



COMMITTEE MEMBERS PRESENT

Garret Shean, Hearing Officer

STAFF

James W. Reede, Jr., Project Manager

David F. Abelson, Senior Staff Counsel

Joseph M. Loyer

APPLICANT

John McKinsey  
Attorney at Law  
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Gary Chandler

Gary Rubenstein, Sierra Research

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

2 HEARING OFFICER SHEAN: All right,  
3 we'll go on the record.

4 Good morning, ladies and gentlemen. My  
5 name is Garret Shean, I'm a Hearing Officer on the  
6 Mountainview Application for Certification.  
7 Commissioner Moore has been called away briefly,  
8 and will return for a portion of this morning's  
9 second Evidentiary Hearing.

10 By letter dated January 11th, from Mr.  
11 McKinsey to me, the Applicant requested an  
12 additional Evidentiary Hearing in this proceeding  
13 to discuss Air Quality matters, following the  
14 release of the Staff's revised Air Quality  
15 Assessment.

16 The Committee issued a notice for the  
17 conduct of the Evidentiary Hearing, I believe it  
18 was on the 12th, and we are here today, and I  
19 understand most of the matters that were  
20 potentially in contention have been resolved.

21 And I am going to have, since we're  
22 involved in the preparation of the Presiding  
23 Member's Proposed Decision, a couple of questions  
24 of clarification, once we have dealt with the Air  
25 Quality matters.

1                   So with that, why don't we have the  
2 parties introduce themselves, beginning with the  
3 Commission Staff.

4                   MR. REEDE: Good morning, Hearing  
5 Officer Shean. My name is James Reede. I'm the  
6 Energy Facility Siting Project Manager for the  
7 Mountainview Application for Certification,  
8 00-AFC-2.

9                   With me today are David Abelson, Senior  
10 Staff Counsel, and Joseph Loyer, Air Quality  
11 Engineer.

12                  HEARING OFFICER SHEAN: All right. For  
13 the Applicant?

14                  MR. MCKINSEY: Good morning. My name  
15 is John McKinsey. I'm the Project Counsel for  
16 Mountainview Power Plant.

17                  To my right is Gary Rubenstein from  
18 Sierra Research, the primary engineer that's  
19 handled our air quality analysis. And also with  
20 me is Gary Chandler, a representative of the  
21 Applicant.

22                  HEARING OFFICER SHEAN: I will just  
23 note, looking into the audience, that there are no  
24 members of the public here. It's either  
25 representatives from the Applicant or Commission

1 Staff.

2 Should any member of the public come  
3 in, and in the absence of the Public Adviser, we  
4 may take a brief moment to advise that person of  
5 how they can participate in the proceedings,  
6 should he or she wish to do so.

7 With that, why don't we open this up.  
8 I guess originally with -- or initially with the  
9 Applicant, for a discussion of the issues that  
10 caused you to request the hearing.

11 MR. MCKINSEY: Thank you.

12 We requested the hearing because we  
13 wanted to ensure that we had the ability to  
14 resolve on the record any of the remaining issues  
15 that we had regarding any differences between the  
16 Staff Assessment and the Revised Staff Assessment  
17 containing Air Quality conditions, the South Coast  
18 Air Quality Management District's conditions, as  
19 they're outlined in the PDOC, and soon to be  
20 issued FDOC, and -- and then our issues that we  
21 may have had and concerns we may have had with  
22 some of those conditions.

23 We did an analysis of the Revised Staff  
24 Assessment provided by the CEC Staff, and  
25 initially identified areas of concern, which we

1 transmitted to the Energy Commission. And the  
2 Energy Commission has issued something we -- we've  
3 been trying to refer to as the right title, it's a  
4 Revised Revised Staff Assessment, or maybe a -- I  
5 think there may have been --

6 MR. REEDE: We call it an addendum to  
7 the Revised Staff Assessment.

8 MR. MCKINSEY: There we go, an addendum  
9 to the Revised Staff Assessment. And from that --

10 HEARING OFFICER SHEAN: Revised  
11 probably captures it, too. We get the idea.

12 MR. MCKINSEY: And from that, we -- we  
13 came in this morning with four more conditions  
14 that we wanted to do some clarification on one  
15 condition we had, to resolve exactly what language  
16 to use. And a couple of conditions that we wanted  
17 to make a couple of comments on, just as a heads  
18 up as to some effect that the FDOC may have on  
19 them.

20 And with that, I'm going to turn it over  
21 to Gary Rubenstein to go through those conditions.

22 HEARING OFFICER SHEAN: Okay. Since we  
23 want to be able to use the entirety of Mr.  
24 Rubenstein's comment, why don't we have him sworn  
25 in.

1                   (Thereupon Gary S. Rubenstein was,  
2                   by the reporter, sworn to tell the  
3                   truth, the whole truth, and nothing  
4                   but the truth.)

5                   MR. RUBENSTEIN: Good morning. My name  
6                   is, for the record, my name is Gary Rubenstein.  
7                   I'm with the firm of Sierra Research, an Air  
8                   Quality Consulting firm based in Sacramento, and  
9                   I'm here this morning on behalf of the  
10                  Mountainview Power Project.

11                  We have reviewed both the Final Staff -  
12                  - excuse me, the Staff Assessment and the addendum  
13                  to the Air Quality Staff Assessment, the addendum  
14                  being dated January 22, 2001, and we are in  
15                  agreement with all of the proposed conditions of  
16                  approval, save those that I will be discussing in  
17                  just a moment.

18                  There are a total of eight conditions  
19                  that I'm going to discuss. Most of the comments,  
20                  if not all of the comments I'm going to make are  
21                  in the nature of seeking clarification that I  
22                  believe we've already reached agreement with the  
23                  Staff on. And we want to enter those  
24                  clarifications for the record.

25                  The first condition is AQ-C2. This is

1 a condition that deals with the installation of  
2 oxidizing soot filters on construction equipment.  
3 This condition is completely unique to the  
4 Commission. It's not a condition that's in the  
5 determination of compliance issued by the South  
6 Coast District.

7 The proposed changes that we have,  
8 working off of the addendum version of AQ-C2, are  
9 as follows.

10 First, on line 8 -- and this will be  
11 the most painful one, Mr. Shean, the rest will be  
12 much shorter -- on line 8, the line that begins  
13 "Independent California Licensed Mechanical  
14 Engineer", insert after the word "engineer" the  
15 phrase "or QEP", which stands for Qualified  
16 Environmental Professional, and then open  
17 parentheses,"(approved by the CPM)", close  
18 parentheses.

19 Also in that first paragraph of AQ-C2,  
20 third line up from the bottom, where it says  
21 "engineer", insert the phrase, "or QEP".

22 Under the major heading, Initial  
23 Suitability Report, the first bullet -- the  
24 proposed change actually to all of these bullets  
25 are clarifications to make them consistent with

1 the paragraph that precedes. The first bullet  
2 should be revised to read "a list of all fuel  
3 burning, construction related equipment proposed  
4 to be used at the site and which are expected to  
5 operate for at least ten working days."

6 The second bullet is unchanged.

7 The third bullet should be deleted.

8 The fourth bullet, in the third line  
9 that begins "Mechanical Engineer", the phrase "or  
10 QEP" should be added.

11 The fourth bullet should be deleted.

12 And then in the next paragraph, that's  
13 the paragraph that begins "Following the  
14 installation of", on the third line down, after  
15 the words "Mechanical Engineer" insert "or QEP".

16 And then lastly, in the Verification  
17 section, there are three references to a licensed  
18 mechanical engineer, and in each instance the word  
19 "engineer" should be followed by the phrase "or  
20 QEP".

21 And that concludes our proposed  
22 modifications to AQ-C2.

23 HEARING OFFICER SHEAN: Based upon the  
24 discussion we just had, are we foreseeing that AQ-  
25 C1 and 2 apply to equipment at the power plant

1 construction site, but probably not at the  
2 pipeline construction, or do -- do we know?

3 MR. RUBENSTEIN: My understanding is  
4 that AQ-C2 explicitly applies to the construction  
5 of linear facilities.

6 HEARING OFFICER SHEAN: Okay. For  
7 linear facilities.

8 MR. RUBENSTEIN: And that -- that  
9 statement is not included in AQ-C1. I'm not sure  
10 what the Staff's intention was for -- for that  
11 condition.

12 HEARING OFFICER SHEAN: Okay. That's  
13 C-2. I understand.

14 MR. ABELSON: I think, Mr. Shean,  
15 before we proceed further, I'm a little unclear on  
16 the record as to what in fact we're doing at this  
17 point, in terms of where Staff is. I understand  
18 that you are suggesting some language, but I have  
19 -- there's no explanation as to why it's being  
20 suggested, and I frankly at this point don't know  
21 whether our Staff is in concurrence or not. I  
22 think on the record we ought to be clear on that.

23 MR. LOYER: Do you want me to talk?

24 HEARING OFFICER SHEAN: Your turn, Mr.  
25 Loyer.

1 MR. LOYER: Okay.

2 HEARING OFFICER SHEAN: Sure.

3 MR. LOYER: We had ongoing discussions  
4 with the Applicant regarding the soot filter  
5 condition, and as this is a condition that the  
6 Commission is suggesting and is not supported by  
7 the district or any other agency, except -- with  
8 the exception of California's Air Resources Board,  
9 we have a certain amount of latitude that we can  
10 express here in this condition.

