

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, AUGUST 29, 2007

10:01 A.M.

Reported by:
Peter Petty
Contract Number: 150-07-001

COMMISSIONERS PRESENT

Jackalyne Pfannenstiel, Chairperson

James D. Boyd, Vice Chairperson

Arthur Rosenfeld

Jeffrey D. Byron

STAFF and CONTRACTORS PRESENT

B.B. Blevins, Executive Director

William Chamberlain, Chief Counsel

Harriet Kallymeyn, Secretariat

Nick Fugate

William Pfanner

Caryn Holmes

Kevin Bell

Lisa DeCarlo

Terry O'Brien

PUBLIC ADVISER

Nicholas Bartsch

ALSO PRESENT

Mark O. Turner
Competitive Power Ventures, Inc.

Greggory Wheatland, Attorney
Russell City Energy Center

Bruce McLaughlin Attorney
Braun and Blaising, P.C.
California Municipal Utilities Association

ALSO PRESENT

Audrey Chang (via teleconference)
Natural Resources Defense Council

Steven Kelly
Independent Energy Producers Association

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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P R O C E E D I N G S

10:01 a.m.

CHAIRPERSON PFANNENSTIEL: This is the Energy Commission's biweekly business meeting. Please join me in the Pledge of Allegiance.

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

CHAIRPERSON PFANNENSTIEL: We have no changes to the agenda with the exception of an item that was posted late on the consent calendar, item 1.c. on the consent calendar.

Would anybody move the consent calendar?

COMMISSIONER ROSENFELD: I move the consent calendar.

VICE CHAIRPERSON BOYD: Second.

CHAIRPERSON PFANNENSTIEL: In favor?

(Ayes.)

CHAIRPERSON PFANNENSTIEL: Item number 2, possible approval of contract 150-07-003 for \$18,000 with the Western Interstate Energy Board to continue the Energy Commission's membership for one year. Mr. Chamberlain.

MR. CHAMBERLAIN: Thank you, Madam Chairman. As the Commission is aware, the Western Interstate Energy Board is a committee that's

1 organized under the Western Interstate Nuclear
2 Compact. The Board serves as the energy advisory
3 arm to the Western Governors Association.

4 This Commission has participated in the
5 Western Interstate Energy Board for over 20 years,
6 and has found it to be a useful and cost effective
7 way of coordinating the activities of various
8 states on a variety of energy issues.

9 The Board is essentially funded by these
10 dues payments which are made by every state. And
11 more recently they've also been funded for
12 reliability activities under the auspices of the
13 newly created western interconnection regional
14 advisory body, which is basically coexistent with
15 the Western Interstate Energy Board.

16 So, if there are any further questions,
17 I would recommend proceeding with this item.

18 CHAIRPERSON PFANNENSTIEL: Are there
19 questions?

20 VICE CHAIRPERSON BOYD: Move approval.

21 COMMISSIONER ROSENFELD: Second.

22 CHAIRPERSON PFANNENSTIEL: In favor?

23 (Ayes.)

24 CHAIRPERSON PFANNENSTIEL: It's been
25 approved; thank you, Mr. Chamberlain.

1 Item number 3, possible approval of
2 contract 400-07-002 for \$50,000 with Technical and
3 Management Staffing Associates, Incorporated, for
4 temporary staff support of the Energy Commission's
5 emerging renewables program and the new solar
6 homes partnership. Good morning.

7 MR. FUGATE: Good morning,
8 Commissioners. My name is Nick Fugate and I'm
9 with the renewable energy office.

10 The item before you is a contract with
11 Technical and Management Staffing Associates,
12 Incorporated, for \$50,000 to provide temporary
13 staff support to the emerging renewables program
14 and the new solar homes partnership.

15 The term of the contract is from
16 September 2007 through August 2008; and the
17 contract was selected using a competitive
18 solicitation.

19 On January 1, 2007 the Energy Commission
20 discontinued offering rebates for solar systems
21 through the emerging renewables program and
22 launched the new solar homes partnership. While
23 the emerging renewables program has since received
24 a relatively modest number of new wind rebate
25 applications, the program still has thousands of

1 active reservations for which payment claims will
2 be submitted over the next six to nine months.
3 And it's expected that during this time the
4 renewable energy program's customer support
5 hotline will continue to receive a steady volume
6 of calls.

7 The Energy Commission will require
8 additional support staff in order to maintain a
9 reasonable turnaround time for payment requests
10 and provide needed customer support to program
11 participants.

12 Due to the complexity of the new solar
13 homes partnership program requirements, Energy
14 Commission Staff must spend substantial amounts of
15 time working with new applicants.

16 While the bulk of this workload is
17 expected to be outsourced to the utilities later
18 this fall, it will be necessary to devote a
19 portion of temporary support staff resources to
20 processing new applications during this transition
21 period.

22 I ask for your approval of this contract
23 and would be happy to answer any questions.

24 CHAIRPERSON PFANNENSTIEL: Thank you.

25 So this does contemplate the eventual transition

1 to the utility administration. This is just the
2 interim step.

3 MR. FUGATE: Yes.

4 CHAIRPERSON PFANNENSTIEL: Thank you.

5 Other discussion, questions?

6 VICE CHAIRPERSON BOYD: I'll move
7 approval.

8 COMMISSIONER ROSENFELD: Second.

9 CHAIRPERSON PFANNENSTIEL: All in favor?

10 (Ayes.)

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

13 Item 4, CPV Sentinel Energy Project.

14 Possible approval of the Executive Director's
15 second data adequacy recommendation. Good
16 morning.

17 MR. PFANNER: Good morning. Yes, I am
18 Bill Pfanner; I'm the Project Manager for the
19 project. And I do have available today also Caryn
20 Holmes, who is legal counsel.

21 For background, on June 25th, CPV
22 Sentinel submitted their AFC to the Energy
23 Commission to construct and operate a simple cycle
24 peaking power plant. Sentinel project is
25 proposing a nominally rated 850 megawatt

1 electrical generating facility.

2 Staff's July 23rd initial data adequacy
3 review of the project, which was presented at the
4 August 1st business meeting, determined that the
5 project did not meet all of the requirements
6 listed in Title 20, section 1704, division 2,
7 chapter 5, appendix B of California Code of
8 Regulations for a 12-month process.

