

CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION
ENERGY EFFICIENCY COMMITTEE

RENEWABLES COMMITTEE HEARING
ON
RENEWABLE PORTFOLIO STANDARD ELIGIBILITY
GUIDEBOOK,
NEW RENEWABLE FACILITIES PROGRAM GUIDEBOOK, AND
THE OVERALL PROGRAM GUIDEBOOK FOR THE RENEWABLE
ENERGY PROGRAM

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

A P P E A R A N C E S

COMMITTEE MEMBERS PRESENT

John Geesman, Presiding Member

James Boyd, Associate Member

STAFF PRESENT

Michael Smith, Advisor to Commissioner Boyd

Melissa Jones, Advisor to Commissioner Geesman

Gabriel Herrera, Senior Staff Counsel

Timothy Tutt, Renewable Energy Program

Heather Raitt, Renewable Energy Program

Marwan Masri, Technology Systems

ALSO PRESENT

Jack Pigott, Calpine

Nancy Rader, CalWEA

Richard Ely, Davis Hydro

Thomas Tanton, T2 & Associates

Steven Kelly, IEP

Bill Short, Ridgewood Olinda LLC

Paul LaCourciere, Ridgewood Olinda LLC

Kirsten Ritchie, Scientific Certification Systems

Gary Allen, Southern California Edison

Terry German, North American Power Group

Mark Skowronski, Solargenix

Greg Morris, Green Power Institute

I N D E X

	Page
Opening Comments, Commissioner Geesman	1
Introduction and Purpose of Workshop	2
Public Comment	7
Summary and next steps	66
Adjournment	67
Reporter's Certificate	68

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

P R O C E E D I N G S

1
2 COMMISSIONER GEESMAN: This is a
3 workshop on the Commission's RPS Guidebooks
4 relating to Renewable Portfolio Standard
5 Eligibility, New Renewable Facilities Program, and
6 the Overall Program Guidebook.

7 I'm John Geesman, the Presiding Member
8 of the Commission's Renewables Committee. To my
9 left is Commissioner Boyd, the Associate Member of
10 the Committee. To his left is Mike Smith, his
11 Special Advisor. To my right is Melissa Jones, my
12 Special Advisor.

13 The march to a first solicitation under
14 the RPS Program continues. These Guidebooks are
15 important elements of that. Before I turn this
16 over to Tim Tutt to provide a brief overview of
17 the Guidebooks I did want to make one statement,
18 and call your attention to a two paragraph handout
19 that hopefully is either being distributed or is
20 available in the back, relating to prevailing
21 wage.

22 Please be advised that the provisions
23 dealing with prevailing wage on pages five and six
24 of the draft Guidebook for the New Renewable
25 Facilities Program will be deleted. The paragraph

1 continues with reference to a variety of code
2 sections, which I am not going to repeat, on the
3 belief that it will be better for you to look at
4 the specific code sections rather than attempt to
5 write down my recitation of them.

6 The reason for the deletion is the
7 enactment of SB 183. The Commission will revise
8 the Guidebook for the New Renewable Facilities
9 Program in the future should it become necessary
10 to address this issue.

11 With that, Mr. Tutt, would you give us
12 an overview of what we're going to do today?

13 MR. TUTT: Certainly, Commissioner
14 Geesman. Thank you. Welcome, Commissioner Boyd.
15 And welcome all the stakeholders in the audience.
16 The staff here at the table are Gabe Herrera, our
17 program lawyer, and Heather Raitt are here at the
18 staff table with me.

19 Today we are here to talk about three
20 draft Guidebooks that have been issued by the
21 Renewables Committee. We are webcasting this
22 proceeding today, so there are people listening on
23 the web.

24 To focus the discussion we have
25 developed a list of questions that we've asked the

1 parties to address, and those are provided as an
2 Appendix to the Hearing Notice. And they are back
3 there on the table next to the sign-in sheet, and
4 since the sign-in sheet is there, if you haven't
5 signed in please do sign in.

6 The three Guidebooks under consideration
7 today are the Renewables Portfolio Standard
8 Eligibility Guidebook, which describes the
9 proposed eligibility requirements and process for
10 certifying renewable resources for the Renewable
11 Portfolio Standard, and Supplemental Energy
12 Payments.

13 Also the New Renewable Facilities
14 Program Guidebook describes how to qualify for and
15 receive Supplemental Energy Payments in the
16 program, and the Overall Program Guidebook, which
17 governs the general rules for the Renewable Energy
18 Program, including rules about appealing decisions
19 and transactional issues of that sort.

20 The proposed guidelines reflect the
21 requirements in SB 1038 and SB 1078, as well as
22 the subsequent laws clarifying issues on
23 Supplemental Energy Payments and out of state
24 eligibility, Senate Bill 183, and Senate Bill 67.

25 The documents also reflect the

1 recommendations in the Commission's two previous
2 decision documents last year on Phase One and
3 Phase Two issues, and further staff analysis of
4 issues related to SEP payments and eligibility.

5 Going forward, Committee and staff will
6 carefully review the comments received here today,
7 and the written comments submitted. And I should
8 take a side note here just to say that we
9 apologize, there was an error in our written
10 notice that suggested comments were due on January
11 30th.

12 In fact, we sent out a subsequent notice
13 electronically that said written comments are due
14 on February 9th. So I apologize to those who
15 didn't get the subsequent electronic notice, and
16 if you're scurrying around trying to get comments
17 in by January 30th, we do have more time.

18 The revisions that we receive or that we
19 look at are not overly extensive, and we
20 anticipate releasing a final draft of these
21 Guidebooks on March 19th, and make the Guidebooks
22 publicly available for 30 days prior to the
23 adoption date potentially scheduled for the April
24 21st Business Meeting.

25 And it's important to note that we have

1 the ability to make timely adjustments to the
2 guidelines after they are adopted to ensure that
3 the program is working well and reflects
4 regulatory and market developments as necessary.
5 So we do have the opportunity to revise these
6 Guidebooks once they are finally adopted.

7 Just as a brief overview of what's new
8 in these Guidebooks. The list of new things that
9 we felt were new is provided in that handout I
10 mentioned. I'm not going to talk about all of
11 them. I will call out a few of them that seem to
12 be of significance.

13 In particular we've provided additional
14 detail in the Guidebooks about eligibility of
15 biomass and hydro MSW and hybrid technologies.
16 All of those technologies have specific language
17 and laws that affected them specifically, rather
18 than renewables in general.

19 We also have talked more about, as I
20 said, RPS eligibility of resources out of state,
21 and we are inviting comment on whether RPS
22 eligible procurement must be delivered in-state
23 and what that means in terms of specifics.

24 And particularly in hydro technology and
25 bio-diesel we re seeking comment on whether the

1 Energy Commission should continue to allow a
2 renewable facility to use up to 25 percent fossil
3 fuel and be considered eligible. And as an
4 alternative whether the Energy Commission should
5 allow any metered eligible renewable generation to
6 qualify for the RPS, whether it uses more than 25
7 percent fossil fuel or less.

8 Also, we want to call attention to the
9 issue of establishing payment caps on Supplemental
10 Energy Payments. We are not proposing caps at
11 this time in advance, but we are intending to
12 evaluate bids received in each solicitation and
13 determine the need for caps at that time. We
14 request comments on that issue.

15 And finally, on the issue of how we
16 handle the question of the legal ten year limit on
17 SEP payments in the law, with respect to how that
18 works with the PUC's and IOU's solicitations where
19 15 or 20 year contracts may be signed at a certain
20 price, in relation to a market price referent.

21 And the Supplemental Energy Payments
22 structure may end in the middle of such a
23 contract. How do we handle that kind of
24 structure?

25 We invite parties to come to the podium

1 and address the staff and Committee if there are
2 any comments. I believe there are blue cards that
3 are being brought up to Commissioner Geesman. As I
4 said, we are broadcasting today's proceeding over
5 the web, and I again mention that written comments
6 are due February 9th.

7 Submission by e-mail will be posted on
8 the Energy Commission's website, so that other
9 parties can read what comments are being made in
10 the proceeding. We encourage that e-mail
11 submission so that that can happen.

12 And with that, I will turn it back over
13 to Commissioner Geesman for public comment.

14 COMMISSIONER GEESMAN: Thank you, Tim.
15 I may have misspoke earlier when I called this a
16 workshop. This is actually a hearing, which is a
17 slightly more formal process to us, legally, but
18 hopefully not to you. We'll continue our practice
19 of simply calling on members of the public.

