

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, June 3, 2009
10:00 A.M.

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COMMISSIONERS PRESENT

Karen Douglas, Chairman

James D. Boyd, Vice Chair

Jeffrey D. Byron

Julia Levin

Arthur H. Rosenfeld

STAFF AND CONTRACTORS

William Chamberlain, Chief Counsel

Melissa Jones, Executive Director

Donna Stone

Kevin Bell

Terry O'Brien

Katherine Nicholls

Larry Smith

Tony Gonzales

Valerie Hall

Marla Mueller

Norm Bourassa

Mike Gravely

Ken Koyama

Chris Scruton

Linda Spiegel

Guido Franco

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STAFF AND CONTRACTORS CONTINUED

Gabriel Herrera

John Sugar

Dennis Beck

PUBLIC ADVISOR

Elena Miller

ALSO PRESENT

Scott Galati, Attorney
Galati and Blek, LLP
Representing Pacific Gas and Electric

Mark Krausse, Director, State Agency Relations,
Pacific Gas and Electric

Robert Sarvey, (via telephone)

David Hawkins, California ISO

Robert Frankel, Attorney
Representing Energy Sense/Masco

Brett Dickerson, California Living &
Energy Duct Testers

Robert Scott, CHERS

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CHAIRMAN DOUGLAS: Welcome to the Energy Commission Business Meeting June 3rd, 2009. Please join me for the Pledge of Allegiance.

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

CHAIRMAN DOUGLAS: Good morning again. We will begin with Item 1, the Consent Calendar.

COMMISSIONER ROSENFELD: I move the Consent Calendar.

VICE CHAIRMAN BOYD: Second.

CHAIRMAN DOUGLAS: All in favor?
(Ayes.)

CHAIRMAN DOUGLAS: This item is approved. Item 2, Otay Mesa Energy Center (99-AFC-5C). Possible approval of Otay Mesa Energy Center, LLC's, Petition to Amend the Final Commissioner Decision relating to the air quality conditions of certification dealing with the expiration date of the project Mobile Emission Reduction Credits and providing options for reducing the nitrogen oxide emissions. Ms. Stone?

MS. STONE: Yes. Good morning. This is a 600-megawatt, natural gas-fired, air-cooled combine cycle power plant that the Commission licensed in 2001, and it's 15 miles southeast of downtown San Diego and about a mile

1 and a half north of the international border.

2 It's owned and operated by Otay Mesa Energy
3 Center, LLC, a subsidiary of Calpine. Its targeted
4 operational date is October 1 of 2009. This project was
5 sold to Calpine within a year after being certified by the
6 Commission. And the most significant change in this
7 petition addresses the expiration date of the project
8 Mobile Emission Reduction Credits.

9 When the project was certified, we allowed them
10 to use Mobile Emission Reduction Credits to help lower
11 their NOx emissions. And at the time, those were expected
12 to expire in 20 years after they operated due to all the
13 starts and stops of construction. Those credits will be
14 expiring in about 14 years.

15 In the original decision, we were requiring
16 that Otay Mesa or the owners of Otay Mesa bring their NOx
17 emissions from two parts per million down to one part per
18 million. This petition would give them the option of
19 either bringing the NOx emissions from two parts per
20 million to one or supplying additional emission reduction
21 credits.

22 The other request in this petition is to take
23 the words continuous, continuous rolling, and I'm sorry,
24 continuous, rolling continuous, and continuous from air
25 quality conditions or AQ 22, 23, and 24, and 30 to 35, and

1 37, and 62 to 63. These changes are minor and they're
2 proposed solely for clarification that compliance shall be
3 based on clock hour average and periods. This is
4 consistent with federal requirements and staff agrees with
5 this change.

6 The other item that we would like to address
7 here is to renumber the air quality conditions. Over the
8 years, there's been so many amendments and changes. We'd
9 like these to be consistent with the numbering that the
10 Air District has.

11 The petition was docketed May 12th, complete
12 docketing July 1 of 2008. Notice of receipt was docketed
13 and posted to the Energy Commission website on July 18,
14 2008, and mailed to the post-certification mailing list
15 and affected public agencies on July 21st of 2008. Our
16 staff analysis was docketed and posted to the website on
17 April 9th of this year and mailed to interested parties on
18 the same day. To date, we've had just one call on this
19 item from a Holly Duncan who was concerned about the high
20 PM10 emissions in that area.

21 Staff findings are that this petition meets the
22 filing criteria under Section 1769(a) concerning post
23 certification project modifications. This modification
24 will not change the findings in the Energy Commission's
25 final decision pursuant to Section 1755. The project will

1 remain in compliance with all the applicable laws,
2 ordinances, regulations, and standards subject to the
3 provision of the Public Resources Code, Section 25525.

4 The change will be beneficial to the project
5 owner because it provides clarification that compliance
6 will be based on clock hour averaging periods. It
7 provides relief from the absolute requirement that the
8 project meet the one part per million limit after the
9 Mobile Emission Reduction Credits expire, and that it
10 provides the clarification with our renumbering. These
11 changes are based on information that was not available to
12 the parties prior to the Commission certification, and
13 that's about it.

14 Staff recommends that the Energy Commission
15 approve the project modification and the associated
16 revisions to the air quality conditions and certification.
17 The Air District has already approved these changes. Are
18 there any questions?

19 VICE CHAIRMAN BOYD: Yes. I want the staff to
20 say on the record that there will be no degradation of air
21 quality as a result of these changes.

22 MS. STONE: Is Matt Latten (phonetic) here. I
23 think he should be the one to say that.

24 MS. SPEAKER: That's correct.

25 VICE CHAIRMAN BOYD: I'll accept that.

1 MS. SPEAKER: Okay.

2 VICE CHAIRMAN BOYD: It's very confusing and I
3 just wanted it boldly on the record that that indeed is
4 true.

5 CHAIRMAN DOUGLAS: I agree with Commissioner
6 Boyd, so thank you for that. I was going to ask a similar
7 question, which is does this change in the compliance
8 monitoring periods does not actually change the amount of
9 pollutants that this power plant is allowed to emit? I
10 see heads nodding from staff and audience. And the
11 purpose of the change, could you just concisely state that
12 again?

13 MS. STONE: It's to give the project owner the
14 option when the Mobile Emission Reduction Credits expire
15 of either reducing their current emissions down to one
16 part per million or to come up with Emission Reduction
17 Credits for NOx to make up the difference between one part
18 per million and what they're producing.

19 CHAIRMAN DOUGLAS: Thank you.

20 MS. STONE: You're welcome.

21 COMMISSIONER BYRON: Commissioners, we vetted
22 this -- The Chairman and I vetted this issue in the Siting
23 Committee. We're satisfied with staff recommendation.
24 I'd like to move the item.

25 VICE CHAIRMAN BOYD: Second.

1 CHAIRMAN DOUGLAS: All in favor?

2 (Ayes.)

3 CHAIRMAN DOUGLAS: The item passes. Thank you
4 very much.

5 COMMISSIONER BYRON: I should have also asked if
6 there was by chance if the petitioner was present and they
7 wanted to make any remarks, but not seeing any, I think
8 this item is done.

9 CHAIRMAN DOUGLAS: Item 3, Tesla Power Project
10 (01-AFC-21C). Possible approval of Pacific Gas and
11 Electric Company's petition to change the ownership of
12 Tesla Power Project from FPL Energy to PG&E and extend the
13 deadline for commencement of the project from June 16th,
14 2009, to June 16th, 2014. I see Jack Caswell is the
15 contact, but Kevin Bell and Terry O'Brien at the table,
16 but please, staff, go ahead.

17 MR. BELL: Commissioners, I would say that the
18 staff has reviewed the petition submitted by Pacific Gas
19 and Electric System, and we are supportive of an extension
20 for the license. I think if you go back to shortly after
21 the energy crisis, the Commission has gone on record on
22 several occasions that voices concerns over projects that
23 the Commission has licensed but which have not been built.

24 An extension for this license will enable the
25 applicant, PG&E, to make a determination as to how to

1 proceed with this project. I would note that last year
2 the Commission approved the license extension for a
3 similar project at East Altamont, and I would also note
4 finally that Pacific Gas and Electric has only owned this
5 project for a very short period of time.

6 CHAIRMAN DOUGLAS: Thank you. Can we hear from
7 the applicant?

8 MR. GALATI: Scott Galati representing PG&E.

9 MR. KRAUSSE: Mark Krausse on behalf of PG&E.

10 MR. GALATI: Yes, Commissioners. We purchased
11 and closed this transaction in December. As I think you
12 are all aware of, there was -- we sought to build this
13 project. We asked the PUC for approval under what we
14 thought we qualified for an exception. The PUC said we
15 did not. Since they are the governing body, that is the
16 law of the land, so we are not in a position to be able to
17 build this project now.

18 Again, we think we meet good cause for the
19 following reasons. The first is we just bought this
20 project. Second of all -- So we're not responsible for
21 the many years that the project did not go forward.

22 Second, the project is something that we think
23 could be -- the permitting could be finalized quickly if
24 it was needed, and so it's sort of a hedge. And then
25 third, we will only go forward with this project and build

1 it ourselves if we had CPUC approval. It could take
2 another form. We could sell the project to a third party
3 to build. It could be competitively bid to build.

4 We make our assertion here that we absolutely
5 will comply with the law and we will not do anything that
6 is not authorized by the Public Utility Commission. But
7 it is important to note here that under all circumstances,
8 development of this project we think in one form or
9 another could come on quicker than starting from scratch.

10 It typically takes about six months to prepare
11 an AFC. If you had to start the process completely over
12 from start to finish, that's typically a 24-month or more
13 process from the time somebody starts to prepare an AFC.
14 We think that any amendments to this project to respond to
15 the market whether done by us or others with PUC approval
16 could be done quicker. We think that that's good for the
17 state, good for our customers, and we think it's also --
18 the Commission has invested some time and so did FPL, and
19 this site has value.

20 CHAIRMAN DOUGLAS: I have a couple of questions
21 for staff and the applicant. In Russell City, we provided
22 a two-year extension because there were issues with
23 securing a PSD permit that were unanticipated by the
24 project applicant.

25 In East Altamont, this Commission provided a

1 three-year extension to a project that had difficulty
2 marketing its power and getting a power purchase
3 agreement, but that was for -- the others presented to us
4 was clearly, diligently pursuing all of its options to
5 build the plant, and we provided them with a three-year
6 extension.

7 We also acknowledged that there was a
8 significant amount of environmental review that would have
9 to be updated and essentially in some cases completely
10 revised, and we allowed that to be done through a major
11 amendment.

12 I guess the question or the policy issue in my
13 mind with this application is that PG&E is asking for a
14 five-year extension without at least from what I see
15 before me in your submission without a firm commitment
16 that you actually are pursuing the building of this power
17 plant in any timely fashion.

18 The submission essentially says that you -- To
19 me, it looks like you're asking -- you're almost trying to
20 bank the approval in the case that you were either, a,
21 allowed to build the plant or, b, chose for business
22 reasons to market it to a third party. And you're asking
23 for a longer extension than any other cases, so this
24 raises a number of policy issues for me, and I would like
25 to hear from both staff and the applicant on those

1 questions.

2 MR. BELL: In terms of the issues, Chairman
3 Douglas, that you raised regarding the other projects, I
4 think using those as an example I think a shorter period
5 than five years would be appropriate if the Commission
6 believes that is the best course of action, whether three
7 years or two years, and staff would not be opposed to a
8 shorter period of time.

9 I think what the Commission has to do is to make
10 a decision as to what is, you know, a reasonable amount of
11 time. We certainly don't want to be back here again with
12 PG&E asking for another extension I think.

13 MR. GALATI: Yes, if I could address a couple of
14 those. Let me first address the time. The reason that we
15 have asked for five years has to do with our current
16 procurement process right now. If we're currently
17 selecting and entering into contracts for projects now,
18 those projects have not begun the permitting process and
19 I'll just give you one. So if those projects take 18
20 months to 2 years to get through the process and 2 years
21 to build, then they can come online assuming there's a
22 year float in there. What we wanted to do is those
23 projects and how they fair may continually cause us to do
24 something with this project.

25 I also wanted to address the East Altamont issue

1 and to try to make more of an analogy between Tesla and
2 East Altamont. East Altamont diligently pursuing the
3 project meant they continually bid the project into an
4 RFO, okay, and if that project is the best cost for our
5 customers that win a contract. So it's not like they're
6 doing engineering, or procurement, or additional
7 contracts. They're doing I think nothing more than us
8 waiting to see whether or not the project becomes
9 economically viable to develop.

10 So from a good cause perspective, while
11 applicants have typically shown you what they've done to
12 date and what they're going to continue to do, in our case
13 because we cannot develop the project, which we made a
14 case last year of why we thought we needed to, the PUC
15 disagreed with us, so we cannot make that showing to you
16 that we need to develop this project now. We fully
17 believed at that time and probably still do that that made
18 sense.

19 So if circumstances change, if projects don't
20 come online, it might be that the Tesla project provides
21 us the only opportunity to develop something quickly in
22 either through us, and remember there's some exceptions to
23 allow a third party to. There's maybe a particular
24 exception for a quick competitive bid process if the
25 circumstances warrant.

1 We want to keep our options open, and we think
2 that's good for the state and we think that's good for our
3 customers. So I can't meet the same showing that other
4 applicants have where here's what we've done. I don't
5 think we're very much different than East Altamont.

6 CHAIRMAN DOUGLAS: In a recent order by a Siting
7 Committee on the Beacon Solar Energy Project, it happened
8 to by Commissioner Byron and myself in that case, we
9 went -- we had to deal with whether there was -- the issue
10 of whether there was good cause showing for a late request
11 for discovery. And in that order, I don't know if you've
12 had a chance to look at it, but we laid out some thinking
13 as to criteria you might look at for good cause.

14 You know I fully realize that good cause is a
15 flexible concept. It has to be a flexible concept. Its
16 definition should vary with the context in which it's
17 used, and it's a very fact-based inquiry. You're raising
18 a number of facts here that definitely have some merit and
19 definitely should be weighed in that inquiry.

20 I think what still gives me pause, and I want to
21 let other Commissions to have an opportunity to ask
22 questions, but what still gives me pause is the question
23 of a combination of staleness of the review, although as
24 you -- the environmental analysis, although as you saw in
25 East Altamont, I don't think that's a fatal issue

1 necessarily, and the fact that your filing here does not
2 indicate any timeframe or any, you know, we ask the
3 question of diligence in pursuing the construction of the
4 plants. It's not that it isn't there. It's just not --
5 It's not that you are not actually diligently trying to
6 build it. It's just that we don't have that evidence
7 before us in what you've provided us.

8 I'd like to ask other Commissioners if they have
9 questions. We also have one blue card, and so I think we
10 should also hear from the public after the round of
11 questions.

12 VICE CHAIRMAN BOYD: I do have a question of
13 Mr. Galati to help me with this whole project, which has
14 been around for a long time. Can you refresh my memory?
15 Before PG&E bought this project, did the original project
16 proponent have a power purchase agreement with PG&E?

17 MR. GALATI: No, it did not.

18 VICE CHAIRMAN BOYD: And yet you bought the
19 project with an expectation of presuming to build it;
20 therefore, you must have felt you needed the power, but
21 you did not give a power purchase agreement to the
22 original developer. This is part of a longstanding
23 concern I've had of the acquisition by the basic investor-
24 owned utilities of a huge fleet of generation again, which
25 needs a lot of discovery and discussion over time.

1 MR. GALATI: And you know, Commissioner Boyd, I
2 think you're correct. The PUC agrees with that, and
3 that's why we can't build this at the time.

4 I can tell you that FPL bid the project into an
5 RFO. We would not have been able to (inaudible) that
6 project using the criteria set forth by the PUC, and so we
7 are constrained in some respects. And while I know we
8 have maybe our disagreements on the procurement process
9 and not to open up that debate, I can tell you that we
10 would not have been able to get that contract approved.

11 So there's one other thing I wanted to make sure
12 and, Commissioner Douglas, I did not address one of your
13 issues, and we fully support a condition very similar to
14 East Altamont, that the project would come in and file an
15 amendment prior to construction and show that it complies
16 with applicable LORS at that time and to improve the
17 staleness of environment review. And I apologize that we
18 didn't include that in our original filing. We assumed
19 that we would get that, and we assumed that it would be in
20 staff's analysis, but we do support that, a very similar
21 requirement.

22 We met with the Air District and when I say the
23 Air District, the San Joaquin Valley Air District, which
24 we're not in, and we met with them early on to talk about
25 the air quality mitigation agreement and found out that

1 they have new rules, so we completely support, you know,
2 having that environment review updated at that time prior
3 to construction.

4 CHAIRMAN DOUGLAS: Thank you. Are there other
5 questions from the Commission?

6 COMMISSIONER BYRON: I would like to hear from
7 Mr. Sarvey I think before we get any more details because
8 I think he'll have some additional information to hand to
9 us.

10 CHAIRMAN DOUGLAS: Very good. I have one blue
11 card. If there are other people in the room who've come
12 to comment on this item, please fill out a blue card and
13 have it brought to us. Robert Sarvey, please come for
14 forward and I would ask you -- Is he in here?

15 MR. SARVEY: I'm on the phone.

16 CHAIRMAN DOUGLAS: Oh, you're on the phone.
17 Well, there you go. I would ask you to keep your comments
18 please to three minutes if you could.

19 MR. SARVEY: I'll do my best. Thank you,
20 Commissioners. In the 2006 long-term procurement, the
21 CPUC authorized PG&E to acquire a 937 megawatts capacity.
22 In their most proceeding, they authorized PG&E to acquire
23 800 megawatts of rapid response power plant.

24 The Tesla project is a poor fit mainly because
25 it has long start-up times and it's a 1169 megawatt plant,

1 which is more power than PG&E has been authorized in
2 either long-term proceeding, so it seems unlikely that the
3 CPUC is going to grant a certificate to this project, so
4 there's quite a bit more environmental review to be done
5 on this project.

6 I don't know if you've read my comments, but
7 attached to my comments there's an email from Weyman Lee
8 saying the project no longer has the authority to
9 construct, a PSD permit, or a completed emission reduction
10 package, so the project has a lot of work to do.

