

COMMISSIONERS PRESENT

Karen Douglas, Chair
James D. Boyd, Vice Chair
Jeffrey D. Byron
Anthony Eggert
Robert Weisenmiller

STAFF PRESENT

Melissa Jones, Executive Director
Michael Levy, Chief Counsel
Jennifer Jennings, Public Advisor
Harriet Kallemeyn, Secretariat

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Jim Holland	13

Also Present

Interested Parties

Charmaine Yu, Coblenz, Patch, Duffy & Bass

Public Comment

Nick Gillespi, Whirlpool
Peter Ukovich, Sacramento /county, California FIRST
Manuel Alvarez, Southern California Edison
John Haig, Sonoma County
Liz Yager, Sonoma County
Nehemiah Stone, Benningfield Group
Tim Tutt, SMUD
Laura Genao, So Cal Edison
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1 P R O C E E D I N G S

2 July 28, 2010

10:07 a.m.

3 CHAIRPERSON DOUGLAS: Good morning. Welcome to
4 the California Energy Commission Business Meeting of
5 July 28th, 2010.

6 Please join me in the Pledge.

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

9 CHAIRPERSON DOUGLAS: Two changes to the Agenda
10 before we begin, Commissioners. Item 2 has been pulled
11 and will be heard on a future business meeting. And Item
12 4, the State Energy Efficient Appliance Rebate Program,
13 will be after the Consent Calendar. But before we
14 actually begin with the formal agenda, I would like to
15 turn this over to Melissa Jones, our Executive Director,
16 for the Superior Accomplishment Awards.

17 MS. JONES: Good morning, Commissioners. Today
18 it is my pleasure to present staff recognition awards for
19 the Department of Personnel Administration's Merit Award
20 Program, these are Superior Accomplishment Awards and
21 Sustained Accomplishment Awards. We are allowed to give
22 those out to staff who have demonstrated that they have
23 done one of three or all three criteria that include an
24 important contribution to science, research, or
25 development, an unequaled personal effort in overcoming

1 difficulties or obstacles in the completion of a project,
2 and completion of a major project, task, in significantly
3 shorter period. Each year, nominations for the awards are
4 made by the Directors, the Managers, and Supervisors, they
5 are all allowed to nominate individuals. We have the two
6 awards, there is the Superior Accomplishment, which we
7 have two levels, it is unquestionable significant and
8 unequaled personal efforts, and that is a \$500 award; and
9 for level 2, which is the Silver Award, it is for
10 outstanding exceptional effort, and that is a \$250 award.
11 Sustained Superior Accomplishment Award is for more than
12 two years of sustained performance, and that is a \$250
13 award. So, I am proud to say that we have 27 staff
14 members who we will be recognizing over the next couple of
15 business meetings, and today we are going to start with
16 the Energy Efficiency and Renewable Division and the
17 Energy Research and Development Division.

18 So, our first Awardee is someone we all know and
19 love, Bill Pennington. [Applause] Bill led the team that
20 merged the Energy Commission's policies of Energy
21 Efficiency with the directives of ARRA, which are jobs
22 energy efficiency and more jobs, to design a suite of
23 important programs and opportunities. Bill is part of the
24 team that developed both the guidelines and the
25 solicitations for the SEP 110 Program. Besides overall

1 leadership, Bill is the team lead for the Comprehensive
2 Residential Retrofit Program and the work to design and
3 implement the overall SEP 110 Program has been long, hard
4 and always a very high quality. The resulting programs
5 will help the Energy Commission understand what are the
6 best approaches to include in the suite of programs it
7 recommends and adopts as it moves forward in energy
8 efficiency in existing buildings under Assembly Bill 758.
9 So, Bill, do you want to come up?

10 MR. PENNINGTON: Thank you. [Applause]

11 MS. JONES: Okay, our next awardee is Angie
12 Gould. Angie's role in the ARRA SEP 110 Program is as the
13 Lead for the Municipal Financing Program, the financing of
14 energy retrofit measures is often cited as one of the
15 leading barriers to accomplishing the actual retrofits in
16 buildings. Having a variety of financing opportunities
17 for property owners to fund energy efficiency retrofits
18 and renewable energy installations for their buildings is
19 important, as different owners have different needs.
20 Angie's willingness to tackle the new subject of municipal
21 and property assessed financing as a part of the SEP 110
22 Guidelines and solicitations has served the Energy
23 Commission well. So, Angie? [Applause]

24 MS. JONES: Okay, next, we will move on to the
25 Energy Research and Development Division, and our first

1 Awardee is Doris Yamamoto. [Applause] So, Doris is a
2 fairly new addition to the Commission, but Doris has
3 provided continual leadership to the administrative staff,
4 developed administrative processes to ensure consistency
5 of work products and office procedures, and organized the
6 calendar for the Deputy Director. She has made
7 substantial improvements to the Division's administrative
8 processes, provided leadership and guidance to all the
9 Division support staff, and instituted a process to ensure
10 quality control for everything done within the Division.
11 If Doris did not know the process to do a requested task,
12 she would research the topic thorough and come up with
13 solutions. She always learned by doing and that is by
14 taking initiative. So, Doris. [Applause]

15 Our next award is to Anish Gautam. Anish was
16 responsible for the Emerging Technology Demonstration
17 Grant Program. The Program funds the development and
18 adaptation of advanced equipment and systems for
19 industrial systems and processes, and provides the results
20 to utilities so that the equipment can feed directly into
21 their rebate programs. Anish completed the process in
22 time to encumber the budgeted funds for 2008 and 2009; a
23 delay would have meant that the 2008 funds would have been
24 lost and unavailable. The \$6.9 million grant solicitation
25 has resulted in over 29 responses, totaling over \$10

1 million PIER funding requests. Anish also held successful
2 pre-bid conferences, was Chair of the Scoring Committee,
3 and fielded all questions from the stakeholders. The
4 result was the selection of 19 proposals, which Anish
5 impressively presented at the December 7th RD&D Committee
6 Meeting. The 19 projects represent \$20 million in PIER
7 and private investments. So, Anish. [Applause]

8 All right, our next award is to Carolyn Cass.
9 Carolyn has provided exemplary Office Technician Support
10 to 18 staff from the Energy Efficiency Research Office and
11 an additional 53 staff from the other two offices. Her
12 work during this time showed unequalled personal effort in
13 overcoming unusual difficulties or obstacles in completing
14 these additional duties. Carolyn had to learn the
15 administrative processes, procedures, and protocols for
16 each office. Through all of this, Carolyn was helpful and
17 cheerful and never once said that she was too busy, or
18 complained about the increasing workload. Since she
19 provided Office Technician support to all three offices,
20 she often stayed late and put in nine and 10-hour days.
21 Putting in the longer hours meant she would have to take a
22 later Light Rail train, which further delayed her trip
23 home to her family, and all the other Office Managers
24 wanted to clone Carolyn, although we have not found that
25 technology yet, but she has done an exemplary job. So,

1 Carolyn? [Applause]

2 And our next and last presentation today is to
3 Pedro Gomez. Pedro assumed responsibility for the
4 Technical Team Leader duties normally performed by an
5 Energy Commission Specialist 3. During this timeframe,
6 the Department of Energy released \$4 billion in funding
7 opportunity announcements for Smart Grid under the
8 American Recovery and Reinvestment Act. Pedro was called
9 upon to coordinate and deliver. The Research and
10 Development Division provided matched funds for California
11 companies who wanted to apply for DOE grants. Because of
12 the poor economic situation in California, the Governor
13 had placed special attention on the Energy Commission
14 helping California companies attract as much of this DOE
15 federal funding to California as possible. Pedro
16 voluntarily took over the new duties during the time of
17 unprecedented workload and did a superior job. His
18 efforts were markedly above what would be normal
19 expectations. [Applause]

20 MR. GOMEZ: I would just take a moment to say
21 that this award really belongs to my team because, without
22 them, I would not be able to do it, and so I would really
23 like to thank all of them. And then I would also like to
24 thank Thom Kelly and Mike Gravely for giving me the
25 opportunity to take on this responsibility. If I am

1 worthy of this award, I really believe Mike Gravely is
2 much worthier of this award. Thank you. [Applause]

3 MS. JONES: Could we do one group shot, real
4 quickly? Everyone come on up in front of the podium,
5 please?

6 VICE CHAIR BOYD: Madam Chair, if I might, a
7 word?

8 CHAIRMAN DOUGLAS: Please.

9 VICE CHAIR BOYD: After seeing this and
10 listening to this, and experiencing this as we all have
11 over the past several months, let us not have questions
12 about the dedication of the hard work of state employees,
13 folks. Incredible loyalty, incredible dedication by the
14 employees of this agency at a time when the state has no
15 budget, is in severe difficulty. Our budget severely cuts
16 our ability to get more help, limited if not non-existent,
17 and a workload that I am told exceeds the workload of this
18 agency in its 30-plus year history, so, let there be no
19 question that, in spite of all these tough times and
20 rumors of minimum wages at best, sometimes, etc. etc.,
21 that state employees do not take their jobs seriously, do
22 not dedicate themselves, and do not go the extra mile,
23 even in adverse times. So, my congratulations to all of
24 you and, for one who has got more than four decades in
25 State Government, I am terribly proud of you all, so

1 congratulations very much.

2 CHAIRMAN DOUGLAS: Thank you, Commissioner Boyd.

3 And we all agree with that, strongly. [Applause]

4 All right, Commissioners, we will go into the
5 agenda. Item 1. Consent Calendar.

6 COMMISSIONER BYRON: Move approval.

7 VICE CHAIR BOYD: Second.

8 CHAIRMAN DOUGLAS: All in favor?

9 (Ayes.)

10 We will next turn to

11 Item 1. Consent Calendar.

12 COMMISSIONER BYRON: Madam Chair, I move
13 approval of the Consent Calendar.

14 COMMISSIONER EGGERT: Second.

15 CHAIRMAN DOUGLAS: All in favor?

16 (Ayes.)

17 We will next turn to Item 4. State Energy
18 Efficient Appliance Rebate Program (Cash For Appliances).
19 Possible adoption of revised guidelines for the Cash for
20 Appliances Program to expand the rebate program by
21 offering new appliance categories with the goal of
22 distributing available stimulus funds. Ms. White.

23 MS. WHITE: Good morning, Commissioners. It is
24 with pleasure that I am before you again regarding the
25 California State Energy Efficiency Appliance Rebate

1 Program, better known as California Cash For Appliances.
2 The item today is to seek your approval for additional
3 modifications to the program, to expand the number of
4 offerings, to improve consumer experience with the
5 program, and participation. We have had great success to
6 date, but we still have quite a bit of money left, and in
7 the interest of meeting the goals and objectives of the
8 program, and to stimulate the economy, and to provide
9 benefits to consumers, we are seeking to add additional
10 categories and appliances to the program. Currently, we
11 have refrigerators, selected refrigerators, selected
12 clothes washers and room air-conditioners as a part of the
13 program, and we are seeking approval to add dishwashers,
14 freezers, HVAC systems, and certain water heaters. This
15 will allow us to not only complete a variety of offerings
16 to consumers, but then also reach out into high efficiency
17 installed types of appliances in anticipation of
18 additional types of Stimulus program efforts that will be
19 underway, as well as state efforts related to home
20 retrofits. So, with that, I seek your approval. One
21 item, we did find as a result of the comment period, one
22 typographical error on page 5, related to the high
23 performance gas storage in Table 2. That should actually
24 read "CEE Tier 1, Energy Factor 0.67." We had intended
25 that level to be the level we sought to include in the

1 program and found it to be a non-substantive change and,
2 with my request to have you approve the changes to the
3 Guidelines, I also ask that you approve the Errata.

4 MR. HERRERA: Commissioners, good morning. Gabe
5 Herrera with the Commission's Legal Office. Just to add
6 to one of Lorraine's comments, and that is that the Draft
7 Guidebook changes that were posted on the Internet were
8 corrected as soon as we discovered this mistake, so what
9 is posted now on the Energy Commission's Website is, in
10 fact, the Guidelines that include the correct Energy
11 Efficiency standard for the high performance gas storage
12 water heaters. I also need to make a couple comments on
13 the record concerning CEQA, as I typically do when we
14 adopt guidelines like this. The Energy Commission's Legal
15 Office takes a look at the adoption of the Guidelines to
16 consider whether it is a project under CEQA and, if so,
17 whether it is subject to environmental review. In this
18 case, the guideline revisions are not a project under
19 CEQA, and the reason is they fall within a list of
20 excluded activities under Title 14 of the California Code
21 of Regulations, Section 15378, Subdivision (B)(4), in that
22 the guideline revisions deal with the creation of a
23 governmental funding mechanism which does not involve any
24 commitment to any specific project which may result in a
25 potentially significant physical impact on the

1 environment. In addition, the adoption of the guidelines
2 revision is exempt from CEQA under what is commonly
3 referred to as the "Common Sense Exception," and that is
4 pursuant to Title 14 of the California Code of
5 Regulations, Section 15061(B)(3), and that section
6 indicates that CEQA only applies to projects that have a
7 "significant effect on the environment, which is further
8 defined in Public Resources Code Section 21068, and Title
9 14 of the California Code of Regulations Section 15382, as
10 being a substantial adverse change in the environment.

11 Thank you.

12 CHAIRMAN DOUGLAS: Thank you, Ms. White, Mr.
13 Herrera. Commissioners, questions or comments?

14 COMMISSIONER EGGERT: If I may, some comments.
15 First, I want to just commend the staff for the incredibly
16 hard work to bring this item before us today. I think
17 this program has been a great example of adapting the
18 program to take into account lessons learned from the
19 first phase, in this case it is specifically to expand the
20 number of offerings, the appliance offerings, to be able
21 to provide the benefits to a greater number of California
22 consumers, and particularly those that are interested in
23 buying things like HVAC systems, now that we are into the
24 air-conditioning season, as well as some new technologies
25 like solar hot water heaters, which is a technology that

1 has been around for a while, but has recently seen some
2 significant technical improvements that have provided some
3 cost savings and this could actually help move that market
4 further along into the commercial space. I also want to
5 just note that, as these new appliances have been added,
6 we are continuing to follow the strategy, which is to
7 target the most efficient appliances, those that meet our
8 California standards, which are some of the most stringent
9 in the country, as well as some of the other third-party
10 efficiency standard organizations. So, this is, in
11 addition to saving energy, it is going to be saving
12 consumers money, this program will help us meet our energy
13 and environmental goals, as numerous benefits in addition
14 to the economic stimulus that it was intended for. So, I
15 think I will stop there and just, again, thank the staff
16 for their hard work on bringing this change in a very very
17 expedient fashion.

18 CHAIRMAN DOUGLAS: Thank you, Commissioner
19 Eggert. I would like to join you in thanking the staff
20 for this hard work and we are pleased to see this program
21 expanding. I think it is a way of bringing even greater
22 efficiency benefits to Californians, in addition, by
23 expanding into HVAC systems and solar hot water, for
24 example, we are also creating installation jobs, and so
25 these jobs will be an additional benefit to Californians

1 at this time. So, I am pleased to see this proposal
2 moving forward.

3 COMMISSIONER BYRON: Ms. White, a question.
4 This is the monthly update on this program, and I think
5 that is okay, that is perfectly okay as we make
6 adjustments to the program, it has been very successful, I
7 hope it will be more so. We got some really good
8 coverage, I believe, last week in the local Sacramento
9 Bee, which helps make the public aware of this program,
10 and now you have expanded it again. What is your plan for
11 increasing awareness, so the public will take advantage of
12 this program?

13 MS. WHITE: Ever since the program began, we
14 have embraced numerous partners to assist us in
15 advertising the program. We have hundreds who have
16 stepped up to the plate and joined us to try and
17 disseminate information, promote the program, educate
18 consumers, not only about the benefits - monetary benefits
19 of the rebate program, but also the benefits of the
20 products to which the incentives are targeted. And we
21 will continue to rely on them. We will expand our
22 partnerships and those that we would like to collaborate
23 with, to the contractors who typically install these
24 devices. We are again relying on our partners to help us
25 advertise, they know the program, they are very happy

1 about this expansion, and are eager to provide the
2 information necessary to consumers that allow them to more
3 fully partake in the program. We have been regularly
4 holding Webinars to ensure that folks know what the rules
5 are, and walk them through things like forms and stuff, to
6 make sure that they can then turn around and provide that
7 information to consumers. So, not only is our little team
8 out there doing things, but we have been able to multiply
9 our efforts through the numerous partners that have been
10 able to join us.

11 COMMISSIONER BYRON: Well, I think you have done
12 an excellent job on this, even when you take on a new job,
13 you still carry the mantle of your old one.

14 MS. WHITE: Once in ARRA, always in ARRA.

15 COMMISSIONER BYRON: Yes, and thank you for your
16 enthusiasm on this, Ms. White, and for keeping it going.
17 And if we see you again on this, that is perfectly okay.

18 MS. WHITE: I appreciate that.

19 COMMISSIONER BYRON: But hopefully you will
20 deplete the coffers with this latest change.

21 MS. WHITE: It is my hope, as well.

22 VICE CHAIR BOYD: Madam Chair, if I might, a
23 quick comment. Ms. White said something that really
24 resonates with me, she used the term "lessons learned,"
25 and then talking about adapting to those lessons learned,

1 and I just want to point out to those who are here maybe
2 listening that we do in this agency, I know, spend a lot
3 of time quickly looking at lessons learned, and I want to
4 commend the staff for again atypically with regard to some
5 people's view of state government adapting very quickly to
6 those lessons learned, and to modify programs to meet the
7 immediate need, and particularly in these tough times,
8 which the quicker we move, the quicker it helps our
9 public, whether it lessens the cost of some needed
10 appliance for them, while helping us with our energy
11 efficiency, and there is the trickle down here to somebody
12 somewhere who has a job manufacturing these devices, and
13 so, again, a good example of a real quick action on the
14 part of the staff. And I, too, commend all the staff who
15 worked on this.

16 CHAIRMAN DOUGLAS: Thank you, Commissioner Boyd.
17 And I agree with you on lessons learned, and sometimes we
18 forget, this is the first statewide appliance rebate
19 program that we have had in California, and not only that,
20 but the partnership that Ms. White and her team have
21 developed with the retailers in order to publicize the
22 program and implement the program is unprecedented in the
23 state and is tremendous, and is the foundation from which
24 I think we can build in many ways. So, it is very
25 exciting and we are really pleased to see it. I neglected

1 to call up a member of the public who is here to speak on
2 this item, Nick Gillespi, Whirlpool, are you here?

3 MR. GILLESPI: Yes, I am. How are you?

4 CHAIRMAN DOUGLAS: Go ahead.

5 MS. WHITE: Hi, Nick.

6 MR. GILLESPI: Hello, can you hear me?

7 MS. WHITE: Yes.

8 MR. GILLESPI: Okay, hi everybody, how you
9 doing? Hey, thanks for the time. I do appreciate it. I
10 just wanted to follow-up. Well, first let me just echo
11 the comments that I have heard here. I want to commend
12 Lorraine and her staff for the work they have done,
13 particularly with dishwashers because we think it is a
14 great addition to the program. We, too, are hearing from
15 our partners that they are excited about it, anxious for
16 it to get kicked off, but I just wanted to be on the phone
17 in case there were any questions in regards to the
18 comments I submitted about a week ago. That is really why
19 I was here.

20 CHAIRMAN DOUGLAS: All right, thank you.

21 MS. WHITE: Thank you, Nick, for being on the
22 phone.

23 MR. GILLESPIE: Oh, no, no, thanks for letting
24 me speak.

25 COMMISSIONER EGGERT: Well, I would like to go

1 ahead and move this item, but I did want to make one other
2 comment, to Commissioner Boyd's comment, and that is,
3 again, this sort of adaptability, and I think it speaks to
4 our earlier Awardees, as somebody who has had less than a
5 decade of State service, and, in fact, less than a year
6 within this Commission, that is the one thing that has
7 been really remarkable is just to see the creativity, the
8 adaptability, the willingness to take risks in some cases,
9 to really design, develop, and deploy new programs, you
10 know, sort of built up from collecting as much information
11 about what we think will work, you know, testing that, and
12 then adapting as we learn more, and I think that is going
13 to be a theme that will come out in some of the other
14 items today, as well. So, with that, I would like to move
15 the item.

16 VICE CHAIR BOYD: And I will second the item and
17 just say, "No risks, no rewards," and we get rewards, so...

18 CHAIRMAN DOUGLAS: All in favor?

19 (Ayes.)

20 MS. WHITE: Thank you very much.

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

23 We will now go back to Item 3. Turbo Air, Inc.
24 Decertification. Possible adoption of the proposed Order and
25 Decision of the Efficiency Committee recommending that two models

1 of Turbo Air, Inc., commercial refrigerators be removed
2 from the Energy Commission's appliance database.

3 MR. BREHLER: Good morning, Commissioners. My name is
4 Pippin Brehler. I am a Senior Staff Counsel here with the Energy
5 Commission. I want to remind you and everyone else that this is
6 a quasi-adjudicative proceeding and I am here representing the
7 Commission, brought pursuant to the provisions of our regulations
8 for streamlined proceedings of this nature and the Government
9 Code. Staff, who I see here at the table, Tovah Ealey, is
10 represented by another attorney in our office, Senior Staff
11 Counsel, Dennis Beck, and I believe that representatives from
12 Turbo Air are here, as well, and both staff and Turbo Air will be
13 given an opportunity to speak in a couple of moments.

14 Also for your information, I have the original of the
15 Efficiency Committee Decision in this matter, and the Proposed
16 Decision and Proposed Order, should that be your decision after
17 this proceeding to adopt the Order. I also want to mention that
18 this is not an evidentiary hearing or a contested hearing, that
19 hearing was held before the Efficiency Committee back on April
20 26th, and that any discussion here is properly limited to the
21 record that was developed during that hearing, and this is
22 pursuant to Title 20 of the California Code of Regulations,
23 Section 1236(B).

