

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, FEBRUARY 27, 2008

10:03 A.M.

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

COMMISSIONERS PRESENT

Jackalyne Pfannenstiel, Chairperson

Arthur Rosenfeld

Jeffrey D. Byron

Karen Douglas

STAFF and CONTRACTORS PRESENT

Claudia Chandler, on behalf of  
Executive Director Jones

William Chamberlain, Chief Counsel

Marni Weber, on behalf of  
Legislative Director Smith

Harriet Kallemeyn, Secretariat

Garret Shean

Lisa DeCarlo

Jim Holland

Karen Perrin

Kelly Birkinshaw

Allan Ward

Cheryl Raedel

Mark Hutchison

PUBLIC ADVISER

Nick Bartsch

ALSO PRESENT

Scott Galati, Attorney  
Galati and Blek, LLP

ALSO PRESENT

Victor Yamada  
Edison Mission Energy

Mohsen Nazemi, Assistant Deputy Executive Officer  
South Coast Air Quality Management District

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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

2 10:03 a.m.

3 CHAIRPERSON PFANNENSTIEL: This is the  
4 Energy Commission business meeting. Please join  
5 me in the Pledge of Allegiance.

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

8 CHAIRPERSON PFANNENSTIEL: There are a  
9 couple changes to this morning's agenda. Item  
10 number 3 has been put off to the March 12th  
11 business meeting. Item 4 is moved to the April  
12 2nd business meeting. And item 10 is moved to the  
13 March 12th business meeting.

14 And let me just note, as I do this,  
15 that, in fact, the business meetings in March and  
16 April are a little off synch from our usual every  
17 two weeks. So please make sure that you note that  
18 there's, I think, only one in March and three in  
19 April. So people who come regularly should make  
20 sure you check out the right schedule of that.

21 With that, the consent calendar.

22 COMMISSIONER ROSENFELD: I move the  
23 consent calendar.

24 COMMISSIONER BYRON: I'll second.

25 CHAIRPERSON PFANNENSTIEL: In favor?

1 (Ayes.)

2 CHAIRPERSON PFANNENSTIEL: Consent

3 calendar is approved.

4 Item number 2, the possible adoption of  
5 the Presiding Member's Proposed Decision and  
6 Committee errata on the Walnut Creek Energy Park.  
7 Mr. Shean, good morning.

8 MR. SHEAN: Good morning, Commissioners.  
9 The Committee is bringing before you its Presiding  
10 Member's Proposed Decision, a revision and three  
11 errata. What I propose to do for you is give you  
12 a brief explanation of how we've gotten where  
13 we've gotten, where we are recommending approval  
14 of this project, both for your own sake as well  
15 as, I think, the record, given the number of  
16 changes that have occurred.

17 Following evidentiary hearings in the  
18 summer of 2007 the Committee released its  
19 Presiding Member's Proposed Decision which you  
20 have here. And based upon the record we had  
21 developed at the time, it appeared that given the  
22 unique and ultra-modern technology this project  
23 using the GE LMS1000, that there was the potential  
24 for the operation of this facility into the  
25 overnight hours, given its high efficiency based

1 upon testimony we received from the staff.

2 During the public comment hearing on the  
3 PMPD it became clear that the staff's testimony  
4 with regard to the capacity factors of the project  
5 had assumed that it was a combined cycle and not a  
6 simple cycle project.

7 As a result staff revised their capacity  
8 factor number down to basically where the  
9 applicant had come in at something not greater  
10 than 40 percent.

11 As a result of that it became clear that  
12 the noise issue, which the City of Industry is  
13 basically located between two portions of the  
14 unincorporated portion of Los Angeles County,  
15 where there are residents, that the noise issue  
16 had largely gone away. But neither the Commission  
17 Staff nor the applicant could say that there would  
18 never be the operation of the project into the  
19 evening or what generally are considered some  
20 portion of the four consecutive quietest nighttime  
21 hours.

22 As a result the applicant offered what  
23 Mr. Galati had termed a belt-and-suspenders  
24 approach to the potential, given it a very small  
25 potential, that there would be such nighttime

1 operation. And it basically has led to  
2 modification of the conditions which are found in  
3 a document that's called the revision to the  
4 Presiding Member's Proposed Decision.

5 And that revision essentially was that  
6 the applicant offered, in the event of a  
7 legitimate complaint by a resident who is near the  
8 monitoring stations on either side essentially of  
9 the project north and south, if there was a  
10 legitimate complaint the applicant would initially  
11 determine whether or not the project was operating  
12 within its design specifications.

13 And if it were, it would, working with  
14 the owner of the property, work out an offsite  
15 mitigation which we have used in several cases  
16 here, though not frequently. But there are some,  
17 SMUD, and I think Sutter. In an attempt to  
18 satisfy the owner of the property so that any  
19 future operation of the project under those  
20 circumstances would not cause a noise complaint.