20 I'm going to use the order in which I've
21 received these blue cards, and I would ask that
22 you address comments on all three of the
23 Guidebooks if you have them in your appearances
24 before us. We're not going to take one Guidebook
25 at a time.

1 If you have page references, it would be
2 helpful to both those of us here in the room
3 trying to follow along, as well as those listening
4 in on the Internet.

5 MR. PIGOTT: Good morning, Commissioners
6 and staff. I'm Jack Pigott with Calpine. And I
7 just have a couple of comments, and they deal with
8 the Renewable Portfolio Standards Eligibility
9 Guidebook. And although I just have a couple of
10 comments I believe there are serious problems.

11 The first one is less so. On page 9 of
12 the Eligibility Guidebook it refers to the
13 eligibility of geothermal facilities. And one of
14 the paragraphs, there's a reference to geothermal
15 facilities that begin operation between September
16 26, 1996, and January 1st, 2002. Those are
17 eligible for the RPS.

18 And the next paragraph says "facilities
19 that begin commercial operation after January 1,
20 2002 are eligible for meeting the annual
21 procurement target of the RPS."

22 And I guess my first question is what
23 does it mean to be eligible for the RPS, and what
24 is the distinction between those two paragraphs,
25 because my understanding from the law and from the

1 prior decisions is that anything that comes on
2 line, a geothermal facility that comes on line
3 after December 26, 1996 is eligible for the annual
4 procurement target, and any other form of the RPS.

5 So I thought there was an error there,
6 maybe just an error in drafting, but I don't see
7 what the distinction is between those two
8 paragraphs.

9 COMMISSIONER GEESMAN: In the interest
10 of time I'm not going to ask the staff to respond
11 to each point made, but if the staff does have a
12 response please break in and offer it. We will
13 consider each of these comments, and after the
14 hearing review them one by one.

15 MR. PIGOTT: My second comment, which I
16 think is more serious, is on page 14 of the
17 Renewable Portfolio Eligibility Standard
18 Guidebook.

19 And the second sentence on the first
20 paragraph reads "a facility only qualifies as re-
21 powered if the investments were made on or after
22 the commercial operation date that distinguishes
23 new facilities."

24 And I looked back at the Phase Two
25 decision, and this seems to be something new. It

1 doesn't seem to flow from the decision or from the
2 law, and it appears to be arbitrary to me.

3 Specifically, under the proposed
4 guidelines, an investment in a new facility can be
5 made prior to January 1, 2002, and yet that
6 facility qualifies as new if it goes into service
7 after January 1, 2002.

8 In the proposed guidelines there's a
9 distinction for re-powers, and that distinction
10 seems to be that for a re-powered facility the
11 investment can't be made prior to January 1, 2002,
12 and that does not seem to, I cannot find that
13 anywhere in the Phase Two decision. And I think
14 that that this a major problem, and appears to be
15 arbitrary.

16 There really isn't any reason why the
17 timing of the investment in a re-power or new
18 facility should matter. The sentence should be
19 changed so as to read that when the re-power is
20 commissioned and goes into service that that date
21 is after January 1, 2002, then that should be
22 eligible. That would make it consistent with new.

23 And this issue impacts Calpine directly.
24 We have two re-powered facilities that both became
25 operational in mid-2002 that would otherwise

1 qualify for the RPS, and that appeared to qualify
2 under the proposed decision, but we have a problem
3 with this particular interpretation of the
4 decision.

5 And in a re-power, since we're replacing
6 the turbine, it's a long lead time item, and I
7 think that we probably ordered those turbines in
8 late 2000. And I think the same thing would
9 impact other facilities, what does it mean to make
10 the investment if it could be interpreted to the
11 investment permitting and so on.

12 So I would like to see that changed, I
13 think it would be appropriate to change that to be
14 consistent with new facilities. There are a
15 couple of other places where the same issue comes
16 up.

17 On page 22, in the paragraph that begins
18 "prime generating equipment", it says that the
19 Applicant must document that the facility's prime
20 generating equipment is new and was replaced after
21 January 1, 2002. I think that should be rewritten
22 to say that the Applicant must document that the
23 facility's prime generating equipment is new, and
24 the re-powered facility became operational after
25 January 1, 2002.

1 Also, on page 23, in the paragraph that
2 begins "capital investments", I'd just like to see
3 a period put after where it says "number two,
4 capital investments" and the rest of the sentence
5 in that paragraph eliminated.

6 Those are all my comments. Thank you
7 very much.

8 COMMISSIONER GEESMAN: Thanks, Jack.
9 Nancy Rader.

10 MS. RADER: Hi, good morning, Nancy
11 Rader with the California Wind Energy Association.
12 First, I'd like to apologize because I have not
13 had a chance to go through the guidebooks with a
14 fine tooth comb, and I will have more to say with
15 our written comments on Monday.

16 The only thing that really caught my eye
17 was the delivery requirement. I was glad to see
18 the delivery requirement in the Guidebook, but I
19 think it needs to be spelled out in greater detail
20 so that generators know what exactly they have to
21 do to meet that delivery requirement.

22 And we shouldn't wait and do that
23 through the WREGIS development process. We should
24 spell it out here, and then WREGIS should respond
25 to that requirement. For one thing, the timing of

1 WREGIS may be too long to wait for.

2 I was also concerned to see question
3 nine pose the question for whether SB 67 may be
4 construed as not imposing an in-state
5 deliverability requirement. It was certainly our
6 intention when we promoted that language with
7 Senator Bowen that that was the intent. In fact
8 we thought we were clarifying what was already
9 clear in the previous legislation.

10 I think that, without the delivery
11 requirement Californians don't receive the same
12 air quality benefits, and without those benefits
13 the law is not going to be politically sustainable
14 over the long term, because we can't just send
15 money out of state for no benefits.

16 We're fine with out of state
17 eligibility, as long as they deliver so at least
18 the in-state ratepayers get those air quality
19 benefits. And I think my colleague Bill Short
20 will have a lot more to say on that score.

21 So that's all I had to say today. Thank
22 you.

23 COMMISSIONER GEESMAN: Thank you, Nancy,
24 we look forward to your written comments. Richard
25 Ely.

1 MR. ELY: Thank you, Commissioner. I
2 have multiple copies, should I submit those now or
3 at a later time?

4 COMMISSIONER GEESMAN: I think
5 submitting them now would be a good idea.

6 MR. ELY: Okay. My name is Richard Ely,
7 Mr. Commissioner, I represent Davis Hydro. Davis
8 Hydro has been, people in it have been involved in
9 about 30 micro hydro projects, more or less around
10 the world, most of them in the northeastern United
11 States.

12 I'm addressing one of your concerns in
13 the Appendix. It's called issue five. It has to
14 do with the eligibility of micro hydro or small
15 hydro for the small RPS.

16 The law currently reads, and I
17 understand that the Guidebook and the current
18 policy is correctly reflecting those laws, that a
19 operation that requires a new or increased
20 appropriation for the diversion of water that
21 requires a new or revised permit from the state
22 Water Resources Control Board is not eligible for
23 RPS.

24 Virtually all hydro projects, other than
25 those on irrigation canals or within a water

1 supply system, require a new or revised permit
2 from the state Water Control Board, even if
3 there's no change in the flow, or any change in
4 the structure. It is a change of use that
5 triggers the permit.

6 This means that if one substitutes a
7 pressure reducing turbine that generates
8 electricity for a pressure reducing valve, a
9 permit is needed, and thus the power does not
10 qualify as green. For example, on a typical dam
11 that has an existing outflow from a low level
12 valve, we are denied RPS credit if we replace the
13 valve with a turbine.

14 Since all new micro hydro in the state
15 will be by retrofitting existing dams that can
16 generate green power that simply goes currently
17 into heating water that makes the habitat in the
18 area unsuitable for most game fish.

19 A specific example is the Rock Creek Dam
20 retrofit project on the north fork of the Feather
21 River. Currently most water is released to the
22 river through a regulating valve, which both warms
23 and gasifies the water, increasing the quality of
24 the water for the fish habitat in the area.

25 My firm, Davis Hydro, would like to

1 refit that valve with a turbine which would
2 recapture the hydro power, reduce the oxygen
3 saturation, and keep the temperature in the area
4 down for the fish. The project generates
5 electricity and improves the local environment.

