BUSINESS MEETING

BEFORE THE

CALIFORNIA ENERGY COMMISSION

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

BUSINESS MEETING

CALIFORNIA ENERGY COMMISSION

HEARING ROOM A

1516 NINTH STREET

SACRAMENTO, CALIFORNIA

TUESDAY, JULY 24, 2012

1:15 P.M.

Reported by:
Peter Petty

Commissioners Present

Robert B. Weisenmiller, Chair
Karen Douglas
Carla J. Peterman
Andrew McAllister

Staff Present

Rob Oglesby
Jennifer Jennings
Harriet Kallemeyn
Caryn Holmes

	Agenda Item
Kevin Barker	1
Paul Kramer	2
Jeff Ogata	2
Mike Monosmith	2

Also Present

Interested Parties (*on phone)

	Item #
Ronald Ball, City of Carlsbad/South Carlsbad Coastal Redevelopment Agency (SCCRA)	2
Joseph Garuba, SCCRA	2
Allan J. Thompson, SCCRA	2
*Julie Baker, Power of Vision	2
*Kerry Siekmann, Terramar Association	2
*Gretel Smith, Attorney for Rob Simpson	2
Brian Nese, Stoel Rives, LLP	2

I N D E X

		Page
Proceedings		
Items		
1.	ENERGY COMMISSION COMMITTEE APPOINTMENTS. Possible approval of appointments to the Energy Commission's Standing Committees and Siting Case Committees.	
2.	CARLSBAD ENERGY CENTER (07-AFC-06). Consideration of, and possible decisions regarding, Petitions for Reconsideration of the Commission Decision approving the Application for Certification for the Carlsbad Energy Center Project filed by the City of Carlsbad, Terramar Association, Power of Vision, and Rob Simpson. The Carlsbad Energy Center is a combined cycle electrical power plant facility with a generating capacity of 540-megawatts (MW) located in the City of Carlsbad, San Diego County.	4
3.	Lead Commissioner or Presiding Member Reports	46
4.	Chief Counsel's Report:	57
5.	Executive Director’s Report	57
6.	Public Adviser's Report	57
7.	Public Comment	57
Adjournment		57
Certificate of Reporter		58

P R O C E E D I N G S

JULY 24, 2011 1:15 p.m.

CHAIRMAN WEISENMILLER: Good afternoon. Let's start the Business Meeting with the Pledge of Allegiance.

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

CHAIRMAN WEISENMILLER: Good afternoon. We're going to consider today the — several petitions for reconsideration, the Commissioner's decision, on the Carlsbad Project. Let's start out with presentation of the proposed decision. Paul Kramer.

MR. KRAMER: Good afternoon, Chairman Weisenmiller and fellow Commissioners. It appears to be. Okay. The cord is stretched out to the max so I'll just hunch over.

On May 31, 2012 your Commission unanimously approved the Carlsbad Energy Center Application for Certification by way of an Order that was docketed the following day on June 1. And that became, by virtue of that docketing, the final date of your decision.

Petitions for reconsideration were filed by the City of Carlsbad on June 26, Power of Vision on June 28, Terramar Association on June 29 and Rob Simpson on July 3. Although, actually, his was

emailed to the parties on July 2 at 9:11 p.m. but because that was after the close of business it was treated as filed on the following day. Now, unfortunately for Mr. Simpson the deadline to file petitions was the close of business on July 2 so one of the proposed findings in here is that he filed his petition late. And it actually would have been July 1 except that was a Sunday. So everybody got an extra day and Mr. Simpson was beyond that.

We Noticed this hearing that you're holding right now today. And the relevant standards to apply to petitions for reconsideration are contained in Section 25530 of the Warren-Alquist Act and Section 1720 of the Commission's Regulations. In the order, I'm not going to read it all, but there's an excerpt from Section 1720. The jist of what is required for you to act to reconsider is or what is required of the petitions is that they must describe new evidence that could not have been discovered and produced during the evidentiary hearings on the case or an error in fact or change or an error of law. And, in either case, the petition needs to explain why those matters could not have been considered during the evidentiary hearings. And, also, what effect the failure to consider those matters would have on a substant

development of the decision.

In this case after analyzing them, and I'm basically speaking on behalf of myself as staff to your Commission now at this point; formerly the Hearing Officer advising the Committee and now an Adviser to your Commission. None of the petitions set forth any new evidence to speak of. And the errors in fact were errors of law are all — have all been discussed before in this case. For instance, the City spent most of its time discussing the — what it feels is a need to more explicitly account for City development fees. They proposed that a new condition, Socio 1 be inserted to require that fees that are adopted by ordinance by the City be paid by the Applicant.

There was actually a condition, Socio 1, in the decision that you adopted though. And what it does though is reflects the language of the Commission's — what was the provision in the Warren-Alquist Act. That's Section 25538 and in a corresponding provision in the Regulations that's Section 1715. And they use the phrase — they describe the fees that can be reimbursed as — they have to be for cost and are actually incurred by the local agency for services provided at a local agency. So at this

point the condition reflects that standard. And at this point without knowing specifically what services the City has provided it seems premature to try to adjudicate which of the City's development fees might apply.

I'll point out that there's a process for resolution of that in Section 1715. Basically the City proposes a budget and then they invoice for reimbursement and there's a period of time in which the Applicant or, in this case, the project committee can agree or object to those invoices. And, if necessary, if there's disagreement the disagreement can be resolved by the Commission. So I guess my — the point I'm trying to make is that it's premature to decide exactly how much of which City fees would be applicable to this project at this point.

And, anyway, that's all been discussed before. We're really just rehashing issues that you've talked about. And in the proposed order, I have citations to the reporter's transcripts of various hearings that occurred, for the most part, earlier this year and perhaps one or two cases in previous years.

And the same goes for the City's request that the Applicant be required to construct a

temporary segment of the Coastal Rail Trail on its property until at the point that it starts construction. And then they also asked for some changes in condition Land 2. As I understand them they want the Applicant to have to go ahead and begin to demolish the Encina Project as soon as they planned for that — or within 2 years of the City's approval of the plan for the demolish — demolition of the site and plans for a replacement project to go on that site.

That was rejected by the Committee and then the Commission because what it would do is force this project to pay those costs without necessarily having a viable substitute project, which would take care of those demolition costs. And it would put the power plant project at a serious economic disadvantage, which vis-à-vis other projects which might make it difficult for the project to go forward. The underlying premise is that it's fairer for the new project that's gonna go on the Encina site to pay for the cost of cleaning it up. And that's a policy decision that was discussed previously and made previously. It doesn't seem to be anything new here that needs to be rediscussed.

