

COMMITTEE WORKSHOP
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Order Instituting Informational)
Proceeding (OII) on Methods for)Docket No.
Satisfying California Environmental)08-GHG OII-1
Quality Act Requirements Relating to)
Greenhouse Gas Emission Impacts of)
Power Plants)
_____)

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

TUESDAY, OCTOBER 28, 2008

9:04 A.M.

Reported by:
Peter Petty
150-07-001

COMMISSIONERS PRESENT

Jeffrey D. Byron, Presiding Member

Karen Douglas, Associate Member

ADVISORS PRESENT

Laurie ten Hope

Kristy Chew

Panama Bartholomy

STAFF PRESENT

Paul Richins

Dick Ratliff

PUBLIC ADVISER

Elena Miller

ALSO PRESENT

Kurt Karperos
California Air Resources Board

Terry Roberts
Governor's Office of Planning and Research

Sean Beatty
Mirant California, LLC

Michael Theroux
Theroux Environmental

Taylor Miller, Senior Environmental Counsel
Sempra Energy

Brian Biering, Attorney
Ellison, Schneider and Harris, LLP
representing Independent Energy Producers
Association

ALSO PRESENT

Mark Turner (via teleconference)
W. William Mitchell
Competitive Power Ventures, Inc.

Loulena A. Miles, Attorney
Adams, Broadwell, Joseph and Cardozo
representing California Unions for Reliable Energy

Jane Luckhardt, Attorney
Downey Brand

Will Rostov, Attorney
Earthjustice

Ray Leon
San Joaquin Valley LEAP

Scott Galati, Attorney
Galati and Blek
representing Pacific Gas and Electric Company

Jeffery Harris, Attorney
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Verde Group

Manuel Alvarez
Southern California Edison Company

Amisha Patel
California Chamber of Commerce

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

2 9:04 a.m.

3 COMMISSIONER BYRON: Good morning,
4 everyone. I'd like to welcome you to our first
5 workshop on greenhouse gas emission impacts of
6 power plants, an order instituting information, an
7 OII.

8 I am Commissioner Byron; I chair the
9 Siting Committee here at the Energy Commission.
10 With me is my Associate Member of that Committee,
11 amongst other things that she does, Commissioner
12 Douglas.

13 To her right is her Advisor, Panama
14 Bartholomy. And to my left is my Advisor, Laurie
15 ten Hope -- Advisors, Laurie ten Hope and Kristy
16 Chew.

17 I would like to just say a few opening
18 remarks about what we're doing here today, and
19 then ask my fellow Commissioner if she would like
20 to do the same.

21 I'm reminded, I think it's always good
22 to put in context a little bit of what this
23 Commission is taking on this particular issue.
24 I'm reminded that it's the responsibility of this
25 Commission to look after a couple of things.

1 One is that we forecast future energy
2 needs, and we also keep historical energy data
3 here at the Commission. As many of you know, we
4 license thermal power plants that are 50 megawatts
5 or larger. We also promote energy efficiency
6 through our appliance and building standards.
7 Something that we've done very effectively for the
8 last 30-plus years.

9 We develop energy technologies and we
10 support renewable energy through our Public
11 Interest Energy Research program. And we plan for
12 and direct state response to an energy emergency.
13 While it's not important right now, but at times
14 it is.

15 But the underlying aspect of the Energy
16 Commission's responsibilities is to require --
17 requires us to assess the need for resource
18 additions to maintain the reliability of the
19 electricity system while balancing economic
20 considerations, public health and safety, resource
21 diversity and environmental protection.

22 So the purpose of this proceeding is to
23 develop a guiding policy on how to measure the
24 impact of greenhouse gas emissions resulting from
25 power plants.

1 The policy would then be used by all of
2 our power plant siting committees, of which there
3 are approximately 22 right now before the
4 Commission. I don't believe we've ever had that
5 many siting cases at any one time.

6 I think I'll stop there. I would like
7 to point out our Public Adviser, I believe, is
8 here today. In the back of the room, yes, hi,
9 Elena.

10 And what we're going to do is go through
11 a couple of presentations and then we're going to
12 solicit public comment and input.

13 But the way I would like to do that, if
14 you wouldn't mind filling out a blue card and
15 giving it to Elena. And she'll collect those and
16 give those to me. And that would give us a sense
17 of how many folks we've got that are interested in
18 speaking. Of course, that doesn't limit anyone
19 from speaking. It's just very helpful to us in
20 organizing that aspect of the agenda.

21 Before I turn it over to the gentlemen
22 at the table, our project manager, Paul Richins
23 and the attorney on this case, Dick Ratliff, I
24 would like to ask if Commissioner Douglas has any
25 comments.

1 ASSOCIATE MEMBER DOUGLAS: Thank you
2 very much, Commissioner Byron. I appreciate the
3 opportunity to make some comments.

4 As we initiate our OII we're really
5 looking at how to evaluate the greenhouse gas
6 impacts of power plants in our power plant siting
7 cases.

8 We made a decision to go forward with
9 this proceeding in part because of the rapidly
10 changing nature of what's expected under CEQA
11 analysis. And with California's leadership on
12 climate policy we wanted to take a look at what we
13 do at the Energy Commission in some of our own
14 bread-and-butter work.

15 And also we wanted to have this dialogue
16 in an open and public forum. And as people who
17 participate in our siting process know, once we
18 are engaged in a specific case we have a firewall
19 between the Commissioners involved in the case,
20 the staff who work on the case. And the
21 Commissioners are not able to talk to the parties
22 outside of a public setting.

23 And so we thought that because we have
24 so many cases going on, and because this issue has
25 arisen in some of our cases, and potentially in

1 others, that what we really -- what seemed to us
2 to be the most productive way forward was to have
3 an open and public forum where we really vet some
4 of the issues that are before us with all
5 interested stakeholders and with the Siting
6 Committee leading this effort, but we may, in
7 fact, find other Commissioners joining us at
8 different parts of this proceeding.

9 I'm very pleased to see so much
10 interest, so many people in the room, and
11 hopefully others on the phone and on the webcast.
12 We really weren't sure how much interest there was
13 going to be.

14 I'm also very pleased to have the
15 assistance of OPR and ARB as we get going with
16 this workshop. I want to be clear that we, the
17 Energy Commission, are working very closely with
18 OPR and ARB, and we want to both apply CEQA in a
19 way that is reasonable and correct to power plant
20 siting cases, and also work within a framework
21 that's being simultaneously developed at the
22 Resources Agency and OPR and ARB.

23 So, with that, I think we should begin.
24 I thank everyone for being here and we very very
25 very much, we probably say this in every

1 proceeding, but I think we really mean it in this
2 one, we really welcome and need and want the
3 involvement of the public and your ideas for how
4 to meet some of the challenges before us in
5 applying CEQA to review the greenhouse gas impacts
6 of power plant siting cases.

7 Thank you.

8 PRESIDING MEMBER BYRON: Thank you,
9 Commissioner.

10 So, Mr. Richins, I'll turn it over to
11 you and ask you to take us through this agenda.
12 And while you're getting ready, I guess I'll add
13 one other comment. And that is I agree,
14 Commissioner, that we really are interested in the
15 input we receive here today and ensuing workshops.

16 I don't think we know quite honestly how
17 this will proceed. We have an idea as to the
18 direction we're headed. But it really depends a
19 lot on what we hear today and in some of the
20 workshops going forward.

21 But we did make a commitment to our
22 fellow Commissioners to get this resolved, at
23 least on the first order, as soon as we can. And
24 Mr. Richins will go through the schedule that we
25 proposed in order to do that.

1 Mr. Richins.

2 MR. RICHINS: Thank you for coming this
3 morning. This is a very important issue. And
4 with a lot of complex issues that need to be
5 addressed along the way.

6 And for today's agenda, on the back
7 table is a copy of the agenda. And after I talk a
8 little bit about the schedule, then we'll have
9 presentations from the Energy Commission, from ARB
10 and OPR on CEQA and how what we're doing here
11 today will dovetail into other efforts that are
12 currently going on in the State of California.

13 Also on the back table is a copy of the
14 notice for this meeting. And attached to that is
15 the order that lists seven questions that we asked
16 people to consider and come prepared to discuss
17 today.

18 So our purpose of the meeting today is
19 to gather as much information as we can from all
20 those that interested in this subject so that the
21 Committee and the Commissioners can make an
22 informed decision and provide guidance on the
23 subject to staff and power plant developers.

24 Also on the back are these slides so you
25 could pick those up at break or as you leave.

1 Start out with the schedule today is our
2 Committee workshop, our first kickoff workshop.
3 We plan some additional other workshops that I'll
4 point out in the schedule.

5 In the notice we asked for written
6 comments to the seven questions that were in the
7 order to come to us by November 7th. And as you
8 speak today, and make comment, as you're going
9 through your comments, if you could be real clear
10 about what question it is that you're addressing
11 at the particular time that you're speaking.
12 Because some people may be addressing all
13 questions; other speaks may be addressing only one
14 or two questions.

15 Then after this workshop and receiving
16 written comments, we may send out additional
17 questions that we would like to have answered. We
18 don't have a date for that so that's why the 11-
19 question-mark date on the schedule.

20 In the notice we also scheduled the
21 second workshop for 11/20 and 21. But that is a
22 conflict with ARB, a board meeting at ARB. And so
23 we would like to get your feedback this morning.
24 And when you come up and talk if you want to tell
25 us that you have a conflict or if there's no

1 conflict with that date.

2 So we have a couple of alternative dates
3 that we want to throw out as possibilities so that
4 we can avoid the conflict with ARB. And we were
5 also trying to do two days, or maybe a day and a
6 half.

7 So the first alternative date would be
8 November 19th in the afternoon, and November 20th.
9 So, that still has a conflict with the 11/20 date
10 at ARB.

11 Then the second set of alternate dates
12 we are looking at is the 24th and 25th of
13 November. And that's Monday and Tuesday the week
14 of Thanksgiving. So you can see not all these
15 options are great.

16 And then we have another date of
17 December 2nd. We could only come up with one date
18 there. So, 12/2 is the other date that we had in
19 mind. So, if you want to send me an email, or
20 when you get up and talk later today, if you want
21 to say you have a preference, or if there is no
22 conflict with you from the 11/20 and 11/21 dates,
23 we'd like to hear from you.

24 Then in the order it asks the Siting
25 Committee to prepare a status report at the

1 business meeting on 12/3. So the Committee will
2 be preparing -- will be providing, I should say, a
3 status report. And that could be just a verbal
4 report at the business meeting on what we've done
5 so far, what we've accomplished, and where we're
6 planning to go.

7 Then, December 12th we're asking for
8 written comments on the second workshop. And
9 depending on what date, if we change the workshop
10 the written comment date may change accordingly.

11 And then we're anticipating that in
12 early January of next year that we'll have a draft
13 interim policy recommendations. This is just an
14 interim report with recommendations. And then a
15 workshop on that later in the month. And then
16 followed up with taking the interim policy
17 recommendations to the full Commission for review
18 and approval.

19 So, are there any questions on the
20 schedule?

21 Okay. So then now we'll go into the
22 agenda with Dick Ratliff from the Energy
23 Commission.

24 ASSOCIATE MEMBER DOUGLAS: I'd actually
25 like to make a brief comment, as Commissioner

1 Byron and I whisper on the dais. We wanted to
2 clarify that, as stakeholders can see, this is a
3 very accelerated schedule and we don't necessarily
4 expect to have nailed down great answers to every
5 one of our seven questions within the timeframe
6 presented here.

7 What we very much do want to do,
8 however, is provide the best policy guidance that
9 we can to the full Commission and to the public
10 within the schedule. We very much see that we may
11 need to make this a multiphased process. We may
12 need to take up this issue either through the
13 Siting Committee or through the 2009 IEPR or
14 through some other process in order to do more
15 analysis, or to develop some programmatic
16 recommendations, or to follow up on some of the
17 specific questions.

18 So, we don't necessarily anticipate that
19 we will be done in February.

20 PRESIDING MEMBER BYRON: Right.

21 ASSOCIATE MEMBER DOUGLAS: But we do
22 hope and plan to have at least an interim product
23 voted on in February.

24 PRESIDING MEMBER BYRON: Thanks,
25 Commissioner. In fact, I'd like to add my

1 remarks, I don't think, were very clear, either,
2 about having a sense of where we're going, but not
3 really knowing exactly.

4 What I meant by that was that we're
5 working towards some policy guidance for our
6 Commission's consideration. And that's what we
7 hope to have done, at least in some initial form,
8 by February, so to provide that guidance to them
9 with regard to all these different siting cases.

10 But as Commissioner Douglas said, we
11 fully expect that that will not be the end of it.
12 That we will need to continue on to develop that
13 more fully. And the exact form that takes is what
14 we're not certain about at this point.

15 So, did we create enough ambiguity there
16 around all of this? I apologize. As you can see,
17 we're really looking for the information and
18 hearing from you today.

19 Commissioner, did you want to add
20 something else? Okay. Thank you. Go right
21 ahead, Mr. Ratliff.

22 MR. RATLIFF: Good morning,
23 Commissioners. Good morning.

24 With the enactment of AB-32 three years
25 ago many agencies, including this one, began to

1 discuss whether or not it should be including
2 greenhouse gas emissions analysis in its
3 environmental documents for power plants.

4 While that discussion continued there
5 were a number of things which began to add to the
6 growing picture and the growing amount of evidence
7 that it should. And among those are there cases
8 that were brought by -- challenges that were
9 brought to many agencies who had projects that had
10 greenhouse gas implications but did not include a
11 CEQA discussion in their environmental analysis.

12 Some of those cases were brought by the
13 California Attorney General, and although the
14 results of those cases has been quite mixed, I
15 think they were a clear warning that if agencies
16 did not include such discussions they ran the risk
17 of having their approvals invalidated.

18 Most recently we've had, in the last
19 year we've had the enactment of SB-97, which is a
20 much clearer directive from the Legislature that
21 agencies are required to analyze this issue within
22 their environmental documents. And we've had an
23 increasing number of documents from agencies such
24 as the Air Pollution Control Officers Association,
25 the California Air Resources Board, and the South

1 Coast Air Quality Management District indicating
2 not only that they should be, but indicating how
3 they might be included, how this discussion might
4 be included in their analyses.

5 So, for, I think, all of these reasons
6 the Energy Commission's own discussion has turned
7 from a discussion of whether we should be
8 analyzing this issue, to how it's best analyzed,
9 given the complexities of the role the power
10 plants play in the electric system.

11 And for those reasons we've tried to
12 design these questions to make them very CEQA-
13 focused and to try to get discussion about what
14 CEQA requirements or how CEQA requirements would
15 best be addressed in any analysis that we do in
16 our cases.

17 I think some further context should be
18 provided, by the speaker who follows me, from the
19 Office of Planning and Research.

20 And that concludes my remarks.

21 ASSOCIATE MEMBER DOUGLAS: Mr. Ratliff,
22 I have just one area where I'd like to ask you to
23 elaborate. As I look around the room I see some
24 stakeholders who probably spend as much time in
25 this room as I do, and others who are relatively

1 newcomers to our process, but are here maybe more
2 out of interest in CEQA, as it's applied more
3 generally, or global warming.

4 Could you spend just a minute or two
5 talking about how we use CEQA in our process, and
6 how it's a CEQA-equivalent process? So, just as
7 we put everyone on a -- provide some basic
8 information about our process to everyone.

9 MR. RATLIFF: Certainly. The Energy
10 Commission power plant licensing program is a
11 certified regulatory program. Certified by the
12 Resources Agency to be what can be called a CEQA-
13 equivalent process. Meaning that the fundamental
14 requirements of CEQA must be met through that
15 licensing process, and the issues that are very
16 common to CEQA are addressed in that process.

17 Among those requirements are the
18 requirements to analyze the impacts of the project
19 and determine whether they are significant. Those
20 impacts can be significant in a direct context and
21 in a cumulative context.

22 Certainly we believe that the greenhouse
23 gas issue is a cumulative, in a cumulative context
24 because it is probably the ultimate cumulative
25 impact.

1 Did that address it?

2 ASSOCIATE MEMBER DOUGLAS: I think
3 that's helpful. If stakeholders have additional
4 questions maybe they can let us know by -- in
5 writing or their comments.

6 PRESIDING MEMBER BYRON: Mr. Richins,
7 would you like to introduce our next presenter.

8 MR. RICHINS: Yes. We have a
9 representative of the Air Resources Board here to
10 speak with us. He's the Chief of the AB-32
11 implementation. And welcome, Kurt, to the Energy
12 Commission.

13 MR. KARPEROS: Thank you for the
14 invitation to join you this morning. I'm going to
15 degrade the title you gave me a little bit.

16 (Laughter.)

17 MR. KARPEROS: I don't want to be Chief
18 of AB-32 by any means.

19 My name is Kurt Karperos. I'm Chief of
20 the Air Quality and Transportation Planning at the
21 Air Resources Board. A little bit of background.
22 That's, by history, state implementation plan
23 issues. And then under AB-32 my staff and I have
24 been working on land use issues, Commissioner
25 Douglas, with your Advisor, Panama Bartholomy.

1 And then we're the technical point people on the
2 work we're doing currently under invitation from
3 OPR on CEQA thresholds.

4 Thank you, again, for the chance to be
5 here. And as both of you pointed out, at the
6 outset, the need for coordination among ARB and
7 OPR and CEC. We didn't do perhaps the best job on
8 the timing of our workshop today, but I assure you
9 Panama was on the phone within minutes of our
10 sending out our listserve to tell us about the
11 conflict that we generated. And so we were able
12 to reschedule our workshop.

13 And then also thank you to your staff
14 for working around the November 20 and 21 dates.
15 For all of those here today, November 20 and 21,
16 primarily the 20th, is our ARB Board hearing where
17 staff will brief the board in detail on the AB-32
18 scoping plan and take extensive public testimony.
19 They're not expecting to act, because of notice
20 requirements, until our hearing in December. But
21 November 20th is going to be absolutely critical
22 for now.

23 As I said, we held a workshop yesterday
24 which is the start of our public process in
25 response to the request from OPR to advise on the

1 issues of greenhouse gas thresholds and CEQA.

2 We released a document last week that
3 can be found on the Air Resources' webpage which
4 lays out our general thinking, and then also more
5 specific concepts for dealing with residential and
6 commercial projects, and for industrial projects,
7 exclusive of power plants.

8 A couple of things in terms of ARB
9 Staff's preliminary thinking about how we're
10 proceeding in this arena, we think at this point
11 that nonzero thresholds are defensible. We need
12 to continue to think through that, and we're
13 anxious and eager to get comment on that, as well.

14 In as simple a sense as we look forward
15 to a sustainable future, there will be nonzero
16 emissions from many sectors. And out of that we
17 think it's arguable then that a nonzero threshold
18 is appropriate.

19 We also articulated yesterday and in our
20 paper that different types of thresholds,
21 qualitative, quantitative thresholds, we think are
22 appropriate, depending on the sector performance
23 standard thresholds and merit thresholds, for
24 example, are appropriate, depending on the sector.

25 And, in fact, the two that we laid out

1 yesterday, commercial and residential, in our
2 concept there we have taken a performance standard
3 approach to that sector. And then for industrial
4 we did take a more numeric approach.