9 Subsequently, the applicant has provided
10 AFC supplemental material to staff on August 20th.
11 Staff has reviewed the supplemental information
12 and believes the AFC now meets all the
13 requirements of the previously deficient technical
14 disciplines.

15 Staff has provided a summary table and
16 revised data adequacy worksheet for all the
17 disciplines previously determined to be data
18 inadequate. And staff has received 125 copies of
19 the AFC supplemental information from the
20 applicant.

21 So staff is in a position to recommend
22 that the Energy Commission accept the Sentinel AFC
23 with the supplemental information as complete.
24 And request that the Committee be appointed for
25 the project.

1 Staff is available to answer questions;
2 and the applicant's also here today if you have
3 questions.

4 CHAIRPERSON PFANNENSTIEL: Thank you.
5 Are there questions? No questions. Is there a
6 motion to then approve the Executive Director's
7 data adequacy recommendation?

8 COMMISSIONER BYRON: I'll move the item.

9 COMMISSIONER ROSENFELD: Second.

10 CHAIRPERSON PFANNENSTIEL: All in favor?

11 (Ayes.)

12 CHAIRPERSON PFANNENSTIEL: Appointment
13 of a Committee. I move a Committee be appointed
14 of Commissioner Boyd as Presiding Member and
15 myself as Associate member.

16 Is there a motion for that Committee?

17 COMMISSIONER ROSENFELD: I so move.

18 COMMISSIONER BYRON: I'll second.

19 CHAIRPERSON PFANNENSTIEL: All in favor
20 of the Committee?

21 (Ayes.)

22 CHAIRPERSON PFANNENSTIEL: Okay, we have
23 data adequacy and a Committee.

24 Applicant, do you have comments?

25 MR. TURNER: Yes, Mark Turner here,

1 Project Manager for CPV Sentinel. We just want to
2 say thank you to our Project Manager, Bill
3 Pfanner, and the very busy CEC Staff for their
4 recommendation of data adequacy.

5 We're looking forward to working with
6 staff and the Commissioners, moving the project
7 forward. It is one of the few projects to have
8 already signed a PPA with Edison to provide
9 peaking capacity to the L.A. Basin.

10 So, again, we're looking forward; and
11 thank you very much.

12 CHAIRPERSON PFANNENSTIEL: 850 megawatts
13 of peaking capacity?

14 MR. TURNER: The contract that we have
15 signed for is for five of the eight units that are
16 under permit.

17 CHAIRPERSON PFANNENSTIEL: Thank you.
18 We look forward to working with you on it.

19 MR. TURNER: Okay.

20 CHAIRPERSON PFANNENSTIEL: Item 5,
21 possible approval of a petition for extension of
22 deadline for commencement of construction of the
23 Russell City Energy Center from September 7, 2007,
24 to September 10, 2008. Good morning.

25 MR. BELL: Good morning, Madam Chairman,

1 Members of the Commission.

2 The project owner for the Russell City
3 Energy Center has filed a petition to amend to
4 extend the deadline to commence construction for
5 the Russell City Energy Center. This petition is
6 separate and distinct from the major amendment,
7 the PMPD for which was posted last week.

8 The staff recommends approval of the
9 petition. And I'm available for any questions.

10 CHAIRPERSON PFANNENSTIEL: Would you say
11 a little bit about the rationale for extending the
12 construction deadline.

13 MR. BELL: Yes. the project owner has
14 to complete three steps before they can commence
15 construction. That is they have to have the
16 project approved by the Commission.

17 There's a transmission line for the
18 project that the project owner also has to seek
19 approval for. And financing has not been
20 completed yet.

21 The project was originally licensed on
22 September 11, 2002. And that certification will
23 run early next month on September 10th this year.
24 And the project owner needs additional time to
25 commence construction.

1 CHAIRPERSON PFANNENSTIEL: Mr.
2 Wheatland, do you have any comments to offer?

3 MR. WHEATLAND: No comments. I'm
4 available for any questions the Commission may
5 have.

6 CHAIRPERSON PFANNENSTIEL: Thank you.
7 Are there questions?

8 COMMISSIONER BYRON: No. I will
9 comment, though, however. We have been handling
10 this major amendment, not the one that's being
11 discussed here today, we've been handling through
12 the Siting Committee as was indicated by Mr. Bell
13 the proposed decision by the Presiding Member came
14 out last week.

15 This is completely separate, but this is
16 an issue that was needed and approved by the
17 Siting Committee in order to extend, what do we
18 call it, the permitting period?

19 MR. BELL: That's correct.

20 COMMISSIONER BYRON: Okay.

21 CHAIRPERSON PFANNENSTIEL: Thank you,
22 Commissioner, that's helpful.

23 COMMISSIONER BYRON: So, I move the
24 item.

25 VICE CHAIRPERSON BOYD: I'll second.

1 CHAIRPERSON PFANNENSTIEL: All in favor?

2 (Ayes.)

3 CHAIRPERSON PFANNENSTIEL: It's

4 approved, thank you.

5 MR. WHEATLAND: Thank you.

6 MR. BELL: Thank you.

7 CHAIRPERSON PFANNENSTIEL: Item 6,

8 possible adoption of regulations establishing and

9 implementing a greenhouse gases emission

10 performance standard for local, publicly owned

11 utilities as proposed by the Electricity Committee

12 under SB-1368, and amended by 15-day changes

13 published on August 10, 2007, to address

14 deficiencies identified by the Office of

15 Administrative Law. Ms. DeCarlo.

16 MS. DeCARLO: Good morning, Chairman,

17 Commissioners. Lisa DeCarlo, Senior Staff

18 Counsel.

19 I worked with the Electricity Committee

20 and staff in developing the rulemaking package

21 that is before you this morning for your

22 consideration.

23 The rulemaking was initiated in response

24 to the enactment of SB-1368 which requires the

25 Energy Commission to establish and implement a

1 greenhouse gases emissions performance standard
2 for local, publicly owned electric utilities.

3 After many workshops and hearings
4 involving close coordination with the various
5 stakeholders, as well as the California Air
6 Resources Board, California Public Utilities
7 Commission and the California Independent System
8 Operator, the Energy Commission adopted proposed
9 regulations on May 23, 2007; and submitted the
10 rulemaking package to the Office of Administrative
11 Law on June 1, 2007.

