

HEARING  
BEFORE THE  
CALIFORNIA ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

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

SAN DIEGO COUNTY ADMINISTRATION BUILDING  
BOARD CHAMBERS, ROOM 380  
1600 PACIFIC HIGHWAY  
SAN DIEGO, CALIFORNIA

MONDAY, NOVEMBER 20, 2000

3:05 P.M.

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

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

Robert Laurie, Presiding Member

STAFF PRESENT

Susan Gefter, Hearing Officer

Scott Tomashefsky, Advisor to  
Commissioner Laurie

Ellen Townsend-Smith, Advisor to  
Commissioner Pernell

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## I N D E X

	Page
Proceedings	1
Introductions	1
Topics	
Biological Resources	8
Applicant witness W. Magdych	9
Direct Examination by Mr. Thompson	9
Exhibits	9/10
Applicant witness S. Guldman	11,31
Direct Examination by Mr. Thompson	11,31
Exhibits	11/16
Examination by Committee	34
CEC Staff witness R. York	16
Direct Examination by Ms. DeCarlo	16
Exhibits	16
Examination by Committee	25
CEC Staff-sponsored witness J. Hazard, U.S. Fish and Wildlife Service	28
Direct Examination by Ms. DeCarlo	28
Exhibits	28
Soil and Water Resources	36
Applicant witness N. Gardiner (declaration)	36
Exhibits	36
Applicant witness A. Williams	38
Direct Examination by Mr. Thompson	38
Cross-Examination by Ms. Duncan	40
Redirect Examination by Mr. Thompson	42
Recross-Examination by Ms. Duncan	44
Cross-Examination by Mr. Claycomb	50
Applicant witness R. Ray	53
Direct Examination by Mr. Thompson	54
Exhibits	54/57
CEC Staff witness E. Allen	59
Direct Examination by Mr. Ogata	59
Exhibits	59

## I N D E X

Topics	Page
Power Plant Reliability and Efficiency-cont'd.	
Committee Focus	62
Positions/Discussion	64
Applicant	64
CEC Staff	65
Intervenor Cabrillo Power	70
Intervenor Duke Energy	77
Intervenor Duncan	78
Applicant witness T. Beach	82
Direct Examination by Mr. Hanschen	82,99
Exhibits	93/137
Voir Dire by Ms. Luckhardt	96
Cross-Examination by Mr. Goldman	110
Redirect Examination by Mr. Hanschen	126
Recross-Examination by Ms. Luckhardt	129
Applicant witness J. Filippi	130
Direct Examination by Mr. Hanschen	130
Cross-Examination by Mr. Goldman	131
Cross-Examination by Ms. Luckhardt	133
Exhibits	137
CEC Witness W. Wood	138
Direct Examination by Mr. Ogata	138
Cross-Examination by Mr. Goldman	140
Intervenor Cabrillo witness R. Weatherwax	143
Direct Examination by Mr. Varanini	143
Exhibits	146/214
Cross-Examination by Ms. Luckhardt	172,181
Examination by Committee	180
Cross-Examination by Mr. Hanschen	182
Exhibit 92	214
Committee witness L. Tobias	218
Examination by Committee	218
Cross-Examination by Ms. Duncan	221
Adjournment	224
Certificate of Reporter	225

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

2 3:05 p.m.

3 PRESIDING MEMBER LAURIE: Ladies and  
4 gentlemen, welcome to the continued hearing of the  
5 Otay Mesa Generating Project.6 My name is Robert Laurie, Commissioner  
7 at the California Energy Commission, Presiding  
8 Member of the Siting Committee hearing the case  
9 that will be making recommendations to the full  
10 Commission.11 To my left is Ms. Susan Gefter, the  
12 Hearing Officer assigned to this case. And to my  
13 right is my Senior Advisor Mr. Scott Tomashefsky.14 Ms. Gefter will be administering these  
15 proceedings. I'd like to now call upon her to  
16 chat a little bit about the issues to be discussed  
17 today, an introduction of the parties, and the  
18 process to be utilized. Ms. Gefter.19 HEARING OFFICER GEFTER: Thank you. I'd  
20 like the parties to introduce themselves for the  
21 record. Start with the applicant.22 MR. THOMPSON: Allan Thompson  
23 representing PG&E National Energy Group in the  
24 Otay Mesa proceeding.

25 MS. SEGNER: Sharon Segner, PG&amp;E

1 National Energy Group.

2 MR. CARROLL: Mike Carroll, Latham and  
3 Watkins, on behalf of PG&E National Energy Group.

4 HEARING OFFICER GEFTER: Thank you.  
5 Staff.

6 MS. ALLEN: Eileen Allen, Energy  
7 Commission Staff Project Manager.

8 MS. DeCARLO: Lisa DeCarlo, Staff  
9 Counsel, Energy Commission.

10 MR. OGATA: Jeff Ogata, CEC Staff  
11 Counsel.

12 HEARING OFFICER GEFTER: And the  
13 intervenors, starting with Cabrillo Power.

14 MR. GOLDMAN: Matt Goldman, Livingston  
15 and Mattesich, for intervenor Cabrillo Power One.

16 MR. VARANINI: Gene Varanini from  
17 Livingston and Mattesich, for Cabrillo.

18 HEARING OFFICER GEFTER: Duke Energy.

19 MS. LUCKHARDT: Jane Luckhardt from  
20 Downey, Brand, Seymour and Rohwer representing  
21 Duke Energy North America.

22 HEARING OFFICER GEFTER: Thank you. Mr.  
23 Claycomb.

24 MR. CLAYCOMB: I'm William E. Claycomb,  
25 President of Save Our Bay, Inc., intervenor.

1 HEARING OFFICER GEFTER: Thank you. Ms.  
2 Duncan.

3 MS. DUNCAN: Holly Duncan, intervenor;  
4 concerned citizen, member of the public.

5 HEARING OFFICER GEFTER: Thank you. Is  
6 there a representative here today from CURE?

7 And I know there are representatives of  
8 U.S. Fish and Wildlife Service. Is there anyone  
9 else from any other agency present right now?

10 All right. This is a continuation of  
11 the evidentiary hearings that began last week.  
12 The topics that we will hear today include  
13 biological resources, soil and water resources,  
14 and a continuation of the issues related to power  
15 plant reliability and efficiency with concerns  
16 about gas supply and availability to this San  
17 Diego region.

18 We will begin with the topic, biological  
19 resources. Before we begin I noticed there were a  
20 number of housekeeping items that the parties  
21 wanted to talk to us about, and with the applicant  
22 with respect to clearing up the exhibit list.

23 MR. THOMPSON: Yes. I have one change.  
24 Exhibit 5 reads SDG&E comments to the AFC. It  
25 actually should by County of San Diego comments to

1 the AFC.

2 All the rest, the dates and description  
3 is the same.

4 HEARING OFFICER GEFTER: Does staff have  
5 any additional comments or exhibits or other  
6 housekeeping matters that you'd like to bring to  
7 our attention at this point?

8 MR. OGATA: No, we do not.

9 HEARING OFFICER GEFTER: But staff did  
10 file additional testimony over the weekend, is  
11 that right?

12 MR. OGATA: Yes, that's correct, Ms.  
13 Gefter, --

14 HEARING OFFICER GEFTER: You provided  
15 copies to all the parties?

16 MS. ALLEN: Staff filed additional  
17 testimony today in Sacramento for traffic and  
18 transportation and alternatives. That additional  
19 testimony will be distributed to the proof of  
20 service list and docketed.

21 HEARING OFFICER GEFTER: Will copies be  
22 provided to us here?

23 MR. ALLEN: Not today, sorry.

24 HEARING OFFICER GEFTER: Okay.

25 MR. OGATA: And, in addition, as

1 submitted off the record the staff did file  
2 additional comments on the air quality testimony  
3 on Friday. And those are -- it's a two-page  
4 filing, basically responses to public comments.  
5 Copies are available on the chair through the  
6 doors.

7 HEARING OFFICER GEFTER: And that was  
8 with respect to air quality questions, Mr. Ogata?

9 MR. OGATA: I'm --

10 HEARING OFFICER GEFTER: With respect to  
11 air quality issues?

12 MR. OGATA: Those are in respect to air  
13 quality issues, correct.

14 HEARING OFFICER GEFTER: Right, okay.

15 MR. THOMPSON: Ms. Gifter, I forgot one  
16 item. Earlier today applicant distributed a two-  
17 page document which will be the testimony of R.  
18 Thomas Beach, entitled, Double Pro Rata Gas  
19 Curtailment, to the parties in the room.

20 HEARING OFFICER GEFTER: Okay.

21 MR. THOMPSON: We have some additional  
22 copies if anyone was missed.

23 HEARING OFFICER GEFTER: Thank you. All  
24 right. And with respect to these documents, when  
25 we get to the relevant testimony we'll identify

1 the documents, but I wanted to be sure that  
2 everyone has copies before we get there.

3 Cabrillo, you also submitted additional  
4 testimony of Mr. Weatherwax?

5 MR. GOLDMAN: Yes, that's correct.

6 HEARING OFFICER GEFTER: And everyone  
7 has copies of that? Okay.

8 PRESIDING MEMBER LAURIE: Let the record  
9 reflect that Ms. Ellie Townsend-Smith, the Advisor  
10 to Commissioner Pernell, is present. Commissioner  
11 Pernell is not currently present because he is  
12 Presiding Member in another siting case that is  
13 being heard today; another case which I am the  
14 Second Member of. And we're doing that quite  
15 often at the Energy Commission these days.  
16 Welcome, Ms. Townsend-Smith.

17 I'm sorry, Ms. Gefter, I interrupted  
18 you. I think you're at the point of asking the  
19 applicant regarding their additional documents  
20 that they have before us.

21 HEARING OFFICER GEFTER: Actually we're  
22 at the point now, if no other party has any other  
23 housekeeping matters, to begin taking testimony on  
24 the topic of biological resources.

25 MR. GOLDMAN: Ms. Gefter, if I may, on

1       behalf of Cabrillo, ask for a clarification. It's  
2       my recollection that when we last were convened on  
3       November 14, that the dual fuel options discussion  
4       of the alternatives topic has not yet been  
5       addressed. I don't think there was any particular  
6       significance in terms of the order of that topic.

7                   HEARING OFFICER GEFTER: All right,  
8       we're going to hold that till the end of the day.

9                   MR. GOLDMAN: Thank you.

10                  HEARING OFFICER GEFTER: Thank you for  
11       reminding me.

12                  Okay, Mr. Thompson.

13                  MR. THOMPSON: Thank you. Applicant  
14       would like to call Mr. William Magdych. And while  
15       he is presenting himself let me clarify what I  
16       said earlier, as actually two documents by Mr.  
17       Beach that were handed out. One is in Q&A, the  
18       other is a -- I hope that's not Mr. Beach --

19                  (Laughter.)

20                  MR. THOMPSON: -- and another is an  
21       exhibit that will go along with that testimony.

22                  PRESIDING MEMBER LAURIE: Let me note  
23       for the members of the public in the audience, we  
24       will be going into the evening hours. We will  
25       take a break following the testimony on biological

1 resources and water. And then we'll see where we  
2 are.

3 We will go until as late as necessary  
4 provided Ms. Gefter can get back and see the final  
5 quarter of the Redskins game, whatever time that  
6 may be.

7 (Laughter.)

8 HEARING OFFICER GEFTER: All right. Mr.  
9 Thompson.

10 MR. THOMPSON: Thank you. For  
11 clarification for those in the audience, applicant  
12 has two witnesses in the area of biological  
13 resources. The first will be Mr. Magdych; the  
14 second will be Ms. Guldman.

15 Mr. Magdych, will you please state your  
16 name for the record.

17 MR. MAGDYCH: Yes, my name is William  
18 Magdych.

19 HEARING OFFICER GEFTER: Wait, the  
20 witness needs to be sworn, please.

21 Whereupon,

22 WILLIAM MAGDYCH  
23 was called as a witness herein, and after first  
24 having been duly sworn, was examined and testified  
25 as follows:

1 MR. THOMPSON: Thank you, Ms. Reporter.

2 DIRECT EXAMINATION

3 BY MR. THOMPSON:

4 Q Mr. Magdych, your prepared testimony was  
5 submitted along with the prehearing conference  
6 statement as part of exhibit 77 to this  
7 proceeding, is that correct?

8 A That's correct.

9 Q And in your prepared testimony you  
10 desire to sponsor a number of exhibits, some  
11 sections of exhibit 1, which have been identified  
12 as the AFC; exhibit 7, the MSCP subareas; exhibit  
13 16, the SDG&E Regional Natural Community  
14 Conservation Plan; exhibit 31, the biological  
15 assessment that was submitted last April; and  
16 exhibit 44, which is the BRIMP Chino report and  
17 fairy shrimp report, is that correct?

18 A That is correct.

19 Q Would you please very briefly summarize  
20 your testimony in this proceeding, Mr. Magdych?

21 A Basically I have been involved in  
22 supervising and preparing those documents, and I  
23 believe they are correct and accurate.

24 Q Thank you.

25 MR. THOMPSON: Mr. Magdych is tendered

1 for cross-examination.

2 HEARING OFFICER GEFTER: Does staff have  
3 cross-examination?

4 MS. DeCARLO: No cross-examination.

5 HEARING OFFICER GEFTER: Thank you. Do  
6 any of the intervenors have cross-examination of  
7 this witness?

8 All right. I have a question with  
9 respect to the exhibits. You referring to  
10 exhibits 31 and 44. Those were the preliminary  
11 exhibits, and then exhibit 62 and 63 are the final  
12 exhibits?

13 MR. THOMPSON: That's correct, and we  
14 had a little horse change in mid-stream here, and  
15 I believe that Ms. Guldman will testify to the  
16 latter two.

17 HEARING OFFICER GEFTER: Thank you.  
18 Clears it up for me.

19 At this point, since there are no  
20 questions of this witness you may be excused.  
21 Thank you.

22 MR. THOMPSON: Applicant would like to  
23 move exhibits 7, 16, 31 and 44 into the record.

24 HEARING OFFICER GEFTER: Are there any  
25 objections to receiving these exhibits into the

1 record?

2           Hearing none, those exhibits are now  
3 part of the record. Thank you. And I understand  
4 you have another witness, Ms. Guldman?

5           MR. THOMPSON: We have one more witness.  
6 Could I ask Ms. Guldman to take the stand, please.

7           HEARING OFFICER GEFTER: Would the  
8 reporter please swear the witness.

9 Whereupon,

10                                 SANDRA GULDMAN

11 was called as a witness herein, and after first  
12 having been duly sworn, was examined and testified  
13 as follows:

14                                 DIRECT EXAMINATION

15 BY MR. THOMPSON:

16           Q     Would you please state your name for the  
17 record.

18           A     My name is Sandra Guldman.

19           Q     Am I correct, Ms. Guldman, that you  
20 submitted prepared testimony along with the  
21 prehearing conference statement as part of exhibit  
22 77 to this proceeding, and additional prepared  
23 testimony at a later date, which is now part of  
24 exhibit 75 to this proceeding?

25           A     Yes, I did.

1           Q     And today I have three suggested changes  
2     to the exhibits contained in your prepared  
3     testimony. I believe what is marked as exhibit  
4     19, the letter to the County, I think should be  
5     18, is that correct?

6           A     Yes.

7           Q     And exhibit 62 is identified as a  
8     biological resources mitigation implementation and  
9     monitoring plan filed October 18; and exhibit 63  
10    is the applicant biological assessment dated  
11    October 18 of this year. Do you wish to sponsor  
12    both of those exhibits?

13          A     Yes.

14          Q     Now, with regard to the endowment that  
15    applicant has set up for the, I believe it's for  
16    the Chino, do you have any comments to offer the  
17    Committee and the participants in this proceeding  
18    regarding how that endowment was set up?

19          A     Yes. I would like to describe a couple  
20    of facets of that. The first one is a sort of  
21    underline basis for it, and we used weeding as a  
22    surrogate for calculating the dollar value of it.  
23    But there is no restriction on the use of the  
24    earnings from the endowment. Specifically at the  
25    request of the agencies and CEC Staff.

1                   So, some years no weeding at all will be  
2                   done, so that money is to be used by the Fish and  
3                   Wildlife Service or expended at the direction of  
4                   the Fish and Wildlife Service and the Energy  
5                   Commission in a manner that will benefit Chino  
6                   checker spot butterflies. It is not limited to  
7                   any particular activities at any particular  
8                   location.

9                   Secondly, I would like to respond to  
10                  concerns about the long-term viability of the  
11                  endowment. I contacted three large, stable,  
12                  nonprofit organizations that manage significant  
13                  amounts of money; nonwasting endowments to be used  
14                  for various environmental and social purposes.

15                  I contacted the Marin Community  
16                  Foundation; I contacted the Center for Natural  
17                  Lands Management; and also the San Diego  
18                  Foundation.

19                  And all three of them ended up with the  
20                  same basic set of assumptions for managing their  
21                  assets in the long term to keep them viable in  
22                  theory in perpetuity. And they all pay out 5  
23                  percent; they all invest the difference between  
24                  the payout plus their operating expenses back into  
25                  the fund to compensate for inflation. And they

1 typically charge between half and 1.5 percent  
2 management fees.

3 In the past many years they've been  
4 earning at least 9.5 percent, and on some funds  
5 much more than that. So, we did not assume that  
6 indefinitely the endowment that the Otay Mesa  
7 Generating Company has proposed will, in fact,  
8 earn 9.5 percent. But we've used the basis of  
9 these reputable foundations for saying that a  
10 payout of 5 percent with expenses and the  
11 reinvestment for inflation being paid out will  
12 keep the endowment alive and paying out at that  
13 continuing rate, matching inflation in perpetuity.

14 So there's no guarantee of a particular  
15 earnings rate except a payout of 5 percent.

16 I have more specific information, if  
17 you're interested, about the differences between  
18 the three entities. I did not contact any  
19 additional nonprofits because they were so uniform  
20 in their economic bases, that we felt with those  
21 three large, long-term foundations that we were on  
22 solid ground recommending a 5 percent payout as a  
23 basis for establishing the endowment.

24 Q Thank you, Ms. Guldman, does that  
25 complete your additional prepared testimony?

1 A Yes, it does.

2 Q Thank you.

3 MR. THOMPSON: Ms. Guldman is tendered  
4 for cross-examination.

5 HEARING OFFICER GEFTER: Does staff have  
6 cross-examination?

7 MS. DeCARLO: No cross-examination.

8 HEARING OFFICER GEFTER: Do any of the  
9 intervenors have cross-examination?

10 MR. GOLDMAN: No.

11 HEARING OFFICER GEFTER: Ms. Duncan?

12 MS. DUNCAN: No.

13 HEARING OFFICER GEFTER: Thank you.

14 Before you leave, though, I want a clarification.  
15 At the beginning of your testimony you mentioned  
16 exhibits 18 and 19. I didn't follow that  
17 explanation about one of the exhibits replaces the  
18 other. Would you go over that again?

19 MR. THOMPSON: I think it was just a  
20 mis-numbering issue in Ms. Guldman's testimony.  
21 She's actually -- exhibit 18 is the letter of San  
22 Diego County regarding the Lone Star Route. That  
23 is the exhibit she's testifying to.

24 HEARING OFFICER GEFTER: Thank you.

25 MR. THOMPSON: Applicant would like to

1 move exhibit 18, 46, 48, 54, 62 and 63 into the  
2 record, please.

3 HEARING OFFICER GEFTER: Is there any  
4 objection to receiving those documents into the  
5 record?

6 Hearing no objection, those documents  
7 are now moved into the record.

8 MR. THOMPSON: Thank you, that completes  
9 applicant's presentation on biology.

10 HEARING OFFICER GEFTER: Thank you. Is  
11 staff ready to go forward with your witness on  
12 biology?

13 MS. DeCARLO: Yes, the staff witness for  
14 this topic will be Rick York, and he needs to be  
15 sworn in.

16 Whereupon,

17 RICK YORK

18 was called as a witness herein, and after first  
19 having been duly sworn, was examined and testified  
20 as follows:

21 DIRECT EXAMINATION

22 BY MS. DeCARLO:

23 Q Mr. York, what is your job title at the  
24 Energy Commission?

25 A I'm a Planner II at the California

1 Energy Commission.

2 Q And what are your duties?

3 A I address biological resource issues for  
4 proposed power plant facilities.

5 Q Do you have before you the testimony of  
6 Rick York, final staff assessment, marked as  
7 exhibit 64?

8 A Yes, I do.

9 Q Did you write this testimony?

10 A Yes, I did.

11 Q Do you have any changes or corrections  
12 to this testimony?

13 A I believe there were three items that  
14 were brought up by the applicant that they asked  
15 me to consider. And I believe we were going to  
16 agree to one change to one of the conditions of  
17 certification. That would be the verification  
18 portion of condition BIO-5.

19 There were two other suggested changes  
20 by the applicant. One of them addresses further  
21 clarification of alternative gas route, gasline  
22 route 2B, and the applicant has asked me to  
23 include those clarifying additions to my  
24 testimony. I agree to that.

25 There was also a suggested change to

1 condition BIO-1 under the protocol section. And  
2 I'm not ready to make this suggested change. I  
3 believe this issue, with regards to  
4 preconstruction surveys for, in particular, the  
5 Chino checkered spot butterfly, it is something  
6 that is not currently resolved with the applicant  
7 and the Fish and Wildlife Service and staff. And  
8 we'll have to see how that shakes out here over  
9 the next few days.

10 Q Thank you, Mr. York. Can you please  
11 give us a summary of your testimony?

12 HEARING OFFICER GEFTER: Before you do  
13 that, sorry to interrupt, but where's the language  
14 for the changes that you did agree to? Is that  
15 included in a supplement to your testimony?

16 MR. YORK: I think that there was  
17 supplemental testimony provided. And that's  
18 contained in there.

19 HEARING OFFICER GEFTER: Okay, and which  
20 exhibit is that?

21 MS. DeCARLO: I believe that's exhibit  
22 74. Yes, it's staff additional testimony and  
23 errata --

24 HEARING OFFICER GEFTER: Thank you.

25 MS. DeCARLO: -- filed on November 9,

1 2000.

2 HEARING OFFICER GEFTER: Thank you. Go  
3 ahead.

4 MS. DeCARLO: Thank you.

5 BY MS. DeCARLO:

6 Q Please summarize your testimony.

7 A For biological resources the project  
8 must abide by a number of biological resource  
9 related LORS.

10 There's the San Diego County biological  
11 mitigation ordinance, which implements the  
12 County's multiple species conservation program.  
13 And this program provides the conditions under  
14 which the County receives long term listed species  
15 take authorization from the Fish and Wildlife  
16 Service and Fish and Game.

17 The applicant's also going to need to  
18 get a biological opinion from the Fish and  
19 Wildlife Service; a consistency determination from  
20 the Department of Fish and Game; streambed  
21 alteration permit also from Fish and Game; a  
22 nationwide permit from the Army Corps of  
23 Engineers; and a 401 certification from the  
24 Regional Water Quality Control Board.

25 It's my understanding the applicant has

1 applied, turned in the paperwork for all of these  
2 important documents that they will need to have.  
3 And I was pleased to hear that the paperwork was  
4 ongoing to get those documents to the applicant.

5 As far as the region for where the  
6 project is being proposed, there are no less than  
7 49 sensitive plant species that are known from the  
8 region; 34 wildlife species that are also known.  
9 So quite a few number of sensitive species in the  
10 area.

11 Of particular interest, and we spent the  
12 maximum amount of time discussing these, were the  
13 Otay tar plant, which is a federally and state  
14 listed endangered and threatened species;  
15 California gnat catcher and the Chino checkered  
16 spot butterfly.

17 What we discussed were a variety of  
18 avoidance measures so that the applicant, when  
19 they construct their project, they can avoid, to a  
20 large extent, impacting these species at all.

21 For the Chino checkered spot butterfly  
22 we probably spent the greatest amount of time  
23 discussing this federally endangered species.  
24 What we developed were a variety of avoidance  
25 measures with the applicant and the endowment

1 which you've just heard about.

2           What we're trying to address here are  
3 the indirect effects of the NOx emissions of the  
4 proposed project. Those emissions, when they're  
5 converted to nitrates and nitrites in the  
6 atmosphere, and when they're deposited on the soil  
7 and the vegetation they can function as a  
8 fertilizer.

9           This can promote nonnative species which  
10 competes with the native plants that the Chino  
11 checkered spot butterfly relies upon when it's in  
12 its early stages of life.

13           We originally discussed trying to come  
14 up with a way of calculating the actual acreage  
15 that would be impacted by the NOx emissions. We  
16 stopped when we realized that there was a great  
17 deal of information that was not available to us  
18 to take it that far.

19           We had a great deal of difficulty  
20 actually calculating the acreage amounts that  
21 would be impacted. The species was thought to  
22 have been extinct until just a few years ago. The  
23 actual geographic distribution of the Chino  
24 checkered spot butterfly and its species biology  
25 are not well understood. There were no

1 compensation ratios available to us, nor did we  
2 feel like we should be developing compensation  
3 ratios at this time for indirect effects on the  
4 Chino.

5 Fish and Wildlife Service is in the  
6 process of finalizing its recovery plan, so that's  
7 not available to us to use. And there's no  
8 critical habitat designation at this time.

9 So, with those list of problems in mind,  
10 that's why we went to the endowment.

11 What staff has recommended is that the  
12 endowment be provided to the Center for Natural  
13 Lands Management. This organization, we've had  
14 more than ten years of work with in a variety of  
15 locations in California, and they were one of the  
16 three groups that the applicant and we consulted  
17 as far as the management of the endowment. We  
18 think they have the resources and the ability to  
19 manage the funds properly and to work well in  
20 deciding how those funds should be spent.

21 It will ultimately fall upon the Fish  
22 and Wildlife Service and the Energy Commission to  
23 decide how the moneys will be spent. The  
24 applicant will not be involved in those decisions.

25 The project did need to provide some

1 habitat compensation. Right now they've agreed to  
2 provide 35.9 acres in the O'Neill Canyon Landbank,  
3 which is very close to the project site. My  
4 analysis showed that they actually only need to  
5 purchase 32.9, so they're providing a little extra  
6 acreage.

