our fine-tune design. That is not  
16 inappropriate. In fact, that is our  
17 responsibility and that is what we intend to do.

18 It shouldn't lead to any amendment in  
19 the project description but again, if it did,  
20 there is a process for dealing with that. At the  
21 moment we are moving forward with the project that  
22 you approved.

23 With regards to Mr. Boyd's arguments  
24 about the SFIA and the Trans-Bay Cable. Those  
25 also are not true, are not correct. We wish that

1 we could close down the Potrero power plant  
2 without in-city generation. The position of the  
3 ISO has been clear and their testimony was clear  
4 that that could not be done.

5 We recognize that there are several  
6 items necessary to close down the Potrero power  
7 plant. But the difficult one, the one that we're  
8 all struggling with is that replacing the in-city  
9 generation. And projects that don't do that  
10 simply don't provide the basis for closing down  
11 the Potrero power plant. We still haven't dealt  
12 with a difficult issue. This project is intended  
13 to deal with a difficult issue.

14 Mr. Boyd makes some argument that you're  
15 giving weight to the testimony of the ISO above  
16 the testimony of their witness. It just doesn't  
17 recognize the record in this case. The ISO  
18 witness is somebody with a lot of transmission  
19 planning experience who spent the last at least  
20 two or three years looking at the transmission  
21 situation in San Francisco.

22 The witness that CARE put forward is  
23 somebody who is not an expert in transmission  
24 planning and whose testimony was based on some  
25 ambiguous testimony by another witness. In those

1       circumstances it seems entirely appropriate that  
2       the Commission give weight to the more qualified  
3       witness.

4                 And by the way, that witness's testimony  
5       was corroborated by the city's witness who is  
6       similarly qualified and who has also spent the  
7       last, at least the last five years looking at the  
8       transmission situation in San Francisco.

9                 Finally I would like to address  
10       Mr. Sarvey's issue. The Commission's order in  
11       this case required that the parties attach the  
12       declarations and qualifications to their pre-  
13       hearing conference statements and that is what the  
14       city did. Other parties may not have done that, I  
15       chose not to make an issue of it, but that is what  
16       the Commission directed and that is what we did.

17                Those were made part of Exhibit 95 on  
18       the last day of hearings, you can see that on page  
19       72 of the transcript, and the exhibit lists, both  
20       draft exhibit lists that came out in June and the  
21       exhibit list on the proposed decision and on the  
22       final decision all show that Exhibit 95 was  
23       introduced on that last day of hearings.

24                But even if there had been a problem to  
25       bring it up at this point during Petitions for

1 Reconsideration I would submit is too late. The  
2 documents were submitted, they were available to  
3 the parties. The hearing officer was very careful  
4 every time he took written testimony without a  
5 live witness to ask if there were any objections.  
6 In each case the parties indicated that there  
7 weren't or else the hearing officer would have  
8 dealt with it.

9 Similarly, the parties who gave oral  
10 testimony were sworn before they gave that  
11 testimony. If there were any questions at that  
12 time about their qualifications that would have  
13 been a good time to raise it. And so I think that  
14 the problems that Mr. Sarvey purports exist are  
15 simply not there and were raised too late.

16 So with that I respectfully submit that  
17 these petitions should be denied.

18 CHAIRPERSON PFANNENSTIEL: Thank you.  
19 To the Commissioners, are there questions or  
20 comments? Do I have a motion? Commissioner  
21 Geesman.

22 COMMISSIONER GEESMAN: I would move that  
23 we deny the Petition for Reconsideration filed by  
24 Californians for Renewable Energy and that we deny  
25 the Petition for Reconsideration filed by Robert

1 Sarvey. I have not heard anything new here today.

2 COMMISSIONER BOYD: Second.

3 CHAIRPERSON PFANNENSTIEL:

4 Mr. Chamberlain.

5 MR. CHAMBERLAIN: I believe that the  
6 Commission granted these petitions on the 29th.  
7 In order to provide yourselves to opportunity to  
8 consider them on the merits. I think the options  
9 before you are that you can reaffirm the  
10 Commission's decision without change, which would  
11 be the equivalent of what you have just moved, or  
12 you could make modifications. In probably another  
13 case you could reopen the hearings for additional  
14 testimony.

15 CHAIRPERSON PFANNENSTIEL: Thank you.

16 So Commissioner Geesman, could you reaffirm.

17 COMMISSIONER GEESMAN: Let me rephrase.

18 I move that we reaffirm our final decision in the  
19 San Francisco Electric Reliability Project,  
20 04-AFC-1.

21 COMMISSIONER BOYD: And I modify my  
22 second accordingly.

23 CHAIRPERSON PFANNENSTIEL: All in favor?

24 (Ayes.)