11 After discussing it -- the particular  
12 changes with the Applicant, Staff is -- is  
13 sufficiently satisfied that with approval  
14 authority over the QEP selected, if a QEP is  
15 selected instead of a mechanical engineer, that we  
16 have sufficient control over that individual, over  
17 the selection of that individual, that we are  
18 comfortable that they can make an intelligent  
19 decision that is necessary for this condition.

20 Therefore, we're -- we do support these  
21 -- these particular changes, and we'll discuss  
22 these changes to be added in future projects for  
23 this condition.

24 MR. REEDE: Excuse me, Hearing Officer  
25 Shean. One of the things that this raises is the

1 fact that they need to submit qualifications of a  
2 QEP, of a particular QEP, for review by the  
3 Compliance Unit prior to allowing the individual  
4 onsite.

5                   Nowhere in the changed language does it  
6 say submit for review. And so the revised  
7 language needs to include that should a QEP be  
8 used rather than a licensed professional  
9 mechanical engineer, that upon review by our  
10 Compliance Unit, then that individual would be  
11 authorized to work on the project.

12                   MR. RUBENSTEIN: We'd have no objection  
13 to including that language as part of the  
14 verification.

15                   HEARING OFFICER SHEAN: Yeah. That's -  
16 - I mean, whatever would've applied to the  
17 engineer applies to the QEP, so --

18                   MR. REEDE: Not necessarily, because a  
19 California Licensed Engineer is regulated by the  
20 Consumer Affairs agency.

21                   HEARING OFFICER SHEAN: Sure. But I'm  
22 talking about the approval of them by the CPM.

23                   MR. RUBENSTEIN: Actually, the  
24 verification --

25                   HEARING OFFICER SHEAN: Were you going

1 to just take any old engineer?

2 MR. RUBENSTEIN: -- verification  
3 indicates that yes, you could use any old  
4 engineer. And -- and we'd have no objection to  
5 having a more rigorous review for a QEP.

6 HEARING OFFICER SHEAN: All right.

7 MR. ABELSON: Mr. Shean, I actually  
8 think, on behalf of Staff, I think that that is --  
9 is an important thing to have in there. This is  
10 the compromise that I think is being worked out at  
11 this point, and we do want to retain at least that  
12 right of review very clearly in the -- in the  
13 conditions.

14 HEARING OFFICER SHEAN: Okay.

15 MR. RUBENSTEIN: QEPs have only been  
16 around for about ten years, and so it's still a  
17 concept that's gaining acceptance, so at this  
18 point I don't have any objection.

19 The next condition that we've proposed  
20 changes to are AQ-1, and we believe this is a  
21 correction of an omission in the addendum.

22 In the -- in the first paragraph of AQ-  
23 1, the next to the last line that begins "that 33  
24 operating days", we propose to delete the word  
25 "duration" and insert the phrase "for each gas

1 turbine".

2 MR. REEDE: Where are we?

3 MR. RUBENSTEIN: Condition AQ-1, page 6  
4 of the addendum. AQ-1, not AQ-C1.

5 MR. REEDE: Okay. I got you.

6 MR. RUBENSTEIN: So the first  
7 paragraph, second line from the bottom, that  
8 begins "that 33 operating days", delete the word  
9 "duration" and insert the phrase "for each gas  
10 turbine." And then continuing, "following the  
11 date natural gas is first fired in" and then  
12 delete the phrase "any one of the four", insert  
13 the word "that", and then delete the "s" from  
14 "turbines" at the end of the sentence.

15 This change is to -- to clarify what we  
16 had discussed with the Staff, which is that the 33  
17 day duration for commissioning activities is for  
18 each of the four individual gas turbines. It's  
19 not a total for the entire facility.

20 MR. LOYER: And Staff concurs.

21 MR. RUBENSTEIN: Condition AQ-2, and  
22 there are some other similar conditions that we'll  
23 discuss below. We had requested language allowing  
24 the nominal 250,000 pound per year limit to be  
25 increased if the project owner demonstrates that

1       it has sufficient reclaim trading credits for the  
2       initial 12 month operating period.

3               The Staff's language is consistent with  
4       the preliminary determination of compliance.  
5       We've asked the South Coast District to provide  
6       additional flexibility by building into that  
7       condition the ability to increase that limit  
8       automatically if additional reclaimed credits are  
9       demonstrated. The district is still considering  
10      that request.

11              Our position on AQ-2 today is that we  
12      are willing to accept the Staff's version of AQT  
13      -- AQ-2, excuse me, subject to the proviso that if  
14      the district makes an amendment we would seek a  
15      conforming errata change to this -- to this  
16      condition.

17              HEARING OFFICER SHEAN: Well, that gets  
18      us to our status with regard to the FDOC; correct?  
19      And my understanding is correct, the 30 day public  
20      comment period on that either has expired almost  
21      as we speak --

22              MR. REEDE: Yes, that is correct. The  
23      30 day public comment expired this past Friday,  
24      the 19th. I spoke with South Coast Air Quality  
25      Management District immediately prior to coming to

1 the hearing, and they have not heard from EPA.  
2 EPA's expiration date, so to speak, they have a 45  
3 day comment period, would be February the 5th.

4 I will be attempting to contact EPA  
5 again later this afternoon to ascertain whether  
6 they're going to be issuing a no comment letter,  
7 or what type of comments are possible. I have  
8 gotten assurances from the South Coast Air Quality  
9 Management District that we could possibly have  
10 the FDOC by February the 3rd, which would allow us  
11 time to go to the full Commission on March the  
12 7th.

13 HEARING OFFICER SHEAN: Okay. Is it  
14 your hope that this matter would be addressed in  
15 the FDOC? Is that what you're aiming for?

16 MR. RUBENSTEIN: Yes, we are.

17 HEARING OFFICER SHEAN: Okay.

18 MR. MCKINSEY: It's also our -- one of  
19 the reasons why we're comfortable at this point is  
20 that we think that would be an errata change. It  
21 wouldn't be a significant change to the condition.  
22 It doesn't really change the substantive way in  
23 which that condition restricts plant operation, in  
24 terms of its impacts.

25 HEARING OFFICER SHEAN: Well, is there

1 a specific number you were going for, other than  
2 the 250,000?

3 MR. RUBENSTEIN: No. We were not  
4 seeking to change the number. What we were  
5 seeking was additional language that would allow  
6 that number to be changed in the future  
7 administratively, if we were able to demonstrate  
8 that we possessed more reclaim trading credits.

9 HEARING OFFICER SHEAN: Okay.

10 MR. REEDE: And -- and Staff doesn't  
11 have a problem with that.

12 HEARING OFFICER SHEAN: All right.

13 Well, I know that you're going to be  
14 working up some -- a compilation of the language  
15 changes, are working on that. Why don't you just  
16 add whatever it is that you would like to see and  
17 either underscore it, or some way identify it as  
18 the language you'd like to see, you know, that's  
19 pending before the district that you'd like to  
20 see.

21 MR. RUBENSTEIN: We will do that.

22 HEARING OFFICER SHEAN: Okay.

23 MR. LOYER: If I may interject.

24 HEARING OFFICER SHEAN: Uh-huh.

25 MR. LOYER: It's typically the Staff's

1 position to reflect the conditions from the  
2 district themselves. And while I appreciate the  
3 Applicant's assistance and persistence in this  
4 matter, we would be more comfortable in waiting  
5 for the district to actually print it up on their  
6 paper and send it to us.

7 MR. MCKINSEY: Yes. In fact, we're  
8 actually comfortable and -- and we are evaluating  
9 the -- the respective jurisdictions and the  
10 correct way to -- to kind of respect the South  
11 Coast authority. And so what we wanted to  
12 accomplish was to say we're accepting the Staff  
13 condition as it is, and should we get a change  
14 from the South Coast, because we don't think that  
15 change is a significant one, it would be easily  
16 accommodated in a transition from a proposed  
17 decision to a final decision, should the proposed  
18 decision come out before the FDOC is issued by the  
19 South Coast.

20 MR. RUBENSTEIN: But Mr. Shean, if,  
21 having -- having said that, if you want to see  
22 what language we have proposed to get a flavor for  
23 it, we'd be happy to do that. But we're not  
24 proposing that that be inserted as a condition  
25 here unless and until the South Coast District

1 approves the language.

2 HEARING OFFICER SHEAN: Right. I'd  
3 just like to see what it's going to look like, and  
4 I think logistically, for the Committee, it would  
5 be a help, because if we're -- the Committee is  
6 trying to make the PDOC as complete as possible so  
7 that the sort of mandatory added period for a  
8 revised PDOC does not kick in. I think it's in  
9 all of our interest, even if it takes us a couple  
10 of more days on the front end, to have any  
11 revisions to the PDOC, if they occur, be minor.

12 MR. REEDE: You mean -- excuse me. You  
13 mean PMPD?

14 HEARING OFFICER SHEAN: That's what I  
15 meant, PMPD.

16 MR. MCKINSEY: Well, that -- one of the  
17 reasons why we evaluated this condition, and the  
18 way in which we're treating it is that we think  
19 that it wouldn't require a revised Presiding  
20 Member's Proposed Decision. But that certain  
21 errata changes are -- can occur between the  
22 Proposed Decision and the Final Decision, under  
23 the regulations. So --

24 HEARING OFFICER SHEAN: Sure. But  
25 physically, new -- new words have to be put in

1 that document, and then if we can just take a look  
2 at them and see what it is you have in mind, even  
3 though it is not an approved thing, that will  
4 help.