12 On June 29th OAL issued a disapproval
13 decision citing four concerns with the regulations
14 as previously proposed. One, lack of clarity
15 regarding whether power plants under 10 megawatts
16 are covered by the greenhouse gases emissions
17 performance standard.

18 Two, lack of justification in the
19 rulemaking record for the necessity of the up-to
20 50 megawatt exemption for deemed compliant power
21 plants in section 2901(j)(3).

22 Three, lack of clarity regarding whether
23 the exemption for an up-to 10 percent increase in
24 rated capacity is limited to routine investments.

25 And four, lack of opportunity for the

1 public to review the evidence upon which the
2 Energy Commission has relied in setting the above
3 noted 10 percent exemption.

4 On July 10, 2007, the Electricity
5 Committee issued a notice scheduling a workshop
6 for August 2nd on this matter, and requesting
7 comments from the stakeholders concerning possible
8 solutions to the four deficiencies identified by
9 OAL.

10 After reading the written comments and
11 hearing from the various stakeholders at the
12 workshop the Committee issued proposed changes to
13 the regulations and an explanation of the changes
14 proposed on August 10, 2007, which started a 15-
15 day public review period that ended on August
16 27th.

17 The Electricity Committee made the
18 following changes to the text of the regulations
19 and the record to address OAL's concerns. One, we
20 added language to section 2900 clarifying that the
21 greenhouse gases emissions performance standard
22 applies to facilities of all sizes. And that
23 covered procurements involving facilities under 10
24 megawatts are only exempt from the reporting
25 requirements.

1 Two, we identified for public review the
2 evidence the Energy Commission relied upon in
3 exempting from the greenhouse gases emissions
4 performance standard investments in generating
5 units added to a deemed compliant power plant that
6 results in an increase of less than 50 megawatts.

7 In particular, in the explanation
8 accompanying the 15-day language we cite to the
9 CPUC's extensive analysis of the justification for
10 this provision our concurrence with this analysis;
11 and SB-1368's edict that the Energy Commission
12 standard be consistent with that adopted by the
13 CPUC.

14 Three, we modified section 2901(j)(4)(B)
15 removing reference to a 10 percent exemption and
16 replacing it with an exemption allowing for an
17 increase in rated capacity only for routine
18 maintenance.

19 And four, we provided an explanation for
20 why the exemption for an increase in rated
21 capacity for routine maintenance was necessary
22 under SB-1368; and identified the evidence on
23 which the Commission relied in making this
24 determination.

25 During the 15-day public comment period

1 for these proposed changes we received joint
2 comments expressing support for the proposed
3 changes from the Natural Resources Defense
4 Council, the Environmental Defense Fund, the
5 Sierra Club, Union of Concerned Scientists and the
6 Center for Energy Efficiency and Renewable
7 Technologies.

8 We also received support from the
9 environmental entrepreneurs. In addition, we
10 received comments from the California Municipal
11 Utilities Association, who expressed support for
12 the Committee's reasoning and language for
13 sections 2900 and 2901(j)(3), but requested
14 additional changes to section 2901(j)(4)(B).

15 Specifically CMUA would like the
16 exemption expanded to allow for an increase in
17 rated capacity resulting from improvements
18 designed and intended to reduce future pollution
19 control costs.

20 A similar change was previously
21 suggested by CMUA in comments leading up to and at
22 the August 2nd workshop, and rejected by the
23 Committee.

24 On behalf of the Electricity Committee I
25 encourage adoption of the regulations before you.

1 That concludes my presentation. If you have any
2 questions I'd be happy to answer them.

3 CHAIRPERSON PFANNENSTIEL: Thank you,
4 Ms. DeCarlo. We do have two parties who'd like to
5 address us on this. By if there are questions for
6 Ms. DeCarlo first, we'll take them now.

7 Then we have Bruce McLaughlin from CMUA.

8 MR. McLAUGHLIN: Thank you. We'd like
9 to thank, first of all, the Commission and the
10 Electricity Committee and the Staff Counsel
11 DeCarlo for all the work in the last few months to
12 craft these rules.

13 As just mentioned, there is one section
14 that we were hoping to get further clarification.
15 And the language we proposed, as just described,
16 we felt was consistent with both 1368 and the
17 actual language in the explanation of changes
18 proposed or drafted by the Commission here.

19 Those words in the Commission's
20 explanation were SB-1368 is not intended to shut
21 down currently operating power plants, or lead to
22 their deterioration. Its focus is insuring that
23 substantial investments are not made that would
24 lead to further costs when AB-32 or a similar
25 program establishing a greenhouse gas emission

1 limit is implemented.

2 Our written comments prior to this
3 accentuated the need of publicly owned electric
4 utilities to comply with AB-32 as it comes into
5 force here in 2012. And to start making changes
6 possibly to existing power plants. And we saw
7 some tension between SB-1368 and AB-32. AB-32
8 being, I think, the primary law, since it's going
9 to actually achieve the maximum technologically
10 feasible cost effective reductions in greenhouse
11 gas emissions.

12 So, as far as language that we proposed
13 in prior workshops, a rose by any other name would
14 smell as sweet. But with the clarity standard
15 being such that it is at OAL, we were suggesting
16 that there would be more words in this particular
17 subsection that would guide POUs and this
18 Commission going forward.

19 With that said, nothing is intended
20 right now to torpedo this action. Going forward
21 with the proposed language, Commission, we believe
22 we could live by those words. But there is room
23 for improvement.

24 And for instance I'm just going to bring
25 out the term routine maintenance. Probably

1 everybody in this room knows that that's been a
2 real debacle at the Clean Air Act. For 20 years
3 they've been wondering what routine maintenance
4 is. And so now we have that put in the CEC regs,
5 and there could be an opportunity for discussion
6 in the future when expanded regulatory language
7 would minimize that possibility.

