

LEAD COMMISSIONER WORKSHOP
BEFORE THE
ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
CALIFORNIA ENERGY COMMISSION

In the matter of,)
) Docket No. 11-RPS-01
)
Developing Regulations and)
Guidelines for the 33 Percent)
Renewables Portfolio Standard)

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 9TH STREET
SACRAMENTO, CALIFORNIA

TUESDAY, JANUARY 28, 2014

9:34 A.M.

Reported by:

Peter Petty

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CEC Staff Present

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Susie Berlin, City of Redding, California

Anthony Andreoni, CMUA

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Jane Luckhardt, Downey-Brand

James E. Hendry, SFPUC

Andy Schwartz, Solar City (Via Telephone)

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P R O C E E D I N G S

1
2 JANUARY 28, 2014

9:34 A.M.

3 MR. KOOTSTRA: My name is Mark Kootstra. I work
4 in the Renewable Energy Division on the RPS. We're
5 going to go through a little bit more information about
6 how this workshop is going to run but, first, I'm going
7 to let Commissioner Hochschild say a few words, if he'd
8 like.

9 COMMISSIONER HOCHSCHILD: Good morning, friends
10 and welcome. I gather we're having some technical
11 difficulties, which it wouldn't be a true Energy
12 Commission workshop without some technical difficulties.

13 But I'm David Hochschild. I'm the Lead
14 Commissioner for Renewables here at the Energy
15 Commission.

16 To my left is my advisor, Gabe Taylor, and to my
17 right is Gabe Herrera, our attorney, and Mark Kootstra.

18 I want to welcome all of you here this morning.
19 And just to be clear, you know, the RPS is, as we know,
20 touches three agencies, the ARB, the Energy Commission
21 and the PUC.

22 And what we're dealing with here is the RPS
23 Guidebook. The goal is really to collect information on
24 some of the outstanding issues in the RPS Guidebook.
25 We're not going to deal at all with the enforcement

1 issues and we're not going to deal with station power,
2 which was the subject of a dedicated workshop in
3 September.

4 But we want to solicit detailed input from you
5 on all the rest of these questions and have a healthy
6 dialogue.

7 If we could just take a minute, I'd be grateful
8 if we could quickly go around the room and ask everybody
9 here just to stand and identify yourself so we know who
10 else is in the room.

11 (Whereupon, the entire audience introduces
12 themselves.)

13 COMMISSIONER HOCHSCHILD: Did we get everybody?

14 Thank you all for being here. And we are going
15 to stay here as long as it takes to get everyone's
16 input, and we want you to not hold anything back.

17 I will report a small victory in my life which
18 is that my daughters, after I got this phone I had
19 loaded all these games onto my phone, it turns out, and
20 they've -- and these kids like send text messages like
21 I'm getting in the middle of the meetings like, you
22 know, your princess needs a new dress and time to put --
23 so, I figured out finally how to disable that so I'm
24 feeling very pleased with myself. So, one technology
25 victory this morning.

1 MR. KOOTSTRA: So, thank you very much for
2 coming. This is the first time we've tried a scoping
3 workshop on the RPS Guidebook in recent memory, for at
4 least as long as I've been here.

5 So, we're going to be doing a very special
6 workshop order, so bear with us as we go through this.

7 As you can see, our workshop agenda, we're going
8 to go through the discussions, topics identified by the
9 Energy Commission. There are six of those.

10 We'll break for lunch sometime around 12:00 to
11 1:00, depending on how the discussion flows. And then
12 we'll continue the discussion of topics identified by
13 the Energy Commission if we still have more to discuss.
14 If not, great, we can move on.

15 And then we'll be discussing topics provided by
16 you, the stakeholders. I now of a few already and I'll
17 let you know how to propose some additional ones, if
18 you'd like.

19 Last, we'll go into next steps on the process.

20 So, for housekeeping we have handouts at the
21 front table. The restrooms are located on the first
22 floor right behind you and there's a snack bar on the
23 second floor.

24 There's also a list of restaurants on the front
25 table, we well as distances and price ranges for

1 everyone.

2 And emergency evacuation procedures, please just
3 follow us. We generally meet out at the park across the
4 street.

5 For WebEx, there's interactive participation.
6 You'll be able to raise hands. For phone-in users,
7 only, you're just going to be able to comment at the
8 appropriate times.

9 For the WebEx, again, you can view the slides,
10 raise hands and chat.

11 You're going to be muted on entry for WebEx and
12 we'll unmute you at the appropriate time.

13 Unfortunately, WebEx and phone-in participants
14 aren't going to be able to participate in the standard
15 discussion because we're going to be talking back and
16 forth a lot. But we will have a comment period after
17 discussion dies down here.

18 And also, if you are on the phone and you
19 haven't already downloaded the slides, the slides are
20 posted online at the same location as the workshop
21 notice.

22 So, generally how this process is going to work
23 is for each of the six topics that we've presented,
24 we're going to ask any interested parties to come to the
25 table and join us for a discussion.

1 There will be a short presentation on that
2 topic, as well as identifying the questions that we laid
3 out in the workshop notice. Then you'll be able to go
4 through the discussion and participate however you see
5 fit.

6 I ask that when you do come to the table you
7 fill out an ID card so that we can know who it is, and
8 to make it easier on the court reporter that you'd also
9 give him your business card.

10 And as we move through process when you speak,
11 please try to remember to identify yourselves to make
12 things easier, so we can have a full record.

13 For in-person participants, if you want to
14 propose additional topics we have green cards. There
15 are some on the entry table. Brian McCullough also has
16 some, in case you haven't grabbed one. And we'll be
17 collecting those before lunch as long as we have some
18 time left, and we'll be compiling that information and
19 then putting it in order of how we're going to discuss
20 your proposed topics.

21 For WebEx and phone-in participants, please e-
22 mail your topic to "rpstrack", with "RPS Scoping
23 Workshop additional topics" in the subject line. We'll
24 review these at lunch and try and include as many as we
25 can. And we'll apologize if we can't get everybody in

1 there, depending on how our e-mail system decides to
2 work.

3 Again, due to time constraints additional topics
4 provided, we need to have those at the earliest possible
5 convenience. This says before the fourth topic or
6 lunch, whichever's earliest. I think at this point
7 that's going to be lunch, so just be prepared to have
8 those before you head out for lunch.

9 Again, going through this, sorry I'm
10 duplicating, we're going to be rearranging seats in a
11 minute so everybody can come to the table.

12 Please, if you don't have interest in a topic
13 and there are people that want to sit at the table,
14 please head into the audience so that we can get
15 everybody who wants to participate at the table.

16 If you aren't able to get a seat at the table,
17 we do have some portable microphones, as well as the
18 podium, for you to come and talk out. We don't want to
19 exclude anyone, but we want to be sure everybody who
20 wants to discuss in a major way is going to be at the
21 table.

22 After we discuss internally here, in the hearing
23 room, we'll extend an invitation to the WebEx attendees
24 and then the phone-in participants.

25 So, hopefully, you've all read the notice. The

1 purpose of this workshop is really to get directions on
2 the next set for the RPS revision process by getting
3 stakeholder input on what's going on, get your thoughts,
4 as well as any additional topics that need to be, in
5 your mind, addressed.

6 We'll then be going to Commissioner Hochschild
7 to work with him on what topics should be addressed and
8 how the initial direction should go.

9 Our hope is that this workshop will not take the
10 place of a workshop on the actual draft language, but it
11 will help us flesh out what topics we need to address
12 before we get to that stage so that we don't have to
13 delay the process after we've gone through a draft. We
14 can comment on the draft and move on. And any topic
15 that's not covered we can look at in a future workshop.

16 We also want to provide you with an opportunity
17 to raise any proposed changes that you see fit.

18 Again, we are looking at these six topics in
19 particular, as well as any stakeholder-presented items.
20 I do want to remind you that we will not be covering
21 these items, which include station service.

22 We had an entire workshop dedicated to this in
23 September of last year. You will have full opportunity
24 to comment on that in the guidebook workshop when we
25 have draft language.

1 We aren't going to be discussing the POU regs or
2 CPUC decisions, which includes portfolio content
3 categories, portfolio balance requirements and historic
4 carryover.

5 There is one set of questions on energy storage
6 which kind of straddles this a little bit, but we're
7 trying to grab scope on how energy storage should be
8 incorporated.

9 We also don't want to discuss future legislation
10 today. We recognize that that's a very valid topic, but
11 we're trying to confine our discussion to stuff that we
12 can actually accomplish now.

13 And then we don't want to discuss any specific
14 facility application reviews. If you have specific
15 questions, please feel free to e-mail myself, my contact
16 information is at the end of this slide, or talk with us
17 after the fact. We can give you specific information
18 there.

19 So, in preparation for the first topic,
20 Repowering: the definition of Prime Generation
21 Equipment, if there's anybody in the audience that would
22 like to come to the table, please come forward now and
23 we can start our discussion.

24 So, for those of you that aren't aware,
25 repowering a facility allows a facility to change its

1 commercial operation states for the purpose of the RPS
2 Program. This mainly an advantage for facilities that
3 have time constraints on when they have to start an
4 operation to be RPS eligible and this is generally
5 restricted to facilities that are physically located
6 outside the state and not interconnected to a California
7 balancing authority.

8 There's two requirements that must be met in
9 order to have a facility be considered repowered and
10 that is replacement of the prime generating equipment,
11 and a capital investment in the facility so that 80
12 percent of the repowered facility is considered new --
13 or is from new capital investments.

14 Specifically what we have questions on is
15 digester gas and landfill gas definitions.

16 When we revised the Guidebook for the 7th
17 Edition, both digester gas and landfill gas fell under
18 the definition of biomethane, but for repowering they're
19 still called out separately.

20 As you can see, they're very similar definitions
21 except that digester gas facilities are required to
22 replace the entire digester unit in addition to the
23 internal combustion engine or certificating engine;
24 whereas, landfill gas facilities are only required to
25 replace a combustion engine or the turbine as

1 applicable.

2 So, we have three questions. What is the
3 appropriate definition of the prime generating equipment
4 for a facility using biomethane from digester gas, from
5 landfill gas, and should the definitions be the same?

6 Should the definition be different for a
7 biomethane facility receiving gas from either a
8 dedicated pipeline, including on-site, or a common
9 carrier pipeline, and why?

10 And should any distinction be made for separate
11 ownership of the gas collection or processing equipment
12 and the electricity generation facility using
13 biomethane? If so, how?

14 So, if you could identify yourselves and fill
15 out the cards, especially if you're going to be here
16 again, so the court reporter can see that, that would be
17 wonderful. And thank you very much.

18 MS. LEVIN: You want us to do that before we
19 talk?

20 MR. KOOTSTRA: No, I think you can talk.

21 MS. LEVIN: Okay.

22 MR. KOOTSTRA: As long as you state your name,
23 please.

24 MS. LEVIN: Okay, thank you. Good morning,
25 Julia Levin with the Bioenergy Association of

1 California.

2 MR. LINK: And I'm Adam Link with the California
3 Association of Sanitation Agencies.

4 MS. LEVIN: So, thank you very much for putting
5 this on the agenda. It's a very important issue for
6 both of our members.

7 Just to say a few words about the Bioenergy
8 Association, we represent about 50 local governments,
9 public agencies and private companies in the waste
10 management, energy development, technology, investment
11 and other fields, including many of the companies that
12 develop dairy digesters, biogas facilities at wastewater
13 treatment facilities, landfill biogas and other sources
14 of biogas.

15 So, this is very important to our members and
16 many of the local governments that are developing
17 bioenergy projects to address solid waste issues, water
18 quality issues, and other important environmental and
19 climate change issues.

20 The role of biogas is extremely important in
21 California for meeting both our clean energy and our
22 climate change goals.

23 A recent report from E3 really underscored the
24 importance of diversifying renewables in California,
25 especially as we move beyond 33 percent to reduce costs

1 and maintain reliability of the grid.

2 The 2012 Bioenergy Action Plan found that
3 bioenergy could provide about 10 percent of California's
4 total electricity demand, more than 1,000 megawatts just
5 from biogas, alone. So, this is a really important
6 source of renewable baseload energy.

7 Biogas can also provide energy storage and it's
8 a very effective form of energy storage. If you size
9 the lagoon at a wastewater treatment facility or a dairy
10 digester larger than you need for immediate biogas
11 production, you can store the gas for several hours or
12 up to several days which, when you look at the duck
13 curve and other reliability issues as we increase
14 intermittent renewables that gas storage is going to be
15 very, very important.

16 But that kind of brings me to the issue with the
17 current definition of repowering. We strongly support
18 the RPS. Probably many of you know I've been very
19 involved in it for a long time and we strongly support
20 having a definition of repowering that will stimulate
21 new projects, but it should be new power projects.

22 Digesters can be built for many reasons that go
23 beyond electricity generation and so requiring the
24 replacement of a digester, as well as the prime
25 generating equipment goes well beyond what's needed for

1 a new power project.

2 And as I mentioned, digesters can be built for
3 other purposes, for energy storage. Adam will talk
4 about the role that digesters play in the wastewater
5 treatment field. They can be built to reduce odors from
6 dairies and for many other reasons.

7 There also can be digesters that are built to
8 produce gas --

9 (Background noise)

10 MS. LEVIN: Or that create background noise.

11 So, we will, in our written comments, propose a
12 definition, but it essentially will look like the
13 definition for all of the other renewables. We don't
14 see a reason to distinguish the definition of repowering
15 for biogas from other sources of renewables, landfills
16 or, for that matter, small hydro, geothermal. None of
17 the other forms of renewable are required to replace the
18 equipment that's needed to produce, or clean, or process
19 the fuel.

20 It's not about the -- the digester is not about
21 the power generation. It's about the fuel source. And
22 it could have multiple roles.

23 Requiring projects to replace both the digester
24 and the power generator could also triple the cost of
25 the projects, which was demonstrated in a recent Black &

1 Veatch report produced for the PUC.

2 So, for all of these reasons we urge you to make
3 the definition of repowering for biogas consistent with
4 the definition for other forms of renewable energy.

5 And in terms of the three questions, we don't
6 see any reason to distinguish whether it's biogas that
7 is from a common carrier pipeline or a dedicated
8 pipeline. We don't think that ownership issues, any of
9 those other factors are relevant.

10 What's relevant is the power generation and the
11 focus should remain on the power generation only. Thank
12 you.

13 MR. LINK: Good morning, again. My name's Adam
14 Link with the California Association of Sanitation
15 Agencies.

16 I want to thank Julia for coming and expressing
17 support for this issue.

18 We, too, support a revision of the definition of
19 repowering in the RPS Eligibility Guidebook that's
20 consistent with the definition of repowering for other
21 renewable energy sources.

22 Just as some background, CASA, my organization
23 is a statewide association of municipalities, special
24 districts and joint powers agencies that provide
25 wastewater collection and treatment services to more

1 than 90 percent of the sewer population of California.

2 Many of our members are actively involved in
3 anaerobic digestion activities that produce biomethane,
4 biogas, clean bioenergy and low carbon fuels for use
5 here in California.

6 The current draft, as you saw in the
7 presentation, as Julia mentioned, the definition of
8 prime generating equipment is defined as the entire
9 digester unit and internal combustion engine or
10 combustion turbine, even though the digester, itself,
11 may serve multiple purposes beyond just power
12 generation.

13 In the case of wastewater treatment plants this
14 is particularly true where the anaerobic digesters on
15 site are a necessary part of the wastewater treatment
16 process in reducing solids, as opposed to purely
17 generating energy.

18 In fact, a number of our facilities utilize
19 digesters solely for the purpose of wastewater treatment
20 and actually don't produce power with the resultant
21 biogas.

22 But for those that do and for those that are
23 interested in repowering, they wouldn't necessarily
24 replace the digesters, it would just be the generating
25 equipment.

1 And so, in addition to being simply more
2 consistent with how our facilities view repowering in
3 practice, changing the definition in the Guidebook would
4 be critical to allowing wastewater facilities to
5 participate in the SB1122 Program, which is currently
6 being developed at the CPUC.

7 As you may know, 1122 created the 250-megawatt
8 renewable feed in tariff procurement requirement for
9 small scale bioenergy projects. 110 megawatts of that
10 is set aside for wastewater facilities and other urban
11 waste.

12 A Black & Veatch study that Julia mentioned
13 relied upon the CEC Guidebook definitions for commence
14 operation, commercial operation date, and most notably
15 as it applies here, repower and prime generating
16 equipment.

17 And they concluded that wastewater -- at least
18 as it relates to wastewater facilities, requiring
19 replacement of the digester and the power generation
20 equipment could triple the cost.

21 And this is effectively prohibitive for
22 wastewater facilities that might otherwise be eligible
23 for the 1122 Program and might want to participate.
24 This would exclude them.

25 And we think this is contrary to the State's

1 policy of encouraging renewable energy at wastewater
2 facilities.

3 So, we would respectfully request that the CEC
4 modify the definition of repowering for these facilities
5 to be consistent with the other types of requirements.
6 And that we'll be joining Julia's comments, written
7 comments on the issue that will propose a definition
8 similar to that.

9 MR. KOOTSTRA: Thank you very much.

10 Does SCE or PG&E have anything they want to
11 share?

12 MR. PAPPAS: Great, John Pappas from PG&E. I
13 just wanted to say that we support the definition of
14 prime generator equipment that's been offered today.

15 There should be consistency between the
16 definition with respect to digester gas versus landfill
17 gas. Neither definition should include the digester
18 unit or the landfill and it should be exclusively based
19 on the power generating equipment.

20 And we think that's consistent also with, you
21 know, the treatment for other generating facilities, so
22 we support that.

23 MR. KOOTSTRA: Thank you.

24 SCE, do you have anything to add?

25 Okay, Commissioner Hochschild, would you like to

1 say anything before --

2 We'd like to take this opportunity to invite the
3 WebEx participants. If there's anyone that would like
4 to participate, please raise your hand and then we'll
5 open the phone lines before moving on.

6 We're going to open the phone lines real quick.
7 Christina, could you unmute the phone for us?

8 The phone's been unmuted. If anybody has
9 anything to add on the topic of prime generating
10 equipment we ask -- we ask that if you're on the phone
11 line that you mute the phone on your end, unless you
12 wish to speak.

13 We're going to try unmuting our line one more
14 time to see if there's anybody out there, otherwise
15 we'll be moving on. Christina?

16 All right, thank you very much. We look forward
17 to reading your written comments.

18 We're going to move on to the next topic.
19 Anybody who's interested in the eligibility date
20 revisions, please come forward to the table.

21 I'd like to add a couple of things that I forgot
22 to mention before. While we do want to have a robust
23 discussion, please be courteous to each other and not
24 try and interrupt too much. We are trying to get a
25 court reporter to be able to actually record this, so

1 that being clear helps.

2 In addition, we ask that if you agree entirely
3 with someone, moving forward, especially as we get a
4 bigger discussion, it's okay to just say we agree.
5 That's going to go a long way to moving our discussion.
6 And please feel free to submit written comments in
7 support of what you say here.

8 So, thank you very much and we're going to open
9 discussion. We're going to start with Jed Gibson on
10 this side, if that's all right with you.

11 MR. GIBSON: Oh, were you going to go through
12 the slides first?

13 MR. KOOTSTRA: Thank you. Sorry. So, the
14 eligibility date, it's assigned to facilities when they
15 apply for precertification or certification for the
16 first time. Generally, it's the day on which we receive
17 the first application for either precertification or
18 certification for a facility.

19 Sometimes this date does change for a number of
20 reasons. Two of the main reasons why it's been changing
21 recently is a failure to submit a certification
22 application within 90 days of commencing commercial
23 operations if the facility was precertified, or a
24 failure to submit an amended certification application
25 within 90 days of requiring an amendment. And this

1 would include utility-certified facilities that have had
2 their contract terminated, or it's ended, or been
3 revised in some way, shape or form.

4 Previously, for utility-certified facilities
5 they were required to apply for RPS certification before
6 the contract ended. But with the adoption of the 7th
7 Edition Guidebook that was extended to 90 days after the
8 end of that contract.

9 There are several other reasons for the
10 eligibility date changing, almost exclusively relating
11 to us denying the facility for some reason, or us
12 finding out that the facility does not meet the RPS
13 eligibility requirements, and that generally hasn't been
14 an issue.

15 As you can see with this table, we've received
16 more and more precertifications. The light blue line is
17 the number of precertifications that we currently have
18 on the books with expected commercial operations dates
19 in the past. The blue line is how many we have for each
20 given year.

21 We currently had over 700 precertified
22 facilities with commercial operations dates that are in
23 the past. This is one of the reasons why we wanted to
24 put this 90-day requirement in the Guidebook to be sure
25 that we have solid data when we're basing off decisions

1 of determining what we're looking at coming forward in
2 the future.

3 We've noticed most applications, for whatever
4 reason, don't get back to us when they decide not to
5 pursue a facility any longer, and this includes
6 companies that just disappear. So, it's hard to get a
7 hold of that information.

8 And when you have approaching 300 facilities in
9 the year that are supposed to come online, but don't,
10 it's hard to follow up on that and have good information
11 for the public to see.

12 As many people here will be able to attest, this
13 has created some issues. We've had some facilities that
14 have received alternative online dates because they
15 barely missed that 90-day window or were unaware,
16 despite staff's best efforts to contact everyone.

17 Possible alternatives that we have discussed
18 internally, which is not saying that we endorse any one
19 in particular, but the potential to extend the deadline
20 from 90 days to 180 days; allow the deadline waivers for
21 good cause if it can be demonstrated; and also just
22 complete removal of the requirement, but just requiring
23 a facility to be certified before any verification
24 reports are made.

25 This is an option that we've had in the past.

1 However, it generally runs into us having lots of people
2 come to us saying we need to have a certification done
3 now so we can report claims. And that slows down the
4 verification process.

5 Given that we now have 45 POU's to work with in
6 that process, we want to take every avenue we can to
7 make sure that goes smoothly.

8 And having facilities coming to us at the last
9 minute, requiring this, will slow things down again.

10 Specific questions we have is if, having a
11 requirement to apply for a specific date is reasonable
12 or not, and why?

13 And if there's a reasonable timeframe, what
14 would that timeframe be?

15 Is there another approach that we can use to
16 ensure that we have valuable information in a timely
17 manner, in addition to the topics that we -- or the
18 possibilities we identified?

19 And should a facility remain precertified if the
20 estimated commercial operations date passes and the
21 facility does not submit an application either for
22 certification or amended precertification within a
23 reasonable timeframe?

24 This is to ensure that if a facility is delayed
25 by a few years, or months, that we'd have that

1 information as well.

2 So, we're going to open up discussion. Again,
3 please be courteous. And I don't want to say be short,
4 but just keep in mind that we want to be sure that
5 everybody has an opportunity to speak.

6 So, we'll start with Jed Gibson.

7 MR. GIBSON: Good morning, Jed Gibson for
8 Ellison, Schneider & Harris. Thank you for taking the
9 time to discuss these important issues.

10 Just to begin with, we appreciate the
11 Commission's need to get timely and accurate data for
12 the certification process. That's certainly something
13 we support.

14 As the Power Point presentation mentioned, that
15 sometimes the -- some of the 90-day deadlines have
16 resulted in negative consequences that can, you know,
17 cost thousands of dollars and result in the loss of RECs
18 that would otherwise be counted for the RPS Program.

19 And often this will be from a facility that had
20 previously been certified as RPS eligible and would
21 subsequently be certified as RPS eligible. There was no
22 change to the facility in the interim, you know, so
23 effectively it's the same renewable power that's being
24 produced.

25 So, we just think that there should be some

1 method of either relaxing the interpretation of the
2 current Guidebook to allow adjustments to that
3 eligibility date or to revise the Guidebook to allow a
4 waiver process. Effectively, where if there is good
5 cause for changing the eligibility date that either the
6 Executive Director, or staff, or the Commission would be
7 allowed to go back and revisit that question to, you
8 know, retroactively assign eligibility in appropriate
9 cases for good cause.

10 So, that's kind of my short pitch on that. I'm
11 happy to go into more details, but it may be better to
12 discuss offline, as we have already. And we'll be
13 following up with our written comments to go into more
14 detail.

15 MR. KOOTSTRA: Please feel free to jump in when
16 somebody's done, as well. I can't ready your name;
17 Peter?

18 MR. HARMAN: Peter Harman. I represent Nevada
19 Irrigation District.

20 For now, you know, we stand behind Jed's
21 comments and we plan on submitting written comments
22 soon, but I don't have anything further to say at the
23 moment.

24 MR. KIRCHER: Hi Mark, Steve Kircher with SPI
25 Solar. And I'm not sure if I should get into specifics

1 but I thought the comments were certainly right on the
2 mark with regard to trying to find some form of waiver
3 of the deadline in specific circumstances that allows
4 the Commission some flexibility.