11 It has no water supply at this point, although
12 it's had five years to negotiate one with the City of
13 Tracy, who has now committed its water to several other
14 projects.

15 So it's important to note here that, you know,
16 PG&E has the project called the Gateway project currently
17 that's having some compliance problems because when they
18 extended the construction license, PG&E didn't put the
19 amendment into the Commission to update the conditions of
20 certifications, so we'd be creating that situation again
21 possibly. And I think PG&E hasn't demonstrated real good
22 faith in keeping their conditions of certification in line
23 with the rest of the project.

24 So in conclusion, I'd say PG&E hasn't really
25 demonstrated good cause other than its desire to sell this

1 project. And the evidence in the record provided by the
2 Bay Area Air Quality Management shows that the project no
3 longer has a valid authority to construct or a complete
4 emission reduction package.

5 San Joaquin Air District has provided a letter
6 stating that the project air quality mitigation agreement
7 no long mitigates the project, so that would be a
8 violation of CEQA.

9 And as I said before, the project currently has
10 no water supply, so all the major government approvals are
11 lacking other than your extension right here, so I don't
12 see anything in the record here that demonstrates good
13 cause to extend the license particularly for five years.

14 The project EIR is already five years old. With
15 another five years to construction, you could possibly
16 have EIR that's ten years old, which would be very
17 difficult to amend and possibly just as difficult as a
18 brand new AFC. So that's all I have to say, and thank you
19 for your consideration.

20 CHAIRMAN DOUGLAS: Well, thank you very much for
21 your comments. Questions now from the Commission?

22 COMMISSIONER BYRON: This plant, I mean, it's in
23 a very good location. And even before I came on this
24 Commission, I think consumers in the Bay Area realized
25 that the injection of a large amount of power at this

1 location would be a very good thing. Prior to my time on
2 the Commission, the state obviously evaluated and spent a
3 great deal of resources in this granting of this permit.

4 There are some serious concerns that have been
5 raised by Mr. Sarvey and by the staff, and also we have I
6 believe from the San Joaquin Valley Air Pollution Control
7 District a letter expressing some concern about the
8 staleness of the permit with an -- to an extended time
9 period for construction.

10 I'm also concerned the chilling effect that the
11 acquisition of this asset in hands of the same company
12 that does the procurement for power and the effect that
13 that has on the forward market for new construction as
14 well. We like to see the plants that we permit get built,
15 but I am concerned about the demonstration on the part of
16 the applicant for good cause as well.

17 Perhaps we should be considering some sort of
18 limited extension here and give the applicant more
19 opportunity to respond to some of these issues, but I
20 think we're up against the deadline here within a week or
21 two, correct?

22 MR. GALATI: That is correct.

23 COMMISSIONER BYRON: And this is the last
24 business meeting opportunity to address this issue, so I'd
25 be willing to entertain the notion of a limited length of

1 time to extend so that they can further address some of
2 these concerns that have been raised and instead of giving
3 a full five-year kind of extension.

4 CHAIRMAN DOUGLAS: And what term are you
5 proposing and are you proposing it in the form of a motion
6 or are we ready to do that?

7 I do want to say before you go on that I -- the
8 reservations that I'm expressing are not a determination
9 that I've concluded that there is not good cause. It's
10 just a statement that I'm troubled by the prospect of an
11 affirmative finding of good cause based on what we have
12 before us.

13 So I agree with your suggestion that having the
14 opportunity to get evidence before us that would help us
15 decide on this question would be very valuable.

16 COMMISSIONER LEVIN: Could I ask a question of
17 staff then? How long would it take to refresh the
18 environmental reviews, and work with the Air Quality
19 District and the City of Tracy on the air and water
20 issues and determine whether those can be successfully
21 concluded?

22 MR. BELL: Commissioner, my expectation would be
23 that if we delve into that we should do so as part of an
24 amendment. The staff always supposed after we received
25 this request -- I would not that we received it on April

1 24th, so it has been very difficult for us given the short
2 timeframe to react to this petition especially given our
3 other workload.

4 But our expectation is that if, in fact, if the
5 Commission were to approve the extension, an extension,
6 whatever it is, is that PG&E would have to file an
7 amendment with the Commission much like we anticipate on
8 East Altamont, and that the issues, for example, of air
9 quality would need to be revisited, as would all of the
10 LORS, you know, the appropriate laws, ordinances,
11 regulations, and standards to make a determination as to
12 whether the project was still in conformance.

13 To do that, that would be a major amendment and
14 would require a significant amount of staff time in a
15 number of technical areas. We would not want to I think,
16 given our current workload, engage in that analysis unless
17 we had an amendment before us. It would be a rather
18 substantial undertaking I think particularly in the area
19 of air quality where we are especially constrained in
20 terms of staff resources.

21 CHAIRMAN DOUGLAS: Commissioner Levin, if I
22 could add a thought on this point as well. I think one
23 difficulty in staff doing that analysis without an
24 amendment before them is that the project may actually
25 change and potentially in very significant ways, so it

1 would not be time terribly well spent I think to try to
2 bring the environmental review up to current conditions in
3 the absence of an application that indicates that PG&E is
4 going forward and in the absence of detailed information
5 about the plant that would actually be proposed.

6 It does, though, raise a policy question, which
7 I think is wrapped into the question of staleness of the
8 review, and that I think would be part of a good cause
9 determination. At some point if there are such
10 significant and substantial changes to a project that it
11 may, in fact, be better dealt with through a new AFC as
12 opposed to an extension of the current license. It's not
13 a statement but this is the case here, but that would be
14 the sort of issue that we would consider in a good cause
15 determination or that would at least be relevant to this
16 determination.

17 MR. GALATI: Commissioner Douglas, if I could
18 point out a few things. First, the project was licensed
19 without a water supply agreement, and there's a condition
20 that the project get the water supply agreement so many
21 days before construction, so that is how the applicant
22 would go forward.

23 Similarly, the project was licensed by FPL who
24 thought 1120 megawatts was the right size for this
25 project. Lots of things have happened since then. We've

1 had the giver process with transmission. We have a
2 procurement revision since that time, and it may be and
3 it's probably likely that 1120 megawatts is not the right
4 size for that location and for PG&E.

5 So we always anticipate that we would be, if we
6 came forward with the project or a third party came
7 forward with the project or if FPL were sitting here right
8 now asking you for an extension, that they would likely be
9 coming forward with a project that is smaller than 1120
10 megawatts. I can't tell you how small. I can't tell
11 you how much; therefore, I cannot tell you how much water
12 or ERCs, and that is precisely why we agreed to the
13 condition that says bring an amendment before you start
14 construction.

15 And so any approval that you did today, which
16 we're still hopeful for, any approval that you did today
17 would have a condition that says you shall bring an
18 amendment defining the project and updating the review,
19 both environment and LORS, before you could start
20 construction. That way it takes out of play the
21 possibility that PG&E could go out and comply with the
22 conditions and assuming CPUC said okay to build could
23 build it at its current form.

24 So there are some definitely issues that need to
25 be updated. With respect to air quality, the PSD permit

1 under federal law only lasts for 18 months, so every
2 project that would be in front of you with a five-year
3 review would have to update its PSD permit. It's common.

4 Similarly, there are very short timelines for
5 the actual authority to construct permit, so in this case
6 the authority to construct permit was not finalized, so
7 that would have to be done. But I can tell you that those
8 kinds of things are so much quicker and easier to do and
9 can respond quicker than if you were to start from
10 scratch.

11 So all we're asking for you to do is preserve
12 the ability for us not to start from scratch, but we will
13 provide the environment review and staff would provide the
14 environmental review should we or someone else decide to
15 build this project.

16 MR. KRAUSSE: Chairman Douglas, if I could just
17 add on Commissioner Byron's point about the length of time
18 here. We made a decision. We considered whether we
19 should be requesting for three years based on East
20 Altamont. And essentially because one of the very real
21 options here is to sell and market, as you characterized
22 it, the license to some other operator, we're really
23 looking at -- we were trying to get as much time as
24 possible both for the marketing and then for a purchaser
25 to be able to begin construction, so we were basically

1 trying to keep that open.

2 I think the three years in East Altamont would
3 have been what we requested if we knew you had a problem
4 with five.

5 COMMISSIONER BYRON: Well, Mr. Krausse, I think
6 that's a really good option, but you've also indicated in
7 here you want to preserve the option to develop this in
8 the future if, indeed, under certain circumstances it may
9 be necessary and, of course, you control those
10 circumstances to a great extent.

11 So the concern that I have is that the longer
12 this plant is in your possession and the longer the Public
13 Utilities Commission doesn't give you authority to build,
14 the more chilling effect it has on the procurement market
15 going forward.

16 MR. KRAUSSE: Well, that's why I emphasize the
17 sale. I'm not telling you we have the answer that we're
18 going to sell the license. We also don't have plans to
19 build at this time. I think the issue is our option is
20 only currently, until the PUC provides a clearer path to
21 utility-owned generation, we really need to be looking at
22 marketing. I mean that's the option that's available
23 today.

24 COMMISSIONER BYRON: Madam Chair, I would
25 suggest that we provide a reasonable extension, something

1 on the order of 60 or 90 days. Maybe 90 days is the right
2 amount and that we conduct an evidentiary hearing so that
3 we can hear more from the applicant as to what their
4 intention is for good cause on extending this license for
5 a longer period of time.

6 VICE CHAIRMAN BOYD: Commissioner Byron, who do
7 you have in mind would conduct said evidentiary hearing, a
8 reconstituted Siting Committee or the Commission Siting
9 Committee or are you talking about all of us?

10 COMMISSIONER BYRON: Commissioner, I'd like to
11 say we're looking for volunteers, but I think it would be
12 the Siting Committee that would --

13 VICE CHAIRMAN BOYD: Oh, I'm glad to hear that.

14 MR. KRAUSSE: Just if I could ask a question.
15 Is it that you're looking for more detail on what our
16 plans are? I thought you said what the petitioner's plans
17 are versus the good cause.

18 COMMISSIONER BYRON: It's the good cause.

19 CHAIRMAN DOUGLAS: That would be good cause,
20 right.

21 COMMISSIONER BYRON: Okay. Yeah. So I guess
22 I'd turn to Counsel first. Does that sound like a
23 reasonable approach here? Any difficulty with that kind
24 of approach, Mr. Chamberlain?

25 CHIEF COUNSEL CHAMBERLAIN: I don't think

1 there's any legal difficulty with that approach.

2 COMMISSIONER BYRON: Are there any other
3 difficulties?

4 CHIEF COUNSEL CHAMBERLAIN: Well, you have to
5 take some time to do it, and you know to the extent that
6 you -- that there wouldn't be any more real information
7 presented, you may be sort of spending time unnecessarily.
8 That's the only thing that I think it would be.

9 CHAIRMAN DOUGLAS: I actually think it would be
10 helpful to get more information on the good cause
11 question. I think 60 days might be a bit short,
12 Commissioner. We may want to go to 90 days and I'll ask
13 the applicant. If we gave you a 90-day extension and we
14 scheduled an evidentiary hearing and an opportunity to
15 submit a brief, would that be of interest to you? Would
16 you like to proceed in that way?

17 MR. GALATI: Here's where I'm having difficulty
18 as Counsel. I'm trying to figure out what witness I put
19 on the stand and what do I ask them, so I'm not sure what
20 you want for a showing of good cause other than what I
21 have already told you, and I'm not sure that I can provide
22 you anything above and beyond what I've told unless you
23 could give me some guidance as to the specific items
24 you're looking for and then I can respond better.

25 If it is -- Do you want a PG&E witness to come

1 up and say we're not using it as chilling effect? That's
2 a long hearing probably or it could be very short, one
3 question. If it is something about what are your current
4 plans for, we've already provided that to you. I don't
5 think I'm going to have a witness that's going to
6 elucidate that anymore for you. So if I could have some
7 understanding of what you think might occur at this
8 hearing, I could probably tell you how many days I need to
9 prepare for it.

10 CHAIRMAN DOUGLAS: I think what we would do is
11 provide you with that information in writing. I don't
12 think we would devise it at this moment. I think we
13 should -- Having heard a loud maybe from PG&E, I think it
14 still may be worth proceeding with an extension if the
15 Commission is so inclined.

16 COMMISSIONER LEVIN: I think a shorter extension
17 is preferable in this case. I'm definitely uncomfortable
18 with the letter from the Air Quality District and the
19 staleness of the original application.

20 I think things have changed significantly, and
21 I'm uncomfortable with the precedent of a five-year
22 extension. Five years have already elapsed. Air quality
23 laws change, conditions change, a lot will change in the
24 next five years including, you know, the potential for
25 carbon regulations and other things, and I think we can't

1 treat this lightly. I do think these issues need to be
2 revisited more seriously.

3 In terms of witnesses, I personally would like
4 to hear from the Air Quality District and from other
5 experts in that area, as well as the water issues, and
6 hear whether this is really viable in the five-year period
7 or what would be an appropriate period to extend.

8 MR. GALATI: Commissioner Levin, I think what
9 I'm concerned with is that you might be asking for an
10 evidentiary hearing on an amendment to the application or
11 you might be asking for an evidentiary hearing on the
12 environmental issues that could be projected in the future
13 when the project is built.

14 And that's one of the reasons why we think that
15 the condition that says you cannot construct until you
16 come in and do exactly that for you and get an approval
17 from the Commission at a business meeting, that we have
18 met all those criteria. We think that's better spent time
19 doing at a later date because I don't know what I would
20 tell you right now.

21 Would I put on evidence that we have the
22 emission reduction credits in place for 1100 megawatts? I
23 can tell you we do not. The air quality mitigation
24 agreement with the San Joaquin Valley was based on 1100
25 megawatts. It would probably be something lower, so I

1 apologize. I would love to be able to do that, but I
2 don't know if we can provide that. That's why I think the
3 condition makes sense to require that if the project is
4 going forward by us or others.

5 VICE CHAIRMAN BOYD: Are you looking for a
6 motion?

7 CHAIRMAN DOUGLAS: I'm looking for a motion and
8 I would hope that the motion would include the name
9 change, which is also on this agenda item, as well as
10 action on the extension.

11 VICE CHAIRMAN BOYD: Well, not being a member of
12 the Siting Committee and knowing that the Siting Committee
13 will wrestle with this, I'm prepared to make a motion
14 that, a, we approve the name change, b, that we grant a
15 90-day extension of time, and that we provide that the
16 Siting Committee assume jurisdiction of the question and
17 do whatever is appropriate within that timeframe.

18 CHAIRMAN DOUGLAS: Is there a second?

19 COMMISSIONER LEVIN: Seconded.

20 CHAIRMAN DOUGLAS: All in favor?

21 (Ayes.)

22 CHAIRMAN DOUGLAS: This item is approved. Thank
23 you. Item 4, Peters Shorthand Reporting Corporation.
24 Possible approval of Contract 170-08-001 for \$74,999 with
25 Peters Shorthand Reporting Corporation to provide verbatim

1 transcripts of siting case hearings, workshops, and other
2 hearings as necessary for power plant siting cases.

3 Ms. Nicholls.

4 MS. NICHOLLS: Yes, good morning. My name is
5 Katherine Nicholls. I'm from the hearing office, and the
6 item before you this morning is just a request for an
7 approval of a contract, duration June 10th, 1009, through
8 June 30th, 2010, for hearing reporter services for Siting
9 Committee hearings and workshops and whatever. The
10 total amount, as you indicated, was \$74,999. This is a
11 small business enterprise. We did go out to bid for -- We
12 sent out a bid to three certified small businesses through
13 DGS. The lowest qualified bidder was Peters Shorthand
14 Reporting.

15 VICE CHAIRMAN BOYD: Move approval.

16 COMMISSIONER ROSENFELD: Second.

17 CHAIRMAN DOUGLAS: All in favor?

18 (Ayes.)

19 CHAIRMAN DOUGLAS: This item is approved. Thank
20 you.

21 MS. NICHOLLS: Thank you.

22 CHAIRMAN DOUGLAS: Item 5, Public Sector
23 Consultants, Incorporated. Possible approval of Purchase
24 Order 08-409.00-016 for \$59,928 with Public Sector
25 Consultants, Incorporated, to provide technical support

1 and maintenance for the Energy Commission's Program
2 Information Management System. Mr. Smith.

3 MR. SMITH: Good morning, Chairman and
4 Commissioners. My name is Larry Smith. I'm the Chief
5 Information Officer for the Energy Commission, and I am
6 seeking approval for the Energy Commission to enter into
7 an agreement with Public Sector Consulting to provide
8 project management and technical support of the new
9 baseline requirements for the Program Information
10 Management System for continued support in the AB 118 and
11 the Fuels and Transportation Division's inclusion into the
12 system.

13 The project manager coordinates with the Energy
14 Research and Development and the Fuels and Transportation
15 Division for the ongoing maintenance of the current system
16 and reviews the business requirements for implementation
17 of all the new baseline requirements.

18 The agreement resulted from a request for offer
19 made under the Department of General Services California
20 Multiple Award Schedule. Two offers were received and
21 evaluated for the request for offer, and today I am
22 requesting approval of the purchase order with Public
23 Sector Consultants in the amount of \$59,928 for the time
24 period of July 1st, 2009, through December 31st of 2009.

25 COMMISSIONER ROSENFELD: I move the item.

1 VICE CHAIRMAN BOYD: Second.

2 CHAIRMAN DOUGLAS: All in favor?

3 (Ayes.)

4 CHAIRMAN DOUGLAS: That item is approved. Thank
5 you.

6 MR. SMITH: Thank you, Commissioner.

7 CHAIRMAN DOUGLAS: Item 6, Information,
8 Integration, Innovation and Associates, Incorporated.
9 Possible approval of California Multiple Award Schedule
10 Purchase Order 08-409.00-014 for \$150,000 with
11 Information, Integration, Innovation and Associates,
12 Incorporated, to develop design documentation and support
13 services for the New Solar Homes Partnership Web-based
14 application. You're not Valerie Hall.

15 MR. GONZALES: I am not. I'm Tony Gonzales, the
16 Manager for the Renewable Energy Office. The New Solar
17 Homes Partnership is designed to provide financial
18 incentives for the installation of solar energy systems on
19 energy efficient new homes and has a goal of creating a
20 self-sustaining market by the end of the ten-year program.