8 Those are my comments. Again, thank you
9 very much, Commission.

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

12 We have on the phone Audrey Chang from
13 NRDC. Audrey, are you there?

14 MS. CHANG: Yes, I am; can you hear me
15 okay?

16 CHAIRPERSON PFANNENSTIEL: Yes, we hear
17 you fine.

18 MS. CHANG: Great, perfect. Again, I'm
19 Audrey Chang with NRDC. Good morning,
20 Commissioners, and thank you. I'd like to echo
21 Bruce's thank yous to all the staff and the
22 Committee who have worked very hard over the past
23 few months to develop these proposed regulations.

24 Again, I'd just like to reiterate our
25 strong support of the 15-day language revisions to

1 the proposed regulations that are before you
2 today. And as Ms. DeCarlo noted, we have
3 submitted a letter in support, also, on behalf of
4 several other parties.

5 We do not support the suggestions made
6 by CMUA. We think that suggestion would actually
7 broaden the intent of SB-1368. As Commissioner
8 Geesman noted at the workshop earlier this month,
9 I think it's a wiser decision to leave these
10 decisions on a case-by-case review, as the
11 Commission reviews the procurement decisions of
12 the POUs.

13 With that I guess I would like to urge
14 the Commission to adopt the 15-day language before
15 you today. Thank you very much.

16 CHAIRPERSON PFANNENSTIEL: Thank you,
17 Ms. Chang. Comments or further questions?
18 Commissioner Byron.

19 COMMISSIONER BYRON: Well, I'd like to
20 again thank the staff; I'd like to thank Ms. Chang
21 on the phone, and Mr. McLaughlin for being here.

22 The Committee did wrestle with the
23 suggestions that were made by CMUA, and really
24 feel that what we have here is the correct
25 language that will find its way through the Office

1 of Administrative Law and be finally put into
2 force. But I'd like to thank them, and everyone
3 else, for all their participation in this process.

4 I do have a couple of questions that I'd
5 like to direct to Ms. DeCarlo. Ms. DeCarlo, we
6 met briefly and talked about some of these things,
7 and I was hoping you might be able to answer. Are
8 we prepared to process all the compliance filings
9 that we might expect following the approval of
10 this by the OAL?

11 MS. DeCARLO: Yes, staff has developed
12 internal protocol to begin handling the filings as
13 they are submitted to the Energy Commission. We
14 have an email set up to receive these filings.
15 That is eps@energy.state.ca.us.

16 The only thing remaining to be done is
17 finalizing the website, which would contain purely
18 informational items. That's currently going
19 through the review process and hopefully will be
20 finished shortly.

21 But as for receiving filings, we are
22 ready to go.

23 COMMISSIONER BYRON: And what is the
24 schedule now for the review process if this were
25 to be approved?

1 MS. DeCARLO: We just need to wait for
2 today's transcript to be delivered to the Energy
3 Commission, and I will be able to file with OAL.
4 They are directed by their regulations to expedite
5 their review. So hopefully that will be done in a
6 quick manner.

7 And once they approve, we have requested
8 for immediate effectiveness. So it should be
9 effective immediately upon their approval and
10 submittal with the Secretary of State.

11 COMMISSIONER BYRON: And has there been
12 any impact as a result of the delay that we've had
13 here?

14 MS. DeCARLO: Not that I'm aware of.
15 Staff has received a couple of inquiries about the
16 application of SB-1368 in our regulations, but
17 nothing of urgent matter.

18 COMMISSIONER BYRON: Okay, thank you
19 very much.

20 CHAIRPERSON PFANNENSTIEL: Is there a
21 motion?

22 COMMISSIONER BYRON: If there's no other
23 questions from my fellow Commissioners, I'll move
24 the item.

25 COMMISSIONER ROSENFELD: Second.

1 VICE CHAIRPERSON BOYD: I'll second.

2 CHAIRPERSON PFANNENSTIEL: All in favor?

3 (Ayes.)

4 CHAIRPERSON PFANNENSTIEL: It's been
5 approved, thank you, Ms. DeCarlo.

6 MS. DeCARLO: Thank you.

7 CHAIRPERSON PFANNENSTIEL: Approval of
8 the minutes. For the minutes of June 20th I think
9 Commissioner Byron needs to recuse himself. But
10 for the others, is there a motion for approval?

11 VICE CHAIRPERSON BOYD: Move approval.

12 COMMISSIONER ROSENFELD: Second.

13 CHAIRPERSON PFANNENSTIEL: In favor?

14 (Ayes.)

15 CHAIRPERSON PFANNENSTIEL: The minutes
16 of August 15th where Commissioner Rosenfeld was
17 not attending. Move approval of those minutes?

18 COMMISSIONER BYRON: I move the minutes.

19 VICE CHAIRPERSON BOYD: Second.

20 CHAIRPERSON PFANNENSTIEL: In favor?

21 (Ayes.)

22 CHAIRPERSON PFANNENSTIEL: Commission
23 Committee presentations. Anything from the
24 Commissioners? None.

25 Chief Counsel report, Mr. Chamberlain.

1 MR. CHAMBERLAIN: Yes, Madam Chairman.
2 I'm simply pleased to report to you that the Ninth
3 Circuit Court of Appeal did deny the Department of
4 Energy's motion to dismiss our petition for review
5 at the Ninth Circuit of their refusal to grant the
6 Commission a waiver for its clothes washer water
7 standard.

8 Had that not been dismissed we would
9 have been consigned to at least a year of
10 litigation at the District Court. But apparently
11 the Court of Appeal realized that that would
12 simply be a waste of time, and so we are
13 proceeding.

14 We have a briefing schedule this fall,
15 and probably can anticipate action early next
16 year.

17 CHAIRPERSON PFANNENSTIEL: Excellent.
18 Thank you.

19 Executive Director's report.

20 EXECUTIVE DIRECTOR BLEVINS: Madam
21 Chairman, I have no report.

22 We, as you will recall, Commissioner
23 Geesman had made a request that the staff do a
24 presentation on the staff's power plant siting.
25 And so we will proceed with that.

1 Mr. Smith informed me that he does not
2 have a report.

3 And I guess one last item, personal
4 message to Commissioner Boyd from all the staff,
5 may the force be with you.

6 (Laughter.)