5 Obviously, you know, the intent in any of these
6 programs is not to harm small business or any businesses
7 that are out there trying to participate in this
8 environment. And the solar industry's clearly been a
9 tumultuous environment over the last few years.

10 So, the responsibilities of management to run
11 companies, and try and run them efficiently in a rule-
12 changing environment has been difficult for some of us,
13 so some things do get lost in the shuffle.

14 And when there is no victim in one of these
15 particular situations, in our particular case, you know,
16 we have a project in Palm Springs, with Southern
17 California Edison, where they signed a power purchase
18 agreement. We've moved several times in our company
19 and, unfortunately, we're not on top of the ball with
20 regard to filing. We filed a precertification but not
21 file the final certification in time and got billed by
22 Southern California Edison, who was apologetic about it
23 and didn't want to do it, but they were the beneficiary
24 of the power. They weren't the beneficiary of the RPS
25 standards.

1 So, consequently, it's the small business, which
2 is us, that has to take that hit or that is being
3 required to take that hit.

4 To allow some form of waiver, appeal process
5 that gives some flexibility to the Commission to go
6 ahead and reinstate the certification will be incredibly
7 helpful.

8 MR. HERRERA: Good morning, Steve, just a quick
9 question. So, in the case of small businesses that lose
10 kind of track of obligations to file applications on a
11 timely basis what would be a good approach that the
12 Commission could take to make sure -- I mean what could
13 we do to be proactive there to inform --

14 MR. KIRCHER: I'm trying to think. It's so
15 difficult, it really is because there are so many people
16 who do want to participate, who do want to get involved.

17 But there's clearly -- you know, every day in
18 the paper you read about another solar company that goes
19 out of business. And my job has been to try to make
20 sure we don't go out of business.

21 So, we've done everything we can and now we're,
22 hopefully, back in the upstream. But the amount of
23 money that we're talking about in this particular case
24 is \$700,000. A small business can't -- yeah, how do you
25 survive in that kind of environment?

1 The waiver process would be the best,
2 notification process, proactive notification process.
3 It's incumbent upon, I think, us. We're clearly not
4 denying responsibility for missing deadlines. However,
5 I do believe there's not a victim, other than us, in the
6 whole program.

7 Maybe multiple notifications via e-mail, some --
8 you know, our e-mail addresses haven't changed but some
9 of the people who are on the notification changed.

10 Maybe there's a different process we can go
11 about for notification that we're closing in on a
12 standard.

13 MR. GIBSON: And I would just echo Steve's point
14 that for some of the smaller entities that may not have
15 the resources to follow the Guidebook, and all the
16 revisions, and come to these meetings, they may be
17 unaware of some of these 90-day windows requiring that a
18 new application be submitted. And upon learning of
19 that, you know, it may be too late, they may lose months
20 of eligibility which could cost hundreds of thousands of
21 dollars.

22 MR. HARMAN: And I might add that especially
23 facilities that were formerly utility certified, they
24 may not have been dealing with the Energy Commission in
25 the past until this deadline arrived. And so there's,

1 you know, some form of notification could certainly help
2 smooth things along.

3 MR. KOOTSTRA: And if I could just ask real
4 quick, before we move on, if you could turn your
5 notecards so it's -- or your nameplate so it's easier
6 for the court reporter to see that would make things a
7 little simpler. Nope, never mind, he's okay.

8 Yeah, so we'll continue on, sorry. SCE?

9 MR. LANGER: Yeah, I'm Matt Langer from Southern
10 California Edison.

11 So, looking at the suggestions I think that were
12 a few slides back on slide -- I think it's slide 20,
13 unless it changed. Yeah, I think, you know, we -- but
14 anyway, the concept of extending the deadlines,
15 potentially, or allowing some sort of waiver process for
16 reasonable cause, Southern California Edison's
17 supportive of that.

18 You know, in light of some of the challenges
19 that we've had with generators getting online for
20 certification on time, I think a longer deadline would
21 definitely be helpful.

22 And there are definitely cases, the case of
23 previously utility-certified facilities that didn't even
24 know they were certified, let alone having the CEC have
25 contact information to be able to reach out to them, I

1 think it's a big challenge for everybody involved in the
2 process in those cases.

3 So, I think that would be an example of a great
4 case for cause for a waiver if someone didn't know they
5 were certified, no one had the contact information to
6 reach to them and they somehow lost their certification.

7 But I think in general we're supportive of that
8 flexibility.

9 And I will say that one of the lessons learned
10 for Southern California Edison in this process is, you
11 know, we do have the resources to monitor the Guidebook
12 fairly closely so we've been much more proactive, having
13 learned from some of these challenges we've encountered,
14 in reaching out to our counterparties and encouraging
15 them to meet the deadlines.

16 But again, it's still a challenge. We have
17 several hundred generators that are RPS eligible that
18 need to remain certified. So, trying to make sure that
19 nothing falls through the cracks ever is a real big
20 challenge for us.

21 So, working together, between the Commission,
22 and the industry, and the utilities, and whoever are the
23 other off-takers I think is a good direction.

24 And then one other item, slightly shifting but
25 within the same topic, that I think we've seen a big

1 challenge in is the requirement for a hardcopy
2 submission on top of the e-mail submission of the
3 certification document. We've seen this on a number of
4 occasions where maybe a week ahead someone went ahead
5 and got the e-mail copy in, so they thought they were
6 pretty much done, but there's the requirement that by
7 the deadline that the hardcopy also be received.

8 And we've run into all sorts of challenges with,
9 what was it, the postmark date, was it received, was it
10 in this building somewhere bouncing around and didn't
11 get stamped on time?

12 You know, it seems like -- and I just filed my
13 taxes and I was able to -- you know, for whatever small
14 amount of money it was that I make, but I was able to
15 submit that with an electronic signature and it was
16 perfectly acceptable to the Federal government.

17 So, I'm not sure if that's just a dated
18 requirement or if there's something we could look at for
19 that because it seems like surprisingly often that ends
20 up being one of the hurdles that generators are facing.
21 It seems, sometimes, these are really simple things, but
22 everyone does a lot of stuff by e-mail these days. So,
23 just another thing to consider.

24 But like I said, our position generally is
25 trying to be proactive and supportive to make sure that

1 whatever the rules are that folks are abiding by them,
2 and that we don't have any of these unfortunate
3 situations.

4 MR. KOOTSTRA: Yeah, I just want to point out,
5 so there's clarity on the receive date, it is when we
6 receive the hardcopy application and it's in our hands.
7 Generally, when that comes to there being a deadline,
8 we're -- we try and be as gracious as we can if there's
9 reason to believe that we received it the day before in
10 house, but it didn't make it to us until the next day.
11 We do our best to confirm that and then we generally try
12 to allow it.

13 But that is something we can look at, receiving
14 electronic application. Our legal counsel can speak
15 more to that, if he'd like.

16 But we're -- a step at a time for us at this
17 point.

18 MR. LANGER: I mean, frankly, I know it's an
19 additional burden on the CEC staff. You're already
20 tracking, I'm sure, an enormous volume of
21 precertifications and certifications that are being
22 received by e-mail, and to add to that a hardcopy
23 requirement and I'm sure you've got someone date-
24 stamping stuff as it comes in. I can imagine, we're
25 tracking those exact same dates and I can only imagine

1 the orders of magnitude more it is for the CEC staff.

2 MS. FELLMAN: May I? We were going this way.

3 I'm Diane Fellman from NRG Solar.

4 And I don't want to repeat what's already been
5 said, we support that. We have a slightly different
6 twist on this.

7 We understand that the Commission is attempting
8 to balance the interest of knowing when projects come
9 online and also allowing the project to go forward.
10 Whether or not there's certification, the kilowatt hours
11 generated, especially if a facility is -- especially if
12 a facility is precertified there's acknowledgement that
13 the output is going to be eligible.

14 But even if it isn't, a kilowatt hour generated
15 by a photovoltaic system, solar system, or a CSP project
16 -- well, let's put CSP on the side because Ivanpah's a
17 special case.

18 But the PV projects are always -- each kilowatt
19 hour is going to be deemed eligible. And so the stamp
20 of certification, when that comes or how it comes is
21 really key for meeting our obligations under our PPAs.
22 However, it doesn't change the nature of that kilowatt
23 hour.

24 So, we would suggest -- may I have the questions
25 up again, please, and I'll give you some -- our answers.

1 Thank you, Mark.

2 Number one, we think it is a reasonable
3 requirement to have some timeframe. However, what we
4 would suggest, rather than going through a waiver, or a
5 good cause, attaching a reasonable financial penalty to
6 that where if you miss the deadline there's something at
7 stake, and there's some -- there's a financial
8 obligation at stake.

9 Because, you know, we heard from you, I don't
10 know how large your facility is. Can you tell me how
11 large your facility is?

12 MR. KIRCHER: It's six megawatts in Palm
13 Springs.

14 MS. FELLMAN: Okay, six megawatts, over half --
15 \$700,000 that's --

16 MR. KIRCHER: Unfortunately, our certification
17 date was in the prime generating -- that we missed was
18 in the prime generating hours. So, you're looking at
19 May, June and July where we weren't certified and so
20 that cost us, obviously, more in terms of dollars for
21 not getting paid.

22 MS. FELLMAN: Well, and we would like to put on
23 that would say -- that would be something having -- I
24 don't know how -- I'd like to hear from the other
25 generators how they would feel, but \$10,000 to \$25,000

1 is certainly different than \$700,000 at stake.

2 And with PPA, provisions for financing could
3 affect your lenders because failure to be eligible, it's
4 not only a consequence of the PPA payment, but also a
5 consequence of our financing and could be considered a
6 default under our loan agreements.

7 So, when you start going down that path,
8 something that is -- where the Commission has a public
9 interest in knowing when the facility comes online, the
10 unintended consequences of that could be quite severe,
11 including all the -- if someone wanted to be very
12 rigorous about it, as a lender, to default.

13 So, that's our answer to number two.

14 And then number three we would say, yes, and
15 that's the completion of my remarks.

16 COMMISSIONER HOCHSCHILD: Before we leave this
17 topic, just so I understand, you're basically, Diane,
18 arguing against doing waivers but having a penalty
19 instead.

20 But if, just Steve, with your suggestion of
21 having a waiver process, I mean we're trying to
22 obviously balance the principles of being fair and
23 reasonable, and having a real coherence to the rules.

24 Under what circumstances, precisely, would you
25 suggest the Energy Commission, if we were to have a

1 waiver process that you're suggestion would be
2 reasonable? I mean, what's the threshold that would
3 have to be met to grant a waiver if we were to have this
4 process?

5 MR. KELLY: You know, if the -- again, if there
6 was a pre- -- in our case we filed the precertification
7 and the two individuals who were in our company left
8 that were involved in our regulatory compliance.

9 I don't have all the right answers. I try and
10 think about the right answers because I always put
11 myself, say, in the shoes of everyone else and go, you
12 know, guys, that's a shame but, you know, tough break.

13 And yet, at the same time that's not the right
14 answer. So, how do we come up with a fair way to figure
15 out deadline certifications that could be -- I think
16 notification is prime.

17 I appreciate Matt's comments. You know, they
18 have the resources, the utilities have the resources to
19 maybe help and be proactive to the generators, if
20 they're signing the PPAs, and say, guys, here's your
21 deadline date, you're missing the deadline. That would
22 be helpful.

23 You know, you can only, as you're trying to grow
24 a business you can only hire so many people, have so
25 much fixed expense because this is still a development

1 industry.

2 And these projects, as we've all found out and
3 you see on your chart, they take much longer to finish,
4 to develop and there's no certainty that they ever will
5 get built or developed.

6 And, you know, the groups that pay those prices
7 that continue to develop them are sitting here at the
8 table. And it's just -- it just gets, sometimes,
9 overburdening and onerous for small businesses to even
10 be able to participate.

11 COMMISSIONER HOCHSCHILD: All right, and then,
12 Diane, for your suggestion was there a specific amount
13 of money, I may have missed it, that you were proposing
14 as a penalty for being late or --

15 MS. FELLMAN: Again, I mentioned something in
16 the range of \$10,000 to \$25,000.

17 COMMISSIONER HOCHSCHILD: \$10,000 to \$25,000,
18 yeah.

19 MR. KIRCHER: Which is enough to make somebody
20 stand up and pay attention. It would be -- if I could
21 pay \$10,000 and have this go away, I'd do it tomorrow.

22 I wouldn't even know, though. It still doesn't
23 solve the problem because we didn't know until after,
24 you know, 90 days after the final certification date
25 that we were in violation of not filing the

1 certification.

2 MR. HERRERA: Steve, this is Gabe Herrera.
3 Isn't the, you know, consequence of not being certified
4 potentially being in default in your PPA? Isn't that a
5 financial incentive enough to encourage the applicants
6 to kind of keep track of deadlines and whatnot?

7 MR. KIRCHER: You know, again, you know, PPAs
8 are written by lawyers for lawyers, and I'm not a
9 lawyer. I believe that the PPA just says we have to be
10 compliant with all regulatory agencies.

11 There's a myriad of regulatory agencies out
12 there that we need to be compliant with. So, if we miss
13 one, forget one, one falls through the chute, you know,
14 and subsequently the cracks that's an unintended
15 consequence of this.

16 MR. HERRERA: And just one more comment, just
17 with respect to Diane's comments about a potential
18 penalty. I mean, we haven't look at a penalty but I do
19 know that there's no expressed authority in our statute
20 for the Energy Commission to charge an application fee
21 for certifying facilities, let alone the ability to
22 assess a penalty.

23 I mean, that's something we could explore but
24 there's nothing in the statute that contemplates that
25 right now, just throwing that out there.

1 MR. KELLY: Yeah, this is Steven Kelly with IEP
2 and I'm not going to pretend I know all the details of
3 individual certification processes, but I -- it's not
4 clear to me that a penalty is necessary because I think
5 that there are processes not only in the PPAs and the
6 ISO interconnection queue that drives development as
7 fast as it can possibly come.

8 The reality is in today there are a lot of
9 things that arise, that were not contemplated, that
10 cause delays, and I don't think we'll ever be able to
11 specify on a list what those all are.

12 I'd like to step back a sec and talk about a
13 couple principles and remember why we actually had
14 precertification to start with. I happened to have been
15 around during those years.

16 First, a couple principles that I think I'm
17 going to articulate during the course of the day is one,
18 you know, really, on this issue, you know, no harm/no
19 foul. I think that's important.

20 The goal in California is to get RPS-eligible
21 energy delivered to the grid. And there's a lot of
22 reasons why that may be delayed, you know, or plans get
23 upset. But if there's no harm, I think we ought to kind
24 of think of this as no foul.

25 The second is that the commercial world that is

1 the catalyst to developing all these resources is highly
2 dependent on regulatory certainty. And that if that
3 regulatory certainty gets undermined, then the
4 commercial world becomes a little bit less stable, and
5 the costs go up, and the complexity of building these
6 projects goes up concomitantly. And I think that's
7 something that we probably don't want to do.

8 Now, let's think back about why we started this.
9 Precertification, among other reasons, one of the core
10 reasons for doing it was to facilitate the procurement
11 process. Projects could get precertified and that aided
12 them in the procurement process that the utilities
13 conducted, or bilateral negotiations, because people had
14 an expectation that this project they were talking to
15 was highly likely to be certified as eligible when it
16 came online.

17 That was why we were kind of doing it, it was
18 sending those advanced market signals.

19 The reality of today is that delays in project
20 development are highly probable and the causes are
21 unknown today. You know, you'll never be able to
22 predict what they are, but they are going to arise.

23 From a counting perspective, in terms of the RPS
24 compliance obligation for the utilities or the ESPs,
25 they're still reliant on WREGIS certificates which are

1 third-party verified. So, you have a mechanism to
2 prevent ineligible projects from actually being counted
3 in terms of the RPS compliance, which I think is an
4 added benefit for the program as a whole.

5 The precertification should be a relatively
6 simple process. I think, actually, I'm not necessarily
7 convinced that fines are necessary for this mechanism to
8 work. I think you can actually have a mechanism that
9 allows people to move through the process.

10 I understand that companies are very busy today.
11 But a statement of reasonable cause why you missed a
12 deadline, in my mind should be suitable for the
13 Commission to work out the status of the project vis-à-
14 vis the program in terms of final certification.

15 It baffles me why that process wouldn't work
16 because it would be flexible enough to account for all
17 the things we don't know.

18 And it is incumbent on the generators to come to
19 you with a statement of reasonable cause if there was a
20 missed deadline, I think.

21 But I deal with a lot of companies and it amazes
22 me how often they fail to respond to my e-mails about
23 something that I think is critically important to their
24 business and usually the answer comes, we're swamped.
25 We've got too many people in the companies to do

1 everything. We get a bazillion e-mails all the time so
2 things get lost through the hoop.

3 And it's not because of malfeasance or anything
4 else, it's just the complexities of the world, and
5 developers actually out in the field trying to develop
6 projects.

7 So, I think we ought to recognize that reality
8 and try to develop something to provide you the
9 information you need in a timely manner, but provides
10 enough flexibilities for these projects to come to
11 fruition also in a timely manner, without additional
12 costs.

13 MR. HERRERA: So, a quick question for you,
14 Steve. Do you know if in utility agreements, typical
15 PPAs, if there's a requirement on the generator to
16 provide proof that they've been certified by the Energy
17 Commission, or do they typically rely on the
18 precertification that they may have applied for?

19 Which, by the way, I don't necessarily agree
20 with your statements regarding precertification, but
21 that's a topic we'll discuss later on.

22 But I'm just saying, if there was something the
23 utility imposed on the generator to make sure that they
24 were double checking that they had in fact sought
25 certification, rather than just rely on a precert that

1 they may have obtained.

2 MR. KELLY: I don't know. So, in the PPAs, I
3 don't see a lot of the details of the PPAs. But my
4 understanding is that most of them have a clause that
5 basically says, you know, you are going to be an
6 eligible, certified eligible resource in order to
7 facilitate the payment that we've agreed to in this
8 contract, basically.

9 MR. HERRERA: Right.

10 MR. KELLY: So you've got to be, at the end of
11 the day, an eligible renewable resource.

12 There is a change in law provision I think in
13 some of the contracts. Most of them I suspect have
14 that.

15 But it's still -- that creates a problem, too,
16 because that's -- my goal is to try to eliminate risks
17 of change in law as opposed to relying on a contract
18 term that is relatively vaguely stated on that regard.

19 MR. HERRERA: Good.

20 MR. KELLY: But I think there are provisions in
21 the contracts that give the utilities some certainty
22 about the online date, what happens if it doesn't occur,
23 and that you're going to be eligible to get an RPS
24 payment that was negotiated for an RPS-eligible
25 resource.

1 MR. HERRERA: And my other point regarding
2 precertification, which I think we'll get into later
3 when we discuss that topic, is that, you know, an
4 applicant can apply for precertification before they
5 even have all the information or documentation to
6 support, you know, a claim.

7 So, really, precert is just a snapshot at the
8 time based on the information we have. It doesn't
9 provide any assurances that the generator will later
10 become certified.

11 And I think that's something we need to discuss
12 in the precert section of this workshop.

13 MR. KIRCHER: We actually didn't find out about
14 our failure to file the final certification for probably
15 90 days after that failure. And we didn't find out from
16 the California Energy Commission. We found out because
17 Southern California Edison called and said, hey, guys,
18 you know, we just found this out and didn't know, and we
19 want to advise you of that, and it's a problem.

20 And that's what kind of jumped, you know, and
21 got us running through hoops to quickly get it
22 certified.

23 But unfortunately, you know, it was poor timing.

24 MR. KOOTSTRA: I want to address that and one
25 other point real quick before we move on, this is Mark

1 Kootstra.

2 I want to thank SCE, and PG&E, and the other
3 utilities for stepping up on that side of things. You
4 guys have been very helpful with that and helping to
5 coordinate with the small developers.

6 In terms of notification, I know your
7 situation's special where there's a lot of movement and
8 change in people turnover.

9 We did our best to notify, I believe that there
10 were at least two to three notifications sent out via
11 the renewables list server, which notifies of Guidebook
12 changes, and adoptions of Guidebooks, and letters.

13 So, I agree that your situation is slightly
14 different.

15 We are trying, if you have suggestions for ways
16 that we can better notify folks in your situation,
17 that's great. We have a limited resource and the
18 capacity to contact. If we don't have your information,
19 we can't contact you.

20 MR. KIRCHER: I totally understand that. I'm
21 not here placing blame anybody, I just --

22 MR. KOOTSTRA: Exactly. I'm not assuming you
23 are, I just want to be sure nobody thinks that this was
24 fully out of the blue. For you, it absolutely was.

25 MR. KIRCHER: Yeah.

1 MR. KOOTSTRA: But in general.

2 The other point, to Steven Kelly, your -- and
3 it's been talked around, no harm/no foul. I agree that
4 there's probably little harm in allowing people to come
5 in.

6 But I think SCE, and I'm not sure if either of
7 you have worked through this process, and possibly PG&E,
8 have had delays in their verification report because
9 facilities have not applied for certification.

10 We've had facilities in the past that have
11 waited two years. All of the sudden we find out the
12 facility's online because we get a verification claim
13 and that pushes back the verification process.

14 That may not be a big issue for most people, but
15 we have to ask ourselves is a two-month delay because
16 certifications aren't getting done okay in the
17 verification process, or do we need to have total
18 compliance data done sooner because we -- and so we need
19 to get those certifications in sooner.

20 So, I'm not saying that's a big harm. All I'm
21 saying is it's a question we need to ask ourselves.

22 It's a balancing act. Is it worth allowing delays in
23 knowing what verified numbers are in order to get some
24 of these guys in that weren't in before, or do we need
25 to just draw a hard line and have that certainty, even

1 if it's not positive certainty.

2 So, not something I need you to respond
3 yourself, just consider it.

4 MR. KELLY: I can't help myself. Let me ask
5 this question, so let me flip the logic there. I mean,
6 how many precertified projects come online and are
7 counted for RPS that it turns out were not RPS eligible,
8 or CERT?

9 MR. KOOTSTRA: I only know of a handful of
10 facilities that have applied and have not been eligible
11 in some way, shape or form. So, there's not a lot.
12 There's a difference between eligibility and
13 certification. There's only a handful that I know of
14 that have been certification that should not have been
15 certified.

16 And I believe that once that information came
17 out there were no problems in moving that. It was an
18 unknown.

19 Very valid point, it's just it's all a tradeoff
20 of timing. Is it worth delaying two months for one
21 person or one company, but everybody sees the delay?
22 So, it's just a tradeoff we have to consider.

23 MS. FELLMAN: One suggestion on notification is
24 a lot of the projects, you know, there is a development
25 business in the solar industry and there's an

1 acquisition business in the solar industry.

2 NRG Solar has been primarily an acquisition
3 business, where we take the projects from the developers
4 and then invest the capital to bring them online.

5 With the precertification we could create a
6 project e-mail box that could be put into a list serve
7 where there's -- as long as you're precertified, there
8 could even be like an automatic monthly e-mail, you're
9 precertified, remember to certify, kind of just simple.

10 And then it would be our obligation, when
11 someone has responsibility for the project, to make sure
12 that the asset manager, or whoever is designated in a
13 company, reads that e-mail.

14 And I think that could be, you know, automatic
15 until it's finally -- you know, has its final
16 certification.

17 MR. TUTT: This is Tim Tutt from SMUD, and I
18 wanted to go back to Steve's bringing us back to the
19 bottom line here that the intent of this program is to
20 get additional eligible renewable energy online and
21 generating in California, and contributing to the RPS.

22 And it's, I think, reasonable to have an
23 administrative tracking system. We've set up WREGIS and
24 other systems to try to make sure that that eligible
25 renewable energy is only counted once, not counted

1 twice.

2 I think it's almost equally important to try to
3 set up the system so that eligible renewable energy is
4 counted at the first time. And so that you should try
5 to minimize any administrative opportunities or
6 structures where that energy is deemed to be not
7 counted, even though it's generated and it is eligible.

8 So, for this particular case, it's reasonable to
9 have a 90-day requirement, but the consequence of
10 missing that requirement is much too dire, not just for
11 the companies, but for the RPS Program overall. You're
12 losing the energy.

13 So, you need to have a different consequence.
14 And I don't know whether it's a penalty or something of
15 the sort.

16 I think what I would recommend is something a
17 lot more similar to what you guys have been doing with
18 certifications where if an application is incomplete, or
19 an application doesn't have all the information, or has
20 some other issue the facility goes on suspension, and
21 there's contact and communication between the parties to
22 try to get that information complete so that you have
23 that accurate information you need.