24 I want to bring to the Commission's attention an
25 Opposition to the Proposed Order submitted by Turbo Air just

1 recently on July 22nd, and also mention that the
2 information and the contentions in the Opposition were not
3 presented - many of them were not presented at the hearing on
4 this matter that was held back on April 26th and it is a couple of
5 weeks after the Proposed Decision was provided to Turbo Air back
6 on July 2nd. I will briefly summarize the contentions in the
7 Opposition for your convenience, but I do not mean to speak on
8 behalf of Turbo Air, and they will be given an opportunity to
9 elaborate on their positions. But, in addition to being
10 untimely, the Opposition presents a lot of factual arguments that
11 do not lend themselves to this proceeding, where the contentions
12 could have been tested by staff's position and staff's research
13 on the matter. It seems to try to go around the streamlined
14 procedures at the informal adjudicative proceeding that we had
15 here, there are meant to protect both the regulated party's due
16 process rights, while avoiding any unnatural or unnecessary
17 transaction costs of a more formal proceeding. In addition,
18 well, let me summarize what they are asking for, one is that
19 Turbo Air would like the Commission to not decertify their two
20 commercial refrigerators, the TUR28SD and the TSR23SD. Turbo Air
21 contends that the 23SD model only failed to meet our applicable
22 energy consumption standards because one of the models, the
23 particular 23SD model that was tested, was defective, and that
24 the unit was built with a freezer, rather than a refrigerator
25 cabinet, and that Turbo Air did not discover this until it

1 obtained the actual model that was tested at the direction
2 of the Commission. Turbo Air also contends that the 28SD model,
3 that Turbo Air changed its design to install a different motor
4 and a larger fan, and that changed the operating characteristics
5 and the energy consumption of the unit, and that they have
6 subsequently identified a solution in the form of a new circuit
7 panel, which will change the operating characteristics that all
8 the units do meet the efficiency standard. And Turbo Air offers
9 to retrofit all of its previously sold units and install the new
10 panel in the units, going forward.

11 Turning to the merits of these contentions, in addition
12 to not being made available at the evidentiary hearing on this
13 matter, the information itself seems to be, at this point, merely
14 the assertions of Turbo Air's attorneys, the opposition did not
15 include a supporting Declaration from a representative of Turbo
16 Air, the evidence in the record and outside the record suggests
17 that the number of units of these sold are in very low numbers,
18 and that has relevance to the 23SD model, the one that was
19 allegedly built with the wrong cabinet, because one defective
20 model found in a random sample from a very small pool suggest
21 that there may be a significant quality control problem and that
22 other units may also be defective. Turbo Air does not address
23 this issue in its opposition. Staff may have additional
24 responses to Turbo Air's request, and I would just reiterate for
25 your consideration that the Efficiency Committee, again, followed

1 all of the required procedural steps for a full and open
2 hearing back in April, and that the opposition submitted now is
3 untimely and has not been given an opportunity to be responded
4 to, as yet, by staff. And, again, because this is a quasi-
5 adjudicative proceeding, this is not something that I have been
6 able to bring up with staff; this would be their first
7 opportunity to respond to you, the Commission. And with that, I
8 would turn it over to Presiding member, Commissioner Eggert, or
9 staff if they want to make any remarks.

10 COMMISSIONER EGGERT: Actually, I wonder if I might
11 invite just a very very brief description of the process by which
12 the test, you know, how this actually occurs to get to a decision
13 about passage or failure for a particular unit.

14 MR. BREHLER: Certainly.

15 COMMISSIONER EGGERT: Thirty seconds.

16 MR. BREHLER: In general, under our regulations,
17 manufacturers must submit a certification that they have tested a
18 unit of their models, and that it meets or exceeds our energy
19 consumption standards. The test has to be done at an approved
20 test lab and, once that is done, the appliance is included in our
21 online accessible database of appliances, and then may be sold or
22 offered for sale in California. In particular, here, Turbo Air
23 submitted a certification that these two particular models met
24 the standard, but it was brought to staff's attention, I believe,
25 by a third party advocate that Turbo Air had submitted different

1 numbers for the same - different performance numbers for
2 the same model numbers to two other databases, Environment Canada
3 and Energy Star, I believe it was. And there was a discrepancy
4 in the information, so, pursuant to our regulations, the
5 Executive Director had an approved third-party lab acquire from a
6 normal retail outlet in the distribution chain a single sample of
7 these two models, they both failed the initial test, and pursuant
8 to the regulations, a second unit of these models was attained
9 and tested, and this proceeding is based on the average results
10 of those two tests. With respect to the model 28SD, which was
11 the one that had the different condenser motor, both models
12 failed the test, and with respect to the model 23SD, the one that
13 allegedly had the wrong cabinet, one model, the first model
14 failed the test, the second model passed the test. And it was on
15 that record that was submitted to the Efficiency Committee at the
16 hearing, and notably, Turbo Air did not at the hearing contest
17 the results of these tests.

18 CHAIRMAN DOUGLAS: Thank you, Mr. Brehler. Let's now
19 hear from staff, and then we will hear from Turbo Air, and I have
20 a card from Charmaine Yu, okay, so we will ask you to come
21 forward after we hear from staff.

22 MR. BECK: Staff would like to reserve comments until
23 after Ms. Yu and Turbo Air have been given an opportunity to
24 speak, if that is acceptable to the Commission.

25 CHAIRMAN DOUGLAS: Very well. Ms. Yu?

1 MS. YU: Thank you, good morning. I think it is
2 on, I am just going to push it back. I hope everybody can hear
3 me all right. Good morning, my name is Charmaine Yu, from
4 Coblenz, Patch, Duffy & Bass, on behalf of Turbo Air. If I
5 accomplish nothing else here, I would like to convey three points
6 to this Commission that were touched upon in the hearing, but I
7 think Turbo Air has now had the opportunity to flesh those out in
8 a more substantive manner. The first is that changing model
9 numbers for Turbo Air is, in fact, an extremely complicated and
10 costly procedure. It is not simply a matter of printing new
11 stickers and recertifying, there in fact would be great and
12 substantial harm to Turbo Air from changing the model numbers,
13 and that is, in part, described in the brief here, which is they
14 have had these two model numbers for 12 years, and have developed
15 a good amount of business good will and marketing around these
16 model numbers, and that is what their distributors and their
17 customers recognize these models as, and that is how they order
18 them. The cost of reprinting catalogues would be approximately
19 \$100,000, there would be additional certifications that would
20 need to be changed, and, to the extent that these two units are
21 very commercially significant for them in California, it just may
22 require some reevaluation of how they proceed in California, and
23 that is also detailed in the brief.

24 The second point that I want to make clear to the
25 Commission and elaborate on is that Turbo Air already has

1 solutions in place for both the TSR23 and the TUR28, and I
2 have actually had conversations with Ms. Ealey and Mr. Beck of
3 the staff about those solutions. I do not know exactly what they
4 are - and I have not heard back from them about what their
5 concerns are, I do not know exactly what their responses are
6 going to be to those solutions, but I can tell you that Turbo Air
7 feels confident that they have solutions that are going to meet
8 the needs of all the stakeholders here; that is, the
9 environmental concerns, consumer concerns, business concerns, and
10 also the need for staff and the Commission to effectively enforce
11 this regulatory framework.

12 The third point that I want to make clear and talk to
13 the Commission about was also something that was touched upon in
14 the April hearing, and that is how these regulations are
15 enforced, that is, the regulatory letter of the language states
16 one thing, which is, any time you make any change whatsoever that
17 affects energy efficiency, it has to be reported. In April,
18 staff made a recommendation about how these might be effectively
19 enforced, and I understand that there has been discussion in the
20 Commission on down that there needs to be more active enforcement
21 of these regulations, and that the honor system may not be the
22 end of where the Commission wants to go with this. So, to that
23 end, staff made a recommendation at the April hearing that Turbo
24 Air thinks makes good sense, that is, when manufacturers make
25 changes that make their units worse in terms of energy

1 consumption, that should be reported. To the extent that
2 manufacturers make changes that actually make their units better
3 and more energy efficient, staff does not want to - staff does
4 not need to be reported to, there does not need to be a new model
5 number, and the reason for that is this - because if
6 manufacturers are effectively punished for making their units
7 more efficient, that does not really serve any of the needs here.
8 So, to that end, Turbo Air has in fact not changed the TSR one
9 bit and I want to talk about some of the solutions here. The
10 TSR23, the unit that Mr. Brehler talked about that had the wrong
11 cabinet, I talked to Mr. Beck, and he in fact had the same
12 concern that Mr. Brehler raised, which is, how do we know that 25
13 percent of Turbo Air's units are out of compliance? Well, I can
14 tell you about some low tech solutions that Turbo Air has already
15 implemented, and some information that I have and, as we know,
16 this sort of "turn off the lights when you leave the room" low
17 tech solutions can often be the most effective.

18 Turbo Air, from Management on down, has never heard,
19 has no experience, with this type of error ever occurring, that
20 is, the wrong type of cabinet being used. In their assembly line
21 in their factory, the freezer cabinets and the refrigerator
22 cabinets are next to each other, somebody goes, pulls a cabinet
23 off, puts it on the line. Here, apparently what happened is
24 somebody just went to the wrong bin and pulled out the wrong
25 cabinet. The way that Turbo Air has dealt with that, is they

1 have actually moved the cabinets across the room from each
2 other, freezer cabinets are on this side, refrigerator cabinets
3 are on that side, so any time an assembly line worker is putting
4 together a unit, they actually have to make an affirmative choice
5 to walk to one side of the room or the other side of the room.
6 Turbo Air also has approximately 100 TSR units in their
7 warehouses that were manufactured before they moved the bins
8 across the room, they are checking all of them. To date, they
9 have not found a single other unit that has the wrong cabinet.
10 So, all the information that we have is that this, in fact, was
11 an absolutely fluke and, to the extent that it might be
12 repeatable in any circumstance, they have tried to address that
13 by, in fact, creating a physical space, a low tech solution here.

14 With regard to the TUR28, Turbo Air in its brief has
15 offered to do a full retrofit, and I think that was in fact one
16 of the topics that was touched upon in the April hearing,
17 although I listened to the audio of the April hearing, it is not
18 phenomenal, to say the least, it is a little bit difficult to
19 hear some of it. What Turbo Air has done, and you know, they
20 admitted at the hearing that, when they changed this motor, they
21 did not believe that there would be any substantial impact to
22 energy efficiency, and they were wrong. It, in fact, changed the
23 energy efficiency of the unit as a whole over time, in a way that
24 they did not predict. So, they have engineered, in fact, a new
25 control board. The new control board actually reduces the energy

1 consumption of the TUR28 to below the level at which it
2 was originally certified in 2003. And TUR is committed to doing
3 a retrofit of 135 units in California to make sure that all of
4 those units have the same parts, that is, the motor that they
5 have now, and the new control board, and that all units are in
6 fact more energy efficient than what was originally certified in
7 2003.

8 And this brings another point, which Mr. Beck brought
9 to my attention, which was these new 2010 Regulations and the
10 Energy Efficiency Standards, and staff's concern about where
11 these units fall. And they are, in fact, both in compliance with
12 the 2010 Regulations.

13 MR. BECK: And, Ms. Yu, let me just clarify that for
14 just one second. These units, there is a federal standard that
15 went into effect as of January 1st, 2010. These units were tested
16 pursuant and were certified to the Energy Commission under the
17 2003, I believe, standard that the Energy Commission has. The
18 Federal standard is a more stringent standard than what we have
19 got for bottles manufactured before January 1, 2010. So that is
20 -

21 COMMISSIONER BYRON: Mr. Beck, could we - I am
22 concerned that we are going to get into rehearing this entire
23 case, ten minutes into this comment period, and what my
24 recommendation would be is that we follow counsel's suggestion
25 and confine comments to what is in the decision that we are

1 making before us today.

2 MS. YU: Okay, well, let me do that, then, and make one
3 final comment with regard to the TSR23, which is, if the
4 Commission adopts the proposed Order and decertifies the TSR23,
5 and here I would like to speak just specifically about the TSR23,
6 it was a fluke manufacturing defect. Turbo Air is, in all
7 likelihood, going to recertify that unit as it physically exists
8 now, which is going to create a situation where you have one
9 physical unit with two different model numbers, and I do not
10 think that necessarily serves anyone, particularly consumers and
11 staff, in terms of enforcement. With the TUR28, Turbo Air is
12 offering to go back and retrofit every unit to make sure that
13 they are all in compliance and all have the same parts. So, to
14 the extent that this Commission and staff are seeking additional
15 enforcement of these Regulations, above and beyond the honor
16 system, Turbo Air welcomes that and thinks it is a positive
17 movement because they are an above board manufacturer and they
18 are not a manufacturer that sort of skates the line of what is
19 okay and what is not okay, they are best practices. And that is
20 sort of the company ethos that they have adopted. But, the
21 regulations needs to be applied in a common sense manner and we
22 think that the staff recommendations from April make sense in
23 that, and they need to be adopted in a manner where Turbo Air is
24 not put at a disadvantage to its competitors, and sort of soloed
25 out and put at a competitive disadvantage. So, I certainly

1 welcome any questions or comments and you have our
2 Proposed Order and our recommendations there. And to the extent
3 that, Commissioner Byron, I know that you said, "We don't want to
4 get into a full rehearing of this," the one way that Turbo Air
5 has tried to address that is saying that this Commission has the
6 authority, has the statutory authority to remand this matter, and
7 with regard to the TUR28, certainly Turbo Air is open to that.

8 CHAIRMAN DOUGLAS: Thank you, Ms. Yu, for your
9 comments. I think, well, let's hear from staff, but please stay
10 near the podium because I am sure -

11 MS. YU: I am not going anywhere.

12 CHAIRMAN DOUGLAS: Very good, please stay at the
13 podium, then, because I suspect there will be questions for you.
14 Mr. Beck.

15 MR. BECK: Chairman, Commissioners, Dennis Beck, Senior
16 Staff Counsel representing staff in this matter, as Mr. Brehler
17 said. We support the decision of the Efficiency Committee in
18 this matter. While Ms. Yu's comments on behalf of Turbo Air are
19 well taken, we have some concerns based on the record, and those
20 are these: Turbo Air was first informed about these discrepancies
21 in May of last year, so it has been well over a year since they
22 knew that there was a problem, and why it has taken over a year
23 now to come up - to find out what this information about the
24 compressor, or the fan, that was something that I think we first
25 heard about at the hearing in April, nearly a year afterwards

1 and, of course, in Ms. Yu's paperwork was the first time
2 that we had heard that there was a problem with the cabinet. So,
3 our concern, and I think this was brought out by Mr. Brehler, we
4 are not concerned that Turbo Air is doing something nefarious, or
5 being duplicitous, but because of the time lines, because of the
6 facts about their coming to realize that they had a problem with
7 their units, gives us a real concern about the due diligence and,
8 as Mr. Brehler said, the quality control that is going on at
9 Turbo Air. And, of course, consumer protection is what these
10 regulations are all about, they are giving the consumers
11 accurate, as accurate as possible, information about the energy
12 consumption of the appliances that we certify and we allow to be
13 sold or offered for sale in California. And, as the Commission
14 knows, we do that better than anyone else, better than DOE,
15 better than Energy Star. And in terms of the model number, we
16 understand that there will be some costs to changing the model
17 number, that is really the way the regulations are set up, that a
18 particular model is certified to the Energy Commission, it has
19 got a number, it has got all the information necessary for us or
20 staff to make a determination as to whether or not it meets the
21 requirements and should be certified and placed in our database,
22 and unless that model number is changed, then we really do not
23 have any assurance that we can point to, that assures us that
24 these models do, in fact, meet all the requirements in the
25 regulations. In terms of retrofitting the cabinets, or

1 retrofitting the existing - I believe it is the TSR models
2 - we just have to take it to some degree on faith, even if there
3 were to be some paperwork submitted by Turbo Air that they, in
4 fact, got all the ones that they can, and retrofitted them, there
5 may be some that are out that they did not get, that are still
6 out there, that still bear the same model number, and that way a
7 consumer who is going and buying these units would have no way to
8 ensure him or herself that they unit they are buying truly is the
9 one that is retrofit as opposed to one of the old ones, so that
10 is why we require a decertification and a recertification under a
11 different model number.

12 COMMISSIONER EGGERT: So maybe I might make a comment,
13 and then invite other comments or questions from the other
14 Commissioners. I think, Mr. Beck, you said it well, this program
15 is not just about saving money and saving energy, it is about
16 consumer protection. You know, we have this program to ensure
17 that the appliances that are sold in California meet a particular
18 minimum standard so that consumers are protected against wasting
19 money and, of course, wasting energy, as well. Unlike some of
20 the other programs like Energy Star, Consortium of Energy
21 Efficiency, this is a regulatory program, it does have particular
22 requirements for manufacturers to ensure that the information
23 that is submitted is accurate, is complete, so that those
24 products may be legally sold in the state, and that the Energy
25 Commission is really responsible for ensuring that these products

1 to perform as stated. So, you know, we proceeded, of
2 course, with the evidentiary hearing, inviting all of the
3 evidence, inviting participation by the manufacturer, and I would
4 say that the manufacturer has been very very cooperative, very
5 very forthright, and I think even this recent proposal of theirs
6 is a great demonstration of their willingness to look for
7 solutions, and we really appreciate that proactive effort on the
8 part of the manufacturer. I would note that it is also, I
9 believe, if not specifically a California manufacturer, they have
10 operations here in California, and so we definitely would like
11 for them to be successful in their enterprise in delivering
12 products that meet our standards, you know, that basically serve
13 the California economy. But I think, you know, I will just state
14 that, as we sort of looked at all the evidence, it became clear
15 that this was a pretty straightforward, clear-cut case of a
16 process in which these two particular products, for a variety of
17 reasons that have been stated, in one case sort of design
18 changes, and in another sort of the quality control aspects of
19 manufacturing, both of which are, of course, critical to ensuring
20 a product that is repeatable and meets requirements across a
21 whole number of categories. You know, this was a straightforward
22 incidence of when it failed the test, and I do not think there is
23 any dispute about that. So, I think I will pause there and maybe
24 invite comment from my colleague on the Energy Efficiency
25 Committee, if he has a few words about this, as well.

1 COMMISSIONER BYRON: Thank you, Commissioner
2 Eggert, I will be brief. When the staff first brought this issue
3 to us, my immediate response was "we don't have time for this."
4 If your seats are still warm, Commissioner, it is because we were
5 keeping them filled until about 11:30 last night on evidentiary
6 hearings. There is a lot of things that are going on at this
7 Commission, but I very much appreciate the staff bringing this
8 for further consideration after you initially brought it to us.
9 It is an important issue. Our Appliance Standards really matter
10 and they make a difference, as Commissioner Eggert said, in
11 reducing energy use, protecting consumers, and also saving them
12 money. So, there is no real contest in this issue, the
13 manufacturer was very forthcoming and helpful in answering
14 questions and enabling us as a committee to be able to get to the
15 bottom of this, and I think today does demonstrate their
16 willingness to try to provide a solution; however, the solution
17 is to not undo this decision, I think we have - Commissioner
18 Eggert conducted a hearing that helped us to understand exactly
19 what was going on, we made a reasoned decision and a
20 recommendation to you, a reconsideration today, and I believe
21 there are solutions available to the manufacturer and that the
22 staff is more than willing to work with them, moving forward, in
23 correcting this issue. And I encourage them to do so. There are
24 some high transaction costs associated with these hearings, and
25 we are quite cognizant of that, and I believe we have made a

1 reasoned decision. We could remand this, we could adopt a
2 different decision here today, but I believe that we have given
3 you the right recommendation for your consideration, and
4 remanding it would just increase the - how can I say it - we
5 would use a great deal of additional staff time in order to
6 adjudicate a process that I think we have already done fairly and
7 properly. But it is more important that we all understand the
8 message here is that our standards matter. And compliance is
9 important. I believe that the staff recommendation is the
10 appropriate one here, as well, in bringing this to us, and the
11 decision that we have given to you today is the right one. I
12 would very much - I am very concerned when the manufacturer tells
13 us that this would provide a competitive disadvantage for them,
14 and those kinds of harmful issues. I think we get quite
15 concerned about it, but nevertheless, if this were a much more
16 substantial manufacturer or a much more substantial number of
17 machines that we were talking about, I think we would be taking
18 the same approach as we are here today.

19 VICE CHAIR BOYD: If I might, a question. I defer very
20 heavily, obviously, to the hard work of the staff, and
21 particularly the Efficiency Committee on this issue. However,
22 reflecting back on that long history I referenced earlier, and
23 other situations where defects have been found, and what have
24 you, and recalls have been issued, and fix orders have been put
25 in place, they have not involved a need for a model number

1 change, or something like that. The representative of
2 Turbo Air said they would have to - there is a model number
3 change required and an awful lot of brochure printing, catalogue
4 printing, etc. etc., and perhaps confusion for customers. Is
5 that a necessity that a model number be changed in the process
6 that this agency would be involved in with the, let's say,
7 recertification, or the evidence of the fix has been put in
8 place?

9 MS. EALEY: Commissioner, can I address that?

10 VICE CHAIR BOYD: Please.

11 MS. EALEY: I would venture to say that, if I am a
12 manufacturer and I am redesigning a product, or re-engineering a
13 product to meet Energy Efficiency Standards, and I am rolling it
14 out for the first time, and I am certifying it to the Commission,
15 I will have it tested, I will have it assigned a model number for
16 the database, and I would venture to say that, if Turbo Air were
17 to re-engineer its TSR23SD or TUR28SD, in that manner, and were
18 to append those model numbers with another digit, a number or a
19 letter, and were to say, "These are our two reengineered models
20 that now meet California's Title 20 requirements. Will you
21 please certify these now?" And were to produce brochures,
22 flyers, add them to their catalogues once they are certified to
23 us, in my view, my layman's view, I would say perhaps that would
24 be a normal course of business kind of cost, perhaps? I mean, I
25 am not in that business, but that would be my take on that. Is

1 that the kind of question you are asking?