Power of Vision and Terramar Association ask in different ways that you revisit your decision to

adopt a road width / fire safety standard that is different from that that was recommended by the City's Fire Marshall. That was certainly discussed extensively in past hearings before the Committee and again at your adoption hearing. Actually, your 2 adoption hearings. The one a year ago where you decided to send it back for more testimony and evidence and then again last month — no, two months ago.

Mr. Simpson, besides being late, is basically just rearguing or actually is not rearguing. He's arguing for the first time with the Committee's responses to comments that he made on the revised Presiding Member's Proposed Decision. And I say it's for the first time because the obvious time for him to do so if he didn't like the responses would have been at your adoption hearing at the end of May. He was not present, either in person or on the telephone and that's not justification to have another round of, in effect, an adoption hearing before you just because he was unable to make that meeting.

So the — you have the proposed findings before you. You also have several public comments that came in yesterday, basically, that I printed off of my docket's feed this morning and reproduced for

you. I think they're all from citizens in the area who are against the power plant.

So the Order is before you. It was distributed to the parties just to give them a head's up last week. And my recommendation, at least, that you adopt the proposed order, which is denial of the petitions for reconsideration.

CHAIRMAN WEISENMILLER: Okay. Thank you. Commissioners, let's now hear from the petitioners in terms of their petition and give some opportunity to respond to the proposed decision. City of Carlsbad? Please.

MR. BALL: Okay. Good afternoon, Chairman Weisenmiller, Commissioners Douglas, McAllister and Peterman. How are you this afternoon? My name is Ron Ball and I'm the City Attorney for the City of Carlsbad and the General Counsel for the City of Carlsbad as successor agency to the Redevelopment — the former Redevelopment Agency.

And this is an important moment, of course, for the City and for this Commission I feel. And I think we'll need about 15 minutes to —

CHAIRMAN WEISENMILLER: That will be good. Certainly make your case but I would remind you we've gone through 2 extensive hearings and we're focused on

your petition today. So let's not reargue outside the scope of petition. Thank you.

MR. BALL: Chairman, thank you for your caution. And we don't anticipate we need more than 15 minutes to persuade you that you should grant the petition.

And so I'm going to introduce my team at this time. With me is Special Counsel Allan Thompson; Project Manager Joe Garuba, who has been critical and an integral part of this proceeding since its inception almost 5 years ago; and our outside Special Consultant Bob Therkelsen, who was the former CEO of this Honorable Commission.

So Mr. Garuba is going to address what we consider is an error in, a factual error, in the Commission's view of the facts as announced in its May 31 hearing and correct the record in that regard.

Mr. Thompson is going to explain the reason why we've requested a Coastal Rail Trail. Again, it's grounds we feel for reconsideration. We don't feel that Mr. Kramer's discussion is exclusive of what the grounds could be and we'll suggest that.

And, of course, the very important issue is the Land 2 and 3. And those are new conditions and, I think, Mr. Kramer has misunderstood or miscomprehended

but certainly misreported the gravamen of those conditions and I think you'll be persuaded that that condition makes good sense.

Finally, I'll return to the microphone to discuss what I consider is a constitutional dilemma created by the Commission's decision and grounds for reconsideration — granting the petition for reconsideration. I don't feel the petition for reconsideration can be denied at this point unless the constitutional infirmities are addressed. Thank you. So, Mr. Garuba?

MR. GARUBA: Good afternoon, Commissioners. My name is Joe Garuba. I'm with the City of Carlsbad. I'm the Project Manager for this project on the City's —

COURT REPORTER: Can you speak closer to the mike?

MR. GARUBA: Yes, sir. My name is Joe Garuba. I'm with the City of Carlsbad. I'm the Project Manager for the City for this project. I'm also the Asset Manager for the City so I oversee all the City's properties and holdings.

During our review of the final decision it was, at least apparent to us, that the Commission — during the Commission discussion there was a

mischaracterization of the fire department's establishment of the access widths. In light of the other comments you're likely to hear today we think that it's important to take a minute and correct the record.

The original CECP Site Plan showed access widths of 20 feet. In a letter dated March 30, 2009 the Fire Marshall corrected the Applicant with copies to the CEC Staff and this letter was referenced during Miss Douglas' comments in the final hearing that the minimum emergency access allowed by the City was 24 feet. So the minimum access across the City that we allow for emergency access widths that we require is 24 feet. The letter went on to state that the City could require greater access widths as provided by the California Fire Code and that additional project information was needed so that the City could make appropriate determinations. Specifically in that letter we state, "Until NRG provides the Carlsbad Fire Department with the necessary depictions of the facility that has been requested, it is impossible for us to evaluate the actual required width of the roadways." Unfortunately, that project detail was never provided to the City.

The Fire Chief followed up with a letter to

the CEC staff on April 28, 2009, one month later, again requesting project information. Unfortunately, this letter went unanswered by staff. So over the next 9 months the City set about conducting its own project analysis and modeling. On January 4, 2010, the City provided its first written testimony to the Energy Commission. In that testimony, the Fire Chief, the Operations Chief and the Fire Marshall, which have over 75 years of service, state their requirement for a 50 foot access road at the bottom of the bowl and a 25 foot access road around the rim.

The Fire Chiefs, collectively, explained their rational for that width during the February 4, 2010 evidentiary hearing and that did include a number of things. Including opening up a truck and seeing how much width you need to operate around the truck and the ability to pass by a truck that once it gets set up you have to be able to pass it.

So, to be clear, the record should reflect that the Fire Department established its emergency access requirements in the first very piece of testimony the City provided to the Energy Commission and it’s remained consistent in its position since. The reason for this is that the Fire Department has been steadfast on their issue - this issue, is that

they believe that without adequate access the proposed project poses a serious threat to the health and welfare of first responders, plant workers and the citizens at large in times of emergency.

In summary, the City's minimum emergency access width is 24 feet for any project. The City notified the Applicant and the CEC staff in 2009 that it had the authority to require greater access widths, if necessary. The City notified the Applicant and the CEC staff in 2009 that it needed more project information to make access width determinations. And then once the Fire Department had the information it needed it determined that a minimum access width of 50 feet in the bowl and 25 feet around the rim was required. And that determination has not changed since.

And this is important for issues that I think — for reasons you're going to hear a little bit later.

