

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, MARCH 12, 2008

10:04 A.M.

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

COMMISSIONERS PRESENT

Jackalyne Pfannenstiel, Chairperson

James D. Boyd, Vice Chairperson

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

Che McFarlin

Deborah Dyer

Paula David

Martha Brook

Karen Griffin

Mark Pryor

Tim Tutt

ALSO PRESENT

Scott Galati, Attorney
Galati and Blek, LLP

Stephen J. Sciortino
Public Utilities Department
City of Anaheim

Lourdes Jimenez-Price, Sr. Attorney
Scott Flake
Sacramento Municipal Utility District

ALSO PRESENT

Gary L. Schoonyan
Southern California Edison Company

Bruce McLaughlin, Attorney
California Municipal Utilities Association

Norman Pedersen
Southern California Public Power Authority

Steven Kelly
Independent Energy Producers Association

Julee Malinowski-Ball
Public Policy Advocates

Jane Luckhardt, Attorney
Downey, Brand Attorneys, LLC
on behalf of Sacramento Municipal Utility District

Mark Krausse
Pacific Gas and Electric Company

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

2 10:04 a.m.

3 CHAIRPERSON PFANNENSTIEL: This is the
4 Energy Commission business meeting of March 12th.
5 Please join me in the Pledge of Allegiance.

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

8 CHAIRPERSON PFANNENSTIEL: We have
9 surprisingly no changes to the published agenda
10 today.

11 We will start with the consent calendar.
12 Is there a motion to approve the consent calendar?

13 COMMISSIONER BOYD: Move consent.

14 COMMISSIONER BYRON: Second.

15 CHAIRPERSON PFANNENSTIEL: All in favor?

16 (Ayes.)

17 CHAIRPERSON PFANNENSTIEL: The consent
18 calendar is approved.

19 Item number 2, possible approval of the
20 Executive Director's data adequacy recommendation
21 for the Southern California Public Power
22 Authority's application for certification of the
23 Canyon Anaheim Power Plant project, a nominal 200
24 megawatt natural gas-fired, simple-cycle
25 generating facility. Good morning.

1 MR. McFARLIN: Good morning,
2 Commissioners. I'm Che McFarlin, Staff Siting
3 Project Manager for the Canyon Power Plant
4 project. And Staff Counsel Deborah Dyer is here
5 with me.

6 This AFC was submitted by the Southern
7 California Public Power Authority on December 28th
8 of 2007, seeking approval from the Energy
9 Commission for construction and to operate the
10 proposed Canyon Power Plant.

11 The project is proposed as a 12-month
12 AFC. And it's located in the City of Anaheim
13 within an industrial area.

14 The item was originally on the February
15 13th business meeting, at which time the AFC was
16 inadequate in 12 areas. Applicant subsequently
17 filed materials on March 7th which satisfied all
18 of our data adequacy requirements except for in
19 the areas of air quality where we were still
20 waiting for a letter from the South Coast Air
21 Quality Management District. And we received that
22 letter yesterday afternoon. That was distributed
23 to all of you, so hopefully you've had a chance to
24 look that over.

25 So with that last piece of information

1 it's staff's opinion that the AFC is now data
2 adequate. And we would recommend that it's found
3 to be data adequate for the 12-month process.

4 And if you agree with the recommendation
5 we'd request appointment of a Committee.

6 CHAIRPERSON PFANNENSTIEL: Thank you,
7 Mr. McFarlin. Any comments from the applicant?

8 MR. GALATI: Scott Galati representing
9 the Southern California Public Power Authority.

10 MR. SCIORTINO: Steve Sciortino; I'm the
11 Integrated Resources Planning Manager for the City
12 of Anaheim. I want to personally thank the
13 Commission Staff for helping us along in this
14 process.

15 This is the first generating facility
16 we've built since 1990, so we're very excited
17 about the process. A few bumps, but we're pretty
18 happy that the staff was able to point out where
19 we needed to get everything buttoned up. And
20 we're looking forward to the process.

21 CHAIRPERSON PFANNENSTIEL: Thank you.
22 Are there questions from the Commission?

23 COMMISSIONER DOUGLAS: No.

24 CHAIRPERSON PFANNENSTIEL: Is there a
25 motion to approve the Executive Director's

1 recommendation?

2 COMMISSIONER BYRON: Move the
3 recommendation.

4 COMMISSIONER DOUGLAS: Second.

5 CHAIRPERSON PFANNENSTIEL: All in favor?

6 (Ayes.)

7 MR. McFARLIN: Thank you.

8 CHAIRPERSON PFANNENSTIEL: Appointment
9 of a Committee. I would nominate a Committee of
10 Commissioner Byron and Commissioner Rosenfeld.

11 COMMISSIONER BYRON: I note Commissioner
12 Rosenfeld's not here. Is there any chance you
13 might consider reversing those?

14 (Laughter.)

15 CHAIRPERSON PFANNENSTIEL: And he's
16 usually the one to move the committee assignment.
17 Is there a motion to that Committee assignment?

18 COMMISSIONER BOYD: I'll move.

19 COMMISSIONER DOUGLAS: I'll second it.

20 CHAIRPERSON PFANNENSTIEL: All in favor?

21 (Ayes.)

22 MR. McFARLIN: Thank you.

23 CHAIRPERSON PFANNENSTIEL: The Committee
24 is appointed. Thank you.

25 MR. GALATI: Thank you.

1 CHAIRPERSON PFANNENSTIEL: Item 3,
2 possible approval of Sacramento Cogeneration
3 Authority's petition to upgrade three combustion
4 turbines at the Procter and Gamble Cogeneration
5 Facility.

6 MS. DAVID: Good morning, Commissioners.
7 My name is Paula David; I'm the Compliance Project
8 Manager assigned to all of the Sacramento
9 Municipal Utility District projects in the
10 compliance unit right now.

11 And the amendment petition before you
12 this morning is a request to modify three
13 combustion turbines, upgrading them with new
14 technology at the Procter and Gamble Cogeneration
15 Plant.

16 The petition was submitted by the
17 Sacramento Cogeneration Authority, a joint powers
18 authority affiliated with Sacramento Municipal
19 Utility District. I will refer to them as SMUD
20 from here on.

21 And the project is managed by SMUD. The
22 Procter and Gamble Power Plant is a 164 megawatt
23 cogeneration power plant. It's located at the
24 Procter and Gamble manufacturing facility in the
25 City of Sacramento. It provides electricity for

1 SMUD customers and steam for the operations at the
2 Procter and Gamble factory.

3 The project was certified by the Energy
4 Commission on November 16, 1994, and began
5 commercial operation in 1996.

6 In summary, the petition to amend the
7 project's license was filed on December 6, 2007.
8 And its specific scope is to upgrade the two
9 existing LM6000 PA combustion turbines to the
10 LM6000 PC technology, improving efficiency.

11 And the project will also add spray
12 inner-cooled turbine and enhanced flow and speed
13 technology, also called Sprint EFS, to all three
14 turbines on the site, primarily to decrease smog-
15 forming nitrogen oxide emissions.

16 These upgrades are anticipated to lower
17 the combustion turbines' greenhouse gas emissions
18 and natural gas consumption on a per-megawatt-hour
19 basis. And raise thermal efficiency.

20 The project will be completed in three
21 phases. When complete the overall facility output
22 is expected to increase by about 22 megawatts
23 nominal.

24 The Sacramento Metro Air Quality
25 Management District approved installation of the

1 upgraded turbines on February 8, 2008, so that's
2 already complete. And these modifications are
3 part of a larger effort by SMUD to improve their
4 greenhouse gas emissions footprint.

5 The staff analysis -- here's a summary
6 of the staff analysis. The Energy Commission
7 Staff reviewed the petition for potential
8 environmental impacts and consistency with
9 applicable laws, ordinances, regulations and
10 standards for the following technical areas:

11 Air quality, transmission system
12 engineering, geology, noise, paleontology, traffic
13 and transportation, hazardous materials, worker
14 safety, fire protection, waste management, soil,
15 water, land use, visual resources and cultural and
16 biological resources.

17 Staff analyses were published for air
18 quality, both criteria pollutants and greenhouse
19 gas emissions were looked at. Then also visible
20 plumes and for plant efficiency and reliability.

21 The air quality technical staff proposed
22 some revised, new and deleted conditions to align
23 the Energy Commission conditions of certification
24 with the local air district requirements and
25 permits. The revised conditions of certification

1 are AQ-7, AQ-11, AQ-50B and AQ-51C. And those
2 revisions are found in your draft orders in your
3 binders.

4 Water technical staff concluded the
5 upgrades will not have an adverse impact on water
6 resources. Water is used for power augmentation,
7 evaporative cooling, and air pollution control.
8 And water is supplied under contract with the City
9 of Sacramento. And the increase in potable water
10 use achieves significant benefits and is under the
11 permitted allowance from the City, and also under
12 the allowance in the Commission decision.

13 The public review process, the notice of
14 receipt and staff analyses were published and
15 distributed on February 29, 2008, for an 11-day
16 public review period. And no comments were
17 received.

18 I'll now summarize our findings. The
19 Energy Commission Staff proposes revisions to the
20 seven conditions of certification AQ-10 through
21 14, AQ-16 and AQ-39, as I stated previously.

22 In addition, AQ-15 would be deleted, and
23 AQ-50 through 51 added to the current conditions
24 of certification.

25 And, again, these changes are found in

1 the draft order before you today.

2 So, it is staff's opinion that with the
3 implementation of staff's proposed conditions the
4 project will remain in compliance with applicable
5 laws, ordinances, regulations and standards. And
6 that the proposed modifications will not result in
7 significant adverse direct or cumulative impact to
8 the environment per Title 20.

9 Our recommendation is this, then: Staff
10 recommends that the Energy Commission approve the
11 petition to modify the Procter and Gamble
12 Cogeneration project.

13 This concludes my presentation. And if
14 you have questions, representatives from SMUD are
15 present, as well as our technical staff. Thank
16 you.

17 CHAIRPERSON PFANNENSTIEL: Thank you,
18 Ms. David. Are there comments from the
19 petitioner?

20 MR. FLAKE: Good morning. Scott Flake,
21 Manager of Power Generation from Sacramento
22 Municipal Utility District.

23 I'd just like to thank the Commission
24 Staff for diligently working on this process.
25 They were very quick and thorough in their

1 analysis. This is an exciting project for SMUD.
2 It represents an increase in efficiency and a
3 decrease in generation of greenhouse gases on a
4 per megawatt hour basis by upgrading older
5 technology that's already in place with new
6 technology. We see that as something we'd like to
7 implement, both on the power generation side and
8 both on our customer services side.

9 So, this is an exciting project that
10 will be sweeping through the entire District. So,
11 we look forward to hopefully requesting your
12 approval today of this project to move forward.
13 Thank you.

14 CHAIRPERSON PFANNENSTIEL: Thank you.
15 Are there questions? Yes, Commissioner Byron.

16 COMMISSIONER BYRON: We reviewed this in
17 the Siting Committee. I think the staff does an
18 excellent job of looking over these kinds of
19 changes. And, of course, this is an onsite
20 generation project, combined heat and power, very
21 consistent with the recommendations that this
22 Commission has made for many years.

23 And this is exactly the kind of projects
24 that we like to see where the applicant is
25 increasing the efficiency of the machinery that's

1 doing combined heat and power.

2 There's other benefits to this, as well.
3 It's just amazing to see this in a muni, which is
4 also very encouraging. So, I would move the item
5 and hope that other companies out there would also
6 look at these kind of options. I think SMUD's
7 willingness to work with companies that do these
8 kinds of things is an excellent example to our
9 friends at the investor-owned utilities, as well.

10 CHAIRPERSON PFANNENSTIEL: Other
11 comments? Was that a motion?

12 COMMISSIONER BYRON: So I move the item.

13 COMMISSIONER DOUGLAS: I'll second the
14 item.

15 COMMISSIONER BOYD: Just a comment. I
16 let my fellow Commissioners on the Siting
17 Committee move and second, but I just want to join
18 in Commissioner Byron's commendations to my local
19 utility and this organization for undertaking this
20 project.

21 These folks were early adopters of
22 cogeneration, which is something this Commission
23 is very strongly in support of. And now they're
24 upgrading and repowering, as we like to see, to be
25 more efficient in multiple ways. And I think it's

1 just a very positive thing; and I hope you get the
2 local public notoriety you deserve for taking some
3 positive steps.