5 We think that follows from the general
6 concept under AB-32 and the scoping plan that
7 we've -- the draft that we're established, which
8 lays out different approaches for the sector. And
9 it also, I think, recognizes the real state of the
10 science and the data that we have today.

11 Depending on the sector we have
12 different information available to us and that
13 leads you to, we think, the need for different
14 types of thresholds in those sectors.

15 In terms of the timing for ARB's process
16 that marries up with yours, as I said, we had our
17 first workshop yesterday on residential and
18 commercial projects and industrial projects.
19 We're taking comments now. We have not yet
20 scheduled, but we're expecting to hold a second
21 workshop in mid-December. And then take to our
22 Board in the end of January the recommendations
23 that they would then provide in response to OPR's
24 request.

25 One of the critical things that we've

1 noted, ARB Staff's noted, is in the -- we see our
2 role, at least, in this as providing our expertise
3 under AB-32 to help move and help inform lead
4 agencies on how they can move forward on
5 thresholds.

6 So we're very anxious to continue to
7 coordinate with you, the lead agency in this
8 particular area, on how it should be done for
9 power plants. And help you understand how we've
10 been thinking about other sectors.

11 We're doing similar exercise with other
12 agencies. In fact, we've had a discussion
13 yesterday afternoon with Caltrans and the
14 Transportation Commission on transportation
15 projects. And would be looking to have a
16 particular workshop with them, perhaps mirroring
17 this process, in December, as well.

18 So, that we do very much, ARB Staff
19 looks very much towards your leadership in this
20 particular area on power plants.

21 And with that I'll close my remarks.
22 Thank you.

23 PRESIDING MEMBER BYRON: Thank you.
24 Thank you for coming. Will you be here for the
25 most of the morning?

1 MR. KAPEROS: For most of the morning,
2 yeah.

3 PRESIDING MEMBER BYRON: Good. Thank
4 you.

5 MR. RICHINS: Our next speaker is from
6 the Governor's Office of Planning and Research,
7 Terry Roberts.

8 MS. ROBERTS: Good morning,
9 Commissioners and Staff. Thank you very much for
10 inviting OPR to participate in this meeting today.
11 I just want to make a few words of introduction
12 about the OPR process for development of CEQA
13 guidelines and how we think the Energy
14 Commission's process fits in with that.

15 I think everybody knows by now that OPR
16 is currently drafting the CEQA guideline
17 amendments that will help the State of California
18 to address greenhouse gas emissions through the
19 CEQA process. And we are working closely with the
20 Resource Agency to do that.

21 We will be able to share our language
22 very soon with the public, our preliminary
23 language for the CEQA guidelines. And we propose
24 to stick to our publicly advertised schedule of
25 getting that package of draft language to the

1 Resources Agency in January of next year.

2 So you'll be seeing what OPR has
3 proposed by the time the Energy Commission is
4 ready to act on an interim policy.

5 I do want to point out that those CEQA
6 regulations will not actually be in full force and
7 effect until the Resources Agency has certified
8 and adopted those regulations. And they have a
9 deadline of January 1 of 2010 to do that.

10 The CEQA guidelines that OPR is drafting
11 will provide a broad framework for performing the
12 CEQA analysis of greenhouse gas emissions. But
13 the state guidelines won't provide the kind of
14 detailed procedures and standards that
15 specifically apply to power plants.

16 For example, we're not going to be
17 specifying certain greenhouse gas calculation
18 methodologies, or significant standards, or
19 discrete types of mitigation. So we do agree that
20 the Energy Commission needs a special set of tools
21 for analyzing the greenhouse gas impacts of power
22 plants.

23 And we support this proceeding of the
24 Energy Commission to investigate a systematic
25 approach to CEQA review for this special class of

1 projects. And we agree that the development of a
2 comprehensive CEQA approach for energy facilities
3 is necessary and beneficial.

4 In the local government world we
5 encourage cities and counties to take a
6 programmatic approach to mitigation of impacts and
7 to think regionally about how to achieve overall
8 reductions of greenhouse gas emissions.

9 A programmatic approach for addressing
10 the cumulative impacts of power plants may
11 similarly be more effective than just a project-
12 by-project CEQA review or analysis.

13 We think that the Energy Commission's
14 proposal to develop broad policies for your CEQA
15 review has a lot of merit. And we look forward to
16 seeing more state agencies follow suit, doing the
17 same.

18 You've heard from Kurt Karperos. At the
19 Air Resources Board they are developing thresholds
20 of significance that can be applied statewide for
21 greenhouse gas emissions. OPR turned to Air
22 Resources Board to help think about how that could
23 be done, because lead agencies need the sound
24 scientific basis for adopting their own thresholds
25 of significance for greenhouse gas emissions. And

1 we look to ARB as the expert agency on that.

2 But that's not to say that the Energy
3 Commission should not be developing its own CEQA
4 procedures, including thresholds. As a lead
5 agency under CEQA, the Energy Commission is
6 carrying out its responsibilities through this
7 sort of proceeding. You are carrying out your
8 responsibilities to establish your own standards
9 for impact assessment and mitigation of power
10 plants.

11 And you've already mentioned it, Kurt
12 Karperos from ARB has already mentioned it, we are
13 all working closely together. We look forward to
14 continuing that good close working relationship
15 because we think it's so necessary that all of our
16 respective guidance will be consistent and
17 complementary.

18 So, just some general thoughts from OPR
19 on CEQA and thresholds in particular. We do
20 understand that the toughest part about
21 establishing thresholds of significance for
22 greenhouse gases is developing substantial
23 evidence to support those thresholds.

24 And we do believe that thresholds for
25 greenhouse gases can be qualitative or performance

1 based, as well as quantitative. And we do
2 recognize that future regulations and new
3 information, both scientific technical information
4 may necessitate changes to our assumptions about
5 thresholds and mitigation measures.

6 We'll see, once ARB's regulations are in
7 place in a couple of years, those regulations to
8 implement AB-32, we'll see whether lead agencies
9 throughout the state need to revisit their CEQA
10 review procedures.

11 But for now we need to have an interim
12 procedure in place to deal with projects that are
13 proposed now.

14 So, thank you again for inviting OPR to
15 participate in this proceeding. We support what
16 you are doing and we look forward to hearing the
17 comments that you'll be receiving today.

18 Thank you.

19 ASSOCIATE MEMBER DOUGLAS: Thank you,
20 Ms. Roberts. I hope you will be here listening to
21 the comments, as well, with us. And we very much
22 appreciate your -- OPR's support and assistance in
23 this, as well as ARB's.

24 We very much understand the CEQA
25 guidelines that OPR and Resources will put forward

1 will certainly apply to the Energy Commission, as
2 they'll apply to all other lead agencies of CEQA.

3 And we want to both develop policies
4 that make sense for the electricity sector; and
5 develop them within the overall state framework
6 that's currently being assembled at our three
7 agencies and others.

8 So, very much look forward to this
9 collaboration.

10 PRESIDING MEMBER BYRON: You know,
11 Commissioner, it's kind of interesting that we've
12 got ARB working on threshold of significance, OPR
13 on providing CEQA guidelines. My sense is,
14 though, that they're not going to give us the
15 specifics that we need to address greenhouse gases
16 from power plants. And obviously that's why we're
17 here.

18 But I'm looking out on a large audience
19 of stakeholders who are spread thinly amongst all
20 these different agencies. And I'm very
21 sympathetic to you; it's an overwhelming process
22 working with your government to get your input.

23 I don't know how we can do this in an
24 any more expeditious way, but you're going to have
25 to bear with us. It's going to take a couple of

1 years to get it done. We really need your input.
2 And we need you at the table here. So I'm sure
3 that some of you will speak to that issue as we
4 move on today.

5 Mr. Richins.

6 MR. RICHINS: What we'd like to do for
7 the rest of the day is to take public comment from
8 those that wish to speak. And as the Commissioner
9 said earlier, fill out a blue card. That's Elena
10 right there, so fill out a blue card and give it
11 to her. And the Commissioners will call you up
12 when they're ready.

13 In the order that was sent out earlier
14 in the month, we posed seven questions that we'd
15 like to have addressed. And they're seven
16 questions with many complicated subparts.

17 And I have just abbreviated the
18 questions on the board here. But in the order
19 that's at the back of the room has the full text
20 of the questions and the full details of the
21 questions.

22 So I wasn't necessarily going to go over
23 each one of these questions, but we're interested
24 in comments about baseline. We're interested in
25 comments regarding cumulative impacts and

1 thresholds of significance. What methods and
2 processes should the Energy Commission use when we
3 do an analysis of greenhouse gases.

4 Currently we do a very sophisticated
5 review of criteria pollutants, working closely
6 with the individual air districts and ARB. But
7 greenhouse gases are not a criteria pollutant, and
8 so we're going to be doing something different
9 than we have in the past.

10 And so the purpose of these proceedings
11 is to provide guidance to developers and guidance
12 to the Energy Commission Staff on approaches,
13 methodologies and the best way to proceed until
14 more final regulations are adopted for AB-32
15 implementation, and the guidelines from OPR.

16 So, with that, we'll start with the
17 public comment and -- oh, just one other thing.
18 On contacting, if you need to contact me, my phone
19 number is on the -- phone number and email is the
20 last page of the handout in the back.

21 And then Elena Miller from the Public
22 Adviser's Office, her contact information is
23 there. And then also the Energy Commission's
24 webpage has a lot of information, all notices, all
25 products, all the status and schedules will be put

1 up on that website.

2 Also, if you are not getting notice of
3 these meetings and want to be notified
4 electronically, we have an electronic listserver.
5 And you just go to that webpage and put in your
6 email address and you'll be automatically noticed
7 of any materials that are coming out and being
8 docketed.

9 Okay, with that, Commissioners, do you
10 want to start --

11 ASSOCIATE MEMBER DOUGLAS: I would just
12 like to add one thing briefly. The specific
13 questions that we have put forward to the public
14 are fairly detailed and focused on the
15 intricacies, the steps of the CEQA analysis. And
16 we would very much like to hear your comments on
17 that.

18 If you'd like to make more general
19 comments, however, about the direction of the
20 proceeding, or the aspiration of the proceeding,
21 or the timeline, or the concerns, or whatever you
22 may have, we'd very much like to hear that, as
23 well.

24 It's our expectation that we will get
25 more detailed comments in writing, and that's why

1 we've worked into the schedule actually two sets
2 of written comments. But it was also our hope
3 that stakeholders have the opportunity to hear
4 from each other, at least to some degree, in this
5 workshop, as well.

6 So we do hope that you take advantage of
7 the opportunity to comment and to hear from each
8 other, as well as from our staff.

9 PRESIDING MEMBER BYRON: Mr. Richins, we
10 could organize by questions, but I think it would
11 be better to let the speakers come up and say what
12 they'd like to say. Of course, as you indicated
13 it might be helpful to you if they give you a
14 sense of what specific questions they're
15 addressing.

16 And Commissioner Douglas will, of
17 course, entertain anyone else that would prefer to
18 comment on someone else's remarks. I think that
19 would help foster a good stimulating discussion
20 and some input here.

21 So, in the order that I've received
22 them, let me just go ahead and ask the following
23 if they'd like to come forward.

24 And before I do that, let me also tell
25 you we've scheduled to go until 4:00 if necessary.

1 We'll plan to take a break at noon unless it looks
2 as though, for some reason, we might end a little
3 bit early, then we'll just press on and close
4 around the lunch hour.

5 So, the first card I have is Mr. Sean
6 Beatty, or Ms., I'm not sure, Sean Beatty, Mirant
7 California. Ah, Sean.

8 MR. BEATTY: Good morning,
9 Commissioners. It is Mr. Beatty.

10 (Laughter.)

11 MR. BEATTY: That's for the webcast,
12 actually.

13 (Laughter.)

14 MR. BEATTY: You know, I don't have
15 specific input on the questions that were raised,
16 but I did want to point out that Mirant does have
17 two applications currently on file with the
18 Commission. And so we do look forward to
19 participating in this process. And we certainly
20 will file written comments on November 7th.

21 There are a few kind of high-level-type
22 points that I wanted to make with this
23 opportunity, though. And I think the main one is
24 that we really see AB-32 mechanisms as really the
25 primary way the Commission should be thinking

1 about CEQA in the context of power plant siting.

2 I notice from the scoping document that
3 ARB has released that electricity in California
4 constitutes about 25 percent of the GHG emissions.
5 And the plan, as I understand it, really would
6 require the electricity sector to account for
7 about 50 percent of the reduction that they're
8 looking for.

9 PRESIDING MEMBER BYRON: Oh, you noticed
10 that, did you?

11 MR. BEATTY: I did notice that. I did
12 notice that. And in some respects maybe that's
13 the answer right there, is as you think about
14 siting, no matter what happens, electricity is
15 going to be taking its fair share of burden of
16 trying to meet these goals.

17 PRESIDING MEMBER BYRON: Or twice its
18 fair share.

19 MR. BEATTY: Twice it's fair share could
20 be another way of looking at it.

21 In my experience with CEQA, and I'm
22 fairly new to the company but I have some other
23 experience in CEQA administration, mostly on the
24 telecom side, and my experience there is sometimes
25 that the lead agencies get really focused on the

1 environmental impacts, which is their job, to the
2 detriment of all other considerations. And maybe
3 that's an overstatement.

4 But I think the point I'm trying to make
5 here is there's an economic component to the
6 regulation that's being imposed under CEQA that I
7 think this Commission is in a position where there
8 is some discretion in terms of how you comply with
9 CEQA. There's no one right way, and I'm sure
10 you'll hear that by the time the day's over, to
11 adhere to your obligations under CEQA.

12 And so what I would urge you to do is to
13 take other factors into account besides just the
14 direct goal of greenhouse gas, particularly with
15 the comfort of knowing AB-32 is out there.

16 And another example I would take is
17 looking at the scoping document that while 25
18 percent of the emissions -- GHG emissions come
19 from electricity, as I understand it, 13 percent
20 of those emissions come from outside the state.

21 And so CEQA is a California-specific
22 statute. It really, and you know, I think some of
23 your questions allude to this, as well. You know,
24 how are we going to deal with outside influences.

25 But I think economically if you send, or

1 if you set a standard that's too high you have the
2 threat of driving the generation of electricity
3 outside of California, where maybe those
4 requirements might not be as high. You make the
5 cost of plants in California higher, I think the
6 economic signal is that maybe it's more efficient
7 to do it in another state.

8 And I think part of what's reflected
9 there is the idea of the cap-and-trade program,
10 which is considered, or contemplated on a regional
11 basis. And so I think the idea is if you had a
12 cap-and-trade only in California you really would
13 be incenting companies to look at other
14 alternatives outside of California.

15 And I think if we rely on CEQA to
16 accomplish GHG goals, you really threaten to
17 undermine the policies under AB-32, and the cap-
18 and-trade with the Western Climate Initiative that
19 really focuses on a regional level.

20 The other idea that I wanted to convey
21 is that certainly this Commission and other
22 agencies are familiar with air pollution
23 regulation and the idea that if we establish
24 standards and mitigations that we're really going
25 to have an impact directly on the air quality in

1 the region that you're talking about. And I think
2 GHG, though, is a fundamentally different concept
3 in that if you are successful in reducing a power
4 plant's emissions by 100,000 pounds, the reality
5 is if that's the only impact that you have, it's
6 not going to have that direct of an impact of any
7 significance really on the overall GHG global
8 problem.

9 And so the point I'm trying to make here
10 is that I would hate to see that standards or
11 policies or approaches developed in one context
12 are perceived to be directly useful to what we're
13 contemplating here with greenhouse gases.

14 And I guess I'll conclude with I was
15 looking at the EPA data that was, I think,
16 recently released, at least it's recently known to
17 me. And it really shows a lot of the emissions
18 that are going right around the country.

19 And if you look at California I think
20 California has a pretty good story to tell, and
21 this is its history of CEQA perhaps, really, is
22 our power plants don't emit as much air pollution
23 or even today our power plants don't emit as many
24 greenhouse gases as other plants around the
25 country.

1 I think that's a good story to tell.
2 It's not to say that we're done fixing the problem
3 with greenhouse gas, and certainly as we talked
4 about a bit earlier, we're going to bear some more
5 burden here to get to our goals.

6 But, I think the idea ultimately is
7 let's try and figure out how we can use AB-32 to
8 meet the standards that would be required under
9 CEQA.

10 That's all.

11 PRESIDING MEMBER BYRON: Very good
12 comments, very good. I welcome your participation
13 in this and I hope that we will get some written
14 comments from you.

15 MR. BEATTY: Thank you.

16 PRESIDING MEMBER BYRON: And I just
17 wanted to reiterate or underscore your point, you
18 know, we get presentations often and one aspect I
19 recall where we are on GHG output on a per capita
20 basis in the state, as well as a per dollar of
21 GDP. We're about half of where the average
22 U.S. -- where the rest of the U.S. is in both of
23 those categories.

24 So, your point is well taken. But I
25 think you have some very good input that we're

1 looking for.

2 Commissioner Douglas, do you have a
3 question, as well?

4 ASSOCIATE MEMBER DOUGLAS: I just had a
5 comment. I also appreciate your comments and also
6 your willingness to be first here.

7 MR. BEATTY: I kind of felt like I'm
8 going to get some arrows tossed at me, but --

9 (Laughter.)

10 MR. BEATTY: -- we'll see what happens
11 at 4:00.

12 ASSOCIATE MEMBER DOUGLAS: And I think
13 you really did raise issues that are very germane
14 to some of the questions we asked, as you will
15 notice when you go through our questions. We're
16 not solely focused on environmental issues.

17 We ask questions about whether this
18 analysis will lead us to looking again at need as
19 an aspect of our decisionmaking. We ask questions
20 about whether we should think about peaking plants
21 or other types of plants differently in the type
22 of analysis.

23 So, actually your comments raise, at
24 least at a general level -- touched on a number of
25 the specific questions we've asked. And we hope

1 you'll elaborate in written comments.

2 MR. BEATTY: And I don't want to
3 overstep my bounds since we do have pending
4 applications, but I will say under question 3.c.
5 we are definitely interested in repowered coastal
6 gas-fired facilities that are more efficient than
7 existing ones.

8 ASSOCIATE MEMBER DOUGLAS: Well, you're
9 in a public forum so you're free to say that.

10 (Laughter.)

11 MR. BEATTY: Thank you, Commissioners.

12 PRESIDING MEMBER BYRON: Thank you, Mr.
13 Beatty. Michael Theroux, Theroux Environmental.

14 MR. THEROUX: Good morning,
15 Commissioners and Staff. In trying to pick a
16 number for my comments today I chose six. I see
17 that Mr. Richins identified a different aspect of
18 that question than I had focused on.

19 Michael Theroux, Theroux Environmental.
20 I'm an appointee to the Los Angeles County
21 Integrated Waste Management Task Force, and that
22 portion that's focused upon alternative
23 technologies for energy and fuels production. My
24 comments lean toward the work that we're doing in
25 the Sutter Basin.

1 So this question might fit between five
2 and six somehow. First, I would suggest that what
3 I read out of six was that the Commission does,
4 indeed, have the ability to stretch the bounds of
5 what we normally do. And in that case I would
6 suggest that what we see coming up for power
7 generation perhaps is different than the power
8 facility at 50 megawatts.