21 Over the past several years, web-based
22 application and database has been developed to support the
23 rebate application process for installers, for builders,
24 and for individual homeowners. Currently the
25 administration of the New Solar Homes Partnership is done

1 through the investor-owned utilities, and this application
2 provides a uniform platform for the day-to-day
3 administration of the program. And finally, this database
4 application allows Energy Commission staff to more
5 effectively and quickly perform its oversight
6 responsibilities over the administration of the program.

7 The purpose of the purchase order before you
8 today is to provide continued maintenance support and
9 updates to the application tool over the next two years.
10 This is needed to ensure adequate functionality of the
11 application, to mitigate any unforeseen technical issues
12 that may arise, to incorporate changes due to the
13 legislative and guidebook changes, and to provide updates
14 and enhancements requested by stakeholders, by the
15 administrators, and by Energy Commission staff and
16 Commissioners.

17 This purchase order will also provide for the
18 development of design documentation for the current
19 program code. I'd like to thank you for your time and ask
20 for your approval of this purchase order for \$150,000 with
21 Information, Integration, Innovation and Associates.

22 VICE CHAIRMAN BOYD: Question. Was this project
23 vetted by a policy committee?

24 MR. GONZALES: Yes. It did go through the
25 Renewables Policy Committee.

1 VICE CHAIRMAN BOYD: Thank you.

2 COMMISSIONER BYRON: I'll move the item.

3 COMMISSIONER ROSENFELD: Second.

4 CHAIRMAN DOUGLAS: All in favor?

5 (Ayes.)

6 CHAIRMAN DOUGLAS: This item is approved. Thank
7 you very much.

8 MR. GONZALES: Thank you.

9 CHAIRMAN DOUGLAS: Item 7, C & G Technologies.
10 Possible approval of California Multiple Award Schedule
11 Purchase Order 08-409.00-013 for \$150,000 with C & G
12 Technologies to automate collection of data from regulated
13 appliance manufacturers. Ms. Hall.

14 MS. HALL: Good morning. I am Valerie Hall.
15 The goal of this contract is to accomplish the design and
16 implementation of an automated web page that allows the
17 manufacturer of a regulated appliance to fill out and
18 submit forms through a web-based interface and receive
19 immediate feedback if any basic mistakes are detected.

20 This set of web pages is expected to log and
21 package the submitted materials for review by staff with a
22 goal of streamlining and simplifying staff's workflow.
23 Allowing appliance manufacturers to directly submit,
24 correct, and receive confirmation of their data or
25 approval of request submittals will reduce staff workload

1 while providing better, timelier, and more useful service
2 to those who are required to provide their data or obtain
3 a related approval to comply with the regulations that we
4 administer.

5 To give you a sense of the size of our clients'
6 database, it covers about 200,000 active records and 820
7 archival records. We typically process over 60 data
8 submittals containing over 4,000 appliance models every
9 month. In addition, the Energy Commission must approve
10 and track the approval status of all test laboratories,
11 third-party certifiers, and industry certification
12 programs involved in the submission of this data to the
13 Commission.

14 Implementing an automated data submittal
15 interface for the appliance efficiency database is
16 expected to reduce cost and save time for both the
17 Commission staff and for the affected manufacturers, and
18 so we seek your approval of this contract.

19 COMMISSIONER ROSENFELD: You just convinced me.

20 COMMISSIONER BYRON: One quick question. I'm
21 sorry. Sorry, Commissioner.

22 COMMISSIONER ROSENFELD: Go ahead.

23 COMMISSIONER BYRON: I continue to learn more
24 and more about your division, a million of these appliance
25 data entries. It makes a lot of sense to do this. I was

1 just as I'm reading this I was concerned about one thing.
2 Do you lose the ability to verify the accuracy of the data
3 that's being provided?

4 MS. HALL: There are a lot of checks within the
5 system to verify the calculations that are submitted and
6 determine whether the data as submitted on its face is
7 accurate.

8 Actually, the purpose of the following item I
9 think gets -- agenda item on the business meeting may get
10 a little bit more towards your particular question, which
11 has to do with surveys for appliances. It's part of our
12 enforcement work where we would determine compliance.

13 COMMISSIONER LEVIN: I would just like to say,
14 given the workload and the burden on staff and the growing
15 importance of energy efficiency and energy needs, I think
16 this is very important.

17 COMMISSIONER ROSENFELD: I move the item.

18 COMMISSIONER LEVIN: Seconded.

19 CHAIRMAN DOUGLAS: All in favor?

20 (Ayes.)

21 CHAIRMAN DOUGLAS: This item is approved. Thank
22 you very much.

23 MS. HALL: Thank you.

24 CHAIRMAN DOUGLAS: We are now to --

25 COMMISSIONER ROSENFELD: Eight.

1 CHAIRMAN DOUGLAS: -- Item 8. Thank you.
2 Benningfield Group, Item 8. Possible approval of Contract
3 400-08-006 for \$129,942 with Benningfield Group to conduct
4 market surveys of appliances sold online via catalogs and
5 in wholesale and retail outlets. Ms. Hall.

6 MS. HALL: Thank you. The appliance efficiency
7 regulations state that no regulated appliance can be sold
8 or offered for sale in California unless the manufacturer
9 has, one, tested it; two, marked it with proper
10 identifications; three, certified it to the Commission as
11 meeting the applicable requirements, which they would now
12 do under this more automated system that we just approved,
13 and that the model appears in our database.

14 In order to make the best use of our limited
15 appliance standards enforcement staff, who is sitting
16 right next to me, this is Tovah Ealey, we contract out for
17 appliance market surveys to determine what regulated
18 appliances are being sold or offered for sale in
19 California and to determine where noncompliance is
20 occurring. The information will be used to facilitate
21 compliance with our standards by allowing us to focus our
22 initial conversations with the manufacturers and then
23 target enforcement activities against manufacturers and
24 distributors of noncompliant products.

25 The proposed contract is a two-year, almost

1 \$130,000, competitively bid contract with an anticipation
2 start of July or August of this year. The Benningfield
3 Group came in with lowest responsive bid, and they would
4 conduct the appliance surveys on up to 29 categories of
5 appliances, which are regulated under Title 20. The
6 surveys would be performed in retail and wholesale stores
7 statewide and surveys would also be conducted through
8 catalogs and Internet sites.

9 Some samples of the appliance types that we
10 would focus this particular contract on include
11 combination space water heaters, commercial refrigerators
12 and freezers, portable air conditioners, computer room air
13 conditioners, evaporative coolers, heat pump pool heaters,
14 and residential wine coolers. And if time and funding
15 permit under this contract, we will resurvey some of the
16 appliances we did under a previous survey contract, which
17 focused primarily on those appliances, which are used in
18 the food service industry.

19 So with your approval, we would move forward
20 with this contract work.

21 COMMISSIONER ROSENFELD: I move the item.

22 COMMISSIONER BYRON: Second.

23 CHAIRMAN DOUGLAS: All in favor?

24 (Ayes.)

25 CHAIRMAN DOUGLAS: Thank you. This item is

1 approved.

2 MS. HALL: Thank you very much.

3 COMMISSIONER ROSENFELD: Valerie and Tovah, I
4 don't want you to get the idea that we aren't very
5 appreciative. We're just very aware of the clock and this
6 long meeting so.

7 MS. HALL: Understood.

8 CHAIRMAN DOUGLAS: The next, as I count it, 21
9 items are PIER contracts, and before we move in item by
10 item, I'd just like to make a brief comment about the
11 package as a whole.

12 I think that we -- everyone here is aware the
13 Governor addressed a joint session of the California
14 Legislature yesterday about California's budget and the
15 very terrible and deep cuts that being proposed to help
16 education and social services and other programs in the
17 legislature as necessary to close the budget gap. And in
18 this context, I just wanted to make sure before we move
19 through these contracts that we acknowledge that fact. We
20 discussed it. We had a PIER advisory committee meeting
21 about, Commissioner Boyd will help me with the date, but
22 about a week and a half ago.

23 VICE CHAIRMAN BOYD: A week ago.

24 CHAIRMAN DOUGLAS: A week ago. It included
25 stakeholders, it included some representatives from the

1 legislative branch, and we discussed this issue
2 explicitly. We have a statutory authority to carry out
3 these PIER projects that we fund deliver benefits to
4 Californians.

5 They help advance our energy efficiency
6 standards. They help the state reach its AB 32 goals.
7 They are helping us construct the clean energy basis for
8 the economy going forward, and so what we're doing is very
9 important. We've got a statutory authority that we are
10 exercising and we are doing so to the best of our ability
11 in the interest of California.

12 On the other hand, we need to recognize that
13 this situation unfortunately is what it is, and I think a
14 lot of legislators a couple blocks away are facing
15 decisions they never contemplated in their careers that
16 they would be forced to make, so I didn't want to let this
17 just move on to the rest of the agenda without
18 acknowledging this issue. Ms. Jones, are you -- can you -
19 -

20 EXECUTIVE DIRECTOR JONES: I can certainly --

21 CHAIRMAN DOUGLAS: -- give anything that you
22 had?

23 EXECUTIVE DIRECTOR JONES: I can certainly add a
24 little to that. In terms of the benefits that we see from
25 PIER, there are some direct economic benefits. Many of

1 the projects in the PIER program have developed new energy
2 savings and new energy producing technologies, so those
3 result in direct savings to customers here in California.

4 In addition, we've funded 15 different
5 technologies that have been incorporated into today's
6 building standards and they're estimated to save consumer
7 \$70 million. The result of the research can also become
8 part of the utility rebate programs so that customers get
9 direct rebates for using more energy efficient
10 technologies and then lower their energy costs.

11 And at this time, with the American Recovery
12 Act, we have an opportunity to leverage some of our PIER
13 projects and PIER contracts to bring in additional ARRA
14 dollars into California. We think that's an important and
15 big advantage of moving with research today.

16 And just a couple of other comments, many of
17 these contracts show up here in the last couple of
18 business meetings of the year. We try to stagger them
19 throughout the year, but in '07-'08, we instituted a new
20 policy where we wanted to put much more of our research
21 out to competitive bid and so that process is a bit of a
22 lengthy process. We have done solicitations that have
23 been wildly successful.

24 For one solicitation we expected 12 people at
25 the maximum to apply and instead we got over 50

1 applications, and this has happened with numerous
2 solicitations. They do take longer to do and they take
3 longer to develop a contract. That's part of why you're
4 seeing them here before the end of the year so that we can
5 encumber the monies before July 1st.

6 CHAIRMAN DOUGLAS: Thank you for that.

7 VICE CHAIRMAN BOYD: Madam Chair, I guess I
8 would just add, seeing that I sit on the research
9 committee, that these funds are all not general funds, not
10 the funds that the legislature is having its great
11 difficulty with. These are special funds that are
12 dedicated to the purposes that are represented in all
13 these contracts we're about to act upon and consistent
14 with what Ms. Jones said about providing opportunities and
15 benefits to California in a multitude of ways.

16 A lot of money is spent here in California. All
17 the efforts benefit Californians in one way or another
18 when we have successful projects. Indeed, we don't win
19 them all, but I've noted that we have an incredibly high
20 success rate or batting average with regard to the
21 research that we do undertake. Staff does a very good job
22 of vetting proposals, initiating proposals, and screening
23 proposals for success.

24 VICE CHAIRMAN BOYD: Thank you, Commission Boyd.
25 Commissioner Bryon.

1 COMMISSIONER BYRON: Madam Chair, thanks for
2 bringing this issue up. The longer I'm here at the
3 Commission, the more I appreciate the value of the
4 research that we do in the PIER program and all the staff
5 that conducts that research.

6 Having worked at a research organization for
7 about ten years and spent about \$400 million a year, I
8 appreciate that you just can't start and stop it that
9 easily. There's a cycle associated with research. These
10 funds are not spent willy-nilly.

11 As we go backwards from the time it takes to do
12 the RFO and procurement, there's a plan that needs to be
13 put in place, and approved and vetted through our advisory
14 structure. And I'm really glad that you brought this
15 issue up so that we just stop and realize why we have so
16 many on the agenda at this time and why we're still
17 approving these projects during a very difficult fiscal
18 time in our state's history.

19 CHAIRMAN DOUGLAS: Thank you. With that, we
20 will move on to Item 9, UC Riverside. Possible approval
21 of Contract 500-08-055 for \$650,000 with UC Riverside to
22 advance the understanding of regional and near-source air
23 quality impacts of distributed generation sources.
24 Ms. Mueller.

25 MS. MUELLER: Good morning. I'm Marla Mueller

1 with the Public Interest Energy Research Program in the
2 environment area. The project I'm bringing forward is to
3 the improvability of models to better characterize air
4 quality implications of distributed generation.

5 Distributed generation is an important
6 alternative to California to new central station fossil
7 fuel generation. Our research has shown that realistic
8 scenarios for distributed generation in the Southwest Air
9 Quality Management District in the San Joaquin Valley have
10 no significant impacts on regional air quality. This
11 assumes that all of the distributed generation meets the
12 California Air Resources Board 2007 emission limits.

13 However, we need a better understanding of near-
14 source impacts of distributed generation. Recent
15 dispersion and tracer study research has shown that better
16 modeling is needed and that incorporating near-source
17 dispersion modeling into regional models can improve
18 nearby source impact assessments.

19 In addition, we have found that plume rise from
20 distributed generation is not currently well understood
21 but it is one of the predominate factors affecting ground-
22 level pollution concentrations.

23 The goal of this project is to improve the
24 ability of the models to accurately predict ground level-
25 criteria and toxic pollutant concentrations from

1 distributed generation on the local scale by combining
2 regional and local scale models and better characterizing
3 plume rise from distributed generation.

4 The project will include an advisory committee
5 with members from the regulatory agencies and will be
6 coordinated with and expand upon existing Public Interest
7 Energy Research programs looking at air quality impacts
8 from distributed generation and other sources. This
9 research will improve the accuracy of dispersion models
10 enabling regulators to better characterize -- to better
11 characterize and to understand air quality implications
12 and what mitigation measures might be needed. Thank you.

13 CHAIRMAN DOUGLAS: Thank you. Questions,
14 comments?

15 COMMISSIONER BYRON: Sorry. Go ahead,
16 Commissioner.

17 VICE CHAIRMAN BOYD: No, you go ahead.

18 COMMISSIONER BYRON: Ms. Mueller was kind enough
19 to provide me a briefing on the subject. I'm certainly
20 interested and supportive of work to better understand the
21 environmental implications of distributed generation of
22 combined heat and power. As we know, it's more efficient
23 but it does put air pollutants closer to the source of the
24 use of the power, so I very much appreciate this kind of
25 work. I would be more than happy to move it, but I think

1 I'll wait and hear what Commissioner Boyd has to say.

2 VICE CHAIRMAN BOYD: Well, I was basically going
3 to say what you've said. A, as Ms. Mueller has indicated,
4 it's very important to our future. It's getting more
5 important every day, distributed generation. And B, I
6 know for a fact air quality has been a long-time concern
7 with respect to distributed generation so I'm very glad
8 we're carrying this out, so I will let Commissioner Byron
9 make his motion.

10 COMMISSIONER BYRON: I'll move to approve.

11 COMMISSIONER LEVIN: Commissioner, I have a
12 question.

13 CHAIRMAN DOUGLAS: We have a question.

14 COMMISSIONER LEVIN: I'm sorry. Are we working
15 with the Air Board on this, have we coordinated with them,
16 and do they support this project?

17 MS. MUELLER: Yes. Actually, in all my
18 projects, I bring in the Air Resources Board. And in this
19 one, we're also working with the Federal EPA.

20 COMMISSIONER LEVIN: Okay. I would just ask
21 staff in each of these presentations, if we're working
22 with other agencies, it would be helpful to know that and
23 to have that on the record. Thank you.

24 COMMISSIONER BYRON: We also have an advisory
25 committee I believe on this project, correct?

1 MS. MUELLER: Yes, we will. We haven't
2 developed the advisory committee yet, but we will have an
3 advisory committee bring in the stakeholders that are
4 important to this particular issue.

5 VICE CHAIRMAN BOYD: I believe, Commissioner
6 Byron, in the more general sense within the PIER program
7 or the research program, there is an air quality advisory
8 committee that is reasonably active and involves the Air
9 Board and a lot of other prominent air quality people and
10 the representatives that gives us input every year on our
11 entire air quality -- the entire air quality component of
12 our research activities, so Ms. Mueller does a very good
13 job.

14 COMMISSIONER LEVIN: And, Ms. Mueller, we're not
15 at all doubting that you have done a good job and done all
16 the legwork. I just think going back to the Chairman's
17 comments, where we can work closely with other agencies to
18 fulfill multiple state goals, that raises the importance
19 of the PIER program even more.

20 MS. MUELLER: I agree. For so much of the work
21 that we do, if we need the Air Resources Board and the
22 districts to be able to get the best value out of our
23 projects, and that's why I do try very hard to always
24 include them as appropriate.

25 VICE CHAIRMAN BOYD: And Ms. Mueller is one of

1 the exceptions to current activities of people leaving
2 here to go to the Air Board. We took her from the Air
3 Board many years ago, so in any event --

4 CHAIRMAN DOUGLAS: In any event, we have a
5 motion or we have a motion.

6 VICE CHAIRMAN BOYD: And a second.

7 CHAIRMAN DOUGLAS: And a second. All in favor?

8 (Ayes.)

9 CHAIRMAN DOUGLAS: Thank you very much,
10 Ms. Mueller. This item is approved. Item 10, Lawrence
11 Berkeley National Laboratory. Possible approval of
12 Contract 500-08-059 for \$785,000 with Lawrence Berkeley
13 National Laboratory to identify practical and cost-
14 effective approaches to developing communities with roof
15 and hardscape materials that have greatly lowered heat
16 island effects. Mr. Bourassa. No. Yes.

17 MR. BOURASSA: Yes.

18 CHAIRMAN DOUGLAS: Sorry.

19 MR. BOURASSA: Good morning, Commissioners and
20 Executive Director.

21 VICE CHAIRMAN BOYD: He's in a suit. That's why
22 we didn't --

23 MR. BOURASSA: A nice suit and a tie. My name
24 is Norm Bourassa. I'm the program lead for the PIER
25 Buildings Energy and Use Program. This proposed agreement

1 is \$785K with Lawrence Berkeley National Lab, as you say,
2 to conduct targeted research to develop better analytical
3 tools to quantify, I got to look down with my glasses, so
4 that's what they're there for, to quantify the energy
5 consumption and heat island effect benefits of several
6 cool community construction technologies. I want to point
7 out there's \$350K of match funding in ARB in this project.
8 I'll push that to the top of my statement.