4 So I look forward to voting in support
5 of this.

6 CHAIRPERSON PFANNENSTIEL: Moved and
7 seconded.

8 All in favor?

9 (Ayes.)

10 CHAIRPERSON PFANNENSTIEL: Approved.

11 Thank you.

12 MS. DAVID: Thank you.

13 CHAIRPERSON PFANNENSTIEL: Item number
14 4, possible approval of contract 500-07-034 for \$1
15 million with the U.S. Department of Energy
16 National Renewable Energy Laboratory to develop
17 software tools that will be used to incorporate
18 new building technologies and systems in future
19 Title 24 building standards. Good morning, Ms.
20 Brook.

21 MS. BROOK: Good morning. I'm Martha
22 Brook with the buildings and appliance office.

23 As I'm sure each of you know,
24 California's current energy policy includes
25 aggressive goals to reduce greenhouse gas

1 emissions by significantly increasing the energy
2 efficiency criteria within the Title 24 building
3 energy efficiency standards.

4 But the Commission does not currently
5 have the appropriate analysis tools or standards
6 compliance software to integrate new energy
7 efficiency features into future versions of the
8 nonresidential standards.

9 In this project software tools will be
10 developed to advance future generations of the
11 nonresidential efficiency standards by
12 implementing the EnergyPlus energy simulation
13 software as the analysis engine for the building
14 energy use assessments that are required for
15 standards development and compliance.

16 EnergyPlus is a new generation building
17 energy simulation program based on two reputable
18 simulation programs that were developed in the
19 1970s, DOEII and Blast. But it has many new added
20 functionality and capabilities.

21 The nonresidential standards currently
22 use an outdated version of DOEII for its reference
23 program, which has limited the proper analysis of
24 several energy saving building technologies.

25 Adopting EnergyPlus as a reference

1 program for future standards will facilitate the
2 appropriate consideration of many current and
3 emerging technologies for new building design
4 projects.

5 By choosing NREL for this project the
6 Energy Commission is leveraging significant
7 investments by the U.S. Department of Energy in
8 the development of analysis software for national
9 energy efficiency standards, using EnergyPlus as a
10 building energy simulation tool.

11 NREL has completed this work for DOE,
12 which has resulted in an analysis software
13 platform that NREL will deliver and adapt for
14 California under this contract. The Energy
15 Commission is leveraging a DOE investment worth at
16 least \$5 million by contracting with NREL for this
17 work.

18 Another important reason that the Energy
19 Commission has chosen to work with the National
20 Laboratory on this project rather than a private
21 entity is that the software that will result from
22 this project will be made available by the Energy
23 Commission for use in developing third-party
24 standards compliance software.

25 There is a market in California for

1 standards compliance software, and companies that
2 sell this offer compete directly with each other
3 for the market.

4 The Commission believes that the
5 developer of the software specified in this
6 contract would have an unfair advantage in
7 producing derivative standards compliance
8 software.

9 NREL's status as a national laboratory
10 prevents any future role in trading compliance
11 software for certification and sale in California
12 because by federal law national laboratories are
13 prevented from competing directly with the private
14 sector.

15 Therefore, NREL does not gain a
16 competitive advantage by developing the software
17 in this project, whereas any private contractor
18 would.

19 The R&D Committee has approved this
20 contract, this PIER contract. And I'm here to
21 answer any questions that you have.

22 CHAIRPERSON PFANNENSTIEL: Martha, are
23 the tools that are being developed here
24 specifically for California for Title 24, or will
25 they be general enough to be able to be used for

1 other states that have building standards?

2 MS. BROOK: That's a great question.

3 We're actually collaborating right now with

4 Department of Energy and ASHRAE, the American

5 Society of Heating, Refrigeration and Air

6 Conditioning Engineers, who developed the national

7 nonresidential standards, to make sure that the

8 tools that we develop here can actually be used

9 for both California and the national standards.

10 So it'll be a wonderful opportunity to

11 collaborate with them, as well as give us the

12 tools to actually compare national standards and

13 California standards, Title 24 standards,

14 mandatory standards with new green building

15 standards that ASHRAE is developing.

16 So by collaborating now on the

17 development of specification of these tools, we

18 think that we'll be able to do that.

19 CHAIRPERSON PFANNENSTIEL: And is there

20 a possibility that these software tools, once

21 they're developed by NREL, will be used to

22 motivate other states to adopt standards closer to

23 title 24 or the national standards?

24 MS. BROOK: Well, I really don't know.

25 I don't know enough about what motivates other

1 states. It certainly will allow other states that
2 adopt national standards to compare national
3 standard with the Title 24 standards, and be able
4 to swap rules in and out. So the ability for them
5 to adopt California standards will increase.

6 CHAIRPERSON PFANNENSTIEL: But it isn't
7 so much the issue that one of the things holding
8 other states back is the lack of a software tool?

9 MS. BROOK: It's actually -- I mean it's
10 part of it. I mean, it's actually part of holding
11 the implementation of national standards back is
12 the limitation of a software tool. So they're
13 very interested in developing national, you
14 know, -- a national equivalent to our ACM product.

15 Because they think that right now
16 interpreting the national standard, nonresidential
17 standards is completely open to interpretation.
18 There's no written, really well documented set of
19 rules like there is in California.

20 And so it leaves a lot of things open
21 for interpretation. And as the national standards
22 are really the basis for LEED, and so lots of
23 people are really starting to adopt LEED and
24 wanting to make sure that they meet the energy
25 efficiency requirements of LEED nationally. They

1 have to make these code interpretations. And
2 having this type of software will really level the
3 playing field for that, and make sure that
4 everybody's doing it consistently.

5 CHAIRPERSON PFANNENSTIEL: Thank you.

6 Are there other questions?

7 COMMISSIONER BOYD: As the only
8 available member of the Research and Development
9 Committee, I'll move approval of this. And as the
10 new, brand new Commissioner member of the Research
11 and Development Committee, let me just say that
12 Martha came and gave me a very in-depth
13 presentation on this item, at my request. I was
14 very pleased with the project.

15 And as she's explained today, it's quite
16 significant, and I'm very pleased to endorse it.
17 I would say in response to your question, Madam
18 Chairman, that perhaps those members of the
19 Western Climate Initiative, who are trying to
20 comply and keep up with California, may well find
21 this a handy tool to help them. First California,
22 second the west, and then maybe the national
23 standards will get impacted.

24 So, I think this is a very good thing,
25 as expensive as it is. It's going to be very

1 positively helpful.

2 CHAIRPERSON PFANNENSTIEL: And that was
3 a motion?

4 COMMISSIONER BOYD: That was a motion.

5 CHAIRPERSON PFANNENSTIEL: Is there a
6 second, or are there other questions?

7 COMMISSIONER BYRON: I'll second the
8 item.

9 CHAIRPERSON PFANNENSTIEL: All in favor?

10 (Ayes.)

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

13 MS. BROOK: Thanks.

14 CHAIRPERSON PFANNENSTIEL: Item number
15 5, possible adoption of the Energy Commission and
16 Public Utilities Commission Joint AB-32
17 Implementation Committee's interim opinion on
18 greenhouse gas regulatory strategies issued
19 February 8, 2008. The interim opinion makes
20 recommendations to the California Air Resources
21 Board regarding point of regulation, allocation
22 principles and complementary programs for
23 implementing Assembly Bill 32. Ms. Griffin, good
24 morning.

25 MS. GRIFFIN: Good morning. I'm Karen

1 Griffin from the Commission Staff, and with me is
2 Mark Pryor, one of our team members on this
3 project.

4 I do have a little slide show, so we're
5 going to be putting it up now.

6 I'm honored to be presenting today to
7 you the recommendations of the AB-32
8 Implementation Committee; that's Chairman
9 Pfannenstiel and Commissioner Byron; along with
10 the recommendation of President Peevey at the
11 Public Utilities Commission, for these interim
12 opinion recommendations to be sent to the Air
13 Resources Board.

14 These recommendations were jointly
15 developed by these two Commission groups and the
16 support staffs working in concert. And the PUC
17 will be adopting what we hope is an identical
18 decision tomorrow.

19 We had to post early yesterday so that
20 we did find some of the language was not correctly
21 inserted into the decision. So, I have left an
22 errata on the back table. That language is -- the
23 PUC is in accord with that, and that is in the
24 version that they are posting today.

25 They also have found a few minor

1 footnote citation fixes, and asked that we accept
2 their truly minor, nontechnical footnote fixes in
3 our final approved version.

4 The public process that we have been
5 engaged in has been monumental and lengthy. It's
6 over a year long. We've had 65 groups have been
7 active parties in our part of the proceeding,
8 bring to us a wealth of knowledge, not only their
9 own experience, but also that of other states,
10 regions, the federal government and the
11 international community on dealing with these
12 issues.

13 And we couldn't have accomplished this
14 without all of the information from these
15 utilities.

16 This is a significant thing that the
17 Legislature has tasked ARB to do. And has
18 uniquely tasked the Energy Commission and the PUC
19 to sort of oversee and develop recommendations on
20 one of the most complex elements of our economy.

21 So what we are doing is we are working
22 to assist the ARB in crafting their multi-sector
23 regulations by particularly focusing on how
24 successfully implementing AB-32 will affect the
25 electricity and natural gas sectors.

1 It's an obvious question of, well, why
2 are we doing this now. And the reason is because
3 we are trying to fit into the ARB process. The
4 Legislature requires that ARB adopt by the end of
5 this year its multi-sector scoping plan describing
6 how all of this is going to get done.

7 And they have their own process that
8 they have to follow. So, we are asking you to
9 give them some initial recommendations now which
10 can flow into the staff work and the public review
11 work on this sector, which starts next month.

12 Then we will be doing additional
13 modeling work which will feed into their macro-
14 economic analysis that feeds into their June staff
15 proposed scoping plan. Then during their own
16 review process leading up to the Board adoption in
17 November, we will come back to you with a final
18 decision in August that amplifies, adds material.

19 And if there's, you know, significant
20 difficulties discovered during the course of the
21 next part of the proceeding, makes modifications
22 to the recommendations we're asking you to adopt
23 today.

24 So that will go back to the ARB and be
25 incorporated into their scoping plan. Once ARB

1 adopts this grand vision and guiding principles
2 about how things are going to work, what they're
3 expecting from each sector, then there will be
4 additional work next year and actually developing
5 the recommendations and implementation plans that
6 will be needed to make this a reality so that ARB,
7 by January 1, 2011, can have all the rules in
8 place. So that in 2012 parties will be required
9 to comply.

10 And that's the legislative schedule they
11 have, and how we're trying to make it happen.

12 COMMISSIONER BYRON: Ms. Griffin, this
13 is a very helpful graphic because it indicates the
14 overlap of schedules of the joint Commissions and
15 the ARB. And I note that the modeling work of the
16 joint Commissions is in the May timeframe, so we
17 don't really have the full benefit of that work.

18 And is it also correct, is my
19 understanding correct that a lot of the cap-and-
20 trade and multi-sector modeling that the ARB will
21 be doing is yet to come, as well?

22 MS. GRIFFIN: The results are yet to
23 come. Certainly, interim products from both
24 activities have been made available to
25 stakeholders, and we've had comments from them.

1 There's another ARB workshop next week
2 on the 17th, I think, on their macro-economic
3 modeling. And the modelers from our group are
4 also participating in that.

5 So, we're moving as fast as we can.

6 COMMISSIONER BYRON: Thank you.

7 MS. GRIFFIN: Okay. The foundation of
8 the plan we are recommending to ARB does involve
9 direct regulation on energy efficiency and
10 renewable programs as provided by retail
11 providers.

12 It recommends that there be mandatory
13 minimum levels of both of these with the energy
14 efficiency level being the level of all cost
15 effective energy efficiency, to be attained by a
16 mix of utility and nonutility programs.

17 And for the renewables there's a
18 mandatory minimum which is close to what is in our
19 laws. And a strong commitment in keeping with the
20 spirit and the principles in the Energy Action
21 Plan for the two Commissions to develop a
22 recommendation back to ARB about an expanded
23 renewables program during the course of the next
24 part of the proceeding. Not for your August
25 decision this year, but for a little bit later on.

