

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, SEPTEMBER 12, 2007

10:03 A.M.

Reported by:
Peter Petty
Contract No. 150-07-001

COMMISSIONERS PRESENT

Jackalyne Pfannenstiel, Chairperson

Arthur Rosenfeld

John L. Geesman

Jeffrey D. Byron

STAFF and CONTRACTORS PRESENT

B.B. Blevins, Executive Director

William Chamberlain, Chief Counsel

Michael Smith, Legislative Director

Harriet Kallemeyn, Secretariat

Shahid Chaudry

Guido Franco

Chris Scruton

Michael Seaman

Paul Kramer

Dick Ratliff

Martha Brook

Geoff Lesh

Barbara Byron

Karen Griffin

PUBLIC ADVISER

Nicholas Bartsch

ALSO PRESENT

George Aiken (via teleconference)

Lori Suttmeier (via teleconference)

Federal Aviation Administration

ALSO PRESENT

Greggory Wheatland, Attorney
Ellison, Schneider and Harris
on behalf of Calpine Corporation

Mike Argentine
Calpine Corporation

Paul N. Haavik, Property Manager
Checkboard Square Rentals, Inc.

Ernest Pacheco

Audrey LePell, President
Citizens for Alternative Transportation Solutions

Stuart M. Flashman, Attorney
Citizens for Alternative Transportation Solutions

Patrick Miles
Aviation Safety Inspector
State of California

Norman Pedersen
Southern California Public Power Authority

Jane E. Luckhardt, Attorney
Downey Brand Attorneys, LLP
on behalf of Sacramento Municipal Utility District

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P R O C E E D I N G S

10:03 a.m.

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

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

CHAIRPERSON PFANNENSTIEL: We'll begin this morning with the consent calendar. Is there a motion on the consent calendar?

COMMISSIONER ROSENFELD: I move the consent calendar.

COMMISSIONER GEESMAN: Second.

CHAIRPERSON PFANNENSTIEL: All in favor?

(Ayes.)

CHAIRPERSON PFANNENSTIEL: Consent calendar's approved.

Item number 2, --

COMMISSIONER GEESMAN: Madam Chair.

CHAIRPERSON PFANNENSTIEL: Yes, Commissioner Geesman.

COMMISSIONER GEESMAN: I understand that our Hearing Officer, Paul Kramer, is trying to arrange for a telephone hookup with the manager of Safety and Standards branch of the Federal

1 Aviation Administration. And I don't see Mr.
2 Kramer in the room, so I'd ask that this be put
3 over to later in the agenda when we determine if
4 Mr. Aiken will be able to join us by phone or not.

5 CHAIRPERSON PFANNENSTIEL: I think that
6 makes sense. All right, item 2 will be put later
7 in the agenda.

8 Item 3, Possible approval of a loan for
9 \$1,193,500 to San Elijo Joint Power Authority to
10 implement energy efficiency projects in the San
11 Elijo Water Reclamation facility. Good morning.

12 MR. CHAUDRY: Good morning,
13 Commissioners. I'm Shahid Chaudry with the public
14 programs office. I'm here today to request your
15 approval for a loan for almost \$1.2 million to San
16 Elijo Joint Power Authority to implement energy
17 efficiency projects at their facility.

18 After implementing these projects it's
19 expected that the energy savings would be in the
20 order of 770,000 kilowatt hours per year. That
21 will be approximately \$120,000 a year.

22 The total cost of the project is \$1.235
23 million; but because the payback period is ten
24 years, so we are extending a loan of almost \$1.2
25 million to the San Elijo Joint Power Authority.

1 CHAIRPERSON PFANNENSTIEL: Thank you. I
2 understand also that this was a -- there was a
3 prior loan approved but then some additional work
4 was identified and the prior loan was canceled and
5 this is a new application?

6 MR. CHAUDRY: That's correct. We
7 approved a loan of about \$900,000 in January of
8 this year. And after the loan was approved the
9 consultants identified a new project, so there
10 will be additional energy savings of 70,000
11 kilowatt hours a year.

12 The previous loan was canceled on the
13 request of the applicant because of two reasons.
14 The interest rate on that loan was 4.5 percent;
15 and the interest on this new loan will be 3.95
16 percent. So applicant will be saving some money
17 from that.

18 And from our perspective, this will be
19 much easier for us to manage one loan at one
20 interest rate, rather than two loans at two
21 different interest rates.

22 CHAIRPERSON PFANNENSTIEL: Thank you.
23 Are there questions? Is there a motion?

24 COMMISSIONER ROSENFELD: I move the
25 item.

1 COMMISSIONER BYRON: And I'll second.

2 CHAIRPERSON PFANNENSTIEL: All in favor?

3 (Ayes.)

4 CHAIRPERSON PFANNENSTIEL: It's
5 approved.

6 MR. CHAUDRY: Thanks.

7 CHAIRPERSON PFANNENSTIEL: Thank you.

8 COMMISSIONER GEESMAN: Madam Chair, I'm
9 told that Mr. Aiken will be calling in. So I've
10 asked Mr. Kramer to alert us to when he's actually
11 on the phone. And I would suggest taking him
12 whenever in our ordinary agenda that occurs.

13 CHAIRPERSON PFANNENSTIEL: Yeah, that's
14 fine. We'll wait till we hear from him and then
15 we'll pick up that item.

16 Item 4, Possible approval of PIER work
17 authorization MR-074 for \$500,000 PIER with the
18 Point Reyes Bird Observatory Conservation Science
19 under the UC master research agreement number 500-
20 02-004 with the Regents of the University of
21 California Office of the President CIEE, for
22 Biological Impacts of Climate Change in
23 California. Good morning.

24 MR. FRANCO: Good morning,
25 Commissioners. My name is Guido Franco; I'm with

1 the Public Interest Energy Research program.

2 In 2003 a very preliminary PIER report
3 on the potential impacts of climate change --
4 options indicated that we, as humans, would be
5 able to adapt to climate change, but -- will be
6 costly.

7 However, ecosystems will be severely
8 impacted. We may see several losses in
9 biodiversity in California.

10 So this project is intended to start
11 analyzing the impacts and also what adaptation
12 options we may have. The project will be led by
13 Professor Terry Root from Stanford. She's a world
14 class scientist. One of her recent papers,
15 Fingerprinting of Global Warming on Animals and
16 Plants, was published in Nature, in 2003. And has
17 been one of the best documents so far on this
18 issue.

19 We would have seven case studies; all of
20 them will be supervised by Professor Root. That
21 would involve researchers from different campuses
22 with the University of California. Also one
23 researcher will come from Stanford University.

24 With that I'm ready to answer any
25 questions that you may have.

1 CHAIRPERSON PFANNENSTIEL: Thank you. I
2 just want to make sure I understand the
3 organization of this study. It is funded through
4 the UC CIEE contract, but the work, itself, will
5 be led by a Professor at Stanford, but involving a
6 number of other universities. Are they all
7 California universities? Are they all UC except
8 Stanford?

9 MR. FRANCO: All of the researchers come
10 from different campuses with the University of
11 California. Actually there is one that comes
12 from, I think it's San Francisco State. And one
13 post-doc, I believe, from Stanford University.

14 CHAIRPERSON PFANNENSTIEL: And the lead
15 will be Stanford and presumably --

16 MR. FRANCO: Yeah, Professor --

17 CHAIRPERSON PFANNENSTIEL: -- Professor
18 Root will publish, or they'll all publish parts of
19 it?

20 MR. FRANCO: They will, each one of them
21 will publish one paper that will be integrated by
22 Professor Root. And, yes, similar to the work
23 that she did for -- I mean like two or three years
24 ago, there was a book, "Wildlife Responses to
25 Climate Change, North American Case Studies."

1 It's a publication that has been well received by
2 resource managers and the scientific community.

3 So there will be one similar to that
4 one, but for California.

5 CHAIRPERSON PFANNENSTIEL: And when do
6 we think this work will be done?

7 MR. FRANCO: This work will be done in a
8 year and a half. The contract is for three years,
9 but we expect the work to be done in 18 months.

10 CHAIRPERSON PFANNENSTIEL: Thanks.

11 MR. FRANCO: Thank you.

12 CHAIRPERSON PFANNENSTIEL: Further
13 questions? Discussion?

14 COMMISSIONER ROSENFELD: I move the
15 item.

16 COMMISSIONER GEESMAN: Second.

17 CHAIRPERSON PFANNENSTIEL: All in favor?

18 (Ayes.)

19 CHAIRPERSON PFANNENSTIEL: It's
20 approved.

21 COMMISSIONER BYRON: Madam Chair, bon
22 jour, I'm glad to see --

23 CHAIRPERSON PFANNENSTIEL: Good morning.

24 COMMISSIONER BYRON: -- that you did not
25 object to the Stanford professor being part of --

1 (Laughter.)

2 CHAIRPERSON PFANNENSTIEL: No, I was
3 highlighting the fact.

4 (Laughter.)

5 CHAIRPERSON PFANNENSTIEL: Harriet, do
6 we have someone on the phone for the item number
7 2?

8 SECRETARIAT KALLEMEYN: We have one
9 person, but I understand we are still waiting for
10 Mr. Aiken.

11 CHAIRPERSON PFANNENSTIEL: That's fine,
12 thank you. You'll let us know.

13 Item number 5, possible approval of
14 contract 500-06-049 for \$600,000 with the UC
15 Berkeley Center for the Built Environment. Good
16 morning.

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

20 And this proposed research program would
21 fund the UC Berkeley Center for the Built
22 Environment to work with leading commercial
23 designers, manufacturers and owners to improve
24 guidelines and technology for designing,
25 commissioning and operating underfloor air

1 distribution systems.

2 It would also begin to develop design
3 guidelines and comfort analysis tools relevant to
4 rating in cooling systems.

5 Both of these system types offer
6 inherent benefits for energy efficiency and peak
7 electric demand reduction. Both types of systems
8 are currently being implemented by innovative
9 designers.

10 And the Center for the Built
11 Environment, through this research funding, will
12 be able to offer design assistance, analytical
13 services and develop information resources to make
14 sure these systems work as well as possible.

15 The PIER Staff recommends approval of
16 this contract. And I will try to answer any
17 questions you might have.

18 CHAIRPERSON PFANNENSTIEL: Thank you.
19 Are there questions?

20 COMMISSIONER ROSENFELD: Yeah, Chris,
21 what happens -- the Center for the Built
22 Environment is pretty famous for doing good cost-
23 sharing. They have lots of industrial members.

24 Is there any cost-sharing associated
25 with this?

1 MR. SCRUTON: There's no official cost-
2 sharing in this research contract. But what we
3 have is a lot of in-kind funding. For example,
4 the Johnson Controls Corporation, which now owns
5 the York Corporation, has a large laboratory
6 facility in New York where they've conducted a lot
7 of research that's relevant to this topic. So
8 there's a lot of give-and-take, even though it's
9 not an official cofunding relationship.

10 There are also engineering firms like
11 Airup (phonetic) that have been involved with
12 this. And, again, many times the questions that
13 are being posed for Center for the Built
14 Environment to address are coming from those real-
15 world situations that the engineers like Airup are
16 encountering in the field.

17 COMMISSIONER ROSENFELD: Okay. I'm
18 ready to move the item. I move the item.

19 COMMISSIONER GEESMAN: Second.

20 CHAIRPERSON PFANNENSTIEL: All in favor?

21 (Ayes.)

22 CHAIRPERSON PFANNENSTIEL: Thank you.

23 MR. SCRUTON: Thank you.

24 CHAIRPERSON PFANNENSTIEL: Item 6,
25 possible approval of contract 500-07-005 with

1 Consortium for Energy Efficiency for \$36,000 for
2 cosponsorship of the 2007 and 2008 Lighting for
3 Tomorrow design competitions. Good morning.

4 MR. SEAMAN: Good morning,
5 Commissioners. I'm Michael Seaman from the PIER
6 buildings program.

7 Staff requests your approval of a
8 proposed \$36,000 contract with the Consortium for
9 Energy Efficiency to provide cosponsorship of the
10 National 2007 and 2008 Lighting For Tomorrow
11 design competitions.

12 Lighting manufacturers tend to produce
13 products for the global marketplace. As a result,
14 California's marketplace has limited energy-
15 compliant fixture choices for California design
16 professionals, builders and tradespeople.

17 Lighting For Tomorrow challenges
18 lighting designers and manufacturers to create
19 energy efficiency decorative lighting fixture
20 thereby broadening the market choices.

21 Cosponsorship of Lighting for Tomorrow
22 directly ties the national competitions to
23 California's specific needs by providing guidance
24 from and feedback to California's utility emerging
25 technology programs and PIER's building end-use

1 energy program.

2 The Lighting for Tomorrow competitions
3 for 2007 and 2008 will promote the results to
4 stimulate the market for high efficiency
5 residential light fixtures in California, to
6 expand the market infrastructure to deliver them
7 in California, and to directly assist our
8 utilities in working with lighting showrooms and
9 designers in California.

10 The contract is modeled on our success
11 with the program in previous years' competitions.
12 It requires the Consortium to conduct the
13 competitions, and more importantly, to disseminate
14 information about the results to California
15 utilities, lighting showroom, building industry
16 professionals, the trades and consumers.

17 And doing so will have the following
18 direct benefits for California: It supports the
19 goal of improving the energy efficiency of
20 existing buildings. It works with California
21 utilities in the implementation of cost effective
22 energy efficiency programs intended to reduce per
23 capita energy use. And it helps bring beneficial
24 energy technologies to market.

25 The contract proposal has been reviewed

1 by the RD&D Policy Committee and the Budget and
2 Management Committee, which have both recommended
3 that the Commission approve it.