9 The project will include cool community design
10 strategies, studies, and demonstrations in the area of
11 cool roofs and cool pavements. It will provide technical
12 assistance in installed performance monitoring on these
13 demonstrations and deployments to help develop the
14 analytical methods to quantify the benefits of cool
15 community components, the ones that I described, as well
16 as strategically placed vegetation in urban environments.
17 The overall goal is to look at the effect of multiple
18 absorption and reflection effects due to the overall
19 albedo of the community.

20 The project will also develop a database of
21 residential and commercial building cool roof retrofit
22 projects that have been completed in California. This was
23 an item that in the last go-around of the Title 24 2008
24 development standards that manufacturers actually asked
25 for. They said that they needed more detailed studies to

1 document the costs and the benefits associated with the
2 installation of cool roofs, and so this is one of our
3 programmatic responses to that request.

4 We'll also be conducting technical cool
5 community courses and workshops for builders, contractors,
6 researchers, community designers, and all stakeholders
7 associated with these types of strategies for the built
8 environment. We'll be doing those in cooperation with the
9 California Building Industry Association, PG&E, SMUD, and
10 any other stakeholders that will present themselves during
11 the course of the project. We'll also be creating a
12 website that serves as a one-stop source for information
13 to support the marketplace.

14 And the other thing that I would point out is
15 that this project is in large respects going to help the
16 researchers to provide a lot of the analytical framework
17 to help validate and support some more recent findings
18 with respect to the potential of greenhouse gas emission
19 savings just due to the albedo effect of the built
20 environment and the higher amount of shortwave radiation
21 to space, which helps to mitigate global warming in some
22 respect. There's been a lot of publicity with this in the
23 last year and a half, and this project is going to help
24 them develop a lot of the analytical methodologies in
25 order to further document those potential savings.

1 The project is included in our '08-'09 PIER
2 Building budget. The R and D committee has approved this
3 project, and I'll answer any questions you have.

4 CHAIRMAN DOUGLAS: I just have a brief comment.
5 I couldn't agree more. I'm excited about this project. I
6 think that developing methodologies that help us quantify
7 these benefits is an essential step to really making them
8 part of the state's climate strategy and it's a great
9 strategy.

10 It brings the benefits of meeting our AB 32
11 goals and climate goals to the community level. It
12 increases comfort and livability within our cities, and
13 I'm very supportive of this contract, and thank you for
14 your headwork. Are there other questions or comments at
15 this time?

16 COMMISSIONER ROSENFELD: I will avoid giving a
17 sermon. But to backup your point, Chairman Douglas, we
18 are pretty much advanced now on having white roofs if
19 they're flat in Title 24 and cool-colored roofs if the
20 roof is sloped. And cool pavements need a lot of work and
21 we have to bring Caltrans in to get to Commissioner
22 Levin's point, and this will help do that.

23 MR. BOURASSA: Yes.

24 COMMISSIONER ROSENFELD: If all that happens
25 over the next 20 years, the amount of carbon offset will

1 be just about the same as you will get from the Pavley
2 Bill, so it's the highest single item on the AB 80
3 (inaudible) list of savings.

4 VICE CHAIRMAN BOYD: I note from the current
5 press that Commissioner Rosenfeld has gotten this point
6 across to the National Secretary, Randy Gee, so job well
7 done, Commissioner Rosenfeld.

8 COMMISSIONER ROSENFELD: So I'll move the item.

9 VICE CHAIRMAN BOYD: Second.

10 CHAIRMAN DOUGLAS: All in favor?

11 (Ayes.)

12 CHAIRMAN DOUGLAS: This item passes. Thank you.

13 And, Mr. Bourassa, you're here for the next two items as
14 well. Item 12, Gas Technology Institute. Possible
15 approval of Contract 500-08-051 for one million --

16 MS. BOURASSA: Excuse me.

17 VICE CHAIRMAN BOYD: You jumped over one.

18 COMMISSIONER LEVIN: I think we skipped one.

19 CHAIRMAN DOUGLAS: Oh, did I miss -- I missed

20 Item 11.

21 VICE CHAIRMAN BOYD: Item 11.

22 CHAIRMAN DOUGLAS: Thank you.

23 COMMISSIONER BYRON: You'll be with us --

24 VICE CHAIRMAN BOYD: You'll be here --

25 COMMISSIONER BYRON: -- for three more.

1 CHAIRMAN DOUGLAS: You'll be here for three
2 more.

3 VICE CHAIRMAN BOYD: Thus, the suit.

4 CHAIRMAN DOUGLAS: Item 11, Lawrence Berkeley
5 National Laboratory. Possible approval of Contract 500-
6 08-061 for \$1,688,155 with Lawrence Berkeley National
7 Laboratory to investigate residential energy-saving
8 opportunities from tightening the building envelope and
9 using innovative ventilation strategies. Mr. Bourassa.

10 MR. BOURASSA: Okay. Thank you. So the next
11 three items are actually all awards from one of the
12 solicitations that Executive Director Jones was speaking
13 of yesterday. This was one of the solicitations that was
14 released June of 2008 and was also quite oversubscribed
15 but produced ten wonderful projects. These are three of
16 them.

17 This proposed \$1.6 million contract with LBNL
18 will address gaps in the current Title 24 Residential
19 Building Energy Standards with respect to the use of the
20 ASHRAE standard 62.2 2007 for residential ventilation.

21 Up to half of space conditioning loads in
22 residences is due to air leaks in the building envelop,
23 HVAC equipment, and/or other building components, and up
24 to half of this load could be saved through improved air
25 tightness and ventilation systems.

1 Currently, new homes in California, as I said,
2 are required to meet ASHRAE 62.2 but ASHRAE 62.2 specifies
3 minimum ventilation requirements but doesn't really
4 specifically address the issues of infiltration control,
5 energy-efficient ventilation, and ventilation load
6 shifting.

7 This project will more rigorously address those
8 issues through a philosophy of build tight and ventilate
9 right strategy. That's the motto that these researchers
10 at LBNL use. They will evaluate and facilitate
11 improvements to the building envelopes and to construction
12 materials and household substances that are the source of
13 indoor contaminants.

14 They'll examine both to the local exhaust fans
15 and whole house ventilation for energy saving
16 opportunities, develop better methods for commissioning
17 residential exhaust fans, economizers, and other
18 ventilation equipment, create guidelines for retrofitting
19 homes for air tightness and related measures, and
20 integrate the results of this project into codes and
21 standards including 2011 Title 24 standards is what we
22 hope.

23 The project is included in the '08-'09 building
24 budget and the R and D committee has approved this
25 project. I'll answer any questions.

1 VICE CHAIRMAN BOYD: Move approval.

2 COMMISSIONER ROSENFELD: I want to make one
3 remark, and then I want to second this great thing. In
4 both residential and in particular commercial buildings,
5 ASHRAE 62 --

6 MR. BOURASSA: .2.

7 COMMISSIONER ROSENFELD: Sorry.

8 MR. BOURASSA: 62.2.

9 COMMISSIONER ROSENFELD: .2.

10 MR. BOURASSA: If it was .1, it would be for
11 commercial or for nonresidential.

12 COMMISSIONER ROSENFELD: But I say that in
13 actually both residential and commercial --

14 MR. BOURASSA: Okay.

15 COMMISSIONER ROSENFELD: It's pretty obvious
16 that as controls get better and communications get better
17 that ventilation should depend on what's going on outside.
18 On a very cold day, indeed, to save energy and money, you
19 want to limit ventilation. Now on a nice day, you want to
20 take advantage of the fact that it doesn't take much
21 chilling or cooling of air or heating of air.

22 And so, you know, welcome to the 21st century
23 when HVAC controls take into account what's going on
24 outside and when you can have a lot of free ventilation,
25 so I'm very happy with this development.

1 MR. BOURASSA: Yeah. I'd like to take this
2 opportunity to point out the importance of addressing both
3 of the ventilation standards within the context of our
4 2020 and 2030 net zero energy building goals. The
5 mechanical ventilation stipulations of these standards
6 will become a very large energy end use if we don't
7 address more intelligent ways of doing these ventilation
8 systems.

9 If we don't do anything to these standards by
10 2020 and 2030, we will be looking at a large energy budget
11 going towards these mechanical ventilation strategies, so
12 exactly the type of intelligent approach that you're
13 outlining, Commissioner Rosenfeld, is greatly needed.

14 COMMISSIONER ROSENFELD: So I guess I move the
15 item.

16 VICE CHAIRMAN BOYD: You get to second it.
17 There was a motion.

18 COMMISSIONER ROSENFELD: Oh, I'm sorry. I'd
19 like to second the item.

20 CHAIRMAN DOUGLAS: All in favor?

21 (Ayes.)

22 MR. BOURASSA: Thank you.

23 CHAIRMAN DOUGLAS: This item is approved. Thank
24 you. Moving on to Item 12, Gas Technology Institute.
25 Possible approval of Contract 500-08-051 for \$1,989,598

1 with Gas Technology Institute to develop new energy-
2 efficient methods for residential heating, ventilation,
3 and air-conditioning systems that are better suited to
4 California's climate. Mr. Bourassa.

5 MR. BOURASSA: This proposed contract with GTI
6 proposes to develop and demonstrate energy-saving, off-
7 peak residential radiant cooling systems, which combine
8 existing components into new configurations for use in
9 California homes. GTI will be the prime contractor and
10 will organize and manage a research team of 15
11 organizations to conduct a linked program of three
12 technical projects and one market connection project.

13 The linked projects have the potential to reduce
14 system costs while significantly increasing the installed
15 efficiency of residential space conditioning systems in
16 cooling dominated climates throughout California. The
17 program will address both new and existing constructed
18 homes, and the team consists of the UC Davis Western
19 Cooling Efficiency Center, Chitwood Energy Management, and
20 I think pretty much all of the California investor-owned
21 utilities.

22 The radiant cooling components that we will be
23 developing will include radiant cooling arrays, hybrid
24 cooling sources, and low-cost thermal storage. Also, they
25 will integrate it with low-cost radiant heating systems.

1 So developing low-energy radiant heating and cooling
2 technology optimized for California climates will include
3 the development of component systems, designed guidance
4 equipment, and installation reference specifications.
5 They will also be addressing advanced installation methods
6 using integrated design methodologies.

7 They will also develop a suite of cost-
8 effectiveness tests, remediation, and retrofit
9 methodologies for existing building envelopes and building
10 systems, and it will also include an aggressive training
11 and outreach effort to distribute the best practices and
12 other findings through HVAC professionals throughout
13 California.

14 I'll point out that alternative advanced space
15 conditioning technologies like this is a very, very
16 important component of meeting our residential 2020 net
17 zero energy building goals. And the project is included
18 in the '08-'09 PIER buildings budget, and the R and D
19 committee has approved this one as well, and I'll answer
20 any questions.

21 CHAIRMAN DOUGLAS: Commissioners?

22 VICE CHAIRMAN BOYD: Move approval.

23 COMMISSIONER ROSENFELD: Second.

24 CHAIRMAN DOUGLAS: All in favor?

25 (Ayes.)

1 CHAIRMAN DOUGLAS: This item is approved. Thank
2 you. Moving on to Item 13, Gas Technology Institute.
3 Possible approval of Contract 500-08-060 for \$1,984,761
4 with Gas Technology Institute to improve residential hot
5 water heating energy performance. Mr. Bourassa.

6 MR. BOURASSA: Thank you. In the interest of
7 time, I'm going to be a lot more brief on this one. The
8 Gas Technology Institute is going to be the prime
9 contractor, and they will co-lead with Davis Energy Group
10 and Lawrence Berkeley National Lab, a research team that
11 includes water heater manufacturers, plumbing
12 associations, and California utilities.

13 They'll conduct a series of linked programs of
14 projects that will address water-heating efficiency for
15 California homes. Water heaters are a major end-use
16 appliance, and they constitute about 40 percent of
17 residential natural gas consumption.

18 That translates into about 2,100 million therms
19 per year, so there's a large opportunity for savings here.
20 Even just a one percent improvement in the efficiency of
21 those consuming devices in the marketplace will produce 21
22 million therms per year of energy savings.

23 So up to the present, most of the research that
24 PIER has conducted and indeed most of the research in
25 water heating has been focusing on increasing the

1 efficiency of the source water heaters, but it's becoming
2 increasingly clear in recent years that we may be running
3 into a bit of a wall there and that how we distribute and
4 use the hot water is providing more opportunities for
5 energy savings at the moment. That's what this project
6 will be focusing on.

7 They'll be identifying factors that can lead to
8 a much more successful energy performance of water heating
9 systems in residential homes. They'll pay attention to
10 developing systems that better integrate hot water
11 generation and distribution methods as I just mentioned.
12 They'll also look at the efficiency of the water heater in
13 couple with the piping system designs and disseminate best
14 practices guides.

15 They'll also be developing an innovative new
16 analysis tool that will combining the capabilities of two
17 existing tools, tank, which is a hot water heater model
18 that LBNL has currently developed, and H-W-S-I-M, HWSIM,
19 as it's referred to, is a hot water distribution model
20 that Davis Energy Group is working with. LBNL and Davis
21 Energy Group are going to combine the benefits of these
22 two software design tools and the analysis tools into a
23 new comprehensive residential water heating systems
24 analysis tool.

25 They're also going to with this project improve

1 water heater standard test methods, which there are some
2 difficulties with respect to how those test methods work.
3 The performance of water heater field monitoring and
4 consumer behavior studies is going to be addressed because
5 how people use hot water and what they expect from their
6 hot water systems is an extremely important aspect here.

7 Also, there will be a large training and
8 outreach effort in cooperation with Green Plumbers USA.
9 They're a nonprofit organization based in California that
10 trains plumbers to promote the benefits of energy
11 efficiency.

12 Again, this will help us work towards our net
13 zero energy 2020 goals for residential construction. This
14 is included in the '08-'09 buildings budget, and the R and
15 D committee has approved this project, and I'm here to
16 answer any questions.

17 CHAIRMAN DOUGLAS: Questions?

18 COMMISSIONER BYRON: If the Green Plumbers can
19 sit through a nine-day long best practices training
20 session, actually I hope that's nine separate one-day
21 training sessions, then I'll move the item.

22 MR. BOURASSA: Yes, it is. They're actually
23 delivering the -- They're going to do the work.

24 CHAIRMAN DOUGLAS: Item is moved and seconded.
25 All in favor?

1 (Ayes.)

2 MR. BOURASSA: Thank you.

3 CHAIRMAN DOUGLAS: This item is approved. Thank
4 you. Item 14, National Renewable Energy Laboratory.
5 Possible approval of Amendment 2 to Contract 500-05-027
6 with National Renewable Energy laboratory for \$3 million
7 to continue development of pre-production power blocks for
8 residential and commercial applications. Mr. Gravely.

9 MR. GRAVELY: Good morning, Commissioners. I'm
10 Mike Gravely from the Research and Development Division.
11 This effort -- Power block is basically the inverters, the
12 power conversion system that's used for renewables in
13 distributed generation. This is an amendment to an
14 existing contract. We've had very good success with the
15 Department of Energy and Renewable Lab with this effort.

16 We were looking at things like developing a more
17 common inverter system and most cost-effective inverter
18 systems. One of the challenges that new renewable
19 technologies have when they develop their renewable
20 technology is being able to interface with the grid. So
21 our goal in this type of research is to develop standard
22 configurations, lower cost configurations, and
23 standardizations to help them be able to develop. And
24 currently a lot of the systems have one off-type
25 configuration and this will help in the industry.

1 Our goal is to be able to make, one, the systems
2 more affordable and, two, as we get more and more systems
3 on the grid, we're finding out that the different
4 inverters are reacting differently than we thought, so
5 they're causing problems to grid management, so this will
6 also help us in the area of grid management.

7 In addition to this, the DOE itself has invested
8 in a considerable amount. They're putting over \$20
9 million in their facility in their Colorado location to do
10 future testing of this type of research and development
11 this year nationally what we've learned here in
12 California.

13 So we envision this technology and this research
14 helping us penetrate higher amounts of renewables on the
15 grid and also to reduce the cost of renewables by
16 providing the industry the results of this research so
17 they can then produce lower-cost converter systems.

18 This has been approved by the R and D committee,
19 and I'll be glad to answer any questions.

20 VICE CHAIRMAN BOYD: A comment if I might,
21 Mr. Gravely, just so you can remind me in the future.

22 MR. GRAVELY: Sure.

23 VICE CHAIRMAN BOYD: Yesterday at the Haagen-
24 Smit Symposium, which is going on down the street at Cal
25 EPA building, which I've been able to attend a little bit

1 of, Professor Kammen of UC Berkeley made a presentation
2 about inverters, solar rooftop systems, and so on and so
3 forth that was quite fascinating and I'll furnish it to
4 you, and I want to ask you a little bit more about whether
5 we're financing any of the work that he's doing there or
6 whether we're aware of the alleged problems that he
7 brought up in that testimony. But it's all part of this
8 trying to make inverters and systems work better, produce
9 more, work with the home and the grid better, etcetera,
10 and your presentation just reminded me of that.

11 MR. GRAVELY: Thank you, sir.

12 VICE CHAIRMAN BOYD: And I'll support this item.

13 COMMISSIONER LEVIN: Just a quick question on
14 this and again sort of an ongoing question for staff on
15 the items in a similar area. Is there potential for
16 stimulus matching funds or does this grant in some way
17 help us to get additional stimulus funds?

18 MR. GRAVELY: In this particular case, the
19 Department of Energy is giving stimulus funds to do the
20 facility and the testing, so this one is being leverage
21 pretty substantially with stimulus funds.

22 The next two projects are, in fact, we envision
23 that funding being potentially used in a smart grid as
24 matching funds, so we see the ability not only of awarding
25 this contract but for that contractor and the team to be

1 able to use those funds in the future solicitation as
2 matched funds so we could actually get double leverage out
3 of those, the next two projects.