MR. BALL: So, excuse me; we'll change the order a little bit because Mr. — following Mr. Garuba but it will be me and then Mr. Thompson.

And I'll refer to the Constitutional dilemma that I think that has been created here. And then that really results from a case that came out after we

had submitted our petition for reconsideration. So on July 11, we submitted our petition on June 26 and then on July 11 the Court the appellate court issued its decision in the City of Hayward vs. the Board of Trustees of the California State University. And that's cited for the record as 2012 Westlaw 1943336, it's from the First Division of the Court of Appeal, as modified July 11, 2012. And basically what that decision deals with is a CEQA matter but also fire services and explains the significance of the fire services by primary provider and explains the reason this should be considered in your CEQA review.

So the trial court said now a delay in response could literally mean a difference in life and death – decrease the risk of survival, increase the severity and degree of a person's burns or increase the total number and type of injuries. A delay in response also affects the spread of fire, the growth of which is exponential.

Now that was a trial court — the trial court's decision. And that was overruled by the appellate court so what the appellate court had to say was, "While this may be true the obligation to provide adequate fire and emergency medical services is the responsibility of the City. The protection of public

safety is the first responsibility of local government and local officials have an obligation to give priority to the provisions of adequate public safety, which is exactly what we've done is suggested what conditions would be necessary to provide as a primary responder. Instead, this Commission has taken over the primary responsibility, which creates the constitutional dilemma because it's not empowered to do so.

So you have a final decision sitting here that is unconstitutional on its face. And I'm going to suggest 2 ways out of that.

The first way is to grant this petition and to modify the condition so that they comport with the Fire Marshall's and the City's Ordinance and that would allow the City to ascend into the primary role of Provisional Fire Services. So then it would become Constitutional.

The other way is, as the Commission knows, we filed a petition for review in the California Supreme Court and we've been assigned a number of errors but this is one and I think it's an important constitutional issue that could be resolved. And if the Commission would jointly approach the California Supreme Court with the City of Carlsbad asking for a

resolution to this constitutional question it would probably be, if the Court accepted it for review, it would probably be — that question would be answered to the Commission, the City and to all the citizens of California.

I think if — if you would agree to that today we could resolve it. If you direct staff to file a — to concur on our petition that would resolve it.

So I would be happy to answer any questions but I think Mr. Thompson would like to address this Honorable Commission regarding the Coastal Rail Trail and the land use conditions use 2 and 3.

MR. THOMPSON: Let me say — this is Allan Thompson. Let me follow on Mr. Ball's statement with 30 brief seconds on the fire issue.

I think that the final decision that you've voted out is in violative of the Constitution in 2 ways. Number 1, it designates someone other than the City as the primary responsible agency to respond to fires. And California Constitution I think it's Section 13 Article 35 states that the City is the primary local fire department with that responsibility.

Number 2, there is no analysis of the impact

of having someone other than the local fire department performing these functions. The final decision did not analyze the response times or any of the other impacts that having someone other than the Carlsbad Fire Department perform those first duties would have on the environment and the safety of the citizens of Carlsbad.

Let me move on very briefly because I do believe that the more important issues are the fire issues but let me take a minute on the Coastal Rail Trail. The citizens of Carlsbad have been vociferous and extremely involved in this proceeding. They see another power plant on its coast existing for another 35, 40, maybe 50 years with little benefit to the City.

The Coastal Rail Trail has been in development for 10 years. Your decision puts the northern part of the Coastal Rail Trail on hold, possibly for years. It just stops there. The temporary trail is a very inexpensive way to give North County citizens some small benefit from the power plant from going in on that side. This is not, you know, I'm not assigning error. This and the next thing I want to talk about are asking for reconsideration of these issues.

Land 2 and 3. These conditions were developed to offer the City some assurance that the Encina Power Station will be retired, demolished and remediated when no longer needed. As these conditions have changed over the course of this proceeding, this last year or so, the assurance that they would be demolished has been watered down to now it's an attempt to find a partner to see if there's a reasonable way of figuring it out or whatever. There's an awful lot of words in there that take away any definiteness of having the EPS removed.

The City has lived with this power plant for over 50 years and has been planning for the redevelopment of that site for at least 10 years. The proposal that we made would inject some certainty into this process. Again, this is asking for reconsideration of this issue. I do not assign error on this issue.

Ron?

MR. BALL: Thank you. Just one brief moment to follow up to that. If the Commission will look at our page 8 of our petition for reconsideration, the exact wording of the suggested revision is set forth there. I'll give the Commission a — okay. And so that is not without plenty of thought that we

suggested that. And it's not arbitrary and it's certainly not putting a burden on this plant entirely.

What it is is a series of events that needs to happen and then after those events have happened, within 2 years you can begin dismantling the plant. That's not prejudicial to the Applicant because, first of all, it needs to get permission from the City for redevelopment plans. So we'll propose an alternative redevelopment plan. That's simple.

If those conditions are unacceptable it won't be approved and the Applicant will not proceed. So the condition fails in that way and, unfortunately, the plant stays there. But if it is an acceptable alternative use and it is approved then there's still another condition and that is that the permissions for Encina 4 and 5 to be decommissioned occur and those permissions need to be diligently sought.

So we have 2 preconditions that are not based on time at all. Then the third condition is that within 2 years, which we feel is reasonable time but the Commission could change that to some other time, then begins the process of dismantling.

So I think it's a reasonable condition. It's one that would assist in accomplishing all of the hopes and desires that everyone of these Commissioners

explained on May 31. Every Commissioner mentioned that there was a hope and desire that they would drive by I-5 and that this plant would be dismantled. And you have the keys today to make that happen.

Any questions, please.

CHAIRMAN WEISENMILLER: No, thank you.

MR. BALL: Thank you.

CHAIRMAN WEISENMILLER: Okay. Let's go to Power of Vision.

MS. BAKER: Julia Baker with Power of Vision. And I have nothing further to add that the City of Carlsbad has not addressed this afternoon.

CHAIRMAN WEISENMILLER: Okay. Thank you. Terramar Association.

MS. SIEKMANN: Hello. This is Kerry Siekmann with Terramar Association. Can you hear me?

CHAIRMAN WEISENMILLER: Yes.

MS. SIEKMANN: Okay. I had just a few things to say. I just want to reiterate that due to Carlsbad docketing of Ordinance Number CS-184, and that was docketed on May 30, just one day before the final decision came out. So it is new information, new legal information, which the CEC chose not to override so it is part of the LORS of this particular decision.

