

BUSINESS MEETING
BEFORE THE
CALIFORNIA ENERGY COMMISSION

In the Matter of:)
)
Business Meeting)
_____)

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

WEDNESDAY, November 18, 2009
10:00 A.M.

Reported by:
Peter Petty CER**D-493

COMMISSIONERS PRESENT

Karen Douglas, Chair

James D. Boyd, Vice Chair

Jeffrey D. Byron

Julia A. Levin

Arthur H. Rosenfeld

STAFF PRESENT

Melissa Jones, Executive Director

Jonathan Blee, Chief Counsel's Office

Loreen McMahon, Public Advisor's Office

Harriett Kallemeyn, Secretariat

Alan Solomon

Eileen Allen

Eric Solorio

Tony Goncalves

John Sugar

Joji Castillo

Jim Holland

Sylvia Bender

Bill Staack

Harinder Singh

Gabriel Herrera

Also Present

Alice Harmon, Solar Millennium, LLC

Peter Weiner, Paul, Hastings, Janofsky & Walker, LLP

Greggory Wheatland, Ellison Schneider & Harris

Jon Boyer, TPF Operations

Gary Fernstrom, PG&E

Noah Horowitz, NRDC

Public Comment

Steve Nielson

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P R O C E E D I N G S

NOVEMBER 18, 2009 10:07 a.m.

CHAIRPERSON DOUGLAS: We are about to get started. Welcome to the California Energy Commission. This is a Business Meeting of November 18, 2009.

Please join me in the Pledge.

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

CHAIRPERSON DOUGLAS: We will begin with Item 1, Consent Calendar.

COMMISSIONER ROSENFELD: I move the Consent Calendar.

VICE CHAIR BOYD: Second.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

That item is approved.

Item 2. Blythe Solar Power Project (AFC-09-6). Mr. Solomon.

MR. SOLOMON: Good morning, Commissioners. My name is Alan Solomon and I am a Project Manager with the Siting Division, and with me this morning is Lisa DeCarlo, staff attorney with our Legal Division. On August 24th, the Energy Commission received an Application for Certification from Solar Millennium and Chevron Energy Solutions. This Fund was for the Blythe Solar Power Project. At the

1 October 7th Business Meeting, you accepted staff's initial
2 Data Adequacy Recommendation and found the project data
3 inadequate in 12 areas. On October 26th, Solar Millennium
4 and Chevron filed their AFC Supplement, staff reviewed the
5 Supplement, and believed the AFC, with the supplemental
6 information, is now complete. For today's meeting, we ask
7 that you find the AFC adequate and request that a committee
8 be appointed.

9 CHAIRPERSON DOUGLAS: Thank you, Mr. Solomon.
10 Can we hear from the Applicant?

11 MS. HARRON: Hi. My name is Alice Harron. I am
12 the Senior Director for Permitting and Development at Solar
13 Millennium. I want to first of all thank staff for its
14 time and patience in working with us to become data
15 adequate. I thank Alan and Eileen Allen and Bob Worl for
16 all their help. I also want to thank our counsel, Peter
17 Weiner, Matt Sanders, our co-counsel, Scott Galati, and our
18 Environmental Consultant, AECOM, for putting together a
19 high quality and very high quantity amount of information.

20 CHAIRPERSON DOUGLAS: Thank you for that and I am
21 glad to see you back here and data adequate in fairly short
22 order as we had discussed in the last business meeting.
23 Are there any questions or comments at this point?
24 Commissioner Byron.

25 COMMISSIONER BYRON: A couple of questions with

1 regard to the data adequacy, I just want to make sure I
2 understand. Back on page 54, it talks about what is
3 necessary to meet transmission requirements. Can you tell
4 me, Mr. Solomon, did we receive a complete System
5 Integration Study from the Applicant?

6 MR. SOLOMON: No, we did not receive a study from
7 the Applicant. We have a receipt on file. I believe it is
8 in the queue.

9 MS. HARRON: Yes, it is.

10 COMMISSIONER BYRON: But that meets our data
11 adequacy requirements?

12 MR. SOLOMON: Yes, it does.

13 COMMISSIONER BYRON: Thank you. The other
14 question is, I guess, of the Applicant. Are you attempting
15 to -- well, first, do you have a Power Purchase Agreement?

16 MS. HARRON: Blythe. Yes and no. It is a Power
17 Purchase Agreement for one of our power plants that could
18 also be applied to Blythe, so not exactly to Blythe.

19 COMMISSIONER BYRON: Thank you. And are you also
20 seeking American Recovery Reinvestment Act funding for this
21 project?

22 MS. HARRON: Yes.

23 COMMISSIONER BYRON: So my last question, I
24 guess, would be for staff. There is a schedule that has
25 been published that shows completion of projects that are

1 data adequate on November 4th, I believe. November 4th is
2 passed.

3 MR. SOLOMON: Yes.

4 COMMISSIONER BYRON: Is this project on schedule
5 in order to be completed by the end of next year in time
6 for ARRA funding? Ms. Allen?

7 MS. ALLEN: Good morning. I am Eileen Allen,
8 Manager of the Siting and Compliance Office for the
9 Commission. Terry O'Brien, Deputy Director for the Siting
10 Transmission and Environmental Protection Office asked me
11 to address the general topic that you have brought up; he
12 could not be here this morning, so he asked me to make
13 these remarks. Staff notes that all three Solar Millennium
14 projects are already two weeks behind the ARRA milestone
15 schedules that have been posted on our website and
16 coordinated with the Bureau of Land Management. The Energy
17 Commission staff will do everything we can to move these
18 projects through the Joint Agency Review Process with BLM
19 as expeditiously as possible, however, it is important for
20 the Applicant and Commissioners to understand how difficult
21 it is going to be to process these applications in 12
22 months, given our current workload and the multiple
23 challenges presented by large scale solar projects; we are
24 talking about thousands of acres. Should these projects
25 present major issues that staff believes precludes our

1 ability to process the applications expeditiously, it is
2 our intent to notify the respective siting committees in
3 early 2010 so that critical staff resources can be focused
4 on projects that have a realistic chance of meeting the
5 ARRA December 2010 deadline.

6 COMMISSIONER BYRON: All right, very good. Thank
7 you, Ms. Allen. I note that the Applicant's original
8 submittal was August 24th, and here we are in late November
9 -- sorry, mid-November -- considering data adequacy. There
10 is that old joke about the, you know, where I have worked
11 as a consultant before, that the best thing you ever get
12 from the consultant is the proposal. And in this case, how
13 many rounds of data requests do we anticipate in this
14 schedule?

15 MS. ALLEN: We anticipate one overall round, but
16 there will be many requests that will be contained in that
17 round. The Genesis project can be seen as a benchmark for
18 the number and variety of data requests that we have for
19 the project that is located in the overall vicinity of the
20 Palen and Blythe projects. There are over 200. And I
21 thought they were all reasonable, yet many were quite
22 complicated.

23 COMMISSIONER BYRON: Yes. Well, I think the
24 Applicant and staff know where I am going with my line of
25 questioning. As the Presiding member on the Siting

1 Committee, we are very keen and I hope the Applicant
2 understands that you have the support of this Commission to
3 try and move these renewable projects through this process
4 as quickly as we can. It is incumbent upon you, obviously,
5 to be extremely and fully responsive on the data requests.
6 You have excellent counsel, experienced, creative, and I am
7 sure we will see some good resolution of issues early on as
8 a result, but you are already behind, and so I encourage
9 you to do everything that you can to keep this project on
10 schedule, and we will do everything we can, including
11 working our staff to the bone, in order to get this project
12 done, in addition to the other key projects that we are
13 emphasizing for ARRA funding. Thank you for putting up
14 with my questions, Madam Chair.

15 CHAIRPERSON DOUGLAS: Well, thank you for those
16 questions. I think you made some important points.

17 VICE CHAIR BOYD: I have a question if I might.

18 CHAIRPERSON DOUGLAS: Please.

19 VICE CHAIR BOYD: Well, of staff, maybe of Ms.
20 Allen, or perhaps of the staff. Has there been a tentative
21 date scheduled already for the site visit and first public
22 hearing?

23 MR. SOLOMON: For the Blythe and Palen projects,
24 the tentative date would be January 25th, 2010.

25 VICE CHAIR BOYD: Thank you. So, somewhat in

1 response to Commissioner Byron's concerns about time
2 slippage, it was my understanding and I want to confirm
3 that staff has looked forward some and is already picking a
4 site visit, first public hearing date, and what have you,
5 lining up Commissioners, and doing all the other logistics
6 work, so I think a little bit of recovery time has already
7 been anticipated, hopefully.

8 COMMISSIONER BYRON: Well, as you speak, I look
9 on my calendar, and there it is. So I have a feeling I
10 know where the assignment is coming.

11 MS. ALLEN: Staff is going ahead with the work
12 that we normally do. Along those lines, we hope to be able
13 to release a fairly complete set of data requests this
14 coming week. Notwithstanding that it is a holiday week, we
15 still hope to release quite a few. There may be a trailer
16 set coming the following week after Thanksgiving, but --

17 VICE CHAIR BOYD: Do we still recognize holidays
18 anymore? No...

19 MS. ALLEN: Thank you for officially recognizing
20 the staff's needs to spend time with our families, too.

21 [Laughter]

22 CHAIRPERSON DOUGLAS: Well, thank you, Ms. Allen.
23 And obviously if staff is able to get the data requests out
24 early in the holiday week, we may have the Applicant who
25 also is deprived of some time spent with their families in

1 order to get all of this in and done with a very
2 accelerated schedule.

3 VICE CHAIR BOYD: Well, I should note, on
4 Furlough Fridays, this building is still the beehive of
5 activity, so -- and I know the staff that has special
6 dispensation to do this is here working. We,
7 Commissioners, get no dispensation for anything, so if we
8 are in the building, we are just in the building. So, in
9 any event, thank you, staff.