4 But this one I think most of the leverage is
5 with the -- because it's a facility DOE owns and they're
6 putting a considerable amount of money in there, so we
7 wouldn't envision a separate grant, for example, on that
8 one, but we do see DOE putting a considerable amount of
9 their funding into this one, which is coming out in the
10 stimulus package and their infrastructure development
11 package.

12 VICE CHAIRMAN BOYD: That's for our press
13 office's benefit. One could say we're joining DOE in its
14 use of its economic stimulus funds at this laboratory to
15 further expand the possibilities, etcetera, etcetera.

16 MR. GRAVELY: Yes, sir.

17 VICE CHAIRMAN BOYD: You might to be able to
18 make a hook based on the question -- the answer you just
19 gave between the --

20 COMMISSIONER LEVIN: Well, again similar to my
21 question about other agencies that are supporting or
22 working with us on particular projects. I think it's
23 helpful for everyone's understanding in the PIER program
24 to point out when it's being matched and when it helps us
25 to leverage stimulus dollars, and if you could just try to

1 point that out when it's applicable.

2 MR. GRAVELY: Okay.

3 CHAIRMAN DOUGLAS: I appreciate that question,
4 too, Commissioner Levin, and I've worked with and met with
5 the PIER staff as they've I know worked very hard to look
6 at the stimulus funds and how our funds can leverage and
7 match and make best use of that. And I think it's
8 absolutely quite important to bring it up in the business
9 meeting when we have an item that actually does that. Are
10 there any other questions or comments on this item?

11 VICE CHAIRMAN BOYD: Move approval and also
12 suggest that our scorekeepers maybe consider putting this
13 one on the list.

14 CHAIRMAN DOUGLAS: Absolutely.

15 COMMISSIONER BYRON: I'm also glad to see this
16 work continuing, and I would give it a second.

17 CHAIRMAN DOUGLAS: All in favor?

18 (Ayes.)

19 CHAIRMAN DOUGLAS: This item is approved.

20 Moving on to Item 15, Electric Power Group. Possible
21 approval of Contract 500-08-048 for \$1,699,149 with
22 Electric Power Group to provide support for the California
23 ISO, Independent System Operator, to meet the Renewables
24 Portfolio Standard goals for the operational integration
25 of renewables. Mr. Gravely.

1 MR. GRAVELY: Thank you. This research effort
2 and the one following it is a combination. The two are in
3 partnership. The first one is the private industry and
4 the second one is utility research -- a university
5 research that compliments it.

6 Synchrophasors are devices that collect data
7 very rapidly for the grid and report that information very
8 rapidly back to the ISO and to the utilities. PIER has
9 done considerable research in this area and a lot of the
10 research that we have used has been forwarded to and
11 accepted by DOE nationally.

12 As a matter of fact, specifically this topic
13 area is mentioned in both the smart grid solicitations by
14 DOE and opportunities by DOE, and synchrophasor
15 demonstrations are specifically what they're looking for.
16 So they've taken what we had and leveraged it and there's
17 more opportunities. With this as a particular project,
18 that this team has actually putting together a
19 solicitation and we envision being able to -- a proposal
20 to DOE, and we envision being able to use this money as
21 match funds in addition to the other match funds they're
22 able to obtain. So we do see this project both being a
23 good project for us and a leveraging project on the
24 stimulus funds.

25 Also, I believe the ISO is here to talk a little

1 bit about the value to them, but we see this as very
2 important. Currently, the ISO needs this much faster data
3 as we integrate more renewables onto the grid, as we
4 integrate more and more distributive resources onto the
5 grid, and we upgrade the ISO system with the new market
6 redesign to balance the upgrades.

7 This type of technology provides information to
8 allow the grid operators to recognize problems before they
9 occur, to respond before they cause an outage, and so the
10 customer will never see anything and also it allows us to
11 operate. We envision in the future with a much higher
12 penetration of renewables at a higher reliability than we
13 have today in that area.

14 So I'll be glad to answer any questions if I
15 can. This has also been approved by R and D committee
16 prior to coming here.

17 CHAIRMAN DOUGLAS: Thank you, Mr. Gravely. I do
18 have a blue card from David Hawkins of the ISO, and I'd
19 like to invite you forward to speak. You'd like to speak
20 to Items 15 and 16. If you'd like to do that now, that
21 would be great.

22 COMMISSIONER BYRON: Madam Chair, we should read
23 Item 16 into the record, therefore, and let the testimony
24 apply to both, and then we can vote them separately.

25 CHAIRMAN DOUGLAS: We can vote them separately.

1 I will do that. Item 16, Lawrence Berkeley National
2 Laboratory. Possible approval of Contract 500-08-054 for
3 \$550,000 with Lawrence Berkeley National Laboratory to
4 provide support for the California Independent System
5 Operator to meet the Renewables Portfolio Standard goals
6 for the operational integration of renewables. Please,
7 Mr. Hawkins.

8 MR. HAWKINS: Okay. Good morning. I'm Dave
9 Hawkins from California ISO. Good morning, Commissioners.

10 The California ISO is very appreciative of all
11 the work and funding that you've provided for the
12 development of synchrophasor technology. We've been at it
13 for a number of years. It is successful. We are using it
14 as part of our operations and displays and has really
15 become an essential part of the grid reliability.

16 It gives us the ability to see oscillations on
17 the systems and to really address some of the dampening
18 issues and how to dynamically look at what the system is
19 doing.

20 We've reached the point where the utilities, the
21 ISO, the WECC are all investing now in the infrastructure
22 itself. That is not research dollars. That is capital
23 dollars that we're putting into it, so we're leveraging
24 what the research has shown.

25 We had an all day meeting yesterday where all

1 the researchers came together and shared their results.
2 We're seeing some very exciting things the way the
3 technology is able now to use new mathematical equations
4 for analyzing the dampening of the power grid and also
5 looking at now new thresholds levels.

6 One of the breakthroughs we've seen now is the
7 modeling shows that with the injection of 100 or 200
8 megawatts of real power, we can do a tremendous amount to
9 dampen some of the oscillations that normally occur within
10 the grid.

11 All of this then bleeds into, you know, the fact
12 we have variability with renewables coming online. We
13 want to be able to use the existing transmission to its
14 fullest, and this is a tool that helps us leverage that
15 and look at all the things we can do with both wind and
16 solar.

17 I was very interested in any remarks about the
18 inverter technology. Again, we talked about that this
19 week and having real concerns about how inverters on a
20 variety of both loads and energy storage as well as some
21 of the solar tech systems are going to affect that, so the
22 synchrophasor work is essential.

23 We, therefore, really are very -- support the
24 effort that is going on from Electric Power Group and
25 Lawrence Berkeley Labs and the work that they're doing to

1 bring together a variety of researchers throughout the
2 west and also leverage DOE funding that goes into this
3 area, so we urge your approval of this item.

4 CHAIRMAN DOUGLAS: Thank you very much.
5 Mr. Gravely, will you please present on Item 16 as well,
6 and then we can ask you questions and make comments on
7 both?

8 MR. GRAVELY: Sure. As we mentioned, the
9 research we're doing in the synchrotrons involve both
10 the research by the industry itself and research by
11 university professors and university researchers, and so
12 we've separated these because it's far more cost effective
13 to go direct than to pay an overhead to do it under one
14 contract, so we're doing these direct with the university,
15 and they will be complimenting the research there.

16 They also help us provide some independent
17 assessments of the performance of the vendors as they do
18 things, and so it gives us a well-balanced area. They
19 also bring to the plate to us a lot of advanced research
20 and modeling and other development to be used.

21 The research we do here provides in two areas.
22 One is it provides enhanced displays so this is a lot of
23 data and a lot of data very rapidly, and so we have to be
24 able to provide it to the operator in a useful manner, so
25 a lot of the research we do gets together with new models

1 and development of new techniques so that the operator can
2 see something quickly and respond as opposed to just a
3 large page full of data.

4 So the university piece of this provides a
5 complimentary research to the Electric Power Group, and
6 together they provide a huge benefit to us in bringing
7 this technology to the next level of commercialization.

8 CHAIRMAN DOUGLAS: Thank you. Questions or
9 comments?

10 COMMISSIONER BYRON: If I may comment.
11 Mr. Gravely, it's transmission week it looks like. As
12 Mr. Hawkins indicated, I did get some report back as well
13 on the system stability controls workshop that's going on
14 at the ISO, and he really addressed some of the comments I
15 was going to make in that regard as well.

16 But what's becoming clear is, to me, is the
17 PIER's leadership in this area and synchrophasor R and D
18 is really helping us now that we're beginning to address
19 these intermittency issues associated with renewable
20 integration. I know that was a big topic of discussion
21 yesterday and today probably at the ISO. I'm a member of
22 the North America Synchrophasor Initiative, which is
23 meeting this afternoon, which like a good Commissioner,
24 I'll probably make it in time for the reception given the
25 way the business meeting is going. And then, of course,

1 on Friday we have our Transmission Research Advisory
2 Committee, which I Chair on behalf of PIER.

3 And the feedback that I get from utilities not
4 just here in California but throughout North America is
5 that PIER leadership in this area has been helpful, and
6 we're hopeful that it will be leveraged as well when the
7 utilities submit their applications on the demonstration
8 programs under the ARRA funding.

9 So I don't really have a question. I just
10 wanted to comment that this is a very good example I think
11 of where PIER research is paying off tremendously for
12 California.

13 EXECUTIVE DIRECTOR JONES: And I guess I would
14 just like to add, in terms of a question that Julia had
15 just a few moments ago, I wanted to point out that over
16 the last five years, PIER research for every dollar we
17 spend we leverage a dollar and a half or \$1.40. With ARRA
18 funds, we expect that match to go up dramatically, but one
19 of the integral goals of this project is to seek matching
20 funds from other funders.

21 COMMISSIONER BYRON: Good. So I'd like to thank
22 Mr. Hawkins for being here and sitting through our
23 business meeting in order to provide that kind of support.
24 It's very helpful.

25 And I'd also like to point out to my

1 Commissioners the importance of the dual funding that's
2 going on in these two projects. The team at Lawrence
3 Berkeley National Lab adds a great deal of expertise
4 that's been very helpful over the years, and so I would
5 encourage the Commission to approve both of these items.

6 COMMISSIONER LEVIN: Mr. Gravely, I would just
7 like to thank you for not just the work to get to this
8 point, but speaking very quickly about these items, and
9 I'm wondering if we can move both items at the same time.

10 CHAIRMAN DOUGLAS: Well --

11 VICE CHAIRMAN BOYD: Yes.

12 CHAIRMAN DOUGLAS: -- yes.

13 VICE CHAIRMAN BOYD: I move Items 15 and 16.

14 COMMISSIONER LEVIN: Seconded.

15 CHAIRMAN DOUGLAS: All in favor?

16 (Ayes.)

17 CHAIRMAN DOUGLAS: Items 15 and 16 are approved.

18 Thank you. Item 17, National Renewable Energy Laboratory.
19 Possible approval of Contract 500-08-058 for \$300,000 with
20 National Renewable Energy Laboratory to help maximize the
21 implementation of the Natural Gas Vehicle Research
22 Roadmap. Mr. Koyama.

23 MR. KOYAMA: Thank you, Commissioners. I'm Ken
24 Koyama with the Research and Development Division. We're
25 asking for approval of this \$300,000 agreement with the

1 National Renewable Energy Lab to begin implementation of
2 our Natural Gas Vehicle Research Roadmap that the Energy
3 Commission published earlier this year.

4 The NREL will be tasked to perform five
5 functions. The first is to develop a comprehensive list
6 of natural gas vehicle research and development activities
7 from all the organizations that they are aware of. Second
8 is to do an analysis of market demand for a natural gas
9 vehicle platforms and engines. The third is to recommend
10 future research and development demonstration and
11 deployment activities, and then who our potential partners
12 are, and that this thing is to conduct a natural gas
13 vehicle technology forum.

14 So I would ask for your recommendation -- or I'd
15 ask for your approval of this item.

16 CHAIRMAN DOUGLAS: Questions, comments?

17 VICE CHAIRMAN BOYD: Move approval.

18 COMMISSIONER ROSENFELD: Second.

19 CHAIRMAN DOUGLAS: All in favor?

20 (Ayes.)

21 MR. KOYAMA: Thank you.

22 CHAIRMAN DOUGLAS: This item is approved. Thank
23 you. Item 18, Harpiris Energy. Possible approval of
24 competitive grant PIR-08-012 for \$284,500 to Harpiris
25 Energy to develop a lower cost, unpressurized storage tank

1 with integrated heat exchanger for active solar water
2 hearing systems. Mr. Scruton.

3 MR. SCRUTON: Good morning, Commissioners. I'm
4 Chris Scruton with the PIER Buildings Program. And in
5 October of 2008, the PIER Buildings released a
6 solicitation for grants up to \$300,000. We received 27
7 proposals, and in February of 2009, the R and D committee
8 approved 11 of them for funding totaling just over \$2-1/2
9 million. The next six agenda items are from that
10 solicitation, so they've all been approved by the R and D
11 committee for funding.

12 The first one that you just read is for Harpiris
13 Energy, and essentially to meet its policy goals,
14 California needs to dramatically increase the uptake of
15 solar domestic hot water systems. At present, we're
16 installing across the state about a thousand each year.
17 And the proposer, who is quite an expert in this field,
18 estimates that to meet the goals of AB 1470, we need to be
19 installing about 24,000 a year between now and 2020.

20 So it's universally -- Among the solar hot water
21 contractor/installers, it's universally acknowledged that
22 the major barrier to installation or application of these
23 systems is the cost. And so what the project aims to do
24 is to create a very low-cost storage tank for the
25 preferred type of system, which is called a drain-back

1 system. And his estimate is that he can produce this tank
2 for less than \$1,000 at wholesale, and that would reduce
3 the installed cost of a solar water system of this type
4 from around \$3500 for the equipment to less than \$2,000,
5 and this product will be manufactured in California.

6 In fact, the proposer is an expert in rotational
7 molding of plastics, and at present he's manufacturing
8 products in South Sacramento, so there will be some
9 benefit to the local economy. I would ask for your
10 approval.

11 CHAIRMAN DOUGLAS: Questions, comments?

12 VICE CHAIRMAN BOYD: Move approval.

13 COMMISSIONER ROSENFELD: Second.

14 CHAIRMAN DOUGLAS: All in favor?

15 (Ayes.)

16 CHAIRMAN DOUGLAS: This item is approved. Thank
17 you very much. Item 19, BETA Lighting. Possible approval
18 of competitive grant PIR-08-020 for \$300,000 to BETA
19 Lighting to develop and demonstrate a networked, solid-
20 state street lighting system with intelligent controls.
21 Mr. Scruton.

22 MR. SCRUTON: Yes. This proposal was ranked
23 number three among the 27 proposals. And essentially what
24 it's going to do is use LED technology and network
25 communications to allow street lighting systems to provide

1 multilevel lighting for different situations.

2 For example, if it's a moonlit night, then maybe
3 not as much lighting is required. If it's very late and
4 there's no one around, there may not be as much need for
5 lighting. If there's something going on, the police force
6 may want to have extra lighting available or if it's a
7 very dark night.

8 So this is a system that can actually
9 accommodate changes in ambient lighting and also the needs
10 for lighting. The estimates are that it could save 50
11 percent of the energy of street lighting and up to 25
12 percent of the demand. And it has the support of all the
13 investor-owned utilities and a number of police
14 departments across California. It's planned to be
15 demonstrated in Huntington Beach, so I would ask for your
16 approval.

17 CHAIRMAN DOUGLAS: Thank you.

18 COMMISSIONER BYRON: The next two are lighting
19 as well. Are we going to go three, two, one here on the -
20 - You had indicated this was the third rank. Are we
21 moving up in ranks here?

22 MR. SCRUTON: Yes. We grouped all the lighting
23 projects together.

24 COMMISSIONER BYRON: Where I was going with this
25 question is maybe, Madam Chair, he should just go ahead

1 and present these three lighting projects and we could
2 approve them as a whole.

3 CHAIRMAN DOUGLAS: I would be happy to do that.
4 I will read the next two into the record. Please give us
5 a brief presentation on the next two, and then we'll
6 combine questions or comments for all three.

7 Item 20, Lighting Research Center, Rensselaer
8 Polytechnic Institute. Possible approval of competitive
9 grant PIR-08-015 for \$294,942 to the Lighting Research
10 Center at Rensselaer Polytechnic Institute to develop and
11 field test a new building infrastructure that simplifies
12 use of, and revision to, solid-state lighting components
13 and designs. And Item 20, Lawrence Berkeley National
14 Laboratory. Possible --

15 VICE CHAIRMAN BOYD: 21.

16 CHAIRMAN DOUGLAS: 21. I'm sorry. Item 21,
17 Lawrence Berkeley National Laboratory. Possible approval
18 of competitive grant PIR-08-013 for \$168,000 to Lawrence
19 Berkeley National Laboratory to document existing and
20 emerging user interfaces for lighting control systems
21 and to develop a consensus among users and manufacturers
22 for standardized symbols and operational features.
23 Mr. Scruton, beginning with Item 20, please give us a
24 brief presentation.

25 MR. SCRUTON: So there are two issues that this

1 LRC project addresses. The first one is that very often
2 buildings are constructed on speculation or the use of
3 that building is not well understood when it's designed
4 and the lighting is designed and laid out. So very often
5 the lighting is not actually appropriate for the use as
6 the building is used or perhaps changed.

7 And the second issue is that the technology of
8 lighting itself is changing dramatically. And in order to
9 accommodate those changes, we really need to have a system
10 that is flexible and can accommodate change over time as
11 technology improves. So the idea of this project, and it
12 has actually has massive co-funding from USG, formally US
13 Gypsum, of \$500,000, and Osram Sylvania of \$300,000, as
14 well as Paramount Studios.

15 The object of this project is to develop a
16 modular system that can easily accommodate change. And so
17 kind of like the ceiling panels in a commercial building
18 are typically able to be changed, this would build
19 something along those lines so that the lighting
20 components can be actually changed very quickly and can
21 accommodate upgrades to the lighting technologies and also
22 to the building use.

23 And the proposal includes a demonstration at
24 Paramount Studios in Hollywood, so I would ask for your
25 approval on that one.