9 And I would ask that those facilities
10 below 50 megawatts that might constitute embedded
11 community scale generation networks as planned on
12 a programmatic basis by a regional entity such as
13 the Los Angeles County will be impacted by the
14 rulemakings that proceed from this, and by the
15 flavor of this.

16 And on the other side of the coin, those
17 kinds of smaller facilities below 50 megs could
18 really end up with an equivalent licensing
19 process.

20 When a regional network of resources is
21 planned in a programmatic sense you certainly may
22 well come up above that 50 megs, but it's a
23 distributed network.

24 We also see the same kind of approach
25 with what might be considered minigrids or

1 smartgrids as we look at our larger institutions
2 and try to plan our energy generation and fuels
3 production and resources management on our larger
4 institutional campuses.

5 So, I place this in six, in that it is
6 within the Energy Commission's purview to expand,
7 perhaps, the licensing capabilities in the CEQA
8 equivalency to meet some of the new concepts of
9 what is power generation in a larger integrated
10 resource management planning processes.

11 We leave facilities, individual
12 facilities, say 5 megs or 10 megs, inside of a
13 community, particularly if it's biomass, or in the
14 case of L.A. County, working from those post-
15 recycling residuals off of municipal solid waste,
16 there's no place for them to set. There's no
17 standardized mechanism for licensing and managing
18 that aspect that is the electricity generation.

19 So from the fact that the Commission has
20 that ability to expand, I'd like you to keep that
21 in mind as we move through these proceedings.
22 We're addressing some of the same questions with
23 the Air Board, pushing for programmatic
24 approaches, pushing for an ability to look at
25 broader integration on regional bases, because

1 indeed, incremental mitigation will provide us the
2 largest bang for the buck, if you will, the
3 greatest reduction impacts over time, rather than
4 focusing on the individual projects.

5 Thank you.

6 PRESIDING MEMBER BYRON: Thank you. I'd
7 ask Mr. Ratliff, would you -- could you address
8 this subject a little bit with regard to the 50
9 megawatt limits and -- the 50 megawatt limitation,
10 and whether or not, indeed, we're interested in
11 looking at -- well, I'll just leave it open.
12 Please give us a little bit of a response to that.

13 MR. RATLIFF: Well, the Energy
14 Commission only licenses facilities 50 megawatts
15 and greater. And the purpose of our investigation
16 is really to try to come up with some kind of a
17 policy directive regarding how to analyze power
18 plants that are licensed by this agency.

19 So, we haven't really -- we aren't
20 really directing this to small power plants that
21 would be less than jurisdictional, below the
22 jurisdiction of this agency.

23 Even so, I suppose that whatever
24 policies that we should ultimately adopt would be
25 of interest to those who are licensing projects

1 that are smaller than the ones that we license.

2 And certainly this agency is very
3 interested in looking at how we can incorporate a
4 programmatic approach into our analyses which, I
5 think, is what Mr. -- as I understood it, what Mr.
6 Theroux is also interested in.

7 ASSOCIATE MEMBER DOUGLAS: I think we're
8 making an effort to provide a fair amount of
9 feedback from the dais as much as possible, just
10 given the short timeframe of this proceeding and
11 our desire to have as robust a discussion as we
12 can today.

13 So I'll just add very briefly that
14 exactly what Mr. Ratliff said really. This,
15 especially this early stage of the process, you
16 know, we are really thinking about our needs in
17 our own process.

18 However, we would expect that some
19 others, particularly if they are also licensing
20 local governments, for example, licensing smaller
21 energy generation facilities, they may very well
22 look at what we're doing.

23 And in the future, if we do choose to
24 develop a more robust, programmatic analysis or
25 response, that may be particularly useful for such

1 smaller plants. It's not our primary purpose, or
2 even necessarily our second purpose, but I think
3 it is a potential outcome.

4 PRESIDING MEMBER BYRON: Thank you,
5 Commissioner. The next request to speak I have is
6 from an unnamed person, Senior Environmental
7 Counsel for Sempra Energy.

8 MR. MILLER: That's me.

9 (Laughter.)

10 MR. MILLER: I think that's the first
11 time I've ever done that. Hopefully the last.

12 (Laughter.)

13 MR. MILLER: Taylor Miller with Sempra
14 Energy, and speaking primarily on behalf of SDG&E.

15 I'm not going to go down each of the
16 seven questions, and certainly we will submit
17 comments by November 7th.

18 I think one thing to say at the outset
19 is that we do support the Energy Commission taking
20 the lead on developing an approach to this fairly
21 complicated and difficult task, trying to
22 determine threshold for power plants. And I
23 welcome the fact that the Air Resources Board and
24 the OPR also are interested in the Commission's
25 taking the lead on this.

1 I think it's appropriate and provides us
2 a good forum that can take into account some of
3 the interactions within the electricity system
4 that might otherwise be difficult to reach, other
5 than before the Commission. So that's the first
6 point.

7 With regard to -- I will touch on a
8 couple other questions that seem to leap out at
9 this point. And the first was can the -- is it
10 appropriate to subject these emissions to a CEQA
11 review. I think it is. I don't think we argue
12 that point.

13 I do think that the Commission, in some
14 of its decisions, and most recently that I'm aware
15 of, the staff assessment for the Chula Vista
16 peaker project, has a rather good analysis of the
17 difficulties of assessing significance in the
18 context of the system.

19 It concludes, in that staff assessment,
20 that actually it would be speculative to reach a
21 conclusion because it's very difficult or
22 impossible to know whether an individual power
23 plant will substitute for a more carbon-intensive
24 alternative or not.

25 And likely most new projects, being the

1 newest technology, the most efficient technology,
2 could well be displacing older technology. For
3 example, in our area, San Diego County, we have
4 still the older baseload plants, which actually
5 developed for baseload, that are essentially
6 serving as peakers at the moment.

7 So, it would stand to reason that the
8 new peakers could easily reduce overall emissions.
9 So that would be our answer, I think. It's not
10 really question one, but I think that it really
11 needs to be asked whether it is appropriate or
12 even possible to have a generically applicable
13 threshold. So that's, I guess, the second point.

14 The next I would say is one the previous
15 speaker mentioned that --

16 ASSOCIATE MEMBER DOUGLAS: Can I -- I'm
17 sorry, I'm interrupting and --

18 MR. MILLER: You bet, any time.

19 ASSOCIATE MEMBER DOUGLAS: -- disrupting
20 your flow, but I just wanted to follow up on that.
21 When you're questioning whether it's appropriate
22 or possible to have a generically applicable
23 threshold, do you mean generically applicable to
24 different regions with different electricity
25 needs? Or to different types of generation?

1 Could you just elaborate?

2 MR. MILLER: Well, I think to a power
3 plant, just in general, so that, for example, an
4 approach such as has been initially proposed by
5 the Air Board for a 7000 pound or ton limit on
6 industrial projects. I just don't think that
7 works for power plants.

8 I do think, and I'm going to come to
9 this in a minute anyway, that it might well be
10 possible to make a general conclusion within the
11 broad discretion of the Commission, as lead
12 agency, to treat certain kinds of projects as
13 likely enough to be beneficial as to justify what
14 you might call a categorical exemption.

15 So, we would support further exploration
16 of that. And we will address that in our
17 comments. I think some peaker projects, for
18 example, clearly we know that to reach
19 particularly an enhanced 33 percent renewable
20 standard that were to come, we're going to need
21 more quick-start peaking facilities. And right
22 now that is gas. So, that might well make sense.

23 The point regarding AB-32 being the
24 eventual answer to this I think is well taken.
25 When -- we have a proposal now pending, both from

1 the Commission, the Public Utilities Commission,
2 Air Resources Board, to institute a cap-and-trade
3 system, when that does come into place it does
4 make sense, I would think, to treat that as the
5 fundamental mitigation for whatever -- a plan for
6 reduction of greenhouse gases from the electricity
7 sector, in general.

8 So, that's not here yet, but I think
9 that that would make sense going forward. And it
10 might bear reference in your policy.

11 With regard to baseline, we would favor
12 a programmatic approach. And I believe with Air
13 Resources Board that a nonzero threshold is
14 appropriate.

15 A reference to the 1368 performance
16 standard might make sense. And I think we would
17 want to include that among the list of potential
18 generic categories.

19 And finally, I think that we would agree
20 that the Commission does have the authority to
21 override if it should find a significant effect.
22 However, I think we would probably not any of us
23 want to try to go back to the days of need
24 assessment in individual siting cases to somehow
25 entrain everyone in a review of the overall

1 procurement plan of individual utilities in the
2 context of a single project. So I think that is
3 to be avoided if we can do so.

4 I think those are our primary opening
5 comments. I'd be happy to take questions. I'm
6 sure others will cover other points that I might
7 have --

8 PRESIDING MEMBER BYRON: Mr. Miller,
9 thank you. Did you have a comment?

10 ASSOCIATE MEMBER DOUGLAS: No, I think
11 I'm --

12 PRESIDING MEMBER BYRON: Okay.

13 ASSOCIATE MEMBER DOUGLAS: Thank you.

14 MR. MILLER: Okay.

15 MR. RATLIFF: Could I just ask Mr.

16 Miller to --

17 PRESIDING MEMBER BYRON: Absolutely, go
18 right ahead.

19 MR. RATLIFF: That last statement, could
20 you just expand on that just a little bit?

21 MR. MILLER: Well, I'm old enough to
22 remember when need counted in Energy Commission
23 projects. And I guess I never had to actually go
24 through one of those personally, as counsel. But
25 I observed them from a distance in the '80s. Dick

1 probably has been through one or several of them.

2 And to make a determination of whether a
3 particular project is needed, would seem to me to
4 somewhat have the tail wagging the dog, in that in
5 an individual project you would be getting into a
6 review of what is the proper portfolio for a
7 utility.

8 And we have a long-term planning process
9 for the investor-owned utilities at the PUC that
10 is exactly for that purpose. So, I think that is
11 something that could get us kind of wrapped around
12 the axle if we have to go there.

13 I don't know; Dick probably has a view
14 on that that I wouldn't necessarily have.

15 MR. RATLIFF: Thank you.

16 ASSOCIATE MEMBER DOUGLAS: Did you have
17 a question?

18 MR. RICHINS: Yeah, I had a followup
19 question. You had mentioned in your comments
20 about programmatic reviews, you were encouraging
21 us to consider that.

22 Would you visualize programmatic review
23 approach being a statewide programmatic approach?
24 Or could you see a programmatic approach per PG&E,
25 for San Diego Gas and Electric, for Southern

1 California Edison, for service territories?

2 MR. MILLER: I think that we would
3 prefer, of course, a statewide approach, if
4 possible. I think it's going to be cumbersome to,
5 in recognizing we're just covering, I think, this
6 interim period before full implementation of AB-
7 32. At least it's unique at this point.

8 Whether there's something that would lap
9 over even beyond that we can argue about later,
10 maybe. But to put a utility-by-utility program
11 together could take a year anyway.

12 So I think we're looking to something
13 that we could launch, as you plan to, in the early
14 part of 2009. We've got a number of siting cases
15 pending.

16 So, I think probably it makes sense to
17 see how far we can carry this just with
18 categorical approaches to certain kinds of
19 projects.

20 ASSOCIATE MEMBER DOUGLAS: Let me -- I
21 actually do have a followup question. You said
22 that you think it's possible or could be possible
23 to treat certain categories of projects as
24 beneficial enough, or likely enough to be
25 beneficial to justify a categorical exemption.

1 How would you suggest, if we were to go
2 that route, that we hone in on how certain we
3 would need to be that a project is beneficial?

4 I mean at one extreme we could
5 potentially say that anything new is likely to be
6 beneficial because it's like to displace something
7 that's older and less efficient.

8 At another extreme we could look for a
9 really tight time between the new project being
10 proposed and, for example, another one that is
11 clearly much less efficient and more highly
12 polluting going offline, perhaps a repower.

13 Do you have thoughts right now that you
14 can share about where to draw that line if we were
15 to go that direction?

16 MR. MILLER: You know, I don't. And I
17 think I'd probably be kind of leaping off the
18 cliff to suggest right at the moment. I think it
19 would be good -- that's sort of a need for a small
20 brainstorming by multiparties probably on what
21 makes sense. But there may be a way.

22 If those lines could be drawn,
23 certainly, you know, the more bright line we can
24 come up with here the better for everybody. So I
25 think that's a good place to start, anyway.

1 You know, one of the other aspects on
2 the programmatic. If you think about an
3 individual project, let's say a new peaker, which
4 is easily the most recent technology. It's
5 obviously going to be designed to be as efficient
6 as it can be from a cost perspective to run.

7 It's difficult to think about, more or
8 less impossible to mitigate that project if one
9 were required to. Other than by not running it.
10 Which kind of takes away its purpose.

11 So, I think you need to look at that
12 reality. And one helpful chart, I think, that
13 I've used in the past is this triangle chart that
14 Julie Fitch presented to the legislative committee
15 back in May in her presentation. Which basically
16 lays out what are the options for reducing that
17 energy sector GHG emissions.

18 And they're basically not the power
19 plants. They are other things. They are
20 renewable resource centers; they're efficiency.
21 They're the very things that we're doing as a
22 utility.

23 So, that's why I just don't think it
24 makes sense to approach this on a project-specific
25 basis.

1 ASSOCIATE MEMBER DOUGLAS: Thank you.

2 MR. MILLER: Thank you.

3 PRESIDING MEMBER BYRON: Very good
4 comments, thank you, Mr. Miller. You know, we've
5 had individuals that have spoken before this
6 Commission who didn't wish to be associated with
7 the organization, --

8 (Laughter.)

9 PRESIDING MEMBER BYRON: -- but I don't
10 think we've ever had someone who preferred to
11 remain anonymous when speaking on behalf of the
12 organization. So, I'm glad that you came forward
13 and that's still intact.

14 The next card I have is Mr. Brian
15 Biering, Independent Energy Producers Association.

16 MR. BIERING: Good morning,
17 Commissioners. My name is Brian Biering of
18 Ellison, Schneider and Harris. I'm representing
19 the Independent Energy Producers Association.
20 I'll keep my comments brief; and we will be filing
21 written comments where we'll go into a little bit
22 more detail.

23 But in terms of a higher level outline
24 of our issues, we do advocate for a systematic
25 approach, also. And if projects are evaluated on

1 a project-by-project basis it may discourage the
2 replacement of older, inefficient power projects.

3 In terms of mitigation efforts, we also
4 recommend the Commission consider the current lack
5 of viability of carbon storage and sequestration
6 technologies -- excuse me, just carbon storage
7 technologies.

8 And we'd also like to recommend, in
9 terms of mitigations, that the Commission also
10 consider the lack of protocols on the use of
11 offsets.

12 We look forward to filing written
13 comments by November 7th. Thank you.

14 PRESIDING MEMBER BYRON: Go ahead, Mr.
15 Richins.

16 MR. RICHINS: Could you expand on your
17 comment about using offsets for mitigation?

18 MR. BIERING: Yeah, well, there's
19 currently not very many details on how offsets can
20 be used. I think that this was kind of
21 highlighted in the Commission's recommendations to
22 CARB for AB-32.

23 And that represents a significant
24 portion of emissions reductions that are out there
25 that could be used.

1 So, to the extent that protocols can be
2 developed in this process, we recommend that that
3 be done.

4 PRESIDING MEMBER BYRON: Okay, thank
5 you. Good points.

6 Mr. Mark Turner from Competitive Power
7 Ventures.

8 MR. TURNER: I have no comment at this
9 time.

10 PRESIDING MEMBER BYRON: Mr. Turner, you
11 can certain reserve your right to speak later if
12 you wish.

13 MR. TURNER: Thank you.

14 PRESIDING MEMBER BYRON: Again, I'm just
15 going through cards as I receive them. Looks like
16 Loulena Miles, California Unions for Reliable
17 Energy.

18 MS. MILES: Hello. Can you hear me?

19 PRESIDING MEMBER BYRON: Um-hum.

20 ASSOCIATE MEMBER DOUGLAS: Yes.

21 MS. MILES: Okay.

22 PRESIDING MEMBER BYRON: Ms. Miles, did
23 I say your name correctly?

24 MS. MILES: Loulena.

25 PRESIDING MEMBER BYRON: Loulena Miles.

1 Thank you.

2 MS. MILES: So, I'm an attorney with
3 Adams, Broadwell, Joseph and Cardozo. And I'm
4 here on behalf of California Unions for Reliable
5 Energy, or CURE.

6 CURE is a coalition of unions whose
7 express purpose is to help solve the state's
8 energy problems by building, maintaining and
9 operating conventional and renewable energy power
10 plants.

11 Since it's founding in 1997, CURE has
12 been an active participant in a number of siting
13 cases, as I'm sure you know. At this time we do
14 not have detailed answers about how we think that
15 the Commission should evaluate or mitigate
16 greenhouse gas emissions of power plants.

17 However, the Commission has asked many
18 of the right questions. And we see that finding
19 the right answers will be hard. However, we do
20 have some big-picture principles to offer the
21 Commission.

22 First of all, greenhouse gas emissions
23 must be evaluated and mitigated under CEQA. A
24 number of California trial court decisions have
25 already concluded that the cumulative impacts of

1 greenhouse gas emissions on climate change from a
2 particular project are not too small to ignore.
3 And analyzing and mitigating the impacts is not
4 too speculative.

5 Second, the greenhouse gas emissions
6 from power plants completely dwarf any arguable
7 significance threshold -- I should say most power
8 plants, not all -- and that have been discussed so
9 far among agencies. And we believe that the
10 question of what emissions level crosses the
11 threshold is not one that the Commission should
12 spend a lot of time on for larger projects.

13 The greenhouse gas emissions from most
14 power plants will be well over the threshold and
15 will require an analysis of the greenhouse gas
16 emissions.

17 Finally, no AB-32 program implemented by
18 CARB can absolve the Commission of its requirement
19 to undertake an evaluation of greenhouse gas
20 emissions when reviewing a project under CEQA.
21 This is well established under CEQA law, just as
22 when a housing project complies with the general
23 plan. But its impacts on traffic still must be
24 looked at on an individual basis. Or when an
25 industrial project complies with air quality rules

1 that comprise the state implementation plan. But
2 the air quality impacts still must be evaluated
3 and mitigated.

4 Even if a power plant complies with
5 CARB's AB-32 implementation, the greenhouse gases
6 still must be evaluated and mitigated.

7 Beyond these basic issue for which the
8 answers we see are relatively easy, we will be
9 paying attention to the discussions today and the
10 future, in forming an opinion on how greenhouse
11 gas emissions from power plants should be analyzed
12 in this agency.

13 And we will be providing written
14 comments.

15 ASSOCIATE MEMBER DOUGLAS: Thank you,
16 Ms. Miles. I appreciate your comments and
17 generally agree with the direction of the points
18 that you made.

19 I think you're right that power plants,
20 or certainly most power plants fall over most of
21 the quantitative thresholds that have been
22 discussed in more general application forums, and
23 say, for example, at the ARB workshop yesterday.