21 And in addition to that, what the  
22 Committee and the applicant and the staff did was  
23 to indicate that should that complaint not be  
24 resolved, and should there be an instance of that  
25 evening or late nighttime operation, that the

1 applicant would limit the noise produced by the  
2 facility to 49 dba.

3 And that the sole exception to that  
4 limitation would be circumstances under which the  
5 project was dispatched in order to avoid a ISO-  
6 declared electrical emergency, or it were being  
7 operated during such an emergency.

8 We have gone through, in errata number 1  
9 and number 2, refinement of that concept. And I  
10 think it now is to the satisfaction of both the  
11 applicant, staff and clearly the Committee.

12 I should indicate, too, that in October  
13 when we were prepared to come to the full  
14 Commission with this for a vote, that meeting had  
15 followed by about six weeks the adoption by the  
16 South Coast Air Quality Management District of its  
17 new rule 1309.1.

18 As a result of that adoption, at the  
19 October 10th business meeting, Mr. Nazemi, who is  
20 here today and is from the South Coast Air Quality  
21 Management District, had indicated to the  
22 Commission that in the District's view the better  
23 course was to allow the District to revise its  
24 final determination of compliance.

25 It has done that, and on January 21st of

1       this year, it promulgated its addendum to the  
2       final determination of compliance which, for the  
3       District, itself, started two different comment  
4       periods. One, their own 30-day comment period;  
5       and under Title 5, a federal program, a comment  
6       period that initially had a period for the  
7       requesting of a hearing. And if that hearing were  
8       granted, a 30-day comment period after that.

9               Apparently, based upon the comments by  
10       the District at our February 21st hearing, which  
11       was essentially to bring ourselves up to date and  
12       find out where we were and then package this thing  
13       appropriately, the District indicated that there  
14       had been only comments from the applicant and from  
15       the USEPA.

16               We then have received a letter dated  
17       February 22nd from Mr. Nazemi indicating those  
18       changes that they were going to make to the  
19       addendum as a result of responding to the comments  
20       of the EPA.

21               We have embodied in the third errata the  
22       changes resulting from three of the five comments  
23       that were received by the federal EPA. The  
24       remaining two are not necessary to make our  
25       conditions either address something different, or

1 in some way are not applicable.

2 But I think where we are, that therefore  
3 in summary and conclusion, is that, taken  
4 together, the PMPD, the revisions to the PMPD and  
5 the first, second and third errata, if viewed in  
6 succession, bring us to the point where this  
7 project now is fully mitigated with respect to  
8 noise, and fully complies with all the applicable  
9 rules and regulations related to air quality. And  
10 is, therefore, ready for your consideration and  
11 possible adoption.

12 CHAIRPERSON PFANNENSTIEL: Thank you,  
13 Mr. Shean. Mr. Galati, do you have any comments?

14 MR. GALATI: Scott Galati on behalf of  
15 Edison Mission Energy; and with me is Vic Yamada  
16 with Edison Mission Energy.

17 We'd like to thank the Committee for all  
18 of its hard work. We agree with Mr. Shean's  
19 characterization as well as the conclusion that  
20 the record in front of you, up through the third  
21 errata, will satisfy the Commission's requirements  
22 to approve the project. And we ask your approval.

23 CHAIRPERSON PFANNENSTIEL: Thank you.  
24 Ms. DeCarlo, any comments?

25 MS. DeCARLO: Thank you, Chairman and

1 Commissioners. Lisa DeCarlo, Senior Staff  
2 Counsel. Just want to say that we believe that  
3 the third errata accurately incorporates the  
4 proposed changes by the South Coast Air Quality  
5 Management District in response to USEPA's  
6 comments.

7 And that these changes are not  
8 substantial and do not affect staff's conclusions  
9 that the project will comply with all applicable  
10 LORS, and will not result in any unmitigated  
11 significant adverse environmental impacts.

12 And we support adoption of the proposed  
13 PMPD with the revisions and the three errata.

14 CHAIRPERSON PFANNENSTIEL: Thank you.  
15 Mr. Nazemi, since you traveled here to share your  
16 support, I believe, of what's in front of us, why  
17 don't we hear your comments.

18 MR. NAZEMI: Good morning. Thank you,  
19 Commissioner, and good morning to all. I think  
20 Mr. Shean summarized our position accurately with  
21 respect to where we stand, and is correctly stated  
22 as of February 22nd, last Friday, we made a final  
23 determination of compliance for Walnut Creek  
24 project relative to the latest amendments to our  
25 rule 1309.1, which is priority reserve rule.

1           I just was attempting to come here to,  
2           first of all, make sure if there are any  
3           questions, I can answer, since this is the first  
4           project going through with the new 1309.1.