4 Are there questions?

5 CHAIRPERSON PFANNENSTIEL: I just have
6 one. What is the Consortium for Energy
7 Efficiency? I'm not familiar with them. Is it a
8 nonprofit group?

9 MR. SEAMAN: Yes. It's a national
10 group. They're based in Boston. And they're an
11 association of agencies like ours, and efficiency
12 organizations throughout the country. They're
13 affiliated with DOE and some large utilities.

14 CHAIRPERSON PFANNENSTIEL: Are they
15 funded by manufacturers or just --

16 MR. SEAMAN: No, no --

17 CHAIRPERSON PFANNENSTIEL: -- totally
18 government funding?

19 MR. SEAMAN: It's government agencies
20 and efficiency organizations, such as Efficiency
21 Vermont. And a few utilities, such as National
22 Grid.

23 CHAIRPERSON PFANNENSTIEL: And how do
24 the results of this competition feed into the
25 lighting center at Davis, for example?

1 MR. SEAMAN: Oh, they've been deeply
2 involved with it. They've been participating as
3 the host site for the competitions; they've
4 provided judges. And they're deeply involved with
5 helping to disseminate the information through the
6 Lighting Portal.

7 CHAIRPERSON PFANNENSTIEL: Thanks.
8 Other discussion or questions? Yes, Commissioner
9 Byron.

10 COMMISSIONER BYRON: I take it that this
11 is probably new involvement for us in this
12 competition?

13 MR. SEAMAN: No, actually we've been
14 involved in 2002, 2005 and 2006.

15 COMMISSIONER BYRON: And the results of
16 those, how have they been applied in California?

17 MR. SEAMAN: Well, we've been able to
18 provide the promotional information that I
19 mentioned about informing the utilities of the
20 current year's winners, and informing the
21 showrooms to try to get them to stock more of
22 these fixtures. And informing the AIA and the
23 building trades and the lighting designers of the
24 state.

25 So, it's paid off rather well. It's

1 turned out to have an -- Southern California
2 Lighting Technology Center at Edison, they put
3 examples of the winners from past years, so that
4 the lighting designers in southern California can
5 come in and actually, see, touch and feel them.

6 COMMISSIONER BYRON: Okay, thank you,
7 Mr. Seaman.

8 COMMISSIONER ROSENFELD: I move the
9 item.

10 COMMISSIONER GEESMAN: I'll second the
11 item, but I'd like to express a pretty high level
12 of dissatisfaction with progress in this general
13 area of lighting.

14 I think the Commission, for a number of
15 years now, has done yeoman's work in trying to
16 promote improvements in this technology. And
17 we've assembled a research and industrial complex
18 of sorts to promote forward thinking and advanced
19 products in this marketplace.

20 But I think the pace of change has been
21 profoundly unsatisfactory. And I don't think that
22 it's been any better than what we've experienced
23 in the light duty automotive market, either.

24 Market instruments don't seem to be very
25 effective in promoting dispersion of technology in

1 this area. I think we need to acknowledge that
2 and recognize that the Commission's standard
3 setting authority is one that needs to be invoked.

4 Now, the last time we got into this area
5 we produced a less-than-whopping 5 percent
6 improvement in lighting. I think the level of
7 dissatisfaction has bubbled over to the
8 Legislature now. They've put Assemblyman
9 Huffman's bill to promote a 50 percent improvement
10 on the Governor's desk.

11 And I think we need to send a very loud
12 and clear message through the Consortium and
13 through our other activities that change is
14 coming. It's going to be a lot more sweeping than
15 the industry has been prepared to accept. And
16 people should get ready for that.

17 So, I second the motion, but with some
18 reservation.

19 CHAIRPERSON PFANNENSTIEL: Thank you.

20 All in favor?

21 (Ayes.)

22 CHAIRPERSON PFANNENSTIEL: It is
23 approved.

24 COMMISSIONER GEESMAN: Madam Chair, I
25 think that we have our parties on the phone now. L

1 et me open up the discussion first by inviting our
2 Hearing Officer, Mr. Kramer, --

3 CHAIRPERSON PFANNENSTIEL: I was just
4 looking around now --

5 COMMISSIONER GEESMAN: And let me also
6 read to the audience an email that we received at
7 9:34 this morning from George Aiken, the Manager
8 of Safety and Standards Branch, Federal Aviation
9 Authority, Western Pacific Region.

10 And it reads: We have received new
11 information from FAA Flight Standards Division
12 that we would like to have entered into the record
13 regarding the Russell City Energy Center. The San
14 Francisco Airport's District Office left a
15 voicemail message with Mr. Jim Adams,
16 Environmental Planner, California Energy
17 Commission, Friday September 7, 2007. I would
18 like to request that FAA be given additional time
19 to consider traffic pattern safety issues at
20 Hayward Executive Airport."

21 So in light of that email we have asked
22 Mr. Aiken to call in.

23 CHAIRPERSON PFANNENSTIEL: Thank you,
24 Commissioner Geesman. Before we hand this to Mr.
25 Kramer to introduce the discussion, I think for

1 the record I'd probably better note that this is
2 item number 2, possible adoption of the Presiding
3 Member's Amended Decision for the Russell City
4 Energy Center, on our agenda.

5 And then ask Mr. Kramer to introduce the
6 subject, and we will take -- we have two
7 representatives of the FAA on the phone, so we'll
8 hear from them after Mr. Kramer.

9 I also should note we have a number of
10 other people here who would like to speak on the
11 subject.

12 HEARING OFFICER KRAMER: So, is it your
13 pleasure, then, that we would take all of those
14 comments regardless of whether or not this is
15 continued?

16 CHAIRPERSON PFANNENSTIEL: I think we
17 should --

18 HEARING OFFICER KRAMER: I would
19 recommend that.

20 CHAIRPERSON PFANNENSTIEL: -- listen to
21 the people on the phone, and then the Committee
22 needs to decide from there whether to hold.

23 HEARING OFFICER KRAMER: Okay. Well,
24 this is an amendment petition. The original
25 Russell City Energy Center was approved in 2002.

1 In November of 2006 they petitioned to amend the
2 project by moving it approximately 1300 feet to
3 the northwest from its previously approved
4 location.

5 That process, through the staff analysis
6 phase, and an evidentiary hearing, was held in
7 July by the Siting Committee, which undertook the
8 review of this amendment.

9 A proposed decision was issued in
10 August. And that is what's before you, with an
11 additional errata, which has various changes that
12 resulted from the review by the parties and the
13 public; and from public comments that were
14 received at a public comment hearing last week.

15 In general, the community has expressed
16 concerns about the health effects of the project;
17 and the aviation community has expressed concerns
18 about the effect of having a power plant in that
19 vicinity on the operations of the Hayward
20 Executive Airport, which is nearby.

21 The decision found, regarding the health
22 issues, that all potential environmental impacts,
23 including health impacts, would be reduced to less
24 than significant levels.

25 And regarding the aviation issues, it

1 found that there would be no significant impacts
2 or LORS, laws, ordinances, regulations and
3 standards, violations if the power plant were
4 sited in the proposed location.

5 To summarize the aviation issue, if a
6 power plant is sited there because of Homeland
7 Security reasons, if no other reasons, pilots will
8 be directed not to fly over it, which, in effect,
9 removes the airspace from the inventory, if you
10 will, of air in which they can fly in the area.

11 Then the question becomes does that so
12 restrict the ability of pilots to fly in the area
13 that it creates an impact upon them.

14 The decision concluded that it did not,
15 based on various evidence, including information
16 that showed that only approximately 40 out of 1000
17 flights in a particular month that were tracked
18 flew in the vicinity of the power plant.

19 Without going further, I think it's
20 appropriate to consider the FAA's request for a
21 continuance. And Mr. Aiken is on the line, along
22 with his supervisor, I believe, Lori Suttmeier.

23 So if we can make Mr. Aiken available.
24 Mr. Aiken, could you explain the nature of your
25 request, how much time you feel you would need,

1 and -- well, I guess those would be the first two
2 questions, certainly.

3 MR. AIKEN: Good morning. First of all,
4 to clarify, I'm the Manager of Safety and
5 Standards with FAA; and I'm currently on
6 assignment up at the San Francisco Airport's
7 District Office. So, Lori Suttmeier is acting in
8 my position in the Regional Office while I'm up
9 here.

10 Our concern about this issue is that we
11 received additional information from the Flight
12 Standards Division, and I'd like to explain just
13 briefly what the function of the different lines
14 of business are within the FAA.

15 The Airports Division is concerned with
16 the appropriate use of land around public use
17 airports. And we seek to try to maintain safe
18 navigable airspace in keeping with FAR Part 77,
19 and that is airspace immediately surrounding an
20 airport.

21 Our concern is primarily related to
22 fixed objects, meaning realty and structures.
23 We're looking at roadways and other objects that
24 would create an obstruction that might affect
25 navigable airspace in close proximity to an

1 airport.

2 The other lines of business, on the
3 other hand, air traffic for one, air traffic is
4 concerned with navigable airspace, as well,
5 because they are issuing instructions to pilots
6 and flight crews operating into and out of
7 airports.

8 Flight Standards, on the other hand, is
9 the organization within FAA that is concerned with
10 the safe operation of aircraft, and the safe use
11 of -- I guess you'd say the safe use of -- safe
12 operation of aircraft in the airspace throughout
13 the country.

14 On Friday I received word from Flight
15 Standards that they had a concern about the
16 cooling tower. They were concerned about the
17 emission from the cooling tower, and the fact that
18 in the existing situation there's a ceiling, if
19 you will, that prevents aircraft that would have
20 to overfly the tower, it prevents them from flying
21 over 1000 feet. Instead we're looking at, I
22 believe, 700 feet would be the highest they could
23 fly over the tower.

24 And really what we need to do, or what
25 I'm asking for as far as a continuance, is I'm

1 asking for some time to get together with Flight
2 Standards, and perhaps have Flight Standards weigh
3 in directly with this group to identify what their
4 concerns are with it.

5 Now, in order to do that I have to do
6 some coordination and actually it's going to be my
7 counterpart, Ms. Suttmeier, who's going to be
8 doing some coordination with the other two lines
9 of business back in the Regional Office. And we
10 hope to initiate this immediately, and hopefully
11 can have a meeting to give you a better idea of
12 what kind of time we need, either this week or
13 early next week, I think.

14 Would that be acceptable to the group?

15 HEARING OFFICER KRAMER: So, in effect,
16 you need a week to decide how long you need. And
17 what is the shortest possible period you could
18 envision that group would need?

19 MR. AIKEN: I do not have an answer to
20 that. I think that there's a couple of -- we have
21 some issues that are going to have to be worked
22 out between more than one line of business. And
23 that is, the issue that we are dealing with here
24 is not the structure, itself, but what's emitting
25 from the structure, that is the heat coming off

1 the cooling tower.

2 And that is going to be an issue that
3 has to be discussed primarily with Flight
4 Standards because they raised the concern; but
5 also it's going to be prudent to have Air Traffic
6 involved in this discussion.

7 With that coordination having to occur,
8 I hesitate to give you an answer on that. But it
9 would not be, I don't think it would be -- it
10 would take a few weeks.

11 CHAIRPERSON PFANNENSTIEL: Commissioner
12 Geesman.

13 COMMISSIONER GEESMAN: Madam Chair, if I
14 can explain the context here. The one area in the
15 proceeding in which the Committee differed with
16 the staff's recommendation was in the area of
17 aviation safety.

18 The staff had recommended that the
19 amendment not be approved because of the staff's
20 concerns over aviation safety. The staff also
21 made clear that it does not feel that the FAA has
22 been sufficiently diligent in this area of cooling
23 tower plumes.

24 Despite that, the Committee placed its
25 faith and reliance on correspondence received by

1 the FAA and recommendations to mitigate any
2 potential safety risk provided in writing by the
3 FAA.

4 So, in light of the FAA's desire for
5 additional time, I'd have to say I'm inclined to
6 provide the additional time. I think we ought to
7 hear from the applicant and perhaps the staff and
8 the intervenor before making a decision though.

9 CHAIRPERSON PFANNENSTIEL: Does the
10 applicant have comments on the matter?

11 MR. WHEATLAND: Yes, I do. Good
12 morning. I'm Gregg Wheatland and I'm the attorney
13 for the applicant.

14 I want to say first of all this is an
15 important meeting for me today because it marks
16 the 30th anniversary of when I first joined the
17 Commission as a staff member. And I've been
18 serving as an attorney for the Commission, and
19 also appearing before the Commission now for 30
20 years.

21 I have to tell you I have never seen, in
22 30 years, what has happened here today. The FAA
23 has had notice of this plant for six years. The
24 FAA approved our form 7460. The FAA has
25 communicated to the Commission in a letter of July

1 18, 2007.

2 The FAA has had ample opportunity to
3 participate in this proceeding, and it is
4 incredible that just 20 minutes before our final
5 hearing they now ask for additional time.

6 It's equally incredible that they
7 communicated with Mr. Adams last Friday, but did
8 not communicate with the Committee, did not
9 communicate with the applicant. And Mr. Adams
10 apparently did not pass this information on to the
11 other parties.

12 The applicant has vigorously pursued
13 this amendment now for the last nine months. We
14 have informed the Committee throughout this
15 process and the Commission of our need for a
16 timely decision. We are under a commitment to
17 have this project online by 2010. And given the
18 construction schedule, given the financing
19 schedule, given the need to put this through the
20 process of the CPCN, it's vital that we have a
21 decision here today.

