

PREHEARING CONFERENCE  
CALIFORNIA ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

In the Matter of: )  
 ) Docket No.  
Application for Certification ) 99-AFC-5  
for the OTAY MESA Generating )  
Project (PG&E Generating) )

SOUTH BOARD CHAMBERS, ROOM 310  
SAN DIEGO COUNTY ADMINISTRATION BUILDING  
1600 PACIFIC HIGHWAY  
SAN DIEGO, CALIFORNIA

MONDAY, OCTOBER 30, 2000

2:00 p.m.

Reported By:  
Valorie Phillips  
Contract No. 170-99-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

Robert A. Laurie, Commissioner, Presiding Member

Robert Pernell, Associate Member

Scott Tomashefsky, Commissioner Advisor

Ellen Townsend-Smith, Commissioner Advisor

Susan Gefter, Hearing Officer

STAFF PRESENT

Jeff Ogata, Staff Counsel

Eileen Allen, Project Manager

Roberta Mendonca, Public Adviser

Lisa DeCarlo

Matthew Layton

APPLICANT

Allan J. Thompson, Attorney at Law

William Chilson, PG&E National Energy Group

Sharon Segner, PG&E National Energy Group

Alan Williams, PG&E National Energy Group

INTERVENORS

Emilio Varanini, Livingston & Mattesich  
Cabrillo Power

Matthew J. Goldman, Livingston & Mattesich  
Cabrillo Power

Holly Duncan

William E. Claycomb, Save Our Bay

ALSO PRESENT

Michael Thorp, Sempra, SDG&E

M. Patricia Fleming, Sempra, SDG&E

Robert L. Ray, URS

Steven B. Moore  
San Diego County Air Pollution Control District

Carol Voelker, AARP

Melanie McCutchan, Environmental Health Coalition

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

2 PRESIDING MEMBER LAURIE: Good  
3 afternoon. My name is Robert Laurie,  
4 Commissioner at the California Energy Commission.  
5 I'm Presiding Member of the Siting Committee  
6 hearing the case of the Otay Mesa Generating  
7 Plant. The gentleman on the dais to my right is  
8 my colleague on the Committee, Commissioner Robert  
9 Pernell.

10 To my immediate right is Ms. Susan  
11 Gefter. Ms. Gefter is the Hearing Officer, and  
12 will administer today's proceedings.

13 To Commissioner Pernell's right is  
14 Commissioner Pernell's Advisor, Ellie Townsend-  
15 Smith, and to my left is my Advisor, Mr. Scott  
16 Tomashefsky.

17 Before I turn the matter over to Ms.  
18 Gefter, I would simply note that from the  
19 Committee's perspective, the purpose of today is  
20 to set ourselves on a path to conduct the  
21 evidentiary hearing. My Hearing Officer does not  
22 like surprises, even, or perhaps especially, those  
23 surprises caused by or initiated by the Committee  
24 itself. So we will all work together to prepare  
25 the format to be utilized for the evidentiary

1 hearing.

2 Commissioner Pernell, did you have any  
3 opening comments at this point, sir?

4 COMMISSIONER PERNELL: Not at this time.  
5 Thank you.

6 PRESIDING MEMBER LAURIE: Ms. Gefter.

7 HEARING OFFICER GEFTER: Before we begin  
8 I'd like to have the parties introduce themselves  
9 for the record. Let's start with the Applicant.

10 MR. THOMPSON: Thank you very much. To  
11 my immediate left is Mr. Bill Chilson, of PG&E  
12 National Energy Group, and to his left is Ms.  
13 Sharon Segner, Project Manager for the team, also  
14 of PG&E National Energy Group.

15 Out in the audience today we have Al  
16 Williams, also from PG&E, and Robert Ray, from the  
17 URS Corporation, Mike Carl, from Latham and  
18 Watkins.

19 My name is Allan Thompson.

20 PRESIDING MEMBER LAURIE: Folks, all --  
21 check your microphone switches. I believe they're  
22 all down to your right. And the switches go --  
23 there you go. Thank you.

24 The small microphones are for recording.  
25 The large microphones are for amplifying. I

1 should just note that this meeting is being  
2 recorded. At such time as the reporter needs to  
3 halt the proceedings for any purpose in order to  
4 protect the reporting, we will do so. Thank you.

5 Mr. Thompson, please continue. Or were  
6 you done?

7 MR. THOMPSON: I was done. Thank you.

8 HEARING OFFICER GEFTER: Would Staff  
9 introduce yourselves, please.

10 MS. ALLEN: I'm Eileen Allen, the Energy  
11 Commission Staff Project Manager for the Otay Mesa  
12 Project.

13 MR. OGATA: Jeff Ogata, Energy  
14 Commission Staff Counsel.

15 MR. LAYTON: My name is Matt Layton, I'm  
16 with the Air Quality Staff at the Energy  
17 Commission.

18 MS. DeCARLO: Thank you. Lisa DeCarlo,  
19 Energy Commission Staff Counsel.

20 HEARING OFFICER GEFTER: Is there a  
21 representative from Duke Energy here today?

22 Okay. Cabrillo?

23 MR. VARANINI: Ms. Gefter, my name is  
24 Gene Varanini. I'm with the law firm of  
25 Livingston and Mattesich. I'm here on behalf of

1 Cabrillo. Matt Goldman, one of my colleagues, is  
2 with me, as well.

3 HEARING OFFICER GEFTER: Thank you.

4 Mr. Claycomb, from Save Our Bay. Would  
5 you introduce yourself?

6 MR. CLAYCOMB: My name is William E.  
7 Claycomb. I'm President and CEO of Save Our Bay,  
8 Inc., and we're an Intervenor.

9 HEARING OFFICER GEFTER: Ms. Duncan.

10 MS. DUNCAN: My name is Holly Duncan, a  
11 concerned citizen and member of the public, and  
12 mother of an asthmatic.

13 HEARING OFFICER GEFTER: SDG&E?

14 MR. THORP: Yes, Ms. Gefter. I'm  
15 Michael Thorp, an attorney representing --

16 HEARING OFFICER GEFTER: Would you  
17 please come forward and -- if you and Pat could  
18 come and sit at these two chairs here next to Mr.  
19 Thompson, that would be very helpful.

20 PRESIDING MEMBER LAURIE: Mr. Thompson,  
21 does that create a problem for you?

22 MR. THOMPSON: Not for me.

23 MR. THORP: Well, anyway, for the  
24 record, Ms. Gefter, I'm Michael Thorp, I'm an  
25 attorney, and I represent San Diego Gas and

1 Electric. And with me today is Pat Fleming, also  
2 representing San Diego Gas and Electric.

3 HEARING OFFICER GEFTER: Thank you. I  
4 asked you to sit there next to Mr. Thompson so you  
5 could speak into the microphones. And just --  
6 just go ahead and sit there so as we proceed, we  
7 can hear you.

8 MR. THORP: And to give him a strategic  
9 elbow every once in awhile.

10 (Laughter.)

11 HEARING OFFICER GEFTER: Are there any  
12 representatives from local county agencies here  
13 today?

14 Yes. Would you come forward and sit --  
15 speak into the microphone.

16 MR. MOORE: I'm Steve Moore, with the  
17 San Diego Air Pollution Control District.

18 HEARING OFFICER GEFTER: Thank you.

19 MR. CLAYCOMB: Ms. Gefter, I'd like to  
20 remind everybody that they have to speak into two  
21 microphones, because I couldn't hear some of --  
22 from this one a while ago.

23 HEARING OFFICER GEFTER: Okay. Did you  
24 -- did the court reporter hear -- were you able to  
25 hear him?

1 (Inaudible asides.)

2 HEARING OFFICER GEFTER: Okay. Mr.  
3 Barr, could you please come forward again, and do  
4 you have a business card to give to our court  
5 reporter?

6 Oh, Mr. Moore. See, I didn't hear his  
7 name either. I'm sorry. I didn't hear your name  
8 either. Let's try that again, and just spell it  
9 for the record.

10 MR. MOORE: Steven Moore, Steven with a  
11 "v", M-o-o-r-e.

12 HEARING OFFICER GEFTER: Thank you.

13 Is there any other representative from a  
14 local or a state or federal agency here today?

15 All right.

16 Our Public Adviser is -- yes.

17 MS. VOELKER: I'm Carol Voelker, for  
18 AARP.

19 HEARING OFFICER GEFTER: Thank you.

20 Also, could you spell your name for the  
21 court reporter?

22 MS. VOELKER: It's V-as in Victor-o-e-l-  
23 k-e-r.

24 HEARING OFFICER GEFTER: Also, our  
25 Public Adviser is here. You have a member of the

1 public you'd like to introduce. Please come  
2 forward.

3 MS. McCUTCHAN: Good afternoon,  
4 everybody. My name is Melanie McCutchan. I'm  
5 with the Environmental Health Coalition. We're a  
6 public health and environmental justice group  
7 based out of San Diego. Thanks.

8 PUBLIC ADVISER MENDONCA: Yes. My name  
9 is Roberta Mendonca, and I'm the Public Adviser at  
10 the Energy Commission. Thank you.

11 HEARING OFFICER GEFTER: This pre-  
12 hearing conference is a public proceeding in which  
13 members of the public and interested organizations  
14 may participate and express their views on matters  
15 relevant to this project. The Public Adviser is  
16 available to assist you if you have any questions  
17 on how to participate.

18 The Staff in this case, the Staff is an  
19 independent party. They filed Part 1 of their  
20 Final Staff Assessment on October 13th. Part 2  
21 was filed on Friday, October 27th. Has everyone  
22 received a copy of Part 2 of the FSA?

23 MS. ALLEN: If you have not received a  
24 copy we have a few more up here.

25 HEARING OFFICER GEFTER: Evidentiary

1       hearings are tentatively scheduled on November  
2       13th and 14th and 21st, here in San Diego. We  
3       also have a backup date of December 4th, in  
4       Sacramento.

5               The parties filed timely pre-hearing  
6       conference statements. In the pre-hearing  
7       conference statement from Cabrillo Power, which is  
8       an Intervenor in this case, Cabrillo requested an  
9       extension of time for the evidentiary hearing  
10      schedule. We would like Cabrillo to come forward  
11      now to argue your request for an extension of  
12      time, and the other parties will have an  
13      opportunity to respond to your comments.

14             Since we have a lot of business to take  
15      care of today, however, we'd admonish the parties  
16      to keep your presentations brief, and to avoid  
17      redundancy. We're particularly interested in the  
18      procedural issues raised by Mr. -- by Cabrillo.

19             Mr. Varanini.

20             MR. VARANINI: Thank you, Ms. Gefter.  
21      I'm Gene Varanini, again, representing Cabrillo.

22             I think that we filed a 13 or so page  
23      document with the Committee, and it makes all of  
24      our arguments in writing. I think that  
25      essentially the problem we have is that given the

1       tightness of the schedule between the Staff's  
2       papers and assessments, and analyzing the impacts  
3       on ourselves and potential impacts on the public  
4       that we proxy for up in the Carlsbad area, that we  
5       were unable to understand the relationship,  
6       particularly between Reliability issues,  
7       cumulative impact issues and Air, particularly,  
8       fuel availability, and other associated issues.

9                 We've waited for a long time for the  
10       Staff to prepare analysis on the natural gas  
11       issue. We withheld pressing the parties or the  
12       Commission, or the Committee, for use of standard  
13       civil procedure mechanisms in order to put a case  
14       together, if necessary, for the Committee and  
15       Commission. And now, at this late date, we're  
16       asked essentially to protect our interest and  
17       those of the public on a -- on a schedule basis  
18       that is going to require extraordinary  
19       coordination and analysis between among the  
20       company itself, the staff of that company, and  
21       outside consultants.

22                 It's very difficult to prepare a case  
23       when you don't know what the other party's going  
24       to say, and you don't have any idea of where the  
25       proceeding is going. So essentially, we have a

1 case here where our standing is such that we  
2 believe that we are impacted in the potential area  
3 of hundreds of millions of dollars, and the  
4 reliable operation of our power plant, and we are  
5 now given less than about 15 working days to  
6 attempt to analyze what the Staff has -- has said  
7 and done, and to figure out with our experts the  
8 type of case that we would like to put on to fully  
9 enrich the record, and to provide us with  
10 procedural due process.

11 We are prepared to brief that, if  
12 necessary. But I think that's the essential point  
13 of our argument. This is not a vanilla case. It  
14 is not a case that is going to move on a issue-  
15 less expedited basis. And we think that the  
16 attempt to pound that kind of peg into the hole  
17 that we have for this case really isn't going to  
18 work.

19 Those are -- those are really our  
20 points, and I won't belabor them.

21 HEARING OFFICER GEFTER: The Applicant  
22 have a response?

23 MR. THOMPSON: Let me respond in a  
24 couple of different ways.

25 Number one, Cabrillo's filing lists

1 three areas where they have difficulties;  
2 Alternatives, Reliability, and Air Quality.

3 Alternatives and Reliability were  
4 contained in the Staff's FSA Part 1, which has  
5 been out three weeks or so.

6 Air Quality came out last Friday, but it  
7 seems to me that the majority of the issues that  
8 they have are not in the Air Quality section as  
9 much as they are in the Alternatives and  
10 Reliability areas.

11 Number two, I don't think any party  
12 expects another party to make their case.  
13 Cabrillo has been involved in this proceeding for  
14 some decent amount of time, and it sounded to me  
15 like they were hoping that somebody else would  
16 make their case. That was not the nature of this  
17 proceeding. That was not contemplated by the pre-  
18 hearing conference order from this Committee,  
19 which requested that parties file testimony  
20 making their own case, exhibits making their case.

21 And to try to delay the proceeding based  
22 upon the fact that they may not have wanted to  
23 make their own case, or delayed making their own  
24 case until they saw something else, I don't think  
25 is probative, and I don't believe should be

1 positively considered by the Committee.

2 HEARING OFFICER GEFTER: Thank you.

3 Does Staff have comments?

4 MR. OGATA: Thank you, Ms. Gefter.

5 We don't have any comments per se with  
6 respect to whether it's -- that we agree or  
7 disagree with -- with the Intervenor. I think Mr.  
8 Thompson has pointed out the fact that Staff's  
9 analysis in a couple of those areas have been  
10 ready. The Air Quality analysis certainly is  
11 fairly new, came out Friday.

12 And so to the extent that there's some  
13 additional time that the public needs to take a  
14 look at that and prepare some testimony to respond  
15 to Staff's FSA, I believe has some merit.  
16 However, Staff believes that our analysis is  
17 complete, and we are prepared to go forward to  
18 evidentiary hearings at whatever time the  
19 Committee deems it to be appropriate.

20 HEARING OFFICER GEFTER: Does SDG&E have  
21 comments?

22 MR. THORP: Your Honor, we don't have  
23 specific comments per se, other than to say that  
24 SDG&E will be ready to proceed on the 13th and  
25 14th, as I think the dates have been tentatively

1 floated, knowing that that may require us to put  
2 together some reply testimony very fast, since  
3 Cabrillo does raise issues that we would be  
4 concerned with and potentially we want to reply  
5 to.

6 If, in fact, the Commission is thinking  
7 about moving the hearings, I make a personal plea,  
8 please don't move it to the week of Thanksgiving.

9 HEARING OFFICER GEFTER: Actually, we're  
10 planning to have it on Thanksgiving Day.

11 (Laughter.)

12 HEARING OFFICER GEFTER: Ms. Duncan, do  
13 you have comments?

14 MS. DUNCAN: Yes, I do. I, as you know,  
15 in my document, my comments document, have said  
16 that I believe there are still areas that are  
17 incomplete, and the Alternative area was a very  
18 big issue for me.

19 Since I am not getting documents online,  
20 since I represent 75 percent of the public that  
21 doesn't operate that way, I am constrained by  
22 receiving the hard copies. Comments deadlines  
23 were just last Monday, many of them were mailed  
24 that day. I didn't get them until Wednesday,  
25 Thursday, and here I am today, trying to, as a

1 private citizen, digest all of that information.

2 And that's a lot to do, as one person.

3 I support the extension of the time. I  
4 think, as you well know, I keep arguing there are  
5 a number of unresolved issues in this siting. I  
6 would like to say again yes, this is not a vanilla  
7 case. This is not flavor vanilla. There are  
8 significant infrastructure issues here that I  
9 think are still quite unresolved, and haven't been  
10 addressed fully, and possibly will require  
11 adjudication. But until we actually know what  
12 those are, I don't see how we can move forward  
13 with evidentiary hearings.

14 So I would be in favor of an extension  
15 myself, and support that motion.

16 HEARING OFFICER GEFTER: Mr. Claycomb.

17 MR. CLAYCOMB: I probably would favor  
18 it, but maybe for a different reason. I prepared  
19 an additional, just a paper, additional testimony  
20 for the pre-hearing conference statement, and I --  
21 we are maintaining that the Alternatives and  
22 Public Health sections are not complete, and not  
23 ready to proceed to evidentiary hearings.

24 And in this paper, which I have given  
25 Ms. Mendonca a copy, which you will all get pretty

1 soon, supposedly Otay Mesa Generating answered our  
2 request for consideration of alternatives, but  
3 they didn't consider -- well, they talked about  
4 the space requirements, and we don't need anymore  
5 space to put PV collectors on rooftops.

6 HEARING OFFICER GEFTER: Okay. We're  
7 going to get to that when we get to the discussion  
8 of Air Quality.

9 MR. CLAYCOMB: All right.

10 HEARING OFFICER GEFTER: I just wanted  
11 you to address the comments made by Mr. Varanini.

12 MR. CLAYCOMB: Well, ours would just add  
13 to it, because I don't think we're ready to, in  
14 either Public Health or Alternatives.

15 HEARING OFFICER GEFTER: Thank you.

16 PRESIDING MEMBER LAURIE: Question, Mr.  
17 Varanini. What, in your view, are the new issues  
18 presented by Staff's second FSA, or Part 2?

19 MR. VARANINI: Well --

20 PRESIDING MEMBER LAURIE: What new  
21 issues?

22 MR. VARANINI: -- Mr. Chairman, we were  
23 actually shocked by what the Staff did in this  
24 particular proceeding, and the reason why we were  
25 waiting for their analysis was to see essentially

1       how they would respond to issues that we brought  
2       up to them several months ago.

3               But essentially, the -- what happens in  
4       the second part of the analysis, the air impacts,  
5       it seems as though the Staff is really engaged in  
6       kind of a form of -- of casuistry. What goes on  
7       is is that the issues are solved by essentially  
8       assuming them to be solved.

9               What we were looking for was a  
10       cumulative analysis for fuel switching. We were  
11       looking at the impacts that would occur in the  
12       community of Carlsbad. We were looking  
13       essentially at tanker traffic that would be  
14       increased if it were required to have fuel  
15       switching. And, finally, in the initial papers  
16       that we got, the fuel type was wrong. It's been  
17       corrected in the air analysis, but -- but it was  
18       essentially incorrectly specified as apparently  
19       number two, and this is a much heavier fuel than  
20       -- than number two. Number two is used primarily  
21       on turbines as a kerosene equivalent, I -- I  
22       believe.