7 As I mentioned earlier, the O'Neill  
8 Canyon Landbank is a good fit for this project,  
9 because it's quite close to the project and its  
10 impacts.

11 One of the -- probably the principal  
12 unresolved issue that we have right now is the  
13 fact that we have these outstanding documents, one  
14 of them being the biological opinion from the Fish  
15 and Wildlife Service.

16 I don't see that as a problem. It would  
17 have been nice to have it today, but it's not  
18 quite complete. Jon Hazard is here today to  
19 answer any questions you might have about the  
20 status of that document.

21 One of the things that you heard the  
22 applicant discuss was the biological resource  
23 mitigation implementation and monitoring plan.  
24 The applicant has turned in a very good draft of  
25 that document. There are places in there they

1 know they will need to put various things, as they  
2 get the biological opinion, the various Clean  
3 Water Act certification, the streambed alteration  
4 permit, the consistency determination, all those  
5 documents that they have applied for and will get.

6 The applicant knows, and we'll be  
7 looking forward to working with the applicant in  
8 making sure those items are addressed in their  
9 final mitigation plan.

10 So, in conclusion, even though the  
11 applicant doesn't have all of their final terms  
12 and conditions that will be contained in these  
13 outstanding documents, staff is confident that  
14 during construction and operation of this  
15 facility, I'm very confident they will be able to  
16 build and operate this facility in accordance with  
17 the local LORS, including the County LORS.

18 That concludes my summary.

19 MS. DeCARLO: Thank you. The witness is  
20 now available for cross-examination.

21 HEARING OFFICER GEFTER: Thank you.  
22 Does the applicant have cross-examination?

23 PRESIDING MEMBER LAURIE: Question  
24 first. Mr. York, I understand the issue relating  
25 to additional information that the state may

1 garner over a period of time.

2 I want to make sure I understand your  
3 testimony that you do have sufficient information  
4 to one, identify the impacts, and to propose  
5 mitigation for those impacts. Is that a correct  
6 statement or not?

7 MR. YORK: That is correct.

8 PRESIDING MEMBER LAURIE: Thank you.

9 That's all I have, Ms. Gefter.

10 HEARING OFFICER GEFTER: All right.

11 Does the applicant have cross?

12 MR. THOMPSON: We do not, except what I  
13 would like to do is to recall Ms Guldman for one  
14 question at the end of Mr. York's cross, if that's  
15 acceptable.

16 HEARING OFFICER GEFTER: That will be  
17 fine. Do any of the intervenors have questions of  
18 Mr. York? Ms. Duncan?

19 MS. DUNCAN: No.

20 HEARING OFFICER GEFTER: I would like  
21 some clarification.

22 MR. YORK: Sure.

23 EXAMINATION

24 BY HEARING OFFICER GEFTER:

25 Q In the FSA text, this may be a typo, but

1 at page 232, table 3, which talks about the  
2 habitat acreage impacts. There's a table --

3 A You say page 232?

4 Q Yes. The totals are 63.5, which is your  
5 subtotal, and then your grand total is 64.6. But  
6 your looking, when you do your habitat  
7 compensation I think you calculated 63.5. I just  
8 need clarification about which numbers you're  
9 looking at.

10 A You're looking at table 6 on page 233?

11 Q Right, well, first I'm looking at table  
12 3 on 232, --

13 A Right.

14 Q -- and then I'm looking at table 6 on  
15 233.

16 A Yes, 63.5 acres, that's for nonnative  
17 grasslands. And what table 6 does is it takes the  
18 subtotals from each of those columns and applies  
19 the compensation ratio up to each. Ultimately  
20 that ends up at 32.9.

21 Q I see. All right. It's also unclear  
22 from your testimony about which gas pipeline route  
23 the applicant is going to use, because one crosses  
24 several sensitive specie habitat and one does not.

25 A Right, correct. Yes.

1 Q Is there some decision on which routing  
2 is going to be used?

3 A It was my interpretation that they were  
4 going to build both.

5 HEARING OFFICER GEFTER: Okay, we'll ask  
6 Ms. Guldman if she is recalled.

7 BY HEARING OFFICER GEFTER:

8 Q I also --

9 A Actually route 2A, I believe, is the one  
10 that's in the roads. The significant biological  
11 resources issues are route 2B. And that's where  
12 they're going to have to avoid a variety of  
13 sensitive areas and sensitive species.

14 Q And also on route 2B it appears that  
15 there are some vernal pools or some marshland  
16 along that route. Is that your testimony?

17 A Yes.

18 Q And is that also being considered in the  
19 mitigation?

20 A Yes, they are avoiding them.

21 HEARING OFFICER GEFTER: All right.  
22 Again, we'll ask Ms. Guldman. Are there any other  
23 questions? Does staff have redirect of your  
24 witness?

25 MS. DeCARLO: No.

1                   HEARING OFFICER GEFTER: Okay. The  
2 witness may be excused.

3                   Is staff calling the U.S. Fish and  
4 Wildlife Service witness?

5                   MS. DeCARLO: Yes, we would like to  
6 sponsor testimony of Jon Hazard from the U.S. Fish  
7 and Wildlife Service.

8                   HEARING OFFICER GEFTER: Thank you. And  
9 he needs to be sworn in.  
10 Whereupon,

11   JON HAZARD  
12 was called as a witness herein, and after first  
13 having been duly sworn, was examined and testified  
14 as follows:

15   DIRECT EXAMINATION

16 BY MS. DeCARLO:

17                   Q     Mr. Hazard, what are your duties at the  
18 Fish and Wildlife Service?

19                   A     I am a Turf Biologist. Our office is  
20 organized geographically, and this project falls  
21 within my turf, as it is known.

22                   Q     And please give us a summary of your  
23 analysis for this project.

24                   A     A summary of my analysis for the  
25 project. Well, we are engaged in a formal section

1 7 of the Endangered Species Act consultation with  
2 the Environmental Protection Agency to issue  
3 incidental take authorization for the project.

4 Q Have you read the final staff  
5 assessment?

6 A I have not. I received the hard copy  
7 today.

8 Q Do you anticipate issuing a biological  
9 opinion?

10 A Yes, I do. We are, per the regs, we  
11 have 135 days from the initiation of formal  
12 consultation. And that 135-day deadline is this  
13 coming Wednesday.

14 Q And will you continue to coordinate with  
15 the staff and applicant on the mitigation  
16 proposal?

17 A Yes.

18 MS. DeCARLO: He's available for cross-  
19 examination.

20 HEARING OFFICER GEFTER: Does the  
21 applicant have cross?

22 MR. THOMPSON: We do not, thank you.

23 HEARING OFFICER GEFTER: Do any of the  
24 intervenors have cross-examination of this  
25 witness? Ms. Duncan?

1 MS. DUNCAN: No.

2 MR. CLAYCOMB: No.

3 HEARING OFFICER GEFTER: Okay, you had  
4 mentioned last week that you were concerned about  
5 public comment on the biological opinion and the  
6 other processes that go into these formal permits,  
7 and other documents.

8 And here's your opportunity to cross-  
9 examine the witness if you are concerned.

10 MS. DUNCAN: I'll go with staff's  
11 assessment.

12 HEARING OFFICER GEFTER: Okay, thank  
13 you.

14 EXAMINATION

15 BY HEARING OFFICER GEFTER:

16 Q Mr. Hazard, do you believe the  
17 biological opinion will be available next  
18 Wednesday? That would be November 29th.

19 A Day after tomorrow.

20 Q Oh, this coming Wednesday?

21 A This coming Wednesday.

22 Q Will it be published day after tomorrow  
23 do you think?

24 A I'm assuming so.

25 Q All right. And do you anticipate that

1 the biological opinion will be consistent with  
2 staff's analysis in the final staff assessment?

3 A I believe so, for the most part, yes.

4 Q With respect to the habitat compensation  
5 plan?

6 A Yes.

7 HEARING OFFICER GEFTER: All right, you  
8 may be excused at this point. And applicant  
9 wanted to recall Ms Guldman.

10 MR. THOMPSON: We would, please.

11 Whereupon,

12 SANDRA GULDMAN

13 was recalled as a witness herein, and having been  
14 previously duly sworn, was examined and testified  
15 further as follows:

16 DIRECT EXAMINATION

17 BY MR. THOMPSON:

18 Q Thank you, Ms. Guldman, you're still  
19 under oath.

20 Has applicant very recently filed any  
21 additional documents with the Commission, and if  
22 so, would you please describe them.

23 A On Friday the paperwork for the  
24 nationwide permits was filed with the Corps, and  
25 this morning the paperwork for the 1603 streambed

1 alteration agreement and the 401 certification.

2 All of those will be docketed tomorrow  
3 in Sacramento with the Energy Commission. So,  
4 they are with their respective agencies now and  
5 will be docketed tomorrow.

6 Q Thank you. Did you hear the discussion,  
7 and I think Mr. York, when asked if whether or not  
8 applicant wanted to build both lines, indicated  
9 that he believed that that was applicant's intent,  
10 is that what you heard?

11 A Yes.

12 Q And you agree with that?

13 A Yes.

14 Q And is it true that one of those is in  
15 the road, and that's line 2B?

16 A Actually line 2A is also in a road.

17 Q Okay.

18 A Both are in roads. Line 2A has been in  
19 a road from the very inception of the project. 2B  
20 roughly paralleled the road, but to reduce impacts  
21 to sensitive species, was actually moved into an  
22 existing dirt road.

23 So now they've both occurred in existing  
24 roads or road shoulders.

25 Q Thank you. And finally, you heard both

1 Mr. York and Mr. Hazard express their optimism  
2 about getting to an end point on mitigation. Do  
3 you agree or do you have any comments to offer?

4 A Definitely, I think we are close to a  
5 final mitigation plan. And I would also like to  
6 amplify on one thing Mr. York said.

7 He suggested that we were still  
8 discussing surveys that would be done,  
9 preconstruction surveys for the project. But we  
10 are all on the same page with that.

11 We've agreed with all of the Fish and  
12 Wildlife Service requests, and Fish and Game's  
13 requests for preconstruction surveys. The only  
14 ones we were discussing toward the end were  
15 surveys for the Chino checkered spot butterfly,  
16 and the timing of them. And we've agreed with the  
17 full complement of Chino checkered spot butterfly  
18 surveys including the adult fly season surveys  
19 before construction of the power plant.

20 Q Thank you, Ms. Guldman.

21 MR. THOMPSON: That completed our  
22 further direct.

23 HEARING OFFICER GEFTER: Does staff have  
24 cross-examination?

25 MS. DeCARLO: No.

1 HEARING OFFICER GEFTER: Any of the  
2 intervenors have cross-examination?

3 MR. CLAYCOMB: No.

4 MS. DUNCAN: No.

5 EXAMINATION

6 BY HEARING OFFICER GEFTER:

7 Q Ms. Guldman, with respect to, is it line  
8 2B, one of the proposed pipeline routes, is that  
9 the one that will potentially cross sensitive  
10 habitat areas?

11 A Well, it did in its original alignment.  
12 When it was straight and near the existing dirt  
13 road that serves the existing transmission line.

14 But with moving it into the road, we  
15 will have to observe very careful avoidance areas  
16 and there will be stringent monitoring near the  
17 sensitive habitats. But the entire construction  
18 disturbance will be limited to an existing road.

19 HEARING OFFICER GEFTER: Okay, thank  
20 you. Are there any other witnesses on the topic  
21 of biological resources?

22 MS. DeCARLO: Staff has no further  
23 witnesses.

24 HEARING OFFICER GEFTER: Do any of the  
25 intervenors have any witnesses on this topic?

1 MR. CLAYCOMB: No.

2 HEARING OFFICER GEFTER: Then we can  
3 conclude this topic and move on to soils and water  
4 resources.

5 But before we do that I wanted to ask  
6 the applicant, with respect to the two gas  
7 pipeline routes, when we get into the discussion  
8 this afternoon on gas supply I would appreciate  
9 having the actual routings of these pipelines  
10 discussed and indicate where they intend to  
11 interconnect. So we'll talk about that later this  
12 afternoon.

13 MS. SEGNER: Would it be helpful if we  
14 brought in maps in terms -- okay, we'll run over  
15 to our offices and get maps.

16 HEARING OFFICER GEFTER: Very helpful.  
17 Thank you.

18 Before we go on to water I also wanted  
19 to ask Ms. DeCarlo, does staff have a witness on  
20 water today?

21 MS. DeCARLO: No, I believe we do not  
22 have a witness.

23 HEARING OFFICER GEFTER: All right. Has  
24 the issue with respect to recycled water been  
25 resolved?

1 MS. DeCARLO: I believe, and the  
2 intervenor can correct me, I believe it has been  
3 resolved.

4 HEARING OFFICER GEFTER: All right,  
5 we'll talk about that when we get to the  
6 intervenor.

7 Does the applicant have a witness on  
8 water resources -- soil and water --

9 MR. THOMPSON: We do not. We submitted  
10 Ms. Gardiner with a declaration. And further, the  
11 issue of recycled water would be more of an  
12 engineering on our side, and Mr. Williams can talk  
13 about it. Or we can sponsor testimony with Mr.  
14 Ray, who is project manager.

15 But I would propose to put Ms. Gardiner  
16 in on the water resources by declaration. And  
17 then if there are any questions on the recycled  
18 water, we'd ask to put on Mr. Williams.

19 HEARING OFFICER GEFTER: Okay.

20 MS. ALLEN: Ms. Gefter.

21 HEARING OFFICER GEFTER: Yes.

22 MS. ALLEN: Staff has had a  
23 misunderstanding. When we talked with you, Ms.  
24 Duncan, at the workshop on November 13th, I  
25 thought that I understood you to say that you

1 didn't have any further questions on it, so --

2 MS. DUNCAN: I don't have any further  
3 questions. I just have a disagreement --

4 MS. ALLEN: Okay.

5 MS. DUNCAN: -- with the decision, and  
6 that disagreement continues. And will continue.

7 MS. ALLEN: Well, given my  
8 misunderstanding that's why I incorrectly  
9 characterized the matter as resolved.

10 MS. DUNCAN: Would you like me to  
11 clarify?

12 PRESIDING MEMBER LAURIE: That's okay,  
13 and the fact that there's an existing disagreement  
14 is satisfactory to the Committee. You don't have  
15 to bring resolved issues to the Committee in order  
16 to have it be deemed complete.

17 MS. ALLEN: I will represent staff on  
18 the item.

19 HEARING OFFICER GEFTER: Ms. Duncan,  
20 you're still concerned about the recycled water  
21 issue. Would the applicant ask Mr. Williams to  
22 come forward and perhaps you can ask him to  
23 describe the plan.

24 MR. THOMPSON: Certainly. Shall we --  
25 do you want to do water first before soils, that's

1 fine. Do you want me to do that now?

2 HEARING OFFICER GEFTER: Let's do the  
3 water part first, yeah.

4 MR. THOMPSON: Great. Applicant would  
5 like to recall Mr. Williams.

6 HEARING OFFICER GEFTER: And then after  
7 all the testimony on water has been presented,  
8 then you could also move Ms. Gardiner's testimony  
9 into the record.

10 MR. THOMPSON: Thank you. Mr. Williams  
11 has been sworn at the last scheduled hearing, if  
12 you would like to re-swear him or not.

13 HEARING OFFICER GEFTER: He remains  
14 sworn.  
15 Whereupon,

16 ALAN WILLIAMS  
17 was recalled as a witness herein, and having been  
18 previously duly sworn, was examined and testified  
19 further as follows:

20 DIRECT EXAMINATION

21 BY MR. THOMPSON:

22 Q Would you please state your name for the  
23 record.

24 A My name is Alan Williams.

25 Q And what is your position with PG&E

1 National Energy Group?

2 A I'm Director of Engineering for the  
3 Western Region.

4 Q And in that capacity what were your  
5 responsibilities with regard to recycled water in  
6 the Otay Mesa Power Plant?

7 A In general we investigated recycled  
8 water and made a decision to move forward with  
9 potable water as our base system. We have,  
10 however, agreed with the County to provide for a  
11 recycled water capability to handle, in full  
12 accordance with County policy, to use recycled  
13 water for those nonpotable uses that might be  
14 applicable inside the plant.

15 That would include sanitary sewer  
16 flushing uses, and irrigation uses for our  
17 landscaping.

18 MR. THOMPSON: Thank you. Mr. Williams  
19 is tendered for cross-examination in the area of  
20 recycled water.

21 HEARING OFFICER GEFTER: Does the staff  
22 have cross-examination?

23 MS. DeCARLO: No, staff has no cross-  
24 examination.

25 HEARING OFFICER GEFTER: Ms. Duncan, if

1 you have questions, please go ahead.

2 MS. DUNCAN: Yes, I do.

3 CROSS-EXAMINATION

4 BY MS. DUNCAN:

5 Q So I understand that you do not intend  
6 to use recycled water for process in your plant?

7 A Not at this time, no.

8 Q This is a merchant plant, correct?

9 A Yes.

10 Q Okay, my understanding in discussions is  
11 that the power from this plant can go anywhere on  
12 the western grid including Canada and Mexico, is  
13 that correct?

14 MR. THOMPSON: I'm not sure that Mr.  
15 Williams should be testifying to where the power  
16 on the grid goes. We have a transmission  
17 witness --

18 MS. DUNCAN: My disagreement was over  
19 the condition of certification with staff, and my  
20 concern is that the Constitution of the State of  
21 California expresses concerns about waste of water  
22 for Californians.

23 The applicant doesn't even want to use  
24 recycled water for process. They want to use  
25 potable water, but this power could go to Canada

1 and none of it could stay here. I consider that  
2 wasteful on the face of it under the California  
3 Constitution. I think it needs to be clarified.

4 HEARING OFFICER GEFTER: Mr. Williams,  
5 my understanding from reading the testimony with  
6 respect to water is that the applicant is going to  
7 install a secondary piping system to be available  
8 in the event that recycled water is available to  
9 the plant.

10 Is that still the plan?

11 MR. WILLIAMS: Yes, that's correct.

12 HEARING OFFICER GEFTER: Okay.

13 BY MS. DUNCAN:

14 Q But is that for process?

15 A I believe the AFC and other discussions  
16 that we've had, we've agreed to consider the use  
17 of processed water when and if it's available, and  
18 if the chemistry constituents of that processed  
19 water can be adopted into the water treatment  
20 system that we have in place at the time the  
21 plant's built.

22 MR. THOMPSON: Can I ask a follow-on  
23 question, Ms. Duncan?

24 MS. DUNCAN: Yes.

25 //



1 using about one-tenth of the water that that same  
2 size combined cycle power plant would use.

3 Q And the quality of that water needs to  
4 be at some certain level?

5 A The quality of the water is necessary to  
6 be of an extremely high purity water in order to  
7 avoid fouling on the steam turbine blades and  
8 other parts of the heat recovery high pressure  
9 boiler water system.

10 In essence, we have a very sophisticated  
11 Brita water treatment system that the plant has to  
12 demineralize even the city potable water to  
13 extremely pure standards.

14 The use of recycled water, the analysis  
15 that I've seen so far, if we were to try to use  
16 the recycled water, we would approximately double  
17 the quantity of water that would be supplied, or  
18 need to be supplied to accomplish that same  
19 purpose.

20 And because we are discharging as well,  
21 some of the byproducts of the chemistry to make  
22 that pure water, we would increase our discharge  
23 water further exacerbating a problem that we  
24 understand with the San Diego County sewage  
25 system, we would approximately double the amount

1 of water that we would discharge if we had to  
2 treat the chemistry, as I understand it, for the  
3 recycled water.

4 What we have said is that when and if  
5 that water is available we will look at the  
6 chemistry and we will certainly use that water if  
7 we can without adding to both our supply or our  
8 discharge volume quantities that we would be  
9 managing at the site.

10 Q Thank you, Mr. Williams, I think that  
11 helps a lot.

12 RE CROSS-EXAMINATION

13 BY MS. DUNCAN:

14 Q So, do I understand that you will dual  
15 plumb for potential using recycled water for  
16 processing?

17 A Yes. I'm sorry, I thought I made that  
18 point earlier.

19 Q Who is supplying your water for the  
20 plant?

21 A Our water will come from the Otay Mesa  
22 Water District.

23 Q And with your cool system, how much,  
24 what percentage of Otay Water District's water  
25 will you need for this project for the 30 years

1       that it is planned to be in operation? Do you  
2       know that percentage?

3             A     No, I don't.

4             MS. DUNCAN: For the record, I'd like it  
5       to be noted that they want 1 percent of Otay Water  
6       District's potable water, 1 percent.

7             HEARING OFFICER GEFTER: Where did you  
8       get that information?

9             MS. DUNCAN: I got that from workshops  
10      that I attended. It was discussed, because I  
11      asked what percent. It's 1 percent. Charlie  
12      Cassens, Otay Water District, can confirm that.

13            HEARING OFFICER GEFTER: That's 1  
14      percent of 30 years, or 1 percent per year?

15            MS. DUNCAN: Yes, 1 percent of their  
16      water that they have for southern California. I'd  
17      also like to note for the record, I have the most  
18      recent report from the Colorado River Board, the  
19      Colorado River currently is at 60 percent of  
20      normal.

21            So we're in a drought down here, a  
22      perpetual drought because of too much population.  
23      So I just am raising this issue to say perhaps  
24      this is yet another infrastructure problem we have  
25      here that we're going to create by taking 1

1 percent of an irrigation district's potable water  
2 that would be usable for people to drink, to  
3 produce electricity that I don't understand stays  
4 in San Diego County. There's no guarantee it  
5 stays here.

6 So I consider it a potential illegal  
7 transfer of water going on.

8 HEARING OFFICER GEFTER: Mr. Williams,  
9 would you consider a tertiary treated water to be  
10 of high enough quality to use in the process if at  
11 some point time that is available to the project?

12 MR. WILLIAMS: Yes. And, just, I might  
13 say that our daily water use is approximately less  
14 than 300,000 gallons per day. So that's quite low  
15 for a power plant compared with a power plant that  
16 uses once-through cooling, uses something on the  
17 order of 40,000 gallons per minute of water  
18 through its once-through cooling system.

19 PRESIDING MEMBER LAURIE: And how does  
20 300,000 gallons per day translate in acrefeet per  
21 year?

22 MR. WILLIAMS: Divide by 3200 -- 321 --  
23 I'm sorry, 3258 -- 325,851 gallons per acre feet.  
24 We use about 300 acrefeet of water per year for  
25 the total plant use.

1 MS. DUNCAN: That concludes my  
2 questioning.

3 HEARING OFFICER GEFTER: Thank you.  
4 Does the applicant have redirect?

5 MS. SEGNER: I would just add for the  
6 record that certainly the water situation in San  
7 Diego is something we carefully considered when  
8 looking at siting this plant, thus it's a dry  
9 cooling facility.

10 PRESIDING MEMBER LAURIE: What do we  
11 have in the -- do we have anything in the record  
12 from Otay Mesa Water District regarding their  
13 ability and willingness to serve, Mr. Thompson?

14 MR. THOMPSON: Yes, I'm informed that we  
15 have a will-serve letter.

16 PRESIDING MEMBER LAURIE: And is that an  
17 exhibit?

18 MR. THOMPSON: It is not an exhibit.

19 MS. SEGNER: It was filed with the CEC  
20 in August 1999.

21 PRESIDING MEMBER LAURIE: Mr. Ogata, do  
22 you know where that is, or what that is?

23 MR. OGATA: No. Unfortunately,  
24 Commissioner Laurie, we don't have that  
25 information right now. Lorraine White, who is

1 staff's technical person, is not here today.

2 PRESIDING MEMBER LAURIE: Please make a  
3 note, I'd like to consider adding it to the  
4 record.

5 MR. OGATA: We certainly will.

6 HEARING OFFICER GEFTER: In addition,  
7 with respect to proposed soil and water condition  
8 7, which does talk about the recycled water, it  
9 indicates that if it is determined that recycled  
10 water is of adequate quality and the cost is  
11 comparable to or less than associated with potable  
12 water use, the project owner will use recycled  
13 water.

14 That appears clear enough in the record  
15 that that's the intent of the applicant.

16 MR. WILLIAMS: That is correct.

17 HEARING OFFICER GEFTER: Do you have any  
18 idea whether the Otay Mesa Water District intends  
19 to construct treatment plants so that the Otay  
20 Mesa Power Plant would have access to recycled  
21 water? Any idea about the plans on that?

22 MR. WILLIAMS: My understanding is that  
23 they will actually make recycled water available  
24 in Alta Road, outside of the plant. And our plans  
25 are to, as Ms. Duncan has pointed out, to double

1 plumb our supply line from the main water supply  
2 line in Alta Road for both potable water and  
3 reclaimed water.

4 HEARING OFFICER GEFTER: Do you know a  
5 timeline on that?

6 MR. WILLIAMS: We will do it from the  
7 very first day -- not the first day of  
8 construction, but coincident with the construction  
9 of the plant.

10 HEARING OFFICER GEFTER: Do you know the  
11 timeline on when the Water District plans to make  
12 recycled water available?

13 MR. WILLIAMS: No, I do not.

14 HEARING OFFICER GEFTER: And do you have  
15 any information as to whether they -- if they make  
16 recycled water available whether they would make  
17 tertiary treated recycled water available to the  
18 plant?

19 MR. WILLIAMS: Not offhand, no.

20 HEARING OFFICER GEFTER: Mr. Thompson,  
21 would it be possible for the applicant to obtain  
22 that information from the Water District and  
23 provide it to the Committee?

24 MR. THOMPSON: Yes, I would add that we  
25 will have no idea what the constituents of this

1 water would be, and whether or not it would be  
2 acceptable. But we will get the plans from the  
3 Water District.

4 MR. CARROLL: I would point out that at  
5 least as of the writing of the FSA there is a  
6 statement that the Otay Water District is not able  
7 to specify when reclaimed water could be made  
8 available, nor can they specify what the quality  
9 would be. They may have some updated information  
10 which we'll ask them about.