22 I cannot stress how strongly and how
23 important it is that we have a timely decision.

24 It's important also to note that not
25 only has the FAA had an opportunity to

1 participate, but the Commission Staff has
2 vigorously prosecuted this issue.

3 They have combed the country and the
4 world to find examples of issues to raise in this
5 proceeding. We have heard everything from
6 decisions in Connecticut to the zoning standards
7 in Sydney, Australia.

8 And frankly, I think there is a full and
9 adequate record upon which the Commission can make
10 a timely decision here today.

11 After all, the FAA is not an agency
12 within the jurisdiction of this Commission. This
13 Commission has authority over state and local
14 standards. And whatever additional conditions the
15 FAA may choose to impose on this project, it is
16 free to do so under its federal authority.

17 So I would submit to you that not only
18 is a delay unjustified on the basis of the fact
19 that the FAA has had an opportunity to
20 participate, but is unjustified because it doesn't
21 prevent them from taking whatever actions they
22 have under their legal authority once this
23 amendment is granted.

24 So I would urge the Commission and plead
25 with the Commission to take timely action on it

1 here today. If you would like to hear further on
2 the need for a timely license, Mr. Argentine is
3 prepared to speak to that this morning. But I
4 hope you will go ahead and have the hearing be
5 held, take whatever information Mr. Aiken wishes
6 to present today, and then make a decision on our
7 license. Thank you.

8 CHAIRPERSON PFANNENSTIEL: Mr. Wheatland
9 or Mr. Argentine, I'd like to hear a little more
10 about your schedule. Why it is the decision
11 today, as opposed to perhaps two weeks or two
12 weeks beyond that, is critical.

13 MR. ARGENTINE: Well, let me remind you,
14 as Mr. Wheatland stated, that we do have a power
15 purchase agreement for this project. And it
16 requires that the project be COD June 1, 2010. In
17 order to meet that schedule we have to -- the
18 generation tie for the project also has to be in
19 place to provide backfeed power for the
20 construction process. That requires the filing of
21 a CPCN, as Mr. Wheatland pointed out. And that
22 CPCN process takes a minimum of three to four
23 months.

24 That is also a precursor to financing
25 the project, which would allow us, which we need

1 for construction. And that is scheduled to begin
2 in early spring to late spring of 2008.

3 If for some reason this project is
4 delayed and we are unable to meet COD, I mean it
5 could potentially make this project uneconomic.

6 CHAIRPERSON PFANNENSTIEL: Thank you.
7 Comments from the staff.

8 MR. RATLIFF: Madam Chair, I only heard
9 about this --

10 CHAIRPERSON PFANNENSTIEL: Your mike for
11 the record.

12 MR. RATLIFF: I only became aware of
13 this new information when I entered the hearing
14 room today, so I haven't had an opportunity to
15 discuss it with the staff.

16 But I think I would have to say that
17 this was an issue that was very important to staff
18 and we wanted to bring to the attention of the
19 Committee. And we have sought to get the FAA's
20 input on this issue without a great deal of
21 success during the proceeding. So, we would
22 support giving more time for the FAA to respond to
23 the issue.

24 Having said that, I feel the applicant's
25 pain. They're in a hurry, and this is untimely.

1 And frequently our experience in dealing with
2 federal agencies is that they have a very relaxed
3 attitude about timeframes that have no sympathy
4 for either the staff's schedules or the
5 applicant's contractual demands.

6 We would therefore ask the FAA to try to
7 compress the timeframe that they are going to use
8 to provide the feedback that we need to make a
9 decision.

10 MR. HAAVIK: Good morning. My name's
11 Paul Haavik; I'm the intervenor in this particular
12 case. I'm also the intervenor for the Eastshore
13 project slated for consideration in front of you
14 some months down the road.

15 I am greatly concerned that the FAA
16 cannot give us a definite timeline today. I'm
17 concerned about that. I'm concerned about this
18 dragging out for the public. The public would
19 like to have this matter taken care of in a
20 concise appropriate manner.

21 Although I don't believe the two weeks
22 is out of bounds, but I'm telling you that if it's
23 two weeks, then is there another two-week
24 continuance, and then there's another two-week
25 continuance. I think we need to have that settled

1 today.

2 And I do understand and feel the same as
3 Mr. Ratliff in regards to the Calpine folks. They
4 started this thing in 2001. It's now late in
5 2007. It needs to be over with.

6 And I think if it's only two weeks, and
7 there is definite information, then I would
8 support the staff's recommendation, also, to
9 continue. But no more than two weeks. This has
10 been drug out way too long.

11 CHAIRPERSON PFANNENSTIEL: Commissioner
12 Geesman.

13 COMMISSIONER GEESMAN: I'm afraid my
14 recommendation would be that we simply put the
15 matter over.

16 CHAIRPERSON PFANNENSTIEL: Commissioner
17 Byron.

18 COMMISSIONER BYRON: Madam Chair, I
19 concur. I'm also concerned about the objections
20 raised by the applicant for the delay. But I
21 think safety in this case trumps it.

22 It's unfortunate that it's taken this
23 long for us to wake up the giant in Washington,
24 D.C., I guess, the FAA. I hope that Mr. Aiken is
25 still on the phone and has heard some of this

1 discussion.

2 Mr. Aiken, could you please respond to
3 the issue of the timeliness once again in terms of
4 when we might get some clarification from the FAA
5 on this issue?

6 MR. AIKEN: Absolutely. I can commit to
7 expediting this through the Region. I will speak
8 with -- since I'm up in the San Francisco District
9 Office here; I'm not physically here in the
10 building, but I can assure everybody that we will
11 expedite this.

12 And if there's somebody that we can --
13 that you'd like me to report back to, I can
14 certainly do that when I have a better idea of
15 exactly when we can have a first meeting and work
16 towards addressing the concern that was expressed
17 by the Flight Standards Division.

18 COMMISSIONER GEESMAN: I would recommend
19 that you be back in touch with Mr. Kramer; and
20 that you specifically address whether you are
21 withdrawing or amending the correspondence which
22 your agency has previously provided us, and upon
23 which we have relied, and which we received
24 roughly six weeks ago.

25 As the applicant's counsel said, this is

1 completely unprecedented in more than 30 years of
2 operation of this Commission. And it is not a
3 good way for different levels of government to
4 interact.

5 MR. AIKEN: Yes, I agree. I agree. I
6 will get back to Mr. Kramer just as soon as I'm
7 able. I would hope to have something, some idea
8 of the timeframe by the end of this week.

9 CHAIRPERSON PFANNENSTIEL: Thank you.
10 We do -- yes, Mr. Wheatland.

11 MR. WHEATLAND: I'd like to just ask one
12 -- make one additional request of Mr. Aiken. And
13 that is that if he's going to communicate
14 substantively on this issue, if he communicates on
15 the schedule with Mr. Kramer, that's great. But
16 if he's going to communicate substantively on this
17 issue with any of the parties in this proceeding
18 that he include the applicant.

19 HEARING OFFICER KRAMER: Well, if he did
20 not, I would forward it to everyone. May I ask --

21 MR. AIKEN: I agree to that.

22 HEARING OFFICER KRAMER: To clarify, is
23 the continuance request to a specific date which
24 would --

25 COMMISSIONER GEESMAN: No.

1 CHAIRPERSON PFANNENSTIEL: I also have
2 three parties who are here to speak to this
3 matter. I know that they traveled up to
4 Sacramento today. I'm assuming they would rather
5 speak to us when we're going to act on this
6 matter, which might mean coming back to
7 Sacramento. But, if, for some reason, they cannot
8 come back to Sacramento and want to make a
9 statement on the record, I will give them the
10 opportunity today.

11 MR. PACHECO: Excuse me, as one of the
12 people -- if I ask a question --

13 CHAIRPERSON PFANNENSTIEL: Can you come
14 to the microphone. We can't pick you up on the
15 transcript from back there.

16 MR. PACHECO: Let me ask you a question,
17 please.

18 CHAIRPERSON PFANNENSTIEL: Could you
19 identify yourself for the record, please, sir?

20 MR. PACHECO: My name is Ernest Pacheco.
21 And I believe I'm one of the people that you have
22 a blue card from to speak.

23 My question is does this extend the
24 deadline where we can submit written information
25 to you and your staff on this matter?

1 CHAIRPERSON PFANNENSTIEL: Mr. Kramer,
2 how does the schedule, at this point, work?

3 HEARING OFFICER KRAMER: I would think
4 certainly they can submit written comments,
5 especially if you don't want to come up the next
6 time. And we'll docket those and forward those.

7 CHAIRPERSON PFANNENSTIEL: Provide
8 those. Mr. Wheatland.

9 MR. WHEATLAND: I'd like to request that
10 the Commission provide an opportunity for those
11 who have come here to speak today to speak to the
12 record on this proceeding. But the Commission not
13 reopen the record on all of the issues pending in
14 this proceeding.

15 If you choose to reopen it specifically
16 with respect to the FAA's comments, that's your
17 decision. But I would plead with you not to
18 reopen it with respect to all issues in this
19 proceeding.

20 CHAIRPERSON PFANNENSTIEL: We had just
21 offered an opportunity to speak to the proposed
22 decision.

23 MR. WHEATLAND: Right.

24 CHAIRPERSON PFANNENSTIEL: And those
25 would be comments that would be coming in, in

1 general.

2 MR. WHEATLAND: Yes, but additional
3 written comments after today I think would be
4 inappropriate.

5 CHAIRPERSON PFANNENSTIEL: Other than on
6 the FAA --

7 MR. WHEATLAND: FAA.

8 CHAIRPERSON PFANNENSTIEL: -- change, or
9 the FAA comments.

10 HEARING OFFICER KRAMER: I think that's
11 up to the Commission to determine if they want to
12 receive more.

13 CHAIRPERSON PFANNENSTIEL: Chairman of
14 the Committee?

15 COMMISSIONER GEESMAN: I would encourage
16 members of the public to share their thoughts with
17 us on any subjects at anytime. But recognize
18 there is a distinction between public comments and
19 evidence. We're not reopening the evidentiary
20 record on anything right now.

21 I've recommended that we continue the
22 matter to some date yet to be specified. The FAA
23 has requested that continuance, and may, in fact,
24 offer evidence on the aviation issue or may not,
25 simply haven't made that decision.

1 MR. PACHECO: Thank you.

2 CHAIRPERSON PFANNENSTIEL: Thank you.

3 Yes.

4 MS. LePELL: Good morning. My name is
5 Audrey LePell. I live in Hayward, California. I
6 would like to say a comment about what I just
7 heard. And I will refer to this in my remarks in
8 a few minutes.

9 But the public's right to know includes
10 all of the testimony. And I'm sure that Congress
11 and other people would be interested in what will
12 be happening today, because I have already been
13 told that by our Congressman, Pete Stark.

14 So now I shall make my remarks. First
15 of all, I live in Hayward. I am the President of
16 an organization called CATS. I have addressed the
17 California Energy Commission this summer, and
18 staff at their meetings.

19 I want to say that I have been told that
20 you have received numerous letters, emails, maybe
21 even telegrams and phone calls regarding the
22 Calpine application. And is it possible to
23 respond to what I say, or do you just take
24 testimony?

25 CHAIRPERSON PFANNENSTIEL: This is

1 actually public comment, as opposed to testimony.
2 And I would say that everything we have received
3 has been made public.

4 MS. LePELL: And where would that please
5 be?

6 CHAIRPERSON PFANNENSTIEL: In the docket
7 and on our website. You can go to the docket for
8 this proceeding and find everything we have
9 received.

10 MS. LePELL: Then I shall also refer to
11 that. Thank you.

12 Secondly, I have asked by phone for a
13 transcript of the July meeting. I have not
14 received any transcript. It wasn't presented to
15 me this morning. Thank you.

16 Number two -- number three, where are
17 the copies that I requested from Mr. Adams of your
18 handbooks?

19 CHAIRPERSON PFANNENSTIEL: Perhaps staff
20 needs to talk with you about involvement in our
21 proceedings. We do have materials available for
22 involvement in the proceeding. I don't see
23 anybody here from the Public Adviser's Office,
24 but -- Nick Bartsch is there. So he will make
25 sure that you receive the handbooks that you need.

1 Nick, would you identify yourself again so that
2 she can --

3 MS. LePELL: My name is -- me?

4 CHAIRPERSON PFANNENSTIEL: There. He
5 will make sure that you get the materials you
6 need.

7 MS. LePELL: I requested this by phone
8 two or three days ago. The secretary was so kind
9 to me on the phone; said a transcript that I
10 requested would be provided to me. Is that the
11 transcript we're talking about?

12 CHAIRPERSON PFANNENSTIEL: That's fine.
13 Maybe it -- yes, that is --

14 MS. LePELL: Okay. Thank you. And now
15 I'll just say my remarks, please.

16 I'm Audrey LePell; I live at 299 Ocie
17 Way in Hayward, California. It has come to our
18 attention that the CEC will be deciding today, we
19 thought, about whether to build the Russell City
20 Energy Center in west Hayward. Perhaps you will
21 not decide that today.

22 CHAIRPERSON PFANNENSTIEL: We will not
23 decide that today.

24 MS. LePELL: Thank you. I, as a private
25 citizen of Hayward, who has lived in Hayward for

1 44 years, and as the President of CATS -- CATS
2 stands for Citizens for Alternative Transportation
3 Solutions -- we urge the CEC to say no to Calpine,
4 to the Calpine proposal to locate their energy
5 plant in west Hayward.

6 Calpine is also called the Russell City
7 Energy Center. It is named because at one time in
8 Hayward's history there was a small,
9 unincorporated town called Russell City.