25 CHAIRPERSON PFANNENSTIEL: Any opposed?

1 Thank you.

2 We now are considering approval of the  
3 minutes of the November 29, 2006 business meeting.  
4 Is there a motion?

5 COMMISSIONER ROSENFELD: I move the  
6 minutes.

7 COMMISSIONER BYRON: I second.

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

10 COMMISSIONER BOYD: I'd like to abstain.

11 COMMISSIONER GEESMAN: I'll abstain as  
12 being absent.

13 CHAIRPERSON PFANNENSTIEL: Thank you.  
14 Two abstentions.

15 Chief Counsel's report, Mr. Chamberlain.

16 Oh, I'm sorry, committee presentations  
17 or discussions. Any?

18 COMMISSIONER BOYD: Madame Chair.

19 CHAIRPERSON PFANNENSTIEL: Yes,  
20 Commissioner Boyd.

21 COMMISSIONER BOYD: I'd like to bring up  
22 an item under the heading of the 2005 IEPR  
23 Committee of which I and Commissioner Geesman were  
24 the members and still remain the members as on  
25 occasion we have kind of done progress against

1 plan discussions on some of the activities in that  
2 Integrated Energy Policy Report that this body  
3 approved.

4 One of the items that we addressed, of  
5 course, was global climate change, greenhouse gas  
6 emissions and ultimately the issue of California's  
7 policy with regard to the generation of its  
8 electricity and the sources of fuel for that  
9 electricity. Namely the discussions around the  
10 appropriateness of coal in its present form and  
11 not in accordance and new technologies and  
12 sequestration as the basis for power that would be  
13 even imported into the state.

14 As I mentioned at the Energy Action Plan  
15 meeting on Monday I had the previous evening seen  
16 an editorial in the Sacramento Bee about a  
17 proposed action by the Truckee-Donner Public  
18 Utilities District proposing to enter into a 50  
19 year contract from an out of state coal-fired  
20 power plant and that they were, quote, hurrying to  
21 take his action before a legislation in the state  
22 of California took effect.

23 I found this troubling then.

24 Subsequently I read an in-depth article in the  
25 Chronicle and opened up my paper this morning to

1 just find more discussion of this same issue and I  
2 understand the district proposes to vote on this  
3 item this evening.

4 I find this very troubling that an  
5 albeit small municipal utility district would  
6 propose this because the principal in question is  
7 a large principal in spite of the small size. And  
8 it is, to me, contrary to California state policy.

9 As I indicated the CEC in it's 2005  
10 Integrated Energy Policy Report recommended a  
11 policy regarding the use of electricity generated.  
12 Let's just say the performance of power plants  
13 providing electricity to the state of California.  
14 And how that performance, let's just say, relates  
15 to climate change, greenhouse gas emissions, so on  
16 and so forth.

17 This Commission unanimously approved the  
18 recommendations contained in that Integrated  
19 Energy Policy Report. The CPUC has subsequently  
20 acted accordingly. The Legislature and the  
21 Governor have spoken for the citizens of  
22 California in passing and approving both AB 32 and  
23 in particular SB 1368, which directs this body to  
24 deal with the subject of municipal utilities since  
25 the IOUs are the jurisdiction of the CPUC.

1           And of course we sat through many  
2           hearings on the subject of greenhouse gas  
3           emissions, climate change and in particular an in-  
4           depth discussion on the subject of coal.

5           In approving this document we heard  
6           testimony from the municipal utilities association  
7           and from a couple of the large municipal utilities  
8           that although not bound by actions taken to date  
9           they intended to pursue an aggressive policy to  
10          address greenhouse gas emissions and climate  
11          change and what have you. And that was in advance  
12          of the passage of AB 32 and 1368.

13          So I find the proposed action by this  
14          utility to be in variance with all the policies of  
15          the state of California, and frankly to be almost  
16          anti-California.

17          And in light of that I want to recommend  
18          that this body direct its Executive Director to  
19          send a communication today before -- in time to be  
20          received before tonight's vote -- expressing this  
21          Commission's concerns and reiterating the policies  
22          of this Commission, the policies of the state of  
23          California and perhaps the consequences of this  
24          action.

25          And I did mention this earlier today to

1 our Chairperson and to Commissioner Geesman since  
2 we were such allies on this subject and so was so  
3 intending to make this recommendation today. It  
4 was just pointed out to me a short time ago that  
5 while we sat here as a body the Governor has sent  
6 a letter to the PUD on this very same subject.  
7 Although there I find that we're in good company  
8 and I would strongly suggest that we take some  
9 action to express our feelings and our policies on  
10 this subject.

11 COMMISSIONER GEESMAN: And I would  
12 second the recommendation.

13 CHAIRPERSON PFANNENSTIEL: It's a very  
14 good idea. Mr. Blevins, can you take care of  
15 getting said letter in a fax machine in time to  
16 get to them today?

17 MR. BLEVINS: As soon as this meeting is  
18 over.

19 CHAIRPERSON PFANNENSTIEL: Thank you.  
20 Thank you, Commissioner Boyd. Commissioner  
21 Geesman.

22 COMMISSIONER GEESMAN: I had an item as  
23 the common member of both the IEPR Committee and  
24 the Electricity Committee Mike Jaske asked me to  
25 convey the fact that the IEPR Committee and the

1 Electricity Committee had a joint workshop on  
2 November 27 to review the staff-proposed supply  
3 forms and instructions for the 2007 IEPR.