11 But at least as of the writing of the  
12 FSA they weren't able to answer those questions.

13 HEARING OFFICER GEFTER: Thank you. Mr.  
14 Claycomb.

15 CROSS-EXAMINATION

16 BY MR. CLAYCOMB:

17 Q Mr. Williams, I'm wondering have you  
18 read or heard of the book Cadillac Desert by Mark  
19 Reisner?

20 A Yes, I've heard of it.

21 Q Well, there's a statement in there,  
22 looking in the future a little bit, maybe by the  
23 time the plant's 20 or 30 years old, that it was  
24 by Charles P. Berkely who, when he made the  
25 statement, was probably the foremost hydrologist

1 in the world. And he said that within three or  
2 four generations the reservoirs on the Colorado  
3 River would fill with silt and then we'd be out of  
4 business as far as any kind of water supply from  
5 the Colorado River.

6 So, I think it's good you're plumbing  
7 for this because nobody has given me an answer on  
8 what we will do when those reservoirs fill with  
9 silt.

10 MR. WILLIAMS: Thank you.

11 HEARING OFFICER GEFTER: Thank you. All  
12 right, do you have any redirect of your witness?

13 MR. THOMPSON: No, we do not, thank you.

14 HEARING OFFICER GEFTER: Okay.

15 PRESIDING MEMBER LAURIE: Ms. Duncan has  
16 a question.

17 HEARING OFFICER GEFTER: Ms. Duncan, do  
18 you have one more question?

19 MS. DUNCAN: It's not a question, it's a  
20 point of clarification that we have a lot of  
21 tertiary water available in the City of San Diego  
22 currently of extremely high quality.

23 The reason for that is we don't have  
24 heavy industry here. And we have no takers for it  
25 currently. So part of your inquiry -- that is

1 located at Miramar Naval Air Station. That's our  
2 recycled water plant, is what we've been referring  
3 to our white elephant because nobody here wants  
4 it.

5 So there's plenty of water available.  
6 The issue is whether or not moneys can be found  
7 amongst various organizations to get the water  
8 down to the Otay Mesa Plant. This is my  
9 understanding from Charlie Cassens at Otay.

10 They had hoped by 2002, that was in the  
11 PSA, I believe, under soil and water, when that  
12 would be available. The issue is getting a number  
13 of different agencies to coordinate it to get that  
14 line down there.

15 But I think you'll find in talking to  
16 the City of San Diego's reclaimed water, that we  
17 have extremely high quality recycled water  
18 available. And I request that that be a condition  
19 of certification for this plant. That they use  
20 it.

21 Whatever filtration you might have to  
22 do, San Diego's potable water is of such high  
23 mineral content here, to begin with, you're going  
24 to have to do a heck of a lot of filtration to  
25 even use that on your system.



1 being duly sworn, was examined and testified as  
2 follows:

3 DIRECT EXAMINATION

4 BY MR. THOMPSON:

5 Q Would you please state your name for the  
6 record.

7 A Robert Ray.

8 Q And are you the same Robert Ray that  
9 submitted prepared testimony as a part of exhibit  
10 77 to this proceeding, that testimony accompanying  
11 applicant's prehearing conference statement?

12 A Yes, I am.

13 Q I would like to add two exhibits to your  
14 list of exhibits in your prepared testimony. Are  
15 these acceptable to you? Exhibit 39, which is  
16 identified as the FAA no hazard determination  
17 filed May 26, 2000, and exhibit 56, which is a  
18 supplemental traffic study filed September 6,  
19 2000. Would you like to sponsor those two  
20 exhibits?

21 A Yes, I would.

22 Q Now, am I correct that you're the  
23 Project Manager for URS, -- Woodward Clyde, for  
24 this proceeding?

25 A For preparation of the AFC environmental

1 component, yes.

2 Q And additionally with regard to your  
3 oversight authority you also prepared the soils  
4 testimony?

5 A Yes, the agriculture and soils  
6 testimony, yes.

7 Q Would you please do a very brief summary  
8 of your soils testimony? And, Mr. Ray, while  
9 you're at it, would you also discuss your role as  
10 Project Manager very briefly.

11 A Okay, my role as Project Manager, I  
12 oversaw the various technical discipline analyses  
13 and the preparation of the AFC, including section  
14 5 of the AFC.

15 With respect to the findings for the  
16 agriculture and soils assessment, with  
17 implementation of the applicant's committed  
18 mitigation measures, as well as staff's conditions  
19 of certification, there's no residual significant  
20 impacts from implementation of the project.

21 MR. THOMPSON: Thank you very much. Mr.  
22 Ray is tendered for cross-examination.

23 HEARING OFFICER GEFTER: Does staff have  
24 cross-examination?

25 MR. OGATA: Staff has no questions.

1 HEARING OFFICER GEFTER: Do any of the  
2 intervenors have questions?

3 MR. CLAYCOMB: No.

4 MS. DUNCAN: No.

5 HEARING OFFICER GEFTER: Thank you, Mr.  
6 Ray, you may be excused.

7 MR. RAY: Thank you.

8 MR. THOMPSON: Applicant would like to  
9 move into the record some exhibits and some  
10 testimony. The exhibits are exhibits 4, 5, 6, 8,  
11 10, 17, 39, 41, 52, 53 and 56, all sponsored by  
12 Mr. Ray.

13 HEARING OFFICER GEFTER: Do any of the  
14 parties have objection to any of those documents  
15 being received into the record?

16 MR. OGATA: Ms. Gefter, actually staff  
17 would object to exhibits 39 and 56. We understand  
18 that's related to traffic, the area of traffic.  
19 And that area is going to be taken up, I believe,  
20 on the 4th, and so I think it's premature to  
21 accept those into the record at this point in  
22 time.

23 HEARING OFFICER GEFTER: Mr. Thompson,  
24 why are you proposing these documents at this  
25 time?

1                   MR. THOMPSON: Because I had them all  
2 listed under Mr. Ray's testimony, but we can hold  
3 off on those two.

4                   HEARING OFFICER GEFTER: Okay, we'll  
5 hold off on 39 and 56. With respect to the other  
6 documents, is there any objection from any of the  
7 parties? All right, exhibits 4, 5, 6, 8, 10, 17,  
8 41, 52 and 53 are now received into the record.

9                   Thank you.

10                  MR. THOMPSON: Thank you. The second  
11 document we would like to have admitted is the  
12 prepared testimony of Nancy Gardiner, along with  
13 the declaration which was attached to her  
14 testimony and rÇsumÇ, which are contained in  
15 exhibit 77.

16                  And in her prepared testimony she  
17 references exhibit 27, the draft wastewater  
18 discharge application. I would move exhibit 27  
19 into the record.

20                  HEARING OFFICER GEFTER: Is there any  
21 objection to exhibit 27?

22                  MR. OGATA: No objection.

23                  HEARING OFFICER GEFTER: Exhibit 27 is  
24 now received into the record.

25                  With respect to exhibit 77, I expect you

1 will move all of that document into the record at  
2 the end of all the hearings, is that correct?

3 MR. THOMPSON: That's correct, 77 and  
4 75.

5 HEARING OFFICER GEFTER: All right.

6 PRESIDING MEMBER LAURIE: Ms. Gefter,  
7 before we attend to the next issue, we'll take a  
8 ten-minute break and reconvene at 4:15.

9 MR. OGATA: Excuse me, Ms. Gefter, --

10 HEARING OFFICER GEFTER: Off the record.

11 MR. OGATA: Do you want staff's  
12 testimony --

13 HEARING OFFICER GEFTER: On soil?

14 MR. OGATA: -- on water?

15 HEARING OFFICER GEFTER: Did you -- oh,  
16 well, you said you didn't have anything on water,  
17 you didn't have a witness.

18 MR. OGATA: Well, we don't have a live  
19 witness, but we have to at least put it into the  
20 record and then Ms. Allen can answer a couple of  
21 questions that you posed.

22 HEARING OFFICER GEFTER: Well, let's do  
23 that. Okay, does staff want to go forward with  
24 your witness on soil and water.

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

1 Staff's witness on soil and water is Lorraine  
2 White. Her testimony was included in the FSA and  
3 she has a declaration attached to it with respect  
4 to her being the author of that testimony.

5 Ms. White is not available today, but  
6 Ms. Allen has reviewed the testimony and there are  
7 a couple of questions I would like her to respond  
8 to, if I may do that at this time. And Ms. Allen  
9 has been previously sworn.

10 Whereupon,

11 EILEEN ALLEN  
12 was recalled as a witness herein and having been  
13 previously duly sworn, was examined and testified  
14 further as follows:

15 DIRECT EXAMINATION

16 BY MR. OGATA:

17 Q Ms. Allen, you have reviewed the  
18 testimony of Lorraine White on issues of soil and  
19 water resources in the FSA?

20 A Yes, I have.

21 Q With respect to the issue of the water  
22 will-serve letter, have you discovered something  
23 in the FSA with respect to that?

24 A Yes. Ms. White has references listed on  
25 page 270 and 271 of the FSA. The will-serve

1 letter is listed as OWD-1999A towards the bottom  
2 of page 271. It's the second item from the bottom  
3 in the reference list to Ms. White's testimony.

4 Q And with respect to items on the  
5 reference list, what is your understanding about  
6 the significance of items being on a reference  
7 list?

8 A That she has considered each item listed  
9 in the reference list in her testimony.

10 Q And do you also have information about  
11 the timing of when the recycled water will be  
12 available?

13 A Ms. White has noted in her testimony on  
14 page 258, paragraph five, that the Otay Mesa Water  
15 District is not able to specify when reclaimed  
16 water can be made available to the area, nor can  
17 they specify what the quality of the water will  
18 be.

19 This is referenced as CEC 2000H. And  
20 that statement is based on correspondence with  
21 Charlie Cassens of the Otay Mesa Water District.

22 According to the reference list this  
23 correspondence was based on email dated February  
24 3, 2000. It was submitted to the docket unit on  
25 March 8, 2000.

1 I believe that Ms. White has had a  
2 number of reconfirming conversations with Mr.  
3 Cassens about this item.

4 MR. OGATA: Thank you. Staff has no  
5 further questions at this time. And pursuant to  
6 Committee direction we will find the will-serve  
7 letter and put that into the record as an exhibit.

8 HEARING OFFICER GEFTER: Thank you.  
9 Does the applicant have any cross-examination of  
10 the witness?

11 MR. THOMPSON: We do not, thank you.

12 HEARING OFFICER GEFTER: Do any of the  
13 intervenors have cross-examination of the witness?

14 MR. GOLDMAN: No.

15 HEARING OFFICER GEFTER: Thank you.  
16 Staff, at this point, any exhibits that you wish  
17 to move, or do you want to wait until the end of  
18 all the testimony in this proceeding?

19 MR. OGATA: Yes, Ms. Gefter, we will  
20 move the FSA into evidence at the conclusion of  
21 all our staff witnesses.

22 HEARING OFFICER GEFTER: Thank you. Off  
23 the record.

24 (Brief recess.)

25 PRESIDING MEMBER LAURIE: Ladies and

1 gentlemen, we'd like to reconvene. Sorry we took  
2 longer than expected, but the Committee was  
3 thinking, and sometimes that is an excruciatingly  
4 painful process.

5 (Laughter.)

6 PRESIDING MEMBER LAURIE: Before we  
7 engage into a continuation of our discussion on  
8 gas supplies, we're going to provide some  
9 direction and instruction regarding the focus of  
10 what we deem to be relevant.

11 That focus will be consistent with the  
12 earlier ruling of the Committee which we will be  
13 pleased to reiterate.

14 At this point I'd like to ask Ms. Gefter  
15 to summarize the issue as the Committee sees it.  
16 We will listen to brief arguments from the parties  
17 if there's a disagreement with those issues.

18 Following that the Committee will either  
19 change its mind, or not. And then not permit any  
20 testimony beyond what it deems to be relevant,  
21 subject, of course, to such continuing objections  
22 as may be necessary.

23 Ms. Gefter.

24 HEARING OFFICER GEFTER: As we  
25 understand, it is alleged that once Otay Mesa is

1 operating it would cause curtailment of natural  
2 gas to both the Encina and South Bay projects.

3 What we're interested in is the extent  
4 to which those two projects would be curtailed and  
5 would need to burn fuel oil in order to meet its  
6 electricity demand.

7 PRESIDING MEMBER LAURIE: I would say  
8 it's historical use.

9 HEARING OFFICER GEFTER: We're not going  
10 to speculate, we're going to look at historical  
11 numbers as to how often the Encina and South Bay  
12 plants have been curtailed in the past.

13 And that's the extent of what we're  
14 interested in. As we indicated last week, our  
15 role is to determine whether there will be  
16 cumulative impacts to regional air quality. And  
17 that is still our focus in this matter.

18 PRESIDING MEMBER LAURIE: And then we've  
19 already directed staff to conduct an analysis of  
20 the environmental impacts of the additional use of  
21 fuel. And that will be the limitation of our  
22 analysis on this issue.

23 Ms. Gefter, at this time I'd like to  
24 hear discussion from the parties regarding our  
25 position on the issue.

1                   HEARING OFFICER GEFTER: Starting with  
2 the applicant.

3                   MR. HANSCHEN: Peter Hanschen for the  
4 applicant.

5                   I don't think applicant disagrees with  
6 your framing of the issue. Our position in this  
7 case is that first and foremost there are  
8 additional gas supplied projects that are planned  
9 that will undoubtedly make this a moot point.

10                  Secondly, even if those gas projects  
11 don't come into fruition there will still be  
12 sufficient gas supply available for the plants to  
13 satisfy their must-run conditions. Especially if,  
14 well, let's stop at that. To satisfy their must-  
15 run conditions.

16                  Thirdly is applicant has proposed a  
17 system of double pro rata gas curtailment which  
18 Mr. Beach will testify to. That acts as an  
19 insurance policy to insure that gas will be made  
20 available to those plants that have to run to  
21 satisfy their must-run conditions.

22                  We think all of these lead to the  
23 conclusion that, one, as Mr. Wood testified, is  
24 that Otay Mesa is necessary to satisfy the  
25 generation within the area.

1           Two is if it is there it will actually  
2           use gas in a more efficient way. It will generate  
3           more megawatts for each mcf of gas available.  
4           Without it, in fact, there would be higher oil  
5           burns because of the inefficiency of the existing  
6           plants.

7           And consequently, is that we simply  
8           don't see there being a deterioration of the air  
9           quality based on the addition of this plant. In  
10          fact, our position is that there will be  
11          sufficient gas to satisfy the must-run conditions  
12          of the other plants.

13          And because of the increased efficiency  
14          of Otay Mesa is that there will be more  
15          electricity generated with less environmental  
16          impacts because of it.

17          And thirdly, it is more than likely  
18          there is going to be sufficient supplies of  
19          natural gas made available to this area.

20                 HEARING OFFICER GEFTER: Thank you.  
21                 Staff.

22                 MR. OGATA: Thank you, Ms. Gefter.  
23                 Staff doesn't have any disagreements with the  
24                 Committee's statement.

25                 We would ask for some clarification

1       somewhere along the way with respect to the  
2       analysis that you would like staff to do. One of  
3       the things that we've been attempting to do with  
4       the other parties is to try to arrive at some  
5       agreement about the scenarios that staff would use  
6       to do this environmental analysis.

7                 We've started with the four scenarios  
8       that were used in the transmission planning and  
9       our gas study as kind of a beginning point to see  
10      whether or not that would make some sense.

11                As it turns out, it seems that some of  
12      the parties have already done that analysis. So  
13      maybe that's possible.

14                But still, I think we would like to  
15      hear, possibly at the end of the discussion when  
16      you've heard what everyone else has to say, about  
17      what you believe would be appropriate scenarios  
18      for staff to evaluate.

19                PRESIDING MEMBER LAURIE: Ms. Gefter,  
20      let me try this as my explanation to Mr. Ogata.  
21      Currently we will assume for purposes of  
22      discussion that the two current plants utilize X  
23      amount of natural gas, plus Y amount of  
24      alternative fuels, oil, shall we say. So their  
25      total fuel supply is X plus Y.

1                   It is alleged that if Otay comes on line  
2                   there will be less X available for use, and thus  
3                   necessitating more Y use.

4                   To the extent that there is evidence in  
5                   the record as to reasonable assumptions as to what  
6                   Y plus Z might be, it's that additional amount  
7                   that I want to know the environmental impact of.

8                   Did I say that right, Ms. Gefter?

9                   HEARING OFFICER GEFTER: Yes, I think  
10                  that Commissioner Laurie's guidance should give  
11                  you a head start on what we're looking for.

12                  PRESIDING MEMBER LAURIE: That doesn't  
13                  help you, Mr. Ogata?

14                  HEARING OFFICER GEFTER: Mr. Ogata  
15                  doesn't seem to --

16                  (Laughter.)

17                  MR. OGATA: No, I don't -- Commissioner  
18                  Laurie, everything you say to me makes a lot of  
19                  sense and I appreciate the guidance.

20                  However, as it turns out there are a  
21                  number of variables that go into when there's  
22                  going to be less X, when there may be more Y, and  
23                  what the Z will be. And it's the question about  
24                  those variables that makes it very difficult for  
25                  us to figure out what would be a worse case, a

1 best case, a reasonable case. Those are all  
2 questions that staff has with respect to trying to  
3 do this analysis.

4 And in talking to the parties it seems  
5 as though maybe we're all in that situation to one  
6 degree or another.

7 So, I'm hoping that we can --

8 PRESIDING MEMBER LAURIE: So to a  
9 certain extent, Mr. Ogata, the issue is  
10 speculative, is it not?

11 MR. OGATA: Yes, Commissioner Laurie.

12 PRESIDING MEMBER LAURIE: And CEQA does  
13 not mandate that you speculate. Therefore, you  
14 deal with the information that you have available  
15 and reasonable assumptions that can be derived  
16 therefrom.

17 MR. OGATA: I appreciate it,  
18 Commissioner Laurie; and in fact, that's the  
19 reason why staff didn't do that analysis in the  
20 first place, because we felt it was speculative  
21 and outside the realm of our responsibility.

22 But since you've asked us to do it, now  
23 we're trying to figure out the most helpful way to  
24 do it.

25 PRESIDING MEMBER LAURIE: Okay. Well,

1 the Committee, itself, will have some ideas, but I  
2 would think that there are some suggestions, both  
3 from testimony from the parties and otherwise,  
4 that if Otay Mesa comes on line there may be, in a  
5 worst case scenario, some gas curtailment, worst  
6 case scenario.

7 And if there is that gas curtailment,  
8 then additional oil will have to be used, worst  
9 case scenario. And if that additional oil is  
10 used, what's the environmental impact of it.

11 And from that if there is an  
12 environmental impact we can determine mitigation.

13 Again, CEQA does not mandate that we  
14 speculate. Therefore, we utilize the facts within  
15 the record, and perhaps make some reasonable  
16 assumptions from that.

17 So the question in the Committee's mind  
18 is what information do we need to determine the X  
19 minus Y differential, or Y minus Z differential,  
20 whatever it was that I said. Somebody knows.

21 MR. OGATA: Thank you, Commissioner  
22 Laurie.

23 PRESIDING MEMBER LAURIE: Okay.

24 HEARING OFFICER GEFTER: All right. Ms.  
25 Luckhardt, Duke Power.

1 MS. LUCKHARDT: If you'll hold on just a  
2 second I want to make sure I get everything down.

3 MR. VARANINI: Can I interrupt just a  
4 second, since we're the party that actually has  
5 witnesses that we're proffering, I would  
6 appreciate at least the courtesy of being able to  
7 describe their offer of proof and what we're  
8 intending to do, as a moving party, so that Ms.  
9 Luckhardt, who is at a gross disadvantage by not  
10 having witnesses or having the time to prepare  
11 witnesses, I think it might be more beneficial if  
12 we say something about our view, our witnesses.

13 And then she can talk about her view and  
14 principles, and her view of our witnesses. I  
15 think we need to get our witnesses as part of the  
16 discussion on the integral of X plus Y.

17 HEARING OFFICER GEFTER: We're not --

18 MS. LUCKHARDT: That's fine.

19 HEARING OFFICER GEFTER: -- taking  
20 testimony right now, Mr. Varanini. We're just  
21 asking for attorneys to argue.

22 MR. VARANINI: I'm sorry, ma'am, but I'm  
23 going to try to tell you what we're trying to do.  
24 And then if you rule against us, then we will, you  
25 know, have a series of procedural motions.

1           But I think, just in general, if you let  
2           us build the record, our record and your record,  
3           then we'll tell you what it means in our brief.  
4           If we do that, and we don't do it well, you're  
5           confused or you can't follow it, or it's  
6           speculative, then so be it. I think that's the  
7           real job of the trier of fact.

8           But if you tell us to guess about what  
9           it is you want, and we have information excluded  
10          from the record, then we can't fulfill our duties  
11          under your act.

12          We --

13          PRESIDING MEMBER LAURIE: Mr. Varanini,  
14          don't you concur that it's up to this Committee to  
15          determine what evidence it deems relevant?

16          MR. VARANINI: I think that the  
17          relevance argument is perfectly correct. You're  
18          perfectly correct that you do have the ability and  
19          the duty to do that.

20          But I think that in this area that the  
21          issues are so arcane that we have a duty of  
22          developing a record, ourselves; and that is so we  
23          can use the information that we think is important  
24          to argue to you as to what it is that you might  
25          want to do or some options that you might want to

1 discuss.

2           The real problem is that all of these  
3 matters are tied together, and when you start  
4 trying to parse them you're making incredible  
5 judgments, technical judgments, without perhaps  
6 the benefit of even hearing how the information  
7 ties into the conclusion.

8           Your two modelers on the Commission  
9 aren't on this Committee. You have two modelers  
10 on the Commission. Those two gentlemen both have  
11 had significant experience with using a variety of  
12 models to basically reach certain economic and  
13 certain resource conclusions.

14           And I think when we first came in we  
15 confused the Committee. We apologize for that.  
16 We know that there was an excess of rhetoric at  
17 the time.

18           But here's really what we're trying to  
19 do. We are trying to provide you, first of all,  
20 with a tutorial on how you determine what X and Y  
21 is. There are about five forces that work on the  
22 system. And those five forces shift X to Y.  
23 There's not one force. It's not simply that there  
24 isn't enough gas. There are four or five of them,  
25 okay. So that alters X, and opens Y.

1           Then we have a witness who's prepared to  
2 tell you what an environmental disaster it is if Y  
3 occurs. So we try to break it up with Mr.  
4 Weatherwax giving you the modeling background,  
5 some information on how these things are thought  
6 about.

7           And then information on utilization,  
8 transmission problems that require more oil. I  
9 think, if you bear with me just a second, we  
10 believe oil is going to be necessary in order to  
11 operate the system in San Diego to meet load.

12           We think under realistic circumstances  
13 that more oil will be needed to maintain systems  
14 reliability. In other words, you can't make this  
15 a fungible process. You can't say there's X  
16 amount of gas and that gets allocated to three  
17 machines and that's all you have to worry about.

18           There's oil use required to meet load.  
19 There's oil use required to maintain system  
20 stability with plants running essentially in  
21 parallel.

22           There are additional uses of oil that  
23 are required to import power into this area. In  
24 other words, you run the plant on oil and it pulls  
25 more cheaper power into the area. And all

1 additional threats, growth, any other problem that  
2 occurs during this time period has to be met with  
3 brute strength oil.

4 We think you can quantify that and then  
5 you can actually look at the environmental  
6 impacts. More importantly, one of the judgments  
7 you're going to have to make is a guess about  
8 what's going to happen in the constant war that's  
9 going to start between air pollution control  
10 district and the people burning oil as to whether  
11 or whether not it's a force majeure event, and  
12 whether or whether not you can make your judgments  
13 about what's going to happen.

14 All our witnesses are doing is telling  
15 you essentially there's a model, if you want to  
16 model that. That model is used by you and has  
17 been used by you for the last 25 years. You  
18 developed the best model in the country and we  
19 think that can be exercised.

20 And that pulls all of the arithmetic and  
21 complexities of the two, of the four determinants  
22 that create the use of more oil into a series of  
23 simple displays.

24 And then at that point you can make your  
25 judgment. It's this much oil. Somebody disagrees

1 for some reason, it's a different amount of oil.  
2 And then our other witness will tell you what the  
3 air impacts are.

4 They overwhelm, air impacts of using oil  
5 here literally overwhelms any discussion about  
6 marginal effects at gas power plants. You've had  
7 more discussion about dust in fugitive dust than  
8 you have about whether or not they're going to  
9 have fuel to fuel their plant.

10 And so those are the things that concern  
11 us. I think they are manageable, but if you let  
12 us put it on the record, and we may get it wrong,  
13 and if we do we apologize for wasting your time,  
14 but I think if you give us the shot of putting it  
15 on the record, there would be a coherent story.

16 But I would agree, and I think that you  
17 may be on -- certainly you're the trier of fact --  
18 you may be on a much better approach, and that is  
19 the way one could determine X and Y is not to have  
20 the lawyers sit down like we did last week. I  
21 wasn't there, but I understand that the technical  
22 folks weren't there.

23 And it seems to me the technical folks  
24 can sit down, if we could do a forecast for the  
25 State of California, we can certainly do an

1 inspection of oil use anticipated for five years  
2 or so here in San Diego.

3           And I think that that modeling exercise  
4 is only complex in that the differential equations  
5 and other things in the model churn data, but in  
6 essence I think it's just an assistance to our  
7 intuition, and we could give you -- I believe we  
8 can give you a number on how much oil, and we can  
9 tell you what we believe the environmental impacts  
10 of that oil are.

11           All the rest of our testimony is really  
12 foundational, in that sense. It tells you a  
13 little bit about models, tells you a little bit of  
14 applying them. It tells how they work in very  
15 short order. And then suggests we are going to  
16 have a big problem here. And then suggests how to  
17 quantify it. And then essentially how to analyze  
18 its impacts.

19           So that's really our offer of proof.  
20 And I think we're very close to a procedural  
21 agreement. We know the applicants want to get on  
22 with this. They want to get it over. They've  
23 been at this a long time, and we empathize with  
24 that. We have plans, ourselves.

25           But, I think this is an extremely

1 important issue and I would urge that we continue,  
2 perhaps on your idea of this X plus Y process.

3 PRESIDING MEMBER LAURIE: Thank you, Mr.  
4 Varanini.

5 HEARING OFFICER GEFTER: Ms. Luckhardt.

6 MS. LUCKHARDT: On behalf of Duke Energy  
7 our concern about this issue has definitely  
8 intensified over the last week.