10 Why does CATS oppose the building of the
11 Russell City Energy Center? Because of the
12 following: When attending your meetings on July
13 11, 2007, the first workshop in Hayward that I
14 personally attended, there were no EIR documents
15 or even staff comment -- staff summaries, excuse
16 me, for the public to read.

17 Mr. Lance Shaw did provide a quote,
18 "staff workshop guideline" I will call that. CATS
19 thanks him for that document. The evening meeting
20 the CEC, as represented by your two Commissioners
21 and the Presiding Officer, out in front of the
22 Hayward City Council Chambers. At that meeting
23 there were no documents for the public to read.
24 Only an agenda; and no background documents for
25 the public to read.

1 Next, on September 5, 2007, only an
2 agenda; again, no documents for the public to read
3 before the meeting took place. Calpine did have a
4 summary of their findings, but no summary
5 documents on behalf of the CEC for the public to
6 read.

7 September 6, an afternoon meeting held
8 by staff regarding the somewhat new application of
9 the Tierra Energy Plant in west Hayward. No
10 documents for the public to read. Not even a
11 summary of your staff's comments. Mr. Pfanner
12 kindly lent me his EIR to read during the meeting.
13 No EIR for other members of the public to read was
14 made available.

15 I was given a copy of the combined EIR
16 for Calpine and Tierra Energy issued as of June
17 29, 2007. Not by your staff, but by Mr. Andy
18 Wilson, who delivered to me at my home. He said
19 he received it off the internet.

20 I was not even told by staff, Mr. J.
21 Mike Monasmith, that I could get the information
22 off the internet. I was not told that. Only
23 later, after the meeting, did Mr. Monasmith say
24 that a report could be received if I had a
25 computer and had internet access.

1 But I wonder, if I did not own a
2 computer and had no internet access, how would I
3 know what has been the information that I was
4 wanting. Where to see my remarks of the June
5 meeting? I cannot find them as of today. Where
6 are the statements that I made at the July
7 meeting? I cannot find them, either. What is
8 going on here.

9 Many people in Hayward were not notified
10 that your amendment number 2 staff report
11 recommended against both power plants being built
12 in Hayward. CATS thanks the staff for their
13 excellent report.

14 I have red tags on the EIR which I don't
15 have in front of me, that you see, or could see,
16 are the areas that I, as President of CATS,
17 responded to. Where in any documents are my
18 comments reported accurately or correctly?

19 Where are your guidelines for the
20 public's right to know your deadlines. What do
21 these procedures say? Where are those guidelines
22 and dates published? Why did your staff not issue
23 their summary comments about the Russell City
24 Energy Center? I can say, please see your staff
25 report issued June 2007.

1 Where is the transportation report that
2 I was supposed to receive July 18th? I never
3 received a copy. In fact, I have received no
4 correspondence from your Commission people since I
5 first began to appear in front of you or your
6 staff since June 2007. Neither have I received an
7 email or regular mail, with the exception of one,
8 that Mr. Mike Monasmith said, welcoming me to the
9 CEC meetings. No other words from you or your
10 representatives have been received by me.

11 What should I think? I thought the CEC
12 was appointed to represent people like me, the
13 public, and not the interests of others. That is,
14 large or small companies. If the CEC is composed
15 of members who were formerly employed by Calpine
16 or PG&E or any other like energy company, how can
17 those people possibly be objective in their
18 relationship to PG&E or Calpine or any other
19 related company.

20 Your combined EIR, June 29th, is not
21 complete, as I stated in my remarks to the CEC on
22 July 11, 2007. For the record, I stated my
23 concerns at that meeting. I have no documents to
24 prove that I spoke at the meeting. But I did sign
25 in. I have a private journal in which I wrote

1 that I spoke to your staff. That was the
2 afternoon, opposing Calpine's request to build an
3 energy plant in west Hayward. I spoke as a
4 private citizen and as the President of CATS.

5 My organization voted unanimously to
6 oppose the position of Calpine -- I'm sorry, the
7 position -- I'd better say this better again. I
8 spoke as a private citizen, as the President of
9 CATS, my organization voted unanimously to oppose
10 the Calpine Energy Plant for many reasons, which I
11 have stated.

12 There are other reasons which I will
13 write to you within 30 days. I also have asked
14 about the previous oral comments made by the
15 Hayward Area Shoreline Planning Agencies, Citizen
16 Advisor Committee in 2001 or 2002, who, at that
17 time, opposed the Calpine Energy Plant.

18 Your Mr. Lance Shaw said he had never
19 heard of the JPA, the Joint Power Agency or
20 agreement, which represents the City of Hayward,
21 Hayward Area Recreation District, or HARD, and the
22 East Bay Regional Park District. That he had not
23 heard of HASPA's CAC, Citizens Advisory Committee.

24 I have been a member of the HASPA
25 Citizens Advisory Committee for 33 years. I do

1 not speak for the CAC, and said so at that
2 meeting. But I expressed my concerns about the
3 Calpine Plant, that it had been bankrupt and had
4 been reconstituted and affiliated in some manner
5 with PG&E, another company that had been in
6 bankruptcy until only recently.

7 I'm only one member of the CAC, but
8 there are others of the CAC who opposed the
9 Russell City Energy Center's being placed near the
10 Hayward shoreline. The CAC, Citizen Advisory
11 Committee, is very very protective of our
12 shoreline, along with its permanent residents; and
13 the Calpine Energy Plant is not welcome near our
14 unique shoreline.

15 At this last meeting, September the 5th,
16 I addressed your Mr. Byron and Mr. Geesman, Staff
17 and other citizens. I signed my name per your Mr.
18 Mike Monasmith's request. I requested that I
19 receive a transcript of that meeting. No
20 transcript was forthcoming.

21 At your most recent meetings on
22 September 5 and 6, which we, in the audience, were
23 told would be October. In October I wish to add
24 that someone on the dais said at the July meeting,
25 see you in October.

1 At that evening meeting of September the
2 5th I again addressed the two members of the CEC
3 who were present, questioning their decision to
4 reveal their decision before the public had the
5 opportunity to testify, or state their opinions as
6 to the Calpine project, also named the Russell
7 City Energy Center. Is this common practice? I
8 hope not. As, again, there are major problems
9 with this document.

10 And in conclusion, as I only received
11 the document on September the 5th, and today is
12 September the 12th, I literally have not had
13 enough time to comment on these recommendations.

14 CATS believes there's a process that is
15 not correct and that this whole matter is being
16 rushed to judgment by the Energy Commission. I
17 will add further remarks as I take notes today.

18 Again, I'm the President of CATS,
19 Citizens for Alternative Transportation Systems
20 Solutions, a grassroots organization with a
21 substantial membership base and a database of over
22 600 individuals.

23 I thank you for your time and I wish I
24 had more to offer, but I do not because of the
25 deadlines that we were told, but which I question.

1 Thank you.

2 CHAIRPERSON PFANNENSTIEL: Thank you.
3 Mr. Flashman. There's a card for Mr. Flashman.
4 Now, again, I would offer that since we are not
5 going to take this up today, you could wait until
6 the Commission at which we are, or since you've
7 traveled up here you may offer comment. I would
8 ask that you not necessarily be redundant of what
9 we've heard, but clearly offer your comments.

10 MR. FLASHMAN: Thank you. My name is
11 Stuart Flashman; I'm an attorney for CATS. And
12 I'm not going to talk about the air traffic issues
13 because I understand that's been put over to hear
14 from the FAA. So if I do have things to say I'll
15 try and come back and say them at the next
16 meeting, when that is on the table.

17 But I did want to make some general
18 comments about this project and particularly in
19 terms of the CEQA process. Now, I know that, of
20 course, the Energy Commission does not prepare
21 environmental impact reports, per se. What it
22 does is an equivalent of an EIR. But
23 nevertheless, it is still required to comply with
24 CEQA.

25 And the proposed decision does, indeed,

1 reference the issues that are CEQA issues; issues
2 about environmental impacts. However, I want to
3 point out several areas where the proposed
4 decision is deficient in terms of its discussion
5 of environmental issues.

6 Particularly I want to point out that a
7 lot of the decision relies on compliance with
8 current or future regulations. And while it's a
9 nice thing and it's an important thing that this
10 project comply with all current regulations or
11 future regulations, that doesn't necessarily
12 indicate, per se, that the project has no impacts.
13 Or that those impacts have been fully mitigated by
14 compliance with present or future regulations.

15 Let me talk specifically about two areas
16 where I think there are problems. One is the area
17 of global warming. The proposed decision does
18 have a section that talks about global warming and
19 points out that the project would be required to
20 comply with future regulations that would be put
21 forth governing emission standards for CO2.

22 And it points to the requirement that
23 the facility would be required to put in to
24 provide information on what its CO2 production is,
25 once it's operating.

1 However, that doesn't necessarily say
2 that there won't be impacts. And, indeed, I think
3 it can be said, you know, it's beyond dispute that
4 when you have a power plant whose whole purpose is
5 to burn carbon-based fuels, you're going to have
6 CO2 production. And that's going to be an impact.

7 And the proposed decision doesn't give
8 any explanation of how those impacts could be
9 avoided or mitigated. There's no discussion, for
10 example, about whether there's going to be offsets
11 for that CO2 production.

12 There's no discussion about whether
13 other alternative mechanisms might be used that
14 might reduce the need for this power plant. For
15 example, particularly in terms of peak load,
16 whether additional incentives for customers to
17 reduce their energy requirements during peak load
18 periods might be just the total energy
19 requirements and might reduce the need for this
20 power plant to be put into operation.

21 Those sort of things need to be
22 addressed because it's obviously an important
23 issue. This is not Oklahoma where people might
24 say, oh, global warming doesn't exist. This is a
25 state that officially both the Governor and the

1 Legislature have acknowledged global warming
2 exists; have acknowledged that humans impact it;
3 and have acknowledged that this state needs to do
4 whatever it can to reduce global warming impacts.

5 And this report's current discussion of
6 global warming impacts is simply inadequate. And
7 I might point out that in today's paper there's an
8 article discussing the Attorney General's
9 settlement of a lawsuit against Conoco Phillips on
10 this very issue of global warming impacts on a new
11 project.

12 The regulations that would be put in
13 effect are going to apply to all facilities. But
14 this is a new facility and CEQA requires
15 additional consideration of impacts when you're
16 considering whether to approve a new facility.
17 And this proposed decision doesn't address that
18 adequately.

19 The other issue also on air quality has
20 to do with the proposed decision's assumption that
21 meeting the local air district's air quality
22 standards fulfills its requirements in terms of
23 addressing air quality impacts. It does not.

24 The air quality district's requirements
25 and regulations are generic. They're general and

1 they apply overall. But we're talking here about
2 a facility that will have local impacts at
3 particular times of year. In particular, I want
4 to point out that this facility will be operating
5 during the summer, during peak load periods.

6 And during those peak load periods we
7 often have a reverse flow, which means we have an
8 atmospheric condition where the air in the Bay
9 Area stagnates. And it does not circulate as it
10 normally does. When that happens there's a
11 buildup of local pollution.

12 Now, the proposed decision does suggest
13 an opportunity, basically saying that there would
14 be an increase -- it says: Applicant has agreed to
15 limit NOx emissions to 1225 pounds per day during
16 the June 1st to September 30th ozone season,
17 ozone season, with additional ERCs provided to
18 make up the difference between 1225 pounds and the
19 already committed 848 pounds of mitigation.

20 Well, providing offsets in terms of
21 purchased reductions at other facilities is not
22 going to help the local situation in Hayward.
23 When you have this plant in operation on a summer
24 day with reverse flow, you're going to have
25 increased air pollution in Hayward. And that will

1 have health effects.

2 And having another facility somewhere
3 else reduce its NOx production during the general
4 period of the summer is not going to do anything
5 to mitigate those local health effects on
6 specifically those, if you will, spare-the-air
7 days that happen during the summer.

8 And as the Commission is well aware, the
9 Bay Area does, indeed, tend to have at least three
10 or four spare-the-air days each summer. This
11 Commission needs to take that into account and
12 really needs to add a condition on this plant that
13 would give the Commission or local authorities,
14 such as the air district, the authority to shut
15 down this plant if local conditions require it on
16 these types of spare-the-air days.

17 Now, I know these are also days when
18 there's high energy demand. But nevertheless, I
19 believe health and safety takes precedence.

20 That's basically my comments for today.

21 CHAIRPERSON PFANNENSTIEL: Thank you.

22 One other person who's asked to speak on this
23 subject, Patrick Miles.

24 MR. MILES: Yes, thank you. My name's
25 Patrick Miles. I'm an Aviation Safety Inspector

1 for the State of California. My remarks will be
2 very brief.

3 I just wanted to commend the FAA,
4 actually, for weighing in on this, even if it was
5 at the last moment. There are several reasons why
6 the FAA needs to look at additional things that go
7 beyond the 7460 process that was done earlier.

8 The 7460 process, itself, essentially
9 only looks at the height of structures. It
10 doesn't go beyond that. And so we had hoped that
11 the FAA would do this. And we've thanked George
12 for doing it. And it's my experience working with
13 George that he does expedite things very quickly
14 and I commend him for weighing in, even at the
15 last moment.

16 But the reasons for it needs to be
17 explored further is because of the emissions that
18 come from the towers, and because of the
19 limitations because of the structure of the
20 airspace there in this area.

21 The corridors coming into Oakland
22 International, San Francisco are very restrictive,
23 and so they need to take a look at how this is
24 going to affect the flow of traffic, particularly
25 airplanes coming up from the San Carlos area.