23               But we are startled, really, by where  
24       the analysis stopped. We expected, after we  
25       discussed these issues with the Staff, that there

1 would be a thorough and complete integration of  
2 the fuel, fuel switching, and air emissions and  
3 other environmental impacts, and that's why we  
4 were waiting for that particular analysis as  
5 pointedly as we were.

6 We believe that it's possible to work  
7 out a solution; that this is not necessarily an  
8 issue that has to go, as my people say, to the  
9 mattresses. But in effect, what really we were --  
10 we expected the Staff in its role and  
11 responsibility, to bring those issues to light,  
12 and then we would have the opportunity to work  
13 with the Applicant, work with the Staff, to  
14 basically see what can be resolved in terms of the  
15 domino effect of -- of having essentially  
16 insufficient gas transmission distribution system,  
17 and then a -- a kind of an effect all the way  
18 through to fundamental air emissions.

19 The public is going to be exposed to  
20 emissions that are thousands of times above  
21 normal, and it just seems virtually inconceivable  
22 to us that that isn't a major point of the case,  
23 and tying the issues together, and having you  
24 discharge your responsibility to supervise the  
25 working out of that problem, just caught us, to be

1 perfectly honest, caught us flat-footed.

2 We were promised an analysis on natural  
3 gas. We were promised an analysis on transmission  
4 reliability. And I guess we assumed that the  
5 integrating factor for environmental purposes  
6 would be the air resources analysis.

7 So that's -- that's why we feel  
8 prejudiced. I have witnesses, experts, but it's  
9 going to take time for them to prepare an analysis  
10 and testimony, and I think that it would be -- it  
11 would greatly enhance the record for an integrated  
12 reliability fuel switching air impact day or -- or  
13 module to be sponsored by the Committee, and have  
14 us work that out in terms of what's a timely --  
15 what makes sense in terms of the time process.

16 If you recall, a long time ago, we  
17 suggested that it might make a lot of sense to let  
18 us go develop our own case, and use Code of Civil  
19 Procedure mechanisms to -- to do that. And we  
20 were told just cool it, to basically stay in the  
21 traces and to follow the system, and to get the  
22 benefits of the system. And that's effectively  
23 what we've done. We anticipated that this would  
24 be a mess, and we -- and we anticipated that by  
25 asking for civil procedure mechanisms that

1       could've had us go offline with the air expert,  
2       offline with the reliability experts, and put  
3       together a case that you could understand, rather  
4       than the type of case it's going to be, cookbooked  
5       into the record, in terms of the lack of time to  
6       prepare a cogent case.

7                   I don't think the experts really  
8       disagree on fundamental impacts so much as where  
9       they stop the analysis, and the notion of why they  
10      stop the analysis, and what a further cumulative  
11      impacts analysis or coincidental analysis would've  
12      revealed.

13                   PRESIDING MEMBER LAURIE: Thank you. I  
14      have nothing else, Ms. Gefter.

15                   MR. THOMPSON: Ms. Gefter, may I --

16                   HEARING OFFICER GEFTER: Yes.

17                   MR. THOMPSON: In reaction to the speech  
18      by -- by Cabrillo, I'd like to offer four points.

19                   Number one, we would suggest that Air  
20      Quality, which is the -- one of the three sections  
21      that was contained in FSA Part 2, be heard on the  
22      21st. That would give Cabrillo three weeks plus  
23      to be prepared at the hearings. It would also  
24      give them some time if they had something else  
25      that they wanted to file.

1                   Number two, the gas issues that Mr.  
2                   Varanini referred to have been out there a long  
3                   time, in his words. And if Cabrillo saw fit not  
4                   to comply with the pre-hearing conference order to  
5                   list witnesses and exhibits, I leave that to the  
6                   Committee for their discretion on what to do with  
7                   those issues.

8                   Number three, I would like to  
9                   respectfully remind Intervenors that along with  
10                  the privileges of intervention, there come the  
11                  obligations of complying with Committee orders and  
12                  the rules and regulations.

13                  And, finally, I don't think that  
14                  complete equals agree with. Material can be put  
15                  into the record by the Staff, for example, that is  
16                  complete in their view. It does not require that  
17                  Intervenors or Applicant agree with it to have it  
18                  be considered complete.

19                  Thank you.

20                  HEARING OFFICER GEFTER: Mr. Varanini,  
21                  the Committee is going to take your motion under  
22                  submission, with respect to extending the  
23                  schedule. And we're going to go on with the pre-  
24                  hearing conference as we had planned it for the  
25                  rest of the afternoon.

1                   MR. VARANINI: Okay. I -- I would just  
2                   like to indicate that we would like a -- a written  
3                   decision as -- as the Committee sees fit, and that  
4                   we will move for -- depending on what the  
5                   Committee determines, that we'll move, as well,  
6                   for reconsideration.

7                   I know -- the reason I bring that up  
8                   isn't in any attempt to stampede the process.  
9                   It's just that things are moving so fast that --  
10                  that by the time -- in some cases, by the time we  
11                  get our papers back we may be halfway to the  
12                  hearings.

13                  PRESIDING MEMBER LAURIE: That's fine.  
14                  You do whatever you need to do. We will be moving  
15                  forward in getting our pre-hearing order out. We  
16                  will be doing that forthwith. And well, probably  
17                  by when, Ms. Gefter?

18                  HEARING OFFICER GEFTER: Probably this  
19                  week.

20                  PRESIDING MEMBER LAURIE: It'll be done  
21                  this week. I would encourage all parties to stay  
22                  in high gear on this one, absent some  
23                  contradictory order as may come forth.

24                  Okay. Ms. Gefter.

25                  HEARING OFFICER GEFTER: The purpose of

1 today's pre-hearing conference is to assess  
2 whether the parties are ready for evidentiary  
3 hearings, and to discuss the procedures that are  
4 necessary to conclude the certification process.

5 In this regard, we will ask the parties  
6 to present their respective positions on the topic  
7 areas. And I have distributed a list of all the  
8 topics. It's in the form of a table. And we'll  
9 go through this table topic by topic.

10 We also want -- want the parties to  
11 indicate whether you intend to present witnesses,  
12 or you intend to cross examine other parties'  
13 witnesses. We want to discuss the filing dates  
14 for evidentiary documents, and that would be  
15 rather quickly. And we want to plan for the  
16 briefing and comment periods after the evidentiary  
17 hearings.

18 Staff and Applicant have proposed in  
19 their pre-hearing conference statements to submit  
20 testimony by declaration. Testimony may be  
21 submitted by declaration, with the proviso that  
22 witnesses are subject to cross examination.  
23 However, if a party intends to cross examine  
24 witnesses on any topic, you need to indicate your  
25 intent today. Otherwise, the witness will not

1 attend the hearing.

2 PRESIDING MEMBER LAURIE: Let me explain  
3 what that's all about, from the Committee's  
4 perspective.

5 What we don't desire to do is force all  
6 parties -- we are most concerned about Staff -- to  
7 get on an airplane from wherever they may be, and  
8 sit in this room for much of the afternoon to take  
9 the stand to allow them to state their name, and  
10 to say that the testimony is their testimony, and  
11 their testimony is then entered into the record.  
12 We desire to avoid that kind of circumstance.

13 So you all have rights to cross examine.  
14 We will treat those rights with the utmost  
15 respect. So if you do have such an intention,  
16 then let us know today. Otherwise, we will not be  
17 ordering those witnesses to appear.

18 HEARING OFFICER GEFTER: If the party  
19 contests the testimony of another party, in line  
20 of what Commissioner Laurie was just talking  
21 about, we expect you to indicate the basis of your  
22 objection. We need you to identify your witnesses  
23 and submit written testimony and exhibits prior to  
24 the hearing, or submit a summary of your proposed  
25 cross examination. In addition, you must indicate

1       why the parties cannot resolve an issue without  
2       adjudication.

3                If none of the parties intends to  
4       contest a topic, the party sponsoring the  
5       testimony by declaration is not expected to  
6       present live testimony. I'm just repeating this  
7       again, because we want to make it very clear to  
8       everybody.

9                With respect to the topics submitted by  
10       declaration, Staff and the Applicant --

11               MR. VARANINI: Ms. Gefter --

12               HEARING OFFICER GEFTER: Yes.

13               MR. VARANINI: -- I object to the notion  
14       that we have a duty to disclose our cross  
15       examination. I think that that violates the  
16       fundamental procedural due process. If I'm going  
17       to cross examine a witness of the Applicant or a  
18       witness of the Staff, I don't -- I think it's  
19       highly irregular to tell that witness where those  
20       areas of cross examination are going to come from  
21       so that they can -- can prepare, or rearrange  
22       their analysis, or take other action.

23               It seems to me that under normal  
24       processes, the witness goes on in a given area,  
25       and then they're cross examined to the best extent

1 of the cross examining party and -- and their  
2 consultant.

3 So I -- I think that I find the notion  
4 that I have to tell one of these witnesses what  
5 I'm going to ask them to be highly irregular.

6 HEARING OFFICER GEFTER: We're asking  
7 you to submit the basis of your objection to  
8 testimony, and indicate the areas in which you  
9 intend to cross examine. Not asking you to -- to  
10 list the questions of cross examination.

11 MR. VARANINI: I -- then I don't  
12 understand what you want us to do. I mean, we can  
13 verbally, today, we can tell you we've got  
14 problems with various areas and ask for those  
15 witnesses to come forward if that's all you're  
16 saying. We certainly want to cooperate as much as  
17 possible, and I think the Chairman is exactly  
18 right, that -- that the notion of having folks who  
19 have many other things to do come down here and  
20 state their name, it really adds nothing to the  
21 process.

22 But I want to make sure that we're able  
23 to fully deal with the witnesses in these various  
24 subject matter areas where we've got out concerns.  
25 That's all.

1                   PRESIDING MEMBER LAURIE: Just let me  
2 comment, Ms. Gefter.

3                   As Ms. Gefter noted, we're not going to  
4 ask you to state your questions, of course. We do  
5 need some semblance of understanding of what your  
6 positions are. I -- I see nothing deleterious  
7 about that request at all. You can, you know, you  
8 would often offer that during the course of an  
9 opening statement.

10                   We understand that this is going to be  
11 an adversarial proceeding. And it will be run in  
12 a rather formalistic sense, much more so than  
13 other similarly situated cases. But we also  
14 intend to move these proceedings forward in a  
15 forthright manner. And so we need to avoid  
16 speculation on our part as to what the issues are.  
17 And the better our understanding of what the  
18 issues are, the better we can be prepared.

19                   So I think what we're asking for is a  
20 statement as to what the positions are, and why a  
21 position stated by a proposed witness is being  
22 disagreed with. I -- I can't understand why that  
23 would be detrimental to any party.

24                   MR. OGATA: Ms. Gefter, excuse me, if I  
25 may. This is Jeff Ogata. I think I certainly

1 understand Mr. Varanini's concern, and I  
2 appreciate Commissioner Laurie's comments.

3 From a Staff perspective, I think the  
4 reason why we would like to at least know what the  
5 area of possible questioning is is because we have  
6 a few technical areas where we have more than one  
7 witness sponsoring the testimony. And to the  
8 extent that we want to ensure that we get the  
9 appropriate witness here to answer that question,  
10 we need to have some idea of what that particular  
11 area might be. Again, we certainly don't expect  
12 Mr. Varanini or anyone else to propose the  
13 questions to us ahead of time. But, example, in  
14 facility design, we have three different witnesses  
15 there, and so we'd like to have the right witness  
16 here.

17 Again, we don't have too many areas like  
18 that, but to the extent that there are areas we  
19 have multiple witnesses, it would be more  
20 efficient for us to bring the correct witness down  
21 to address those areas of concern.

22 HEARING OFFICER GEFTER: Thank you.

23 Ms. Mendonca.

24 PUBLIC ADVISER MENDONCA: There's a  
25 nuance to this, as well. We often hear the

1 statement that members of the public, in order to  
2 participate, don't need to intervene. But if  
3 there are not going to be witnesses on some  
4 issues, the only way that the public coming in to  
5 an evidentiary hearing would have any clue about  
6 the testimony if there's not a witness here to  
7 give some background about the testimony. They  
8 would not have received documents in advance of  
9 the hearing. They would come in and no  
10 information would be available.

11 For example, let's say it was deemed  
12 that Soil and Water Resources, there's no  
13 disagreement, so we won't have anybody here. But  
14 I come in because I live in a flood plain and I  
15 just want to participate.

16 PRESIDING MEMBER LAURIE: Well, I would  
17 respectfully disagree. I -- if there's going to  
18 be testimony that is submitted by stipulation,  
19 that testimony exists right in front of us today,  
20 or will tomorrow, or will the day after that. And  
21 all of that is available to the public, is it not?

22 PUBLIC ADVISER MENDONCA: How do they  
23 find it?

24 PRESIDING MEMBER LAURIE: It's -- it's  
25 public documentation. I -- it's not on the Web,

1 right?

2 HEARING OFFICER GEFTER: A lot of it's  
3 on the Web. The Staff assessments are on the Web.

4 I also --

5 PUBLIC ADVISER MENDONCA: I mean, I'm  
6 all for efficiency. I don't want to waste any of  
7 Staff's time. I just -- in getting very super  
8 efficient, I think we have to be mindful that some  
9 issues the public will come in, and it ought to be  
10 a hearing that they can comment on. And if there  
11 is no witness and there is no testimony, how would  
12 you then take public comment on an issue that you  
13 had already deemed closed. So I guess that's the  
14 point I'm trying to make.

15 PRESIDING MEMBER LAURIE: I -- I  
16 understand. Thank you.

17 HEARING OFFICER GEFTER: All right.

18 Following that, the Committee does  
19 expect to hear witnesses in a number of topics.  
20 And at this point, before we begin going through  
21 the topics, we anticipate hearing testimony on the  
22 topics of Air Quality and Public Health and  
23 Biology, Alternatives, Traffic and Transportation,  
24 and Power Plant Efficiency and Reliability with  
25 respect to a reliable source of natural gas.

1                   And is there a comment?

2                   MS. DUNCAN: I had a question.

3                   HEARING OFFICER GEFTER: Yes.

4                   MS. DUNCAN: I'm trying hard to  
5 understand what the request is of the  
6 documentation you want of me. I think I have  
7 repeatedly stated over and over to the point of  
8 redundancy what my points of disagreement are.  
9 You want me to reiterate that again? Is that what  
10 I'm hearing?

11                   HEARING OFFICER GEFTER: We want --

12                   MS. DUNCAN: Or do you want me to expand  
13 on that? Because I have to support Cabrillo's  
14 position that I don't want to ask -- give the  
15 witnesses ahead of time all of my questions, as he  
16 says, so they can tailor their answer.

17                   HEARING OFFICER GEFTER: We're not  
18 asking you to list your questions. We're asking  
19 you to identify the areas of --

20                   MS. DUNCAN: But I have done --

21                   HEARING OFFICER GEFTER: -- dispute.

22                   MS. DUNCAN: -- I have done that, so I  
23 need to do it again.

24                   HEARING OFFICER GEFTER: No, you don't  
25 need to do it again if you've already done it.

1 MS. DUNCAN: Okay.

2 HEARING OFFICER GEFTER: All right. But  
3 you do need to identify witnesses that you intend  
4 to present, and that will be explained in the  
5 hearing order that will go out this week. Okay.

6 We also expect the Applicant to provide  
7 live witnesses on Project Description, and that  
8 would be the first topic at evidentiary hearings.  
9 And possibly Transmission System Engineering, and  
10 we'll talk about that as we go through the -- the  
11 discussion today.

12 We may also identify additional topics  
13 that will require live testimony as we go forward.

14 We would like to turn to the topic areas  
15 now and move along. Look at the table that we  
16 mentioned earlier.

17 MR. CLAYCOMB: Ms. Gefter, I didn't hear  
18 you mention that you would have witnesses here to  
19 discuss Alternatives.

20 HEARING OFFICER GEFTER: Yes.

21 MR. CLAYCOMB: It's on the sheet here,  
22 but --

23 HEARING OFFICER GEFTER: I mentioned  
24 Alternatives in the list. Yes.

25 We're going to start with -- with the

1 Applicant and ask you to address each topic.  
2 First we'll -- we'll do each topic separately.  
3 And indicate whether you contest the issue,  
4 whether the issue is complete, and what date you  
5 would prefer to have the hearing on that  
6 particular topic, or whether it will be submitted  
7 by declaration.

8 PRESIDING MEMBER LAURIE: Ms. Gefter,  
9 explain to me, when you say contest the issue, are  
10 -- are you stating does each party believe the  
11 issue to be contested, or -- or objection to the  
12 FSA?

13 HEARING OFFICER GEFTER: Whether the  
14 party objects to the -- either the AFC or the FSA.  
15 Whether they have an objection to the testimony on  
16 that particular topic.

17 And we will begin on Project  
18 Description. We'll ask the Applicant to begin.  
19 And, of course, this -- this particular topic  
20 doesn't really fit these headings, because you  
21 can't necessarily contest the Project Description,  
22 but go for it.

23 MR. THOMPSON: Let me -- let me start  
24 off and see if we can make some headway.

25 I anticipate that our main witness on

1 Project Description will be Mr. Al Williams, will  
2 be a -- the engineering description of the  
3 project. We would like to put Mr. Williams on on  
4 the 14th, if that's possible.

5 HEARING OFFICER GEFTER: That wouldn't  
6 make much sense, because we're going to start  
7 hearings on the 13th. It would be best to have  
8 that as our first topic. To -- to -- it basically  
9 sets the tone for the rest of the hearings.

10 MR. THOMPSON: He's -- he's unavailable  
11 on the 13th is the reason I asked for the 14th.  
12 But the -- the other part of the Project  
13 Description, and probably the one that sets the  
14 tone better would be Ms. Segner.

15 HEARING OFFICER GEFTER: All right.  
16 Are you suggesting that Mr. Williams  
17 would discuss Facility Design?

18 MR. THOMPSON: We -- we call it  
19 different things as we go through. In the AFC it  
20 has a different title. But it's more the -- the  
21 engineering project description, a description of  
22 the equipment, a description of the linears, that  
23 kind of thing.

24 HEARING OFFICER GEFTER: All right.

25 MR. THOMPSON: The description of the

1 project, the concept of the project location, that  
2 kind of thing, Ms. Segner would do.

3 HEARING OFFICER GEFTER: All right.  
4 That may make sense if we want to talk about other  
5 engineering facets of the project on the 14th. So  
6 we'll work with that. Okay.

7 Are there any comments from any of the  
8 other parties on the Project Description?

9 MR. VARANINI: I have a comment. It  
10 seems to me that there's a -- there may be kind of  
11 a difference in perspective in terms of kind of  
12 the standard definition of a project description.  
13 What you have here is a power plant proposal, but  
14 I think in terms of the harmonics between that  
15 proposal and other operating facilities that there  
16 are causal relationships. In other words, that  
17 the -- you might want to think about the issue as  
18 a power plant that provides additional power to  
19 the San Diego grid, so that issues that resonate  
20 in terms of the project and its role with the grid  
21 are part of the project description.