CEC has not replaced the Carlsbad Fire Department in your workers' safety section. And in your findings of facts it says, "The Carlsbad Fire Department will provide fire protection and emergency responses services to the project and will be able to respond to the site within an acceptable time." And since you accepted the ordinance from the City of Carlsbad that may not happen and, due to the Warren-Alquist Act, the CEC has not replaced the who will take place of the Carlsbad Fire Department.

So there is no guidance for that in this decision and I'm sure that you, as a Commission, want to follow the Warren-Alquist Act. And you may think this is an irrelevant comment but when an emergency happens and you have not complied with Warren-Alquist Act to provide public health and safety not only for our firefighters, who are supported by the Escondido Fire Chief, but also for our community. Alls I can say is if there's an emergency, "God forgive us." Thank you.

CHAIRMAN WEISENMILLER: Thank you. Now I believe on behalf of Rob Simpson we have Gretel smith.

MS. SMITH: Yes, that's correct. Can you hear me?

CHAIRMAN WEISENMILLER: Yes.

MS. SMITH: I just have 2 points to make. The first issue is with the untimeliness of Mr. Simpson's petition. I would like to point out that Title 20 of California Code of Regulations 1720(a) specifically states that it must be — that the petition must be received within 30 days. There is no timeline or time set on that regulation. It just says that it has to be received within 30 days. Mr. Simpson's petition was received within 30 days.

Additionally, Public Resource Code 25530 also says that is has to be received within 30 days and Mr. Simpson did have his petition submitted on July 2, on the 30th day. There was nothing that said in any of the orders that it needed to receive by the close of business. And I do not know and he has not been able to find any rules that state otherwise. That it must be received by the close of business.

As to the actual information contained in his petition. He, Mr. Simpson, is basing his petition on 17(a)2 that the Commission did make errors in fact and, in fact, relied upon — made errors in law when they were making their final decision. And so he is — we're respectfully requesting that his petition is considered and the petition for reconsideration is granted.

CHAIRMAN WEISENMILLER: Thank you. Any comment from the Center for Biological Diversity? CURE? Any brief comment from the Applicant?

MR. NESE: Good afternoon, Commissioners. My name is Brian Nese, N-E-S-E, from Stoel Rives, LLP, counsel for the Applicant. John McKinsey is unable to attend and asked me to appear in his place. I have here with me George Pianka, who's the project manager for the Carlsbad Energy Center.

In general, all our arguments are set forth in our papers and so I'll be brief here. We believe that none of the petitions have met the burden to show error in the decision. There's no new evidence or error in fact or law set forth.

I will respond briefly to the individual point raised here today. Mr. Garuba discussed the fire access roads. That issue was not raised in their petition and waived. Beyond that it was thoroughly discussed throughout the many proceedings, evidentiary hearings, written papers and Commission hearings. It was considered and an override was made on that specific point. There's no need to revisit that here today.

As for the Constitutional issues that Mr. Ball raised, those too were not raised in their

petition. The legal affect of the trial court opinion in a different proceeding has — is ambiguous and was not considered in the papers here today.

But, in any event, as was stated at the adoption hearing, there will be personnel on site that will be functioning in the primary responder role in the event of fire emergency.

With respect to the Coastal Rail Trail, as Mr. Thompson pointed out, the citizens have been very active in this proceeding and these issues have been considered time and time again. But we're here today to consider the petition for rehearing. There's a higher burden. They need to show new facts or errors and, in fact, while we're on that has simply not been met with respect to the Coastal Rail Trail or with respect to Land 2 and Land 3.

Land 2 and Land 3 have been thoroughly discussed time and time again and they do not meet the burden that you need to show on a petition for rehearing. With respect to the fire ordinance, the fire ordinance was considered at the adoption hearing. Commissioners took judicial notice of the ordinance and found that the project was in compliance. And, therefore, it also does not meet the standard for the petition for rehearing.

In closing, we support the proposed order and urge the Commission to adopt it as drafted. Thank you.

CHAIRMAN WEISENMILLER: Thank you. Staff?

MR. OGATA: Good afternoon, Chair Weisenmiller. Commissioners. My name is Jeff Ogata. I'm Assistant Chief Counsel and I'm sitting in for Dick Ratliff who is on a well deserved vacation. He took a good time.

Staff filed it responses to the petitions for reconsideration on July 2. We really don't believe that any new information has been added that would merit reconsideration by this Commission.

In response to the City of Carlsbad, again, as I think was stated at the last hearing, I'm happy to restate that we will work with the City of Carlsbad with respect to the fees to ensure that they get the fees that they're entitled to get. As Mr. Kramer indicated there's a process for that. Staff has experience in working through this in other cases so this is not an unusual situation. There is a remedy if the City of Carlsbad believes that they are not receiving the fees that they are entitled to by coming back to the Committee or back to the Commission. So we don't really that a basis to change the final

decision.

With respect to the fire issue, we are aware of the City of Hayward case. I don't know if Mr. Ball was bringing that up acknowledging that the ordinance the City passed may be unconstitutional as a result of that case or not. I'm not sure. But with respect to the assertion that Commission staff did not analyze the impacts of the primary responder with respect to fires that's incorrect. The FSA, as we typically do in these kinds of situations, we do the analysis about the fire safety issues. So since all these issues about whether or not the City was going to be the primary responder came up sort of near the end of this 5 year period of time. We don't believe that the assertion that the analysis was not done is correct. Staff has done that analysis and Mr. Monosmith, who's a project manager who's sitting to my right, obviously is much more aware of these issues than I am since I was not the primary staff counsel. So if you have any questions about that please ask Mr. Monosmith to go into further detail on that.

With respect to the other petitions, we also believe that most or all of the petitions are basically rearguing issues that were already resolved by the Commission. And so, again, it does not meet the

standard for reconsideration. Thank you.

CHAIRMAN WEISENMILLER: Thank you. Any public comment? Again public comment either in the room or on the phone.

COMMISSIONER DOUGLAS: So Commissioners I'll make a few brief comments and then see what questions or comments you might have. Unless Paul, is there anything that you want to respond to?

MR. KRAMER: No. No, I'm good.

COMMISSIONER DOUGLAS: All right. I think that I can be really pretty brief and I want to say that I appreciated the briefing and the responses in the briefing that did come in on this.

I agree with staff that the fee issue is one that we retain jurisdiction over and that we will ensure appropriate fees are paid and we have a process for doing that and we have a way — we encourage, I would encourage Applicant and the City to work together to ensure that the appropriate fees are paid. But we certainly have a process for ensuring that occurs. The fee issue was raised multiple times in the proceeding and it's something that we had an opportunity to hear about as well in our final adoption hearing.