1 That's not been looked at adequately to this point
2 in time.

3 Another thing, too, is this is a very
4 important reliever airport and the FAA has sunk a
5 lot of money into this to make sure that the
6 safety projects are implemented there to keep it
7 safe. So, I just commend George for willing to
8 jump in at the last moment.

9 Thank you.

10 CHAIRPERSON PFANNENSTIEL: Thank you.

11 This item is continued.

12 Item number 7, -- Mr. Wheatland.

13 MR. WHEATLAND: Just one point of
14 information. What is the date by which the
15 Commission would have to make a decision whether
16 to put this on the next agenda in order to have
17 this noticed?

18 CHAIRPERSON PFANNENSTIEL: Harriet,
19 what's the -- Harriet, what is the date by which
20 we need to put this on the agenda -- we need to
21 notice that it will be on the agenda? How long
22 before the prior meeting does it need to go on?

23 MR. CHAMBERLAIN: It's basically ten
24 days under the Open Meetings Act, which means
25 Friday morning.

1 COMMISSIONER GEESMAN: I think we can
2 simply continue it to our next business meeting --

3 MR. WHEATLAND: To the next meeting.
4 Thank you.

5 COMMISSIONER GEESMAN: -- and roll that
6 over if that proves to be necessary.

7 CHAIRPERSON PFANNENSTIEL: If necessary.

8 MR. WHEATLAND: Thank you very much.

9 CHAIRPERSON PFANNENSTIEL: Mr. Kramer,
10 do you have anything else?

11 HEARING OFFICER KRAMER: No, that's
12 fine.

13 CHAIRPERSON PFANNENSTIEL: We'll go on
14 to item number 7. Possible approval of contract
15 500-07-006 for \$250,000 with the U.S. Department
16 of Energy Lawrence Berkeley National Laboratory,
17 to develop test procedures for residential forced
18 air system cabinet leakage and blower efficiency.
19 Ms. Brook.

20 MS. BROOK: Hello; I'm Martha Brook with
21 the efficiency standards office. The proposed --

22 CHAIRPERSON PFANNENSTIEL: Excuse me,
23 could the gentlemen take the discussion outside.
24 Thank you. Martha.

25 MS. BROOK: The proposed research

1 includes two related tasks, air handler cabinet
2 leakage and air handler fan efficiency.

3 The first objective is to develop test
4 procedures and acceptable performance levels for
5 the air leakage of forced air system cabinets for
6 primarily furnace cabinets and air handler boxes
7 for heat pumps, based on laboratory testing,
8 existing field and laboratory data.

9 The second objective is to develop test
10 procedures and acceptance performance levels for
11 electricity consumption of forced air system fans
12 based on laboratory testing.

13 Input from manufacturers of HVAC
14 equipment, manufacturers of test equipment, as
15 well as standards and code bodies, including the
16 Commission and ASHRAE, will be essential parts of
17 both tasks, and is incorporated into the proposed
18 scope of work.

19 Both tasks will contribute to future
20 efficiency standards in California. We're looking
21 forward to being able to reference test procedures
22 in order to improve the standards in both areas of
23 air handler fans.

24 And the R&D Committee approved this
25 item; and I'm here to answer any questions you

1 might have.

2 CHAIRPERSON PFANNENSTIEL: My question
3 is just that the work under this contract seems
4 related to the work that we just approved for the
5 Center for the Built Environment. I understand
6 they're different parts of UC -- well, one is UC
7 and one is DOE Labs. But they're both related, in
8 essence, to buildings and, to some extent, the
9 HVAC within the buildings.

10 Is there a connection -- are these
11 brought together at some point?

12 MS. BROOK: Well, this particular
13 contract is actually very specific. And it's
14 really focused on residential and small commercial
15 size equipment. The fan efficiency standards that
16 will go in place in the 2008 standards will be
17 supported in the future standards by this work.
18 And, in fact, we're sort of limited right now in
19 the ability to -- although we're going to specify
20 fan efficiencies in the standard, there's no real
21 good way for equipment manufacturers to agree on a
22 test procedure for how to comply with the
23 standard.

24 So this work is really focused on a very
25 narrow market of HVAC systems. And I'd say that

1 the Center for the Built Environment work is
2 really more focused on large commercial buildings.
3 The HVAC system part of their work is focused on
4 large commercial buildings.

5 And they are really -- the Center for
6 the Built Environment work typically does more
7 design guidelines and less sort of test procedure
8 and standard specification type of work. And
9 that's -- the latter is more closely related to
10 the work that we're doing in this contract.

11 I don't know if that helps or not,
12 but --

13 CHAIRPERSON PFANNENSTIEL: No, that
14 does, thank you. It does seem to me that this is
15 an area -- HVAC work in buildings is clearly one
16 of our big focus areas, an area that we need to
17 focus on. And I just want to -- I want some
18 assurance that the work that's going on in
19 different parts of the research establishment,
20 that people are talking to each other and this
21 information is being shared.

22 MS. BROOK: Yeah. I think that there's
23 no duplication in these two efforts.

24 CHAIRPERSON PFANNENSTIEL: Thank you.
25 Further questions, discussion?

1 COMMISSIONER ROSENFELD: I move the
2 item.

3 COMMISSIONER GEESMAN: Second.

4 CHAIRPERSON PFANNENSTIEL: In favor?
5 (Ayes.)

6 CHAIRPERSON PFANNENSTIEL: That is
7 approved, thank you.

8 MS. BROOK: Thank you.

9 CHAIRPERSON PFANNENSTIEL: Item 8,
10 possible approval of PIER work authorization MR-
11 075 for \$334,204 with One Cycle Control, Inc.,
12 under the UC Master Research Agreement number 500-
13 02-004 with the Regents of the University of
14 California Office of the President/CIEE, for field
15 demonstration of One Cycle Control active power
16 filter. Good morning.

17 MR. LESH: Good morning, Commissioners.
18 My name is Geoff Lesh; I'm a member of the PIER
19 Staff in the energy efficiency research offices
20 IEW team.

21 Staff is requesting approval of the work
22 authorization for \$334,000 with the University of
23 California Office of the President/California
24 Institute for Energy and Environment, to contract
25 with One Cycle Control, Inc. to conduct a field

1 demonstration of an energy efficiency and power
2 quality improvement technology that acts to reduce
3 wasted energy and boost grid capacity for
4 industrial end-users.

5 This project was solicited through a
6 competitive RFP through the CIEE, and is one of
7 the first -- or is the first of three that were
8 selected. The project is funded by the PIER
9 electricity fund.

10 This technology, called One Cycle
11 Control, is a relatively simple method of using
12 active power filter technology for dynamic power
13 factor correction at industrial end-user sites.

14 It uses a compact design with fewer
15 parts to provide power factor correction at lower
16 cost than conventional designs. The result is
17 that reactor power currents that must be handled
18 by the grid and transformers that waste energy
19 without delivering usable power are largely
20 eliminated.

21 If successfully demonstrated, the
22 expected lower cost, smaller size, simpler
23 operation and improved reliability of this design
24 would assist and encourage the wider adoption of
25 power factor correction by end users, potentially

1 saving approximately 2 percent in their energy
2 usage, while increasing local grid capacity by
3 approximately 30 percent.

4 This demonstration will involve
5 validating the performance of this technology at
6 three separate and different industrial sites
7 using an industrial-sized device.

8 Because of the ability to boost end-user
9 efficiency and local grid capacity, it is expected
10 that there would be energy and infrastructure cost
11 savings to the State of California.

12 At this point I will be glad to take any
13 questions you might have about this project.

14 CHAIRPERSON PFANNENSTIEL: Questions?
15 Yes, Commissioner Byron.

16 COMMISSIONER BYRON: Mr. Lesh, this is
17 great. This, as I read this I was very intrigued
18 by this kind of technology. I was glad to see, I
19 think it will help a number of large end-use
20 customers, if successful.

21 I was curious, though, is there any
22 utility participation or interest in this
23 technology?

24 MR. LESH: In this particular project
25 they are not involved.

1 COMMISSIONER BYRON: Nor am I suggesting
2 they should be.

3 MR. LESH: But there is widespread
4 research using this particular design. It was
5 developed, I think, approximately ten years ago
6 and is still trying to get entry into the
7 marketplace. Existing designs for something
8 similar are more complicated and very expensive
9 and less reliable, taking more user intervention
10 to keep them running.

11 This is what they call an analog device,
12 solid state, without the digital signal
13 processing. And so it's hoped to be a turn-it-on-
14 and-let-it-run kind of a device.

15 COMMISSIONER BYRON: And how long will
16 it take until we get data that demonstrates the
17 viability of it?

18 MR. LESH: The contract is for three
19 years. We will have interim results probably in
20 about one year.

21 COMMISSIONER BYRON: I would suggest
22 that our investor-owned utilities and the POU's
23 would probably be interested in this for their
24 energy efficiency programs.

25 Thank you.

1 MR. LESH: Thank you.

2 CHAIRPERSON PFANNENSTIEL: Further
3 questions, discussion? Is there a motion?

4 COMMISSIONER ROSENFELD: I move the
5 item.

6 COMMISSIONER GEESMAN: Second.

7 CHAIRPERSON PFANNENSTIEL: All in favor?

8 (Ayes.)

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

11 Item 9, possible approval of contract
12 150-07-004 for \$799,902 -- and I note that's a
13 change from what was in the published agenda --
14 with MRW and Associates, Inc. to perform specific
15 tasks related to analyses directed by AB-1632,
16 including assessing the vulnerability of large
17 baseload generating facilities to a major
18 disruption from plant aging or major seismic
19 event. Ms. Byron.

20 MS. BYRON: Good morning, Commissioners.
21 I'm Barbara Byron from the executive office. And
22 I'm requesting your approval of the proposed
23 contract with MRW and Associates to assist the
24 Energy Commission in completing the analyses
25 required by Assemblyman Blakeslee's AB-1632, which

1 was signed into law last year.

2 This spring the Energy Commission Staff
3 established a team of technical experts to help
4 develop the proposed work tasks for this contract;
5 and develop contractor-selection criteria for the
6 seismic safety portion of the study.

7 This technical advisory group for
8 seismic safety, coordinated by the Energy
9 Commission, includes representatives from the
10 California Seismic Safety Commission, the
11 California Geological Survey, the State
12 Seismologist, the State Geologist and the
13 California Coastal Commission.

14 This team will continue to provide
15 technical oversight for the seismic vulnerability
16 analysis throughout the AB-1632 study.

17 The CEC is also coordinating with senior
18 technical staff from the Public Utilities
19 Commission on analyses dealing with the impact of
20 a major plant disruption on system reliability,
21 public safety and the economy.

22 The proposed contract was the result of
23 a request for proposal in a competitive bid
24 process. We met with Assemblyman Blakeslee, the
25 author of the bill, to incorporate his suggestions

1 into the RFP. Although four potential bidders
2 participated in the prebidders conference, the MRW
3 team was the only team that responded to the RFP.

4 MRW has assembled an experienced,
5 interdisciplinary team for this contract. We were
6 seeking a highly credible team with strong
7 credentials to perform the contractors study. And
8 I think we've found that in the MRW contract team.

9 This team includes MRW, which is a
10 company widely recognized for its broad expertise
11 in electric power and fuel markets. And they've
12 assisted the Energy Commission with an ongoing
13 evaluation of nuclear energy policy issues.

14 Technical firms joining the MRW team on
15 this contract are ABS Consulting, Aspen
16 Environmental Group, and Global Energy Decisions.

17 ABS has widely recognized expertise in
18 risk assessment, including experience conducting
19 risk assessments at over 50 nuclear plants, both
20 in the U.S. and overseas.

21 Aspen is an expert interdisciplinary
22 environmental impact analysis firm, and Global
23 Energy Decisions is a leading provider of
24 wholesale electric and gas price forecasts.

25 I'd be happy to answer any questions you

1 might have. In addition, we have Chris Tooker and
2 Karen Griffin, who are part of our AB-1632 staff
3 team; and Steve McClary from MRW if you have any
4 questions regarding the contract.

5 Thank you.

6 CHAIRPERSON PFANNENSTIEL: Thank you,
7 Barbara. I would further note that Commissioner
8 Boyd, who was not able to be here today, is -- I
9 think he hates this characterization -- our
10 nuclear Commissioner.

11 (Laughter.)

12 CHAIRPERSON PFANNENSTIEL: And has --
13 would support the approval of this contract, also.
14 Other discussions?

15 COMMISSIONER GEESMAN: I guess I would
16 note that this is an area filled with quite a bit
17 of passion on all sides of the issue. And we've
18 been pretty successful in the last several years
19 in working with MRW, and you, Barbara, and others
20 on our staff, to try to take a dispassionate and
21 even-handed approach.

22 We held workshops in conjunction with
23 the 2005 Integrated Energy Policy Report. We've
24 done that again with respect to the 2007 IEPR.
25 Received quite a bit of compliments from people on

1 all sides of the issue as to the conduct of those
2 workshops and the contractor report that served as
3 the basis for the workshops.

4 So, I would strongly encourage you to
5 make certain, as we move forward with this, that
6 that even-handed and open-minded approach be
7 pursued.

8 I would move approval of the contract.

9 CHAIRPERSON PFANNENSTIEL: Yes,
10 Commissioner Byron.

11 COMMISSIONER BYRON: I, too, saw
12 Commissioner Boyd's letter, and I'm pleased to see
13 that he supported it. And I will also support
14 this. And also I'd like to make reference to
15 those IEPR workshops. They were very unique, and
16 I think provided a wonderful opportunity for not
17 only those of us here in California, but even
18 others throughout the country that had s forum to
19 discuss some of the issues around nuclear waste
20 and issues that don't seem to come up very often.