5 Next.

6 MR. RUBENSTEIN: The next condition is  
7 a simple typographic error in Condition AQ-6. In  
8 the fourth line down are the letters "ppmv", and  
9 those letters should be changed to the word  
10 "percent".

11 MR. LOYER: Staff concurs.

12 HEARING OFFICER SHEAN: Okay.

13 MR. RUBENSTEIN: The next proposed --  
14 well, the next discussion is Condition AQ-12.  
15 This is a condition that mirrors a condition in  
16 the Preliminary Determination of Compliance. It  
17 limits monthly emissions for various pollutants.

18 HEARING OFFICER SHEAN: Hold on a  
19 second. Do you have an AQ-12?

20 MR. RUBENSTEIN: AQ-12 is not in the  
21 addendum because the Staff had proposed no  
22 changes. You'd have to go back to --

23 HEARING OFFICER SHEAN: Oh, okay.

24 MR. RUBENSTEIN: -- the revised Staff  
25 Assessment to find that.

1 HEARING OFFICER SHEAN: Let's keep  
2 going. I'll find it.

3 MR. RUBENSTEIN: Okay. AQ-12, as I  
4 said, is a -- is a condition that limits on a  
5 monthly basis the emissions from each individual  
6 power train. What we have asked the South Coast  
7 District to do is to make two changes to AQ-12.  
8 The first is that if the limits apply to each  
9 individual power train we believe some minor  
10 corrections of arithmetic errors are necessary.

11 And secondly, we have asked the  
12 district to replace the unit specific monthly  
13 limits with a monthly limit that is applicable to  
14 the facility as a whole, all four of the gas  
15 turbine power trains. The district is still  
16 considering that request, and with respect to  
17 today's hearing, we believe that the Staff's  
18 version of AQ-12 is acceptable pending any changes  
19 made by the South Coast District, in which event  
20 we'd ask that conforming errata changes be made.

21 Here again we believe that the changes  
22 would not affect the project's impacts, because  
23 they really implement, or change, rather, the way  
24 in which the limits, the same emission limits are  
25 enforced.

1 MR. LOYER: Staff agrees.

2 HEARING OFFICER SHEAN: Okay.

3 MR. RUBENSTEIN: The next condition we  
4 want to discuss is Condition AQ-13. This is a  
5 condition that the Staff has proposed to revise in  
6 the addendum. The revisions are similar to  
7 revisions we had previously discussed with the  
8 Staff. We proposed to make two changes.

9 First is in the emission limit for NOx.  
10 We're -- a reference is made to 58.9 tons per  
11 year. We propose to change that to 235.9 tons per  
12 year total for all four turbines/HRSGs. Again,  
13 that's substantively the same emission limit, but  
14 enforced in a different manner, enforced for the  
15 four units together rather than on each individual  
16 unit.

17 MR. LOYER: And Staff would agree to  
18 that.

19 HEARING OFFICER SHEAN: Okay.

20 MR. RUBENSTEIN: And the second change  
21 is a proposed change to the verification language  
22 that we had discussed with Staff, and we think was  
23 omitted in error. That change, and we'll provide  
24 a written version of this for you later today, but  
25 to read it into the record, that change begins on

1 the fourth line of the verification. After the  
2 word "limits" insert a period, and delete the rest  
3 of the sentence. And then add another sentence  
4 which indicates the project owner shall submit to  
5 the CPM a copy of the annual RTC reconciliation  
6 report filed with the district within ten days of  
7 the report's filing with the district.

8 And that change is to conform this  
9 verification condition to some -- some other  
10 changes where we had tried to reconcile and  
11 coordinate the reporting requirements for the two  
12 agencies.

13 MR. LOYER: And Staff agrees with that  
14 change.

15 MR. RUBENSTEIN: Condition AQ-15 is not  
16 in the addendum. That's in the original revised  
17 Staff Assessment. That is a condition which sets  
18 forth source testing requirements for the  
19 facility. One of the source test requirements is  
20 a requirement that each of the engines be tested  
21 at 50 percent load. And 50 percent load as -- as  
22 used in that condition we believe is really a -- a  
23 shorthand, because the minimal operating load for  
24 these units will be approximately 50 percent, and  
25 will be determined by the load at which the gas

1 turbines combustors are in their final premix  
2 mode, their final low emission mode. It may be 52  
3 percent, it may be 54 percent, it may be as low as  
4 50 percent.

5 We have proposed some language to the  
6 South Coast District to -- to make that  
7 clarification, that instead of a hard and fast 50  
8 percent number it would be the appropriate minimum  
9 load, and the district is still considering that  
10 request.

11 Similar to other conditions in this  
12 category, we propose to accept Condition AQ-15 as  
13 written by the Staff, but with the proviso that if  
14 the district amends that condition to clarify the  
15 meaning of the 50 percent load point, that  
16 corresponding changes will be made to the  
17 Commission's condition, as well.

18 MR. LOYER: And staff agree.

19 HEARING OFFICER SHEAN: Okay.

20 MR. RUBENSTEIN: And then lastly, in  
21 the errata, on the very last page is Condition AQ-  
22 55, which deals with limits on portable coating  
23 equipment that are not a part of this project.

24 The Staff, on the second page of the  
25 addendum, had indicated they intended to delete

1 Condition AQ-55 as not being related to the  
2 project, and we believe it was a typographic error  
3 that it was simply not deleted in the conditions.  
4 And so we propose to confirm that AQ-55 should be  
5 deleted.

6 MR. LOYER: And Staff concurs that AQ-  
7 55 should be deleted.

8 HEARING OFFICER SHEAN: Okay.

9 MR. RUBENSTEIN: That concludes our  
10 comments on the conditions of approval, and with  
11 those changes and caveats, we propose to accept  
12 all of the conditions with respect to Air Quality.

13 HEARING OFFICER SHEAN: All right.  
14 I'll wait until Mr. McKinsey --

15 MR. REEDE: Hearing Officer Shean.

16 HEARING OFFICER SHEAN: Yes.

17 MR. REEDE: Once the record on Air  
18 Quality is concluded, we have an additional item  
19 that needs to be addressed under Transmission  
20 System Engineering, and I would respectfully  
21 request that that record be opened.

22 HEARING OFFICER SHEAN: Okay. Let's  
23 just finish with Air Quality stuff.

24 And I guess I have two matters to  
25 address in that, in the preparation of the PMPD.

1 We've noted that in --

2 MR. LOYER: Mr. Shean.

3 HEARING OFFICER SHEAN: Yes.

4 MR. LOYER: I'm not sure if it's  
5 appropriate at this point in time. Should we  
6 discuss the change in the verification that -- for  
7 AQ-C2, regarding the QEP?

8 HEARING OFFICER SHEAN: What more needs  
9 to be said, do you think?

10 MR. LOYER: We were discussing adding a  
11 line within the verification, stating to effect  
12 that the QEP shall submit to the CPM for approval.

13 HEARING OFFICER SHEAN: Well, let's do  
14 it this way. Between the Staff and the Applicant,  
15 why don't you guys accomplish the cleansing of  
16 these changes that you've agreed upon, and submit  
17 them in some electronic format here within the  
18 next two or three days. And if you want to work  
19 out the specific language to the verification  
20 which is not a condition without the Committee's  
21 help, that's quite fine with -- with the  
22 Committee.

23 MR. LOYER: Thank you. We'll do that.

24 HEARING OFFICER SHEAN: Okay. And I'll  
25 just indicate, we've got a significant amount of

1 the portion of the Air Quality section done.  
2 We're going to have to back some out now to  
3 reflect what has happened here, and then we're  
4 going to have to backfill with these corrected  
5 conditions, so that it would be very helpful to  
6 the Committee, in terms of time, to have the  
7 corrected conditions in an electronic format.

8 And again, before we leave Air Quality,  
9 there was -- again, in the preparation of the  
10 PMPD, the Committee was noting that in other  
11 proceedings, the EPA has made comments with  
12 respect to alternative NOx control analyses and  
13 what constitutes BACT for NOx, particularly in  
14 relation to SCONOX.

15 I have looked through the AFC and  
16 there's a brief discussion there. There doesn't  
17 appear to be any discussion -- let me say these  
18 comments were directed to the districts, not to  
19 the Commission nor to the Applicant -- and so the  
20 PDOC does not appear to have a discussion there  
21 with respect to alternative NOx technologies and  
22 BACT for NOx.

23 So I think we feel that it would be  
24 inappropriate, again, for the consistency of the  
25 -- of all Commission decisions, to exclude any

1 discussion based upon its current absence in the  
2 PDOC. But my understanding is there's other  
3 information available either by way of data  
4 responses, or in your application to the South  
5 Coast District, that we could utilize for this.

6 MR. MCKINSEY: That's correct. We --  
7 in the data response period, we provided a -- an  
8 analysis of SCONOX, very detailed, that satisfied  
9 the CEC Staff at the time. And -- and that  
10 exists, and it's -- that's already in the record  
11 for the -- for this AFC, which by itself might  
12 meet the requirements for the law, for the Clean  
13 Air Act and what the EPA's concerned about. But  
14 this is a consistent EPA comment on PDOCs, and --  
15 and the state has been looking at the PDOC as a  
16 microcosm, and not looking at the whole picture of  
17 the PDOC and the Application for Certification  
18 proceeding. And we certainly have no objections  
19 to putting that in the hands of the South Coast  
20 Air Quality Management District.