The Coastal Rail Trail issue was, of course,

raised substantially throughout the proceeding. But, in particular, in an evidentiary hearing that I presided over, the City raised, for the first time, the question of whether we would consider a temporary Coastal Rail Trail through the project boundaries. And we discussed it and we got a response from the Applicant and we — that issue was raised again in the adoption hearing and I really think that the Commission has thoroughly considered that issue and for reasons of practicality really it ultimately just didn't make sense to go that direction.

There is, of course, in Land 1 a requirement for Applicant to pay for a Rail Trail easement off of the project site at a mutually agreeable location. So that's important and that's an aspect of the decision. This is an issue that was resolved. It was presented in evidentiary hearings and it was resolved already by the Commission.

The Land 2 condition is another one related to demolition and the removal of the Encina Power Station is another one that has been discussed very substantially throughout this case. The language that is currently in Land 2 was originally negotiated by the City and the Applicant with some strong encouragement by the Committee overseeing the project

or overseeing the process.

The City's latest proposal is the sort of thing and could have been and, in fact, was raised in our process so I don't see that issue as an issue that meets the requirements for us to consider the petition for reconsideration either. The fire ordinance is something that we really only knew about at the adoption hearing because, of course, it was enacted something like 2 days before the adoption hearing. We took judicial notice of that ordinance and we looked at it and we ultimately determined that it was not inconsistent with the decision as written and we moved forward.

I think that's a correct interpretation. I think that Mr. Ogata and his description of this issue also really hit the nail on the head. So I don't — the City itself in adopting the ordinance provided that it was not subject to CEQA. Did not qualify as a subject under CEQA. Would not have any impact on the environment, direct or indirect or otherwise. These are — these are the sorts of findings that would tend to, very strongly, support the decision that the Commission reached. That this ordinance did not, in any substantive way, change the environmental analysis that we under took.

So I think that I have covered all the issues that I wrote down as I listened to the speakers, the petitioners, today. I do not see any new issues raised. I could ask, and I probably should ask, staff to the extent that you want to add anything.

Mr. Ogata, you've already commented on the question of whether or not there is a constitutional issue. We can ask the Hearing Officer if he's interested in doing that. From my own view, I do not see a constitutional issue raised in our decision. I think that the environmental analysis fully contemplated, first of all, the sorts of measures that are taken on site to reduce the risk of fire and to respond if there is an incident being the first layer of response, that there would be for any incident in the Carlsbad Fire Department, which we thoroughly analyzed in terms of response times and otherwise, going forward and implementing its constitutional duty to protect health and safety and property should that first line of defense not prove sufficient.

So I don't see the case as particularly affecting the decision but I'd be interested to hear if, Mr. Ogata, if you want to say anything more about it or the Hearing Officer.

COMMISSIONER PETERMAN: And, Mr. Ogata, before you respond. Commissioner Douglas, that was a particular topic that I just wanted to hear a bit more about, being less familiar with the Hayward decision and wanted to understand just what the — fully understand the concerns.

If you could just repeat what you said earlier, Mr. Ogata, I'd appreciate that as well.

MR. OGATA: Commissioner, I'm happy to repeat what I said but with respect to Commissioner Douglas' question I'm going to differ response to that to Ms. Holmes because, frankly, she is much better prepared to respond to that having read that case, I think, more thoroughly than I have.

So, I mean, but what I said was that I think the main issue that I heard the City raising was somehow this case affected whether or not staff did an appropriate CEQA analysis because we didn't analyze whether first responders would be able to respond to the fire. And my belief is, and my understanding is, is that we did do that and the issue of who is going to be the first responder didn't actually appear until later in the case. So it wasn't like we knew initially that the City was going to decline to be the first responder and therefore we did a CEQA analysis

based on somebody else doing it. I don't believe that's true. I believe we've always done the analysis based upon the assumption that the City was going to be the primary responder. So that hasn't really changed in terms of the CEQA analysis. Whether or not there's another issue that the City is raising, again, I don't know but from I think the pertinent issue that I got out of what they said was whether or not we did the appropriate analysis and I believe we have.

MR. KRAMER: What I heard to be the constitutional crisis is the City is between a rock and a hard place. The rock being the Constitution that says they have to provide service. The hard place being that they believe that we're allowing the Applicant to design a power plant, which would be unsafe for them to go in and perform their constitutional duty. Of course, the decision doesn't agree that the lower standards that the Commission decided to set are unsafe. So we don't accept one of the premises of the City's constitutional dilemma that — and the decision says that. We disagree with them. It doesn't — but it also said that we're not saying that this is unsafe. There was a clash of experts and, as the Committee is duty bound to do, it resolved the evidence in what it thought was the appropriate

way and found that it could be safe with less than the 50 feet that the City asked for.

And I guess that's it. Ms. Holmes, I think, with Mr. Ogata's invitation wants to address that case.

MS. HOLMES: I'm thinking I should. First of all I want to point out that although the decision may have been amended in July it was first published in May, on May 30, and so the language that the City is citing was published on May 30. So I see no reason why that information couldn't have been included in the petition for reconsideration. Raising it now seems to me to be a bit late.

But, nonetheless, since we are discussing it. I like to look at it in this way. That the Commission's got 2 basic sets of responsibilities when it issues a decision on a project. It has to determine whether or not the project's going to create any potential adverse environmental impacts and, if so, must provide mitigation unless it makes an override finding. And it has to determine whether or not a project complies with applicable LORS.

With respect to the CEQA issue my understanding of the record is that, in fact, both the staff assessment and other findings as well as the

Commission decision do contain a thorough discussion of potential CEQA impacts associated with fire service. Notwithstanding that, the case that's cited by the City does imply that those types of things are not necessarily CEQA impacts and that we as a lead agency couldn't require mitigation for those types of CEQA impacts.

So there is no inconsistency with the Energy Commission CEQA findings and, in fact, it appears that if the principal of this case turns out to be what it appears to be at first blush we've gone beyond what CEQA requires in addressing potential impacts.

Secondly, with respect to the LORS issue, the Committee did find — the Commission did find that the project does comply with all applicable LORS, including the City's ordinance, which as you now learned, may be unconstitutional itself. The point that I would make is that although the City's ordinance may be unconstitutional there's nothing unconstitutional about an Energy Commission decision that says that the primary response is going to come from the project developer, the project owner, and allow the City to provide secondary response as they believe is appropriate. There's no constitutional violation there so, frankly, I don't see that the case

raises anything new that the Commission would need to further address.