10 COMMISSIONER LEVIN: I just want to underscore
11 some of the comments from Commissioner Byron and maybe even
12 say more strongly to both staff and Applicant, fully
13 recognizing the pressures and constraints and difficult
14 situations staff are in; these projects, I do not want to
15 pre-judge any of them, but they are hugely important to
16 California to get back on track with our RPS goals, with
17 our greenhouse gas emission goals, with economic recovery,
18 and so I will be very hard pressed to find acceptable
19 excuses on these cases for slipping from the schedule
20 because there is no room for slippage on these. And I
21 realize the Applicant bears much of the fault for that to
22 date, but you guys have to stay on track. I would say,
23 everywhere you can, come in earlier than the proposed
24 schedule. Allow time for things beyond any of our control,
25 and the clearly important parties are not in the room,

1 other agencies, but we have just got to get these to a
2 decision making point, whatever that decision is, in time.
3 I do not think that there should be a question about that
4 in our minds, certainly not at this point. You know, the
5 Warren-Alquist Act gives us 12 months; if ever there were
6 project siting decisions that should be done in 12 months,
7 it is the RPS eligible -- ARRA stimulus eligible projects,
8 in my mind, and I think the Governor's Office has sent that
9 message loud and clear, as well, and they are absolutely
10 correct, and we need to do everything we can to make sure
11 that we meet that deadline, whatever the decision at that
12 point is.

13 COMMISSIONER BYRON: Madam Chair, I would be
14 happy to move Item 2A and accept the staff's recommendation
15 for data adequacy on the Blythe Solar Power Project.

16 COMMISSIONER LEVIN: I would be happy to second,
17 but I think Mr. Weiner wanted to make a comment.

18 MR. WEINER: Not at this point, thank you.

19 CHAIRPERSON DOUGLAS: We have a motion and a
20 second. All in favor?

21 (Ayes.)

22 This item is approved. We found the project data
23 adequate. And now, Item 2B, possible appointment of a
24 siting committee for the Blythe Solar Power Project. I
25 will propose myself Presiding and Commissioner Byron as the

1 Associate Member of the Committee.

2 COMMISSIONER LEVIN: So moved.

3 VICE CHAIR BOYD: Second.

4 CHAIRPERSON DOUGLAS: All in favor?

5 (Ayes.)

6 COMMISSIONER BYRON: Mr. Weiner, did you want to
7 respond? You do not have to.

8 MR. WEINER: I would respond with great thanks
9 for that. I just wanted to reassure you that we are
10 learning from those who have gone before us. We do not
11 have some of the issues that some of the issues have had,
12 including on data requests such as water. We are in very
13 frequent discussions with the other agencies that we have
14 to be involved with, especially the Department of Fish and
15 Game. And we know that some of the projects have been
16 delayed for issues that are not related to the Commission
17 itself and its process, but rather, all of these ancillary
18 issues that must be resolved, and we are working very hard
19 not only with the Governor's Office, but with Agency staff
20 and these other agencies, to get these issues resolved
21 quickly. Because we are on BLM Land, we have also been
22 working assiduously with BLM, they have informed us that
23 the Notice of Intent for the NEPA process is going out, it
24 has been approved, they are just waiting for publication,
25 so we are very hopeful to get back on track as quickly as

1 possible, in part by learning from what others have had
2 problems with.

3 CHAIRPERSON DOUGLAS: Well, thank you for that.
4 We will move on to Item 3. Now, this is the Palen Solar
5 Power Project, 09-AFC-7. Mr. Solomon?

6 MR. SOLOMON: Thank you. And Palen is very
7 similar to Blythe. On August 24th, the Solar Millennium and
8 Chevron Energy Solutions filed their AFC. This was found
9 to be data inadequate also at the October 7th Business
10 Meeting. It was inadequate in 13 areas. Similar to
11 Blythe, on October 26th, Solar Millennium and Chevron filed
12 their AFC Supplement, staff reviewed the Supplement and
13 found that the AFC is now in fact complete, and for today's
14 meeting we are asking that you find the AFC adequate and
15 request that a committee be appointed.

16 CHAIRPERSON DOUGLAS: Thank you. Can we hear
17 from the Applicant -- maybe more briefly this time since we
18 have just been through this drill on Item 2.

19 MS. HARRON: Okay. Again, I just want to thank
20 staff for its time and patience. Again, Allen Solomon,
21 Eileen Allen, Bob Worl. In the spirit that you had said,
22 just working together, you know, and make it a good
23 project, and I thank them.

24 CHAIRPERSON DOUGLAS: Thank you. Commissioners?

25 COMMISSIONER BYRON: Well, I think the same

1 comments apply here and do not need to be repeated, but I
2 would also like to be encouraging Ms. Harron, this is 1,500
3 Megawatts of renewable power, and approving another project
4 means double the work, but we are certainly interested in
5 seeing these go through our process and very hopeful that
6 we will find these eventually to be power plants that can
7 be built in the state, so I do not mean to discourage you,
8 it is just we know what it is ahead of us here, but this is
9 something that we are very keenly interested in at this
10 Commission -- 1,500 Megawatts of renewables is very
11 attractive.

12 CHAIRPERSON DOUGLAS: Is that a motion?

13 COMMISSIONER BYRON: Yes. I move Item 3A to
14 accept staff recommendation for data adequacy on the Palen
15 Solar Power Project.

16 VICE CHAIR BOYD: Second.

17 CHAIRPERSON DOUGLAS: All in favor?

18 (Ayes.)

19 That item is approved.

20 Moving on to Item 3B, possible appointment of a
21 siting committee for the Palen Solar Power Project. And I
22 recommend the committee of Commissioner Byron Presiding and
23 myself, Associate.

24 COMMISSIONER ROSENFELD: I move that.

25 COMMISSIONER BYRON: Second.

1 CHAIRPERSON DOUGLAS: All in favor?

2 (Ayes.)

3 The committee is approved, the item is approved.

4 MR. SOLOMON: Thank you.

5 CHAIRPERSON DOUGLAS: Thank you very much, Mr.

6 Solomon.

7 Item 4. Ridgecrest Solar Power Project, 09-AFC-

8 9. Mr. Solorio.

9 MR. SOLORIO: Good morning, Chairman and

10 Commissioners. I am Eric Solorio, Project Manager for the

11 Ridgecrest Solar Power Project, and this is staff counsel,

12 Jared Babula. On September 1st, 2009, Solar Millennium

13 submitted an Application for Certification to develop

14 Ridgecrest Solar Power Project. It is a 250 megawatt solar

15 thermal electric generating facility. The project would

16 utilize parabolic trough technology to generate

17 electricity. It would be located in Northeastern Kern

18 County, approximately five miles southwest of the City of

19 Ridgecrest, California, on an approximately 4,000 acre site

20 of federal land administered by the BLM. At the October 7th

21 Business Meeting, the Commission adopted staff's

22 recommendation and found the AFC to be data inadequate.

23 The applicant subsequently filed the Supplemental AFC,

24 staff has completed its data adequacy review of the

25 Supplemental AFC, and found it to be data adequate. As a

1 result, staff hereby asks the Commission to accept the AFC
2 and find the AFC to be data adequate. We also ask that a
3 committee be appointed. It is also worth noting that staff
4 has been working closely with the BLM's Ridgecrest field
5 office and the wildlife agencies to review the Ridgecrest
6 project and to develop a coordinated approach to produce
7 the joint environmental document and comprehensive data
8 request, which staff expects to file within a week. Staff
9 and their BLM counterparts are planning to hold two public
10 workshops by the end of this year in order to move the
11 project forward on an expedited schedule. And I go kind of
12 a little off-script here, we are also looking for ways to
13 accelerate the schedule, the milestone schedule that has
14 been posted on the website, understanding that we are
15 already behind schedule. And I do not want to be the one
16 to provide excuses to the committee on a going forward
17 basis, so I will tell you that there will be some
18 challenges with getting some bio surveys done, but we are
19 going to try to, you know, again save time on the back end
20 hopefully with some assistance from the Wildlife Service.

21 CHAIRPERSON DOUGLAS: Thank you, Mr. Solorio.

22 Questions or remarks?

23 VICE CHAIR BOYD: Well, I would just comment,
24 this, like the previous two proposals, this is one where
25 staff has looked forward already, there is already a

1 tentative date for the first public hearing and site visit,
2 there is already a tentative slotting of Commissioners for
3 this, so the staff is moving briskly to try to shortcut the
4 timetable wherever possible. So where we have lost time in
5 the past due to inadequate data, to find the project data
6 adequate, the staff is working themselves and us hard to
7 make up for some of that. So --

8 CHAIRPERSON DOUGLAS: In fact, Commissioner Boyd,
9 you may find that informational hearing on your calendar.

10 VICE CHAIR BOYD: I did. It gave rise to my
11 comment. So I guess I would move approval of the staff
12 recommendation, unless Commissioner Byron had any concerns
13 since he is the siting committee head.

14 COMMISSIONER BYRON: Well, we are moving
15 expeditiously here. Before I provide a second, perhaps the
16 Applicant wanted to make some comments.

17 CHAIRPERSON DOUGLAS: We have been reducing time
18 from the process in every way possible, haven't we? Could
19 we hear from the Applicant, please?

20 MS. HARRON: I will reduce time, as well. Again,
21 I want to thank staff, but in this case, to Eric Solorio
22 for providing an exceptional amount of time and patience,
23 as well as Eileen Allen and Bob Worl, and I just want to
24 make it clear that we are working in the spirit of trying
25 to move these projects forward, and I really do appreciate

1 that.

2 CHAIRPERSON DOUGLAS: Thank you.

3 COMMISSIONER BYRON: I would like to just ask
4 briefly the same questions, if I may, with regard to a
5 Power Purchase Agreement. Do you have one for this
6 project?

7 MS. HARRON: Yes, we do.

8 COMMISSIONER BYRON: Okay, and again, data
9 adequate in all areas including the transmission area, do
10 we have a system impact study for this power plant?

11 MR. SOLORIO: Yes, we have a cluster study.

12 COMMISSIONER BYRON: A cluster study, okay.
13 Yeah, there is -- and I appreciate, Mr. Solorio, your
14 identifying upfront a particular area that will be of
15 interest, and that is the biological surveys that will be
16 needed. I am sure you will likely identify others. This
17 again is one of those projects I assume you are going after
18 ARRA funding?

19 MS. HARRON: That is correct.

20 COMMISSIONER BYRON: Okay, well, all comments
21 previously apply here.

22 CHAIRPERSON DOUGLAS: Is that a second?

23 COMMISSIONER BYRON: I will be glad to second.

24 CHAIRPERSON DOUGLAS: All in favor?

25 (Ayes.)

1 That item is approved.

2 Moving on to Item 4B, possible appointment of a
3 siting committee for the Ridgecrest Project. And my
4 recommendation is Commissioners Boyd and Levin, Boyd
5 Presiding and Levin Associate.