4 The staff proposal is a streamlined one  
5 and imposes a smaller burden than the 2005 forms  
6 and instructions did. In Mike's words, it was  
7 only staff's inability to move the paperwork fast  
8 enough that those forms and instructions aren't in  
9 front of us today for adoption.

10 He asked that we make load-serving  
11 entities aware of the fact that the forms and  
12 instructions will be on our agenda January 3rd and  
13 we anticipate adoption. They have plenty of  
14 notice in Mike's judgment, and my own, that the  
15 compliance filing date is February 7th.

16 So despite the fact that they won't be  
17 on our agenda until January 3rd he wanted to make  
18 sure that all of the LSEs monitoring our Business  
19 Meeting were aware of the fact that the compliance  
20 filing date will be February 7th and they should  
21 adjust their planning accordingly.

22 CHAIRPERSON PFANNENSTIEL: And the forms  
23 and instructions will be posted or have been  
24 posted by when?

25 COMMISSIONER GEESMAN: I believe they

1 have been posted.

2 CHAIRPERSON PFANNENSTIEL: All right.  
3 But if not they need to be posted well in advance  
4 of hat meeting so that should be coming up soon.  
5 Thank you for that item.

6 Chief Counsel's report.

7 MR. CHAMBERLAIN: Yes, Madame Chairman.  
8 I am very pleased to introduce to you three  
9 attorneys who have come to work for the Energy  
10 Commission over the past year. They are sitting  
11 right behind the dais here and I will ask them to  
12 stand.

13 Deborah Dyer got an undergraduate degree  
14 in anthropology from Cal State University at  
15 Sacramento and was an archeologist for five years  
16 before she attended UC Davis Law School. She has  
17 spent five years at the Department of Fish and  
18 Game and now works for us as a siting attorney and  
19 for the principal attorney on GERDA matters.

20 Mr. Ken Celli got his English degree at  
21 UCLA and went on to Whittier Law School to get his  
22 law degree. He also has a master's degree from  
23 San Francisco State University in instructional  
24 technologies and I believe that some of you have  
25 seen him in action giving us our Public Records

1 Act training.

2 He worked as an LA County District  
3 Attorney, was in private practice for a number of  
4 years on criminal defense and litigation and then  
5 spent three years at the Department of Correction  
6 and Rehabilitation specializing in employment law  
7 litigation. And also worked on training for that  
8 organization, particularly training that was put  
9 on-line and made available to the employees within  
10 the Department of Corrections. And we look  
11 forward to being able to do that here at the  
12 Energy Commission as well.

13 Our third attorney is Michael Doughton,  
14 who got his psychology degree from the University  
15 of California at Santa Barbara in 1976 and his  
16 juris doctorate from the University of Oregon in  
17 1982.

18 He spent eight years in business and  
19 contract law in private practice in Sacramento and  
20 in Salem, Oregon and then spent 16 years at the  
21 Department of Corrections in the business law  
22 unit. Various business including state and  
23 private contracting, construction and litigation.  
24 Prevailing wage law, contract dispute resolution  
25 and transactional matters.

1                   We are very pleased to have all three of  
2 these attorneys now working for the Commission.

3                   CHAIRPERSON PFANNENSTIEL: We are  
4 pleased also, welcome.

5                   Executive Director's report.

6                   MR. BLEVINS: Thank you, Madame  
7 Chairman. I have two items, however I can't let  
8 this pass. I want to compliment the chief counsel  
9 on his selection of an archaeologist for his  
10 staff. They are imminently qualified to do any  
11 number of things to contribute towards society.

12                   COMMISSIONER BOYD: It was noted you  
13 were smiling broadly during that introduction.

14                   MR. BLEVINS: I have two items this  
15 morning. One is a response to a request that  
16 Commissioner Geesman made of me at the November  
17 8th Business Meeting.

18                   Another one is a response to a request I  
19 think the Commission made in general when it  
20 adopted its PIIRA regs, its new PIIRA regs, and a  
21 desire to know roughly six months after that  
22 adoption how those regs were performing. So we're  
23 going to take those two items in that order.

24                   At the November 8 Business Meeting  
25 Commissioner Geesman questioned me with regard to

1 a letter that was received in the Chairman's  
2 Office from the California Wind Energy Association  
3 concerning a contractor report that was prepared  
4 in 2004 by Smallwood and Thelander that dealt with  
5 avian mortality from wind power generation in the  
6 Altamont Pass.

7 That letter expressed ongoing concerns  
8 with the nature of that report and other reports  
9 that have been generated by that data and also  
10 submitted its own collection of independent  
11 reviews of the Smallwood and Thelander report.

12 The other thing the letter did was it  
13 asked for three, made three requests of the  
14 Commission in relation to this item. And for the  
15 purposes this morning what I would like to do is  
16 just take those three requests one at a time and  
17 offer comment to them.

18 It would be my recommendation, and I  
19 think this is the essence of Commissioner  
20 Geesman's request -- it would be my recommendation  
21 that the nature of my comments be developed into a  
22 response for your consideration back to the  
23 California Wind Energy Association.