1 We also assumed that in the early years
2 of the program that the major impacts that we will
3 be seeing will actually be coming from these in
4 place and expanded energy efficiency and
5 renewables programs. Because you know the fossil-
6 based, the carbon-emitting portion of our
7 generation is a very huge fleet. It's lumpy, it's
8 expensive, it takes time to turn over. And so
9 we'll be seeing changes at the margins. But that
10 will take longer.

11 Our long-term goal is for 2050, so we're
12 starting now to turn the direction of the ocean
13 liner there; and making the changes that we can
14 make right now to shrink the amount of load that
15 has to be served by carbon-emitting resources.

16 Our goals of the design and the overall
17 design were first and foremost to obtain real GHG
18 reductions. And what does that mean? In the
19 electricity sector that means you have to pay
20 attention to imports because about half of the
21 emissions from electricity consumed in California
22 is generated out of state.

23 And it has to deal with something that
24 sounds a little obscure, but it's called
25 unspecified system purchases, which means we don't

1 know where the power came from.

2 So, you have to have rules that
3 accurately deal with those two big problems in
4 order to know that you're actually getting real
5 reductions, rather than just seeing contract
6 shuffling or leakage.

7 A second key element -- I'm not going to
8 get these in the right order but -- is accuracy.
9 If we can't verify, report and monitor the
10 generation footprint, the reductions that are
11 happening, the whole system won't work. It will
12 be subject to manipulation, to fraud, to over-
13 reporting. And we won't get real reductions.

14 And so, the fact that you need to have
15 accurate reporting and ability to verify and
16 monitor has some major implications for the
17 overall program design.

18 We also wanted to have a program that
19 would be compatible with what seems to be the
20 likely direction that regional and federal
21 programs are taking. We all believe that a truly
22 effective American greenhouse gas reduction
23 program will involve the regions and eventually
24 the federal government.

25 So we need to come up with a system that

1 we thought was easily expandable, compatible,
2 linkable to what's going on so that our business
3 wouldn't wait thinking they might be investing in
4 something which wouldn't fit into the new program
5 and they'd have to start over.

6 We also thought a lot about the
7 relationship with the market structure done by,
8 well, chiefly organized by the Independent System
9 Operator. And that was important because some of
10 the designs we were coming up with, we had one set
11 of greenhouse gas reduction rules which were
12 pushing resource selection one way; and we had a
13 market design which was pushing resource selection
14 another way.

15 We didn't want to have these two
16 important things, efficient use of resources and
17 least cost to consumer and GHG reduction in
18 competition. We wanted to integrate them.

19 And in order to integrate them we had to
20 come up with a structure that used the market
21 forces and that occurs when you have a point of
22 regulation at the deliverer and you incorporate
23 the price of the carbon into the price of the
24 power. So that was -- it did have a significant
25 impact on our overall thought about the design.

1 It has become apparent that in the
2 market design we are recommending to ARB that they
3 develop a multisector cap-and-trade market for the
4 four carbon-emitting resources and that the
5 electricity sector be included.

6 But we are fully cognizant that ARB can
7 only do that if it looks at the tests which the
8 Legislature put into AB-32 for all market
9 mechanisms which another market mechanism includes
10 carbon fees or carbon taxes. That they must look
11 at those measures to make sure that it meets the
12 test. And if market measures do meet the tests,
13 then they have to make a secondary finding whether
14 cap-and-trade would be their preferred market
15 mechanisms or carbon fees or carbon taxes would
16 be. Or other things that they might be developing
17 over the course of this year. So, our
18 recommendations are to aid ARB in thinking through
19 that issue.

20 We also did really try to work very hard
21 to have a design that would be compatible with
22 what was going on in our region through the
23 Western Climate Initiative.

24 And I'm happy to say that they are
25 compatible, the recommendations of the partners,

1 which are out for review right now, are compatible
2 with what we are recommending. And this will
3 greatly aid in the efficiency and effectiveness of
4 our program, if we can either start or within a
5 few years have regional partners who also have a
6 cap on fossil emissions. So that we no longer
7 have to engage in such extensive tracking for
8 imports.

9 Finally, next point of regulation. What
10 we have proposed is that the point of regulation
11 be the deliverer. It's a hard word to say. And
12 the deliverer is the party that owns the power
13 when it's put onto the California grid. So if
14 you're a generator and you own the power, you put
15 it onto the grid. You're the deliverer.

16 If you're an importer and you own the
17 power, so you're not a marketer, you own the
18 power, not broker, you are responsible for it when
19 it comes onto the California grid.

20 This is a design which treats instate
21 and out of state equally. It's compatible with a
22 lot of existing air quality regulations so people
23 understand how to do it. It allows the price of
24 the carbon to be put into the price of the power,
25 again synching up our market goals and our climate

1 change reduction goals.

2 It's important to keep saying that just
3 because we've said that the deliverer is the point
4 of regulation, that does not have any
5 consequential impacts for how allocation of
6 allowances, benefits and costs will be made.
7 That's the next part of this proceeding.

8 There is not a if you say the deliverer,
9 then X, Z, Y, Z, Z will happen on allocation of
10 benefits.

11 All right. Put in here the reasons why
12 we think a cap-and-trade market would be a good
13 thing to do, a good thing to have as an option for
14 parties. Again, trading is an option. We believe
15 that trading would allow parties to find lower
16 cost options. That if they can't do it,
17 themselves, either within our own sector, or with
18 other sectors of the economy. But it's not
19 necessary. If a party just wants to, you know,
20 work within a cap they can do that.

21 And also -- there is also a very
22 important part of a cap-and-trade market which is
23 being developed, and that is flexible compliance.
24 And you'll see that as we are thinking about the
25 modeling activities that go on, and over the next

1 few months if we do see that there are substantial
2 impacts on various groups of customers, that needs
3 to be dealt with so that the cost impacts of this
4 are not so high. Or that the GHG reductions
5 aren't real and we have to find another way to get
6 it.

7 Then you start looking to things like
8 flexible compliance, which is offsets, how do you
9 structure the offset; what counts as an offset; do
10 you allow banking and borrowing; do you have a
11 price ceiling and a floor; do you have a safety
12 valve.

13 Now, all of these flexible compliance
14 issues have to be dealt with both for our own
15 sector, but in the context of what the Air
16 Resources Board is doing. So that's very much of
17 a joint developmental activity that will be going
18 on this summer.

19 Allocation of benefits. We adopt some
20 high-level principles here. But this is the area
21 which is going to have the greatest amount of
22 development in the next few months.

23 And what this recommends is that we
24 start out, as we design a program, the actual way
25 that the allowances will be allocated, we're

1 suggesting that we start out with a process which
2 involves some amount of auctioning to find the
3 correct price point, to allow a little bit of
4 trading and learning experience; to allow new
5 entrants a way to get into the market.

6 But that we're looking at primarily a
7 transitional approach here, transitional
8 approaches here, where we may need to start with
9 some of kind administrative allocation and
10 transition into another kind of market.

11 Most of the comments in the early part
12 of this -- we're really thinking about allocation
13 almost exclusively in terms of retail providers.
14 So parties now need an opportunity to think, okay,
15 how is this going to be -- is this going to be
16 different. How is it going to be different if we
17 have the point of regulation on the deliverer; or
18 can we still perhaps allocate the benefits to
19 retail providers, but have them then turn the
20 allowances into a central auction house, if, of
21 course, it's going to be auctioned, and have those
22 auctions.

23 Those are the next level of big design
24 issues that we're going to be dealing with.

25 Okay, natural gas. For the natural gas

1 sector this is the natural gas which is provided
2 by local distribution companies to small
3 residential and small commercial customers and the
4 infrastructure.

5 Large users of natural gas, if they
6 generate electricity, they're in the electricity
7 sector. If they're like an industrial source,
8 they are in the industrial sector.

9 So this is just for those residuals,
10 residential, commercial and infrastructure.

11 What we're recommending is that there be
12 programmatic mandates on local distribution
13 companies for energy efficiency, solar water
14 heating, other programs that can be identified, to
15 reduce the use of natural gas.

16 But that we not try to put the remainder
17 of the natural gas sector into a cap-and-trade
18 market at this time. There were a number of
19 complications in terms of data availability,
20 knowing how it would work, identifying options
21 that people could follow.

22 At the moment our natural gas tends to
23 be sort of a uniform quality, so that in terms of
24 making resource selections to go for a lower
25 carbon natural gas that wasn't something that's

1 immediately available.

2 These are all things that can be worked
3 on and the decision says we will revisit this
4 issue, not in this decision, but in future. And
5 that there's likely that there will come a time
6 when it would be appropriate to incorporate these
7 kinds of customers and businesses into a cap-and-
8 trade market if a cap-and-trade market is
9 developed by ARB.

10 So, what happens next? The next thing
11 is we ask you to adopt this decision. We ask the
12 PUC to adopt this decision. If you do do that, we
13 will send it to ARB.

14 The first step that they will have is
15 they have a scenarios -- market scenarios workshop
16 on April 17th which will focus on the electricity
17 and natural gas sectors. So we will be able to go
18 and represent the contents of this decision as our
19 recommendation into the ARB process.

20 Secondly, our committees will initiate
21 the next phase of this proceeding in terms of
22 laying out the schedule and the next steps. We
23 know what the work is that needs to be done. We
24 need to do this modeling work; we need to do the
25 allocation design; we need to look at the combined

1 heat and power issues.

2 We found in this proceeding that the
3 combined heat and power recommendations had gotten
4 a little bit scattered through various bits of the
5 proceeding. And that as we were developing the
6 recommendations and reading comments on the
7 proposed decision we realized that it wasn't
8 focused and correctly thought through.

9 There might be some disincentives to
10 developing combined heat and power because it was
11 scattered through three different sectors. And we
12 just needed to take more time and look at that
13 more comprehensively. So, we're going to do that
14 in this next part of the proceeding.

15 I'd also say that we do have an idea for
16 an allocations workshop which would be held here
17 in early April. So if the Commissions adopt this
18 and go ahead, I would expect that we'd be able to
19 announce that in the near future.

20 And that concludes my presentation.

21 CHAIRPERSON PFANNENSTIEL: Thank you,
22 Karen. Thanks for a really effective walk-through
23 on this quite comprehensive and quite complex, in
24 some ways, decision.

25 I have a number of parties who have

1 asked to speak on this issue. I think before we
2 go to that, I have a couple comments I'd like to
3 make. And I think other Commissioners might,
4 also.

5 The first is, again, to thank Karen
6 Griffin for the effort that she's put into this.
7 She not only had to deal with one Commission here,
8 she had to deal with both Commissions. And
9 manage, somehow, to keep her sanity and walk the
10 line and get a decision before us that we're
11 considering today.

12 This was an effective collaboration
13 between the two Commissions. That is not always
14 the case. I think many of us in this room know
15 that. But this was -- we had a goal and a
16 mission. And we worked well on it.

17 Now, I want to emphasize something Karen
18 said several times -- I think it's really
19 important -- is that this decision that we are
20 taking today, and that the PUC is considering
21 tomorrow, is, in fact, not an action other than a
22 recommendation to the Air Resources Board.

23 AB-32 has invested in the Air Resources
24 Board the authority to implement that statute.
25 And this is our recommendation to them for the

1 electricity and natural gas.

2 Further comment on that, and again, as
3 Karen said, this is not the whole story. This is
4 one piece of the recommendations on the
5 electricity and natural gas sector. It's the
6 first piece. It is the point of regulation. And
7 there are a lot of other decisions yet to be made.

8 I thought that one of the most valuable
9 aspects of this document that we're now
10 considering is that it really does layout a
11 combination of regulatory approaches with the
12 possibility of market approaches.

13 The regulatory approaches are energy
14 efficiency and renewables, which are right out of
15 the loading order. The errata which Karen
16 referred to is available, I believe, in the back,
17 largely is about language on energy efficiency,
18 which we had worked with the Public Utilities
19 Commission on and hadn't gotten clarified in time
20 to be posted in our decision.

21 It's very important to us. And to me,
22 especially, it really points out the need to have
23 as much energy efficiency in this state in the
24 electricity and natural gas sectors; although this
25 is specifically defined in the electricity sector.

1 As we said in our report on AB-2021, and
2 then again in our IEPR, where we say that the
3 electricity sector should capture all cost
4 effective energy efficiency.

5 We point out that that's not just from
6 the utility programs. That is a combination of
7 utility programs and standards and other
8 approaches that we're working on. But that that
9 needs to be our starting point. So I thought it
10 was very important and gratifying that this
11 decision starts with that, and says that very
12 clearly.