24 We still have to consider qualitative
25 performance-based thresholds as a possibility that

1 we look at specifically within our process. And
2 then we've also got the question of whether every
3 aspect of power plant siting and construction
4 falls within even quantitative significance
5 threshold. Or whether there should be another
6 approach for, for example, construction impact and
7 for other aspects of -- or for the natural gas
8 aspect of a solar thermal plant, or some other
9 aspects within power plant construction.

10 So there's a lot here to look at, as you
11 have noted. We appreciate your involvement.

12 MS. MILES: Thank you.

13 PRESIDING MEMBER BYRON: Yes, thank you,
14 Ms. Miles.

15 The next card I have is Ms. Jane
16 Luckhardt, Downey Brand. Ms. Luckhardt, good to
17 see you again.

18 MS. LUCKHARDT: Yeah, I guess I'm just
19 trading this proceeding for the joint proceeding
20 on greenhouse gas that just ended. So it's just
21 from one to another.

22 And I think, like all the other
23 commenters, my comments are pretty broad in scope.
24 And I do agree with most of what Mr. Miller said,
25 who was up here earlier, so I'll try not to repeat

1 all of that.

2 But I think we need to be really careful
3 at looking at power plants on an individual case-
4 by-case basis. When we do have AB-32 and the
5 scoping plan, at least the proposed -- I think
6 it's the proposed scoping plan that's out now,
7 that CARB anticipates adopting in December, that
8 includes a broad range of efforts, as you all are
9 very aware, for the electric industry.

10 And this includes energy efficiency, the
11 RPS standard, as well as the cap-and-trade. And
12 unlike the programs that were mentioned by CURE
13 just a moment ago, which talk about general plan
14 requirements and overall SIP requirements from air
15 districts, there will be specific contributions by
16 power plants within the cap-and-trade sector,
17 where they will actually, after the transition
18 period, or at least in accordance with the
19 recommendations that this Commission has made to
20 ARB, to have a short transition period to where
21 individual sources will be purchasing allowances
22 through the cap-and-trade system.

23 And so in that process it's not as if
24 they're getting off scott-free, based on the AB-32
25 requirements. Instead, they'll have to be

1 purchasing allocations for every carbon emission
2 that they have.

3 And in accordance with your decision the
4 use of that money will go to reducing carbon
5 emissions elsewhere within the system for the most
6 part. So if that is adopted, that does provide a
7 mitigation for carbon emissions from the power
8 sector.

9 I do want to note, though, on one other
10 thing, as well. If you go into individual power
11 plants and you try to mitigate for the emissions
12 of individual power plants, that you really need
13 to consider ARB's efforts in this regard, as well.

14 ARB has stated in the scoping plan that
15 they are looking at least at a large portion of
16 offsets as being allowed. The rules are not
17 completed, and are to be finished in a later
18 proceeding. But if you're going to require power
19 plants to get mitigation, it should also qualify
20 under ARB offset requirements. Realizing, though,
21 that if you do that then they would not be
22 required to purchase allocations through the cap-
23 and-trade program.

24 And so I think you can't look at your
25 process and the mitigation for power plants in

1 isolation. But you need to look at it in context
2 with ARB's program. But if you're going to
3 require individual mitigation, that mitigation
4 should count under ARB's program, as well as an
5 offset. Power plants should not be required to
6 pay twice or three times or four times, depending
7 on how much mitigation is required out of the
8 power sector.

9 I do have experience with need, as does
10 Dick Ratliff, for power plants, having worked on
11 projects such as the original -- or not the
12 original, but the built Crockett cogen project.
13 And the issue and concern I have with doing need
14 for power plants is that if -- the need came out
15 of the old procurement policies. And in that you
16 had to show need for a power plant before you
17 could build it.

18 Well, that was before you really had a
19 competitive power market in California. And now
20 that we have a lot of independent power in
21 California I would be very concerned about using a
22 need-based system for determining impacts on power
23 plants. Because if you just use a need-based
24 system, then those other projects that don't yet
25 have contracts but would be bidding into the next

1 RFO, or bidding into an existing RFO might be
2 greatly disadvantaged through that process.

3 And that's really what I have right now.
4 I think that there's some very good information,
5 although it's short, in your decision on the
6 Humboldt Repowering project about looking at power
7 plants as a system. Because it really is a
8 system.

9 AB-32 requires that we look at not only
10 instate generation, but out-of-state generation.
11 And if we look just at instate generation or at
12 one power plant at a time, we really don't see the
13 broader effects of power in California, as well as
14 throughout the west.

15 And so I think that is just another
16 reason to really look at power plants from a
17 systematic approach when we're evaluating project
18 impacts, as well as mitigation measures, if you're
19 going that direction.

20 PRESIDING MEMBER BYRON: Ms. Luckhardt,
21 thank you. Those are very good points. Of
22 course, I agree; I mean these are all some of the
23 difficulties that we have with this entire
24 process. So we're looking forward to your coming
25 back in November with solutions to --

1 (Laughter.)

2 PRESIDING MEMBER BYRON: -- all these
3 issues.

4 ASSOCIATE MEMBER DOUGLAS: And actually,
5 maybe I'll ask her for some additional solutions
6 on this 5, if I could, although I understand that
7 you want to get back to it in written comments
8 instead.

9 I think we've heard a pretty consistent
10 message thus far, at least among those who've had
11 the opportunity to speak, a preference for a
12 programmatic approach over a project-by-project
13 approach.

14 Just a couple of questions that I'd like
15 to ask you to elaborate on, if you could, though.
16 And one is that there's this period of time before
17 ARB's program is adopted and put forward in
18 regulation where the programmatic approach is
19 under development, but it's not actually in place.

20 And so one question I have for you is
21 how you think we should address that interim
22 period of time, and whether we think about that
23 differently than we do a post-regulation, ARB
24 regulation.

25 And a second question is that one of

1 your comments assumed that ARB is going to put
2 forward a cap-and-trade system. And I think the
3 Energy Commission/PUC joint decision, and ARB's
4 scoping plan certainly would indicate that that's
5 likely.

6 However, I don't think we can
7 necessarily, sitting here today, make an
8 assumption about whether it will, in fact, happen;
9 what the point of regulation would be; and when it
10 would happen.

11 So, --

12 PRESIDING MEMBER BYRON: You mean we
13 wasted all that effort?

14 ASSOCIATE MEMBER DOUGLAS: No, no, no,
15 no, of course not.

16 (Laughter.)

17 ASSOCIATE MEMBER DOUGLAS: It was a very
18 very important effort. However, we're now sitting
19 here waiting to see what precisely is going to
20 come with that effort and when.

21 And so I wondered if you could address
22 or give us some thoughts on how we deal with this
23 interim period, if it is an interim period. And
24 it may be an interim period that stretches out
25 longer than we think.

1 MS. LUCKHARDT: Well, you know, since we
2 are in the midst of regulations that always poses
3 problems. And, you know, having advocated
4 initially against the cap-and-trade program, I
5 always find it entertaining that now I have to
6 advocate for the cap-and-trade program actually
7 going forward.

8 ASSOCIATE MEMBER DOUGLAS: We're
9 confused.

10 (Laughter.)

11 MS. LUCKHARDT: But, nonetheless, you
12 know, these power plant projects also don't happen
13 immediately. The siting process, itself, is an
14 extensive process. The preapplication process is
15 extensive, and the building is extensive. So it's
16 not like, you know, poof, today we've got a power
17 plant on the ground and running.

18 And I think that we do have strong
19 direction from the ARB and the scoping plan on
20 what they plan to do going forward.

21 My concern is that if this Commission
22 goes too far down the line of requiring very
23 extensive mitigation, that basically you're going
24 to have power facilities who are already
25 shouldering a vast majority of the greenhouse gas

1 reduction burden take on more still.

2 And that's where I go back to my comment
3 on offsets. If you're going to do that, which I
4 don't recommend, you've got to line it up with ARB
5 so that these projects only pay once.

6 It surely doesn't make any sense to have
7 these projects pay for mitigation and then do cap-
8 and-trade and do all the other things that will be
9 required by ARB going forward.

10 You do have the initial effort that was
11 done on the emissions performance standard.
12 Something like that might be a feasible interim
13 measure. You know, as an option it gives
14 something that's a standard that everybody can
15 shoot for.

16 But I think there are, you know, there
17 are just going to be issues with the interim
18 period. And I think that whatever you do, you
19 just need to be very careful about making sure
20 that these power plants don't pay twice.

21 And based on all the indications going
22 forward, I don't see a cap-and-trade program not
23 getting off the ground, although I do see that it
24 could be delayed.

25 So, you know, the interim period is

1 going to be a tougher time. But I think if you
2 look at this from a systematic approach, too, that
3 you will see some pretty great benefits. I mean
4 we still have a lot of coal production that's
5 coming in from out of state that needs to be
6 displaced and replaced. And we still have some
7 older generation that is also due for replacement.

8 So I think there's some real
9 opportunities in the interim that we can take
10 advantage of. And then hopefully, going forward,
11 you know, ARB's program will be in place, and then
12 we'll have clarity as far as the next phase.

13 But it seems to me that in the interim
14 four or five years potentially here that we've got
15 enough displacement to handle probably most of the
16 new generation that may actually get built, as
17 opposed to just permitted.

18 ASSOCIATE MEMBER DOUGLAS: Thank you.

19 PRESIDING MEMBER BYRON: -- when making
20 that direct linkage, displacing that older
21 generation is part of the difficulty.

22 Ms. Luckhardt, thank you. Probably no
23 one here in this room knows more how difficult it
24 is to siting power plants in this state. And, of
25 course, we're only making it more difficult, it

1 seems, as time goes on.

2 MS. LUCKHARDT: Right.

3 PRESIDING MEMBER BYRON: Thank you for
4 your comments. Of course, we may begin hearing
5 from some folks here today that might feel that we
6 don't need any more power plants.

7 I have next Mr. Will Rostor from
8 EarthJustice.

9 MR. ROSTOV: Good morning,
10 Commissioners. My name's Will Rostov. I'm sorry
11 for the, what maybe looks like an R, I guess.

12 PRESIDING MEMBER BYRON: I'm sorry, Mr.
13 Rostov.

14 MR. ROSTOV: That's okay. And we're
15 very happy that this proceeding's occurring. And
16 we think it's very important for the CEC to
17 address CEQA. And my comments are going to just
18 address the CEQA issues.

19 As everybody in this room, I think, has
20 been busy on other things, I haven't had enough
21 time to prepare detailed answers to these
22 questions, but I will be providing written
23 comments. But I did want to make some general
24 points I think are important to keep in mind.

25 What the CEC is trying to do here is a

1 guiding policy for siting proceedings that's a
2 project-by-project siting process. So the CEQA
3 analysis is going to have to be project-by-
4 project. That's just, by definition, necessary.

5 We agree with some of the comments that
6 were made by CURE that I think you want to stand
7 back and look at what CEQA really requires. It
8 requires two really main things. It requires
9 analysis and it requires mitigation or
10 alternatives.

11 And just stepping back for a second, I
12 think it's always important to kind of remember
13 what CEQA's about. And really the heart of CEQA
14 is the environmental impact report, so the
15 analysis.

16 The EIR has been described, and I'll
17 quote a case, as an environmental alarm bell whose
18 purpose is to alert the public and its responsible
19 officials to changes before they have reached
20 ecological points of no return.

21 Global warming is an ecological point of
22 no return. And the science coming out is there is
23 ticking points and feedback loops that could be
24 occurring due to the greenhouse gas emissions that
25 we're producing. So, we really need to be careful

1 about the infrastructure decisions we make over
2 the next few years.

3 Having said that, there's another
4 purpose of the EIR, too; it directs public
5 agencies to avoid or reduce environmental damage
6 when possible by requiring alternatives and
7 mitigation measures.

8 So my first point really goes to, well,
9 CEQA applies. But then it goes to analysis and to
10 the threshold issue. The whole idea of thresholds
11 is to determine places where you don't do the
12 environmental analysis.

13 But the siting process, the siting
14 procedure is, by definition is where you're doing
15 environmental analysis. So then to say that
16 you're not going to do a greenhouse gas analysis
17 when you're doing all the other analysis for a
18 siting of a power plant makes no sense.

19 As a matter of fact the Energy
20 Commission should have been doing this analysis up
21 to this date. And it's great that you're going to
22 adopt a policy to determine how to do it.

23 But information is positive for
24 everybody in the state, for the public, and also
25 for informed decisionmaking into the future. I

1 mean we need to know how much each power plant
2 greenhouse gases are putting out the greenhouse
3 gases. And if we know that, we'll be able to make
4 better informed decisions in the future.

5 So this idea of saying, you know, if you
6 do renewables and still do gas-fired power plants
7 wit it, can you exempt that. And my answer is no,
8 of course you can't exempt it. You can't exempt
9 it because what you want to do is you want to
10 figure out what the analysis says, what are the
11 greenhouse gas emissions. Once you know the
12 greenhouse gas emissions then you can take the
13 next step.

14 But the CEC, in the context of the
15 siting procedures, should not be cutting off
16 analysis. It should be doing the fullest analysis
17 possible.

18 And, as a matter of fact, I think the
19 CEC is in the best position ever to do that. The
20 CEC knows the most about power plants. It can set
21 precedent for the whole state. It can take a real
22 leadership, not for the state, even for the
23 nation, take a leadership in how do you analyze
24 greenhouse gases from different types of power
25 plants.

1 And it has the staff resources, a very
2 talented staff who can do this type of analysis.
3 So this idea like trying to exempt things, or set
4 thresholds for in the power plant context really
5 just doesn't make any sense from our perspective.
6 And also it doesn't make sense from the
7 perspective of CEQA, which requires it. So you're
8 legally obligated to do it.

9 We disagree with ARB and we think a zero
10 threshold is really the most scientifically
11 defensible threshold at this time. And we are
12 going to make those comments to ARB, as well. ARB
13 says there's some -- they said in their
14 presentation yesterday that there was some
15 substantial evidence that could justify nonzero
16 thresholds, but they did not provide that
17 evidence. And I'd be interested in seeing that.
18 Because all the science I've seen is that, you
19 know, IPCC came out with the study saying that
20 greenhouse gases are caused by man and the
21 situation is bad.

22 And all the science since then is the
23 situation is getting worse. So if the situation
24 is getting worse, you have greenhouse gases that
25 are causing this cumulative problem, you really

1 need to take this seriously. So we think a zero
2 threshold is the way to go.

3 AB-32, a bunch of comments, talk about
4 AB-32. It essentially is a different statute than
5 CEQA. And they're independent of each other. AB-
6 32 was very explicit in not overriding any other
7 statutes. CEQA applies, AB-32 applies.

8 If CEQA applies that means you have to
9 do the environmental analysis which have already
10 been discussed. And you also have to do the
11 mitigation and considering the alternatives.

12 And really, in my mind, CEQA is
13 complementary to AB-32 in the sense that you'll be
14 looking at these new power plants and saying, you
15 know, how does this fit into this new world where
16 we're carbon constrained. I mean essentially
17 power plant siting decisions are decisions that
18 are based on 30- to 50-year infrastructure
19 decisions. Those decisions need to be taken
20 seriously now because we're going to be living
21 with these decisions into the future.

22 A couple speakers have talked about -- I
23 have one more thing about AB-32. Some people were
24 saying that cap-and-trade and other types of
25 systems could maybe be the mitigation of the

1 future, but right now we're not in that situation.

2 You know, the deadline for even
3 promulgating those regulations is 2012, and
4 there's really no sense of when those, you know,
5 reductions from AB-32 will be occurring.

6 So, in the near term, the CEQA
7 obligations, you just have to follow CEQA and
8 develop the best plan possible. And then in the
9 future, you know, you can reopen this proceeding,
10 say two, three years from now. And then if you
11 can somehow figure out a way to fit AB-32 into the
12 context of CEQA, you know, that might be a
13 possibility. But at this point I just don't see
14 how it is.

15 One other thing that some people refer
16 to as this needs assessment idea. And I guess we
17 take the opposite position. We think needs
18 assessment is important in this context because
19 right now the way the power plants are built is
20 anybody can come along and build a power plant.

21 And if you just come along and build a
22 power plant and it doesn't fit into the grid in a
23 way that's going to be beneficial to the
24 electricity system and beneficial to the climate,
25 that's a bad result.

1 And the Energy Commission might be faced
2 with tough decisions. You know, you might be
3 faced with tough decisions about, you know, is
4 this electricity needed, or is this electricity
5 needed, you know, we've done all the mitigations
6 possible. You have to analyze the mitigations
7 first. And then you might have to look at your
8 override responsibilities.

9 But when you look at your override
10 responsibility, that's going to be a serious
11 responsibility going into the future. I mean, are
12 you going to be responsible for putting a lot more
13 greenhouse gases into the atmosphere? That's the
14 questions you're going to ask.

15 And if you're looking at it from a needs
16 perspective, you can determine like, well, do we
17 really need this; does this project proponent who
18 wants to build his 600 or their 600 megawatt power
19 plant really need 600 megawatts. And is that 600
20 megawatts so needed that we're going to put out,
21 you know, a million tons of carbon dioxide, too.

22 Or maybe what all we really need is 150
23 megawatts for this local reliability area. And
24 just by virtue of doing this somewhat of a need
25 assessment, you reduce that new power plant

1 generation, based on my example, carbon dioxide
2 input by 75 percent. So, there is some type of
3 analysis that you need to be doing.

4 I'm just going to close by reiterating
5 that providing information through CEQA and
6 through the power plant siting process is going to
7 be very important. And then you're going to have
8 to face tough decisions about how you mitigate and
9 look for alternatives. And part of that is going
10 to be determining if some power plants are needed.

11 ASSOCIATE MEMBER DOUGLAS: Mr. Rostov,
12 we really appreciate your being here and sharing
13 your views with us today. I had a couple
14 questions, actually one just more an observation.
15 I agree with you that the Energy Commission has an
16 obligation to discharge its CEQA responsibilities,
17 it's independent of ARB discharging its AB-32
18 responsibilities. There's no question about that.

19 I think, though, that there is a
20 responsibility on our part to look at what ARB is
21 doing and to link as closely as possible with what
22 we see as their -- not what we see as their
23 possible or speculative outcomes, but to make sure
24 that what we're doing makes sense. A programmatic
25 approach going on there.

1 I've got a question about the project-
2 by-project -- again, I would agree with you that
3 what we're doing, we're doing general policy. And
4 that policy is going to have to be applied on a
5 case-by-case basis. That's what we're doing here
6 and that's how our siting process works.

7 When we look at the challenges of
8 quantifying the impact of a project that we are
9 analyzing, that we are potentially siting, it
10 actually takes a significant -- could take a
11 significant amount of modeling and forecasting to
12 come up with a real estimate for how much that
13 plant is actually going to run.

14 You know, it may be an independent, or
15 merchant generator, it may be a peaker, it may
16 be -- it may be that we're not entirely certain
17 when it will be run as a peaker, and when it may
18 be run in more of a baseload capacity,
19 particularly this kind of plant that could, which
20 is technologically is enabled to function both
21 ways.

22 So, I appreciate your comments. I think
23 that the actual empirical side of this when we are
24 projecting how much a plant may run is not
25 impossible, but it does involve some potentially

1 involved modeling, and it involves assumptions.

2 MR. ROSTOV: I agree that it could
3 involve more analysis and more modeling. But I
4 guess one example that I thought of is a peaker
5 power plant.