24 I am going to read each of the three  
25 requests for the purpose of the record and then

1 offer comment. I am going to keep my comments,  
2 obviously, a little briefer than I intended given  
3 the nature of the time.

4 Request number one reads that the  
5 Commission take affirmative public steps to insure  
6 that this report and others that are based upon it  
7 will not be relied on in future government  
8 decision-making.

9 In response to that I would make a few  
10 comments. One, every consultant report that the  
11 Commission publishes carries with it a disclaimer  
12 and that disclaimer reads in part, this paper has  
13 not been approved or disapproved by the full  
14 California Energy Commission nor has the  
15 California Energy Commission passed upon the  
16 accuracy or adequacy of the information in this  
17 paper.

18 In the particular case of this  
19 contractor report the Commission actually went as  
20 far to include language in its major policy  
21 document, the 2005 Integrated Energy Planning  
22 Report -- Policy Report, I'm sorry -- basically  
23 explicitly cautioning, put in language which  
24 explicitly cautioned how the findings of this  
25 report might be used.

1           I don't believe there is anything the  
2           Commission should do with regard to the use of  
3           this report beyond what it has already done.  
4           Using Ms. Rader's words, I also don't believe this  
5           Commission can ensure that another public agency  
6           will or will not use the information in a  
7           consultant's report accurately or inaccurately.

8           Related to this particular item and this  
9           particular request I do believe there is something  
10          that can be done. Also as part of Commissioner  
11          Geesman's inquiry on November 8th he noted that we  
12          had begun an independent peer review of this  
13          report. That's something I directed the staff to  
14          do almost as soon as I arrived at the Commission.  
15          And I will admit that it's been a little bit of a  
16          bumpy road getting to the end product here but on  
17          November 14 we did receive the final result of  
18          that peer review, independent peer review.

19          And that review did indicate that -- the  
20          reviewers indicated that they did identify some  
21          weaknesses in the statistical methodologies used  
22          for analyzing the report's data. They also  
23          suggested that there might be some other preferred  
24          statistical methods that could have been used by  
25          the reports authors.

1           What my intention is, and I was hoping  
2           to give you a specific time but I am not able to  
3           do that so I am going to give you a time frame.  
4           My intention is that that peer review and all its  
5           associated documents will be posted on the  
6           Commission's web site hopefully by no later than  
7           Friday close of business.

8           We will make sure that Ms. Rader is  
9           aware of that posting. That report is obviously  
10          there for her or anyone else to use, whether they  
11          are in a position to agree or disagree with the  
12          original contractor's report. That concludes my  
13          comments on request one.

14          Request two reads that the Commission  
15          undertake an internal investigation to determine  
16          how its internal procedures fail to ensure quality  
17          science and implement procedures to ensure the  
18          scientific quality of its future research by  
19          implementing quality assurance and quality control  
20          procedures. It is our understanding that the  
21          Commission has no such procedures in place.

22          First of all I take issue with the last  
23          sentence of that request and I think I am on safe  
24          ground here saying that I could probably bring  
25          before you hundreds of current and past

1 contractors that will assure you that we do have a  
2 process in place for ensuring the quality of the  
3 documents.

4 It's a fact that Ms. Rader's own members  
5 have participated in aspects of this review  
6 process. I have personally participated in  
7 aspects of this review process since I've arrived.  
8 So the need for an investigation, I don't think it  
9 rises to that, to that level.

10 I will point out that when I did arrive,  
11 and I think the staff will attest to this -- How  
12 do I want to say this? The processes surrounding  
13 this report, I began a review of those the moment  
14 I walked through the door. And quite frankly as  
15 we have gone through that process if we've  
16 discovered opportunities for improving that  
17 process we implement those instantly and try to  
18 ensure that those improvements are made. And this  
19 relates just not to this report but to all  
20 consultant reports.

21 Request number three, the final request:  
22 That the Commission institute policies to ensure  
23 that all data supporting any future research  
24 funded by the Commission is made publicly  
25 available as a matter of course and that the

1 Commission obtain a release for the balance of  
2 data associated with the 2004 report.

3 At this moment we don't believe that we  
4 need any such policy added. We believe that the  
5 language that appears in the boiler plate of our  
6 contracts is adequate and it does ensure the  
7 outcome that Ms. Rader is seeking.

8 In this particular case we have a  
9 situation where there is a disagreement between  
10 the contractor and ourselves. The contractor  
11 believes that a portion of this data, which the  
12 Commission did not pay for, is not part of that  
13 contractual arrangement.

14 We have the belief, and I'll use the  
15 word that appears in the contract boiler plate,  
16 that the degree to which other data is collated  
17 with the data that we do pay for in essence we do  
18 feel we have a right to that data. In the case of  
19 this particular report that data was collated.

20 The process for getting to the bottom of  
21 this is a dispute resolution process associated  
22 with contracts. And we have initiated that  
23 process and will be going down that path in order  
24 to attempt to secure the data which we think we  
25 have the legal right to. If we are successful

1       there is no question that the public has a legal  
2       right to that data as well and that includes Ms.  
3       Rader, obviously.