24 But as that's going there's no change in
25 eligibility date. There's no change in the eligibility

1 of the generation. It comes into the picture once
2 everything is completed and to your satisfaction.

3 Something like that seems like it makes sense to
4 me because what you're really doing, it seems with these
5 changing of eligibility date, is causing significant
6 economic harm to small companies and reducing the amount
7 of renewable generation that you should be counting for
8 the RPS.

9 And I don't see why you'd want to do that
10 without a really good reason.

11 With respect to communication, I mean companies
12 like PG&E, and Edison, and perhaps even SMUD can help
13 these smaller companies, these generators comply,
14 potentially.

15 But as many have said, there's a lot of
16 information out there. The Guidebook is pretty
17 complicated. The main purpose of these businesses is
18 not necessarily to deal with the Energy Commission's
19 Guidebook and so these things can fall through the
20 cracks.

21 I don't know about a good cause kind of
22 structure because, to me, if somebody says, well, I just
23 messed up, I forgot about it, or somebody left my
24 company, I don't know what's a good cause.

25 I would say that any time you have an eligible

1 generation structure you should be trying to get it
2 counted, not trying to not count it by an administrative
3 point of view.

4 And I would say a lot of these -- I mean you
5 know have, as you mentioned, Mark, the POU's involved.
6 and some of these POU's do not have the resources that
7 Edison, PG&E and SMUD might have to help their
8 counterparties understand what to do to comply with the
9 RPS. They're very small.

10 With respect to notification, if you know
11 there's a counterparty to a deal, if that's done, then
12 notify the counterparty as well.

13 Maybe if Edison had found out, you know, at the
14 very time when the facility came online that you had --
15 you know, 30 days before the 90-day requirement was up
16 that the facility hadn't met that obligation, they could
17 have notified the facility then, rather than three
18 months later. I don't know if you have that
19 opportunity. But you need a lot more notification.

20 MR. KOOTSTRA: Yeah, just so you know, we
21 generally do not have information on who or which
22 utility a facility is selling to. Oftentimes it can be
23 multiples but we just -- we don't collect that
24 information for certification purposes.

25 MR. HARRIS: If I could join in, Jeff Harris. I

1 want to echo a couple of things that have already been
2 said. I think it's important, the no harm/no foul to me
3 really relates to whether the renewable power was
4 generated and delivered to the grid. And if that
5 happened, in my opinion, there's no harm/no foul.

6 This is obviously a problem right now. I've
7 heard some very good suggestions about how to deal with
8 it in future Guidebooks, but I want to suggest to you a
9 couple things.

10 And one of those is that I don't think you need
11 to wait. I think you ought to do two things. The
12 Executive Director of this Commission already has the
13 authority to extend the deadlines.

14 And I've very carefully picked the word "extend"
15 as opposed to "waive". I think that's an important
16 distinction. But it's very clear to me that the
17 Executive Director today, without any changes to the
18 Guidebook, has the authority to extend the 90 days to
19 180 days, or some other date.

20 The reason I know that's clear is that the
21 Executive Director currently has the ability to waive
22 regulations.

23 So, as one specific example, the bid adequacy
24 regulations, you're supposed to get your full Commission
25 bid adequacy determination within 45 days.

1 Applicants regularly agree to waive that Title
2 20 requirement that the 45-day hearing be held and push
3 it to the next business meeting.

4 So, if the Executive Director has the ability to
5 extend a deadline on the data adequacy regulation, he
6 certainly has the discretion to extend a deadline in the
7 Guidebook.

8 It may not say that clearly in the Guidebook and
9 I think maybe one of the things we need to fix in the
10 next iteration of the Guidebook is to clarify that scope
11 of discretion.

12 But he clearly does have, and I'm saying "he"
13 because I know it's Rob. He or she clearly has the
14 authority to extent those deadlines today.

15 So, Commissioner, back to your princess, I don't
16 see any ruby slippers, but you already have the power in
17 your existing regulations to make these changes today.

18 And so I think it would be useful to make these
19 changes in the next Guidebook, but you're hearing from a
20 lot of small utilities and small businesses that are --
21 hearing a potential for severe financial, you know,
22 penalties, with no benefit to the environment
23 whatsoever. The power was generated, it's clearly
24 qualifying, and it was delivered.

25 And I think the utilities have been remarkably

1 cooperative and restrained here. And that's me saying
2 that, so that, hopefully, that says something.

3 You may have a contract provision but you don't
4 have to enforce it. You might give someone the
5 opportunity to cure something down the road and I think
6 you're seeing a lot of cooperation among folks in that
7 regard.

8 So, I guess I'd recommend two steps, and the
9 first step would be, you know, now. Either the Lead
10 Commissioner or the Executive Director go on the record
11 and say there is discretion to extend these deadlines
12 for good cause. We don't have to wait for the next
13 iteration of the rulebook. People like Steve don't have
14 to wait for that, you know, six-, eight-month period to
15 know that they're going to have some certainty that
16 their RPS-eligible renewables are going to count.

17 And then the second step is to formalize those
18 in the next step of the Guidebook.

19 So, you know, good cause, penalties. I don't
20 think penalties are required. Good cause ought to be
21 that the power was generated, that the utilities will be
22 able to count it towards their RPS, and the only result
23 would be a financial penalty with no environmental
24 benefits.

25 And I can -- I'll write down those three for you

1 and send them to you, if you'd like. But some kind of
2 good cause standard like that, that basically says, you
3 know, it was power, it was generated, it was eligible,
4 it's going to be counted and that the only result would
5 be a financial penalty.

6 So, those are my thoughts and suggestions.

7 MR. HERRERA: Jeff, this is Gabe Herrera. So,
8 I'm looking forward to receiving your written comments
9 on that point.

10 I'm not aware of the provisions in the siting
11 regulations that you reference, but perhaps there is
12 something explicit in those.

13 But in these guidebooks, the RPS Eligibility
14 Guidebook, there's nothing that gives the Executive
15 Director that discretion, or one of the Commissioners
16 independently, when the Commission as a full body --

17 MR. HARRIS: And nothing that deprives them of
18 that discretion, either.

19 MR. HERRERA: Well, proving the negative here --

20 MR. HARRIS: That's the issue.

21 MR. HERRERA: I look forward to receiving your
22 comments on this one, specifically. I mean, it seems
23 like one of the quick fixes, potentially quick fixes for
24 this that would address this issue across the board
25 would be to make some Guidebook revisions that

1 specifically allowed that and under what conditions.

2 And I think your input on this would be extremely
3 valuable.

4 MR. HARRIS: Okay, well, that was clearly my
5 second step of my two proposed steps. I do think you
6 have an interim problem that's real, and immediate, and
7 serious for a whole lot of small utilities and for small
8 business that we can, you know, quickly clear up.

9 You know, one of the things we want to avoid is
10 if you get a negative determination do you have to ask
11 for reconsideration, and then you ask for
12 reconsideration and that's appealed to the full
13 Commission and then that, potentially, is appealed in a
14 court of law.

15 We can completely eliminate that type of a
16 process. It's wasteful and nobody wants to go through
17 that. It's going to waste resources for people who are
18 already resource constrained. It's going to waste staff
19 time. Frankly, it's going to make you mad. You like me
20 well enough now, but you wouldn't like me then, and it's
21 important that you like me, Gabe, so --

22 MR. HERRERA: Thanks, Jeff.

23 MR. HARRIS: Anyway, I think there is an
24 opportunity to solve these problems now and in the
25 future.

1 MR. HERRERA: Yeah, I think just a quick point
2 on that, you know, if the Commission does revise the
3 Guidebook to allow for this then what's going to happen
4 is, you know, a Steve situation is going to be addressed
5 because then it will allow the Commission to go back and
6 retroactively, you know, modify the certificate of
7 eligibility for your facility, and the same with other
8 facilities that have fallen in the same situation. So,
9 that's certainly one way to move forward.

10 MS. FELLMAN: Just to follow up from a company
11 point of view, the process -- I want to support what
12 Jeff is saying about the timing on that, Gabe, because
13 certainly the Commission in the past, and I have no
14 doubt in the future, has had a commitment to be
15 rational, and be very open to these suggestions in
16 problem solving.

17 However, the gap in timing, again I go back to
18 my point about the consequences on the PPA. We would
19 need to work with the utilities on patience during that.
20 And, you know, they've been very accommodating in terms
21 of treating the PPA, but the provisions in the PPA
22 are -- there's discretion, but they are there.

23 And I'd like to hear -- I'd like to invite, you
24 know, the -- I think John was going to say something
25 about the PPA earlier. I'd like to hear their view on

1 how to approach this and what -- how they would look at
2 this timing issue.

3 MR. PAPPAS: Well, as far as the PPA, there
4 are -- there is a requirement to have both
5 precertification and final certification, so that was in
6 response to Gabe's question.

7 But, you know, in terms of this overall topic,
8 you know, PG&E would support flexibility. You know,
9 similar to Edison, we have a very proactive program to
10 try to monitor the certification and to follow up with
11 counterparties. But it's still -- you know, things
12 still fall through the crack. We've seen it a lot less
13 than there used to be, but it still occurs.

14 You know, one thing to keep in mind -- what
15 we're actually observing is that most of the larger
16 players don't seem to -- and more experienced parties
17 don't seem to have a problem meeting the deadline,
18 whatever it is. But, you know, it's usually the smaller
19 outfits that maybe this is their first project, you
20 know, they just don't have the staffing and so on.

21 And there's a lot of things, keep in mind that
22 are occurring during the first 90 days of a project. I
23 mean, you're trying to get the thing online, you've got
24 metering, you know, maybe resolving final
25 interconnection things, start-up testing, you know, all

1 kinds of stuff, getting the new staff on board.

2 That, you know, maybe the certification is not
3 exactly in the forefront. Probably the forefront is
4 just trying to get electricity generated. So, we have
5 to keep all that in mind.

6 So, we would support some kind of -- you know,
7 there's been various ideas here in terms of waiver, or
8 some way to address the situation so you don't actually,
9 you know, lose these valuable RECs, if you will.

10 And just sort of stepping back in terms of, you
11 know, what is the objective here? I mean, I think
12 there's a big focus, there seems to be this sort of
13 emphasis on not double counting. You know, there's a
14 lot of that, you hear that all the time.

15 I know from my own personal experience in WREGIS
16 it's a big focus there.

17 But, you know, really I think under-counting is,
18 I think, just as serious a problem as over-counting, and
19 I think we need to really focus on just getting the
20 number right.

21 You know, and I think the State really deserves
22 it. I mean, you know, we're trying to show what our
23 progress is in terms of renewables and, you know, who's
24 going to want to say that we're at 33 percent, when
25 we're actually at 34, or we're at 25 when we're actually

1 at 26, that kind of thing.

2 So, we should really try to figure out solutions
3 to this that allow us to really get the right number out
4 there.

5 MR. WEINSTEIN: So, this is Jeremy Weinstein
6 with PacifiCorp. And I'd actually suggest an approach
7 that's quite different than what's been floated so far.

8 First of all, I don't think fines are remotely
9 appropriate and I don't think adding another
10 bureaucratic process is remotely appropriate, either.

11 I think staff has -- there's three prongs that I
12 think need to be discussed. I think staff has put one
13 of them in this workshop that we'll be discussing, which
14 is the dividing line between certification and
15 precertification for your application.

16 I think this is part of that discussion, you
17 know, gee, when do you apply, what is the part of it?

18 I think rather than focusing on putting together
19 an appeals process, or giving discretion to a
20 Commissioner, or saying that deadlines can be extended,
21 I think people should be held responsible for the
22 deadlines that are in the regulations, but I also think
23 that there needs to be a better communication process
24 between the Commission staff and the applicant when an
25 application is pending.

1 And I've certainly seen some horror stories in
2 that regard and staff has come through. In my
3 experience, they've all worked themselves out.

4 But certainly in terms of, you know, what I've
5 seen and where those could have gone were they not
6 handled the way they ended up getting handled, you could
7 have, gee, the fine gets incurred because you missed the
8 deadline. And, well, wait a minute I didn't miss the
9 deadline, I sent the application. Well, you know, the
10 e-mail address was wrong so, you know, you didn't
11 actually submit the application.

12 And, okay, I just don't think that there should
13 be a heightened bureaucratization.

14 I think what should happen is there should be
15 some sort of communication process and staff has got to
16 weigh, you know, how it can handle its scarce resources.
17 But I don't think that the staff resources should be
18 spent dealing with people who aren't following the
19 written rules.

20 I think if you're following the written rules,
21 the staff resources should be allocated. If you're
22 going to allocate, then you allocate towards favorable
23 communication towards the people who are following the
24 rules.

25 The sitting back and when you allocate, looking

1 at communication, when you're looking at certification
2 versus precertification, when you're looking at this
3 rule of filing when you reach COD, I think it's very
4 important to be thinking about the reality of project
5 development and what is actually being developed, and
6 when is it actual commercial, and when is it online.

7 And, you know, in kind of my practice and,
8 again, I don't know whether it actually follows the
9 rules and maybe I'm missing something, confessing to
10 something, but my practice would be, hey, when you've
11 got test energy coming from the facility it's okay to
12 send in the certification, even if you don't have like
13 the final COD because there's a risk of, okay, what if
14 there is something else that's wrong? What if there's
15 something else that's missing. You want the information
16 from the Commission as soon as possible. You want that
17 feedback. You want to know if you're complying.

18 Compliance is extremely important to almost
19 everybody in this room, so you want to be sure that
20 you're in compliance.

21 And as has been pointed out, it's in the PPAs.

22 So, you know, we kind of have commercial
23 operation, which is like it's operating but, you know,
24 does that mean that you've actually met everything
25 that's in the COD? Does that mean that you're

1 commercially operating under your connection agreement?
2 There's not really -- these are just factors to be
3 thinking about when you're setting the certification
4 versus precertification. I'm sure I'll repeat myself
5 when we get to that part of the program.

6 But, you know, the -- I really do reiterate,
7 echo and really appreciate the comments that were made
8 here that, you know, the goal is to maximize the
9 renewable energy that's available to California
10 purchasers.

11 MR. HERRERA: Cool. Oscar Herrera with LADWP.
12 I'm hoping I'm not jumping on a tangent here, but I
13 think it's a related issue.

14 Now, let's suppose the utility actually
15 submitted the certification application, the
16 precertification application, actually, was diligent in
17 following the process. For DWP, we followed the
18 process, we submitted the certification applications
19 October of 2012.

20 We followed up with additional certification
21 applications for AB 2196.

22 Now, the holdup is not the 90-day requirement to
23 submit a certification application. Now, the holdup for
24 DWP is receiving the certification and we've submitted
25 these applications a long, long, long time ago and we

1 still haven't seen anything just yet.

2 Now, what I would like to see moving forward is
3 also a requirement for the CEC to submit a certification
4 application -- a determination on a certification
5 application within a specific timeframe.

6 Because I think it's -- I mean, I think it's
7 reasonable to have us, the POUs, IOUs, et cetera, submit
8 a certification application and submit it on time to not
9 further delay the process, but another thing that also
10 delays the process is when you actually receive the
11 certification application.

12 COMMISSIONER HOCHSCHILD: Actually, let me just
13 comment on that for a moment. I share that concern.
14 Actually, this is one of the first issues we dealt with.

15 One of the challenges is that because there's so
16 many precertifications that, actually, that takes a lot
17 of staff time and it delays certification. There's a
18 limited amount of staff available.

19 But we've actually made quite a lot of headway
20 on the certification processing time.

21 Mark, maybe you could share a little bit?

22 MR. KOOTSTRA: Yeah, we've -- and this isn't
23 covering from when we receive it, necessarily, but the
24 vast majority of applications over the past six months
25 that we've received, once we've been able to deem them

1 complete it's been taking less than 10 days for most
2 solar and wind, approximately 30 days for others.

3 You're alluding to, I believe, the biomethane
4 applications --

5 MR. HERRERA: And small hydro.

6 MR. KOOTSTRA: -- and small hydro. Some of
7 those have some significant other issues that are not
8 necessarily due to your application.

9 I believe in LADWP's case, for the biomethane,
10 most all of those went back and then we received
11 additional applications. And I think the additional
12 applications are what's still under question. And we
13 can talk more about that offline.

14 But I agree, that's what we want as well.
15 Sometimes there are just circumstances outside of what
16 staff can do. Not necessarily staff resources, but
17 other questions that need to be answered which is
18 delaying some of this stuff.

19 I agree and I'd be happy to talk with you more.
20 But you're right, it's a little bit of a tangent for
21 this particular topic.

22 MR. WEINSTEIN: So, do my applications got a
23 special pile because I've never really experienced --

24 MR. KOOTSTRA: Yes, they do.

25 (Laughter)

1 MR. KOOTSTRA: Oh, that's been for more recent
2 stuff submitted around July. Commissioner Hochschild
3 directed us to change some priorities around those and
4 so we were able to move them a lot faster.

5 To be honest, I haven't seen a lot of
6 applications from you, outside of the ones that need
7 additional review in the recent few months. So, maybe
8 that's just I'm not seeing your name, but we are making
9 headway.

10 MR. WEINSTEIN: Because everybody knows it takes
11 forever to --

12 COMMISSIONER HOCHSCHILD: Speaking of moving
13 things along, it's 11:00 and we're still on item two out
14 of seven.

15 Is there anything else, anyone who hasn't spoken
16 on this question?

17 If not, let me just thank everyone. These are
18 great comments. I will definitely address this. And I
19 just want to stress to everybody we are going to do
20 everything we can to be a reasonable agency and to be
21 fair, and to make these decisions as quickly as we can.
22 This is great input so thanks, everyone.

23 MR. KOOTSTRA: Before we move on I'm going to
24 open it up for the WebEx. Is there anyone on WebEx
25 that's hoping to make comments? Please keep in mind

1 that we are trying to move things along, so if it's been
2 said before, please just iterate your comments written.

3 And we're going to open up the phones in just a
4 minute. So, if you're on the line please mute your
5 phone unless you have something to say. Thank you.

6 If anyone's on the line, the phones are unmuted,
7 so please begin.

8 We're going to close the line, there's some
9 major feedback. We welcome written comments, but the
10 feedback's been continual. If everyone on the line
11 could take a look at that and try and solve any problems
12 they might have, but we're -- unless there's anybody on
13 WebEx?

14 MS. FELLMAN: Mark, I just wanted to comment
15 that that was a statement from Solarin, the space solar
16 project that is the contractor with PG&E.

17 (Laughter)

18 MS. FELLMAN: They're saying they support
19 everything the generators are saying.

20 MR. KOOTSTRA: Right. We're going to move on to
21 the next topic, biomethane, the definition of a
22 dedicated pipeline.

23 And anybody who has an interest in that, please
24 come forward. And if you have made a nametag and you're
25 planning to speak again, please grab that just in case

1 you don't get the same location as before.

2 But if there's nobody else, I'm going to get
3 started with the presentation to talk about this one.

4 So, as we all know, Assembly Bill 2196 was
5 passed at the end of 2012 and the 7th Edition Guidebook
6 incorporated those changes in late April of this year.

7 There are three classifications for biomethane
8 facilities under the law.

9 Biomethane produced on the generation site and
10 these are traditional digester gas facilities and
11 landfill gas facilities.

12 Biomethane transported via dedicated pipeline.
13 These are very similar to the on-site, except there's a
14 pipeline running from the production of that biomethane
15 to the end users.

16 And biomethane transported via common carrier
17 pipeline. This is a gas that's generally mixed with
18 natural gas in the pipeline system and delivered through
19 the pipeline system contractually.

20 Currently, the definition of dedicated pipeline
21 in the RPS Guidebook is for purposes of RPS eligibility
22 of biomethane and refers to a gas conveyance pipeline
23 that is not part of a common carrier pipeline system
24 that conveys biomethane from a specific biomethane
25 producer to a specific electrical generation facility

1 and to no other end users.

2 The intent of this definition is to ensure that
3 if biomethane is delivered via dedicated pipeline that
4 it is consumed at the designated facility and there's no
5 even potential possibility for it to be burned somewhere
6 else.

7 As you can see -- so, the questions are does our
8 definition meet up to that requirement or to that
9 objective? And if not, please let us know where that's
10 lacking.

11 And also, is the definition too narrow? Are we
12 missing the point of the law? And if so, how could it
13 be expanded while still achieving the objective in
14 ensuring gas is burned at the proper location?

15 Go Tim.

16 MR. TUTT: This is Tim Tutt from SMUD. And we
17 do understand the differences between the different
18 types of pipelines that are in the law.

19 We've gone back and forth with the CEC on
20 definitions, so I think we've provided alternative
21 definitions.

22 I'll just sort of explain the situation from our
23 perspective. I mean, we have a pipeline that serves
24 only our power plants. It serves no other end users.
25 And we think of that as a dedicated pipeline.

1 It may not meet the specific definitions that
2 you've adopted, but we don't think that those
3 definitions are necessarily required by the law.

4 Our pipeline is certainly not a common carrier
5 pipeline in the common sense of the term. If you look
6 at definitions in legal structures, in Wikipedia, in a
7 variety of places, we don't have a common carrier
8 pipeline where we are required to accept gas for
9 transport to other users. We're not required to do that
10 and we don't do that. That's what a common carrier
11 usually is and does.

12 We're so close to a dedicated pipeline in your
13 own definition that we've told you that the only place
14 that this biogas that we're injecting into the pipeline
15 can be burned is the power plant where we've designated
16 that it will be burned.

17 And yet, there's some chance because it's
18 moved -- it's not a pipeline that goes only to one user,
19 in your minds there's some theoretical chance that it
20 might be used somewhere else.

21 I guess our request is and remains that because
22 we're that close to your purest definition of a
23 dedicated pipeline that you should expand it a little
24 bit to cover our situation.

25 And, certainly, that will remove several issues

1 of -- or problems in the future for us. If our pipeline
2 continues to be considered a common carrier pipeline, it
3 raises a variety of reporting and compliance
4 obligations, and transactional possibilities in the
5 future that, really, we don't believe are at all
6 intended by the law.

7 I don't know that in this public setting we need
8 to go into a lot of detail. I mean we've worked on this
9 offline. We just want to encourage you to broaden the
10 definition of the pipeline or add some other definitions
11 which we feel like you have the authority to do.

12 I mean, we effectively have a private carrier
13 pipeline. There's not part of AB 2196 that defines a
14 private carrier pipeline. But you could, under your
15 authority, define that term and indicate that you are
16 going to be treating that as if it was or like a
17 dedicated pipeline situation.

18 There's other solutions we've proposed. We just
19 want you to listen and work on taking care of this
20 situation with us. Thank you.

21 MS. PUFFER: Valerie Puffer from the City of
22 Glendale Water and Power. And I support Tim.

23 We want to make sure that -- okay, Glendale has
24 a landfill that goes -- it has a dedicated low-pressure
25 pipeline that goes inside the city, directly to our

1 power plant, and it is considered a dedicated pipeline.

2 But we want to make sure that you don't put the
3 regulations in that -- that it doesn't get in the way of
4 the benefits of using landfill gas, using biogas, and
5 making sure that it's -- everything's so onerous that it
6 doesn't meet the guidelines for the RPS eligibility.

7 Thank you.

8 MR. KOOTSTRA: Thank you.

9 Does anyone else in the room have comments or,
10 Tim, did you have something additional to add?

11 Commissioner Hochschild, did you have any
12 questions?

13 Is there anyone on the WebEx who's raised a hand
14 or has indicated?

15 We're going to try the phone one more time. If
16 we have the feedback, we'll probably move on from there.

17 Theresa, could you unmute the phone for me?

18 Thank you.

19 Okay, I believe we're unmuted. If anyone on the
20 line -- I apologize if you're on the line and you wanted
21 to comment. Please submit written comments.

22 We're going to -- we'll see if we can fix that
23 during lunch, but we'll have to move on from there.

24 If you do have access to a computer and you can
25 try and log in via WebEx, that would be great, you can

1 type your questions to the person via WebEx, as well.
2 If you're just on the phone, I encourage you to try and
3 log into WebEx, if possible.

4 We're going to move on to the next topic of
5 energy storage. So, please, if anybody's interested in
6 this, please come forward and I'll get the presentation
7 started.

8 So, currently in the RPS Guidebook energy
9 storage devices that are metered and operated as part of
10 a renewable generator may be included as part of that
11 electrical generation facility and be used as -- be used
12 in that certification.

13 Those facilities that store electricity, that
14 are not operated as part of an electrical generation
15 facility are not currently eligible for the RPS.

16 And this includes stand-alone energy devices or
17 facilities that are not electrical generation -- they're
18 just generally not electrical generation facilities.
19 Sorry, I'm jumbling my words.