6 COMMISSIONER BYRON: Well, I would be more than
7 happy to move this item.

8 COMMISSIONER ROSENFELD: Second.

9 CHAIRPERSON DOUGLAS: All in favor?

10 (Ayes.)

11 That item is approved.

12 Item 5. High Desert Power Project, 97-AFC-1C.
13 Possible approval of High Desert Power Project, LLC's 1)
14 petition to eliminate the 2000 Decision's prohibition on
15 use of recycled water for cooling; and 2) authorize
16 construction of a pipeline to deliver recycled water for
17 about a third of the power plant's cooling need. Ms.
18 Allen?

19 MS. ALLEN: Good morning. On August 12th, 2008,
20 the High Desert Power Project, LLC submitted an Amendment
21 Petition to remove the restriction against using recycled
22 water for project cooling. I will briefly provide you some
23 background, which is the 830 megawatt combined cycle power
24 plant was certified by the Energy Commission on May 3rd,
25 2000, the project began commercial operation on April 22nd,

1 2002, it is located in the City of Victorville in San
2 Bernardino County. The Commission's original decision
3 prohibited the use of recycled water for project cooling
4 due to environmental concerns regarding riparian habitat in
5 the Mojave River. Instead, the project was approved to use
6 state water project water with bank ground water as a back-
7 up supply. Since the Commission approved the project in
8 2002, more recycled water has become available from the
9 Victor Valley Waste Water Reclamation Authority for both
10 Mojave River habitat needs and industrial uses. During the
11 last two years, the availability of State Water Project
12 water has diminished due to drought conditions and the
13 Delta Smelt Pumping Restrictions. This situation threatens
14 the future ability to operate the project. In order to
15 assure continued operation, High Desert has petitioned the
16 Commission to remove the prohibition against using recycled
17 water and receive approval to build a 1,700 foot pipeline
18 to begin using recycled water as soon as possible.
19 Initially, High Desert plans to receive about one-third of
20 their cooling water supply from untreated recycled water
21 sources. Their longer term plan is to build a treatment
22 facility in the future to enable them to use 100 percent
23 recycled water, or as close to 100 percent as feasible, as
24 determined by a feasibility study that staff is adding to a
25 revised condition. That covers the background.

1 I need to move through the specific revised
2 conditions. I know the agenda is packed, so I will try to
3 get through this as quickly as possible. Specifically, the
4 petition requests the following changes: modifying
5 condition soil and water 1 to remove the prohibition on the
6 use of recycled water, authorize construction of a recycled
7 water pipeline, and require a study to be completed by
8 December 31, 2011, to determine the feasibility of
9 converting to 100 percent recycled water use. Staff's
10 proposed modification for Condition Soil and Water 4 is to
11 eliminate water banking milestones because of the lack of
12 availability of State Water Project water, and move toward
13 the goal of converting project cooling supplies to 100
14 percent recycled water, or as close to that percentage as
15 is economically feasible, with backups of State Water
16 Project water and bank ground water. We are suggesting
17 adding a new Condition of Certification, Soil and Water 20,
18 to require that copies of the executive Recycled Water
19 Purchase Agreement be submitted prior to interconnection,
20 and add a new Condition of Certification, Soil and Water
21 21, to require that water metering systems be installed.
22 As far as staff's conclusions, we have determined that use
23 of recycled water by High Desert will not cause a
24 significant impact on Mojave River riparian habitat and it
25 will not result in a significant adverse direct or

1 cumulative impact to the environmental.

2 Regarding public review and comment, we have
3 received comments from Mr. Robert Sarvey dated October 21st,
4 in which he objected to the revised staff analysis based on
5 failure to meet two requirements of the California Code of
6 Regulations. Staff has reviewed his comments, we disagree
7 with his conclusions. If you would like to hear more about
8 Mr. Sarvey's comments and our conclusions, our attorney,
9 Kevin Bell, is available to respond to those items.

10 COMMISSIONER BYRON: Perhaps we will hear from
11 Mr. Sarvey first.

12 CHAIRPERSON DOUGLAS: I do not have a blue card
13 for Mr. Sarvey. Is anybody on the phone, or is he present?
14 It does not look like it.

15 COMMISSIONER BYRON: Okay. I do not mean to go
16 out of order, Madam Chairman, we can come back to those
17 comments as necessary, later.

18 CHAIRPERSON DOUGLAS: Right. Are you done Ms.
19 Allen?

20 MS. ALLEN: Yes. Staff finds that this petition
21 would comply with all laws, ordinances, regulations, and
22 standards, and that there are no significant environmental
23 impacts. We support the applicant's petition with our
24 proposed modifications.

25 CHAIRPERSON DOUGLAS: Thank you. Can we hear

1 from the Applicant?

2 MR. WHEATLAND: Yes, good morning. I am Greg
3 Wheatland. I am the attorney for the project owner and
4 with me this morning is Mr. Jon Boyer, he is the
5 Environmental Manager for the project. We appreciate the
6 staff's recommendation of approval of this proposed
7 amendment. We agree with the staff's proposed
8 modifications to the Conditions of Certification. We have
9 reviewed the Proposed Order and we concur with that Order.
10 So, with that, we are available to answer any questions
11 that you may have.

12 CHAIRPERSON DOUGLAS: Thank you. Questions?

13 COMMISSIONER BYRON: Madam Chair, we reviewed
14 this in siting committee, as you know, and I think the
15 staff has done a thorough job. These changes are really
16 consistent with the direction this Commission is headed,
17 eliminating water banking and the installation of a
18 recycled water line, I think, is wholly appropriate, and I
19 also have reviewed Mr. Sarvey's complaint and find that I
20 agree with staff's recommendation that they have been
21 addressed adequately in their evaluations. So without any
22 questions, I would recommend that we approve staff's
23 recommendation on Item 5 to revise the conditions of
24 certification?

25 MS. ALLEN: Yes.

1 COMMISSIONER BYRON: Correct. Thank you. So I
2 move the item.

3 CHAIRPERSON DOUGLAS: Thank you.

4 VICE CHAIR BOYD: I will second the item.

5 CHAIRPERSON DOUGLAS: All in favor?

6 (Ayes.)

7 That item is approved.

8 Item 6. Clean Energy States Alliance. Possible
9 approval of Contract 400-09-008 for \$82,943 with Clean
10 Energy States Alliance, to renew the Energy Commission's
11 membership for one year. Mr. Goncalves.

12 MR. GONCALVES: Thank you, Chairman,
13 Commissioners. My name is Tony Goncalves and I am the
14 Manager with the Renewable Energy Office. CESA is an
15 unprecedented, highly leveraged strategic alliance and
16 multiple public clean energy funds and state agency
17 programs working together to promote clean energy
18 technologies and expand the markets for these technologies.
19 By working together through CESA, the Clean Energy Fund
20 combined efforts for more effective strategies and joint
21 projects, while reducing the costs of consulting and
22 outreach needs of their individual state programs.
23 Currently, there are 17 clean energy programs as members of
24 CESA. The Energy Commission has been a longstanding member
25 of CESA since the organization's establishment in 2002. As

1 a member, the Energy Commission actively participates in
2 valuable information exchanges through monthly CESA update
3 calls that feature experts covering a variety of clean
4 energy topics through biannual in-person meetings that
5 provide an excellent opportunity to meet with leaders from
6 across the country who are also developing and implementing
7 renewable energy programs, RPS policies and, more recently,
8 preparing for the arrival of federal economic stimulus
9 funds for energy. The Energy Commission is also a member
10 of CESA's Executive Committee, which provides budget
11 direction to CESA and oversight to setting the agenda for
12 CESA's work products and priorities for the current and
13 upcoming year. CESA is advancing new multi-state efforts
14 from wind, solar, fuel cells, and other clean energy
15 technologies, and effective use of federal stimulus funds.
16 Members jointly support and ensure the costs for
17 administering and consulting services that CESA provides
18 its members, and work products by CESA. Joint projects
19 provide benefits to all members. Examples of these joint
20 projects are work designed to facilitate wind siting, the
21 multi-state collaboration in implementing the RPS, efforts
22 to link CESA members with federal agencies to develop
23 cooperative opportunities. Other benefits include efforts
24 with the federal stimulus in which CESA worked with key
25 Congressional leaders to ensure state energy program

1 funding was made available to states for investment in
2 clean energy projects, eliminating state matching
3 requirements and caps on use of the funding for project
4 deployment; the State Federal RPS Collaborative, in which
5 they helped develop recommendations for design of federal
6 RPS, and to ensure that any federal legislation does not
7 preempt states from advancing more aggressive targets.
8 CESA is developing recommendations for how federal climate
9 policy should ensure a primary role for states in deploying
10 new climate based funds for acceleration of energy
11 efficiency and renewable energy and market transformation.
12 CESA has been working on addressing the issues on whether
13 the use of feed-in tariffs is in conflict with PURPA, as
14 amended in the Energy Policy Act of 2005, and has been
15 providing advice and efforts to ensure Congress eliminates
16 these conflicts. CESA is working on developing a joint
17 effort with DOE for a marine energy deployment
18 demonstration project to demonstrate a new state federal
19 cooperative approach to advancing emerging renewable
20 technologies. CESA is also in the process of developing a
21 permit presence in Washington, D.C. CESA, in partnership
22 with Lawrence Berkeley National Laboratory and others
23 produce a number of case studies and reports that address
24 member needs, including issues dealing with finance and
25 design of residential PV, cost transfer installation of PV

1 systems, smart marketing and outreach strategies, RPS
2 issues, and the use of federal production tax credits for
3 wind power. Finally, the Energy Commission also has access
4 to additional consulting time dedicated specifically to
5 address Energy Commission needs.

6 This membership request was reviewed and approved
7 by the Renewables Committee and is on the list of
8 memberships approved as part of our work plans for this
9 fiscal year. Funding for the membership is from the
10 Renewable Resource Trust Fund. And, finally, staff asks
11 that you approve the membership with the Clean Energy
12 States Alliance.