7 VICE CHAIRPERSON BOYD: Thank you. I
8 feel the force.

9 CHAIRPERSON PFANNENSTIEL: So, Terry,
10 you're going to take it?

11 MR. O'BRIEN: Yes, I am. Good morning,
12 Commissioners. As Executive Director Blevins
13 indicated, the Siting Committee met with the staff
14 in early August and they asked us to make a
15 presentation on the siting program in terms of
16 providing you with some updated information; and
17 also some historical information.

18 So I have four slides that I'll go
19 through here with you today. The first one shows
20 historically what the Commission has approved,
21 going back to 2001, the first year of the -- or
22 shortly after the energy crisis, and certainly
23 after restructuring.

24 To date, since that time, we've almost
25 approved 13,000 megawatts that are currently

1 online and operating at 36 power plants.

2 Projects that are currently under
3 construction, there are seven projects under
4 construction. That's a little over 2000
5 megawatts. There are 8300-plus megawatts that
6 were approved that are currently not under
7 construction. Of that total, six projects have
8 been canceled. So that means there are roughly
9 about 6900 megawatts that we have approved that
10 could go forward to construction and add
11 additional generating capacity in the State of
12 California.

13 And then in terms of where we are today,
14 we currently have 18, and I suppose that should be
15 19 given your actions today, projects under
16 review, potential projects; 12 projects, 4400
17 megawatts.

18 And then projects that we're reasonably
19 confident are going to be filed in 2008, at this
20 point in time, a little over 3000 megawatts.

21 So I would not be surprised if that
22 number does not increase as time proceeds and
23 further applicants come in and make their projects
24 known. But those are the projects that we're
25 relatively confident are going to file. And so

1 that obviously represents a significant workload.

2 This next VuGraph basically presents the
3 same sort of information. Once again showing that
4 the Commission has approved a number of projects
5 that are not proceeding to construction. And I
6 know the Commissioners, over the last several
7 years, have expressed some concerns in that area.

8 This is a VuGraph showing our historical
9 workload going all the way back to the
10 Commission's founding. As you can see, there are
11 some notable peaks. We have the standard offer 4
12 gold rush of many cogeneration projects in the mid
13 1980s. Then a declining workload based upon the
14 uncertainty with restructuring. And then, of
15 course, the huge spike of 2000, 2001, 2002
16 responding to the energy crisis. The workload
17 coming down in the 2005 timeframe. And then, of
18 course, we're back in a huge workload far far
19 above our historical standards.

20 Over the years we've process, on
21 average, about seven applications per year. We're
22 way above that. And at the last meeting with the
23 Siting Committee the staff expressed its concerns
24 over being able to handle this huge workload.
25 We're really struggling with it right now.

1 And as you can see, we anticipate a
2 significant number of filings between now and
3 middle of 2008, which is going to add to the
4 already significant workload.

5 CHAIRPERSON PFANNENSTIEL: Terry, before
6 you leave that slide, I'm trying to understand the
7 characterizations of geothermal, cogeneration,
8 deregulation. The period from '78 through '84,
9 why do you characterize that as geothermal?

10 MR. O'BRIEN: The vast majority of
11 projects that we had during that time were
12 geothermal projects. We had other projects, but
13 they constituted the majority of the projects.

14 And then the section listed
15 cogeneration, those projects constitute the
16 majority of projects that we had.

17 CHAIRPERSON PFANNENSTIEL: And then you
18 have the average for that from the beginning, the
19 founding of the Energy Commission, it looks like,
20 through '95, annual average of 11 a year, is that
21 correct, I'm reading that?

22 MR. O'BRIEN: Yes, that's correct. And
23 then after that the average shooting up to 18. So
24 we have been much busier starting about in 1999-
25 2000 than historically we've been.

1 And, of course, we've relied to a
2 significant extent since 2000 on the Aspen
3 contract.

4 CHAIRPERSON PFANNENSTIEL: Is there some
5 mike on -- would you check on the podium? We're
6 getting some feedback.

7 I'm sorry, Terry, go ahead.

8 MR. O'BRIEN: I was just saying that, of
9 course, given these extreme peak workloads that
10 we've seen since 2000, what has been a significant
11 help to the staff has been the Aspen peak siting
12 workload contract.

13 And then finally, --

14 EXECUTIVE DIRECTOR BLEVINS: Madam
15 Chairman, can I make just one comment --

16 CHAIRPERSON PFANNENSTIEL: Of course.

17 EXECUTIVE DIRECTOR BLEVINS: -- about
18 the slide you had up here?

19 MR. O'BRIEN: Do you want to go back?

20 EXECUTIVE DIRECTOR BLEVINS: Go back
21 one. In terms of workload this slide is a tad
22 misleading. And I just want to make this
23 observation.

24 Everyone's familiar, obviously, with the
25 peak that occurred in association with the prices.

1 It's important to remember that the amount of
2 staff resources associated with processing all of
3 those project, those were much shorter timeframe
4 projects.

5 So if you're going to adjust that chart
6 for time expended, you would probably find that
7 the peak that we're looking at in the future is,
8 in fact, going to be the heaviest siting workload
9 that the Commission has ever been presented with
10 in its history.

11 MR. O'BRIEN: B.B. makes an excellent
12 point. In terms of the peak in 2001, 2002, there
13 were about 10, 12 21-day projects that obviously
14 the staff did not expend much resources on in
15 terms of processing those, nor the Commission.

16 CHAIRPERSON PFANNENSTIEL: That's an
17 interesting number, though; it was 10 or 12, as
18 opposed -- looks like the peak here is up close to
19 60. So that 60, you know, 10 maybe, slightly
20 moreso, without those you're still at 50. So it's
21 still --

22 VICE CHAIRPERSON BOYD: How many six-
23 month projects?

24 MR. O'BRIEN: Well, the infamous six-
25 month process, a number of them were filed in that

1 six-month AFCs. None of them, I believe, save
2 perhaps one, eventually made it through the six-
3 month process, or a four-month process, because of
4 problems that they ran into.

5 But at that time everybody was rushing
6 to get their projects approved as quickly as
7 possible. And that was the vehicle that they
8 decided to pursue, notwithstanding the fact that
9 it wasn't a good fit for most of those projects.

10 VICE CHAIRPERSON BOYD: And they ended
11 up, therefore, as 12-month projects?

12 MR. O'BRIEN: Yes, and -- yeah, that's
13 correct.

14 VICE CHAIRPERSON BOYD: Before you leave
15 that slide, I'm going to ask you a question that's
16 probably unfair to ask you, but it's asked of us,
17 and particularly me of late a lot.