6 But because this triggers a new use it
7 triggers a diversion permit, and is therefore
8 denied the RPS credits. More generally, it's true
9 of all dams.

10 Davis Hydro would like to look at three
11 or four other dams in northern California for
12 similar retrofit. Attempts to retrofit pressure
13 reducing valves with energy capturing hydro
14 equipment are thwarted by this legislation, to the
15 detriment of the environment and the economics of
16 hydro refitting projects.

17 We ask the Commission to work with the
18 members of the Legislature in the future to
19 reconsider this oversight. Thank you very much.
20 I'd be happy to take any questions or
21 clarifications at this point.

22 COMMISSIONER GEESMAN: Just a word of
23 advice, and that is the more stakeholders that you
24 could enlist to the view that this is indeed a
25 legislative oversight, the greater likelihood of

1 having it legislatively corrected.

2 MR. ELY: Understood, Commissioner.

3 There are very few of us, in fact --

4 COMMISSIONER GEESMAN: I understand.

5 MR. ELY: -- the number of micro hydro
6 developers you could count, I think, on one hand.

7 COMMISSIONER GEESMAN: I understand, but
8 you're standing in a room surrounded by a variety
9 of different stakeholders who actively
10 participated in the drafting of a bill that I'm
11 proud to say I had no personal involvement in.
12 (laughter)

13 MR. ELY: I'll take that under
14 advisement, Mr. Commissioner. Thank you very
15 much.

16 COMMISSIONER GEESMAN: Thank you.

17 COMMISSIONER BOYD: I think there are
18 some people out there on our staff who can help
19 you find some allies.

20 MR. TUTT: Richard, it might also help
21 if you were able to propose corrective language at
22 some point?

23 MR. ELY: I'd be very pleased to work
24 with any member on that, and be happy to provide
25 that language to you.

1 COMMISSIONER GEESMAN: Thank you very
2 much. Tom Tanton.

3 MR. TANTON: Thank you, Commissioners
4 and staff. I'm here representing Vulcan Power, a
5 geothermal developer, as well as Sylvan Power, a
6 biomass developer.

7 Echoing Nancy's comments, I have also
8 not gone through the Guidebooks with a fine tooth
9 comb. It seems a little oxymoronic for myself.

10 COMMISSIONER GEESMAN: We've been called
11 morons before, but --
12 (laughter)

13 MR. TANTON: Different concept. I'd
14 like to address briefly the questions posed in the
15 Appendix to the hearing order. Sort of ad
16 seriatim, not with respect to any particular
17 priority.

18 With respect to re-powering, there's
19 indication that a accountant should look at the
20 books if replacement value approach is taken,
21 which we agree with.

22 But it should also include an
23 engineering analysis. Any re-power should include
24 a non-token; i.e., a substantial increase in
25 nameplate capacity. Otherwise it should be deemed

1 a refurbishment or a renovation or something.

2 With respect to biomass, based upon my
3 personal history with the Australian Greenhouse
4 Office, I would suggest that every bill of lading
5 for biomass delivered for a project not be
6 submitted with the SEP invoices. It's going to be
7 very burdensome, both on the part of the developer
8 as well as staff.

9 We suggest instead that the developer
10 retain those bill of ladings, and those delivery
11 invoices, and be spot checked by staff as perhaps
12 warranted.

13 We also suggest that there be continued
14 consistency between the SEP provisions and any
15 changes in federal law with respect to open loop
16 biomass.

17 Perhaps the most important aspects are
18 the questions regarding SB 67 and 183. We
19 strongly recommend that the Committee not improve
20 a list of contract types for out of state that are
21 different than for in state.

22 We do agree with the delivery
23 provisions. Coming up with a separate set of
24 contracts will simply be confusing, will delay the
25 ongoing proceedings being held at the PUC on

1 standard terms and conditions, and also may be
2 counter to the end goal of having greenpower
3 delivered to California.

4 For example, thermal facilities are
5 often managed on a resource base, with multiple
6 units drawing on that particular resource. And
7 the resource is managed on what's referred to as a
8 unit basis. One plant may have a "as available"
9 contract with, for example, Arizona Public
10 Service, while another unit may have a specific
11 baseload contract with, for example Southern
12 California Edison.

13 If the unit under contract to Edison
14 goes down for resource management reasons, or for
15 other reasons, the developer should be able to
16 deliver the green power from the unit as available
17 to Arizona, to deliver that capacity and that
18 energy in California, to Edison in this particular
19 example.

20 Delivery should be allowed at any point
21 in California, not necessarily a hub, because a
22 hub is usually or often taken to mean a market
23 hub, like Cobb. But if a project is delivering
24 along the Pacific Direct Current Intertie, into
25 the Los Angeles Basin, as long as the power gets

1 there, it may not be delivered to a particular
2 market hub. So we're concerned about the term
3 "hub" in this instance.

4 With respect to demonstrable benefits to
5 minority and low income, we support the case by
6 case approach being suggested in the questions,
7 providing the projects are evaluated on a resource
8 and product type -- baseload, intermediate, etc.
9 -- in batches. So that the first guy in may not
10 get the preference to the exclusion of later guys
11 in.

12 And we also support providing specific
13 analytic and policy protocols, and look forward to
14 working with the staff and the Commission in
15 development of that.

16 Available for any questions you may
17 have. If not, I'm done for right now. We may
18 submit written comments with the fine tooth comb
19 on Monday.

20 COMMISSIONER GEESMAN: Thank you, Tom.
21 Steven Kelly.

22 MR. KELLY: Thank you, Commissioner.
23 I'm Steven Kelly with Independent Energy
24 Producers. First, two procedural things. I want
25 to express my appreciation for the staff's work on

1 trying to implement the RPS legislation. It's an
2 incredible process, but I certainly want to tell
3 the staff that they're doing a great job on how
4 they approach this.

5 Secondly, I would ask for a little more
6 time to prepare comments. I would like to
7 integrate comments made orally here in front of
8 you at this hearing into comments that I might
9 make. Having a due date on Monday makes that more
10 difficult, and I would just request some
11 additional time for parties to submit comments to
12 you.

13 COMMISSIONER GEESMAN: Do you have a
14 view as to how much additional time?

15 MR. KELLY: Well, I'm of the opinion
16 that we're not going to see an RPS in procurement
17 anyway, so probably a year would be good.

18 (laughter)

19 Another week would be good, so that I
20 could delay it further and then postpone it and
21 kind of rush next Friday would be nice. Just
22 Monday seems to be a stretch right now. A lot of
23 things going on, and with some of the other things
24 that this Commission is doing.

25 COMMISSIONER GEESMAN: Mr. Tutt, does

1 next Friday do us any serious damage in terms of
2 our ability to hit the March release date?

3 MR. TUTT: I think that it could. It
4 wouldn't make it any easier, that's for sure. It
5 all depends in part I think on the amount of
6 comments we get in written form and whether we
7 then have more changes to make and maybe a further
8 interaction with the stakeholders as a result of
9 that.

10 COMMISSIONER GEESMAN: You know, I don't
11 want to discriminate among any of the parties, so
12 I don't want to change the date. But I will say,
13 Mr. Kelly, I always find your written comments of
14 such value that, in your instance, if you don't
15 get them to us until next Friday it won't count
16 against you.

17 MR. KELLY: Thank you, I appreciate
18 that. In light of my request I would like to give
19 you a brief update on this RPS stuff.

20 I don't know if you're aware as yet, I
21 think it was this week, Southern California Edison
22 has announced to the world that they have
23 essentially met their RPS requirements by 2004 and
24 don't anticipate having any auctions under the SB
25 1078 structure.

1 San Diego, you're aware, has had a very
2 successful auction, and has bought probably three
3 or four years of their annual procurement target,
4 so they don't need to have a procurement for
5 another couple of years. Though they might if
6 circumstances warrant.

7 And as you know, PG&E is still in
8 bankruptcy, and does not have to have a
9 procurement until I believe 90 days after they've
10 been deemed credit-worthy and blah, blah, blah,
11 which suggests to me that that's going to be some
12 time.

13 I find it somewhat sad that we're
14 spending so much time on a procurement mechanism
15 that may have such little value, and I'd like to
16 talk about that a little bit, because I'm not
17 convinced that this legislation is working for
18 ratepayers, and I'll describe that quickly.