4               That concludes my specific response to  
5       those three points in the letter. I do want to  
6       make one other observation associated with this  
7       letter. In the last sentence of the third page of  
8       the third paragraph this statement appears:

9                       "Most unfortunate is that the  
10                      Commission has withheld portions of  
11                      the data that support this taxpayer  
12                      funded report, preventing  
13                      independent verification of the  
14                      results to be made."

15       I actually believe that it is unfortunate that  
16       Ms. Rader chose to use the word, withheld.  
17       Probably a better word might have been, unable to  
18       obtain. A better set of words would have been,  
19       unable to obtain. The difficulty with the word,  
20       withheld, in my mind is that it implies intent and  
21       in this case it implies intent to not comply with  
22       the law.

23               And I want to be very clear that the  
24       Commission has complied with the Public Records  
25       Act request process in this regard. I believe

1       that Cal-WEA is fully aware of the circumstances  
2       under which we have tried to acquire the data and  
3       we have tried to keep them fully informed of what  
4       is going on.

5                At this point probably if I were going  
6       to put this in the form of a recommendation I  
7       guess I would recommend that the Commissioners get  
8       some input from their general counsel's office as  
9       to whether or not they feel it's necessary to have  
10      something in writing back from Cal-WEA on this  
11      point.  Because, in essence, I have only one  
12      interpretation of the plain English meaning of  
13      those words in that sentence.

14               And that concludes my comments in  
15      response to Commissioner Geesman's request and am  
16      more than willing to answer questions.

17               CHAIRPERSON PFANNENSTIEL:  Commissioner  
18      Geesman.

19               COMMISSIONER GEESMAN:  The data that has  
20      not been made public.  Is that part of the NREL-  
21      funded study?

22               MR. BLEVINS:  It is, it is the NREL-  
23      funded study, yes.

24               COMMISSIONER GEESMAN:  And does NREL  
25      object to release of the data?

1           MR. BLEVINS: The information I have is  
2 NREL does not object to the release of the data  
3 although they did not maintain possession of the  
4 data.

5           COMMISSIONER GEESMAN: And since we  
6 received the request for release of the data we  
7 have been diligent in terms of trying to obtain  
8 its public release?

9           MR. BLEVINS: In my mind there is one --  
10 I mean, I still believe this is diligent but I am  
11 going to be accused of trying to preserve state  
12 resources here. There was a legal proceeding in  
13 play relative to this issue and there was some  
14 possibility that the judicial outcome would have  
15 made that data public. As I understand it that  
16 judicial proceeding was settled and the data was  
17 not, release of the data was not part of that  
18 settlement.

19           I was aware of the fact that that  
20 process was in place and as a consequence I  
21 basically called a time out to wait and see if  
22 that data would be coming forward, essentially  
23 trying to preserve some staff resources here. As  
24 soon as we understood that the data was not  
25 forthcoming we've initiated the dispute resolution

1 process.

2 COMMISSIONER GEESMAN: And with respect  
3 to the peer review that you're suggesting we'll  
4 post on the web. If the contractors have a  
5 response to that peer review will we post that as  
6 well?

7 MR. BLEVINS: Actually in the context of  
8 the peer review itself the contractors were given  
9 an opportunity to respond to the analysis and  
10 their comments are part of that posting.

11 COMMISSIONER GEESMAN: Okay, thank you.

12 CHAIRPERSON PFANNENSTIEL: Mr. Blevins,  
13 I just -- your comment about whether we need  
14 advice from counsel on this letter. I think the  
15 answer is, certainly. If there is a question  
16 about that then I would ask that you share your  
17 draft of the letter with Mr. Chamberlain and we  
18 make sure that what are responding to is in fact  
19 both accurate, and as we want it to be  
20 characterized, within the law. Thank you.

21 MR. BLEVINS: Thanks. I'm going to move  
22 on to the next item and ask Chuck Mizutani to come  
23 forward. He is the office manager of the fuels  
24 office. He is going to turn on the overhead but I  
25 don't want that to scare you. He is going to be

1 brief. There is one detailed chart in the  
2 overheads and I don't want that to scare you  
3 either.

4 MR. MIZUTANI: Good afternoon, Madame  
5 Chairman and Commissioners. Good afternoon,  
6 Madame Chairman and Commissioners. I am here to  
7 report on the six-month status of data collection  
8 from the new PIIRA rule making.

9 PIIRA is Petroleum Industry Information  
10 Reporting Act. It mandates the Commission to  
11 collect petroleum industry information and it also  
12 has an element that provides us with the charge to  
13 provide the information and keep the information  
14 flow with respect to emergencies and real time  
15 reporting with respect to the oil industry.

16 We had the initial reporting. The  
17 initial reporting regulations were established in  
18 1980. And in 2003 new rule making began with the  
19 implementation of the new reporting regulations in  
20 2006.

21 With respect to PIIRA the stakeholders  
22 that are directed to provided information are the  
23 refiners, pipeline companies, storage facility  
24 owners, marketers, importers/exporters and the  
25 retail stations.