22 It seems to me that -- it seems to that  
23 if the plant was a stand-alone plant and didn't  
24 affect or impact other generating sources, then it  
25 would be obviously a -- a kind of a singular

1       entity. But in this particular case, it seems  
2       tome that what's really being requested is the  
3       ability to provide a resource, or to provide a  
4       commodity into this area, and of necessity it  
5       affects or it reverberates with other aspects of  
6       both transmission and generation, so that in the  
7       broader scope of the project description would be  
8       a -- an entity or project that fulfills a  
9       requirement for power in the San Diego region.

10               PRESIDING MEMBER LAURIE: Why would that  
11       not be covered in your cumulative analysis, Mr.  
12       Varanini?

13               MR. VARANINI: Well, I think -- I think  
14       --

15               PRESIDING MEMBER LAURIE: Like it is in  
16       every other project.

17               MR. VARANINI: Well, I think in this  
18       case it's really unlike the others. The -- it  
19       seems to me that what you have is you have  
20       incidental contact, as it were, between a project  
21       and other -- other cumulative entities here. What  
22       happens literally with this plant will affect  
23       operations. You could think in the old days SDG&E  
24       bubbled this whole area, so that all the plants  
25       were operating under an air bubble. And in this

1 case, if this plant goes forward under certain  
2 conditions, then by definition it's going to -- at  
3 least from our definition, it's going to  
4 immediately and directly impact other sources and  
5 other generators, so that the -- what I'm trying  
6 to get to isn't so much what the project is, as to  
7 what the -- what the -- the kind of totality of  
8 the project may result in.

9 Now, if cumulatives is the right way to  
10 do that, that's fine. It just -- and certainly  
11 that's -- if you feel that's appropriate, that's  
12 what we'll do. But --

13 PRESIDING MEMBER LAURIE: Mr. Varanini,  
14 just from my own perspective. I -- I think I can  
15 suggest to you that the Committee, up to this  
16 point, has a good and fair understanding of what  
17 your issues are, and fully intends to deal with  
18 those issues. Whether they can be categorized  
19 into just one or more of these categories, I -- I  
20 don't know. But I believe we understand the  
21 issue, as you have brought forward to this  
22 Committee, and they will most certainly be  
23 addressed in one fashion or another.

24 MR. VARANINI: Thank you very much.

25 HEARING OFFICER GEFTER: And I think --

1 MS. SEGNER: It -- it may be that some  
2 of these issues can be addressed under the  
3 Transmission System Engineering.

4 HEARING OFFICER GEFTER: I was going to  
5 suggest that, also. And that's why I had  
6 indicated that we may have witnesses on that  
7 topic.

8 I also think an interesting segue is the  
9 next topic, which is Need Conformance, which also  
10 seems to fit into Mr. Varanini's concerns.  
11 However, the reason that I put Need Conformance on  
12 the list is because under -- this project was  
13 filed in 1999, even though the statute removing a  
14 need requirement went into effect on -- in 2000.  
15 So we're going to still have to look at --  
16 basically, the -- the attorneys will have to  
17 address that in a very short presentation.

18 PRESIDING MEMBER LAURIE: Is there any  
19 legal objection to the point that Ms. Gefter  
20 raised? Is there -- has anybody taken the  
21 position that this provision is inapplicable to  
22 this particular case?

23 HEARING OFFICER GEFTER: I'd ask Mr.  
24 Varanini.

25 MR. VARANINI: I think that it -- it

1 actually has morphed from integrated need  
2 conformance to a systems reliability. I think the  
3 change in SB 110 struck the integrated need  
4 assessment and replaced it with a systems  
5 reliability impact. And I think that we would be  
6 willing to agree that if the systems reliability  
7 are -- are natural gas substitution of fuel,  
8 potential for transmission problems north to  
9 south, that then it could either be handled in  
10 reliability or -- reliability, as it -- as it now  
11 is expressed in SB 110, or just a standard set of  
12 reliability implications, either -- either one.

13 My feeling is the Commission does not  
14 have the ability to deny a project based on a  
15 failure of an integrated need conformance, but it  
16 does have great responsibility on the substitution  
17 in that section of Systems Reliability. And I  
18 think it's a new -- it's a new concept, but I  
19 think we're going to see it. I think the issue  
20 here really is not even disputed, that we need  
21 more power. It's how to get more power in here.  
22 And there are at least five other circumstances  
23 that I'm aware of where equally that issue is  
24 going to come into play.

25 So I think the -- from our perspective,

1 the need slash -- the Need Conformance goes out,  
2 and Systems Reliability comes in. If it's -- it  
3 can be -- if it's necessary, the trier of fact to  
4 make their analysis for the case.

5 HEARING OFFICER GEFTER: Thank you.

6 All right. We're going to go on to the  
7 topic of Alternatives. Ms. Duncan.

8 MS. DUNCAN: I need a point of  
9 clarification here.

10 HEARING OFFICER GEFTER: Yes.

11 MS. DUNCAN: Because I am aware of  
12 Senate Bill 110, and my understanding was that the  
13 need requirement was not part of the siting  
14 process. What I'm hearing is because of the date  
15 of the application in this case, need is still a  
16 factor.

17 HEARING OFFICER GEFTER: It's not a  
18 factor. We just need to explain how the  
19 legislation has affected this particular case. It  
20 just -- it's a legal discussion that says that  
21 prior to 2000, the Commission was required to  
22 conduct an integrated assessment of need, and  
23 whether or not the project would be in conformance  
24 with that -- the Electricity Report.

25 After 2000, January 2000, we are no

1 longer required to do that. That's all we have to  
2 say in -- in our findings on this case.

3 MS. DUNCAN: So is this siting subject  
4 to need or not? I'm confused.

5 HEARING OFFICER GEFTER: No.

6 MS. DUNCAN: Okay. Then why is this  
7 category here?

8 HEARING OFFICER GEFTER: I'm sorry?

9 MS. DUNCAN: Why is this category on the  
10 sheet?

11 HEARING OFFICER GEFTER: What I just  
12 explained to you is that it was -- the application  
13 was filed prior to the date that the legislation  
14 went into effect. But it will not be certified  
15 until after the legislation is in effect, if it's  
16 certified.

17 MS. DUNCAN: Okay.

18 HEARING OFFICER GEFTER: All right.

19 Alternatives. Applicant.

20 MR. THOMPSON: Yes. We would anticipate  
21 that this would be one where we would present  
22 witnesses live. The only exception, when I look  
23 over our -- the number of witnesses that have  
24 responsibility for various sections on  
25 Alternatives is Mr. Spinks, who we would like to

1 put in by declaration. He is responsible only for  
2 the alternate wastewater discharge material.

3 HEARING OFFICER GEFTER: How many  
4 witnesses do you anticipate on this topic?

5 MR. THOMPSON: We believe that Mr.  
6 Chilson, Mr. Williams, Mr. Filippi, on  
7 Transmission, and Ms. Segner. But, of course, we  
8 have not seen what Cabrillo will file. So we  
9 would anticipate those four, at least.

10 HEARING OFFICER GEFTER: Thank you.  
11 Staff, Alternatives.

12 MR. OGATA: Ms. Gefter, Eileen Allen is  
13 the author of the Alternatives section. We also  
14 have docketed the resumes of Mr. Art Soinski, who  
15 is the Commission's technical lead for fuel cell  
16 research development and demonstration, and we  
17 would make Mr. Soinski available to give some  
18 additional testimony in the Alternatives area, if  
19 necessary.

20 HEARING OFFICER GEFTER: All right.

21 Mr. Claycomb, I know this is a topic  
22 that you're interested in. Do you have any  
23 witnesses you want to present on this topic?

24 MR. CLAYCOMB: I'm going to have to be  
25 our own witness, since we can't afford to hire

1 one.

2 HEARING OFFICER GEFTER: All right.

3 Ms. Duncan.

4 MS. DUNCAN: Ditto. I can't afford to  
5 hire one.

6 HEARING OFFICER GEFTER: All right.

7 Mr. Varanini.

8 MR. VARANINI: We would like to ask  
9 questions concerning dual fuel of this particular  
10 machine.

11 HEARING OFFICER GEFTER: What does that  
12 mean?

13 MR. VARANINI: Means whether or not the  
14 circumstances under which -- under which this  
15 machine -- this machine that's proposed could run  
16 on kerosene.

17 HEARING OFFICER GEFTER: Which machine  
18 is proposed to run on kerosene?

19 MR. VARANINI: The AFC machine, the --  
20 the Otay machine, as an alternative, that it be  
21 dual fuel.

22 HEARING OFFICER GEFTER: Are you going  
23 to present a witness, or are you going to cross  
24 examine on that topic?

25 MR. VARANINI: I have -- I have to -- I

1 don't have a witness in mind right now.

2 HEARING OFFICER GEFTER: All right. And  
3 which date would the parties prefer to do  
4 Alternatives? Mr. Thompson.

5 MR. THOMPSON: I -- I would suggest  
6 either the 14th or the 21. I'm -- when you asked  
7 me about dates, Ms. Gefter, I'm -- I'm assuming  
8 that we can get, on the 13th, a number of the non-  
9 contested items out of the way. So the 14th or 21  
10 will be available.

11 HEARING OFFICER GEFTER: Staff?

12 MR. OGATA: Ms. Gefter, Mr. Soinski we  
13 know is available on the 13th. We weren't  
14 contemplating other dates, so I guess at this  
15 point we'll -- we'll do whatever it is you deem  
16 necessary.

17 HEARING OFFICER GEFTER: Compliance.  
18 Will there be witnesses on Compliance, Applicant?

19 MR. THOMPSON: We -- we actually do have  
20 a witness on Compliance, and we would expect that  
21 to be live. In our prepared testimony, which we  
22 submitted along with our pre-hearing conference  
23 brief, raised some somewhat minor, but important  
24 to us, issues on -- on Compliance, and so we would  
25 -- we would suggest a live witness.

1                   HEARING OFFICER GEFTER: I read that  
2 part of your testimony, and I wonder whether the  
3 Applicant and the Staff can work out the  
4 differences, in terms of the language of those  
5 conditions, rather than bringing that to the  
6 Committee.

7                   Is there a possibility of working with  
8 Staff on resolving some of those issues? These  
9 were, as I understood, a lot of this had to do  
10 with language that was proposed in Staff's  
11 Proposed Conditions.

12                  MR. THOMPSON: Yes. We actually would  
13 -- would like that, and I will take this  
14 opportunity to apologize for putting it in. It  
15 kind of came to the fore late, and we thought we  
16 were better off kind of preserving our procedural  
17 position by putting it in. But we would -- our  
18 preferable course of action would be to work this  
19 out with Staff.

20                  HEARING OFFICER GEFTER: Staff?

21                  MR. OGATA: Ms. Gefter, we -- pending  
22 the Committee's order regarding hearing dates,  
23 Staff has a preference to try to have an FSA  
24 workshop on the morning of the 13th, so that we  
25 can take up issues such as these in the Compliance

1 area, and any other issues that the parties can  
2 talk about and perhaps work out prior to the  
3 evidentiary hearings, so we can eliminate as many  
4 issues from adjudication as possible.

5 So if the Committee will indulge Staff,  
6 we certainly would like to schedule an FSA  
7 workshop for the morning of the 13th, and if you  
8 have hearings, if you could commence those in the  
9 afternoon, then we might be able to work out some  
10 of these things and avoid adjudication.

11 HEARING OFFICER GEFTER: But by the 13th  
12 an order will have already gone out, setting some  
13 of these topics for hearing. And if Applicant  
14 intends to present witnesses on Compliance we're  
15 going to have to find a spot for that.

16 Are you suggesting that we put that over  
17 for -- until the 21st so that Staff and Applicant  
18 can work out the language differences?

19 MR. OGATA: You could put it over to the  
20 21st, you could put it over to the 14th. As I  
21 said, you know, typically, we endeavor to have  
22 these public workshops in order to eliminate as  
23 many issues as possible. So even if it's set for  
24 a particular time, I believe that if we can inform  
25 the Committee that those issues have been

1 resolved, then we'll just take it off the agenda.

2 HEARING OFFICER GEFTER: All right.

3 Does any other party have a comment on  
4 Compliance?

5 Facility Design.

6 PRESIDING MEMBER LAURIE: Let me ask.

7 Ms. Gefter, did you want to know about intentions  
8 to cross examine, or did you --

9 HEARING OFFICER GEFTER: That --

10 PRESIDING MEMBER LAURIE: -- just assume  
11 -- were you going to assume that all witnesses are  
12 going to be cross examined? So do you need to  
13 have parties state their intent to cross examine,  
14 or do you want to just assume that unless you hear  
15 to the contrary?

16 HEARING OFFICER GEFTER: I think we  
17 should state it on the record. So perhaps we  
18 should go back and -- I understood, of course, in  
19 Alternatives, that both Mr. Claycomb and Ms.  
20 Duncan intended to cross examine, as well as Mr.  
21 Varanini. Is that correct? All right.

22 MR. VARANINI: That's correct.

23 HEARING OFFICER GEFTER: And with  
24 respect to Project Description, we're going -- the  
25 issues that Mr. Varanini raised with respect to

1 the grid context would -- we probably would  
2 discuss that under TSE, instead of Project  
3 Description.

4 So with respect to Compliance, does any  
5 party intend to cross examine?

6 All right.

7 PRESIDING MEMBER LAURIE: Let me offer a  
8 clarification, Ms. Gefter. We'll -- the Committee  
9 will have to chat about this, but I don't think we  
10 can bar a party from cross examining a witness if  
11 they don't state their intent here. A witness  
12 might say something that is different from or in  
13 addition to their prepared testimony, and all  
14 parties will need to have the right to question  
15 regarding that additional testimony.

16 HEARING OFFICER GEFTER: That's always  
17 the case, of course. Yes. However, if the  
18 parties aren't bringing a witness, then that  
19 witness will not be there for cross examination.  
20 So we need to get that very clear at this point,  
21 because surely if the witness testifies everyone  
22 will have an opportunity to cross examine that  
23 witness. But if -- if the parties are submitting  
24 their testimony by declaration, we need to know  
25 today whether you intend to cross examine that

1 witness.

2 MR. THOMPSON: For example, Ms. Gefter,  
3 I -- I recommended that Mr. Spinks be put in by  
4 declaration. I did not hear anyone say that they  
5 wanted to cross examine either in that area, or  
6 him.

7 MR. OGATA: Ms. Gefter, I guess with  
8 respect to the Compliance issues, I understand  
9 that the Applicant's testimony is basically one  
10 document on Compliance. However, it addresses a  
11 number of different technical areas, so I guess I  
12 would ask the Applicant as we go through these  
13 different technical areas to point out if that's  
14 an area where there's a Compliance issue, because  
15 if we don't end up arriving at an agreement on  
16 that, then I assume that we're going to have to  
17 have our witnesses available for those areas.

18 HEARING OFFICER GEFTER: Yeah.

19 MS. DUNCAN: May I ask a question?

20 HEARING OFFICER GEFTER: Yes.

21 MS. DUNCAN: I'm new to this, so I'm  
22 trying to understand what the responsibilities are  
23 in my capacity. I just received Part 1 of the FSA  
24 last Monday, okay. And then I have to prepare a  
25 document that I got an extension on, and I have

1 not read everything. I mean, there simply have  
2 not been enough hours in the day for me to go  
3 through everything that I have received in the  
4 past week.

5 So it's difficult for me to say with any  
6 authority that I want to cross examine this or  
7 cross examine that. But as Commissioner Laurie  
8 just said, somebody could say something that I  
9 then would want to say something. Am I forfeiting  
10 that right now --

11 HEARING OFFICER GEFTER: No.

12 MS. DUNCAN: -- if I don't go on record  
13 saying I want to cross examine in that area?

14 HEARING OFFICER GEFTER: No. If the  
15 witness is here, you'll have an opportunity to  
16 cross examine. Are you asking whether if the --  
17 if the testimony is submitted on declaration and  
18 then you read the declarations and you want to --  
19 or you read the testimony, and decide you want to  
20 cross examine, you can let us know. We're going  
21 to have a date for people to file supplemental  
22 testimony and exhibits prior to the hearing, so  
23 you can let us know.

24 All right. Taking a short recess, about  
25 one second. Off the record.

1 (Off the record.)

2 HEARING OFFICER GEFTER: Back on the  
3 record.

4 I just wanted to clarify to -- what I  
5 just said to Ms. Duncan. Prior to the first  
6 hearing date, which is now scheduled -- we're  
7 planning to schedule for November 13th, the week  
8 before we will allow the parties to file  
9 supplemental testimony and indicate whether you  
10 want to cross examine on any of the written  
11 testimony that you have read.

12 If you're at the hearing and you have  
13 witnesses testifying, you will have a chance to  
14 cross examine without -- you don't have to tell us  
15 that now.

16 Do you understand? All right.

17 Okay. The next topic is Facility  
18 Design.

19 MR. THOMPSON: Again, that would be,  
20 from an engineering standpoint, Mr. Williams.

21 HEARING OFFICER GEFTER: Okay. Mr.  
22 Williams. And we expect Mr. Williams on the 14th.

23 MR. THOMPSON: Yes.

24 HEARING OFFICER GEFTER: Okay.

25 PRESIDING MEMBER LAURIE: And why do we

1 need a live witness on that?

2 MR. THOMPSON: He's going to be a live  
3 witness anyway, so I didn't put in a declaration  
4 for him.

5 PRESIDING MEMBER LAURIE: Okay.

6 HEARING OFFICER GEFTER: Does Staff  
7 intend to present a witness on Facility Design?

8 MR. OGATA: At this time we don't  
9 believe there are any issues that we would need a  
10 live witness for, so we were not intending to ask  
11 those Staff members to come down.

12 HEARING OFFICER GEFTER: We assume again  
13 that if Mr. Williams is present and testifying,  
14 that the parties will have a chance to cross  
15 examine the live witness. All right.

16 MR. THOMPSON: Yes.

17 MR. VARANINI: We'll have some questions  
18 for Mr. Williams.

19 HEARING OFFICER GEFTER: Okay. And what  
20 we would request, Mr. Varanini, is that you just  
21 indicate the areas in which you have questions.

22 The next topic is Efficiency, Power  
23 Plant Efficiency. Applicant?

24 MR. THOMPSON: Mr. Williams, the 14th,  
25 please.

1 HEARING OFFICER GEFTER: Mr. Williams,  
2 again. All right. And with this -- within this  
3 topic, we will be discussing the gas reliability  
4 issue.

5 MR. THOMPSON: Okay.

6 HEARING OFFICER GEFTER: Do you have  
7 another witness on that?

8 MR. THOMPSON: We do. Mr. Eric Isenman.  
9 I would also like to add the caveat that depending  
10 on what Cabrillo files, it may necessitate us  
11 bringing others on.