6 If you're siting a new peaker power
7 plant, one could argue that it can take away your
8 peak load. But the other analysis could be, you
9 know, is that peaker power plant really going to
10 encourage growth, and growth that is not, you
11 know, healthy for that in terms of greenhouse gas
12 analysis, you know. Is there going to be more
13 carbon dioxide, you know. Are you increasing the
14 peak instead of reducing the load.

15 You know, one of the great things the
16 Energy Commission has done over all the years is
17 the energy efficiency programs. So, one thing you
18 can look at when you're doing some of this
19 analysis, especially in load restricted areas, you
20 can look and see, you know, do we really need this
21 peaker, or could we -- or, you know, in your
22 alternatives analysis, which is important, can you
23 say, well, really we only need another 10
24 megawatts. You know what, maybe in this area
25 there's another 10 megawatts.

1 Maybe that's not good for the project
2 proponent, but it's better for everybody else. So
3 you know your alternatives analysis brings up
4 information that's positive for, you know, the
5 state.

6 So, I think having the analysis is going
7 to be important. The other reason the analysis is
8 going to be important on a project-by-project
9 basis is, I mean I agree that it would be nice to
10 have some numbers; it would be nice to have some
11 numbers about the 22 siting plants right now.

12 How much, if we just continue with
13 business as usual, how much new greenhouse gases
14 would the state be approving if they approved all
15 of those power plants? And how would that
16 interact with AB-32? Would that just be so much
17 that we really couldn't get the mitigations we're
18 planning on getting through AB-32?

19 So if you start doing the analysis on a
20 project-by-project basis and you have it
21 accessible enough, which, you know, this
22 Commission is very good at making information
23 accessible, you know, somebody could count them up
24 and say, look, you know what, the projections are,
25 you know, these ten power plants are going to put

1 out this much. You know, we didn't really account
2 for that when we were considering AB-32.

3 You know, AB-32 also has growth
4 assumptions. And, you know, a question in my
5 mind, and I haven't analyzed this, I'm just posing
6 the question, is the growth assumptions AB-32
7 comparable to really what's happening on the
8 ground with power plants?

9 You know, having more information for
10 new power plants about their actual greenhouse gas
11 emissions and the need for future power plants is
12 going to be important.

13 And, you know, we agree that it's
14 important to displace older power plants. But I
15 think when you look at some of these older power
16 plants you also are going to have to decide, are
17 you going to give credit for the displacement.

18 I mean some of these power plants are
19 being closed down no matter what. You know, a lot
20 of these power plants are 50 years old, have other
21 permitting problems like once-through cooling.
22 And if they're going to be shut down because of
23 other reasons besides greenhouse gas emissions, do
24 they really get credit for that displacement. Or
25 is that just a natural way we're going, and then

1 we decide for the future, is it better to build a
2 new gas-fired power plant or is it better to do
3 more renewables.

4 ASSOCIATE MEMBER DOUGLAS: I think
5 you're raising really interesting questions and
6 interesting comments. And I'd like to invite both
7 you and other stakeholders who are listening to
8 this to provide us input. To the extent that we
9 end up calling for the type of analysis that Mr.
10 Rostov is talking about, is it really best done on
11 a case-by-case basis. Is it best done in a more,
12 say, IEPR style analysis of our power system that
13 then can be drawn on for case-specific analysis.

14 So, in other words, to the extent that
15 the Committee, and later the Commission,
16 ultimately decides that this kind of analysis is
17 what we're going to call for, how is it best done.

18 I think you're raising some interesting
19 questions. You're raising interesting questions
20 about alternatives analysis and how that is best
21 done.

22 So, appreciate that.

23 PRESIDING MEMBER BYRON: Mr. Rostov, a
24 couple of questions. Thank you, Commissioner.

25 I believe you made the comment zero

1 threshold is the most scientifically defensible.
2 And I'm just curious, you know we talk about
3 renewables and we talked about the primary
4 alternatives of natural gas-fired power plants in
5 California.

6 Are you aware that some of the renewable
7 plants that have been presented to us, without
8 going into specific projects, actually are
9 partially natural gas fired?

10 MR. ROSTOV: Yeah --

11 PRESIDING MEMBER BYRON: So would we
12 exempt those, or would those also be subject to
13 the zero threshold?

14 MR. ROSTOV: I am aware. And I don't
15 think most people are aware of that, actually.
16 You know, it's a policy of the State of California
17 to require a bunch of backup, fossil fuel backup,
18 for the alternatives -- I mean for renewable
19 energy.

20 And one, my question is, you know, if
21 that's important. I question, you know, if the
22 public knew that you're still doing a lot of -- if
23 you're building more natural gas-fired power
24 plants to just do renewables, is that the solution
25 the public really wants.

1 Or do they want a solution where
2 renewables are really just renewables, and they're
3 not connected to natural gas-fired power plants.

4 But I guess my point is, and I'm not
5 making a good point, so I'll step over it, is
6 that, yes, I think you shouldn't exempt it; you
7 should analyze it. You know, if the tonnage is
8 not that much, you can say the tonnage is not that
9 much. And then you can say, you know what, this
10 is good overall, and here's our analysis why this
11 is good overall and this is why we need it. We
12 need it because it's going to provide some
13 intermittent electricity when, you know, our
14 renewable doesn't work.

15 But, the idea of just exempting it, and
16 then having this whole class of category, you
17 know, renewables, which we believe is very good,
18 you know, connected to something that is still
19 putting out greenhouse gases and really not
20 telling anybody, I think, is a problem.

21 So, all we're saying is provide the
22 information and then make the decisions once you
23 have the information. So, if you're going to do
24 renewables with gas-fired, do the analysis. You
25 know, figure out what the emissions are. And then

1 go from there.

2 PRESIDING MEMBER BYRON: And where's
3 there?

4 MR. ROSTOV: Well, there would be to the
5 second step of CEQA, which is mitigation and
6 alternatives.

7 PRESIDING MEMBER BYRON: Yes.

8 MR. ROSTOV: Or, also, -- go ahead.

9 PRESIDING MEMBER BYRON: Did you want to
10 add to this, Mr. Ratliff?

11 MR. RATLIFF: Well, I thought perhaps I
12 could clarify just a little bit. The discussion,
13 I think you're saying don't exempt --

14 MR. ROSTOV: Correct.

15 MR. RATLIFF: -- projects from the CEQA
16 analysis using a threshold of significance.

17 MR. ROSTOV: Right.

18 MR. RATLIFF: And I don't think that
19 actually is the intent here. I think the intent
20 is not to exempt projects from the analysis, but
21 to consider a threshold of significance for
22 determining whether the impact is actually
23 significant.

24 And so if you have a facility that, for
25 instance, is designed to meet an RPS goal and is a

1 renewable facility, but does rely on the use of a
2 boiler for bringing the facility up, do you think
3 the Energy Commission would -- for that kind of a
4 project, for instance, would you say that the
5 overall goal of the project is to reduce
6 greenhouse gas emissions, in effect, would you
7 still want to call that significant or would you
8 say if the net benefit of such a project is to
9 reduce greenhouse gas emissions, you would not
10 make a finding of significance or require
11 mitigation for such project?

12 MR. ROSTOV: I guess what I'm saying is
13 in your hypothetical I really can't give you the
14 answer because I haven't seen the numbers. And
15 all I'm saying is it would be nice to see the
16 numbers.

17 So, if there is going to be some
18 greenhouse gas emissions from that, I think it
19 would be good to see the numbers and then say what
20 you're saying. You know, here's the numbers, but
21 within the context of what we're doing with this
22 project, you know, overall it's beneficial.

23 But you have to look at it in the
24 context of CEQA. And I think the first step is
25 just providing the basic information as an

1 informational statute.

2 Does that make sense?

3 MR. RATLIFF: Well, the --

4 MR. ROSTOV: You're looking at me

5 with --

6 MR. RATLIFF: -- there are no numbers in

7 the hypothetical.

8 MR. ROSTOV: Right.

9 MR. RATLIFF: I'm saying assume that --

10 MR. ROSTOV: Well, I guess we're not

11 going to answer your hypothetical --

12 MR. RATLIFF: Okay. I'm not trying to

13 give you a bad time.

14 MR. ROSTOV: It's --

15 MR. RATLIFF: I just, I'm trying to

16 suggest the real question that this seems to

17 confront us is that the net effect is a beneficial

18 one. Would you want to have some kind of a tool

19 to try to determine significance based on that?

20 MR. ROSTOV: I'm trying to answer your

21 question. And to determine that benefit I think

22 first you have to determine just the baseline

23 information. And to me one of the baseline

24 information for any project would be is there any

25 greenhouse gas emissions. Because that's why we

1 said there was a zero threshold.

2 If there's some greenhouse gas
3 emissions, you would put that out and then you
4 would make your determination once you have that
5 initial analysis. So it would just be a first
6 step in determining what's there.

7 Obviously, we believe in renewables, and
8 renewables are going to be a net benefit for the
9 energy system. And some renewables, such as
10 solar, don't necessarily need boilers.

11 Did I answer your question better?

12 MR. RATLIFF: Fine. Good to see you,
13 again, actually.

14 (Laughter.)

15 MR. ROSTOV: Nice to see you.

16 PRESIDING MEMBER BYRON: Mr. Rostov, let
17 me try one more thing here. You indicated
18 about -- well, I won't attribute this to you. You
19 know, certainly this Commission and California, in
20 general, does not shrink from providing leadership
21 on this issue. We've done that through AB-32 and
22 we're going to do it at this Commission, as well,
23 with regard to energy policy or energy policy
24 guidance for our various siting cases.

25 But I have some difficulty. There's a

1 fundamental aspect of our efforts of applying GHG
2 to CEQA that's problematic. We are not going to
3 solve climate change in California. And so this
4 is the difficulty that we have here. The
5 underlying tone of the comments which you're
6 providing gives the impression that our actions,
7 if we take them in California, will save us from
8 climate change. And, of course, they won't. They
9 will provide the leadership for the state and
10 elsewhere necessary to solve that.

11 I underscore again where we're starting.
12 California's in very good shape compared to every
13 other state in this country in terms of the amount
14 of GHG that we put out. The policies of this
15 Commission, I think, have had a very dramatic
16 effect in terms of, as you indicated, energy
17 efficiency, demand response and mitigating all the
18 criteria pollutants -- I don't want to get into
19 criteria pollutants.

20 We've done a good job to this point.
21 Now we're going to try and apply this to CEQA.
22 And it's difficult. But that fundamental
23 perception that we're going to fix it all here in
24 California is problematic for what we're trying to
25 do.

1 So, of course, I'll give you a chance to
2 comment. But that's the difficulty I have with a
3 number of the comments that you've made if we just
4 take them in the context only of California.

5 MR. ROSTOV: I think California can make
6 an important contribution. I mean I don't think
7 any action, any one person or any one state will
8 fix all the problems. But we need to work
9 together to begin fixing the problems.

10 And my concern with the process, the
11 energy siting process, up to this point, is we
12 haven't even had the analysis of what are the
13 greenhouse gas emissions from power plants --

14 PRESIDING MEMBER BYRON: Well, we have.

15 MR. ROSTOV: -- and that --

16 PRESIDING MEMBER BYRON: We know that
17 very well. In fact, half of the GHG emissions for
18 the electric sector in the state come from outside
19 the state.

20 MR. ROSTOV: Within the -- going
21 forward, I guess my point is business-as-usual is
22 not possible anymore. So, since business-as-usual
23 is not possible, the way to get the most positive
24 benefit for the public, for your agency, for
25 everybody is to provide the most information

1 possible.

2 And CEQA actually is not this great
3 burden, you know, it's not going to impose a
4 burden on the Energy Commission. It's really
5 going to provide a benefit. It's going to provide
6 a benefit because everybody will know what's going
7 on, will know about the greenhouse gas emissions.

8 Will know, like, you know what, we need
9 to build all these new power plants, and it's
10 going to have this much more effect on the
11 climate. Are we going to need to do reductions
12 somewhere else, or are we going to need to make
13 different decisions about the way we live our
14 lives.

15 So, no, we're not going to fix all the
16 problems. But we're going to address the problem
17 from an important point to address it. I mean I
18 think we all agree that the Energy Commission is a
19 nexus of a point where they can have -- where you
20 can have a very positive change in leading us to a
21 low carbon future.

22 And one way to leading us to this low
23 carbon future is by providing the information
24 about what we're doing now in the present, and
25 also helping us find the mitigations and find the

1 energy efficiency to lead us to a future.

2 So, I think we can work hand-in-hand to
3 actually produce positive result. You know, it's
4 not going to solve the world's problems, no. But
5 it's going to make the contribution that could
6 lead the world.

7 California has set the standard for
8 efficiency. It's going to set the standard, you
9 know, for this nation, and probably for the world.
10 But we need to keep going forward. If we kept on
11 the same level that California is, we'd be in a
12 lot of trouble, I believe, from, you know, the
13 science I understand.

14 So, you know, we're just trying to do
15 our little part here, but our little part is
16 important. And, you know, 10,000 tons there,
17 10,000 tons there, is going to be helpful.

18 And we need to do it sooner than later
19 is my last point. So when we're thinking about
20 putting out new greenhouse gases we should really
21 be thinking if the State of California has
22 policies for reducing into the future greenhouse
23 gas gases, why do we still have policies where
24 we're not mitigating to zero. And then, you know,
25 anything that enters into the marketplace now

1 should be at zero, and then we're going to be
2 reducing from zero.

3 It doesn't really make sense to me to be
4 entering into the market at a high number and say
5 we're just reducing, and so, you know, all the
6 reductions will get done somehow.

7 ASSOCIATE MEMBER DOUGLAS: I think those
8 comments are well taken. You know, the state
9 follows the, under AB-32 and the Governor's
10 executive order is not zero new greenhouse gas
11 emissions. It's going back to 1990 levels by 2020
12 and 80 percent below that by 2050.

13 So, I don't think it requires us to sit
14 here and immediately think that we're going to
15 walk from today to tomorrow into a zero GHG
16 future. The challenge for us is how do we get and
17 stay on the emissions trajectory that meets those
18 goals. That's the challenge set out under state
19 policy. It's not necessarily the pathway science
20 demands.

21 The pathway the science demands we may
22 find is more stringent. We may find we actually
23 have more room than we think we don't know. But
24 the state has set policy and we're in the process
25 of trying to implement it in many many different

1 forms and ways.

2 MR. ROSTOV: I just want to make one
3 point about AB-32. AB-32 only goes to 2020. And
4 a lot of the power plants that will be sited will
5 go much farther. And I think everybody agrees
6 that, you know, it's the statement of policy and
7 it was a political compromise.

8 So, the idea is it might not even be
9 going far enough. It could be one aspect of AB-
10 32.

11 So when you're thinking about your CEQA
12 analysis, I think you need to look at CEQA, which
13 says, you know what, from the CEQA we need to know
14 the information, are you contributing to a
15 cumulative impact. If you are, do the mitigations
16 or the alternatives.

17 And then, you know, in the future, if
18 you can determine through your analysis that the
19 state policies that we adopted are sufficient
20 based on the science, I mean one of the great
21 things about the siting proceedings is you
22 actually look at science, you can make those
23 determinations.

24 But it's going to be important to
25 overlay CEQA into the siting proceedings.

1 ASSOCIATE MEMBER DOUGLAS: And I did add
2 the 2050 --

3 MR. ROSTOV: Yes. And --

4 ASSOCIATE MEMBER DOUGLAS: -- to my
5 comment, even though that's not in AB-32. It is
6 our policy set up in executive order, and it's
7 something that's explicitly on the table in the
8 Energy Commission's AB-118 proceeding; it's
9 something we've looked at in many contexts. And
10 something the ARB keeps very much in their minds,
11 as well.

12 MR. ROSTOV: Okay.

13 PRESIDING MEMBER BYRON: Mr. Rostov,
14 thank you very much.

15 MR. ROSTOV: Thank you for your time.

16 ASSOCIATE MEMBER DOUGLAS: Mr. Ratliff.

17 MR. RATLIFF: Could I ask one further
18 question. Will, I realize that nobody's really
19 had very much time to react to these questions
20 yet, and so I know that you may want to take more
21 time before you provide any recommendations on
22 this.

23 But you did talk about mitigation. And
24 I wondered if -- what kind of mitigation you think
25 would be appropriate if the Energy Commission

1 found a power plant to have a significant impact
2 on greenhouse -- global warming impacts.

3 MR. ROSTOV: That is something I want to
4 take more time thinking about. But I think a
5 couple points are back to this idea of needs
6 assessment.

7 One thing you could be doing when you're
8 finding significance is really analyzing the
9 project and the purpose of the project for that
10 area. So on some level you might be able to
11 reduce some of the significance just by
12 considering the alternatives.

13 And then mitigation can be all kinds of
14 things. I mean if you can figure out
15 displacement, I think displacement is important.
16 And I'll stop there before I ramble without saying
17 things I haven't thought about more.

18 Thank you.

19 PRESIDING MEMBER BYRON: Thank you very
20 much.

21 Next card I have is from Mr. Ray Leon,
22 Latino Environmental Advancement and Policy, LEAP.
23 Mr. Leon, there's some letters in front of this,
24 as well. I could guess at with SJV --

25 MR. LEON: SJV, San Joaquin Valley.

1 PRESIDING MEMBER BYRON: That's what I
2 thought.

3 MR. LEON: So it's SJV to make it quick
4 and simple.

5 PRESIDING MEMBER BYRON: Welcome.

6 MR. LEON: A lot of words. My name is
7 Ray Leon, Founder and Director of SJV LEAP. I'm
8 based out of Fresno for the San Joaquin Valley.
9 Been doing air quality policy, environmental
10 justice, organizing, mobilizing, capacity building
11 for the past four or five years -- over five, I
12 guess.

13 But I'm here because of the huge concern
14 I have with the power plants currently being sited
15 in the process right now in the San Joaquin
16 Valley; particularly the Parlier Power Plant,
17 which is a community choice power plant. But
18 there's not much of the community chooses to have
19 that sort of power plant at the moment.

20 PRESIDING MEMBER BYRON: Well, you know,
21 it would be better if we didn't talk about
22 specific plants or cases today, if that's all
23 right with you.

24 MR. LEON: Well, actually, I do want to
25 share real-life examples because I think it brings

1 my concerns in respect to your questions into
2 perspective, into context. And I think it's
3 important. I think some of the folks here might,
4 you know, appreciate knowing that information that
5 is from the ground, and that is connected to the
6 people, that at the end of the day are going to be
7 suffering the impacts of not just the GHGs, but
8 other impacts that come along with fossil fuel
9 power plants.

10 But, of course, the Parlier Power Plant
11 is 565 megawatts --

12 PRESIDING MEMBER BYRON: But the reason
13 it's important that we not talk about specific
14 plants is because we notice people that anyone
15 that's involved with that project, we notice the
16 meetings that we have around those so that they
17 can be present so they can hear those comments.

18 And it's for the same reason that we
19 have ex parte rules on this Commission, that we
20 can't talk with anybody about these power plant
21 cases is because the public needs to be fully
22 aware of them.