21 HEARING OFFICER SHEAN: Okay. Well, I  
22 guess for writing purposes, I want -- they should  
23 be in my hands, too, to get sort of -- or if you  
24 want to do a summary of what you have. But in  
25 essence, what I want to do is just fill out the

1 paragraph, or paragraphs, that I have already  
2 written, that essentially say that in other  
3 proceedings, the EPA has -- has requested the  
4 alternative NOx analysis, and the setting of BACT,  
5 and just sort of close that loop, is what I need  
6 to do.

7 MR. RUBENSTEIN: Mr. Shean, a top down  
8 BACT analysis for NOx and ammonia both was  
9 provided to the Commission in Data Response AQ-16.  
10 That same analysis was submitted to the South  
11 Coast Air District in July of 2000, in response to  
12 a request from them for a similar analysis, so  
13 both agencies have it.

14 I sent a copy of that analysis to EPA  
15 Region 9 in December, at their request, when I  
16 learned that they had not received it yet. This  
17 analysis is substantively the same as an analysis  
18 we had provided for another project in California,  
19 and EPA reviewed that analysis and concluded it  
20 was acceptable.

21 So we believe that in terms of  
22 satisfying the substantive requirements, the  
23 analysis we provided for this case will be found  
24 acceptable by EPA, as well.

25 What your comments go to is a concern

1 by EPA about whether air districts adequately  
2 explain the basis for their decision in the PDOC  
3 or FDOC. And at this point it's not clear to me  
4 whether EPA Region 9 is going to make that comment  
5 on this project to the South Coast District, or  
6 whether they're going to have a broader discussion  
7 with the South Coast District about this issue in  
8 general.

9 But in any event, in terms of the  
10 substance of the analysis regarding SCONOX and  
11 other alternative control technologies, you can  
12 find that information in the response to AQ-16,  
13 and it's my understanding that substantively that  
14 analysis has been reviewed and approved by both  
15 the South Coast District and EPA Region 9.

16 HEARING OFFICER SHEAN: Okay. Is the  
17 other proceeding before the Commission?

18 MR. RUBENSTEIN: Yes. The proceeding  
19 I'm referring to is the Metcalf Energy Center.

20 HEARING OFFICER SHEAN: Okay. And the  
21 last issue was the two-to-one trade-off ratio for  
22 inter-pollutant traits, I think, for PM10, is it?

23 MR. RUBENSTEIN: Yes.

24 MR. LOYER: SOx for PM10.

25 HEARING OFFICER SHEAN: Is that

1 addressed -- and whether or not two-to-one  
2 represents an adequate level.

3           When I did the math, going over -- I  
4 think it was Table 19 and Table 25, or something  
5 like that, my -- I basically found that the trade-  
6 off ratio that -- the actual trade-off ratios  
7 significantly exceeded two-to-one. And I guess  
8 the question is whether or not two-to-one  
9 represents legally, or in a regulatory sense,  
10 where we want to be.

11           Is there anything that we have that  
12 addresses that? And I'm not sure whether EPA is  
13 going to address it explicitly in anything to the  
14 district, either. I just need a reference, if one  
15 exists. And you can get it later, if we can't  
16 find it now.

17           MR. RUBENSTEIN: The -- that ratio was  
18 developed by the South Coast District last year.  
19 We had submitted an analysis based on the air  
20 quality data in the vicinity of the project that  
21 demonstrated that given the relative  
22 concentrations of nitrates and sulfates in the air  
23 in the eastern portion of the South Coast Air  
24 Basin, that an appropriate ratio would be, in  
25 fact, one-to-one for SOx credits being used to

1 mitigate PM10 impacts.

2           The South Coast District asked us for  
3 additional analyses looking not only at annual  
4 average days, but at days in which PM10 levels  
5 were particularly high. And they provided to us a  
6 set of days that they wanted us to analyze and the  
7 air quality data for those days. We -- we  
8 performed that additional analysis for them, and  
9 concluded still that a one-to-one ratio was  
10 appropriate.

11           The district staff then asked for yet  
12 further information on the locations of the  
13 emission reduction credits that we had proposed,  
14 and indicated that the -- and we provided that  
15 information to them, as well, indicating that the  
16 SOx credits were principally coming from sources  
17 also in the eastern end of the South Coast Air  
18 Basin.

19           Based on all of that information, the  
20 South Coast District ultimately decided to double  
21 the ratio from one-to-one up to two-to-one to  
22 provide an adequate margin of safety, and their  
23 decision in that regard is on page 21 of the  
24 Preliminary Determination of Compliance.

25           I believe we have also provided to the

1 Commission Staff the supporting analyses that we  
2 provided to the South Coast District, and we have  
3 provided those supporting analyses to EPA Region  
4 9, as well.

5 HEARING OFFICER SHEAN: All right. I  
6 think that's going to take care of Air Quality, as  
7 far as I'm concerned. Mr. Loyer, do you have --

8 MR. LOYER: May I put in my two cents  
9 about that? I think this is another case where  
10 the USEPA may not be comfortable with the -- how  
11 should I say -- tourist treatment within the PDOC  
12 of this particular issue. They may be looking for  
13 an expanded discussion, maybe bringing in the  
14 analysis that was provided to the district and  
15 placing that within the PDOC. But that, as far as  
16 Staff is concerned, since we have all the  
17 background data, that is more an issue, we feel,  
18 between EPA and the district, and they may decide  
19 to resolve that in a completely different venue  
20 here.

21 MR. RUBENSTEIN: I would agree with Mr.  
22 Loyer's perception that -- that I think EPA's  
23 concern is more about the question of whether the  
24 -- the Preliminary Determination of Compliance  
25 adequately documents the district's analysis,

1       rather than on whether the analysis reached the  
2       correct conclusion.

3                   HEARING OFFICER SHEAN:   Okay.

4                   MR. ABELSON:   Mr. Shean, one last point  
5       before we leave the Air Quality, just a  
6       clarification, if I could.

7                   You had raised an issue about the level  
8       of detail of the BACT discussion.  Mr. Rubenstein  
9       indicated that responses to AQ-16 provide  
10      additional detail on that.

11                  In talking with Staff prior to the  
12      meeting today, I was under the impression that  
13      there was a related issue about the BACT level  
14      being set at 2.5 versus 2.0, and I am not sure  
15      whether Mr. Rubenstein, in referring to AQ-16,  
16      whether that embraces -- the response to AQ-16,  
17      whether that embraces that issue or not.  And I'm  
18      just wondering on the record if we could get some  
19      clarification.

20                  MR. RUBENSTEIN:  No, the response to  
21      AQ-16 was focused on a BACT level of 2.5 parts per  
22      million on a one-hour average basis, which was and  
23      remains the State Air Resources Board's  
24      recommended guideline, and is consistent, to the  
25      best of my recollection, with every BACT

1 determination for every project this Commission  
2 has licensed in the last year.

3 Some applicants, including Mountainview  
4 Power, have proposed additional NOx limits with  
5 lower concentrations on an annual average basis,  
6 but I'm not aware yet of any that have proposed a  
7 number more stringent than 2.5 on a one-hour  
8 average basis.

9 MR. LOYER: There is one. Western  
10 Midway Sunset project recently -- they haven't  
11 completed their licensing process here yet.  
12 They're in the process of issuing a Preliminary  
13 Member Decision, PMPD. They are going to be  
14 limited to 2.0 on one-hour, a 15 percent oxygen  
15 for the one-hour -- one --

16 MR. RUBENSTEIN: I tried to be specific  
17 and indicated projects approved by the Commission  
18 to date.

19 MR. LOYER: That's true. Yeah.

20 MR. RUBENSTEIN: I don't doubt that  
21 there may be others who are in the pipeline who  
22 may be considering lower numbers.

23 MR. LOYER: And just for the  
24 information, that particular project has a -- an  
25 ammonia slip level of 10 ppm, while this project

1 has an ammonia slip level of 5 ppm, half the  
2 ammonia slip level allowable. It is --

3 MR. RUBENSTEIN: And there is a trade-  
4 off between those two.

5 MR. LOYER: So far, EPA has chosen not  
6 to make the comment for the -- for the PDOC on  
7 this particular issue, or any other issue, for  
8 that matter. But we don't know if they will  
9 comment here.

10 The new level of 2.0 did stem from a  
11 comment made by EPA in the Western Midway Sunset  
12 case.

13 HEARING OFFICER SHEAN: Okay. But it  
14 has not yet been certified at that level.

15 MR. RUBENSTEIN: Sorry?

16 HEARING OFFICER SHEAN: But it has not  
17 yet been certified by this Commission at that  
18 level.

19 MR. LOYER: Not yet. It almost  
20 certainly will be, but it has not yet been.

21 HEARING OFFICER SHEAN: Okay. And with  
22 respect to the -- and, again, the -- the PA  
23 comments, some discussion of some Massachusetts  
24 facilities are in at, I think, 2.0. Does your  
25 analysis address why that may not be applicable

1 for your facility, or for -- or do you want to  
2 just comment on that now?

3 MR. RUBENSTEIN: I believe we did  
4 address it. I don't remember exactly how, but in  
5 response, the -- the fact that other facilities on  
6 the east coast have permits limiting their NOx  
7 emissions to two parts per million does not make  
8 that level best available control technology. It  
9 means that is a level that needs to be evaluated,  
10 but it doesn't mean that that is a level that must  
11 be achieved. Only once a project is in operation,  
12 and so a lower emission rate is demonstrated in  
13 practice, does the burden shift more strongly to a  
14 project proponent to explain why that level should  
15 not be achieved.