9 We have been curtailed twice. On  
10 Thursday and Friday we were almost 100 percent on  
11 fuel oil for certain hours within the day. We  
12 burned in excess of 13,000 barrels of fuel oil.  
13 So we believe the situation is getting worse not  
14 better.

15 I don't know if you're also aware that  
16 we were put on notice of potential curtailments  
17 three times this summer. So we believe that this  
18 really is a current and potentially problematic  
19 issue.

20 And I understand that your concern is  
21 regarding the air quality impacts that could occur  
22 if Otay Mesa comes on line. And that forces South  
23 Bay and Encina to burn additional fuel oil.

24 In order to show the potential increase  
25 in fuel oil that could be burned, there are a

1 couple things that need to be taken into account.

2 One is the capacity of the gas system.  
3 The other is the actual physical relationship of  
4 the electric system in San Diego, since certain  
5 plants have to operate in order for Otay Mesa to  
6 operate so that the system is in balance.

7 And we believe that both of those things  
8 need to come into play for you to fully understand  
9 the potential curtailments that could occur at  
10 South Bay and Encina.

11 So what we would like to do, through our  
12 cross-examination, is have the opportunity to  
13 present or bring out information that would go to  
14 the point that you have asked us to focus on in  
15 this proceeding.

16 PRESIDING MEMBER LAURIE: Okay, thank  
17 you.

18 HEARING OFFICER GEFTER: Thank you. Ms  
19 Duncan, do you have any comments?

20 MS. DUNCAN: Only that all of this is  
21 very interesting for me. I think I raised some of  
22 these issues in my comments on the 9/20 workshop.  
23 And I mentioned that there are many factors that  
24 are going to affect air quality here.

25 And one factor that I learned last week

1 on our proceedings is that we have a simulation,  
2 that's the best word I can come up with, where in  
3 order for the entire system to work, in balance,  
4 to borrow a term we just heard, is that one  
5 scenario is that Otay Mesa will not be at full  
6 load. So my understanding is that all the  
7 modeling that's been done for their air quality  
8 impacts is based on a full load.

9 So, there's another factor, a variable,  
10 if you will, that's not being factored into what  
11 the air quality impacts would be. And I think we  
12 need that information, as well, to understand the  
13 total picture here of what will happen to the air  
14 quality.

15 That's what I'm hearing you say you have  
16 to be concerned with. What's going to happen to  
17 the air quality. So, I heard a scenario of Otay  
18 Mesa not being at 100 percent load. But that's  
19 what all the air quality modeling in the FSA is  
20 all about.

21 So there's another variable for you. So  
22 I would really like to have the X, Y, Z. I'd  
23 really like the simplistic approach. But I don't  
24 think this is a simplistic problem at all.

25 I reiterate that in my comments for the

1 9//20 workshop on air quality I thought there were  
2 a whole lot of variables that we had to look at to  
3 determine what the real impacts to air quality  
4 here will be with another plant coming into our  
5 community.

6 So, I would hope that you would take a  
7 look at those comments and see, I would say I'd  
8 have to add this one now, that I learned about  
9 last week. About the scenario of in order for the  
10 transmission system to work, Otay Mesa has to be  
11 at less than full load. And I'm concerned about  
12 the air quality impacts of that, as well.

13 HEARING OFFICER GEFTER: Thank you. Mr.  
14 Claycomb.

15 MR. CLAYCOMB: Save Our Bay has no  
16 comments.

17 HEARING OFFICER GEFTER: Thank you.  
18 Back to the applicant, do you have any additional  
19 comments based on what you've heard?

20 MR. HANSCHEN: No. In fact, I think the  
21 witnesses that we have today will address these  
22 issues and will put to rest all this concern. Mr.  
23 Filippi and Mr. Beach can address this exact  
24 issue, as they will address the testimony of Mr.  
25 Weatherwax that was filed today, also. We'll ask

1           them back to give their comments on that.

2                       And I think the record at that juncture  
3           will be, as I indicated.  So we'd like to go  
4           forward with our case at this time.

5                       HEARING OFFICER GEFTER:  Off the record.

6                       (Off the record.)

7                       HEARING OFFICER GEFTER:  We're going to  
8           look at some time estimates here.  How much time  
9           does the applicant expect your witnesses will  
10          take?

11                      MR. HANSCHEN:  I can't estimate cross-  
12          examination --

13                      HEARING OFFICER GEFTER:  Direct.

14                      MR. HANSCHEN:  The direct, both  
15          witnesses are ready to go except for a very brief  
16          summary by Mr. Beach --

17                      PRESIDING MEMBER LAURIE:  To the extent  
18          that the Committee feels you're going beyond, go  
19          ahead and make your objection for the record, and  
20          we will move on.

21                      HEARING OFFICER GEFTER:  Will the  
22          applicant go forward with your witnesses.

23                      MR. HANSCHEN:  Very well.  Thank you,  
24          Ms. Gefter.  Applicant would like to call Mr.  
25          James Filippi, please.  Excuse me, let me restate

1 that. Applicant would like to call Mr. Thomas  
2 Beach, please.

3 HEARING OFFICER GEFTER: Mr. Beach was  
4 under oath in last week's hearing and remains  
5 under oath.

6 Whereupon,

7 THOMAS BEACH  
8 was recalled as a witness herein and having been  
9 previously duly sworn, was examined and testified  
10 further as follows:

11 HEARING OFFICER GEFTER: Also, do you  
12 want to introduce the documents that you  
13 circulated this afternoon?

14 MR. HANSCHEN: Yes, thank you. Sorry,  
15 I'm off to kind of a bad start not knowing which  
16 witness is first here.

17 DIRECT EXAMINATION

18 BY MR. HANSCHEN:

19 Q Would you state your name for the  
20 record, please.

21 A My name is Thomas Beach.

22 Q Mr. Beach, did you cause to prepare two  
23 additional documents for today's hearing?

24 MS. LUCKHARDT: We object to the  
25 admission of this testimony.

1 HEARING OFFICER GEFTER: On what basis?

2 MR. HANSCHEN: I haven't moved it yet.

3 MS. LUCKHARDT: I object to having it  
4 presented.

5 HEARING OFFICER GEFTER: On what basis?

6 MS. LUCKHARDT: This testimony, the  
7 two -- are you talking about the two new pieces of  
8 testimony that you've handed out today?

9 MR. HANSCHEN: Yes.

10 MS. LUCKHARDT: Is that what you're  
11 referring to? Okay. For starters, there is an  
12 attachment, I gather, that says double pro rata  
13 gas curtailment.

14 This document, I gather, is purported to  
15 be a written copy of a proposal that was initially  
16 proposed during settlement discussions. We  
17 believe that this document is extremely self  
18 serving in this situation.

19 It has information and issues and parts  
20 in it that were not a part of those initial  
21 discussions and were not put on the record on that  
22 day.

23 It goes beyond that. I believe that  
24 this is simply an attempt by applicant to put on  
25 the record a concept that is not in the ability of

1 the Commission to require. It is not currently  
2 consistent with any curtailment schemes that are  
3 currently approved by the PUC.

4 And that this goes far beyond the  
5 settlement discussions that occurred between the  
6 parties. And is completely outside of anything  
7 that should be permitted in this proceeding.

8 On his Q&A testimony there are some  
9 additional problems we have with the Q&A  
10 testimony. Mr. Beach, I believe, is testifying on  
11 gas transmission and gas capacity. There are two  
12 questions, number 6 and 7, where Mr. Beach  
13 testifies as to air quality impacts. I don't  
14 believe Mr. Beach is qualified to testify on air  
15 quality impacts.

16 His response to question 9 I believe is  
17 wholly improper. It is a recharacterization of  
18 what staff's witness, Mr. Wood, testified to. And  
19 I believe in that instance Mr. Wood has testified  
20 and has been cross-examined. And he is also  
21 available today should anyone wish to know what he  
22 thinks about this issue.

23 And then in that instance we should ask  
24 him, and not have applicant's witness  
25 recharacterize what Mr. Wood said.

1                   I have no problem with him providing his  
2                   comments, whether he agrees or disagrees with Mr.  
3                   Wood's characterization, but I do object to him  
4                   testifying to what Mr. Wood said.

5                   PRESIDING MEMBER LAURIE: Thank you.

6                   MR. HANSCHEN: If I may before you rule,  
7                   I'd like to address those objections.

8                   (Pause.)

9                   HEARING OFFICER GEFTER: Mr. Hanschen  
10                  had a comment before we rule on the objection.

11                  MR. HANSCHEN: I really think that  
12                  objection is really bogus. First of all, the  
13                  double rate pro rata gas curtailment is simply a  
14                  further elucidation of something that Mr. Beach  
15                  testified to last week.

16                  There's no problems with it being a  
17                  matter of settlement or not settlement. In fact,  
18                  as it was applicant's idea, we didn't breach any  
19                  confidentialities with respect to the settlement  
20                  discussions.

21                  It was briefly put on the record in  
22                  terms of a summary fashion. This is simply a  
23                  matter to flesh out what was put on the record  
24                  last time.

25                  If counsel had an objection she waived

1 it by not objecting last time. And I'm sorry,  
2 that's simply the case.

3 With respect to the additional prepared  
4 testimony, this testimony is well within Mr.  
5 Beach's qualifications. First of all, if you look  
6 at question 6, there's no quantification of air  
7 impacts here. He simply says because you're  
8 burning gas and you're going to have gas to burn,  
9 it's a situation of the status quo. So this is  
10 well within the purview of this witness to testify  
11 to.

12 The same is true of question 7. With  
13 respect to question 9, --

14 PRESIDING MEMBER LAURIE: No, wait a  
15 minute.

16 HEARING OFFICER GEFTER: Okay, all  
17 right.

18 PRESIDING MEMBER LAURIE: We're not  
19 going to go through these question by question.  
20 The applicant is not seeking to introduce a  
21 document. The applicant's going to ask questions.  
22 To the extent that any party deems any question  
23 objectionable, make your objection pursuant to  
24 that question. Okay?

25 Ask your question, Mr. Hanschen.

1                   MR. HANSCHEN: Am I to take your  
2                   directions, Commissioner Laurie, as that you'd  
3                   like me to ask the questions that were in the  
4                   prepared direct testimony of this witness?

5                   PRESIDING MEMBER LAURIE: That's  
6                   correct, to the extent that you deem them  
7                   relevant.

8                   MR. HANSCHEN: I deem all the questions  
9                   relevant, so will you please state your name for  
10                  the record, please?

11                  MR. BEACH: My name is R. Thomas Beach.

12                  BY MR. HANSCHEN:

13                  Q     And, Mr. Beach, what is your profession?

14                  A     I am principal consultant with the  
15                  energy consulting firm of CrossBorder Energy.

16                  Q     Have you previously testified, provided  
17                  testimony in this proceeding?

18                  A     Yes, I have. I've previously sponsored  
19                  testimony which has been designated as exhibit 81  
20                  in this case. And my qualifications and  
21                  experience are described in attachment 1 to that  
22                  testimony.

23                  Q     And what is your role with respect to  
24                  the Otay Mesa Generating Project?

25                  A     I was retained by the Otay Mesa

1       Generating Project to assist them with a number of  
2       issues relating to the natural gas supply for the  
3       project.

4           Q     Mr. Beach, could you briefly describe  
5       Otay Mesa Generation Company's pro rata  
6       curtailment proposal that you presented in oral  
7       testimony before the Committee on November 14,  
8       2000 --

9           MS. LUCKHARDT:  We would object to any  
10       extension to the description that was given  
11       previously.  And we believe that this question is  
12       redundant, since it's already been asked and  
13       answered and admitted by counsel.

14           PRESIDING MEMBER LAURIE:  Mr. Hanschen,  
15       why is this question relevant to this proceeding  
16       today?

17           MR. HANSCHEN:  Because it elucidates on  
18       a proposal that Mr. Beach gave in summary fashion  
19       to the Committee on the 14th in which he  
20       demonstrated that sufficient gas supplies would be  
21       made available to the other generating plants to  
22       satisfy their RMR contracts.

23           PRESIDING MEMBER LAURIE:  Why can't you  
24       just ask him questions, but not in the form as it  
25       might appear in a proposal?

1                   MR. HANSCHEN: Truthfully, it seemed  
2                   like a quicker way to do that is -- but, I'd be  
3                   happy to go through what a proposal might be in  
4                   which there would be an insurance policy given  
5                   essentially to the other generators to insure that  
6                   there's natural gas available for their RMR  
7                   contracts.

8                   BY MR. HANSCHEN:

9                   Q     Mr. Beach, on the 14th of November you  
10                   provided testimony with respect to a pro rata  
11                   curtailment proposal, is that correct?

12                   A     Yes, I did.

13                   Q     Would you briefly describe that proposal  
14                   for the Committee today?

15                   MS. LUCKHARDT: I believe that this  
16                   question has been asked and answered in the  
17                   previous proceeding.

18                   MR. HANSCHEN: I really do object to  
19                   that and take issue with that, as that it was  
20                   given in its most summary fashion, and this is an  
21                   elucidation of that proposal.

22                   MS. LUCKHARDT: This is obviously an  
23                   extension. I don't believe that the other  
24                   portions that he's talking about would be anything  
25                   to help support the record in this case, and go

1 beyond the scope of the Committee's specific  
2 recommendations that we follow in this proceeding.

3 PRESIDING MEMBER LAURIE: Why wouldn't  
4 it be relevant to entertain testimony to the  
5 extent that Otay Mesa could be run without a gas  
6 curtailment affecting the other two plants? Why  
7 would that not be relevant evidence?

8 MS. LUCKHARDT: I'm not saying that that  
9 specific issue and the original proposal that they  
10 proposed is irrelevant. I'm not arguing that.

11 I am talking about the additional  
12 provisions that have been added into this proposal  
13 that I do not feel are pertinent to this  
14 discussion.

15 HEARING OFFICER GEFTER: Mr. Hanschen,  
16 we are interested in the issue as to whether the  
17 other -- whether your witness believes the other  
18 power plants can operate without being curtailed  
19 if Otay Mesa is on line. Could you ask your  
20 witness those questions?

21 BY MR. HANSCHEN:

22 Q Mr. Beach, Mr. Eisenman previously  
23 testified that there would, in his opinion, be a  
24 number of additional supply projects coming into  
25 the San Diego area, is that correct?

1           A     Yes.

2           Q     And, Mr. Beach, your prior testimony in  
3           this case that will be cross-examined today, also  
4           addressed your opinion that there would be  
5           sufficient gas supplies available to the other  
6           generators, is that correct?

7           A     Yes, that there would be sufficient gas  
8           supplies available to the other generators to  
9           allow them to meet reliability needs in the San  
10          Diego area.

11          Q     And, Mr. Beach, in your prior testimony  
12          did you also present the proposal that you  
13          described as an insurance proposal to insure that  
14          there was additional gas supplies available to  
15          other generators to insure that they had  
16          sufficient natural gas to meet their RMR  
17          requirements?

18          A     Yes, my basic testimony presented in my  
19          exhibit 81 that I presented at the last hearing,  
20          plus Mr. Filippi's testimony that fits in with it,  
21          showed that there will be adequate gas supplies in  
22          the San Diego area to allow the electric needs to  
23          be met reliably.

24                   I also presented, I realize that that  
25          may be, you know, somewhat controversial. So, in

1 an effort to provide, as we had characterized it  
2 as an insurance policy, to make sure that that is  
3 indeed the case, what the idea that we presented  
4 at the last hearing was to have a curtailment  
5 policy in San Diego that insures that the units in  
6 San Diego that are called by the ISO, for  
7 reliability purposes, will have adequate gas  
8 supplies to meet those calls.

9 And that was the purpose of the double  
10 pro rata curtailment proposal that I described at  
11 the last hearing.

12 The way it would work is when there is a  
13 shortage of gas supplies in the San Diego area,  
14 the first step would be to cut back all electric  
15 generators on a pro rata basis.

16 And then after that first cut, if there  
17 is a generator that needs additional gas to meet  
18 an RMR call from the ISO, that generator would be  
19 allocated sufficient gas supplies to meet that RMR  
20 call, and those additional gas supplies would come  
21 from a further pro rata curtailment from the other  
22 generators.

23 And in our view that curtailment policy  
24 would function as an insurance policy to make sure  
25 that the generators that are needed to be online

1 in San Diego for reliability purposes would have  
2 gas supplies to produce that power. And would not  
3 be burning oil to meet reliability calls from the  
4 ISO.

5 MR. HANSCHEN: I'm going to deviate  
6 slightly from these questionings, Ms. Gefter, is I  
7 have two documents that I'd like to show this  
8 witness.

9 The first document I'd like identified  
10 as the next exhibit in order is a document  
11 entitled, emergency motion of Dynegy Marketing and  
12 Trade for immediate modification and clarification  
13 of SDG&E's gas rule 14, which was submitted to the  
14 California Public Utilities Commission on November  
15 17, 2000.

16 The second item is emergency motion of  
17 Duke Energy North America for temporary  
18 modification of San Diego Gas and Electric's rule  
19 14, dated November 17, 2000. And filed with the  
20 caption before the Public Utilities Commission in  
21 the State of California.

22 I have those identified --

23 MS. LUCKHARDT: We would like to, first  
24 of all, understand what the relevance of those  
25 documents are to this proceeding.

1                   MR. HANSCHEN: Can I not be interrupted.  
2 I'd like to have these identified as the next  
3 exhibit in order, please.

4                   HEARING OFFICER GEFTER: Okay, I don't  
5 have the other one -- okay, here's both of them.  
6 Fine.

7                   For identification only, the emergency  
8 motion of Dynegy Marketing is 89; and the  
9 emergency motion of Duke Energy is 90.

10 BY MR. HANSCHEN:

11                 Q     Mr. Beach, do you have a copy of  
12 exhibits 89 and 90 before you?

13                 A     Yes, I do.

14                 Q     Mr. Beach, to the best of your knowledge  
15 were these documents filed with the Public  
16 Utilities Commission on November 17, 2000 by  
17 Dynegy Marketing and Duke Energy North America?

18                 A     To the best of my knowledge they were.

19                 Q     And were you served with a copy of these  
20 documents?

21                 A     Yes, I was.

22                 Q     Now, I'd like to go back to Mr. Beach's  
23 additional prepared testimony.

24                         Mr. Beach, have you analyzed the  
25 potential impacts to air quality associated with

1 Otay Mesa Generating Company's --

2 MS. LUCKHARDT: I object. I object.

3 Mr. --

4 MR. HANSCHEN: I haven't finished the  
5 question. And I'd ask that you stop interrupting  
6 me.

7 HEARING OFFICER GEFTER: Okay, let Mr.  
8 Hanschen ask --

9 MS. LUCKHARDT: I don't --

10 HEARING OFFICER GEFTER: -- his  
11 question, and we --

12 MS. LUCKHARDT: I understand that. I  
13 don't want him to then proceed beyond the  
14 opportunity for me to object.

15 MR. HANSCHEN: I think the proper  
16 time --

17 MS. LUCKHARDT: I'm having trouble --  
18 (Parties speaking simultaneously.)

19 MR. HANSCHEN: -- to object is --

20 HEARING OFFICER GEFTER: Okay, he may  
21 ask his question --

22 MR. HANSCHEN: -- when I move those into  
23 evidence, and counsel can deal with them  
24 accordingly. And I'm happy to do that. But I  
25 wish you'd let me proceed with my direct

1 examination --

2 HEARING OFFICER GEFTER: Okay, you may  
3 proceed, --

4 MR. HANSCHEN: -- of my witness.

5 HEARING OFFICER GEFTER: -- Mr.  
6 Hanschen, just ask your question please.

7 BY MR. HANSCHEN:

8 Q Mr. Beach, let me restate the question.  
9 Have you analyzed the potential impacts to air  
10 quality associated with the Otay Mesa Generating  
11 Company's pro rata curtailment proposal?

12 MS. LUCKHARDT: I object.

13 HEARING OFFICER GEFTER: Okay, you --

14 MR. VARANINI: We object, also.

15 PRESIDING MEMBER LAURIE: Basis?

16 MS. LUCKHARDT: Mr. Beach is not an air  
17 quality expert. He's asking him for an air  
18 quality analysis.

19 HEARING OFFICER GEFTER: You may voir  
20 dire the witness on his expertise to answer this  
21 question. And then we can rule.

22 VOIR DIRE

23 BY MS. LUCKHARDT:

24 Q Mr. Beach, could you please explain your  
25 experience in air quality?

1 HEARING OFFICER GEFTER: Well, that's a  
2 very broad question. Why don't you ask it  
3 specifically to the question that Mr. Hanschen  
4 asked him about his analysis.

5 BY MS. LUCKHARDT:

6 Q Have you analyzed the air quality  
7 impacts of power plant projects?

8 MR. HANSCHEN: I'm going to have to  
9 object even to the voir dire question as being  
10 beyond the scope of what he's testifying here.

11 HEARING OFFICER GEFTER: Right, that's a  
12 very --

13 MS. LUCKHARDT: Well, he's asking him  
14 whether --

15 HEARING OFFICER GEFTER: -- general  
16 question.

17 MS. LUCKHARDT: -- he's analyzed, he's  
18 done an air quality analysis. And what I'm trying  
19 to find out whether Mr. Beach has an air quality  
20 background. Whether he's performed --

21 HEARING OFFICER GEFTER: Ask him that  
22 question.

23 BY MS. LUCKHARDT:

24 Q Mr. Beach, do you have an air quality  
25 background?

1           A     I'm not sure what you mean by an air  
2     quality background. I certainly, for example, am  
3     familiar with power plant emission rates under  
4     various kinds of fuels.

5                     I am familiar with emissions trading  
6     markets. I'm familiar with the cost to purchase  
7     offsets for power plants.

8                     And I have submitted testimony on those  
9     topics before the California Public Utilities  
10    Commission.

11           Q     Have you ever conducted any modeling  
12    regarding air quality?

13                     MR. HANSCHEN: Well, objection on the  
14    relevancy. If counsel could read the answer,  
15    there's no quantification of any air impacts given  
16    in this answer.

17                     MS. LUCKHARDT: If you could restate the  
18    question in such a way that it did not ask for an  
19    air quality analysis I wouldn't have an objection.

20                     MR. HANSCHEN: Well, it doesn't.

21                     HEARING OFFICER GEFTER: Okay, let's  
22    move on, because again, it doesn't make much  
23    difference in the record whether you two attorneys  
24    are arguing over an issue. We're interested in  
25    the actual testimony.

1                   Ask the witness the question. The  
2 witness can answer, and we will give it whatever  
3 weight it's worth. Mr. Hanschen.

4                   DIRECT EXAMINATION - Resumed

5 BY MR. HANSCHEN:

6           Q     Would you proceed with your answer, Mr.  
7 Beach?

8           A     Yes. The purpose of our proposal is to  
9 insure that system reliability is maintained  
10 without the need to burn alternate fuels such as  
11 fuel oil.

12                   And it certainly is my understanding and  
13 experience that burning fuel oil in a power plant  
14 produces greater emissions than burning natural  
15 gas.

16                   And so our proposal is designed to  
17 insure that there would not be any additional  
18 emissions associated with fuel oil burning as a  
19 result of natural gas curtailments.

20           Q     Mr. Beach, do you believe that the Otay  
21 Mesa Generation Company's pro rata curtailment  
22 proposal represents an improvement over the  
23 current curtailment system in terms of air quality  
24 impacts?

25                   MS. LUCKHARDT: Again, I have my

1 continuing objection.

2 HEARING OFFICER GEFTER: It's noted.

3 MR. BEACH: Yes, I do believe that it's  
4 an improvement. Under the current system of  
5 rotating block curtailments, it is possible for a  
6 generator to be curtailed, for its gas supplies to  
7 be curtailed at the same time that it's being  
8 asked by the ISO to run in order to maintain  
9 system reliability.

10 However, under the proposal that we have  
11 made, a generator that was being asked to run by  
12 the ISO would be allocated additional gas supplies  
13 so it would not have to burn oil in order to  
14 respond to the ISO's call for generation.

15 PRESIDING MEMBER LAURIE: Mr. Hanschen,  
16 explain something to me. The Energy Commission  
17 does not have the power or authority to impose  
18 conditions on any party other than the applicant.

19 To the extent that this proposal  
20 incorporates responsibilities upon one or more  
21 parties other than the applicant, why is that  
22 relevant to us?

23 It could be that if some authorized  
24 body, whether it's the PUC or SDG&E or whoever  
25 else it might be, imposes such conditions, well,

1 that's relevant.

2 But there's no evidence that those  
3 conditions are, in fact, being imposed. Thus,  
4 it's only speculative today. Why is it argument  
5 incorrect?

6 MR. HANSCHEN: The argument is correct.  
7 I think on this, Commissioner Laurie, is that as I  
8 described, this proposal is an insurance policy,  
9 is that we actually don't think that it's needed.  
10 That there will be sufficient gas supplies  
11 available to these plants to satisfy their  
12 reliability must-run commitments.

13 PRESIDING MEMBER LAURIE: But we don't  
14 have the power to enforce such a proposal. All we  
15 could do -- the only power we have is to put  
16 conditions on the applicant.

17 Now, we could say, if we found the  
18 proposal to be appropriate for purposes of  
19 discussion, we could say you can't operate unless  
20 this proposal is in effect. That's the only thing  
21 we could do.

22 Now, if that's what you're suggesting as  
23 a condition, well, then we can talk about that.  
24 But I don't think that's on the table today.

25 MR. HANSCHEN: I'm not suggesting that

1 as a condition. What I am suggesting is that, as  
2 I indicated, is this is about the third or fourth  
3 thing in a queue that we're trying to give the  
4 Commission some comfort to feel that there would  
5 be sufficient gas available to Encina and South  
6 Bay to run their RMR contracts and to satisfy  
7 those.

8 We actually think that this gives them  
9 more than they presently have at the present time  
10 with the rotating block.

11 Now, we're not willing to accept this as  
12 a condition to any certificate from this  
13 Commission. All we will indicate is that there is  
14 an existing OII before the PUC in which the  
15 curtailment procedures are being examined. And we  
16 will put that forth before the PUC.