13 The next phase of this, I think to some
14 of us, has felt like a relatively controversial
15 issue. But I believe that the next phase of this
16 proceeding is going to be a lot moreso. This was
17 sort of the starting point, where you would define
18 the regulation.

19 The next phase will be about, as Karen
20 pointed out, the allocations of benefits. And I
21 know that there are those who will speak today and
22 those who were commenting to us in the course of
23 this proceeding, about concerns about benefit and
24 harm from the outcome of this.

25 And it's easy for us to say, well, first

1 of all, it's not essentially our decision, it's
2 really the ARB's decision. But, I think that's
3 somewhat disingenuous because, of course, we do
4 have strong opinions and those are the opinions
5 and those are the recommendations that we are
6 making to the ARB.

7 But I think that the point of the
8 allocation of benefits, whether it is an auction
9 and we describe the fact that we think some of
10 these should be auctioned, some of the allowances
11 should be auctioned, or some other mechanism, I
12 think is where the next phase of this is going to
13 take a lot of wisdom and analysis and judgment and
14 input. And that will be, I believe, where we get
15 to the ARB in our bottomline where we think we
16 should go next.

17 We have not prejudged all of those
18 decisions. And those who read this document, as
19 finding that we prejudged it, are really incorrect
20 in their interpreting what we mean here, because
21 we haven't. We've raised a lot of the issues here
22 but we haven't decided them.

23 So, with that, were there questions of
24 Karen, or other Commissioners with comments? I
25 believe Commissioner Douglas had a change that we

1 wanted us to consider?

2 COMMISSIONER DOUGLAS: I have a change
3 that I'd like to raise. And I also have comments.

4 One strong improvement in the revisions
5 to interim opinion on page 2, at the end of the
6 second paragraph, as an explicit recognition that
7 we recognize that prior to adopting any market
8 mechanisms ARB must find that such mechanisms meet
9 the tests outlined in part 5 of AB-32.

10 I'd like to suggest that we change that
11 to read that ARB must find that such mechanisms
12 meet the requirements of parts 4 and 5 of AB-32.

13 In particular, I'd like to draw our
14 attention in section 4 of AB-32, and that's
15 section 38562(b) and (d) in particular where the
16 Legislature laid out some fairly clear criteria
17 that govern the application of market mechanisms
18 for achieving reductions.

19 Section (b) includes considerations for
20 allowance distribution, insuring that activities
21 to undertake and comply with regulations don't
22 disproportionately impact low-income communities;
23 complement but not interfere with efforts to
24 achieve and maintain air quality standards;
25 consideration of cost effectiveness; consideration

1 of overall societal benefits, minimizing leakage
2 and other considerations.

3 Section (d) of 38562 also includes
4 requirements. And, again, these requirements are
5 reflected but not explicitly called out in our
6 proposed decision. Greenhouse gas emissions
7 reductions must be real, permanent and
8 quantifiable, verifiable and enforceable by the
9 State Board. I think it's important to explicitly
10 reference that.

11 There's also a requirement that
12 reductions in market mechanisms must be additional
13 and occur over the same time period and be
14 equivalent in amount to direct reductions, or to
15 any direct reduction required pursuant to this
16 division.

17 These are requirements, again, that are
18 more directly applicable to ARB than to us. But
19 we, of course, must be mindful of them as we make
20 our recommendations to the ARB.

21 CHAIRPERSON PFANNENSTIEL: Comments now,
22 Karen, or later?

23 COMMISSIONER DOUGLAS: I will make some
24 brief comments now.

25 I have looked at some of the comments,

1 especially by parties who raised concerns about
2 going with a deliverer point of regulation. And
3 have spoken with some of these parties.

4 And I wanted to say, first of all, that
5 I think -- I agree with the Chairman's comment
6 that going with deliverer as point of regulation
7 does not prejudice the system in one way or
8 another in terms of other very important elements
9 of design, including allocation.

10 But I did want to speak directly to a
11 few of the comments that I've heard raised that I
12 think we, as a Commission, need to bear in mind as
13 we go into the next phase.

14 One concern has been raised that going
15 with a deliverer point of regulation requires that
16 we follow a heavy, or 100 percent potentially
17 auctioning model because we might find it too
18 complicated, and we might, for policy reasons, not
19 want to allocate administratively to deliverers.

20 And I don't think that's necessarily
21 true. I think there are ways to allocate to
22 retail providers or otherwise address this issue.
23 But I wanted to raise it and say that I do not
24 think going with a deliverer point of regulation
25 biases the auction question one way or the other.

1 It certainly creates a context in which
2 we have to consider the impact of auctions. But
3 it does not predetermine the level of auctions
4 that we would need to go with.

5 A second concern I've heard that I
6 think, again, is worth our bearing in mind is that
7 putting the compliance regulation on deliverers,
8 which might be generators or importers or so on,
9 could be seen as reducing control over compliance,
10 or options for compliance to the retail providers
11 that are accountable to customers and accountable
12 to the state to deliver power.

13 And, again, I think this is a concern
14 that is important for us to bear in mind, but is
15 not necessarily an outcome that results from
16 choosing point of regulation.

17 So, I think it is important that we bear
18 in mind how the system that we set up creates
19 incentives and creates obligations on retail
20 providers. And gives them the maximum amount of
21 control over compliance and flexibility to comply
22 in the best way for their customers.

23 But, again, going with the deliverer
24 point of regulation, I believe , does not make it
25 necessarily any more difficult to achieve this

1 goal.

2 A third concern I've heard that I wanted
3 to speak to is that as the Chairman pointed out,
4 or it might have been Ms. Griffin your
5 presentation, one advantage of the deliverer model
6 is that it allows for us to create consistency in
7 signals through the wholesale market, so that
8 we're not pushing one way through our policies and
9 not seeing that reflected in prices.

10 Now, this is an argument that applies
11 very strongly and directly in the case of the
12 utilities that participate more in the wholesale
13 market. And it's one that does not necessarily
14 apply in the same way to utilities that are more
15 vertically integrated.

16 The concern that I've heard is that
17 going with deliverer might bias the system to be
18 more accommodating in one type of business model
19 than another. Again, I think it's an important
20 concern to bear in mind. I don't think it
21 necessarily follows at all.

22 And one of the missions or one of the
23 important priorities for our Commission is to
24 insure that our recommendation that we provide to
25 ARB create a system that works for both types of

1 business models within the utility sector. And,
2 in fact, don't tip the playing field towards one
3 or the other, but really make sense for both.

4 So, I wanted to raise these issues, and
5 I think we should bear them in mind. I'm
6 comfortable going forward, though, on the basis of
7 the deliverer point of regulation.

8 The only other point that I wanted to
9 make prior to hearing public comment is that in
10 the PD we are making a recommendation to ARB that
11 when we look at reductions from the utility sector
12 we're going after both programs, strengthening our
13 energy efficiency requirements, looking for more
14 energy efficiency; strengthening enforcement of
15 our renewables targets, and creating as strong as
16 possible renewables goals, and then achieving
17 those goals.

18 And adding to that arsenal the cap-and-
19 trade program. And I think it goes without
20 saying, but I just want to say it, that
21 recommending to ARB that we hope they include a
22 cap-and-trade program presupposes that the cap-
23 and-trade program that we hope they include meets
24 the requirements of AB-32. That it includes both
25 the EJ standards, and includes the requirement

1 that reductions from the cap-and-trade program be
2 real reductions, measurable, quantifiable,
3 enforceable and so on.

4 So as we look at how to do this, I think
5 we have an obligation and an opportunity here to
6 provide to ARB our best thinking of how you design
7 a cap-and-trade program for the electric sector
8 that recognizes and accommodates some of the very
9 specific nature of this sector. So that they have
10 that in mind as they look at what will be a more
11 complex multisector construction.

12 I think the work that we are doing, that
13 the PUC is doing, and all of the participants in
14 this proceeding are doing in helping us think
15 through these issues is critically important.
16 This is a very important opportunity for all of
17 us, to provide input to ARB. And so we appreciate
18 all of the public comment and involvement, and
19 hope to see it continue and increase; and expect
20 it will. Thanks.

21 CHAIRPERSON PFANNENSTIEL: I expect so.

22 COMMISSIONER BOYD: If I might, Madam
23 Chair.

24 CHAIRPERSON PFANNENSTIEL: Certainly.

25 COMMISSIONER BOYD: First I want to

1 commend you and Commissioner Byron for all the
2 work that you've done and the patience you've
3 shown in this process. And I want to commend
4 Karen and the staff for all the work that they've
5 done.

6 I know from experience of many years
7 working with the PUC in a collaborative effort can
8 be, at times, difficult. But I think every since
9 the Energy Action Plan we've made lots of progress
10 in that arena.

11 I think this is a very interesting and
12 commendable product. I do look forward to hearing
13 the testimony of the folks in the audience,
14 perhaps before I make any other comments on where
15 we go next.

16 But, as the Chairman of the
17 Transportation Committee, I feel I have a moral,
18 if not personal, responsibility to bring that
19 subject up, which some of the staff knows has been
20 bandied back and forth.

21 Electricity and natural gas are
22 transportation fuels. And quite frankly, are
23 major -- well, transportation's a major player in
24 the greenhouse gas global climate change world in
25 which we live. In fact, in California it's the

1 number one problem.

2 The ARB's in the driver's seat on the
3 global climate change program partly because
4 transportation was identified by this agency many
5 years ago in the greenhouse gas inventories as the
6 number one problem in California, as compared with
7 most of the world where the generation of
8 electricity is the number one problem.

9 So, we've taken a keen interest in the
10 transportation component, as has ARB. And, of
11 course, the first task California laid out for
12 itself was the tailpipe emissions regulations;
13 brought to us by Assemblywoman Pavley's famous
14 bill, which we can't get implemented here in the
15 nation-state of California because of -- oh, I
16 won't express myself too publicly -- the position,
17 the arcane position, I'll say, of USEPA for the
18 first time in history, preventing California from
19 doing something. But that's the greatest bite we
20 get here.

21 But we've historically recognized the
22 automobile as a system -- the engine that drives
23 it and the fuel that provides energy to that
24 engine. So electricity and natural gas are long
25 recognized as transportation fuels. They've both

1 been incorporated in practically every
2 transportation fuel plan we've done in this state.
3 And several of the governors' initiatives or the
4 state's initiatives incorporate that idea.

5 So we need to recognize this fact as we
6 work on greenhouse gas reduction, we work to
7 implement AB-32. All the way back to 2003 and our
8 report on reducing dependence on petroleum we
9 began to recognize the need for alternative fuels.
10 And electricity and natural gas have been pointed
11 out.

12 Our first IEPR in 2003, the Governor's
13 call for alternative fuels plan and a bioenergy
14 plan in 2005. The 2005 Integrated Energy Policy
15 Report very strongly pushed electricity and plug-
16 in hybrid vehicles. And we've made an investment
17 in that arena.

18 The Governor's executive order on
19 bioenergy and our action plan, and it just goes on
20 and on. The 2007 alternatives fuels plan; the
21 most recent Integrated Energy Policy Report.

22 It was pointed out to some of us that
23 there wasn't a lot of discussion of this in this
24 document. There was discussion of natural gas'
25 role partially, and the suggestion to move this on

1 to the next arena.

2 And, of course, the electricity people,
3 transportation people who may or may not be
4 represented here today raised the question of why
5 gas and not electricity. It was pointed out to me
6 that this was beyond the scope of this hearing.
7 But then it was pointed out by me that natural gas
8 was there, why not electricity.

9 And we've gone back and forth with
10 lawyers arguing about it is or isn't within the
11 scope, and I don't want to adjudicate that matter
12 here. It's been resolved, so to speak, in that
13 everybody recognizes this is an element. And some
14 mild language is in there.

15 And I just want to suggest that in our
16 transmittal we point out the importance of that to
17 the ARB. It's rather obvious to them, but we are
18 their partners for years in this arena. And I
19 want to make sure it gets recognized. And just
20 call on our staff to perhaps be a bit more
21 cognizant of all this as we work on this issue in
22 the future.

23 Because we're in all these documents, I
24 think. We are either the partner or the principal
25 in carrying this issue forward. And we do need to

1 do our fair share, and do need to keep that
2 subject relevant.

3 Natural gas is methane. Methane is now
4 derived from other sources besides what nature
5 provided, as what people call natural gas. We
6 have biogases. All of this augments our supply of
7 fuels for energy and fuels.