21 I note, as well, though, throughout the
22 world there are about 29 nuclear plants under
23 construction. Attending a recent EPRI Board
24 Meeting, presentation indicated we could expect as
25 many as 28 applications in the next year or two

1 throughout the country. And clearly there's an
2 effort in California to put an initiative on the
3 ballot. There will be a great deal of discussion
4 going forward around this subject.

5 So, I, too, am very interested in seeing
6 the Commission maintain a very high level of
7 objectivity with regard to this issue. And I'm
8 counting on this report for its input to the AB-13
9 -- excuse me, 1632 report that we'll be doing, as
10 well as probably input to next year's IEPR interim
11 report.

12 So I will second the motion.

13 CHAIRPERSON PFANNENSTIEL: I'd note that
14 this week's Economist Magazine's cover story is
15 about the future of nuclear power. So, we're
16 nothing, if not timely.

17 I'd actually like to commend
18 Assemblymember Blakeslee for putting forth this
19 bill that puts it back on us to perform the
20 technical analyses that I think are so needed.

21 Clearly in the political environment
22 there's a lot of opportunity to give in to the
23 passions on a subject such as this. And I believe
24 that instead we are now being directed to perform
25 exactly that, a dispassionate analysis that

1 Commissioner Geesman mentioned, that we have done
2 in the past. And I think we need to carry it
3 forward to the next couple of steps.

4 I do think that this appears to have all
5 of the key players that are needed to do that
6 analysis. All that we can find, certainly in
7 California, and across the country. So I think
8 it'll be a very good project.

9 The contract approval has been moved and
10 seconded.

11 All in favor?

12 (Ayes.)

13 CHAIRPERSON PFANNENSTIEL: It's
14 approved. Thank you, Barbara.

15 Item 10, possible approval of
16 recommendations by the Energy Commission's AB-32
17 Implementation Committee to the California Air
18 Resources Board regarding implementation of
19 mandatory reporting and tracking requirements for
20 greenhouse gas emissions from consumption of
21 electricity in California. This is a joint
22 proceeding with the California Public Utilities
23 Commission. Ms. Griffin.

24 MS. GRIFFIN: Good morning. I'm Karen
25 Griffin, working in this context as support staff

1 to the AB-32 Coordination Committee.

2 And the item that we have before you
3 today is the result of the joint work of that
4 Committee with the Public Utilities Commission on
5 adopting a reporting standard.

6 Now, the way that the law works, ARB has
7 to adopt a reporting standard by this fall. So
8 before we get any of the policy direction,
9 including such essential things as will we be
10 using a system which puts regulation or reporting
11 on the loads, or on the sources, or on the first
12 sellers. All that is coming next year. But we
13 have to come up with a reporting requirement this
14 year.

15 So, what the Commissions have --
16 Commissioners in the PUC, who have adopted this
17 decision last Thursday, have decided to do is to
18 adopt a reporting requirement that works either
19 for loads or for a first seller approach.

20 It's much more complicated for loads.
21 And much of the controversy was trying to deal
22 with the two big issues in the load based system.

23 The two big issues in this are how to
24 deal with all of the unspecified contract that's
25 imports, exports and trades within the state.

1 That goes under the rubric of default emission
2 values.

3 And the other one is dealing with when
4 you cannot -- the circumstances known as contract
5 shuffling in which parties engage in getting paper
6 reductions of emissions, but no real reductions
7 occur.

8 In the staff work that preceded this,
9 and in the proposed decision there were very
10 detailed solutions to both of those approaches.
11 In response to a lot of comments, the Commission,
12 our Committee and the PUC decided to take a
13 different approach.

14 On the default emission value, what the
15 decision says is that we will use one uniform
16 default emission value of 1100 pounds a megawatt
17 hour for all unspecified contracts instate, out of
18 state. And that that level should remain in place
19 until either a multistate tracking system is
20 developed under the Western Climate Initiative.
21 Or, if that doesn't materialize in time, that ARB
22 has sufficient information and make a
23 determination of how to proceed.

24 And when we say in time, what we mean is
25 that the actual first year of compliance of AB-32

1 is 2012. So although we're starting reporting
2 now, it has no financial consequences until 2012,
3 except as people are planning to, what they're
4 going to have to meet their actual long-term goal
5 by 2020.

6 And the decision also recommends that
7 there be a major overhaul of all of the reporting
8 in 2010 so that parties can have one full year of
9 experience in 2011 before we kind of go live in
10 2012. Because it will be essential in this
11 decision and in this proceeding to have accurate
12 reporting. So the goal of the reporting system is
13 to get us going, find out what we've got, make
14 improvements so we'll be ready in time.

15 The second aspect that was very
16 controversial was contract shuffling. And what
17 this decision says is okay, we've heard you, we
18 are not going to try to be so restrictive in the
19 reporting process in terms of what emissions are
20 going to be attributed to contracts which are not
21 with unit-specific units, or are with unit-
22 specific units, but there is a possibility that
23 there would have been a paper tradeoff.

24 So it focuses on making sure that
25 nuclear and the large hydro units which are

1 already fully committed through either entitlement
2 shares or direct ownership, that there's not a
3 shuffling in that example. So that in the
4 proposed decision there had been similar
5 restrictions on existing gas-fired generation.

6 And the Commissions decided not to go
7 that far in the reporting decision, but to come
8 back and address that issue in the program design
9 phase, which will be coming back to you in about
10 January of next year. You all will be sort of
11 considering a proposed decision in December and a
12 final decision in either late January or February
13 next year. Again, driven by the ARB schedule.

14 Then the decision addresses what to
15 happen with owned units which are out of state,
16 and are currently owned by California utilities.
17 And this is one of the more controversial issues
18 for our publicly owned utilities. We do own
19 partial or complete shares of coal units in the
20 southwest. And as you know, emissions from coal
21 are significantly more per pound than that from
22 natural gas or obviously from renewables, nuclear
23 or hydro.

24 And what the decision tries to do is to
25 walk a balance between recognizing the operational

1 realities of our interconnect system and with the
2 desire not to have an occasion for not getting
3 some real reductions in those sectors.

4 So what it says is -- and I'm going into
5 this particular one in detail, which does seem a
6 bit more in detail, because I know that a public
7 member, a member of a party to this proceeding,
8 wants to talk to you about this issue. So I just
9 want to explain what's said in the decision so you
10 can have a context for the discussion you're about
11 to hear.

12 And what the decision says is that if a
13 wholly owned or partially owned unit, if the
14 generation from that is sold, the owning entity,
15 Utility X, is first assigned all of the emissions
16 from its ownership share of the generation in that
17 unit. So think 2200 pounds per megawatt hour
18 times percent ownership share, times total
19 generation from that unit in the year.

20 It then subtracts off from that
21 generation which was sold to a California entity,
22 because that California entity will be reporting
23 in this process. It then may subtract off from
24 that up to 10 percent of the remaining sales,
25 saying that's within normal operating parameters

1 that we could understand that in a particular hour
2 or that the utility couldn't take the power.

3 They then may also demonstrate that at
4 the time they sold the power, such as if they sold
5 it in the short-term market, they sold it because
6 they were already over-sourced with generation,
7 other generation, or there were transmission
8 constraints such as they physically couldn't take
9 the power. And all that is they are not charged
10 those amount of emissions.

11 But for the remaining power they are
12 charged the difference between the actual
13 emissions from that unit and the regional average.
14 So, even though they didn't take that power,
15 because they owned it they get an emissions charge
16 of 2200 minus 1100, the current default value,
17 equals 1100 pounds per megawatt hour. And that
18 would have to be offset by either other changes in
19 their portfolio or the purchase of allowances.
20 That's the way the structure is set up in this
21 decision.

22 The decision also says that because
23 these are recommendations to ARB that ARB may need
24 to make or want to make some minor modifications
25 as it adopts it this time. And that ARB should

1 look at these rules, as I said, in 2010 for a
2 major overhaul; and look at the default or
3 specific emission things on an annual basis, so
4 that we try to clarify or improve the quality of
5 the data that's in here.

6 The last area we want to discuss would
7 be renewables. What the decision says is that all
8 new and existing renewables count. That like SB-
9 1368 the firming power associated with renewables
10 is charged at the renewable value if it's
11 providing by -- if the firming's provided by the
12 seller. If it's provided by the buyer, the buyer
13 has to say okay, I used this gas unit to firm the
14 power.

15 Substitute power is charged at the
16 actual rate of the emissions for that power. And
17 there is no ruling on how to deal with null power,
18 because it's not yet an issue in California until
19 we get -- the Commissions decide on whether or not
20 you are going to allow renewable energy credits in
21 the California system. And that's the only time
22 that null power actually becomes an issue that
23 would be involved in tracking.

24 So, I'm available to answer any
25 questions you may have. And I do know there is

1 one party who wants to talk to you.

2 CHAIRPERSON PFANNENSTIEL: Thanks,
3 Karen. I think what I'd like to do, if it's
4 acceptable to fellow Commissioners, is hear from
5 the other -- there are two parties who have asked
6 to speak on this. And then we can have further
7 questions or discussion, unless there are specific
8 questions for Karen right now.

9 Why don't we turn to Norm Pedersen from
10 Southern California Public Power Authority.

11 MR. PEDERSEN: Thank you very much. I
12 am Norman Pedersen for the Southern California
13 Public Power Authority. It's certainly a pleasure
14 to be here today to address you on yet another
15 milestone in the AB-32 implementation effort.

16 Today you do have before you the GHG
17 reporting protocol that was approved by the
18 California Public Utilities Commission on
19 September 6th. The reporting protocol that was
20 approved by the CPUC on September 6th is different
21 in some very important regards from the protocol
22 that was attached to the August 15th proposed
23 decision for comment.

24 First, I think Karen Griffin alluded,
25 the PD would have prohibited a purchaser of an

1 existing renewables project from claiming the low
2 or zero GHG emissions from that project. We
3 thought that was bad public policy. That would
4 have devalued renewables, even though California
5 has a strong policy of promoting renewables.
6 Fortunately the September 6th decision reversed
7 the PD on this point and we applaud that change.

8 Second, as I think Karen Griffin also
9 alluded, the September 6th decision adopts a
10 uniform default value of 1100 pounds of CO2 per
11 megawatt hour for unspecified imports. We also
12 applaud that change. We thought the 714 figure,
13 714 pounds figure for imports from the Pacific
14 Northwest that was in the proposed decision was
15 inaccurate. It simply didn't reflect the
16 emissions that are actually associated with
17 imports from the Northwest.

18 More needs to be done, however, with the
19 reporting protocol. We believe strongly that
20 there need to be further revisions. The protocol
21 that is before you today would require a retail
22 provider to report emissions from a partially
23 owned power plant on the basis of that retail
24 provider's ownership share in the power plant.

25 We do believe that should be changed. A

1 retail provider should be required to report
2 emissions based on the amount of electricity that
3 is actually generated at the power plant for the
4 retail provider's account, not on the basis of
5 ownership share.

6 First, attributing emissions to a retail
7 provider on the basis of ownership share rather
8 than actual generation is patently inaccurate.
9 And as Karen Griffin said, one of our key
10 objectives here should be accuracy in reporting.
11 And that's in AB-32, as well.

12 Second, an even worse, attributing
13 emissions on the basis of ownership share is bad
14 public policy. It's just as bad as devaluing
15 renewables, as would have been done in the PD.

16 Under AB-32, under the policies that
17 have been adopted by this state, we're supposed to
18 be encouraging reductions in reliance on high GHG
19 resources. Suppose a participant in a coal plant
20 decided to switch from economic dispatching, as is
21 usually done on the basis of variable production
22 costs, to environmental dispatching in order to
23 minimize GHG emissions.

24 Suppose, to make the illustration
25 graphic, suppose a participant in the coal plant

1 decided to reduce the participant's demand on that
2 plant to zero. Under section 2.2 of the reporting
3 protocol that's before you today, ARB would still
4 attribute emissions to the participant that
5 elected to switch to environmental dispatching
6 with the attribution being based on the
7 participant's ownership share.

8 This would provide a disincentive for a
9 participant in a coal plant to switch to
10 environmental dispatching. This would provide an
11 incentive to continue to dispatch that coal plant.

12 As Erin Pointner (phonetic) at Pasadena
13 put it, if the bill's going to be divided without
14 any regard for what you're actually going to eat,
15 everybody's going to have an incentive to order
16 steak and lobster. And in this case the steak and
17 lobster is coal.

18 Now, as I think Karen Griffin alluded,
19 at least according to the decision, and I can't
20 really find this in the reporting protocol,
21 itself. The document, itself, is quite cryptic.
22 But according to the decision, the retail provider
23 to whom emissions were attributed on the basis of
24 ownership share, would be permitted to deduct
25 emissions associated with sales to another

1 California retail provider; and he'd also be able
2 to deduct sales for which the retail provider
3 could show either that the power could not be
4 delivered to the retail provider, or show that the
5 retail provider had a surplus of electricity at
6 the time of the sale.

7 Now, showing all of this would be
8 burdensome enough, but what if no sales? What if
9 the retail provider simply decided to back away
10 from coal because of the environmental dispatch
11 decision that retail provider had made?

12 Under the rule that you have before you
13 today the retail provider would still be stuck
14 with the emissions from that coal plant based on
15 the retail provider's ownership share.

16 The CPUC's decision does not explain
17 what would be gained by requiring reporting on the
18 basis of ownership share. If something would be
19 gained, the decision fails to provide any kind of
20 quantification of what those gains would be.