5           And also to let you know where we go  
6           from here. The project also needs to obtain a  
7           Title 5 permit to construct from South Coast Air  
8           Quality Management District.

9           And as part of our Governing Board-  
10          adopted rule 1309.1, in order for the applicant to  
11          be able to obtain their priority reserve credits  
12          or offsets from the District, there are two  
13          conditions that have to be met.

14          One of them is for the Energy Commission  
15          to issue their license. And the second is that  
16          the applicant obtain a long-term power purchase  
17          agreement contract with the local utility or the  
18          state.

19          And for the second condition the  
20          applicant can actually choose to go back to our  
21          Governing Board and request a waiver of the long-  
22          term contract.

23          But I just want to make sure that we  
24          need the CEC license before we can issue our Title  
25          5 permit, and the applicant needs to either get a

1 long-term contract or get a waiver from our Board  
2 for the long-term contract.

3 CHAIRPERSON PFANNENSTIEL: Thank you,  
4 Mr. Nazemi. So this is the first in the state to  
5 go through the process under your revised rule?

6 MR. NAZEMI: Under the, right, August 3,  
7 2007 revised rule, this is the first one going  
8 through.

9 CHAIRPERSON PFANNENSTIEL: Thank you.  
10 Commissioners, other questions on this project?  
11 None.

12 Well, since I am the remaining Committee  
13 on this project, why don't I go ahead and move the  
14 approval then.

15 COMMISSIONER DOUGLAS: I'll second.

16 CHAIRPERSON PFANNENSTIEL: All in favor?

17 (Ayes.)

18 CHAIRPERSON PFANNENSTIEL: It's been  
19 approved. Thank you all very much.

20 MS. DeCARLO: Thank you.

21 MR. SHEAN: Madam Chair, Members of the  
22 Commission, this is my farewell to you, my last  
23 case. Finished before my last day on payroll, I  
24 want to bid you farewell, arrivederci, and thank  
25 you.

1                   CHAIRPERSON PFANNENSTIEL:  And to you,  
2  thank you, Mr. Shean.

3                   COMMISSIONER BYRON:  Good luck --

4                   MR. SHEAN:  And I have a signature page  
5  prepared for you --

6                   CHAIRPERSON PFANNENSTIEL:  Yes, I have  
7  it and I will circulate it.

8                   MR. SHEAN:  All right, thank you.

9                   CHAIRPERSON PFANNENSTIEL:  Thanks.

10                   We then move on to item 5, possible  
11  approval of a \$330,000 loan to the City of Lynwood  
12  to upgrade the City's traffic signals from  
13  incandescent to light emitting diode technology.  
14  Mr. Holland, good morning.

15                   MR. HOLLAND:  Good morning, Madam  
16  Chairman and Commissioners.  I'm Jim Holland from  
17  the public programs office.  And I am seeking  
18  approval of a loan to the City of Lynwood for  
19  \$330,000 for that City to retrofit their traffic  
20  signals from incandescent lamps to LED technology.

21                   This loan will provide the funds for a  
22  citywide traffic signal retrofit where the current  
23  incandescent bulbs at 55 street intersections will  
24  be replaced with light emitting diode modules.

25                   This retrofit includes yellow, green and

1 pedestrian lamps throughout the City, and some of  
2 the red lamps. These upgrades are estimated to  
3 save 426,371 kilowatt hours per year; have a 48.7  
4 kilowatt demand reduction.

5 This project is estimated to reduce  
6 greenhouse gas emissions by approximately 174 tons  
7 of carbon dioxide annually. And the City expects  
8 to see \$44,679 in annual cost savings as a result  
9 of this retrofit.

10 The total project cost is \$330,000,  
11 which will be reduced by utility rebates  
12 estimating \$21,000. The project is consistent  
13 with the 2007 Integrated Energy Policy Report to  
14 capture and implement cost effective energy  
15 efficiency projects.

16 This loan has been approved by the  
17 Efficiency Committee. And with that, I ask your  
18 approval of this loan.

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

21 COMMISSIONER ROSENFELD: Jim, I have  
22 just a numerical question for you. The payback  
23 time is kind of long. On the next item the  
24 payback time is only three years.

25 MR. HOLLAND: Yes, sir.

1                   COMMISSIONER ROSENFELD: How come this  
2 is seven years?

3                   MR. HOLLAND: The reason is for that in  
4 many cases the City does their own labor at a much  
5 cheaper rate. In this case they need to contract  
6 out the labor. So although the LED modules,  
7 themselves, are the same as other projects that  
8 we've seen come before the Commission, in this  
9 case Lynwood is actually having to hire out for  
10 contractors to do the change. And the hourly rate  
11 is much higher.