13 COMMISSIONER LEVIN: Madam Chair and
14 Commissioners, I would just like to underscore the
15 importance of this membership. Even though it is a
16 membership, it really is an important service that CESA is
17 providing to us at a really critical juncture. As Tony
18 said -- I am sorry -- as Mr. Goncalves said, it not only
19 allows us to share all the great things we are doing in
20 California helping other states to adopt similar measures,
21 hopefully more quickly, but we are learning from other
22 states, we are not ahead in every area, as shocking that is
23 for California -- we are in most -- but there are lessons
24 for us to learn from other states, as well, where they are
25 starting to take the lead on certain issues. And I think

1 this year, in particular, with absolutely critical federal
2 climate and clean energy legislation, CESA provides a
3 clearing house and a forum for us both to participate in
4 shaping that legislation, and to get real time feedback
5 back about it. We do coordinate with the Air Resources
6 Board and others in our participation, and I think that
7 they would agree that this is a very helpful service that
8 CESA provides. So even though it is technically a
9 membership fee that we are paying, I consider it invaluable
10 at this point for the Commission, and really important to
11 continue participating with CESA and having their service
12 to us.

13 COMMISSIONER ROSENFELD: Is that a motion?

14 COMMISSIONER LEVIN: I move to approve.

15 COMMISSIONER ROSENFELD: Second.

16 VICE CHAIR BOYD: I would just like to comment
17 that, as the Commissioner who first worked with these
18 people as they formed CESA, and along with Commissioner
19 Geesman when he and I were the Renewables Committee, got us
20 to join CESA, and I would concur with all that I have
21 heard; it has proven to be a very valuable tool in terms of
22 an alliance of states all working for the same common
23 causes, so I intend to support this.

24 CHAIRPERSON DOUGLAS: Thank you, Commissioner
25 Boyd. All in favor?

1 (Ayes.)

2 That item is approved. Thank you, Mr. Goncalves.

3 MR. GONCALVES: Thank you.

4 CHAIRPERSON DOUGLAS: Item 7. City of Santa
5 Rosa. Possible approval of an amendment to extend the term
6 of loan number 002-08-ECD to the City of Santa Rosa. Mr.
7 Sugar.

8 MR. SUGAR: Thank you, Madam Chairman,
9 Commissioners, I am John Sugar with Commission staff. We
10 are coming to you with the recommendation that the loan to
11 Santa Rosa for waste treatment equipment and system
12 modifications be extended. The City has experienced some
13 delays in its procurement process for the new equipment.
14 We are finding this is becoming pretty common with water
15 and waste water treatment projects. It is a highly cost-
16 effective project. We believe that the state will benefit
17 from these modifications and ask your concurrence in
18 allowing us to extend this loan term.

19 COMMISSIONER LEVIN: I move to approve the
20 extension.

21 VICE CHAIR BOYD: Second.

22 CHAIRPERSON DOUGLAS: All in favor?

23 (Ayes.)

24 The item is approved.

25 MR. SUGAR: Thank you.

1 CHAIRPERSON DOUGLAS: Item 8. Digital Energy,
2 Inc. Possible approval of Amendment 1 to Contract 400-07-
3 026 with Digital Energy, Inc. to add \$500,000 and extend
4 the contract to March 31, 2011.

5 MS. CASTILLO: Good morning, my name is Joji
6 Castillo and I am from the Fuels and Transportation
7 Division. The purpose of this contract is to provide
8 architectural and engineering assistance to eligible
9 entities through our ECAA programs, mainly to improve
10 energy efficiency in existing and planned activities. The
11 primary contractor to this contract is Digital Energy, Inc.
12 We are seeking to extend this contract by a year to 3-31-11
13 and to augment it with \$500,000 in ECAA funding. We are
14 amending the budget to reflect the new funding and adding a
15 4 percent personnel rate escalation to the additional
16 calendar year of 2011. We are also revising the scope of
17 work to allow us to use a more streamlined report format
18 for the studies produced and, in addition, allow us to
19 provide independent project cost estimates to entities that
20 already have energy efficiency projects, but do not have
21 the resources needed to cost them out.

22 This item has been approved at the Efficiency
23 Policy Committee and we are seeking approval to amend this
24 contract.

25 CHAIRPERSON DOUGLAS: Thank you.

1 COMMISSIONER LEVIN: Move to approve.

2 COMMISSIONER BYRON: Second.

3 CHAIRPERSON DOUGLAS: All in favor?

4 (Ayes.)

5 This item is approved.

6 MS. CASTILLO: Thank you.

7 CHAIRPERSON DOUGLAS: Item 9. California Home
8 Energy Efficiency Rating Services. Possible approval of
9 California Home Energy Efficiency Rating Services (CHEERS)
10 as a Home Energy provider for HERS raters conducting field
11 verification and diagnostic testing. Mr. Holland.

12 MR. HOLLAND: Good morning, Madam Chair and
13 Commissioners. I am Jim Holland from the Building
14 Standards Implementation Office, and with me is Mark
15 Allatore [phonetic], who has been a key staff member in
16 this review. I have the next two related items on the
17 agenda. The first is a request for Commission approval of
18 California Home Energy Efficiency Rating Services, or
19 CHEERS, as a home energy rating system, or HERS for short,
20 provider for field verification and diagnostic testing for
21 the 2008 Building Energy Efficiency Standards. CHEERS was
22 previously approved as a HERS provider for the 2005
23 Building Standards, but was required by regulation to
24 return for approval for the 2008 Building Standards. After
25 a thorough review of their training materials, their

1 quality control program, and their database, staff has
2 determined that CHEERS meets the requirements put forth in
3 the HERS regulations Title 20, Section 1670 through 1675.
4 Based on this information, I ask that you approve CHEERS as
5 a HERS provider for field verification and diagnostic
6 testing for the 2008 Building Energy Efficiency Standards.
7 And the Efficiency Committee has approved this item.

8 COMMISSIONER BYRON: Just a quick question and
9 that is, I know we have done these before, the staff does a
10 thorough evaluation of these companies --

11 MR. HOLLAND: Yes, sir.

12 COMMISSIONER BYRON: Are there any companies that
13 do not meet our standards? Because we only hear about the
14 ones that do, correct?

15 MR. HOLLAND: Sir, we do have a third HERS
16 provider that is approved for the 2005 standards, they did
17 not quite meet our requirements for this business meeting
18 approval. We expect them to be approved in the near
19 future. So our vetting process did actually take one of
20 those out of the running for the current business meeting
21 until further review.

22 COMMISSIONER BYRON: Very good. Mr. Holland,
23 thank you. And you may not know this, but I abhor the
24 turning of names or, you know, phrases into acronyms into
25 words, however, this one, of course, lends itself so well.

1 Everybody knows their name. But if there are no further
2 questions, I would be more than happy to move the item.

3 COMMISSIONER ROSENFELD: Second.

4 CHAIRPERSON DOUGLAS: All in favor?

5 (Ayes.)

6 This item is approved.

7 MR. HOLLAND: Thank you.

8 CHAIRPERSON DOUGLAS: Item 10. California
9 Certified Energy Rating and Testing Service. Possible
10 approval of California Certified Energy Rating and Testing
11 Service as Home Energy Rating System provider for HERS
12 raters conducting field verification and diagnostic testing
13 to demonstrate compliance with the 2008 Building Energy
14 Efficiency Standards. Mr. Holland.

15 MR. HOLLAND: Thank you. This second item is a
16 request for Commission approval of California Certified
17 Energy Rating and Testing Service, or CalCerts, as a HERS
18 provider for field verification and diagnostic testing for
19 the 2008 Building Energy Efficiency Standards. CalCerts
20 was also previously approved as a HERS provider for the
21 2005 Building Standards, but was required by regulation to
22 return for approval for the 2008 Building Standards. After
23 a thorough review of their training materials, their
24 quality control program, and their database, staff has
25 determined the CalCerts meets the requirements put forth by

1 the HERS regulations Title 20, Section 1670 through 1675.
2 Based on this information, I ask that you approve CalCerts
3 as a HERS provider for field verification and diagnostic
4 testing for the 2008 Building Energy Efficiency Standards,
5 and this item has also been reviewed and approved by the
6 Efficiency Committee.

7 COMMISSIONER LEVIN: I am going to move for
8 approval, but I also wanted to clarify for Commissioner
9 Byron in response to his previous question, that we do not
10 necessarily find everyone eligible, and we have recently
11 had an enforcement proceeding where we found a contractor
12 with a conflict of interest, so staff is monitoring this, I
13 think it is important we communicate to newly certified
14 HERS raters what the conflict of interest regulations are,
15 so that they are clear, but with that caveat, unless
16 Commissioner Rosenfeld or someone else has a comment, I
17 would approve for approval.

18 COMMISSIONER ROSENFELD: Second.

19 CHAIRPERSON DOUGLAS: All in favor?

20 (Ayes.)

21 This item is approved.

22 MR. HOLLAND: Thank you very much.

23 CHAIRPERSON DOUGLAS: Thank you. Item 11 will be
24 held over to the December 2nd Business Meeting. Item 12.
25 Negative Declaration for Energy Efficiency Standards for

1 Televisions. Mr. Staack.

2 MR. STAACK: Good morning, Commissioners. My
3 name is Bill Staack. I am an attorney at the Energy
4 Commission, here. It is my pleasure to present Agenda Item
5 12 and 13, which is under Docket 09-AAER-1C. With me is
6 Mr. Singh, Engineer for the Commission, who has worked on
7 these two items. On January 15th, 2008, the Energy
8 Commission held a Scoping Workshop in which Pacific Gas &
9 Electric presented information on television energy
10 consumption. PG&E then submitted a proposal for television
11 efficiency standards on January 30th, 2008. On January 16th,
12 2008, and December 15th, 2008, pursuant to Government Code
13 Section 11346.45, the Energy Commission held two workshops
14 allowing parties who would be subject to the proposed
15 television standards to provide information on that
16 proposal. On September 18th, 2009, the Commission posted a
17 Negative Declaration for these regulations. The Energy
18 Commission also published a Notice of Proposed Action and
19 made publicly available the expressed terms and proposed
20 amendments along with an initial statement of reasons that
21 summarized and explained the rationale for the proposed
22 amendments. The Commission also prepared a fiscal and
23 economic analysis for the proposed regulations as required
24 by the Administrative Procedures Act. The proposed
25 regulations would amend the standards for televisions

1 operating in a standby passive mode, which we adopted on
2 January 1st, 2006. The proposed standards revised the
3 existing 3 watt Standby Passive Mode Power Usage Standard
4 to a 1 watt standard. The proposed standards also added an
5 efficiency standard for Maximum Active Power Mode Usage and
6 added a requirement that all televisions that use 100 watts
7 of power, or greater, to meet a 0.9 power factor standard.