8 So, in any event, we've pushed a lot of
9 things off onto part two or step two. And that
10 process is really being loaded up. And we have to
11 be diligent in working with ARB that we cover that
12 in that.

13 So, I just wanted to make that point,
14 along with my commendations to everybody for the
15 job that they've done. And now I look forward to
16 hearing some of the other public comments.

17 CHAIRPERSON PFANNENSTIEL: Commissioner
18 Byron.

19 COMMISSIONER BYRON: Thank you. At the
20 risk of exceeding the ten minutes allocated in the
21 agenda for this item, I have some comments, as
22 well.

23 COMMISSIONER BOYD: You didn't really
24 believe that, did you?

25 COMMISSIONER BYRON: Ms. Griffin, thank

1 you. I noted the presentation didn't really
2 mention the legal considerations which are rather
3 substantial in our deliberations here. But then
4 looking around the room and seeing the number of
5 attorneys present, that's probably just as well.

6 I do want to emphasize that that did
7 bear heavily on our considerations, around the
8 point of regulation, going forward.

9 My comments over the last few days with
10 the various drafts that went on, including the
11 section on combined heat and power, have been
12 addressed, and so I'm satisfied with the final
13 disposition of this decision.

14 And I'd like to point out, as others
15 have, as well, here, that it's primarily focused
16 on the point of regulation. We really haven't
17 done anything, in my mind, to prejudice the
18 allocation of the allowances, and whether or not,
19 and how much they will be auctioned. That has yet
20 to be decided.

21 And as Ms. Griffin indicated, there is
22 plans to do a workshop which I assume we'll
23 announce later in April. I understand it's
24 tentatively set for April 14th, to discuss some of
25 these subjects further.

1 I would also like to very much commend
2 our Chairman and the assigned Commissioner and the
3 Public Utilities Commission, President Peevey, who
4 both very much grabbed this bull by the horns and
5 wrestled it to the ground here.

6 I'm reminded of that old license plate
7 movie "Back to the Future". You may recall it
8 was, out of time, and that's kind of what we are
9 here. We really do need to make a decision so
10 that we have a recommendation to present to the
11 Air Resources Board as they move forward in their
12 scoping plan, that we don't miss this opportunity.

13 So, I plan to support this decision
14 today. In addition to acknowledging Chairman
15 Pfannenstiel and President Peevey, obviously the
16 new addition to our Commission in the way of
17 Commissioner Douglas has been a great addition
18 here in the last, I guess it's only been a couple
19 of weeks, but we've really benefitted by having
20 her input to this process, as well.

21 And I'm only going to brief on this, but
22 I think the staff coordination and communication
23 here has been just stupendous. Ms. Griffin, I
24 notice, I think you've been at your best in this.
25 You seem to relish this use of your skills and both

1 knowledge and collaboration. But I think I'd be
2 remiss in also mentioning Julie Fitch at the
3 Public Utilities Commission. I have no idea how
4 many others on our staff merit some recognition
5 for all their efforts and extra time they put in,
6 I know, evenings and weekends here of late.

7 I don't know about you, but this seems
8 like a Friday to me. And just a word about the
9 Air Resources Board. They've given us every
10 indication that they will follow our
11 recommendation for the electricity sector. And I
12 hope that after further public input and review in
13 their process, that they will, indeed, take our
14 recommendation.

15 As I indicated, I support this interim
16 decision and I hope my colleagues will, as well,
17 as they've indicated here and at the PUC tomorrow.
18 But we still have plenty ahead. This is only the
19 latest decision, and as other Commissioners here
20 have mentioned, we are putting a lot off into the
21 August decision that we'll be making.

22 So, I guess my last remark would be
23 something maybe not mentioned thus far, is we have
24 additional modeling and analysis to do. I'm quite
25 concerned that this will have a significant

1 economic impact. And it's incumbent upon us to
2 make sure that that's done in the least-cost
3 approach and in an equitable way.

4 But I agree with your earlier
5 statements, Ms. Griffin. I think this is an
6 extraordinary event that we're -- I should say
7 process, this is an extraordinary process that
8 we're engaged in. And I appreciate everyone's
9 effort to do their utmost that we get this right.

10 Thank you.

11 MS. GRIFFIN: May I respond a little bit
12 to Commissioner Douglas and Commissioner Boyd?

13 CHAIRPERSON PFANNENSTIEL: Of course.

14 MS. GRIFFIN: Commissioner Douglas,
15 thank you for the correction on the reference to
16 the AB-32 market mechanism mandates. That was
17 just an error in our parts, we just call it part
18 5, but we met every test that the statute requires
19 that ARB do. And so that should be made.

20 The issue that Commissioner Boyd is
21 bringing up is a significant one which ARB will
22 really have to work on. Because when we started
23 thinking about how this all worked, it was sort of
24 organized in terms of an inventory.

25 But when you move from thinking about

1 things as an inventory, a fuel inventory, and
2 start thinking about it in terms of regulation,
3 you run into these seams issues.

4 Where do you count it? Is it inside the
5 cap, is it outside of the cap? How do you measure
6 it? How do you measure, you know, what is the
7 impact on increased use of electricity from
8 vehicle electrification? does that increase the
9 electricity cap, or should anything that happens
10 there be treated in the transportation cap? How
11 do you not create disincentives for investing in
12 the kinds of cross-fuels technologies we'd like to
13 see? Similarly, CHP is a similar issue.

14 So there's a lot of tussling that's
15 going to have to go on over the course of this
16 year, and probably some more next, in sorting
17 those things out.

18 And lastly, I appreciate you all
19 bringing up the work done by the PUC Staff. Over
20 half of the work on this was done by the PUC.
21 Julie Fitch, the team leader, of course, you all
22 know, is outstanding. Nancy Ryan, Commissioner
23 Peevey's Advisor, was really key.

24 Some of the staff team you may not know
25 so well, Scott Murtishaw, Steve Roscow, Kristin

1 Ralph Douglas, Wade McCartney and then the legal
2 team there, a big part. And finally, I want to
3 call to your attention especially the
4 Administrative Law Judge Charlotte Terkeurst and
5 Jonathan LaFritz.

6 Without them, both organizing this,
7 keeping the whole thing moving, and doing the
8 primary writing on the orders and on this
9 decision, they were the editors in chief, the
10 compilers in chief to make sure it all flows, it
11 all fits, it all works together.

12 We couldn't be here today without the
13 work of all of those people. Thank you.

14 CHAIRPERSON PFANNENSTIEL: Thank you,
15 Karen. Well, we've heard a lot of kudos. Now we
16 can hear some comments.

17 I have a number of blue cards. Let's
18 start with Gary Schoonyan from Southern California
19 Edison Company.

20 MR. SCHOONYAN: Thank you, Madam
21 Chairman, Commissioners. Before I get started,
22 I'll be very brief. I want to also extend our
23 thanks to Karen, Pat, others on the CEC team for
24 their tireless efforts, as well as their
25 counterparts at the Utilities Commission. It was

1 a monumental effort.

2 Edison strongly supports the decision's
3 recommendation on a multisector cap-and-trade with
4 a deliverer point of regulation. We look forward
5 to working with you, the PUC, the ARB as we
6 develop the state's means to operationalize these
7 recommendations and expand the market to as many
8 sectors as is reasonable.

9 We also look forward to working with you
10 on developing recommendations to equitably
11 allocate allowances in a manner that minimizes the
12 economic harm to affected entities and the state's
13 economy as we transition to a cleaner future. A
14 future that will likely include alterative fuels,
15 particularly in the transportation area, further
16 electrification and new methods of clean energy
17 production and this efficient use.

18 And I wanted to thank Commissioner Boyd
19 for his comments with regards to the
20 transportation sector. From our perspective that
21 is the major sector, and one of the major
22 opportunities for the state to meet the goals
23 associated with AB-32 and beyond, even.

24 I mean basically we have the executive
25 order that looks to 2050. And we're going to have

1 to tackle the transportation sector in doing that.

2 Thank you.

3 CHAIRPERSON PFANNENSTIEL: Thanks, Gary.
4 Bruce McLaughlin, California Municipal Utilities
5 Association.

6 MR. McLAUGHLIN: Thank you,
7 Commissioners. I won't be making any comments on
8 the substance of the decision. One, my client,
9 most of the members are at our annual conference
10 today, and certainly within 18 hours I wasn't able
11 to get input from them.

12 But I will be talking about process on
13 going forward. My comments should be heard in a
14 productive light. And look forward to moving
15 forward.

16 By and large, I think it's safe to say
17 that the POU's collectively absolutely support
18 energy efficiency and the renewables portfolio
19 standard as the best means, or certainly the most
20 viable means to go forward. I think I can be
21 corrected if I made that of our order here, but we
22 have filed that continuously.

23 And what I want to present to this
24 Commission today are some of the facts that I
25 think have not been brought out in the record.

1 And facts that are within the documentation of
2 this Energy Commission.

3 And certainly one of the things that was
4 very very disappointing to CMUA and its members in
5 the originally proposed decision, there was
6 language that said POUs are not required to
7 establish energy efficiency targets. That is not
8 only factually incorrect. it's inflammatory.

9 That wasted a lot of our time trying to
10 then school ARB, who is now just becoming familiar
11 with POUs, as to what the true definition and
12 requirements in AB-2021 are.

13 So, going forward we hope that the
14 record will be filled with correct facts and
15 objective facts, as opposed to misconceptions or
16 possibly even malicious statements.

17 As we look at energy efficiency the POUs
18 have been working together with this Commission.
19 We've put together a pretty significant package
20 with information that's been delivered to this
21 Commission. And we're interested in making sure
22 that all the facts are known on our energy
23 efficiency programs.

24 In regard to RPS, I want to just bring
25 to the Commission's attention a document that was

1 sent to all the POU's just a couple days ago, a
2 KEMA report where you're evaluating the RPS. It's
3 called The Progress of California's Publicly Owned
4 Utilities in Meeting the State's Renewables
5 Portfolio Standard.

6 And as far as our targets, I think if
7 you were to read the decision, the proposed
8 decision here, you might think that the POU's
9 aren't pulling their weight. Most of our targets
10 already exceed -- meet or exceed the 20 percent by
11 2017. Some, such as L.A., far exceed that.

12 If you look at our actual progress, and
13 this is in your report here, we've got utilities
14 that are 20, 30 and 50 percent of CEC eligible
15 renewables in their portfolio. So, we're making
16 great progress.

17 We'll be giving you information to fill
18 out the sheet that still has some data that needs
19 to be filled in. And that's basically my
20 statements here.

21 CMUA would like to be helpful in
22 providing the information that's necessary to get
23 objective facts on RPS and energy efficiency into
24 your record for those proceedings, and also this
25 GHG proceeding. It's very important so that the

1 ARB, who are coming at this as engineers and
2 scientists, we greatly commend the way ARB has
3 gone about this. They do not rubber-stamp
4 anything. They are looking at everything with new
5 eyes. And so we need to make sure that what they
6 get is true and correct.

7 CMUA would like to work together with
8 this Commission and with Ms. Griffin to a greater
9 extent than in the past to make sure that there's
10 open dialogue. And that is basically my message.
11 Thank you very much.

12 CHAIRPERSON PFANNENSTIEL: Yes.

13 COMMISSIONER BYRON: Mr. McLaughlin,
14 thank you for your comments. I assure you that
15 the statement around energy efficiency targets may
16 have been an error, may have been inflammatory,
17 but it was not meant to be malicious.

18 MR. McLAUGHLIN: Thank you,
19 Commissioner.

20 COMMISSIONER BOYD: A comment, if I
21 might. Since I'm going to be standing before your
22 Association tomorrow, I presume you're going to
23 have me for lunch. It's about --

24 (Laughter.)

25 COMMISSIONER BOYD: -- that time. And

1 I'm glad Commissioner Byron mentioned the
2 malicious statements, I don't think the staff here
3 nor the Commissioners are into that type of game.

4 And having spent 20 years at the Air
5 Resources Board I think the staff here and the
6 staff there equally approach their work with the
7 same level of credibility and skill. So I don't
8 think you'll have any problems there.

9 And, you know, I'm interested in seeing
10 the KEMA report and I have nothing against
11 municipal utilities. And I can tell you more
12 about that tomorrow, and my experience when the
13 electricity sky fell on California, it fell on me,
14 as well.