1           In overall status I would say there are  
2           three things. One is that we've achieved near  
3           full compliance with weekly and monthly reporting  
4           requirements, primarily as a result of the major  
5           oil companies' ability to provide that information  
6           on a weekly and monthly basis.

7           With respect to the imports, exports,  
8           intrastate movements the level of compliance is  
9           increasing but we are further investigating and  
10          surveying to determine which newly affected  
11          companies are required to report. And the number  
12          of affected companies extends well beyond the  
13          traditional oil industry stakeholders.

14          And then the third status is that we're  
15          continuing to contact and sort of prepare the new  
16          reporters with respect to retail stations before  
17          the February 15 due date for submittals from the  
18          retail stations. Which basically number around  
19          10,000 respondents.

20          This is one reason why the slide  
21          presentation. Before 2006 there were 15 reports,  
22          one weekly report, five monthly reports and nine  
23          annual reports. Back at that time annual  
24          reporting was adequate to provide the information  
25          to the state of California.

1                   However, during the last two decades the  
2                   traditional gasoline market, which was basically  
3                   vertically integrated companies, have changed.  
4                   And also increasing competition with respect to  
5                   not the oil industry but rather specific portions  
6                   of that industry or infrastructure. You are  
7                   seeing individual competitors being created and  
8                   competing with the traditional integrated oil  
9                   companies.

10                   In addition as time has gone by because  
11                   of competition you're seeing, basically, just-in-  
12                   time supply being the method of providing gasoline  
13                   and diesel to the customers.

14                   And then finally in the 1997/1998 time  
15                   frame California became a net importer of  
16                   petroleum products. As the result of that we  
17                   undertook rule making and in 2006 the new  
18                   regulations in terms of reporting took effect.  
19                   With respect to that we have a total of 19  
20                   reports, five weekly, seven monthly and seven  
21                   annual. And basically you see the trend of going  
22                   from annual to more of a weekly and a monthly  
23                   reporting.

24                   On this slide I'd like to point out six  
25                   general categories. The first one being the

1 weekly 700, the weekly and monthly 700 forms,  
2 which basically are the import and export and  
3 intrastate movement reports of petroleum products.

4 The second area is the W and monthly  
5 800s. I'm sorry, the weekly 800s and the monthly  
6 810s, which basically are the refinery production  
7 and information in terms of inputs and outputs.

8 The third area is the weekly and monthly  
9 900 forms, which are the dealer tank wagon price  
10 reports that we receive from the nine major oil  
11 companies.

12 The fourth one is the M78B monthly sales  
13 report. Basically it's the EIA form, reporting  
14 form, except that it -- this aggregates more  
15 specific information in terms of California-  
16 specific fuels.

17 The fifth report area is the W and M08  
18 forms, which basically are the distribution and  
19 storage companies' information. And then finally  
20 the 815, which is the retail, the annual retail  
21 outlet survey report.

22 In terms and compliance and percent of  
23 the market. With respect to the import and export  
24 movements the 700 reports. The major -- again,  
25 the major oil companies are providing the reports

1 to us. Where we're -- What we're having to do  
2 though is to make contact, identify and make  
3 contacts with the sort of non-traditional oil  
4 companies with respect to rail companies, trucking  
5 and those kinds of industry that traditionally  
6 have not necessarily been part of the petroleum  
7 activity.

8 With respect to the 800 forms as well as  
9 the 810s, the 810 forms. Again the primary  
10 information is coming from the oil industry, the  
11 oil companies, and we're getting very good  
12 compliance with respect to -- probably 95 to 100  
13 percent compliance. Which for the most part in a  
14 number of these areas constitutes 100 percent of  
15 the, of the market and in others basically 95  
16 percent as in the M13 report.

17 With respect to the distribution and  
18 storage we're, again, getting 100 percent  
19 compliance. There are 61 distribution companies  
20 that we have identified that have been reporting  
21 to us on a regular basis.

22 And then in terms of the 900 dealer tank  
23 wagon reports. Again, the requirement is for the  
24 six major oil companies, the largest oil companies  
25 to provide reporting, which they have. In terms

1 of volume of market that constitutes 40 percent of  
2 the retail stations and 60 percent of the total  
3 volume of gasoline sold or moved in California.

4 And then finally the M782B forms.

5 Again, we're getting information from EIA plus  
6 providing -- the oil companies provide that  
7 information to us. We're looking at basically  
8 doing sampling reports to try to get additional  
9 information that is specific to California.

10 And then finally, again, because it is  
11 an annual report we are trying to increase the  
12 response rate from the retail fuel outlet stations  
13 when they are required to report in February of  
14 2007. And that's basically the status in terms of  
15 compliance and progress as a result of the rule  
16 making in 2006.

17 CHAIRPERSON PFANNENSTIEL: Thank you,  
18 Chuck. Are there questions from the Commission?

19 COMMISSIONER BOYD: Let me just say  
20 again thank you, Chuck, and express to the staff  
21 our appreciation for this. This is a part of the  
22 staff that is fairly unheralded in terms of  
23 getting a lot of notoriety and exposure to the  
24 Commission. So I thank them for the work that  
25 they have done.