12 HEARING OFFICER GEFTER: All right.  
13 Staff.

14 MR. OGATA: The witness that we have is  
15 Steve Baker, and we need to add in Bill Woods.

16 HEARING OFFICER GEFTER: Yes. Mr.  
17 Varanini, do you have a witness on this topic?

18 MR. VARANINI: Yes. Provisionally, it  
19 will be Robert Weatherwax.

20 HEARING OFFICER GEFTER: And you  
21 understand before the hearing we need to have  
22 written testimony and his qualifications filed,  
23 and we'll give you a date for that.

24 MR. VARANINI: Yes, I do.

25 HEARING OFFICER GEFTER: Right.

1                   Mr. Claycomb, will you have a witness on  
2 this topic?

3                   MR. CLAYCOMB: No.

4                   HEARING OFFICER GEFTER: All right. Ms.  
5 Duncan?

6                   MS. DUNCAN: No.

7                   HEARING OFFICER GEFTER: All right. But  
8 you will have a chance to cross examine the live  
9 witnesses.

10                  MS. DUNCAN: Thank you.

11                  HEARING OFFICER GEFTER: Okay. Power  
12 Plant Reliability. Again, that's related -- to  
13 the extent that it relates to the reliable gas  
14 supply, we will hear both these topics on the same  
15 day, probably back to back, because it will  
16 overlap.

17                  Does the Applicant expect to present  
18 witnesses other than Mr. Williams or Mr. Isenman?

19                  MR. THOMPSON: We do not. Well, if we  
20 get into, again, Project Description or management  
21 type issues, we may ask that Ms. Segner take the  
22 stand. But with regard to the material we have  
23 filed to date, those would be our two witnesses.

24                  HEARING OFFICER GEFTER: All right.  
25 Staff?

1                   MR. OGATA: Again, Steve Baker, and  
2 we'll have to add in Bill Woods.

3                   HEARING OFFICER GEFTER: Okay. Mr.  
4 Varanini, I assume that it will be Mr. Weatherwax,  
5 if you put on a witness on this.

6                   MR. VARANINI: That's correct.

7                   HEARING OFFICER GEFTER: All right. And  
8 this will be November 14th.

9                   All right. Transmission System  
10 Engineering. Applicant? Mr. Thompson.

11                   MR. THOMPSON: Yeah. I'm sorry, I  
12 missed your question.

13                   HEARING OFFICER GEFTER: Oh. We're on  
14 the Transmission System Engineering topic.

15                   MR. THOMPSON: Yeah, Mr. -- Mr. Filippi.  
16 Would you want to hear that at the same time that  
17 Efficiency and Reliability are heard?

18                   HEARING OFFICER GEFTER: Makes sense.

19                   Staff, do you have a witness on this  
20 topic, or will you need a witness?

21                   MR. OGATA: Linda Davis is our witness.  
22 We -- we don't know if we need a witness or not.  
23 We'd obviously prefer to have this one done by  
24 declaration, subject to any objections that any of  
25 the parties may have and want her to be here.

1 HEARING OFFICER GEFTER: Mr. Varanini,  
2 will you have a witness on this topic?

3 MR. VARANINI: Well, it depends on what  
4 this topic means, Ms. Gefter. It seems to me if  
5 what it means is problems or potential problems  
6 with -- with the San Diego backbone and reactive  
7 power in the San Diego system, then we would have  
8 a witness. If it means just simply the nuts and  
9 bolts of the transmission system and the  
10 interconnection, then we would not.

11 HEARING OFFICER GEFTER: Well, Mr.  
12 Varanini, it seems that you are the one who raised  
13 the issue with respect to the San Diego grid,  
14 because at this point the testimony that we have  
15 in the -- seen, both from the Applicant and Staff,  
16 refer to the interconnection agreement, and SDG&E  
17 has finished their facility study and the Cal-ISO  
18 has accepted it.

19 So that would've been the testimony, and  
20 that would've been submitted on declaration, as  
21 far as I understood from the pre-hearing  
22 conference statements. You earlier raised an  
23 issue with respect to the San Diego grid.

24 MR. VARANINI: If that's the place, it's  
25 Mr. Weatherwax.

1 MS. ALLEN: Ms. Gefter.

2 HEARING OFFICER GEFTER: Yes.

3 MS. ALLEN: I'm uncertain about whether  
4 we need to talk with Larry Tobias from the ISO  
5 about attending the Transmission System  
6 Engineering discussion in the hearings. He will  
7 not be a witness for the Staff. On the other  
8 hand, they are an involved party, to some extent,  
9 and Staff has referenced the ISO's conclusions in  
10 their May 19th, 2000 letter.

11 Would you like me to check with Mr.  
12 Tobias on his availability for the 14th?

13 HEARING OFFICER GEFTER: Certainly, but  
14 I don't know whether his testimony would be  
15 necessary if he's already submitted a written  
16 statement. Is -- is the letter from Cal-ISO,  
17 would that be Mr. Tobias' testimony? You have to  
18 --

19 MS. ALLEN: Well, we -- we have not --  
20 we have not dealt with that letter as formal  
21 testimony.

22 HEARING OFFICER GEFTER: Okay. I  
23 understand.

24 Mr. Thompson.

25 MR. THOMPSON: I -- I believe that we

1 included that in our suggested exhibit list, the  
2 letters from -- to and from Sempra and the ISO, to  
3 make the record complete. And we were going to  
4 submit that, I think, with Mr. Filippi.

5 HEARING OFFICER GEFTER: All right.

6 MR. VARANINI: Ms. Gefter.

7 HEARING OFFICER GEFTER: Yes.

8 MR. VARANINI: We have a -- a legal  
9 concern with what the role and the weight of  
10 testimony or evidence, if any, should be given to  
11 the ISO. One of the areas of concern is that we  
12 understand that on a related matter at the ISO a  
13 few days ago, the General Counsel of the ISO  
14 indicated that -- that they did not supersede  
15 state entities and their responsibilities, and  
16 that they were recommendary in nature to the  
17 extent that they impacted state responsibilities,  
18 such as the PUC's role in transmission and other  
19 related matters.

20 So it seems to me that to the extent  
21 that we have a whole series of witnesses who come  
22 on and rely on the ISO as the basis of their  
23 testimony, that we -- we really would file the  
24 necessary papers to have a standing objection to  
25 that being the sole basis upon which reliability

1 in the transmission system can be determined.

2 HEARING OFFICER GEFTER: You're welcome  
3 to file a continuing objection.

4 MR. VARANINI: Well, it seems to me if  
5 they're going to rely on that person, then that  
6 person ought to be here to be cross examined.  
7 Otherwise, all their testimony should be struck.  
8 The -- we're either going to have -- we're either  
9 going to have a quasi judicial hearing or we're  
10 not, and it seems to me if we're not, well, that's  
11 fine. But -- but under normal rules of evidence,  
12 the notion that a letter would come in and that  
13 would be potentially the basis for several  
14 witnesses' conclusions, that's -- that's simply, I  
15 think, outside the scope of procedural due  
16 process.

17 HEARING OFFICER GEFTER: Mr. Varanini,  
18 what we were talking about was with respect to  
19 Cal-ISO's acceptance of the facility study that  
20 was submitted by SDG&E. And based on Cal-ISO's  
21 acceptance of that particular study, Staff  
22 typically makes a finding that there are no issues  
23 with respect to TSE, Transmission System  
24 Engineering.

25 You were the one who raised the question

1 about impacts to the grid. All right. So if you  
2 could identify what your concerns are, and  
3 indicate that to the parties at the time that you  
4 file your written testimony --

5 MR. VARANINI: I'd be happy to do it  
6 right now, to save some time. What we're  
7 concerned about are the use of nomogram  
8 curtailment on and off of the various plants. In  
9 other words, what you tend to get into is a  
10 situation where -- where what the ISO tells you is  
11 subject to some nomogram that controls the  
12 operation of the plants, turns them on and turns  
13 them off. The system can accept it.

14 It seems to me in this case, unlike the  
15 typical case, we have the possibility of being  
16 impacted by those types of decisions, so we want  
17 to penetrate beyond the simple assertion that  
18 there's a nomogram that's acceptable to the ISO,  
19 in terms of what the impact of that nomogram is on  
20 us, if any.

21 So all I'm suggesting is that's the area  
22 we want to cross examine, that's the area of our  
23 concern. And so, you know, I -- I think that's  
24 the purpose of trying to -- to indicate that you,  
25 the Commission, have the ultimate responsibility.

1 In this case, we'd like to have that particular  
2 artifact examined, rather than accepted as an  
3 article of faith.

4 HEARING OFFICER GEFTER: Are you  
5 challenging the facility study that was conducted  
6 by SDG&E?

7 MR. VARANINI: I'm challenging the -- I  
8 want the -- whoever has the burden of proof, which  
9 I don't, to put on essentially a case that shows  
10 what in effect will happen if there is a  
11 constraint nomogram in the rest of the system in  
12 San Diego, rather than simply saying they accepted  
13 this, and you taking it as an article of faith,  
14 and to discharge your responsibility, that this is  
15 going to work.

16 And it seems to me the more of these  
17 nomograms we get, and the less tie ins that we  
18 have, the more brittle the system's going to be,  
19 and the accountability for that lies here. It's  
20 part of your responsibility. Your responsibility  
21 -- you're responsible for reliability, so I'm  
22 simply giving you the issue, as I understand it,  
23 and what I want to do is help you to, you know,  
24 really have a record in which you understand that  
25 this is whatever this is. Because we don't

1 understand it. I'm going to have my expert look  
2 at it, but I just wanted to notify you that that's  
3 a real concern of ours.

4 MR. THOMPSON: I think Mr. Varanini has  
5 just shown that it's fairly easy to put on a large  
6 block of testimony. He -- he just did.

7 PRESIDING MEMBER LAURIE: But the -- the  
8 point being, Mr. Thompson, is it's not his burden.  
9 It is -- it is your burden.

10 MR. THOMPSON: Well, there's two points,  
11 Mr. Commissioner, with all due respect. One is  
12 that it is our burden, and we think we meet that  
13 burden not just relying on the ISO, but also  
14 relying on SDG&E, who is -- Sempra, who is sitting  
15 to my right, and was contained --

16 PRESIDING MEMBER LAURIE: Okay. Now,  
17 all I'm hearing is that the issue is being  
18 contested. And so we're going to need live  
19 testimony on that, because I -- I hear Mr.  
20 Varanini objecting to what may already be in -- in  
21 -- potentially be in the record on that issue.

22 MR. THOMPSON: Yes. And let me submit  
23 an objection that when -- that when the Committee  
24 orders, in the pre-hearing conference statement,  
25 that testimony and exhibits in areas be

1 identified, that the parties comply with that.

2 HEARING OFFICER GEFTER: Mr. Ogata.

3 MR. OGATA: Yeah. Ms. Gefter, in light  
4 of this, I guess I would just like to hear a  
5 simple response to the question of whether we  
6 should ask Mr. Tobias to be here.

7 PRESIDING MEMBER LAURIE: Well, yeah.

8 The --

9 HEARING OFFICER GEFTER: Yes.

10 PRESIDING MEMBER LAURIE: -- the issue  
11 -- yeah, his testimony is going to be contested.

12 HEARING OFFICER GEFTER: Yes.

13 PRESIDING MEMBER LAURIE: By all means.

14 HEARING OFFICER GEFTER: And at this  
15 point, again, we were looking at November 14th,  
16 but we'll have to see, because it looks like every  
17 topic that we've discussed so far is November  
18 14th. It will be a very long day.

19 The next topic is TLSN, Transmission  
20 Line System Safety and Nuisance. Applicant.

21 MR. THOMPSON: Yes. Mr. Ormsby is our  
22 witness. We submitted along with his testimony  
23 and resume a declaration, and I have not heard  
24 anything -- did not read anything in the pre-  
25 hearing conference statements that anybody has any

1 difficulties in that area.

2 HEARING OFFICER GEFTER: Staff also  
3 indicated that you would submit this testimony by  
4 declaration. Is that correct, Mr. Ogata?

5 MR. OGATA: That's correct, Ms. Gefter.

6 HEARING OFFICER GEFTER: Okay. Mr.  
7 Claycomb, do you --

8 MR. CLAYCOMB: No problem with that.

9 MS. DUNCAN:

10 HEARING OFFICER GEFTER: All right. Ms.  
11 Duncan, no problem.

12 Mr. Varanini.

13 MR. VARANINI: No. Thank you.

14 HEARING OFFICER GEFTER: So we have one  
15 by declaration here. And that would be -- we will  
16 discuss that on November 13th.

17 The next topic is Air Quality. The FSA  
18 Part 2 on Air Quality came out Friday, the 27th.  
19 With that in mind, and that people may not have  
20 received that until today, we're looking at  
21 November 21st to conduct the hearing on Air  
22 Quality. Staff -- Applicant, I'm sorry. Mr.  
23 Thompson.

24 MR. THOMPSON: Yes, we think that's  
25 fine.

1 HEARING OFFICER GEFTER: And how many  
2 witnesses will you have on Air Quality?

3 MR. THOMPSON: We will probably have --  
4 certainly -- certainly Mr. Fontana. It is -- it  
5 is entirely possible that there may be one or two  
6 others, and we will identify them as soon as we  
7 see material from Intervenors, and whether or not  
8 we feel it's required.

9 HEARING OFFICER GEFTER: All right.  
10 Staff, Mr. Ogata.

11 MR. OGATA: Matt Layton is our witness  
12 on the 21st, works out well.

13 HEARING OFFICER GEFTER: Okay. And I  
14 believe Mr. Layton, did you have comments that you  
15 wanted to share with us today on this? No? All  
16 right.

17 MR. OGATA: Ms. Gefter, I think what --  
18 what we'd like to do with respect to that is,  
19 hoping that we will adjourn this within a  
20 reasonable time, we'd just like to convene all the  
21 parties and Intervenors, and the purpose of this  
22 is merely to have Mr. Layton explain the proposal  
23 that we have that's in the FSA. The purpose of  
24 this would not be to discuss the merits of it in  
25 any way, but understanding that the FSA just came

1 out Friday, we wanted Mr. Layton the opportunity  
2 to explain it, have the opportunity for people to  
3 ask him some questions about it in anticipation of  
4 the FSA workshop, which will be hopefully held on  
5 the 13th. At that point we can further discuss it  
6 and try to arrive at some conclusion.

7 But we didn't necessarily want to take  
8 Committee time to do that.

9 HEARING OFFICER GEFTER: All right. So  
10 --

11 MR. OGATA: But we're hoping that we can  
12 do that today.

13 HEARING OFFICER GEFTER: -- so you're  
14 proposing to, after we adjourn the pre-hearing  
15 conference, to convene a workshop with all the  
16 parties present.

17 MR. OGATA: That's correct.

18 HEARING OFFICER GEFTER: All right.

19 Mr. Claycomb, will you have a witness on  
20 Air Quality?

21 MR. CLAYCOMB: Yes. We wanted to  
22 discuss Air Quality and Public Health together.  
23 It's a double-barreled issue.

24 HEARING OFFICER GEFTER: Will you have a  
25 witness, or are --

1 MR. CLAYCOMB: Yes.

2 HEARING OFFICER GEFTER: Yes. And what  
3 is the witness's name?

4 MR. CLAYCOMB: William E. Claycomb.

5 HEARING OFFICER GEFTER: Oh, you're  
6 going to be the witness.

7 MR. CLAYCOMB: Yes.

8 HEARING OFFICER GEFTER: Ms. Duncan.

9 MS. DUNCAN: No witnesses.

10 HEARING OFFICER GEFTER: All right. As  
11 I get to Mr. Varanini, one issue that we had  
12 discussed earlier was the impacts on Air Quality  
13 of the potential curtailment of -- of gas to the  
14 Encina project. And we intended to hear evidence  
15 on that topic on the same day that we heard the  
16 Air Quality plan all together, so that we would to  
17 some extent bifurcate the issue on gas, whereas  
18 the discussion on efficiency and reliability and  
19 availability of gas would be conducted on the  
20 14th. We would hear the aspects of that topic  
21 with respect to Air Quality on the 21st. Do you  
22 have a separate witness on Air Quality?

23 MR. VARANINI: Yes, I do. Gary  
24 Rubenstein.

25 HEARING OFFICER GEFTER: Gary. All

1 right.

2 MR. THOMPSON: Ms. Gefter, would it be  
3 appropriate to have the District witness at the  
4 same time?

5 HEARING OFFICER GEFTER: I was going to  
6 ask Mr. Moore whether he is going to be the  
7 witness, or whether you intend to present a  
8 different witness. Mr. Moore, do you want to come  
9 forward and let us know whether the -- whether you  
10 would be available the 21st? And who would be  
11 sponsoring the Air Quality witness? Mr. Thompson,  
12 would you be sponsoring the District witness, or  
13 would Staff?

14 MR. THOMPSON: We -- yeah, as a  
15 procedural matter, Staff --

16 HEARING OFFICER GEFTER: It's typically  
17 Staff.

18 MR. THOMPSON: -- Staff often does it.

19 HEARING OFFICER GEFTER: All right. So  
20 we would -- Mr. Moore, yes, would --

21 MR. MOORE: I'm available on the 21st.

22 HEARING OFFICER GEFTER: You would be  
23 available the 21st to talk about the final  
24 determination of compliance?

25 MR. MOORE: Yes.

1 HEARING OFFICER GEFTER: All right.

2 Very good.

3 MR. MOORE: We might have other people  
4 that would like to talk, too.

5 HEARING OFFICER GEFTER: You'll have  
6 other witnesses --

7 MR. MOORE: Perhaps.

8 HEARING OFFICER GEFTER: -- you would  
9 bring? Okay. So at least yourself, and then one  
10 or two other people from the District.

11 And Mr. Ogata, Staff would be sponsoring  
12 the witnesses from the Air District; is that  
13 correct?

14 MR. OGATA: That's correct, Ms. Gefter.

15 HEARING OFFICER GEFTER: Thank you. And  
16 how many hours do the parties anticipate the  
17 discussion on Air Quality will take? How many  
18 hours?

19 (Laughter.)

20 HEARING OFFICER GEFTER: Can we try to  
21 be realistic on how many hours it will take?  
22 Because we may need to spend half a day on it, do  
23 you suggest --

24 MR. THOMPSON: That's --

25 HEARING OFFICER GEFTER: Yeah.

1                   Public Health, we would also schedule  
2                   Public Health for the same day that we heard Air  
3                   Quality, since the issues are intertwined. And  
4                   how many witnesses will the Applicant have on the  
5                   -- on Public Health?

6                   MR. THOMPSON: One, John Koehler.

7                   HEARING OFFICER GEFTER: One witness.

8                   What is the witness' name?

9                   MR. THOMPSON: John Koehler, K-o-e-h-l-  
10                  e-r.

11                  HEARING OFFICER GEFTER: Okay. And  
12                  Staff, you have a witness on -- on Public Health?