19 I certainly don't think it's working for
20 generators, as its' been, what, 15 months, and
21 there's been no procurement under this mechanism
22 yet. And as I look down the road I'm not sure
23 there possibly could be one that's fair for some
24 time.

25 And I don't even think the procurement

1 mechanism is needed by the IOU's. They've
2 certainly proven an ability to go out and have
3 competitive procurement outside of this structure.

4 I've been very involved with this, I've
5 watched this, it seems to me the only
6 beneficiaries are the consultants that are getting
7 paid on their time and materials basis to help
8 with implementation, quite frankly. And I'm not
9 one of those. I'm on a fixed price contract. I
10 wish --

11 (laughter)

12 -- I could get into one of these deals, because
13 I'll give a discount rate to be a part of this
14 baby.

15 But anyway, quite frankly, the
16 complexities of this legislation are creating
17 perverse outcomes. And let me describe three of
18 them for you which just, is -- when I quickly read
19 through this Guidebook they just kind of hit me.

20 First, the issue about existing versus
21 new. I think we have a structure where only new
22 generators post-2002 qualify for the Supplemental
23 Energy Payments from the new account.

24 If an old generator, with an expired QF
25 contract -- and there's going to be a lot of those

1 in the near term, over the next five to ten
2 years -- if they bid into a utilities renewables
3 auction, and that generator bids a price that
4 turns out to be above the market price referent as
5 deemed by the PUC, he's ineligible for SEP
6 payments.

7 And the project probably won't go
8 forward because he's not going to have enough
9 income to execute a contract with the utilities.
10 Even though he might have been less expensive than
11 a "new" generator who bid more and is eligible for
12 SEP payments. Because he's going to get the
13 money.

14 So we have this perverse outcome where
15 existing generation that may well be cheaper from
16 a ratepayer perspective is not going to go
17 forward, not going to have a place to sell his
18 product, and be replaced with the new stuff, which
19 is more expensive, that does have access to the
20 Supplemental Energy Payment.

21 It seems to me counterintuitive and
22 perverse to have that kind of structure. And
23 we've got a lot of megawatts that are going to be
24 coming available over the next five or ten years
25 as their existing contracts expire.

1 Secondly, I look at the geothermal
2 language that deals with baseline. And when I
3 step back and think about it, I think we're in a
4 situation where if a geothermal developer, who now
5 has an existing contract with Southern California
6 Edison, for example, if they bid -- if Edison does
7 not deal with them to re-up that contract, or
8 allow them to bid into the option, they have no
9 place else to go.

10 They can't bid in PG&E's option, they're
11 not eligible to bid for SEP payments, they're not
12 eligible to bid except if they are affecting
13 PG&E's baseline, which means PG&E would be taking
14 that contract within their baseline and still have
15 to get their annual procurement payment.

16 So they would have to be getting double
17 the megawatts that year, and they have a
18 disincentive to do that probably. So you're
19 creating a structure where that type of generation
20 has limited market opportunities and there's no
21 incentive for the utilities to sign them up, and
22 we lose that output. I don't get that.

23 Third, I look at the language in here,
24 and the language speaks to the fact that the
25 Energy Commission indicated, in the Guidebooks,

1 that a generator, in order to be eligible to have
2 SEP payments, must have a contract with a utility.

3 Well, I'll guarantee you a generator is
4 not going to generate a contract with a utility
5 until they know how much money they have from the
6 Energy Commission to build the project and operate
7 it.

8 So you have a conundrum, a paradox. A
9 generator isn't going to sign a contract with a
10 utility before he knows how much money he's
11 getting from you, if he needs any, and you're not
12 going to tell him how much money he's going to get
13 or give that money to him until he's got the
14 contract with the utility. We have a problem
15 here.

16 Fundamentally, I ask what are we doing
17 and why? Almost everybody that I talk to agrees
18 that this legislation is some of the worst stuff
19 for an RPS that we've seen in this country if not
20 the world. And this is what they'll tell me
21 privately.

22 This is just a mess. We're a
23 laughingstock if you talk to people across the
24 country about the complexity of our program. And
25 it's not the staff's fault. It derives from the

1 legislation itself. It's very clear. As was
2 pointed out by the gentleman who's presenting the
3 hydro, there is just some fundamental flaws in the
4 legislation.

5 I step back and ask why are we trying to
6 implement this bill, why are we spending so much
7 energy on it, why don't we try to kill it as a
8 collective industry? I don't think the staff
9 thinks this is a very good bill, I certainly
10 don't. We need to clarify this and clean this up
11 and have an RPS that California can be proud of,
12 that makes it easy to implement.

13 I have visions of that. I'd like to
14 work with the Commission on how to do that, and
15 the rest of the stakeholders. Because we are in a
16 process, spinning our wheels, for a mechanism that
17 is not going to be utilized in the next year, I
18 don't believe. And maybe there's a better use for
19 our resources.

20 And I appreciate the opportunity of
21 another week mulling over my thoughts as I prepare
22 them for you. But if you have any questions, I'd
23 be happy to answer them now.

24 MR. MASRI: I have questions.

25 COMMISSIONER GEESMAN: Go ahead, Marwan.

1 MR. KELLY: Any questions from anybody
2 other than Marwan.

3 (laughter)

4 MR. MASRI: Your last, third point
5 notwithstanding, and assuming there's still some
6 value in doing some of this, your first point
7 about not being eligible for SEP. The pretty
8 obvious structure has two incentives, one for new
9 and one for existing. That has not changed.

10 In other words, an existing project's
11 bidding may not be eligible for SEP, but depending
12 on what technology it is will be eligible for the
13 existing incentive, that still is here.

14 MR. KELLY: But the only money that's
15 going to existing facilities is tier one, isn't
16 that correct? Tier one, a little bit to tier two.
17 Which means tier three is out.

18 MR. MASRI: Right. I mean, I'm saying,
19 depending on the technology. And presuming that
20 tier three is not eligible any more, because there
21 is no need for that incentive.

22 MR. KELLY: But the fundamental flaw is
23 that you can end up with a situation where the
24 ratepayers are paying more for the new stuff --
25 and maybe that's what the state wants -- than they

1 can get the existing stuff.

2 And the existing stuff isn't going to
3 have a renewable market, I don't know what they're
4 going to do with it, they're either going to go
5 under or they're going to sell to whatever market
6 they can on a non-renewable basis.

7 We're working on certification and
8 tracking, and I think that's a great project for
9 this Energy Commission to do, and I think the
10 staff are doing a great job on that. And in that
11 the language has all these certified generators
12 participating in this program.

13 Well, most of this may end up in a
14 situation where the existing generators have
15 absolutely no incentive to participate because
16 they get absolutely nothing out of it for your
17 tracking purposes. Because they are selling a non-
18 renewable product to somebody in Arizona because
19 they can't sell it in state.

20 And that problem does not go away
21 whether they've got existing money or not. I
22 mean, they may get existing money from the fund,
23 and still be cheaper than the next newest guy, and
24 they won't have enough SEP to go forward, and
25 you'll lose the output. It really, it doesn't fix

1 the problem.

2 COMMISSIONER GEESMAN: Well, Mr. Kelly,
3 we look forward to reading your written comments.

4 MR. HERRERA: Commissioner Geesman, may
5 I make one comment -- Steve, your last point about
6 the conundrum about the CEC funding and the IOU
7 contracts.

8 The way it's set up right now is the
9 Energy Commission wouldn't actually award the
10 funding to, say, a winning generator under a IOU
11 solicitation, until they had this contract in
12 place. But we would certainly notify them in
13 advance of how much money they would be eligible
14 for.

15 So they would know that. It's just that
16 we couldn't legally award those funds until they
17 had passed the CEQA. Just to clarify that.

18 MR. KELLY: Well, you've got this
19 business issue here from a generator perspective
20 about am I going to execute this contract with the
21 utility without having the grant -- I'll call it a
22 grant -- from you guys for this piece. And 99
23 percent of the time you're going to come through
24 wit the money, the one percent you don't,
25 somebody's going to be out of luck.

1 The other problem you've got, you've got
2 this provision that says well, we can adjust the
3 payments down the road, if there isn't enough
4 money, or if somebody doesn't produce. You just
5 entered into a contract with a utility under the
6 presumption that you've got this revenue flow for
7 ten years. if it stops in year six, for whatever
8 reason, it's a big problem.