2 VICE CHAIR BOYD: Well, kind of. I will give you my
3 analogue, many years involved with the auto industry, finding
4 violations of California emission standards, engaging even often
5 with the Federal Government, ending up with a recall of the
6 vehicle, and which is a product of a lot of work with regard to
7 the engineering fixes for whatever caused the violation of the
8 standard, and often it was engineering fixes required, and I will
9 pick on poor Pontiac, they do not exist anymore, but I do recall
10 a very substantial case years ago, it took a lot of engineering,
11 a tremendous expense, recalling and fixing. But, you know, we
12 still called it a Pontiac, probably a Pontiac, XYZ or whatever it
13 might have been at the time, there was no model number changed,
14 no substantial difference in terms of having to change catalogues
15 and this, that and the other. The public certainly knew that
16 something, you know, there was a lot of publicity engaged with
17 that, but it did avoid this seeming like it is an altogether
18 totally new type of appliance, in this case, automobile. And if
19 there were any savings, it was a little bit of this, you did not
20 have to totally re-do your advertising or change the name of your
21 product and what have you. And I was just mildly sympathetic to
22 the dilemma of marketing and doing catalogue changes midstream
23 and what have you. I have no concerns about advertising the fact
24 that somebody got busted and promised to fix their product, so on
25 and so forth. Perhaps the Applicant, after you finish, ought to

1 respond to this, as well.

2 MS. EALEY: I have one thing that I can add, and I
3 apologize for not being Betty Chrisman, who is our database
4 expert, she is on vacation today, and I am sure that when she
5 returns, I will have lots of questions for her. But, in our
6 database, we do have a convention for listing model numbers, and
7 it is based on a provision in Title 20 that talks about a basic
8 model, and we require that manufacturers test a basic model of
9 each appliance, but they must certify every model, so there is a
10 definition for a basic model. And a basic model, if I could find
11 it, I would read it for you, but it has to do with energy use,
12 anything that changes the basic energy use or water use of a
13 basic model must then have a different model number. And so -

14 MR. BREHLER: Tovah, I might be able to offer some
15 assistance.

16 MS. EALEY: Okay.

17 MR. BREHLER: As defined in Title 20, Section 1602(A)
18 of our Regulations, the basic model of a non-federally regulated
19 consumer product means all units of a given type of appliance or
20 class thereof that are manufactured by one manufacturer, that
21 have the same primary energy source, and that do not have any
22 different electrical hydraulic physical or functional
23 characteristics that affect energy consumption. As Mr. Beck
24 mentioned, these refrigerators are now federally regulated, so
25 the definition there references 10 CFR Section 430.2, which I am

1 afraid that I do not have with me at this time. And if I
2 would just piggyback on to a statement by Ms. Ealey, my
3 understanding, and appendation of a different letter, or number,
4 or asterisk to the basic model number would be allowed under our
5 Regs, so that the key characteristics of the TUR23SD or the
6 TSR28SD could potentially be preserved with additional numbers
7 afterward and perhaps Turbo Air could consider not advertising
8 those other numbers, as long as they are physically labeled on
9 the units, themselves, and that could be something that could be
10 addressed later. And I would just also point out that, in the
11 Decision of the Committee, the exact wording was that the
12 Decision would be without prejudice that Turbo Air's ability to
13 redesign its products, apply new model numbers, if necessary, and
14 then demonstrate that they meet the standards and submit their
15 for inclusion in the appliance database." So, this type of
16 resolution is not necessarily foreclosed by the proposed Decision
17 and proposed Order.

18 VICE CHAIR BOYD: Thank you. And maybe we can hear
19 from the supplier. I apologize for calling you an "Applicant,"
20 as Commissioner Byron said, we spent so many hours in these
21 chairs in these hearing rooms with Applicants for power plants,
22 and I call everybody an "Applicant."

23 MS. YU: You know what? I have been called a lot
24 worse.

25 VICE CHAIR BOYD: As have we.

1 MS. YU: I do want to address what you talked
2 about with regard to the model numbers and the harm to
3 manufacturer, and also touch upon what Commissioner Eggert talked
4 about, in terms of consumer protection, and address some of the
5 comments from staff and Mr. Brehler. And let me talk about these
6 two units separately because they are actually in completely
7 separate situations, even though they are here at the same
8 proceeding. Let me talk first about the TUR28SD. And that is
9 the one that, in fact, has been reengineered in some respect.
10 What Turbo Air has offered to do is, in fact, change a very small
11 part, that is, insert a new control board. I have actually seen
12 the control board myself, it is about - it is smaller than a 3 X
13 5 card. And if I could just compare it to, for example, it
14 sounds like, Commissioner Boyd, you have had some experience in
15 the automotive industry, or a lot of experience in the automotive
16 industry, and the experience of Pontiac; and the current, what is
17 happening with Toyota, for example, they have done a recall and
18 they are retrofitting all of these brake systems, but they are,
19 in fact, able to maintain their model numbers and their model
20 names because it is very commercially important to businesses.
21 So, like in the brief, I used the example of the Ford F150,
22 having to change to the G150, or, for example, if the Ford
23 Explorer had to become a Ford Adventurer, these things are, in
24 fact, dramatically different to manufacturers and consumers. So,
25 I think that the proposal that Turbo Air has made to this

1 Commission and to staff, what they would like to do and,
2 in fact, will meet all of the consumer protection needs, that is,
3 consumers know what they will be getting, it will be a unit in
4 compliance, and a unit with particular parts and, in fact, we can
5 avoid this great injury to Turbo Air. So, that is with regard to
6 the 28SD.

7 Let me talk about the TSR23. No reengineering will be
8 done there, so, to the extent that there is any type of
9 mechanical changes, physical changes, that is not going to happen
10 with the TSR23SD, it truly was a manufacturing fluke, and all the
11 investigation that I have done, all the investigation that Turbo
12 Air has done internally, they have now obviously added some
13 additional backstop, if that is what you want to call it, in
14 terms of the low tech solution of moving these cabinets across
15 the room from one another. But, I think in terms of the consumer
16 protection interest here, decertifying and changing the model
17 number which is even adding another number, or adding an
18 asterisk, it is just going to result, I think, in less consumer
19 protection in the sense that you will have one physical unit that
20 will then be known by two different names. And I think that it
21 is really a lose-lose situation all around with the TSR23SD, if
22 in fact the unit is decertified, that is, there would be great
23 injury to Turbo Air, no additional benefit to the environment,
24 and, in fact, I think that there is a great probability of
25 consumer confusion around that particular model. So those would

1 be my comments, and I do not know if there are any
2 additional questions that you want to pose for me.

3 VICE CHAIR BOYD: Thank you. You are very effective,
4 although choosing Toyota as your analogue, I am not sure, was the
5 best thing.

6 MS. YU: True!

7 MR. BECK: I do have one comment on the model numbers
8 and hearkening back to what I said about consumer protection, is
9 that, if people - when something is in the database, it is
10 basically in some sense a guarantee that what you are going to
11 buy, or what you have purchased, meets that efficiency level.
12 And if we continue to have - people have obviously already
13 purchased, and I am not sure how many years these models have
14 been in production, but for several - and there are people,
15 business owners and other people who own these models, and they
16 are relying probably in their business decisions to some degree
17 on what they see in the CEC database, and they are relying on the
18 information that is contained on there, and that is why we are
19 removing it. So, if we simply allowed the recertification of an
20 identical model number with these fixes, that would give the
21 false impression to someone who purchased one of these models
22 before these changes were made, or before the quality control
23 changes were instituted, to believe that their model, their
24 appliance, meets the efficiency level that is in the appliance
25 database. And as we have seen through the hearing and the

1 evidence deduced at the hearing, that is not the case,
2 there really is no assurance that they have that.

3 COMMISSIONER EGGERT: So one question real quickly
4 along the lines of Commissioner Boyd's analogy on the recall. If
5 there were to be a commitment to go back and retrofit, because we
6 have kind of in front of us specifically the decision on the
7 decertification; the model number, I think, is somewhat of a
8 separate issue, although obviously related. But, if the previous
9 units were retrofitted, would that satisfy that particular
10 concern? If the older units in the field were?

11 MR. BECK: For the ones with the fan that needs to be
12 retrofitted?

13 COMMISSIONER EGGERT: Correct, yeah.

14 MS. EALEY: I am not sure. This would be for the
15 TUR28SD?

16 COMMISSIONER EGGERT: Right, and actually maybe a
17 question for the supplier, and is the plan proposed to take the
18 board and put it into field units, as well?

19 MS. YU: Correct.

20 COMMISSIONER EGGERT: So all of the units that are -

21 MS. YU: And, in fact, if we leave the TUR28SDs out
22 there in the field un-retrofitted, I think that leaves consumers
23 and the environmental protection aspects here less well-off than
24 if the retrofit is accomplished. But, yes, the proposal is to go
25 out in the field and actually do them, Turbo Air is fully

1 committed to this. We know that a lot of these units are
2 in use in restaurants and so on, and so forth, Turbo Air will go
3 out there at 3:00 in the morning and do it. Dan Cho has promised
4 me he is going to do that, no, I am kidding, but they in fact
5 will make every effort, you know, to go out there and retrofit
6 every single one of these 135 units that are in the field.

7 COMMISSIONER EGGERT: Okay. I mean, it seems like that
8 would be a prudent business decision just to make sure that the
9 current customers have a satisfactory product. I guess, maybe my
10 question is along the lines of, if we had some assurances, could
11 we consider the prospects of even, with the decertification,
12 allowing for a similar model number to come back into the system
13 if there was some guarantee or some provision that would
14 demonstrate their field retrofit?

15 MS. EALEY: I would caution that you would want to
16 consider, for those that are rolling off the assembly line after
17 January 1, 2010, that you consider speaking with the Feds, too,
18 because these are federally regulated after January 1, 2010.

19 MS. YU: And I can tell you, Commissioner Eggert, that
20 these units with the retrofit absolutely comply with the federal
21 regulations. So, that is, I think, in our minds a question that
22 has been favorably resolved for Turbo Air.

23 MR. BECK: Staff had a down and dirty different
24 calculation about whether it complied, but that is neither here
25 nor there for this particular proceeding. I would note that, as

1 Mr. Brehler said, the issue of model number is not really
2 implicated in the Committee's Decision. I think we are getting
3 kind of sidetracked, and it is almost 11:30, and there are a lot
4 of people in the audience that have matters that want to be
5 heard, so I do not know if we could - obviously, if the
6 Commission adopts this particular Order, the models will be
7 decertified and the decision as to whether or not to accept a
8 recertification under a different model number, or an identical
9 model number, is something that could be left to another day.

10 MS. YU: Can I -

11 COMMISSIONER EGGERT: I appreciate that clarification,
12 and so I think you are absolutely right, we do have a Decision
13 and we do have a very busy schedule.

14 MS. YU: I am sorry, Commissioner Eggert, can I just
15 make one comment about that, which I think that they cannot be
16 de-linked in that way. I mean, for example, it would be like
17 suggesting that you want to remove one part of the train tracks,
18 but not make a decision about whether the train can continue to
19 run. I do not think that there is, in my mind, any way to
20 consider these separately, it is sort of like an, "if this, then
21 that." So, I just want to encourage the Commission not to break
22 off that issue and not consider it because, in Turbo Air's mind,
23 this is in fact the greatest impact of the decision here.

24 CHAIRMAN DOUGLAS: Commissioner Weisenmiller, do you
25 have a question?

1 COMMISSIONER WEISENMILLER: Yeah, I wanted to
2 say, obviously, as with Commissioner Boyd, although I do not have
3 nearly as much public service as he has, that generally if you
4 are comfortable relying upon a committee to sort this out, I
5 think one of the disappointing things is that, obviously it is
6 very very important to preserve the integrity of our systems, and
7 the disappointing thing is that some of the creative solutions
8 that are coming up now instead of when the violations were
9 evident, it really would have been nice to have had the staff and
10 the parties basically settle these issues back months ago, and we
11 appreciate the creativity. Now, the question is, how do we go
12 forward, particularly when we will not necessarily have a full
13 record. So, I have a lot of concerns about trying to go forward
14 with the model number, not necessarily in this case where we are
15 talking about 100, but to the extent that we are really trying to
16 push out efficient appliances, you know, with for example the
17 last decision that, if we were talking about millions, you know,
18 do we suddenly find that we have defective things that are
19 complying and non-complying, and the confusion on the consumer
20 level. As I said, you have a much narrower focus, you have a
21 much more sophisticated client base, but I am very concerned
22 that, as we try to accommodate your legitimate concerns at this
23 last minute, that we not do adverse precedents that have effects
24 later that, you know, we just cannot possibly deal with by this
25 coming up at this last second. So, again, that was my

1 suggestion, but again, I will certainly lean back to the
2 Committee to weigh how we resolve these.

3 MS. YU: Commissioner Weisenmiller, I certainly, I hope
4 I am pronouncing your name correctly, and I understand your
5 concerns, which is there is a process set up which is designed to
6 render efficient decisions and allow the staff and the Commission
7 to use its time effectively. I would say that some of these
8 solutions were touched upon in the April hearing, but certainly
9 were not fleshed out in the manner that I am discussing here.

10 COMMISSIONER BYRON: Ms. Yu, I do not believe you were
11 present at the hearing, were you?

12 MS. YU: I was not. I listened to the audio.

13 COMMISSIONER BYRON: And there was ample opportunity
14 for these to be presented at that time and I do not believe they
15 were presented.

16 MS. YU: Okay, well, I was not at the hearing and you
17 were, so I will certainly accept that. But, to the extent that
18 this Commission's hearing, in fact, will have great business
19 impact on Turbo Air, I would just ask the Commission to elevate
20 substance over process here and consider the end result of its
21 decision.

22 COMMISSIONER EGGERT: Well, I think I want to make a
23 suggestion here. I think that is that I would propose that we
24 actually - I would make a motion to take a vote on the decision
25 to decertify the products that are basically put before us today

1 on the agenda, and then I would, I guess, make a request
2 to the staff to work with the supplier to minimize the disruption
3 to the extent possible and consistent with all of the concerns,
4 legitimate concerns that were brought forth during the discussion
5 today, subsequent to the delisting, so that the company does have
6 an avenue to come back into the system perhaps with the same
7 model number, perhaps not, but I do not think we have all of the
8 evidence, as Commissioner Weisenmiller, I think, very
9 appropriately stated, to make any sort of a decision or precedent
10 on that point.

11 COMMISSIONER BYRON: Second.

12 CHAIRMAN DOUGLAS: All in favor?

13 (Ayes.)

14 That item is approved with direction to staff to work
15 with the manufacturer to try to minimize the impact of this
16 decision and leave open the possibility that it actually makes
17 sense, and we do not know if it makes sense to go forward with
18 the same or a different model number.

19 MR. BREHLER: Thank you, Commissioners. Would you like
20 that direction added to the Proposed Order?

21 MR. BECK: That is what staff does anyway. I mean, the
22 staff regularly works very diligently with manufacturers to try
23 and solve problems, so it goes with the territory, I would
24 recommend that that is not necessary. I mean, it is obviously
25 part of the record and I do not think it necessarily needs to be

1 formally adopted.

2 COMMISSIONER EGGERT: With Mr. Beck's statement on the
3 record, I think that we have an adequate demonstration of
4 commitment.

5 CHAIRMAN DOUGLAS: I would agree.

6 MS. YU: On behalf of Turbo Air, we would actually ask
7 that the Order be amended to reflect that, and also to reflect
8 the scope of the Commission's decision today, which is it does
9 not order new model numbers and, in fact, that the staff should
10 consider Turbo Air's ability to proceed with the same model
11 numbers?

12 CHAIRMAN DOUGLAS: My understanding is that the Order
13 is clear, that it is not necessarily requiring a new model
14 number.

15 MR. BREHLER: Correct.

16 CHAIRMAN DOUGLAS: Maybe you could read that provision.

17 MR. BREHLER: Yes, that is correct. In the Decision of
18 the Committee, which is approved by this Order, it says that,
19 "The Efficiency Committee further recommends that this Decision
20 should be without prejudice that Turbo Air's ability to redesign
21 its products, then, apply new model numbers if necessary,
22 demonstrate they meet the standards, and submit them for
23 inclusion in the appliance database."

24 CHAIRMAN DOUGLAS: Okay. So, Ms. Yu, I appreciate your
25 effective and strong advocacy here today. I think that we have

1 reached a resolution that I hope will ultimately work out
2 reasonably well for Turbo Air under the circumstances. I think
3 our Order, the way it is written, covers what the Commission
4 intends and the record here and the transcript of this proceeding
5 is further evidence of that; it was actually part of the
6 Commissioner's motion.

7 MS. YU: Okay, thank you.

8 CHAIRMAN DOUGLAS: Thank you. Thank you, everybody.

9 MR. BREHLER: Thank you.

10 CHAIRMAN DOUGLAS: We are now to Item 5. State Energy
11 Program: Possible adoption of resolution to cancel Program
12 Opportunity Notice (PON) No. 400-09-401 (Municipal Financing
13 Program), and Notice of Proposed Awards, in response to direction
14 of the United States Department of Energy. Ms. Chandler.

15 MS. CHANDLER: Good morning, Commissioners. My name is
16 Claudia Chandler and I am the Chief Deputy Director for the
17 California Energy Commission. With me is Angela Gould, who is
18 the Program Manager for the Energy Commission's Municipal
19 Financing Program under the American Reinvestment and Recovery
20 Act State Energy Program Funds. Today I am here to ask the
21 Commission to cancel the solicitation for the Municipal Financing
22 component of the State Energy Program. This is the 401
23 solicitation that focused on Municipal Financing, using the
24 Property Assessed Clean Energy funding, commonly known as PACE,
25 which was the sole financing option for this municipal financing

1 program. The three California agencies responsible for
2 developing and implementing energy efficiency and climate change
3 policy and programs, which are the Energy Commission, the Air
4 Resources Board, and the California Public Utilities Commission,
5 all agree that achieving energy efficiency retrofits in existing
6 buildings is a very high priority for the state. The Energy
7 Commission and the Public Utilities Commission have both issued
8 key energy policy documents that outline the need for broad and
9 deep energy efficiency retrofits in the commercial and
10 residential sectors. California's Energy Action Plan, the
11 California Energy Commission's Integrated Energy Policy Reports,
12 and the CPUC's Long Term Energy Efficiency Strategic Plan, all
13 place high priority on achieving dramatically greater energy
14 efficiency in existing buildings, including achieving average
15 energy savings of 40 percent in all California residential
16 buildings by 2020.

17 Such high levels of energy efficiency retrofits and the
18 expansion of on-site solar, electric, and other renewable energy,
19 will not be possible without major expansion in the availability
20 of effective financing to homeowners and non-residential building
21 owners. Since it was first conceived in Berkeley in 2007, PACE
22 financing has been recognized throughout the nation as a
23 potential breakthrough mechanism to enable energy efficiency
24 retrofits of existing buildings. Achieving energy efficiency
25 potential identified in the state's key energy policy documents

1 are critical for California's energy future, which
2 requires financing options that municipalities can deploy. While
3 there are other options available, PACE, at the time of the 401
4 solicitation, seemed like the best option to overcoming several
5 barriers that block common building owners from making
6 investments in energy efficiency and on-site solar electric
7 improvements.

8 Over a year ago, Energy Commission staff designed the
9 Municipal Financing Program to expand PACE funding in California,
10 which would then, in turn, support comprehensive energy
11 retrofits, stimulate the green job workforce, and provide
12 foundational work for the Energy Commission's upcoming efforts on
13 implementing Assembly Bill 758. The Energy Commission staff
14 focused on PACE financing for several key reasons: first, PACE
15 enables the amortized repayment of the cost of improvements over
16 time to be in parallel with the energy savings resulting from
17 those improvements. This allows the home or building owner to
18 experience an immediate and ongoing positive cash flow. Second,
19 repayment of the financing is on an assessment of the property,
20 rather than a personal obligation loan on the property owner.
21 And the assessment remains with the property if it is sold. This
22 would dramatically reduce the uncertainty and risk normally
23 associated with financing of energy efficiency and on-site solar
24 projects, and passes the cost of the improvement along with the
25 savings if the property is sold. So, homeowners are more likely

1 to make this kind of investment using this financing
2 option. Third, PACE, unlike many other types of financing, has
3 longer timeframes for repayment, allowing the improvements to be
4 paid, again, through the energy savings throughout the life of
5 the financing.