8 The Notice of Proposed Action was provided to
9 every person on the Energy Commission's Appliance Mailing
10 List for Consumer, Audio, and Video Equipment on the
11 Commission's Appliance list server and to every person who
12 had requested notice of such matters. The Notice of
13 Proposed Action, the Initial Statement of Reasons, and the
14 Express Terms were also posted on the Energy Commission's
15 website.

16 On October 13th, 2009, the Energy Commission's
17 Efficiency Committee held a public hearing pursuant to
18 Government Code Section 11346.8 to accept both oral and
19 written comments on the proposed television standards. The
20 Commission received comments on the proposed regulations
21 through the end of the 45-day public comment period, which
22 was November 2nd, 2009. On November 4th, 2009, the Energy
23 Commission continued the hearing for the proposed adoption
24 of the television regulations to November 18th, 2009, in
25 order to give full consideration to the large number of

1 comments that we received on November 2nd, 2009. None of
2 those comments, and nothing else in the record, justified
3 any changes to the 45-day language that was published.
4 Therefore, staff recommends on the basis of the whole
5 record before it, including, but not limited to the initial
6 study prepared for Docket 09-AAER-1C, and all public
7 comments that were received, that there is no substantial
8 evidence that adoption of the September 18, 2009 Express
9 Terms would have a significant effect on the environment,
10 and 2) that the Negative Declaration reflects the
11 Commission's independent judgment and analysis.

12 The staff recommends that the Commission adopt
13 this Negative Declaration and Initial Study. Furthermore,
14 staff, after considering the entire record, including but
15 not limited to the adopted Initial Study and Negative
16 Declaration, and all relevant public comments, staff
17 recommends the Commission to adopt the Express Terms as
18 published on September 18th, 2009. Two motions will be
19 required for these adoptions by the Commission; the first
20 will be to adopt the Negative Declaration as we recommend;
21 the second would be to adopt the Proposed Standards as we
22 recommend. This is the end of my presentation. Staff is
23 available for any questions if you have.

24 CHAIRPERSON DOUGLAS: Thank you, Mr. Staack.
25 And, Commissioners, I recommend that we move ahead with

1 this item, the Negative Declaration and ask for the public
2 comment and the more detailed discussion of the substance
3 of the standards, with the next item, which is Item 13, and
4 the actual presentation of the standards.

5 COMMISSIONER ROSENFELD: I move the Negative
6 Declaration.

7 COMMISSIONER LEVIN: Second.

8 CHAIRPERSON DOUGLAS: All in favor?

9 (Ayes.)

10 This item is approved.

11 Item 13. Energy Efficiency Regulations for
12 Televisions. Mr. Staack? Mr. Singh?

13 MR. SINGH: Staff, after considering -- this is
14 Harinder Singh, I am sorry, from Appliance Efficiency
15 staff. Staff, after considering the entire record,
16 including, but not limited to the adopted initial study and
17 Negative Declaration, and all other relevant comments,
18 staff recommends the Commission to adopt the Express Terms
19 for the 45-day language, as published on September 18th,
20 2009. Thank you.

21 CHAIRPERSON DOUGLAS: I have two blue cards
22 indicating an interest in public comment. If there is
23 additional interest in public comment, please let the
24 Public Advisor know and fill out a blue card so I can call
25 on you.

1 COMMISSIONER ROSENFELD: Madam Chairman, since --
2 I want to take an opportunity to thank the staff and then
3 Commissioner Levin has some clarifications to make, so I am
4 going to take this opportunity to make a few remarks now
5 and pass it on to Commissioner Levin if that is okay.

6 CHAIRPERSON DOUGLAS: Please.

7 COMMISSIONER ROSENFELD: First of all, this has
8 been a long proceeding with people working very hard, on
9 furlough days notwithstanding, and I want to thank Harinder
10 Singh and Ken Rider and Valerie Hall, the head of the
11 Energy Efficiency Division, who is ill today. And I want
12 to thank our hardworking lawyers, Bill Staack, Dennis Beck,
13 and, recently, Pippin Brehler. Of the Communications,
14 Susanne Garfield and Adam Gottlieb. My advisors, David
15 Hungerford and Devorah Eden. Commissioner Levin's
16 Advisors, Susannah Churchill and Jim Bartridge. For very
17 effective backup from the National Resources Defense
18 Council, Noah Horowitz. Commissioner Levin, who ran things
19 while I was under the weather, and Chairman Douglas, who
20 has become our TV star. Also, thank you, guys and gals. I
21 do have a couple of little comments.

22 It is a grateful day in California and a little
23 bit about the role of televisions in modern electric
24 demand. From way back in 1975, televisions limped along at
25 about 3,000 -- 3 billion kilowatt hours a year. You may

1 remember those televisions, they were cathode ray tubes.
2 The flat screens came in with taking a fair amount of
3 energy more, and taking a fair amount more of them so that,
4 starting around the year 2000, the usage went up from 3
5 billion kilowatt hours a year to about 10 billion kilowatt
6 hours a year, three or four times. And it is now
7 approaching 10 percent of residential energy use and a
8 significant fraction of commercial energy use, although I
9 do not know that number. And I think that anything which
10 approaches 10 percent is going to get looked at, and this
11 was timed to do that. What we discovered is a couple of
12 interesting things, first of all, the flat time from 75 to
13 2,000 corresponded to using about one power plant; we are
14 now up to about three power plants, and we discovered that
15 the first tiered requirement to reduce energy use by 30-33
16 percent did not seem to cost anything. The energy hogs on
17 the market were as expensive as the thousand models on the
18 market which now comply with the 2011 proposed standards.

19 So we have come out with two tiers of standards
20 for 2011, a savings of 33 percent, for 2013, Tier 2, a
21 savings of 50 percent. By the time that is kicked in, in
22 2013, we should be saving one whole power plant, saving
23 something between \$100 and \$200 per TV in bills with, I
24 repeat, no first cost, and it looks like it is a very good
25 deal for society. So given that, Commissioner Levin has a

1 few clarifications to make.

2 COMMISSIONER LEVIN: Chairman, if I may, I would
3 like to make a few clarifications, and then I will reserve
4 my other comments until after the public comments that we
5 receive. I would like to address three matters that have
6 come to us recently, questions and concerns about the
7 proposed rule. The first concerns the scope of the
8 Declaration and Labeling Requirements in Section 1606,
9 subdivision A4 of Title 20. Under the proposed 45-day
10 language, although these declarations will only be required
11 for manufacturers, some manufacturers have questioned
12 whether these declarations encompass statements made by
13 retailers. The clear intent of the proposed 45-day
14 language is not to encompass statements made by retailers
15 within the scope of the declarations of compliance with the
16 regulations. And nothing in the record of the proceeding
17 indicates otherwise. If these concerns persist, the
18 Efficiency Committee has the authority to re-open or to
19 open a subsequent rulemaking in which appropriate changes
20 can be proposed, but we have concluded, in light of the
21 record and this restatement of the intent of the proposed
22 regulations, that these concerns, if indeed they still
23 exist today, do not justify delaying adoption or
24 consideration of adoption of the rule.

25 Second, our technical staff, as our attorney, Mr.

1 Staack, has said earlier, our technical staff and legal
2 staff have reviewed the comments that we have received,
3 which have been voluminous over the last two years, and
4 particularly toward the end of the public comment period,
5 thousands of pages our staff have reviewed very very
6 carefully, and their assessment is that there is nothing in
7 the comments that justifies revisions to the rule as
8 proposed in September, September 18th.

9 Third, in the event that the Federal Department
10 of Energy, the U.S. Department of Energy, changes its test
11 procedure, or adopts its own energy efficiency standard for
12 televisions, our standard would be preempted. There has
13 been some confusion about whether there may be two
14 competing standards by federal law, and this is true with
15 all of our Appliance Efficiency Standards, when the federal
16 government adopts a standard, it basically takes our
17 standard out of effect. Because that is the case always
18 with Federal Efficiency Standards, we do not feel a need to
19 put that in each efficiency standard that we propose in
20 California. But I hope that this responds to some of the
21 questions that we believe are clear in the current draft,
22 current proposed regulation. And I will reserve further
23 comments, editorial comments of my own, until after public
24 comment.

25 CHAIRPERSON DOUGLAS: Thank you, Commissioner

1 Rosenfeld and Commissioner Levin. I have still two cards.
2 I will call up the first speaker, Gary Fernstrom with PG&E.

3 MR. FERNSTROM: Good morning, Chairperson,
4 Commissioners, staff, interested parties. I am Gary
5 Fernstrom from the Pacific Gas & Electric Company.

6 COMMISSIONER BYRON: Mr. Fernstrom, are you on
7 the phone? You have your Bluetooth hanging from your ear.
8 I am curious if you are on the phone.

9 MR. FERNSTROM: No, I am not on the phone. I
10 will take it off. I am sorry. PG&E has supported and
11 advocated for the adoption of these television standards
12 for over two years. It, of course, supports voluntary
13 incentive programs and has currently an operation, an
14 incentive program for premium efficiency television sets at
15 retail. But PG&E also recognizes the importance of energy
16 efficiency standards to bring up the bottom of the market
17 to a reasonably acceptable level of efficiency. That is
18 why we have both Incentive and Codes and Standards
19 Programs. This standard is supported not only by PG&E, but
20 the other states' investor-owned utilities which would be
21 the Southern California Edison Company and the San Diego
22 Gas & Electric Company, as well as most of the publicly-
23 owned utilities in the state, which would include SMUD, the
24 Northern California Power Association, and the Southern
25 California Power Association. We would very much like to

1 recognize and appreciate the hard work of the Energy
2 Commission staff on this item, as well as the contribution
3 of Noah Horowitz from the Natural Resources Defense
4 Council, and Alex Chase from Energy Solutions, our
5 consultant on this issue. This has received more
6 consideration, in our opinion, than any other appliance
7 standard we have been involved in. It has certainly been
8 thoroughly reviewed and I think is well thought through.
9 This represents an important advance for the State of
10 California in terms of reaching its energy efficiency and
11 environmental goals, it is also an important milestone for
12 the nation. That being considered, we recommend adoption.
13 Thank you.