12                   However, it's still well below the  
13 payback.

14                   COMMISSIONER ROSENFELD: No, sure, it's  
15 a good idea. But I was of the impression that the  
16 labor costs weren't really very large because  
17 traffic lights only last like a year or two, and  
18 one has to go out and replace the lamps anyway.  
19 And so changing the module wouldn't be that much  
20 extra cost.

21                   MR. HOLLAND: Yes, sir. For this  
22 project, going out throughout the City and  
23 charging -- changing the lamps, we estimate an  
24 hourly cost for this at 43.75, \$43.75 an hour. In  
25 past cases we've actually used approximately \$34

1 or \$35 per hour.

2 So it's that contract cost of going out  
3 all at one, not necessarily because the lamps need  
4 to be changed, but to retrofit to LEDs that's  
5 giving us one-time higher costs.

6 COMMISSIONER ROSENFELD: Oh, okay,  
7 sounds fine. I move the item.

8 CHAIRPERSON PFANNENSTIEL: Is there a  
9 second?

10 COMMISSIONER BYRON: Second.

11 CHAIRPERSON PFANNENSTIEL: In favor?

12 (Ayes.)

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

15 MR. HOLLAND: Thank you.

16 CHAIRPERSON PFANNENSTIEL: Item 6,  
17 possible approval of a \$607,466 loan to the City  
18 of Chula Vista to upgrade lighting, improve HVAC  
19 systems and install variable speed drives for  
20 chilled water, hot water and air handling systems  
21 at six City facilities. Good morning.

22 MS. PERRIN: Good morning,  
23 Commissioners. My name is Karen Perrin; I'm with  
24 the public programs office.

25 This new loan before you today will help

1 the City of Chula Vista with its goal of improving  
2 energy efficiency at its facilities.

3 The project consists mainly of  
4 mechanical and lighting systems and will affect  
5 six of its facilities. The total project cost is  
6 estimated at \$810,601 and the utility, San Diego  
7 Gas and Electric, will provide an estimated  
8 \$203,155 in rebates. The balance of the loan will  
9 be \$607,446.

10 These projects will save the City about  
11 \$180,000 annually and result in a simple payback  
12 of 3.4 years after the rebate. These projects  
13 will also meet the state's energy efficiency goals  
14 and reduce greenhouse gas emissions by 558 tons  
15 per year.

16 The loan is consistent with the CEC's  
17 2007 Integrated Energy Policy Report to reduce  
18 energy and greenhouse gas by implementing cost  
19 effective energy projects.

20 And engineers from the Center of  
21 Sustainable Energy, formerly the San Diego  
22 Regional Energy Office and Energy Commission, have  
23 evaluated all the energy cost savings calculations  
24 and determined that this loan is technically  
25 feasible and meets all requirements for a loan

1 under the Energy Conservation Assistance Act.

2 This item has been previously approved  
3 by the Efficiency Committee. And staff is seeking  
4 your approval on this item.

5 CHAIRPERSON PFANNENSTIEL: Thank you.

6 Are there questions?

7 COMMISSIONER ROSENFELD: I move the  
8 item.

9 COMMISSIONER BYRON: I'll second it with  
10 a question. Commissioner Rosenfeld, have we  
11 blanketed all the cities yet in the state with  
12 these LED lights?

13 COMMISSIONER ROSENFELD: Well, you know,  
14 I thought we had and they keep cropping up. Maybe  
15 Jim Holland can answer that.

16 COMMISSIONER BYRON: Do we know how many  
17 cities we've covered at this point? Would you  
18 track --

19 MR. HOLLAND: I'm sorry, sir, I don't  
20 have the statistics on it, but I know most of them  
21 have been done. And it's the latecomers to the  
22 party, the regulations party, that are realizing  
23 that their supply of incandescent bulbs has dried  
24 up. And that they need to hurry up and get LEDs,  
25 and while they're at it, they might as well use

1       our funds to do it because they may not have  
2       budget for it.

3                You know, they put it off and put it  
4       off, and now they're finding all sources of  
5       incandescent traffic signal lamps used up or  
6       hoarded by other larger entities. And they're  
7       just at a point now where they have to use the  
8       LEDs. And they may not have funds, which is  
9       beneficial for our loan program.

10               COMMISSIONER BYRON: Okay, thank you.  
11       Did you want to add something?

12               MS. PERRIN: Yeah, I wanted to add that  
13       the Chula Vista loan is not for the traffic  
14       signals; this one is for their lighting and HVAC.

15               COMMISSIONER BYRON: Right, right.  
16       Well, thank you very much.

17               MS. PERRIN: Thank you.

18               COMMISSIONER BYRON: And there was a  
19       second in there.

20               CHAIRPERSON PFANNENSTIEL: All in favor?

21               (Ayes.)