6 California is a leader in PACE financing movement.
7 Multiple cities and counties have directed both their own General
8 Funds, as well as their ARRA Energy Efficiency and Conservation
9 Block Grant funding into establishing PACE Programs. And this is
10 their direct funds, in an attempt to create jobs, save energy,
11 and meet their greenhouse gas emission reduction goals. In
12 October of 2009, the Energy Commission allocated \$110 million of
13 its ARRA SEP funding to pursue a three-part competitive
14 solicitation that would be municipal PACE financing, Municipal
15 and commercial building targeted retrofits, and comprehensive
16 residential building retrofits. Of this total solicitation, \$30
17 million of the \$110 was awarded to five successful proposals
18 under the Municipal Financing Program. Those five programs were
19 expected to leverage \$370 million and create over 4,300 jobs in
20 the state, and save over 300 million kilowatt hours of energy,
21 plus, it would have avoid the emissions of over 187,000 tons of
22 greenhouse gases during the contract period for these loans,
23 which would actually terminate on March 31st, 2012. So, as you
24 can see, given all these benefits, the Energy Commission staff
25 felt strongly that PACE would be the instrument to overcome the

1 most challenging barriers that the state faces in
2 implementing the magnitude of energy efficiency retrofits that
3 California needs to reduce dependency on petroleum, reduce
4 consumer energy bills, as well as create the magnitude of green
5 jobs needed to stimulate our economy. Staff pursued this PACE-
6 exclusive approach, given the direction coming from both Federal
7 and State Governments. In October 2009, Vice President Biden
8 reiterated the Administration's support for the use of ARRA
9 funding for PACE financing programs. In our own Assembly Bill
10 811, signed by Governor Schwarzenegger, allowed cities and
11 counties in California to create their own PACE financing
12 districts to enter into contractual assessments for the
13 installation of energy efficiency and renewable energy generation
14 improvements that would be permanently fixed to residential,
15 including multi-family, commercial industrial, or other real
16 property. This PACE financing taken back in the fall of 2009,
17 however, was revised on May 5th, 2010, by the Federal Housing and
18 Financing Administration, that oversees the Fannie Mae and
19 Freddie Mac loan Programs. FHFA's action limited the viability
20 of PACE financing. DOE then, at that time, and the Office of the
21 Vice President and private stakeholders and others worked with
22 FHFA to obtain clarification of their May 5th letter, then, that
23 would provide exemptions for PACE Programs that were already in
24 operation, as well as for the DOE ARRA approved programs. On May
25 7th, Federal Guidelines were released providing protection against

1 default on the contractual assessments that would provide
2 protection for these agreements. So, at this point in time, or
3 at that point in time, we felt that the Energy Commission's ARRA
4 PACE Programs would be in the parameters of the DOE guidance, and
5 proceeded with our Municipal Financing Program as we had designed
6 it. On July 6th, 2010, just earlier this month, FHA undermined
7 our authority and the authority of local governments to issue
8 priority lien tax assessments in a statement that directed Fannie
9 Mae and Freddie Mac to take punitive actions against homeowners
10 who participate in PACE financing. Because Fannie Mae and
11 Freddie Mac represent such a large percentage of the nation's
12 home mortgages, upwards of 70 percent, and they also influence
13 other lenders, this new direction on PACE assessment is expected
14 to severely harm citizens who would want to take advantage of
15 this innovative method for financing energy improvements.
16 Unfortunately, as a result, several existing PACE programs in
17 California have already suspended their activities.

18 The battle over PACE financing is not over yet. The
19 Energy Commission staff is optimistic that efforts initiated by
20 the California Congressional delegation, just late last week, in
21 working with the White House and FHFA, will eventually prevail
22 and restore PACE as a viable financing tool. So, to be clear, we
23 are not as a staff recommending that we move away from our
24 conviction that PACE is one of the most effective financing
25 mechanisms to achieve the volume and number of energy efficiency

1 retrofits envisioned for the state, to produce the
2 magnitude of energy savings, the reduction in air quality
3 emissions, and the creation of clean jobs to stimulate our
4 economy; however, at this time, time is of the essence. We feel
5 strongly that, given the looming ARRA deadlines, and DOE's
6 encumbrance deadline of September 30th for the ARRA SEP funds, it
7 is prudent to request that you cancel the 401 solicitation to
8 allow us to expand the options available, including PACE, for
9 municipalities to finance residential and commercial energy
10 efficiency and renewable energy retrofit problems. At this time,
11 the staff asks that you support our request to cancel the 401
12 solicitation.

13 CHAIRMAN DOUGLAS: Thank you, Ms. Chandler. And I
14 would like to ask you a couple questions, actually, before we go
15 on. But before I do that, I would just like to say,
16 Commissioners, these are really difficult and distressing and
17 extraordinary circumstances, and this is a very very fast moving
18 issue. Staff has done a great job in this presentation, in the
19 memo in your packets, and certainly in all the background
20 material that is your packets and that has gone out to the
21 public. The White House policy framework for PACE where the Vice
22 President announced this support for the use of ARRA funds for
23 PACE programs is in the packet, DOE's guidelines with which we
24 complied, the statements of Fannie Mae, Freddie Mac, FHFA, and
25 the Office of the Controller of the Currency, all of which

1 independently, and certainly together, greatly undermined
2 the existing and planned PACE Programs. In light of these sudden
3 and very far reaching regulatory changes, the Department of
4 Energy issued some new guidance to states, including California,
5 on how to handle this issue, and it is reiterated in a letter
6 that we received on July 27th, and I would like to read it because
7 I do not know that all of you have had a chance to read it since
8 it just came in yesterday, and because it may be of interest to
9 members of the public who are following this issue very very
10 closely. "Dear Ms. Douglas: As the Administration's
11 implementing agency for energy efficiency financing programs
12 funded through the Recovery Act, the DOE appreciates your ongoing
13 commitment to pilot PACE financing programs. As you are aware,
14 the Administration supports pilot efforts to test and prove the
15 PACE financing concept in ways that protect borrowers and
16 lenders, while improving energy efficiency and creating jobs in
17 the hard hit construction industry. Over the past several
18 months, Fannie Mae, Freddie Mac, the Federal Housing Finance
19 Agency, the Office of the Controller of the Currency and other
20 financial regulators have expressed concerns about pilot PACE
21 financing programs. On July 6th, 2010, the FHFA and OCC issued
22 statements outlining their concerns of PACE financing programs
23 where the assessment is given a senior lien priority. In light
24 of these concerns, prudent management of the Recovery Act
25 compelled the DOE to notify Recovery Act Grantees about

1 alternative financing tools to implement energy retrofit
2 programs. The DOE has been actively engaging with California and
3 all Recovery Act Grantees impacted by these recent developments
4 to assess the status of their programs and determine the most
5 effective way to leverage existing or planned program
6 infrastructure. However, the Administration continues to believe
7 strongly that an appropriately structured pilot PACE financing
8 program is viable and appropriate. We will continue to work with
9 the regulators, lender and borrower advocates, local and state
10 jurisdictions, and members of Congress, to find an appropriate
11 solution that allows pilot PACE financing programs to continue.
12 We are exploring all appropriate uses of ARRA funds with Grantees
13 to help support the development of pilot PACE financing programs.
14 We appreciate the efforts that California and all stakeholders
15 have put forth in working through the current challenges facing
16 PACE financing programs. We look forward to working with
17 Recovery Act Grantees to develop promising retrofit financing
18 programs that would help consumers across the country, while
19 generating valuable data on the effectiveness of these programs
20 that would help inform future decisions." And it is signed,
21 Cathy Zoi, Assistant Secretary, Energy Efficiency and Renewable
22 Energy.

23 I would also like to let my fellow Commissioners and
24 the interested public here today know that we were contacted by
25 Congresswoman Matsui of Sacramento and she requested a phone call

1 with Commissioner Eggert and I, which we took, I believe
2 yesterday, it might have been the day before yesterday. They
3 sent us a letter also yesterday, writing to express the
4 Congresswoman's strong support for continuation of the PACE
5 Program or PACE Programs, acknowledging the urgency of obligating
6 ARRA funds prior to the Federally mandated deadlines, urging the
7 Commission to provide an unambiguous statement of support for the
8 PACE Program, and the Commission's commitment to preserving PACE
9 for the State of California, and indicating some of the very
10 powerful job benefits and energy benefits of PACE Programs. She
11 also says in this letter that - and I will read here - "Since the
12 FHFA's July 6th letter, which set off a wave of uncertainty about
13 the future of PACE programs nationwide, the California
14 Congressional Delegation has shown its strong commitment to
15 restoring the PACE Program in a timely manner. I was joined by
16 Speaker Nancy Pelosi in sending a letter to President Barack
17 Obama, urging his Administration to quickly step in and resolve
18 the uncertainty surrounding the PACE Program. The letter was
19 signed by 60 members of Congress, including 30 of my colleagues
20 in the California Delegation. Moreover, Congressman Mike
21 Thompson and Senator Barbara Boxer have each introduced
22 legislation that would require lenders to adopt new sound
23 underwriting standards that support PACE financing programs."
24 That letter is here, I believe it was included in your packets,
25 it was not addressed to us, though, so it may not be, but I think

1 we have made it available and we certainly can do that.
2 You certainly know that, on behalf of the Energy Commission, I
3 sent a letter to the California Congressional Delegation asking
4 for their help; the PUC has done the same, and some 12 members of
5 the Environmental Caucus of the California State Legislature have
6 also sent a letter to the delegation. And I received either
7 yesterday or this morning, looking at the dates here, late
8 yesterday, a letter from Assembly Member Cameron Smyth, the
9 Chair of the Assembly Local Government Committee, stating great
10 concern with FHFA's recent decision, noting that the Commission
11 is considering revising the guidelines to conform to this new
12 dynamic and cancelling the solicitation, or considering canceling
13 the solicitation, and stating that "it is very important for the
14 Commission to work in whatever way possible to preserve the
15 original intent of the PACE Program, this is only fair to cities
16 that have already invested so much time working to ensure the
17 success of this program within their jurisdictions. I understand
18 the difficult position FHFA has put the Commission in, and am
19 confident that you will act in a manner that best preserves the
20 PACE Programs. Should you have any questions, please do not
21 hesitate to contact my office."

22 Finally, I will -- actually, not finally, but almost
23 finally -- I will note that I received a letter which I have
24 shared on July 15th from Rick Rice, the Director of the California
25 Recovery Task Force of the Governor's Office. The Governor's

1 Office has been a strong supporter of PACE programs,
2 issued a strong supporting statement when the Attorney General
3 filed a lawsuit to protect PACE programs, and Sonoma County has
4 also done the same, however, Mr. Rice also notes that the
5 regulatory landscape has changed, and calls on the Energy
6 Commission to adapt to the changed regulatory landscape in a way
7 that will allow full obligation of the reallocated funds by
8 September 30th, 2010, and he goes on to say that if the CEC does
9 not respond to the challenges recently imposed by aforementioned
10 federal entities, the CEC is teetering on failing to honor both
11 Governor Schwarzenegger's Executive Order, and the Federal
12 mandate to put Recovery Act Funds to work for the American
13 people, as quickly and efficiency as possible. I will also note,
14 Commissioners, as the deadlines for obligation of these funds
15 approach, both obligation and, frankly, expenditure of these
16 funds approach, I have made repeated commitments to three
17 legislative committees over the past year that we will get this
18 money out on time, and that we will meet the deadlines, and we
19 will beat the deadlines, and that includes both the Policy
20 Committees and the Joint Legislative Audit Committee. So, that
21 is foremost, certainly, or at least very close to the front of my
22 mind, as are many of these other issues that we have to balance
23 today.

24 We received, in a very short time period nearly 40
25 letters from local governments, including cities and counties up

1 and down the state, I have one letter in my hand from Kern
2 County, also signed by five Mayors of cities within Kern County,
3 covering 90 percent of their population, strongly supporting PACE
4 programs, concerned about cancellation, understanding that we are
5 in a difficult situation, and strongly supporting
6 Californiafirst. I think many many of the writers, although not
7 all of them, are or would have been members of the
8 Californiafirst Program. We got letters from, for example, LA
9 County, Sacramento County, Yolo County, Santa Clara County,
10 Alameda County, and I will not try to go through and list
11 everything, you have got the packet, and it is remarkably thick,
12 and I have gone through it and I have read everything, and so I
13 really appreciate both the initiative that these cities and
14 counties have taken, and in some cases, WIBs, and other local
15 government-based entities have taken, to write us and to weigh
16 in, and it is very clear the importance that they place on these
17 programs. If there had ever been any doubt, the flood of mail
18 that we have received certainly alleviates it. And there really
19 has not been any doubt because this is one of the programs that
20 has been initiated at the local level, pioneered in California,
21 and has brought tremendous benefits to California.

22 So, I think I would like to ask you, Ms. Chandler, a
23 few questions before we go on. And my first questions is -

24 COMMISSIONER EGGERT: Actually, Ms. Chairman?

25 CHAIRMAN DOUGLAS: Please.

1 COMMISSIONER EGGERT: If I might make a couple
2 quick comments.

3 CHAIRMAN DOUGLAS: Oh, absolutely.

4 COMMISSIONER EGGERT: I apologize for interrupting, but
5 I do think it is important to emphasize a couple of key points.
6 And the first one, Claudia already spoke to it, is that pursuing
7 this action, if we do decide to cancel the solicitation, should
8 definitely not be interpreted in any way as walking away from
9 PACE financing as a financing mechanism. And, as I think has
10 already been well stated, is that we are part of an ongoing
11 effort at the national level to help reinstate this program, to
12 basically remove the uncertainty that has been created by the
13 actions of FHFA, and that include activities ongoing working with
14 our Congressional Representatives. We support the Attorney
15 General's lawsuit that is again also trying to bring some
16 clarity, as well as the actions of the other states; California
17 is not the only state that has passed legislation allowing for
18 these types of programs, and we are seeing sort of a groundswell
19 of activity that is coming from the locals and the states in
20 support of this at the national level, and that is actually very
21 encouraging. I mean, normally financing is not an exciting
22 topic, and I think, you know, for those who have sort of looked
23 into what it is going to take to really achieve our energy
24 efficiency goals in the areas of retrofit activity, particularly
25 for residential retrofit activity, there is sort of the mechanics

1 of financing, which is some things like the interest rate
2 and the payment periods, etc., and then there is also the
3 psychological aspect of it, which is that a lot of people just do
4 not - it is kind of a barrier to get financing, even if they
5 might have easy access to low cost financing to make these
6 investments. And what was really encouraging about a lot of the
7 programs that came forward is that they combine not only the
8 financing pieces, but also a significant amount of outreach and
9 education to consumers, to residential homeowners to allow them
10 to sort of see the potential benefits to them if they were to
11 pursue these activities in energy efficiency and renewable
12 energy. I think I am going to be perhaps too kind in my words
13 here, but I think FHFA's decision, when they released both the
14 May and July letters is extremely shortsighted and I think they
15 are really missing the point here, and I think I am relatively
16 confident, and I know other people that share the confidence,
17 that once FHFA really fully understands and appreciates the
18 benefits of these programs that can accrue to homeowners and
19 mortgage lenders, because of these investments, which actually
20 help homeowners save money on their utility bills, that will make
21 the home more attractive from a purchase perspective because any
22 future homeowners who will receive the benefits of these
23 investments will also be taken into account, and then this is
24 very sort of compatible with our efforts under a new program that
25 we are launching here within the Commission, AB 758, which is

1 also going to start to give homeowners more and more
2 information about the energy efficiency performance and the
3 energy performance of their homes. So, all of this was going
4 quite wonderfully well until these recent actions by FHFA, and,
5 again, unfortunate, but I think through all our efforts, the
6 sooner we can remove this uncertainty, whether it is tomorrow,
7 next week, next month, certainly we are going to be working
8 diligently to address that, even in light of the action that is
9 before us today. So, I just wanted to make that abundantly clear
10 to everybody here.

11 CHAIRMAN DOUGLAS: Thank you, Commissioner Eggert. And
12 obviously, your leadership on PACE and financing programs has
13 been extremely important to this effort. I just wanted to ask,
14 before we go to public comment, and we have some public comment,
15 although not comparable to the deluge of letters yet, and please
16 do sign a blue card or indicate electronically if you are online,
17 if you are on the phone, if you would like to comment. Ms.
18 Chandler, if the Energy Commission goes forward and cancels the
19 401 solicitation at this time, what does staff recommend that we
20 do, then, with that \$30 million?

21 MS. CHANDLER: Well, as I stated in my presentation,
22 staff is recommending that we expand the financing options
23 available to municipalities, so that would include, but not being
24 limited to, PACE. This is proposed in guidelines that we have
25 posted right now on our Website for 15-day review, and it will be

1 coming before -- those guideline revisions will be coming
2 before the Commission at our August 6th Business Meeting.

3 CHAIRMAN DOUGLAS: Very good. And how long do you
4 think it will take, and bearing in mind our focus and
5 particularly at this moment, my focus, on the deadlines? How
6 long do you think it will take? Do you think we can meet the
7 deadlines?

8 MS. CHANDLER: We do believe we can meet the deadlines.
9 We are looking at basically also in the proposed guidelines an
10 ability to expedite our process so that we do not have to do
11 another competitive solicitation, as one was done earlier. Quite
12 frankly, we do not have time, that solicitation process that was
13 started over 10 months ago, and given the ARRA deadlines, we
14 cannot pursue that approach. Staff at this time has been
15 directed and are working on criteria that we would like to see in
16 our proposed new program for municipal financing, and that will
17 also be discussed at the August 6th Business Meeting.

18 CHAIRMAN DOUGLAS: All right, and I would just like to
19 ask one more question and see if other Commissioners would like
20 to ask questions at this time before moving on to public comment.
21 What if staff is not successful in developing a substitute
22 municipal financing program -- or programs -- in the time that
23 remains to us? What options are there for the Commission to not
24 lose this \$30 million for California?

25 MS. CHANDLER: Well, losing the \$30 million for

1 California is not an option, so staff is -

2 CHAIRMAN DOUGLAS: Thank you.

3 MS. CHANDLER: -- yes, that is not the option. Right
4 now, we are basically doing a full corps press on the municipal
5 financing program, however, should something occur, unforeseen
6 circumstances, we do have another option that will encumber the
7 money and will expend it. The plan would be to put it into the
8 ARRA Energy Conservation Loan Program, the revolving loan
9 program. This was one of the SEP programs that we had proposed
10 under ARRA, you had invested as a Commission \$25 million in that,
11 we were over-subscribed by at least twice that, so we know that
12 there is pent up demand out there that is targeted at local
13 jurisdictions. My caveat is that, while we could encumber it in
14 the timeframe by DOE, and we could certainly expend it by the
15 April 20, 2012 timeframe, the hard stop that we have for all
16 expenditures of funds, it is not our preferred option because it
17 does not achieve the benefits that I had laid out earlier in
18 terms of energy efficiency, in terms of greenhouse gas emissions,
19 in terms of creating the magnitude of jobs, and in terms of
20 laying that platform or foundational work for AB 758. So, I
21 think staff - I know staff - is very committed to the municipal
22 financing program, to looking at alternatives that we can deploy
23 rapidly, it is always good to have a Plan B, but in this case, I
24 do not believe that we are going to be exercising our Plan B.

25 CHAIRMAN DOUGLAS: Well, thank you, Ms. Chandler, and I

1 also hope that we do not end up on Plan B, but, as you
2 say, losing \$30 million is not an option. Commissioners, would
3 you like to ask questions now? Or would you like to hear public
4 comment?

5 VICE CHAIR BOYD: I have a question of Ms. Chandler,
6 prompted by your question and her response, if you do not mind.
7 And I appreciate the attitude that we will not lose the \$30
8 million, Plan B sounds really trick, really neat, but, you know,
9 Plan A, the original plan, is still what we would like the
10 ultimate outcome to be, but I certainly agree, if all else fails,
11 do not lose money that California can put to good use. However,
12 in light of the tremendous support for PACE-type programs coming
13 out of Washington, the glorious letter from the Energy
14 Department, etc. etc., and it seems like there may be one agency
15 still that just does not get it, is there any talk of somehow or
16 another the Federal Government making funds for this type of
17 program, the \$30 million, or anybody else's anywhere else,
18 similar, extending its availability while his issue is wrestled
19 with and worked out? Or is that just out of the question and, if
20 on the eleventh hour and 59th minute we have not come up with a
21 solution, we implement Plan B?

22 MS. CHANDLER: Commissioner, I can only see -

23 VICE CHAIR BOYD: Where is your crystal ball? I do not
24 see it.

25 MS. CHANDLER: -- I can only speak from experience on

1 this one, and that it would probably be at the eleventh
2 hour and 59th minute they would tell us that we did not need to do
3 Plan B, and I do not think that is how - that is not how we
4 operate at the Energy Commission, so we are going to be
5 implementing Plan A. I also know that the Governor's Office and
6 the Recovery Team is very watchful of what we are doing, and they
7 would not feel comfortable with an eleventh hour, 59-minute
8 reverse play, on DOE's part. So there is no indication from
9 anything that we have asked because we did, you know, I whined a
10 little about this and how late in the game they are doing a game
11 change on us, but they, like us, were caught off guard,
12 obviously, by the dates of the letters and that is why I spent a
13 little bit more time of your gracious time, in kind of explaining
14 the process, that up until July 6th, we all thought we were all on
15 the same page with all of the Federal entities and, clearly,
16 within our own house here in California. So, what is that,
17 "trust, by verify?" So, we are going to move forward and trust
18 that we are on the right path, with the option of adding PACE.
19 It will never be excluded from our future plans, it is just that
20 we needed to broaden our options to be prudent here.

21 CHAIRMAN DOUGLAS: Commissioner Boyd, I will just add
22 that I do not think my nervous system could withstand holding out
23 for a last minute fix, first of all, and secondly, that when -

24 VICE CHAIR BOYD: Oh, but we are getting pretty good at
25 that. It is tough on the nerves.

1 CHAIRMAN DOUGLAS: It is tough on the nerves,
2 and playing chicken for a last minute fix is a terrifying
3 prospect. The other issue is that we have asked DOE, and I asked
4 them explicitly earlier for guidance in writing and they provided
5 that, and they also provided a letter, and their guidance was
6 very very clear. It said that the Administration supports PACE
7 and we support PACE, and prudent management of Recovery Act money
8 means you better look at alternatives, as well as PACE. Because
9 I do not think that there is any indication that deadlines are
10 going to move, and particularly not only the deadlines to
11 obligate, but particularly the deadlines to expend the funds, and
12 every day that we delay in getting these programs off the ground,
13 we back the ultimate administrators of these programs up against
14 that wall, so I strongly think that we need to move here.