21 We have proposed revisions in the
22 redline that I've provided to the staff and to the
23 Commission today. We proposed revisions to the
24 reporting protocol that would result in an
25 attribution of emissions from partially owned

1 power plants on the basis of the power actually
2 received by a retail provider. That would be more
3 accurate; and it would be better public policy
4 than attributing emissions on the basis of
5 ownership share in a partially owned power plant.

6 Also, we have one other revision that is
7 proposed in the redline I've given you. We would
8 propose that if CEMS, continuous emission
9 monitoring system, monitoring was unavailable to
10 power plant in 1990, then a retail provider should
11 be permitted to report current emissions from that
12 power plant on a fuel basis rather than a CEMS
13 basis.

14 Why is this? CEMS data can run
15 substantially, about 12 percent, up to 12 percent
16 higher than emissions calculated on a fuel basis.
17 This second proposed revision that we've reflected
18 in the redline that we've presented to you today
19 is needed so that there can be symmetry between
20 1990 baseline data under AB-32 for a plant, and
21 data on current emissions.

22 In sum, we urge you to consider revising
23 the September 6th protocol that was adopted by the
24 CPUC as shown in the redline that we distributed
25 today.

1 And thank you very much for giving me
2 the opportunity to present today.

3 CHAIRPERSON PFANNENSTIEL: Thank you,
4 Mr. Pedersen. Jane Luckhardt, SMUD.

5 MS. LUCKHARDT: Hi. My name's Jane
6 Luckhardt and I'm from Downey Brand. And I'm
7 representing SMUD today.

8 And I'd like to talk about an issue that
9 actually Karen did not raise. And that has to do
10 with power sales. And if you look at the redline
11 that Norman Pedersen so nicely provided today, if
12 you look at section 2.7, he has added section 2.9
13 to the bottom of section 2.7.

14 And I think that actually that's a very
15 important addition. And the reason is that we
16 believe it's very important that you separate out
17 in the reporting requirement, and we're just
18 talking about reporting here, that you separate
19 out in the reporting requirements power sales.
20 Whether they're sold to California entities, or
21 entities out of state.

22 And we believe this is very important
23 for actually three reasons. One reason is that in
24 order to integrate California's system into a
25 western regional system, or a larger national

1 system, or something that's contemplated by the
2 Western Climate Initiative, it will be extremely
3 important that California have these numbers split
4 out. Because these will be sales to other
5 entities.

6 And at this point in time the
7 regulations do not allow splitting out of sales to
8 entities out of state. And if Oregon is going to
9 have a system, and they have to take
10 responsibility for the emissions on either a
11 source base or a load base, we need to have all
12 the different emissions split out.

13 And at this point they're not. And that
14 would make it very difficult to integrate
15 California's system with other systems in the
16 western region.

17 A second reason for splitting these
18 issues out is that SMUD believes it's very
19 important to provide accurate emissions
20 information to its customers. Its industrial
21 customer and the like are eventually, if not
22 immediately, depending on their size, going to
23 have to report under the greenhouse gas reporting
24 requirements.

25 We don't believe it is accurate for our

1 customers, for SMUD's customers, to have to report
2 the emissions associated with power sales, along
3 with the emissions associated with what is
4 required to serve SMUD's load. And so we would
5 like to have that split out so our customers can
6 clearly see the emissions associated with SMUD's
7 load, as opposed to the power sales.

8 And we're not talking about not
9 reporting the power sales information, we're
10 talking about splitting it apart so that it is
11 very clear where the different numbers are coming
12 from, so that as this moves forward, the reporting
13 requirements and the regulations move forward,
14 it's possible to shift into a regional and
15 national system, and provide accurate information
16 to our customers.

17 Lastly, we are concerned about the way,
18 the treatment of sales to out-of-state entities
19 would impact power swaps and power exchanges.
20 These are arrangements that have been very useful
21 to reduce the number of total power plants that
22 are needed within the entire region. They take
23 advantage of excess power in the Northwest when
24 they have excess power; and we ship excess power
25 from California up there when they need it.

1 These have been very efficient
2 arrangements. They've used the transmission
3 system efficiently and our power assets
4 efficiently in both regions.

5 We are concerned that by treating power
6 sales to out-of-state entities as a combined part
7 of the responsibility of a load-serving entity,
8 that you will create a disincentive to these types
9 of arrangements. And we don't believe that this
10 is really in the best interests of California or
11 the environment. What this does is encourage the
12 construction of additional power plants in each
13 region to serve their native load. And we're
14 concerned about that and don't think that that's
15 really a positive thing for the environment.

16 We generally, although SMUD does not
17 have ownership by contracts, except through system
18 sales, with a coal facility, we do support the
19 other edits that are proposed by SCPPA today. And
20 the reason that we support them is that we feel
21 that they inaccurately characterize the way that
22 the regulations are currently written;
23 inaccurately characterize the emissions from these
24 different facilities.

25 Again, we are concerned that this kind

1 of attribution of different emissions will make it
2 much more difficult to integrate into a western
3 system or a national system. And we are concerned
4 that we are creating a California-only system that
5 will require major revisions when we get a
6 regional or a national system. And it would be
7 really nice to have it set up to flow as well as
8 possible into a broader system.

9 And I have a couple other points as it
10 applies to null power. I understand that that has
11 been shifted that no position is taken at this
12 time. At some point we would like some direction
13 from the various commissions on how that is to be
14 treated.

15 SMUD does sell excess RECs into the
16 voluntary REC market at this time. And at this
17 point, on annual sales, we are selling RECS
18 including the greenhouse gas attributes of that
19 REC. So, if that's going to change we would like
20 to know that so we can adjust our practices
21 accordingly.

22 In regards to -- I'll make one last
23 pitch for substitute power. Requiring that you
24 determine the actual percentage of substitute
25 power that's provided at anytime and exactly where

1 it's coming from, is going to be quite a difficult
2 calculation requirement. These are typically sold
3 by system sales. And so our hope will be to be
4 able to get specific system numbers as opposed to
5 using regional averages that have been proposed in
6 the decision.

7 And then finally, as one closing
8 comment, it really is a question to you. As you
9 know the municipal entities have looked to the
10 Energy Commission as being the entity focusing on
11 municipal issues. And we would just like, as you
12 complete your actions here, that you give us some
13 guidance on your expected participation in the
14 future, either in conjunction with the PUC, on
15 your own, with CARB, and so that we can understand
16 how best we can participate in those processes.

17 Thank you.

18 CHAIRPERSON PFANNENSTIEL: Thank you,
19 Jane.

20 COMMISSIONER BYRON: Ms. Luckhardt, a
21 clarification, please. With regard to null power,
22 did I understand you correctly that this decision
23 is not -- does not make a determination with
24 regard to null power?

25 MS. LUCKHARDT: That's my understanding

1 is that at this point -- and Karen's nodding
2 affirmatively. The proposed decision did have a
3 position taken and that has been removed. So
4 there is no position, I think, on null power at
5 this time.

6 COMMISSIONER BYRON: I'm going to refer
7 to page 32 under null power from renewable
8 resources. It looks to me as null power would be
9 assigned the emissions value of the underlying
10 renewable generation.

11 MS. LUCKHARDT: Okay, if that has been
12 shifted that way, then actually we will react
13 accordingly. That was something that we objected
14 to because we felt that it was reducing the value
15 of existing RECs.

16 And what it will eventually do, I
17 imagine, is split out; the RECS will be split.
18 And they will have many different attributes based
19 on that, if that's what's continued in the
20 decision.

21 MR. PEDERSEN: Commissioners, if I
22 may, --

23 COMMISSIONER BYRON: Would you please
24 approach the podium. And before you speak, Ms.
25 Griffin, do I have that correct? Do you recall?

1 MR. PEDERSEN: If you would go to page
2 34, the top of page 34, first paragraph, I think
3 you'll see what Jane Luckhardt is referring to.
4 It says: Because California's not adopted
5 renewable energy credits, RECs, it would be
6 premature to choose among these approaches at this
7 time. The Public Utilities Commission is
8 currently reviewing in R-0602 -- 012, which they
9 certainly are -- possible relationship between the
10 renewable and environmental attributes embodied in
11 the REC and associated power.

12 COMMISSIONER BYRON: Okay, thank you.

13 CHAIRPERSON PFANNENSTIEL: Thank you.
14 Comments or questions from the Commissioners on
15 this subject? Commissioner Geesman.

16 COMMISSIONER GEESMAN: I had a question
17 for Norm with regard to the facilities for which
18 CEMS data would not be available for the 1990
19 baseline year. Which facilities are we talking
20 about?

21 MR. PEDERSEN: Primarily the coal
22 facilities. They started reporting around 91 or
23 92, and my understanding is that certainly for
24 IPP, but for the others as well, it wasn't
25 available going back to 1990. And so that's why

1 we're asking for this option, Commissioner, to be
2 able to report on a fuel basis as opposed to a
3 CEMS basis for those plants.

4 And it does, at least, for, I'm told,
5 IPP amount to about a 12 percent difference
6 between CEMS data and fuel-based data.

7 COMMISSIONER GEESMAN: But you're not
8 certain if that applies to all of the coal plants
9 in the west? Or all of your members' investments
10 in coal plants?

11 MR. PEDERSEN: I can't speak to all coal
12 plants in the west, Commissioner, but certainly
13 for the ones in which SCPPA members have an
14 interest in, it's the case.

15 COMMISSIONER GEESMAN: So your rationale
16 is you want to make certain that you've got an
17 apples-to-apples comparison between current
18 emissions and 1990 baseline?

19 MR. PEDERSEN: Yes. We have strongly
20 advocated across the board that whatever CARB
21 does, that we have apples-to-apples data. Another
22 one is use of the default value of 1100. That
23 isn't before you, the baseline issues are
24 certainly before CARB, they aren't before the CPUC
25 or CEC.

1 But we're going to be telling CARB that
2 they should go back and use 1100 default value for
3 developing their 1990 baseline numbers. With
4 regard to the CEMS data, what we simply don't have
5 for these plants, CEMS data for 1990. And so what
6 we're proposing is -- and it's, as you can tell
7 from the redline -- a very slight change. But
8 it's an important change for us.

9 We're proposing that if you are a
10 participant in a plant and you didn't have -- and
11 for that plant CEMS data was unavailable for the
12 baseline year, then you be permitted the option of
13 reporting on a fuel basis on the current -- for
14 current years.

15 COMMISSIONER GEESMAN: And --

16 MS. GRIFFIN: If I could -- this issue
17 is actually not within our purview. It's actually
18 an ARB issue in the decision. It was simply
19 picking up text from the ARB reg. But in terms of
20 how the emission factors get set for each unit,
21 that's part of the actual ARB direct
22 decisionmaking process.

23 So we have been pushing all emission
24 factor-specific issues into the ARB proceeding.

25 MR. PEDERSEN: Actually, as to the

1 protocol, the option would not be permitted. The
2 option of reporting on a fuel basis as opposed to
3 a CEMS basis. And we just made that one change so
4 that we would have the option in the event that
5 you had a power plant for which CEMS data was
6 unavailable in 1990.

7 COMMISSIONER GEESMAN: It sounds like,
8 from Karen's indication, that that's not a subject
9 on which the ARB is looking to us or to the PUC
10 for advice on.

11 MR. PEDERSEN: Well, --

12 MS. GRIFFIN: They're not.

13 MS. LUCKHARDT: -- it's in the protocol.
14 I guess the ARB will do what they'll do when it
15 gets to them. But we're urging that what you
16 recommend to them contain a provision that would
17 permit an apples-to-apples comparison of current
18 data to baseline data.

19 COMMISSIONER GEESMAN: Whether the
20 recommendation's been invited or not, we ought to
21 make it, is your position?

22 MR. PEDERSEN: We believe it's a correct
23 position, yes, Commissioner.

24 COMMISSIONER GEESMAN: Thank you.

25 CHAIRPERSON PFANNENSTIEL: Further

1 discussions or questions?

2 COMMISSIONER BYRON: If there's no other
3 comments I had some remarks that I wanted to add
4 to this morning's discussion for the benefit of my
5 fellow Commissioners.

6 I believe this is the best approach on
7 the reporting and verification that we were able
8 to come up with at this time with the resources
9 that are available.

10 And I'd like to take the opportunity to
11 acknowledge the efforts of the staff and provide
12 kudos to them, particularly with their
13 coordination with the PUC Staff on this item.

14 I had opportunity to listen to my
15 colleagues at the PUC vote this issue at their
16 business meeting last week. I was very impressed
17 with their thoughtful comments and concerns and
18 continued willingness to work with the Energy
19 Commission.

20 Our counterparts at the PUC expressed
21 considered concern about the impact of our
22 discussions on rates and cost. And, of course,
23 our criteria and our consideration today may be
24 different. But I was pleased to hear that
25 referenced back to the cost impact of this, and

1 the impact it will have on consumers. I know I
2 want to be very cognizant of that as we move
3 forward, as well.

4 I think it's important that we provide a
5 unified recommendation to the Air Resources Board,
6 at least initially, so that hopefully will make
7 their job a little easier when we provide them a
8 clear recommendation that they can follow from the
9 state's two energy Commissions.

10 But I'm also cognizant, as I read this
11 decision, that everything else we're trying -- in
12 addition to everything else we're trying to do, we
13 need to certainly work in cooperation with the
14 other western states, particularly in the absence
15 of any federal action at this point.

16 I would only have one question, and I'm
17 not sure -- so I'll leave it in the form of a
18 question. There's a number of items in the PD,
19 and I'm referring back to page 56 and 57, that
20 reflect the names of the PUC Commissioners, and
21 having made this determination. And I'm just
22 wondering if there's changes that need to be made
23 that would reflect this Commission and members of
24 the Commission by name. So I leave that as a
25 question, not knowing the proper process or

1 procedure here before we vote this.