9 Now we've been talking about this in the
10 PUC/RPS standards terms and conditions context,
11 where I've been arguing that we need an offramp.
12 If the Energy Commission pulls the money back for
13 whatever reason then the generator has an offramp
14 to get out of the contract, and the PUC hasn't
15 adopted that yet.

16 But there's a problem there, from a
17 business perspective, the people who are willing
18 to take that risk on. And if they are willing to
19 take that risk on, what it means is they're
20 increasing their costs to adjust for that. And
21 it's an unnecessary increase to the cost of
22 renewables to California ratepayers, in my view.

23 COMMISSIONER GEESMAN: Well, as I said,
24 we look forward to reading your written comments.
25 I do have a slightly different take on the general

1 comments that you made, though.

2 Is it -- as I think everybody in the
3 room knows, I'm not a particular admirer of the
4 statutory sausage-making process that we've been
5 going through. But I am an admirer of the
6 legislative authors that created the program. And
7 I think the program has served a substantial
8 value.

9 Both to the California ratepayers and to
10 the renewables industry. I admire the way in
11 which my colleagues at the Public Utilities
12 Commission, and on this Commission, have chosen to
13 accelerate the 20 percent goal to 2010. I
14 certainly admire the way in which the new Governor
15 is not only embraced the acceleration, but
16 embraced a 30 percent goal for 2020.

17 All of those, I think, have served a
18 constructive purpose over the course of the last
19 year and a half since the bill was signed. San
20 Diego has gone from zero to seven percent. I
21 think that's significant. PG&E has gone from ten
22 to 12 percent, despite their bankruptcy, and I
23 think that's significant.

24 And I have complimented the Southern
25 California Edison company on many occasions for

1 their remarkable achievement of 20 percent. I do
2 think that none of those would have occurred were
3 it not for the fact that the state has made a very
4 serious commitment, and a commitment that has been
5 understood by the three investor-owned utilities.

6 I think there's a lot more to do in
7 addition to this sausage-making process. There's
8 some statutory clarifications that would obviously
9 be helpful. I think, with respect to Edison in
10 particular, that it would be helpful to hold them
11 to a higher standard. I think they are more than
12 capable of achieving more than 20 percent.

13 And as I think a lot of you know, I
14 called on their CEO some number of months ago,
15 when they announced their achievement of the 20
16 percent target area, to set an internal corporate
17 goal of 30 percent. I think more of you need to
18 echo that call.

19 I think it's well within their capacity
20 to do. They've purchased more renewables than any
21 other utility in the United States. Our Renewable
22 Resources Development Report made clear that 75 to
23 80 percent of the commercially available renewable
24 resources are in their service territory.

25 So I think they should be expected to be

1 an earlier performer on the Governor's embraced 30
2 percent goal.

3 I think this program accomplishes a lot
4 in terms of moving renewables forward. And I
5 think that, you know, a lot of us are frustrated
6 at the pace so far. I know there's a great deal
7 of concern that most of those contracts have gone
8 to existing facilities and when construction has
9 not been as large as many had hoped.

10 I think in the years ahead you'll see
11 more of that, and its incumbent upon all of us to
12 make that happen.

13 MR. KELLY: Well, if I might respond,
14 because I agree with you. What's driving that is
15 the political leadership from this Commission, the
16 Public Utilities Commission, and the Governor's
17 Office and some of the key legislators. It's not
18 the legislation.

19 AB 57 has an RPS standard in it which is
20 very simply, and that provided the authority for
21 the PUC to move forward and reach these goals.
22 The acceleration of those goals has been achieved
23 through strong political leadership, primarily
24 from you, and the Public Utilities Commission and
25 the California Powers Authority.

1 That can occur because of leadership.
2 What I'm concerned of is that the legislation is
3 impeding achievement of some of those goals in
4 some respects, or at least miring us in debates
5 about how to create a program that has perverse
6 outcomes or non-sensical outcomes.

7 So I agree with you. The political
8 leadership in California today is very strongly
9 behind renewables, and I applaud that. And we're
10 seeing the outcome of that through the procurement
11 that have occurred to date. But they're not
12 occurring under SB 1078.

13 Ad as we're mired in trying to work out
14 the details of that, utilities are going forward
15 with procurement.

16 COMMISSIONER GEESMAN: Those are good
17 points.

18 COMMISSIONER BOYD: Steve, you're lucky
19 you have a very patient group of folks up here who
20 put a lot of stock in what you say. But I have to
21 agree with what Commissioner Geesman said.

22 I'd much prefer if you'd said something
23 about the two by four that we were given and have
24 been using effectively to get some action on this
25 was perhaps a little rough cut, and needs some

1 smoothing around the edges. Not that its created
2 a laughingstock.

3 So, a little advice on the way that you
4 approach your critique here and after. Your
5 points are well taken, but the deliver -- you have
6 to be careful about that.

7 MR. KELLY: Well, I think we should work
8 on smoothing that rough cut law, and that's my
9 offer to you, and I think the industry, as a
10 general matter, would applaud that, because there
11 is some frustration out there that I hear from
12 members and participants and stakeholders about --

13 COMMISSIONER BOYD: Well, we learn by
14 doing, and perhaps we're learning.

15 MR. KELLY: Good. Thank you very much.

16 COMMISSIONER GEESMAN: Thank you. You
17 know, in the past the Ridgewood people have liked
18 to appear together, so why don't I call them up
19 together, unless you'd like to bifurcate
20 yourselves.

21 And you need to identify yourself for
22 the benefit of the Court Reporter and the Internet
23 audience.

24 MR. SHORT: We hate to break up a set.
25 There's only two of us this time. I'm Bill Short,

1 I'm a Vice President of Power Marketing for
2 Ridgewood Olinda LLC.

3 MR. LACOURCIERE: Paul Lacourciere, I'm
4 one of the paid consultants who are benefitting
5 from the prolonged proceedings here. One of the
6 attorneys.

7 First off, we're happy to be here again
8 and have the opportunity to comment on another
9 draft set of guidelines. And we are really happy
10 to see progress. I mean, it has been a long
11 process, but we are starting to see some light at
12 the end of the tunnel.

13 And with respect to the guidelines that
14 have come out, we've been very happy with a number
15 of the provisions that are set forth. The re-
16 power provisions, in particular, we think the
17 Commission did an excellent job drafting.

18 We do have a couple of concerns, one of
19 which shows up on page two of the Renewable
20 Portfolio Standards Eligibility Guidebook. Down
21 towards the bottom of the page it talks about the
22 renewable energy credit and proposes a definition
23 of the REC.

24 And this has been an ongoing issue for
25 Ridgewood and others at the PUC, and we've had a

1 lot of debate over what the definition of a REC is
2 and should be, and that debate is still continuing
3 at the PUC.

4 So we'd prefer that the Guidebook be
5 modified so that the REC definition incorporated
6 in here, rather than actually proposing a
7 definition, simply refers to the definition that
8 would ultimately be adopted by the PUC. And we'll
9 propose language in our comments on the Guidebook
10 for that.

11 And then our second set of comments, our
12 third set really, relate to the delivery
13 standards. And Mr. Short will address that.

14 MR. SHORT: Yes. Basically, we'll go on
15 the record here. Ridgewood supports the concept
16 of out of state renewable generators being capable
17 of satisfying the California RPS. However, these
18 generators have to essentially operate their unit,
19 schedule that production into the state such that
20 it essentially backs off generation in this state,
21 and approves air quality as well as also preserves
22 electric reliability.

23 What does out of state delivery mean?
24 Basically, what we believe should be said in here,
25 and we'll propose some draft insertions here, is

1 that it means that the generator has to obtain
2 what's commonly called in the trade a NERC tag,
3 that that NERC tag would be for unit contingent
4 transmission, that means essentially when the
5 generator runs, essentially the contract -- and
6 the term in the trade is flows -- from essentially
7 that generator located in that adjacent control
8 area into the California ISO area.

9 Essentially there should be that the
10 source -- and this is specific there when you look
11 at exactly what it is in a NERC tag -- the source
12 of that generator would be the generator
13 substation associated with the out of state
14 generator, and that essentially the sink, which is
15 commonly referred to either as the hub or
16 essentially the substation in state, that
17 essentially the sinks be somewhat specified.

18 First off, essentially, for purposes of
19 receiving SEP payments, it turns out that many of
20 the substations here in the state are municipally
21 owned, and therefore it represents a load, and
22 therefore represents a load that is receiving
23 renewable energy for which no SEP payment is
24 essentially being turned over to the state.