15 But just looking at some statistics I
16 was provided yesterday, just so we can help level
17 the playing field of concerns, I have a report
18 from our staff here that says POUs are expected to
19 achieve 63 percent of the economic potential by
20 2016 in the efficiency arena. Whereas, IOUs
21 expect to meet 74 percent by the same time period.

22 So, we are interested in 100 percent.
23 And, you know, we're going to call it as we see
24 it. And if we're wrong, we'd like to have that
25 pointed out to us. If we're not wrong, we're

1 going to continue to mildly, short of using a hot
2 poker, push everybody to achieve the absolute
3 maximum potential that California has historically
4 indicated it can achieve.

5 So I look forward to this level playing
6 field dialogue in the future.

7 MR. McLAUGHLIN: To quite X-Files, "the
8 truth is out there. To quote the Bible, "the
9 truth shall set us free." So, I agree with that.
10 Thank you very much.

11 CHAIRPERSON PFANNENSTIEL: Thank you,
12 Bruce.

13 COMMISSIONER BOYD: I like the --

14 COMMISSIONER BYRON: It's the first I've
15 heard the X-Files and the Bible referred to in the
16 same sentence.

17 (Laughter.)

18 COMMISSIONER BOYD: Well, you started it
19 with the "Back to the Future" stuff, so --

20 (Laughter.)

21 CHAIRPERSON PFANNENSTIEL: Norm
22 Pedersen, Southern California Public Power
23 Authority.

24 MR. PEDERSEN: Thank you, and it's
25 certainly a pleasure to be here on what I think is

1 an historic day. I am Norman Pedersen for the
2 Southern California Public Power Authority, or
3 SCPPA.

4 As I think you know, SCPPA provides
5 electricity to about 25 percent of the state's
6 population. SCPPA filed opening comments and
7 reply comments in the proposed decision. And I've
8 provided all of you copies of the opening and
9 reply comments.

10 First, we did recommend that you adopt a
11 retail provider point of regulation for the
12 electricity sector. And, of course, as we've
13 heard this morning from Ms. Griffin and from
14 Chairman Pfannenstiel, the revised PD does not do
15 that.

16 Secondly, we did recommend that if you
17 didn't adopt the retail provider approach to point
18 of regulation, that you delay inclusion of the
19 electric sector in a multisector cap-and-trade
20 program until we can have a westwide or even a
21 national program. And, of course, the PD does not
22 delay inclusion of the electric sector in a
23 multisector cap-and-trade program.

24 Thirdly, we recommended that if you
25 didn't adopt the retail provider approach point of

1 regulation, and if you didn't delay inclusion of
2 the electric sector in a multisector cap-and-trade
3 program, then there should be a provision for an
4 alternative compliance mechanism.

5 Specifically we proposed that if a
6 retail provider is also a deliverer of electricity
7 to serve native load, the retail provider should
8 have the alternative of being subject to an
9 entity-specific cap on emissions associated with
10 the retail provider's service to native load, with
11 the cap declining then over time.

12 Under this alternative compliance
13 mechanism the retail provider would not be
14 required to acquire allowances to cover emissions
15 under the retail provider's entity-specific cap.

16 In our view the alternative compliance
17 mechanism would ameliorate the double burden of
18 requiring a retail provider, who is also a
19 deliverer of electricity, to fund energy
20 efficiency and renewables programs while also
21 having to buy allowances.

22 Now the PD doesn't specifically act on
23 our proposed alternative compliance mechanism.
24 However, the revised proposed decision that is
25 before you today has what we regard as very

1 important language that did not appear in the
2 original February proposed decision. And I'd like
3 to call that language to your attention.

4 First on page 7 there is some language
5 along the lines of the following: We keep in mind
6 that some deliverers of electricity to the
7 California grid are also retail providers of
8 electricity for consumers. We also recognize that
9 allocation policy will have an impact on consumer
10 costs.

11 Our intent is to insure that greenhouse
12 gas emissions reductions are accomplished
13 equitably and effectively at the lowest cost to
14 consumers. It is not our intent to treat any
15 market participants unfairly based on their past
16 investments or decisions made prior to the passage
17 of AB-32.

18 And, again, on page 89 of the decision
19 there's a similar passage along the lines of the
20 following: We reiterate our openness to
21 considering all reasonable options for allocation
22 policy that take into account the circumstances of
23 differently situated entities in the electric
24 sector to insure that all obligated entities have
25 a path to compliance at reasonable cost.

1 These passages are very important
2 language for us. SCPPA members are vertically
3 integrated. We are both retail providers and
4 deliverers. Most SCPPA members, as deliverers,
5 actually have emissions that are already 10 to 20
6 percent below the 1990 levels.

7 However, while we represent 25 percent
8 of the electricity delivered in California,
9 approximately, we represent over 30 percent of the
10 carbon for California electric utilities.

11 We recognize we are going to have to do
12 a lot more. We do have aggressive energy
13 efficiency and renewables programs. The
14 renewables programs, alone, are forecast to raise
15 our rates 15 to 30 percent. That's going to
16 represent approximately a billion dollars a year.

17 Being required to simultaneously buy
18 allowances to cover emissions associated with
19 deliveries, which would be the point of
20 regulation, to serve our native load, be required
21 to simultaneously buy the allowances, could be a
22 crushing burden.

23 So, Commissioners, we very much
24 appreciate the language and the revised proposed
25 decision suggesting a willingness to take into

1 account the circumstances of differently situated
2 utilities to insure that greenhouse gas emissions
3 reductions will be accomplished equitably and
4 effectively at the lowest cost to consumers.

5 Thank you very much for this opportunity
6 to appear today.

7 CHAIRPERSON PFANNENSTIEL: Thank you,
8 Mr. Pedersen. We appreciate it.

9 COMMISSIONER BOYD: Thank you, Mr.
10 Pedersen, for noticing that we do listen, and that
11 we do add language when we listen. And we strive
12 not to be malicious.

13 MR. PEDERSEN: And we certainly noticed,
14 Commissioner Boyd. Thank you.

15 CHAIRPERSON PFANNENSTIEL: Steven Kelly,
16 IEP.

17 COMMISSIONER BYRON: Mr. Pedersen, thank
18 you. I was going to read one of those same
19 sections into the record, so you saved me the
20 trouble. Thank you very much.

21 MR. KELLY: Thank you, Commissioners.
22 First, before we go on, I want to congratulate
23 Karen Douglas for being the new Commissioner. I
24 haven't been before you, as you sat here. But I
25 want to appreciate the fact that she's here, so I

1 wanted to do that.

2 CHAIRPERSON PFANNENSTIEL: Well, you
3 just missed the last meeting.

4 (Laughter.)

5 MR. KELLY: Been very busy. But now
6 that I'm here, I wanted to publicly do that.

7 We have filed comments at the PUC and
8 here, I think, simultaneously on this issue. And
9 more in the line of raising a couple of issues,
10 we're generally supportive with the direction that
11 the program's going.

12 I've got two issues that I want to talk
13 about. One very quickly. In those comments we
14 did note that post-2012 there are going to be some
15 existing contract holders that have fixed price
16 contracts and we need to figure out a way of how
17 to deal with that relatively modest amount of
18 contract holders that don't have a reasonable way
19 to recover the cost for carbon.

20 I just throw that out to you. It's not
21 something that I want to take any time today
22 really to focus on, but just note that there is
23 going to be a declining amount of contracts that
24 are kind of the residual of some settlements that
25 have occurred and so forth, that are out there

1 post-2012. And I think it will be very helpful to
2 fix that, as we move forward.

3 What I really wanted to talk about here
4 is the approach that's being promulgated here in
5 California and across the west, which is
6 multisector. And we support that for the cap-and-
7 trade program.

8 But I do have some concerns. And the
9 concerns stem from I've been participating
10 recently in the Western Climate Initiative
11 development of their work product, which they
12 circulates last week; and there was a conference
13 call, I guess, yesterday on that.

14 And I have a concern that at the WCI
15 they are moving to, as far as I can tell, exempt
16 or keep out of the cap-and-trade program the
17 transportation sector. Which is about 40 percent,
18 as they say, of the emissions across the west.

19 Here at the Public Utilities Commission
20 and the Energy Commission, you are making a
21 decision at this point in time, anyway, to defer
22 inclusion of the natural gas sector that is the
23 nonelectric consumers that are consuming natural
24 gas, that remaining residual piece, out of the
25 cap-and-trade program.

1 Combined in doing this there is a huge
2 chunk of the emissions being promulgated across
3 the west, and certainly within California, that is
4 being presumably removed from participation in the
5 cap-and-trade program.

6 And that raises a concern. Exempting
7 these sectors or removing these sectors, I think,
8 has the effect of undermining the over-arching
9 goal. The purpose of the cap-and-trade program is
10 to reduce costs ultimately to consumers that are
11 passed through them by increasing the efficiency
12 of being able to reduce individual points of
13 regulations emissions.

14 Some people have suggested that we
15 should remove these sectors, and this came up in
16 the Western Climate Initiative discussion
17 yesterday, we should remove the transportation
18 sector because of the assumed disproportionate
19 impact on low-income folks.

20 My observation on that call yesterday
21 was the fact that as far as I know, low-income
22 people also consume electricity. The problem of
23 shifting, of removing these important sectors in
24 the over-arching program from the cap-and-trade
25 program is not to reduce costs. What it's going

1 to do is essentially shift and concentrate costs
2 on the electric sector.

3 And I am foretelling at this point that
4 that effect is going to be problematic for the
5 electric sector. We will have the electric sector
6 bearing the costs that should have been borne by
7 the transportation sector, should have been borne
8 by the rest of the natural gas sector, all on the
9 electric sector. And the price impacts are going
10 to be significant, I think, at that point in
11 time. There could be some significant
12 reliability effects.

13 To the extent that it is difficult to
14 deal with some of these sectors downstream as you
15 were doing with the electric sector on the points
16 of regulation, my recommendation is to seriously
17 consider, at this point in time rather than
18 deferring the decision, move upstream and figure
19 out a place where it's easier to implement a
20 program that brings those extra sectors into the
21 program.

22 And to send those signals now, sooner
23 rather than later, rather than what the WCI is
24 proposing to do, which is consider phasing them in
25 over time. I think it would be very helpful in

1 sending signals to the overall marketplace.

2 The benefits of doing this are to
3 increase participation in the cap-and-trade
4 program. That should result in a greater amount
5 of liquidity in that program. It should result in
6 a better efficiency in achieving the over-arching
7 goals. And both of those should result in
8 reducing costs to the consumers at the end use.

9 Spreading the cost more broadly is going
10 to be better for consumers, I think, in the end,
11 and including the low-income community. And that,
12 to me, is something that is going to be critical
13 if this greenhouse gas program is going to be
14 accepted by the public and successful in achieving
15 its goals which we all want.

16 So those are my comments at this point.

17 COMMISSIONER BYRON: And those are
18 excellent comments, Mr. Kelly, as usual. Thank
19 you.

20 CHAIRPERSON PFANNENSTIEL: Thank you.
21 Julee Malinowski-Ball on behalf of LADWP.

22 MS. MALINOWSKI-BALL: Thank you,
23 Commissioners. I'm Julee Malinowski-Ball with
24 Public Policy Advocates. I represent the Los
25 Angeles Department of Water and Power.

1 I actually just want to echo the
2 comments of Mr. Pedersen from SCPPA. LADWP is a
3 member of SCPPA and fully supports their comments
4 here today.

5 But it behooves me to tell you a little
6 bit about LADWP and what you may have heard a lot
7 about lately. It's no secret that L.A. does not
8 support the proposed recommendation. But L.A. is,
9 first of all, 100 percent committed to reducing
10 greenhouse gas emissions.

11 LADWP is embarking on the most ambitious
12 transformation of any utility in America. Last
13 summer Mayor Antonio Villaraigosa unveiled Green
14 L.A. Climate Action Plan that sets Los Angeles on
15 a course to reduce the city's greenhouse gas
16 emissions 35 percent below 1990 levels by 2030,
17 going beyond the targets of the Kyoto Protocol.

18 The cornerstone of the green L.A. plan
19 is increase in the city's use of renewable energy
20 by 30 percent, or increase in the use of renewable
21 energy by 35 percent by 2020. And in January
22 LADWP broke ground on Pine Tree Windfarm, the
23 nation's largest municipal-owned windfarm. And
24 announced plans to build Pine Canyon Windfarm on
25 12,000 acres adjacent to Pine Tree.