23 So, because it's not been noticed, we
24 need to try and not talk about any specific
25 projects. I'll turn to Mr. Ratliff for a better

1 legal interpretation.

2 We're interested in your comments, but
3 really, as they apply to this specific proceeding
4 today. Mr. Ratliff.

5 MR. LEON: Okay, so I won't mention the
6 specific power plant, I'll just mention --

7 MR. RATLIFF: Well, anything about --

8 MR. LEON: -- the general scenario that
9 will apply to one of these questions, or a few of
10 them.

11 PRESIDING MEMBER BYRON: That's good.

12 MR. RATLIFF: If I may, --

13 PRESIDING MEMBER BYRON: Please.

14 MR. RATLIFF: -- Commissioner, this is a
15 publicly noticed hearing. And for that reason, he
16 is speaking to you in a public forum, it has been
17 publicly noticed. There is no ex parte
18 prohibition against him addressing any --

19 PRESIDING MEMBER BYRON: I stand
20 corrected. Thank you.

21 MR. LEON: Thank you, --

22 (Laughter.)

23 MR. LEON: -- my attorney friend.

24 (Laughter.)

25 PRESIDING MEMBER BYRON: Mr. Leon, it

1 works both ways here.

2 (Laughter.)

3 MR. LEON: Okay, I got a backup over
4 here, watch out.

5 All right, so I won't get into that just
6 because it will take a little bit more time, but I
7 will go generally into the fact that, you know,
8 it's a huge concern. And I'm glad that this
9 proceeding is taking place, this hearing is
10 happening because we do got to figure it out. We
11 do got to figure out how we're going to move
12 forward, especially in light of the air pollution
13 crisis in the valley, the public health crisis in
14 the valley, the energy crisis in the State of
15 California, and the global warming crisis on the
16 planet.

17 But having said that, you know, we're
18 focusing on GHGs, and it's important because we
19 got to, you know, try to not chill our existence,
20 you know, while we -- well, we want to try to
21 mitigate as much as possible, let me just say
22 that.

23 But there was a number of power plants
24 that were sited in the San Joaquin Valley on the
25 western side, western-northern side of Fresno

1 County.

2 And in my research, what I found, a
3 combination of these two power plants is about 520
4 megawatts, which probably would total over 500
5 tons per year of criteria pollutants. Probably
6 easily over 1.8 million tons of GHGs.

7 And in my research of these power
8 plants, which our neighboring a number of
9 farmworker communities which are, of course,
10 farmworker community usually means low income. To
11 be a farmworker usually means you don't have
12 health insurance, health coverage.

13 What that means is that you get sick,
14 you know, you'll be lucky if you get the
15 medication or the medical care you need to be able
16 to survive it. What that also means, when you do
17 get sick, usually it's an emergency visit. If
18 your child, you don't know your child has asthma,
19 then you find out when the child has an attack.
20 That's an emergency visit which is actually more
21 expensive.

22 So then, you know, a low income
23 community or family is harder hit by that economic
24 impact, due to the fact that there was additional
25 pollution in that area that exacerbated that

1 illness to bring it to that point of extreme
2 necessity for care.

3 And so just I hope I kind of paint a
4 picture for folks here and yourself. Let me just
5 share. I was born in Fresno; I was raised in the
6 farmworker community of Huron. And so I'm not
7 stranger to pesticide drift or diesel traffic or
8 all that other good stuff we breathe sometimes.

9 I know some folks they breathe in the
10 Harris Ranch smell. I don't know if you've passed
11 down the 5; some people think it's the smell of
12 money. I think it's the smell of death.

13 But, anyhow, it's a huge concern because
14 when I did research on the offsets, what I found
15 is that, you know, of course, the offsets
16 legitimizes the actual permitting of that power
17 plant in whatever site was designated.

18 And so in the offsets what I recognized
19 was that the pollution, the criteria pollutants
20 that were identified to essentially remove from
21 one area and replace to that area were coming from
22 communities that were upper income, over 30,000,
23 you know, median income, as opposed to early like
24 low 20s medium income in those communities where
25 these power plants were sited.

1 And they were over 70 percent anglo or
2 white, or EuroAmerican, however you want to
3 identify that. Yet these plants were sited again
4 in farmworker communities, which usually means
5 Latino, 80 percent of the time Mexicano.

6 And so in thinking about it I said, wait
7 a minute, what's going on here. All right,
8 they're probably cutting down on 10 percent of the
9 tonnage of GHGs from what was created earlier, but
10 at the same time what's happening is that you're
11 accumulating and you're multiplying the amount of
12 criteria pollutants into a community that is
13 already overburdened in respect to -- I mean not
14 just pollution, pesticides included, but also just
15 the economy, you know, of the fact that the points
16 that I mentioned earlier, they also play a role in
17 that disproportionate impact.

18 And so having realized that, and having
19 noticed also that there's currently a project in
20 Mendota, 80 megawatt solar field, which is going
21 to provide energy -- potentially provide energy
22 for most of the communities on the west side of
23 Fresno County at least.

24 I came to the -- I was just thinking
25 about it earlier, looking at your questions, I'm

1 sorry I hadn't previously seen them. And
2 listening to some of the speakers, I think there
3 should be, in respect to question number 1, got to
4 definitely review each power plant. But do it in
5 a way that incorporates the criteria pollutants,
6 which I guess means that you got to work with the
7 Valley Air District, and the ARB, as well as with
8 currently your most recently developed
9 environmental justice advisory group at the Air
10 District, San Joaquin Valley Air District.

11 Because I don't think it's fair to
12 displace some sort of GHGs, but at the same time
13 further burden a community that is already
14 struggling to sustain themselves economically or
15 healthwise.

16 And the brother that spoke earlier
17 mentioned a needs assessment. And I was thinking
18 about that earlier, as well. I was thinking, you
19 know, all these power plants are coming up in the
20 Valley and in the State of California, but it is
21 interesting because of the past two weeks I've
22 been to -- well, last Saturday we had a
23 transportation energy and fuels forum in the
24 Valley.

25 And the person I was representing

1 presented for a little while on the high-speed
2 rail. And one of the questions was how will we
3 provide the energy for the high-speed rail. His
4 response was that the energy is already on the
5 grid. It's taken care of.

6 Yet, two, three weeks ago I went to
7 another presentation where a gentleman
8 representing the manufacturers, construction, a
9 union, was talking about now that we're going to
10 get a high-speed rail, we are going to need, no
11 exception, nuclear plants.

12 And so there's conflicting information
13 from individuals in terms of the energy we need or
14 the energy we have. And so my question is does a
15 study of such a needs assessment exist, in terms
16 of what we need. And if it doesn't, probably it
17 should, along with a plan in terms of how will we
18 phase out the power plants that are coming to
19 become 20 years old and become less efficient.
20 And, you know, how does that work into the 33
21 percent RPS, which I know the CEC, and I applaud
22 you, supports, right? And hoping that that will
23 happen sometime next year.

24 So, I think there's a lot of
25 information. There's more transparency that we

1 need in the community. I mean I'm one of the few
2 that could be able to be here with you today
3 because a lot of people, well, work, you know.
4 And this isn't their job, right.

5 Me, I'm a humble volunteer, and here I
6 am, you know. Hopefully somebody pitches in for
7 gas. Don't be shy.

8 (Laughter.)

9 MR. LEON: So, I mean, you know, that's
10 a concern. That's a concern because especially I
11 don't know if you guys have observed in the past,
12 about four years ago, Katrina's window, a
13 Brookings Institute report identified Fresno with
14 the most concentrated clusters of poverty.
15 Fresno, the city. Of course, that's fair to say
16 with a lot of the rural farmworker communities.

17 Just recently Measure of America,
18 probably about three, four months ago, came out
19 with a similar finding, but more on a regional
20 scale. And they identified in respect to
21 congressional districts. The congressional
22 district 20, along with a few others, but
23 congressional district 20, Jim Costa's district,
24 was the last one on the list of all congressional
25 districts in the United States of America in

1 respect to the poorest, in respect to poverty, in
2 respect to poor health, in respect to lack of
3 education.

4 So, then really what we have is the
5 Appalachians of the west. And it is, I think, the
6 duty or the responsibility of this authority, the
7 CEC, to insure that you no longer continue to
8 disproportionately impact communities that can't
9 handle that cost, that can't handle that suffrage,
10 but it's too much already, right.

11 And so let's see if I have -- and each
12 power plant should be assessed individually.
13 There should be an analysis per power plant.
14 Because one that's being put almost smack in the
15 middle of Parlier, within a half a mile of an
16 elementary school, right, Parlier being one of the
17 poorest communities in the State of California,
18 community choice, the biggest city partner is
19 Clovis. Yet it's nowhere near Clovis. Why is
20 that so?

21 It's a classic environmental justice
22 scenario, once again. And the CEC is perpetuating
23 that injustice. And as long as that happens --
24 sure, there's assessments and analysis in respect
25 to the siting and so forth, but effectively I

1 don't think the cumulative health impacts are
2 taken into account.

3 The city mayor tells me that it's going
4 to save the City of Parlier \$18 million in the
5 next 20 years. But I tell him, well, how much is
6 it going to cost the residents of Parlier and
7 Selma in health costs, the externalized costs in
8 the next 20 years.

9 If you go by the study produced by Jane
10 Hall a few years back, it's way more than \$20
11 million, way more.

12 So then we're putting -- it's almost
13 like a resource -- reallocation of resources in a
14 way, where those who benefit in respect to money
15 or capitalism from the power plant do so at the
16 cost of those who are having to pay the bills
17 because they're being polluted on more so than
18 before. Right.

19 And so, I would say that there should be
20 -- should hold off on the permitting of any power
21 plant until such a needs assessment or study for
22 the needs assessment is developed. And a criteria
23 is created to prevent the scenario such as
24 Parlier, to prevent the scenario such as on the
25 west side of Fresno County and near Mendota and

1 Firebaugh, to prevent the continuance of
2 accumulating pollution on vulnerable communities.

3 And I know there's an environmental
4 justice piece in the environmental justice
5 advisory committee to AB-32. I don't know how
6 that works into this exactly. I'm, to some
7 extent, a novice in respect to energy pertaining
8 to environmental justice. But it's always a
9 learning opportunity for me and for you; we're all
10 students, we're all teachers, we're all teachers,
11 we're all students. Right.

12 And so I leave you with that question,
13 is there a study on the assessment of California's
14 energy need? And how does that work into what's
15 currently unfolding with respect to renewable
16 energy technology and so forth?

17 Thank you very much. Have a good one.

18 ASSOCIATE MEMBER DOUGLAS: Can staff
19 provide the answer to the question about whether
20 there's a study, and what kind of analysis on that
21 question exists?

22 MR. RATLIFF: Well, I can start with a
23 basic answer. I'm not sure I'm the best person to
24 answer, but the answer is yes. There is -- the
25 Energy Commission does, in its energy planning

1 documents, the Integrated Energy Policy Report,
2 forecasting for -- which is essentially a
3 generalized need assessment for the different
4 parts of the state and the different services
5 areas in the state.

6 It's not a power plant-by-power plant
7 assessment, but it is an assessment which
8 indicates taking into consideration economic and
9 population growth, and the rate of energy,
10 electricity usage and the growth in that, what the
11 different needs of each portion of the state would
12 be for electricity in certain targeted years.

13 So, yes, that kind of analysis does
14 exist here at this agency.

15 ASSOCIATE MEMBER DOUGLAS: Thank you.
16 It's a long drive from Fresno, so we appreciate
17 your being here.

18 MR. LEON: I woke up at 5:00 this
19 morning.

20 PRESIDING MEMBER BYRON: Yes, Mr. Leon,
21 thank you for being here. We do have the
22 professional public that's present, and then we
23 have the real public. So thank you for making
24 your effort to be here.

25 I have a few more cards left. And, of

1 course, we'll still leave it open for anyone else
2 that wishes to speak.

3 My next card is Mr. Scott Galati, Galati
4 Blek, representing PG&E. And I notice you were
5 one of the only ones that checked the box here;
6 you checked the neutral box, Mr. Galati.

7 MR. GALATI: And I apologize, I'm ill
8 today, so I'm trying to segregate myself. Please,
9 nobody use this microphone, that's why I'm sitting
10 over at this one.

11 (Laughter.)

12 MR. GALATI: But I do think it was
13 important for us to be here today.

14 Thank you so much for having this type
15 of forum. This is a forum, I think, where we can
16 roll up our sleeves and maybe work together to
17 tackle an issue, and it's the appropriate forum.

18 We should not try to do this in a
19 project-by-project basis, which I think you've
20 heard before. I support what my colleagues have
21 said, primarily Ms. Luckhardt, on the difficulties
22 with being able to handle an issue such as this.

23 First and foremost I think that the
24 Commission, in its questions, has already made the
25 determination, I think, that makes sense, is

1 greenhouse gas emissions are not a project direct
2 impact. And it would be difficult if we were to
3 try to evaluate it as a project direct impact.
4 And that if an impact, it is one that is
5 cumulatively considerable.

6 The issue is not whether or not it
7 should be addresses in your siting analysis, which
8 you do, by the way, and I think that you have been
9 one of the few agencies that has addressed and at
10 least tried to evaluate greenhouse gas emissions
11 for quite some time.

12 I know you've required applicants to
13 quantify their greenhouse gas emissions in the
14 filings for the last couple of years. And I think
15 the staff has done an analysis since the beginning
16 of certainly before AB-32 and after. So I think
17 that's to be applauded. And certainly wanted to
18 dispel any rumor that the Energy Commission has
19 not been thinking about greenhouse gas in projects
20 until after this proceeding is over.

21 The question in my mind is whether or
22 not, in moving forward, how should the Commission
23 refine its analysis and to what extent can it be
24 done in a site-specific project-by-project basis.

25 I believe that a programmatic and

1 systemwide approach makes more sense, and it makes
2 more sense because the electricity sector is
3 undergoing quite a few changes. And they have
4 been largely associated with the need and the
5 requirement to reduce greenhouse gas emissions.

6 I think the appropriate way to evaluate
7 this is through your IEPR process, or some other
8 programmatic CEQA study. For example, what are
9 the effects of your RETI process and renewable
10 transmission making lands available for renewable
11 development. How will that affect the overall
12 procurement of the state? What are the effects of
13 SB-1368? You did set some standards with the PUC,
14 and I know that those will be revisited over time.

15 What are the effects of a peaker project
16 that is put in a situation in which it can firm up
17 wind power? What are the effects of a peaker
18 project that its sole purpose is to provide
19 reliability so that the grid remains available, so
20 that renewable energy can be delivered? What are
21 the effects of the hydro system during wet years
22 and dry years?

23 All of these things. What's the effect
24 of importing from out of state or exporting? What
25 are the effects of the PVD-2 line that may or may

1 not occur?

2 These are large open issues that I think
3 would greatly provide knowledge to how you should
4 address on a project-by-project basis.

5 So, since we're trying to do something
6 from interim perspective, what do we do between
7 now and the time there is a more global program?
8 I would offer the following:

9 Continue to enforce best management
10 practices. For example, the Public Utilities
11 Commission recently came out with a sort of
12 guidelines of what they expect of applicants
13 during construction. I went through those
14 guidelines. You already require every one of
15 them. Making sure that construction equipment
16 doesn't idle long, sounds small, but you're
17 already trying to reduce emissions in every way
18 possible.

19 And I think that in a programmatic
20 perspective one thing I'm worried about is if you
21 adopt a threshold of significance for a cumulative
22 impact, what you would be saying is above this
23 it's cumulatively considerable, and below this
24 level it is not cumulatively considerable.

25 If you adopt that standard and it is

1 wrong, or you adopt that standard and it's
2 changed, or if you adopt that standard and it is
3 inconsistent with AB-32, what you may be doing
4 from a perspective of procurement and a
5 perspective of the ratepayers, you may have a
6 series of projects that are in the hopper now that
7 will be mitigating differently, maybe much more
8 expensively. Or maybe indirect contradiction to
9 what needs to happen under AB-32.

10 And I can't identify exactly what those
11 scenarios are, but let me give you an example. In
12 the South Coast Air Quality Management District
13 when they were faced with the problem of having
14 enough offsets for criteria pollutants they chose
15 to adopt a reclaim program.

16 And the reclaim program works very
17 differently than a traditional offsetting program.
18 Maybe that's what CARB would want to do. Maybe
19 that's what the Energy Commission would be looking
20 towards. Some sort of different model.

21 My point is not advocating either one of
22 those, but both of the traditional ERC and offset
23 and a reclaim offset are not interchangeable.
24 They are different programs and we don't want to
25 do something, I think, in an interim piece that

1 prevents nor steers without the appropriate
2 information. I think that's why I think this
3 proceeding is appropriate.

4 From a project-specific basis I think
5 you should continue to have a qualitative analysis
6 at this stage, and not a quantitative analysis.
7 You don't adopt a hard threshold. But what you do
8 is impose the best management practices. Those
9 make sense to me. We are talking about something
10 that's interim. If the interim becomes longer,
11 you can revisit that. But, at this stage, that
12 would be our recommendation.

13 And we certainly will answer more of
14 these questions in writing. I think that, you
15 know, our first answer is, I think the first
16 question is sort of moot about whether CEQA is
17 applicable. I think that SB-97 says it is.

18 So, while I may disagree from a legal
19 perspective, I'm going to get beyond that question
20 and ask you how best should you satisfy your CEQA
21 obligations as they are identified under SB-97.

22 And I think the best way for you is to
23 do a programmatic study of the entire electricity
24 system, and adopt the best management practices
25 and coordinate any offsetting, should it occur,

1 with a broader AB-32 program.

2 Just imagine how your analysis might
3 change if a lot of the solar energy projects that
4 have not yet come before you, by the way, but are
5 currently in a situation at the BLM, if a lot of
6 them got transmission. How would your analysis
7 change and what you would do to maybe peakers that
8 would be responding to all of that solar energy
9 coming online. I think you might think a lot
10 differently.

11 And the last thing that I want to do, as
12 a practitioner before you, is be litigating this
13 with witnesses about exactly how a particular
14 project isolated and seen by the Energy Commission
15 alone, how it should bear its responsibility under
16 a much larger program.

17 Let's not forget that this is a larger
18 problem that we're dealing with. It is unlike any
19 other cumulative impact we've ever evaluated under
20 CEQA.

21 In addition, the Energy Commission has
22 two functions. It not only satisfies its CEQA
23 obligations, but you make finding of what we call
24 LORS, laws, ordinances, regulations and standards.
25 I think that was a compromise when the Legislature

1 gave you sole and exclusive authority to issue
2 permits for energy facilities, that you needed to
3 make sure that they comply with the broader
4 programs.

5 I can think of three areas right now
6 that when you do your CEQA analysis you rely on
7 the larger programs and you require compliance
8 with those larger programs to both discharge your
9 CEQA obligations and discharge your LORS
10 obligations.

11 The first is the NPDES system. The
12 NPDES program is a program that allows people to
13 discharge into waters of the United States. Most
14 power plants no longer discharge directly to a
15 water of the United States. But they discharge to
16 a publicly owned treatment works. That publicly
17 owned treatment works has an appropriate program.

18 You don't go downstream and evaluate
19 what molecule of selenium or salt gets into a
20 downstream river. What you do is you recognize
21 that program is working; that program is something
22 that is administered. And you make us comply with
23 it.