20 Energy storage devices, their purpose is to take
21 in energy from one source and then provide their energy.
22 Most good connected electricity storage devices, such as
23 batteries or pumped hydro stations, that accept
24 electricity in and then put electricity out, they're not
25 truly generating renewable electricity unless the

1 renewable electricity came in, in the first place.

2 So, we have a long list of questions for this,
3 but should we be looking at energy storage facilities
4 not directly connected or metered as part of electrical
5 generation facilities that are renewable for
6 California's RPS and for certification?

7 Given the inherent energy losses in storing
8 electricity, is there a benefit for utilities to procure
9 renewable energy that has been stored in energy storage
10 devices rather than directly procuring it from the
11 renewable generator, and allowing generic grid
12 electricity to be stored? And please explain that?

13 Do those benefits remain if the energy storage
14 device requires firm transmission or another delivery
15 arrangement similar to electric generation facilities
16 not interconnected with California Balancing Authority
17 to provide portfolio content in one category product?

18 This is the one place where we're kind of
19 broaching into where the POU regs come into play. We're
20 not necessarily looking for extreme specifics. We're
21 just looking for the general concept is this something
22 we should be considering?

23 And as well, should energy storage devices be
24 allowed to shift deliveries from one portfolio content
25 category to another? Why or why not?

1 So, we have a few people at the table here.

2 Please go right ahead, Steve.

3 MR. KELLY: Steven Kelly with the Independent
4 Energy Producers Association.

5 And I think you've basically got it right, at
6 least from my perspective. And let me describe why I
7 come to this conclusion.

8 For many years we've been working in developing
9 an accounting procedure that was transparent, clean, and
10 minimized the likelihood of double counting. So we
11 adopted the WREGIS approach which basically said that
12 we're going to read your meter at the delivery point
13 onto the grid and that's going to be the basis for
14 determining the REC creation and so forth.

15 And in that light, when I think of storage, I
16 think of storage -- if you've got storage essentially
17 within the fence, behind the meter then you've got a
18 single meter read onto the grid and you've got
19 consistency with the status quo today, and I think that
20 makes sense.

21 So that's saying, basically, storage that's
22 behind the meter or within the fence is probably a very
23 useful tool in actually moving energy from a renewable
24 generator onto a time-of-use delivery period that has
25 higher value. And that is what we want and that's a

1 good thing to do, but they do it through a single meter
2 read.

3 On the other hand, storage that's outside that
4 fence or outside of that meter I think creates
5 tremendous complexities and is not the direction that we
6 can go.

7 It raises two big problems, not the least -- the
8 first is just the problem of how are you going to count
9 this stuff?

10 We have a WREGIS structure that is designed to
11 count it at the meter read from the generator and now
12 you've got a new entity, outside that environment, that
13 in theory is, as I think you've correctly pointed out,
14 is simply moving power from one point to another point,
15 and time of day for delivery. It's not really creating
16 new energy. So, you have a double counting problem.

17 And the second thing that concerns me related to
18 including what I'll call out-of-the-fence storage as a
19 potential renewable resources is it strikes me that kind
20 of sales where a renewable generator is selling energy
21 to a storage facility, for use for pumping, is a retail
22 sale, not a wholesale sale.

23 And I think that creates a complexity that we
24 haven't thought through, yet, but is potentially quite
25 important. And if you were to go down that path of

1 counting these resources that are outside the fence as
2 considering for eligibility, we would need to explore
3 that.

4 I'll be raising it because I do think it sounds
5 like a retail sale.

6 So, I think you've got this right and I support
7 the direction you're going here. And it creates a
8 mechanism, if you're behind the fence, to use storage,
9 to get higher value products onto the grid through the
10 storage facility, and that's the way it should be.

11 MS. BERLIN: Thank you, Susie Berlin for the
12 City of Redding.

13 As a practical matter, I agree with part of what
14 Mr. Kelly has said and that's that we have something in
15 place now that addresses storing electricity that comes
16 from renewable resources, but I think it needs to go a
17 step further.

18 And I think some of those issues that Steve
19 Kelly has specifically stated should be avoided --
20 should not be avoided. They should, in fact, be
21 explored further and we should try everything we can to
22 ensure that we're maximizing the benefits of energy
23 storage, including exploring ways in which we can have
24 energy storage count as RPS.

25 There are a lot of benefits to energy storage,

1 we know about that. But I believe that some of those
2 benefits should fall under the category of RPS. And
3 that's something that Redding would really like to see
4 the Commission look at in more detail.

5 And I'd like to read a statement. There are
6 individuals from the City of Redding on the line right
7 now and they can answer questions, if there are any
8 further inquiries. But I'm going to read the statement
9 regarding Redding's position.

10 So, the City of Redding's Electricity Utility;
11 "Of course, we appreciate the Commission's consideration
12 of the role of the energy storage in the context of the
13 State's Renewable Portfolio Standard Program.

14 The current inquiries that were raised in the
15 workshop notice regarding the use of energy storage are
16 a sound basis to begin this discussion. And Redding
17 urges the Commission to take the broadest possible
18 interpretation to the 'requirements' associated with the
19 use of energy storage for RPS purposes.

20 However, we believe these inquiries do not go
21 far enough and fail to recognize the ways in which some
22 entities, such as Redding, are already utilizing energy
23 storage technology.

24 Redding believes that the current discussion
25 regarding energy storage and its role, vis-à-vis the RPS

1 Program, significantly discounts the renewable energy
2 and greenhouse gas reducing potential that energy
3 storage can contribute to the market and, more
4 especially to the RPS Program, itself.

5 While the benefits of energy storage for load
6 management and grid reliability are being explored in
7 other venues, it is imperative that the direct link
8 between energy storage and RPS be recognized as part of
9 the RPS Program and RPS eligibility.

10 Doing so will allow not only the expansion of
11 energy storage technologies but will enable the State to
12 maximize the usefulness and efficiency of the existing
13 transmission system, reduced RPS costs for ratepayers
14 across the State, and eventually allow for the time-
15 differentiated value of renewable energy to be
16 recognized."

17 So, we would like to see the discussion of
18 energy storage, if not in the context of the workbook
19 revisions, but in the context of the entire RPS Program
20 be expanded beyond just the inquiries presented here.

21 And with regard to the inquiries presented here,
22 we think that the Commission's approach should be one
23 that looks at trying to find a way to include them,
24 rather than using these inquiries as a starting for what
25 should be excluded. Thank you.

1 MR. KOOTSTRA: Tim?

2 MR. TUTT: Yeah, this is Tim Tutt from SMUD.

3 And I think that, you know, it's clear, Mark, as you've
4 said, that off-site renewable -- or energy storage
5 probably is not renewable unless all of the energy that
6 is used to put electricity into that storage facility or
7 energy into that storage facility is renewable in and of
8 itself, already.

9 And that poses some questions about whether or
10 not it even makes sense to claim the RPS credit after
11 the conversion loss of the storage facility.

12 But given that storage is a potentially
13 significant beneficial technology as we move towards a
14 highly variable renewable grid, I think it is reasonable
15 to explore ways of considering that benefit as an RPS --
16 in an RPS structure.

17 And the one thought that I had is that you could
18 use WREGIS to prevent the double counting of renewable
19 generation if you knew the conversion efficiency of the
20 storage facility and you required that a storage unit
21 registered in WREGIS would have input equal to the
22 amount necessary with the conversion efficiency to
23 provide the renewable output from that facility.

24 In effect, it would be kind of like retiring the
25 input through that storage facility. So, you would

1 retire those initial or input RECs and the output RECs
2 would then become RPS eligible if everything met the
3 conversion efficiency requirements in required
4 generation.

5 It's just a thought. It's a way to perhaps
6 explore this.

7 The economics and the losses in storage, I
8 think, would lend a kind of natural resistance to
9 misusing this, but it's something to explore, in my
10 mind. Thanks.

11 MR. KELLY: I have a thought, too. There is a
12 distinction between RPS RECs, storage used to create RPS
13 RECs and storage that is used to avoid GHG emissions.
14 They are very different in the way that we've got
15 programs set up.

16 They both are valuable and I support storage.
17 But there are two different outcomes that we need to be
18 mindful of.

19 We have a structure that creates a REC that
20 imbues all the environmental attributes of electric
21 generation in that REC. And we have a whole legal
22 structure designed to deal with that. WREGIS is the
23 mechanism for accounting for that.

24 One of the original purposes of creating that
25 structure for WREGIS, or something like WREGIS, was to

1 provide a measure of comfort to the public, who was
2 funding the renewable development, that they were
3 getting what they thought they were getting, i.e., a
4 renewable attribute.

5 The risk of undermining that public's confidence
6 by meddling with the identification of what a REC is, in
7 order to recognize GHG, avoid GHG benefits, is in my
8 view too risky to take, a path to take, and isn't
9 warranted.

10 We should figure out a way to make sure that
11 storage is credited for avoided GHG emissions, but we
12 can do that outside of the RPS Program, in my view, and
13 without too much difficulty, in my view, because that's
14 what it's doing.

15 And we need to figure out a mechanism to
16 recognize those values, but I'm really worried about
17 trying to do that within the RPS structure because of
18 the unintended consequences and the mess it's going to
19 create by doing it that way.

20 MS. BERLIN: This is Susie Berlin. I'll just
21 make, I think, I think one last point, because I don't
22 want it to be a debate back and forth.

23 But I don't want to say that I completely
24 disagree with what Mr. Kelly is saying. There is a
25 distinction. There are benefits to energy storage

1 across the board.

2 What we're saying, and which might sound a
3 little odd coming from a public agency, is that we
4 shouldn't avoid the risk of at least looking into it.
5 You know, we're usually risk adverse, but in this case
6 I'm going to say that it's worth the risk to look into
7 it.

8 Redding's been doing a lot with energy storage
9 and we believe that there are ways to expand upon the
10 benefits of energy storage strictly for the RPS, and to
11 distinguish that from the energy storage benefits that
12 are inherent in reducing GHG overall.

13 And what we're asking is for the Commission to
14 take up some kind of a process to allow us to embark on
15 this discovery, this further investigation and before we
16 move forward and say, oh, yeah, you're right, let's go
17 ahead and do it. We're not saying this should be
18 rubber-stamped right now.

19 We're saying that it is, we believe, very worthy
20 of consideration for purposes of the RPS Program.

21 MR. KOOTSTRA: Is there anyone on WebEx that's
22 raised their hand or wishes to speak?

23 All right, then we're going to move on to the
24 next topic of precertification.

25 Just as a reminder, if you've filled out an

1 additional topics card, one of the green cards, please
2 turn that in as soon as you can, we're getting closer.
3 It looks like, given the next topic, we'll probably
4 still have a lunch break before we get into those, but
5 we'd like to have those in our possession just to be
6 safe.

7 If you haven't filled out one of those cards and
8 you want to, please raise your hand and let us know. We
9 have a number of extra cards floating around.

10 Our next topic is precertification. Yes, it is
11 precertification. So, if you have any comments you want
12 to discuss on this, please come forward and sit at the
13 table.

14 We do have some additional nameplates. If
15 they've all been filled out in the area you sit, we'll
16 be happy to pass those out.

17 So, precertification is for facilities that are
18 not currently commercially operational, that are not
19 using renewable resource, but hope to use one in the
20 future, or do not meet one or more of the operational
21 requirements of the RPS Guidebook, but plan to make a
22 change so that they are in full compliance with the
23 Guidebook and can move forward to certification.

24 Precertification offers an eligibility date
25 prior to COD. It offers an evaluation of the expected

1 potential to certify the facility once operational, as
2 described in the application. And this is only under
3 the Guidebook in place when the precertification
4 application has been submitted.

5 So just to be clear, if you receive a
6 precertification under one Guidebook and the Guidebook
7 changes, you would still be required to apply for
8 certification under the new Guidebook, as the program
9 currently stands.

10 And this goes through -- it does not guarantee
11 that the facility will become certified, will be
12 certified under the same Guidebook as the
13 precertification, that it will receive any kind of
14 shortened review, or expedited review, or the review
15 will be quicker and simpler, and that the facility will
16 ever produce renewable energy.

17 So, we have a lot of questions for
18 precertification. We have discussed this topic at prior
19 workshops and gotten a lot of information.

20 Most parties have commented in the past that
21 they want precertification to mean something more, to be
22 a guarantee, to be solid, to be guaranteed that you'll
23 be able to be evaluated under that original Guidebook.

24 That's not something that we've moved forward
25 with at this point.

1 We've only had a few parties say either make it
2 stronger or get rid of it altogether.

3 As Commissioner Hochschild has said,
4 precertifications take up a fair amount of staff time
5 and resources, and eliminating precertification could
6 speed up the review for certification facilities. But
7 we need to know; is this something of value?

8 We want to know if the market participants are
9 aware of the intent of precertification and whether or
10 not that precertification is being represented in a way
11 that it shouldn't be.

12 Could the renewables market reasonably adjust to
13 the elimination of precertification; why or why not?

14 Could test energy, energy generated before
15 commercial operations, be make RPS eligible without
16 precertification? Such as saying if you apply within 90
17 days or some other timeframe for certification, as of
18 coming online, we'll count test energy going back.

19 What should the Energy Commission do to ensure
20 applicants for precertification fully intend to complete
21 the development of a facility as planned?

22 And can the precertification process be revised
23 to provide greater assurance to developers and the
24 renewable electricity market?

25 And can this greater assurance be provided

1 without providing a guarantee, as well?

2 So, it looks Steven Kelly, you have some
3 comments.

4 MR. KELLY: Just thank you. This is Steven
5 Kelly with the Independent Energy Producers. And I
6 spoke on this issue on the first topic, so I'm here for
7 the record, I guess, to say similar things.

8 You've asked the general question about whether
9 precertification has value. And I think I indicated
10 earlier today and I will reiterate, now, that there is
11 value in a precertification process. In terms of
12 developing projects, the procurement process, working
13 with the counterparties and so forth, having
14 precertification seems to provide some value.

15 When I've chatted with my members about the
16 process in place today, the one thing that came back was
17 more not eliminate it, but is there a way that we can
18 streamline it a bit?

19 I think somebody mentioned that there was like
20 eight pages to precertification or something like that,
21 and is there any way that we could make this a little
22 more streamlined recognizing that it was just simply
23 precertification?

24 So, I'm here to say that I think there's a
25 general value for this in the world, and people are

1 utilizing it. And the one thing that I heard is can we
2 streamline it?

3 MR. HERRERA: Just a quick question. So, Steve,
4 why is there value in it?

5 I mean, because we're thinking that there's a
6 perceived value because people who receive
7 precertification think it means more than we think it
8 actually does.

9 And so that's why I'm wondering what is the
10 value?

11 MR. KELLY: The comments that I've heard on
12 this, which go back some time, and so I've talked about
13 this recently. But when I heard about this issue and
14 when it came up originally, it was more in terms of if I
15 have precertification then I'm in -- I'm going to be
16 taken more seriously in negotiations for a PPA, for
17 example.

18 I mean, we have a couple structures for
19 developing PPAs, the RAM and a standard offer contract
20 structure, the RPS RFO, which has kind of a standard
21 contract and is subject to all sorts of changes, and
22 then pure bilateral discussions.

23 And I think generally developers think or
24 believe that with precertification there's -- you're in
25 a better position to approach the utilities with your

1 project.

2 COMMISSIONER HOCHSCHILD: Can I just follow up
3 on that? I mean, maybe a different way to ask the
4 question, I think, I get that there's value if you have
5 a precertification process. I get that there's value in
6 seeking a precertification.

7 But I sort of think about it as like the
8 preadmission process for college, right. If you apply
9 early admission and you get into Harvard, that's great.
10 But if the early admission is actually not binding, you
11 know, how -- which is our situation here, right, you
12 don't -- the precertification doesn't guarantee
13 certification. How valuable really is it?

14 I mean that's -- because the staff, and correct
15 me if I'm wrong, Mark, but I mean probably, what, half
16 the staff time of certification -- how much --

17 MR. KOOTSTRA: I would say about half the
18 applications we receive are for precertification in some
19 way, shape or form.

20 COMMISSIONER HOCHSCHILD: Yeah. So, it's
21 actually a significant amount of time and it slows down
22 a lot of the other --

23 MR. KELLY: But does it speed up the process at
24 the end?

25 MR. KOOTSTRA: Not substantially because we have

1 to check and be sure that the facility's operating as
2 described in the application. We can't assume that
3 nothing has changed because things typically change.

4 MR. TUTT: I think there's two values for
5 precertification as it's set up, David and staff. The
6 first is the market value for financiers. I mean, I
7 think the market understands that it's not a guarantee,
8 but for a financier, to me, it's at least an indication
9 that the agency overseeing, the CEC, the RPS, has looked
10 at the characteristics of the project and said if it
11 were built today, it could be certified.

12 We don't know what will happen in the future,
13 necessarily, but it gives that kind of sense that it's
14 in the right ball park.

15 COMMISSIONER HOCHSCHILD: Yeah.

16 MR. TUTT: And that the second value clearly is
17 establishment of an eligibility date.

18 And so if you do away with precertification, I
19 think you certainly have to do something about that
20 second value. You cannot have a structure where the
21 eligibility date is dependent on the day-to-day
22 immediacy of getting a certification application in.

23 You want that to cover the test energy and you
24 want to be able -- you can't file a certification
25 application before the facility is online. So, you're

1 going to be setting up -- if you don't have some kind of
2 early eligibility date cemented in, a structure where
3 there's kind of a race, an hour-to-hour race to
4 determine is the facility online? Okay, push the button
5 to submit the certification application and get down
6 there, and put the hardcopy in because we want every
7 kilowatt hour of generation to count for the RPS.

8 MR. TAYLOR: So, this is Gabe Taylor. So, would
9 it possible to incorporate some of those benefits into
10 the actual certification process?

11 MR. TUTT: I think that if you had a
12 certification process where the eligibility date could
13 cover the test energy, could go back before the
14 commercial operation in some fashion that would take
15 care of that value.

16 MR. KELLY: Real quickly, to respond to your
17 question because you had said you'd thought this was
18 kind of like a pre-notification from Harvard that you're
19 in.

20 I actually think of it as slightly different. I
21 think it's more that, gee, I've got the 4.2 to apply, to
22 get in line to even talk to Harvard about whether they
23 would consider bringing me in or not.

24 MR. TUTT: I thought it was 4.7.

25 MR. KELLY: 4.7, see, I'm older than -- it could

1 be 4.7, now.

2 But it's actually, and I think from a developer
3 perspective, an early signal to you and to your
4 counterparties that you can pull a project together and
5 get the financing because you're going to fit into this
6 box.

7 And I totally agree with Tim, the world knows
8 that the box may change a bit, the project designs may
9 change as they go through permitting and siting, and the
10 world may change a little bit, but it's an early signal
11 that seems to provide some comfort to the marketplace
12 and value.

13 MR. WEINSTEIN: So, the thing is that it's
14 there, right. I mean, I think there's a lot of things
15 in life where you can have a lawyer look at the rules
16 and tell you, and give you a legal opinion, oh, yeah,
17 this is a wind facility. CEC certifies wind facilities.

18 And maybe the approach is to, instead, you know,
19 ditch the certification, precertification process, not
20 have it bifurcated and, instead, have some sort of
21 reasonable trigger for when you do the activity that is
22 the certification. Site control, substantial
23 completion, something that is pre-COD where the Energy
24 Commission can be assured, yes, this is indeed a wind
25 turbine and no gas turbines were installed, you know,

1 while you weren't looking.

2 Some sort of way for -- because I agree with
3 Steve that there's a fetishistic attachment to the
4 precertification because it's there. And banks, being
5 banks, and banks are completely unreasonable, and bank
6 lawyers make an awful lot of money making other people
7 do their work, and charging the borrower for it. And if
8 the bank attorney knows, gosh, you have this
9 precertification process available to you. I'm going to
10 make you do it.

11 Instead, the bank attorney can simply say to the
12 project borrowers, or project's equal borrowers, lawyer,
13 look, just give me -- you know, sign a legal opinion as
14 part of it, that this is going to satisfy as part of it.
15 And remove some of the burden from the Energy
16 Commission, remove the dual process, and kind of find
17 some sort of date that predates generating energy, but
18 allows the Commission and staff -- because like I said
19 before, we're hyper-compliant. Everyone in this room is
20 hyper-vigilant on compliance.

21 We want to be compliant. We want the earliest
22 possible signal that we're in compliance.

23 And I think, you know, for people to take the
24 better -- to something that really works and does
25 guarantee.

1 COMMISSIONER HOCHSCHILD: Great, that's a great
2 point.

3 A question, actually, for Mark because I'm very
4 interested, obviously, and we want to do the right thing
5 for the market and for the program, but also we want our
6 staff to be, you know, working in the most efficient
7 manner.

8 And I guess one question I have, what portion of
9 the precertification applicants that we're processing
10 are for obviously renewable projects, the wind and solar
11 where there's not really a question, it's just a need
12 for -- and what portion are for the more complicated,
13 you know, some of the small hydro projects or something
14 where there's actually a sort of a finessing? Mark?

15 MR. KOOTSTRA: I don't have a percentage
16 offhand. I think the vast majority of stuff we get is
17 simple. It's pretty simple and easy to process. It's
18 just a matter of processing those. If it only takes
19 half an hour to process an application but you have 300
20 of them, it's as bad as getting two that take a long
21 time but you only have two.

22 It's a very small amount that have the
23 heightened requirements. But even with the heightened
24 requirements we have to completely evaluate them and be
25 sure the operation has occurred.

1 Honestly, I like Jeremy's suggestion of having
2 something beforehand. I don't know if legally we can do
3 that.

4 The question is when a facility commences
5 operations, if they came to us after they received site
6 control saying we're PV, but all of the sudden they're
7 biomass, what amount of changes make it a new facility?

8 And what amount of changes, even if they're
9 minor allow us to say that we can treat the facility the
10 same way?

11 If it changes technology, is it still evaluated
12 as if it was the same facility or not, those kinds of
13 questions.

14 MR. WEINSTEIN: Well, I'm just wondering if
15 there's a way to push it onto the developer, and a way
16 to say, okay, we've got site control. It's solar, or
17 it's wind, it's -- I've given you the certification and
18 basically there is -- before Gina accounts the RECs, the
19 CEC must be in receipt of an independent engineer's --
20 you have a list, just like the CARB has verifiers, the
21 engineers have -- there's a list of licensed
22 professional engineers, who are independent, and you've
23 received a letter from them that you stick in your file
24 that says, yeah, it's solar. Yeah, I went out to the
25 site and visited and I don't see a gas turbine there.

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1 MR. PAPPAS: Mark, this is John Pappas from
2 PG&E. I'd like to make some comments on this.

3 Yeah, first of all I agree with the points
4 brought up, you know, particularly Tim's here in terms
5 of the value of precertification.

6 I mean, there's probably two of them. One would
7 be certainly indicating progress towards final
8 certification. So, I think a lot goes into filing a
9 precertification application.

10 And as well as, you know, guaranteeing the
11 eligibility of test energy, so getting that eligibility
12 date nailed down.

13 If you were to do away with precertification, I
14 mean you would certainly want to, you know, have at
15 least the benefit of the eligibility date.

16 And I think that's a tricky question because as
17 it is now if you were to take your chance and just, you
18 know, not file for precertification, which wouldn't be
19 allowed, say, under PG&E's PPAs, but maybe under some,
20 and just go with the final certification, and the
21 project came online, you know, the 29th of the month,
22 you'd have like one day to get the application in if you
23 wanted. Of course, you'd only have one day of
24 generation you'd lose.

25 But you'd have to figure out some way to be able

1 to count all the generation and then that doesn't even
2 include, you know, all the test energy.

3 But in terms of the burden, you know, that it
4 has, and I'm very respectful of the burden that this
5 poses to the CEC staff, but I think you also have to
6 kind of look at there are a lot of, you know, sort of
7 steps that has a project has to undergo to develop a
8 project.

9 I mean, you're talking about air permits, you've
10 got financing, you know, working with the planning
11 board. There could be a PPA, you know, at the
12 Commission, where you have an advice letter.

13 And, you know, any one of those things could
14 derail a project. And I guess each of those agencies
15 could come back and feel like they've been wasting their
16 time on a particular project.

17 But that's just sort of part of this overall
18 process. And, you know, the CEC with the certification,
19 in some ways is part of that.

20 And then just from a standpoint of a party
21 filling out the application, and PG&E has done that for
22 a lot of our solar projects, where we've done
23 precertification applications and final certification.

24 And what I've found is that at least from our
25 perspective a lot of work goes into preparing the

1 precertification application but then, you know, you're
2 finally done and the final one is pretty straight
3 forward. You know, you're just updating things and the
4 location should be the same, and WREGIS ID, and so on,
5 and so forth.