13                  MR. OGATA: Yes, Ms. Gefter. Dr.  
14                  Odoemelam.

15                  HEARING OFFICER GEFTER: Mr. Claycomb,  
16                  will you have a witness on Public --

17                  MR. CLAYCOMB: Yes, ma'am.

18                  HEARING OFFICER GEFTER: Yourself,  
19                  right?

20                  MR. CLAYCOMB: Yes.

21                  HEARING OFFICER GEFTER: And Ms. Duncan?

22                  MS. DUNCAN: No.

23                  HEARING OFFICER GEFTER: Mr. Varanini?

24                  MR. VARANINI: No.

25                  HEARING OFFICER GEFTER: No witness.

1 All right.

2 Okay. Worker Safety and Fire  
3 Protection. Mr. Thompson.

4 MR. THOMPSON: Yes. Worker Safety, our  
5 witness is Denise Clendening, and in Worker Safety  
6 we submitted a declaration and would ask if anyone  
7 has any difficulties with that.

8 In the Fire Protection area, Mr. Al  
9 Williams will be here ready to take the stand.

10 HEARING OFFICER GEFTER: Is there an  
11 issue with respect to Fire Protection?

12 MR. THOMPSON: Not that I know of.

13 HEARING OFFICER GEFTER: But he will be  
14 -- he'll be here, Mr. Williams will be here  
15 anyway.

16 MR. THOMPSON: Exactly.

17 HEARING OFFICER GEFTER: All right.

18 MR. THOMPSON: Except on the 13th.

19 HEARING OFFICER GEFTER: Okay. So he'll  
20 be here on the 14th. All right.

21 I notice that there was some concern  
22 from the Applicant with respect to a condition  
23 under this topic, on Worker Safety. Is that --  
24 can that issue be resolved between the parties?

25 MR. CHILSON: I think these are things

1 we can work with Staff to resolve.

2 HEARING OFFICER GEFTER: Mr. Chilson, I  
3 believe, was the one who submitted that concern.  
4 All right. So that should be resolved. And in  
5 that case, Worker Safety could be submitted by  
6 declaration, without having any witnesses. Is  
7 that -- does Staff agree with that?

8 MR. OGATA: Yes, Staff agrees.

9 HEARING OFFICER GEFTER: Okay. In your  
10 pre-hearing conference statements neither Mr.  
11 Claycomb nor Ms. Duncan indicated a concern with  
12 the Worker Safety testimony. Is that correct?

13 MS. DUNCAN: That's correct.

14 HEARING OFFICER GEFTER: So these --  
15 that topic will be submitted by declaration.

16 Mr. Varanini, do you have any problems  
17 with that?

18 MR. VARANINI: No, we don't.

19 HEARING OFFICER GEFTER: Well, another  
20 one by declaration. All right.

21 The topic of Hazardous Materials. Mr.  
22 Thompson.

23 MR. THOMPSON: Hazardous Materials is  
24 another one of the area -- David Marks, M-a-r-k-s,  
25 he -- he would be our testimony, and we submitted

1 a declaration along with his testimony.

2 HEARING OFFICER GEFTER: All right. And  
3 Staff?

4 MR. OGATA: Staff's witness is Rick  
5 Tyler.

6 HEARING OFFICER GEFTER: Is there any  
7 contested issue in this case, in this particular  
8 topic? I -- I didn't -- from your pre-hearing  
9 conference statements neither Mr. Claycomb nor Ms.  
10 Duncan indicated an issue.

11 Mr. Varanini?

12 MR. VARANINI: No, ma'am.

13 HEARING OFFICER GEFTER: All right. So  
14 this topic on Hazardous Materials will be  
15 submitted by declaration.

16 MR. THOMPSON: And we actually had two  
17 topics that should be folded into the one. Staff  
18 did it the modern way, we did it the 99 way.  
19 Hazardous Materials Handling and Waste Management,  
20 I think they're now included under the one  
21 category.

22 HEARING OFFICER GEFTER: Staff, are you  
23 in agreement with that, that the topics would be  
24 part of one -- one set of testimony?

25 MR. OGATA: No.

1 HEARING OFFICER GEFTER: Staff doesn't  
2 agree with that?

3 MR. THOMPSON: Okay.

4 HEARING OFFICER GEFTER: All right. So  
5 we'll have a separate topic of Waste, and actually  
6 I didn't -- we left the Waste out of this list, so  
7 let's talk about Waste. Okay, Waste will be a  
8 separate topic. You -- has Applicant submitted  
9 testimony on that?

10 MR. THOMPSON: Yes. The same witness,  
11 Mr. Marks, M-a-r-k-s, with a declaration.

12 HEARING OFFICER GEFTER: All right. And  
13 Staff has a separate witness on that topic?

14 MR. OGATA: I believe so, Ms. Gefter.  
15 We're checking to be sure. Yes, that would also  
16 be Dr. Odoemelum.

17 HEARING OFFICER GEFTER: Right, okay.

18 Any Intervenors, do you have any problem  
19 with this being submitted by declaration, on  
20 Waste?

21 MS. DUNCAN: No.

22 MR. CLAYCOMB: No.

23 HEARING OFFICER GEFTER: All right.

24 All right, Biology -- Biological  
25 Resources. Mr. Thompson.

1                   MR. THOMPSON: Yeah. We anticipate that  
2                   this would be a live event. And Mr. Magdych, and  
3                   Ms. Goldman would be our witnesses, I believe. I  
4                   don't think we had anyone else.

5                   HEARING OFFICER GEFTER: Staff will  
6                   present a witness on this; is that correct?

7                   MR. OGATA: That's correct, Rick York.

8                   HEARING OFFICER GEFTER: Rick York. All  
9                   right.

10                  Do any of the Intervenors intend to  
11                  present witnesses on this topic? All right.

12                  In terms of the date for this, I wonder  
13                  if we could do this on the 13th. Yes?

14                  MR. THOMPSON: Yes.

15                  HEARING OFFICER GEFTER: All right.  
16                  Your witness, okay. We'll plan for that. We'll  
17                  see how it works in the order.

18                  MR. THOMPSON: Does the Committee  
19                  anticipate that someone from the U.S. Fish and  
20                  Wildlife Service would be here to lend their  
21                  presence?

22                  HEARING OFFICER GEFTER: We would  
23                  certainly encourage the parties to invite that  
24                  person. And also from Fish and Game.

25                  PRESIDING MEMBER LAURIE: Ms. Gefter,

1 let me ask you. I guess it's a question of proper  
2 Committee procedure.

3 Can't the Committee sponsor its own  
4 witnesses?

5 HEARING OFFICER GEFTER: Yes, we  
6 certainly can.

7 PRESIDING MEMBER LAURIE: So if in our  
8 view certain testimony is essential to fill  
9 potential voids in the record, rather than rely on  
10 one party or the other to submit their witnesses,  
11 and unless we get concurrence that one or the  
12 other will take responsibility to get their  
13 witness here, can we take responsibility for  
14 getting the witness here?

15 HEARING OFFICER GEFTER: Typically, the  
16 -- the Applicant and the Staff have worked with  
17 the staff from these agencies, and will invite  
18 them to attend the hearing. We could certainly --  
19 the Committee will intend to sponsor these  
20 witnesses, but we would request the parties to  
21 invite them to attend. Unless you need a letter  
22 from the Committee.

23 PRESIDING MEMBER LAURIE: I just didn't  
24 see any acknowledgment of -- or response to your  
25 suggestion that the parties take responsibility

1 for contacting the witnesses.

2 HEARING OFFICER GEFTER: All right. Mr.  
3 Ogata.

4 MR. OGATA: Ms. Gefter, I really  
5 appreciate Commissioner Laurie's statement. I  
6 think it would be maybe a little better if the  
7 Committee actually issued those invitations, if  
8 you really wanted those folks there. We can  
9 certainly invite them. We -- we always do, not  
10 with always the greatest amount of luck, however,  
11 in getting witnesses here. So to the extent that  
12 the Committee may have a little more pull than  
13 Staff, I would certainly appreciate having a  
14 letter of invitation from the Committee to those  
15 entities.

16 HEARING OFFICER GEFTER: All right.

17 PRESIDING MEMBER LAURIE: I don't have  
18 any problem with that.

19 HEARING OFFICER GEFTER: And this is  
20 both U.S. Fish and Wildlife Service and the  
21 Department of Fish and Game. Is there a local  
22 staff person at the county level who has been  
23 participating on the biology issue, Mr. Thompson?

24 MR. THOMPSON: I think Staff has the  
25 names. I do believe that there have been local

1 people that have been involved in the discussions.

2 HEARING OFFICER GEFTER: All right.

3 MS. ALLEN: The county's representative  
4 is Don Dickman, from San Diego County Department  
5 of Land Use Planning.

6 HEARING OFFICER GEFTER: All right.  
7 We'll discuss -- we'll get the -- the names and  
8 addresses of the staff people that you've worked  
9 with with these agencies, and we'll contact them.  
10 Thank you.

11 MS. DUNCAN: May I ask a question?

12 HEARING OFFICER GEFTER: Yes.

13 MS. DUNCAN: On Biology.

14 HEARING OFFICER GEFTER: Yes.

15 MS. DUNCAN: I haven't seen the  
16 biological opinion yet, from U.S. Fish and  
17 Wildlife Service, and I believe that Department of  
18 Fish and Game has 30 days after that to issue  
19 their opinion. Would it be premature to be asking  
20 them to come to something on November 13th if  
21 those reports are not issued?

22 HEARING OFFICER GEFTER: Typically, the  
23 Commission has had evidentiary hearings prior to  
24 the issuance of a biological opinion, and the  
25 conditions. Even -- even if you don't have the

1 biological opinion before a Commission decision is  
2 issued, the conditions require the submittal of a  
3 biological opinion before construction can begin.

4 MS. DUNCAN: Well, how would the public  
5 cross examine that witness if they have an issue  
6 with the report, and the report comes out after we  
7 close down evidentiary hearings?

8 MR. THOMPSON: It's -- no, it's a  
9 federal. It's a federal permit. It -- in a  
10 different forum. It's not -- this is not a state  
11 permit. It does not come under the CEC.

12 MS. DUNCAN: Then why are they involved  
13 in this process?

14 MR. THOMPSON: Because they are an  
15 entity that we need an approval from, and a  
16 consultation process to go forward.

17 MS. DUNCAN: So isn't that a LORS?

18 MR. THOMPSON: It is.

19 MS. DUNCAN: Okay. Then I guess my  
20 question stands. If -- if we have a LORS  
21 outstanding, how can we close evidentiary  
22 hearings?

23 MR. THOMPSON: What I think the Staff  
24 would recommend, and what the Commission needs to  
25 find is that the project when constructed and

1 operate will meet all applicable LORS. I think  
2 that's the standard we will apply.

3 HEARING OFFICER GEFTER: And as I  
4 indicated --

5 MS. DUNCAN: So that part's --

6 HEARING OFFICER GEFTER: -- earlier,  
7 that --

8 MS. DUNCAN: Well, what I'm hearing,  
9 then, is that that part of this process is not a  
10 public process? It occurs between Applicant and  
11 Staff?

12 MR. THOMPSON: No. I think what I  
13 intended to portray -- if I failed I apologize --  
14 is that it is a federal process. The -- it's a  
15 federal government entity process, and they have  
16 their own review, regulations, rules, laws that  
17 they --

18 MS. DUNCAN: I understand that.

19 MR. THOMPSON: -- follow.

20 MS. DUNCAN: But I understand that this  
21 has to be certified based on LORS, so it would  
22 appear that you would have an outstanding report.

23 HEARING OFFICER GEFTER: Construction  
24 can't begin until the biological opinion is filed,  
25 and that is included in the biological mitigation

1 -- is it BMR -- BRIMP. I don't remember all the  
2 -- what all the letters stand for right now. But  
3 it is required before they begin construction, and  
4 the mitigation plan has to include all the  
5 conditions that are -- that are listed in the  
6 biological opinion.

7 MS. DUNCAN: But we will possibly not  
8 have that opinion by the date of the evidentiary  
9 hearings, is what I'm saying.

10 HEARING OFFICER GEFTER: That's right.

11 MS. DUNCAN: So isn't the public  
12 compromised here, if that's important to me?

13 MR. OGATA: Ms. Gefter, if I may. Ms.  
14 Duncan has -- has a point that's well made. Let  
15 me explain for her benefit, and members of the  
16 public, how typically this is handled by Staff.

17 It's not uncommon to receive the federal  
18 opinion some time after the evidentiary record is  
19 closed. What we would require from Fish and  
20 Wildlife Service and from Fish and Game is a  
21 statement from them that they have read the  
22 Staff's FSA, and then, of course, Staff's FSA  
23 typically isn't done in a vacuum; it's done in  
24 consultation with those other agencies. And we  
25 would ask them to be able to testify that they are

1 in agreement with Staff's analysis, and typically  
2 we ask for something, you know, 98 percent with  
3 certainty that what Staff says reflecting what we  
4 believe Fish and Wildlife will say and what Fish  
5 and Game will say. And they will come in and say  
6 yes, we agree that this is typically what's going  
7 to happen.

8 So based upon that, Staff believes that  
9 we can go forward with a recommendation that the  
10 project will be in compliance with those LORS.

11 Now, there, you know, is a possibility  
12 that things will change, and if things change the  
13 we're in a different situation. However, in most  
14 of these cases, by the time these projects are  
15 ready to go forward to evidentiary hearing the  
16 agencies have typically done all the  
17 consultations, and they do know what's going to  
18 happen. They just haven't committed it to writing  
19 yet. So based upon a representation from the  
20 agencies that they're in agreement with Staff's  
21 position, that's typically how we go forward.

22 But you're correct that the written  
23 document itself typically isn't ready until later.  
24 But the written document usually confirms what  
25 these folks will tell us at the hearings.

1 MS. DUNCAN: What if it doesn't?

2 MR. OGATA: As I said, then that's a  
3 different situation that we'll have to deal with.

4 MS. DUNCAN: Okay. Then -- then what  
5 happens then?

6 MR. OGATA: Well, the Applicant  
7 certainly has some work to do at that point, with  
8 respect to providing whatever mitigation or making  
9 whatever changes to the project that Fish and  
10 Wildlife Service is recommending. But, again,  
11 that would be a surprise to all of us if that  
12 happened.

13 MS. DUNCAN: Okay. Thank you.

14 HEARING OFFICER GEFTER: All right. The  
15 next topic is Soil and Water.

16 MR. THOMPSON: Thank you. Soils is the  
17 -- is the province of Mr. Ray. We submitted a  
18 declaration along with his testimony. Water is  
19 Nancy Gardener, and we submitted a declaration  
20 along with hers. Although I did note that in  
21 Water, Ms. Duncan in the pre-hearing conference  
22 statement that she may have questions. I did not  
23 see any in the area of Soils.

24 HEARING OFFICER GEFTER: Staff, is there  
25 any remaining contested issues in the area of

1 Water, Soil and Water?

2 MR. OGATA: I don't believe so. We're  
3 not aware of any.

4 HEARING OFFICER GEFTER: Ms. Duncan, did  
5 you have issues that -- with the testimony that  
6 you saw in Soils and Water Resources?

7 MS. DUNCAN: Yes. Condition of  
8 Certification 7.

9 HEARING OFFICER GEFTER: Condition of  
10 Certification? You have questions about the  
11 Conditions of Certification?

12 MS. DUNCAN: I have a disagreement with  
13 --

14 HEARING OFFICER GEFTER: All right.

15 MS. DUNCAN: -- how that's being  
16 handled, regarding recycled water.

17 HEARING OFFICER GEFTER: That would mean  
18 that Staff would need to present a witness with  
19 respect to the conditions, unless that can --  
20 unless, Ms. Duncan, you can speak to Staff and  
21 work it out with them prior to the hearings.

22 MS. DUNCAN: I'd like to have her as a  
23 witness.

24 HEARING OFFICER GEFTER: All right. Are  
25 you going to have questions of the Applicant's

1 witness on Water?

2 MS. DUNCAN: That's possible. Yes.

3 HEARING OFFICER GEFTER: You have cross  
4 examination? We need to know that.

5 MS. DUNCAN: Yes. I want to do that,  
6 yes.

7 MR. THOMPSON: May I ask if it would be  
8 in the -- in the same area as the questions that  
9 you would have for Staff --

10 MS. DUNCAN: Yes.

11 MR. THOMPSON: -- because that would be  
12 a different witness, if I may.

13 MS. DUNCAN: Yes.

14 MR. THOMPSON: Okay. I --

15 MS. DUNCAN: It's regarding the use of  
16 recycled water.

17 MR. THOMPSON: Recycled water. Our best  
18 witness for that would be Mr. Williams. Ms.  
19 Gardener's testimony is about the -- the water --  
20 the water quality, the presence of water, which is  
21 a very minor area.

22 MS. DUNCAN: No. My issue is -- my  
23 issue is use of processed water and --

24 MR. THOMPSON: Okay. That would be --

25 MS. DUNCAN: -- using potable versus

1 recycled.

2 MR. THOMPSON: Okay. That would be Mr.  
3 Williams.

4 MS. DUNCAN: Okay.

5 MR. THOMPSON: And we would make him  
6 available, unless it's the 13th, when this topic  
7 came up.

8 HEARING OFFICER GEFTER: Now, you said  
9 that Mr. Williams is available on the 14th?

10 MR. THOMPSON: Yes.

11 MS. ALLEN: And the 21st. So we'll have  
12 to line up somebody else, and I guess make  
13 arrangements.

14 MR. OGATA: Ms. Gefter, just to let you  
15 know, we're not certain at this point that Ms.  
16 White will be available on the 14th, so if that is  
17 the date that you wanted to have that particular  
18 topic then Staff can provide a different witness  
19 to sponsor the testimony and be present. But  
20 we'll go back and check on that.

21 HEARING OFFICER GEFTER: All right. And  
22 -- and we'll look at how the timing is coming  
23 together here, because it seems that most of the  
24 topics that are contested would be heard on the  
25 14th or the 21st, and we're -- you know, the 13th

1 is still wide open. So we'll see.

2 Cultural Resources.

3 MR. THOMPSON: On Cultural, we submitted  
4 the testimony of Mr. Brian Hatoff, along with a  
5 declaration.

6 HEARING OFFICER GEFTER: All right. Are  
7 there any contested issues, as far as you know?

8 MR. THOMPSON: Not that -- not that I'm  
9 aware of, no. We have some -- there are some  
10 conditions of certification in the testimony of  
11 Mr. Terrell Gault that he raised, but again, I  
12 would hope that if we get with Staff that we can  
13 resolve those.

14 HEARING OFFICER GEFTER: Mr. Ogata, are  
15 there any contested issues as far as you know with  
16 respect to Cultural Resources?