1           I know they've really had to slog and  
2 slug through this. I know what it's like to work  
3 with the oil industry and I'm glad this is at long  
4 last done. Hopefully you all will be able to get  
5 some information and answer some of the questions  
6 of the public and the Legislature. Although I  
7 recognize they want more than can possibly be  
8 achieved. But anyway, good job.

9           MR. MIZUTANI: Thank you, Commissioner  
10 Boyd. One other thing is I'm glad you said that.  
11 My staff is in the audience and they were very  
12 appreciative of that comment, thank you.

13           COMMISSIONER BOYD: There are strange  
14 faces out there.

15           CHAIRPERSON PFANNENSTIEL: Good job.

16           MR. MIZUTANI: Thank you.

17           CHAIRPERSON PFANNENSTIEL: Executive  
18 Director, are you finished?

19           MR. BLEVINS: I hope you all have a  
20 pleasant holiday. See you next year where we'll  
21 make more history.

22           CHAIRPERSON PFANNENSTIEL: Leg Director.  
23 Mike.

24           MR. SMITH: Good afternoon Chairman,  
25 Commissioners. In keeping with Mr. Chamberlain's

1 lead I also would like to introduce a new staff  
2 person in case he hasn't quietly slipped out the  
3 back door. Steve -- Mr. Steven Trumble.  
4 Trumbley, excuse me.

5 He comes from the Earthquake Authority  
6 most recently and prior to that held positions at  
7 the Department of Fish and Game, the Department of  
8 Conservation where he did a lot of legislative  
9 work. So we're very excited to have him on board.  
10 He is one of three positions, three people that  
11 I'm bringing on board for the Office of  
12 Governmental Affairs.

13 One thing that Mr. Trumbley does bring  
14 that we will be focusing on this session with OGA  
15 is building up, back up our capabilities with  
16 respect to the federal government. Limited  
17 resources in the past couple of years have sort of  
18 limited our ability to fully monitor and react  
19 accordingly and appropriately to federal  
20 initiatives and federal action.

21 So with Mr. Trumbley and other resources  
22 we'll have available to us we hope to be able to  
23 build that back up so we're looking forward to  
24 that capability as well. But anyway, I just  
25 wanted to take the opportunity. You'll be seeing

1 more of him as well as the other, the other folks  
2 I bring on board here in the near future.

3 I would like to just make a couple of  
4 points as we move towards this new session. And  
5 actually as the Commission moves toward adopting  
6 the 2006 Energy Report Update I think it is  
7 important to sort of look back and understand that  
8 in the past couple of sessions there has been a  
9 myriad of bills and pieces of legislation that  
10 have reflected many of the policies and statements  
11 and recommendations that the Energy Commission has  
12 made in its previous documents, beginning with the  
13 2003 report through the 2005 report.

14 We have seen legislation that has either  
15 taken work from the Energy Report and made it a  
16 subject of legislation or has used the Energy  
17 Report as a basis for legislation. And there's  
18 been a number of areas, including renewable  
19 energy, renewable diesel fuel, state fleet  
20 purchases of alternative fuel vehicles and fuel  
21 efficient vehicles, transmission planning and  
22 permitting, CO2 sequestration legislation, energy  
23 efficiency legislation and indeed energy research.

24 So I think it's a testament to the  
25 Energy Commission staff's work, very important

1 work. I think it's a testament to the  
2 Commissioners and the advisers and the committee  
3 in developing these reports, which seem to be  
4 getting traction over at the Capitol. So I think  
5 that is an important observation to make.

6 We have also -- Over this sort of off-  
7 season we have been engaged in a number of  
8 conversation with members of the Legislature  
9 providing briefings and informational materials in  
10 the areas of transmission lines, transmission line  
11 planning, transmission line permitting, renewable  
12 energy including REGIS.

13 Which has actually been the subject of a  
14 great deal of curiosity. One of the, probably a  
15 very important component of our renewable energy  
16 program and certainly a component leading to  
17 effective implementation of the RPS. But  
18 something that we are discovering is very little  
19 known at the Capitol.

20 So it has been very informative in both  
21 directions for legislative staffers to understand  
22 more clearly that program and for us to understand  
23 more clearly their issues and concerns about that  
24 aspect of the program.

25 We've had briefings with respect to our

1 research programs, our siting programs and our  
2 energy efficiency standards. Most recently on  
3 bio-energy issues and also on avian issues. And I  
4 think coming out of a number of these briefings  
5 will be potential legislation that members may  
6 very well propose and in fact are proposing even  
7 before they convene in January.

8 With respect to that I just want to give  
9 you some highlights and some dates, upcoming dates  
10 that you will want to keep in mind as we, as we  
11 approach. Of course they were sworn in on  
12 December 4. They return January 3, '07 to begin  
13 the new session.

14 January 10 is when the budget bill must  
15 be submitted by the Governor. January 26 is the  
16 last day to submit bill requests to the Leg  
17 Council. February 23 is the last day for bills to  
18 be introduced. And leading up to the critical  
19 date of March 29, which is when their spring  
20 recess begins.