15 MS. CHANDLER: May I point out that every day that we
16 delay, we create no jobs, and since that is the essence of the
17 ARRA Recovery money and which is essential for stimulating our
18 economy, that is why we on staff feel the pressure to put the
19 money on the street as rapidly as possible.

20 CHAIRMAN DOUGLAS: Thank you. Other questions before
21 we go to public comment? All right, we will start with Peter
22 Ukovitch, Sacramento County and Californiafirst.

23 MR. UKOVITCH: Good morning, Chair Douglas and
24 Commissioners, I am Peter Ukovitch with Sacramento County,
25 representing the 141 jurisdictions of the Californiafirst pilot

1 program and requesting continued support of the
2 Californiafirst program. Over the last 20 months,
3 Californiafirst has been under development and, on April 21st, we
4 were fortunate to be awarded with approximately \$16.5 million by
5 the Commission, and at that meeting, your Commission asked a very
6 insightful question, "How much time and energy has been used in
7 the development of this application?" Well, today I can tell you
8 that, amongst our partners, including Renewable Funding, Ecology
9 Action, the cities and counties represented in the application,
10 plus the contractors, the utilities, and the other entities who
11 are very excited about Californiafirst, thousands of hours, if
12 not tens of thousands of hours, have been devoted to the mission
13 of reducing energy consumption throughout the state and
14 stimulating job growth. The Californiafirst program delivers the
15 economies of scale that are necessary for delivering financing at
16 attractive rates, coupled with the personal touch of marketing
17 and education, through the channels of local jurisdictions, those
18 who know the people the best. In the Capitol region, which
19 includes Sacramento County and Yolo County, and our ten city
20 partners, we have been working in an unprecedented collaborative
21 fashion to develop an infrastructure which will deliver a highly
22 effective program. Our coordination efforts have linked together
23 a region and incorporated energy incentive programs at PG&E and
24 SMUD with the goal of delivering a seamless customer experience.
25 With PACE financing on hold, the need for innovative financing

1 solutions is immediate. To fill the market demand, our
2 team is researching and developing alternative financing products
3 that will help and enable Californiafirst to move forward. The
4 pilot team is concerned about the potential cancellation of the
5 401 contract, but understands the need to adjust in light of
6 FHFA's position and DOE directives. We are pleased that the
7 Commission shares our vision to provide financing solutions to
8 California property owners and is open to modifying the
9 proscribed process to accommodate alternative financing options.
10 The team is hopeful the Commission will continue to support
11 Californiafirst with SEP funds and will be able to quickly
12 execute a contract with Sacramento County. With that said, let
13 me take a moment to acknowledge staff because they have been
14 committed to PACE, committed to this project. We have greatly
15 appreciated working with them, they have been diligent responding
16 to questions and comments at all hours of the night, over the
17 weekends, and working with us and our staff and our team
18 throughout the weekends in trying to get this program on the
19 ground, so we greatly appreciate it and appreciate you
20 recognizing their hard work today.

21 CHAIRMAN DOUGLAS: Thank you very much. The next card
22 I have is for Manuel Alvarez with Southern California Edison.

23 MR. ALVAREZ: Good afternoon, Commissioners. Manual
24 Alvarez, Southern California Edison. I just wanted to provide
25 our support for this program, and if you think you have to take

1 action basically indicate that you think about the kind of
2 unintended consequences that can prevail. I think you are aware
3 of the many programs the utilities have that work with local
4 governments, and as this program got going, there was definitely
5 an attempt to try to interface those programs with the state's
6 program, so just keep in mind that unintended consequences do
7 exist, we do not always control them, and so I am pleased to have
8 heard all of the discussion of the commitment by the Commission.
9 We look forward to working with the Commission and the staff to
10 kind of see how the various programs from the utility, at least
11 Edison, in particular, can work with the financing programs. And
12 I guess just one comment on the side, Commissioner Eggert, I
13 actually do find financing fascinating, but it is an enabling
14 process, it is there to make things happen, not to prevent it, so
15 to run into the kind of roadblocks you are running into is, in
16 fact, not a good indication of what our financial community is
17 doing to us today, and if the last two years of the U.S.
18 recession is an indication, financing played a big part in that.
19 So, it is a lesson to be learned for all of us in that. Thank
20 you.

21 CHAIRMAN DOUGLAS: Well, thank you, Mr. Alvarez, and I
22 noticed that the L.A. County letter specifically mentioned
23 working with utility programs. A number of - in fact, virtually
24 all the programs we have looked at in the SEP 110 leveraged
25 utility programs, and I should have mentioned, and neglected to

1 mention, that the Public Utilities Commission, in their
2 energy efficiency work, is also launching whole house retrofit
3 work, which would be able to leverage financing programs, so it
4 is not even only our side of the shop, so to speak, that is
5 affected by this, it is the utility programs, the local
6 governments, and the PUC programs, which are the utility
7 programs, are very strongly affected by this. The next card I
8 have is for John Haig, Sonoma County. Please come forward. Do I
9 have two cards from Sonoma County? All right, good, well, we
10 will start with you.

11 MR. HAIG: Thank you. Good morning, Chair Douglas and
12 members of the Commission. I would like to echo Sacramento
13 County's comments about your staff just before I make any
14 comments on the action today. I work with my Program Manager,
15 Angie Gould, also on weekends and evenings on our proposal, and
16 there has been a lot of good-natured wrangling between Sonoma
17 County and what we think we know about running PACE programs, and
18 the direction that the Commission has given staff. Mr.
19 Pennington and I have had numerous conversations, as well. Devie
20 Eden has been excellent. And your Exec, Panama Bartholomy is a
21 tremendous asset to the state and to the Commission, so
22 congratulations to everybody involved. With respect to your
23 action today, we understand and appreciate the pressure that you
24 are under, and I am really happy to hear that you are supporting
25 PACE so strongly, I think that is important. The California

1 Energy Commission is the leading energy commission in the
2 country. We are on the cutting edge for all of these sorts of
3 programs and should remain there. You need to continue to lead
4 on this issue. You cannot back off, you have got to increase
5 pressure now, you cannot afford to let PACE suffer on the vine or
6 die. The County of Sonoma is operating a pilot program as we
7 speak. Liz Yager will be talking a little bit about the actual
8 results of our program. But, suffice it to say, we did not come
9 to the Commission to ask you for funding to set up a program, or
10 to help us establish a program, we are running, and we are not
11 closing down. We are continuing operations in the face of this
12 direction, and we encourage you to support us in that. We stand
13 ready to help the Commission, and if you need us to, we will
14 spend the whole \$30 million for you, as opposed to the \$2.5, if
15 you would like us to. I am willing to help. Seriously, we got
16 an award, a generous award, of \$2.5 million and what we are going
17 to use it for is for energy audits to ensure loading order - Mr.
18 Pennington. We will make that happen and we will share that with
19 people in our program and outside of our program, using other
20 financing methods. We will aggressively pursue alternatives to
21 the existing program, as well, just in case. But, we believe
22 this will resolve, as you do, in a favorable outcome. So, take
23 the action you need to take, move quickly and expeditiously to
24 get us the money that we need to put these programs back in
25 place. San Francisco is ready, Californiafirst is ready,

1 Sacramento is ready, LA County is ready, we welcome them
2 back into the fold, we do not want to be the only ones running a
3 program in California, we need you to take action to do something
4 about that. So, we are ready to continue the fight, please join
5 us. Thank you.

6 CHAIRMAN DOUGLAS: Thank you.

7 COMMISSIONER EGGERT: Yeah, I know Sonoma has been a
8 real leader in this area and, actually, I understand - I do not
9 know if you can say anything about it, but you have recently
10 taken some legal action, as well? Is that what I have heard?

11 MR. HAIG: You probably do not need the microphone with
12 me, but -

13 CHAIRMAN DOUGLAS: The people on the phone might.

14 MR. HAIG: Yes, as a matter of fact, the day before
15 yesterday, the County of Sonoma filed suit against FHFA,
16 specifically on this issue. We think they are wrong on the law,
17 we think they are wrong on the impacts, we think they are
18 incorrect in their interpretation, and we think it is a lack of
19 understanding of the benefits of the program vs. the small, if
20 any, risk to existing mortgage holders from a well run, well
21 underwritten program, with solid financing guidelines. We have
22 had that. We worked with local lenders, we worked with regional
23 lenders, Wells Fargo gave us a blanket exemption on their
24 homeowner's mortgages because they understand that this is an
25 assessment under established 100 years of California law, we can

1 make this work, I think seriously it is a lack of
2 understanding and I think it is a bit of a territorial argument,
3 I think it can be resolved with federal legislation; if not, then
4 the courts, of course. But, in the interim, we intend to
5 continue operations and we need your help to do that. So, thanks
6 again for your time.

7 CHAIRMAN DOUGLAS: Thank you. And Liz Yager, also with
8 Sonoma County.

9 MS. YAGER: Good afternoon, Commissioners. I am Liz
10 Yager and I am actually the Program Manager for the Sonoma County
11 Energy Independence Program, affectionately referred to as SCEIP,
12 not to be confused with the computer tool. But I just wanted to
13 have this opportunity to give you some background and really what
14 we have accomplished in the 16 months of operation of the
15 program, and to give you a vision of being in the trenches for
16 that amount of time actually operating a financing program for
17 the entire County of Sonoma, a glimmer of what the future could
18 hold, what we are seeing, where this could actually go.

19 So, we have been around for 16 months, we have financed
20 over a thousand projects, water conservation, energy efficiency,
21 solar generation in Sonoma County, in just our first 15 months of
22 operation, putting \$30 million of funds out into the county,
23 stimulating the local economy in Sonoma County, we have over 350
24 contractors that participate regularly in the program, and don't
25 you think they were pretty scared a couple weeks ago when the

1 FHFA statement came out? So, really, by applying the ARRA
2 formula just to the \$30 million we distributed so far in Sonoma
3 County, that comes out to be 330 jobs through that entire supply
4 chain of those products and services that have happened in the
5 local economy in Sonoma County, never mind the 2.9 megawatts of
6 solar that have been installed just so far through the program,
7 which alone accounts for 1,900 metric tons of emission reductions
8 annually in Sonoma County. So, I think kind of the exciting part
9 about that is, regardless of the timing, I hope we have swift
10 action around a possible redirection of these funds, but we have
11 actually already established a cash flow based on the PACE
12 Program, we have a cash flow, we are going to have a program, we
13 will continue to move forward with whatever financing options are
14 available, but now we can actually see the opportunity of being a
15 county organization, making the connections with the training
16 organizations for the contractors, providing that sustained
17 framework in the county for the nonprofits that we work with,
18 with the utility programs that we work with, of actually being
19 the one-stop-shop in Sonoma County for energy independence
20 planning for the residents of the county, whether they own, they
21 rent, they are residential or commercial, we are really becoming
22 that hub, the hub in the county and actually providing that
23 access for other programs to have a foothold locally, whether
24 they are state or federal programs. So, I want to encourage you
25 when you look at redirecting, to not only look at the financing

1 options, but really this opportunity for local government
2 to provide that hub and that resource for the community. Thank
3 you very much.

4 CHAIRMAN DOUGLAS: Thank you very much. The last card
5 I have, unless there is somebody sitting who has not filled out a
6 card, or somebody on the phone who has not indicated that they
7 want to speak, the last card I have is Nehemiah Stone with
8 Benningfield Group.

9 MR. STONE: Commissioners, thank you for the
10 opportunity. I understand the really difficult position that the
11 Commission is in with this, and I do not want to heap on to that,
12 but I will. You know, it is almost a broken record when you see
13 me up here, you know what I am going to be talking about, and you
14 are right in this case, it is about multi-family and particularly
15 affordable multi-family. If you think about what is going to
16 work in PACE, or in any of the alternatives that the Commission
17 is going to come up with, I urge you to pay special attention to
18 how to make it work with multi-family, and particularly with
19 affordable multi-family. Most of the thought in the guidelines
20 has gone to how to make it work with -- the residential portion
21 of it -- work with single family, and there are specific clauses
22 in there that say "including multi-family," but still there are
23 some structural issues that stay in the way, that I urge you to
24 figure out how to deal with. One example is that affordable
25 multi-family has generally seven or more lenders or equity

1 partners, and even if PACE were to go forward, the general
2 partner, looking at trying to get the approval of all of those
3 seven equity partners and lenders, before they could do this,
4 because PACE would take the superior position in the financing,
5 it is so daunting that these developers are not going to do it.
6 It simply will not, you know, PACE will be irrelevant to
7 affordable multi-family. And it is not a lot different in terms
8 of market rate, unless there is a mechanism included to actually
9 link the savings, which, by the way, go to the tenant, not to the
10 owner, to the repayment of the assessment. So, as you are
11 looking at solutions, I think I would urge you to look at those
12 solutions that would specifically be helpful to affordable and
13 multi-family such as non-recourse loans, unsecured loans, or
14 assessments that explicitly take an inferior position in the
15 financial order. Or even grants, I mean, when we think about why
16 we have affordable housing, there is a public purpose there, and
17 maybe for that group, it is served better just to give them a
18 grant for these things. And, obviously, that is not the sum
19 total, I urge you to explore other options that will specifically
20 help multi-family and, more specifically, affordable multi-
21 family. Thank you.

22 CHAIRMAN DOUGLAS: Thank you.

23 COMMISSIONER EGGERT: Thank you, Mr. Stone. You have
24 been an ardent advocate for multi-family and we are very happy to
25 have you continue in that role.

1 CHAIRMAN DOUGLAS: So, Commissioners, we are
2 through public comment. What questions do you have for Ms.
3 Chandler or for anyone else?

4 COMMISSIONER BYRON: Well, Madam Chair, I will be
5 brief. I do not really have any questions of staff, I have had
6 the benefit of briefings on this issue and I would certainly like
7 to thank both you and Commissioner Eggert for carrying this issue
8 forward. I think we are in a very difficult position, as some of
9 the commenters have stated, and certainly appreciate their being
10 here today, it is just wonderful to get this kind of feedback. I
11 would like to certainly make an unequivocal statement of support
12 for the PACE Funding Program, but, as I said, we are in a
13 difficult position, we need to get these funds out the door. So
14 I certainly agree with the staff's recommendation that it is
15 prudent, but it is also extremely necessary that we act now. We
16 have got to preserve the opportunity to invest these funds in
17 California. And even though there is great deal of effort on the
18 part of our staff to get us to this point, a much larger effort
19 certainly has been put forward by the successful bidders of the
20 contracts that we are talking about today. So, we are looking
21 forward -- I am certainly going to look forward to these proposed
22 amendments to the State Energy Program Guidelines that we will be
23 receiving and I will ask the staff, please do not stop, we need
24 to get this one across the finish line, and I am referring in
25 particular to our Superior Accomplishment Award winners that are

1 mentioned profusely in the meeting here today. Again,
2 thank you to everyone, but no real questions, Madam Chair, I
3 think we need to proceed on this.

4 COMMISSIONER WEISENMILLER: I also agree. I have been
5 thoroughly briefed on this and I think, again, we need to use the
6 money, we need to use it wisely, certainly one of the best ways
7 to do that is leveraging the financial community, and we need to
8 target retrofit. Longer term, it is probably something to think
9 about, educational campaigns with the financial community;
10 certainly programs like PACE can enhance the credit quality of
11 the loans in a way that, if it is properly captured, you would
12 think this is a good synergy for the banks, but I understand that
13 banks are pretty rigid in how they approach things, and it is
14 hard to change some of those old paradigms. But, certainly I
15 think this is a very good program.

16 VICE CHAIR BOYD: Well, I thought we owned enough of
17 the banks in this country, but I guess we do not influence their
18 behavior. I do not have any questions. I, too, just -- I second
19 everything I have heard from my fellow Commissioners. And, you
20 know, I kind of feel, with prejudice, I totally support the
21 staff's recommendation because I do not feel like there are other
22 options than us taking the fork in the road and moving on with
23 plans to continue to try to do the right thing. It is a shame,
24 but that is government, there are pointy headed bureaucrats
25 somewhere, none of them here, but somewhere that just need to

1 catch up with the times. Enough said.

2 COMMISSIONER EGGERT: And maybe just a follow comment
3 just to Commissioner Byron's comment, I think we are very
4 fortunate to have some of the best and the brightest working on
5 this, and I have every confidence that they will bring forward a
6 solution in a timely fashion that helps us to preserve the
7 benefits. So I guess I would like to move the item as it is.

8 COMMISSIONER BYRON: Second.

9 CHAIRMAN DOUGLAS: All in favor?

10 (Ayes.)

11 That item is approved. Thank you. [Applause]

12 All right, at least some of our sustained Superior
13 Accomplishment Awardees can go have lunch, or not.

14 VICE CHAIR BOYD: Oh, they do not eat, they just go
15 back to work, don't they?

16 MS. CHANDLER: They are on the ARRA diet.

17 CHAIRMAN DOUGLAS: Well, so are we, apparently, today.

18 Item 6. Power Source Disclosure Program - Order
19 Instituting Rulemaking. Possible approval of an Order
20 Instituting Rulemaking to modify existing regulations to govern
21 the requirements of the Power Source Disclosure Program. Ms.
22 Gonzalez. All right, Ms. Zocchetti, I just noticed that.

23 MS. ZOCCHETTI: Oh, did you say Lorraine? She is on
24 vacation. I am Kate Zocchetti from the Renewable Energy Office,
25 and to my right is Tara Garcia, a legal intern that is helping

1 our office with this issue. And this agenda item is to
2 seek approval of an Order Instituting Rulemaking to amend the
3 Commission's Power Source Disclosure Program. In 1997, the
4 passage of Senate Bill 1305 created the Power Source Disclosure
5 Program, which requires retail electricity providers to disclose
6 information to the retail customers and report purchase and sales
7 information to the Energy Commission. SB 1305 established
8 regulations under which retail electricity providers must
9 disclose quarterly and annual fuel mix information such as the
10 amounts of electricity generated by natural gas, or renewables,
11 to their retail customers in the form of power content labels.
12 Under SB 1305, all retail suppliers that provide electricity to
13 California customers must include a power content label in their
14 promotional materials and in quarterly submittals to their
15 customers. SB 1305 also required the Energy Commission to
16 prepare an Annual Report that compared the purchase and sales
17 information provided to the Energy Commission by the retail
18 suppliers of electricity.

19 In October of last year, Assembly Bill 162 was signed
20 into law, which makes a number of changes to the Power Source
21 Disclosure Program, and this rulemaking is necessary to ensure
22 that the Energy Commission's regulation remains in compliance
23 with existing law. A number of these changes are specific to
24 formatting changes that clarify the disclosure of specific
25 purchases provided by electricity retail suppliers on their power

1 content labels. AB 162 also changes the frequency of
2 their reporting requirements from quarterly to annually and it
3 provides for an electronic means of disclosing this information.
4 Upon approval of this Order Instituting Rulemaking, the
5 Commission's Renewables Committee, consisting of Commissioners
6 Boyd and Weisenmiller, or a successor committee, will preside
7 over this proceeding. And with that, I respectfully ask that the
8 Commission adopt this Order Instituting Rulemaking for the Power
9 Source Disclosure Program. And Tara and I are available to
10 answer any questions.

11 CHAIRMAN DOUGLAS: Thank you, Ms. Zocchetti. Questions
12 or comments?

13 COMMISSIONER BYRON: One brief comment, and I am so
14 pleased that Assembly Member Ruskin passed this Bill, so we can
15 get rid of the nutty system -- I am sorry, the NET System Power
16 Report, amongst other things. Commissioners, thank you for
17 taking this up, I certainly support this action, this rulemaking.

18 VICE CHAIR BOYD: Well, thank you, Commissioner. I
19 join you. At long last we get an opportunity to fix something
20 that has needed fixing for the longest time, and it is great that
21 we will do it through our own actions here, and pursuant to
22 grateful legislation that was passed, so look forward to
23 finishing this old unfinished business item. If no other
24 Commissioner has a question or comment, I will move approval.
25 Our committee is anxious to see this undertaken.

1 COMMISSIONER WEISENMILLER: I will second.

2 CHAIRMAN DOUGLAS: All in favor?

3 (Ayes.)

4 This item has been approved. We do, however, Mr. Tim
5 Tutt would like to make a comment and he does support it,
6 fortunately, so we have not deprived him of his opportunity to
7 argue that we should not approve this item.

8 MR. TUTT: Good afternoon, Commissioners, Chair
9 Douglas. I just wanted to indicate my appreciation that you are
10 taking up this Rulemaking. In a previous life, I worked on the
11 power content label, and it is in need of updating here, and I am
12 glad that this is going on. We supported 162 when it was passed
13 last year and I just wanted to say I am glad you have taken it
14 up. And, by the way, I represent Sacramento Municipal Utility
15 District.

16 CHAIRMAN DOUGLAS: Thank you, Mr. Tutt.

17 VICE CHAIR BOYD: Thank you, Tim.

18 MR. LEVY: Commissioners, may I take a moment of
19 personal privilege and just let you know that this is Tara's last
20 Commission meeting. She will be heading back to law school and
21 she leaves us at the end of the week.

22 VICE CHAIR BOYD: Good luck to you and hope this has
23 been educational and pleasant, and may result in a career back in
24 Government, or even here.

25 MS. ZOCCHETTI: Tara has been very helpful to us, as

1 well.

2 MS. GARCIA: Thank you.

3 CHAIRMAN DOUGLAS: Well, thank you, Tara.

4 Item 7. Renewables Portfolio Standard 2006 Procurement
5 Verification Report. Possible approval of the Renewables
6 Portfolio Standard (RPS) 2006 Procurement Verification Report.
7 Ms. Barkalow.