COMMISSIONER PETERMAN: Thank you. That was very helpful for me. I have another question. Could staff respond to Ms. Simpson's comment — Ms. Smith's comment that Mr. Simpson's comments were — I'm just not being very clear. Ms. Smith's comment that Mr. Simpson's comments were filed at the time in a timely manner.

MS. HOLMES: The Energy Commission's regulations in Section 1209 require that everything be filed with a docket unit and the docket unit closes at 5. Standard close of business for every governmental agency.

COMMISSIONER PETERMAN: Okay. Seemed like that — can we make that clearer somehow in the writing? I mean I know that's the practice but —

MS. HOLMES: I think that's part of the OII process that's —

COMMISSIONER PETERMAN: Okay.

MS. HOLMES: going on because of the concern about the fact that people who may be filing electronically may be under the impression that they can file — have a longer window in which to file than somebody who's filing a paper copy. I think Mr.

Kramer wants to add to that.

MR. KRAMER: Just that I think that we spend 5 minutes trying to figure out how to best describe the concept of daylight savings time so we were working on it.

COMMISSIONER PETERMAN: I just — I'll say on the record though that even if late by those standards I still accept and reviewed those comments from Mr. Simpson.

MR. KRAMER: And the order does deal with them on their merits, as well.

COMMISSIONER DOUGLAS: I reviewed the comments as well and I reviewed the responses of staff and the Applicant to Mr. Simpson's petition. Both of which responded, although briefly in staff's case, on the substance as well as the timing. And found, as I have, that Mr. Simpson's petition did not raise any new issues of, that either could not or certainly did not, get raised in the proceeding.

COMMISSIONER MCALLISTER: So I just wanted to comment briefly on the — the desire of, to see down the road the Encina Power Plant go away and, you know, personally each of us have expressed in different ways that desire. But requiring it in a decision is different. And there's lots of ways that that can

happen and my understanding and having reviewed the record is that those discussions happened and that they're – that the requirement to link it to this plant – it's a new plant. It's a different plant and the decision was or has been – the discussion has been that and the decision says that we're not going to link it explicitly. And I agree with that. And so I don't see a conflict there with the decision and our expressed desires.

My desire actually continues there so, but we went through that in the record and the record shows that very clearly. And it's a big lift for the City and all the stakeholders there, working with the Encina owner to come up with the resources and make that happen. But I'm hopeful that can happen, even though it's not hardwired to this plant. So, anyway, I felt like I needed to make that comment.

But I don't agree – I agree with Commissioner Douglas that it's not a new issue – that it's been resolved for purposes of this proceeding and this hearing. And that we don't need to bring it up again.

CHAIRMAN WEISENMILLER: Thank you. I think as this point we are – the Commission is deliberating. We may have questions for parties but certainly the

time for argument has passed or for more argument.

In terms of my comments is that, again, I think as we struggled with this issue before I made the observation that for a worst case planning basis we were assuming that San Onofre 2 and 3 would not be available this summer. That turned out to be correct. At this point, frankly, we were starting the worst cast planning assumptions if San Onofre 2 and 3 would not be available the next couple of summers. And that certainly has implications. And in that context, in fact, frankly I don't expect San Onofre 3 to be back for several years. That has implications for the reliability of service in Southern California and, again, we get into a lot of timing questions but certainly it's very important to have resources, generation resources, in Orange County, in northern San Diego County. So that going forward, again, as we look at the range of options — certainly the San Onofre situation is sort of the elephant in the room. That sort of influences all of our thinking and the need to look at a — I think I've certainly been quoted, a wide range of options. And we will come up with a wide range of options both generation, energy efficiency and other options to ensure reliable service in Southern California.

COMMISSIONER PETERMAN: Let me just offer a couple of comments as well. This is Commissioner Peterman.

I appreciate all the concerns that had been raised for reconsideration. I don't think there's been new evidence presented that the findings that the Committee and then ultimately the Commission adopted are incorrect. Although, all the issues raised are things that were discussed at length and I know they are sensitive issues. And I'm still supportive of the findings.

We've got here, just in front of us today, 7 emails from members of the public. Obviously, not in support of this project. If you all are listening we have read them and it's, frankly, oftentimes your emails and letters that I have the most reaction to because I can feel your concern and your interest and your worry. And I sincerely hope that us approving this permit does not compromise the quality of life you have in Carlsbad. That is never the intention. It is really to maintain a quality of life for all of us with a mixture of both electricity that is reliable and available as well as maintaining our scenic vistas and everything else we appreciate about living in California.

And I think that the Applicant hopefully has heard all of the issues raised, particularly around fire. The Commission has as well. With the fullest intent of not having an incident happen. And so, again, we've considered this. I've considered this and I'm still of the same opinion but appreciate the amount of effort you have put into bringing these issues to us and asking us again and again to reflect upon the decision made, which has not been made lightly.

COMMISSIONER DOUGLAS: I do not have anything to add substantively. I was going to ask if we're ready for a motion. Okay. So. Oh, go ahead.

COMMISSIONER MCALLISTER: The — I want to sort of back up a little bit and put some additional context on this. So what Commissioner Weisenmiller said is absolutely true. This — we don't only need this plant for the stability and the sort of reliable and cost effective production of energy in the state. We also need lots of other solutions. Both in that particular region in Southern California, in particular coming up probably next summer even more than this summer. We need lots of different options. I mean those are the Faustian bargains. Those are the tradeoffs that we're forced to make. And so demand

response, energy efficiency, any dispatchable, any load manipulation as well as generation we need to get over the hump and if we do have a kind of worst case scenario, we have a big transmission line that goes out or we have a power plant that goes out then we're going to have to draw on all the resources that we possibly can.

So, again, to agree with all the other Commissioners that this is not a decision that we take lightly. This is not — there's definitely an acknowledgement at — I'm a local in San Diego and spend a decent amount of time in North County and really appreciate the coast there. And there are — we're dealing with legacy issues with this decision and the fact that we — we do have existing infrastructure that does constrain what we do. Carlsbad has been the site of the Encina Power Plant, which is why that infrastructure partially at least exists there and what makes it a key node for the Southern California transmission grid and subtransmission.