14 CHAIRPERSON DOUGLAS: Thank you very much. And
15 next, Noah Horowitz, with the Natural Resources Defense
16 Council.

17 MR. HOROWITZ: Good morning, Chairwoman Douglas,
18 Commissioners, Staff. My name is Noah Horowitz and I am a
19 Senior Scientist with the Natural Resources Defense
20 Council. We have been, as you know, very active throughout
21 this two-year proceeding, and we are here happily to
22 express our strong support for adoption of the proposed
23 standards, as drafted. As we have heard from others, the
24 estimated benefits are massive, as we will save
25 Californians close to a billion dollars a year in the form

1 of lower electric bills, and we will save as much
2 electricity as that consumed by all the homes in Oakland
3 and Anaheim combined. The technology is already here, as
4 demonstrated by the more than 300 models that already meet
5 the 2013 standard, which is three plus years away. So, in
6 closing, we urge prompt adoption of the standards, and
7 although we are not here to talk about it today, we urge a
8 follow-on rulemaking for the TVs that are greater than 50-
9 inches in size, those appropriately are not part of today's
10 proceeding, but those are coming down in cost and the TVs
11 are getting bigger all the time, so we need to make sure
12 those do not take off on us. Lastly, I would like to
13 acknowledge the leadership and support by PG&E and the
14 other utilities in the state, and also their consultant,
15 Alex Chase, who does work 24 hours a day, I have learned.
16 Also, Visio, who is one of the largest makers of flat panel
17 TVs, they are the lone manufacturer that had the courage to
18 stand up and say, "We're meeting these standards, this is
19 the right thing to do," and we wanted to acknowledge that.
20 Also, the CEC staff has been tireless, and this proceeding,
21 while it has taken longer than we would like, we commend
22 the CEC for the transparency, they have had four public
23 workshops, every document is available to the public, and
24 everybody has been given their fair share to talk. So
25 thank you very much, and we urge prompt adoption.

1 CHAIRPERSON DOUGLAS: Thank you very much, Mr.
2 Horowitz. Is there any additional public comment at this
3 time? Very well. Questions or comments from
4 Commissioners?

5 COMMISSIONER LEVIN: Commissioners, if I may, I
6 seem to have caused some confusion. I thought be reading
7 the statement, I would avoid it, but if I neglected to
8 mention on the federal preemption issue, the third issue
9 that I raised earlier, if the federal government adopts a
10 different test procedure than California, and/or different
11 standards, California would be preempted. In other words,
12 we would have to comply with the federal test procedure, as
13 well as a federal standard, so there will not be dueling
14 test procedures, or dueling standards, if and when the
15 federal government acts in this area. Having said that, I
16 will say I think it is quite clear that we have a very
17 cooperative relationship with the U.S. Department of
18 Energy. Quite recently, they withdrew their antiquated
19 test procedure, not coincidentally in anticipation of our
20 consideration of this proposed rule. So we do not
21 anticipate there being a conflict there, but if there ever
22 is, we are the ones who are federally preempted on both the
23 test procedure and the standard. I hope that is more clear
24 now.

25 I, too, would like to add my thanks to staff, Mr.

1 Staack, those of you who do not know, has been absolutely
2 invaluable to the Energy Commission over many decades. I
3 am incredibly sad I have not had longer the pleasure of
4 working with him because he will be officially retiring
5 quite soon, but I am glad that he was able to see this
6 particular rulemaking through, hopefully, to the conclusion
7 today. Bill, you have been just a phenomenal pleasure, a
8 source of information, good analysis. We really will miss
9 you terribly. Having said that, you are leaving many many
10 capable people behind, which is good -- Mr. Singh, Dennis
11 Beck, Valerie, Bill Pennington, I mean, the list is very
12 long, the Media staff. It has taken a lot of people to get
13 us to this point because there has been a great deal of
14 stakeholder interest, a lot of comments received, we have
15 held several workshops, a formal hearing. We have really
16 thoroughly vetted this proposed rule, actively sought out
17 and considered every bit of information, comment,
18 suggestion from all different stakeholders throughout the
19 long process and I think we cannot thank staff enough for
20 doing this, and many of the same staff have been just
21 incredibly overloaded with stimulus-related work, ARRA
22 work, other work, so this has really been quite an
23 important and impressive feat. And I really thank you all
24 very sincerely. I do also want to thank PG&E for being the
25 first utility, the first entity of any kind, to step

1 forward and suggest that this is an important area for the
2 Commission to look at. We are authorized by law to
3 consider Efficiency Standards for any appliance that
4 consumes a significant amount of energy. I think, by any
5 reasonable definitions, an appliance that is approaching 10
6 percent of residential electricity consumption is a
7 significant drawer of electricity and warrants an Energy
8 Efficiency Standard where it is cost effective. All the
9 data that we have received shows that not only is this
10 cost-effective, as Mr. Horowitz said, and Commissioner
11 Rosenfeld and others, it will save consumers \$8.1 Billion
12 when fully implemented. That is an enormous amount of
13 money that gets pumped back into California's economy. In
14 addition, it avoids the need for a 615 megawatt power plant
15 that saves us another nearly billion dollars for ratepayers
16 in California. It avoids 3.5 million metric tons of
17 greenhouse gas emissions. It is a critical piece of our
18 climate change emissions reduction strategy in California,
19 as are appliance standards, generally. I could go on and
20 on, but the benefits are enormous.

21 One of the benefits I think we need to talk about
22 more, though, is the benefit to California's economy and
23 our growing clean tech sector. The Governor says very very
24 eloquently that clean energy in California is the spark
25 that will ignite our economic recovery. It will be the new

1 Silicon Valley, except this time it will be Energy
2 Efficiency Technologies and Renewable Energy Technologies,
3 and I really appreciate not just Visio, but the many
4 component manufacturers and others who came forward over
5 the course of our workshops and our hearing to say, "We
6 have just developed this great new technology, this great
7 new component," we heard about many many different
8 technologies in development, mostly in California, I am
9 proud to say, but a few from Texas and other states, as
10 well, we will take those, too, we will take our savings
11 wherever we can get them. But, clearly, there is a lot of
12 innovation in the television industry and the component
13 industry, and we are thrilled to see it, and we have every
14 confidence that this industry will be able to meet the rule
15 and then some, and that this will spark new innovation and
16 new jobs in California. As I said, we would not move
17 forward on this rule if we thought there was any evidence
18 in the record that it is not cost-effective, we believe
19 quite the opposite, that it will save consumers money, it
20 will help protect public health, and it will spark new
21 innovation and new jobs and new industries in California.
22 So, again, thank you to the staff, to Noah Horowitz, you
23 have been an amazing source of information and really been
24 very very helpful to us, and PG&E and other utilities, as
25 well -- as well as the companies that have come forward for

1 or against the rule, it has been very helpful to get your
2 input, and we value it, and we look forward to continuing
3 to work together on implementation, as well as Phase 2.

4 COMMISSIONER ROSENFELD: I just want to add,
5 since Bill Staack is talking about retiring, he has been
6 particularly valuable to the Standards Group because he
7 actually has an engineering degree. But I think I am right
8 that Pippin Brehler, who is stepping up, also has an
9 engineering degree, so we are going to go on strong as
10 ever, but thank you, Bill.

11 COMMISSIONER BYRON: Oh, that puts the attorneys
12 in a whole new light, Commissioner. Thank you for that.

13 COMMISSIONER ROSENFELD: Well, we have two of
14 them on the dais.

15 VICE CHAIR BOYD: Yes, spoken like a true
16 engineer, Commissioner Byron. Well, I would like to join
17 in and make some comments here. First, my hats off to the
18 staff, I think they have done an absolutely incredible job.
19 And I will join in the accolades to Mr. Staack because, as
20 he reminded me last night, he and I go back many many
21 decades now to the Air Resources Board when we were both
22 there pursuing very similar types of goals as is being
23 achieved here, keeping California in the forefront of
24 pursuing the best technologies available for its citizens.
25 As the second longest serving Energy Commissioner here, Dr.

1 Rosenfeld to my left being the longest, and probably
2 setting a record that I cannot keep up, and having been the
3 father, if not godfather, of efficiency, I am thankful to
4 he and to Commissioner Levin for their work on the
5 Efficiency Committee. I am thankful to our Chair, who
6 stepped forward to represent us in front of the Legislature
7 and other seemingly adversarial forums that existed with
8 regard to this item. It is absolutely undeniable, the
9 benefits that this item has for the people of California.
10 Efficiency in the energy business, and that is not limited
11 to electricity, but that is what we are talking about
12 today, is job 1 in California, that is a part of our Energy
13 Action Plan that guides us in our Annual Integrated Energy
14 Policy Reports, it has received support from the Governor
15 and the Legislature that efficiency is the cheapest,
16 simplest way to serve this state, and to save our citizens
17 money, and to provide the quality of life that we need to
18 continue to drive our economy, and this just adds another
19 chapter to that book, which has California being the lowest
20 per capita consumers of electricity in the nation. And
21 that is highly due to the work of this Commission, long
22 before I arrived here, on Building Efficiency and Appliance
23 Efficiency Standards. And this agency was famous for that
24 work long before I found myself also serving the energy
25 cause. So I just want to commend the staff for this great

1 work. I commend them for taking the additional time
2 necessary to totally document and prove to folks that this
3 is cost-effective, that the citizens of California will
4 benefit greatly from this, that most of the comments about
5 what would happen to the economy or to jobs or businesses
6 were totally incorrect, and I am just pleased that we are
7 finally at a point where we seem likely today to move
8 forward.

9 COMMISSIONER BYRON: Madam Chair? I am certainly
10 going to support this item. You know, this Commission does
11 a number of things very well, this is one of the things we
12 do exceptionally well, and that is developing Energy
13 Efficiency Standards, in this case for appliances. We have
14 a long track record of this, as my fellow Commissioners
15 have indicated. And that track record, I think, speaks for
16 itself. The staff does an excellent job on this. I have
17 thoroughly reviewed the standards and the supporting
18 material and the comments, at least summaries of the
19 comments. And I find the standards to be consistent with
20 our other Appliance Standards, reasonable, and they have
21 considerable savings for consumers, and certainly
22 achievable technically. So I am going to support adoption
23 and, with my thanks to the staff and all of their efforts
24 and their work on creating and vetting these with the
25 public, and it is interesting how much interest this

1 particular set of standards did create in the press, so I
2 think I would like to speak momentarily to the lobbyists
3 and to the members of the press who have cared to make this
4 into a newsworthy story. This is business as usual at the
5 Energy Commission. I look forward to moving on to things
6 like the recommendations, the policy recommendation that we
7 will be making in our Integrated Energy Policy Report here
8 at this commission in a couple of weeks, that I think will
9 have also far reaching and significant impact on the
10 residents of the state. I hope they find some of those
11 policy recommendations as newsworthy as this. My special
12 thanks to Commissioner Levin, who has carried this in her
13 first year here at the Commission, and fully understands
14 the implications and benefits of these standards. But
15 really to Commissioner Rosenfeld, who I think we all know
16 that we will begin the countdown towards the number of
17 business meetings over which he will be presiding in his
18 last few months here at the Commission, Commissioner, these
19 are peanuts by comparison to the many accomplishments that
20 you have achieved over your many years on this Commission,
21 and prior to your being on this Commission, in terms of
22 energy efficiency savings. These are but one more stone in
23 a giant wall that you have built, and I certainly want to
24 thank you for that. It is sad to think that these may well
25 be the last standards that you will be voting on here at

1 this Commission, but I would like to thank you, as well,
2 for your work on this, but also really -- about how many
3 years? Thirty-five years of work on this particular issue.