21 These dates are going to be very  
22 important to keep in mind. A lot will be  
23 happening once January comes and we will be  
24 working very closely with you and your offices and  
25 staff in moving forward many legislative

1 initiatives.

2 We're also keeping an eye on committees  
3 that are relevant to the Commission. There hasn't  
4 been a whole lot of activity in terms of new  
5 appointments to these committees, although there  
6 has been some. It probably will be that  
7 Assemblyman Levine will remain as Chair of the  
8 Assembly Utilities and Commerce Committee.

9 Assemblyman Ira Ruskin has been  
10 appointed as the Chair of our budget subcommittee,  
11 subcommittee number three. Christine Kehoe,  
12 Senator Kehoe has been appointed as the Chair of  
13 the Senate Energy and Utilities Committee. And  
14 the Senate Rules Committee, there has been some  
15 activity.

16 I will caveat this by saying that this  
17 is information we've received in an e-mail and not  
18 something that I have seen as official  
19 appointments or changes but just as a heads-up  
20 that Senator Ashburn may very well replace Senator  
21 Battin as the Vice Chair of that committee, of the  
22 Rules Committee. Senator Perata likely will  
23 remain as the Chair and Senator Dutton may also  
24 get a slot on that committee. Replacing Senator  
25 Bowen who termed out will be Senator Alex Padilla,

1 also from the south state, from the LA area.

2 We are also starting to see -- actually,  
3 I'm sorry -- starting to take a close look at some  
4 of the new members of the Legislature to  
5 understand their positions and interests on energy  
6 issues. And we are discovering a number of very  
7 interesting possibilities for relationships and  
8 working collaborations with some of these new  
9 members as we're understanding their deep  
10 interests in alternative fuels, renewable energy  
11 and the like.

12 So I will be discussing with each of you  
13 a number of these possibilities of providing  
14 information with them on the Energy Commission.  
15 Going over and meeting with them and discussing  
16 issues that are key to us.

17 And then lastly we are starting to see  
18 some bills that have been introduced already.  
19 There's been at least about 140 bills. As of  
20 December 5th there were 139 bills already  
21 introduced. We have gone through and done,  
22 completed a quick scan and search of these bills  
23 and found a few that have some relation although  
24 not a terribly direct relationship to the Energy  
25 Commission's functions but some of them will be

1 familiar.

2 Just as a highlight there is, of course,  
3 the first of probably a large, what will be a  
4 large number of greenhouse gas bills. And one has  
5 already been introduced to help clarify ARB's  
6 action on adopting market-based compliance  
7 mechanisms. A bill has been introduced dealing  
8 with sustainable buildings.

9 Two resolutions have been introduced  
10 urging the federal government to redirect more  
11 money to low-income home energy assistance  
12 programs. And we have two spot bills on trade  
13 corridor improvement. Transportation projects and  
14 emission reduction projects.

15 So we're keeping a close eye on these  
16 bills although I don't anticipate there will be  
17 too much activity between now and January in terms  
18 of new bills. But we are closely monitoring that  
19 and we'll bring any to your attention. But as I  
20 say, come January we'll be, we'll be very busy.  
21 Thank you.

22 CHAIRPERSON PFANNENSTIEL: Thank you,  
23 Mike. I would observe that it appears that the  
24 Energy Commission has a very, very strong  
25 reputation for good work, good analysis, good

1 policy development with the Legislature. And I  
2 think that that translates into seeking our input  
3 on legislation.

4 They don't always take our input or they  
5 take it and maybe do other things with it. But I  
6 think that we are going to continue to be very  
7 involved with the legislature. So you and your  
8 growing staff will be busy. Thank you.

9 Public Adviser Report.

10 MR. BARTSCH: Madame Chair, Members;  
11 Nick Bartsch for the Public Adviser's Office.  
12 Nothing new to report this time. Thank you.

13 CHAIRPERSON PFANNENSTIEL: Thank you.  
14 We do have one member, one person who would like  
15 to address us. Not exactly a member of the  
16 general public but Dr. Reede.

17 DR. REEDE: Thank you, Commissioner  
18 Pfannenstiel and Commissioners. My name is  
19 Dr. James Reede and I am one of the energy  
20 facility siting project managers.

21 And we as siting project managers have  
22 worked diligently and with zeal to address and  
23 resolve the issues affecting the timely  
24 certification of power plant cases assigned to us.  
25 However, we are becoming increasingly distracted

1 and frustrated by the lack of visible and  
2 meaningful progress on resolution of the project  
3 manager's issues.

4 I would respectfully request that the  
5 Commission and executive management collectively  
6 and expeditiously resolve our outstanding issues  
7 so that we can fully focus on the tasks at hand.  
8 Thank you.

9 CHAIRPERSON PFANNENSTIEL: Thank you,  
10 Dr. Reede. Any further comment? We'll be  
11 adjourned.

12 (Whereupon, at 12:58 p.m., the  
13 business meeting was adjourned.)

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CERTIFICATE OF REPORTER

I, RAMONA COTA, 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 22nd day of December, 2006.