25 So essentially, for purposes of SEP, we

1 have to essentially modify this slightly for SEP
2 payment-related generation brought in. We have to
3 exclude what's commonly referred to in the
4 language as essentially a hub, and insert
5 essentially only a substation.

6 With respect to RPS qualified only
7 generation, not receiving SEP payments, the
8 language should be modified such that it can
9 either be what's called, commonly referred to as
10 the zone by the Cal ISO, is referred to as a hub
11 or a substation, as well as also a substation.

12 Essentially there should be a break
13 there for people wishing to receive SEP payments
14 versus people not wishing to receive SEP payments
15 which have RPS qualified generation.

16 Last two items are that whatever
17 generation is claimed to have been brought into
18 the state, it needs to be verified independently,
19 and that's probably going to be a function of the
20 WREGIS administrator. Those discussions, that
21 group, is meeting right now.

22 Last but not least, there should be a
23 sworn statement from the generator that he
24 effectively hasn't sold the generation twice. And
25 again I think that's also going to be wrapped up

1 in the WREGIS stuff.

2 In the preparation of essentially giving
3 you these comments we spoke with the California
4 ISO. Ridgewood Olinda is actually a participating
5 generator and member of the ISO, and we took pages
6 14 and 15 of the document here and sent them to
7 them, and they looked them over.

8 Whatever is prepared here, they would
9 like to essentially look at. We went over
10 essentially a lot of the differences or
11 nomenclature. They use a very technical
12 terminology.

13 And that it's not really that we really
14 have it wrong here and they have it right, it's
15 just that, to the extent we can come up with
16 essentially a common language that they can agree
17 with and the CEC can agree with, I think it would
18 be in everyone's best interest. It removes all of
19 this uncertainty.

20 Last but not least, they did want to
21 point out one thing. And that is that they cannot
22 be the purchaser of any electrical energy. The
23 various acts that are referred to, like SB 67,
24 talks about the California Independent System
25 Operator being a buyer. They're clearly not a

1 buyer. They arrange sales between sellers and
2 buyers.

3 One final comment on this is that there
4 will be people who may propose something other
5 than this type of delivery standard. We're very
6 leery of that, and the reason is very simple.
7 Unless you essentially affect generation dispatch
8 by running the generator out of state and having
9 it brought into this state, you do not get the
10 local air quality benefits.

11 And when the local air quality benefits
12 don't show up, you get the fallout that took place
13 in los Angeles about a year and a half ago,
14 essentially where they had an audit of their green
15 power program.

16 And it was determined, based on that
17 audit, that the green tags that had been purchased
18 had absolutely no impact whatsoever on generation
19 dispatch, that essentially the program was, in the
20 words of the firm that was hired, it bordered on
21 almost consumer fraud.

22 The title of the program was Clean Power
23 For A Clean LA. And at the end of the day, the
24 actual fuel use of the customer of Los Angeles
25 Water and Power did not change one iota as a

1 result of essentially this program.

2 The customer's had paid some money, they
3 effectively -- as Nancy Rader pointed out -- sent
4 their dollars outside of their franchise area, for
5 which they received absolutely no benefits
6 whatsoever with respect to fuel use and/or air
7 quality and/or electric reliability. Thank you.

8 COMMISSIONER GEESMAN: Bill, offline,
9 can you suggest specifically to our staff who they
10 should be talking to at the ISO?

11 MR. SHORT: Oh, most certainly. Be glad
12 to give them name and phone number at the end of
13 the meeting.

14 COMMISSIONER GEESMAN: Great. I have
15 one question for you, Paul. I'm not certain that
16 I understand the logic of simply putting a
17 placeholder in for the definition of REC to
18 whatever the PUC ultimately determines it to be.

19 If it's clear in your mind as to what it
20 ought to be defined as, and given the fact that
21 we've been working so closely with the PUC staff,
22 why ought we not to adopt a definition now?

23 MR. LACOURCIERE: Actually I would be
24 happy if the Commission adopted a definition now
25 that Ridgewood was happy with, but it's been a

1 hotly contested issue at the PUC.

2 We've had extended testimony, briefing,
3 cross-examination on the issue, and it's moving
4 forward, and it's one of the issues that the
5 Commission is supposed to be addressing as part of
6 the standard terms and conditions for contracts.

7 So rather than have all the parties have
8 to argue over the issue at two Commissions it
9 would be more efficient just to, hopefully,
10 address the issue at one.

11 COMMISSIONER GEESMAN: Okay, I
12 understand. Thank you very much.

13 MS. RITCHIE: Good morning, my name is
14 Kirsten Ritchie, I'm with Scientific Certification
15 Systems. I just have a few brief comments that I
16 wanted to make right now, but we will be
17 submitting our written comments by Monday. You
18 don't know us yet so we don't get the week
19 privilege yet.

20 In general, we want to say that the
21 eligibility specifications for renewable energy
22 provided by the Guidebook are a good starting
23 point, but we believe they lack two important
24 dimensions.

25 The first is really, we need to define

1 how renewable these sources are. In 1999 the
2 National Association of Attorneys General,
3 including California, took testimony and published
4 a definition of renewability for power systems.

5 In essence, they said "a renewable
6 energy source is defined as any energy source that
7 is naturally replenishable, and replenished at
8 some reasonable time scale." Further comment
9 directs that "the replenishability shall be on a
10 reasonably short time scale."

11 There is plenty of evidence to
12 demonstrate that some of the proposed RPS sources
13 may not meet such a renewable definition. For
14 example, in the area of geothermal, wet wells are
15 running cold in a ten to 15 year time frame and
16 are not naturally replenishing.

17 Therefore, we'd like to recommend that
18 the Guidebook provide minimum requirements in line
19 for the technical definition of renewability.

20 Second, we think it's important that,
21 you need to define the specific environmental
22 benefits or burdens that are presented by each of
23 the eligible sources. For example, do these
24 benefits or burdens vary by location, by scale, by
25 time -- as was mentioned earlier by Mr. Kelly --

1 or by other variables?

2 It's quite clear from our research that
3 some renewables have high impacts. For example
4 biomass, where there are huge land use issues, or
5 they have legacy air pollution control equipment.

6 Therefore, in terms of the certification
7 process, where you're basically putting your stamp
8 and saying "this is a renewable product", we would
9 propose that, in the interest of fairness and
10 transparency, eligible sources should also be
11 required to establish their environmental impact
12 profile.

13 This information should be derived based
14 on life cycle impact assessment signs, as defined
15 internationally under ISO 14042. The information
16 should be publicly available via product
17 environmental performance declaration statement
18 consistent with ISO 14025.

19 And finally, we think consumers
20 purchasing a percentage of renewable power should
21 be able to see how their purchases result in
22 environmental impacts and hopefully benefits that
23 are different than the standard energy mix that
24 they would be purchasing. Thank you very much.

25 COMMISSIONER GEESMAN: Now let me ask

1 you one thing, in terms of framing your written
2 comments. And that is that you address the extent
3 to which we should address those questions that
4 you raise, and the extent to which they should be
5 or already have been addressed by the Legislature
6 in the statutes that govern us.

7 MS. RITCHIE: Right. Will do. Thank
8 you.

9 COMMISSIONER GEESMAN: Thank you very
10 much. Gary Allen.

11 MR. ALLEN: Thank you, Commissioner. A
12 number of comments come to mind. I would like to
13 focus first on the certification issues, roughly
14 page 15 and 16. And I'm assuming that the
15 existing renewables are by definition certified
16 under this process, as qualifying for the RPS
17 program, at least in terms of meeting the
18 baseline.

19 It's not clearly spelled out in the
20 text, and so I just want to ensure that that's the
21 intent.

22 MR. TUTT: I believe that that's the
23 expectation, and that obviously they are
24 generating now. But we do anticipate that they
25 will apply for certification like new generators,

1 and at that time will become certified.

2 They're registered right now pursuant to
3 Energy Commission's guidelines for funding, but
4 they're not "certified". So they would be subject
5 to this process.

6 MR. ALLEN: I think this similarly sets
7 up a perverse situation, where the existing
8 renewables could demand from the ratepayers
9 additional funds in order to petition the
10 Commission to be certified. And I don't think
11 that's a preferred alternative, or a preferred
12 option, is my thought.

13 Secondly, with respect to the fossil
14 fuel use. SCE had made comments before that
15 perhaps the Energy Commission should adopt the
16 same specified uses for the fossil fuel
17 supplements as did the FERC in their regulations.