4 COMMISSIONER ROSENFELD: Well, I am inclined to
5 make one remark, but thank you, Commissioner Byron. The
6 first standard that I got involved in was refrigerator
7 standards. Now, of course, there was a lot of low hanging
8 fruit in those days, but here we are very proud of
9 deferring one power plant. The refrigerator of 1973 used
10 about 2,000 kilowatt hours a year, it was about 20 percent
11 of a household's electricity, it was the first one
12 addressed; usage is now down to 400, which is down to a
13 quarter. The number of power plants not used in California
14 is about eight. The savings per year is about \$8-10
15 billion, which we are putting into economic development.

16 COMMISSIONER BYRON: And during that time,
17 refrigerators got cheaper and bigger and had more features
18 and met consumers' interests far better than we ever could
19 have imagined.

20 COMMISSIONER ROSENFELD: Right. That is a very
21 important point and I will restate it. Standards are
22 usually adopted with the idea that the price is going to go
23 up a little bit, but you will save more on your electricity
24 bill. But what actually happens is the manufacturers all
25 make new assembly lines, they put in all the modern

1 technology that has come up since the 30-year-old assembly
2 line was done, they put in numerical controls, they put in
3 better insulation, and so on, and the price of a
4 refrigerator, instead of going up through the roof, is down
5 to one-third, as you have just said. So I think the same
6 thing will happen with TVs, more modern plants will produce
7 more efficient -- it is not really the TV, it is the flat
8 screen. So thank you very much.

9 CHAIRPERSON DOUGLAS: Well, thank you. And I
10 would like to make a few brief comments before calling this
11 item. I would like to add my thanks to the thanks to
12 staff. I do not usually get to work closely with
13 Efficiency staff in day to day work at the Commission, and
14 this item has led me to spend many long hours with
15 Efficiency staff, and it has been a great experience. I
16 have been impressed with the quality of their work, the
17 thoroughness of their work, and their dedication to their
18 work. So I thank you and, in particular, Mr. Staack, who
19 unfortunately is retiring, but who has made tremendous
20 contributions here. And I know that we have a very strong
21 team moving forward, as well.

22 Commissioner Levin, I would like to thank you for
23 your hard work on this issue and for really stepping up to
24 the plate, and of course Commissioner Rosenfeld for showing
25 all of us the way on energy efficiency throughout your

1 career, and before it was a household word and a recognized
2 term and approach, you are a legend in this field, and I am
3 very proud to have had the opportunity to serve on this
4 Commission with you. I think all of us would say that. So
5 thank you very much for your work and I am very pleased
6 that we were able to get these standards to this point on
7 your watch. I think it is a tremendous contribution to
8 make as we are in the last few months of your term with us
9 on this Commission.

10 COMMISSIONER ROSENFELD: Thank you, Commissioner
11 -- Chairman.

12 CHAIRPERSON DOUGLAS: With that, I will just
13 summarize, I strongly believe that Californians deserve to
14 have TVs that have a reasonably good energy efficiency
15 performance, and that is what these standards will do.
16 This is a consumer protection measure, this is a measure
17 that will protect the environment, and it will save us from
18 building a power plant, but a massive new power plant, that
19 again will save consumers money and will protect the
20 environment. So it is a very good standard, it is a very
21 reasonable standard, and the benefits to Californians will
22 begin to be felt almost immediately. So I am very pleased,
23 as well, to offer my support for these standards. A
24 motion?

25 COMMISSIONER BYRON: One more question, I

1 suppose, for Commissioner Rosenfeld. What happened to
2 those refrigerator standards that we developed here within
3 California? How were they received at the federal level?

4 COMMISSIONER ROSENFELD: The first three
5 iterations going down were California, and then the Feds
6 took over, but it is interesting that they affected the
7 whole country right away because it was so easy in those
8 days to improve the efficiency of refrigerators that, after
9 the California standards were made, all of the
10 manufacturers changed their assembly lines and no
11 refrigerator was made in the United States which did not
12 comply with the California standards.

13 COMMISSIONER BYRON: Thank you, Commissioner.

14 COMMISSIONER ROSENFELD: I think it is about time
15 to move the item.

16 COMMISSIONER LEVIN: Second.

17 CHAIRPERSON DOUGLAS: Was that a motion?

18 COMMISSIONER ROSENFELD: That was a motion.

19 COMMISSIONER LEVIN: I second it.

20 CHAIRPERSON DOUGLAS: And I have a second. All
21 in favor?

22 (Ayes.)

23 That item is approved. Thank you, Commissioners.

24 COMMISSIONER ROSENFELD: Thank you,
25 Commissioners. [Applause.]

1 MS. JONES: If I could just note for the record
2 that this is a great birthday present for Bill--. It is
3 his birthday today, so happy birthday [applause].

4 MR. STAACK: Thank you.

5 CHAIRPERSON DOUGLAS: Happy Birthday, Bill. Item
6 14. Minutes. Approval of the November 4th, 2009 Business
7 Meeting Minutes.

8 VICE CHAIR BOYD: Move approval.

9 COMMISSIONER ROSENFELD: Second.

10 CHAIRPERSON DOUGLAS: All in favor?

11 (Ayes.)

12 That item is approved.

13 Item 15. Commission committee presentations and
14 discussion.

15 VICE CHAIR BOYD: You know, I have a lot of items
16 to mention, but for some reason, today I do not feel like
17 spending any time on that. We will talk about them next
18 time.

19 COMMISSIONER LEVIN: The Efficiency Committee may
20 take a vacation -- abstain.

21 VICE CHAIR BOYD: For the afternoon.

22 CHAIRPERSON DOUGLAS: Very well. Item 16. Chief
23 Counsel's Report.

24 MR. BLEES: Thank you, Chairman Douglas and
25 Commissioners. I am going to take a few brief moments to

1 echo the praise that has been offered and provide a few
2 additional details. First, I guess I do need to
3 acknowledge that I am one of those lawyers without an
4 engineering degree, however, my undergraduate degree is
5 from the Leland Stanford Junior University, along --

6 VICE CHAIR BOYD: You could have gone all day
7 without saying that.

8 MR. BLEES: Along with a law degree from a
9 certain East Bay institution. A lot of mention has been
10 made of the hard work that everybody from Commissioners
11 through the lawyers and the technical staff, as well as
12 folks on the outside, have put in. In that regard, this
13 morning I kind of slacked off, I did not turn on my
14 Blackberry until after 5:30 A.M., but I immediately noticed
15 an e-mail exchange between Dennis Beck and Ken Rider on an
16 important matter relating to this proceeding that had taken
17 place around 3:30 in the morning. Second, I want to echo
18 the thanks given to PG&E. You might recall a few weeks ago
19 the Commission won a victory in the Ninth Circuit
20 concerning our Wire Efficiency Standards for residential
21 clothes washers. PG&E was also instrumental in that, in
22 fact, it was Energy Solutions, the same consultant who
23 helped out on the TV standards, that provided a great deal
24 of the technical work, both in the Energy Commission's
25 adoption proceeding on the clothes washer standards, as

1 well as the work that we did at DOE.

2 Finally, I want to echo what a privilege it has
3 been to work with Commissioner Rosenfeld. Thank you very
4 much for the guidance and the inspiration that you have
5 given and for the always plentiful supply of Costco snacks
6 in your office.

7 COMMISSIONER ROSENFELD: You are welcome. With
8 pleasure.

9 VICE CHAIR BOYD: Something else to be known for,
10 Commissioner.

11 MR. BLEES: And then finally, with regard to Bill
12 Staack, Commissioner Levin mentioned the importance of
13 DOE's action in repealing their antiquated television test
14 method as a factor in allowing this Commission to move
15 forward; Bill Staack spearheaded that effort and left his
16 colleagues slack-jawed at his amazing success. Basically,
17 he wrote a letter explaining a complicated series of
18 maneuvers that DOE should go through, you know, A, B, C, Q,
19 S1, T3, and so on, and within a few weeks, DOE did every
20 single one of those things. So he should be --

21 COMMISSIONER ROSENFELD: While you are at it, I
22 want to thank Henry Kelly at DOE for shepherding that
23 orchestrated event.

24 MR. BLEES: And finally, you know, while it
25 certainly is -- it is going to be sad to have Bill leave,

1 although I am researching the authority of the Chief
2 Counsel to refuse to sign an employee's retirement papers,
3 and also this has reminded me that I really do miss being
4 in the trenches of Efficiency Standards. There is nothing
5 that pleases a supervisor more than to see a supervisee's
6 excellent work rewarded. So well done, Bill.

7 CHAIRPERSON DOUGLAS: Thank you, Mr. Blee.
8 Executive Director's Report?

9 MS. JONES: I will make a short report this
10 morning. I just want to thank the staff that worked on the
11 TV Standards, as well as the staff who are working day and
12 night on siting cases, on getting ARRA funds out the door,
13 and in maintaining our programs under the challenging times
14 that we are facing today, and I just want everyone to know
15 that it does not go unnoticed that staff are working beyond
16 the call of duty. So thank you.

17 CHAIRPERSON DOUGLAS: Thank you.

18 COMMISSIONER BYRON: If I may, Ms. Jones? Thank
19 you for that. And it does not go unnoticed amongst the
20 Commissioners either. But I would like to, since we have
21 pretty much emptied the room here, would like to make
22 particular note of the Communications staff and the job
23 that they did on these TV Standards. Just exceptional the
24 way they have managed the message here and gotten factual
25 information out for editorialists and editorial boards and

1 such, just an exceptional job, and this is exactly the kind
2 of thing we look for from our Commission to make sure that
3 the Communication is accurate and effective, and I think in
4 this case we won the day in terms of getting information to
5 the public that was useful. So my accolades to them.
6 Thank you very much for their hard work. And we will give
7 more accolades to the siting committee -- I am sorry -- the
8 siting staff and the ARRA staff at another time.