16 And that discussion is contained in our  
17 -- in our BACT analysis in general terms.

18 HEARING OFFICER SHEAN: And in a  
19 general sense, then, it's your belief, and  
20 apparently -- and I will ask Staff, that we are  
21 not yet at that point where whatever experience  
22 there is with a 2.0 level can be applied to the  
23 industry simply because there was not sufficient  
24 operating experience at that level. Is that --

25 MR. RUBENSTEIN: That -- that's

1 correct. And the best example of that is that  
2 this project is proposing to meet annual NOx  
3 levels that are the equivalent of approximately  
4 one part per million. And even though the Western  
5 Midway Sunset project is trailing us, we're not  
6 aware of -- of any agency, including the  
7 Commission Staff, recommending that that level be  
8 imposed on that project, again, simply because we  
9 are the first, and -- and there remains -- and  
10 BACT determinations are based on technologies that  
11 are demonstrated in practice, most -- most  
12 significantly.

13 And then there is some evaluation of  
14 technologies such as SCONOX, for example, or more  
15 stringent levels that people are proposing, but  
16 have not yet demonstrated in practice.

17 HEARING OFFICER SHEAN: Okay. Are we  
18 all done with Air Quality, then?

19 All right. Why don't we move then to  
20 this item you wanted to do on Transmission System  
21 Engineering.

22 MR. REEDE: Yes. Good morning, Hearing  
23 Officer Shean.

24 There was a letter written by the  
25 California Department of Water Resources and

1 docketed on September 13th of this past year, and  
2 the purpose was -- well, addressing their concern  
3 that the proposed plant's fault current  
4 contributions could raise the available fault  
5 currents at the Department of Water Resources  
6 Devil Canyon and Mojave site from hydroelectric  
7 power plants to levels that could exceed the  
8 capabilities of the electrical equipment at those  
9 plants. And they asked for a couple of things to  
10 be included in the impact study that was performed  
11 by Southern California Edison.

12           Subsequent to that, it became necessary  
13 to include in the Conditions of Certification,  
14 under Transmission System Engineering, Condition  
15 Number 1, that the Applicant shall consult with  
16 the California Department of Water Resources to  
17 ensure that the impacts of the power plant  
18 interconnection and operation on the Department of  
19 Water Resources pumping and power plants are  
20 mitigated.

21           While these two particular plants that  
22 the Department of Water Resources have asked about  
23 are sufficiently upstream from the impacts  
24 identified by Southern California Edison, there  
25 still remains a remote possibility that there

1 could be impacts on those particular plants.

2 So basically, Staff has -- could you  
3 give this to Garret Shean, please? Staff has  
4 written TSE-1, subsection H. The Applicant shall  
5 consult with the California Department of Water  
6 Resources to ensure that the impacts of the  
7 Mountainview Power Plant and connection and  
8 operation on the California Department of Water  
9 Resources pumping and power plants are mitigated.

10 And also, in the verification, Item D,  
11 a signed letter from California Department of  
12 Water Resources indicating that they have been  
13 consulted, and that any impacts to their  
14 facilities have been adequately mitigated.

15 I might also add that all other power  
16 plants proposed for the State of California now  
17 have the same exact condition in it, and it's not  
18 just Mountainview Power Plant, but the California  
19 Department of Water Resources has inquired and is  
20 attempting to protect the integrity of the state-  
21 owned system.

22 HEARING OFFICER SHEAN: It's a new  
23 world we're living in.

24 MR. REEDE: Pardon me?

25 HEARING OFFICER SHEAN: It's a new

1 world we're living in.

2 MR. REEDE: Yeah. The Applicant was  
3 given a copy of this this morning, and it will  
4 docketed immediately after the hearing.

5 HEARING OFFICER SHEAN: Okay. I don't  
6 know if you need more time to review this, or --

7 MR. MCKINSEY: No, we're comfortable.

8 The fundamental problem we have with  
9 the proposed condition change is that it asks us  
10 to do something that we do not have the ability to  
11 do. And let me explain that with a -- an overview  
12 of the role of SCE, like the role of any regulated  
13 utility in maintaining grid operating reliability  
14 and -- and standards, criteria and standards, that  
15 they have to perform an interconnection study in  
16 accordance with their operating procedures. And  
17 that interconnection study is required to look at  
18 any potential impact that they could have on the  
19 system under what they call either N minus 1  
20 and/or N minus 2 conditions, where they have a  
21 loss of either one or two of the most critical  
22 transmission lines that would affect a particular  
23 congestion or impact scenario.

24 And they do that in the form -- it  
25 depends on the utility you're in and the -- but in

1 the form of what one way or another is referred to  
2 as something along the lines of an interconnection  
3 study.

4 So the interconnection study is  
5 required under their operating procedures to  
6 identify potential impacts, and wherever those  
7 potential impacts would cause a violation of  
8 operating procedures or standards for reliability,  
9 that they then have to suggest preliminarily what  
10 will be required, and then they follow with a  
11 detailed facility study which defines the exact  
12 interconnection process, the specific breakers,  
13 the specific ratings, the specific upgrades,  
14 interruption capacities, and et cetera, to ensure  
15 that all those conditions are met.

16 As I understand the letter from the  
17 California Department of Water Resources, what  
18 they are suggesting is that they are concerned  
19 that the interconnection study may not have met  
20 what they would like to see for operating  
21 standards and reliability criteria. And that  
22 role, the role to fix that problem would not be  
23 the Energy Commission nor us, but the -- the  
24 appropriate utility that is responsible for  
25 maintaining grid reliability and operating

1 criteria.

2           And we don't have the ability to go to  
3 anybody and modify the way that we are  
4 interconnected to modify breaker ratings or  
5 capacities, nor do we have the ability to modify  
6 the way that we are operated and the type of -- of  
7 remedial action schemes, et cetera. That all has  
8 to be -- two things. It has to be written by the  
9 utility and then approved by ISO.

10           And in this case, we have that. We  
11 have an interconnection study, a detailed facility  
12 study, both of which have been approved by ISO. So  
13 their concerns, it would seem, would be most --  
14 the most appropriate way for them to accomplish  
15 their concerns would be to -- to evaluate, or  
16 really to ask SCE, or to challenge SCE that --  
17 that the interconnection study and the detailed  
18 facility study are inadequate.

19           However, the -- their fundamental way  
20 to -- to behave at this point, in order to provide  
21 a blockage, would probably be to attempt to  
22 intervene in the effort to complete the  
23 installation. In other words, probably in front  
24 of the California Public Utilities Commission, to  
25 bring an action that would attempt to order SCE to

1 re-perform their analysis and their  
2 interconnection studies.

3 In other words, what I'm getting at is  
4 that it's not a California Energy Commission  
5 jurisdictional issue. ISO has to approve, and the  
6 CPUC regulates SCE and ensures that they operate  
7 in accordance with their operating procedures.

8 The -- if this is a condition that is  
9 in other Energy Commission projects, it may be  
10 that it's -- it's -- I don't know why it's been in  
11 there, because fundamentally what that should  
12 really be is that SCE, or whatever the utility is,  
13 perhaps they're ignoring a certain category of  
14 generation sources, though that's never been  
15 brought to my attention before. Their -- their  
16 responsibility is very broad. And the N minus two  
17 study that they do reaches out to the outer  
18 fringes of their system, and where they have a  
19 project that's on the edge of one utility grid  
20 they will actually go into the adjacent system,  
21 and they maintain a certain amount of numbers for  
22 the adjacent system so that they can run the  
23 numbers on that.

24 The only entity that is capable of  
25 running the model and estimating the impacts to

1 southern California energy system's grid is  
2 Southern California Edison. The -- from time to  
3 time, Southern California Edison has farmed out  
4 that work to other entities, but when they've done  
5 that they've done it under a proprietary right so  
6 that even those entities, even though they had the  
7 data and the model, were not allowed to do it on a  
8 private contracting basis.

9           So Southern California Edison is the  
10 only capable entity of performing this, and, under  
11 the law, is the one that's responsible for doing  
12 it. And according to their procedures, under the  
13 CPUC's jurisdiction.

14           So we're not opposed to trying to  
15 ensure that they did their job. We don't want our  
16 plant to be interconnected and to cause system  
17 impacts, but the -- the way -- this proposed  
18 condition language would have us do something that  
19 we don't have the ability to do at all. And the -  
20 - the Department of -- the California Department  
21 of Water Resources primary path should be through  
22 the CPUC, but really, initially should be a direct  
23 discussion with SCE and -- and with us regarding  
24 the specific things that they think were wrong in  
25 the interconnection study that led to the detailed

1 facility study.

2 Now -- well, so that's our position.

3 HEARING OFFICER SHEAN: So where does  
4 that lead to? What -- what do you want the  
5 Committee to do with what the Staff has proposed,  
6 if anything.

7 MR. MCKINSEY: So we would recommend  
8 that the additional language, Paragraph H under  
9 the condition, and Paragraph D under the  
10 verification, shouldn't be adopted. That doesn't  
11 mean that there may not be a way to provide some  
12 kind of assurances if the Department of Water  
13 Resources is concerned, but those would simply be  
14 assurances. But they're already guaranteed those  
15 assurances under the law, because SCE is required  
16 to do an interconnection study that ensures that  
17 any system impacts due to an interconnection are  
18 in compliance with operating criteria.