18 And that is a concern that we're not
19 building enough power plants; and then the
20 feedback usually is there's a queue -- there's a
21 standby queue of roughly 8000 megawatts of plants
22 that have been approved by this agency that aren't
23 being built.

24 And yet now you're laying out an even
25 larger potential workload for a lot more megawatts

1 of power. Do you have any comments on the
2 likelihood of these being built? Of any
3 breakthrough within the procurement process to
4 indicate that we'll see a lot more contracts for
5 the power in question? Or are we just going to
6 add to that queue of projects waiting in the wings
7 for something to happen?

8 MR. O'BRIEN: Well, that's a good
9 question. A lot of the projects that we currently
10 have in are responding to the procurement process
11 and the request for offers from predominately
12 PG&E; but also a few projects that have just come
13 in in response to San Diego Gas and Electric's
14 request. And then, of course, the project that
15 the Commission accepted today as being data
16 adequate, the Sentinel project down in Palm
17 Springs.

18 But there are still a number of projects
19 that we are reviewing that don't have contracts.
20 How those projects, you know, go forward and
21 whether they get built or not is, you know,
22 certainly unknown to me. And we'll just have to
23 wait and see.

24 I think it is a legitimate question in
25 terms of how well is the procurement process

1 working. And is it going to provide the megawatts
2 that California needs in a timely manner.

3 VICE CHAIRPERSON BOYD: Thank you.

4 CHAIRPERSON PFANNENSTIEL: Terry,
5 staying with this slide, the dotted line across
6 from the 1996 through current says 18. If you
7 look over the axis it looks like you're more up
8 into 24 or 25.

9 MR. O'BRIEN: Yes, that's correct.
10 Eighteen is the correct number. And
11 unfortunately, the dotted line does not correspond
12 to that. That was noted this morning to me, but
13 there wasn't time to correct that.

14 CHAIRPERSON PFANNENSTIEL: Well, because
15 then I went back and compared that with your first
16 slide where it shows under review 2007, and there
17 are 18. So, the 18 in 2007 include both those
18 filed this year and under review this year. So,
19 it should be about the top of the bar that's there
20 for 2007, is that correct?

21 MR. O'BRIEN: Let me see. Do you want
22 me to go back to that --

23 CHAIRPERSON PFANNENSTIEL: Well, I'm
24 just trying to make sure I understand.

25 MR. O'BRIEN: What we currently have --

1 CHAIRPERSON PFANNENSTIEL: The first
2 slide says projects under review; and it said 18
3 projects for 6654 megawatts.

4 MR. O'BRIEN: Yes, that's what we
5 currently have before us. Some of those projects
6 were filed before 1907 -- or before 2007, for
7 example.

8 CHAIRPERSON PFANNENSTIEL: Correct. But
9 then, so that should show up on the page we were
10 just looking at. So the 2007 bar there should
11 equal 18?

12 MR. O'BRIEN: Yes.

13 CHAIRPERSON PFANNENSTIEL: Should be
14 that 18. Okay.

15 MR. O'BRIEN: And then the final slide,
16 this is included to indicate that the type of
17 projects that we are starting to get, or will soon
18 receive, and going forward, is going to change in
19 terms of the mix.

20 We anticipate the first solar project to
21 be filed this week, the Bright Source project, by
22 Friday. And a number of other solar projects have
23 indicated that they want to file between now and
24 the end of 2007. And then quite a few in 2008.

25 And so the Commission is going to have a

1 significant workload reviewing solar projects.

2 The one positive note on that that I might mention
3 is that the staff recently signed an MOU with the
4 Bureau of Land Management to conduct joint reviews
5 of these projects, EIRs and EISs, and joint CEQA
6 and NEPA documents.

7 The vast majority of solar projects that
8 we're aware of will be located on public land.
9 And that's all, right now, land administered by
10 the Bureau of Land Management. We're going to
11 work very closely with them to try to insure an
12 expeditious review of these renewable facilities.

13 I would note that BLM normally takes two
14 years to process applications. They have
15 expressed some trepidation for the Commission's
16 12-month licensing process. But, as I said, we're
17 going to work closely with them to help them move
18 through our review in as expeditious manner as
19 possible.

20 CHAIRPERSON PFANNENSTIEL: So the
21 implication of this slide is that we either have
22 or expect 13 renewable projects. Are those all
23 solar of the 13 solar projects that we're
24 expecting?

25 MR. O'BRIEN: I believe those are all

1 solar. I'm not --

2 CHAIRPERSON PFANNENSTIEL: And it would
3 be --

4 MR. O'BRIEN: Oh, there may be one
5 geothermal project.

6 CHAIRPERSON PFANNENSTIEL: All right.
7 And it would be something like, just eyeballing
8 it, 9000 or 10,000 megawatts worth of solar, or
9 with this one geothermal?

10 MR. O'BRIEN: Yes, most of the solar
11 projects are quite large, ranging in size all the
12 way up to 900 megawatts.

13 Sterling, alone, and their projects have
14 unfortunately been delayed in terms of the filing,
15 they have two projects that would total about 1700
16 megawatts. And they have signed contracts.

17 Going back to the issue that
18 Commissioner Boyd raised, there's an applicant
19 that does have signed contracts; one with Edison
20 and the other with San Diego Gas and Electric.

21 CHAIRPERSON PFANNENSTIEL: I assume
22 they're all in southern California?

23 MR. O'BRIEN: All of the solar projects,
24 save one, right now are located in southern
25 California. There's one down in San Luis Obispo

1 County. And depending upon your geographical
2 orientation that might be southern California,
3 northern California or central California.

4 CHAIRPERSON PFANNENSTIEL: One other
5 point on the solar. I'm not quite sure how to ask
6 this. They may have signed contracts. Do they
7 have available transmission? Or does it put us,
8 as a transmission siting entity, to be able to
9 assure that they have transmission to the first
10 point of interconnection?

11 MR. O'BRIEN: Well, we have licensing
12 jurisdiction to the first point of
13 interconnection, but the broader question is
14 what's the transmission capacity. And that
15 obviously is a huge issue in terms of whether or
16 not there's enough transmission capacity to bring
17 this renewable energy to market.