6 So, there is some benefit, at least from the
7 applicant's standpoint and, hopefully, that benefits
8 somewhat translates to you in terms of since you've
9 already reviewed the project once, if it hasn't changed
10 too much, hopefully, for the second time for a final
11 certification won't be too much work.

12 Now, that doesn't address those that never filed
13 a final certification. But in terms of the ones that do
14 complete the project, I think there's some benefits
15 there.

16 MR. KOOTSTRA: Absolutely. And I don't want to
17 make it sound like we're upset that we have to review
18 tons of precertifications that don't come online. We
19 fully understand that that's part of the process and not
20 everything's going to come to completion.

21 Just keep in mind that some folks come to us
22 before they even have an idea of what they really want,
23 a location, or before they started achieving site
24 control, or more forward with that process.

25 We get people that have certifications that are

1 10, 20 years out. Twenty years might be a little bit
2 far, but I've seen some that are about ten years out.
3 And you have to ask, is this a really good use of our
4 time or are they trying to leverage this
5 precertification to mean something more.

6 We do get a lot that are within a year and those
7 look great. We still know that they might not succeed.

8 So, I just want to be sure that you know that
9 we're not trying to just get out of work. We understand
10 that there's a value.

11 MR. PAPPAS: No, I understand.

12 MR. KOOTSTRA: We just want to be sure that the
13 value that is there is properly represented. And if
14 it's improperly represented, then we're making sure we
15 can try and fix that.

16 And if there's truly no value to the industry,
17 then let's get rid of it and get your certifications and
18 other stuff done faster.

19 MR. TAYLOR: Also, you bring up a good point. I
20 mean, it's an incredibly complex process. There are a
21 lot of steps. Why do we have two steps when we can
22 consolidate that into one?

23 There has to be a significant increase in
24 benefit to justify bifurcating that step of certifying
25 to the Energy Commission.

1 MR. PAPPAS: Yeah, I'm okay with consolidating
2 it, as long as we can maintain all the value that you
3 get from the two steps.

4 MR. TAYLOR: Okay, let's be sure to get all the
5 value stated on the record today so that we can -- and
6 in the comments, written comments.

7 MR. LANGER: Could I add a couple things for
8 Southern California Edison?

9 I think, you know, there's been some comments
10 made about streamlining. I'll echo those.

11 You know, I think one of the problems with the
12 precertification process is it's almost exactly the same
13 as the certification process except, as you pointed out
14 it comes much earlier than the online date.

15 So, it might be worth considering really
16 reducing the requirements needed for a precertification
17 so that really could minimize the burden for the CEC
18 staff.

19 And again, there's questionable value add when
20 facility site designs change all the time and you're
21 submitting that information.

22 COMMISSIONER HOCHSCHILD: Can I just -- if the
23 purpose of precertification is to send the message that,
24 yes, this would in fact be certified, how can it be
25 anything less than the certification process?

1 MR. LANGER: Well, I think you would have to
2 look -- one of the suggestions that we may propose is
3 that for certain technologies it's effectively a
4 foregone conclusion. So, I think you could look at
5 maybe looking at certain different technologies
6 differently.

7 I think if you have a solar PV plant, and
8 someone mentioned this much earlier, but I think there's
9 very little doubt of its eligibility status.

10 COMMISSIONER HOCHSCHILD: Right, so that's a
11 great -- can I just throw that out? What if we had
12 limited precertification or excluded wind and solar, for
13 example, from precertification?

14 MR. LANGER: I think that would save probably 98
15 percent of your workload.

16 MR. KOOTSTRA: The vast majority of our
17 precertifications are wind and solar.

18 COMMISSIONER HOCHSCHILD: Right.

19 MR. KOOTSTRA: But they're also the quicker
20 applications to review.

21 MR. LANGER: Yeah, I mean you could even -- even
22 if you didn't eliminate that step completely, you could
23 just say, hey, I'm building a solar plant on this site.
24 Assuming it's still a solar plant when I come back with
25 my full application, we'd like to have the

1 acknowledgement that we've at least established that
2 eligibility, because that is an important point that has
3 been made a couple times.

4 And one thing I will point out about that is
5 especially we've seen it with some of the very large
6 wind and solar projects, where they have multi-year
7 construction build outs, where they're actually syncing
8 certain parts of a facility. And so that's test energy
9 that can go on for years.

10 And sort of as a buyer of power, and a buyer of
11 renewable attributes, green attributes, I'd be pretty
12 concerned to have it hanging out there that not even an
13 application or first contact with the CEC had been made
14 about the eligibility for, you know, perhaps two years'
15 of generation before we can reach that final COD.

16 So, some way, I mean, to generate some real
17 assurance around that, I think that's one big piece
18 that's, in my mind, a real value add for the buyers
19 today.

20 MR. WEINSTEIN: Well, this goes back to the
21 theme that I brought up earlier in terms of allocating
22 resources to communication with developers.

23 And certainly, I think rather than have staff do
24 300 precertification applications, it would be a lot
25 easier for developers to know, hey, you can call staff

1 and say I've got this weird project, you know, what do
2 you think? You know, can you walk me through the
3 Guidebook and show me what's going to happen and how
4 they get this certified.

5 And that could be the way that that person could
6 understand, you know, whether or not it's going to be a
7 compliant product or not.

8 And I think it's just a much better allocation
9 of staff time than 300 precertification applications.

10 And I also think on a big picture policy basis
11 another reason to eschew the precertification as a
12 separate process, especially when it's available very
13 early, as opposed to, you know, a combined application
14 that has some sort of trigger point is that the
15 utilities, and the CPUC, and the Energy Commission are
16 already very significantly burdened by project failure,
17 by the fact that anybody can show up and say, well,
18 okay, I've got a project and I'm sticking my project in
19 the interconnection queue. And I don't know whether or
20 not I so need something from you in order to have it
21 treated as a renewable thing in the certification queue.
22 If not, maybe we need to talk to the ISO, but I don't
23 know.

24 But to the extent that administrative resources
25 can be allocated away from project failure risk to

1 communicating with developers that are actually
2 developing projects, the better.

3 MR. KOOTSTRA: Is there anyone else that would
4 like to add comments to this topic?

5 MR. TUTT: I'd just add that the streamlining,
6 as long as the value can be preserved, if there's a way
7 to do that and then preserve the values that have been
8 mentioned today, to the market and to the eligibility
9 date, it makes sense to look at that, to me.

10 MR. KOOTSTRA: Absolutely. I'd just like to
11 iterate that staff has looked at preserving the value,
12 especially for the eligibility date. And if, in big
13 picture discussions, the idea of removing
14 precertification, we have always accompanied that with
15 some way to account for test energy and still keep that
16 eligible.

17 So, that's not something that we're proposing to
18 get rid of. That's something that we've always looked
19 at and considered.

20 But it's the other values that need to really be
21 what defends precertification, not that eligibility date
22 because there are other mechanisms for it. And we agree
23 that should be preserved and that's out hope.

24 MR. KELLY: Can I ask a clarifying question?
25 So, you get the precertification, what does the Energy

1 Commission do with that? I mean, does it trigger
2 modeling efforts in the planning process or what happens
3 when you've given somebody a precertification?

4 MR. KOOTSTRA: Our office does not do anything
5 with those precertifications outside of fulfilling
6 questions from outside, or of other government agencies
7 looking at what's proposed to be built.

8 We do have other departments that use those and
9 use that for estimation. I don't know how heavily they
10 use those. We always caution them to be very careful
11 when using that information.

12 I do believe that those precertifications are,
13 as stated before, used for PPA compliance purposes. And
14 I think that the Cal-ISO is requiring precertification
15 for the expedited review for interconnection.

16 So, that's some of the stuff that we know is
17 going on, but we don't always think that our
18 precertification should be the trigger point for those
19 things.

20 MR. KELLY: right, right. See, the reason I
21 raise it is because my observation is that -- or I had
22 always thought the precertification was simply, from the
23 Energy Commission's perspective, if the developer
24 develops a project as they've just described, then it's
25 more than likely going to count or it will count, right.

1 If the project developer develops something
2 else, that risk is on him. Not on you guys, right? I
3 mean, that's his mistake because he's not going to be
4 deemed eligible from RPS, whatever.

5 So, it strikes me that, you know, there's a lot
6 of resources, wind, a lot of solar, there's a bunch of
7 stuff that is kind of, in my view, kind of pro forma.

8 If you develop a wind project using wind
9 turbines, blah, blah, blah, you're going to be an
10 eligible renewable resource.

11 And that ought to be like (blast/blast sound),
12 and maybe you don't even need to deal with it. You
13 know, you just take that stuff off the table because
14 it's obvious that if they do that kind of project
15 they're in.

16 It seems that would maybe save a lot of your
17 resource time.

18 MR. KOOTSTRA: Absolutely, and we do move pretty
19 fast on those particular ones.

20 Just to make you aware, I have worked with
21 folks, developers who know the situation and know that
22 precertification does not carry any solid weight, who
23 have said we will not order parts until we have this,
24 and have made those distinctions that we will not go to
25 our financing folks and they will not approve this.

1 Which suggests to us that maybe those developers
2 get it, the utilities get it, but those people that we
3 don't deal with directly don't understand that
4 precertification does not carry any guarantee, and
5 that's what concerns us is that it's being
6 misrepresented.

7 We've done -- we've stepped up their game and
8 our qualifications on those certifications, but it
9 doesn't change the fact that people are telling us we
10 absolutely need this to get approval. They can't just
11 point and say, look, we're a wind facility.

12 We've done the exact same thing next door, just
13 to prove these documentations so we can move forward.

14 MR. KELLY: Yeah and that's why you should get
15 rid of it because the service can be obtained at a cost
16 by the developer from someone else, like a lawyer.

17 MR. ANDREONI: I'm Tony Andreoni. I represent
18 CMUA. And I didn't want to come up and add too much to
19 what was already discussed because I do believe there's
20 some good discussions going on right now.

21 What SMUD said and some of our members feel in
22 precertification, whatever you call it, if there's a way
23 to streamline, I think that's important.

24 I think even more important are making sure we
25 get the certifications as soon as possible.

1 And so, really, the question I had for you,
2 mainly, to focus on what is kind of the hold up or what
3 is the time sync that CEC has in going through the
4 precertifications? Is it just based on pure volume? Is
5 there a process or lack of resources?

6 And if it is some of those issues, are there
7 ways to consider maybe bringing in external
8 stakeholders, such as the IOUs, POUs, and other
9 developers as far as a panel to go through some of these
10 applications and help the Energy Commission, whether it
11 be expertise or other information to streamline.

12 I like the idea that was mentioned today of wind
13 and solar can just be rubber stamped and move forward,
14 that's great.

15 But some of the other projects, certainly the
16 biomethane, are there areas that need to be addressed
17 and is there something that we can do to try to help the
18 CEC in doing that?

19 MR. KOOTSTRA: Primarily, our issue is with
20 volume. There are a few, such as biomethane, that are
21 more complex situations, but I would say that those are
22 the huge sync. It comes down to volume that we have
23 that comes in and that not everyone who's applying, and
24 submitting has given us sufficient information to make
25 the evaluation.

1 Sometimes the information we need is miniscule
2 and we generally know the answer, but we have to have
3 them provide that to us. So, it's that back and forth
4 that adds a lot of time and drain on resources.

5 The biggest thing I can say for a person in your
6 situation, and the utilities, is to try and help those
7 that are filling out applications for the first time to
8 have that understanding.

9 We want to work to be sure that our instructions
10 are as good as possible, so pointing that information
11 out to us where there's additional questions. So, we're
12 working to develop that type of stuff continuously, but
13 it doesn't change the fact that if people don't know
14 that the resource exists, and we don't know that they're
15 going to be applying, there's nothing we can do to help
16 until they've submitted something that needs correction.

17 MR. ANDREONI: Okay, so for transparency
18 purposes, I would suggest that there's more information
19 provided on the process. Maybe you do have courses or
20 seminars on what needs to be done in order to
21 streamline, that might be a suggestion.

22 The other issue is right now we're just looking
23 at a website as far as what's in the pipeline, and
24 that's updated I'm not sure, every couple weeks, or
25 every month. I'm not sure of the process.

1 But somehow there needs to be some type of
2 interface, whether it's regular meetings on where you
3 are with precert and certification, where the public can
4 actually participate, whether through the business
5 meeting, or something that allows everybody to kind of
6 understand where some of the high priority projects are.
7 And that's just a suggestion.

8 MR. KOOTSTRA: Thank you. Just so you're aware,
9 we are trying to move forward with improving our
10 database so that it can have access to the public.
11 That's not a guarantee that it will happen. If it does,
12 it will be years from now. But it's the State IT
13 process, it just takes time.

14 We can look, definitely look into doing
15 something, either a webinar or whatnot to give some
16 updates. But as we mentioned before, a lot of these
17 easy precertifications and certifications for wind and
18 solar which makes up a bunch of those, those move really
19 fast. And if they don't, it's because we're already in
20 contact with the applicant for the most part.

21 MR. TAYLOR: So, I think I've heard two
22 different types of benefits from precertification.
23 Benefits that could be put into the certification
24 process, such as the eligibility of test energy, and
25 then benefits that could be handled with a very basic

1 kind of letter of intent type process. So, this is a
2 signal to the banker, to the utility that you've
3 contacted the Energy Commission and they're aware of
4 your project.

5 Are there any benefits that don't fall into
6 those kinds of classes?

7 MR. PAPPAS: I think the only other thing might
8 be just experience with completing the form, you know,
9 just getting into the project to that level of detail
10 that you have to do to fill out a precertification.

11 But that's probably, maybe, second tier compared
12 to what you've discussed.

13 MR. KELLY: I think I'd always presumed that the
14 precertification would actually speed up the final
15 certification, which I guess is not the case, but I
16 think a lot of the marketplace believed that was the
17 process.

18 MR. KOOTSTRA: In some cases it can, if we've
19 seen the environmental documentation form, there's that
20 type of stuff we need to do.

21 MR. KELLY: Yeah.

22 MR. KOOTSTRA: But it still comes down to we
23 have to be sure nothing has changed. So, if we have to
24 do a review of environmental documentation for hydro-
25 electric facilities, or facilities that have a LORS

1 requirement, we just have to be sure that information is
2 all still the same.

3 If it is the same, then it can speed it up a
4 bit, but you're not seeing drastic speed increases
5 because we still have to check all the documentation.
6 We can't just assume they submitted the same thing the
7 second time around.

8 MR. KELLY: Well, could you have a formula that
9 would simply say, you know, it has not changed and I've
10 got my attorney, and signed it, and boom off we go. And
11 the liability's attended to for fraudulently filling out
12 a form like that.

13 MR. KOOTSTRA: We generally allow folks to
14 submit a letter stating that this information has not
15 changed from one application to the next. But when
16 you're moving from precertification, which could have
17 been done years before hitting commercial state, to the
18 certification there's just a different set of
19 information available. And you can have actual impact
20 information. You have real data instead of proposed
21 data that you have to look at.

22 Again, those are facilities that we get less
23 often, but it's just not as substantial, I think, as a
24 time savings as we all would hope. I mean, we would
25 hope it's as substantial, as well.

1 MR. KELLY: I've heard that RPS characterizes a
2 jobs program, so here we have -- we're meeting the
3 Governor's goals.

4 MR. WEINSTEIN: Well, I mean I think in context,
5 though, I mean I would only take a page from what Mark
6 just said, which is that the application of
7 certification is the actual accurate information that
8 you feel comfortable standing by. And, you know,
9 putting it in the context of where we started, which was
10 doing a new certification every two years, and the
11 Commission kind of dropping that and saying, okay, no,
12 no, wait a minute, you can still do certification. You
13 know, I think the premises should be given of the
14 certification application. I do like the idea of, oh,
15 gee, I can swear that it hasn't changed.

16 But actually, like Mark said, it could be very
17 old, it could be very stale and the temptation to just
18 say, oh, yeah, it hasn't changed could put the
19 Commission farther afield from where it stated its
20 mission was before when it was saying, look, I want to
21 make sure that this is a really a renewable resource.

22 MR. KOOTSTRA: Well, if there's no additional
23 comments in the room, I'd like to ask if there is
24 anybody on WebEx who has initiated that they want to
25 talk.

1 Then I think we're going to break for lunch.
2 We'll head back at 1:00.

3 Please turn in any additional topic forms that
4 you have. We're going to be looking at those in the
5 lunch hour. If you want to fill out more, please do so
6 now. We won't be accepting those after lunch, depending
7 on how many we get, so I --

8 MR. KELLY: Do you expect this last issue to
9 take a long time or could we just plow through?

10 MR. KOOTSTRA: We could potentially plow
11 through, however there are --

12 COMMISSIONER HOCHSCHILD: Yeah, I was going to
13 suggest, I mean we only have these two items. I mean, I
14 would kind of be inclined to go for another half-hour.

15 Do you guys think the changes in law -- who's
16 going to speak on that? So, we have two people, three
17 people, four people.

18 Honestly, I would suggest we go until at least
19 12:30 and see if we can knock it out, yeah.

20 MR. KOOTSTRA: Okay, then we'll hang on through
21 the next topic.

22 Just out of curiosity, how many additional
23 topics cards have we received? None -- oh, two, okay so
24 we'll get started.

25 MR. PAPPAS: We have -- PG&E's got some

1 additional topics, so I don't know if those are included
2 in yours there.

3 MR. KOOTSTRA: So, we'll continue on through the
4 topics that we've addressed, or identified, and then
5 we'll go to lunch and figure that out.

6 So, our next topic is changes in law and how
7 they will be applied to certifications.

8 So, historically, the Energy Commission has
9 looked at a facility -- if it's been certified under one
10 Guidebook and you haven't received any substantial
11 changes, you remain certified under that Guidebook
12 regardless of future changes.

13 And essentially this becomes down to a facility
14 that's become certified generally remains certified.

15 The following changes in the law have impacted
16 the RPS eligibility. That could suggest that we should
17 decertify or change the certification for some
18 facilities.

19 Assembly Bill 1954 changes the requirements for
20 di minimis fossil fuel use, eliminated the Energy
21 Commission's ability to set what that di minimis is, and
22 required us to set it at no more than two percent. It
23 can go up to five percent in some special cases.

24 Assembly Bill 3048 changed the requirements for
25 hydroelectric facilities. I believe this, and I could

1 be wrong, added incremental hydroelectric generation and
2 it also changed and required a facility to have been
3 under contract or owned by a retail seller, or POU as of
4 July 1st, 2006 or December 31st, 2005. I can't recall
5 offhand.

6 And then Senate Bill 1X2 changed some additional
7 requirements.

8 And so we're looking at should this
9 information -- should those requirements, those changes
10 be applied to all facilities that have been certified
11 historically or should we leave existing certifications
12 as they currently stand?

13 MR. WEINSTEIN: Well, I'd be a strong proponent
14 of leaving existing certifications as they stand. And I
15 think the risk runs on both sides, it runs for the
16 developer and it runs for the utility.

17 And, you know, one of the problems that
18 California has kind of created for itself, I mean in
19 SBX1-2, where it kind of, you know, changed the online
20 date for resources, and for a period there was like this
21 black hole where there was like a six-month period of a
22 resource online date that there's no way you could have
23 got certified.

24 You know, a year earlier you start a facility
25 but if you came online during that six-month period you

1 weren't going to get certification. I mean, they fixed
2 that hole.

3 But if you have California going through a
4 constant process of if you do it this time, who's to say
5 you're not going to do it next time. So, it's going to
6 really stymie development in California if developers
7 think and enter into PPAs, and utilities enter into PPAs
8 that maybe they're going to get a resource and maybe
9 they're not because the rules could change later. And
10 there's a lot that could happen in terms of the rules
11 changing later.

12 And it runs both ways. It runs both the
13 developer's at risk and the utility's at risk. Because
14 if you look at the standard terms and conditions that
15 the CPUC requires the utilities to have in all their RPS
16 contracts, one of the STCs says that it's not an event
17 of default if I've used commercially reasonable.

18 In other words I'm certifying, I'm representing
19 that this is going to quality, but it's not a default if
20 I've used commercially reasonable efforts to cure the
21 default. And there's no way that you could be using
22 "commercially reasonable efforts" to retroactively
23 change the constitution of your facility.

24 So, the IOUs would be stuck with contracts that
25 were not in default, and which they would have to pay

1 for, which would be for non-qualifying resources. So,
2 that's on the utility side that, you know, if you go
3 back and change certifications the utilities are buying
4 something they can't use at the price that's set forth
5 in them by their own contract, pursuant to terms that
6 are mandated by the CPUC.

7 The developers who are seeking to bring online
8 resources, you know, in the development cycle, so for
9 example they may not have reached COD. It may be a one-
10 year process of bringing the resource online and the
11 rules get changed midway through development can you do
12 it? Can you move forward with your project? Is it
13 going to be in default? You know, you have an online
14 date what -- that allocation's going to hit differently
15 and unfairly.

16 So, I really have to urge the Commission in the
17 strongest possible terms not to engage in retroactive
18 changing the rules and facility eligibilities.

19 MR. HERRERA: So, Jeremy, a quick question. So,
20 you talked about situations where the developer and the
21 utility would be impacted because of the provisions they
22 had negotiated in their contracts.

23 But what if the Legislature changes the laws and
24 the Energy Commission, for example, doesn't apply those
25 in that circumstance until after that contract is ended?

1 I mean, in that case wouldn't the parties'
2 interests be protected by the fact that there are
3 assurances that the rules that have now changed in
4 statute aren't going to be applied to their
5 certification during the term of the contract? Would
6 that be one way to address that issue?

7 MR. WEINSTEIN: Well, I mean, that's an
8 interesting idea. I mean, the contracts are 20 years
9 and kind of how do you know it's a contract? And does
10 that mean that entities that have invested to build
11 merchant lose the protection -- aren't protected,
12 whereas those who had a PPA are protected?

13 You know, the issue I guess comes to, you know,
14 whether or not -- you know, kind of at what point is
15 it -- at what point can you engage in retroactive
16 rulemaking? And at what point is the Legislature
17 allowed to engage?

18 And I guess that's another issue. I mean, does
19 it rise to the level of a developer suing California and
20 saying you're not allowed to do it. The Constitution
21 says no ex post facto laws. It's a taking. I mean, you
22 know, you kind of hope that it doesn't rise to that
23 level.

24 And certainly, what we've seen in biomethane,
25 for example, is kind of like the goal post shifting and

1 the frustration that's happening, and kind of what's
2 happened in terms of biomethane development. And you've
3 certainly seen a lot of the resources that you've had to
4 do for the biomethane and having to deal with sort of
5 the way those goal posts have moved.

6 And so, you know, the nightmare is the
7 Legislature says, oh, for the Cal RPS, gee, the only
8 thing that can be certified is something that's built in
9 2015, and that happens in sort of what happens.

10 But I mean, I think in terms of sort of the
11 small items, I mean I would think that anything that you
12 can look at and say, oh, gosh, I was not told by the
13 Legislature to retroactively change the rules, okay, I'm
14 not going to retroactively change the rules.

15 MR. KELLY: Yeah, this is Steven Kelly with the
16 Independent Energy Producers. And I want to follow up
17 and echo those comments that Jeremy said.

18 I mean, I'm not aware of a statutory
19 prescription that's imposed on the Energy Commission
20 that requires you to retroactively apply new
21 regulations.

22 So, I'm operating under the assumption that you
23 have discretion. And I would just echo the fact that
24 not to retroactively apply new regulations.

25 California, there are billions of dollars coming

1 to California to develop renewable projects. And
2 there's two truisms, and the one I started the
3 conversation this morning is that commercial development
4 is highly a function of regulatory certainty going
5 forward.

6 And the truism of California is it's highly
7 chaotic. And the risk of legislative, statutory changes
8 or regulatory changes is perceived in the marketplace as
9 being relatively high.

10 So, your assistance in clarifying that you're
11 not intending to do retroactive ratemaking would be very
12 helpful, I think, in this case.

13 And it has a number of benefits. One, it allows
14 development to move forward in a timely manner.

15 Two, compared to the alternative it reduces the
16 cost of renewables. Because if you were to go the other
17 way then everybody's going to have to incorporate a risk
18 factor into their development project, in their bid
19 factors, which is going to drive the cost up
20 unnecessarily to California consumers.

21 And when you multiply that across all the
22 projects it's a big number and just don't see the value
23 in that.

24 So, I strongly recommend that you do not move on
25 a path that has retroactive ratemaking.

1 Once you've approved a certification and
2 somebody's invested 250 to 300 million dollars in
3 California to develop that project, they should have
4 some certainty that they're going to be able to sell
5 that product in California as a renewable resource.

6 MR. PAPPAS: This is John Pappas from PG&E. I
7 agree or PG&E agrees with the comments thus far. I mean
8 any -- we do not support any kind of a requirement to
9 recertify a facility, you know, once it's already been
10 certified.