19 But we would be willing to add  
20 assurances to this. I worked out some language  
21 that we could add to G, which is actually the  
22 requirement that we've provide a detailed facility  
23 study, that could clarify or ensure that that  
24 detailed facility study has to meet certain  
25 standards. Thought we would be reiterating the --

1 the operating procedure and the law, but -- but  
2 that might be something that might make them feel  
3 more comfortable.

4 HEARING OFFICER SHEAN: Okay. I think  
5 we do need to raise their comfort level,  
6 particularly given the circumstances that least  
7 seem to be in play today, with the declared  
8 emergency and the increasing role of DWR in the  
9 state's energy procurement scheme. Now, whether  
10 that all lasts, and by the time this transcript is  
11 prepared and -- it may be different. By the time  
12 it gets dusty it may be way different. But -- at  
13 least for now.

14 But rather than do that on the record  
15 here, why don't you and the Staff sort of --

16 MR. REEDE: Sir --

17 MR. ABELSON: We'd like to at least  
18 state what Staff's view is --

19 HEARING OFFICER SHEAN: I'm ready to  
20 let you do it, but in terms of mechanically, I  
21 don't think we -- we can't accomplish the final  
22 language here, but let's go ahead.

23 MR. REEDE: All right. Thank you,  
24 Hearing Officer Shean.

25 In reviewing both the Transmission

1 System Impact Study and the Final Facility  
2 Studies, the particular power plants that the  
3 Department of Water Resources is referring to,  
4 Devil Canyon and Mojave siphon hydroelectric  
5 plants, I did not see an impact analysis on those  
6 two particular plants.

7 Department of Water Resources concern  
8 is justified, in that they are on the periphery of  
9 the Southern California Edison system, but there  
10 are still the potential for impacts. Not to say  
11 that there are going to be impacts, but there is  
12 still the potential. And what this condition does  
13 is recognizes that there's a potential, that there  
14 won't necessarily be an impact, but there's a  
15 potential. And they're asking for consultation to  
16 ensure that if there is an impact, that it can be  
17 mitigated. They're basically asking for  
18 notification.

19 And they're also telling the Applicant  
20 that Southern California Edison didn't do as full  
21 a job that could be done in the facility study,  
22 because they left out two pieces of the overall  
23 system.

24 Now, irrespective of the current  
25 condition of energy in the State of California, we

1 still have to look at grid reliability. Now, ISO  
2 didn't catch it, Southern California Edison didn't  
3 address it. ISO wouldn't have caught it if  
4 Southern California had addressed it. Or -- that  
5 didn't exactly come out right, but because SCE  
6 didn't address it, ISO didn't look at it.

7 And so what the Department of Water  
8 Resources asked back in September was that this  
9 facility study be -- or that the impact study  
10 include two potential impacted plants. And if  
11 they were asking for something above and beyond  
12 what is normally required of a plant to come  
13 online, I would agree that, you know, maybe it's  
14 not necessary.

15 But to protect the integrity of the  
16 system for two particular plants that -- whose  
17 potential impacts were not reviewed by Southern  
18 California Edison, I think the addition to  
19 Condition of Certification TSE-1, Paragraph H, and  
20 the verification Paragraph D, are entirely  
21 appropriate, and are necessary to protect the  
22 integrity of the system.

23 HEARING OFFICER SHEAN: Now, you  
24 indicated that --

25 MR. REEDE: And we're not requiring the

1 Applicant to do the study. We're -- basically  
2 this is saying get ahold of California Department  
3 of Water Resources, have them speak to the person  
4 at Southern California Edison, have them give up  
5 the particular calculations that show that there's  
6 going to be impact or no impact, and then get the  
7 sign-off from CDR that it has been reviewed.  
8 That's -- that's what it's saying.

9 HEARING OFFICER SHEAN: Now, you  
10 indicated this condition language to be included  
11 in Energy Commission decisions. Is it -- does it  
12 start with Mountainview, or has it been in --

13 MR. REEDE: No. There's --

14 HEARING OFFICER SHEAN: -- any prior --

15 MR. REEDE: -- there's two others that  
16 are -- the PMPDs are being currently written. And  
17 our Transmission System Engineering folks are -- I  
18 don't want to say using boilerplate paragraphs at  
19 this point, but this would be the third project  
20 that the impacts on DWR now that they've come to  
21 the realization that all these plants coming  
22 online may be affecting them and are now becoming  
23 more actively involved in that review process.

24 There's two PMPDs currently being  
25 written that these conditions are in, also.

1                   HEARING OFFICER SHEAN: Which -- which  
2                   are those?

3                   MR. REEDE: I could not give you that  
4                   information right off the top. Speaking with the  
5                   senior electrical engineer, he has indicated that  
6                   there's two other plants that they had to modify  
7                   the Conditions of Certification to address DWR's  
8                   concern.

9                   HEARING OFFICER SHEAN: Okay. Perhaps  
10                  you can just let me know at some future point.

11                  MR. MCKINSEY: Well, I'll say again  
12                  that irregardless of any other projects that may  
13                  take on this condition, I can categorically say  
14                  that the condition -- I mean, let me read it. The  
15                  Applicant shall consult with the California  
16                  Department of Water Resources to ensure that  
17                  impacts of the Mountainview Power Plant  
18                  interconnection and operation on the California  
19                  Department of Water Resources pumping and power  
20                  plants are mitigated.

21                  The -- the appropriate standard for  
22                  mitigation of impacts to system reliability is the  
23                  operating criteria and the operating procedures  
24                  that Southern California Edison has to follow, and  
25                  that are approved by the California Public

1 Utilities Commission. And if, in fact, they  
2 haven't followed those procedures, then the  
3 department has a legitimate issue that they need  
4 to raise with the Public Utilities Commission that  
5 the detailed facility study and the  
6 interconnection study are -- are invalid.

7           And we don't have the ability to change  
8 how we operate. We don't have the ability to  
9 change what kind of breakers we use. That's all  
10 been designated by Southern California Edison in  
11 their final detailed facility study. And I don't  
12 believe that the fact that it doesn't specifically  
13 list a particular operating plant doesn't mean  
14 that the impacts to that plant are considered.  
15 Their operating criteria define current levels  
16 coming in to their system at different points, and  
17 they're required to analyze the fault capacity and  
18 the interruption capacity needed to ensure that  
19 based on various operating scenarios, with the  
20 loss of various transmission lines, that  
21 reliability criteria are met for the grid and for  
22 the California state system.

23           And what the California Department of  
24 Water Resources may be saying is that SCE is not  
25 doing the job correctly or accurately. Had this

1       been specifically brought to Southern California  
2       Edison's direct attention, I mean, they're --  
3       Southern California Edison is a regulated utility  
4       and is obligated to perform a study that Southern  
5       California Edison may have modified what they did.

6               However, I don't believe that it was  
7       done incorrectly. The -- the study is required to  
8       take a set of operating criteria, apply them to  
9       assist them with a set of parameters for -- for  
10      current flows under various scenarios that are  
11      adopted in order to -- to make the worst case  
12      scenarios to decide what interruption capacities  
13      are needed and what upgrades or repairs to the  
14      system need to be made in order to -- to complete  
15      an installation.

16             And while I don't disagree at all with  
17      the fact that we do care about reliability, the  
18      two concerns I have is, one, that -- that this  
19      condition would ask us to do something that we  
20      have no control over at all. Southern California  
21      Edison has completed its obligations for this  
22      project by completing a detailed facility study,  
23      and ISO has approved them.

24             And if -- even if we were to consult  
25      with the Department of Water Resources and they

1       said well, we feel that this is an impact and we  
2       want you to mitigate it, we would have no ability  
3       to modify whatsoever our interconnection, because  
4       that is done pursuant to the detailed facility  
5       study.

6                   The verification requirement requires  
7       us to have a letter from the California Department  
8       of Resources indicating that impacts to their  
9       facilities have been adequately mitigated.  If  
10      they have looked at the detailed facility study  
11      and interconnection study, and it's primarily the  
12      interconnection study that describes the modeling  
13      for impacts, and they feel that they're not  
14      adequately mitigated, then we're not going to be  
15      able to get that letter from them.

16                   That's fairly clear.  And --

17                   MR. REEDE:  But that's the impact  
18      related to the construction and operation of a  
19      plant under the jurisdiction of the California  
20      Energy Commission.

21                   HEARING OFFICER SHEAN:  Well, in a  
22      practical sense, what we have to do is if they  
23      were commenting this way in September, and they  
24      would -- you just submitted recently the final  
25      facility studies performed by Edison, and then the

1 Committee will come out with the PMPD, if they're  
2 not satisfied that -- if they don't have something  
3 that reassures them at the point that the PMPD  
4 comment period has ended that their issues have  
5 been addressed, I would expect they will probably  
6 submit some form of comment to the Commission,  
7 which then leaves us having to, first of all,  
8 decide whether to address it, and then if we do  
9 decide to address it, how we address it.

10 So I think we need to sort of think in  
11 those terms, and anticipate how we can address  
12 whatever these concerns of the DWR are.

13 MR. ABELSON: Mr. Shean, if I might  
14 join this conversation just a little bit. It  
15 seems to me that we are close, but -- but not  
16 there on the -- on the language. I don't -- I  
17 think Staff's concern is that we are reluctant to  
18 see a permit issued for any project where we have  
19 facts in our knowledge that suggest that were the  
20 interconnection to go ahead unmitigated, there  
21 could be a problem.