18 I think what we're going to see is the
19 Commission's recently approved transmission
20 corridor designation process coming into play in
21 terms of looking at this issue. There's CRETI
22 work that's going to identify least-cost renewable
23 zones. And then proceed from there to the issue
24 of transmission capabilities, capacity, et cetera.

25 The one point I would make about that is

1 that ultimately, I think, in terms of California's
2 success to bring this renewable generation online
3 there are going to be environmental issues and
4 siting issues. And so that's the first hurdle
5 that's going to have to be met.

6 But obviously transmission is a huge,
7 huge issue.

8 CHAIRPERSON PFANNENSTIEL: Well, but if
9 we have these projects have contracts and they
10 have Energy Commission licenses, which means that
11 they have their environmental issues resolved, by
12 definition, then it seems like they're ready to
13 go.

14 And so I'm not hearing that we know how
15 they're going to get that power to market then if
16 we don't have the transmission hasn't yet been
17 figured out in the same process, the same
18 timeframe that they're going for a license.

19 MR. O'BRIEN: Well, certainly the
20 Commission, when it reviews power plant siting
21 cases, one of the issues it looks at and works
22 with the ISO on is whether or not there's
23 sufficient transmission capacity.

24 To give you an example, in terms of the
25 complexity in the issues that you're raising, on

1 one of the Sterling projects, Sterling 2, that's
2 going to be located in Imperial County, that's a
3 project that the contract calls for up to 800 or
4 900 megawatts. But currently right now I believe
5 there's only 300 megawatts of capacity on the SWPL
6 line for that project.

7 And so the additional 500 or 600
8 megawatts of energy currently, to my
9 understanding, does not have a path to get to
10 market, whether that would be Los Angeles or San
11 Diego. And that's an issue, for example, we're
12 going to have to wrestle with once that
13 application is filed.

14 But you're right, those are questions --
15 some of the projects that do not have contracts
16 are currently in discussions with various
17 utilities. And when they file their applications
18 that's going to be one of the key issues that
19 we're going to have to look at.

20 CHAIRPERSON PFANNENSTIEL: Thank you.
21 Yes, Commissioner Byron.

22 COMMISSIONER BYRON: Madam Chairman, I
23 think the staff is to be commended for the efforts
24 that, let's say, work with the Bureau of Land
25 Management in developing this MOU. I don't know

1 how binding these interagency MOUs are, but it
2 kind of moves them in the right direction towards
3 a faster review time of a year.

4 And I don't know how that would fit with
5 potential legislation that we've got, as well,
6 around the renewable -- permitting of renewables
7 within a six-month time period.

8 But I think this is a very good approach
9 and should be helpful. There's a bit of a land
10 rush on all these potential solar sites at the
11 Bureau of Land Management.

12 And my question to staff would be, you
13 indicated, Terry, that there's one geothermal
14 plant that might be in amongst these potentials.
15 We met recently with folks that indicate there may
16 be more geothermals coming.

17 Are they covered, as well, in this MOU
18 with BLM? Or are they not on Bureau of Land
19 Management land?

20 MR. O'BRIEN: It's an MOU that deals
21 with solar projects. If we were to experience a
22 large number of geothermal projects we could
23 certainly use the solar MOU as a template. I
24 would assume that that would be easily
25 implemented.

1 COMMISSIONER BYRON: Okay. Do you know
2 if that project, that potential project out there
3 is on BLM land?

4 MR. O'BRIEN: I don't believe it is.

5 COMMISSIONER BYRON: Okay.

6 MR. O'BRIEN: Though transmission lines
7 associated with the project, I believe, cross BLM
8 land. So, from that standpoint we would have to
9 work with BLM.

10 COMMISSIONER BYRON: And if I may, with
11 regard to the figures, if you go back to, I think
12 it's your second one, the thing that I found a
13 little bit troubling were the online projects in
14 2005, '6 and '7, the dearth of online projects. I
15 think there's only one and it obviously is a very
16 small one.

17 My recollection, not having been here at
18 the Commission, just being on the customer side of
19 the meter, was that that was somewhat of a
20 precursor to our lead-up to the crisis that we
21 experienced in 2001. So that's what stuck out in
22 my mind when I saw the fact that there's been
23 little that's gone online in the last three years.

24 VICE CHAIRPERSON BOYD: Well, of course,
25 we did have a procurement process in the front end

1 of the crisis years. But it's still, it's
2 indicative of the concern I think all of us have
3 about this growing accumulation of approved
4 projects.

5 And we know there's plenty of projects
6 ready to go, and yet we keep living near the edge
7 all the time. And having to explain ourselves
8 every year as to whether we're going to make it
9 through the summer or not because we just don't
10 have contracts to back them up.

11 So I can only hope that we stay ahead of
12 the curve continuously in the procurement process.

13 Terry, back to BLM and the dialogue
14 we're having there, I'm trying to recall during
15 the crisis years, if I may, BLM was one of the
16 federal agencies with whom we might have had much
17 activity in the permitting process.

18 I don't recall them as being one of the
19 agencies, but I just wonder if they were, because
20 during that period of time and with all the
21 efforts with green teams and expedited processing
22 and what-have-you, I do recall, from a different
23 vantage point, that many of the federal agencies
24 felt they couldn't move fast, but they really were
25 able to move pretty quickly. And we had a fairly

1 decent success rate with many of them, even though
2 they expressed concern they might not be able to
3 do that.

4 Was BLM one of those? Or have we moved
5 into kind of new territory because it's solar?

6 MR. O'BRIEN: Well, there were a few
7 projects back then that we did work with BLM on.
8 If you go, for example, the Blythe project. These
9 more remotely located projects that were either
10 located on federal land or the transmission lines
11 had to cross federal land.

12 We also work with WAPA, because there
13 were a couple of projects that tied into the WAPA
14 system. We generally had good working
15 relationships and they were cooperative.

16 But the world has changed and is
17 changing in terms of the number of remotely
18 located projects that we're seeing, and
19 particularly these solar projects.

20 VICE CHAIRPERSON BOYD: You mean there
21 are remote areas left in California?

22 (Laughter.)