17 It is intended to give a level of  
18 comfort. It gives, we think, the plants more than  
19 they presently have where they were forced to go  
20 to oil earlier this week, for example. And I  
21 assume that was to satisfy RMR commitments, and  
22 not simply because they wanted to be in the market  
23 for commercial reasons at that time.

24 So, it was intended not as a condition,  
25 but as a level of comfort for the Commission that,

1 in fact, this plant had the effect of coming on,  
2 adding more generation to the basin, adding more  
3 efficient use of fuel than the current plants.

4 And willing to allocate gas away from it  
5 to insure that Encina and South Bay would satisfy  
6 its RMR commitments, because we understood their  
7 testimony as being that there may be some  
8 reliability concerns if they couldn't run.

9 MR. VARANINI: Mr. Chairman, with that  
10 explanation we object. I think that the level of  
11 speculation, this isn't even triple hearsay, it's  
12 some form of triple existentialism.

13 They are trying to put onto your record  
14 information about how ISO operates, what it's  
15 capable of doing, what the nature and extent of  
16 RMR contracts are now, versus what they might be  
17 when they come on.

18 It requires an understanding on your  
19 part of the RMR process, and I believe that it, on  
20 its face, proposes a shell game; and is outside  
21 your jurisdiction.

22 PRESIDING MEMBER LAURIE: Every --

23 MR. VARANINI: If you think about it,  
24 there's no foundation for this in terms of any  
25 form of analysis that would allow for you to make

1 even a suggested judgment to ISO or the PUC.

2 PRESIDING MEMBER LAURIE: The objection  
3 is noted, Mr. Varanini. Mr. Hanschen, --

4 MR. HANSCHEN: Yes, sir.

5 PRESIDING MEMBER LAURIE: -- what you're  
6 asking the witness to testify to is a proposal.  
7 The Committee finds the proposal to be irrelevant  
8 to these proceedings. To the extent that you wish  
9 to make this proposal to the PUC, fine.

10 We are not inclined to wait to see what  
11 the result of the PUC OII is before entertaining a  
12 decision in this case.

13 To the extent that this witness or any  
14 other witness can testify to a conclusion that  
15 results in a statement that there's adequate gas  
16 supply and result in no curtailment, or anything  
17 else along those lines, well, that's fine.

18 But the Committee's not interested in a  
19 proposal. We find that irrelevant and we won't  
20 entertain any more questions on it.

21 MR. HANSCHEN: Okay, appreciate that.

22 BY MR. HANSCHEN:

23 Q Mr. Beach, turn with me, please, to  
24 exhibit 89.

25 MS. LUCKHARDT: Could you remind me what

1 exhibit 89 is?

2 HEARING OFFICER GEFTER: Emergency  
3 motion of Dynegy Marketing before the PUC.

4 MS. LUCKHARDT: Okay, thank you.

5 BY MR. HANSCHEN:

6 Q Would you turn with me to page 12,  
7 please?

8 A Okay, I'm there.

9 Q Is it your understanding that as of  
10 December 31 of this year that Dynegy at the  
11 Cabrillo Plant will not be able to burn fuel oil  
12 in case of a gas curtailment?

13 A That --

14 MR. VARANINI: Object on the basis that  
15 that's hearsay --

16 HEARING OFFICER GEFTER: He can answer  
17 the --

18 MR. VARANINI: -- and that it basically  
19 assumes that the witness understands the context  
20 of what Dynegy was attempting to indicate.

21 HEARING OFFICER GEFTER: Okay, what is  
22 the answer, Mr. Varanini?

23 MR. VARANINI: Dynegy was trying to  
24 indicate that in the absence of a relationship  
25 between force majeure and oil burning, that they

1 would hit the cap, they would hit a very severe  
2 cap, and that they would have difficulty in  
3 operating on gas or fulfilling their mission on  
4 gas.

5 I think that this really supports Ms.  
6 Luckhardt's objection because our expert, Gary  
7 Rubenstein, who is an uncontroverted air expert,  
8 will explain tomorrow exactly the vagaries of the  
9 system. And he can explain because he knows the  
10 air system, what that phrase meant.

11 I think this --

12 HEARING OFFICER GEFTER: Okay, we'll ask  
13 him tomorrow then.

14 MR. VARANINI: Right, but this is beyond  
15 the competence of this witness, plus --

16 HEARING OFFICER GEFTER: Okay, your  
17 objection is noted. Let's move on. Mr. Hanschen.

18 BY MR. HANSCHEN:

19 Q Mr. Beach, would you respond to the  
20 question?

21 MR. VARANINI: Just a second --

22 HEARING OFFICER GEFTER: He may ask the  
23 question, and we'll give it whatever weight it's  
24 worth.

25 MR. VARANINI: -- ma'am --

1 HEARING OFFICER GEFTER: And he may --  
2 let's go on.

3 MR. VARANINI: -- just a second.

4 MR. HANSCHEN: She's ruled.

5 MR. VARANINI: No, that's what I'm  
6 asking. Is that a ruling? We're entitled to a  
7 ruling under the rules. And I want to know if  
8 it's a ruling, and then it's appealable. I'm  
9 perfectly -- I understand what's going on, but I  
10 want to make sure that we have the right to  
11 exercise a --

12 HEARING OFFICER GEFTER: Your  
13 understanding is correct.

14 MR. VARANINI: Okay, fine, thank you.

15 BY MR. HANSCHEN:

16 Q Would you respond to the question, Mr.  
17 Beach?

18 A It is represented in the second and  
19 third lines of the second paragraph under section  
20 3, here, that Dynegy and Duke will not have the  
21 option of burning fuel oil at their San Diego  
22 plants after December 31st of this year.

23 Q Mr. Beach, would your pro rata  
24 curtailment proposal make more gas available to  
25 the Cabrillo plant in case of a curtailment of gas

1 supplies?

2 PRESIDING MEMBER LAURIE: Continuing  
3 objection noted, or the Committee will object.  
4 I've already indicated, Mr. Hanschen, that we  
5 don't want any additional testimony on a  
6 speculative proposal.

7 MR. HANSCHEN: I'll withdraw the  
8 question.

9 PRESIDING MEMBER LAURIE: Thank you.

10 BY MR. HANSCHEN:

11 Q Mr. Beach, turn with me to exhibit 90,  
12 please. Would you turn to page 1?

13 A Okay.

14 Q Do you see the bottom of the last  
15 sentence of the second paragraph on page 1?

16 A Yes.

17 Q Would you read that for us, please?

18 A Additional, indeed, ongoing natural gas  
19 curtailments are expected in the near future. And  
20 under current air quality requirements South Bay  
21 will not be authorized to burn fuel oil at all as  
22 of January 1, 2001.

23 Q Mr. Beach, was this your testimony that  
24 these documents were filed on Friday with the  
25 California Public Utilities Commission?

1           A     Yes, it was.

2           Q     Would you describe rule 1 of the  
3 California Public Utilities Commission for us,  
4 please?

5           A     Rule 1 of the California Public  
6 Utilities Commission basically binds participants  
7 in PUC proceedings to tell the truth and act  
8 ethically.

9           Q     You're not to mislead the Commission, is  
10 that correct?

11          A     Yes.

12          MS. LUCKHARDT: I'm wondering what the  
13 relevance of that is?

14          MR. HANSCHEN: The question was answered  
15 already. I think your objection is too late.  
16 This witness is available for cross-examination.

17          HEARING OFFICER GEFTER: Thank you.  
18 Does staff have cross-examination of the witness?

19          PRESIDING MEMBER LAURIE: I believe  
20 counsel is always free to make a motion to strike  
21 even though a witness has already answered the  
22 question, Mr. Hanschen.

23          HEARING OFFICER GEFTER: Thank you.

24          MR. OGATA: Staff has no questions.

25          HEARING OFFICER GEFTER: All right.

1 Mr. Varanini, do you have cross-examination of the  
2 witness?

3 MR. VARANINI: Yes, we do.

4 HEARING OFFICER GEFTER: How long do you  
5 think it will take?

6 MR. VARANINI: Twelve minutes.

7 HEARING OFFICER GEFTER: Twelve? All  
8 right, --

9 (Laughter.)

10 HEARING OFFICER GEFTER: -- we'll time  
11 you.

12 CROSS-EXAMINATION

13 BY MR. GOLDMAN:

14 Q Mr. Beach, I have several questions  
15 regarding what has been marked as exhibit 81, your  
16 prepared responsive testimony.

17 But first I do have a question on your  
18 response to a question that applicant's counsel  
19 put to you regarding your double pro rate gas  
20 curtailment exhibit.

21 In your response you made a reference to  
22 the need, if I understood you correctly, for  
23 system reliability to be sustained? Do you recall  
24 saying words to that effect?

25 A I believe I said something like that,

1 yes.

2 Q What did you mean by that?

3 A Basically what I meant by that was the  
4 need for generators in the San Diego area to be  
5 able to respond to the direction of the California  
6 Independent System Operator to produce power at  
7 the ISO's direction, as necessary to maintain  
8 electric system reliability.

9 Q Is part of your understanding based on  
10 the need for power plants in the San Diego region  
11 to operate in tandem to maintain system  
12 reliability?

13 A I'm not sure what you mean by in tandem.

14 Q Simultaneously.

15 A I don't believe that was all that I  
16 meant by my answer. It certainly, I suppose, is  
17 possible that two plants would have to operate at  
18 the same time.

19 A Is it your understanding that it would  
20 be possible to maintain the system reliability  
21 with the Encina and/or South Bay power plants  
22 being shut down while Otay Mesa might or might not  
23 continue to operate?

24 MR. HANSCHEN: Well, I'll object because  
25 I think this goes beyond the scope of this

1 witness' testimony and should be addressed to Mr.  
2 Filippi, please.

3 HEARING OFFICER GEFTER: That's fine.  
4 You can ask the question of Mr. Filippi when he  
5 testifies.

6 MR. GOLDMAN: Is that a ruling that it  
7 is beyond the scope of the expert's testimony? My  
8 understanding is that he did indicate that.

9 HEARING OFFICER GEFTER: The objection  
10 is sustained.

11 BY MR. GOLDMAN:

12 Q Mr. Beach, when you made a reference to  
13 system reliability, did you have in your mind any  
14 set of circumstances that would indicate that  
15 system reliability could not be sustained under  
16 any scenario that you may have considered in  
17 connection with your testimony?

18 A I didn't really look at any scenarios  
19 where I thought system reliability could not be  
20 maintained.

21 Q As we are discussing this today, is it  
22 your testimony that you have not considered any  
23 scenario under which system reliability could not  
24 be maintained?

25 A I don't believe that I have come up with

1 any scenario where system reliability could not be  
2 maintained.

3 Q So stating, if I understand you  
4 correctly, your testimony in the affirmative, it's  
5 your understanding that the only plausible set of  
6 scenarios is one in which system reliability can  
7 be maintained with the operation of Otay Mesa  
8 Generating Plant, correct?

9 MR. HANSCHEN: Objection, misstates the  
10 witness' testimony. It's asked and answered,  
11 also.

12 MR. GOLDMAN: Well, I'm actually trying  
13 to ascertain what the testimony is. So I would  
14 appreciate any clarification.

15 MR. BEACH: Well, I'll tell you what I  
16 presented in my testimony. I did -- the  
17 examination that we did of the issues associated  
18 with gas curtailments had both a gas component and  
19 a transmission component.

20 I did the gas component and came up with  
21 various levels of gas service to the electric  
22 generators on the San Diego system. And then Mr.  
23 Filippi used my results for the level of gas  
24 service under the scenarios I looked at, and  
25 examined whether electric system reliability would

1 be maintained.

2 So, you probably should direct your  
3 questions to him.

4 MR. GOLDMAN: Under those circumstances  
5 we may have a couple of questions for Mr. Filippi  
6 that we did not anticipate.

7 BY MR. GOLDMAN:

8 Q A follow-up to a response you had made  
9 just some moments ago was the role of Cal-ISO in  
10 connection with system reliability.

11 In connection with that are you aware or  
12 have you reviewed a letter dated August 7, 2000,  
13 from Cal-ISO corporate counsel, John Anders, to  
14 the Public Utilities Commission?

15 A No, I have not.

16 HEARING OFFICER GEFTER: Is that letter  
17 part of the exhibit list?

18 MR. GOLDMAN: It hasn't, but I could  
19 mark it for identification at this time.

20 HEARING OFFICER GEFTER: Are you  
21 planning to offer it into the record?

22 MR. GOLDMAN: Yes, we are.

23 HEARING OFFICER GEFTER: What's the  
24 relevance?

25 MR. GOLDMAN: Pardon me?

1 HEARING OFFICER GEFTER: The relevance?

2 MR. GOLDMAN: It addresses issues that  
3 are referred to in the FSA regarding issues  
4 relative to switching from gas to fuel oil in  
5 terms of air quality, and also the notion of the  
6 possibility of gas curtailment and fuel oil  
7 burning as affecting system reliability.

8 And there is some dispute in terms of  
9 the Committee's willingness to entertain the  
10 latter, but there certainly is no dispute about  
11 the Committee's willingness to consider the  
12 former.

13 HEARING OFFICER GEFTER: Wouldn't that  
14 document be better offered during the air quality  
15 testimony?

16 MR. GOLDMAN: I could do that.

17 HEARING OFFICER GEFTER: That would make  
18 more sense.

19 MR. GOLDMAN: Yeah, in fact, it may even  
20 be in the alternative section.

21 HEARING OFFICER GEFTER: Particularly  
22 because this witness isn't familiar with the  
23 letter in the first place.

24 MR. GOLDMAN: I do have a couple of  
25 questions now about your prepared responsive

1 testimony, Mr. Beach, exhibit 81.

2 BY MR. GOLDMAN:

3 Q As I understand it, the purpose of your  
4 testimony is to respond to Mr. Weatherwax's  
5 testimony, correct?

6 A Yes.

7 Q And from my review of your prepared  
8 responsive testimony I take it that you disagree  
9 with Mr. Weatherwax's conclusions that the  
10 operation of the proposed Otay Mesa Generating  
11 Plant will result in additional gas curtailments  
12 on the capacity constrained SDG&E system, is that  
13 correct?

14 A Yes.

15 Q Are you aware that during last week's  
16 evidentiary hearings, due to curtailment of  
17 natural gas supply both the Encina and South Bay  
18 power plants were forced to burn alternative fuel  
19 oil?

20 A That is what I've been told, yes.

21 Q Okay. Do you have any reason to doubt  
22 that?

23 A No.

24 Q Do you know what mechanical steps Encina  
25 or any other dual fuel power plant must take to

1 operate in the transition from natural gas to fuel  
2 oil?

3 HEARING OFFICER GEFTER: I don't see the  
4 relevance of that question. And you raised that  
5 same question last week. It would be preferable  
6 to have your witness testify about that.

7 MR. GOLDMAN: Well, for the record, I  
8 don't recall asking the question, but the  
9 relevance with this witness --

10 HEARING OFFICER GEFTER: The question  
11 was asked.

12 MR. GOLDMAN: For the record, the  
13 relevance of this question is that, as I  
14 understand it, the mechanical steps require the  
15 burning of more oil. And I know this was  
16 evidently part and parcel of Mr. Beach's analysis  
17 as to whether or not curtailment of natural gas  
18 supply will result in the need to burn additional  
19 fuel oil.

20 So, I think it's directly relevant based  
21 on what Mr. Beach has just testified to this  
22 evening. It's a yes or no question. Do you know  
23 what mechanical steps are taken or not?

24 MR. HANSCHEN: You objected before I  
25 did. I'll object as being beyond the scope of his

1 testimony.

2 HEARING OFFICER GEFTER: Well, I -- Mr.  
3 Goldman, ask this question of your witness, and  
4 let's move on.

5 BY MR. GOLDMAN:

6 Q Mr. Beach, do you have any understanding  
7 of the relationship between the level of gas  
8 supply curtailment, say in percentage of supply,  
9 whether it's 10 percent, 20 percent, or 40  
10 percent, and the time that Encina or any other  
11 dual fuel power plant would be forced to burn fuel  
12 oil in terms of number of hours?

13 MR. HANSCHEN: Well, I'll object to the  
14 question as without foundation as with respect to  
15 the amount of curtailment.

16 HEARING OFFICER GEFTER: Again, the  
17 objection is sustained. And that is a question  
18 more properly asked of your own witness.

19 BY MR. GOLDMAN:

20 Q Do you know whether any additional time  
21 spent by Encina, South Bay or any other regional  
22 power plant burning fuel oil would increase the  
23 environmental impacts on regional air quality?

24 A I know generally that burning fuel oil  
25 produces increased emissions compared to burning

1 natural gas.

2 Q And do you agree that there is a causal  
3 connection between a curtailment of natural gas  
4 supply to Encina and the need to burn alternative  
5 fuel oil?

6 HEARING OFFICER GEFTER: Mr. Goldman,  
7 that is the whole crux of inquiry here. Let's  
8 move on to questions, if you have any other  
9 questions of this witness on his testimony, --

10 MR. GOLDMAN: Well, I agree it is the  
11 crux of his testimony --

12 HEARING OFFICER GEFTER: -- would you  
13 move on. That's it, just ask questions with  
14 respect to his testimony. Let's move on.

15 MR. GOLDMAN: Can I have a ruling from  
16 the Hearing Officer and/or the Committee Chair, if  
17 necessary, as to the basis for your evidently  
18 overruling my request? I agree with you, I think  
19 it is the crux of what he's just said.

20 And I know there was even a voir dire  
21 attempt made to determine whether or not this  
22 expert could even opine on air quality issues.  
23 And I'm asking him a basic foundational air  
24 quality question.

25 HEARING OFFICER GEFTER: He already

1 testified to it. Just move on. That was my  
2 ruling, he's already testified to that answer.

3 MR. GOLDMAN: So is the basis of your  
4 ruling asked and answered?

5 HEARING OFFICER GEFTER: Yes.

6 MR. GOLDMAN: Thank you.

7 MR. VARANINI: Could we just have a  
8 moment? I realize we've overrun 12 minutes by  
9 about at least 12 minutes, but --

10 (Pause.)

11 BY MR. GOLDMAN:

12 Q Mr. Beach, in what's been marked for  
13 identification as exhibit 89, do you know whether  
14 or not rule 69 was contemplated in terms of the  
15 request in the context of force majeure?

16 A Can you restate the question, please, I  
17 don't understand the question.

18 Q Surely. It's my understanding that  
19 there was a question raised in terms of an issue  
20 concerning natural gas curtailment in the  
21 introduction, and an issue raising current air  
22 quality requirements. Are you familiar with that  
23 reference in the exhibit?

24 A Could you point me to --

25 Q Sure.

1                   MR. VARANINI:  If you'd allow me, I know  
2                   you don't like double-teaming, but if I might I  
3                   think I could just ask this question directly.

4                   MR. GOLDMAN:  It's our last one.

5                   MR. HANSCHEN:  We don't have any  
6                   objection.

7                   BY MR. VARANINI:

8                   Q     Mr. Beach, do you recall reciting rule 1  
9                   for us in terms of the ethical duties of entities  
10                  presenting evidence at the PUC?

11                  A     Yes.

12                  Q     And should we draw any inference or  
13                  conclusion about that testimony in terms of any  
14                  filing by either Dynegy or Duke?

15                  MR. HANSCHEN:  I'll object as it calls  
16                  for a legal conclusion beyond the scope of this --

17                  HEARING OFFICER GEFTER:  The objection  
18                  is sustained.  I also want to point out that the  
19                  documents speak for themselves.

20                  MR. VARANINI:  Well, I think the  
21                  important point here is that when -- and I can't  
22                  certainly speak directly to either of these  
23                  things, but in just simply reading the material  
24                  there was inference by counsel of an unethical or  
25                  potential unethical behavior.

1                   And I think that --

2                   MR. HANSCHEN: No, that's not the case,  
3                   Mr. Varanini, --

4                   MR. VARANINI: Well, I --

5                   MR. HANSCHEN: -- and I wouldn't want  
6                   you to --

7                   MR. VARANINI: -- wait a minute, you  
8                   just got done telling Ms. Luckhardt not to  
9                   interrupt you, so don't interrupt me. I think,  
10                  other than weight, we may at least add a comment.

11                  My point is just simply this: If either  
12                  Duke or Dynegy basically made certain statements  
13                  it may very well have been truncated statements  
14                  relying on interpretations by the air agency or  
15                  other agencies of force majeure, and therefore  
16                  there is no question necessarily at all to the  
17                  ethical implication that counsel left in the  
18                  record.

19                  I'm just trying to get the record  
20                  straightened out in that matter.

21                  PRESIDING MEMBER LAURIE: Thank you, Mr.  
22                  Varanini.

23                  Mr. Beach, do you have any reason to  
24                  believe that either one of these -- the document  
25                  that you recited from contains a falsehood of any

1 sort? Or is the result of any unethical conduct?

2 Yes or no.

3 I'm not asking you if you disagree with  
4 the conclusions thereof. Mr. Varanini is  
5 concerned about the record reflecting some  
6 implication that because of the question asked by  
7 Mr. Hanschen that it leaves a belief that some  
8 question as to the truthfulness of the document is  
9 at issue.

10 MR. BEACH: Commissioner, I will confess  
11 to being confused, because exhibits 89 and 90  
12 suggest that these plants will not be able to burn  
13 fuel oil after the first of the year. However,  
14 other testimony from the same parties in this  
15 proceeding suggest that there will be fuel oil  
16 burns after the first of this year.

17 HEARING OFFICER GEFTER: Okay, well, you  
18 have every reason to be confused, because what's  
19 happening here is the attorneys are speaking  
20 legalese.

21 So your point is taken, Mr. Varanini.  
22 And Mr. Hanschen had a right to ask the question,  
23 although it probably was inappropriate and I  
24 should have --

25 MR. HANSCHEN: Mr. Laurie, could I --

1                   PRESIDING MEMBER LAURIE:  -- said so at  
2                   the time.

3                   MR. HANSCHEN:  Commissioner Laurie,  
4                   could I just address this because I don't want to  
5                   leave an implication on the record that I thought  
6                   there was anything underhanded here  --

7                   PRESIDING MEMBER LAURIE:  You know, but,  
8                   Mr. Hanschen, you asked the question for effect,  
9                   and it was done so  --

10                  MR. HANSCHEN:  I asked the question for  
11                  another reason.  That's not correct, Commissioner.

12                  This witness cannot testify to the truth  
13                  of the matter of the statements here.  He can only  
14                  testify that these documents were filed with the  
15                  PUC.  He has no knowledge in and of themselves  
16                  that they are true and correct.

17                  I'm going to ask Mr. Weatherwax  
18                  questions on these.  I'm going to ask counsel for  
19                  South Bay to present a witness on these; to verify  
20                  these facts.  Or to ask counsel to verify these  
21                  facts.

22                  But this witness cannot testify to the  
23                  truth of the fact of these matters, as they're  
24                  beyond his knowledge.  But what he can testify to  
25                  is that one cannot put a document in to the PUC

1 and to have it misleading.

2 So, what I was hoping by implication is,  
3 in fact, not that they were untrue, but that they  
4 were true.

5 MS. LUCKHARDT: I would ask the  
6 Commissioners to please admonish Mr. Hanschen to  
7 keep his remarks to the facts, since the witnesses  
8 that are being presented at the time and not to  
9 continue on with these theatrics.

10 PRESIDING MEMBER LAURIE: Yeah, we're  
11 fine, we're not doing too bad yet. I guarantee  
12 you you will know and you're getting pretty close,  
13 but you're right.

14 Who has the question, where are we? Mr.  
15 Varanini, the ball's in your court.

16 MR. VARANINI: We're done.

17 PRESIDING MEMBER LAURIE: Thank you.

18 HEARING OFFICER GEFTER: All right,  
19 thank you.

20 MS. LUCKHARDT: I have one question.

21 MR. HANSCHEN: Oh, excuse me, counsel,  
22 if I might. I actually made a mistake in some of  
23 my direct here, in that having to read the  
24 questions in here is that I cut things off  
25 thinking that the last question dealt with pro

1 rata curtailment, when in fact it doesn't.

2 With the indulgence of the Committee, I  
3 would like to ask Mr. Beach one more question.  
4 And then I'd be happy to have counsel take  
5 whatever cross they want.

6 And I apologize for this.

7 HEARING OFFICER GEFTER: All right,  
8 let's do it quickly, because the time is running  
9 here.

10 REDIRECT EXAMINATION

11 BY MR. HANSCHEN:

12 Q Mr. Beach, you made reference to your  
13 understanding of Mr. Wood's testimony. Do you  
14 recall that portion of your testimony in exhibit -  
15 - oh, excuse me, it hasn't been marked, that's  
16 right. Do you recall that?

17 A Yes.

18 Q What is your understanding of Mr. Wood's  
19 testimony -- and I ask this question because not  
20 because I want you to recharacterize Mr. Wood's  
21 testimony, but because I want you to draw some  
22 conclusions from what your understanding of that  
23 testimony is. Could you tell us?

24 A Yes. My understanding of the testimony  
25 that Mr. Wood presented orally, I believe, at the

1 November 14th hearing, is that if there are fuel  
2 oil burns at South Bay and Encina in the future,  
3 that those fuel oil burns will be greater without  
4 the Otay Mesa Generation Project than with the  
5 project.

6 Q And could you explain your understanding  
7 of why this is the case?

8 A Yes, and I believe Mr. Wood explained  
9 this to some extent in his oral testimony. But  
10 the reason is is that Otay Mesa will use gas more  
11 efficiently, because it has a heat rate down  
12 around 7000 Btus per kilowatt hour, compared to  
13 the existing generators that have heat rates  
14 generally in excess of 10,000 Btus per kilowatt  
15 hour.

16 Otay Mesa will produce more electricity  
17 per million Btus of natural gas burned. If Otay  
18 Mesa is not on the system, then the existing  
19 generators will have to produce the power that  
20 Otay Mesa would have produced, and in order to  
21 produce that amount of power they will have to  
22 consume more Btus than Otay Mesa would have.

23 So it will take them more fuel than the  
24 gas that is freed up by Otay Mesa not being on the  
25 system to produce that power. And as a result,

1 without Otay Mesa the other plants would have to  
2 burn more oil.