1 The next --

2 CHAIRMAN DOUGLAS: Item is Item 21.

3 MR. SCRUTON: The next Item, Item 21, the issue
4 that this proposal addresses is that complex lighting
5 controls typically found in conference rooms and that sort
6 of thing have no standardized user interfaces. And as a
7 result of that, very often the lights are left on.
8 They're not effectively utilized because there's a lack of
9 understanding of how to work the lights. And anyone who's
10 ever tried to work the lights in this room probably
11 experienced some of that.

12 So the aim of this project is to work with
13 manufacturers to develop some consensus around the
14 symbology and how the controls actually function. The
15 principle investigator, Alan Meier, of Lawrence Berkeley
16 Labs has a lot of practical experience doing this kind of
17 work with similar electronic apparatus.

18 And I like to draw the analogy of the heating
19 and air conditioning system in automobiles, which over the
20 last few years has kind of become standardized so that, as
21 you get into a different kind of car, you can usually
22 understand how to work controls because they look kind of
23 similar.

24 The hope for this project is to develop
25 something similar for lighting controls, and I would ask

1 for your approval.

2 VICE CHAIRMAN BOYD: Move approval of Items 19,
3 20, and 21.

4 COMMISSIONER ROSENFELD: Second.

5 CHAIRMAN DOUGLAS: I've got a motion and a
6 second. All in favor?

7 (Ayes.)

8 CHAIRMAN DOUGLAS: Items 19, 20, and 21 are
9 approved. Item 22, Becker Engineering Company. Possible
10 approval --

11 UNIDENTIFIED: Item 21?

12 CHAIRMAN DOUGLAS: We did 21. Possible approval
13 of competitive grant PIR-08-011 for \$106,750 to Becker
14 Engineering Company to develop a Green Guide for
15 refrigerated warehouses. Mr. Scruton.

16 MR. SCRUTON: So this project would build on an
17 existing ASHRAE design guide, which was produced by the
18 proposer, Professor Brian Becker and Professor Brian
19 Fricke of the University of Missouri. And their present
20 design guide is widely used. It's very good, but the
21 technology has moved on somewhat and also the green
22 building movement has gained a lot of stature in the last
23 few years.

24 So what this project would do would be to
25 enhance the design guide with updated efficiency

1 technologies including demand response technologies, which
2 have been developed at the Demand Response Resource Center
3 at Lawrence Berkeley Labs under PIER funding and also to
4 accommodate green features, recycled materials, low
5 toxics, and things of that nature.

6 There are about 230 of these refrigerated
7 warehouses estimated in California, about 800 megawatts of
8 connected load represented there. The DRRC has
9 demonstrated that these facilities can typically shed
10 about 25 percent with demand response, so the principle
11 investigator has arranged already to conduct workshops at
12 the investor-owned utilities facilities, and he's lined up
13 about 50 designers and owners to share the best practices
14 and needs to develop -- help to develop and promulgate
15 this design guide.

16 I'd also add that he's a very enthusiastic
17 fellow and expressed to me that he would like to move to
18 California to do more work like this. This one is being
19 funded by the IAW Group by the way, so I would ask for
20 your approval.

21 VICE CHAIRMAN BOYD: Move approval.

22 COMMISSIONER ROSENFELD: Second.

23 CHAIRMAN DOUGLAS: All in favor?

24 (Ayes.)

25 CHAIRMAN DOUGLAS: This item is approved. Item

1 23, Purdue University. Possible approval of competitive
2 grant PIR-08-017 for \$249,729 to Purdue University to
3 begin development of low-cost balancing valves to optimize
4 refrigerant flow in air-conditioning and refrigeration
5 heat exchangers. Mr. Scruton.

6 MR. SCRUTON: So the idea of this is that very
7 often when an air conditioner is actually constructed, the
8 refrigerant doesn't flow evenly through the various parts
9 of the evaporator coil. And as a result of that, some
10 parts of the evaporator coil are not working very
11 effectively and others may be having too much refrigerant.

12 So the concept here is that they believe they
13 may be able to develop a very low-cost valve that would
14 distribute the refrigerant evenly or, in fact, sometimes
15 you don't want it to be even depending on where the fan is
16 blowing more air or less air. You may want more
17 refrigerant in certain places. But that's the concept, to
18 deliver the refrigerant where it's most effective.

19 And the researcher, who is very well known and
20 respected in the air conditioning industry, estimates that
21 there's a 20 percent efficiency potential here, and he
22 also has Emerson Climate Technologies, they're a major
23 manufacturer, is lined up and very interested to
24 participate in this program, so I would move for your
25 approval.

1 COMMISSIONER BYRON: One quick question. How is
2 this valve going to be made available to manufacturers?
3 I'm not sure that I really saw that in here, and I was
4 just curious. Do we license it? Is it available for
5 anyone to manufacture based upon the results of our
6 research?

7 MR. SCRUTON: Typically, with Purdue and with
8 this type of research, the research results would be in
9 the public domain. But because they're working with a
10 private manufacturer, that manufacturer may -- they may
11 have some design features in a valve that they manufacture
12 that would not be in the public domain, so they would
13 retain the rights to that intellectual property. But the
14 vast bulk of the research would be in the public domain so
15 that any manufacturer who wanted to use this would be able
16 to access that.

17 And this particular researcher is very involved
18 with the ASHRAE proceedings, so this is going to come out
19 as well in ASHRAE reports, as well as our own internal
20 reports here that are published on the web.

21 COMMISSIONER BYRON: Good. Thank you. I'll
22 move the item.

23 COMMISSIONER LEVIN: Seconded.

24 CHAIRMAN DOUGLAS: All in favor?

25 (Ayes.)

1 CHAIRMAN DOUGLAS: This item is approved. Item
2 24, Bevilaqua Knight, Incorporated. Possible approval of
3 competitive grant PIR-08-018 for \$199,972 to Bevilaqua
4 Knight, Incorporated, to work with the California
5 Building Performance Contractors Association to develop
6 guidelines for home retrofit technologies, innovative
7 delivery strategies, and workforce development needs.
8 Mr. Scruton.

9 MR. SCRUTON: So the idea here is that in order
10 to meet California's aggressive policy goals for reducing
11 energy consumption in existing buildings, especially
12 residential buildings, which are obviously very, very
13 diverse and a difficult problem to get at, we really need
14 to dramatically reduce that use.

15 But there's a group of contractors called the
16 Home Performance Industry that have come together under
17 the heading of the California Building Performance
18 Contractors Association. And these contractors have taken
19 a particular interest in developing ways to reduce the
20 energy consumption and improve the effectiveness of energy
21 components in existing houses.

22 And they're sharing technology with each other,
23 and typically they utilize envelope-tightening insulation,
24 shading techniques, day lighting techniques, they right
25 size air conditioning units, they employ quality

1 installations, and they're also using innovative
2 measurement technology like infrared cameras and duct
3 blaster testing and all the tools that they have available
4 but that most contractors never touch.

5 So at present, the CBPCA has been employed by
6 the utilities, PG&E and Edison primarily, to conduct
7 training for other contractors who are getting into this,
8 but it's a very diverse and developing group. The BKI is
9 acting as the spokesman for the Building Performance
10 Contractors Association.

11 So what this funding would allow them to do is
12 to share their techniques, to improve the methods, verify
13 the savings through some monitoring, to do cost-
14 effectiveness analysis that is required by the utility
15 programs, and to communicate with the utility programs and
16 to Public Utilities Commission and effectiveness of the
17 programs.

18 And also there's an opportunity here to leverage
19 with the ARRA because of the huge amount of money that's
20 out there for home weatherization. This is an opportunity
21 for us to bring the people who really know how to do this
22 work right and help to leverage the ARRA money to get the
23 most energy effectiveness out of it. So I would urge your
24 approval of this.

25 COMMISSIONER ROSENFELD: I just want to say -- I

1 just want to say on behalf of Commissioner Levin and me
2 worrying about the ARRA money, if you hadn't signed this
3 contract, we would have to be going after exactly the same
4 thing now because we got all this ARRA money on our
5 shoulders so good timing.

6 MR. SCRUTON: And these are the guys who really
7 know how to do what we want to do, you know. There's a
8 research community that exists in laboratories and they
9 know how to do this, but it's difficult for them to get it
10 out there because they're not actually doing this work.

11 These contractors do this on a day-in and day-
12 out basis. They're training other contractors. And we've
13 done PIER projects with this group before, and we really
14 need to ramp it up.

15 COMMISSIONER LEVIN: Mr. Scruton, I think you
16 had us at hello.

17 MR. SCRUTON: Okay.

18 VICE CHAIRMAN BOYD: Move approval.

19 COMMISSIONER LEVIN: Seconded.

20 CHAIRMAN DOUGLAS: All in favor.

21 (Ayes.)

22 CHAIRMAN DOUGLAS: Thank you very much.

23 COMMISSIONER ROSENFELD: Chris, you got through
24 all of that without having to wear a jacket. That's
25 great.

1 CHAIRMAN DOUGLAS: Item 25, Tecogen,
2 Incorporated. Possible approval of Amendment PIR-08-022
3 for a competitive grant of \$999,824 to Tecogen,
4 Incorporated, to convert an automotive engine for a
5 combined heat and power application. Mr. Koyama.

6 MR. KOYAMA: This project and the next on is as
7 a result of our mobile and stationary solicitation to take
8 advantage of advances in automotive engines and
9 determining if they can be applied in stationary
10 applications such as combined heat and power.

11 We received 12 proposals from this solicitation.
12 Five passed. We have enough funding for just two
13 projects. The first of which is the Tecogen project.
14 This is going to demonstrate a small automotive engine for
15 CHP applications of 75 kilowatts or less and has the
16 potential to increase efficiency by 10 percent and reduce
17 emissions by 33 percent. We ask for your approval on
18 this.

19 VICE CHAIRMAN BOYD: Move approval.

20 COMMISSIONER ROSENFELD: Second.

21 CHAIRMAN DOUGLAS: Comments by Commissioner
22 Byron.

23 COMMISSIONER BYRON: Thanks. Just a brief
24 comment. I was interested in this topic having worked
25 with Tecogen a number of years ago, and it's real

1 interesting to see how they've updated their product
2 offerings and have come along way. And this one is
3 obviously intended to meet higher emission standards, so I
4 was really pleased to see this.

5 It's not your father's Oldsmobile anymore.
6 They've picked a more efficient and lower polluting
7 approach, so this looks very promising, so I would also
8 support it.

9 COMMISSIONER LEVIN: Just for clarification, is
10 the motion on both of the items?

11 VICE CHAIRMAN BOYD: No.

12 COMMISSIONER LEVIN: Okay.

13 CHAIRMAN DOUGLAS: No. The motion was for Item
14 25.

15 VICE CHAIRMAN BOYD: Item 25.

16 COMMISSIONER LEVIN: Okay.

17 CHAIRMAN DOUGLAS: We have a motion and a
18 second. All in favor?

19 (Ayes.)

20 CHAIRMAN DOUGLAS: This item is approved. Item
21 26, Sturman Industries. Possible approval of Amendment
22 PIR-08-023 for a competitive grant of \$997,696 to Sturman
23 Industries to extend the market for natural gas-fueled
24 stoichiometric, spark-ignited internal combustion engines.
25 Mr. Koyama.

1 MR. KOYAMA: That's very good. I will be fast
2 on this one. This is the second project of our
3 solicitation. It actually takes a larger, heavy-duty
4 natural gas or sorry, heavy-duty diesel engine technology
5 and converts it to natural gas to operate in a combined
6 heat and power application.

7 This again has the potential of improving CHP
8 efficiencies and meets the 2007 ARB emission standards for
9 distributive generation. We ask for your approval on
10 this.

11 COMMISSIONER BYRON: I'd also endorse this one.
12 I'll move the item.

13 VICE CHAIRMAN BOYD: Second.

14 CHAIRMAN DOUGLAS: All in favor?

15 (Ayes.)

16 CHAIRMAN DOUGLAS: This item is approved. Thank
17 you very much.

18 MR. KOYAMA: Thank you.

19 CHAIRMAN DOUGLAS: Item 27, Kenneth Shawn
20 Smallwood. Possible approval of Agreement PIR-08-025 for
21 a competitive grant of \$181,800 to Kenneth Shawn Smallwood
22 to evaluate and improve protocols for determining bird use
23 in wind resource areas. Ms. Spiegel.

24 MS. SPIEGEL: Good morning. I'm Linda Spiegel
25 with PIER Program. We released -- The Energy Related

1 Environment Research Area released a solicitation in early
2 December and closed at the end of July of '09 (sic).
3 Sixteen proposals were reviewed, evaluated, and scored,
4 and seven passed technical merit. The notice of proposed
5 awards was approved by the R and D Committee and released
6 April 2nd. And this and the next item are two of those
7 awards.

8 In this particular one in 2007, the Energy
9 Commission Siting Division as well as the Department of
10 Fish and Game released the California guidelines for
11 reducing impacts to birds and bats from wind developments.
12 Part of this solicitation was for proposals to help
13 strengthen those protocols and provide science that would
14 be used in future revisions of those protocols.

15 And the purpose of this agreement is to evaluate
16 and improve the protocols for determining bird use at wind
17 energy facilities. Understanding bird use is really
18 important because it helps determine the potential risk
19 for collision and it helps us understand the significance
20 of fatalities.

21 And currently even though there's been many
22 studies conducted to date, they use different protocols so
23 they're not comparable and you could take the same data
24 and get different results, so the idea here is to make
25 something a little more standardized.

1 COMMISSIONER LEVIN: I would just like to make a
2 couple of comments. First, I really want to thank
3 Ms. Spiegel and the other PIER staff. I think you're all
4 aware Altamont has been a challenging issue to navigate
5 through with strong opinions and strong personalities, and
6 I think that Linda and the other staff have done what PIER
7 does exceptionally well and that is look objectively at
8 the research needs and what's going to move in this case
9 wind power forward.

10 And I know from my own personal experience
11 before I came to the Commission, it was hard and really I
12 think you've done an excellent job looking objectively at
13 what the most important research needs are and how to get
14 there and how to keep moving the ball down the field, and
15 this has not been an easy one, so I think you and the
16 other staff really deserve a lot of thanks.

17 MS. SPIEGEL: Thank you.

18 COMMISSIONER LEVIN: And I also do think that
19 this is an important issue that will help move wind power
20 forward in California and elsewhere.

21 VICE CHAIRMAN BOYD: Is that a motion?

22 COMMISSIONER LEVIN: Yes, so I move the item.

23 VICE CHAIRMAN BOYD: Second.

24 CHAIRMAN DOUGLAS: All in favor?

25 (Ayes.)

1 CHAIRMAN DOUGLAS: This item is approved. Item
2 28, Altostratus, Incorporated. Possible approval of
3 Agreement PIR-08-030 for a competitive grant of \$120,492
4 to Altostratus, Incorporated, to develop a modeling system
5 that will be the basis for providing developers, designers
6 and policy makers with the tools and data to facilitate
7 prioritizing and ranking community-scale energy
8 technologies. Ms. Spiegel.

9 MS. SPIEGEL: Yes. Community-scale energy
10 technology such as photovoltaic arrays, and passive solar
11 designs, and heat island mitigation measures such high
12 albedo paving materials, and shade trees, cool roofs, we
13 all know that they can lower energy use in buildings.

14 The benefits of these technologies have been
15 evaluated independently and mainly for that direct effect
16 of reducing energy use in buildings. But multiple
17 technologies that deploy at a community scale can
18 indirectly impact outdoor ambient temperature, which can
19 then indirectly impact indoor energy demand by again
20 reducing it even further.

21 So the purpose of this project is to evaluate
22 and quantify the reduction in ambient temperature from
23 deployment of these technologies together -- alone as well
24 as together, and this will be done for each of the 16
25 climate zones and 181 of the sub-climate zones in

1 California.

2 So the results of these can be used to help
3 develop a ranking and prioritizing scheme for lowering
4 ambient temperature by climate zone, which can be used by
5 local agencies and community planners.

6 COMMISSIONER LEVIN: I move the item.

7 COMMISSIONER ROSENFELD: Second.

8 CHAIRMAN DOUGLAS: There's been a motion and a
9 second. All in favor?

10 (Ayes.)

11 CHAIRMAN DOUGLAS: This item is approved. Thank
12 you, Ms. Spiegel. Item 29, Lawrence Berkeley National
13 Laboratory. Possible approval of Amendment PIR-08-009 for
14 a competitive grant of \$400,000 to Lawrence Berkeley
15 National Laboratory to create an integrated modeling
16 framework to analyze and compare options to reduce
17 greenhouse gas emissions in California. Mr. Franco.

18 MR. FRANCO: Good afternoon, Commissioners. My
19 name is Guido Franco. I'm with the Public Interest Energy
20 Research Program. Last year the Commission released a
21 request for proposal from grants in six different research
22 topics. One of them was a study looking at options that
23 California has to reduce greenhouse gas emissions by 2050.

24 PIER and other entities have produced multiple
25 studies looking at options to reduce greenhouse emissions

1 by sector; however, nobody has integrated all of these
2 studies producing an integrated overall very well
3 coordinated study looking at the whole picture of how
4 California may reduce greenhouse gas emissions by 80
5 percent from 1990 levels by 2050.

6 Multiple proposals were received. The selected
7 proposal is headed by Lawrence Berkeley National
8 Laboratory but also includes researchers from UC Berkeley,
9 Professor Dan Kammen, and UC Davis, Professor Dan Spurley
10 (phonetic). The Air Resources Board strongly supports
11 this project and their staff will be invited to be part of
12 the technical advisory committee that will be created to
13 guide this study. With this, I'm ready to answer any
14 questions that you might have.

15 VICE CHAIRMAN BOYD: Move approval.

16 COMMISSIONER LEVIN: Second.

17 CHAIRMAN DOUGLAS: All in favor?

18 (Ayes.)

19 CHAIRMAN DOUGLAS: This item is approved. And
20 this brings us to Item 30, Order Instituting Informational
21 Proceedings. Possible adoption of Order Instituting an
22 Information Proceeding to gather information to develop
23 guidelines to govern the administration and award of
24 federal funds received pursuant to the American Recovery
25 and Reinvestment Act of 2009. Mr. Herrera.