8 MS. BARKALOW: Hi, Madam Chair and
9 Commissioners. I am Gina Barkalow and I am here to
10 request adoption of the 2006 Renewables Portfolio Standard
11 (RPS) Procurement Verification Report. In 2002, Senate
12 Bill 1078 was passed, establishing the Renewable Portfolio
13 Standard, requiring retail sellers of electricity to
14 increase retail sales of renewable energy procurement to
15 20 percent by 2010. The Energy Commission is required to
16 design and implement a tracking system to verify
17 procurement. While not legally mandated, the RPS
18 Procurement Verification Report is prepared as part of the
19 Energy Commission's RPS responsibilities and is used to
20 transmit the verification results to the California Public
21 Utilities Commission, or the CPUC, for use in determining
22 RPS compliance. The findings in this report are based on
23 the interim tracking system, which relies on self-reported
24 procurement and generation data, and is verified by staff
25 to the extent possible. This report analyzes RPS

1 procurement data in a variety of ways, most importantly in
2 determining that every eligible claim is made from a
3 certified RPS eligible facility, that the total amount of
4 energy procured was sufficiently generated by each
5 facility, and the RPS procurement exclusively serves
6 California's RPS, and is not being double-counted as part
7 of other renewable energy regulatory or market claims.

8 The scope of the 2006 Verification Report has increased
9 significantly relative to reports released for 2004 and 2005
10 compliance years. The number of retail sellers has increased
11 from three to 11 because the CPUC finalized rules for small and
12 multi-jurisdictional utilities, and 2006 is the first compliance
13 year for electric service providers. The report covers five
14 compliance years, 2001 and 2003 through 2006. The report
15 includes a re-analysis of the IOU's data reported in previous
16 reports, to compare it with the procurement claims from the new
17 reporting entities. Essentially, we needed to make sure that
18 these new claims did not compete or result in total procurement
19 exceeding available generation from the individual facilities.
20 In preparing this report, staff considered over 2,400 individual
21 procurement claims, and resolved hundreds of outstanding claims
22 having to do with issues such as over claims, uncertified
23 facilities, or corrections to the procurement data. The public
24 input process included a staff workshop in March of 2009, where
25 staff publicly presented the initial results of the verification

1 analysis. Staff considered all public comments which
2 preparing the Draft Staff Verification Report. The Draft Staff
3 Verification Report was released twice for public comment, the
4 first in January of this year, and the second time in April of
5 this year, in response to the CPUC's decision on tradable,
6 renewable energy credits, for which there is currently a stay.
7 After a review of the Draft Staff Verification Report and/or
8 discussions with Energy Commission staff regarding their claims,
9 Pacific Gas & Electric Company, San Diego Gas & Electric Company,
10 Southern California Edison, and Pacific Corps submitted revised
11 RPS filings to adjust various claims. As appropriate, staff
12 accepted the revised RPS procurement claims, which are reflected
13 in the Draft Commission Verification Report. The Draft
14 Commission Report was available for public comment beginning June
15 30th, and comments were due July 23rd. Staff has determined that
16 the only ineligible claims are those made by SCE for the Mountain
17 View Wind Facilities, even though SCE maintained in their public
18 comments from the workshop, and the staff draft report, that they
19 should receive credits for these claims. That concludes my
20 presentation. Gabe and I are available for public comments.

21 CHAIRMAN DOUGLAS: Thank you, Ms. Barkalow.

22 COMMISSIONER BYRON: I am guessing, because Mr. Herrera
23 is there, there might be something he needs to say. Is that
24 correct?

25 MR. HERRERA: Good morning, Commissioner. No, that is

1 not correct. I am just here to answer questions if I can,
2 so...

3 VICE CHAIR BOYD: Defend his client sitting to his...

4 CHAIRMAN DOUGLAS: Well, we may, in fact, we asking Mr.
5 Herrera questions. We certainly have some public interest on
6 this item. The first card I have is Tim Tutt again with
7 Sacramento Municipal Utility District.

8 MR. TUTT: Good afternoon again, Chair Douglas,
9 Commissioners. We support the 2006 Verification Report as it
10 stands, and particularly the disqualification of the Mountain
11 View power in Edison's portfolio. We understand there was an
12 inadvertent double-counting in effect that was in place with
13 those RECs for the facility, kept the RECs and sold them in other
14 areas, including some on the market which SMUD eventually bought
15 for its Greenergy program. So, by taking the action of
16 disqualifying that power for the RPS, you are supporting the
17 integrity of the RPS, as well as the integrity of the voluntary
18 RECs market in California, it is a very important action that you
19 are taking here today and I encourage you to go forward with it.
20 Thank you.

21 CHAIRMAN DOUGLAS: Thank you. The next card I have is
22 Laura Genao with Southern California Edison.

23 MS. GENAO: Hi, thank you for letting me give you a
24 couple of thoughts to consider as you consider this matter here.
25 The first one is that the proposed Verification Report, we

1 believe, ignores the plain language of the statute. When
2 this statute was passed in 2002 and enacted in 2003, it talked
3 about electricity that came from eligible facilities. Back then,
4 it did not talk about RECs, it did not acknowledge renewable
5 attributes, the whole idea was, did electricity come from an
6 eligible renewable facility? That is what the law was until
7 2006, effective 2007, when RECs became something that law
8 considered in California. So, we are in this weird situation, as
9 a matter of law, where in 2010, we are deciding what is
10 applicable from 2003 to 2006, and I think that, as a matter of
11 law, we are not applying the right law to the right time period
12 that we are talking about in procurement, so that is why Edison
13 has maintained throughout this proceeding that we should get
14 credit under the RPS Program and the law in effect at the time
15 for the procurement from the Mountain View facility. We have
16 taken the full output of electricity from that facility. So, I
17 understand the Commission's rationale for not doing that in the
18 proposed draft, and I think that one of the things that the
19 Commission has discussed is the idea that there is a need to
20 preserve the integrity of the voluntary program, and there is a
21 little bit of time spent on that in the draft report on the need
22 to do that, understandable. But I think what the draft ignores
23 is that there is a very real effect on an entity that has been
24 doing a lot of renewables procurement in the state from 2003 to
25 2006, and it ignores that, and the problems created by the

1 Commission's adoption of the proposal. There is no way
2 for Edison to backfill those amounts. There is no accounting
3 flexibility, there is nothing we could do, there is no amount of
4 money we could spend to address this issue, and that is of
5 concern to us, and we at a minimum would like you to acknowledge
6 that there is a problem created that came out of unique
7 circumstances, a DWR contract, changing RPS law, that, I think,
8 is something that is well within the Commission's discretion and
9 something that, you know, in the end we are going to have to ask
10 the CPUC for forgiveness. And it would help to have an
11 acknowledgement that this does create a problem and that the CEC
12 recognizes that. Lastly, the timing of this verification report
13 is interesting because the whole problem that my company faces
14 is, we are having law that was passed after we took action, being
15 applied to that action, so a 2010 law being applied to actions as
16 far back as '01 or '03. We are weeks away from knowing whether
17 or not there is going to be a new RPS law. If you adopt this
18 today, does that mean that, in October, it will have to be
19 redone? We do not know. We will know in a couple of weeks. So,
20 in conclusion, I would like to ask you to bear these three things
21 in mind as you decide, so that other people do not run into the
22 same problem in terms of retroactive application of law, to what
23 they did later, but also just in terms of what SCE believes is
24 the law that is applicable here. Thank you.

25 CHAIRMAN DOUGLAS: Thank you. All right, we have two

1 commenters on the phone, beginning with Ian McGowan, are
2 you still there, 3 Degrees?

3 MR. MCGOWAN: Yes, I am here.

4 CHAIRMAN DOUGLAS: Okay, please go ahead.

5 MR. MCGOWAN: Okay, thanks for allowing us to comment.

6 3 Degrees supports the CEC's goals of verifying the RPS
7 procurement exclusively serves California's RPS and is not
8 towards another renewable energy market claim. The prevention of
9 double-counting is paramount to maintaining the environment and
10 contractual integrity of voluntary [inaudible] [2:36:20]. When
11 RECs are contractually unbundled from the underlying electricity,
12 sold separately to different end consumers, the underlying
13 electricity cannot count towards any voluntary or RPS goals
14 without double-counting. We support the CEC determination that
15 the electricity from the Mountain View 1 and 2 facilities under
16 the 2001 DWR contract is ineligible for RPS compliance because
17 the electricity has been funded almost on this REC. We agree and
18 support that [inaudible] unbundled electricity would essentially
19 allow for double-counting because Mountain View REC claims
20 involve regulatory and voluntary market. We urge the CEC to
21 uphold the integrity of California power [inaudible] and
22 contractual law by maintaining its position on [inaudible].
23 Thanks a lot.

24 CHAIRMAN DOUGLAS: Thank you. And let me just ask the
25 Reporter, were you able to get that? All right, the connection

1 was not great, but I think that it was sufficient for us
2 to understand and transcribe what you were saying, so thank you.
3 The last -

4 MR. MCGOWAN: I am more than happy to e-mail those in
5 if that is necessary.

6 CHAIRMAN DOUGLAS: I do not think it is. I think we
7 have got it. The last comment I have is - I am trying to read
8 the name - also on the phone, I believe, Center for Resource
9 Solutions. Not on the phone? Okay, I have a blue card - does
10 Center for Resource Solutions still want to talk? Or have we
11 lost you in the amount of time it took us to get here? All
12 right, well, it may have been, I understand, that she was having
13 technical difficulties. Is that correct? All right, well, if
14 she calls in the next couple of minutes, obviously we will stop
15 and take comment and she could submit comments after the fact. I
16 guess, Commissioners, I would just like to start by saying that
17 some time ago when I was Chair of the Renewables Committee, I had
18 the responsibility to sit through the workshop on this issue and
19 work on this issue, work on a draft, Draft Revisions to this
20 report that are before us today, so I would just like to start
21 this by saying that obviously I have got a significant amount of
22 background on this issue, I truly appreciate the way that the
23 Renewables Committee has stepped up to take it on because it has
24 been a challenging issue and there are both issues of fact and
25 issues of law that I think the Committee had to grapple with in

1 this determination, so I, after having wrestled with it
2 myself for some long period of time when then Chairman
3 Pfannenstiel was on the Committee, and afterwards, when I was on
4 the Committee with Commissioner Levin, I strongly support the
5 direction that the Committee has gone here.

6 VICE CHAIR BOYD: Well, let me say as the fairly new
7 Chair of the Renewables Committee, but it is pretty evident I am
8 not new to this Commission, or new to anything anymore, when I as
9 the new Chair, and Commissioner Weisenmiller as a new
10 Commissioner, and of course brand new to the Committee, found the
11 hot potato sitting there with all kinds of fingerprints on it,
12 we, you know, as a matter of meeting with the housekeeping issue,
13 of course, took the issue up. I do not think we as an agency,
14 any of us, feels good about the fact that here in 2010 we are
15 dealing with the 2006 report, obviously a very complicated issue,
16 easy and legitimately easy, maybe, in the past to put the issue
17 off as other issues are explored, and so on and so forth, and of
18 course, now there are arguments in effect, you know, why do it
19 now when there might be legislative change in the future? I feel
20 almost guilty for this agency for sitting on this thing for so
21 long, it is so complicated. I do think we need to acknowledge
22 here today, and maybe staff can help me with this, but we
23 acknowledge that this issue was compounded by errors of oversight
24 by this Commission, itself, and the staff in reviewing some of
25 the earlier reports, finding everything copacetic and saying so

1 in earlier reports, only to find out later that there
2 truly was an issue. And Edison has every right and prerogative
3 to make that point and they have repeatedly to us, and I know
4 their concerns about potential liability and I know that, well,
5 we all know that this report gets filed and goes out to the PUC,
6 and they have responsibilities under it. But, we as a Committee
7 just could not see rehearing and rehearing and dealing with this
8 issue over and over again, we have got to move it on and
9 everybody involved will have to suffer the consequences. I know
10 Edison had submitted some suggested language changes to it, I was
11 not very inclined to make those changes, although there is one
12 comment that they make that I am inclined to suggest we include a
13 sentence that says on page 3, "The PUC should take into account
14 unique circumstances surrounding SCE's procurement claims
15 associated with the Mountain View Wind Facilities in making
16 determinations on SCE's RPS compliance." I think that is a fair
17 statement and I also think, in transmitting our report, should we
18 act on it today, that our transmittal letter point out the
19 difficulties and the complications with this whole issue. But I
20 am still inclined and, as I believe my fellow Commissioner, the
21 Committee has finally moved this on to the full Commission for an
22 action, and we do recommend that action, and I would look to my
23 Committee member to see, because I blindsided him here with this
24 last comment, to see if that particular piece of language added
25 to a section on page 3 would cause him any displeasure or

1 heartburn. I think we are a little shy about admitting
2 that we complicated it with an error, and I think that, while not
3 forgiving anybody, it should be pointed out that this had very
4 unique circumstances, and as the witness for Edison pointed out,
5 but it is time to move it on and let it be resolved, and get on
6 with things, and if we have to come back in the not too distant
7 future and change things, so be it. As I said earlier, we are
8 getting better and better at learning by doing, and taking into
9 account the lessons learned from other actions, and moving
10 quickly. And that is just what we have to do. But it is better
11 to do that and be open and above board, and we are a public
12 agency, than just continue to sit on the thing, thinking that
13 something else will resolve it. So that is kind of where the
14 Committee was coming from, where I personally am coming from in
15 having watched this here within the Commission for literally
16 years, and now finding myself responsible and accountable for
17 doing something with it. So, we the Committee have told the
18 staff to bring the issue forward and concur with the
19 recommendations, but I would at this late moment perhaps take
20 into account this one piece of language, just as part of
21 reinforcing the issue.

22 CHAIRMAN DOUGLAS: We do have somebody on the line, why
23 don't we turn to that if that is okay, Commissioner Weisenmiller.
24 Jennifer Martin, are you on the line to comment on this item?

25 MS. MARTIN: Yes, we are. This is Jennifer Martin from

1 the Center for Resource Solutions. Can you hear us?

2 CHAIRMAN DOUGLAS: Yes, we sure can. Go ahead.

3 MS. MARTIN: I apologize for our technical mix-up, we
4 had trouble connecting by phone. CRS would just like to express
5 its strong support for the conclusions in the report with regard
6 to the treatment of the RECs for Mountain View 1 and 2. We had
7 submitted comments in this proceeding in April of 2009, February
8 of 2010, April of 2010, and July of 2010, giving clear evidence
9 that the renewable energy attributes associated with the Mountain
10 1 and 2 Energy were not in the possession of SCE and were, in
11 fact, legally transferred to other parties. And we and other
12 parties have supplied the Commission information. We are very
13 gratified to see the willingness of staff to take into
14 consideration this additional evidence, and we just wanted to
15 reiterate our support for the recommendations in the report.

16 CHAIRMAN DOUGLAS: Thank you. We really appreciate
17 that. Commissioner Weisenmiller.

18 COMMISSONER WEISENMILLER: You know, Commissioner Boyd,
19 I was going to say this is an issue I first heard of from
20 Chairman Pfannenstiel, so it definitely has had a long life here.
21 Having said that, I certainly accept your language. I think the
22 reality is, at this stage, and it is probably a good lesson for
23 us as we look at the new legislation and the new programs, this
24 was a very complicated program. The staff has worked long and
25 hard to try to deal with this, and certainly as we go forward in

1 some of the T-REC discussions, I think we need to always
2 worry about the implementation side that, at the end of the day,
3 we have to actually be able to translate the legislation into
4 what we are enforcing. And it is very important to maintain the
5 integrity of the programs, I think certainly I would hesitate a
6 lot about pulling the rugs out from the voluntary markets, or
7 allowing any double-counting. I think it is difficult, you know,
8 the facts are the facts, that I think most people in the state
9 realize that the RECs or the Renewable attributes were not part
10 of the Mountain View contract, that would certainly in the
11 various pleadings of the utilities - I saw the state made on the
12 DWR contracts - and it was unfortunate that there was any
13 confusion there, but at the end of the day, I think it was pretty
14 clear that was the case. Edison has a very very sophisticated
15 procurement program, I would have to say the most sophisticated
16 in the state from what I have seen on the supply side, so, again,
17 certainly we made mistakes, they made mistakes, I think it was
18 important in our report to acknowledge both of those and move
19 forward, and I think certainly the PUC is aware of that. I mean,
20 and certainly we are to stay with just the facts and that is what
21 we have done, and I am afraid it is time to move forward, but it
22 is - we need to really get this behind us and start catching up
23 on the subsequent years, so, I mean, that is a key part of trying
24 to close the books. But, having said that, certainly if the
25 Legislature speaks, we will listen.

1 COMMISSIONER BYRON: Madam Chair, it seems like
2 no easy ones today. I would like to thank the Committee for
3 finally bringing this one forward. I had the pleasure of being
4 fully briefed on this and I would like to thank the staff for
5 their diligence in this regard, as well. I do have a question,
6 however. The argument that was put forth by Southern California
7 Edison in their comments about we are not applying the right law
8 at the right time period, I had not heard before, and I was
9 wondering if there was some assistance counsel could provide in
10 my understanding whether or not that argument is, first, new, and
11 if it makes sense.

12 MR. HERRERA: The argument is not new, we have heard
13 that argument from Edison before. When you go back and look at
14 the original statute, one of the things that the Public Utilities
15 Code Section 399.13 required the Commission to do was to design
16 and implement the accounting system to verify compliance for the
17 RPS by retail sellers, to ensure that electricity generated by
18 the eligible renewable energy resource is counted only once for
19 purposes of meeting the RPS of this state, or any other state,
20 and to verify retail product claims in this state, or any state.
21 And it is really the last part of that requirement that we are
22 latching onto, in terms of double-counting. In this case, the
23 double-counting would take effect because we would allow the
24 attributes that were bought on the voluntary market and already
25 separated from the renewable energy to be claimed by Edison and,

1 as everybody here has acknowledged, what Edison acquired
2 was the DWR contract that was for energy only, energy stripped of
3 the RECs. There was clarification in the law that came about as
4 a result of SB 107 in 2007, and that dealt specifically with the
5 issue of RECs and who owns RECs with respect to qualifying small
6 power production facilities under Federal law, and what FERC
7 determined, and was kind of the precedent decision for the State
8 Legislature here to act was that, based on state law, state law
9 could determine whether QF or the procuring utility owned the
10 RECs, or the Renewable attribute from the energy, and state law
11 was subsequently enacted clarifying that. So, I think that is
12 what the Edison representative, Laura Genao, indicated. But that
13 is really not the basis of our determination. The basis of our
14 recommendation and the conclusions in the RPS Report really go to
15 the issue of double-counting and making sure there are not
16 duplicate claims in our state, and in other states, and we think
17 the report does that.

18 COMMISSIONER BYRON: Okay, thank you. And I think it
19 really is important that we get the accounting right. You know,
20 Southern California Edison, in my mind, recently has been doing
21 everything right with regard to their renewable purchase
22 agreements, and certainly want to support them in that regard.
23 And my advice would be, when you go to the PUC to ask for
24 forgiveness, it is not all that bad, they are a merciful
25 organization over there.

1 MS. BARKALOW: Maybe I can just make one comment
2 on how SCE, or options that SCE may have in dealing with any
3 unexpected shortfall due to Mountain View. The PUC has what is
4 known as flexible compliance, and so if a retail seller has a
5 surplus of procurement in any year, they are able to bank that
6 surplus procurement and use it towards deficits in future years.
7 So, SCE is able to use their banked procurement to offset
8 deficits. They are also allowed to use what is called earmarking
9 of future contracts where they can earmark a future contract and
10 apply that to an unexpected shortfall. So, the PUC does have
11 flexible compliance to deal with unexpected shortfalls.

12 VICE CHAIR BOYD: And I would add the Committee was
13 well aware of that as it evaluated the issue. So, if there are
14 no further comments, I will move approval of the staff
15 recommendation, with the modification that I read into the
16 record.

17 COMMISSIONER WEISENMILLER: Second.

18 CHAIRMAN DOUGLAS: All in favor?

19 (Ayes.)

20 That item is approved. Thank you.

21 VICE CHAIR BOYD: Thank you, staff.

22 CHAIRMAN DOUGLAS: Item 8. Clipper Creek, Inc.
23 Possible approval of Agreement ARV-10-001 for a grant of \$1.9
24 million to Clipper Creek, Inc. to update approximately -- and
25 this is a change from what is written in the agenda -- 624

1 existing California electric vehicle charging stations.

2 Ms. Allen.

3 MS. ALLEN: Good afternoon, Chairman Douglas and
4 Commissioners. This is a potential agreement with Clipper Creek.
5 This was part of the solicitation that was put out in January of
6 this year for infrastructure. And I am sure that if they had
7 read the agenda for today, they were probably having a slight
8 heart attack finding out that they were going to have to upgrade
9 three times as many pedestals as there are in California. But,
10 based on the estimates that we have, it is going to be somewhere
11 between -- there is roughly over 1,200 existing infrastructure
12 pedestals in California, so it would be somewhere between about
13 620 to 635, so we could also put in up to 635. But it is going
14 to be in that range. And the Clipper Creek is a California
15 company located in Auburn. They work with other California
16 companies for the components for the pedestal upgrades, so this
17 would actually be supporting five California companies to do the
18 work in California. It would be roughly half of the existing
19 charging infrastructure that is currently being used or existing
20 being maintained by the electric vehicle community. They would
21 be upgrading the infrastructure to the new SAEJ1772 standard, and
22 they will make sure that any inductive charging paddles, the
23 small paddles, will remain in place so that they do not strand
24 any of the cars that still use the inductive charging paddles.
25 They will also have an inductive inlet that will allow some older

1 model electric vehicles to actually plug-in and be
2 compliant, then, with the new standard. And if the current
3 installations have any - 120 volt outlets associated with it for
4 some of the smaller electric vehicles, some of the neighborhood
5 electric vehicles, it will also maintain that so that the intent
6 is that nobody is left stranded as a result of the upgrade. They
7 will be installing meters and be working with the local utilities
8 to make sure that they can eventually be monitored and controlled
9 by the utilities, and they will have the potential - they will
10 have the components in the upgrade to allow any kind of
11 monitoring and integrating with Smart Grid by the utilities. So,
12 the partners in this are members of the EV community that have
13 been very active in maintaining these chargers, and so they will
14 be working with Clipper Creek to make sure that they can identify
15 the chargers that should be upgraded first as a result of these
16 funds. They will also be working with EV Connect, I am sure
17 those that are familiar with the EV Community recognize Enid
18 Joffe with EV Connect, she will also be working with this to make
19 sure that we maximize the funds for the upgrades. They will be
20 matching this with approximately \$1 million. Staff recommends
21 entering into agreement with Clipper Creek.