3 Q Did you try to quantify some of those  
4 differences under the tables presented in the FSA?

5 A Yes, I did. In case two in 2002 without  
6 Otay Mesa fuel oil burns would increase by 378  
7 million Btus per hour. And that's based on the  
8 difference in heat rates between Otay Mesa and  
9 South Bay 3 times Otay Mesa's production of 150  
10 megawatts.

11 In case 3 in 2002 oil burns would  
12 increase by 776 mm Btus per hour without the  
13 project. That's based upon the difference in heat  
14 rates between Otay Mesa and Encina unit 5 times  
15 Otay production of 249 megawatts.

16 And then in case four in 2002 the  
17 additional oil burns would be 393 million Btus per  
18 hour without the project. And this is the  
19 difference between the heat rate at Otay Mesa and  
20 Encina five times Otay's production of 150  
21 megawatts.

22 And all these numbers are taken from  
23 table A-5 of the FSA.

24 MR. HANSCHEN: Thank you, Mr. Beach. I  
25 apologize for the additional questions.

1 HEARING OFFICER GEFTER: Ms. Luckhardt,  
2 did you have cross-examination of the witness?  
3 Ms. Luckhardt?

4 MS. LUCKHARDT: I understand. I do have  
5 a couple short questions.

6 RE-CROSS-EXAMINATION

7 BY MS. LUCKHARDT:

8 Q Based upon the response to the question  
9 that you just gave, is it your testimony that  
10 Encina and South Bay must make up the lost  
11 megawatts produced by Otay Mesa in those cases?

12 A I believe those cases are maximum import  
13 cases, so, yes, they would have to make up those  
14 megawatt hours.

15 Q And so it is your testimony that -- is  
16 it your testimony that Otay Mesa is not a one-for-  
17 one trade on electrons coming out of Palo Verde?

18 MR. HANSCHEN: This question may be more  
19 appropriately directed to Mr. Filippi.

20 PRESIDING MEMBER LAURIE: Well, let him  
21 answer the question. If he knows, he knows. If  
22 he doesn't know, he doesn't know.

23 MR. BEACH: I don't know the answer to  
24 that.

25 //

1 BY MS. LUCKHARDT:

2 Q Okay, switching subjects, Mr. Beach, are  
3 you familiar with the permits to operate for the  
4 Encina and South Bay power plants?

5 A No, I'm not.

6 MS. LUCKHARDT: That's all I have.

7 HEARING OFFICER GEFTER: Thank you. Do  
8 you have redirect of your witness, Mr. Hanschen?

9 MR. HANSCHEN: No, I don't.

10 HEARING OFFICER GEFTER: The witness may  
11 be excused. Off the record.

12 (Off the record.)

13 HEARING OFFICER GEFTER: Okay.

14 MR. HANSCHEN: Thank you, Ms. Gefter.

15 I'd like to call Mr. James Filippi, please.

16 Whereupon,

17 JAMES FILIPPI

18 was recalled as a witness herein and having been  
19 previously duly sworn, was examined and testified  
20 further as follows:

21 HEARING OFFICER GEFTER: The witness was  
22 sworn last week.

23 DIRECT EXAMINATION

24 BY MR. HANSCHEN:

25 Q Would you state your name for the

1 record, please.

2 A James Filippi.

3 Q Mr. Filippi, did you present for this  
4 Committee last week the item that has been  
5 identified as exhibit number 80?

6 A I did.

7 Q And are you available to stand cross-  
8 examination on that exhibit now?

9 A I am.

10 MR. HANSCHEN: Mr. Filippi is available  
11 for cross-examination.

12 HEARING OFFICER GEFTER: Does staff have  
13 cross-examination?

14 MR. OGATA: Staff has no questions.

15 HEARING OFFICER GEFTER: Mr. Varanini or  
16 Mr. Goldman.

17 MR. GOLDMAN: We have just a few.

18 CROSS-EXAMINATION

19 BY MR. GOLDMAN:

20 Q What's been marked exhibit 80, your  
21 prepared responsive testimony, if I understand  
22 correctly, rejects the case featuring 2000  
23 megawatts of imports as being unrealistic, do I  
24 understand you correctly?

25 A No, that's not correct.

1           Q     What is your testimony as to what you  
2     have considered to be an unrealistic assumption by  
3     the staff in the FSA in terms of the number of  
4     megawatts of imports into the San Diego region?

5           A     There was one of the cases that Mr.  
6     Beach presented to me to analyze which is in table  
7     1 of his testimony, the CEC FSA case, which was  
8     predicated upon generation running at a constant  
9     level, 24 hours a day, and it was on that basis  
10    that I disagreed with the reasonableness of that  
11    case.

12                     And in that case when I analyzed it,  
13    what generation demand would be produced with that  
14    level of curtailment, and based on the system load  
15    in the, San Diego used in the final facility study  
16    report for Otay Mesa, I concluded in that case  
17    that the required import to serve San Diego load  
18    would be 3003 megawatts.

19           Q     Have you run any models to predict the  
20    amount of imports possible to be imported into the  
21    SDG&E area?

22           A     I have not run any models.

23                     MR. GOLDMAN: Thank you. I have no  
24    further questions at this time.

25                     HEARING OFFICER GEFTER: Ms. Luckhardt,

1 do you have questions of the witness?

2 MR. GOLDMAN: Oh, I'm sorry, I have one  
3 other question. Forgive me, but this deals with  
4 the issue as to where Mr. Beach referred me, if I  
5 understood him correctly, to Mr. Filippi.

6 BY MR. GOLDMAN:

7 Q And that is, Mr. Filippi, are you aware  
8 of or have you received and reviewed the August 7,  
9 2000 letter from John Anders, corporate counsel at  
10 Cal-ISO, to the CPUC regarding, it's actually a  
11 comment protest regarding advice letter 1210G?

12 A I do not recall that letter.

13 MR. GOLDMAN: Thank you.

14 HEARING OFFICER GEFTER: Ms. Luckhardt.

15 CROSS-EXAMINATION

16 BY MS. LUCKHARDT:

17 Q Mr. Filippi, isn't it true that  
18 generation from Otay Mesa is a one-for-one trade  
19 from generation coming in from Palo Verde?

20 MR. HANSCHEN: Can I object to the  
21 question because I think it's incomplete in terms  
22 of its assumptions. Are those all the assumptions  
23 you're making, or are there more?

24 MS. LUCKHARDT: I'm simply saying that  
25 power coming into Miguel is constrained.

1 BY MS. LUCKHARDT:

2 Q Is that not true? Isn't it true that  
3 power coming out of Miguel is currently  
4 constrained?

5 A You have to hypothesize certain dispatch  
6 conditions in San Diego, under certain dispatch  
7 conditions of the other generation, yes, power  
8 imports into Miguel may be constrained.

9 Q So you do not agree with the statement  
10 that there is a transmission limit on the lines  
11 coming out of Miguel?

12 A I do not understand what you mean by out  
13 of Miguel.

14 Q From Miguel to the San Diego load  
15 center, going that direction.

16 A Yes, there are constraints on those  
17 lines.

18 Q Okay, and isn't it true that Otay Mesa  
19 comes into Miguel and that the Palo Verde lines  
20 called the SWPL line, comes into Miguel, as well?

21 A That is correct.

22 HEARING OFFICER GEFTER: What's the  
23 relevance of this line of questioning?

24 MS. LUCKHARDT: Simply to show that the  
25 power coming out of Otay Mesa towards San Diego is

1 a one-for-one megawatt trade with power coming  
2 from Palo Verde on the SWPL line.

3 HEARING OFFICER GEFTER: What's the  
4 relevance, again?

5 MS. LUCKHARDT: Mr. Beach testified that  
6 any generation that came out of Otay Mesa based  
7 upon those other cases would have to be filled by  
8 power generated within the San Diego area.

9 And I simply want to show that the Otay  
10 Mesa Power Plant, in its current configuration,  
11 with the current transmission lines, without  
12 upgrades, is simply a tradeoff between power  
13 coming from Palo Verde --

14 MR. HANSCHEN: I think that misstates  
15 Mr. Beach's testimony. I think his testimony was  
16 under the case that you presented to him, it made  
17 certain assumptions as to the generation local  
18 versus maximum imports. It was the case scenario.

19 MS. LUCKHARDT: I did not make any  
20 assumptions. I simply asked him whether it was a  
21 one-for-one trade coming down that line.

22 HEARING OFFICER GEFTER: Again, the  
23 testimony speaks for itself, Mr. Hanschen.

24 The witness has already answered your  
25 question, I believe.

1 MS. LUCKHARDT: He has?

2 HEARING OFFICER GEFTER: Have you  
3 answered her question? Because you asked it about  
4 two or three times. Frame the question and we'll  
5 let him answer. And let's move on.

6 BY MS. LUCKHARDT:

7 Q Is the power coming out of Otay Mesa  
8 that would be heading into San Diego a one-for-one  
9 trade with power coming out of Palo Verde on that  
10 line, if it is constrained?

11 A There are power limits coming in on that  
12 line. There's nothing that says that the power  
13 from Otay Mesa would have to be traded only with  
14 Palo Verde, though.

15 MS. LUCKHARDT: I have no further  
16 questions.

17 HEARING OFFICER GEFTER: Do you have  
18 redirect of your witness?

19 MR. HANSCHEN: No, I don't.

20 HEARING OFFICER GEFTER: Okay. The  
21 witness may be excused. Thank you, Mr. Filippi.

22 MR. FILIPPI: Thank you.

23 MR. HANSCHEN: At this time, Ms. Gefter,  
24 I'd like to move exhibit number 80, which was Mr.  
25 Filippi's testimony, and exhibit number 81, which

1 was the testimony that Mr. Beach presented a week  
2 ago. And I think that's it.

3 HEARING OFFICER GEFTER: What about 89  
4 and 90?

5 MR. HANSCHEN: Not at this time.

6 HEARING OFFICER GEFTER: Is there  
7 objection to exhibits 80 and 81 now that the  
8 intervenors have had an opportunity to cross-  
9 examine those witnesses?

10 MS. LUCKHARDT: I have no objection.

11 HEARING OFFICER GEFTER: Mr. Goldman?

12 MR. GOLDMAN: No objection.

13 HEARING OFFICER GEFTER: Okay. Staff?

14 MR. OGATA: No objection.

15 HEARING OFFICER GEFTER: The other  
16 intervenors?

17 MR. CLAYCOMB: No objection.

18 MS. DUNCAN: No objection.

19 HEARING OFFICER GEFTER: Exhibits 80 and  
20 81 are received into the record.

21 Off the record now.

22 (Off the record.)

23 HEARING OFFICER GEFTER: Staff, are you  
24 presenting Mr. Wood on this topic?

25 MR. OGATA: Yes, thank you, Ms. Gefter.

1 I'd like to call Mr. Bill Wood back to the stand.

2 He's been previously sworn.

3 Whereupon,

4 WILLIAM WOOD, JR.

5 was recalled as a witness herein and having been  
6 previously duly sworn, was examined and testified  
7 further as follows:

8 DIRECT EXAMINATION

9 BY MR. OGATA:

10 Q Mr. Wood, you testified previously that  
11 you were one of the authors of appendix A, which  
12 is attached to the final staff assessment's  
13 reliability testimony, is that correct?

14 A Yes, that is correct.

15 Q With respect to case number one, there's  
16 been some testimony about whether or not staff's  
17 case was realistic in assuming that all gas fired  
18 generation would run at capacity for 24 hours.

19 Was that your assumption with respect to  
20 case one?

21 A That was not my assumption regarding  
22 case one, case two, case three or case four. My  
23 assumption is that these facilities will run --  
24 well, let's put it this way, these numbers  
25 represent a peak hour demand that has been

1 multiplied by 24 hours so that I could make a  
2 comparison with what was the peak capacity of the  
3 pipeline to deliver gas, which was 575 million  
4 cubic feet per day.

5           So, to try to remove the confusion, if  
6 we were to look at table A-3, and if we were to  
7 insert into the table heading of A-3 where it says  
8 summer August peak demand, if we were to put in  
9 there summer August peak hour demand, that is  
10 expressed in millions of cubic feet per day, I'd  
11 hope that would eliminate some of the confusion.

12           If we were then to turn to table -- if  
13 we were to look at table A-4, and look at case one  
14 2002 at the very bottom of the column, where it  
15 says 938 million cubic feet per day, that would be  
16 the flow rate that -- that would be the peak hour  
17 flow rate expressed in a daily basis.

18           If we were to convert that to millions  
19 of cubic feet per hour, the 938 could revert to 39  
20 million cubic feet per hour, the 575 would revert  
21 to 24 million cubic feet per hour, and then the  
22 pipeline shortage would then be equivalent to a  
23 minus-15 million cubic feet per hour.

24           And that rate would extend for either an  
25 hour, or two hours, or three hours, or 15 minutes.

1 That would be the flow rate. And that's what I  
2 was trying to indicate in my testimony, that these  
3 were flow rates representative of peak hour, but  
4 expressed on a 24-hour basis.

5 So, I'm not indicating that these flows  
6 would incur or would last for 24 hours. This flow  
7 rate would actually last for the period of time  
8 that the peak rate, that the peak actually  
9 occurred.

10 Q Does that conclude your clarification?

11 A Yes.

12 MR. OGATA: No more questions.

13 HEARING OFFICER GEFTER: Does the  
14 applicant have cross-examination?

15 MR. HANSCHEN: No questions.

16 HEARING OFFICER GEFTER: Does Cabrillo  
17 have cross-examination?

18 MR. GOLDMAN: Yes.

19 CROSS-EXAMINATION

20 BY MR. GOLDMAN:

21 Q Mr. Wood, do you know what the  
22 curtailment was last week?

23 MR. HANSCHEN: Well, I think the  
24 question's a little vague.

25 HEARING OFFICER GEFTER: Also it's

1 beyond the scope of his testimony there, that he  
2 just testified to.

3 MR. GOLDMAN: Well, --

4 HEARING OFFICER GEFTER: And it would  
5 seem that probably Encina and Duke have that  
6 information, since they were the power plants that  
7 were curtailed.

8 MR. GOLDMAN: Well, given Mr. Wood's  
9 position with the California Energy Commission, I  
10 would expect that he would know that. We'd just  
11 like that for the record if the Commission is  
12 aware of what the curtailment was, could it impact  
13 the reliability of their reliability analysis.

14 MR. HANSCHEN: Excuse me, I object to  
15 relevancy and beyond the scope of the testimony.  
16 This was a clarification that instead of being  
17 daily numbers, these are hourly peak loads.

18 HEARING OFFICER GEFTER: Mr. Hanschen,  
19 you're repeating what I said, which was it was  
20 beyond the scope of the witness' testimony.

21 Again, Mr. Goldman, your witness can  
22 testify to that information.

23 MR. GOLDMAN: That's fine.

24 HEARING OFFICER GEFTER: You don't have  
25 any other questions? All right. Ms. Luckhardt,

1 do you have questions of Mr. Wood?

2 MS. LUCKHARDT: I do not.

3 HEARING OFFICER GEFTER: All right,  
4 thank you, Mr. Wood.

5 Cabrillo, are you prepared to put on  
6 your witness?

7 MR. VARANINI: Yes, we'd like to call  
8 Mr. Robert Weatherwax.

9 Could I suggest taking a ten-minute  
10 break before he starts?

11 HEARING OFFICER GEFTER: We could do  
12 that. Let's go off the record.

13 (Brief recess.)

14 PRESIDING MEMBER LAURIE: Mr. Varanini,  
15 before you start with your witness, let me  
16 reiterate that the Committee's going to be very  
17 cautious and sensitive to what we consider to be  
18 relevant evidence.

19 We do not wish to replicate what the PUC  
20 may consider over a year or year and a half period  
21 of time. Thus, to the extent that Mr.  
22 Weatherwax's testimony is relevant, his testimony  
23 is most welcomed. To the extent that we deem it  
24 not relevant, we will so indicate.

25 Should you desire to disagree, then make

1 your objection known for the record and we will  
2 move on.

3 MR. VARANINI: Mr. Chairman, are we off  
4 the record right now?

5 PRESIDING MEMBER LAURIE: Let's go off  
6 the record.

7 (Off the record.)

8 HEARING OFFICER GEFTER: Your witness  
9 needs to --

10 MR. VARANINI: We call Mr. Weatherwax.

11 HEARING OFFICER GEFTER: Mr. Weatherwax  
12 needs to be sworn. You were sworn last week and  
13 continue to be sworn.

14 Whereupon,

15 ROBERT WEATHERWAX  
16 was recalled as a witness herein and having been  
17 previously duly sworn, was examined and testified  
18 further as follows:

19 DIRECT EXAMINATION

20 BY MR. VARANINI:

21 Q Mr. Weatherwax, why don't you identify  
22 who you are and your company, please.

23 A My name is Robert Weatherwax, and I'm  
24 President of Sierra Energy and Risk Assessment,  
25 Incorporated.

1 Q And are your qualifications as stated in  
2 your rÇsumÇ appended to your testimony -- each of  
3 your testimonies?

4 A Yeah. I've had many years of experience  
5 in energy-related areas, probably most notably  
6 beginning as being the only surviving Chief Energy  
7 Forecaster at the Energy Commission, or at least  
8 the first surviving forecaster at the Energy  
9 Commission, during the position of which I brought  
10 some models that I developed at Princeton  
11 University Center for Environmental and Energy  
12 Affairs to the west coast.

13 Since then I've spent time as a visiting  
14 member of the faculty at UC Berkeley, and then  
15 formed my own company, Sierra Energy, about 20  
16 years ago.

17 Since then we've done a substantial  
18 amount of modeling of demand/supply on both the  
19 gas and the electric side.

20 Q And as far as your duties, do you do  
21 technical risk assessment?

22 A Yes, we do. That's a carryover from a  
23 previous period of work in aerospace, which we  
24 continue to this date.

25 Q And have you done that type of work for

1 the Energy Commission?

2 A Yes. For the Energy Commission and for  
3 various other parties to various proceedings.

4 Q What case did you appear in for the  
5 Energy Commission in terms of risk assessment  
6 strategy?

7 A Well, representing the Energy Commission  
8 we performed a risk analysis of the SMUD 20-inch  
9 gas pipeline that was extended from the west to  
10 support the new SMUD cogeneration units.

11 We also put in, I think, the definitive  
12 testimony on the value of aqueous ammonia as  
13 opposed to anhydrous ammonia while representing  
14 the Crockett Cogeneration Facility.

15 Q And what kind of work, just so the  
16 Committee understand and can make some judgments  
17 about relevance, what type of work do you  
18 currently do? I didn't catch that, I was kind of  
19 shuffling papers here, I'm sorry.

20 A Well, we do electricity and gas modeling  
21 and policy work. We have a suite of proprietary  
22 models that we use to do production cost modeling.  
23 We look at emissions from the various electric  
24 plants. We look at gas supply and demand, and we  
25 look at balances on net.

1           We do it for a number of clients, of  
2           course, including the banks. We do it for various  
3           regulatory commissions, particularly the Public  
4           Utilities Commission in recent years. And also  
5           for the generators, independent generators that  
6           are producing new power plants.

7           Q     And have you prepared two sets of  
8           testimony, one the prepared testimony of Robert K.  
9           Weatherwax of some eight pages; and the other the  
10          supplemental testimony of Robert K. Weatherwax of  
11          some seven pages?

12          A     I have.

13          Q     And have you also prepared accompanying  
14          charts and tables to that testimony?

15          A     That is correct.

16                 HEARING OFFICER GEFTER: Mr. Varanini,  
17                 let's mark these for identification. The prepared  
18                 testimony of Robert Weatherwax is part of exhibit  
19                 72, which was filed by Cabrillo on November 9th.  
20                 And the testimony plus the charts and tables are  
21                 part of exhibit 72. And the supplemental  
22                 testimony of Robert Weatherwax is exhibit 91.  
23                 That was actually circulated today, distributed to  
24                 the parties.

25                 MR. VARANINI: Right, yes, it was,

1 ma'am.

2 BY MR. VARANINI:

3 Q And turning particularly to the figure  
4 that you presented, the attachment that  
5 demonstrates the system, do you see that on your  
6 original testimony?

7 A Yes, I do.

8 Q Do you have changes or corrections or,  
9 heaven forbid, simplification of that model that  
10 you want to share and put in the record at this  
11 point?

12 A I'm not sure that simplification  
13 applies, but certainly maybe clarification does.

14 As this is a rendering of the modified  
15 version and it corrects -- it reflects some  
16 clarifications that were made, quite frankly  
17 including getting rid of the little comic portion  
18 to it.

19 PRESIDING MEMBER LAURIE: Wait a minute,  
20 let's allow all parties to be able to see it,  
21 including our intervenors. Maybe put it at an  
22 angle. Mr. Varanini, can you move that in some  
23 fashion so that Ms. Duncan is not barred from  
24 viewing these proceedings.

25 Are you sure that's in the correct forum

1 as opposed to the Supreme Court of Florida? It  
2 looks like something very appropriate to appear in  
3 that body.

4 MR. VARANINI: It's an org chart of the  
5 electoral college.

6 (Laughter.)

7 DR. WEATHERWAX: There are no perforated  
8 chads.

9 MR. HANSCHEN: Excuse me, Commissioner  
10 Laurie.

11 PRESIDING MEMBER LAURIE: Okay, --

12 MR. VARANINI: We have some copies that  
13 we could pass out, as well.

14 PRESIDING MEMBER LAURIE: Okay, hold on.  
15 Mr. Hanschen, are you about to make an objection?

16 MR. HANSCHEN: Well, no. What I'm  
17 wondering is I downloaded Mr. Weatherwax's  
18 testimony, because it was sent by email and  
19 forwarded to me. But this wasn't included within  
20 the testimony.

21 HEARING OFFICER GEFTER: All right, it  
22 is part of the attachments to exhibit 72 which --

23 MR. HANSCHEN: Is it page 9?

24 HEARING OFFICER GEFTER: Well, there's a  
25 page -- it's --

1                   MR. VARANINI: It was mailed to your  
2 other counsel, I believe.

3                   HEARING OFFICER GEFTER: It's attached  
4 to his rÇsumÇ, which comes after his testimony,  
5 and then after that is the -- it's part of the  
6 package.

7                   MR. HANSCHEN: I have a copy, that's  
8 fine.

9 BY MR. VARANINI:

10                  Q     Before we go to the truth of the matter  
11 asserted, or the work that's been done, why don't  
12 you explain the changes, try to get the changes in  
13 first, and then we'll put in both elements, or at  
14 least we'll have you indicate that they're true  
15 and accurate to the best of your ability.

16                   I think you should -- instead of doing  
17 this three or four times, --

18                   MR. VARANINI: I think with the  
19 permission of the Committee, that we'd like to  
20 have Mr. Weatherwax explain this now and do it  
21 once. And then have it subject to the extent it  
22 enriches the record, fine. If it doesn't, fine.

23                   And then be available to have two or  
24 three additional questions on direct and then make  
25 him available for cross.

1 BY MR. VARANINI:

2 Q Would you go ahead and explain the  
3 chart?

4 A Yes. This is actually one of two  
5 charts. This a chart that reflects the system  
6 with a postulated Otay Mesa Power Plant being  
7 incorporated in it.

8 And the changes that have been made for  
9 those that have not seen this report was the  
10 connection made to put gas down here, and there  
11 was a correction of the word in here --

12 PRESIDING MEMBER LAURIE: Can the  
13 recorder pick this up, madam reporter?

14 DR. WEATHERWAX: Oh, I'm sorry. Okay.

15 HEARING OFFICER GEFTER: You have to  
16 take the smaller microphone with you.

17 DR. WEATHERWAX: And I apologize for not  
18 having a little bit longer stick to point with.

19 MS. SEGNER: Just a second, we don't  
20 have -- the applicant doesn't have copies.

21 MR. VARANINI: We supplied your lawyer  
22 with a copy, and those are all the copies we have.  
23 We'd be happy to stop the proceeding and make them  
24 available to you at the earliest possible moment.

25 I think that's under the control of the

1 Committee if they want to stop the proceeding.

2 PRESIDING MEMBER LAURIE: What's the  
3 challenge here?

4 HEARING OFFICER GEFTER: Okay, off the  
5 record.

6 (Off the record.)

7 DR. WEATHERWAX: Shall I proceed?

8 HEARING OFFICER GEFTER: Yes.

9 DR. WEATHERWAX: Okay. To elucidate  
10 this in a more logical fashion I reversed the two  
11 drawings that are presented. And I'm showing  
12 initially the drawing without Otay Mesa present.

13 And what I'm trying to highlight for you  
14 is the detailed orchestration that occurs in the  
15 San Diego area. As we've been modeling it now for  
16 well over a decade, there's a very fine balance  
17 between the electric and the gas system and  
18 imports of power from out of the region.

19 And as we look at it we can see there's  
20 a common gas supply that goes to all of the power  
21 plants with the exception of a very two or three  
22 minor combustion turbines, size-wise, at any rate,  
23 about 45 megawatts of them.

24 And they're all served by gas; and also,  
25 of course, there's gas going down to the Rosarita

1 Power Plant now, as well.

2 Generation from those units go into the  
3 San Diego load. And by a very careful nomogram  
4 they're permitted to import various amounts of  
5 power, depending on certain conditions. My  
6 understanding is the maximum at this point is  
7 about 2650 megawatts.

8 And up to 2650 megawatts of imports,  
9 plus the generation is what San Diego uses to  
10 serve load on an instantaneous basis. It has to  
11 balance load and has to do it very close to being  
12 precise at all times.

13 Now, you'll notice there's a little bit  
14 of congestion even in this drawing at the Miguel  
15 substation. There's the southwest power link  
16 coming in, and then there's also SIFY coming into  
17 Miguel.

18 BY MR. VARANINI:

19 Q What is SIFY?

20 A I'm sorry, it's the Baja, Mexico and  
21 Norte Power System. And I don't speak Spanish so  
22 I can't pull the name right out, I'm sorry.