18 I think for existing renewables that's
19 probably a workable program. In terms of the new
20 renewables and the particulars that were called
21 out I have some questions and issues with
22 particularly separate metering of the projects.
23 That would make the IOU purchase extremely
24 cumbersome to begin with, and it may not be
25 allowed under the ISO rules.

1 I think the ISO-- and I'm not too close
2 to this, but I think they have a rule where you
3 have a single meter for a single generator. And
4 it would be difficult to separately meter and
5 connect to the ISO. So I think there are some
6 issues there.

7 And let me just say, we too are in the
8 state of just going through this document, and
9 will have more thoughtfully produced comments on
10 Monday and/or Friday, depending on which it is
11 that is the deadline for the comment.

12 COMMISSIONER GEESMAN: Well, I'll extend
13 the same admonition to you that I did for Mr.
14 Kelly. I'm not going to relax the deadline, but
15 since your comments in the past have in fact been
16 so helpful, I won't penalize you if I don't see
17 them until next Friday.

18 MR. ALLEN: Great. Thank you. The
19 third area of concern is the SEP caps. I think
20 Mr. Kelly somewhat correctly hit the nail on the
21 head. If the generators don't know what their
22 supplemental energy payments are going to be, this
23 whole program falls in the pile of cards.

24 So I think we really need to focus on at
25 least implementing it without such caps, as

1 opposed to providing for caps. The caps just seem
2 to add complexity and confusion to the issue, as
3 we see it.

4 A couple of additional comments. I
5 think Mr. Kelly may have misinterpreted our filing
6 on Monday. Yes, we have met the existing
7 requirement, but there is still a lot of work to
8 do, and I think we still intend on having
9 additional RPS RFP's in the future. I don't think
10 we're going to just rest on our laurels. So I
11 think we will continue to pursue renewable
12 projects.

13 And with respect to the greater than 20
14 percent requirement, I think there are a number of
15 issues on the table which would cause us to be
16 concerned about going further than our obligation,
17 not the least of which is what is our customer
18 base right now, with the core/non-core, the direct
19 access, and the CCA issues on the table we're not
20 inclined to do more than what is absolutely
21 required.

22 Until we can get that better defined we
23 will probably stick somewhat to the 20 percent
24 requirement that is on the table.

25 COMMISSIONER GEESMAN: I don't recall

1 any of those questions being raised in your
2 pursuit of the fleeting opportunity being
3 represented by the Mountain View contract.

4 MR. ALLEN: I cannot comment on that.
5 However, I would say that I don't think those
6 issues were on the table at the time that we
7 entered into that. But that's just a laypersons
8 viewpoint, and I will carry that back to the
9 headquarters.

10 COMMISSIONER GEESMAN: I think those
11 questions have been on the table for the last
12 several years, and I think it would be preferable
13 for your company to look at the renewable
14 requirements as less of an obligation and more of
15 an opportunity. Your company has led this country
16 in renewables, and I think it has the opportunity
17 to do more.

18 MR. ALLEN: I accept that. I would also
19 respond that our ratepayers have incurred the cost
20 over many years, and in fact to some extent that
21 is why the direct access consumer, or core/non-
22 core issues, are on the table today, because of
23 the direct cost of renewable program.

24 COMMISSIONER GEESMAN: Well, I would
25 suggest that the indifference toward customer cost

1 represented by the Mountain View contract explains
2 a lot more as to why there is movement toward
3 core/non-core than does your performance in
4 renewables.

5 And your acceleration of your renewable
6 performance from 15 to 20 percent over the course
7 of the last year did not involve one dime of
8 supplemental energy payment or customer subsidy.

9 MR. ALLEN: Well, that's an interesting
10 debate that we could have. I respect your
11 position.

12 COMMISSIONER GEESMAN: I look forward to
13 your company's response.

14 MR. ALLEN: Great. Thank you very much.

15 COMMISSIONER GEESMAN: Terry German.

16 MR. GERMAN: Thank you, Commissioners.
17 Thank you staff. I just have two brief comments.
18 My name is Terry German, I'm representing North
19 American Power Group.

20 First comment goes to number four on the
21 Appendix to the Notice. In reviewing the RPS
22 eligibility guidelines, it defines biomass. And
23 that definition would encompass bio-diesel
24 facilities. This reporting requirement, however,
25 would be almost impossible for a bio-diesel

1 facility to comply with.

2 For example, there is a requirement to
3 identify the air district where the biomass
4 originated. In a bio-diesel facility, if a
5 facility purchased bio-diesel that has already
6 been produced, that information is not going to be
7 available.

8 Likewise, if we were to go out and
9 purchase the oil stock to produce the bio-diesel,
10 we would not know the origin of the crops that led
11 to the production of that oil, making that an
12 almost impossible piece of information for us to
13 provide. So we were going to request that that
14 requirement be modified to address the specific
15 concerns of bio-diesel.

16 Second comment goes to number 11 on the
17 Appendix. And North American is just going to
18 request that the 25 percent requirement be
19 retained. And I'll second Mr. Allen's comments
20 that, at a minimum we think that it should mirror
21 what the federal requirements are.

22 We will be submitting detailed written
23 comments on Monday, addressing this in further
24 detail.

25 COMMISSIONER GEESMAN: Thank you very

1 much.

2 MR. SKOWRONSKI: Mark Skowronski with
3 Solargenix. I have two comments. First one is on
4 the draft Guidebook, Renewable Energy Portfolio
5 Standards Eligibility Guidebook, on page 13. You
6 reference the 25 percent rule, this is the 25
7 percent fossil energy input into hybridized
8 renewables, specifically solar thermal.

9 I'd like to point out firstly that, in
10 the final Commission report on Phase Two
11 implementation, dated October 21, basically the 25
12 percent rule was accepted, that you could not
13 exceed 25 percent but you could go up to 25
14 percent fossil input into a renewable.

15 To revisit it now would be, from a
16 regulatory standpoint, be contradictory and in
17 general unfair. The appropriate forum to discuss
18 this issue has already been passed and the
19 decision has been made.

20 Secondly, I'd like to point out that the
21 existing contracts already have the 25 percent,
22 and there would be more or less a disconnect to
23 have a different standard from existing contracts
24 than from new contracts. If you try to
25 incentivise solar thermal it seems contradictory

1 to dis-incentivise, based on what we have done in
2 the past.

3 Number three, I'd like to point out that
4 if the 25 percent rule is changed and the
5 threshold is lowered, that merely is going to
6 increase SEP payments, and solar thermal is now
7 asking for more than its fair share, but certainly
8 we shouldn't be put in the position where we have
9 to ask for more.

10 Fourthly, I think, I'd like to point out
11 that there is a natural advantage to using fossil
12 fuel in solar thermal. It costs us about eight
13 percent capital increase to hybridize our
14 technology.

15 And for this minuscule eight percent we
16 can provide firm capacity, increase the energy
17 simply because we heat the working fuel a little
18 bit hotter with the natural gas, and this also
19 basically lowers the levelized energy cost to the
20 ratepayer. All for a lousy eight percent. And
21 that more than provides value over a as available
22 solar thermal when we have to follow the sun.

23 And lastly, depending on where you set
24 this cap rate that's less than 25 percent, this
25 has identifications of killing the technology,

1 simply because if we can't provide firm capacity
2 on peak and be compared to combustion turbine,
3 then we're going to be as available.

4 I'd like to point out also in the
5 October report cost comparisons study issued by
6 the CEC that the cost comparison basically said
7 solar thermal with gas assist at 25 percent
8 essentially equals the cost of a combustion
9 turbine. And if you take away that 25 percent
10 those costs will now have a disparity.

11 Next issue on the draft Guidebook, New
12 Renewable Facilities Program, on page eight, we're
13 talking about the establishment of caps for the
14 SEP payment, the book says that it's not
15 recommended to establish firm caps now, that they
16 basically should be established on a case by case
17 basis.

18 We at Solargenix, however, would
19 recommend that some sort of criteria be
20 established. We're concerned about potential
21 discrimination by product. And let me give you an
22 example.

23 If you buy wind at a nickel, and you
24 have a separate cap at two cents, and you buy a
25 higher valued product, such as solar thermal firm

1 capacity firm energy, and you pay ten cents for
2 the same two cent cap, then the wind industry
3 basically gets a 40 percent incentive and we in
4 the solar thermal industry get a 20 percent
5 incentive.