22 What I understand Mr. McKinsey to be  
23 saying is well, it's not the Applicant who can  
24 complete the studies, or perform the mitigations.  
25 And therefore, their responsibility is based on

1 the words that are currently being proposed, that  
2 the Applicant is simply not capable of performing.

3 What I think Staff is attempting to  
4 convey is a sense that, A, we want the  
5 consultation to take place; and, B, we don't want  
6 the project to go ahead until whoever is  
7 responsible for the mitigation, if there is such  
8 that's needed, has done it. It doesn't  
9 necessarily have to be the Applicant who does the  
10 mitigation.

11 Now, I would defer back to my Project  
12 Manager if I've misstated something, but if I  
13 haven't, perhaps we can get some sort of an  
14 understanding on the record on this, and maybe  
15 move ahead even today.

16 MR. REEDE: I think what needs to  
17 occur, Mr. Shean, is the Applicant needs to get  
18 ahold of Southern California Edison, first of all,  
19 and explain to them that the California Department  
20 of Water Resources had concerns related to two  
21 particular power plants and the potential impact,  
22 and whether or not these plants were taken into  
23 account in the facility study, because initially  
24 it does not show that these two plants were taken  
25 into account.

1           The modeling, if the modeling included  
2           it, Southern California should issue a letter --  
3           Southern California Edison needs to issue a letter  
4           to the Applicant that says yes, these were taken  
5           into account, and this is what we found. At that  
6           point in time, with the interconnection study,  
7           with the facility study, the Applicant needs to go  
8           to the Department of Water Resources and say this  
9           is what Southern California Edison did, and they  
10          said there was no impact, or minimal impact not  
11          requiring additional equipment. And then the  
12          California Department of Water Resources would  
13          sign off.

14                 There comes a point in time where the  
15          onus is on the Applicant, because they paid  
16          Southern California Edison to do a study. If the  
17          study was incomplete, then they gave you a faulty  
18          document.

19                 But the -- the point remains that we've  
20          been asked to by a state agency, whereas we are  
21          the lead agency for the application -- for review  
22          of the application of this plant, to have certain  
23          issues addressed. Those issues have not been  
24          addressed. They've been, you know, they've been  
25          established as being issues since September, so we

1 need to see a resolution. And one method of  
2 ensuring that resolution to the satisfaction of  
3 the California Department of Water Resources is by  
4 adding these conditions and the verification.

5 HEARING OFFICER SHEAN: Well, as I  
6 indicated before, we don't -- we'd like to avoid  
7 the situation where, if they feel it's  
8 unaddressed, they direct their comments to the  
9 PMPD and then we have to deal with it either as a  
10 condition or some other something.

11 Anyway, I -- do you want to -- have  
12 anything to say to wrap this up?

13 MR. MCKINSEY: I just wanted to clarify  
14 one thing. I have two positions. One is that I  
15 think that the -- and I haven't seen any direct  
16 evidence presented or anything that has said the  
17 facility study is inadequate for these reasons.

18 Mr. Reede has indicated that -- that  
19 somebody has looked at it and said that these two  
20 plants don't appear to have been considered. I  
21 don't think that there is any express requirement  
22 that a particular plant appear in name in a  
23 facility study, or even that it -- its name appear  
24 or that you be able to tell by looking at the  
25 study. Most of the -- the data that is inputted

1 and conducted in the interconnection study is just  
2 that, it is raw data, and it is -- there is an  
3 incredible amount of it, and you would have to  
4 print out large sheets and large amounts and do a  
5 lot of correlation to decide.

6 That is the responsibility of SCE to  
7 perform, and I -- what I think is that that  
8 facility study was done in accordance with the  
9 law. And I -- I don't think that there is  
10 evidence on the record that suggests that it's an  
11 inadequate study. I think there is a letter that  
12 was received from the Department of Water  
13 Resources which says we have some concerns. I  
14 don't think that there's been any evidence  
15 presented that says that the facility study is  
16 inadequate.

17 And, second of all, the other part of  
18 what you had suggested I was saying was correct,  
19 that the interconnection study is an entity, and  
20 we don't have the ability to do what this  
21 condition is asking for. So, because this is  
22 something that's accomplished by SCE, is approved  
23 by ISO, it all has to be done in accordance with  
24 the CPUC's procedures. Actually, it's the  
25 operating procedures for the utility as approved

1 by the CPUC. And -- and that has all been  
2 completed. It's done.

3 And so there's one issue that even if  
4 we agreed, which, as I said, I have not seen any  
5 evidence that says that it is inadequate, but even  
6 if we agreed that the study was inadequate, we  
7 would still have a problem with the language. And  
8 that was a correct assessment, because it -- it is  
9 asking us to do things that we don't have the  
10 ability to do. And frankly, and candidly, the  
11 California Department of Water Resources is not --  
12 we're not required to receive a consultation by  
13 them, or a verification by them.

14 What we are required to -- to get is a  
15 detailed facility study from the utility system  
16 operator, and to have ISO approve it. We've  
17 accomplished that. And -- and that's what we're  
18 required to do under the law. And what is -- the  
19 issue that is being suggested here is that that  
20 may have been inadequate. And if that's the case,  
21 I agree with your assessment that is in terms of  
22 the Energy Commission's process, one way or  
23 another, what it comes down to is somebody  
24 commenting on the Energy Commission documents,  
25 whether they be a Staff Assessment or a Proposed

1 Decision, but it's the Proposed Decision that  
2 brings into bear that suggests that something is  
3 amiss, something doesn't comply with the law, and  
4 in that case the -- the Committee has to -- and/or  
5 the Commission has to decide whether it's valid or  
6 not, and what actions to take.

7 So at this point, I would rest again,  
8 that I don't think it's the appropriate -- changes  
9 to this condition involve us having an obligation  
10 to the California Department of Water Resources to  
11 get their approval on anything. And -- and we may  
12 be far enough apart on that that, if they insist  
13 that we do need to, have an obligation to get an  
14 approval from them, then we're not going to be  
15 able to reach an agreement. At least not without  
16 the California Department of Water Resources  
17 trying to come in and state specifically what they  
18 feel is wrong under the law.

19 Because as I -- I mentioned, it is very  
20 difficult to evaluate the SCE's interconnection  
21 study. And --

22 MR. ABELSON: Mr. Shean, if I might --

23 HEARING OFFICER SHEAN: Just a second.  
24 Have you contacted DWR with respect to any of the  
25 matters raised in their September 6th letter?

1 MR. MCKINSEY: No.

2 HEARING OFFICER SHEAN: No.

3 MR. MCKINSEY: We've never seen the  
4 letter. Actually, Mr. Reede presented it to us I  
5 think last month, at -- or at some point I have --  
6 I've gotten the letter recently. But that doesn't  
7 mean actually that the letter may not have been  
8 properly docketed and distributed to the parties  
9 at interest. What I'm -- I'm once again getting  
10 at is even if we saw this letter, it wouldn't be  
11 our obligation to resolve it, anymore than it's  
12 our obligation to ensure we get a facility study  
13 that complies with the law.

14 And these comments would go to SCE.

15 HEARING OFFICER SHEAN: Okay. I just,  
16 as a practical matter, though, if -- if a  
17 relatively brief contact with them could satisfy  
18 either this Mr. Ramirez or this -- I don't know --  
19 that's on the staff, that the matters that they  
20 raised in the letter have been sufficiently  
21 addressed by Edison in the study and by ISO's  
22 review, then we avoid the potential of having them  
23 send a second copy of the same letter that says we  
24 still don't see how our matter has been addressed.  
25 Because I don't believe the Energy Commission is

1 going to just disregard the comment of a sister  
2 agency, even absent the current circumstance  
3 that's given -- the changing role of DWR. I'm  
4 quite sure they're going to want us to attempt to  
5 resolve it.

6 So it may be that there's some sort of  
7 a preventative medicine can be applied, rather  
8 than curative medicine. And that would be at  
9 least my suggestion at this point. We can look at  
10 the language if some discussion, further  
11 discussion between Staff and Applicant's  
12 appropriate, you can do that. But I just look at  
13 what you've done in other areas of the proceeding  
14 with regard to proactivity, and I think that this  
15 is perhaps an area that can -- can resolve without  
16 a lot of effort, and suggest that you consider it.

17 MR. MCKINSEY: We don't disagree with  
18 the effort to try to contact them. What we were  
19 addressing today was our comments on these  
20 proposed modifications to TSE-1, and what we  
21 wanted to convey is that we -- we completely  
22 disagree with them.

23 That doesn't mean that we wouldn't  
24 want, and we do want to work in a very proactive,  
25 cooperative manner. But we're at a point where if

1 we don't assert that we do not feel that these  
2 changes are appropriate, then we wouldn't have --  
3 have presented that on the record. And that,  
4 we're very comfortable stating, and we think it's  
5 accurate.

6 HEARING OFFICER SHEAN: Perhaps the  
7 Committee can live with the fact if we could leave  
8 them out of the PDOC -- I'm sorry, the PMPD. But  
9 if we get a comment from them during the comment  
10 period that something like this may be appropriate  
11 in the final, so that's, you know, that may be the  
12 -- the --

13 MR. ABELSON: Mr. Shean, on behalf of  
14 Staff, first of all I want to thank Mr. McKinsey  
15 for the clarification as to what they're prepared  
16 to do. I think that is in the spirit of -- of  
17 what we've all been doing.