9 VICE CHAIR BOYD: I would note our Communication
10 staff, while listening, with one ear busy still carrying
11 out that responsibility for us.

12 CHAIRPERSON DOUGLAS: Item 18, Public Advisor's
13 Report.

14 MS. McMAHON: Good morning. I do have a few
15 items today. In concert with the rest of the conversations
16 that have gone on before, and particularly because of the
17 fast track projects that we have in Siting, and also as
18 part of the Public Advisor's Office Program Development
19 that we have been going through for the past year, we went
20 through and identified all the tasks that we have to do
21 that are connected with putting on our outreach and our
22 noticing for the site visits, and we have over 150 major
23 tasks in order to do the outreach, find the right media
24 people to work with and, you know, get the noticing out.
25 And I wanted to point that out and I wanted to say that our

1 critical path on that at the moment is the Translation
2 Services, and that really creates our time schedule. Right
3 now, because of the NEPA projects and the BLMs need to have
4 their noticing to meet the NEPA requirements of 14 days,
5 that puts an additional strain on the requirements in the
6 Public Advisor's Office. The BLM staff is relying on the
7 Energy Commission to do the outreach, which places a larger
8 burden than typical, also, on the Public Advisor's Office
9 in terms of who they outreach, how they outreach, and the
10 timing of the outreach. And so we are aware of all that
11 and we are scheduling that into our planning schedule.
12 Aspen has been real responsive to those translation needs
13 and I wanted to point that out because typically they
14 require three to five business days; yesterday I sent them
15 a translation and asked for it back today, so I think they
16 will be able to do it, that is the fastest one I have given
17 them yet, but they have been real responsive. I also
18 wanted to point out that on Monday I have a new hire
19 starting, his name is Jim Davis, so he will be able to help
20 alleviate some of our workload in there, and he comes from
21 the private sector.

22 COMMISSIONER BYRON: How many languages does he
23 speak?

24 MS. McMAHON: Unfortunately, no languages, but
25 one of our students is --

1 COMMISSIONER BYRON: Well, hopefully English.

2 MS. McMAHON: Well, yeah. He is experienced in
3 coordinating with the public, he also has project
4 management background, which will be good with the
5 interface with the siting. And then, lastly, the alluded
6 to new Public Advisor website that I have been very hopeful
7 is going to be online soon, I have been told, will be
8 online Thursday by the end of the day Thursday this week,
9 so I have got my fingers crossed and wanted to inform you
10 of that. Thank you.

11 CHAIRPERSON DOUGLAS: Thank you very much. Now,
12 we have one member of the public who has very patiently sat
13 through a long business meeting, so before we adjourn, I
14 would like to ask Steve Nielson to come forward.

15 MR. NIELSON: Madam Chairman, thank you very
16 much. Actually, I have learned a lot just patiently
17 waiting about the CEC. My expertise is in Municipal
18 Finance. I am here today representing two clients who have
19 applied for the CEC 1 percent loan program, Yolo County and
20 Fallbrook Public Utility District, which is a small water
21 district in San Diego County. Both of those districts have
22 applications in for this loan program for 1 megawatt solar
23 tracking projects, and have asked me to provide some
24 comments today. It has been longer than this, but I think
25 it has only been about seven weeks since the application

1 was filled out, and we have been in this process, this
2 negotiation with staff, and I just wanted to quickly, since
3 this is nothing on the agenda, but provide one observation
4 and then just make two requests, and they are really
5 pleased for help on behalf of my clients. The observation
6 is that the loan was promoted on the website, and certainly
7 one of the key reasons why I recommended my clients go
8 after this funding as a component to the overall financing
9 for their solar projects, it was promoted as a simple
10 promissory note and an unsecured note, and there was also
11 language to the effect that a fairly quick process -- I
12 think there was 15 days to get back. And for reasons
13 mentioned, namely, you know, staff is working on a lot of
14 projects and limited resources, and furloughs and
15 everything else, I understand that, how things practically
16 work out. So there have been some frustrations. I would
17 say that the communication is greatly improved in the last
18 several days. But with regard to that observation, in
19 going through the reviews with staff, there was first
20 engineering and they provided data that these tracking
21 systems really do produce kilowatt hours at these efficient
22 levels, and that progressed, and there was data that we had
23 to provide; next was legal review, and in that legal review
24 -- this is the observation -- the program is departing in
25 my view from a policy that is simple promissory note. Yolo

1 County has the ability to shift around or respond to the
2 comments that Legal is looking for as a condition of going
3 forward on the loan, but it essentially requires that the
4 other lender in this project not have security on certain
5 assets. Rather than get into that detail, I think that my
6 request is that the District -- or that the Commission keep
7 the policy intact, that it is a promissory note, it is
8 unsecured, and it works very very easily with other sources
9 of funding. So that is the observation. The other request
10 is just, both of these districts have the goal, and one has
11 some financial -- economics at stake, but they both have
12 the goal of getting these solar projects on line by the
13 summer of 2010, and we have been hoping to get on business
14 meetings starting as early as December 2nd, and I understand
15 there is a protocol, a long lead time for all of that. We
16 are down to one last issue, we are awaiting a letter from
17 staff dictating that the NEPA requirements that have to be
18 met, namely that these projects will be exempt from that
19 process, or taking steps to obtain that exemption. So my
20 request is I understand the deadline for the December 30th
21 business meeting was yesterday. I have gotten lots of
22 indication from staff that these projects will be approved,
23 they are good projects, they meet the criteria of the
24 program, but it is not your procedure to approve a loan
25 subject to a condition of any outstanding conditions, and

1 just given the long lead times, I would ask that the
2 Commission maybe consider an exception to that policy and
3 allow us to get on the December 30th Board Meeting. And the
4 other request is that we have been proceeding -- the loan
5 program, I would call it time stamped, but it was a first
6 come, first serve, there was a feasibility report, and
7 quite a bit of resources that went into preparing the
8 application, both my clients incurred those expenses and
9 expenditure of those resources, and we would ask to be
10 viewed that the loan application is under a review process
11 and not deemed, as I was just told the other day, as
12 incomplete. And until the NEPA requirement comes, in
13 theory, other loan applications that do not have
14 outstanding conditions could use up the available funds, so
15 my client could go through another three or four weeks of
16 running around, and find out that the \$25 million in the
17 program has been used. I do not know the probability of
18 that happening, but it just struck me as unfair and so that
19 is the -- that will conclude my comments. Thank you.

20 CHAIRPERSON DOUGLAS: Thanks for your comments,
21 Mr. Nielsen.

22 COMMISSIONER ROSENFELD: I have one disappointing
23 remark. You better talk to Harriet because -- she is
24 sitting right there -- because yesterday, about having a
25 December 30th meeting? No decision has been made, it is not

1 even clear that there is going to be one on December 30th.

2 Is that right, Harriet?

3 MR. NIELSON: I will take December 2nd?

4 CHAIRPERSON DOUGLAS: Mr. Herrera, could you
5 please provide some response to the comments and requests
6 that have been raised?

7 MR. HERRERA: Good morning, Commissioners.
8 Gabriel Herrera, I am with the Commission's legal office.
9 I am aware of Mr. Nielson's concerns. There are a couple
10 points I think it is important to address. First of all,
11 with respect to this loan program, I think there was a lot
12 of zeal on the part of the Commission, Commission staff, to
13 go out as quickly as possible given pressure that we
14 received from the Governor's Office and DOE to get these
15 monies out the door as quickly as possible, so perhaps went
16 out with that loan program and the notification for it a
17 little ahead of time, perhaps maybe even prematurely.
18 There are issues that we continued to learn and get
19 guidance from the U.S. Department of Energy with respect to
20 the National Environmental Policy Act, NEPA, and also the
21 National Historic Preservation Act. Both of those federal
22 statutes, the Energy Commission must comply with and we
23 must comply with those before we award funds, federal
24 funds, from ERRA. We met, we had a conference call with
25 the Department of Energy last Tuesday, met with them again

1 on Monday, we are still getting guidance from this on how
2 they plan to implement and verify compliance with those two
3 federal statutes, and so one of the things that we will
4 need to do for all the loan applicants that have already
5 submitted applications is notify them by letter that there
6 are additional requirements that they have to satisfy
7 pursuant to this recent guidance that we got from
8 Department of Energy, and that again deals both with NEPA
9 and the National Historic Preservation Act. Regarding the
10 latter, we are working with the Office of Historic
11 Preservation and the State Historic Preservation Officer on
12 the process for complying with the National Historic
13 Preservation Act, that is going to be a cumbersome process,
14 we are trying to streamline it, we are talking about
15 putting together perhaps a programmatic agreement between
16 the Energy Commission and the Office of Historic
17 Preservation that would exclude some activities, energy
18 efficiency related activities, that would not need to go
19 through the review process, and for those activities that
20 do need to go through the review process, that the Office
21 of Historic Preservation put in or develop an expedited
22 process so that these federally funded loan applicants and
23 other ERRA funded applicants can go through the process
24 quickly. But there are going to be delays. So I think the
25 intent is that a letter go out to Mr. Nielson and the other

1 loan applicants that have already submitted applications,
2 informing them of this, and requiring the submission of
3 additional information.

4 CHAIRPERSON DOUGLAS: Thank you, Mr. Herrera. I
5 know that you and staff will keep the lines of
6 communication open to Mr. Nielson and other potential
7 applicants under this program. And I appreciate your work
8 and understand that, as we have done everything we can and
9 pulled out all the stops to move these programs forward as
10 quickly as possible, there are times when we get new
11 guidance, or when we have to reassess. Of course, I
12 understand the need to do that and I just hope you very
13 much keep the channels of communication open with all of
14 the applicants and potential new applicants. Thank you.

15 MR. HERRERA: We will do that.

16 MR. NIELSON: Thanks.

17 CHAIRPERSON DOUGLAS: Barring any other public
18 comment, we are adjourned.

19 (Whereupon, at 11:48 a.m., the business meeting
20 was adjourned.)

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CERTIFICATE OF REPORTER

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of November, 2009.

PETER PETTY