1 And, in fact, the reason why I'm here
2 today is because much of the LADWP crew is down in
3 Mexico exploring geothermal resources to further
4 their goals, their RPS goals.

5 And, of course, it goes without saying
6 that LADWP is doing what it can to shift away from
7 coal resources and insure that it's dominated by
8 renewables and energy efficiency measures.

9 In addition to that, we're working with
10 other sister agencies within the city on greening
11 the municipal fleet, port electrification, LEED
12 green building incentives and, of course, more
13 energy efficiency measures throughout the city and
14 city's operations.

15 We are, again, 100 percent committed to
16 reducing our greenhouse gas emissions. It's no
17 secret that we don't think that the proposed
18 decision, as it stands today, allows us firmly to
19 get to those goals, much what Mr. Pedersen said,
20 they believe there's a fundamental flaw, that
21 there's no option for fully integrated utilities
22 to participate in a cap-and-trade, or actually use
23 it as a secondary means to reduce emissions.

24 In fact, L.A. believes that it's likely
25 to impair our emissions reduction strategies that

1 I've outlined for you today.

2 And that's all I have, thank you.

3 CHAIRPERSON PFANNENSTIEL: Thank you,
4 Ms. Malinowski-Ball.

5 COMMISSIONER BOYD: May I ask a
6 question? I just can't help myself, Julee. I
7 don't know the general manager's going to put out
8 a new press release that somewhat tempers his
9 previous statements, but I'm not looking for that.

10 What I'd like to understand a little bit
11 better is LADWP's strong advocacy for cap but not
12 trade. Can you help me understand this? Because
13 Mr. Kelly mentioned liquidity. I look for
14 liquidity in markets, and I'm -- anyway, have you
15 got some comment on this for me?

16 MS. MALINOWSKI-BALL: I will try very
17 hard to answer that question for you. The way I
18 understand it, they feel that just tell us exactly
19 how you want us to meet the emission reductions
20 and let us get there. Let's invest our ratepayer
21 dollars in the best way we know possible. Let us
22 move forward with the Green L.A. plan. We feel
23 we can get there. There's no question in our
24 minds we can get there.

25 And for our ratepayers, it's tangible,

1 it's real, it's verifiable. We are a public
2 utility, subject to the Brown Act. Our books are
3 open. There's no question in our minds where our
4 reductions are coming from, that they're going to
5 be true reductions.

6 If L.A. falls short, then they think
7 that there's a secondary way, you know, there
8 should be an option out there. One of the options
9 could be cap-and-trade. Or could be, you know,
10 some other hammer on us for not meeting those
11 goals.

12 But, as a publicly owned utility that's
13 run by a city council, a board of commissioners,
14 we feel that the answers are in our laps. We have
15 complete control.

16 COMMISSIONER DOUGLAS: Julee, in the
17 hearing the day before yesterday I believe L.A.
18 and other utilities that were also expressing some
19 concerns about the proposed decision, also
20 indicated that they were willing to take a cap.
21 And they understood they would be willing to take
22 an enforceable cap.

23 And what you just said reinforced that.
24 Is that your understanding?

25 MS. MALINOWSKI-BALL: I'm sorry, who's

1 the we?

2 COMMISSIONER DOUGLAS: The -- well, L.A.
3 would be willing to operate under a cap and
4 understood that it would be an enforceable cap.

5 MS. MALINOWSKI-BALL: That is correct.

6 COMMISSIONER DOUGLAS: I think that's a
7 very good place to start as we move forward into
8 discussions on the second phase. I look forward
9 to working with you.

10 COMMISSIONER BYRON: Ms. Ball, if I may,
11 I have often talked with you and of course, the
12 general manager, at length about some of his
13 concerns. And I think based upon the earlier
14 draft of the PD, I think some of those concerns
15 were founded.

16 However, I would encourage you to read
17 pages 99 and, I'm sorry, page 7 earlier that was
18 pointed out, page 99 and 130, finding of facts,
19 numbers 30, 31 and 32.

20 And I think the reason I suggest that
21 is a lot was also read into this decision on the
22 part of LADWP. And I think we've tried to clarify
23 our intentions here for the next part of this
24 proceeding.

25 And I'd also like, of course, to

1 acknowledge the tremendous goals and objectives
2 that have been set by LADWP. But, perhaps the
3 council would be willing to begin funding the
4 small rate increases that will be necessary to
5 begin implementing some of those goals and
6 objectives. And I understand that's one of the
7 issues that's taking place, is that at least once
8 they've rejected any rate increases to pursue
9 those.

10 So, again, I think you'll see that this
11 version of the PD goes a long way to making clear
12 our intention for the next. And hopefully there
13 won't be quite the visceral reaction to the PD
14 that we saw early on.

15 MS. MALINOWSKI-BALL: Thank you for
16 pointing that out.

17 COMMISSIONER BYRON: Okay, thank you.

18 CHAIRPERSON PFANNENSTIEL: I just want
19 to follow up on Commissioner Douglas' question
20 about the cap.

21 I want to make sure, it seemed a little
22 different than what Mr. Pedersen was saying in
23 terms of there being a need for the vertically
24 integrated utilities to have some different
25 treatment possibility.

1 So could it be perhaps you're looking
2 for a cap without a specific end point so that you
3 could go longer in meeting your cap than other
4 utilities? I'm not quite sure.

5 MS. MALINOWSKI-BALL: No, I don't see it
6 that way. I think what we're saying, and I'm not
7 sure exactly how it differs, but if -- let us meet
8 whatever targets you set. Set a goal, let us meet
9 it how we choose to meet it, how we figure out how
10 to meet it. Energy efficiency, renewables, you
11 know, port electrification.

12 And --

13 CHAIRPERSON PFANNENSTIEL: But if it was
14 a trading opportunity available but you chose not
15 to take advantage of it, could not you do that?

16 MS. MALINOWSKI-BALL: The way they are
17 reading the PD is that we don't know the answer if
18 that will be available to us. It reads to us that
19 might not be an option. You may be forced into
20 one-size-fits-all.

21 CHAIRPERSON PFANNENSTIEL: Well, of
22 course, we haven't actually --

23 MS. MALINOWSKI-BALL: Right.

24 CHAIRPERSON PFANNENSTIEL: -- made a
25 decision on that.

1 MS. MALINOWSKI-BALL: Correct, and I
2 think they want to be on record, and would like
3 the decision to recognize that that may not be a
4 one-size-fits-all -- may not work for everybody.
5 That there should be something in there that says
6 more. And what you have in there, I think, is the
7 start of that.

8 CHAIRPERSON PFANNENSTIEL: I see. Thank
9 you.

10 MS. MALINOWSKI-BALL: Thank you.

11 CHAIRPERSON PFANNENSTIEL: Jane
12 Luckhardt from SMUD.

13 MS. LUCKHARDT: Good morning. I think
14 it is, yes, it is still morning. Jane Luckhardt
15 on behalf of SMUD. And we do appreciate a lot of
16 the changes that we have seen in the decision
17 coming forward.

18 There were a lot of -- we felt at least
19 as it would be attributed to SMUD, inaccuracies
20 and negative inferences. And those actually are
21 quite damaging. Especially to a utility that has
22 spent a considerable amount of time and effort and
23 ratepayer funds to develop renewable resources and
24 invest in energy efficiency.

25 But as we looked at the decision, we

1 found something that we actually are very
2 concerned about. And if you look at the findings
3 of fact and conclusions of law, in terms of -- and
4 I'm looking at the interim order, the ordering
5 paragraph 8, when you talk about how the --

6 CHAIRPERSON PFANNENSTIEL: Excuse me,
7 the page reference?

8 MS. LUCKHARDT: 118. From the one I
9 picked up today. 118. If you look at interim
10 order, ordering paragraph 8, which I guess will
11 turn into ordering paragraph 9 with the errata,
12 but it's currently listed at 8. It's at the very
13 bottom of the page and carries over.

14 And it's where you talk about -- and
15 it's in other places, as well -- that's where you
16 talk about how the proceeds of any auction may be
17 apportioned. And you use the word majority. The
18 majority of the proceeds from the auction for the
19 electric sector being used in ways that benefit
20 the electric consumers in California.

21 That is a concept that we support. We
22 are concerned about the use of the word majority.
23 And, in fact, I pulled out my Webster's Collegiate
24 Dictionary to look at the definition of majority.
25 And majority is actually anything over 50 percent.

1 And when you are looking at a potential
2 cost that Mr. Pedersen described in regards to
3 having to make the investments into addition
4 renewable generation, transmission, additional
5 energy efficiency, and purchasing offsets through
6 an auction, the concept that only 50, a little
7 over 50 percent may return to the benefit of
8 electric customers causes us great concern.

9 So, this appears both in the ordering
10 paragraph that I referenced. It appears in the
11 findings of fact, number 30 on page 113. And it
12 also appears on page 8 in the decision. And it
13 may appear in other places, I didn't do a complete
14 search.

15 But we're very concerned about what
16 connotations majority may have going forward. We
17 would prefer that you remove the word majority and
18 transfer all of the funds. Or that you add some
19 modifiers, something like great majority, or
20 something to increase the amount of funds that may
21 be coming back. This has been a constant concern
22 of publicly owned utilities, and SMUD
23 specifically, in having to pay twice to achieve
24 the goals of AB-32, which we are definitely
25 committed to.

1 And so we just ask that you consider
2 some modifications to that language there in the
3 decision as it's written now.

4 And then I would just like to echo and
5 express our support for the comments made by
6 Steven Kelly in regards to the transportation
7 sector and the natural gas sector. We have also
8 expressed very similar concerns on the same calls
9 he refers to, in meetings with ARB, and in our
10 comments, that if you take certain sectors out of
11 the cap-and-trade, you're going to keep the
12 electric sector in, but you're going to exclude
13 other sectors, that what that will end up doing is
14 shifting more of the burden to the electric
15 sector.

16 We're very sensitive and concerned about
17 that. And, in fact, very pleased to hear the
18 comments of Commissioner Boyd this morning
19 regarding the transportation sector. So that is
20 an ongoing concern that we have going forward.
21 Because we see ourselves as an easy target for
22 additional reductions and additional requirements.
23 Just because we're an easy target doesn't mean
24 that that's necessarily where all of the other
25 sectors' responsibilities should fall.

1 Again, we appreciate your changes to the
2 decision. And I can answer any questions you may
3 have.

4 CHAIRPERSON PFANNENSTIEL: Ms.
5 Luckhardt, I would point out that in the original
6 version of the decision, the PD, that term that
7 you raised with us about a majority of, simply
8 said a portion of the funds.

9 So this was a movement in that
10 direction.

11 MS. LUCKHARDT: And we do appreciate
12 that. And we do. And we recognize that there
13 have been a lot of changes that respond to
14 utilities' concerns. I'm sure that that took
15 quite a bit of effort.

16 We recognize this, also in the 1368
17 proceedings where the Energy Commission was able
18 to push changes back through the Public Utilities
19 Commission. And we appreciate that.

20 We do recognize the change. We still
21 have a concern.

22 COMMISSIONER BYRON: It did not take a
23 great deal of effort. I think it was really
24 trying to get the right words. I'm not going to
25 mince words with you, Ms. Luckhardt, as an

1 attorney, but I hope you'll agree that majority is
2 somewhere between 50 percent and 100 percent.

3 MS. LUCKHARDT: We would like to see it
4 on the higher end of that scale.

5 COMMISSIONER BYRON: I know, the word
6 all is preferred.

7 MS. LUCKHARDT: Yes.

8 COMMISSIONER BYRON: On page 8, if I
9 could just read from the summary, as a starting
10 principle it's important that any policy for
11 distribution of allowances provide that revenues
12 from the sale of allowances be used primarily to
13 benefit customers in the energy sectors directly.

14 And I hope you'll appreciate that we're
15 not deciding the allocation of our auction in this
16 decision, but we are leaving the bandwidth open
17 for what that decision will be.

18 MS. LUCKHARDT: Yes, and we understand
19 that. And we appreciate the clarifications that
20 you've made on that point.

21 COMMISSIONER BYRON: Thank you for your
22 comments.

23 COMMISSIONER BOYD: Are we introduced to
24 the super majority concept?

25 CHAIRPERSON PFANNENSTIEL: Mark Krausse,

1 PG&E.

2 MR. KRAUSSE: Madam Chair and
3 Commissioners, Mark Krausse. Just on behalf of
4 PG&E, would like to echo the support for -- strong
5 support for the proposed decision.