18 I would ask, however, that for the  
19 moment, until we get indication that the matter's  
20 been resolved, that the language that Staff has  
21 asked stay in, simply to keep the issue in front  
22 so that we get resolution of it. The point, the  
23 bottom line being, I think you've just touched on  
24 it a second ago, is that there's an issue that's  
25 been raised. And unless and until it gets

1 answered, some opaque study with a lot of data in  
2 it that never refers to the facilities by name  
3 probably could leave a lot of people wondering  
4 whether they've been analyzed or not.

5 They may well have been. And if they  
6 have, I suspect the issue will go away. If they  
7 haven't, we're going to need to deal with it.

8 MR. MCKINSEY: Well, once again, I  
9 would disagree with the appropriateness of  
10 including changes to the condition. I don't think  
11 that evidence has been presented that justifies  
12 this as anything other than a comment by an agency  
13 in September that was not reflected, it wasn't  
14 modified, and -- and the responsible entity,  
15 Southern California Edison and ISO, have not made  
16 any changes suggesting that there's any validity  
17 to that.

18 And I -- so for that reason, we would  
19 say that it's entirely inappropriate to modify  
20 that condition, to add those language based on a  
21 single letter that was docketed in September,  
22 especially considering that the responsible  
23 agencies have already done the work that they're  
24 required to do under the law for determination of  
25 the impacts.

1 HEARING OFFICER SHEAN: All right. And  
2 -- and at least from the Hearing Officer's point  
3 of view, all I'm saying is if we take your comment  
4 and act upon it, you are the ones who are taking  
5 the gamble if you don't make the contact and  
6 attempt to reassure DWR, and we do get a comment,  
7 that the -- the nice schedule we have in mind may  
8 go off track. So --

9 MR. MCKINSEY: Right. In fact, we  
10 don't disagree that if the Department of Water  
11 Resources has real evidence that something was  
12 done incorrectly, and that there are impacts that  
13 would violate system operating reliability  
14 criteria, that those don't need to be addressed  
15 and it doesn't need to be fixed.

16 HEARING OFFICER SHEAN: Okay.

17 MR. REEDE: But they're not saying it  
18 was done incorrectly. They just don't see where  
19 they show up in the analysis.

20 MR. MCKINSEY: What I'm suggesting,  
21 though, is that --

22 MR. REEDE: And -- and perhaps --

23 MR. MCKINSEY: -- it may not be  
24 required --

25 MR. REEDE: -- Southern California

1 Edison did include them, but are quiet on whether  
2 or not there are any impacts. There probably  
3 aren't any impacts. But until that confirmation  
4 is pulled out of the facility study, or the  
5 transmission interconnection study, we don't know  
6 what the answer is.

7 HEARING OFFICER SHEAN: Okay. We're --

8 MR. McKINSEY: I want to say one more  
9 thing, if I could.

10 HEARING OFFICER SHEAN: -- we're re-  
11 hoeing old ground. Pardon me?

12 MR. McKINSEY: It's important. I want  
13 to say one more thing, if I could.

14 The standard is not to mitigate impacts  
15 that somebody wants mitigated, even if they are  
16 another sister state agency. The standard is to  
17 mitigate the impacts that are required under the  
18 law to be mitigated.

19 And so, once again, I want to emphasize  
20 that even if the Department of Water Resources  
21 might be disappointed or may feel that there are  
22 impacts that are not being mitigated, once again,  
23 the standard is if they have a significant impact  
24 under the California Environmental Quality Act, or  
25 if they violate a particular provision that's a

1 specific requirement under the law, and that  
2 should be the standard, not necessarily that there  
3 aren't some impacts that are or are not  
4 identified. But where there are impacts that  
5 would be a significant impact under CEQA or an  
6 impact that would be a violation essentially of  
7 the operating criteria that the utility has to  
8 enforce.

9 HEARING OFFICER SHEAN: Okay. We're  
10 going to take the matter under submission, and  
11 we'll deal with it.

12 Moving on at this point. I have just a  
13 couple of administrative or housekeeping matters  
14 from the Committee's perspective.

15 In the preparation of the Water Quality  
16 section, there appear to be some inconsistent  
17 statements arising both from the AFC, as well as  
18 the Staff Assessment.

19 With regard to the discharge of runoff  
20 water to the Santa Ana River. At one point it's  
21 very clear that the Mountainview Project is stated  
22 to be a zero discharge facility, and that whatever  
23 runoff there would be would to a retention basin,  
24 then into the cooling tower, and then eventually  
25 to the SARI wastewater discharge line. It also

1 happens to be a statement in Section 2.7.6, and  
2 it's been picked up by the Staff's Assessment, and  
3 repeated a couple of times that instead of going  
4 to the cooling tower basin, that the runoff water,  
5 so long as it -- it was post well water separator,  
6 would go into the Santa Ana River.

7 That didn't seem like that was the  
8 operative and correct characterization of the  
9 facility. So I just want to confirm that my  
10 impression is that -- of the zero discharge is  
11 correct.

12 MR. MCKINSEY: That's correct. I think  
13 that was -- that's correct. I think that was an  
14 error that's been carried through. But we are,  
15 indeed, not going to be discharging into the Santa  
16 Ana River, and that water that's being described  
17 there is going to the Santa Ana Regional  
18 Interceptor line.

19 HEARING OFFICER SHEAN: Okay. Two  
20 things again on the PMPD. If we can have  
21 electronic file of the LORS presentation that you  
22 did, the matrix LORS, and the project description,  
23 which I know we've discussed. Those things are  
24 basically part of our critical timeline. At this  
25 point we're doing pretty well on our PMPD. We're

1 going to, as I say, have to back up a little bit  
2 here to do some Air Quality changes. But other  
3 than that, most of the substantive CEQA sections  
4 are written, and the -- we have some of the less  
5 -- less CEQA-like sections dealing with  
6 transmission and other things like that to -- to  
7 -- are nearly complete.

8 So we're fairly close, and we're trying  
9 to get this done. So whenever you can -- whenever  
10 you can get those to us, we'll --

11 MR. REEDE: Excuse me, Hearing Officer  
12 Shean.

13 HEARING OFFICER SHEAN: Yes.

14 MR. REEDE: Do you anticipate it coming  
15 out late next week, or the following week?

16 MR. REEDE: Well, we'll try to do it  
17 this month, which would be January. Now, if  
18 there's a good reason, then I guess we'd like you  
19 to -- the Staff or the Applicant to advise us with  
20 respect to the -- the FDOC, because --

21 MR. REEDE: We'll be getting additional  
22 information on that this afternoon for you.

23 HEARING OFFICER SHEAN: Okay, or  
24 something related to the EPA and their comments.  
25 Because I think the Committee's general view is,

1 if we're reading our own regulations correctly,  
2 that the time -- that if there's any significant  
3 modification of the PMPD, it requires the  
4 additional -- addition of a 15 day comment period,  
5 and if it really is substantive, it may even re-  
6 initiate the 30 day comment period.

7 Now, I don't contemplate that at all.  
8 But we'd like to try to avoid even the argument  
9 that a shorter revised PMPD period applies to  
10 whatever changes we might make. So we're trying  
11 to make it as complete as possible at the time  
12 that it's issued, so that there are no significant  
13 changes, feeling that that -- that maybe a day or  
14 two or three there saves 15 days at the other end.

15 MR. REEDE: So will we then be looking  
16 at going for Commission decision on March the 7th,  
17 at the Commission meeting?

18 HEARING OFFICER SHEAN: Well --

19 MR. REEDE: If that timeline holds?  
20 Because that would be the first Commission meeting  
21 after the 30 day comment period.

22 HEARING OFFICER SHEAN: Well, let me  
23 say we will go back and run the math, and create a  
24 calendar, and see what we can do. Because I guess  
25 if it's not the 7th it's the 21st, is that what

1       you're saying, or some special --

2                   MR. REEDE: No. There -- there is a  
3       Commission meeting on March the 7th. And because  
4       February is going to be a short month, the 30 day  
5       period would end -- if it were issued January  
6       31st, the 30 day period would end March 2nd. The  
7       next Commission meeting is March the 7th.

8                   HEARING OFFICER SHEAN: Okay. As I  
9       say, let the Committee run the math. We'll --

10                  MR. REEDE: Okay. Thank you.

11                  HEARING OFFICER SHEAN: -- create a  
12       calendar, and we'll -- you know, that's what we're  
13       kind of shooting for, is this -- that timeframe.

14                  Now, if we need to either ask the  
15       Commission to hold a special meeting, or -- or  
16       something, but we're looking for final action in  
17       March. We wish it would've been quicker, but it's  
18       just not the way it worked out.

19                  Is there anything anybody needs to  
20       bring before the Committee before we adjourn our  
21       hearing for today?

22                  Nothing from the Staff or the  
23       Applicant? All right.

24                  And there are no members of the public  
25       who have requested an opportunity to comment.

1                   So with that, we will conclude today's  
2           hearing.

3                   Thank you very much.

4                   (Thereupon the hearing was concluded  
5                   at 11:08 a.m.)

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## CERTIFICATE OF REPORTER

I, VALORIE PHILLIPS, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Evidentiary Hearing; that it was thereafter transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of February, 2001.

VALORIE PHILLIPS

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