17 MR. OGATA: No.

18 HEARING OFFICER GEFTER: Do any of the  
19 intervenors have any issues with that topic?

20 MR. CLAYCOMB: No.

21 HEARING OFFICER GEFTER: No. All right.  
22 So Cultural Resources can be submitted by  
23 declaration. And the Applicant will work with  
24 Staff to resolve some of the concerns you have  
25 with the language of the conditions, the Cultural

1 Resources.

2 Geology and Paleontology.

3 MR. THOMPSON: Geology is Mr. Williams,  
4 who, as I've said countless times, will be here  
5 the 14th and the 21st. I have not heard any  
6 disagreements in the -- in the area of Geology.

7 Paleo, Mr. Brian Hatoff, again. And  
8 we've submitted Mr. Hatoff's testimony with a  
9 declaration, and have not heard any disagreements  
10 in the Paleo side.

11 I would point out that there are one or  
12 two Terrill Gault compliance issues in that area,  
13 as well.

14 HEARING OFFICER GEFTER: The same --  
15 same kind of language, timing concerns --

16 MR. THOMPSON: Exactly.

17 HEARING OFFICER GEFTER: Okay. And  
18 Staff, are you aware of any contested issues on  
19 these topics, Cultural and Paleo? No?

20 MR. OGATA: Not apart from the  
21 compliance issues.

22 HEARING OFFICER GEFTER: All right. And  
23 so with -- we can, again, Intervenors, do you have  
24 any issues with the testimony on Geology or Paleo?

25 MR. CLAYCOMB: No.

1 MS. DUNCAN: No.

2 HEARING OFFICER GEFTER: No. All right.

3 So we can schedule this for the 13th by  
4 declaration. Staff and the Applicant will get  
5 together and discuss the concerns the Applicant  
6 has with the conditions.

7 All right. And then Land Use is the  
8 next topic. Mr. Thompson.

9 MR. THOMPSON: Thank you. We actually  
10 have three witnesses on various sections of Land  
11 Use. Ms. Krista Bartch, Al Williams, and Sharon  
12 Segner. And my understanding is that not only is  
13 this an area that just came up this last Friday,  
14 and I would hope it be resolved. However, I  
15 understand also that Ms. Duncan raised some Land  
16 Use issues.

17 HEARING OFFICER GEFTER: All right.

18 Staff, are you aware of any contested issues on  
19 Land Use? Okay.

20 Ms. Duncan, do you contest the findings  
21 of the FSA or the Applicant's testimony?

22 MS. DUNCAN: I'm concerned about the  
23 variance. It's important for the record today to  
24 know that such a variance on the height limit down  
25 there is a matter of a ballot initiative right

1 now, on the part of the City of San Diego, as  
2 well. So it's up on the radar for the community  
3 of San Diego to be issuing height variances for  
4 the area.

5 HEARING OFFICER GEFTER: So would you --  
6 would you then want to cross examine a witness on  
7 this topic? What -- what is your concern here?

8 MS. DUNCAN: My concern is a variance  
9 for a 60 foot height limit in order to do this  
10 project. And that it will set a trend under my  
11 opposition, my intervention, which is growth and  
12 sprawl in that area that the community really  
13 doesn't want, and that's why it's part of a ballot  
14 initiative for this upcoming election.

15 PRESIDING MEMBER LAURIE: Okay. So  
16 there is a ballot initiative in opposition to a  
17 request for a variance.

18 MS. DUNCAN: Yes. There's a ballot  
19 initiative to raise the height limit in another  
20 area down there that's been put on the ballot by a  
21 small group of people who want to see that area  
22 developed. And there's a larger group that don't  
23 want to see that area developed in that way.

24 PRESIDING MEMBER LAURIE: And that's on  
25 the November 7th ballot?

1 MS. DUNCAN: Yes.

2 PRESIDING MEMBER LAURIE: Okay. The  
3 question is -- and you believe that that's  
4 relevant to this proceeding?

5 MS. DUNCAN: Yes, I do.

6 PRESIDING MEMBER LAURIE: Okay. So the  
7 question, Ms. Gefter, is what's the best mechanism  
8 to get that information before the Committee. I  
9 suppose I have no difficulty with just an offering  
10 of a proof of comments by the Intervenor. And if  
11 not objected to, then it becomes a matter of the  
12 record. I don't know if we need an outside  
13 witness in order to accomplish that, or if the  
14 facts can be stipulated to.

15 Would it make any sense to have a  
16 statement of proposed testimony prepared, and then  
17 determine whether or not all parties are willing  
18 to stipulate to the facts within that statement?

19 HEARING OFFICER GEFTER: That would be  
20 -- I think we could do that, if Ms. Duncan is  
21 willing to file something.

22 MS. DUNCAN: My primary concern is  
23 around how the variance is issued, and whether or  
24 not, given that this is actually a matter of a  
25 ballot proposal at the city's level, the city land

1 down there, that that's appropriate to just issue  
2 a variance.

3 HEARING OFFICER GEFTER: Well, wouldn't  
4 this be a county variance in the case of Otay?

5 MS. DUNCAN: There's county land down in  
6 that area, and city land. This particular  
7 initiative relates to the city land.

8 HEARING OFFICER GEFTER: All right. But  
9 in the --

10 MS. DUNCAN: But it's in exactly the  
11 same area.

12 HEARING OFFICER GEFTER: In this case  
13 we're looking at, the county -- the county  
14 would've issued a height limitation variance if it  
15 were the --

16 MS. DUNCAN: Correct. For this project.

17 HEARING OFFICER GEFTER: -- the  
18 permitting agency to this project. So the ballot  
19 initiative would not affect the county.

20 MS. DUNCAN: No.

21 HEARING OFFICER GEFTER: No. It's a  
22 city issue; right?

23 MS. DUNCAN: But it -- it's exactly the  
24 same issue.

25 HEARING OFFICER GEFTER: All right. So

1 if you were to file something which explains your  
2 position and your concerns, and the parties could  
3 take a look at that prior to the hearings --

4 MS. DUNCAN: Well, that -- that's part  
5 of this FSA that I just received today.

6 HEARING OFFICER GEFTER: Uh-huh.

7 MS. DUNCAN: So we are going to be doing  
8 that anyway, are we not? Will that help? You  
9 know, it's your call here. I didn't comment on my  
10 pre-hearing conference on Land Use because they  
11 said I hadn't seen the FSA for that, and I just  
12 was handed it this morning, so --

13 HEARING OFFICER GEFTER: Right. You --  
14 you will have an opportunity to make -- file your  
15 comments on the Part 2 of the FSA. And that --  
16 you can include your comments --

17 MS. DUNCAN: Will that help expedite  
18 what we're talking about here?

19 HEARING OFFICER GEFTER: Yes.

20 MS. DUNCAN: Okay.

21 PRESIDING MEMBER LAURIE: Or -- or, if  
22 she desires to offer herself as a witness during  
23 the course of the hearing, well, she can -- she  
24 can do that.

25 HEARING OFFICER GEFTER: She can do

1 that, too.

2 MS. DUNCAN: Okay. I'll be a witness.

3 COMMISSIONER PERNELL: I have a  
4 question. Is the project in the county

5 HEARING OFFICER GEFTER: Yes.

6 MS. DUNCAN: Yes.

7 COMMISSIONER PERNELL: And -- and the --  
8 the proposition on the ballot is a city  
9 proposition?

10 MS. DUNCAN: Yes. The city and the  
11 county are all intermingled down there, in terms  
12 of where the borders are. They often buy each  
13 other's property, do trades, things of this  
14 nature. So in exactly the same vicinity. It's  
15 actually part of what wants to be an international  
16 border crossing park, right in that same general  
17 vicinity there.

18 So they're talking about overturning  
19 just for this particular project in that area the  
20 50 foot height limit, which is ten feet less than  
21 the county's requirement. And they've had to go  
22 to a ballot initiative in an attempt to overcome  
23 that, because that's not what the public wants.  
24 So they're putting it on the ballot. I think it's  
25 relevant to this case in that way, because it's --

1 if you look at the map of what the area that the  
2 city initiative will cover, it's right next door  
3 to where this project's going to be.

4 MS. ALLEN: Ms. Gefter, I --

5 HEARING OFFICER GEFTER: Yes, Ms. Allen.

6 MS. ALLEN: If I may, I would request  
7 that Ms. Duncan submit a map that lays out the  
8 city boundaries and the county boundaries. The  
9 project is in the vicinity of Alta Road, and the  
10 city boundaries, to my knowledge, stop at about  
11 Enrico Fermi and Alta. So we need to lay out  
12 where the city is and where the county is, in  
13 terms of this question, geographically.

14 HEARING OFFICER GEFTER: Ms. Duncan,  
15 could you put -- supply that map?

16 MS. DUNCAN: I think the -- I think the  
17 best that I can do would be to supply the page in  
18 the ballot that outlines where the area is. The  
19 issue is, from my standpoint, what the planning  
20 codes say in terms of height limitations for that  
21 whole area. And the county says 60 feet and the  
22 city says 50. And this variance will be for two  
23 to three times that height for the stacks. And I  
24 -- that's my issue under Land Use.

25 HEARING OFFICER GEFTER: All right.

1 With respect to whether witnesses will be  
2 presented, Applicant indicated that Ms. Segner  
3 will be one of the witnesses on Land Use. So you  
4 would be available to testify and answer questions  
5 of Ms. Duncan at the hearing on that topic?

6 MS. SEGNER: Certainly will be available  
7 and be prepared to address the concerns. I'm not  
8 familiar with the full scope of -- of what Ms.  
9 Duncan is outlining, so we will perhaps ask our  
10 real estate attorneys and others to help out on  
11 this issue, as needed.

12 HEARING OFFICER GEFTER: All right. And  
13 it doesn't look as if Staff's witness would be  
14 required to testify on that topic. Do you -- Ms.  
15 Duncan, do you need to cross examine the Staff  
16 witness, as well?

17 MS. DUNCAN: I might need some  
18 assistance from that Staff person, not necessarily  
19 to cross examine. Perhaps before evidentiary, to  
20 understand better what the zoning and planning  
21 rules are there.

22 HEARING OFFICER GEFTER: What we would  
23 request, then, is for Staff to have the person who  
24 filed the FSA on Land Use to contact Ms. Duncan  
25 and talk to her about concerns she has. But at

1 this point, it doesn't seem that you need to bring  
2 the witness, unless you wish to.

3 MR. OGATA: Well, Ms. Gefter, as I  
4 understand Ms. Duncan's point, there is an  
5 initiative so the citizens will have an  
6 opportunity to decide whether they want the  
7 variance or not. Our Staff person did his  
8 analysis based on conversations and some  
9 correspondence from the county. We put some  
10 conditions for certification in that he believed  
11 would -- that the county would have required had  
12 they had jurisdiction over this case.

13 And so I believe to respond fully to Ms.  
14 Duncan's concerns, Mr. Knight probably should  
15 explain his rationale with respect to, you know,  
16 why he believed the county would've granted this  
17 variance. So it seems that he should be here to  
18 describe that.

19 HEARING OFFICER GEFTER: All right.

20 MS. SEGNER: One thing that's explicit  
21 in the Board of Supervisors five to zero vote on  
22 Otay Mesa was the land use variance.

23 HEARING OFFICER GEFTER: All right.

24 Perhaps both Mr. Knight and Ms. Segner can talk to  
25 Ms. Duncan about her concerns prior to evidentiary

1       hearings.  Maybe this issue can be resolved before  
2       we actually get to the hearing.  If not, then we  
3       -- Applicant would present a witness, Staff would  
4       present its witness, and Ms. Duncan would --

5               MS. DUNCAN:  We will have election  
6       results by then, also.

7               HEARING OFFICER GEFTER:  Right, would  
8       have the information that she is looking for.  All  
9       right.  We can schedule this for the 13th,  
10       November 13th.

11              MR. THOMPSON:  Ms. Bartch, we filed a  
12       declaration, she would -- she's in Land Use, but  
13       also cumulative.  When we get to the cumulative,  
14       if there are no questions, I would ask maybe that  
15       she be taken by declaration, as we have other  
16       witnesses that'll be discussing the issue raised  
17       by Ms. Duncan.

18              HEARING OFFICER GEFTER:  Cumulative Land  
19       Use impacts, is that what you're --

20              MR. THOMPSON:  No --

21              HEARING OFFICER GEFTER:  -- just  
22       cumulative generally.

23              MR. THOMPSON:  Cumulative impacts.  The  
24       section in our AFC.

25              HEARING OFFICER GEFTER:  All right.  You

1 know, with respect to Land Use, the Staff had a  
2 section on -- it's like at the very end, where you  
3 talk about the growth inducing impacts. And it's  
4 -- it seems to be a separate section of the FSA  
5 Part 2, with respect to Land Use.

6 I'm wondering if that -- that discussion  
7 shouldn't also be included in our Land Use -- the  
8 hearing on Land Use. It was at page 369, and I  
9 think it was -- maybe it was in the FSA Part 1.  
10 It was in Part 1. I was wrong. Page 369 on FSA  
11 Part 1. And I wonder if that particular filing  
12 should -- should be included with the Land Use  
13 discussion. All right.

14 MR. OGATA: Yes. We'll do that.

15 HEARING OFFICER GEFTER: Yes. All  
16 right. So when we hear Land Use on November 13th,  
17 that will include the growth inducing issues.

18 PRESIDING MEMBER LAURIE: I have a  
19 question, Ms. Gefter. The Land Use plan for  
20 Brownfield Airport, is this project within the  
21 sphere of influence of the airport?

22 MR. THOMPSON: We submitted a document  
23 as one of our exhibits. Our proposed Exhibit --  
24 now I'm not going to be able to find it -- that --  
25 what we called Exhibit 37 in our material, which

1 is the chart of Brownfield clearances. It was a  
2 -- it was -- it's a chart that shows that -- that  
3 -- I'm not sure I understand sphere of influence  
4 and what that technical term is, but it was --  
5 it's a chart that showed that it's not -- it's not  
6 a hazard.

7 PRESIDING MEMBER LAURIE: Okay. So we  
8 do have the report out of the airport. Or, no.

9 MS. SEGNER: That report from the FAA, I  
10 believe it came out last week. In denial of the  
11 expansion.

12 PRESIDING MEMBER LAURIE: Okay. What I  
13 was referring to is if there's a requirement for a  
14 finding of consistency for any project that's  
15 proposed within a airport district that has  
16 developed a airport plan. So the question is, do  
17 we have that consistency finding?

18 MR. CHILSON: Bill Chilson. We filed  
19 that, and then when we made a modification we  
20 refiled. I would have to ask Mr. Ray in the  
21 audience the status of the FAA determination.

22 HEARING OFFICER GEFTER: You need to  
23 come forward, Mr. Ray. And identify yourself.

24 MR. RAY: My name is Robert Ray, and I'm  
25 the Project Manager for preparation of the AFC. I

1 work with URS Corporation.

2 The notification of alteration of  
3 navigable airspace was filed, and we got a  
4 response back on their -- based on the revised  
5 stack height and facility cross section, that the  
6 facility did not present an obstruction of  
7 navigable airspace. So the FAA is -- has come  
8 back and -- in writing, and said -- and that's  
9 been filed, and it is an exhibit so I believe it  
10 had been filed for the project, that indicate that  
11 there's no problem with respect to the plant  
12 facilities and distance from the airport being in  
13 flight paths.

14 PRESIDING MEMBER LAURIE: Thank you.

15 One more question on Land Use. This was  
16 discussed and I must have missed it. The status  
17 of your parcel map, are you doing a parcel map?

18 MR. CHILSON: Bill Chilson. The parcel  
19 map will be filed November 6th for the splitting  
20 of the parcel. The power plant is located on a  
21 approximately 40 acre parcel, and it's going to be  
22 split into three parcels, one of which will be the  
23 power plant parcel. The map, tentative map is to  
24 be filed November 6th.

25 HEARING OFFICER GEFTER: Off the record.

1 (Off the record.)

2 PRESIDING MEMBER LAURIE: Before we move  
3 off of this topic, I've raised the question with  
4 Ms. Gefter, and I need to seek clarification.

5 This project requires a parcel map,  
6 which is discretionary action from the county.  
7 Staff has not commented as to the parcel map in  
8 their FSA. What's your position on the parcel  
9 map?

10 MR. OGATA: Commissioner Laurie, we have  
11 -- Mr. Knight did take a look at this issue. We  
12 believe that, as we understand it, the filing of  
13 the parcel map doesn't really affect anything with  
14 respect to this project. They are going to split  
15 up some of the land for other kinds of things.  
16 But with respect to having any kind of an impact  
17 on this project, the location of the project, any  
18 of the conditions such, you know, that would be  
19 opposed, that it doesn't affect anything.

20 PRESIDING MEMBER LAURIE: Well, how do  
21 you know?

22 MR. OGATA: Well, I suppose I couldn't  
23 tell you that offhand, because I'm not the  
24 technical analyst, but that's -- that's my  
25 understanding, is that it's not, to use a

1 technical term, a big deal. So I can't tell you.  
2 I -- I'd have to speak to Mr. Knight. But that's  
3 essentially the discussion that we had about it.  
4 So we -- we are aware of it, and it's not an issue  
5 because we neglected it.

6 PRESIDING MEMBER LAURIE: Well, I can  
7 just indicate that the Committee may have some  
8 questions as to the impact of the parcel map, or  
9 the impact of not having the parcel map at the  
10 time of the evidentiary hearing. I think as a  
11 normal course of events, although we act in place  
12 for -- of such items, especially use permits and  
13 variances, past practice has been if subdivisions  
14 are required, then that process is normally  
15 completed by the time we get to hearing. Am I off  
16 on that, Mr. Ogata, or not?

17 MR. OGATA: I think you're correct,  
18 Commissioner Laurie. I think the operative word  
19 you said was it was a subdivision is required. I  
20 don't think subdivision is being required. I  
21 could be wrong about that. Maybe the Applicant  
22 can help on that, but --

23 PRESIDING MEMBER LAURIE: Well, it's  
24 required if the project is a 46 acre project, and  
25 the parcel it sits on is 80 acres.

1           MR. OGATA: Well, as I said, I -- I'll  
2 probably say some really wrong things if I try to  
3 explain our thinking about that. Maybe --

4           PRESIDING MEMBER LAURIE: Okay. Well --

5           MR. OGATA: -- the Applicant could  
6 describe why it is --

7           PRESIDING MEMBER LAURIE: -- let me ask  
8 Mr. Thompson.

9           MR. OGATA: -- the parcel map is being  
10 done, because I -- I understood that it wasn't  
11 something that -- that needed to be done. It was  
12 being done for some other reasons that they should  
13 probably explain.

14           MR. CHILSON: Bill Chilson. Well,  
15 really, the parcel split. You're correct,  
16 Commissioner, it is an 80 acre parcel. We're  
17 taking off 46, and then there's two smaller  
18 parcels to be created.

19           The project could be built without the  
20 lot split. It would just require that the  
21 Applicant -- that's us -- buy 80 acres of land,  
22 instead of 46 acres. Then we would have a legal  
23 parcel. There wouldn't be any problem. The 80  
24 acres of land is certainly available, if we desire  
25 it.