22 CHAIRMAN DOUGLAS: Thank you, Ms. Allen. Questions
23 from Commissioners, comments?

24 COMMISSIONER EGGERT: Just a quick comment. So this
25 came through the Transportation Committee, Commissioner Boyd and

1 myself, and what I liked about this project was that it is
2 a good example of taking advantage of existing capital and
3 avoiding stranded investment from all of the chargers that had
4 been previously installed to serve the first wave of electric
5 vehicles. And now, as we are preparing for the second and,
6 hopefully, much larger wave of these products, the fact that we
7 have these existing pedestals and that we can take advantage of
8 all the infrastructure, including the power that is brought to
9 those, upgrade them to the latest SAE standard, which is the
10 agreed upon standard for all of the automakers for this next
11 round of vehicles, we no longer have the Betamax-VHS problem of
12 basically the interface, and the fact that they -

13 VICE CHAIR BOYD: Unless you drive a Mini Cooper.

14 COMMISSIONER EGGERT: Right. So there was some
15 intermediate challenges there, but I think there are also, as Ms.
16 Allen stated, they are planning on keeping in the existing
17 paddle, inductive charging system, so nobody from using the older
18 vehicles is stranded, so this is a nice project, including the
19 fact that they are working with the utilities and with this
20 interesting effort underway that she had mentioned, which is EV
21 Connect. So we do hope to learn quite a bit from this and it is,
22 I think, a good way of taking advantage of a previous investment.

23

24 COMMISSIONER BYRON: Madam Chair? What an intriguing
25 project, you know, to basically resurrect all this

1 infrastructure. A question for Commissioner Boyd, the
2 unsung star of the movie, *Who Killed the Electric Vehicle*, will
3 there be a sequel, *Who Resurrected the Charging Stations*?
4 Commissioner, this is a very good project.

5 VICE CHAIR BOYD: Well, I am not sure about a film
6 sequel. Interestingly enough, yesterday I attended part of,
7 unfortunately not all of the day, at Plug-In 2010 down in San
8 Jose, and of course, charging infrastructure is on everybody's
9 mind, and is quite an issue of concern. In my panel presentation
10 yesterday afternoon, we had some very good data about what 118 is
11 doing about this contract about other grants associated with
12 infrastructure, that was educational and allayed some concerns,
13 and fears of folks about us being at all ready for future -
14 frankly, here is an area that is kind of the absolute reverse of
15 the fuel cell hydrogen issue, where we have so many people
16 clamoring and concerned about infrastructure, and who have the
17 supply of electricity, fuel, they want to provide, that I think
18 the manufacturers, with the roll-out of the vehicles, will have a
19 tough time rolling out enough to really constitute any threat
20 over over-using the charging infrastructure, whereas, of course,
21 in the fuel cell business, we have got the cars, it has been
22 tough until the last year, so getting anybody to step forward and
23 deal with the fuel. In any event, obviously Commissioner Eggert
24 and I are very supportive of this and all the other projects that
25 you will be seeing more and more of. We have encouraged the

1 staff to use their bully pulpit to work with all the
2 grantees who have various pieces of the charging infrastructure
3 to work on, to make sure they work together, that they do not
4 cherry pick each other's territory and turf, as I am beginning to
5 hear rumors about, so on and so forth, and so it will be up to
6 the staff to work hard with these people to see that we
7 absolutely maximize the opportunity we have for providing the
8 infrastructure. So, the chicken or the egg is going to be out
9 there, the other has to come to the party. But I was very
10 enthused yesterday by the reception that the subject of electric
11 vehicles received, and there is a little bit of Press, I noticed
12 this morning, that Adam furnished me that some reporter chose to
13 take out of context any negative comment he could find in the
14 midst of all kinds of positive comments, about how ready we might
15 be, or what the future might be. So, in any event, this is a
16 very good beginning, staff, this is another staff area that they
17 have worked very hard to launch 118, and frankly harder for them
18 to do that in the face of the huge ARRA workload that the staff
19 had. So, we have had, you know, the pipeline is only so big and
20 the staff has really pushed an awful lot of stuff through a very
21 tiny little pipeline over a record period of time. So, enough
22 said.

23 MS. ALLEN: Staff is taking advantage of the 2010 Plug-
24 In Conference and the fact that all the Awardees are going to be
25 there at the Conference, and that they will need lunch on

1 Thursday, so they have asked everybody to show up for a
2 lunch meeting so that they can get together and start discussing
3 the possibility of some of the companies cherry picking and how
4 to work out ahead of time who is going to be doing what and in
5 what area, and how to do the work equitably between the
6 companies.

7 VICE CHAIR BOYD: If the Awardee who was there
8 yesterday, he and I returned fairly late last night, he told me
9 about this event that is going to occur tomorrow as you all try
10 to get together. While we are talking about the subject, very
11 quick, I will just mention, also tomorrow afternoon, Commissioner
12 Eggert and I will be going back to San Jose for the first ever
13 meeting of the New Plug-In Electric Vehicle Collaborative
14 Council, which just shows how much traction this subject area is
15 getting. And as I was able to say in my presentation yesterday,
16 that we have come a long way in a few short years, that when we
17 kicked off this plug-in conference in 2008, it was in the face of
18 not a lot of support, necessarily, for electric vehicles and
19 plug-in hybrids, and this agency courageously created the Plug-In
20 Center over at UC Davis, and here is an area where government
21 chose correctly because this has just caught fire in terms of an
22 interest. And maybe we will see a follow-on film, Commissioner,
23 but hope it is to the success of the second-generation of
24 electric cars. I just go to great - to any length to criticize
25 General Motors in public for what they did, and I had multiple

1 opportunities yesterday. They were not on the panel with
2 me, but Ford, Toyota, and BMW were. In any event, enough said, I
3 will move the item.

4 COMMISSIONER EGGERT: Second.

5 CHAIRMAN DOUGLAS: All in favor?

6 (Ayes.)

7 COMMISSIONER BYRON: Thank you, Ms. Allen.

8 MS. ALLEN: Thank you.

9 CHAIRMAN DOUGLAS: Thank you, Ms. Allen. That item is
10 approved.

11 Item 9. ALTEX Technologies Corporation. Possible
12 approval of Grant Agreement PIR-09-016, awarding -- and this
13 number is a change -- \$1,435,575 to ALTEX Technologies
14 Corporation to develop a waste vegetable oil-driven combined heat
15 and power system for fast food restaurants. Ms. Baronas.

16 MS. BARONAS: Thank you. Good afternoon,
17 Commissioners. This is a proposed agreement, PIR-09-016, with
18 ALTEX Technologies Corporation based in Sunnyvale, California,
19 and the name of the agreement is Waste Vegetable Oil-Driven
20 Combined Heat and Power for Fast Food Restaurants. And Chairman
21 Douglas mentioned the dollar amount. I will add that the match
22 funds in the amount of \$1,070,984 would come from ALTEX and other
23 project partners, including Clear Edge Power and the U.S. Army.
24 Research would focus on the development of a grid connectible
25 fuel cell-based combined heat and power system, known as CHP,

1 that operates on waste vegetable oil from fast food
2 restaurants with an overall 80 percent efficiency. This system
3 would use a fuel cell to produce over 5 kilowatts of electrical
4 power and over 40,000 BTU per hour of heat for water, and it
5 would have a short payback period. The potential for
6 California's estimated 30,000 fast food restaurants would be a 65
7 megawatt electrical power opportunity, an estimated 43 percent
8 penetration, and a 4.7 year payback without incentives, and 2.1
9 per year with incentives. The proposed CHP system would meet
10 CARB 2007 distributed generation emission limits, those are the
11 current standards. This agreement would start August 16th, 2010,
12 and end December 30th, 2013. The proposal from ALTEX Corporation
13 is in response to a CEC Grant Solicitation, PON-08-005, for CHP.
14 The CEC received 25 proposals and eight were awarded for the PON.
15 I seek your approval.

16 VICE CHAIR BOYD: Thank you, Ms. Baronas. Any
17 questions by Commissioners?

18 COMMISSIONER BYRON: No real question, self-
19 explanatory. A comment. It always amazes me, in this case, some
20 people see waste vegetable oil, and some see a business, a way to
21 reduce waste, CO₂ and make money along the way. I like these
22 kinds of projects, there is nothing to not like about it, and my
23 hats off to ALTEX Technologies, I hope for them great success,
24 and thanks to the PIER staff for bringing this project to us.

25 MS. BARONAS: You are welcome.

1 VICE CHAIR BOYD: Well, I, like you,
2 Commissioner, well, excuse me, Commissioner.

3 COMMISSIONER EGGERT: Oh, actually, and I apologize for
4 having to step out, but just a quick question and if you have
5 addressed this in your comments, I apologize again. But I
6 noticed the pretty impressive figure here of the 80 percent
7 system efficiency. Do you know what fraction of this is H and
8 what fraction is P in the CHP? I mean, that is a very high
9 number.

10 MS. BARONAS: That is a good question. I will get back
11 to you.

12 COMMISSIONER EGGERT: Okay, I would be interested in
13 hearing that.

14 VICE CHAIR BOYD: I think Commissioner Byron and I were
15 so excited about somebody incenting CHP that, in the Research
16 Committee, we were quite pleased with this project. It just
17 dawned on me, I have no cards of support or opposition, but those
18 people who collect fast food industry waste oil to power their
19 biodiesel vehicles now have got competition for the use of that
20 waste fuel. It creates a market. Any other questions? I guess
21 we are open for a motion.

22 COMMISSIONER BYRON: Mr. Vice Chair, I move approval of
23 Item 9.

24 VICE CHAIR BOYD: Second.

25 CHAIRMAN DOUGLAS: All in favor?

1 (Ayes.)

2 That item is approved. Thank you very much. Thank
3 you, Commissioner Boyd.

4 Item 10. Potter Drilling, Inc. Possible approval of
5 Agreement PIR-09-019 for a cost-share grant of \$380,000 to Potter
6 Drilling, Inc. to develop and test a non-contact geothermal well
7 drilling technology. Mr. Hingtgen.

8 MR. HINGTGEN: Good afternoon, Commissioners. My name
9 is John Hingtgen. I am with the Energy Research and Development
10 Division. This item is for approval of a grant of \$380,000 to
11 Potter Drilling, Inc., a company based in Redwood City, to
12 develop a new geothermal well drilling technology. The
13 technology is useful in drilling wells to explore geothermal
14 reservoirs. Such reservoirs are developed to provide heat to
15 power plants producing electricity. The technology makes use of
16 a novel method of drilling, which does not rely on direct contact
17 of a bit with the rock in the well. The grant results from an
18 Energy Commission solicitation, which supplements the Federal
19 ARRA grant awards by the DOE for Geothermal Research. The DOE
20 ordered \$5 million to Potter Drilling for this project within a
21 solicitation, FOA75, which was targeted for enhanced geothermal
22 systems components. The company is providing \$2.1 million,
23 adding up total project budget of \$7.5 million. The CEC is
24 contributing five percent of the total project cost. With that,
25 I would ask for your approval.

1 CHAIRMAN DOUGLAS: Thank you. Questions or
2 comments?

3 COMMISSIONER BYRON: Madam Chair, this came through R&D
4 Committee as well, and this is another one of those great
5 projects that is highly leveraged, great potential technology,
6 disruptive technology here for drilling. I encourage my fellow
7 Commissioners to support this co-funded effort with the
8 Department of Energy.

9 CHAIRMAN DOUGLAS: Thank you, Commissioner Byron.
10 Other comments?

11 COMMISSIONER EGGERT: I had a question, I guess, with
12 respect to the technology. Is this unique to geothermal wells?
13 Or can this technology be applied to other applications for
14 drilling?

15 MR. HINGTGEN: It is specifically geared toward
16 geothermal wells in which the temperatures are very high, higher
17 than you would find in a oil and gas well, and the rock is much
18 harder. You would be dealing here with igneous metamorphic rock,
19 whereas, in an oil and gas well, it is more sedimentary rock. It
20 could potentially be applied to other types of wells, but the
21 company has identified the geothermal market as their first
22 opportunity.

23 COMMISSIONER EGGERT: Okay, thank you.

24 CHAIRMAN DOUGLAS: Commissioners, is there a motion?

25 COMMISSIONER EGGERT: Actually, one - well -

1 CHAIRMAN DOUGLAS: No, go ahead.

2 COMMISSIONER EGGERT: I was going to say, with respect
3 to the cost share, the 5 percent, is that sort of a standard, or
4 how did you arrive at that number?

5 MR. HINGTGEN: There is no standard that was proposed
6 by the company. We saw that it was leveraged favorably and we
7 accepted that. It fits within the maximum available award for
8 this solicitation.

9 COMMISSIONER EGGERT: So that is the 20:1 is the
10 leverage on this particular -

11 MR. HINGTGEN: I have not checked statistics, but I
12 suspect 20:1 is better than average.

13 COMMISSIONER EGGERT: Yeah, okay. Thank you.

14 VICE CHAIR BOYD: Yeah, we done good on this one.

15 COMMISSIONER EGGERT: I guess I will move the item.

16 COMMISSIONER BYRON: Second.

17 CHAIRMAN DOUGLAS: All in favor?

18 (Ayes.)

19 Item 10 is approved. Thank you.

20 MR. HINGTGEN: Thank you.

21 CHAIRMAN DOUGLAS: Item 11. Electric Power Research
22 Institute, Inc. Possible approval of Agreement PIR-10-022 for a
23 grant of \$400,000 to Electric Power Research Institute. Mr.
24 Gautam.

25 MR. GAUTAM: Good afternoon, Commissioners. My name is

120

1 Anish Gautam and I am here on behalf of the Energy
2 Research and Development Division's Industrial Agricultural and
3 Water Group, and we are here to seek your approval of this
4 project with the Electric Power Research Institute. This project
5 was the result of our Competitive Emerging Technology
6 Demonstration and Grants Program, which was a partnership between
7 the California Utilities and the Energy Commission. The goal of
8 our solicitation was to demonstrate emerging technologies and
9 have the utilities provide the emerging verifications such that
10 they can go forward with the development of incentives and
11 rebates. This project will demonstrate the use of variable speed
12 drives in a retrofit application at EPRI's Data Center, as well
13 as NADC's Data Center in Sunnyvale. For this project, Pacific
14 Gas & Electric will be providing assistance with the Measurement
15 and Verification. Now, these will result in a retrofit of the
16 direct expansion DX, or CRAC Units, also known as Direct
17 Expansion Computer Room Air-Conditioning Units, which are very
18 much similar to what you would find in residential applications.
19 These are packaged refrigerant-based units, and currently these
20 are found in smaller data centers which have a demand of 500
21 kilowatts and a cooling load of less than 150 tons; however,
22 these are also commonly found in larger data centers which have
23 grown and expanded beyond the kilowatt or infrastructure for
24 their chiller-based computer room air handling units. Now, the
25 current convention is that, because day to day, there is a very

1 little variation in the load demand at Data Center's
2 experience, there is really no need, or there is no economically
3 justifiable reason for having variable speed drives on the CRAC
4 Units, however, a previous LBNL study funded by the Energy
5 Commission where we demonstrated that the retrofit of computer
6 room air handlers with variable speed drives with the
7 implementation over wireless temperature sensing network, we were
8 able to reduce overall energy consumption by 15 percent, and we
9 are anticipating similar results here, except we will also be
10 looking at issues that are directly applicable to the direct
11 expansion units, mainly the freezing of the cooling coils and
12 also, since these are retrofit applications, we have to be aware
13 of the reliability of the units, as well as the warranty issues
14 that may arise because of the retrofits. In terms of energy
15 savings, we are looking at about 854 million kilowatt hours,
16 which will result in a potential overall industry-wide savings of
17 \$100 million. A successful demonstration at EPRI's Data Center,
18 as well as NADC's Data Center, will provide the critical
19 information that we need on performance, reliability, as well as
20 the economics, such as if the end-user is comfortable that these
21 technologies work, and that the industry can move forward and
22 adopt it, and also to have the necessary information for the
23 utilities such that they have the information they need to go
24 forward and develop the incentives and rebates. Right now, we
25 expect a payback period of 2.5 years, a little bit over 2.5

1 years, without any rebates, but if we were to have utility
2 rebates similar to what we saw when we did the demo work with
3 LBNL at the California Franchise Tax Board, we could probably
4 bring this down to a year and a half. We request approval of
5 this project. If you have any questions, I will be happy to
6 answer them.

7 COMMISSIONER BYRON: Madam Chair, I just have a comment
8 that I am just so pleased to see projects like this, having
9 worked at Oracle as the Energy Director, and knowing the
10 difficulties of getting into the Data Centers and effecting
11 change, I am so glad to see that my successor there has been
12 successful. But there has been a lot of transformation in the
13 Data Centers. I spoke at Network Appliance last year on a Data
14 Center Energy Efficiency Conference where they had numerous case
15 studies on average with 42 percent a year savings of energy
16 efficiency, and it is so gratifying to see this industry embrace
17 energy efficiency and there is enormous potential payback. I
18 note the demonstration of the CRAC Units at Oracle had a payback
19 of six months, you say this project, the payback period of less
20 than 2.5 years, so I am very pleased to see this happening. I am
21 glad that we are involved in this project and I think the key is
22 certainly to promote this afterwards and make sure that everyone
23 is aware. There is great money they are leaving behind on the
24 table, and implementing these kind of savings all goes to the
25 bottom line, so I certainly support this project.

1 MR. GAUTAM: Thank you, Commissioner.

2 CHAIRMAN DOUGLAS: Commissioner Eggert.

3 COMMISSIONER EGGERT: I guess I agree, this looks like
4 an excellent project, and I guess recognizing that I know that
5 computer rooms being an increasing area of consumption as we
6 expand our IT infrastructure, so hopefully if this proves
7 successful, it will be deployed on a scale as you are mentioning.
8 Those are really impressive numbers, including the potential
9 savings and the payback period, so this looks great.

10 MR. GAUTAM: Thank you. One comment. It is expected
11 that the energy consumption in data centers is doubled every five
12 years, so right now it is about two percent of total California
13 consumption, so in a couple years, if we keep our consumption per
14 capita level, we will probably see about 4.5 percent of what it
15 is going to be, so this is an area that we have to really focus
16 in.

17 VICE CHAIR BOYD: I was just about to say, this is a
18 burgeoning energy consumptive area, and we are getting more and
19 more into looking at that, which is hopefully going to be a good
20 payoff for us. As everybody else has said, this is an exciting
21 project.

22 CHAIRMAN DOUGLAS: Good. Seeing no more comment, is
23 there a motion?

24 COMMISSIONER BYRON: Move approval.

25 VICE CHAIR BOYD: Second.

1 CHAIRMAN DOUGLAS: All in favor?

2 (Ayes.)

3 Item 11 is approved.

4 Item 12. And, Commissioners, if you agree, we will
5 take up Item 12 a through h as one item.

6 COMMISSIONER BYRON: Absolutely.

7 CHAIRMAN DOUGLAS: Very well.

8 VICE CHAIR BOYD: But, perhaps at least the title, the
9 subject and the dollar can be -

10 CHAIRMAN DOUGLAS: Yes, the title, subject and dollar
11 amount, at least, can be read into the record. So, Trustees Of
12 the California State University. Possible approval of eight
13 grant applications, totaling \$617,245, from the Public Interest
14 Energy Research (PIER) program's Energy Innovations Small Grant's
15 Solicitation. Mr. Caldwell.

16 MR. CALDWELL: Good afternoon, Commissioners. My name
17 is Matt Caldwell. I am the Program Manager for the Energy
18 Innovation Small Grant Program. To my right is Patrick McCarthy,
19 he is actually going to be taking over the program from me in the
20 coming weeks, and so he is job shadowing today. We are
21 requesting approval of this electricity research solicitation 09-
22 01. We received 79 proposals for this solicitation, 29 of those
23 passed are in initial screening, of those 29, 20 passed our
24 technical review, and then, of those 20, they went to what we
25 call the Program Technical Review Board, where we get together

1 and talk about each of the projects, and out of that, we
2 are recommending the eight for funding. Six of these projects
3 are Renewables, one is an industrial agricultural water project,
4 and the last one is an energy efficiency project, and the total
5 amount is \$617,245. And I will note that three of the projects
6 that we are recommending of the eight are modeling projects,
7 which is a high number for us. Typically, we have about one
8 modeling project per solicitation, so I thought that was
9 noteworthy. And I can read - do you want me to read each of the
10 project titles into the record?