23 And so there is a tight balance in the  
24 system, and it's important to understand there's  
25 essentially never a situation where San Diego is

1 load and resource balanced, by itself. The  
2 indigenous generation is never sufficient to do  
3 that. It is always in a power importing area.  
4 And naturally there's no indigenous gas  
5 production, so it's importing the gas, as well,  
6 that's used to produce the electricity to help  
7 hold the system together.

8           If we move to the other drawing we can  
9 see that we now have a system superimposed upon  
10 which the Otay Mesa Power Plant. And here, I'm  
11 taking the assumptions as I think is appropriate  
12 based upon the review I've had of the detailed  
13 facility study done by San Diego Gas and Electric  
14 Company, that it's going to be incorporated into  
15 the system without any upgrades beyond the Miguel  
16 substation, which you see down there in a beige  
17 color of some sort. I'm not particularly expert  
18 on what color that is. But at any rate, a  
19 distinct color.

20           And so you can see that Otay comes, and  
21 comes in on the same line as SIFY, they're going  
22 to be looping the line, I think, and for the  
23 southwest power link. And then you can see the  
24 indications of the reliability support that are  
25 required from the Encina Power Plant and the South

1 Bay Power Plant to protect the system at times  
2 that Otay Mesa is operating from certain failures  
3 which can cause problems both to the hardware  
4 within the transmission system, as well as to the  
5 stability of the area.

6 And naturally you'll see the gas, of  
7 course without a distinct -- an independent gas  
8 supply, Otay Mesa is also being served off the  
9 same common gas supply.

10 And that's the system we believe is an  
11 accurate representation which the applicant wants  
12 to go forward with.

13 BY MR. VARANINI:

14 Q And is it possible for purposes of the  
15 Committee to perhaps provide kind of an X and Y  
16 situation using X as the gas, current gas  
17 situation, and Y, or Y plus delta, as the change  
18 in that induced by either Otay or by other impacts  
19 on the system? Thinking of X as gas, and Y as  
20 oil.

21 A We'll try -- actually, maybe can we go  
22 back to the first one, Gary? It may be simpler at  
23 this point to start with this one. Maybe we would  
24 discard the Rosarita at this point, and forget  
25 about that.

1           There's an amount of gas that's then  
2           serving the remainder of the San Diego system,  
3           which I think we might call X.

4           And at this point last week the total  
5           amount of gas required in order to support the  
6           system, which I'm going to call Z, became greater  
7           than X max. My understanding, it became greater  
8           than X max at a rate of about 5 mm cf per hour.  
9           At least on that order. Perhaps a little bit  
10          higher at times, a little lower at times. But  
11          those were what the results were.

12          And so what happened was essentially all  
13          of the combustion turbines which are found in this  
14          block of 200-and-some megawatts, turned to  
15          distillate. At least three of the five Encina  
16          units, 1, 3 and 4, and I believe 2 was intended  
17          but didn't make it up initially, went to oil at  
18          Encina. And most, if not all of the South Bay  
19          plant also went to oil.

20          So we had what was a curtailment. And  
21          that amount was X plus about 5 mm cf, equals Z, so  
22          that Y, which was the amount that the Commissioner  
23          was looking for, was about 5 mm cf in that case  
24          last week.

25          Q     How much oil is that in barrels?

1           A     Well, I don't have that immediately in  
2 front of me.  Would you like me to try to  
3 calculate it?

4           Q     Well, what I'm trying to do is just get  
5 an approximation of oil equivalent to the gas that  
6 was short.

7           A     Well, I think --

8           Q     Other than a lot.

9           A     -- I think it's hundreds of thousands of  
10 gallons.

11          Q     Okay, go ahead, I'm sorry to interrupt  
12 you.

13          A     It was a significant amount.  If you'd  
14 like I can come back with the answer to that.

15          Q     Okay.

16          A     So when we move now to the situation  
17 where Otay Mesa is involved, which would be found  
18 on the other chart, Gary, --

19                   (Laughter.)

20                 DR. WEATHERWAX:  -- you can see that  
21 we're going to have a new X.  I don't know if we  
22 want to call that X-prime or not, but I think it's  
23 reasonable to assume that it's going to be X plus  
24 about 70 million a day.

25                   And because there will be an upgrade to

1 the San Diego system. And at the same time  
2 there's going to be some greater competition for  
3 it from Rosarita, which we see numbers going up as  
4 high as 182 mm cf per day; and also to the Otay  
5 Power Plant which would be up in the range of 85  
6 mm cf per day, or about 4 per hour.

7 So, you've got a somewhat different  
8 system here, but it's very important to understand  
9 from a fuel requirements perspective that Otay  
10 Mesa does not simply supplement the amount of  
11 electric energy that can support San Diego. It  
12 tends to back out on a one-to-one basis other  
13 imports that might occur from the Southwest.

14 So when you have situations where Otay  
15 Mesa is burning gas and that gas was gas that  
16 would otherwise certainly have gone to Encina,  
17 South Bay or to the combustion turbines spread  
18 throughout the City, that gas can produce  
19 efficient energy, certainly we grant you that, but  
20 it will also tend to back out imports from the  
21 southwest.

22 So, to say that you are saving, you're  
23 reducing your gas demand in San Diego by Otay  
24 Mesa's presence simply ignores the fact that it is  
25 an impediment to the import of power from without

1 the region.

2 And obviously any power that came in  
3 over the southwest power link would not be using  
4 gas from the San Diego region.

5 BY MR. VARANINI:

6 Q Okay, --

7 A And just -- I'd like to go one step just  
8 further. A key element here is to say we've seen  
9 numbers and it's not clear to me precisely whether  
10 or not the ISO has adopted them. And maybe Mr.  
11 Tobias could discuss that.

12 But San Diego's recommendation on their  
13 case F from their service was that at times when  
14 Otay Mesa was up to 500 megawatts that the South  
15 Bay plant would have to be actually producing more  
16 power than that, about 600, and Encina could be up  
17 at over 200 megawatts.

18 So you have a situation where it's not a  
19 simple situation where you can choose among these  
20 plants. They are not fungible. There's a very  
21 detailed and precise coordinated amount of  
22 generation that must be done between the three of  
23 them.

24 And it's my considered judgment that in  
25 times of system stress and in times of shortage in

1 the gas system, the ISO will want to call upon all  
2 three of these generators. Because these are all  
3 excellent, reasonably efficient, if not very  
4 efficient, generators. And will be reliable to  
5 serve the overall system load.

6 And my understanding would be if I were  
7 doing it, at any rate, running that system, I  
8 would use the limited gas, since there's no backup  
9 fuel at Otay Mesa, I would use it there to the  
10 degree one could use it, one would use it with the  
11 South Bay and the Encina plant, and otherwise you  
12 would put them on oil.

13 Because, quite frankly, having part of  
14 the system go black is a lot less attractive than  
15 having some additional oil burn in the San Diego  
16 area.

17 Q And would you have a different view if  
18 there was an alternate fuel available to Otay?

19 A Well, certainly then there would not be  
20 any tendency to be sucking from the same straw.  
21 And, for example, propane, to my understanding,  
22 that would be a relatively clean and nonpolluting  
23 fuel that would be used somewhat away from the  
24 major population centers.

25 MR. TOMASHEFSKY: I have a question for

1       you.

2                   PRESIDING MEMBER LAURIE:  Wait, wait,  
3       wait, let Mr. Varanini finish his direct testimony  
4       first.

5                   MR. TOMASHEFSKY:  Okay.

6       BY MR. VARANINI:

7           Q       In order to provide the -- let me  
8       rephrase that.  Could a model provide the  
9       Committee with an explicit and simple, at least a  
10      display, indication of X, Y and Z and X prime, Y  
11      prime, and Z prime to give the Chairman the  
12      fundamental knowledge that he would like to have  
13      to be able to make a decision?

14          A       I think the answer is an unequivocal  
15      yes.  It's something we have been doing for well  
16      over a decade, and others, including the CEC, have  
17      been doing for at least the same length of time.

18          Q       And could you describe, in very simple  
19      terms, what the model does in terms of taking  
20      large amounts of information, essentially  
21      condensing it, calculating and giving an output to  
22      the person that wants to exercise the model?

23          A       Yeah.

24          Q       How do models get to X, Y and Z?

25          A       Modeling requires taking some sort of an

1 electronic representation analog of the system  
2 that you are looking for, and then if you are  
3 doing a system such as we're talking about here,  
4 simulation system, you will have a time step. And  
5 you will walk forward with this time step in a way  
6 simulating the solution to a vast number of  
7 differential equations, and applying certain  
8 expert rules to the behavior of the systems.

9 So, you apply that to this case, you  
10 don't start with San Diego, you end with San  
11 Diego. You don't even start with California,  
12 you've got to start with the western region.

13 And all these models do that.

14 HEARING OFFICER GEFTER: Excuse me, Mr.  
15 Weatherwax, I have a question for Mr. Varanini.  
16 Are you planning to give us some numbers that were  
17 run by a model that Mr. Weatherwax has completed?

18 MR. VARANINI: Well, what we're going to  
19 do --

20 HEARING OFFICER GEFTER: Because we are  
21 familiar with models. This is the Energy  
22 Commission. We don't need an education in  
23 modeling. But if you have some evidence that you  
24 would like to submit to us, based on modeling that  
25 Mr. Weatherwax has done, we would --

1                   MR. VARANINI: Well, I think the problem  
2                   with that is we wanted to make sure that everyone  
3                   was operating from the same kind of a simplified  
4                   base of information, number one.

5                   And number two, we were concerned  
6                   because the Commission, over the last eight years,  
7                   really the Commissioners, themselves, haven't had  
8                   the opportunity to experience an electricity  
9                   report where a lot of the demons in these models  
10                  become part of their subconscious and part of  
11                  their lives.

12                  And there's a certain mysticism to  
13                  models. And I just wanted to make sure we're all  
14                  on the same page.

15                  What we have is information that will  
16                  bound a worst case. We don't have model runs  
17                  because we didn't have time to do those models.  
18                  That was the reason why we were asking for more  
19                  time.

20                  And secondly, I think, it makes an awful  
21                  lot of importance for the applicant and the  
22                  intervenors and the public, for that matter, to  
23                  take a shot at the assumptions.

24                  I thought it was odd in the proceeding  
25                  that the manager for the company didn't know what

1 an ELFIN model was, or a cost production model  
2 was, so I thought in order to get on a common  
3 scheme I asked that question for the very reason  
4 if we all could speak ELFIN or SERASYM or one of  
5 these other -- for FORTRAN for that matter, that  
6 we could get on the same page.

7           So to the extent that he's almost  
8 finished with just explaining what he did, the  
9 process; and then his testimony will give you some  
10 snapshots rather than a dynamic model of what the  
11 exposure to oil is.

12           And then Mr. Rubenstein tomorrow will  
13 give you the horror story of what happens in the  
14 air when you shift to that oil.

15           HEARING OFFICER GEFTER: Could you ask  
16 the witness just to give us the bottomline, what  
17 is the exposure to oil?

18           MR. VARANINI: I'd like to take a  
19 minute, because that's a very important question.  
20 He may have to give it to you in a qualitative  
21 sense, rather than in an analytical sense, simply  
22 because he's working from models that he did  
23 for -- and we'll put these in evidence as official  
24 notice, models that he worked on for the purchase  
25 of these power plants by the independent

1 generators under PUC contract, PUC supervision.

2 MR. HANSCHEN: Well, can I ask a  
3 question? Are we putting in models that aren't  
4 dealing with this particular case of Otay Mesa in,  
5 Otay Mesa out? But with the purchase of these  
6 plants? Is that what you're saying, Mr. Varanini?

7 MR. VARANINI: No. What I'm saying is  
8 that he can make some judgments about the  
9 brittleness of the system right now. We've just  
10 had a brittle experience, if that's a term.

11 And what he's saying is that as a  
12 general expert and somebody who knows the system,  
13 it becomes more brittle and more complicated with  
14 the addition of your project, particularly with an  
15 absence of guaranteed fuel and transmission  
16 updates.

17 HEARING OFFICER GEFTER: Ask the witness  
18 the bottomline. The question is what is the fuel  
19 exposure that we're getting into based on where we  
20 are now. Just let's get down to the bottomline  
21 question.

22 BY MR. VARANINI:

23 Q I think you should give her the worst  
24 case, just your general judgment about the worst  
25 case. And then if we need to parse that and model

1 that, I think that that's up to the Committee.

2 A The work that we had done before,  
3 actually for 1999, as reported in one of the  
4 attachments shows that we had predicted a winter  
5 curtailment. We had predicted it in January.  
6 That was an insight that we think seems to have a  
7 certain degree of currency and believability in  
8 the context of the last week.

9 We did not do runs, although we did  
10 consider Otay Mesa in the context, or a generic  
11 plant, in the context actually of a replacement  
12 for South Bay. We never thought it would be done  
13 in the absence of an independent new fuel supply,  
14 gas supply.

15 So, unfortunately, I cannot give you the  
16 bottomline for that.

17 But my general feelings are, and I can,  
18 you know, I can only tell you that it's based on  
19 many years of, you know, maybe near simulation  
20 ability in my own mind, but any rate, that you  
21 could have a situation this year where you have  
22 cold conditions in the northwest, let's say  
23 January, where you have some freezing of gas wells  
24 in the southwest. And where you will have these  
25 plants, even this year, on oil for weeks at a

1 time.

2 And you could see that and it will get  
3 worse for the next two, three, four years until  
4 enough new generation comes on line to restore the  
5 same load and resource balance that we've seen in  
6 the past.

7 And, personally, I think, as Bill Wood  
8 and various other people at the CEC did in their  
9 study, they indicated that it was also becoming a  
10 significant problem in the summer.

11 I frankly, in the analysis we'd done in  
12 '99, didn't see that. And was a bit surprised by  
13 that. And so it looks like the system has kind of  
14 slipped further, as could be seen by, for example,  
15 the operation of the CTs. They were running this  
16 last week, I guess, 10, 12 hours. The CT systems.

17 You could go whole years in the past  
18 where they didn't run that long. So we --

19 HEARING OFFICER GEFTER: Are you saying  
20 they ran 10 hours?

21 DR. WEATHERWAX: Yeah, a day.

22 HEARING OFFICER GEFTER: A day. For how  
23 many days?

24 DR. WEATHERWAX: Right, pardon me? For  
25 several of the days last week.

1 HEARING OFFICER GEFTER: How many days?

2 DR. WEATHERWAX: Three or four of them  
3 to the best of my knowledge. I'll have to --

4 HEARING OFFICER GEFTER: Ten hours a  
5 day?

6 DR. WEATHERWAX: Yes, on that order.  
7 And they were running on distillate. And that is  
8 just fundamentally unheard of. And so it really  
9 does scream out for a more detailed and precise  
10 modeling --

11 HEARING OFFICER GEFTER: What was the  
12 reason they were -- Mr. Weatherwax, do you know,  
13 as testifying on behalf of Cabrillo Power, why was  
14 it that Encina was running on fuel oil?

15 DR. WEATHERWAX: There was not enough  
16 gas. The total gas demand in the system was  
17 over -- sorry? I can't --

18 HEARING OFFICER GEFTER: Yeah, answer  
19 the question.

20 DR. WEATHERWAX: Okay, yeah. The total  
21 amount of supply was on the order of 585 mm cf per  
22 day, and the total demand was over 600.

23 HEARING OFFICER GEFTER: What was  
24 causing that demand?

25 DR. WEATHERWAX: Well, a number of

1 things. One, it wasn't cold here. Two, it was  
2 colder in the northwest, so that there was power  
3 going north. I can only guess that there must  
4 have been lots of maintenance on units to the east  
5 in the inland southwest, because I can't believe  
6 that they were getting the level -- and I do not  
7 know this for a fact -- I cannot believe they were  
8 getting the level of imports that you would  
9 normally expect to get during a November  
10 timeframe.

11 And furthermore, the ISO was very  
12 interested in seeing San Diego running with  
13 reliable equipment so that they didn't have to dip  
14 into 16,000 and 18,000 Btu per kilowatt hour, CT's  
15 in the L.A. Basin, as has been identified in a  
16 FERC report on the costs this summer, reclaimed  
17 costs are becoming very high to pay for NOx.

18 So you can have something with a really  
19 poor heat rate, and add to that \$40 a pound per  
20 megawatt hour -- \$40 a pound cost of NOx, and you  
21 get tremendous cost to the overall ratepayers in  
22 California, including those in San Diego.

23 So I suspect they were looking to have  
24 more power from San Diego than they would under  
25 normal situations. Maybe Mr. Tobias would have an

1 insight on that, as well, --

2 HEARING OFFICER GEFTER: Thank you.

3 DR. WEATHERWAX: -- from the ISO  
4 perspective.

5 HEARING OFFICER GEFTER: Mr. Varanini,  
6 do you have more questions?

7 MR. VARANINI: And I think we'd move  
8 this part of his -- what we would do --

9 BY MR. VARANINI:

10 Q Is this analysis true and correct to the  
11 best of your knowledge?

12 MR. HANSCHEN: Wait a second, there  
13 wasn't any analysis, there was some speculation.

14 MR. VARANINI: Is that an objection, or  
15 are you testifying?

16 MR. HANSCHEN: Yes, you're  
17 mischaracterizing your testimony of your witness.  
18 He didn't do any analysis.

19 HEARING OFFICER GEFTER: Okay, --

20 MR. VARANINI: He --

21 HEARING OFFICER GEFTER: -- I'm not sure  
22 what you're moving. Are you moving exhibits 91  
23 and 72 into the record?

24 MR. VARANINI: Well, it was 72, but I'd  
25 be happy to move 91 in, as well.

1 HEARING OFFICER GEFTER: Okay, well, --

2 MR. VARANINI: I'm trying to get  
3 testimony that's true and correct. He was  
4 explaining what he had changed. And then I just  
5 wanted to take the next step --

6 HEARING OFFICER GEFTER: Well, we assume  
7 that he's testifying under oath and he testified,  
8 you know, what he said was what he said.

9 MR. VARANINI: Okay.

10 HEARING OFFICER GEFTER: Let's give the  
11 other parties an opportunity to cross-examine, and  
12 then you can move exhibit 72 and 91 into the  
13 record.

14 MR. VARANINI: Okay, fine.

15 HEARING OFFICER GEFTER: Is your direct  
16 testimony concluded?

17 MR. VARANINI: Yes.

18 HEARING OFFICER GEFTER: All right.

19 Does the applicant have cross-examination? And  
20 before you do, Mr. Tomashefsky had a question of  
21 the witness. Let's do that first.

22 MR. TOMASHEFSKY: Thank you, Ms. Gefter.  
23 I just had one clarifying question, actually with  
24 respect to the Otay Mesa, the second one -- how  
25 would you characterize the North Baja system, the

1       construct of that diagram?

2                Could you -- you've included Otay Mesa  
3       there, but there's no link to a North Baja line.  
4       So does the inclusion of that -- I guess it's a  
5       two-part question.

6                One is the inclusion of North Baja  
7       needed for that potentially, and if so, how does  
8       that connect to the diagram you've outlined there?

9                DR. WEATHERWAX: Well, of course, you  
10      have to make certain assumptions regarding who the  
11      North Baja line would be serving. But I think the  
12      most reasonable assumptions would probably be that  
13      it would -- this is sort of geographically  
14      relevant, you know, so kind of take it in that  
15      context. But not really.

16               And, so, you know, it would be running  
17      along down here, and south of the border. And it  
18      would certainly go to the Rosarita power plant.  
19      And then presumably it could also go up and go to  
20      the Otay Mesa power plant, as well.

21               As I understand it, it actually would  
22      connect into the basic power lines here, I think,  
23      at least under one version of it. And conceivably  
24      you could move power the other way, as well. So  
25      that maybe South Bay, which is at the very south

1 end of the County, might well receive gas, as  
2 well, from such a construct.

3 MR. TOMASHEFSKY: Thank you.

4 DR. WEATHERWAX: It would certainly  
5 enhance the resiliency of the system  
6 substantially.

7 HEARING OFFICER GEFTER: Thank you.

8 Does the applicant have cross-examination?

9 MR. HANSCHEN: Yes, we do, Ms. Gefter.  
10 I wonder being as the interests of South Bay  
11 seemed more aligned with Cabrillo's than ours, if  
12 the South Bay attorney could go first in cross-  
13 examination.

14 HEARING OFFICER GEFTER: Ms. Luckhardt,  
15 do you have cross-examination of the witness?

16 MS. LUCKHARDT: Yeah, I've got a couple  
17 of questions.

18 CROSS-EXAMINATION

19 BY MS. LUCKHARDT:

20 Q Mr. Weatherwax, you talked about winter  
21 conditions, and you talked about how you'd like to  
22 do some modeling, but in light of the fact that  
23 you haven't, in your opinion will the addition of  
24 Otay Mesa increase the probability of gas  
25 curtailments at South Bay and Encina?

1           A     I believe the answer is yes, at least in  
2     the short term until like the North Baja pipeline  
3     were connected.

4           Q     And why do you see that happening? Can  
5     you explain that?

6           A     I will try to. It's a subtlety, and in  
7     some degree it does not deviate or take a point of  
8     disagreement with my good friend, Bill Wood, who  
9     I've known for decades now.

10           What Bill was taking was a snapshot in  
11     time, having to do with a case, which I understand  
12     was much more relevant to elucidating the corners  
13     of the transmission system, as opposed to looking  
14     at realistic cases that would try to serve load in  
15     a reliable, and from the ISO's perspective,  
16     minimum cost perspective.

17           So, the ISO is going to, in order to do  
18     that, and there's a very good shortage of units,  
19     is at this point calling on units that are vastly  
20     less efficient than in Encina and South Bay. That  
21     is a fact. Those units are reliable, and those  
22     units -- they are pristine.

23           When we toured it two years ago we were  
24     very impressed by the quality of those units.  
25     These are excellent power plants, and they are

1 made to run.

2           So, you have a situation now where if  
3 the ISO is going to be called on to serve a very  
4 large amount of load, either in the winter or in  
5 the summer. And it's going to want to pull from  
6 all of its pieces on the table, it's going to want  
7 to take power out of Otay, and of course, it would  
8 have to do it from gas, if it can.

9           It's going to want to take power from  
10 South Bay and from Encina, as well as the CT's.

11           Now, you go a step further, there's also  
12 power available to some degree, it's diminishing  
13 over time, but from the southwest. And that  
14 power, though, could be moved from Palo Verde  
15 north along DPV 1 or it could move up the El  
16 dorado in Mojave, and then come over to Lugo, and  
17 come into the middle of the state.

18           So, if I'm running the system I think  
19 they're going to want to make San Diego stand as  
20 much as it can on its own feet. That means  
21 they're going to take as little as they can from  
22 SONGS to the north, San Onofre Nuclear Power  
23 Generating Station, as little as they can from the  
24 east, and then they're going to want to have San  
25 Diego importing as little as possible so that

1 power can go to serve other loads.

2 And thereby avoid using 15,000, 20,000,  
3 25,000 Btu per kilowatt hour heat rate units  
4 otherwise in the state.

5 HEARING OFFICER GEFTER: Thank you, Mr.  
6 Weatherwax. Do you have another question of the  
7 witness?

8 MS. LUCKHARDT: Yeah.

9 BY MS. LUCKHARDT:

10 Q I'm not sure I understood the answer  
11 that you gave. And if you could help me out.

12 A Okay.

13 Q Is it that Otay Mesa, South Bay and  
14 Encina would all run at high levels?

15 HEARING OFFICER GEFTER: Could you try  
16 to answer the questions more concisely, Mr.  
17 Weatherwax, because we have a lot of other  
18 witnesses.

19 DR. WEATHERWAX: The answer is yes.

20 BY MS. LUCKHARDT:

21 Q And so due to that would that cause  
22 greater curtailments?

23 A Yes. It will more rapidly consume the  
24 gas supply because of the gas being used at Otay.

25 Q Okay.

1           A     And there is no backup fuel supply  
2           there, so they would look to backup supplies for  
3           the other units.

4           Q     Okay.  And, Mr. Weatherwax, there's been  
5           some different testimony regarding the use of  
6           daily and hourly peak gas use.  Which do you think  
7           is more applicable in this instance?

8           A     Hourly use.  There are several levels of  
9           transition that must occur when you move from gas  
10          to oil.  And as expressed in the letter from the  
11          ISO to the CPUC on August 7th, there is great  
12          concern that while you're switching over one of  
13          the units could go down, one of the boiler units  
14          could become unstable and turn off.  And you'd  
15          have to bring it back up.

16                     And as it stands, in fact, you have to  
17          bring the power level down to about 50 percent at  
18          the maximum in order to be able to convert from  
19          gas to oil.

20                     What that says is that the plant  
21          operators will look for lots of lead time and move  
22          over to oil early in the morning if they don't  
23          think they're going to have the gas they need in  
24          the middle of their peak.

25                     That's the only way they can responsibly

1       guarantee reliable service. I think that has the  
2       implication that actually there will be some gas  
3       left on the table when everything is through.  
4       There will actually be less than total the amount  
5       of gas burned that was available because quite  
6       simply they could not do it.

7                   And I've learned, in fact, going through  
8       it, these low NOx burners, you cannot burn dual  
9       fuel simultaneously with them. They're limited to  
10      burning one fuel or the other.

11                   So there's no longer some ability to mix  
12      and match and precisely meter your amount of gas  
13      to the full amount you have. So there is a need  
14      to be careful for them.

15                   Q     Okay, I guess I didn't quite get the  
16      answer I was looking for, or the response that I  
17      was looking for.

18                   There's been testimony about daily and  
19      hourly use. Do you think that San Diego Gas and  
20      Electric has sufficient storage or ability to what  
21      they call, or term, packing the lines to  
22      compensate for high hourly use?

23                   A     No. In essence they've never had very  
24      much capability, maybe 10 mm cf per day out of a  
25      500 or more size system.

1                   So, they've never had much opportunity.  
2           And what has been apparent in the recent time is  
3           that the loads are so high early in the day they  
4           are not able to build them, to even do that little  
5           packing.