22               CHAIRPERSON PFANNENSTIEL: Thank you,  
23       both.

24               Item 7, possible approval of an  
25       interagency agreement with the Department of Water

1 Resources to indemnify DWR in connection with the  
2 Rosetta Resources CO2 storage project planned for  
3 DWR's Grizzly Slough property. Thank you. Kelly.  
4 Good morning.

5 MR. BIRKINSHAW: Good morning,  
6 Commissioners. For the record I'm Kelly  
7 Birkinshaw with the R&D division. And what we're  
8 asking for is your consideration of a legal  
9 agreement with the Department of Water Resources  
10 that would allow us to go forward with the pilot  
11 scale geologic sequestration demonstration just  
12 west of here in Rio Linda under Western Regional  
13 Carbon Sequestration Partnership.

14 As you may recall earlier discussions on  
15 this, we have two demonstration projects under  
16 phase two, one of which is just outside of Rio  
17 Linda, to put into the ground into a depleted  
18 natural gas field, and then even deeper, a saline  
19 formation, a small amount of CO2 to demonstrate  
20 the technology and to show that we have the  
21 ability to predict the ultimate fate of the CO2  
22 under this type of sequestration.

23 The project site happens to be located  
24 on property owned by the Department of Water  
25 Resources and so we need an agreement with them

1 for site access and to do this project.

2 Allan Ward, Staff Counsel, has been  
3 working with his counterparts at the Department of  
4 Water Resources. And I think we've reached some  
5 closure on a possible agreement.

6 I think I'd like to turn it over to him  
7 now, unless there are some questions. We can talk  
8 more about the specifics of that agreement.

9 MR. WARD: Good morning, Chairman  
10 Pfannenstiel and Commissioners. Allan Ward from  
11 the Commission's legal office.

12 I would like to go through some of the  
13 provisions today, but I should make clear that my  
14 role is not to recommend or not recommend this  
15 particular agreement. I'm just here to clarify  
16 what the provisions are because I'm not a carbon  
17 sequestration expert. So you get both of us.  
18 Kelly can't explain the provisions; I can't  
19 explain the technical. So we're tag-teaming this.

20 This is a 20-year agreement which is a  
21 long time, but it is a vast improvement over the  
22 original agreement that DWR sent over, which was  
23 for an indefinite period of time. So we were able  
24 to negotiate it down to 20 years.

25 This agreement would obligate the Energy

1 Commission to indemnify and hold harmless DWR, its  
2 officers and employees for any personal injury or  
3 property damage that might occur under this  
4 project.

5 Even though that's sort of the bad news,  
6 that it's a 20-year agreement and it is an  
7 indemnity and holding DWR harmless, it should be  
8 noted that there are specific restrictions that I  
9 think are important to note.

10 First of all, this is specifically  
11 restricted to personal injury and property damage.  
12 Now, obviously in lawsuits those can be very large  
13 damage-type of awards. However, it is restricted  
14 to those two types, and it doesn't cover things  
15 like contracts.

16 There's going to be a separate contract  
17 between the Department of Water Resources and the  
18 other WestCarb members that the Commission will  
19 not be a party to. And if there's any problems  
20 with that contract, or any other contractual  
21 arrangements between DWR related to the property  
22 and this project, the Energy Commission would not  
23 be responsible for any of those losses or damages.

24 This agreement is specific to DWR, its  
25 officers and employees, and does not cover any of

1 its contractors. It also cannot be assigned  
2 without the Commission's approval at another  
3 business meeting to any other entity. Thus if the  
4 property is sold to any other entity, it would not  
5 transfer to them.

6 It only applies to this small-scale  
7 test. If the small-scale test is successful as  
8 anticipated, there might be a desire to go ahead  
9 and conduct a much larger scale test on the  
10 property. This indemnity agreement does not cover  
11 anything else other than this very small-scale  
12 test. Anything for anything else would have to be  
13 negotiated further.

14 I think one of the most important ones  
15 is that the agreement is limited by a provision  
16 that indicates that if it's DWR, itself, through  
17 its own actions that causes the loss or the harm,  
18 the Energy Commission has no responsibility to pay  
19 for those damages, as well.

20 I would also like to point out that  
21 separate from this agreement the other agreement  
22 that's in the works between the Department of  
23 Water Resources and the other WestCarb members  
24 will also have indemnity provisions. So those  
25 other entities will also be under the same type of

1 responsibility.

2           What this means is that even though DWR  
3 could act under its rights under either agreement,  
4 the most likely result would be if there was any  
5 damages or results that the Commission might be  
6 liable through this agreement, those other parties  
7 would also be liable. So there would be a  
8 shouldering of the burden.

9           I in no way want to diminish the fact  
10 that this is a 20-year agreement with uncertain  
11 legal liability, but I do want to point out that  
12 all that DWR is doing is granting access to the  
13 land. Through agreements already in place the  
14 Energy Commission has already taken on the  
15 responsibility for managing and funding this work.