1                   PRESIDING MEMBER LAURIE: Well, again,  
2                   it's not the Committee's position to make, quote,  
3                   a big deal out of something that's not a big deal.  
4                   I guess my concern is the project is described as  
5                   a 46 acre project, and yet it sits on an 80 acre  
6                   parcel, which by necessity requires a split. And  
7                   -- and that's a discretionary county action.

8                   MR. CHILSON: Bill Chilson again. It's  
9                   a discretionary county action. However, through  
10                  Board of Supervisor five-zero resolution, there is  
11                  very high -- very high probability that the lot  
12                  split will be granted.

13                  PRESIDING MEMBER LAURIE: Is there any  
14                  indication what kind of standard conditions or  
15                  special conditions would be imposed on such a  
16                  split?

17                  MR. CHILSON: We have indications from  
18                  basically the requirements for filing a tentative  
19                  map, and so we have, you know, we're meeting those  
20                  requirements. We have fulfilled essentially all  
21                  the requirements for filing the lot split, which  
22                  includes, you know, sign-off by various agencies,  
23                  fire, police, so forth, so on.

24                  PRESIDING MEMBER LAURIE: Who approves  
25                  splits in San Diego? Is it the commission, or

1 some other body? Who do you go in front of? Does  
2 -- does the -- like staff sign off on it, do you  
3 need a public hearing? Who actually conducts it,  
4 do yo know?

5 MR. CHILSON: I am not familiar with  
6 that, Commissioner. I believe it would be the  
7 County Planning Department.

8 PRESIDING MEMBER LAURIE: Oh, they --  
9 they do need a public hearing. So -- and there  
10 will be --there will be a staff report prepared on  
11 it. When is it scheduled to be heard?

12 MR. CHILSON: I don't have that  
13 information.

14 PRESIDING MEMBER LAURIE: I'm sorry. I  
15 thought I heard something about November 9th. Was  
16 that --

17 MR. CHILSON: No, we are planning --

18 PRESIDING MEMBER LAURIE: -- something  
19 different?

20 MR. CHILSON: -- on filing -- we're  
21 planning on filing the lot split application on  
22 November 6th, but it hasn't been set for hearing  
23 yet. We can supply you with a full schedule for  
24 the -- the action.

25 PRESIDING MEMBER LAURIE: Well, I -- I

1       guess the Committee -- well, I can't speak for the  
2       Committee, because we haven't discussed it. But  
3       what my interest is, is if this LORS compliance  
4       includes compliance with the subdivision map act,  
5       and that's not in place yet, what are you going to  
6       be utilizing as a substitute for that? And I just  
7       have to leave that to -- to you all. I -- I don't  
8       know -- if the issue -- well, I don't know why I'm  
9       sitting here today and the issue has suddenly come  
10      up. It could very well be that I'm missing  
11      something. In which case, somebody should --  
12      should tell me.

13                Okay. So I'm -- I'm just advising that  
14      I understand it to be an issue, and you folks have  
15      to -- have to think about it. If in your view it  
16      should not be an issue, then we should be so  
17      advised.

18                MS. SEGNER: Sharon Segner. Would it be  
19      helpful if we, you know, filed our schedule, and  
20      we'll schedule what we envision the process to  
21      look like? And -- and the timeline associated  
22      with it.

23                PRESIDING MEMBER LAURIE: Well, I don't  
24      know. Let me again just pose the challenge that  
25      we need for the record.

1                   We have to find LORS compliance. LORS  
2 compliance includes subdivision map act  
3 requirements. So the record will have to have  
4 testimony as to whether or not the project is in  
5 compliance with the map act. If not, then we need  
6 something else. And I have no idea what that  
7 might be today.

8                   So it's something for you all to think  
9 about. And again, if -- if it is not an issue  
10 because I have some misunderstanding, great, you  
11 will tell us that, too. But I would ask you  
12 ponder.

13                   MS. SEGNER: Sharon Segner. We'd be  
14 happy also to supply a witness during the hearings  
15 to discuss the lot split, as well.

16                   PRESIDING MEMBER LAURIE: Okay. All --  
17 all I'm telling you is that I'm thinking that I  
18 would, as of this moment, I'm concerned. And  
19 somebody needs to either talk about it and suggest  
20 that it is not a relevant issue, or be prepared to  
21 talk about it at the hearing.

22                   MS. SEGNER: Sounds good.

23                   HEARING OFFICER GEFTER: Also, I wanted  
24 to -- with respect to the proposed Conditions of  
25 Certification on Land Use, there are a list of

1 conditions that seem to come perhaps from the  
2 planning commission requirements. Mr. Ogata, do  
3 you know where these conditions came from with  
4 Land Use 1? And also Land Use 2. These seem to  
5 be consistent with some sort of plan. Is this the  
6 --

7 MR. OGATA: Yes, that's -- that's  
8 correct, Ms. Gefter. This information came from  
9 the county, I believe, with respect to information  
10 that Mr. Knight got that would be the county's  
11 requirements in granting a variance for the -- for  
12 the height. And they required, because of the  
13 concern about the height, it would require these  
14 setbacks, and so Mr. Knight incorporated in Land 1  
15 those particular numbers.

16 Land 2 is also the same thing. Because  
17 of the concern about the height, these numbers we  
18 believe are the figures that the Otay Mesa  
19 Generating Company is using to describe its  
20 project. And so Mr. Knight has included these --  
21 these conditions to ensure that the project  
22 doesn't go higher than these limits. And again,  
23 that was his understanding about what the County  
24 of San Diego would require if they were to grant  
25 the height variances.

1 MS. DUNCAN: Excuse me.

2 HEARING OFFICER GEFTER: Ms. Duncan.

3 MS. DUNCAN: This is in -- this is in  
4 the FSA that just -- that I just got this morning.

5 MR. OGATA: Yes.

6 MS. DUNCAN: Can you tell me what page  
7 this is on, please?

8 MR. OGATA: The conditions are on page  
9 107.

10 MS. DUNCAN: Thank you.

11 COMMISSIONER PERNELL: Did Mr. Knight  
12 talk to anybody from the city, or just the county?

13 MS. ALLEN: The county.

14 MR. OGATA: Just the county, I would  
15 assume.

16 COMMISSIONER PERNELL: And is it not a  
17 question of jurisdiction?

18 MR. OGATA: No, this project is in the  
19 county.

20 (Inaudible asides.)

21 PRESIDING MEMBER LAURIE: No. Other  
22 than in reference to my questions about the parcel  
23 map, I referred to Part 2 of the FSA, page 95,  
24 where there is a discussion. And that's helpful  
25 to me. Thank you.

1 HEARING OFFICER GEFTER: All right. We  
2 were talking about scheduling Land Use on November  
3 13th. I'm not sure that we're going to stick with  
4 that date. We'll talk to you about that.

5 MS. ALLEN: Okay.

6 HEARING OFFICER GEFTER: We will -- and  
7 when we issue the hearing order we'll indicate  
8 what date --

9 PRESIDING MEMBER LAURIE: Unless, of  
10 course, Mr. Varanini's motion is granted, at which  
11 time we'll have to rethink all hearing dates.

12 HEARING OFFICER GEFTER: That's correct.  
13 Socioeconomics.

14 MR. THOMPSON: Applicant filed testimony  
15 of Ms. Barati along with a declaration. We have  
16 not heard any socioeconomic issues being raised by  
17 any Intervenor.

18 HEARING OFFICER GEFTER: I do see that  
19 one of the issues that the Applicant had with  
20 respect to compliance had to do with a -- I think  
21 it was a socio condition that Mr. Chilson had  
22 objected to.

23 MR. CHILSON: It was Socio 1.

24 HEARING OFFICER GEFTER: Yes. Do you  
25 believe that the Staff and the Applicant can work

1 out that concern, rather than litigating it?

2 MR. CHILSON: I would hope we could.

3 HEARING OFFICER GEFTER: Mr. Ogata.

4 MR. OGATA: I cannot tell you if we'll  
5 be able to work that out or not, Ms. Gefter.  
6 Frankly, you know, this has been a longstanding  
7 condition. We understand the concerns. At this  
8 point we're happy to talk about it, but I'm not  
9 going to give you any optimistic reading about  
10 whether we'll be able to change that condition or  
11 not to satisfy the Applicant.

12 HEARING OFFICER GEFTER: All right.  
13 Yeah. Well, this -- this condition does appear in  
14 most of the Conditions of Certification at the  
15 Commission. We certainly recognize that.

16 MR. CHILSON: Bill Chilson. We have our  
17 testimony, it's in writing, and I guess the  
18 question would be is there cross examination on  
19 the testimony that's been submitted. I think  
20 we've explained our position.

21 HEARING OFFICER GEFTER: Would the  
22 Applicant be presenting a witness on this topic,  
23 on the language of the -- of the condition?

24 MR. THOMPSON: I guess I would request  
25 that if there is -- that if any of the parties

1 wanted to cross examine on that condition, we will  
2 present a witness. But we would hope that we  
3 could put it in by declaration.

4 HEARING OFFICER GEFTER: All right. But  
5 I would take it that the Staff would contest the  
6 testimony on that issue. Is that correct? Unless  
7 you can work it out before we get to evidentiary  
8 hearings.

9 MR. OGATA: Well, I don't know if it's a  
10 matter of contesting the testimony, per se. You  
11 know, Staff has done its analysis, and there's a  
12 reason for that condition. The Applicant  
13 disagrees. I don't know if there is anything  
14 further to be gained, frankly, by doing the cross  
15 examinations. I think it's a policy call for the  
16 Committee.

17 So the issue is fairly clear-cut, and  
18 it's -- it's understandable to the Committee. I  
19 don't have a problem with just putting this in by  
20 declaration.

21 HEARING OFFICER GEFTER: All right.

22 MR. THOMPSON: We agree.

23 HEARING OFFICER GEFTER: All right. Do  
24 any of the Intervenors have any issues with  
25 Socioeconomics?

1 MR. CLAYCOMB: No.

2 PRESIDING MEMBER LAURIE: Mr. Ogata,  
3 what time --

4 MS. DUNCAN: I -- I didn't address that  
5 specifically, and I'm not familiar with the issue  
6 here. I couldn't do all topics. I'm just one  
7 person. But I would possibly want to cross  
8 examine.

9 MR. OGATA: This actually is an issue  
10 that Ms. Duncan had raised in the past. It's  
11 about buying things locally. So I think Ms.  
12 Duncan would be an appropriate witness, frankly,  
13 for this issue. But, as I said, you know, I think  
14 the issue is fairly clear. It's just a difference  
15 of opinion.

16 MS. DUNCAN: It sounds like it might  
17 need adjudication. I don't know.

18 PRESIDING MEMBER LAURIE: Mr. Ogata,  
19 what time is your flight tonight?

20 MR. OGATA: We have some time,  
21 Commissioner Laurie. I think the flight's at  
22 6:30.

23 PRESIDING MEMBER LAURIE: Okay. We'll  
24 do our best to get you out of here.

25 HEARING OFFICER GEFTER: Mr. Thompson,

1 would your witness be Mr. Chilson, then, on that  
2 particular issue?

3 MR. THOMPSON: Although it's contained  
4 in Ms. Barati's testimony, Mr. Chilson, who would  
5 be here anyway, is -- is an equally adequate  
6 sponsor and could sponsor that portion of -- of  
7 that testimony.

8 PRESIDING MEMBER LAURIE: And I -- I'm  
9 missing something. On which point, Ms. Gefter?

10 HEARING OFFICER GEFTER: On -- on  
11 Condition Socio-1,, is it?

12 MR. THOMPSON: Yes.

13 HEARING OFFICER GEFTER: Okay. The  
14 Applicant has objected to the language that the  
15 Staff has proposed.

16 PRESIDING MEMBER LAURIE: Well, then --  
17 then I -- I think I concur with Mr. Ogata that the  
18 question is in front of us, and I don't --  
19 Applicant is free to provide a witness, but their  
20 position is stated, and Staff's position is  
21 stated, so do you feel that an additional witness  
22 would be -- would provide us any additional  
23 information?

24 HEARING OFFICER GEFTER: I understand  
25 that Ms. Duncan objects, or has some issue with

1 this. I'm not sure what your issue is.

2 MS. DUNCAN: I think the issue is that  
3 we want to see the Applicant use local people and  
4 local vendors. Is that the issue that we're  
5 talking about here?

6 HEARING OFFICER GEFTER: So -- so in  
7 effect you're supporting Staff's position.

8 MS. DUNCAN: Yes.

9 HEARING OFFICER GEFTER: All right.  
10 That's probably all we need, right?

11 PRESIDING MEMBER LAURIE: Okay. Yeah,  
12 but -- but why -- why do we need a witness to say  
13 that?

14 HEARING OFFICER GEFTER: Yeah. She --

15 PRESIDING MEMBER LAURIE: -- the parties  
16 are free simply to state their -- their positions.

17 MS. DUNCAN: We're still on Land Use;  
18 right?

19 HEARING OFFICER GEFTER: No.

20 MS. DUNCAN: No.

21 HEARING OFFICER GEFTER: We're on  
22 Socioeconomics.

23 MS. DUNCAN: We're on Socioeconomics,  
24 but that's kind of tied to that part. It's an  
25 issue that I didn't address. I just couldn't

1 address all of them.

2 HEARING OFFICER GEFTER: The question I  
3 had for you earlier --

4 MS. DUNCAN: I have a lot of issues, as  
5 you know.

6 HEARING OFFICER GEFTER: Do you intend  
7 to cross examine -- do you want to cross examine,  
8 or are you just going to say -- indicate to us  
9 that you support --

10 MS. DUNCAN: I support Staff's position.

11 HEARING OFFICER GEFTER: All right. So  
12 there won't be a cross examination on that. All  
13 right.

14 MS. DUNCAN: I think that's what I said  
15 in my pre-hearing conference statement.

16 HEARING OFFICER GEFTER: Okay. Thank  
17 you. All right.

18 The next topic is Noise.

19 MR. THOMPSON: Applicant has as its  
20 Noise witness Mr. Williams, who unfortunately  
21 would not be available on the 13th, but will be  
22 here the 14th and 21.

23 HEARING OFFICER GEFTER: And it's by  
24 declaration?

25 MR. THOMPSON: I did not submit a

1 declaration -- I could submit a declaration; I did  
2 not because he would be here anyway.

3 HEARING OFFICER GEFTER: All right.  
4 Staff.

5 MR. OGATA: Our witness is Kisabuli, and  
6 we believe this could be handled by declaration.

7 MR. THOMPSON: We -- we will have no  
8 cross of Mr. Kisabuli.

9 HEARING OFFICER GEFTER: All right.  
10 Intervenors have any issues with the topic of  
11 noise?

12 MR. CLAYCOMB: No.

13 HEARING OFFICER GEFTER: All right.  
14 This could be submitted by declaration. And I'm  
15 putting down November 13th.

16 Traffic and Transportation. Staff  
17 issued their FSA Part 2 on Traffic on the 27th, so  
18 if we have a hearing on it it's going to be at  
19 least the 21st, or if -- if not later.

20 Applicant, on this topic, it remains  
21 unresolved, according to the FSA.

22 MR. THOMPSON: Yes. We have two  
23 witnesses. They will be available the 21st. It  
24 could be more, depending, but it looks like there  
25 will be two.

1 HEARING OFFICER GEFTER: And Staff,  
2 would you be presenting a witness on this?

3 MR. OGATA: Yes, Ms. Gefter. Jim Adams.

4 HEARING OFFICER GEFTER: All right. Do  
5 -- when do you believe that this issue will be  
6 resolved, Staff?

7 MS. ALLEN: We are interested in the --  
8 we are interested in the Applicant's progress on  
9 the expansion of their existing traffic study for  
10 the intersections in the area of the alternate  
11 route. We had a workshop on October 18th, where  
12 there seemed to be general agreement that the  
13 Applicant would extend their analysis for that  
14 area. So the extended analysis was the first step  
15 prior to working out a series of implementation  
16 steps with the three traffic entities involved.

17 MR. THOMPSON: Mr. Robert Ray of URS.

18 MR. RAY: Robert Ray. We are currently  
19 looking at what the various options are for  
20 addressing the problem, considering the input that  
21 we received from the agencies, including the  
22 Energy Commission Staff and Caltrans, County and  
23 City of San Diego at the recent traffic workshop.  
24 And we are planning to have the results of that  
25 additional traffic study, and perhaps a -- a

1 conceptual design plan for redo of intersections  
2 and/or other alternate plans, as appropriate,  
3 completed prior to November 13th hearing.

4 HEARING OFFICER GEFTER: Does this  
5 require approval by Caltrans, or the county?

6 MR. RAY: It -- it will probably involve  
7 some -- depending on what the final plan is, it  
8 will probably involve approval by Caltrans, the  
9 county, the city, and, I'm assuming, the Energy  
10 Commission, as well.

11 HEARING OFFICER GEFTER: And you would  
12 have this approval by November 13th?

13 MR. RAY: No, we would not have the  
14 approval by the 13th. We would have done the --  
15 some additional coordination, and tried, to the --  
16 to the best of our ability, to put together a plan  
17 that was going to satisfy everybody's needs, based  
18 on our understanding of the needs, and to have a  
19 draft plan done. But it certainly would not be  
20 approved by that date.

21 HEARING OFFICER GEFTER: Okay.

22 MR. RAY: It'd be ready for -- basically  
23 for submittal, for presentation.

24 HEARING OFFICER GEFTER: Okay. Thank  
25 you.

1           Well, since this -- at this point, the  
2           topic is going to require witnesses, we can  
3           schedule it probably November 21st, or into  
4           December. We do have a backup date of December  
5           4th, and we may be using that date for more than  
6           just Traffic. So we'll see.

7           And then Visual Resources.

8           MR. THOMPSON: We submitted the  
9           testimony of Mr. Larry Hedley, along with a  
10          declaration, and we have not seen anything in the  
11          pre-hearing conference statements to indicate that  
12          there are issues in the Visual area.

13          HEARING OFFICER GEFTER: Staff.

14          MR. OGATA: Out witness is David Flores,  
15          and we believe this one can be handled by  
16          declaration also.

17          HEARING OFFICER GEFTER: Do any of the  
18          Intervenors have any issues with Visual Resources?

19          MR. CLAYCOMB: No.

20          HEARING OFFICER GEFTER: All right. So  
21          this can be submitted by declaration. Okay.

22          And then Cumulative Impacts. Now, are  
23          you planning -- is the Applicant planning to  
24          submit this topic as a separate topic, or are you  
25          going to do Cumulative Impacts with each topic?

1           MR. THOMPSON: In our AFC we had a  
2 section on Cumulative Impacts that was current as  
3 of the day we filed the AFC. Ms. Bartch is the  
4 sponsor for that. What I have heard today on  
5 various areas may be falling into Cumulative  
6 Impacts, or -- or other impacts on the  
7 transmission and gas issues would be in the  
8 province of someone else. And so I guess I would  
9 ask that -- that we handle Ms. Bartch's material,  
10 which is the AFC Cumulative Impacts by  
11 declaration.