6 On that last point about allocations,
7 and we have always seen those as enuring to the
8 benefit of customers. So, PG&E's been clear on
9 that point.

10 Personally I just wanted to thank Karen
11 Griffin, as somebody who just came to this subject
12 matter a year ago, she's been very patient and
13 always available. And I want to thank her for
14 that. Thank you.

15 CHAIRPERSON PFANNENSTIEL: Thank you,
16 Mark. Further public comment on this subject?

17 I had noted that the Deputy Secretary of
18 Resources, Climate Change, Tony Brunello, had been
19 here. I was going to see if he had any comments,
20 but he may have left. I don't see him.

21 Commissioners, further comments before
22 we move.

23 COMMISSIONER BYRON: Commissioner
24 Douglas made a recommendation on change. Will
25 that be added to --

1 CHAIRPERSON PFANNENSTIEL: Yes, it will
2 be.

3 COMMISSIONER BYRON: Okay. Thank you.
4 I would endorse that change.

5 COMMISSIONER BOYD: I just want to
6 comment that all the comments that Commissioner
7 Douglas made at the beginning I wanted to reserve
8 comment till we heard all the testimony.

9 But I agree with everything she said
10 with regard to what I interpret as the intent of
11 this staff and this body in moving forward with
12 this.

13 I see a lot of room for continued
14 dialogue and working with the affected parties and
15 the ARB and so on and so forth.

16 In the time that's been provided for
17 this incredibly complex issue I think the product
18 we have is a good product to move forward. I will
19 acknowledge that obviously a lot more dialogue
20 needs to take place on some of the points of
21 concern. And I think people of good will will
22 continue to work the subject and try to get the
23 absolute best product for the citizens of
24 California that can come out of this process.

25 So, I'm prepared to support.

1 CHAIRPERSON PFANNENSTIEL: Thank you,
2 Commissioner Boyd.

3 Then I would ask for a motion on the
4 decision that was posted with the errata as
5 circulated, and the change that Commissioner
6 Douglas presented to us this morning, which was
7 just a few words. And we have those captured.

8 Is there a motion?

9 COMMISSIONER BYRON: Madam Chair, I move
10 the item. And I would also ask that my colleagues
11 at the Public Utilities Commission would consider
12 the issue for tomorrow, as well.

13 CHAIRPERSON PFANNENSTIEL: They'll be
14 given all of the changes.

15 Is there a second?

16 COMMISSIONER DOUGLAS: I'll second the
17 item.

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

20 CHAIRPERSON PFANNENSTIEL: It's
21 approved. Thank you, Ms. Griffin.

22 Item 6, possible approval of revised
23 Committee assignments for the Energy Commission's
24 standing committees and siting committees.

25 Mr. Tutt.

1 MR. TUTT: Good morning, Commissioners.
2 The item before you now is possible approval of
3 clarifications to these standing policy committees
4 and the siting committees of the Energy
5 Commission.

6 The primary reason for this
7 clarification at this time is the addition of
8 Commissioner Douglas to the Commission in
9 replacement of Commissioner Geesman. Welcome,
10 Commissioner Douglas.

11 And I would point out in regard to the
12 standing policy committees some additional changes
13 are the combination of the electricity and natural
14 gas policy committees into one. Previously there
15 were two. And the addition of the ad hoc
16 committee on AB-32 implementation, which presided
17 over the ten-minute agenda item you just voted on.

18 With regard to the siting committees I
19 would point out a request of perhaps two changes
20 in the list of committees that you are going to be
21 voting on.

22 Those two changes are the addition of
23 the Canyon Committee that was voted on this
24 morning. And the removal of the Bullard Committee
25 as that project has been withdrawn from the

1 certification process.

2 And I would note that that still leaves
3 us with 17 active siting cases replacing the
4 previous order, about a year and a half ago, where
5 we had nine active siting cases. The additional
6 workload -- the workload has doubled on this. It
7 would have been nice if Commissioner Geesman could
8 have stayed as a sixth Commissioner and worked on
9 siting cases, but that probably violates the
10 Warren Alquist Act.

11 And with that, I would recommend your
12 approval of the orders.

13 CHAIRPERSON PFANNENSTIEL: Thank you,
14 Tim. Is there a motion?

15 COMMISSIONER BOYD: Question.

16 CHAIRPERSON PFANNENSTIEL: Question.

17 COMMISSIONER BOYD: Commissioner Douglas
18 and I had discussed on the siting cases, number 7,
19 the Colusa case, Commissioner Douglas and I had
20 discussed the possibility of her not being
21 appointed as the Associate, since that case is 99
22 percent done. And for her to act on it she'd have
23 to read the entire record, et cetera, et cetera.

24 And I suggested we not burden her with
25 that responsibility.

1 CHAIRPERSON PFANNENSTIEL: That's --

2 COMMISSIONER BOYD: It's not a
3 contentious case --

4 CHAIRPERSON PFANNENSTIEL: -- we will
5 make that change.

6 COMMISSIONER BOYD: Anybody else want
7 out of any other ones?

8 (Laughter.)

9 COMMISSIONER BYRON: I think that's only
10 fair for Commissioner Douglas, seeing as we've put
11 her in about either --

12 COMMISSIONER BOYD: She's got some juicy
13 ones, though. With that modification, I would
14 move approval.

15 MR. TUTT: And would it be -- the other
16 two modifications that I suggested.

17 COMMISSIONER BOYD: Yes, --

18 COMMISSIONER BYRON: Yes.

19 COMMISSIONER BOYD: -- with your
20 suggestions, as well.

21 COMMISSIONER BYRON: I'll second it.

22 CHAIRPERSON PFANNENSTIEL: All in favor?

23 (Ayes.)

24 CHAIRPERSON PFANNENSTIEL: Thanks, Tim.

25 Done.

1 Approval of the minutes from the
2 February 27th business meeting. Is there a motion
3 among my two colleagues who are able to do that?

4 COMMISSIONER BOYD: Yes, I'm abstaining.

5 CHAIRPERSON PFANNENSTIEL: Commissioner
6 Boyd abstains.

7 COMMISSIONER BYRON: I move.

8 COMMISSIONER DOUGLAS: I second.

9 CHAIRPERSON PFANNENSTIEL: In favor?

10 (Ayes.)

11 CHAIRPERSON PFANNENSTIEL: Minutes are
12 approved.

13 Committee presentations. I would just
14 like to make one announcement. I have already
15 announced this internally, but to others here, I
16 want to make sure that people know that Gary Fay
17 has been appointed by the Commission to be our new
18 Chief Hearing Officer.

19 I think most of us, or certainly those
20 of us at the Commission, and I think many others,
21 certainly anybody who's dealt with a number of
22 siting cases has worked with Gary, and know that
23 we're extremely fortunate to have Gary stepping in
24 as the Chief Hearing Officer.

25 Chief Counsel report.

1 MR. CHAMBERLAIN: Thank you, Madam
2 Chairman. At the next two Commission business
3 meetings, April 2nd and April 16th, you will be
4 ably served by my Assistant Chief Counsels, Arlene
5 Ichien and Jonathan Bles, because I will be
6 attending April 1st through 4th the meetings of
7 the Western Interstate Energy Board, the Western
8 Interconnection Regional Advisory Body which
9 coordinated state and provincial policy on
10 reliability. And the Committee on Regional
11 Electric Power Cooperation, which is a forum for
12 discussion of energy issues, particularly
13 electricity issues, by public utility commissions
14 and energy agencies throughout the west.

15 And on the 16th I will be attending the
16 last of the WECC Board meetings that I will chair.
17 I will still remain on the board for another year
18 at least. And with respect to that particular
19 meeting, that will be a meeting at which I believe
20 the Western Electricity Coordinating Council will
21 be modifying its contingency reserve requirements.

22 Last week we had a historic vote by the
23 operating committee to change those contingency
24 reserve requirements. And I'm not going to go
25 into any detail about that right now.

1 But, in thinking about that, and in
2 thinking about the things that I've learned
3 particularly in the two years that I've been
4 chairing that board, I would like to look for an
5 opportunity after that April 16th meeting to
6 provide information to the Commission about the
7 Western Electricity Coordinating Council and why
8 it's important to this agency and to the State of
9 California.

10 And I would simply ask for you to think
11 about whether you would like me to do that at the
12 end of perhaps a short business meeting agenda; or
13 whether you would prefer that I do that either one
14 by one, or to specific committees like the
15 Electricity Committee, et cetera.

16 CHAIRPERSON PFANNENSTIEL: Thanks, Bill.
17 My preference would be at the end of a short
18 agenda. Of course, this was a short agenda --

19 (Laughter.)

20 CHAIRPERSON PFANNENSTIEL: But I think
21 that's a great offer that we should take you up
22 on, thank you.

23 MR. CHAMBERLAIN: Thank you. Oh, and
24 one more thing is that late last -- late yesterday
25 afternoon I was informed by Gabe Herrera that we

1 do need a very brief closed session today.

2 CHAIRPERSON PFANNENSTIEL: Yes, we all
3 heard that late yesterday afternoon.

4 Executive Director report.

5 MS. CHANDLER: Yes, I do have something
6 to report. Commissioners, as you may be aware, we
7 have an administrative team of managers who meet
8 biweekly and talk about the processes,
9 administrative processes at the Energy Commission;
10 and issues that we need to improve on and work
11 plans and those kinds of things.

12 And at the end of these meetings we
13 bring forward as an agenda item an acknowledgement
14 area. You know, is there something that we would
15 like to acknowledge, as staff person that we would
16 like the Executive Director to acknowledge
17 specifically the work that they've done over that
18 past period of time.

19 And I'm bringing this to you today
20 because at the most recent internal management
21 administration team meeting, there was a
22 nomination, there was an acknowledgement for that.
23 And that it was for Chairman Pfannenstiel.

24 The staff, the Directors felt very
25 appreciative of the time that Chairman

1 Pfannenstiel scheduled out of a very busy schedule
2 to meet with all of the staff to discuss the IEPR.
3 We felt that that was a very important signal to
4 the staff.

5 We heard rave reviews, Siskel and Ebert
6 gave you two thumbs up. And so we really wanted
7 to acknowledge that and let you know it was well
8 appreciated.

9 CHAIRPERSON PFANNENSTIEL: Thank you
10 very much, Claudia, I do appreciate that.

11 Leg Director report, Marni.

12 MS. WEBER: Good morning, Commissioners,
13 at least for one more minute. I'm going to make
14 this very brief so we can get out of here.

15 We participated in two hearings this
16 past week, and I believe the information that the
17 Commission provided was very informative and very
18 well received.

19 We should be done with informational
20 hearings for awhile now. The Legislature is going
21 out on their spring recess next week. And when
22 they come back they should be delving into budget
23 issues, and finally getting to policy committees
24 hearing bills.

25 There is one potential informational

1 hearing scheduled for April 25th down in San Diego
2 regarding distributed generation. It's my
3 understanding that this topic has been of interest
4 down there, and especially by the San Diego
5 Association of Governments is requesting that they
6 have the hearing down there.

7 I know that Commissioner Byron has
8 spoken with the Chair, and we have offered our
9 technology staff to provide any information that
10 they need, and possible testimony, if necessary.

11 We're still slogging through the
12 hundreds of bills that the Resources Agency wants
13 us to analyze. I think we're getting finally down
14 to a manageable core. We've found over 40 bills
15 that have no analysis needed at this time because
16 they're either intent bills or do not affect the
17 code that affects the Energy Commission.

18 On one other note, Agency's now
19 requested that we provide them with a list of our
20 top five priority bills. And we're working on
21 that, and hope to have that to you later today to
22 make a decision that we can provide to Agency by
23 tomorrow.

24 And that's all I have for today.

25 CHAIRPERSON PFANNENSTIEL: Thank you.

1 Public Adviser report. No report?

2 MS. SPEAKER: No report.

3 CHAIRPERSON PFANNENSTIEL: Thank you.

4 MS. SPEAKER: He's not here today.

5 CHAIRPERSON PFANNENSTIEL: Any

6 additional public comment?

7 If not we will adjourn to my office for
8 a closed session.

9 (Whereupon, at 12:04 p.m., the business
10 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 March, 2008.

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