1 MR. HERRERA: Commissioners, good afternoon.
2 I'm Gabriel Herrera with the Commission's Legal Office.
3 I'm here with John Sugar. He's in the Special Projects
4 Office of the Fuel and Transportation Division. And we're
5 here to seek your approval of an order instituting an
6 informational proceeding. The purpose of that proceeding
7 would be to gather information to develop guidelines to
8 administer and govern the funds the Energy Commission
9 receives from the American Recovery and Reinvestment Act
10 of 2009.

11 The guidelines will focus on what's called the
12 State Energy Program and also the Energy Efficiency and
13 Conservation Block Grant Program. The State Energy
14 Program has been allocated \$226 million and the Block
15 Grant Program has been allocated \$49.6 million.

16 As part of the informational proceeding, we're
17 seeking the Commission's approval or assignment of a
18 committee that would oversee the proceeding. The
19 responsibilities of that committee would be to gather
20 information to oversee any of the workshops and hearings
21 and then to propose guidelines that would then be
22 brought back to the Commission for the Commission's
23 adoption.

24 Those guidelines would be based on information
25 that the committee receives from the public and also the

1 Energy Commission's existing authority and any new
2 statutory authority that may be enacted between now and
3 when those guidelines are adopted.

4 The Commission has already scheduled tentative
5 workshops, staff workshops to gather information. Those
6 would be focused on the Block Grant Program and have been
7 scheduled for June 5th and June 8th throughout California.
8 There are six locations. Three locations or three
9 workshops would be held on June 5th and three would be held
10 on June 8th.

11 The distribution list for the proceeding would
12 be based on (inaudible) the Commission has already
13 established for the American Recovery and Reinvestment Act
14 proceeding so we would base it on that, and with that, if
15 you have any questions.

16 CHAIRMAN DOUGLAS: Thank you, Mr. Herrera.
17 Briefly to clarify on a few points, I would propose that
18 the committee that we're talking about here be an ad hoc
19 committee, that it be comprised of the presiding members
20 of the Budget Management and Efficiency Committees, which
21 are the two committees that have been most engaged so far
22 in our implementation, and so that would be myself
23 presiding and Commissioner Rosenfeld.

24 And that the policy committees continue to do a
25 significant amount of work in vetting ideas and ensuring

1 that we have staff involved in technical areas helping us
2 frame proposals and have the ad hoc committee, which we
3 may as well name if we go so far, the Ad Hoc Committee on
4 the American Recovery and Reinvestment Act and essentially
5 oversee the guidelines and development process and ensure
6 that it incorporates public comment and also input from
7 the policy committees.

8 So I think there would be two actions that the
9 Commission would take to implement Item 30. The first
10 would be to establish such a committee, and the second
11 then would be to --

12 COMMISSIONER ROSENFELD: Item 29.

13 CHAIRMAN DOUGLAS: It is renumbered 30.

14 COMMISSIONER ROSENFELD: Oh, it's renumbered.
15 Sorry.

16 CHAIRMAN DOUGLAS: The first would be to
17 establish such a committee and then the second action
18 would be to approve the OII. Commissioner?

19 COMMISSIONER BYRON: Madam Chair, I see that --
20 I think the committee that you've recommended is the
21 appropriate one. I think it would work very well, and my
22 understanding is this is really in the interest of speed
23 that we're trying to do this so that we can be responsive
24 to moving these funds quickly, and I'm wholly in agreement
25 with that.

1 I would also point out that this Commission has
2 been moving forward already. The workshop that you
3 conducted last month really provided I think a lot of
4 insight on moving forward with guidance for the
5 development of guidelines and Commissioners having met
6 with folks at the Department of Energy in recent months.

7 I know we're opening the OII now, but a lot of
8 this is going on already, and I think that the committee
9 of two that you've recommended is the best way to keep
10 this moving forward, so I'm certainly in favor of it. But
11 like I said, we've done a lot already to help develop
12 those guidelines. I just want to make sure that the
13 public understands that.

14 CHAIRMAN DOUGLAS: Thank you, and thank you for
15 acknowledging that fact and the hard work of staff and
16 really Commissioners and the public in bringing us to the
17 point where we are today.

18 COMMISSIONER LEVIN: I also think this is a very
19 good idea and will help to move things forward and with
20 the committee itself and who will be on the committee I
21 think is the right way to go.

22 I would just ask for clarification. Who will be
23 the staff point person and can we also agree that whoever
24 that person is will send out very frequent updates, I mean
25 I would say at least weekly because things are going to be

1 moving, if anything, more quickly in the coming months. I
2 think in order for the rest of us to stay on top of things
3 that would be very helpful.

4 CHAIRMAN DOUGLAS: I see the Executive Director
5 reaching for her microphone. Ms. Jones?

6 EXECUTIVE DIRECTOR JONES: Yes. I've got two
7 primary staff people. I'm looking at John but I think Pat
8 Perez in the Executive Office and his primary
9 responsibilities are ARRA, so I think that he would be the
10 appropriate designee.

11 COMMISSIONER LEVIN: So can I ask specifically
12 that Pat would provide, you know, not minutes or something
13 that formal, but updates --

14 EXECUTIVE DIRECTOR JONES: Yes.

15 COMMISSIONER LEVIN: -- I mean at least weekly.
16 I think that might be the best way to keep the rest of the
17 Commissioners and advisors in the loop.

18 EXECUTIVE DIRECTOR JONES: Okay. Do you think
19 email updates are good?

20 COMMISSIONER LEVIN: I think so.

21 EXECUTIVE DIRECTOR JONES: Okay. Great.

22 MR. HERRERA: Commissioner Levin, would you also
23 want Pat Perez identified as the technical contact lead in
24 the order itself, the order that institutes --

25 COMMISSIONER LEVIN: No, I don't think that's

1 necessary.

2 MR. HERRERA: Okay.

3 CHAIRMAN DOUGLAS: Other questions or comments?

4 COMMISSIONER LEVIN: I move the item.

5 COMMISSIONER ROSENFELD: Second.

6 CHAIRMAN DOUGLAS: All in favor?

7 (Ayes.)

8 CHAIRMAN DOUGLAS: And to clarify, your motion
9 included the establishment of the committee and the
10 approval of the OII. Very good. Thank you.

11 MR. HERRERA: Thank you.

12 CHAIRMAN DOUGLAS: Item 31, Energy Sense/Masco.
13 Possible adoption of the Energy Efficiency Committee's
14 proposed decision regarding the alleged violation by
15 Energy Sense/Masco of the conflict-of-interest provisions
16 of the Home Energy Rating System Program contained in
17 Section 1670-1675 of Title 20 of the California Code of
18 Regulations. Mr. Beck.

19 MR. BECK: Good afternoon, Chair Douglas and
20 Commissioners. My name is Dennis Beck. I'm the Senior
21 Staff Counsel with the Chief Counsel's Office. Before you
22 is adoption of the written proposed decision of the
23 Efficiency Committee in the matter of the
24 complaints/requests for investigation regarding Energy
25 Sense/Masco. That's docket number 08CRI-01.

1 A complaint was filed in July of 2008 by
2 entities outside the Commission alleging that Masco
3 Corporation and its wholly owned subsidiary Energy Sense
4 were in violation of the conflict-of-interest provisions
5 of the HERS regulations. HERS is the California Home
6 Energy Rating System Program regulations.

7 What those regulations are and they're contained
8 in Article 8 of Title 20 is they establish procedures for
9 the training and certification of raters and certification
10 programs for providers for home energy rating services.
11 They apply to the field verification and diagnostic
12 testing services for residential buildings for
13 demonstrating compliance with building energy performance
14 standards under Title 20.

15 Under those regulations, there are what are
16 called providers, those are the people that are certified
17 by the Commission and they are organizations that
18 administer home energy rating systems in compliance with
19 the HERS regulations. Underneath the providers are what
20 are called raters. These raters are the people that
21 actually go out and do the testing of the energy
22 efficiency improvements and installations. The raters are
23 required to have agreements with providers; therefore, the
24 raters are directly underneath the providers, and the
25 providers are generally responsible for disciplining and

1 regulating the raters.

2 The conflict-of-interest provisions in the HERS
3 regulations state that raters, as well as the providers,
4 and the installers of the energy efficiency improvements
5 need to be independent entities. The HERS regulations
6 define independent entity as having no financial interest
7 in and not advocating or recommending the use of any
8 product or service as a means of gaining increased
9 business with firms or persons specified in the
10 regulations.

11 A further definition in the regulations of
12 financial interest means an ownership interest, debt
13 agreement, or employer/employee relationship, but does not
14 include ownership of less than five percent of a
15 publically traded company.

16 On March 17th of this year, a hearing was held in
17 front of the Efficiency Committee. Evidence was taken and
18 testimony was given along with other evidence that was
19 submitted during dependency of the proceeding, which was
20 docketed and constitutes the record in this matter.

21 It was determined that Energy Sense was formed
22 as a wholly owned subsidiary of Masco Corporation in
23 August of 2006. The bylaws for Energy Sense were prepared
24 by Masco's legal department and the impetus for creating
25 Energy Sense was that in October of 2005 high quality

1 insulation, HQII, was made one of the energy efficiency
2 improvements that was regulated under the HERS regulations
3 and, therefore, there were some other wholly owned
4 subsidiaries of Masco who installed that kind of
5 insulation, and they realized they could no longer have
6 both installers and raters within that same company.

7 So they incorporated Energy Sense, and before
8 doing so they consulted with CHERS, which is the
9 California Home Energy Rating Service, which is a HERS
10 provider, to try and get some direction about to create
11 some sort of firewall in order to comply with the
12 conflict-of-interest regulations.

13 Although they did get some guidance from Tom
14 Hamilton, who was then the Executive Director of CHERS,
15 Mr. Hamilton nor CHERS never approved of or got the final
16 details about the structure. And also during that
17 timeframe, the Energy Commission through staff expressed
18 some concerns about conflict-of-interest violations.

19 Since its incorporation, Energy Sense has
20 entered into contracts with other wholly owned
21 subsidiaries of Masco Corporation. In those contracts,
22 Energy Sense is to provide HERS rating services for other
23 wholly owned subsidiaries of Masco, and those other wholly
24 owned subsidiaries of Masco, the installer subsidiaries
25 are to provide Energy Sense with some administrative

1 services including providing sales staff, drafting of
2 contracts with builders, scheduling performance of
3 services, invoicing, collecting of monies, and payment
4 directly from the installer subsidiaries to Energy Sense.

5 The reason that was articulated for doing that
6 is to offer builders a comprehensive set of services by
7 submitting the bids to builders that include prices for
8 the installation work performed as well as the HERS rating
9 testing. Energy Sense raters are paid on a salary or
10 hourly wage basis by Energy Sense, and the invoices for
11 training and certification for Energy Sense raters under
12 CHERS are sent to and paid by Energy Sense.

13 There's an overlap of shareholder or Masco is
14 sole shareholder and managing partner of Energy Sense and
15 the installer subsidiary and exercises the right to
16 participate in the selection of officers, directors, the
17 appointment of members of the governing boards. It also
18 exercises high-level governance. Masco has stated that
19 their subsidiaries are to pursue -- they encourage their
20 subsidiaries to develop business plans that add value to
21 the parent corporation.

22 There's an overlap of officers and directors
23 between Energy Sense, Masco, and the installer
24 subsidiaries. There's also an overlap in business
25 locations, locations of the president and the CEO of these

1 various companies. The financial performance of Energy
2 Sense and the installer subsidiaries are included in the
3 parent corporation's consolidated financial reports.

4 Subsequent to the --

5 COMMISSIONER ROSENFELD: Dennis, I don't want to
6 speed you up too much, but it's 12:30 and we have an
7 Executive Office meeting and Commissioner Boyd and I and I
8 think the Chairman have a 1:30.

9 MR. BECK: I'll try. I just wanted to lay the
10 facts out for you, and the analysis goes a little more
11 quickly.

12 COMMISSIONER ROSENFELD: Good.

13 COMMISSIONER LEVIN: Dennis, I'm assuming other
14 Commissioners have actually read the background material,
15 so maybe you could summarize to your recommendation or the
16 committee's recommendation.

17 MR. BECK: Well, I'll just go back to the
18 analysis, which is that underneath the HERS regulations,
19 there is a conflict of interest because the way that these
20 companies are run, the way they are owned, and the way
21 they are operated, they operate under the law as a single
22 enterprise. And thus, under employment of a core created
23 alter ego theory of liability, that they are indeed one
24 corporation, and the corporate structure -- corporate
25 divisions between them should be ignored and they should

1 be treated as one company.

2 As such, there is an ownership interest between
3 all of these companies that rises to the level of a
4 financial interest and thus when Energy Sense raters
5 perform rating services on other wholly owned subsidiaries
6 of the same parent corporation, there is a conflict of
7 interest.

8 So the decision of the Efficiency Committee was
9 to hold that indeed that is a conflict of interest to tell
10 the providers who are directly responsible for supervision
11 of the raters that that kind of conflict of interest
12 should not be allowed to occur. That Energy Sense should
13 be allowed to do ratings on other installments done by
14 companies, which they do not have a conflict of interest
15 with, but not on other wholly owned subsidiaries of Masco.
16 So we are directing the providers to make sure they
17 administer their rater agreements in compliance with this
18 decision.

19 Also, the Efficiency Committee did designate
20 this as a precedential decision under the Government Code,
21 which means that should a subsequent situation like this
22 arise, the Energy Commission could look back on this
23 decision as precedent; otherwise, it could not and would
24 have to come to a decision and analysis anew.

25 CHAIRMAN DOUGLAS: Thank you very much. Thank

1 you for that, Mr. Beck. I have a blue card. I have a
2 representative from Energy Sense and Masco who would like
3 to speak. Mr. Frankel, please keep your comments if you
4 could to three minutes and welcome.

5 MR. FRANKEL: Welcome. Thank you,
6 Commissioners. As an initial matter, I would like to note
7 on behalf of Masco and Energy Sense that I don't believe
8 the Commission can properly consider this decision today.
9 While we understand that the decision was issued sometime
10 last week, I didn't first receive it in the mail until
11 yesterday.

12 And under Section 1234 of Title 20, the
13 Commission cannot properly consider a proposed decision
14 from a committee until ten days after it's been personally
15 served. The decision was not personally served within ten
16 days and, therefore, under the Commission's rules of
17 procedure, this matter is not even properly before the
18 full Commission for consideration today.

19 So before we proceed, I would like to get a
20 determination from the Commission as to whether it's
21 actually going to follow its rules and not consider the
22 decision today.

23 CHAIRMAN DOUGLAS: Thank you for that question.
24 Mr. Chamberlain, I see you rifling through --

25 COMMISSIONER LEVIN: Could I ask Mr. Beck before

1 Mr. Chamberlain responds when was notice provided?

2 MR. BECK: The decision was sent out last
3 Wednesday, so it was sent out on that day, so it probably
4 wouldn't have gotten there before Thursday or Friday of
5 last week. The provisions for the hearing were --

6 CHIEF COUNSEL CHAMBERLAIN: Well, I'm not sure
7 which of these provisions the gentleman is referring to.
8 There is a provision that says that the Commission shall
9 provide a written notice by first class mail to all
10 petitioners, respondents, and persons identified, Section
11 1231(b)(7) and 1232(a)(2).

12 MR. FRANKEL: No. Actually, I'm referring to
13 Section 1234.

14 MR. BECK: Under 1234, that I think is the
15 notice provisions in regards to the hearing that was held
16 not the subsequent consideration of the Efficiency
17 Committee decision in the hearing in this matter because
18 that's farther down in Section 1236 where it goes before
19 the full Commission for adoption.

20 MR. FRANKEL: I beg to differ with you, Mr.
21 Beck. Under Section 1234 --

22 COMMISSIONER ROSENFELD: Mr. Frankel, a little
23 closer to the mic.

24 MR. FRANKEL: Under Section 1234 of Title 20, it
25 says then when a matter is referred to a committee and the

1 committee renders a proposed decision for presentation to
2 the full Commission, it is supposed to be scheduled for a
3 hearing before the Commission as soon as reasonably
4 practicable, but no sooner than ten day after service of
5 the proposed decision on all parties.

6 MR. BECK: I'm sorry. What section is that?

7 MR. FRANKEL: Section 1234 of Title 20. I just
8 have my notes here. I can get you the full.

9 CHIEF COUNSEL CHAMBERLAIN: I'm not finding that
10 in Section 1234.

11 MR. BECK: I think that might be an old section
12 of that. I don't know where you may have gotten that
13 Section.

14 MR. FRANKEL: Just bear with me.

15 CHIEF COUNSEL CHAMBERLAIN: These sections were
16 revised in 2007 according to my version.

17 COMMISSIONER LEVIN: Mr. Frankel, while you're
18 looking for that, is it safe then to assume that your
19 objection will go beyond process?

20 MR. FRANKEL: Yes, it will.

21 COMMISSIONER LEVIN: Okay.

22 CHIEF COUNSEL CHAMBERLAIN: Well, perhaps it's
23 appropriate for the Commission to consider whether there's
24 any harm in putting the matter over for two weeks in order
25 to allow Mr. Frankel more time if he needs it.

1 COMMISSIONER LEVIN: I was going to ask if we
2 could push it back one week if that would cover the ten
3 days.

4 COMMISSIONER BYRON: Before we move the date, I
5 think we should determine indeed whether or not this is
6 just an effort to delay. My objection to this process
7 is that this has taken nearly a year from the time this
8 was first discovered to get to this point, so I think
9 until we understand why there's a reason for this delay,
10 I'm not inclined to just go ahead and delay it on a
11 process basis.

12 COMMISSIONER LEVIN: I think there's a two-part
13 question. Is the section actually clear about whether or
14 not ten days was required?

15 COMMISSIONER BYRON: Correct.

16 MR. BECK: The version of 1234 of Title 20
17 that Mr. Frankel appears to be referring to is I think an
18 old one. I think the one that Mr. Chamberlain I have up
19 to date versions of it and it does not discuss the -- It
20 discusses the timeframe for providing notice before the
21 hearing before the hearing officer or the committee but
22 not the forwarding of the committee decision to the
23 Commission.

24 COMMISSIONER BYRON: So, Mr. Chamberlain, if we
25 determine that we can rule on this, now I'd be interested

1 in hearing why the petitioner got an issue with it.

2 CHAIRMAN DOUGLAS: Mr. Chamberlain, do you have
3 an update or a recommendation on that question before we
4 go forward?