11 I mean, doing so would result in significant
12 risk of noncompliance, contractual default or other
13 kinds of losses and complications.

14 It could lead to disputes, litigation, affect a
15 project's viability and, ultimately, its contribution to
16 the State's RPS goals.

17 And in addition create, I think, a huge burden
18 for the CEC staff, you know, in terms of administering
19 it. But that would -- you know, so for all these
20 reasons, once a project is certified it should remain
21 that way.

22 Now, you know, that said there are situations
23 where an amended certification is required and that's
24 already in the Guidebook, and I wouldn't expand upon
25 that. And that's at page 83, as you're aware, change of

1 pool, change in the nameplate capacity, change in
2 status, change in fuel suppliers, except for biomass,
3 repowering of the facility, which we've talked about
4 earlier, increasing the nonrenewable fuel.

5 Things like that, yes, those folks would be
6 potentially subject to a change in law. But not, you
7 know, a project that's already come online. I think
8 that's a basic tenet that we have to really stand
9 behind.

10 Otherwise, I agree with Steve that you're going
11 to have to factor that all in the cost. And, you know,
12 renewables are expensive enough, we don't want to add
13 this level of risk.

14 You know, I don't know how much of this stuff
15 will actually come to play, you know, because it does
16 require a change in law and a lot of stuff goes into
17 changing a law. But the fact that it is possible will
18 increase the cost of doing business.

19 So, we do not support any kind of change in that
20 way.

21 MR. BRANCHCOMB: Well, I would like to add from
22 a developer's perspective that we certainly do not think
23 this is a good idea.

24 I mean, we plan our projects. It's a long,
25 painstaking process to plan a new project in California.

1 You have permitting, you have transmission work you have
2 to try to get done, and you do that based on a set of
3 rules and you make assessments as to whether or not this
4 is something that I can do.

5 You go forward on a good faith basis that I've
6 done my homework, I've checked all my boxes, I've done
7 my precertification, I'm going to be there within 90
8 days of online to do my final certification.

9 And then two years down the line you've got an
10 asset that you've invested in, that has a life of at
11 least 20 years, suddenly it's no longer viable because
12 of a whim of a lawmaker. And that just -- that's really
13 not a way that you can proceed with any kind of viable
14 commercial environment.

15 And I'll add on something else we heard today,
16 we heard staff talking about how difficult it is to get
17 through the precertifications and the initial
18 certifications. So, if they've got to come back every
19 couple of years and do these all over again, how many
20 more are you going to hire.

21 You know, so anyway, thanks for the opportunity
22 to weigh in.

23 COMMISSIONER HOCHSCHILD: Could you introduce
24 yourself, sir?

25 MR. BRANCHCOMB: Oh, I'm sorry. My name's David

1 Branchcomb. I represent Sierra Pacific Industries.

2 We're a timber products company in California.

3 COMMISSIONER HOCHSCHILD: Great, thank you.

4 MS. BERLIN: Hi again, Susie Berlin for Northern

5 California Power Agency and MSR Public Power Agency.

6 And I will join in the chorus of stating
7 unequivocal no to question number one. There should not
8 be any recertification. It provides no certainty in the
9 market. It would undermine funding and project
10 development in general, all the reasons that have been
11 stated.

12 And it also wreaks havoc on resource planning.
13 You have three specific procurement categories that you
14 need to plan for and if you have a facility, and you've
15 got a contract that's going to be providing you PCC-1,
16 even if your contract does have some kind of an
17 arrangement where you can reduce the price if suddenly
18 that facility is not PCC-1, there's uncertainty in your
19 pricing.

20 But now you have uncertainty in your procurement
21 because you need to go out, you still have to meet the
22 50, 65, 75 percent requirement from PCC-1 and you could
23 have this facility that you were counting on to do that
24 for you suddenly not be able to.

25 So, I believe that having to recertify a

1 facility is -- has a lot of pitfalls and would wreak
2 havoc on the development of the market and on the
3 utilities that are relying on these resources to meet
4 the RPS mandate.

5 MR. TUTT: This is Tim Tutt from SMUD and I will
6 add my voice to the chorus. I think regulatory
7 certainty is extremely important for developers and for
8 the obligated entities, the utilities, and so on under
9 the RPS. We want to be able to comply with the
10 resources we've procured and it's damaging both to the
11 resources and their development, and to the utilities if
12 somehow that something we're relying on is taken away.

13 Now, I mean I understand you have to react to
14 what the Legislature does in many ways. And Steve
15 earlier used the no harm/no foul analogy.

16 I guess I'll use one that says first do no harm.
17 I mean, if the Legislature doesn't require you to make a
18 retroactive adjustment in the regulations that will harm
19 the market, then don't do it.

20 With, for example, the biomethane legislation,
21 the Legislature saw fit to grandfather existing common
22 carrier biomethane contracts. Those should be allowed
23 to proceed through the end of their life as they were
24 signed and procured by the entities.

25 Now, the CEC has interpreted some of that law to

1 require additional information from even existing
2 landfills and dairies. And I'm not aware that this has
3 happened, but it seems at least possible to me that as
4 that is implemented by your agency that some of those
5 landfills and dairies will be found wanting because of a
6 change in law. And I don't think that was required by
7 the legislation to find them wanting. I think those
8 should continue to be eligible.

9 Now, on the other hand, SBX1-2 established a
10 2011 starting point for an obligation and changed
11 eligibility for things like large hydro and unbundled
12 RECs in California.

13 So, I think it's not a harm, you shouldn't avoid
14 what you've already done, which is to say those large
15 hydro resources that are now eligible are eligible
16 starting in the beginning of the compliance period
17 established by this law.

18 And I think you should do the same thing with
19 unbundled RECs.

20 And so you have to react to the law, but your
21 primary concern should be avoid any regulatory
22 uncertainty and first do no harm.

23 MR. LANGER: Yeah, Matt Langer from SCE.
24 Certainly, I echo the similar thoughts on not applying
25 changes in law retroactively.

1 I'm glad that the topic of biomethane came up
2 because I think in a sense that's a dry run and we have
3 other examples of similar dry runs, if we were to
4 approach it as sort of a new change in law paradigm.

5 But I think every time we have a new compliance
6 obligation and you take a whole category of generators,
7 let's say you can go with the example of biomethane and
8 say, you're already certified, but we need you to now
9 re-demonstrate your compliance with this new rule.

10 And every single time we have to go through a
11 large swath of the industry and get them to recertify
12 there's fallout.

13 And I think what we'll find ultimately,
14 somewhere in this room, or somewhere in this State,
15 there's going to be a biomethane facility that actually
16 does company that will miss the deadline, or won't file
17 the paperwork correctly, and is going to end up being
18 declared ineligible when, in fact, they really did
19 comply with the law anyway.

20 So, you're not really, necessarily, even cherry-
21 picking the folks that the change in law impacted
22 directly, you're taking other folks and you're kind of
23 sucking them into this.

24 I think we've seen it with that, we've seen it
25 with having to go after new certifications for utility-

1 certified facilities, that that's introduced challenges.

2 So, I do caution that there's unintended
3 consequences when you start applying these rules where
4 you suck up large population of the RPS-certified
5 facilities and have them go back into the process.

6 MR. KOOTSTRA: Do we have any other commenters
7 in the room? Yeah?

8 MS. LUCKHARDT: I just -- I was on the phone and
9 I heard you guys talking about the precertification
10 issues and whether it was valuable or not, and then you
11 guys decided not to break for lunch, so I walked over
12 here.

13 And I don't know if you guys want an additional
14 comment on that but --

15 COMMISSIONER HOCHSCHILD: Sure, sure.

16 MS. LUCKHARDT: Okay, so the precertification,
17 where it becomes really valuable is -- from my
18 perspective is on facilities that are out of state or
19 out of the country.

20 COMMISSIONER HOCHSCHILD: I'm sorry, could you
21 introduce yourself again?

22 MS. LUCKHARDT: Oh, sorry. Jane Luckhardt from
23 Downey-Brand.

24 And I also do a lot of financing work. And when
25 you have a facility that's located out of the country or

1 out of the state there's an additional requirement on
2 those facilities.

3 So, I do agree a straight PV, a straight wind in
4 California, with no other fuel is not a big deal.

5 But if it's located out of state or out of the
6 country and the Energy Commission is then required to do
7 the additional analysis to review the facility to ensure
8 that it is being constructed and developed consistent
9 with California standards, it is really helpful to have
10 an initial review from the Commission, from your staff
11 to look at that.

12 I understand and your letters are very clear now
13 that it is not a final certification, but in those
14 situations it is extremely helpful to have some sort of
15 an initial review. To have this Commission take a look
16 at that and say, generally, it looks like it's okay,
17 because that is a harder call to make and would require
18 a lot more analysis and review from a legal perspective
19 in advising banks or lending institutions that the
20 facility -- you know, that you can reasonably assume
21 that the facility will be RPS eligible once it is up and
22 operating.

23 So, I just wanted to add that piece to it. And
24 I'm sorry to have come in late.

25 MR. KOOTSTRA: Is there any more commenters on

1 our current topic?

2 Is there anyone on WebEx who would like to
3 comment?

4 While we're checking that, I'm just going to
5 read off a quick list of comments that have been
6 proposed to us, so you can know before you head off to
7 lunch and just determine whether or not you're going to
8 come back.

9 We're going to look at these a little more
10 closely during the lunch hour and choose the proper
11 order to go through them.

12 But one was on counting incremental generation
13 from efficiency improvements. I assume this is having
14 to do with hydroelectric facilities.

15 RPS participation of DG resources.

16 Allowing postmark instead of received by date
17 for certification applications.

18 Creation of retroactive RECS and/or allowing the
19 ITS.

20 Counting previous deliveries for 40-megawatt
21 hydro, which is similar to the one above it.

22 Biomethane issues, modifications to
23 grandfathered contracts.

24 And interaction between the RPS Guidebook and
25 the POU regs.

1 So, just be aware that those are the seven or
2 eight topics we'll be talking about after lunch because
3 I don't think we can get that in on a reasonable
4 timeframe, depending.

5 Was there anyone on WebEx?

6 Then unless Commissioner Hochschild --

7 MS. BERLIN: I just have one comment?

8 MR. KOOTSTRA: Yes.

9 MS. BERLIN: I just have one quick point on the
10 issues for discussion this afternoon. On the postmark
11 date, that suggestion was globally to change all
12 requirements in the Guidebook for anything that needs to
13 be received hardcopy to be allowed to be a received
14 hardcopy.

15 So, not just the postmark date, the compliance
16 filings -- I mean, not just certifications, compliance
17 filings. I mean, it's a global acceptance of postmark
18 rather than received by.

19 MR. KOOTSTRA: Okay, thank you.

20 So, if there's no other comments, we're going to
21 break for lunch. We'll head back -- if anyone's opposed
22 to it, let me know, but I would suggest we'll just head
23 back at 1:00, anyways.

24 And there are some restaurants identified on a
25 sheet out from that most of them are within about half a

1 mile.

2 (Off the record at 12:11 p.m.)

3 (On the record at 1:07 p.m.)

4 MR. KOOTSTRA: Given the number of people here,
5 I welcome everybody to come to the table, if they'd
6 like, or even if they just want to sit, you can have
7 work space. And we can start getting discussions on the
8 additional topics.

9 So, in the lunch hour we looked at the
10 additional topics and they fit generally into these six
11 categories; certification reviews, incremental
12 generation, retroactive WREGIS certificate creation and
13 the use of the ITS, which is the interim tracking system
14 distributed generation, biomethane issues, and
15 interaction between the RPS Guidebook and the POU regs.

16 So, for certification reviews we had some
17 additional topics on assigning eligibility dates based
18 off the postmark date, instead of the date we receive it
19 in-house. And also, a set time for certification
20 reviews.

21 We mentioned this a little bit in previous
22 discussions, but I'd like to open this up to the floor
23 if anybody has anything they'd like to add, in addition
24 to these comments.

25 MR. TUTT: Hey Mark, I guess -- this is Tim

1 Tutt. And I guess the one thing I'd add is, and this
2 has come up before, I can't remember exactly where,
3 recently, but the communication question. In many cases,
4 in the certification review, it seems like the CEC staff
5 is sending an e-mail or a notification to one person at
6 a company.

7 And it may be that that one person is on
8 vacation or even, in some circumstances, has left. And
9 so, I guess I want to again advocate that you establish
10 a process where you have multiple e-mails or
11 notification pathways that you send things to so that
12 the party you're notifying about something really
13 understands, fairly quickly, that something needs to
14 happen about a particular issue.

15 MR. ANDREONI: And just following -- this is
16 Tony Andreoni, CMUA. Just following from what Tim just
17 mentioned, I believe I've spoken to CEC staff in the
18 past to be able to use the association, as needed. You
19 know, should those contacts or should you not receive a
20 reply in a timeframe that you need a reply in, I
21 certainly will be there to help or, you know, NCPA and
22 SCAPPA, for that matter, I'm sure would also be
23 available to assist to make sure that information gets
24 out.

25 And I do recall some initial interruptions where

1 some folks were actually moved from job to job, so they
2 weren't around to actually respond to CEC's comments or
3 questions. So, we're there if you need us to assist
4 with getting that information.

5 MR. KOOTSTRA: Is there anyone on the WebEx with
6 hands raised? I'd like to ask that folks on the WebEx,
7 if you see a topic come up, just raise your hand
8 instantly if you'd like to talk and we can sort from
9 there.

10 But it looks like we don't have anywhere there,
11 so we'll move on to --

12 COMMISSIONER HOCHSCHILD: I'm sorry, who was it
13 who had suggested the eligibility date based on the
14 postmark?

15 MR. KOOTSTRA: I believe that was suggested by
16 Oscar Herrera of LADWP.

17 NCPA, sorry, that was Susie Berlin.

18 MS. BERLIN: For just all filings in general,
19 and this came up, I believe Mark was on the call with
20 the RPS compliance call, just a preview of the
21 compliance filings for the POU's, the webinar a while
22 ago, and we were clarifying when things had to be
23 submitted. And there's an e-mail, an electronic copy is
24 due, and there's also a due date, the same due date that
25 they have to have a hardcopy.

1 And so we said, we were asking for clarification
2 about when that's due, and it's an understanding going
3 through the Guidebook that it's due when it's received.
4 So, the due date is received here at the CEC.

5 But for convenience, I suggested that all the
6 due dates be changed from when they're received, because
7 that could be a little ambiguous, to postmarked by for
8 anything that's also subject to electronic filing.

9 So, you do have the electronic filing already
10 and then it's just being followed up with the hardcopy.
11 But it seems like a cleaner way to do it and then it
12 also ensures that everybody has those couple extra days
13 to put something in the mail, all the way up to the
14 deadline to submit something.

15 So, if there is an electronic and hardcopy
16 requirement, I recommend that the hardcopy due date be
17 reflected by postmark rather than received by the CEC.
18 Thank you.

19 MR. KOOTSTRA: Thank you, Susie. Just so you're
20 aware, with the RPS Guidebook that's something that's in
21 the Guidebook at the moment, but it can be changed.
22 It's just not something we can change in the here and
23 now to change the requirement but --

24 MS. BERLIN: Oh, I understand. That's why I put
25 it as an additional issue because it is something that's

1 a valid revision for the Edition 8; correct?

2 MR. KOOTSTRA: Yeah, I can't guarantee we'll do
3 it, but it's definitely something valid to look at.

4 MS. BERLIN: For consideration, okay, thank you.

5 MR. KOOTSTRA: All right, if we don't have any
6 more comments, we can move on to the next topic.

7 Here we go, incremental generation. I'm
8 actually going to skip over this one for the moment. I
9 know the person who's involved with this or suggested it
10 isn't here just yet, so we're going to come back to it.

11 The interim tracking system and retroactive
12 RECs, so we've had a couple requests for retroactive
13 WREGIS certificate creation in WREGIS, or the use of the
14 ITS, including for water supply main system,
15 hydroelectric facilities that it didn't apply much later
16 in time, even though eligibility's allowed to be
17 extended back to January 1st, 2011.

18 So Tim?

19 MR. TUTT: Yeah, I think this was touched on in
20 other contexts this morning. And the concept here is
21 that you don't want to under-count your renewable
22 generation because an administrative deadline has been
23 missed, or some other issue that's similar to that.

24 We understand that there's a wide variety of
25 participants in the RPS, that they have other focuses;

1 that things are complicated, and that things will slip
2 through the cracks.

3 So, there's some current issues where that's
4 happened and we're trying to resolve those through one
5 of these steps, either requesting retroactive creation
6 of a WREGIS certificate so that the generation can be
7 tracked in WREGIS as expected.

8 Now, the current WREGIS rules require the Energy
9 Commission or a similar body to request that creation of
10 retroactive certifications and require that if there's
11 any costs that the Energy Commission would pay for that.

12 We understand that that's not an easy path, but
13 it's still, in our minds, a viable path. We understand
14 there's no current protocol for the Energy Commission to
15 get compensation for or pay for that cost, but that such
16 a protocol could be created. It just would take some
17 legal time to do that.

18 The other alternative there is to extend the use
19 of the interim tracking system to cover some of these
20 initial generation issues.

21 And here, as you know when the WREGIS was first
22 set up and the IOUs were obligated to track generation
23 in WREGIS, there were significant problems at the
24 beginning in terms of getting generators to sign up, and
25 a variety of other issues.

1 And so the IOUs got effectively, I think, almost
2 a two-year extension in using the interim tracking
3 system.

4 And for POUs where, you know, we've been going
5 through the enactment of SBX1-2 and the adoption, and
6 finalization of the CEC regulations regarding that, and
7 the Guidebook, we've all understood that the deadline,
8 as it stands in the Guidebook is the end of October 2012
9 for use of the ITS.

10 But that's an alternative way of accounting for
11 and counting this legitimate renewable generation that's
12 been -- that's being considered here is to extend the
13 use of the ITS. So that while some of these initial
14 snafus, and misunderstandings and, you know,
15 administrative questions with participating in WREGIS
16 are covered or, you know, have not happened as expected.

17 So, I don't know have a specific or particular
18 date necessarily in mind. But just as an example, if
19 the use of the ITS could be extended through April or
20 June of this year, I mean that would cover some of these
21 initial questions about generation that's happened but,
22 as it stands, isn't going to be counted just because
23 it's not in WREGIS.

24 I think in the longer term these kinds of issues
25 are likely to continue happening. As we've talked,

1 Mark, in the past, you many times thought that the
2 Interim Tracking System was going to be ended and it
3 turns out that there's been reasons to extend it.

4 And I guess I'd open up the possibility of
5 considering keeping the ITS around for special cases
6 like this.

7 If participation in WREGIS is as constrained as
8 it currently seems to be, and there might be ways to
9 open that up as well, but if that's the case then to
10 count this legitimate renewable generation it might be
11 reasonable to allow the ITS to be used in those cases,
12 on an ongoing basis.

13 And there would have to be some potential
14 considerations or restrictions on that. I mean, I
15 think, obviously, you couldn't use the Interim Tracking
16 System to go back and pull in generation that came prior
17 to the current compliance period. I mean, that would
18 upset kind of verification and compliance in a way that
19 we don't really want to go down, probably.

20 Another possibility, in my mind, is that someone
21 could use the ITS or resources which have subsequently
22 completed the WREGIS process, so that you know that
23 they're going to be tracked in the future in WREGIS.
24 That's already set up.

25 It's just a question of, like counting the test

1 energy, WREGIS doesn't have an easy policy for counting
2 generation prior to completion of the WREGIS
3 certification process at this point.

4 So, those are my thoughts and I'm open to others
5 commenting on that.

6 MS. BERLIN: Hi, this is Susie Berlin for NCPA.
7 And we had also suggested the use of or some process to
8 have RECs retroactively created.

9 We have a situation where there are RPS -- CEC
10 RPS-certified facilities, so these are eligible
11 facilities, and somewhere between the transition from
12 ITS to WREGIS paperwork is not completed, there's
13 confusion about which of the responsible parties and
14 multi-party agreements are supposed to submit the
15 paperwork, or can submit the paperwork.

16 And I can go through some specific examples, if
17 you like, or we can save those for our written comments.

18 But the end result is that beginning, basically,
19 November 1, 2013 to the present there are a number of
20 RECs for which -- or there's a great deal of renewable
21 energy for which RECs were not created.

22 And for the City of Santa Clara, for example,
23 some of these issues have been resolved so now their
24 WREGIS application has been approved, but there's still
25 a downtime during the last year where there was energy

1 for which there are no RECs.

2 WREGIS does have a system, they have a rule that
3 allows the creation of retroactive RECs. However, as
4 Tim pointed out, the WREGIS rule says that the State or
5 regional agency needs to request it and then there are
6 costs involved.

7 So, we understand that the CEC may not have a
8 budget to address those costs so, clearly, if we're
9 going to proceed down that path we need to speak more on
10 that issue, and find out if there's a course we can
11 take. The entity that needs the RECs created pays a
12 percentage, depending on the number of RECs. I'm not
13 sure what that would entail, but we would really like to
14 have that discussion.

15 In the interim, or in combination with this
16 proposal to allow the creation, to allow the Energy
17 Commission a procedure to request REC creation,
18 retroactive REC creation through WREGIS, that's a lot of
19 R's, is a proposal or a process where we do continue use
20 of the Interim Tracking System, or at least use of the
21 reporting that we do for the Interim Tracking System.

22 Continue to fill out the CEC's reporting form so
23 that you know how much generation is at issue, and then
24 you either track them in the ITS or we just have those
25 forms, and as soon as everything is straightened in

1 WREGIS we can have the retroactive certificates created.

2 So, kind of a combination, any combination
3 thereof would work. But the most important issue for us
4 is being able to have something in place that would
5 allow us to be able to count the electricity that was
6 generated by our CEC-certified facilities during this
7 process where we were switching over to WREGIS.

8 MR. KOOTSTRA: Does anyone else have any
9 comments on this topic?

10 MR. PAPPAS: This is John Pappas from PG&E. You
11 know, this is an issue that I know that we've
12 experienced over the years. And having the ability to
13 use the Interim Tracking System has been useful,
14 particularly for some of those projects that -- and this
15 is kind of similar to the certification issue where, you
16 know, maybe they just didn't get their project
17 registered quickly enough in WREGIS, and it gives them
18 the ability to be able to get that done.

19 And, unfortunately, there are limitations in
20 terms of retroactive REC creation in WREGIS. So, I
21 would support some kind of accommodation here so that,
22 you know, you can count all of the RECs that are
23 created.

24 MR. KOOTSTRA: Thank you.

25 MS. BERLIN: And I don't want to beat a dead

1 horse, but I do want to emphasize a couple things here.
2 It's that we're talking about eligible facilities. So,
3 this isn't a new facility. This isn't something that
4 was, well, maybe it's not going to count in the future.
5 They were counting and then it's just a paperwork -- all
6 of these end up being paperwork, administrative snafus
7 between the transfer from ITS to WREGIS.

8 And we'll reemphasize points raised this morning
9 about the no harm/no foul. And a point that Mr. Pappas
10 made this morning about the fact that we should not be
11 under-counting our renewables, any more than we should
12 be over-counting them.

13 And at least for Santa Clara there's quite a few
14 megawatt hours at issue and so we would really
15 appreciate being able to work with you through a
16 resolution. Thank you.

17 MR. KOOTSTRA: If there's no other comments, is
18 there anyone on WebEx that has indicated they want to
19 speak -- or Gina Barkalow.

20 MS. BARKALOW: I'm Gina Barkalow, RPS
21 verification. And I guess one other concerns I have
22 about using the ITS is the new legislation allows 36
23 months to retire the RECs. And so, we're really trying
24 to phase it out and have everything in WREGIS. It's
25 just so much easier to not have to worry about double

1 counting if we don't have the Interim Tracking System.

2 And so, if we were to consider something like
3 this, I just know if we would have the ability to
4 restrict it to it can only be -- the Interim Tracking
5 System could only be used for generation reported for
6 the year that it was generated in, rather than seeing an
7 ITS claim coming out three years later. So, that's just
8 my concern with that.

9 MS. BERLIN: I appreciate that, Gina. And we
10 were talking about trying to present possible solutions,
11 not just presenting our problem and asking you to fix
12 it.

13 So, that was why one of the issues that we came
14 up with is to track it in the reporting form, but not
15 necessarily have you register it through the ITS where
16 sits on the reporting form perhaps during -- for a set
17 period of time until WREGIS goes and creates
18 certificates for them.

19 So, eventually they will have WREGIS
20 certificates, and if that would make a difference to --
21 I think it would alleviate the concern you're raising,
22 but I'm not sure. But we're certainly looking into
23 different options that would take care of that concern
24 and still allow us all to comply with the 36-month
25 retirement requirement and related stipulations.