16           Therefore, the Energy Commission's  
17 already assumed a certain level of risk related to  
18 this project. And it is unlikely, at least as far  
19 as I could tell, given the respective  
20 responsibilities of DWR and the Energy Commission,  
21 that if anything did happen of a legal nature,  
22 that we would not be a party to that action versus  
23 DWR.

24           And with that, we can open it up to  
25 questions on both the provisions and the technical

1 aspects of the project.

2 CHAIRPERSON PFANNENSTIEL: Are there  
3 questions?

4 COMMISSIONER ROSENFELD: Yeah, Allen, I  
5 read this stuff last night, and I'm mystified. I  
6 don't really have a clue as to what sort of risk  
7 we're thinking about.

8 Can you or Kelly give an example of what  
9 could go wrong and what we might be in for?

10 MR. BIRKINSHAW: Well, there are, you  
11 know, some industrial processes that need to occur  
12 to facilitate this project in the sense that we're  
13 going to need to bring large drill rigs onsite.  
14 They need to drill into the formations. And then  
15 we'll have roughly 100 trucks of liquified CO2  
16 brought in to --

17 COMMISSIONER ROSENFELD: Inject.

18 MR. BIRKINSHAW: -- inject into the  
19 formation. So, I guess if I had to guess, it  
20 would be during that industrial phase of this  
21 project is where there would be risk.

22 On the other hand, we are contracting  
23 with reputable service providers who have  
24 considerable experience in these kinds of  
25 operations. And, in fact, I think contractual

1 requirements mandate that they have their own  
2 insurance for these kinds of things, as well.

3 Beyond that, there will be scientists  
4 onsite to monitor the plume of CO2 with various  
5 instruments. But that's a fairly benign activity,  
6 I would say. Though I guess it's always possible  
7 for someone to trip over a rock or, you know, hurt  
8 themselves in some other way while they're on the  
9 site.

10 Beyond that, it comes down to what you  
11 think the risks will be associated with the CO2,  
12 itself. Our modeling suggests that the plume will  
13 extend perhaps 100 feet or 200 feet beyond the  
14 injection level, itself. And is a relatively  
15 small amount of CO2, given the volume of the  
16 reservoir.

17 It is possible that you could have a  
18 leak of the well casing. There really aren't any  
19 contained areas where it could accumulate and  
20 become dangerous, however.

21 And so we don't see really any  
22 particular risk associated with even the long-term  
23 storage of this amount of CO2 at this location.

24 COMMISSIONER ROSENFELD: Thank you.

25 COMMISSIONER BYRON: Would the

1 monitoring continue during that 20-year period?

2 MR. BIRKINSHAW: No. We expect to be  
3 onsite to verify the modeling; in fact, I would  
4 have to say I think that is one of the primary  
5 objectives. To do this kind of a test in-field,  
6 to demonstrate, validate our ability to predict  
7 the CO2.

8 Once we've done that, when we're fairly  
9 certain that we have a good predictive model, we  
10 would vacate the site.

11 I think it's important to remember that  
12 it is virtually impossible for an explosive  
13 release of CO2. And so what we're talking about  
14 is a very small leak, in the worst case. And it's  
15 a gas that we all breathe and are doing so right  
16 now.

17 If there's no place for it to  
18 accumulate, and that is virtually the case here  
19 because it is an agricultural area, then there  
20 really is very little potential for at least  
21 harming the public or other flora and fauna around  
22 the area.

23 COMMISSIONER DOUGLAS: Now, Allen, my  
24 understanding from our briefing yesterday is that  
25 the fact that we are funding this project and

1 managing the contracts, making the contracts to  
2 have this project undertaken means that we are  
3 potentially liable for things going wrong, for  
4 anything that might go wrong in any case.

5 MR. WARD: Yes.

6 COMMISSIONER DOUGLAS: So is it fair to  
7 say that the additional potential liability from  
8 this item really is just that we're saying that  
9 DWR would not be available to share the burden if  
10 there were a lawsuit coming out of this project?

11 MR. WARD: That's a fair  
12 characterization of it. I tried to think of  
13 circumstances in which only DWR might somehow be  
14 responsible. But once I added the provision that  
15 said if they're negligent or their own acts cause  
16 the harm, we're not responsible, it was hard for  
17 me to think of any.

18 COMMISSIONER DOUGLAS: I think this is,  
19 while not sort of agreement that I hope we do  
20 often, not a very serious expansion of liability  
21 we had taken on anyway when we decided to do the  
22 project. And I also think it's a very important  
23 project.

24 COMMISSIONER BYRON: Absolutely.

25 CHAIRPERSON PFANNENSTIEL: Is that a

1 motion?