5 CHIEF COUNSEL CHAMBERLAIN: Well, I have just
6 reviewed the West Law -- the current West Law version,
7 which would be up to date to today and that is the
8 version that I'm looking at, so there's nothing in our
9 regulation that requires the decision of the committee to
10 be provided within ten days or ten days prior to the
11 Commission acting.

12 MR. BECK: Again, in looking at Mr. Frankel's
13 version of the regulations, they do appear to be -- a
14 number of the sections are different from the current
15 version, so I believe I'm not sure where Mr. Frankel got
16 those regulations or from where he downloaded them or
17 copies them, but they appear to not be the current version
18 of the regulations.

19 MR. FRANKEL: I printed those right off the
20 Commission's website, and those were the regulations that
21 were posted. I believe it is improper based on that for
22 the Commission to consider this decision particularly
23 since I didn't personally receive the decision until
24 yesterday, even though Mr. Beck represented to me that it
25 had been mailed last week.

1 Typically in these proceedings, I have been
2 provided emails of decisions throughout the course of the
3 proceedings, any orders, or things that were issued. I
4 was not provided with that when the decision was issued.
5 But if the Commission --

6 CHAIRMAN DOUGLAS: Excuse me, Mr. Frankel. I'd
7 like to ask staff to look at our website and see if that,
8 in fact, is the case. But while you're doing that, why
9 don't we give you your three minutes to make a substantive
10 presentation so that we hear what you have to say.

11 MR. FRANKEL: Thank you, Commissioner. On
12 behalf of Masco and Energy Sense, we believe that the
13 proposed decision is wrong both as a matter of law and as
14 a matter of policy. Although the decision purports to
15 interpret the HERS regulations and the HERS conflict-of-
16 interest provisions, we believe that it's really a
17 fundamental attempt to rewrite the regulations without a
18 required rule making proceeding. We believe that that
19 demonstrates that the decision is contrary to law and that
20 what would be required is a rule making proceeding, and
21 I'll get to the reasons for that in just a moment.

22 The conclusion, first of all, that the HERS
23 conflict-of-interest provisions that there's no
24 distinction between Energy Sense and its raters and that
25 any conflict on the part of Energy Sense is imputed to its

1 rates is not an interpretation of the HERS conflict-of-
2 interest provisions or the HERS regulations. It's
3 actually a rewrite of the regulation.

4 If the Commission has intended for the
5 regulations to apply to corporations that employ HERS
6 raters, the regulations could have so stated. They did
7 not. Indeed, every reference to the term rater in the
8 HERS regulations and in the HERS conflict-of-interest
9 provisions identifies the persons as an individual and
10 it's only individuals who can be certified by providers
11 like CHERS or CalCERTS as raters by those providers. If
12 the regulations were intended to specify that the
13 corporations who employ raters were governed by the
14 conflict-of-interest provisions, it would have been very
15 easy for the regulations to so state. Instead it's a
16 rewrite.

17 Secondly, the conclusion that, although there's
18 not a direct ownership by Energy Sense and the companies
19 that perform installation work that are also wholly owned
20 subsidiaries and by the installer subsidiaries and Energy
21 Sense, that indirect ownership link is somehow enough to
22 create a conflict of interest between Energy Sense and
23 separate wholly owned subsidiaries of the Masco
24 Corporation that perform installation work is again a
25 rewrite of the statute or the regulation.

1 In particular, the regulation at issue here, the
2 conflict-of-interest regulation, talks about having a
3 financial interest in the companies or builders that
4 perform energy efficiency improvements in California.
5 Neither Energy Sense nor the raters that employ Energy
6 Sense have such a financial interest in any of the
7 companies whose work they perform.

8 Granted that Energy Sense is owned by Masco
9 Corporation and that the installing subsidiaries, some of
10 them for which Energy Sense does Title 24 testing, are
11 separate wholly owned subsidiaries of Masco Corporation.
12 There is no ownership by either Energy Sense or its raters
13 in the work or in the subsidiaries that perform that
14 installation work.

15 If the Commission had intended that an indirect
16 link like the conclusion in the proposed decision was
17 sufficient to create a conflict of interest under the HERS
18 conflict-of-interest rules, the regulations should have so
19 stated. The regulations do not so state. They talk about
20 a financial interest, not an indirect financial interest.

21 CHAIRMAN DOUGLAS: Mr. Frankel, I'd like to ask
22 you to wrap up your questions in the next minute or so.

23 MR. FRANKEL: Okay. I will do my best.
24 Finally, apart from the rewrite of the statute, the
25 application of the alter ego doctrine to Masco, the Masco

1 subsidiaries, and Energy Sense and to say that they are
2 one enterprise because they share a common parent, which
3 is in business to try to generate a profit, because they
4 share common officers and directors amongst some of these
5 subsidiaries, and have attorneys at the Masco Corporate
6 level doing work for various subsidiaries, that that is
7 enough to treat the companies as one company for alter ego
8 or single enterprise turns (inaudible) corporate law on
9 its head.

10 I will submit to you that there's never been a
11 case decided in California applying the alter ego doctrine
12 where based on the facts that the committee has identified
13 in its decision has found that parents and subsidiaries
14 who are so organized similar to Energy Sense, Masco, and
15 the Masco installation subsidiaries would be treated as
16 one company for purposes of the alter ego doctrine.
17 That's contrary to several precedents. It turns corporate
18 law on its head and would essentially treat corporations
19 and subsidiaries as one company based on these facts
20 almost across the board.

21 The decision is also wrong as a matter of policy
22 by --

23 CHAIRMAN DOUGLAS: Mr. Frankel, you're a minute
24 and a half past the last minute. Could wrap up and make
25 some concluding statements?

1 MR. FRANKEL: Yes, I will. I believe that as a
2 matter of public policy the decision is wrong. Energy
3 Sense put in appropriate firewalls and protections to make
4 sure that its raters performed their testing objectively
5 and in accordance with both HERS requirements and CHERS
6 requirements.

7 There's never been any finding by CHERS that
8 Energy Sense's raters have been inaccurate, in fact, quite
9 to the contrary. What I'm saying here is that if this
10 decision is adopted, it's going to undermine competition
11 in the Title 24 testing field, and it's going to cause the
12 prices that consumers pay and that builders pay for
13 testing services to rise, and it's going to be contrary to
14 the policies that this Commission has tried to adopt.

15 CHAIRMAN DOUGLAS: Thank you for comments.
16 Before we get to the question I asked staff to look into,
17 we have one more member of the public who would like to
18 comment on this item. I'd like to invite him forward
19 briefly. Brett Dickerson with the California Living and
20 Energy Duct Testers.

21 MR. DICKERSON: Well, I will keep it -- I will
22 keep things very brief. We believe very strongly that the
23 proposed decision should be adopted for the reasons that
24 Mr. Beck has provided. The sole purpose that Energy Sense
25 was formed was to create and use through the adroit use of

1 the corporate fiction to create a separate entity that
2 would be allowed to go out and test their own companies
3 and test installations that are made by HERS entities.

4 And the purpose of that is to generate profits,
5 and those profits are all going to work their way back
6 ultimately to Masco. At the end of the day, that's where
7 all the money goes.

8 And so consequently, it's very important that in
9 order to protect what these regulations were designed to
10 carry out, namely to ensure that the consuming public gets
11 what they buy, what they think they're bargaining for when
12 they purchase an energy efficient home, it's important
13 that these people doing the ratings have no affiliation
14 either financial, corporate, governance, or otherwise with
15 those that are actually doing the inspections.

16 And for that purpose, we believe, as we stated
17 during the course of the hearing, that they are
18 conflicted. It works against the best benefits and best
19 interests of the State of California and the consumer.
20 And consequently, we strongly recommend that the proposed
21 decision be adopted by the full Commission.

22 CHAIRMAN DOUGLAS: Thank you very much.
23 Ms. Jones, has staff had a chance to look at our website?

24 EXECUTIVE DIRECTOR JONES: Staff is looking at
25 the website and printing and they should be down

1 momentarily.

2 CHAIRMAN DOUGLAS: Very good. While we are
3 waiting for that, are there questions from Commissioners
4 or comments on this item either the procedural or
5 substantive issues before us?

6 COMMISSIONER BYRON: Well, I'm deferring heavily
7 to the committee that made the decision. I'm just
8 awaiting the materials that will determine legally whether
9 or not we have a dilemma or maybe if it's a moral issue.

10 COMMISSIONER LEVIN: I would like to just
11 respond to a few of Mr. Frankel's comments. Having
12 reviewed the record and sitting through the evidentiary
13 hearing, I think there was a great deal of evidence,
14 strong evidence in the record showing how intertwined
15 these entities are and were in practice. And I think that
16 as a policy matter, this absolutely goes to the
17 credibility of the program if we don't have a clear
18 separation and clearly independent reviewers.

19 I disagree with your interpretation of the
20 conflict-of-interest laws and the precedent. I think that
21 the level of interconnections between the companies and
22 the employees is absolutely a conflict of interest and
23 unambiguously so, and I think there is a great deal of
24 legal precedent in California and elsewhere to say that a
25 financial interest and employment relationship, common

1 board members, common employees, all the things that we
2 found in evidence would lead to a conflict of interest or
3 at minimum an appearance of a conflict, which is equally
4 as damaging to the credibility of the program, so my
5 reading of the record and from the evidentiary hearing is
6 I would say quite the opposite of Mr. Frankel's.

7 COMMISSIONER BYRON: Madam Chair?

8 CHAIRMAN DOUGLAS: Yes.

9 COMMISSIONER BYRON: After we're able to
10 determine whether or not we're within our ability to rule
11 today, I too am in agreement with Commissioner Levin about
12 the conflict of interest. I also understand that there
13 does not appear there's been any misconduct, and I'm very
14 pleased to hear that. And in that regard, I do agree with
15 Mr. Frankel.

16 But an issue that concerned me the most upon
17 reviewing this issue was that it seemed to take a long
18 time to get to us in order to resolve this. And so I'd
19 like to ask Mr. Beck, do we have a better way of
20 addressing this more quickly in the future?

21 MR. BECK: Well, I think we do. I think that
22 one of the issues that Mr. Dickerson and his clients had
23 was that it had taken too long to get to this juncture. I
24 think the Efficiency Committee agreed and I agree that it
25 took too long.

1 I think there were some intervening factors, a
2 change in executive director at CHERS, and I think also
3 the fact that the providers are supposed to be the first
4 line of regulation over the raters, but yet it was a
5 clarification of the Commission's regulations that needed
6 to be done. And unfortunately I think in some instances
7 HERS and CHERS maybe got put on the back burner and for
8 that, you know, we apologize to Mr. Dickerson and his
9 clients.

10 But I think in the future in this situation, I
11 think ideally what could have been done and should have
12 done is that once the provider had some indication that
13 once they got a complaint or received some indication that
14 there is a violation and then believed that there needed
15 to be some clarification of the regulation, then they
16 should have contacted the Commission saying we have this
17 complaint, we don't know what this mean, would you help us
18 out.

19 But it was -- Finally, when the first time I
20 met with Mr. Dickerson's clients a year ago, I did suggest
21 that they avail themselves of this process, which is
22 apparently not very well used, and I think that's
23 because traditionally we have not been involved in
24 enforcement activities. But as we know from earlier today
25 with some of the grants, that we will be, and so this

1 process will be utilized I think more often and that this
2 is, indeed, the process that complaining parties like
3 Mr. Dickerson's clients should avail themselves of. And
4 hopefully it won't take that long for them to get to that
5 step.

6 COMMISSIONER LEVIN: Can I also add I think if
7 we adopt this as a precedential decision that that will
8 help in the future to provide clarity with the process, so
9 I do agree with Mr. Beck's recommendation that that's
10 important if and when we take action.

11 CHAIRMAN DOUGLAS: Thank you. Do we have an
12 update from staff?

13 CHIEF COUNSEL CHAMBERLAIN: I've been provided
14 two copies of the regulation that's on our website and it
15 appears to be exactly the same as what's in this book, so
16 I --

17 CHAIRMAN DOUGLAS: So the regulation on the
18 website is the current -- reflects current law?

19 CHIEF COUNSEL CHAMBERLAIN: Yes.

20 CHAIRMAN DOUGLAS: Very good. We have -- Thank
21 you for that. Thank you for verifying it. We have one
22 more blue card from -- I'm having trouble with the
23 handwriting, Robert Scott, Robert Scott.

24 COMMISSIONER ROSENFELD: Madam Chair, could I
25 ask either Commissioner Levin or you, as a non-lawyer, I

1 think this idea that we're doing something precedentially
2 seems to be important, and I don't have a clue as to how
3 you make a finding precedential.

4 CHAIRMAN DOUGLAS: We could ask our counsel, but
5 my understanding of that is that in the motion we would
6 make this -- the motion would state that this --

7 COMMISSIONER ROSENFELD: The intent of the
8 Commission --

9 CHAIRMAN DOUGLAS: -- that the Commission
10 intends to make this decision precedential.

11 COMMISSIONER ROSENFELD: Nice.

12 CHAIRMAN DOUGLAS: Please.

13 MR. SCOTT: Thank you. I'm Robert Scott,
14 Executive Director of CHERS, and my comments are based on,
15 if the Commission approves or affirms this decision, I
16 really want to make note that CHERS has been participating
17 in this process and trying to get clarification and some
18 precedent, and I think it's really important.

19 And one of the most important elements to this
20 is there are details in terms of how the regulation is
21 posed, how we're required to do reporting and quality
22 assurance and such that I think we need to be working with
23 staff to clearly define a number points in terms of what
24 we're asked to do and so that in the future and
25 particularly because Title 20 has been revised, there are

1 new elements including performance contractors, third
2 party quality control programs where this is likely to
3 come up again.

4 And so I really encourage, if there is going to
5 be precedent setting here, to make sure that the staff and
6 the providers work together to ensure that this doesn't
7 occur again. So just in supporting anything that you do,
8 there are certain elements and details that need to be
9 looked at.

10 CHAIRMAN DOUGLAS: Thank you.

11 MR. SCOTT: Thank you.

12 CHAIRMAN DOUGLAS: All right. Well, given that
13 the draft of the regulations on our website are the
14 current draft and given that our authority allows us to
15 consider this matter today and it was properly notice and
16 so on, I personally am comfortable moving forward with
17 this item today. I'd like to ask if other Commissioners
18 share that view or if anybody would like to raise concerns
19 with that.

20 COMMISSIONER ROSENFELD: I am not a lawyer. I
21 did sit through the evidentiary hearings. I do want to
22 say the two things that are in my mind. There is no
23 evidence that there was any wrongdoing on the part of the
24 raters, but it seems to me like a conflict of interest.
25 Everybody and his brother is losing his job these days.

1 If I were a rater, I would feel under considerable
2 pressure to find that the installation was properly done,
3 and I'm comfortable with going ahead.

4 VICE CHAIRMAN BOYD: I have no objection.

5 COMMISSIONER BYRON: No objection.

6 CHAIRMAN DOUGLAS: Very good. Is there a
7 motion?

8 COMMISSIONER BYRON: I move the recommendation
9 in Item 31 as included in the proposed decision of the
10 Efficiency Committee.

11 COMMISSIONER ROSENFELD: Second.

12 CHAIRMAN DOUGLAS: All in favor?

13 (Ayes.)

14 CHAIRMAN DOUGLAS: This item is approved. Item
15 31, Minutes. Approval of the May 27, 2009, Business
16 Meeting Minutes.

17 COMMISSIONER ROSENFELD: I move the Minutes.

18 VICE CHAIRMAN BOYD: Second.

19 CHAIRMAN DOUGLAS: All in favor?

20 (Ayes.)

21 CHAIRMAN DOUGLAS: The Minutes are approved.
22 Item 33, Commission Committee Presentations and
23 Discussion. Seeing none, Item 34 --

24 COMMISSIONER BYRON: Wisely.

25 CHAIRMAN DOUGLAS: -- Chief Counsel's Report.

1 CHIEF COUNSEL CHAMBERLAIN: I have no report,
2 Madam Chair.

3 CHAIRMAN DOUGLAS: Item 35, Executive Director's
4 Report.

5 EXECUTIVE DIRECTOR JONES: How would you like me
6 to proceed considering time?

7 CHAIRMAN DOUGLAS: I would like you to be very
8 brief if you have a report.

9 EXECUTIVE DIRECTOR JONES: Okay. With the OII
10 today, we do have workshops coming up, six workshops
11 throughout the state Friday and Monday to deal with the
12 Energy Efficiency Conservation Block Grant.

13 We are moving ahead with -- We've worked with
14 both committees and are moving ahead on three items that
15 we consider to be first-strike items, which we can do
16 without having guidelines in place. They're focused on
17 green jobs and workforce training.

18 There's a proposal on DGS setting up a revolving
19 loan to install energy efficiency in state buildings. And
20 a third element of the program would be using an existing
21 program, which is the Energy Conservation, the ECAA loans,
22 and so we will be working on interagency agreements and
23 contracts to move those along.

24 We looking forward to working with the two
25 committees on the guidelines and I think I'll just end it

1 there.

2 CHAIRMAN DOUGLAS: Thank you.

3 EXECUTIVE DIRECTOR JONES: I have a longer
4 update, which I will send you by email.

5 VICE CHAIRMAN BOYD: Thank you.

6 CHAIRMAN DOUGLAS: Very appropriate. Thank you
7 very much. Public Advisor's Report, Item 36.

8 PUBLIC ADVISOR MILLER: Nothing to report.

9 CHAIRMAN DOUGLAS: Thank you. Item 37, Public
10 Comment. I see no public left in the room. The meeting
11 is adjourned. I'm sorry. The meeting is not adjourned.
12 We are now moving to Executive Session on some personal
13 items.

14 (Whereupon, at 12:53 p.m., the
15 Business Meeting was adjourned.)

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1 CERTIFICATE OF REPORTER
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4 I, MARY CLARK, a certified electronic reporter,
5 do hereby certify that I am a disinterested person herein;
6 that I recorded the foregoing California Energy Commission
7 Business Meeting, dated May 6, 2009; that it was
8 thereafter transcribed into typewriting.

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

12 IN WITNESS WHEREOF, I have hereunto set my hand
13 this 20th day of May, 2009.
14
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18 MARY CLARK, CERT**D214

19 California Reporting LLC
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