So I think those are just factual — the factual basis for the — that justifies the need for this plant in the context that we have today. But it in no way — in fact it emboldens I think me, as the

Lead Commissioner on Energy Efficiency and related issues, to go out and push even harder on those issues because we don't like to be in the situation of having to approve a plant. These are tradeoffs that we live with everyday and so it's all part of the same system. So we really appreciate you bringing up all these issues and I think that staff has done an excellent job in working through all the issues. I know the answer isn't what you would like but I think that's part of the reason why the Commission is here having these deliberations - to make sure that all Californians benefit from reliable energy.

Anyway, I think that's essentially what I wanted to say. Is that there are a lot of pieces to this puzzle. This is one of them but the whole we really have to keep in mind as we make the individual decisions that add up to it. So thank you.

CHAIRMAN WEISENMILLER: And, again, this has a certain déjà vu quality to it but that as we struggled with last time, I certainly encourage the City and Applicant to work on the development fee issues and, basically, to work on some of these issues. Obviously, if they can resolve them then certainly the staff will help resolve those. But, again, it would be useful to start developing a more

constructive relationship.

MR. BALL: Chairman Weisenmiller, having received no questions I just want to thank the Committee then and the Commission for its careful consideration of all the issues that we brought up. Thank you.

CHAIRMAN WEISENMILLER: Well, thank you.

COMMISSIONER DOUGLAS: So I'm prepared to make a motion. I also want to join my colleagues in expressing appreciation to all of the parties and the City for being here again today and the members of the public who were engaged in this process. Very, very engaged in this process. And also to staff for the work that staff did. And I did not mean my passing reference to a certain brief document to be a criticism in any way. Sometimes a document says what it needs to say in using less trees and less ink and that's fine. So —

COMMISSIONER PETERMAN: Commissioner Douglas, I would also think we should extend a thank you to the Public Adviser considering the amount of public involvement there has been. And that Office has been particularly helpful too in allowing the public to engage in the many years of this project.

COMMISSIONER DOUGLAS: Thank you,

Commissioner Peterman. I think we all strongly agree with that statement.

So, with that, I move to adopt the Commission Order, denying the petitions for reconsideration filed by the City of Carlsbad, Terramar Association, Power of Vision and Rob Simpson.

COMMISSIONER PETERMAN: I'll second.

CHAIRMAN WEISENMILLER: All those in favor?

(Ayes.) This Item passed unanimously. Thank you.

Commissioners, do we have any Lead or Presiding Member Reports?

COMMISSIONER DOUGLAS: There will be a stakeholder meeting for the Desert Renewable Energy Conservation Plan in Ontario, California tomorrow. So we hope to have a very detailed and constructive dialogue with a number of stakeholders who have been active in that process. And there's a Public Comment period as well.

And we have also released a very detailed briefing book for the Desert Renewable Energy Conservation Plan. That — these maps and supporting materials were posted in the middle of last week. And so people who are interested can go on the website for the Desert Renewable Energy Conservation plan,

download the maps and you'll get a very good picture of what the stakeholders will be talking about tomorrow. We've established a number of alternatives featuring development areas that differ by alternative conservation design or reserve design that differs by alternative and a pretty significant amount of background information to help explain and interpret these documents. So it's been a very busy couple of weeks for the Desert Renewable — for the work on the Desert Renewable Energy Conservation Plan.

I also wanted to report that last Friday, or the Friday before last to be more precise, we invited a number of leaders among the developers, the — some environmental nonprofits, some researchers at LBNL and NREL who have done very cutting edge research on renewable energy looking at high renewable energy penetration levels and further in the future than these analyses have tended to go. We had representatives from — well, we had at the Public Utilities Commission Commissioner Florio, who took the day to attend the Energy Panel; Chairman Weisenmiller and I attended the day — attended the Energy Panel for the full day; and Jim Kenna, the California Director of the Bureau of Land Management was here. Again, for a day long discussion of the energy factors and the

energy understanding that we need to reach in order to make the Desert Renewable Energy Conservation Plan a really strong infrastructure plan for California. For the state in partnership with the federal government to realize our long-term climate goals and renewable energy goals. And to do that in a way that helps conserve the really unique and remarkable biology and ecology and natural landscapes and natural communities in the desert. It's been a really interesting process. We've had a lot of people come to the table, including certainly local governments, military. There's been a lot of tribal outreach particularly done by the Bureau of Land Management and all of this is starting to come together in a very concrete way in the briefing book that was posted online last week. So I would encourage all of you to take a look at it and certainly to track our activities in the Desert Renewable Energy Conservation Plan because we've really started to move the process along.

COMMISSIONER PETERMAN: I don't have an update. I'll just congratulate Commissioner Douglas on getting the briefing book out. The DRECP is a massive undertaking and I've begun to appreciate how much as we've been holding these IEPR workshops on renewables and developing a renewable action plan.

And, indeed, I think it is the unparalleled cooperation you have seen as part of the DRECP process that has made folks believe that we can actually coordinate better across industry, different levels of government as well as different stakeholders and so continuing to monitor that process and thank you for continuing to move that ball forward.

COMMISSIONER DOUGLAS: Thank you. And I should mention, of course, the Independent System Operator was very well represented in this and the utilities were very well represented in the workshop and it was a really interesting dialogue that, to me, helps us start to ask the next set of questions that we need to ask as a state to reach these long-term renewable energy and climate goals. And these questions very much take many steps beyond the how do we comply with the 33 percent RPS requirements and take us to questions like, “What might the system look like at 40 or 45 percent?” “What portfolio of renewable energy technologies with what attributes makes that more doable versus less doable?” “More expensive versus less expensive?” “Easier to integrate versus harder to integrate.” And where do we do that within California in a way that’s compatible with our environmental values and how do we

do that within California and then what else do we need? What are some of the missing pieces that help this come to fruition? Whether it's storage or the role of certain kinds of gas backup or the role of looking at resources broadly. And the NREL study was very interesting because it looked at the country and it considered an 80 percent renewables future for the country.

And so getting some of that input into our process was really helpful to us. And I think that some of the questions that we raised and discussed in that workshop will be questions that we'll be pondering and trying to approach the answers to for some time.

COMMISSIONER MCALLISTER: And so I just want to do a couple of things. One, thank — I'll be doing, just by way of background, I'll be doing the IEPR, the 2013 IEPR, and staff has been helping getting that process moving. And it turns out that there are lots of statutory requirements for the IEPR.

And so starting to play on that there's — I think I'm excited about it and I think this will be a full IEPR update. Although, the 2012 one was, essentially, I think was the same level of effort as a full one.