6 We're not saying what the cap rate
7 should be, just that a criteria should be
8 established such that each technology is evaluated
9 based on its merit. Thank ou very much.

10 MR. TUTT: Mark, can I ask you a
11 question? I wonder if you have a comment on item
12 12 on the list of issues, which -- I'll read it
13 for the record, "as an alternative to the 25
14 percent limitation the Committee seeks comments on
15 whether the Commission should allow any metered
16 eligible renewable generation to qualify for the
17 RPS, regardless of the amount of fossil fuel
18 used," I guess would be the issue.

19 MR. SKOWRONSKI: We would agree with the
20 Edison, that I think from an ISO metering
21 standpoint it would complicate the issues, and if
22 you just set a 25 percent limit and count it as a
23 renewable, you know, we'd like to go with that.

24 MR. TUTT: Would you say that a 500
25 megawatt natural gas-fired power plant with a

1 solar thermal addition on it would qualify as a
2 renewable under that interpretation?

3 MR. SKOWRONSKI: No, I mean, no. We'd
4 only be providing approximately eight percent of
5 the combined cycle. However, I think provisions
6 should be made for the renewable component of that
7 plant.

8 MR. TUTT: How would we make that
9 provision if there was a 25 percent limit on the
10 fossil fuel use of that facility?

11 MR. SKOWRONSKI: Well, there'd be no
12 limit on the solar heat input. We can measure the
13 solar heat input very easily.

14 MR. TUTT: So we should look at that
15 solar heat input separately, and provide some
16 compensation for that is what you're saying?

17 MR. SKOWRONSKI: Yes.

18 MR. TUTT: Okay.

19 MR. SKOWRONSKI: But not with the 25
20 percent. We actually, with the June 29 hearings,
21 I thought we had an agreement that if it was a
22 stand alone solar plant it would be 25 percent,
23 but if it was a combined cycle we'd just count the
24 renewable component by itself.

25 That seemed inconsistent, but I thought

1 that was the direction the AOJ was heading.

2 MR. TUTT: The June 19th hearing at the
3 PUC?

4 MR. SKOWRONSKI: Yes, the PUC, not the
5 CEC.

6 MR. TUTT: I don't know that it showed
7 up in a decision anywhere in that directly.

8 MR. SKOWRONSKI: It didn't. That's
9 true.

10 MR. TUTT: Certainly the eligibility
11 decisions are really given by law to the Energy
12 Commission, so that would be important in your
13 written comments to perhaps address that issue
14 further.

15 MR. SKOWRONSKI: Okay. Thank you, Tim.

16 COMMISSIONER GEESMAN: Thank you very
17 much. Greg Morris.

18 MR. MORRIS: Hi, Commissioners, Greg
19 Morris, Green Power Institute. And really these
20 are remarks of the California Biomass Energy
21 Alliance.

22 And I just have a couple of quick
23 comments to make. First, I'd like to reiterate
24 the request of Ridgewood to please not include any
25 interim definitions of RECs or prejudge that

1 issue. It is being litigated. It's at the very
2 core of the renewable energy program, and I think
3 it would be best to let it take it's course at the
4 PUC.

5 Number two, and I'm addressing the
6 language on the biomass requirements for new
7 biomass facilities, and I have to tell you that
8 the Biomass Energy Alliance is a little skeptical
9 that there will ever be new biomass facilities in
10 California, simply because biomass is an expensive
11 technology.

12 But I believe that we do want to at
13 least lay the groundwork that would allow biomass
14 to compete on whatever basis they're able to do
15 so.

16 And what I'm concerned about in the set
17 of questions that are appended to the notice --
18 imposing the same reporting requirements for a new
19 biomass facility receiving SEP's has been used for
20 those biomass facilities, claiming the egg credit,
21 that the program has been in process.

22 It requires quite a bit of specific
23 reporting of fuel use in order to receive the
24 payments, and I'd just say that biomass is already
25 at a competitive disadvantage because of the

1 innate expense of biomass power production, and if
2 self certification of their use of fuel is
3 consistent with the statutes, and we've already
4 determined that at a very minimum self certify
5 that, I'm hoping that that will be enough.

6 And again, having them keep those
7 records on site, in detail, so that if there's
8 ever a need for audit or question that that
9 material and verification is available, but not to
10 make them submit that kind of documentation with
11 every SEP invoice. It's just another burdensome
12 thing that makes biomass that much less able to
13 compete.

14 And in that spirit I would also say that
15 biomass being deemed eligible by the legislation,
16 to ask it once again to justify its environmental
17 qualification as a renewable resource, there's a
18 whole literature out there that discusses that.

19 It should not be part of this program,
20 not for biomass, not for any other renewable for
21 that matter. They are already in statute defined.
22 Thank you.

23 COMMISSIONER GEESMAN: Well, help me
24 through this, Greg. The cost burden between
25 maintaining records in audible form or quality

1 versus submittal. We're saving copying costs and
2 postage costs? Or --

3 MR. MORRIS: Well, it's a little more
4 than that, because the way that they're doing it
5 in the Ag offset program is, the information that
6 they submit becomes public, and therefore they
7 have to submit only information which would not
8 impinge on their competitive position and so on.

9 So they have to sort of mask it through
10 job numbers and so on, and keep, you know, so it
11 kind of doubles the burden of paperwork so that
12 you can submit to the Commission enough
13 information but not too much to, you know,
14 compromise their competitive position vis-a-vis
15 other suppliers.

16 COMMISSIONER GEESMAN: So is it a
17 confidentiality question?

18 MR. MORRIS: That certainly is part of
19 it. The cost information wouldn't be part of it
20 anyways, I mean cost of fuel information would not
21 be part of it.

22 MR. TUTT: Greg, I wonder if you can
23 help us with a requirement that was given to the
24 Energy Commission by SB 1038 to report on the fuel
25 use of biomass facilities that are receiving SEP

1 payments, I believe it is?

2 MR. MORRIS: Okay, I should go one step
3 further. An annual summary report might do that
4 for you, because they do keep the records.

5 MR. TUTT: You would still be able to
6 keep the records and provide some annual
7 submission of that information so that we could
8 provide our report to the Legislature?

9 MR. MORRIS: Yes. I think that would be
10 preferable from the biomass facilities'
11 perspective. You know, an annual report, because
12 after all you're going to want to know about all
13 their fuel anyway.

14 Whereas in the Ag offset program it's
15 only that the Ag offset qualifying fuel, which for
16 some is not a significant percentage of the total.
17 Thank you.

18 MR. TUTT: Thank you, Greg.

19 COMMISSIONER GEESMAN: I've exhausted my
20 cards. Is there anyone else that cares to address
21 the Committee today? Nancy?

22 MS. RADER: Hi again. I want to request
23 an extension until Friday also.

24 (laughter)

25 COMMISSIONER GEESMAN: Granted, you too,

1 but --

2 MS. RADER: Sorry. A lot of things came
3 up today, and one of them I just want to respond
4 to and that is the SEP payment cap. I think, as
5 some of you may remember, I was an ardent opponent
6 of those caps. I've changed my mind in light of
7 the true solar contract.

8 I would suggest that this Commission
9 serve as a double check on the least cost best fit
10 process being properly executed.

11 And I think that answers the concern of
12 Mark Skowronski that, you know, the differences in
13 the value of wind and solar be looked at fairly,
14 through the least cost best fit process. But I
15 would like to see a double check, to make sure
16 that that process was executed correctly.

17 And if not, you know, then insert the
18 cap at that point. That's all I have.

19 COMMISSIONER GEESMAN: We look forward
20 to your written comments.

21 MS. RADER: Thank you.

22 COMMISSIONER GEESMAN: Steven?

23 MR. KELLY: In order to get ahead of
24 everybody, can I file early?

25 (laughter)

1 I just wanted to get that in there, that
2 shot in there. First in, last out.

3 COMMISSIONER GEESMAN: Anybody else?
4 Thank you very much. This has been very helpful.
5 We look forward to those written comments that
6 will be coming in next week.

7 (Thereupon, the examination ended at 11:50 a.m.)

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CERTIFICATE OF REPORTER

I, ALAN MEADE, an Electronic Reporter,
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that it was thereafter transcribed into
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I further certify that I am not of
counsel or attorney for any of the parties to said
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IN WITNESS WHEREOF, I have hereunto set
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