12           HEARING OFFICER GEFTER: Well, the --  
13 what we had talked about doing earlier with the  
14 issues with respect to gas reliability and  
15 availability was to divide it up and do the  
16 availability issues on the 14th, and then the  
17 impacts on air quality on the same day we do air  
18 quality.

19           MR. THOMPSON: That's fine. Either way  
20 that goes Ms. Bartch is not the right witness for  
21 any of that.

22           HEARING OFFICER GEFTER: Right. That's  
23 right. So you would have a separate witness for  
24 --

25           MR. THOMPSON: Yes, we would.

1                   HEARING OFFICER GEFTER:  -- and you'd  
2                   indicate who these witnesses are.  We -- all  
3                   right.

4                   We've gone through all of the topics.  I  
5                   neglected to ask SDG&E whether you would be  
6                   presenting cross examination or witnesses on any  
7                   topics.  I'd like to ask you now.

8                   MR. THORP:  Okay.  Thank you, Ms.  
9                   Gefter.

10                  SDG&E doesn't plan to do any cross  
11                  examination based upon the testimony, the FSA that  
12                  we've seen so far.  We reserve the right to  
13                  present cross examination, depending on the  
14                  testimony that is submitted by the Intervenors  
15                  that they -- that the Committee will specify.

16                  As we noted in our pre-hearing  
17                  conference statement, there are certain factual  
18                  matters that we believe are inaccurate in the FSA  
19                  that we are planning to submit testimony on.  It  
20                  may be, again, we think these are minor matters.  
21                  They don't affect the overall conclusions reached  
22                  by Staff in the two sections that we were  
23                  concerned about, Electric Transmission  
24                  Engineering, Gas System Capacity, but we feel that  
25                  these items should be dealt with so that the

1 record is clear on those particular points.

2 It may very well be that we can reach  
3 agreement with Staff so that no actual hearing  
4 time is taken up by these issues, but we plan on  
5 presenting two witnesses, one for Electric  
6 Transmission Engineering and one for Gas System  
7 Capacity.

8 PRESIDING MEMBER LAURIE: And in the  
9 interim, you will communicate with Staff regarding  
10 your factual concerns and determine whether or not  
11 they are willing to modify their own facts to be  
12 in line with yours?

13 MR. THORP: We certainly can. In fact,  
14 that was my initial impulse until I checked and  
15 found out that to actually be proper here, we had  
16 to submit testimony. But, yes, we plan to  
17 approach Staff and see if these matters can be  
18 resolved so that we don't have to have a witness  
19 here talking about whether system capacity is 565  
20 or 575.

21 PRESIDING MEMBER LAURIE: Through  
22 whatever legal mechanisms or process permits.

23 HEARING OFFICER GEFTER: All right. We  
24 were going to try to summarize what the schedule  
25 will be, having gone through the topics. And then

1 we'll ask for public comment.

2 At this point, it looks like we're going  
3 to have testimony on a number of topics that we  
4 hadn't originally scheduled. And also, in light  
5 of Cabrillo's request to extend the schedule, I  
6 don't believe at this point we can actually give  
7 you the -- the dates on which these topics will be  
8 heard.

9 We began today's hearing indicating that  
10 November 13th and 14th are our dates. And we can  
11 still use those dates for some of the topics, and  
12 we'll see whether we'll need extra dates to  
13 accommodate some of the testimony that we  
14 anticipate.

15 I believe we could probably -- we had  
16 indicated November 21st for Air Quality, and the  
17 issues regarding the impacts of gas curtailment on  
18 Air Quality in the region, and that would be heard  
19 on the same day. So Air Quality, Public Health,  
20 and the impacts on Air Quality from gas  
21 curtailment will be heard on one day, and it's  
22 most likely to be the 21st.

23 We also, as I said, had December 4th as  
24 a backup date. We will indicate to you the -- the  
25 dates for hearing in a hearing order that will be

1 coming out this week.

2 MS. ALLEN: Ms. Gefter.

3 HEARING OFFICER GEFTER: Yes.

4 MS. ALLEN: We need some clarification  
5 on how you envision Alternatives being scheduled.

6 HEARING OFFICER GEFTER: Right.

7 MS. ALLEN: As far as Alternatives,  
8 Staff talked with Mr. Soinski about appearing to  
9 address his area of expertise, fuel cells and  
10 photovoltaics. And he said that he would be in  
11 San Diego the weekend just prior to the 13th, so  
12 the 13th would work well for him.

13 The legitimate items that Mr. Varanini  
14 has brought up are a rather different sector of  
15 Alternatives. So I'm wondering whether part of  
16 Alternatives would be appropriate for the 13th,  
17 and the Alternatives discussion that's more  
18 related to gas issues could be heard perhaps on  
19 the 21st.

20 HEARING OFFICER GEFTER: All right.  
21 That -- we will certainly consider that. And I  
22 know you have indicated that Mr. Soinski is  
23 available November 13th, and we'll try to  
24 accommodate his schedule.

25 MS. ALLEN: Thank you.

1                   HEARING OFFICER GEFTER:  But we'll see.  
2                   We can't promise yet.

3                   MS. ALLEN:  Yes.

4                   HEARING OFFICER GEFTER:  All right.

5                   Also, there are a couple of members of  
6                   the public who are here.  We'd like to ask you to  
7                   come forward and indicate what your issues are,  
8                   and make your comments at this time.

9                   PRESIDING MEMBER LAURIE:  Certainly, you  
10                  do not have to.

11                  HEARING OFFICER GEFTER:  Oh, and you  
12                  don't have to.

13                  PRESIDING MEMBER LAURIE:  You are -- you  
14                  are being invited to offer comments should you  
15                  desire to do so.

16                  MS. McCUTCHAN:  Melanie, from  
17                  Environmental -- Melanie McCutchan from  
18                  Environmental Health Coalition.

19                  What really brought me here today was my  
20                  concern about the natural gas curtailment issue  
21                  and the impacts that that could have on residents  
22                  in San Diego County in general, but particularly  
23                  near Encina and the South Bay plants, should they  
24                  be forced to use residual fuel oil.  And I still  
25                  need to educate myself more on this topic, but

1 that was certainly something that is a concern for  
2 our organization.

3 Thanks.

4 HEARING OFFICER GEFTER: Thank you.

5 Okay. Is there anyone else who would  
6 like to address the Committee? All right.

7 MR. THOMPSON: Ms. Gefter.

8 HEARING OFFICER GEFTER: Yes.

9 MR. THOMPSON: If I may. Noise, you  
10 said would be the 13th, and that would be Mr.  
11 Williams. If -- if it would please the Committee,  
12 I would like to submit declarations on -- from Mr.  
13 Williams on Noise, Fire Protection, and Geology.  
14 Those are areas where there was no cross  
15 indicated, but where I volunteered his presence  
16 because he was going to be here anyway on the  
17 14th. If the Committee would like those on the  
18 13th, I can submit declarations.

19 HEARING OFFICER GEFTER: I'll certainly  
20 -- okay, I'll certainly keep that in mind when  
21 we're scheduling topics.

22 MR. THOMPSON: Additionally, we -- thank  
23 you. Additionally, we have had inquiries from a  
24 number of political representatives in the area  
25 asking the Applicant what would be an appropriate

1 time to come and address the Committee. It may be  
2 that the afternoon of the 13th could be such a  
3 time.

4 HEARING OFFICER GEFTER: All right.  
5 Well, this would be time set aside for public  
6 comment. Is that what you're requesting?

7 MR. THOMPSON: Yes.

8 HEARING OFFICER GEFTER: We'll certainly  
9 take that into account, too.

10 Are there any further comments, because  
11 we could adjourn shortly, and then Staff could  
12 conduct the workshop on Air Quality on the FSA.

13 MR. OGATA: Yes, Ms. Gefter. There was  
14 one other issue that we were wondering about.  
15 Apart from convening a workshop on the Air Quality  
16 today, we're also wondering if the Committee would  
17 be willing to extend the pre-hearing conference to  
18 some date certain for the express purpose of the  
19 parties discussing some of the outstanding issues  
20 in these areas.

21 Tuesday, November 7th, I believe, is a  
22 date that we just picked out of the air,  
23 basically, at this point in time, without  
24 consulting any of the parties. But something to  
25 that effect, so that we would have another

1 opportunity to discuss these issues with all the  
2 parties and try to resolve some of these issues.

3 The noticing issues, as you're aware of,  
4 makes it difficult for us to get an actual notice  
5 out prior to the 13th, so we just thought that  
6 this might be another way that we have an  
7 opportunity to meet and confer.

8 HEARING OFFICER GEFTER: All right.  
9 Let's just -- let's break that up a little bit.

10 This afternoon, we -- because all the  
11 parties are here, we can actually go into a  
12 workshop, right. And so there will be a workshop  
13 on the FSA Part 2.

14 MS. DUNCAN: Excuse me. I can't stay.  
15 How long will the workshop last?

16 MR. OGATA: Ms. Duncan, our intent is  
17 not to discuss the issues necessarily, just to  
18 allow Mr. Layton, our Air Quality expert, to just  
19 explain what he has in his Air Quality FSA.

20 MS. DUNCAN: How long will that take?

21 MR. OGATA: Ten minutes.

22 MS. DUNCAN: Okay.

23 HEARING OFFICER GEFTER: All right. And  
24 then we are also, I understand Staff will be  
25 scheduling a workshop in the morning of November

1 13th. Right?

2 MR. OGATA: Correct.

3 HEARING OFFICER GEFTER: Okay. And now  
4 you're asking us to continue the pre-hearing  
5 conference to another date so that you don't have  
6 to notice a workshop.

7 MR. OGATA: Well, the reason for that is  
8 because looking at some of these issues, we're not  
9 sure that the morning of the 13th will be  
10 sufficient time. So things like the Compliance  
11 issues, where they're -- Applicant is looking for  
12 a change of timeframes from, as an example, 90  
13 days to 30 days, something to that effect, we  
14 believe those could be handled actually over the  
15 telephone, as opposed to face to face. And if  
16 we're able to resolve those issues, that would  
17 give us additional time to work on some of the  
18 other more substantive issues.

19 PRESIDING MEMBER LAURIE: Can't you --  
20 and this question is directed to you, Ms. Gefter,  
21 as much as anybody else -- if you resolve issues,  
22 can't you write us a letter and tell us you've  
23 resolved issues, and so we're simply aware of  
24 that, and we'll with it appropriately during --  
25 when we convene the hearing?

1           MR. OGATA: Commissioner Laurie, I'm not  
2 suggesting that the Committee actually meet to do  
3 that. I'm just asking that the Committee extend  
4 its wing and order that the parties meet and  
5 confer about these particular issues in a workshop  
6 forum.

7           MR. THOMPSON: I would support that  
8 wholeheartedly, and part of the reason is that, as  
9 you're aware, Mr. Gault's testimony touched on  
10 five or six or seven substantive areas. Getting  
11 all those people in a room would be difficult. If  
12 we can do something like this by phone, I think it  
13 could help a great deal.

14           PRESIDING MEMBER LAURIE: Then we'd have  
15 to issue an interim order.

16           HEARING OFFICER GEFTER: No. It would  
17 be a continuance. But we also could order the  
18 parties to meet, and that would be an order on our  
19 part.

20                   But would this be a teleconference?

21           It's --

22           MR. OGATA: That would be our  
23 preference, yes.

24           HEARING OFFICER GEFTER: Okay. Also,  
25 you know, the parties can consult with one another

1 without having to issue a notice of hearing, a  
2 notice of a workshop. And the parties, the  
3 Applicant and the Staff, and the Intervenors, can  
4 all consult with each other, and can speak to each  
5 other without having to have a notice of workshop.  
6 You understand that. So, I mean, that's another  
7 part of the picture.

8 But are you asking for an oral order?  
9 Is that what you're asking?

10 MR. OGATA: Well, we are just trying to  
11 ensure that the public process is perfectly clear.  
12 I think all the parties that are interested in  
13 this proceeding are here today, so notice to them  
14 that we're going to have this telephone conference  
15 I think would take care of probably 90 percent of  
16 -- or more, of the people who need to have this  
17 notice. We would certainly put it on the  
18 Internet. We'd post it, we'd send e-mails, we'd  
19 do all the things we normally do, short of issuing  
20 a formal notice that's signed by the Committee  
21 that Staff is holding a workshop.

22 HEARING OFFICER GEFTER: Uh-huh. And  
23 you would also indicate the phone number that  
24 everyone could use to call.

25 MR. OGATA: Yes.

1 HEARING OFFICER GEFTER: All right.

2 MS. SEGNER: I think, in light of  
3 November 7th being Election Day, that a  
4 teleconference would probably be the best means.

5 HEARING OFFICER GEFTER: It could be  
6 another day, too. It can be the 8th. It just --

7 MR. CLAYCOMB: It'd have to be in the  
8 afternoon.

9 HEARING OFFICER GEFTER: That's not a  
10 good day. It could be a different day.

11 MS. SEGNER: I just want to vote.  
12 That's all.

13 HEARING OFFICER GEFTER: All right.  
14 Basically, did you pick that day because that's  
15 within a week from now? Why don't we --

16 MR. OGATA: Yeah, actually that was,  
17 like I said, we hadn't thought out all the  
18 ramifications of the day. We just avoided the  
19 Business Meeting on the 8th, and, you know, but  
20 went for a different day.

21 HEARING OFFICER GEFTER: All right. The  
22 Committee has no objection to continuing this pre-  
23 hearing conference to allow the parties to consult  
24 on outstanding matters. And we can indicate a day  
25 at this time. And would that -- would you prefer

1 a different date besides the 7th -- the 8th or the  
2 9th?

3 MR. OGATA: How about the 9th. How are  
4 the parties with the 9th?

5 HEARING OFFICER GEFTER: That's fine.  
6 All right. So the pre-hearing conference will  
7 reconvene by teleconference, and we would then  
8 adjourn into a workshop, and the Commissioners  
9 won't be there, on the 9th. Then you can -- oh,  
10 what time would you like to do this, so that  
11 everybody present can be prepared?

12 MR. OGATA: Ten o'clock.

13 HEARING OFFICER GEFTER: Okay, November  
14 9th, 10:00 o'clock, there will be a  
15 teleconference, which means you can call toll free  
16 into a number, and you'll be able to participate  
17 with the Staff and the Applicant in discussing  
18 outstanding issues. And what would the issues be,  
19 Mr. Ogata?

20 MR. OGATA: We'll handle the Compliance  
21 issues, for certain. And then to the extent that  
22 we have time, I believe we'll plan on doing this  
23 for maybe an hour, and take -- or maybe two hours,  
24 I suppose we can notice it for two hours. And to  
25 the extent that we have time, we can try to

1 address some of these other issues that are  
2 outstanding.

3 HEARING OFFICER GEFTER: One of the  
4 issues that we would like to get information on is  
5 the parcel map issue.

6 PRESIDING MEMBER LAURIE: We may not  
7 need much more than what's on page 75, but go  
8 ahead and take a look at it.

9 HEARING OFFICER GEFTER: Are there any  
10 further comments from any of the parties? I'll  
11 give you a minute to gather your thoughts.

12 Ms. Fleming? No.

13 All right. Based on today's  
14 proceedings, we will issue a hearing order that  
15 will set forth the dates for the hearings, and we  
16 will take everyone's comments into account.

17 PRESIDING MEMBER LAURIE: And we will be  
18 ruling on Mr. Varanini's motion at the same time;  
19 is that correct?

20 HEARING OFFICER GEFTER: Yes.

21 PRESIDING MEMBER LAURIE: Are you done  
22 with your business, Ms. Gefter?

23 I would simply note for our public  
24 intervenors, you are not going to be penalized by  
25 this Committee for your lack of legal procedure

1 knowledge. Our expectation is that all parties  
2 will not intentionally seek to delay these  
3 proceedings. And any -- any indication to us that  
4 that's occurring will result in a response from  
5 us.

6 That being said, you will have ample  
7 opportunity to express your views, to express your  
8 concerns, to ask those questions that you need to  
9 ask, to offer those comments that you need to  
10 offer.

11 In regards to the attorneys present, we  
12 understand that this will be, at least in part, an  
13 adversarial proceeding. The Committee has the  
14 deepest respect for all of those present, and we  
15 do expect a more formalized proceeding than we  
16 normally see. That does not cause us concern.  
17 But the same rules would apply.

18 We will be proceeding, at such time as  
19 we go to hearing, we will be proceeding  
20 expeditiously. That does not mean that under any  
21 circumstances you are going to be asked to cut  
22 off, delay -- strike that. Cut off, shorten, or  
23 otherwise not be permitted to introduce relevant  
24 evidence that you deem necessary. Okay. If we  
25 have to add days, we will add days, to make sure

1 that our record is complete.

2 Commissioner Pernell, sir, did you have  
3 any comments?

4 COMMISSIONER PERNELL: I would just add  
5 that -- I would just add that once we get -- once  
6 you get the hearing order, please be ready. Come  
7 ready to present your case. As Commissioner  
8 Laurie has said, we will adjust our schedules to  
9 accommodate, but I would advise you to be ready.  
10 And that is Applicant, Staff, Intervenors, and all  
11 interested parties.

12 PRESIDING MEMBER LAURIE: Thank you.

13 MR. THOMPSON: Mr. Commissioner, thank  
14 you for those remarks, both Commissioners. We  
15 will be ready. Thank you for your announced  
16 intention to expedite the hearings.

17 We, for our part, will -- would remain  
18 flexible throughout the hearings. We would like,  
19 for example, to start early and go late. We can  
20 move witnesses around if it is to the best  
21 interest of the Intervenors and the Committee. We  
22 will be ready and we will be flexible, and we  
23 appreciate that.

24 PRESIDING MEMBER LAURIE: Thank you, Mr.  
25 Thompson.

1 HEARING OFFICER GEFTER: I take it there  
2 are no further comments, and we can adjourn the  
3 hearing.

4 MS. DUNCAN: I had a question. I -- I  
5 thought I heard something about a workshop at --

6 PRESIDING MEMBER LAURIE: Yes, that's  
7 going to be -- going to be conducted right now, as  
8 soon as the Committee adjourns itself.

9 MS. DUNCAN: No, there was going to be  
10 another one after the teleconference. Right? So  
11 how many hours on that day are we talking about?

12 MR. OGATA: Oh, I think two hours on the  
13 10th. Or the 9th, I'm sorry. From --

14 MS. DUNCAN: And then a teleconference  
15 workshop after that?

16 MR. OGATA: And then we're planning on  
17 holding a -- a in person workshop on the morning  
18 of the 13th.

19 MS. DUNCAN: Okay. Thank you.

20 HEARING OFFICER GEFTER: Valorie, this  
21 is -- we're all done.

22 (Thereupon the Pre-Hearing Conference  
23 was adjourned at 5:00 p.m.)

24

25

## 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 Pre-Hearing Conference; 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 Pre-Hearing Conference, nor in any way interested in the outcome of said Conference.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of November, 2000.

VALORIE PHILLIPS

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