And so there's things that we have to do but there are some topics that I think are really interesting that we want to make sure that we do something substantive and that's helpful for policy going forward. And so I'm excited about that and really looking forward to — well, wanted to thank Commissioner Peterman for her amazing efforts on the IEPR front. It's a real long — I'm providing midcourse encouragement, I guess.

But I will definitely be using the fruits of that labor to really be building on next year and look forward to working with her on that. So I want to sort of announce, in other words, starting to get going on that and trying to figure out what the sort of 'key' topics are that we can add the most value to on the discretionary side.

And then on Energy Efficiency, that's sort of the other main area that I'm working on, and wanted to thank Commissioner Douglas for all of her leadership in that. I know she's really sad to let that one go. But we're still working together on the transition and I'm really excited about that and, again, the amount of trust across the stakeholder groups, which I think is key for doing the various processes that we do to get the best outcomes we can,

is really key. And she set a great tone for that and so I just want to thank her for all her leadership as well. And wish you good luck on the DRECP focus now.

So the reason that I bring up both of those things is that I was just able to visit the new Center down in Irvine, which is the CalPlug, the California Plug Load Research Center, which is a PIER funded enterprise. And I really think it shows — it's got a lot of potential to do wonderful things and it shows how important some of the R&D is to enable the work like the Energy Efficiency, various proceedings that we do and Title 20 and 24, and even forecasting as well as the IEPR topics, which I anticipate being able to work on some of those issues of taming the plug load beasts going forward. Next year I think that's something we want to look at in some form. And it's really a great initiative because we know that plug loads, miscellaneous category, which is now, I think, miscellaneous is a little old as a category because now we're starting to break it down and unpack it and it's no longer miscellaneous. It's a bunch of things that we're talking about as — for what they are.

They're getting their ducks in a row at the Center. UC Irvine has made a lot of investment. They've got a beautiful facility. They've got a whole

bunch of excited and eager students, both at the undergrad level and the graduate level, that are asking some interesting questions and brining some creativity to this, which is I think what we really need. And they are starting to bring on industry partners and utility partners that are gonna help them identify the most important topics and get results that actually get some traction with industry. And so I think it's exciting sort of synergy and just the fact that this is in Irvine. It's down in Southern California. It's kind of got a different vibe than some of the other centers. And that diversity is a good thing. And so I was heartened to go there and talk with them and I know how dedicated they are now and have a really good feel for it.

So wanted to thank Brett Meister and Laurie ten Hope actually who have been really facilitating that quite a bit. Anyway, wanted to sort of bring that to everyone's attention. You can do a search for CalPlug and it'll be up there. And I'm sure the output of that Center's going to be quite nice. I'm sure similar to the CTLC for lighting and the Cooling Center in Davis for HVAC. And I think it's a really good way the Commission supports our overall endeavors from sort of soup to nuts to help achieve our policy

goals. So I was really excited to be a part of that. And the PIER program is making it happen. So great.

CHAIRMAN WEISENMILLER: Great. I'll hit 3 things actually, from last week.

One was Thursday we had an event with Pro Tem Senator Pavley for Navy Week or Fleet Week. I thought it was a very successful event. That was the first time that we'd done that. It was a really good opportunity to convey our appreciation to the service people who were there. But also to sort of highlight some of the 118 and PIER entities that we funded that are having real spinoff and helping in the defense area. So, again, it was a pretty good event, I thought. Hopefully, next year's will be stronger.

At the same time our YouTube Channel went live and so the — our microgrid video is now online. So that was good. We're obviously looking for more videos. I think Grant has been trying to contact each of you to see if — as oftentimes as we do speeches somewhere we do this video release form. And so the notion is if we have copies of those we can try to reach out to those entities and ask for copies of those videos to post.

So, anyway —

COMMISSIONER PETERMAN: Have Grant contact

our agents.

CHAIRMAN WEISENMILLER: Right. Exactly. Exactly. Yes.

So, anyway, we're trying really, again, move that forward.

I think in terms of the San Onofre front, last Thursday morning the NRC staff put out its assessment of the augmented inspection that it did. And it's something like a 77 page document. They had called the day before to walk through the highlights. Hopefully Jan is — or Joan is checking to make sure that the summary matches. But what I've seen the 2 conclusions — the issue really is based upon a MHI computer model. We all work in computer models. And this is a particularly complicated one about hydroflows and stuff, which turns to be off by a factor of 3-5. And that means that the designs of all 4 steam generators in the 2 units have problems. That the NRC Staff Report is relatively clear that at Unit 3 those problems have manifested themselves in the tube to tube wear. And at this point Unit 3 I would not count on being back for a long time, if ever. For Unit 2 they feel that these problems will manifest themselves at some point and at this point Edison will do a follow up with the NRC, the last time I heard is

now into late September, to try to make the case with reasonable assurance that one can safely operate Unit 2 under certain conditions. But, again, they have to make the case to the NRC.

But as we go forward there will be — however, if it's every 6 months or less frequently over time, checks to see if the wear or what the wear statistics look like and whether things are there or not. The NRC staff is very clear that the 8 tube ruptures that occurred at Unit 3 they consider very, very serious in terms of safety implications.

So, in addition, the NRC staff was asked to look at whether or not Edison misled the regulators. They used a particular code section of the NRC, or regulation section, to look at changes. So changeouts is 5055 but, again, won't swear those are the right numbers. And they concluded that, in fact, Edison did comply with the requirements there and fully notified the NRC. That being said, the NRC Commissioners are struggling with the question of given the substantial changes of whether they need to make changes in the regulatory program. So in the future things like this happen at a different level or review than the sort of simple changeout level. But, again, that's — the staff report certainly didn't deal with that but the

Commissioners I've talked to have made it pretty clear they're struggling with that question.

And, finally, I'll just note that on Friday I was at the PUC for a number of meetings. It was sort of PUC day. And certainly it's always good to reach out to the other agency to spend some time there or for them to spend time here. Sort of, again, make sure where we're heading from both agencies is consistent.

So, with that, Chief Counsels' Report. Executive Director's Report.

MR. OGELSBY: Just an announcement that the next regular Business Meeting will be Thursday, August 9 rather than the 8th, Wednesday. So it'll be Thursday, August 9.

CHAIRMAN WEISENMILLER: Public Adviser's Report?

MS. JENNINGS: Nothing to report.

CHAIRMAN WEISENMILLER: Thank you. Public comment? This meeting is adjourned.

(Whereupon, at 2:35 p.m., the business meeting was adjourned.)