24 Similar with stormwater runoff. You do
25 the same thing with the general industrial

1 stormwater.

2 What the Commission does do, and I think
3 appropriately, is when those programs, there's
4 something left over that has a CEQA impact after
5 those programs, that's what the Commission focuses
6 on.

7 And what I'm asking you to do is let the
8 AB-32 program develop and be that program. It
9 doesn't stop you from a later date of determining
10 that that program is not getting what you believe
11 to be the appropriate mitigation, or reducing to
12 the appropriate significance threshold.

13 But to rush into it at this stage
14 without the information in front of you, I think
15 you could be making a mistake.

16 So, again, we would urge a programmatic
17 study to handle what's going to happen in the
18 interim and then we would urge -- what I envision
19 a programmatic study coming out might be maybe a
20 standard conditions that we can have great
21 dialogue about, both from the utility perspective
22 and what that costs ratepayers. The utility would
23 then know from a perspective of selecting
24 projects. Are we making projects in our selection
25 projects, in our selection process, comply with

1 these?

2 A individual developer would be able to
3 know what targets they need to hit. I would tell
4 you that unlike maybe other industry sectors, one
5 thing that I'm proud of the energy sector is most
6 applicants come to you trying to hit the target.
7 I don't think that you have a lot of applicants
8 coming in and throwing in a project that's not
9 well thought out, not attempting to mitigate where
10 they know.

11 It is those areas that we don't know
12 that become the subject of litigation. So, a
13 programmatic approach would actually give us those
14 targets, and I think you should focus on best
15 management practices as opposed to spending time
16 identifying a significant threshold.

17 ASSOCIATE MEMBER DOUGLAS: Thank you
18 very much for your comments, especially given that
19 you're obviously here today when you're not
20 feeling well. And --

21 MR. GALATI: I think most people have
22 been praying for this time. They're hoping that
23 most of it will go away now.

24 ASSOCIATE MEMBER DOUGLAS: You know, I'm
25 very interested in your comments on that broad

1 programmatic approach and on an analysis of the
2 electricity system, as a whole. I think that that
3 may be called for.

4 And I'd be interested in your written
5 comments and others in your developing that idea.
6 And also talking about how you go from a
7 programmatic study to the individual cases and
8 back again.

9 So, how might a study be designed that
10 would be most helpful and shed the most light on
11 the case-specific analysis that will have to occur
12 at some level.

13 MR. GALATI: You bet. And I think that
14 the programmatic analysis may, at some point, come
15 out with a threshold for you. I'm not sure what
16 the result would be. But CEQA encourages this
17 kind of tiering. When you have broad policy
18 issues you look at them from a broad policy
19 perspective.

20 You come up with, and what you end up
21 with, is either lack of information that you know
22 specifically where to get. Or you come up with a
23 program such that if applicants were to do that,
24 then there isn't an additional tiering necessary.

25 Or it just might be that an applicant

1 cannot, in all circumstances, do that. And then
2 you tier off of that and you actually evaluate
3 what's left over. That was certainly in our
4 comments to our best to provide an outline, I
5 think, of what a programmatic analysis would look
6 like.

7 PRESIDING MEMBER BYRON: Mr. Galati, all
8 very good comments. Thank you very much. There
9 was one, however, that I'm not sure I quite
10 grasped or even understand.

11 You talked about using a qualification
12 approach rather than a quantification approach, or
13 quantified approach.

14 MR. GALATI: Yeah, a qualitative
15 analysis instead of adopting a number that says
16 7000 metric tons or whatever number might be,
17 above that, you need, is significant, and below
18 that is not significant.

19 What you can do is deem difficult to
20 identify a specific threshold of significance.
21 Therefore, you're going to require best management
22 practices of all applicants.

23 That would be an approach. In fact, I
24 think it's an approach you've taken in a lot of
25 areas.

1 For example, I would say that the Energy
2 Commission's conditions upon construction
3 vehicles, for example, are not necessarily driven
4 by a direct determination quantitatively of the
5 impact, but has become a standard condition that
6 is a best management practice.

7 And so rather than argue over whether
8 these group of equipment running together actually
9 violates an air standard, the conditions are
10 appropriately thrown across all applicants. It's
11 fair. And people that are bidding into long-term
12 RFOs are all going off of the same type of
13 mitigation.

14 There was a time when we used to
15 litigate those issues, and there were some
16 projects that were more successful than others.
17 And this, especially with greenhouse gas
18 emissions, going back to that scenario seems to be
19 unproductive. And I'm not sure would yield any
20 different results.

21 PRESIDING MEMBER BYRON: Mr. Galati,
22 thank you. You can go back to taking your
23 medication.

24 MR. GALATI: Thank you.

25 PRESIDING MEMBER BYRON: The next card I

1 have is from Mr. Jeff Harris, Clearwater Port.

2 MR. HARRIS: Good morning,
3 Commissioners. Thank you for the opportunity. My
4 printer and I are not on speaking terms, so I've
5 got my toy with me today, so --

6 PRESIDING MEMBER BYRON: Mr. Galati
7 spoke without notes, Mr. Harris.

8 (Laughter.)

9 MR. HARRIS: If only I were as smart as
10 Mr. Galati.

11 (Laughter.)

12 PRESIDING MEMBER BYRON: Me, too.

13 MR. HARRIS: Well, a couple of thoughts.
14 It's not just the printer that's the problem
15 apparently.

16 First off, thank you for having this
17 proceeding. I think, you know, Scott used the
18 word programmatic approach; I guess that's the
19 right term. I do think you ought to take the
20 holistic approach to solving these problems. And
21 that would be one that's related to reliability,
22 as well.

23 One of the major issues that is going to
24 face you, looking at, you know, greenhouse gas
25 issues, is the issue of reliability. And a lot of

1 the intermittent renewables are going to require
2 some kind of firming. And that's usually quick-
3 start natural-gas facilities.

4 Clearwater Port is interested in this
5 proceeding. It will not have a CEC-jurisdictional
6 power plant, but it will have generation
7 associated with the regasification of LNG to
8 natural gas. Clearwater Port is a proposed LNG
9 terminal offshore of Oxnard. And so while that
10 project will not be Commission-jurisdictional, we
11 are looking for some clarity on how to deal with
12 power generation moving forward.

13 You've asked some interesting questions.
14 The first one about whether CEQA even applies in
15 this setting. You know, I think SB-97 has made
16 that issue moot now. It was an interesting
17 intellectual question before, SB-97. But now it
18 is moot, I think.

19 And it's clearly moot, as a matter of
20 policy, in the State of California, as well. The
21 Governor, the Legislature, the Executive Branch
22 agencies, the Attorney General have all spoken on
23 this. And so it is a policy of the State of
24 California, so I think it's important that you do
25 follow these things.

1 And just simply as a matter of fact, I
2 think it's the right thing to do, as well. But
3 the type of things you're going to do for
4 greenhouse gas issues are exactly the kind of
5 things we ought to be doing anyway, energy
6 efficiency, renewables, making those things move
7 forward.

8 So, for even the nonbelievers out there,
9 you know, decreasing your carbon footprint is
10 still the right thing to do in terms of
11 environmental issues, as well. And so thank you
12 for taking this policy on for that reason.

13 One issue in particular of concern to
14 Clearwater, and I don't think it's clearly
15 addressed by the questions, is the whole issue of
16 what's called life cycle analysis of greenhouse
17 gas.

18 It is a major issue, and becoming a
19 major stumbling block for projects moving forward.
20 And there is one California law that relates to
21 lifecycle analysis, that's your low carbon fuels,
22 transportation fuels standard. That actually is
23 in law.

24 But you will see a lot of people,
25 especially project opponents, wanting to look, you

1 know, quote-unquote, upstream and downstream of
2 the project, the project's greenhouse gas input.
3 And it's fraught with a lot of uncertainty.
4 There's no scientific agreement on how you do a
5 lifecycle analysis, or even whether you should do
6 one.

7 My personal experience has been that for
8 projects that are supported, that upstream/
9 downstream is very short. And for projects that
10 are opposed, they look way upstream and way
11 downstream.

12 So you're going to have to face that
13 issue, as well. And I think it's one that you
14 need to add to your list. And frankly, it's been
15 a big issue for Clearwater Port in the siting of
16 its LNG terminal offshore.

17 And so we're looking for some kind of
18 principle approach to lifecycle analysis. And
19 it's not clear to me at all, but if that lifecycle
20 analysis is within -- certainly not within CEQA,
21 when you start looking outside the territorial
22 U.S.

23 I don't think either CEQA or NEPA have
24 what the lawyers call extra-territorial effect,
25 meaning they're not intended to apply outside of

1 the United States. But nevertheless, you will see
2 people wanting to go all the way back to even, you
3 know, independent countries of origin. So, you
4 know, please add the lifecycle analysis approach
5 to your already growing list of problems.

6 PRESIDING MEMBER BYRON: Thanks.

7 MR. HARRIS: You're welcome. One of the
8 problems that we have, as an applicant, trying to
9 move forward in California, and Commissioner Byron
10 alluded to this, there's just too many processes
11 right now and no clear direction.

12 AB-32, the language is largely
13 procedural, although this is very clear policy
14 direction in there. I refer to 32 as a regulatory
15 Rorschach. People see in it what they want to
16 see. If this is their issue that's what AB-32 is
17 intended to implement.

18 And it does create problems, because
19 we've been told you need to show your compliance
20 with AB-32. And I'm prone to set the document on
21 the table and say, okay, which provision. What
22 are we not complying with here. And it's hard to
23 get a straight answer.

24 So, please understand that there is a
25 lot of disagreement about what AB-32 says and

1 does. And people kind of see in it what they do.

2 I mentioned the SB-97 process, which I
3 think is a very good thing, moving forward. CARB
4 has its ubiquitous proceedings going on. You all
5 make comments with the PUC, to CARB. There have
6 been several Attorney General settlements that
7 have taken place. You're aware of those things.

8 But, as project proponents we're
9 basically being told, you know, show your
10 compliance with AB-32. What does that mean? We
11 don't know. And that's the illusive phrase we
12 want to see some direction on.

13 I've even seen contradictory conclusions
14 by agencies on thresholds of significance. This
15 is a big issue. CARB has their thresholds of
16 significance proceeding going. You're all going
17 to have to deal with it here, as well.

18 The Coastal Commission is trying to deal
19 with it. I've seen that threshold. And whether
20 that's, you know, zero molecules, you know, net
21 zero or something less than significant, I've seen
22 that criteria, threshold of criteria moving all
23 over the map.

24 I even watched one Coastal Commission
25 hearing where two different projects faced two

1 different standards on the same agenda. The
2 Edison peaker project was basically given a zero
3 GHG, while the Poseidon Desal was given -- was
4 allowed to net out basically, deferred
5 electricity; it wasn't required to pump water up
6 over the hill.

7 So, even on that one agenda, two
8 projects, two completely different greenhouse gas
9 treatments. And that kind of thing is the core of
10 the problem for, you know, power plant providers
11 and other industries moving forward. It's just a
12 lack of consistent treatment and a lack of
13 certainty about how to move forward.

14 As Mr. Galati alluded to, you have shown
15 some leadership in this regard. And there are
16 standard conditions in several of the projects
17 that we've worked on that I think are very good.
18 They're well written. We've given them to other
19 people as models. And they're essentially, say
20 comply with the state's reporting requirements,
21 because those are the things that are on the book
22 now. But also come back when things change.

23 I have not had a chance to look at the
24 Humboldt language. Colusa has some language, as
25 well. But I guess I want to disabuse people of

1 the idea if you haven't thought about this until
2 today, there are actually conditions of
3 certification from projects. And we would like to
4 work with you to figure out what those standard
5 conditions should look like.

6 And then finally on the issue of, you
7 know, need. There's one thing that's pretty
8 clear, that you could make a lot of these issues
9 moot if California was not a net importer of
10 electricity. We are a net importer of
11 electricity. I think onpeak it's like 41 percent
12 of our electricity comes from the rest of the
13 WECC. I'm tying this back to my earlier comments
14 about reliability.

15 If you were a net exporter of
16 electricity you wouldn't have to do things like
17 guess a good proxy for, you know, imports from the
18 northwest, or imports from the southwest.

19 And so, California has a strong
20 greenhouse gas policy, but one of the policies
21 we've made, too, is to be an importer of
22 electricity. And I think that has the
23 implications for the kind of things that you're
24 dealing with right now with greenhouse gas.

25 So, thank you for the opportunity to say

1 a few words with my cheatsheet here. I'd be glad
2 to answer any questions.

3 PRESIDING MEMBER BYRON: No questions,
4 Mr. Harris. Thank you very much. Those were all
5 very good comments.

6 MR. RATLIFF: Could I ask him a
7 question?

8 PRESIDING MEMBER BYRON: Please, please
9 go right ahead.

10 MR. RATLIFF: You made reference, Jeff,
11 to lifecycle greenhouse gas analyses. But I
12 wasn't clear if you're recommending that we go in
13 that direction. But whether you are or not, what
14 would that include?

15 MR. HARRIS: Well, I opened a can of
16 worms, I guess I have to deal with this. What I
17 have seen in several of our -- the projects I've
18 been working on is an argument that AB-32 requires
19 a lifecycle analysis, meaning, you know, not only
20 do you look at the direct and indirect cumulative
21 effects of the project, you also go, you know, up
22 the supply chain.

23 So in a power plant siting case you'd be
24 looking at, well, what are the greenhouse gases
25 associated with delivering, you know, natural gas

1 to a gas-fired power plant. What are the
2 greenhouse gas associated with maintenance of a
3 high transmission, you know, transmission line.

4 All those things that, you know, are a
5 result, arguably, of the project moving forward.

6 I don't see a principal basis to deal
7 with those issues right now. And I guess I want
8 to alert you to the fact that you're going to hear
9 people arguing that you have an obligation to do
10 that kind of lifecycle analysis. I actually don't
11 think you do under current law.

12 Maybe the SB-97 things will change
13 things, but you're going to have to figure out how
14 you respond to, and I hate to over-generalize, but
15 project opponents who come to you and say, well,
16 you haven't looked at all the greenhouse gases
17 associated with this power plant. Because you
18 need to consider, you know, the railcar that bring
19 the turbines in, and the vehicles and all those
20 other things.

21 And so it gets pretty murky pretty
22 quickly. And I don't have an answer for you other
23 than to warn you that you will see those kind of
24 arguments made. Again, mostly by project
25 opponents.

1 MR. RATLIFF: Thanks.

2 PRESIDING MEMBER BYRON: Thank you, Mr.
3 Harris. I have three more cards, and I'm just
4 trying to gauge the clock here. See if we can
5 make a good decision as to how we might proceed.

6 As is our practice, any and all are
7 welcome to speak. But, if there's anyone else
8 that wishes to speak that I don't have a card for,
9 would you mind jus raising your hand at this point
10 so we'll have a sense if there's anyone else?

11 Do we have anyone on the phone that
12 wishes to speak, as well?

13 Well, then, if it's all right, we'll
14 press on through here and take these last three.
15 Se if there's any others. Mr. Richins, we'll see
16 if there's any other input that you're looking for
17 from the workshop here today.

18 All right, the next card that I have is
19 Will Mitchell from Competitive Power Ventures.

20 MR. MITCHELL: Good afternoon,
21 Commissioners and Staff. Once again, thank you
22 very much for having this.

23 Competitive Power Ventures is an
24 independent power producer in California. We have
25 a natural gas development side, as well as a wind

1 development side.

2 We agree with many of our industry
3 colleagues that have stepped up today. We haven't
4 quite decided yet if we're going to file comments
5 individually or with the Independent Energy
6 Producers.

7 We strongly agree that a systemwide
8 approach is certainly the way to go. CPV views
9 this development as a fundamental one. And with
10 that, I'd like to touch on the comments
11 Commissioner Byron made at the beginning of the
12 meeting in which he mentioned that during the
13 siting process and the regulatory process there's
14 many entities, all of which are involved. And it
15 leads to challenges and complexities and an
16 interesting process that we're all trying to work
17 through.

18 And with that CPV believes that this
19 comes down to -- this process is part of a
20 fundamental issue with reliability and investment.
21 And due to certain events, whether it be in
22 southern California with the priority reserve
23 event, there has become a certain amount of
24 uncertainty with investing and being involved in
25 the California market.

1 And we're really pleased to see this
2 process happen. To have representatives from the
3 Governor's Office and the Air Resources Board
4 here, and see everyone come together to try and
5 address these issues in an open process.

6 And as an independent, investment is the
7 name of the game for us. And we like the
8 California market. We see a great future here.
9 And developments like these and processes like
10 these bring a lot more certainty to the table when
11 it comes to anything to insuring a process for
12 siting these plants.

13 And anything that we can do and see
14 happen and participate in, along with the
15 Commissioners, allows for us to have a better
16 process, and simply, in our opinion, makes the
17 California market that much more attractive to
18 work in when we see open forums like these.

19 And with that, we look forward to this
20 process maturing, and the Commissions coming
21 together and maturing the entire California market
22 as we move forward.

23 Thank you.

24 PRESIDING MEMBER BYRON: Good. Thank
25 you very much. Thanks for being here.

1 The next card I have is Mr. Rafael
2 Aguillera, Verde Group.

3 MR. AGUILLERA: Good morning. Rafael
4 Aguillera with the Verde Group. We're an advocacy
5 firm based in Sacramento really working to bring
6 about the clean energy revolution, as we call it.

7 Just wanted to support some of the
8 comments that were made earlier by Will from
9 EarthJustice, as well as Ray from the San Joaquin
10 Valley Latino Environmental Advancement Project.

11 Just wanted to remind the Commission
12 that -- with the greenhouse gases and the science
13 at this point has indicated that while we know
14 there are tipping points, we don't know exactly if
15 we passed the point of tipping. Of if we are very
16 close to it.

17 James Hansen, NASA scientist,
18 climatologist, says that we're actually
19 potentially past the tipping point of 350 parts
20 per million, 350 parts per million concentration.
21 And currently we're at 380.

22 The goals of AB-32 and the international
23 climate agreements are all made to get us back to
24 a level of 1990, based on 1990-level emissions,
25 which was for a higher goal. I think it was 450

1 or 400.

2 So even though AB-32 is aggressive, in
3 the medium-term and long-term goals, those targets
4 may not actually be enough to avert dangerous
5 catastrophic climate change. I just wanted to
6 remind folks about that.

7 And so any new power plant would
8 contribute towards accelerating our precipitous
9 decline of the biosphere and life-supporting
10 systems on the planet.

11 From the community perspective I think,
12 you know, it was raised earlier, or it was at
13 least mentioned, that CEQA is an important
14 consideration. And I applaud the Commission for
15 having this proceeding.

16 In the south coast the reclaim program
17 was the subject of recent litigation. And the
18 California Environmental Rights Alliance, Natural
19 Resources Defense Council, and Communities for a
20 Better Environment raised a lawsuit against the
21 South Coast Air Quality Management District over
22 the priority reserve credits being used for
23 permitting the new natural gas power plant in the
24 area.

25 But what the judge recently decided was

1 that they could move forward using those credits
2 without the -- CEQA review. So I'd say that this
3 is a very important proceeding.