23 CHAIRPERSON PFANNENSTIEL: Other
24 questions?

25 EXECUTIVE DIRECTOR BLEVINS: Madam

1 Chairman, I wanted to make one observation about
2 one of the other charts, if it's okay.

3 Terry, could you put the last chart back
4 up?

5 MR. O'BRIEN: The last chart?

6 EXECUTIVE DIRECTOR BLEVINS: The last
7 chart, yeah. And this is something I know the
8 Commission knows, but obviously the preponderance
9 of projects being on the right-hand side, being
10 solar, there are a body of solar projects that are
11 potentially large central points of generation
12 that do not come under our jurisdiction.

13 So, in viewing that chart, that needs to
14 be taken into consideration when you're thinking
15 about what the full potential --

16 CHAIRPERSON PFANNENSTIEL: What's
17 happening in the state.

18 EXECUTIVE DIRECTOR BLEVINS: Right,
19 right.

20 CHAIRPERSON PFANNENSTIEL: Do we have
21 that information?

22 MR. O'BRIEN: We have information from
23 BLM in terms of the number of projects and the
24 types of projects, and broken out by PV versus
25 solar thermal. So we do have that.

1 CHAIRPERSON PFANNENSTIEL: For those
2 that are on BLM land.

3 MR. O'BRIEN: For those that are on BLM
4 land. And given the land requirements, as I've
5 said, we would anticipate 80, 90, 95 percent of
6 the projects to be located on federal land.

7 We are also seeing a few projects
8 located on private land, particularly land that
9 had been farmed previous and has been abandoned
10 for whatever reason. Those make potentially good
11 sites for projects because by and large the
12 biological resources that had existed there years
13 ago are no longer in existence.

14 CHAIRPERSON PFANNENSTIEL: Other
15 questions? Terry, I want to thank you and Roger
16 and your staff for putting this together. This is
17 timely and important for a whole realm of reasons,
18 not the least, of course, is our staffing needs.
19 I think just helping us understand the picture,
20 where we are right now, is critical.

21 Other questions? Mr. Kelly has a
22 question.

23 VICE CHAIRPERSON BOYD: Can I just, as
24 he's coming to the mike, just make a statement
25 that I, too, would like to echo compliments to the

1 staff. And I would like to reflect the
2 experiences I've had in the past few weeks.

3 I think we need to publicize this as
4 best we can, this workload, this impending
5 workload, because I've had comments from learned
6 people that gee, you people don't have anything to
7 do anymore because what few facilities there are,
8 they're solar projects over which you have no
9 jurisdiction.

10 We need to, and I did in this particular
11 case, immediately provide data to one individual,
12 anyway, who's rather important. But nonetheless,
13 if we have the opportunity it wouldn't hurt to
14 point out that this is still a major issue. And
15 there's still plenty of work to be done in this
16 arena for the folks in California who are
17 policymakers or leaders in certain areas.

18 CHAIRPERSON PFANNENSTIEL: Mr. Kelly.

19 MR. KELLY: Steven Kelly with the
20 Independent Energy Producers Association. And
21 first, I want to thank the staff for putting this
22 together. This is really interesting and
23 informative.

24 And I wanted to follow up on the
25 discussion that you all just had about kind of the

1 issue about projects in the queue, the bulk of
2 those, the extent to which they're going to become
3 viable or have a probability of becoming viable.

4 And I think I might have raised this in
5 front of this Commission before, certainly in
6 front of the Public Utilities Commission, about
7 the issue of what I term project viability.

8 And it's been a big concern for me and
9 others in the energy business as we look at the
10 tremendous block of generation units that are in
11 the ISO queue. I've heard numbers like 40,000
12 megawatts out there, with absolutely no
13 understanding of whether those are likely to come
14 to pass. And these are large numbers, too, in
15 terms of the siting process.

16 And I just want to make the
17 recommendation to this Commission that I think you
18 would be doing a great service to this state if
19 you could initiate the dialogue on project
20 viability; and bring in the various stakeholders
21 to talk about this issue.

22 And that would include the ISO, because
23 the ISO tariff and FERC interconnection rules are
24 impacted by this discussion. The utilities, both
25 munis and IOUs. And certainly the IPPs. And

1 anybody else.

2 But this is an important issue. And if
3 we could figure out a way to improve the prism
4 through which we evaluate these projects and the
5 RFO process or whatever else, to make sure that
6 the ones that are most viable are positioned to
7 move more quickly through than those that are
8 least viable.

9 And I understand, I've done some work on
10 this over the last six months, this is very
11 complicated. It is not an easy task. But this
12 Commission is well positioned to bring all those
13 stakeholders together to have that discussion. At
14 least to put a spotlight on it. We might not be
15 able to get answers right away. It's very
16 intractable.

17 But I would certainly welcome the
18 opportunity to participate in that. We've been
19 concerned about project viability in various
20 project development, and moving forward. This is
21 one of them. And I just could not emphasize
22 enough how important I think that dialogue needs
23 to take place sooner rather than later. And you
24 guys are perfectly well positioned, with the
25 expertise of your staff, to lead that discussion.

1 CHAIRPERSON PFANNENSTIEL: Thank you,
2 Steven. I agree with you that it's important, but
3 that it's also complex. But we will certainly
4 talk about that.

5 MR. KELLY: Thank you.

6 CHAIRPERSON PFANNENSTIEL: Anything
7 further, Terry? Thank you very much --

8 MR. O'BRIEN: You're welcome. I just
9 want to thank Roger and Mary Dyas who were
10 instrumental in helping me put this presentation
11 together.

12 CHAIRPERSON PFANNENSTIEL: Our thanks to
13 them, also.

14 Back to the agenda. We have no Leg
15 Director's report. Is there a Public Adviser
16 report, Nick?

17 MR. BARTSCH: Madam Chair, Nick Bartsch.
18 No reports, thank you.

19 CHAIRPERSON PFANNENSTIEL: Thank you.
20 Public comment? Anybody on the phone? Nobody.

21 We'll be adjourned.

22 (Whereupon, at 10:55 a.m., the business
23 meeting was adjourned.)

24 --o0o--

25

CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Business Meeting; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said meeting, nor in any way interested in outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of August, 2007.

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