11 CHAIRMAN DOUGLAS: Please, quickly.

12 MR. COLDWELL: Okay, the first one is the Low Cost
13 Energy Storage for Solar Thermal Power Plants, it is a \$42,245
14 grant to Robert A. Hogue. The second one is a Light Assisted
15 Biomass Fuel Cell for Renewable Electricity Generation, it is a
16 \$95,000 grant to Frank Osterlow at UC Davis. The third one is
17 Growth of Cavity Light Emitting Diode on a Reflective Substrate,
18 it is a \$95,000 grant to Lightwave Photonics, Inc. The next one
19 is Concentrative Photovoltaic Module with Zero Cost Thermal
20 Management, which is a \$95,000 grant to Semprius, Inc. The next
21 one is Modeling Blade Pitch and Solidities in Straight Bladed
22 Vertical Axis Wind Turbines, which is a \$50,000 grant, this is
23 one of the modeling grants, to Wind Harvest International. The
24 next is Wind Power Generation in High Rise Buildings in Urban
25 Centers, this is another modeling project, it is a \$50,000 grant

1 to San Jose State University. The next one is Solar Heat
2 Engine Driven Hydraulic Ram for Low Cost Irrigation, this is a
3 \$95,000 grant to Thermofluidics. And the last one is a Proof of
4 Concept of Co-Production of Electrical Power and Lithium from
5 Geothermal Fluids, which is a \$95,000 grant to Paula Moon &
6 Associates. And I am happy to take any questions.

7 CHAIRMAN DOUGLAS: Thank you. Questions or comments,
8 Commissioners?

9 COMMISSIONER EGGERT: Yes, I had the pleasure of
10 getting briefed on these projects this morning and I just want to
11 make a couple of comments. One is that, if you have not actually
12 looked at the details of the projects, I would encourage the
13 other Commissioners to do that, there are some really fascinating
14 stuff here. But one of the things I was really impressed with
15 was the selection process, and sort of a very rigorous set of
16 screens looking at the proposal from a policy perspective, as
17 well as two technical screens that involve experts from outside
18 our organization. And the way it was described to me sounded
19 like it was a really excellent model for ensuring that we are
20 getting the best input in deciding which products to eventually
21 fund under this program. I also wanted to note, too, that, if
22 you remember, Chairman Douglas, the company Nanosolar had a very
23 excellent story in our workshop, the IEPR ARRA workshop,
24 mentioning the fact that they had received a \$75,000 grant from
25 the Commission, that led to some work looking at feasibility

1 analysis and studies, and that, as I understand, was a
2 grant from this program, which has now resulted in a company that
3 is doing hundreds of millions of dollars worth of activity in the
4 state, including a recent half a billion dollar loan from the
5 Federal DOE, so we have at least one phenomenal success story
6 that has come out of this program and I suspect there are more
7 and hopefully we are creating another eight out of this funding
8 today. So I just wanted to make those two comments.

9 VICE CHAIR BOYD: I will just comment. I am very glad
10 to have the opportunity to share your observations [inaudible]
11 have been doing the same for some time now within the Research
12 Committee, and have always been very pleased and very excited by
13 this particular program and the success stories that come from it
14 for very small investments, there is an awfully good return, and
15 I am sure our Executive Director will have these in mind as she
16 testifies before a certain committee in the not too distant
17 future. And my last comment was I was really fascinated when the
18 Research Committee went through all of this with this last
19 proposal that talks about extracting lithium, as well as making
20 power out of geothermal wells, lithium is one of those rare earth
21 substances that certain countries can bottle up and control the
22 world market, and if we find a source for it from geothermal
23 wells, which California happens to have a few of, it would be an
24 interesting development as lithium demand therefore obviously
25 will just grow and grow because of the battery business. In any

1 event, very good projects.

2 COMMISSIONER BYRON: A couple of questions, Mr.
3 Caldwell. I want to make sure everybody understands, do you
4 limit the EISG Request for Proposals to California bidders?

5 MR. CALDWELL: No, we do not. It is an open
6 solicitation. The policy is to cast a big net, to try to get as
7 many good projects as we possibly can, and the level of research
8 that we are conducting in this program is basic research, and so
9 the goal is to attract the very best proof of concept level
10 research projects, and if they are out of state, and I will note
11 that roughly 85 percent of the projects we do fund are in-state,
12 but the other 15 percent that are out of state, our goal is to
13 fund their projects and then, with the potential partnering of
14 somebody in California, or even bringing their company in
15 California, and we have a few examples of companies that we
16 funded, one of them I am thinking of off the top of my head is in
17 Wyoming, and we funded their project in Wyoming and they recently
18 relocated to Sacramento.

19 COMMISSIONER BYRON: Smart company. And so, when you
20 select these proposals, do you give preference to California
21 companies?

22 MR. CALDWELL: We do. We have the California-based
23 preference point system that we have developed and we give a
24 certain amount of points to California companies and kind of a
25 staggered amount, depending on what their final score is.

1 MS. JONES: And just to add to that, the - I am
2 sorry, I just lost my train of thought.

3 COMMISSIONER BYRON: Wait until you get up here. I
4 appreciate your answers, and I just wanted to make sure my fellow
5 Commissioners understood how we go about the selection process.
6 I think it is very well thought out. You know, I worked for 10
7 years at an R&D organization and I think it is extremely
8 important that you cast the broad net, that you always look for
9 the best in class when you are doing fundamental research. It is
10 not just jobs in California that we are trying to create, but we
11 are also trying to create value for Californians in how we invest
12 that research dollar. So I really think we have the right
13 program here. I continue to feel strongly that this Energy
14 Innovation Small Grant Program is important research, it is
15 important because the private sector cannot do it, it brings
16 credibility to new ideas, and many of them have gone on to be
17 successful companies in California. So, I do not know of any
18 other state that makes this kind of investment in fundamental
19 energy research. It is extremely important that it continue, and
20 I think you have brought another set of excellent selections to
21 us. Mr. McCarthy, I think you are fortunate to get to head this
22 program, going forward. I had an opportunity to go down to San
23 Diego a couple years ago to observe how they do the selection
24 process and, Commissioner Eggert, it is very impressive. They
25 would not let me select, I think they felt I would corrupt the

1 process, but I was very intrigued to watch it and I wish
2 you good luck and continuing the excellent program that Mr.
3 Caldwell has been conducting for the last number of years.

4 CHAIRMAN DOUGLAS: Thank you, Commissioner Byron. Any
5 other comments or questions?

6 VICE CHAIR BOYD: Move approval.

7 COMMISSIONER BYRON: Second.

8 CHAIRMAN DOUGLAS: All in favor?

9 (Ayes.)

10 That item is approved, thank you very much.

11 MR. CALDWELL: Thank you.

12 CHAIRMAN DOUGLAS: Item 13. California Certified
13 Energy Rating and Testing Services (CalCERTS). Possible approval
14 of CalCERTS as a Home Energy Rating System (HERS) provider for
15 HERS Raters conducting California Whole-House Home Energy Ratings
16 and California Home Energy Audits, and CalRatePro as HERS Rating
17 Software. Mr. Holland.

18 MR. HOLLAND: Good afternoon, Madam Chairman and
19 Commissioners. I am Jim Holland with the Building Standards
20 Implementation Office and along with me is my Co-Project Manager
21 for this item, Rashid Mir. We are requesting Commission approval
22 of the California Certified Energy Rating and Testing Services,
23 or CalCERTS, as a HERS provider for HERS Raters conducting
24 California Whole-House Home Energy Ratings in California Home
25 Energy Audits. The primary functions of a HERS provider include

1 the training of HERS Raters, insuring that quality ratings
2 are being performed by HERS Raters, and that the registration and
3 maintenance of compliance documents for jobs performance by HERS
4 raters. The HERS provider does not directly employ HERS Raters,
5 but rather, plays an oversight role over the HERS Raters, who
6 perform their rating tasks either as an individual, or as part of
7 a rating company. HERS raters determine what they will charge
8 for their services and what jobs they will take. CalCERTS was
9 approved as a HERS provider for raters conducting field
10 verification and diagnostic testing for the 2008 Building Energy
11 Efficiency Standards in November of 2009. The request before you
12 today would expand the capacity of CalCERTS to include Raters
13 conducting Whole-House Home Energy Ratings and Audits. These
14 ratings and audits will be very useful tools for homeowners to
15 determine the relative efficiency of their homes and to learn
16 what cost-effective measures can be taken to improve their home's
17 energy efficiency. Whole-House ratings and audits can also be a
18 beneficial tool for home sellers who would like to demonstrate
19 the energy efficiency of the home being sold, and as well for
20 buyers who are concerned about the prospective home's energy
21 efficiency. Staff have reviewed the training materials, quality
22 control program, and the CalRate Pro Software used for California
23 Whole-House Home Energy Ratings and Audits, and have found these
24 materials to meet the stringent requirements found in the
25 California HERS regulations and the HERS technical manual. Based

1 on this information, I ask that you approve CalCERTS as a
2 HERS Provider for HERS Raters conducting California Whole-House
3 Home Energy Ratings and California Home Energy Audits, and for
4 CalRate Pro as HERS Rating software. This item has been reviewed
5 and approved by the Committee and we are open to any questions
6 you may have.

7 CHAIRMAN DOUGLAS: Thank you, Mr. Holland. We have one
8 member of the public who would like to comment. Mike Bachand,
9 President of CalCERTS. Are you in the room? Please come
10 forward.

11 MR. BACHAND: Madam Chair and Commissioners, I
12 appreciate your patience and courtesy in letting me come up here
13 and speak for just a few moments. I had hoped to say good
14 morning to you, but good afternoon, and I will make it as brief
15 as possible.

16 COMMISSIONER BYRON: That is all right, we had hoped to
17 say good morning, as well, but would you say your full name
18 again, please.

19 MR. BACHAND: Mike Bachand, President of CalCERTS. So
20 long as we do not say good night to each other, that will be...
21 I want to thank some people first. I would really like to thank
22 the staff at CEC. Again, through the process we have been
23 through over the years, they have been very helpful and
24 supportive, and I also would like to thank my own staff. They
25 gave up family hours, personal time, a couple of them gave up

1 their sanity to get this done in a timely fashion with the
2 proper attention to detail that it needs to do to roll out into
3 the market and be a success. That commitment will continue and
4 some things that I will speak about in just a few minutes, but
5 first I would like to remind Commissioners and staff of the
6 benefits that we are trying to promote from HERS 2 processes. In
7 addition to energy efficiency, HERS 2 creates jobs. It is a very
8 simple fact that there are lots of HERS Raters out there who
9 could either re-enter productive job environment, or start in to
10 their own new job environments. For instance, an example of
11 things that I hear that have upset me a little bit, you know, why
12 would we pay a couple of hundred or \$200 to \$300 for a HERS Rater
13 when we could put more energy efficiency out there? Well,
14 interestingly enough, if you take an R-19 attic and move it to R-
15 30, and then you say, "Well, for \$300 more, we can get it to R-
16 38," that is fine, and nobody denies the benefit of that,
17 however, if you had taken that \$200 to \$300 and put it into a
18 HERS Rater, you have created a job and a lot of other ancillary
19 jobs. HERS Raters buy groceries, they live and play and work in
20 the state, and on April 15th, they send their vote of gratitude to
21 the Franchise Tax Board, thanking them for the ability to have a
22 job. So, that is a good thing. Something else that it does,
23 HERS 2 also requires in the regulations and in the technical
24 manual that a HERS Rater educate the occupants because they may
25 not understand the best way to use the new energy features they

1 have got, or the existing ones they have. One day Rashid
2 Mir called up and gleefully reminded me that I needed to add even
3 more material to our training, to emphasize to the HERS Raters
4 that you are not just a technician out there measuring stuff, you
5 are promoting the idea of energy efficiency, helping people use
6 the energy features that they do, and also to avoid pitfalls.
7 And then, we heard a lot about PACE today, and I was reading
8 through your documents, the Department of Energy Guidelines,
9 Items 1 through 10, Best Practices, HERS 2 supports all of those
10 Best Practices and can help move the PACE Program forward by
11 providing validation in those areas where validation is sought,
12 and by providing future useful direction in those areas where
13 that is sought. And finally, I would like to say, going along
14 with that commitment, that by HERS regulation, we are approved in
15 different segments. The next approval we will be seeking will be
16 the Building Performance Contractor Training, possibly also Home
17 Energy Inspector, there are some issues with that, maybe, but we
18 will press and maintain our commitment that we made in a very
19 serious conversation with Betty LaFranchi and some others one
20 day, a few weeks ago, she asked for our commitment to answer
21 these processes and make our additions and changes, we said yes,
22 we would, they committed to us that they would follow through on
23 that, and now I am telling Commission and staff we will pursue
24 and continue to grow through that and get to the Building
25 Performance Contractor status as soon as possible. Several hours

1 ago, Commissioner Eggert said he applauded the staff for
2 creativity and adaptability; I, too, applaud that staff for that.
3 It has helped move us forward faster and better, to a better
4 product, and I encourage more creativity and adaptability, and
5 thank you very much. I will stay up for questions if there are
6 any. I also have my Director of Technical Services, Russ King,
7 Mechanical Engineer, licensed in California, who wrote the
8 curriculum, and would answer questions if you have any.

9 CHAIRMAN DOUGLAS: Thank you. Commissioner Eggert, do
10 you have a comment?

11 COMMISSIONER EGGERT: Sure. And thank you very much
12 for your comments. I realize in hindsight, I am not sure how
13 these things get ordered in the agenda, but this might have been
14 a good item to actually have had when we had all of our SEP folks
15 and implementers in here, because this really is a tremendous
16 milestone that we have before us, in voting on this particular
17 item. This is the very first provider to be certified to be able
18 to provide this training for folks who will be involved in the
19 HERS 2 rating and implementation. And I think, you know, also
20 sort of echoing some of the previous comments, this really is
21 about customer value and customer protection, you know, the
22 information that is going to be provided through these audits and
23 ratings. Is it really all about providing information to the
24 consumer to make sound decisions about investments in energy
25 efficiency. And this is going to be, again, sort of an

1 instrumental component in meeting our goals for existing
2 building energy efficiency savings. And the fact that we have
3 been able to bring this to a vote at the end of July, and I know
4 it was not really clear that we would quite make that deadline,
5 but the fact that we are here today considering this, I think it
6 is reflective of the tremendous amount of effort that has been
7 put forth by your organization and by the staff that has been
8 involved in this. So, I am very excited to see this and be able
9 to vote on it, and certainly I would hope that, once this is
10 finalized, you know, you proceed post haste with getting those
11 folks trained and getting them out onto the street, and building
12 up the confidence and the value of having this system and these
13 raters providing that value to the homeowner.

14 MR. BACHAND: Certainly. In response to that, not that
15 you were looking for one, but I have got one, we have staffed up
16 our instructor classes and our trainings. We are training at
17 community colleges up and down the state, we have lots of other
18 trainings and programs going forward on a retail side, as well as
19 a community collegeside, so we have staffed up substantially for
20 that and we anticipate some more staffing up. Trainings are
21 already being scheduled in anticipation of a yes vote today, so
22 do not disappoint anybody, and we have a challenge process for
23 people who are practitioners that have a substantial background,
24 who can come in, take our exams, prove to us that they are
25 capable, and move forward that way. So, we feel that we will be

1 able to begin to ramp this up very quickly.

2 CHAIRMAN DOUGLAS: Thank you. Other comments or
3 questions?

4 COMMISSIONER WEISENMILLER: I was going to say, I
5 managed to run into Dave Goldstein and we could go on for a long
6 time about Dave's background, but since all of you are aware, and
7 certainly Dave emphasized the importance of this process and that
8 we really build it into our programs. I think it is really
9 important as we do the retrofits that we do it right, and I know,
10 as you get into retrofitting houses, I have certainly done that
11 with my own, and you suddenly discover leaky ducts or any number
12 of things that mean a simple solution, let's put some more
13 insulation in the attic, is not a particularly cost-effective
14 approach compared to dealing with the defects really in how
15 things were installed in the house. And so this is critical and
16 as long as we are putting a lot of time into energy, into
17 retrofit, and we really have to make sure that these buildings,
18 each of them, is done correctly. So I certainly think this is a
19 very important program and would be happy to move it.

20 COMMISSIONER BYRON: I will add a quick comment before
21 a second, and that is this is an extremely important part of the
22 puzzle, if you will, on what we are trying to accomplish in the
23 state. Mr. Bachand, I would like to thank you very much for
24 subjecting your company to this accreditation process, and our
25 staff for seeing it through, as well. Please, go out and do good

1 work and good and accurate auditing. The credibility of
2 what you are about to undertake and training of auditors is very
3 important for the state, so I would certainly second the item.

4 MR. BACHAND: Thank you.

5 CHAIRMAN DOUGLAS: All in favor?

6 (Ayes.)

7 That item is approved. Thank you.

8 MR. BACHAND: Thank you very much.

9 CHAIRMAN DOUGLAS: Good luck.

10 Item 14. Commissioner Byron kindly pointed out to me
11 that the Minutes of July 14, 2010 Business Meeting Minutes, they
12 are on Item 2 of the Minutes, the votes indicated as 5-0, I think
13 that is typo, it should say 4-0.

14 VICE CHAIR BOYD: Right.

15 CHAIRMAN DOUGLAS: And with that, is there a motion on
16 the minutes?

17 COMMISSIONER BYRON: I move approval.

18 COMMISSIONER EGGERT: Second.

19 CHAIRMAN DOUGLAS: All in favor?

20 (Ayes.)

21 VICE CHAIR BOYD: Abstain.

22 CHAIRMAN DOUGLAS: That item is approved with
23 Commissioner Boyd abstaining.

24 Item 15. Is there any Committee Presentation or
25 Discussion?

1 VICE CHAIR BOYD: I quickly mentioned the Plug-
2 In 2010, I do not want to say much more, other than there was a
3 lot of Press and I saw some Press today, not on plug-in stuff,
4 but on Renewable attributed to me, that was taken a little bit
5 out of context, but that is life in dealings. There were
6 questions, in-depth questions, about will renewable electricity
7 take care of all of our needs? And these were questions from a
8 large 300-person audience at the end of our panel, and I pointed
9 out the aggressive RPS that California has and the Governor's
10 Program for 33 percent, and every other good word I could say,
11 but I did go on to say about, you know, everybody thinks we can
12 just go out in the desert and put in all the renewables to take
13 care of everything, and that is a tough duty, and I mentioned the
14 cultural and water and other kinds of problems, and I notice a
15 reporter only picked up those few words, to say something about
16 how all is not well with Renewables. So, recognize I was not
17 criticizing, it was another typical out of context comment. In
18 fact, this reporter is going to be negative on the whole thing:
19 "I pulled into the garage and there were hardly any cars," there
20 were 300 people sitting in this panel discussion yesterday, for
21 goodness sakes. Anyway, enough said.

22 CHAIRMAN DOUGLAS: All right, thank you. Anything
23 else.

24 COMMISSIONER EGGERT: I think maybe just a quick
25 follow-on comment to that. I have been involved in a number of

1 different interesting discussions about, you know, can
2 renewables solve all of our issues, including specifically for
3 electric vehicle power, and I think I have often used that as
4 discussion to highlight the continued importance of dealing with
5 land use and trying to provide mobility options that do not
6 require necessarily vehicle travel because, even if we were to
7 get to a situation in which we had all electric vehicles, the
8 less upstream renewables we require, the less desert we will have
9 to put panels on and lower the costs associated with providing
10 that electricity. So, you know, even though we have, I think, we
11 are seeing a tremendously exciting opportunity to transition to
12 these vehicles that can utilize our cleaner and cleaner grid, you
13 know, it still points to the fact that we have to not lose sight
14 of the fact that we need to focus on all legs of the stool, as
15 you like to say.

16 VICE CHAIR BOYD: I always start off comments with
17 "Efficiency is Job 1 in California, but..." Anyway.

18 CHAIRMAN DOUGLAS: Excellent. Anything else?

19 COMMISSIONER WEISENMILLER: I have forwarded to
20 everyone a copy of the REPG presentation I gave last week and
21 certainly encourage people, when we have those, to have their
22 staff attend. It is a good way to try to keep track of what is,
23 you know, a lot of things bubbling in the pot of trying to deal
24 with the renewable issues.

25 COMMISSIONER BYRON: And, Commissioner, I encourage you

1 to send us those presentations before or shortly after you
2 give them, so when we get phone calls we will have the right
3 answers.

4 CHAIRMAN DOUGLAS: Thanks for bringing up the REPG
5 meeting and presentation. All right, we will move on to Item 16.
6 Chief Counsel's Report.

7 MR. LEVY: I am pleased to say that I have no report
8 other than to say I am going to be studying glacial retreat next
9 week in between fishing trips in Anchorage, so I will miss you.

10 CHAIRMAN DOUGLAS: We will miss you, too. Enjoy your
11 vacation.

12 COMMISSIONER BYRON: Do Blackberries work up there?

13 MR. LEVY: They do, I am told -- maybe not.

14 CHAIRMAN DOUGLAS: Item 17. Executive Director's
15 Report.

16 MS. JONES: In the interest of time, I do not have any
17 report today.

18 CHAIRMAN DOUGLAS: Item 18. Public Advisor.

19 MS. JENNINGS: Nothing to report, thank you.

20 CHAIRMAN DOUGLAS: Item 19. All right, is there any
21 remaining public comment?

22 VICE CHAIR BOYD: This is the first time there is not a
23 soul in the room.

24 CHAIRMAN DOUGLAS: All right, I take that as no. We
25 are adjourned.

1 (Whereupon, at 1:56 p.m., the business meeting was
2 adjourned.)

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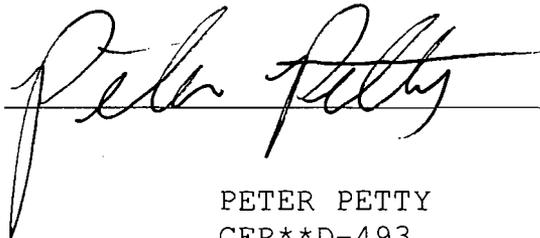
REPORTER'S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF,

I have hereunto set my hand this 30th day of July, 2010.

A handwritten signature in cursive script, reading "Peter Petty", is written over a horizontal line.

PETER PETTY
CER**D-493
Notary Public