2 MS. GRIFFIN: If we do have a resolution
3 for you to sign, which is an Energy Commission
4 one, and then there will be a joint transmittal
5 letter from the two agencies with everybody's name
6 on it. That's the -- and the two logos. That was
7 the proposal, just so it's clear that it's coming
8 from both Commissions. And we will attach your
9 resolution to the package.

10 COMMISSIONER BYRON: Okay.

11 CHAIRPERSON PFANNENSTIEL: I have a few
12 comments, probably not new information. But I
13 want to personally thank a lot of the people who
14 worked so hard on this decision. Starting,
15 really, with Commissioner Byron, who shares with
16 me the honor of being on this AB-32 implementation
17 Committee. And Commissioner Byron's been very
18 thoughtful and diligent in pushing this, both the
19 Energy Commission position and, I think, a
20 thoughtful analysis, technical analysis, forward.

21 Also want to thank Karen. You've done a
22 great job, Karen, in working this through both our
23 Commission and their Commission. And at neither
24 one is it always that easy.

25 And several other staff people worked

1 really hard on this. Kevin Kennedy, who as Jeff's
2 Advisor, was the initial lead on this; and then
3 when Kevin left, Panama Bartholomy, my Advisor,
4 stepped in to fill that role.

5 But there have been a number of other
6 Energy Commission Staff people who contributed a
7 great deal, as well as the PUC Staff. And I think
8 this is an instance where it has been a
9 collaborative effort in the best sense of that
10 word.

11 In terms of the decision that's in front
12 of us, I just want to emphasize that this really
13 is a first step. We have a long ways to go in AB-
14 32 implementation. And this tracking and
15 monitoring protocol is a critical first step, but
16 it is, in fact, just a first step.

17 Several people have talked about the
18 issues that were raised, and the two that Karen
19 mentioned were the ones we struggled with in a
20 technical sense. Both now to account for the
21 undefined or default emissions, and how to keep
22 contract shuffling from happening. And there were
23 others that have been raised also this morning.

24 And I would suggest that our conclusions
25 that are incorporated in this proposed decision

1 are perhaps not received wisdom, received truth in
2 all time. But I do think they represent a very
3 credible balancing of what we know and what we
4 don't yet know.

5 AB-32 provides that the Air Resources
6 Board will, in fact, make the final decisions and
7 will modify reporting requirements going forward.
8 I think that's appropriate. We have a lot of
9 underlying decisions yet to make, but the ARB
10 needs to adopt some reporting protocols by January
11 1st of 2008. And this gives them, I believe, a
12 very good start. And there will be modifications
13 along the way.

14 The major unknown in this at this point
15 is how the State of California is going to
16 regulate the emissions from the electric industry.
17 Whether they will be load-based, as was currently
18 incorporated into these protocols. Or source-
19 based, or as it really is being derived now, in
20 the first-seller approach. That's going to make a
21 big difference in what we need for the reporting
22 protocols.

23 But the version that we have in front of
24 us accommodates either of those approaches, and,
25 in fact, perhaps others.

1 I would suggest, though, that the bigger
2 question is the way California is going to
3 incorporate our greenhouse gas reduction strategy
4 into a western strategy, or perhaps a national
5 strategy, and ultimately an international
6 strategy.

7 And until all of the western states have
8 determined what they are going to do as an entity
9 for the electric sector, it will be a little bit
10 difficult for us to be very precise in capturing
11 everything we need to capture.

12 All indications are that the western
13 states will get there, and will get there in a
14 timeframe that will work for us. And then a lot
15 of these very tricky issues that we've been
16 struggling with at this point will, in fact, be
17 accommodated because everybody will gather the
18 information the same way.

19 So, with that, I would offer that this
20 decision, this proposed decision, while not all
21 things to all people, I think is a very good, a
22 very credible and a very useful starting point for
23 the ARB. And I would urge its adoption.

24 Do we have either further discussion or
25 a motion?

1 COMMISSIONER BYRON: Madam Chair, I'll
2 move the item.

3 COMMISSIONER GEESMAN: Second.

4 CHAIRPERSON PFANNENSTIEL: All in favor?
5 (Ayes.)

6 CHAIRPERSON PFANNENSTIEL: Thank you,
7 Karen, it has been adopted and will be transmitted
8 to the Air Resources Board.

9 Approval of minutes of the August 29th
10 business meeting. And I understand Commissioner
11 Geesman was not here. So is there a motion on
12 those minutes?

13 COMMISSIONER ROSENFELD: I move the
14 minutes.

15 COMMISSIONER BYRON: Second.

16 CHAIRPERSON PFANNENSTIEL: All in favor?
17 (Ayes.)

18 CHAIRPERSON PFANNENSTIEL: Approved.
19 Committee presentations or discussion.
20 Commissioners, anything? Nothing here.

21 Chief Counsel report, Mr. Chamberlain.

22 MR. CHAMBERLAIN: I have no report this
23 morning, Madam Chair.

24 CHAIRPERSON PFANNENSTIEL: Thank you.
25 Executive Director report, Mr. Blevins.

1 EXECUTIVE DIRECTOR BLEVINS: Madam
2 Chairman, I was going to give you a brief leg
3 summary, but I think what I'll do is I'll just
4 transmit that to the Commission in writing and the
5 staff. And I'm going to defer my time to Mr.
6 Smith, who is dealing in real time on legislative
7 issues.

8 CHAIRPERSON PFANNENSTIEL: Mr. Smith,
9 what's happening in the Legislature?

10 LEGISLATIVE DIRECTOR SMITH: Good
11 morning, Chairman, Commissioners. Yesterday was
12 yesterday, and the wee hours of this morning were
13 actually quite busy and quite fruitful for the
14 Energy Commission.

15 COMMISSIONER BYRON: That explains why
16 we were getting emails from you at very late
17 hours.

18 (Laughter.)

19 LEGISLATIVE DIRECTOR SMITH: Yeah, I'm
20 trying to just make it a real-time news broadcast.

21 I want to spend just a few minutes, very
22 quickly running down several key bills that were
23 acted on in one manner or another.

24 Let me begin with the big news of the
25 day, which is AB-118, Nunez' transportation bill.

1 It's on its way to the Governor's Office. In its
2 current form it allocates approximately \$125
3 million to the Energy Commission for various
4 transportations fuels, alternative fuels and
5 renewable fuels programs, ranging from R&D to
6 deployment. A major milestone for the Energy
7 Commission for the state.

8 And finally, getting a comprehensive
9 state effort, state-funded program on
10 transportation. So, very very exciting news.

11 Also two bills that we have been working
12 very very hard on beginning with last session, and
13 then now into this session, which were very
14 successful. Which is AB-662, Ruskin's water
15 efficiency for appliance bill, and AB-1560 which
16 is Huffman's water efficiency for buildings.

17 They were passed out and they're on
18 their way to the Governor's Office. So we're very
19 excited about that opportunity. Just opens up
20 tremendous new avenues for the Energy Commission
21 in terms of energy efficiency.

22 Along the same lines, AB-785,
23 Assemblymember Hancock's bill, a heat island bill.
24 This was enrolled yesterday, or this morning
25 actually, and the major provision there is that it

1 provides the Energy Commission with a mechanism to
2 engage in enforcement of the building standards,
3 in particular cool roof provisions of the
4 standards.

5 So this, also, is a substantial step
6 forward in terms of our ability to enforce that,
7 that very key element.

8 AB-1103, Saldana's benchmarking bill is
9 on its way to the Governor's Office. This focuses
10 on commercial buildings. But I know there's
11 significant interest in similar provisions for
12 residential structures at the point of sale.

13 AB-1109 is Assemblymember Huffman's
14 lighting efficiency bill. Also on its way to the
15 Governor's Office.

16 We mentioned 1560, and let me also just
17 mention that AB-1613, Assemblymember Blakeslee's
18 combined heat and power bill. Made it out with a
19 few scrapes. It wasn't in the complete form that
20 it was a couple of weeks ago.

21 The must-buy provision that was
22 originally in the bill has been altered a bit.
23 Still requiring the PUC to develop tariffs for 20
24 megawatt systems and less. Still requiring the
25 Energy Commission to develop guidelines for those

1 systems.

2 The bill does include an APA exemption
3 for the Energy Commission, so that should
4 streamline our task in developing those
5 guidelines. But this bill, through Assemblymember
6 Blakeslee's very hard and tireless work, had
7 almost unanimous support through the latter stages
8 of this session. So we're very excited about the
9 possibility of success for this bill.

10 SB-210, which is Senator Kehoe's low
11 carbon fuel standard bill does have some
12 provisions in there for the Energy Commission.
13 Most notably to revise the full fuel cycle
14 assessment and the AB-107 style report by 2009, I
15 believe. 2009 or 2010, I'm not sure now.

16 SB-660, Senator Perata's comprehensive
17 research coordination for climate change bill is
18 on its way to the Governor's Office.

19 And SB-1036, also Senator Perata's bill,
20 that would eliminate the SEPS program is on its
21 way to the Governor's Office.

22 A couple of notable bills that didn't
23 quite make it include the Speaker's SB-1610, which
24 started out life as a rather large and unwieldy
25 bill that would have created a refinery

1 maintenance, scheduled maintenance oversight
2 board, was amended down to actually a very very
3 interesting bill which would have provided the
4 Commission authority to collect and analyze data
5 on refinery maintenance schedules and unplanned
6 outages. That didn't make it out of the Senate,
7 and is now a two-year bill.

8 AB-1552, which was a bill by
9 Assemblymember Feuer, which took essentially the
10 recommendations out of the Energy Commission's
11 2006 price spike report, did not make it out of
12 the Senate. So it also is a two-year bill.

13 There were some last-minute steps taken
14 to try and address some difficulties with language
15 in the bill regarding the Attorney General's
16 Office. And the AG's ability to collect data from
17 the Commission, the request process.

18 I think we have language that can
19 resolve that, but we need to wait and see if the
20 Assemblymember is going to pick that up in
21 January, in which case we can begin that process
22 anew.

23 SB-140, which is Senator Kehoe's
24 renewable diesel bill, would have required a 2
25 percent and 5 percent renewable diesel content for

1 all diesel sold in California, became a two-year
2 bill.

3 That bill has a last-minute amendment
4 that would require the Energy Commission to
5 perform or conduct a study on the feasibility of
6 producing renewable fuel feedstocks in California.
7 This was originally a task that was given to CDFA,
8 Department of Food and Agriculture. And now that
9 is the bill amended -- was amended to make that an
10 Energy Commission responsibility.

11 SB-412, Senator Simitian's LNG bill,
12 became a two-year bill. Actually it is on the
13 Assembly suspense, so not certain if the Senator
14 is going to pursue that next year or not.

15 And SB-411, also Senator Simitian's, 33
16 percent RPS bill. It's a two-year bill. I might
17 note that that's in the same camp now as
18 Assemblymember Levine's 94, AB-94, which was his
19 version of the 33 percent RPS bill.

20 So, just some highlights. We are
21 working with staff and your offices to complete
22 the enrolled bill reports, and our recommendations
23 to Resources by today, or probably first thing
24 tomorrow morning for all of our recommendations.

25 I also should note that for bills passed

1 prior to yesterday, the Governor has ten days to
2 sign or veto. For bills passed on the last day,
3 yesterday and last evening, the Governor has 30
4 days to sign those. Most of these bills were
5 passed out yesterday, so we will be working quite
6 diligently with staff to alert them to the need
7 for ten-day legislative BCPs for those bills in
8 which we need Resources to pursue the tasks.

9 So, that's where we're at. If there's
10 any questions I'll be more than happy to answer
11 them, I hope.

12 CHAIRPERSON PFANNENSTIEL: Thanks, Mike.
13 Questions? Interesting session.

14 Public Adviser report. Let's see --

15 COMMISSIONER GEESMAN: Madam Chair, on
16 that score, can I express a concern that I think
17 we all heard it from Ms. LePell in the Russell
18 City item.

19 I recognize the difficulties created by
20 the ongoing vacancy in the Public Adviser's
21 position. But I really do think that with an
22 increasing caseload, we're going to be confronted
23 more and more often in siting proceedings with
24 various members of the public making complaints
25 about either noticing processes, or documents, or

1 inaccessibility of particular information.

2 In a workshop that a Committee of the
3 Commission conducts, there's no way for us to
4 evaluate the truthfulness or validity of those
5 types of complaints.

6 The Energy Commission's unique in state
7 government in that we have a Public Adviser
8 created by statute. And I would like to have some
9 assurance that we can create some ownership of
10 these complaints and the solutions thereof in the
11 Public Adviser's Office.

12 I recognize that we don't have a Public
13 Adviser, but we do have several staff that are
14 paid to perform that function. And I don't have a
15 basis to know whether they are performing it well
16 or not. But I know every time one of these
17 complaints comes up, there's not any sense of
18 ownership because we don't have a functioning
19 Public Adviser.

20 CHAIRPERSON PFANNENSTIEL: I think
21 that's a point well taken. And I think B.B. and I
22 need to talk some about how we might address that,
23 given the fact that there is the vacancy, which is
24 a Gubernatorial appointee vacancy, and over which
25 we have no control. But we do over that office.

1 It's a very good point.

2 Opportunity for further public comment.

3 Anybody else?

4 We'll be adjourned.

5 (Whereupon, at 12:17 p.m., the business

6 meeting was adjourned, with the

7 exception of item 2 being continued.)

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CERTIFICATE OF REPORTER

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of October, 2007.

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345