1 MR. TUTT: And this is Tim Tutt from SMUD. And
2 I'd just add that I understand that concern, as well.
3 And I think that what we're talking about is
4 accommodating, in the short term, some of the
5 understandable initial snafus in all the POU's, and their
6 generation resources moving into WREGIS and getting all
7 that straight.

8 So, there could be kind of a initially, a one-
9 time you can use the ITS for a little bit longer, with
10 some restrictions as I mentioned.

11 Again, in the longer run, if there's a lot of
12 discomfort about keeping the ITS around for these cases,
13 I think that the alternative is getting established a
14 change in the WREGIS rules, in part so that the State
15 entity is not the only party that can ask for
16 retroactive creation of certifications, or pay for that.

17 I mean, it seems reasonable if the generation is
18 happening and, actually, in our case the generation is
19 in WREGIS, they just won't create RECs for it, then why
20 shouldn't we or our counterparty facility be allowed to
21 ask WREGIS to create those retroactive certificates?

22 The only reason right now is that the system was
23 set up with a particular concept of it's being driven by
24 California RPS and other RPS programs. And if those
25 programs required retroactive creation, then they would

1 allow those programs to ask for it and pay for it.

2 But we're in a more mature market now and I
3 think there's a reasonable accommodation that could be
4 found in WREGIS to allow even counterparties, you know,
5 other stakeholders to apply for that retroactive
6 certification.

7 It might take some time to change the WREGIS
8 rules and that's why I think in the interim maybe, you
9 know, an accommodation with the Interim Tracking System
10 makes sense.

11 MR. KOOTSTRA: All right, thank you very much.

12 We're going to head back real quick to
13 incremental generation, so the appropriate method for
14 determining incremental generation from both
15 hydroelectric facilities and other resource types.

16 We current require the applicant to establish an
17 historic baseline of generation from that facility. For
18 hydroelectric facilities that's 20 years of generation
19 data based off of monthly data.

20 For most other facilities it's three years.

21 And in particular, for hydroelectric facilities
22 that don't meet the initial 30-megawatt cap, large hydro
23 facilities over that cap are allowed to expand if it's
24 related to efficiency improvements, and in then in
25 theory their capacity can grow, and only that increment

1 can be eligible.

2 So, John Pappas, I know you have something on
3 this.

4 MR. PAPPAS: Yeah, thanks for that background.
5 So, you know, basically right now if you have an
6 incremental hydro facility and if it gets certified, the
7 amount that you get to count would be the amount each
8 month that's over and above the 20-year average for that
9 month.

10 So, let's say if we're talking about a hydro
11 facility here, so let's say we're in a dry year more
12 than likely you will probably get to count nothing in
13 that entire year, assuming that you're below the
14 baseline.

15 And then the opposite might occur in a wet year,
16 where you get to count a lot more than the efficiency
17 improvement.

18 And then maybe in a normal hydro year you would
19 probably count, basically, what was in the efficiency
20 improvement that the FERC license had.

21 But that may not necessarily be the case because
22 you'll have variability from one month to the other.

23 So, instead of having that kind of feast or
24 famine, you know, some years you may count some
25 generation, other years you may not, what we'd like to

1 see is the ability to be able to count each and every
2 year and to have some fixed percentage.

3 And in the FERC license and, in particular, the
4 project that we have, and I won't get into the
5 specifics, but there is -- in order to get an efficiency
6 improvement approved by FERC, there's a lot of different
7 showings, and there's tax benefits, and so on, and so
8 forth.

9 But as part of the FERC decision you actually
10 have an approved efficiency improvement for that
11 particular project, whatever the percentage is, four
12 percent, five percent, six, ten.

13 And so our proposal would be to basically
14 allow -- count whatever that FERC-approved percentage is
15 each and every month. And so whatever the generation
16 is, you multiple it by the FERC-approved percentage and
17 that would be your RPS-eligible generation.

18 Instead of, you know, comparing it to some 20-
19 year baseline that would vary from year to year.

20 MR. KOOTSTRA: Thanks.

21 MR. PAPPAS: We'll write this up in our
22 comments, but I wanted to at least introduce it and let
23 folks know what we were thinking in case they had -- I
24 mean, we're certainly open to other ideas, but we
25 thought that this would be pretty logical and you would

1 get a contribution, again, each and every year, and each
2 and every month for that matter.

3 MR. KOOTSTRA: Out of curiosity, I don't know if
4 you are aware if FERC issues those similar documents for
5 your situation for a variety of technologies, so they
6 would signify that this percentage is incremental or is
7 new generation. Do you know if that's something
8 specific to hydro?

9 MR. PAPPAS: Yeah, I don't know about other
10 technologies, but I know that it applies to hydro.

11 MR. KOOTSTRA: Okay. Does anybody else have any
12 comments they'd like to add on the situation? Please
13 come forward. We were empty, so we had everybody come
14 to the table.

15 MR. HENDRY: Thank you and good afternoon. I'm
16 Jim Hendry. I'm with the San Francisco Public Utilities
17 Commission.

18 I just had one comment on PG&E's suggestion that
19 for some of the hydroelectric facilities, at least I
20 know for San Francisco, and I believe for Los Angeles,
21 they're not under FERC licenses. And so if you wanted
22 to craft this proposal, you may want to do it as an
23 either/or proposal where you could use the existing
24 methodology or, if there's FERC licensing available, you
25 could use that proposal. Something like that just to

1 reflect both options are available.

2 Because I know for San Francisco, as I said, our
3 facilities are not FERC licensed, there's no
4 documentation we could provide.

5 And as I said, I think for Los Angeles and some
6 of the other, some of the older facilities pre-date FERC
7 certification. So, that's just a consideration we'd
8 like to see kind of followed up on.

9 MR. KOOTSTRA: Thank you.

10 MR. TUTT: Yeah, I would support that as well, I
11 mean, having the option, certainly.

12 MR. KOOTSTRA: All right, if there are no other
13 comments and no one on WebEx, we'll move on to the next
14 topic.

15 If you're sitting not at the table, and you want
16 to participate, please come forward. And if you're at
17 the table and you want to go back, feel free to as well.

18 The next one is distributed generation,
19 participation in the RPS as a general question, as well
20 as metering requirements.

21 And so some background and distributed
22 generation facilities have been eligible for the RPS
23 from the get-go. The question has come into how has
24 that generation been sold or if it's been sold?

25 Facilities that meet on-site load, that have not

1 had contracts for both electricity and RECs, have not
2 been historically able to apply for certification
3 because they couldn't meet the requirements necessary to
4 provide and RPS-eligible product.

5 With the adoption of the May 12th edition of the
6 Guidebook -- sorry, May 2012 edition of the Guidebook
7 that changed and we allowed facilities to be RPS
8 eligible regardless of their ability to sell a bundled
9 product.

10 And we've been treating facilities as eligible
11 going forward from that date.

12 With that, we did continue to require revenue-
13 quality metering on these facilities. Not all
14 facilities have that. In fact, a lot of rooftop solars
15 don't. They have inverters with a -- instead of an
16 independently verified accuracy of plus or minus two
17 percent or better, they have a self-verified accuracy of
18 five percent or better. And in some cases they don't
19 have any metering at all.

20 So, that's general background on that. I know
21 that Tim had a general question or statement on that.

22 MR. TUTT: Yeah, I think that covers some of the
23 issues that we've seen with distributed solar and other
24 distributed resources participating in the RPS.

25 I mean, first, there's the question of when they

1 were or are eligible. And we've sort of tried to make
2 the case that as solar technologies they've been
3 eligible as a technology for a long time, if not from
4 the very beginning of the RPS.

5 We understand that in some cases the Guidebooks
6 have said that if you received net metering or
7 incentives under ratepayer programs you weren't
8 eligible, but that requirement has gone away.

9 I think in terms of general eligibility, our
10 main contention today would be that it's SBX1-2 that
11 said starting in 2011 you have a compliance obligation,
12 and that compliance obligation includes the possibility
13 of using unbundled RECs up to, in the first compliance
14 period, 25 percent of your obligation.

15 I guess what we would contend is that similar to
16 the 30- to 40-megawatt hydro issue for L.A., which was
17 also brought into the RPS eligibility in SBX1-2, that
18 the eligibility date for this distributed solar
19 generation should not be when you change the Guidebook
20 to reflect SBX1-2, but from the beginning of the
21 compliance period that SBX1-2 put into place, January
22 2011.

23 We think that's a reasonable position and it
24 allows that counting of that generation from the
25 beginning of the compliance period for which we're

1 obligated.

2 Given that or whichever way that goes, there are
3 extensive transaction costs for participating in the
4 RPS, and they are more significant for these smaller
5 generators.

6 I mean, first, as you noted there's the metering
7 costs. And while most of SMUD's distributed generation
8 does have revenue-quality metering on it, we do think
9 that when you have these smaller systems it makes some
10 sense to at least consider relaxing that metering
11 requirement.

12 I know that you've considered that in the past
13 and I'm not sure of the reasoning why you've decided not
14 to do it, I guess. I haven't really seen the white
15 paper explaining the tradeoff between having these
16 resources participate and some concept of, you know,
17 integrity in the RPS.

18 I think that we've made the point that with
19 these smaller systems, as you aggregate them, the
20 discrepancies between each individual system are going
21 to average out or factor out so that you're going to get
22 the equivalent to revenue-quality meter accuracy in an
23 aggregated form.

24 That at least should be explored in more detail.
25 If that conclusion or that proposition is not accepted,

1 let's actually do a study to determine whether that's a
2 reasonable proposition or not.

3 And then the other question is the tracking
4 through WREGIS. I mean, I think we understand that
5 that's where you want all stuff tracked. And these
6 small systems, the transaction costs of being aggregated
7 and being put into WREGIS can be daunting.

8 I know in SMUD's case, we have not taken that
9 step, yet, for our residential solar generation, our
10 solar distributed systems.

11 Because there are some limitations in how you
12 can aggregate in WREGIS. You can only aggregate up to a
13 250-kw level. And so you end up getting a lot of
14 aggregated units with a lot of generation added into an
15 aggregated total. And being able to verify that and
16 making sure that all of the things are correct for entry
17 into WREGIS costs a lot.

18 So, I guess the plea is for trying to find out,
19 find some way of reducing the transaction costs for
20 these distributed solar systems so that they can be
21 counted for the RPS.

22 Otherwise, I fear that they will just be left by
23 the wayside, even though they're eligible for the RPS
24 and producing viable, in-State, clean generation.

25 So, that's the general issue is let's explore

1 how we can help these small-scale distributed solar
2 systems be eligible, and count, and participate.

3 I think we're in a world where the Governor has
4 still a 12,000-megawatt DG goal. We're in a world where
5 the incentives for SMUD and for the IOUs are declining
6 to close to zero, if not zero, so those are going away,
7 or have already gone away.

8 We're in a world where the question of net
9 metering is being questioned; the idea of net metering,
10 that value is being questioned and how's that going to
11 turn out?

12 And we're in a world where federally the tax
13 benefits for these systems are also uncertain in a few
14 years.

15 So, if all of those basic incentives or ways of
16 inducing distributed solar go away, should the RPS value
17 also be limited by the administrative structure for
18 participating in the RPS, or shouldn't that maybe be one
19 way that these resources are allowed to participate.

20 We're all aware that in some states, in some
21 circumstances they have the concept of solar RECs. That
22 allows these distributed generation systems to achieve
23 fairly significant value in an RPS. We don't have that
24 policy. We don't have that structure.

25 But what we do have is a structure that kind of

1 allows these resources to be eligible, but then doesn't
2 necessarily accommodate the transaction costs of these
3 small systems in being able to participate.

4 MR. ANDREONI: And this is Tony Andreoni, CMUA.
5 And I want to just echo what Tim focused on and I do
6 want to add one other point.

7 And that is when POU's came into SBX1-2, you
8 know, obviously, previous versions of the Guidebook has
9 always forced certain type of metering, but not every
10 member actually had the type of grade meter that's being
11 required by the CEC at this point.

12 And going back to the discussion this morning
13 where we want to count every possible renewable on the
14 table, it seems like it's just kind of arbitrarily
15 knocking off a few of the systems and not accounting for
16 those.

17 So, you know, where there may be meters that
18 have plus or minus five percent, for example, there
19 really has never been a reason why not to allow those to
20 move forward in certain -- there's never really been a
21 white paper or something I've seen why it's disallowed.

22 And it has been brought up and we would like to
23 further discuss that.

24 MR. KELLY: This is Steven Kelly with IEP. I
25 know why it wasn't allowed.

1 The reason the California RPS is such a well-
2 developed program is two things; transparency and valid
3 data. And when we were developing the program there was
4 a consensus that in order to maintain transparency and
5 the sense of validated -- primarily avoid double
6 counting, there needed to be metered -- revenue-quality
7 meters or their equivalent measuring the output from
8 these facilities, from all the RPS-eligible facilities.

9 I have a concern that we would now think about
10 moving into a world where we are either self-reporting
11 or aggregating in some engineering modeling way a
12 certain component of the renewable assets, because I
13 have a feeling that that would have a negative impact on
14 transparency and it will have a negative impact on the
15 public's perception of the validity of the information
16 they're getting out of the RPS Program.

17 I think it has been and should continue to be
18 important that we have a mechanism that measures this
19 production in a reliable way and in an accurate way.

20 Now, whether it's revenue-quality meters, I
21 don't know. My understanding is revenue-quality meters
22 cost 20 to 30 thousand dollars over a 20-year lifetime,
23 or something like that, of a facility.

24 DG ranges from something around zero megawatts
25 up to 20 under the Governor's DG proposal. So, there's

1 a lot of DG that is perfectly -- it's probably already
2 got revenue-quality meters. So, I think what the
3 conversation is, is on a very tiny subset of that, but
4 it's an important one, potentially very large for
5 purposes of RPS compliance.

6 So, while we support those -- IEP supports those
7 technologies, we want to make sure that the production
8 from those facilities, that are counted against the RPS,
9 is actually occurring and is not self-reported and those
10 kinds of things.

11 So, that's one of the reasons why early on there
12 was a move to a revenue-quality meter or something
13 equivalent. If there's an equivalent mechanism to do
14 that for these smaller technologies, or smaller resource
15 technologies that would be fine, but there needs to be
16 something other than self-reporting or aggregation, in
17 my view.

18 MR. LANGER: Can I add something? I think we
19 have -- you know, we're talking about a couple of
20 different things. We just went from 20 megawatts and I
21 think we're talking about net metering, too, which might
22 be two kilowatts.

23 But it's I think you have to talk about those a
24 little bit different. But we really have some
25 conflicting policy direction here.

1 We have AB920 for the IOUs, where we have to pay
2 our net meter customers for net surplus compensation,
3 for any excess generation that they have at their
4 anniversary date of their generation every year.

5 And then in order to get those facilities
6 registered with the CEC and then -- I'm sorry, excuse
7 me, certified by the CEC and then registered with WREGIS
8 to be able to report a REC, and the fact that most of
9 this surplus is less than a megawatt hour in a year, so
10 you don't even get a whole REC, the administrative
11 aspects for everybody are just going to be nightmarish
12 for the customers, for the CEC, for WREGIS, for the
13 IOUs, or for whatever other off-taker.

14 And, I mean, the State's decided, through this
15 legislation, that it's important that that net surplus
16 that's being delivered to the grid be counted somehow,
17 and that the customers be compensated for it. It is
18 part of the picture in, really, the RPS for the State.

19 And I don't know if we can get into all the
20 nuances of it here, today, but this has been giving, I
21 think, everybody in the industry fits. And at some
22 point I don't know what's going to happen, but it feels
23 to me like it's going to blow up. Because at some point
24 there's going to be a lot of, you know, like grandma
25 with her solar facility didn't get paid for her net

1 surplus because she had to spend \$300 to register with
2 WREGIS, and she didn't even have a full REC after four
3 years, and you know, she wanted her \$17. And, you know,
4 you can just imagine the stories that are going to
5 happen because this is going to be practically
6 impossible for most folks to navigate.

7 COMMISSIONER HOCHSCHILD: Well, I think in some
8 ways this is the other side of the coin from your point
9 about counting everything accurately, right. It's like
10 when you get down to this granular a level it is a
11 challenge.

12 The 920 RECs, though, those -- they do not
13 require a revenue-grade meter, or do they?

14 MR. PAPPAS: Well, I mean actually, as it turns
15 out for the AB920 REC just for the -- well, let's not
16 call them RECs because it's actually bundled energy, but
17 I know what you're talking about.

18 They actually are measured with revenue-quality
19 meters.

20 MR. LANGER: But the utilities are already
21 paying off their revenue meters.

22 MR. PAPPAS: Right, because we're having to pay
23 sort of the Brown price, anyways, so it turns out we are
24 using those types of things.

25 COMMISSIONER HOCHSCHILD: That's what I thought.

1 MR. PAPPAS: So, I share the concerns so far.

2 MR. LANGER: So, there's a metering question,
3 but I guess there's two questions. There's just the
4 participation in the RPS and then there's the metering
5 requirements. I think if you are a utility customer,
6 then you're going to have something that is basically a
7 revenue-quality meter. It's a little different than
8 what we think of for like an ISO meter, or a net
9 generation alpha meter.

10 But you're going to have something there that's
11 probably good enough.

12 But I'm just talking about, now, the other
13 requirements we have that really seem to conflict
14 between the legislation and between what the CEC has
15 going on with the WREGIS that's going on.

16 I'm sure the staff here is concerned about
17 getting a flood of tens of thousands of applications for
18 certification. I know WREGIS has indicated that they're
19 concerned about having a lot of new registrations to
20 deal with, with these little, tiny customers.

21 So, again, maybe not the best venue to sort out
22 all these issues, but maybe someone should put a pen on
23 that because it really needs to get sorted out.

24 MR. KELLY: But just a follow up, if I may. The
25 metering is there. That isn't, in your view, the issue.

1 It's how do you treat this disaggregated resource in the
2 context of counting, and WREGIS, and whatever?

3 COMMISSIONER HOCHSCHILD: But hold on, hold on,
4 is the metering there? Because, I mean, a typical
5 customer that's exporting to the grid, let's say, an
6 annual net surplus, right, they have a meter on their
7 inverter and not a revenue-grade meter, to my knowledge.

8 MR. LANGER: Well, they'll have their retail
9 meter.

10 COMMISSIONER HOCHSCHILD: So, you're saying the
11 Smart Meter on the home.

12 MR. LANGER: Right.

13 COMMISSIONER HOCHSCHILD: Which is sufficient.

14 MR. LANGER: Effectively revenue grade.

15 COMMISSIONER HOCHSCHILD: Yeah, okay.

16 MR. LANGER: I'd have to look at for that
17 particular meter if it meets the --

18 COMMISSIONER HOCHSCHILD: Well, isn't that going
19 to be the --

20 MR. TUTT: For AB920 customers, the amount
21 that's tracked is the amount that's tracked through the
22 home's revenue-quality meter. That's what you get, you
23 know, a credit for or what you pay.

24 COMMISSIONER HOCHSCHILD: Right.

25 MR. LANGER: That's right.

1 MR. TUTT: Again, in SMUD's case, most of our
2 distributed generation systems have revenue-quality
3 meters, so that's not necessarily an issue specifically
4 for SMUD.

5 But when the -- I mean, I don't think anyone's
6 talking about self-reporting, for example. I mean, what
7 we're talking about potentially, in the past, would be
8 using the five-percent accuracy meters on the inverters
9 and wondering whether for these smaller systems wouldn't
10 that be good enough given the transaction costs of
11 adding meters to them, particularly retroactively.

12 But in the future, I think for SMUD, what we're
13 talking about potentially is the option of in the new
14 Smart Meter world having a communication between the
15 meter and the inverter which allows us to install these
16 systems, potentially, without the additional cost of a
17 duplicative revenue-quality meter on the system.

18 Don't we want to continue trying to reduce the
19 costs of these distributed systems? And shouldn't we
20 then think, at least think about whether that metering
21 requirement is reasonable in the Smart Meter world?

22 And I'd add one more thing which is in terms of
23 aggregation I fully understand the IOUs' dilemma here.
24 You've got most of the generation from these system with
25 the RECs owned by somebody like SolarCity, and they

1 could aggregate these units, potentially, into something
2 and put them in WREGIS if they felt the transaction
3 costs were worth it.

4 My understanding is that these companies that
5 own these RECs haven't figured out how to do that, yet,
6 because the transaction costs are pretty high.

7 But for the IOUs, they'd have to aggregate just
8 the surplus generation from the same facilities into
9 another kind of unit, and they have a lot less
10 generation to aggregate per unit. So, the costs for
11 them are just, you know, impossible to deal with.

12 MR. KOOTSTRA: Yeah, this is Mark. I'm going to
13 step in on that one real quick, sorry.

14 It's my understanding that if SolarCity, for
15 example, owns the RECs on a facility that facility
16 cannot participate in AB920 and that surplus
17 compensation for the renewable adder. Is that correct?

18 MR. PAPPAS: That's correct. Actually, the
19 tariff that we have filed, which I don't know if it's --
20 it's soon to be approved or at least dealt with by the
21 Commission, requires that the party, you know, attest
22 that they actually own the REC.

23 So, if SolarCity owns a REC, then we wouldn't be
24 paying them for that net surplus, for the green
25 attribute of the net surplus amount.

1 MR. KOOTSTRA: Okay, thank you for that. Sorry,
2 Tony.

3 MR. ANDREONI: And this is Tony, again, with
4 CMUA. I just wanted to clarify I'm not -- when I made
5 my statement earlier, I wasn't talking about any of the
6 CMUA members looking at self-reporting. These are
7 systems that are using meters today.

8 And it's just probably a timing issue of when
9 actually grade -- you know, higher grade meters are
10 actually available and used for those particular
11 instances.

12 So, I'm just saying there are other meters that
13 were used, and they're probably smaller systems, but
14 let's not disallow them. And I think that we would
15 certainly like to have that conversation, again.

16 And I'm sure some of our other members will have
17 additional comments. I know L.A. was in the room. I'm
18 not sure if they're going to be on the call.

19 MR. HENDRY: Yeah, no, the San Francisco PUC
20 agrees with this issue with CMUA and SMUD, as well. And
21 it arose when, in part with the Go Solar SF Program,
22 which you initiated, Commissioner Hochschild, and that
23 as part of the incentives we would receive the
24 corresponding renewable energy credit.

25 And then the issue was, well, we couldn't really

1 use it because these weren't the possibly -- the hyper-
2 accurate meters.

3 And so, I think as Tony's said, there are
4 revenue-quality meters more or less that are good enough
5 for billing and kind of doing that surplus calculations
6 and whatnot, and plus or minus five percent accuracy,
7 and not the two percent, which is what the current RPS
8 Eligibility Guidebook requires.

9 And, you know, there's sort of a benefit of
10 large numbers of, if you start bringing lots of these
11 numbers, the meters that are high are probably offset by
12 the meters that are low and they will zero out.

13 And one option, for which there's not unanimity,
14 but is the potential to even, if you really are worried
15 that they may be over-reporting, is you just arbitrarily
16 discount it. That, okay, you take the meter read and
17 you get 90 percent credit.

18 So, not only are you having the benefit of the
19 statistics of over and under reporting should equal out,
20 but then we take another five, ten percent off of that
21 to be extra sure that what is actually generated
22 actually is renewable energy and has a corresponding
23 credit to it. So, that was an option.

24 I think there's sort of a general principle
25 people want full credit for it, but that was an option

1 that was talked about as well.

2 MR. KOOTSTRA: Okay, does anyone else have
3 comments on this topic?

4 There is someone on WebEx. We're going to try
5 and unmute you and then, hopefully, that will work.
6 Please introduce yourself when you're unmuted. We
7 should have you unmuted.

8 MR. SCHWARTZ: Hello?

9 MR. KOOTSTRA: Yes, please continue.

10 MR. SCHWARTZ: Okay. All right, sorry. Yeah,
11 so Andy Schwartz from SolarCity, first thanks to -- I
12 want to thank Commissioner Hochschild and CEC staff for
13 the opportunity to speak at today's forum.

14 So, I don't really have anything to add to the
15 discussion that we've just had, other than to align
16 myself with the comments that have been made by others
17 regarding the need to have a continued discussion to
18 figure out ways to really reduce the transaction costs
19 to allow customer side DG to more fully participate in
20 the RPS Program.

21 And I think as Tim, really, very comprehensively
22 described, it's a pretty fraught regulatory environment
23 right now for solar with incentives winding down, with
24 uncertainty around the direction of the NIM Program, and
25 with changes in the ITC.

1 So, I think from an industry perspective there's
2 a lot of value in being able to figure out ways to
3 monetize the value that's embodied by a REC.