2 COMMISSIONER DOUGLAS: I'll move this  
3 item.

4 COMMISSIONER ROSENFELD: Second.

5 COMMISSIONER BYRON: And if I may add  
6 just as well, you know, attorneys abhor  
7 uncertainty, and I appreciate your concern. But,  
8 you know, carbon capture and sequestration R&D is  
9 extremely important. And it's part of -- my  
10 advisors remind me, it's part of the wedge of  
11 miracles that's necessary to reduce CO2 in the  
12 long run.

13 So, we've got to take some risk at  
14 sometime. I agree with my fellow Commissioner  
15 Douglas that this is a very low risk item. And I,  
16 too, support this.

17 CHAIRPERSON PFANNENSTIEL: All in favor?

18 (Ayes.)

19 CHAIRPERSON PFANNENSTIEL: Thank you  
20 very much.

21 MR. BIRKINSHAW: Thank you.

22 CHAIRPERSON PFANNENSTIEL: Item 8,  
23 possible approval of contract 200-07-006 for  
24 \$45,000 with the Governor's Office of Planning and  
25 Research to provide writing and research services

1 for planning and policy discussion documents on  
2 the state's energy issues. Good morning.

3 MS. RAEDEL: Good morning, Chairman and  
4 Commissioners. I'm Cheryl Raedel of the contracts  
5 office. And I'm requesting approval of the  
6 Commission's annual agreement with the Governor's  
7 Office of Planning and Research for \$45,000.

8 This agreement provides writing and  
9 research services from the Governor's Office. And  
10 it's the type of agreement that is shared by all  
11 agencies underneath the resources branch.

12 So, that said, I would thank you for  
13 your consideration of this agreement.

14 CHAIRPERSON PFANNENSTIEL: Is there a  
15 motion?

16 COMMISSIONER ROSENFELD: I move it.

17 COMMISSIONER BYRON: Second.

18 CHAIRPERSON PFANNENSTIEL: All in favor?

19 (Ayes.)

20 CHAIRPERSON PFANNENSTIEL: Thank you.

21 MS. RAEDEL: Thank you.

22 CHAIRPERSON PFANNENSTIEL: Item 9,  
23 possible approval of transfer of -- and this is a  
24 change in the dollar amount from what is in the  
25 agenda -- \$461,681,784 from the new renewable

1 resources account funds to California Electrical  
2 Corporation serving customers subject to the  
3 renewable energy public goods charge. Mr.  
4 Hutchison, good morning.

5 MR. HUTCHISON: Good morning, Chairman  
6 and Commissioners. I am Mark Hutchison with the  
7 renewable energy office.

8 The item before you returns, as you  
9 mentioned, \$461,681,784 to Pacific Gas and  
10 Electric, Southern California Edison, San Diego  
11 Gas and Electric and Golden State Water Company  
12 doing business as Bear Valley Electric, pursuant  
13 to the requirements of SB-1036.

14 Among other things, SB-1036 abolishes  
15 the new renewable resources account and the  
16 renewable resources trust fund and transfers the  
17 funds from the account to the utilities.

18 These funds were primarily collected  
19 between 2002 and 2007, which we commonly refer to  
20 as the RPS SEP phase, supplemental energy  
21 payments. And that totaled about \$430.8 million.

22 In addition to that, there was another  
23 \$49 million and some change that was collected  
24 prior to 2002. That essentially was two canceled  
25 projects, two projects that we recently canceled.

1           I would like to note that the amount  
2           proposed for transfer to the utilities has been  
3           reduced by \$18.2 million. This is the amount of  
4           the remaining loan to the general fund that dates  
5           back to 2002.

6           Once or if the general fund repays this  
7           loan, these funds will be transferred back to the  
8           utilities under the same methodology.

9           This item has been approved by the  
10          Renewable Committee, and your approval of this  
11          transfer is requested. And myself and Madeline  
12          here are available to answer any questions.

13          CHAIRPERSON PFANNENSTIEL: Thank you,  
14          Mark Just to be clear, this is the end of the  
15          supplemental energy payment program, right? So  
16          now the funds go back --

17          MR. HUTCHISON: Correct.

18          CHAIRPERSON PFANNENSTIEL: -- to the  
19          utilities from whence they came through their  
20          public goods charge. And any subsidy for  
21          renewables projects will be done through the  
22          utilities directly rather than through the Energy  
23          Commission?

24          MR. HUTCHISON: Correct. In fact,  
25          moving forward beginning this January of 2008, the

1 revenues coming into the renewable resource trust  
2 fund have been reduced by 51.5 percent, which  
3 reflects the fact that we will not be handling the  
4 new generation supplemental energy payment  
5 program.