4 And given the case that I just
5 mentioned, the issues that are presented where it
6 would have been a new natural gas power plant
7 permitting in an environmental justice community,
8 where the regulatory agency was basically, you
9 know, subsidizing the power plant by granting
10 credits at a reduced rate is not a good example to
11 be used, as was suggested by another speaker.

12 I would just say generally that I agree
13 with the comments that we should have a full needs
14 assessment related to energy demand; and the IEPR,
15 I believe, does some forecasting in terms of what
16 the state might need to, you know, meet its energy
17 demand and whatnot. But I don't think it's
18 specific enough as to give alternative scenarios
19 under changing policy paradigm where we may end up
20 with 50 percent renewables targets in a couple of
21 days here.

22 Certainly 33 percent is a goal. And,
23 you know, we're seeing that the policy landscape
24 is shifting year to year. And that honestly, it
25 seems like the rush for about 20 or so power

1 plants to be built in California is as a result of
2 a policy storm between AB-32's greenhouse gas
3 regulation and the shift from dirty to cleaner
4 types of fossil fuels, and SB-1368, which is the
5 essentially the ban on out-of-state long-term coal
6 contracts.

7 It's all leading to, I guess, you know,
8 the potential need for more domestic energy
9 generation. And at the same time we need to make
10 sure that we're not rushing towards a fossil-fuel
11 based electricity system that is potentially, you
12 know, very volatile.

13 I mean our current mix of energy is
14 based off natural gas power plants primarily.
15 We're highly dependent on that commodity, which is
16 a globally traded commodity. And, you know,
17 there's even some questions I'd raised about the
18 future projections of natural gas prices in the
19 future that you guys have decided to go with.
20 And, you know, that's the basis, the baseline for
21 the relative cost of renewables, the relative cost
22 of various types of policy proposals. Whether or
23 not it would be more effective to do a more
24 aggressive energy efficiency renewables targets
25 versus the alternative scenario.

1 And so those are very important numbers
2 and we should view this in a dynamic sort of way,
3 not just in a sort of, I guess, programmatic or,
4 you know, IEPR type of way. We really need to
5 assess, with the best science and the best
6 information, costs including not just the cost of
7 the commodity, the construction cost, but also the
8 health impacts that would happen in localized
9 communities.

10 So I would like to ask a couple of
11 questions of the Committee. First, --

12 PRESIDING MEMBER BYRON: Commissioner
13 Douglas, pay attention because you're going to
14 answer --

15 (Laughter.)

16 MR. AGUILLERA: -- it was mentioned
17 that, well, CEQA is basically an informational,
18 you know, procedure that one would have to go
19 through, and then you'd have to look at
20 mitigations and basic design of the project to
21 avoid certain things.

22 And I don't think you can guarantee
23 under CEQA that you'd back down, let's say, coal-
24 fired electricity coming in as a mitigation of
25 greenhouse gas emissions for building, let's say,

1 a natural gas peaker plant in the state.

2 Is that something that is being thought
3 of? I mean I don't see the relevance there and
4 how you can actually promise that if that's
5 something that's sort of on the table right now.

6 PRESIDING MEMBER BYRON: Did I
7 understand you correctly, backing down coal? Is
8 that what you said?

9 Yeah, maybe I could help answer that a
10 little bit, with regard to SB-1368, which I think
11 you referred to earlier. That was legislation
12 that essentially required us to set a greenhouse
13 gas performance standard.

14 And we came up with a number that we
15 justified at 1100 pounds of CO2 per megawatt hour.
16 So, that legislation, I think, effectively put an
17 end to the construction of any power plants that
18 emit more than that. And coincidentally, that
19 would be primarily coal.

20 But the difficulty with it -- and
21 there's one other provision in there -- there's a
22 lot of provisions in it, but the other significant
23 provision is that it can't enter into contract
24 five years or longer.

25 But there are a lot of existing

1 contracts that utilities have. And, you know,
2 it's not within our ability, unless Mr. Ratliff
3 corrects my legal understanding again, that we
4 cannot, you know, we cannot tell people you have
5 to break those contracts. Some of those go on for
6 a long period of time, as well.

7 So, I think effectively what we've done
8 there with SB-1368 and the regulations that we've
9 implemented along with the California Public
10 Utilities Commission, is I don't think you'll see
11 any new coal plants coming online. But the ones
12 that are currently under contract, generating
13 power outside of the state primarily, will still
14 be selling that power until those contracts end.

15 So, I think that was about as good as
16 that legislation can do at the time it was passed,
17 two years ago.

18 Sorry, you have another question?

19 ASSOCIATE MEMBER DOUGLAS: Well, let
20 me -- I'd just like to add something briefly, and
21 first I should say, welcome, Mr. Aguilera, it's
22 good to see you here. This is the first time that
23 I think I've seen you speaking before us here.

24 And it's always interesting when people
25 come and turn the tables on us and go to the

1 podium and ask us a bunch of questions, but I'll
2 see how we do.

3 Your question, as I understand it, is an
4 interesting one. CEQA requires us to analyze the
5 physical impacts of a project on the environment.
6 That's so.

7 Your question, I think, is under what
8 circumstances might we say that one of the impacts
9 of this project is to displace coal coming in.
10 I'll just -- I think it's a good question for
11 stakeholders and the staff to help us with, but
12 I'll just say there are probably shades of
13 certainty that we might have depending on the
14 project, just thinking about it.

15 You might have a project where, based on
16 its location, you think that theoretically it
17 could, just because of economic dispatch, because
18 of the way we model the WECC, and what might come
19 in and what might be generated domestically.

20 There might be another case where a
21 specific utility that has a vertically integrated
22 model says, you know, we are turning off
23 essentially this much of our coal imports, and we
24 are bringing on this much natural gas. And
25 there's a direct link and it's all a part of our

1 own, the way that we run our own system.

2 And so I think your question is very
3 hard to answer in the abstract. But I think
4 there's a reality for any project that there could
5 be displacement. And some projects may be able to
6 make a fairly direct link; others may not.

7 MR. AGUILLERA: And I did want to --

8 ASSOCIATE MEMBER DOUGLAS: Does staff
9 have anything to add on that point?

10 MR. RATLIFF: Yeah. I heard a similar
11 question, I think, to the one you're answering. I
12 think I'd say -- you used the word mitigation,
13 what we consider mitigation for the facility. And
14 I think the question goes to whether you can't
15 really require it. We have no, perhaps control
16 over whether, in a given licensing case we have no
17 control over whether or not -- that doesn't give
18 us an opportunity to control the degree to which
19 the state imports out-of-state electricity that
20 might be coal-fired.

21 So it is in mitigation. And I think
22 that is the answer I think that you're seeking.

23 MR. AGUILLERA: Right.

24 MR. RATLIFF: But it is, at the same
25 time, when we're trying to determine significance

1 of the impact in the first instance, I think we're
2 trying to determine what the effect of a given
3 project is.

4 And if it's likely, if it's foreseeable
5 to likely displace out-of-state coal, then that
6 would be one of the considerations we'd make in
7 determining whether or not the impact was
8 significant.

9 And I think -- I understood Will
10 Rostov's comments to suggest something in a
11 similar vein when he said we should be considering
12 displacement. I think that's what that kind of
13 displacement would be.

14 So we would want to try to determine
15 what the impact of the power plant would be in an
16 overall sense, not just in terms of what comes out
17 the stack.

18 MR. AGUILLERA: Thank you. It goes to
19 my first point that any additional greenhouse gas
20 emission into the atmosphere, even if it's from a,
21 you know, clean combined-cycle, natural-gas power
22 plant, is pushing us further over the edge in
23 terms of climate change and the impacts that we'll
24 see in California.

25 And so I guess it would be, to me,

1 advisable that you guys should adopt a
2 significant, or a threshold significance of zero.
3 We should be figuring out ways to take emissions
4 out of the air, or at least stop putting them into
5 the air.

6 And the last thing I just wanted to ask,
7 was if you guys plan to work with the
8 environmental justice advisory committee. You
9 guys have mentioned AB-32 in passing, but AB-32
10 has very stringent requirements with regards to
11 the use of market mechanisms; has very pointed
12 directives in terms of community benefits,
13 allowing communities to participate in benefits
14 from such policies.

15 And I would argue that power plant
16 siting is a form of greenhouse gas regulation,
17 although it may not be something that is adopted
18 by the ARB pursuant to AB-32.

19 And so in that context, I guess I'd like
20 to know, one, how you guys will interface with ARB
21 and AB-32's requirements. Whether or not you'll
22 voluntarily adopt some of the community impacts
23 provisions, yourselves. And whether or not you
24 plan to interface with AB-32 environmental justice
25 advisory committee for power plant siting.

1 PRESIDING MEMBER BYRON: Commissioner.

2 ASSOCIATE MEMBER DOUGLAS: I think we
3 haven't gotten that far. We've just launched this
4 process. We know that we want to coordinate very
5 closely with ARB. And, this is, in some ways, a
6 very different exercise than what the ARB is doing
7 implementing AB-32.

8 On the other hand, as a number of us
9 have said, we're keeping a very close eye on
10 coordinating with ARB and what they ultimately
11 come forward with.

12 So, I think I will ask staff if they
13 have anything to add. I think we would welcome
14 interaction with the environmental justice
15 advisory committee. Now, they are advising ARB on
16 how to implement AB-32. We're looking at how to
17 evaluate the greenhouse gas impacts of project
18 siting under CEQA. There's a definite link there,
19 but they are different activities.

20 Does staff have anything to add here?

21 MR. RATLIFF: I don't.

22 MR. AGUILLERA: That's my time. Thank
23 you.

24 PRESIDING MEMBER BYRON: Thank you for
25 coming. Thank you for your comments, Mr.

1 Aguillera.

2 MR. RATLIFF: One thing I would add,
3 though, is that in fairness to the staff that
4 worked so hard on the last IEPR, they did, in
5 fact, look at exactly what Mr. Aguillera did
6 mention, which is a range of scenarios evaluating
7 the effect of different inputs from renewable
8 energy and from conservation.

9 And so it is actually a treatise which
10 tried to address, through a range of variables,
11 how the electric system and the future would look,
12 taking into consideration what we might expect in
13 terms of those two components.

14 And I say that because I think the staff
15 that worked on that is actually listening to this.
16 And I think they should be given some credit for
17 having attempted to do that.

18 PRESIDING MEMBER BYRON: Some of that
19 staff is present.

20 I have one card left, and as is our
21 custom, we always save the best for last. In this
22 case it's Mr. Manuel Alvarez, Southern California
23 Edison.

24 MR. ALVAREZ: I guess it's good
25 afternoon, Commissioner. I think you're being too

1 kind. I'm actually looking forward to -- I guess
2 I should tell you who I am. Manuel Alvarez,
3 Southern California Edison. And we will be filing
4 comments on the due date.

5 And I actually want to just bring up a
6 couple of points, but given what I've heard today,
7 it kind of makes me ponder, you know, Laurel and
8 Hardy and their old line of saying, you know, "see
9 what kind of fine mess we find ourselves in
10 today."

11 (Laughter.)

12 MR. ALVAREZ: But if you recall, they
13 always got out of it, so I'm hoping we'll find our
14 way through this maze.

15 I think it's fairly clear we would
16 support the notion that you're going to do a
17 programmatic or support a programmatic approach or
18 a systems approach, however you want to call it.

19 But the difficulty I have is not so much
20 that we want to take that tack, but how we proceed
21 there. What analytical tools, what mechanisms,
22 what processes, what compliance means would be
23 used to actually fulfill the requirements once we
24 did the analysis.

25 And I think those are questions that

1 you're going to have to ponder very carefully.
2 And I know that I was struggling with, as I was
3 reading your questions, and I'm not sure I have
4 clear answers for you. And I'm not sure anybody
5 here has clear answers for you.

6 When you look at the question, the
7 question of need came up. And I am old enough to
8 remember how we did it in the past and the
9 integrated planning process. But, one of the
10 recommendations we would definitely make to you is
11 that we wanted, whatever you decide to do, was to
12 coordinate that with AB-32 process. And I see
13 that as a major task.

14 But then what I heard today on the need
15 question, they're asking you to integrate that
16 with the integrated policy report, AB-57 process,
17 and the procurement process at the PUC. And to
18 bring all that together to make a basic decision
19 as to what should and shouldn't be built.

20 And I guess I'd like to give you a point
21 of caution there. Even in the older days, which
22 some of us remember, I don't think we ever had
23 that precision to be able to say we want project A
24 versus project B.

25 If I were to characterize that I would

1 say we got to basically a set of systems that we
2 wanted, a set of projects that we wanted. and
3 that was probably the best we could get.

4 If you're thinking that you can get to a
5 very precise decision in terms of this project
6 over that project, or this kind of project over
7 that kind of a system, I think you have a lot more
8 work to do than just the next three or four
9 months, to be able to lay that out for us.

10 And I can imagine the kind of
11 difficulties you would have and confront amount
12 the various participants who would be interested
13 in this particular question.

14 So, I'm not sure I have the answers for
15 you. You definitely are raising some important
16 questions. And it's not so much the question of
17 the systems approach, but how you approach that,
18 that becomes a critical decision point for you.

19 And with that, I'll leave it to you to
20 ponder. Thank you.

21 PRESIDING MEMBER BYRON: Thank you, Mr.
22 Alvarez. I was given another card, so we have
23 someone even better to finish with.

24 (Laughter.)

25 PRESIDING MEMBER BYRON: Amisha Patel,

1 California Chamber of Commerce.

2 MS. PATEL: Sorry for sort of adding on
3 at the end of this whole process. I'll keep it
4 very brief. I just wanted to make some overlying
5 principles that the Chamber members wanted me to
6 relate to you.

7 We have submitted formal comments to
8 you. We sent them in last week, answering the
9 questions. But today I'm going to just briefly
10 talk about some of the major points.

11 One, from the broad business
12 perspective, our membership, one of our major
13 concerns, as you all know, is reliability. You
14 know, reliability in terms of transmission, in
15 terms of sustaining the growth that we anticipate
16 in California. And that's just a major concern
17 for our entire membership. And this whole process
18 directly affects that.

19 How we define, you know, significance,
20 what process, what analysis we're using will all
21 affect sort of the outcomes that come out. And
22 really affect investment and projects coming into
23 California.

24 In terms of the whole AB-32 programmatic
25 approach, still questions as to what that really

1 means. What we've seen so far in working with ARB
2 on AB-32 implementation, is that there's still a
3 lot of uncertainty out there, as all of you know.

4 Businesses don't exactly know how
5 they're going to be regulated, you know. Right
6 now, today, the question is one molecule approach,
7 as opposed to something else. And we have major
8 concerns that if we do view it from the sort of
9 one-molecule approach, we're not taking into
10 effect the overall laws and compliance that these
11 businesses have to go through every day. Not only
12 through AB-32, itself, but also the other existing
13 air pollution laws that are on the books already
14 that they're complying with.

15 So, these are all things that we need to
16 take in the cumulative. And the more seamless
17 this process can be, more understanding this
18 process can be, so businesses can realize what
19 they're dealing with from the forefront, is better
20 for the state and the economy and the businesses
21 coming into California.

22 Finally, you know, when we're looking at
23 what a project can bring to the state, not only
24 towards reliability for the grid, but also as far
25 as meeting our demands for the future, we do think

1 that, you know, appropriate cost/benefit analysis
2 needs to be taken into consideration, needs to be
3 done thoroughly when we're evaluating these
4 projects.

5 That's really all I wanted to relate to
6 you today. And, again, we did submit those formal
7 comments. Thank you.

8 MS. ten HOPE: I have a question whether
9 staff has received the comments, at least our
10 office; they didn't make it upstairs yet.

11 MR. RATLIFF: I think they've been
12 docketed and distributed electronically. And --

13 MS. ten HOPE: Okay, then I'm sure we'll
14 receive them.

15 MR. RATLIFF: I just wanted to express
16 thanks for having addressed them in writing in
17 such a thoughtful way.

18 PRESIDING MEMBER BYRON: And quickly, as
19 well.

20 Any commenters on the phone?

21 All right, well, I always ask if there's
22 any others that have not submitted a card but wish
23 to speak at this time?

24 Commissioner Douglas, would you like to
25 provide some closing comments, and then I will, as

1 well.

2 ASSOCIATE MEMBER DOUGLAS: I'll just be
3 very brief. I really appreciate everybody coming
4 here, making their comments. This is exactly the
5 type of dialogue and level of dialogue that we
6 hoped we would get out of this workshop.

7 So we will look forward to seeing
8 written comments, and looking at them closely.
9 You know, we've been thinking a lot about how best
10 to handle this issue, look forward to getting your
11 comments and moving forward in the next workshop.
12 I really appreciate everyone's engagement in this.

13 Thank you.

14 PRESIDING MEMBER BYRON: Thank you,
15 Commissioner. I know, Mr. Richins, your concern
16 about trying to get some dates. And so I was
17 going to bring that up here, as well.

18 Let's see. If you could do this, it
19 would be extremely helpful, and it's going to be
20 very difficult for our court reporter to record
21 any of this information.

22 There were a bunch of dates that were
23 discussed early on as possible alternatives. And
24 I would just like to ask, by a show of hands, if
25 you could help us here a little bit. Again, we're

1 just trying to be responsive.

2 It's fair to say that we are proceeding
3 very quickly with this OII. I believe we
4 instituted it by vote at our October 8th business
5 meeting. And here we are on the 28th having our
6 first workshop, with not a great deal of time, by
7 the way, to prepare for it, as well.

8 We hope to be much better prepared when
9 we go into our next workshop. And there's a
10 general sense that we'd like to make sure we
11 provide enough time. So that's why we were
12 thinking at least a day or a day and a half for
13 that.

14 So, if you could, answer the following
15 question for me with a show of hands. Actually, a
16 couple of questions. Those that want to be here
17 at the next workshop, could you be here for the
18 dates of November 20th and 21st?

19 (Show of hands.)

20 PRESIDING MEMBER BYRON: Thank you. And
21 those that, again, still wish to be at the next
22 workshop, could you be here if we were to hold it
23 a day earlier, say on the 19th and the 20th of
24 November?

25 (Show of hands.)

1 PRESIDING MEMBER BYRON: Okay. And we
2 have two other alternative dates. One were the
3 Monday and Tuesday before Thanksgiving. That
4 would be November 24th and 25th.

5 (Show of hands.)

6 PRESIDING MEMBER BYRON: And we had one
7 last alternative, and that would be if we did a
8 single-day workshop December 12th.

9 MS. ten HOPE: December 2nd.

10 PRESIDING MEMBER BYRON: I'm sorry, I
11 have it written that way, as well. December 2nd.

12 (Show of hands.)

13 PRESIDING MEMBER BYRON: Well, that's
14 very good. I appreciate your help there. Mr.
15 Richins, I hope that's helpful to you, as well.

16 We do want to proceed very quickly. We
17 received a number of helpful comments here today.
18 And some of those, of course, were directed at
19 showing how much more complicated the issue is,
20 perhaps, than we'd even faced up to at this point.

21 But we did get, I thought, some general
22 consensus around some things such as general
23 agreement on a programmatic approach. I don't
24 think we heard much in opposition to that kind of
25 approach.

CERTIFICATE OF REPORTER

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of November, 2008.

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