4 So, I would just encourage the Commission,
5 consistent with what other parties have said, to explore
6 options to reduce the transaction costs of
7 participation. Thanks.

8 MR. KOOTSTRA: Thank you very much.

9 Do we have any additional comments on WebEx?
10 No.

11 If there's no other comments in the room, we're
12 going to move on to the next topic.

13 Biomethane, this is a very general proposal.
14 So, I believe Tim Tutt was the one that wrote this one,
15 so I'm going to let you start.

16 MR. TUTT: Thanks, it is general. I don't know
17 how it could be made more general, I guess, but you
18 know.

19 I think that the concept here for me was simply
20 that we've gone through one round of implementing AB2196
21 and it may be time to sit back and think about whether
22 or not all of the requirements in the Guidebook, as
23 pursuant to that law were really worth it and whether
24 they should be changed going forward.

25 Not in violation of the law, but just to keep in

1 mind the purposes of the law and information gathered.

2 And I'm mainly thinking about, you know, the
3 variety of small dairies and landfill gas facilities in
4 this State that, unfortunately, got caught up in the
5 Legislature's decision to say that biomethane consists
6 of landfill gas and digester gas.

7 Even though these landfill gas and digester gas
8 facilities burn the -- generate the fuel onsite and
9 aren't participating in any common carrier structure,
10 they've been required to go through a series of
11 additional information submittals, which aren't final
12 yet, as I understand it, and back and forth with the CEC
13 to try to understand whether they met the requirements
14 of AB2196 which, in my mind, was not at all targeted
15 towards those small facilities.

16 So, I think my general question and plea here is
17 to try to see whether the Guidebook can be changed so
18 that the burden on these dairy and landfill gas
19 facilities is not as significant as it has been in the
20 last year.

21 And maybe that's all going to go away, anyway.
22 I don't really know. But I think it's worth thinking
23 about how the Guidebook can be changed to reflect the
24 fact that most of us, if not all of us, think that those
25 weren't the facilities targeted by the legislation.

1 And I guess I'd say one other thing, which is my
2 staff tells me that there's another kind of biogas which
3 comes not from digester gas or landfill gas, and it's
4 unclear whether that should be included in the
5 definition for biomethane or whether that would be a
6 problem.

7 Or whether, if it's not included in the
8 definition of biomethane, whether it would be included
9 at all in the RPS.

10 And this is -- Gabe, this is the gasification
11 of -- yeah, SIM gas.

12 MR. KOOTSTRA: The gasification of municipal
13 solid waste?

14 MR. TUTT: No, gasification --

15 MR. KOOTSTRA: Or just general biomass?

16 MR. TUTT: The gasification of biomass, correct.
17 SIM, yeah.

18 MR. KOOTSTRA: Okay, if there's nobody else I'll
19 just -- I'm sorry, please?

20 MR. KELLY: The gasification of what?

21 MR. TUTT: Wood.

22 MR. KELLY: Wood.

23 MR. TUTT: Yes.

24 MR. KELLY: I want to see the list.

25 MR. KOOTSTRA: So, I'll just address a little

1 bit of your concern about there are some facilities that
2 don't have this information in. I believe the vast
3 majority of those that have submitted us any
4 information, that's been for the most part taken care of
5 there. A few that we're still working on a few items,
6 or that have resubmitted and so some stuff needs to get
7 resolved.

8 But in addition, there are some of those likely
9 dairy digesters and landfill gas facilities that never
10 submitted anything to us and they are technically
11 standing as suspended, so you're not able to claim any
12 generation from them for a facility -- utilities.

13 We are gearing up to start contacting them again
14 and let them know that you have these requirements so we
15 can, hopefully, move through that before we get to a
16 year of them being suspended, in which case they can
17 move to disapprove.

18 We don't want that, either. So, we are engaged
19 in that process, it's just it takes time to contact
20 these folks, as you know.

21 But if you are a utility and you have digester
22 gas facilities or landfill gas facilities, and you don't
23 know that they've met all these requirements, I
24 recommend that you follow up with them.

25 We plan to do the same. But just be on top of

1 it. Until we're able to change something, if we decide
2 to change something, and this is unfortunately how we
3 are, and I'd find it very unfortunate if these guys fell
4 through the cracks even further.

5 So, just please help us stay on top of that. We
6 get a lot better results when they get it from us and
7 the utilities.

8 Are there any additional comments on biomethane
9 in general?

10 Is there anyone on the WebEx that wanted --
11 okay.

12 We're going to go back to another general topic.
13 This is the last general topic unless -- yeah, the last
14 general topic.

15 This one kind of borders on out of scope, but
16 kind of not, so I'm going to let Tim Tutt introduce this
17 one a little bit more.

18 But, obviously, there needs to be some
19 consideration for how the Guidebook and the POU regs
20 work together. And as much as that's part of the
21 Guidebook I'm happy to hear information that you have.

22 MR. TUTT: Yes, I understand that the POU regs
23 are out of scope for this workshop, so I'm not talking
24 about any changes there.

25 But I've just recognized that there are some

1 instances, based on the adoption of the Guidebook and
2 the regs perhaps at different times, and that may
3 continue in the future, where there are things in the
4 Guidebook which cover the same areas as the regs and
5 they're not necessarily consistent.

6 And so, I think the general plea for me is to,
7 when you're changing the Guidebook going forward, make a
8 serious attempt to try to remove anything that's already
9 covered in the POU regulations so that that
10 inconsistency doesn't expand or continue as much as
11 possible.

12 I also think that generally understanding the
13 history of the RPS Program and the Renewable Program at
14 the Energy Commission, you worked with guidebooks all
15 through this structure until SBX1-2, when you now have
16 regulations for the POUs.

17 And I'm not sure of the right course of action
18 in terms of how those interact. I just think it's
19 worthy of consideration because, in general, I think
20 what you'd want is to have the RPS Guidebook cover any
21 general eligibility issues for the IOUs and the POUs.
22 And the POU regs cover specific things for the POUs in
23 the RPS.

24 But I don't think it's quite that clean, yet,
25 and I don't know if it actually can be. But I think you

1 should strive for that because otherwise you're going to
2 get into these questions of how does -- I mean, the
3 Guidebook says this and the POU regs say that, and
4 they're not consistent. What do we do? That's the
5 basic concept.

6 MR. HERRERA: A quick comment on that, Tim, this
7 is Gabe. So, you recall when we were developing the
8 Guidebook that we were also simultaneously working on
9 the reg development. And we knew that the Guidebook
10 would come out before the regulations and tried to
11 signal, provide some guidance that the POUs and the
12 retail sellers could rely upon, right, until the POU
13 regs were out.

14 And so that's why, when you take a look at the
15 Guidebook, there are provisions that talk about
16 reporting requirements that are repeated, for example,
17 in the POU regs and are specific to the POUs.

18 But there are reporting requirements with
19 respect to verification that also apply to retail
20 sellers, as well, right.

21 So, you need to cover them both in the Guidebook
22 to some degree and in the regulations.

23 But when we do revise the Guidebook, we will try
24 to remove the duplication in the -- I know there was
25 some inconsistency on reporting requirements and we

1 advised POU's to follow the direction in the regs, rather
2 than in the Guidebook. That was the latest word from
3 the Commission on those particular issues so --

4 MR. ANDREONI: This is Tony, again, from CMUA.
5 And I'll add to what Tim has said because it just so
6 happens to be that CMUA provided comments on this on
7 multiple occasions during the POU reg development,
8 through the adoption, and through changes with the RPS
9 Guidebook.

10 And I understand the RPS Guidebook has a
11 different process than the statutory or the APA
12 requirements for the regulations.

13 So, in the past, and we definitely appreciate
14 the workshop today on discussing the RPS guidance. It
15 would be nice to have some alignment, but at the same
16 time when you do go towards creating a version 8, or
17 whatever version you call it, that the same amount of
18 time on providing written comments by electric entities
19 be considered.

20 In other words, a 45-day period is certainly a
21 lot better than a 10-day period as we're going through
22 changes with the Guidebook.

23 We just didn't have enough time to comment. And
24 I understand you all are under very difficult time
25 constraints in getting those documents out to everybody,

1 but we do see it having the same amount of teeth as the
2 regulation. And we would like to have more time to
3 discuss some of the changes, especially at the last
4 minute.

5 And I do recall there were some last-minute
6 changes that came up and, you know, we do have to spend
7 some time examining what those changes mean to our
8 members.

9 So, I would just kind of throw out the idea that
10 even though you have different requirements to follow
11 because of the Guidebook coming before the rule, I would
12 just ask that, you know, somehow there's some additional
13 time provided.

14 MR. KOOTSTRA: On that topic, with additional
15 time, obviously for a business meeting, when we go to
16 adoption, the only additional time you can have is
17 before the business meeting.

18 But when it comes to a workshop on that proposed
19 language would it be more helpful to have more time
20 after the workshop, or before, or something mixed in
21 between?

22 I don't know how many people actually read the
23 Guidebook revisions before going to the workshop, or if
24 they want to have the highlights pointed out to them
25 before they decide to make comments. So, that

1 information will be helpful.

2 MR. ANDREONI: So, there's two things that
3 you're bringing up. In one instance, you know, under AP
4 requirements, the rule, you actually have to address all
5 the concerns that were raised.

6 With the Guidebook, you don't have to address
7 the concerns. So, we'll have a workshop and many of us
8 don't actually see what kind of direction that the
9 Energy Commission may go on some of the suggestions.

10 So, you know, if you provided a list of changes
11 that you're making to the Guidebook, and the reasoning
12 behind that before, that would be great.

13 But if you're doing that ten days before going
14 to a business meeting, it doesn't really give us enough
15 time to examine some of the changes that were left out,
16 and we're not really sure why they may not have been
17 included.

18 So, to have some additional dialogue before
19 going to a final adoption would be helpful. And that's
20 almost like providing what you've done in the past, a
21 45-day comment period, a 15-day change under the rule
22 development gives us a little more time.

23 It would be nice to, you know, be able to see
24 those changes, understand them before we actually make
25 any additional statements as part of the record.

1 MR. KOOTSTRA: Thank you.

2 MS. BERLIN: This is Susie Berlin. At the risk
3 of going out of scope, and you can tell me if we are,
4 Gabe, I was hoping, Gabe and Mark, if you can provide
5 some clarification on the relationship between the
6 Guidebook and the POU rules as it pertains to the
7 reporting forms that are POU-specific.

8 So, I'm hearing that they have to be changed as
9 part of the Guidebook, if they need to be updated, but
10 they're not. Well -- okay.

11 MR. HERRERA: So, earlier when I made that
12 comment, I do know that there were some dates. I mean,
13 when we were developing the Guidebook at that point in
14 time we thought there was a reporting -- certain
15 reporting dates that we were going to follow in the
16 regs. I think the draft regs had that and then,
17 ultimately, we changed the reporting dates in the regs
18 to provide more time.

19 And so, the one instance that I'm thinking of,
20 that's in the Guidebook, allows for lesser time to
21 report, rather than more time.

22 Anyway, in terms of changes to POU reporting
23 forms --

24 MS. BERLIN: The forms, themselves.

25 MR. HERRERA: Right. So, if there are changes,

1 you know, formatting changes, or information, as long as
2 those changes are consistent with the text in the
3 regulation, I think we're okay.

4 The same holds true with the Guidebook. I'm not
5 sure if we need to -- I'm not sure what changes we might
6 need to make, but we certainly have that discretion to
7 do that.

8 MS. BERLIN: So, if we do need to make changes,
9 formatting, something in the forms themselves, does that
10 have to be part of the Guidebook process? Or because
11 they're attachments can you fix the forms?

12 MR. HERRERA: I think we can fix the forms as
13 long as whatever we were requesting as part of the forms
14 was consistent with the direction of the text in the
15 Guidebook or the regulations themselves.

16 MS. BERLIN: Okay, thank you.

17 MR. HERRERA: Yeah. You're not asking for
18 permission to change the forms yourself, are you? No.
19 Because I do know there's a --

20 MS. BERLIN: Is that what you're granting?
21 Okay, so if that's off the table, no. No, I'm talking
22 about the CEC making minor revisions as we work through
23 them and find that there are some aspects that just
24 don't work.

25 No, not unilaterally this is the form I'm going

1 to use.

2 MR. HERRERA: Right, right. I think there was a
3 request by one POU, and I'm not going to identify them
4 because Tim would be embarrassed but --

5 (Laughter)

6 MR. HERRERA: -- I thought there was a request
7 to unlock the forms that had been -- installed some
8 macros, so that additional lines could be added. I
9 think that would be a problem.

10 MR. ANDREONI: We actually suggested a group of
11 trial and error. You know, basically, we just sent out
12 your forms and determine are there some errors, and we
13 provide some fixes, just as some assistance.

14 MR. TOMASCHEFSKY: So, Gabe, I think just in
15 characterizing what you said, I think it's the
16 unfortunate timing of the sequence of getting the regs
17 operating and getting the Guidebook is the fundamental
18 problem here.

19 So, generally what you wouldn't see is you
20 wouldn't see any changes to the regulations that would
21 occur, you know, as a result of the Guidebook being
22 updated. It would actually be in reverse.

23 So, if there's any changes to regulations, you
24 would then see subsequent changes to the Guidebook in
25 the future.

1 And then you still have the ability to tweak
2 things within the Guidebook, going forward, that don't
3 change the intent of what the regs say.

4 So, if we're talking about forms and you're
5 talking about your interpretation of what the
6 regulations say, you can interpret it in a certain way
7 and then say, okay, based on input from everyone we're
8 making additional adjustments to that, which doesn't
9 change the intent of what was said here on the regs.

10 So, I think that's the cadence behind it is
11 nothing that gets changed in the Guidebook pushes the
12 changes in the regulations, but regulation changes would
13 then be accommodated in the Guidebook.

14 The sequence is --

15 MR. HERRERA: But I think I was speaking
16 generically. If there's a rule in the Guidebook that
17 requires the reporting of certain information, as long
18 as the forms on which that information is reported is
19 consistent with the rule itself, I think the Commission
20 can make those changes.

21 And that holds true both for forms that are
22 prepared for the regs and forms that are prepared for
23 the Guidebook, as well.

24 MR. TOMASCHEFSKY: Yeah, I think to Tony's
25 point, as far as the 10-day period, I know that in terms

1 of avoiding APA rules the 10-day rule works well within
2 the Commission. But just in terms of getting feedback
3 from the public 45 days may be too much, but more than
4 10 days is probably good in terms of having an exchange.

5 If you want a realistic exchange from
6 stakeholders, when those things come out, it's probably
7 helpful to build in a little bit more time into the
8 deliberation process.

9 MR. ANDREONI: Let's split the difference, let's
10 call it 30 for starters.

11 MR. TOMASCHEFSKY: Or 27.

12 MR. HENDRY: So, can I ask another sort of
13 follow-up question to that?

14 In the regulations, I won't go into the details,
15 but there's two ways you can interpret the regulations.
16 And then you look in the Guidebook forms and they seem
17 to have interpreted it one way. And as far as I can
18 tell there's been no debate about whether -- you know,
19 which interpretation is correct. It's a new issue and
20 we haven't really talked through it, yet.

21 So, what would the forum be for having the
22 discussion about are there forms in the Guidebook, which
23 interpretation is correct and then that, in turn, flows
24 through to how the forms change.

25 Should that be in our comments, or is that a

1 separate process? Or if we don't do it in the
2 Guidebook, can we not do it anyplace else? I guess
3 that's kind of just the process question, where do we
4 raise this issue?

5 MR. HERRERA: So, you can raise those in the
6 comments that you provide.

7 MR. HENDRY: Okay.

8 MR. HERRERA: If you don't give in the comments,
9 and you still feel that there's a need to make those
10 changes, perhaps a call to staff, perhaps a webinar.

11 I mean, if the idea is to communicate the need
12 for change to us, or to raise questions, then just bring
13 it to our attention.

14 MR. HENDRY: Okay, good. Thanks.

15 MR. HERRERA: If you know some specifically,
16 James, maybe you can provide those in the comments.

17 MR. HENDRY: Okay.

18 I guess I have one final comment on the
19 interaction and this is just a thought that occurred to
20 me this morning, and it's regarding the storage issue.

21 And I think there's kind of two issues. One is
22 I think there's a technical issue of how you count
23 storage for RPS and make that eligibility.

24 But I think what will be probably more
25 complicated as it relates to sort of the POU regs and

1 the IOU regs is then what the portfolio content category
2 of that storage is. Is it going to be -- you know, and
3 I think that's maybe a more complicated issue than
4 figuring out how you count whether a megawatt goes into
5 storage and comes out or not.

6 MR. KOOTSTRA: I would agree that's a very
7 complicated issue. It all depends on what realm we look
8 at it. I mean, if it turns out to be a portfolio
9 content category issue, then it would have to be
10 something we'd have to work with in the POU regs, and
11 work with the CPUC.

12 MR. HENDRY: Right.

13 MR. KOOTSTRA: I don't have an answer for you at
14 this point but, yeah, it's complicated.

15 MR. HENDRY: Yeah, I just raised it as an issue
16 that we need to -- I think it's going to be more
17 complicated, but it needs to be resolved at some point.

18 MR. TUTT: I guess I have one other general
19 comment on this issue. And I came from the Renewable
20 Energy Program. I'm kind of used to guidebooks. And,
21 you know, they're good ways of doing business in my
22 mind. They are flexible, they allow for changes to be
23 made when necessary, fairly quickly.

24 As opposed to regulations, and I understand the
25 regulations in this case are necessary.

1 But in general, if there's a question as to
2 whether a particular topic should be covered in a
3 guidebook, versus the regulations, I still want the
4 separation where possible, but I'd want to have it
5 covered in the Guidebook.

6 Because in that case, if something comes up
7 where you want to change it, and for a reasonable and
8 good market reason, you have more flexibility of doing
9 that.

10 I know there's one instance where we advocated
11 that a particular topic be kept out of the regulations
12 and remain in the Guidebook so that there could continue
13 to be discussion and flexibility about how that could be
14 handled. And that didn't happen.

15 It was actually inserted into the regulations,
16 as well as being in the Guidebook.

17 So, I would prefer that that doesn't happen in
18 the future is my point.

19 MR. KOOTSTRA: If anybody else has any other
20 comments, please let me know. John?

21 MR. PAPPAS: Not on this issue. Do we still
22 have a few others or --

23 MR. KOOTSTRA: No, this is actually the last of
24 our issues. So, if anybody has something that they want
25 to bring up real quick?

1 MR. PAPPAS: Yeah, actually, I had a second
2 issue. I don't know if I missed it. And this had to do
3 with the counting previous deliveries for eligible 40-
4 megawatt or less generation that are part of a water
5 supply or conveyance system.

6 MR. KOOTSTRA: I think I intended to roll that
7 into another topic, but I wasn't clear on that so --

8 MR. PAPPAS: Okay, can I still talk?

9 MR. KOOTSTRA: Yeah, go ahead.

10 MR. PAPPAS: And first of all, I also just want
11 to thank you, and your staff, and Commissioner
12 Hochschild for -- I think this is a great workshop.

13 MR. KOOTSTRA: Yeah.

14 MR. PAPPAS: So, really, I'm sure I, you know,
15 echo others' feelings as well, so really well done.

16 But let's get -- so, this really relates to the
17 ITS and this is more of a specific example. But you had
18 mentioned this new category of RPS-eligible resources,
19 which is basically the 40-metawatt unit that's part of a
20 water supply or conveyance system.

21 And this came about as a result of SB1X2. And
22 in the 7th edition of the Guidebook there was, you know,
23 the requirement that some of these facilities could be
24 RPS eligible. And that if you applied within 90 days of
25 the adoption of the 7th edition, which in this case

1 turned out to be July 29th, of 2013, that you had the
2 ability, you could count that generation of RPS
3 eligible, if it was approved, all the way back to
4 January 1st, 2011.

5 And so, actually, we've done that and I noticed,
6 actually on your website, that there's probably around
7 20 or so projects that have applied, just based on the
8 information I've seen there.

9 So, we went ahead and we've applied within that
10 90-day period, and we've also registered the project in
11 WREGIS. However, WREGIS only goes back 75 days, so
12 we're only going to be able to get generation, say, back
13 to June of 2013, maybe May. I'm not sure exactly.

14 And I think this -- in order to really implement
15 what the Guidebook is trying to implement, as well as
16 what the legislation's trying to implement, I think the
17 only way to really get to count those, that generation,
18 if the projects are approved, is to use the ITS.

19 So, the solution to the problem is to allow the
20 ITS to be used for that circumstance so that the actual
21 intent of the legislation can be realized.

22 MR. KOOTSTRA: Thank you on that.

23 Is there any additional comment that we have?
24 All right, we're --

25 MR. PAPPAS: And I was going to say, we'll put

1 this in our written comments, as well.

2 MR. KOOTSTRA: Yeah, I do look forward to
3 reading those. And I look forward to reading
4 everybody's written comments. Believe it or not, I plan
5 on reading all of them.

6 So, for next steps, once we have all the
7 comments together, as well as the transcript, so we can
8 actually review this in full, we'll work with
9 Commissioner Hochschild to determine what topics we will
10 cover in the RPS Guidebook, and what direction we're
11 going to take in the revision process.

12 Some topics may be covered in our revision
13 process by doing nothing. So, just because we didn't do
14 anything, maybe as suggested, we identify topics that we
15 decided not to cover because we've chosen not to do
16 anything, and we like the status quo.

17 But we'll develop draft language of the
18 Guidebook and come out with that information so you can
19 see it.

20 We'll see about how long of a time we can have
21 for comments. I agree, the longer you have the better
22 comments we get, the better Guidebook we have as an end
23 product.

24 But it's, again, a balancing act of how long are
25 you willing to let this take.

1 I strongly suggest you all submit written
2 comments, both to dockets -- and if you do it via e-
3 mail, please send it both to the docket, the e-mail
4 address, as well as the RPS 33 e-mail address.

5 Things that go to dockets normally take a couple
6 of days to get processed. And if lots of people submit,
7 it takes even longer. So, if it goes to the RPS 33
8 address we get those quicker and we can actually start
9 our process faster.

10 Paper copies need to go to the Dockets Office at
11 the address here. Full instructions are in the notice,
12 itself.

13 The timeline, so we're looking at a draft
14 Guidebook, with draft language and underlined, strikeout
15 in the second or third quarter of this year. It depends
16 on the direction we get for what topics we want to cover
17 and how expansive those changes are.

18 With adoption either the third or fourth
19 quarter, again based off of how much we decide to change
20 and cover, as well as your comments on the proposed
21 language.

22 Please keep in mind that we're working to make
23 the Guidebook as clear as possible, and consolidate it
24 as much as possible, so you might see a lot of changes
25 in it that aren't actually changes to what the Guidebook

1 is intending and saying, but will be represented that
2 way because we need to show all tracked changes.

3 So, just please bear that in mind. We do
4 normally list or provide a list of changes that we have
5 proposed in the Guidebook and we'll try to make it clear
6 if this is a streamlined change, or if this is an actual
7 requirement change.

8 This is my contact information. Please feel
9 free to get in touch with me if you have any questions
10 on the Guidebook, itself.

11 I can't help you much on the regs. Right now
12 that's going to be Emily Chisolm which, hopefully,
13 you'll have her e-mail address, if it's not already on
14 the website, and contact information.

15 But please, let me know if you have any
16 questions on the Guidebook or this workshop, I'd be
17 happy to chat with you.

18 Otherwise, thank you very much for coming. We
19 appreciate it greatly.

20 And I think Susie wants to say something.

21 MS. BERLIN: I just had a quick clarification.
22 You were saying that the written comments need to go and
23 be mailed to the Docket Office, but you're saying that
24 was just in the alternative of submitting -- there's
25 been no change where they have to be submitted in

1 hardcopy?

2 MR. KOOTSTRA: They only need to be submitted
3 either via e-mail or hardcopy.

4 MS. BERLIN: Either/or still. Okay, thank you.

5 MR. KOOTSTRA: Yeah.

6 COMMISSIONER HOCHSCHILD: Yeah, I just wanted to
7 take a minute and ask -- first of all, thank you,
8 everybody, for spending five quality hours together.

9 And I just wanted to acknowledge Mark and just
10 let's give him a round of applause for putting it all
11 together. Thank you.

12 (Applause)

13 COMMISSIONER HOCHSCHILD: Are we wrapped up?

14 MR. KOOTSTRA: Yeah, we're wrapped up.
15 Hopefully, we'll see you later, next quarter or early
16 third quarter. And, hopefully, this will go smoothly
17 for everyone. Thank you.

18 (Thereupon, the Workshop was adjourned at
19 2:21 p.m.)

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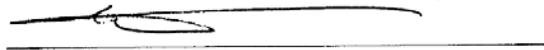
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