6 CHAIRPERSON PFANNENSTIEL: Right. So  
7 maybe this will fix the RPS. Are there other  
8 questions?

9 Is there a motion?

10 COMMISSIONER ROSENFELD: I move it.

11 COMMISSIONER BYRON: I'll second, moving  
12 this, you know, half-a-billion and change item.

13 CHAIRPERSON PFANNENSTIEL: All in favor?

14 (Ayes.)

15 CHAIRPERSON PFANNENSTIEL: Thank you.

16 MR. HUTCHISON: Thank you.

17 CHAIRPERSON PFANNENSTIEL: Minutes,  
18 approval of the minutes of the February 13th  
19 business meeting.

20 COMMISSIONER ROSENFELD: I move the  
21 minutes.

22 COMMISSIONER DOUGLAS: Second.

23 CHAIRPERSON PFANNENSTIEL: In favor?

24 (Ayes.)

25 CHAIRPERSON PFANNENSTIEL: The minutes

1 are approved.

2 Any Commission Committee presentations  
3 or discussions? None.

4 Chief Counsel report, Mr. Chamberlain.

5 MR. CHAMBERLAIN: Madam Chairman, I need  
6 a brief closed session with the Commission to  
7 discuss two litigation matters which we provided a  
8 memo on.

9 CHAIRPERSON PFANNENSTIEL: Thank you.  
10 Executive Director's report.

11 MS. CHANDLER: I have no report, thank  
12 you.

13 CHAIRPERSON PFANNENSTIEL: Thank you.  
14 Leg?

15 MS. WEBER: Good morning, Chairman and  
16 Commissioners. As you know this last Friday was  
17 the deadline for bill introduction in the  
18 Legislature. And the Commission now has an  
19 additional 125 bills approximately to take a look  
20 at that deal with energy issues. This makes our  
21 total for the two-year session around 180 bills.

22 These bills can be heard in policy  
23 committee as early as March 17th, so the Resources  
24 Agency has requested analyses on 25 bills that are  
25 due to them within the next two weeks. So I

1        imagine the OGA is going to be keeping staff very  
2        busy looking at bill analyses.

3                Approximately half the bills that were  
4        introduced this past year deal with alternative  
5        fuels and renewables. So you can see where the  
6        Legislature is going.

7                As far as upcoming hearings there's a  
8        joint hearing in the Assembly Natural Resources  
9        and Senate Subcommittee on Alternative Energy on  
10       March 3rd that's going to look at the  
11       implementation of AB-32. I don't believe we're  
12       going to be highly involved in that one.

13               On March 4th there's a hearing in the  
14       Senate Energy Utilities and Communications  
15       Committee. This one is going to deal with an  
16       informational hearing on direct access. Again,  
17       the CEC is not going to be directly involved in  
18       this one.

19               Then on March 10th we have the Assembly  
20       Utilities and Commerce, an information hearing on  
21       integration of renewable resources for  
22       California's electricity system and greenhouse gas  
23       reduction goals in the energy sector.

24               On March 10th is the Senate Energy and  
25       Utilities and Communications Committee, an

1 informational hearing on transmission and delivery  
2 of renewables. We had staff meet with the  
3 committee consultants on that yesterday afternoon;  
4 and they're developing the agenda for that. So  
5 hopefully we'll have more information for you in  
6 the next business meeting.

7 COMMISSIONER BYRON: Marni, excuse me,  
8 was that last one you mentioned March 10 or March  
9 11?

10 MS. WEBER: March 11th is the Senate  
11 Energy and Utilities.

12 CHAIRPERSON PFANNENSTIEL: Would you put  
13 this in just a note to the Commissioners so that  
14 we have in front of us the upcoming hearings,  
15 dates, committees, role that we might play? I  
16 think it's just helpful if we kind of have it in  
17 front of us.

18 MS. WEBER: Certainly, I'd be happy to.

19 CHAIRPERSON PFANNENSTIEL: Thank you.  
20 Anything else?

21 MS. WEBER: That's it.

22 COMMISSIONER BYRON: Wow.

23 CHAIRPERSON PFANNENSTIEL: One hundred  
24 and eighty bills.

25 MS. WEBER: A hundred and eighty bills.

1                   CHAIRPERSON PFANNENSTIEL: I don't know  
2 why you guys are here; you should be up there to  
3 sort through them.

4                   (Laughter.)

5                   CHAIRPERSON PFANNENSTIEL: Public  
6 Adviser report.

7                   MR. BARTSCH: Madam Chair, Members, Nick  
8 Bartsch here representing the Public Adviser's  
9 Office. We don't have anything new for you at  
10 this time. Thank you.

11                   CHAIRPERSON PFANNENSTIEL: Thank you.  
12 Public comment, any further public comment?  
13 Anybody on the phone, Harriet? None.

14                   We'll be adjourned.

15                   (Whereupon, at 10:42 a.m., the business  
16 meeting was adjourned.)

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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 29th day of February, 2008.

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