6                   So, in essence instantaneous peak is  
7           what you should be looking at. And, of course,  
8           none of the power plants store --

9                   PRESIDING MEMBER LAURIE: Mr.  
10          Weatherwax, you've answered the question.

11                  DR. WEATHERWAX: Okay.

12                  PRESIDING MEMBER LAURIE: Thank you.

13                  MS. LUCKHARDT: Thank you. I'll see if  
14          I've got anything else here.

15          BY MS. LUCKHARDT:

16                  Q     There has been some back-and-forth  
17          between various witnesses about Mr. Wood's  
18          characterization of what would happen if Otay Mesa  
19          is on the system. And I'm wondering if you agree  
20          with that characterization?

21                  A     Well, as it relates to the level of  
22          curtailment of the other units, I don't.

23                  Q     Okay. And, do you have any opinion as  
24          to whether there would be more gas curtailments  
25          without Otay Mesa, or less gas curtailments? I'm

1           sorry, I've totally screwed that up.

2                       Does the addition of Otay Mesa increase  
3           the probability of curtailments, or does it  
4           decrease the probability of curtailments?

5                       MR. HANSCHEN: I'll object. The  
6           question really doesn't have all the assumptions  
7           built into it yet. Is that we don't know how  
8           these plants are being --

9                       MS. LUCKHARDT: I'll rephrase it.

10           BY MS. LUCKHARDT:

11                      Q     Dr. Weatherwax, I believe you were here  
12           when Mr. Wood testified, is that correct?

13                      A     That's right.

14                      Q     And I believe you were also here when  
15           Mr. Beach testified, is that correct?

16                      A     That is correct.

17                      Q     And do you recall the testimony of each  
18           of those individuals regarding the table included  
19           in Mr. Wood's testimony that shows dispatch of the  
20           various units?

21                      A     Yes.

22                      Q     And were you also here when Mr. Wood  
23           testified about his analysis about whether if Otay  
24           Mesa was not in those configurations, whether  
25           there would be more gas curtailments without Otay

1 Mesa?

2 A Yes.

3 Q Do you agree with that?

4 A No. I do not. I believe there would be  
5 less gas curtailment in San Diego without Otay  
6 Mesa because there would be more generation  
7 otherwise in the state to support the San Diego  
8 load.

9 Q Okay, thank you, --

10 HEARING OFFICER GEFTER: Mr. Weatherwax,  
11 I have a question about that assumption.

12 EXAMINATION

13 BY HEARING OFFICER GEFTER:

14 Q We've just come off a summer when San  
15 Diego was in an energy crisis, and the ratepayers  
16 were paying a lot of money to receive energy. And  
17 one of the concerns was that there was not enough  
18 energy to meet the needs in San Diego.

19 And you seem to be arguing that imports  
20 will be enough to provide energy to the San Diego  
21 region, and your argument seems to say that  
22 putting Otay Mesa in this region would cause gas  
23 curtailments and therefore you don't need Otay  
24 Mesa, but you can continue to import from other  
25 areas into the region to meet energy needs in San

1 Diego.

2 How does that make sense?

3 A Let me resolve it for you in the  
4 following way. Otay Mesa stands in the way of  
5 imports from the east. That generation --

6 Q Otay Mesa is not here right now.

7 A No, it -- well, but were it present it  
8 limits the amount of imports from the east --

9 Q Were the imports limited anyway?

10 A Pardon me?

11 Q Are the imports limited in the absence  
12 of Otay Mesa at the present time?

13 A There are apparently less than there  
14 were before, how limited I don't know. But  
15 certainly at some times they are definitely  
16 limited. Um-hum.

17 PRESIDING MEMBER LAURIE: Ms. Luckhardt.

18 MS. LUCKHARDT: I guess I'd just like to  
19 follow up on the questions of the Hearing Officer.

20 BY MS. LUCKHARDT:

21 Q It's my understanding that -- isn't it  
22 true that Otay Mesa would add additional  
23 generation to California?

24 A It would, indeed.

25 Q Then is the problem a lack of gas in

1 this instance?

2 A That's my interpretation of it.

3 Q So if there were sufficient supplies of  
4 gas to Otay Mesa would Otay Mesa help California?

5 A Oh, absolutely.

6 MS. LUCKHARDT: Thank you.

7 MR. HANSCHEN: Thank you, Mr.

8 Weatherwax. Peter Hanschen for the applicant.

9 CROSS-EXAMINATION

10 BY MR. HANSCHEN:

11 Q Mr. Weatherwax, the last colloquy that  
12 you had with Ms. Luckhardt, is it consistent with  
13 your testimony on page 2 of exhibit 91, in which  
14 you criticize Mr. Filippi's rejection of the  
15 situation of which only 2000 megawatts are being  
16 imported?

17 MR. VARANINI: Could I just make a point  
18 here. I'll object if that's what the appropriate  
19 thing is. I thought that we only put one of his  
20 two pieces of testimony into evidence.

21 HEARING OFFICER GEFTER: You didn't put  
22 either one. They're both identified for the  
23 record. You have --

24 MR. VARANINI: Okay.

25 HEARING OFFICER GEFTER: -- 72 and 91 --

1 MR. VARANINI: All right, okay, fine,  
2 I'm sorry.

3 HEARING OFFICER GEFTER: -- they're both  
4 identified. And he's referring to 91, I  
5 understand.

6 Go ahead. You may ask your question.

7 MR. HANSCHEN: He didn't --

8 HEARING OFFICER GEFTER: Okay, Mr.  
9 Weatherwax may answer the question.

10 BY MR. HANSCHEN:

11 Q Do you understand the question, Mr.  
12 Weatherwax?

13 A No. Would you please repeat it for me?

14 Q Is your response to Ms. Luckhardt in the  
15 last question in which you indicated that you  
16 thought it was the desirability of maximize  
17 indigenous generation, is it consistent with your  
18 response on page 2 of the large paragraph in which  
19 you criticize Mr. Filippi for rejecting a  
20 situation in which only 2000 megawatts are being  
21 imported?

22 A Yes.

23 Q Is it your testimony is that San Diego  
24 will try to maximize its indigenous generation and  
25 not import maximum amounts?

1           A     No, that's not my testimony.

2           Q     Okay. Let me ask you a couple questions  
3 about your chart.

4                     The chart shows one arrow running from  
5 Miguel to the San Diego load. Do you assert that  
6 this is representative of the electric  
7 transmission system?

8           A     No, no, it's a very simplified manner.  
9 Certainly, for example, I think there's like half  
10 a dozen running from San Onofre transmission.  
11 This is just saying that there are paths to the  
12 system.

13          Q     So you're not saying there's only one  
14 transmission circuit between Miguel and the San  
15 Diego load, are you?

16          A     I'm not trying to imply any particular  
17 number of circuits at all.

18          Q     Okay.

19          A     Except that there are circuits going  
20 there. It's busy enough as it is.

21          Q     Now let me ask you some questions that  
22 you may have looked at in the preparation of your  
23 exhibit 72. First, did you look at SDG&E's gas  
24 curtailment rule 14?

25          A     No, I didn't.

1 Q Are you familiar how it operates?

2 A Not particularly. I was two years ago,  
3 but not at this point.

4 Q Didn't, in your testimony, you have to  
5 make some assumptions on how curtailment would  
6 occur on the SDG&E system?

7 A Yes.

8 Q And what were those assumptions based  
9 on?

10 A A general understanding of how one had  
11 to operate the system in order to get the maximum  
12 generation output from the system.

13 Q You don't have any idea whether your  
14 assumptions are consistent with rule 14, is that  
15 correct?

16 A I do not know if they are or they are  
17 not at this juncture.

18 Q Okay. So the conclusions that you draw  
19 with respect to when there's curtailments on the  
20 SDG&E system as to the amount of gas available,  
21 you don't know whether those conclusions are  
22 consistent with the way rule 14 is written, is  
23 that correct?

24 A It is my understanding that it is more  
25 or less consistent with how the system is

1 operated, which means to say that the power plants  
2 are rather low in the queue for curtailments.  
3 That Rosarita's in it, and that the other ones are  
4 there.

5 But the precise manner would be required  
6 for sure in a modeling of the system. You have to  
7 get the rules correct in that.

8 Q Well, wouldn't it be interesting for a  
9 presentation to this Committee to know what the  
10 curtailments were, whether they were consistent or  
11 inconsistent with rule 14?

12 A Not from my perspective --

13 PRESIDING MEMBER LAURIE: That's  
14 speculative, Mr. Hanschen, please --

15 MR. HANSCHEN: Okay.

16 PRESIDING MEMBER LAURIE: -- move on.

17 BY MR. HANSCHEN:

18 Q On page 6 of your testimony --

19 A Would you tell me which testimony?

20 Q Of exhibit 72, the question and answer  
21 that is next to the last on the bottom of the  
22 page, --

23 MS. LUCKHARDT: Could you refresh my  
24 memory which page you're on?

25 MR. HANSCHEN: Page 6, exhibit --

1 MS. LUCKHARDT: Thank you.

2 MR. HANSCHEN: -- 72, the question and  
3 answer that's next to the last on the bottom of  
4 the page.

5 BY MR. HANSCHEN:

6 Q You come up with results in a  
7 curtailment of 293 mm cf, do you see that there?

8 A Yes.

9 Q Under what assumptions did you assume  
10 that curtailment would be made?

11 A Under the assumptions presented in the  
12 appendix A to the FSA, which is to say I modified  
13 it for the 70 mm cf per day, which was not  
14 necessarily included in the work that --

15 Q I think --

16 A -- Bill had done. And then said that  
17 was the shortfall.

18 Q I don't think you understood my  
19 question, perhaps maybe it was unartfully worded.

20 You go on to say that this level of  
21 curtailment is equivalent to putting all of Encina  
22 and about 200 megawatts of South Bay generation on  
23 oil.

24 Now, what I want to know is what  
25 assumptions did you make as to the curtailment

1 rules in arriving at that conclusion?

2 A None. I assumed there would be times in  
3 which those would be the places where the  
4 curtailment would occur. And that is the  
5 magnitude of it, if they do hit those plants.

6 Q And what did you make that assumption  
7 on? Just your speculation? Or how the system  
8 operates? Or what was it based on?

9 A It was based upon the heat rates of the  
10 units involved. I was hoping to give the trier of  
11 fact a feeling for the magnitude of what a  
12 curtailment of that size would mean.

13 Q Okay. So what we should say, this is  
14 illustrative of the magnitude, but has nothing to  
15 do with the actual curtailment policy for SDG&E,  
16 is that right?

17 MR. VARANINI: I object. I object, --

18 MR. HANSCHEN: On what basis?

19 PRESIDING MEMBER LAURIE: Sustained.

20 MR. HANSCHEN: Well, let me restate the  
21 question.

22 BY MR. HANSCHEN:

23 Q Is it your testimony is that this answer  
24 on page 6 that I referenced you to simply is  
25 illustrative of the magnitude, but does not

1 necessarily bear any relationship to how rule 14  
2 may be administered by SDG&E?

3 A Are you sure you mean PG&E?

4 Q I said SDG&E.

5 A Oh, SDG&E. Yeah, this was not dealing  
6 with that, it was dealing with the magnitude of  
7 the curtailment.

8 Q So, this could have been, from answers  
9 of this answer, could have been Rosarita, just as  
10 well as Encina or South Bay, is that right?

11 A Yes, it could have.

12 Q Or it could have been Otay Mesa, is that  
13 right?

14 A No. There is only about 86 mm cf per  
15 day at Otay.

16 Q Okay, a portion of it, if it's just for  
17 illustrative purposes, this all of Encina being on  
18 oil could have been reduced by some substantial  
19 amount if those curtailments were allocated to  
20 different electric generators, is that right?

21 A That is correct, though I believe there  
22 would be times when they would be allocated to  
23 those units.

24 Q Okay. Let me ask some other things that  
25 you may have looked at. Did you look at SoCalGas

1 advice letter 2926?

2 A No.

3 Q Okay. Do you have an opinion on whether  
4 the 70 million a day that SoCalGas has indicated  
5 that it would expand its system is likely to  
6 occur?

7 A I reflected it to be conservative. I do  
8 not have any particular knowledge nor opinion on  
9 it.

10 Q Is your calculations, you said you  
11 reflected it to be conservative, are the remainder  
12 of your calculations in your testimony  
13 conservative?

14 A I guess we would have to deal with them  
15 on a one-by-one basis.

16 Q So, some may be conservative, some may  
17 not be conservative, is that right?

18 A I can't hold all the numbers in my head  
19 at the same time.

20 Q Okay.

21 A Point me to one of them and we can talk  
22 about it.

23 Q We'll get to it. Did you look at  
24 proposed resolution G-3297 from the CPUC?

25 A I don't believe so.

1           Q     Did you look at the comments of the  
2     Electric Generator Alliance on proposed resolution  
3     G-3297?

4           MS. LUCKHARDT:  I want to object.  These  
5     are proposals.  This was an advice letter that was  
6     sent in and polled.  It was a proposed resolution  
7     that was never enacted.  This is just all  
8     background information, proposals --

9           PRESIDING MEMBER LAURIE:  Overruled.

10          MS. LUCKHARDT:  -- stuff that people put  
11     out.

12          PRESIDING MEMBER LAURIE:  Overruled, Ms.  
13     Luckhardt.  Mr. Hanschen, get to the point  
14     quickly, please.

15          MR. HANSCHEN:  I'm getting there.

16          DR. WEATHERWAX:  No.

17     BY MR. HANSCHEN:

18          Q     Okay.  Is Cabrillo a member of the  
19     Electric Generator Alliance, do you know?

20          A     Actually I do not know.

21          Q     Okay.  Do you know if the Electric  
22     Generator Alliance supported pro rata curtailment?

23          A     No.

24          Q     Do you know of any instance where the  
25     CPUC has used a curtailment system of the last

1 plant or the last facility on the system is the  
2 first curtailed?

3 A Well, I would say I have certainly seen  
4 that on the electric side; the BRPU is a classic  
5 example, where if you brought power in you had to  
6 pay for the additional transmission upgrades to  
7 serve the system.

8 So, it's analogous. But on the gas  
9 side, offhand I don't know of any example.

10 Q No, I mean on service, in terms of  
11 requesting service, a consumer of natural gas. Do  
12 you know of a situation where the last on is the  
13 first off for purposes of curtailment?

14 A No. They are classified based on their  
15 various particulars of their load and the needs.  
16 And I do not know of anything where the last on is  
17 discriminated against.

18 Q Okay. To your knowledge do you know if  
19 the CPUC has disavowed such a policy?

20 A I do not know.

21 Q Did you review SoCalGas' latest B-CAP  
22 filing?

23 A No, I have not.

24 Q Turn with me to page 5 and 6 of your  
25 testimony. On the bottom of page 5 your answer

1       there says, it can be inferred from the FSA that  
2       the CEC estimates that in 2002 the operation of  
3       OMGP will result in possible needed increase in  
4       the level of operation of other SDG&E generation  
5       by about 350 megawatts to replace the reduced  
6       level possible imports of 2850 to 2000 megawatts  
7       net of the production from OMGP.

8                     Do you see that?

9             A     Um-hum.

10            Q     Is this statement based on a case one  
11     analysis?

12            A     Would you repeat the question?

13            Q     Is your statement based on a case one  
14     analysis?

15            A     Well, it's based on a case one analysis  
16     compared to the other cases.

17            Q     Okay. Now, come back to the paragraph  
18     that we were looking at before, the 293 mm cf per  
19     day. Do you see that?

20            A     Yes.

21            Q     Your statement there says -- the first  
22     part, it says -- well, why don't you read it,  
23     okay, and you conclude by saying, results in a  
24     curtailment of 293 mm cf per day with all units  
25     operating at San Diego and a 2000 megawatt import

1 level. This level of curtailment is equivalent to  
2 putting all of Encina and about 200 megawatts of  
3 South Bay generation on oil. Do you see that?

4 A Yes.

5 Q Now, the 293 mm cf per day, how did you  
6 derive that number?

7 A Subtracting 70 from 363.

8 Q And where did you get the 363?

9 A The 363 came from several places within  
10 appendix A.

11 Q Okay.

12 A Any of the columns under case A for  
13 2002.

14 Q So if I look at case one 2002 where it  
15 says on the first one, North Baja pipeline is not  
16 available. No change in SDG&E pipeline capacity,  
17 I see 363 mm cf per day shortfall, is that right?

18 A That's correct.

19 Q All of this 363 million per day is based  
20 on a minimum import case, is that right?

21 A It is based on a 2000 megawatt import  
22 case, whether that's minimum or not, I don't know.

23 Q Is case one characterized as a minimum  
24 import case?

25 A I don't know that. I would have to read

1 this appendix over to see what they describe that  
2 as. It does label it as minimum import with  
3 maximum internal generation.

4 Q Now, you told me previously that you  
5 didn't assume any form of gas curtailment for  
6 this, is that right?

7 A I beg your pardon?

8 Q You didn't assume any particular form of  
9 gas curtailment for this, is that right?

10 A You mean any allocation of the  
11 curtailment?

12 Q Yes.

13 A That is correct.

14 Q Okay. Now, turn with me to table A3 of  
15 Mr. Wood's testimony.

16 A I'm there.

17 Q Case one assumes electric generation or  
18 total demand of -- my calculation is 939 million  
19 cubic feet, is that correct?

20 A Actually according to his table A-4 it's  
21 938. So apparently there's some rounding  
22 differences.

23 Q Now, going back to your testimony on the  
24 bottom of page 6, you indicated to me this was a  
25 case one analysis, is that right, 293 mm cf per

1 day?

2 A Yes.

3 Q That case one analysis then assumes  
4 total demand of 939 mm cf per day?

5 A No.

6 Q What number does it assume?

7 A 938 according to the analysis.

8 Q Okay. It's actually 938 maximum cubic  
9 feet per hour, is that right, according to Mr.  
10 Wood's correction?

11 A No. That is the amount per day. You'd  
12 have to divide that by 24 to get the hourly rate.

13 Q Is that how you understood Mr. Wood's  
14 further correction on the record today, that he  
15 was simply giving -- not giving a maximum per hour  
16 rate?

17 A No, he was giving us a maximum per hour,  
18 but if you wanted to see that in a maximum hour,  
19 you would divide by the 24 hour --

20 Q Okay, so his 938 number assumes 24 hours  
21 of maximum flow, is that correct, maximum demand?

22 A That is a maximum number, yes. And he  
23 looked at it at a point in time.

24 Q Okay, but I want you --

25 HEARING OFFICER GEFTER: Mr. Hanschen,

1           these are questions that you had asked Mr. Wood  
2           about his tables.

3                       MR. HANSCHEN:  I'm --

4                       HEARING OFFICER GEFTER:  If you're  
5           getting at Mr. Weatherwax's testimony, let's get  
6           to his testimony.

7                       MR. HANSCHEN:  Okay.

8           BY MR. HANSCHEN:

9                       Q     Going back to your 293 mm cf, is that an  
10          hourly number or is that a daily number?

11                      A     That's a daily number.

12                      Q     So you took Mr. Wood's maximum hourly  
13          numbers and assumed that they would be curtailed  
14          for 24 hours per day under this assumption, is  
15          that right?

16                      A     I never said that at all.  I said that  
17          using his numbers was equivalent to taking South  
18          Bay down and taking almost all of Encina down.

19                      Q     Okay, --

20                      A     I didn't say whether it was for eight  
21          hours or whether it was for 24 hours.  I think  
22          what we've seen from the operation last week that  
23          it's probably much closer to 24 hours than I ever  
24          thought it would be.

25                      Q     Well, but you don't know whether this is

1 15 minutes, one hour, eight hours or what number.

2 This is just a magnitude number, is that right?

3 A I'm saying if that shortage was applied  
4 to South Bay and to Encina we would know it would  
5 be down eight to 12 hours minimum; absolutely  
6 based on the operational constraints on the system  
7 and the need to serve the load.

8 Q I wanted to ask you about that, Mr.  
9 Weatherwax. Turn with me to exhibit 89. On page  
10 6 of that exhibit --

11 A I don't have -- what is exhibit 89?

12 Q This is your client's filing with the  
13 CPUC.

14 MR. VARANINI: I object that that's  
15 beyond his direct testimony.

16 MR. HANSCHEN: Well, I think I can use  
17 it to impeach the witness.

18 HEARING OFFICER GEFTER: Just ask the  
19 question and we'll see whether it's relevant.

20 BY MR. HANSCHEN:

21 Q Mr. Weatherwax, you talked about taking  
22 time to ramp down and ramp up. In this filing it  
23 says these units can be converted to oil on the  
24 fly. What does that mean to you?

25 A I actually know what that means. What

1 that means is you can be running on, let's say,  
2 you can be running Encina 4, which is one of the  
3 units with low NOx burners that they have been  
4 able to get through the system so they can burn  
5 oil with it.

6 You could be running that unit at 300  
7 megawatts. To change on the fly means you would  
8 drop the power level down to less than 150  
9 megawatts. And that would take you, it's about 1  
10 percent a minute ramp rate, so it would take you  
11 half an hour or so to come down.

12 You go off of automatic generation  
13 control, so the ISO has no control over you or  
14 can't help the system with it. It sits there,  
15 then you've already put your oil injection nozzles  
16 in, and you start injecting oil into the system.

17 You move it at a very very slow and  
18 delicate rate, because there's some very sensitive  
19 things with the low NOx burners. Because you  
20 don't want it to blow, as the ISO is concerned,  
21 and go all the way down, which will take you hours  
22 to bring it back.

23 So you go with meticulously down. And  
24 then by the time you're through, maybe an hour  
25 later, you're at -- you're on oil for 150

1 megawatts.

2 Then you can bring it up, and you can  
3 bring it up at 1 percent or so a minute ramp rate  
4 to bring it all the way back up.

5 Now, my understanding is at that point  
6 then you could restore it to automatic generation  
7 control. But, unfortunately, for some of the  
8 units, they unable to actually put them on AGC.

9 Q So it's kind of a pop fly, not a  
10 screaming liner?

11 A Well, it's --

12 Q Forget it, it was a bad joke.

13 (Laughter.)

14 HEARING OFFICER GEFTER: Mr. Hanschen,  
15 how many more questions do you have?

16 MR. HANSCHEN: I have about an hour to  
17 go with this witness.

18 HEARING OFFICER GEFTER: You have an  
19 hour?

20 MR. HANSCHEN: Yes.

21 HEARING OFFICER GEFTER: Let's go off  
22 the record.

23 (Off the record.)

24 MR. HANSCHEN: Okay.

25 DR. WEATHERWAX: I'm sorry, Madam, just

1 to clarify the record, it was pointed out to me  
2 that the on the fly was actually referring to the  
3 17 combustion turbine units by Cabrillo, too,  
4 which is actually not my client.

5 And apparently they can do it more  
6 rapidly, which is consistent with the ISO's  
7 statement in the August 7th letter, that they  
8 would like to have the CTs turn over because  
9 they're more reliable.

10 HEARING OFFICER GEFTER: Okay. Well,  
11 we're going to go back on the record and, Mr.  
12 Hanschen, you may continue your cross-examination.

13 BY MR. HANSCHEN:

14 Q Mr. Weatherwax, you were here for the  
15 testimony of Mr. Montoya, were you not?

16 A I was here for testimony of Mr. Montoya  
17 last Tuesday.

18 Q Did you review Mr. Montoya's prepared  
19 testimony in this proceeding?

20 A I guess I don't know.

21 Q But in fact you made an adjustment to  
22 your testimony based on one of the adjustments  
23 that SDG&E proposed in this case, did you not?

24 A Yeah -- oh, okay, you're referring to  
25 the corrections that were sent in, yes. Yes. In

1 fact, I'm not even sure I thought I referenced it.  
2 I'm sorry, I did not tie that into Mr. Montoya's  
3 testimony.

4 Q Footnote 4 indicates that you made an  
5 adjustment to your testimony, is that right, based  
6 on this letter from Mr. Corrinick?

7 HEARING OFFICER GEFTER: What footnote  
8 4, in which --

9 MR. HANSCHEN: Page 5 of exhibit 72.

10 MR. HANSCHEN: Okay, let me go on.

11 BY MR. HANSCHEN:

12 Q Mr. Montoya, in that same letter from  
13 Mr. Thorp, also proposed an adjustment to table 1  
14 that Mr. Wood agreed with, do you recall that?

15 A I need to look at that.

16 Q Excuse me, it's table A-3, I misspoke.

17 A What page is that?

18 Q Page 4 of the FSA.

19 A No, no, what page was it of the San  
20 Diego submittal?

21 Q It's SDG&E response number 5 -- excuse  
22 me, response number 2.

23 A All right, I see response number 2.

24 Q You didn't make that -- Mr. Wood  
25 accepted that adjustment to his table, did he not?

1           A     I don't know. I know the 182 for  
2           Rosarita is consistent with what's in his  
3           testimony. At least I believe it is --

4           Q     Does Mr. Montoya indicate that the  
5           number should be reduced to 519 mm cf per day?

6                   HEARING OFFICER GEFTER: We can read  
7           that, Mr. Hanschen. And, also, Mr. Wood could,  
8           you know, these are questions, again, that Mr.  
9           Wood could testify to --

10                  MR. HANSCHEN: Well, Your Honor, what am  
11           I supposed to do? Am I supposed to ask this  
12           witness, do you think your table is wrong by 327  
13           million a day? I mean there has to be some  
14           foundation. I mean I've never cross-examined  
15           where you simply ask the whole bottomline question  
16           each time.

17                  I mean I'll try.

18                  HEARING OFFICER GEFTER: Okay, try.

19           BY MR. HANSCHEN:

20           Q     Mr. Weatherwax, would you agree, table  
21           A-3, which you used on page 6 of your testimony,  
22           has been adjusted y Mr. Montoya by 327 million  
23           cubic feet per day less than what was depicted  
24           there?

25           A     No.

1 Q Would it change some of your magnitude  
2 numbers set forth on page 6 if it was?

3 A If what were?

4 Q If Mr. Montoya's adjustment was made to  
5 table A-3.

6 A I have no idea what adjustment you're  
7 talking about doing to table A-3.

8 Q Are you looking at Mr. Montoya's answer  
9 to the response 2?

10 A I'm looking at the November 7th number.

11 Q Do you see the last line that says, will  
12 be reduced to 519 mm cf per day, 350 plus 84 plus  
13 85, and not 616?

14 A Well, that's merely a number between the  
15 peak and the average is how I see that. And we  
16 were looking at a peak curtailment during the  
17 course of the day. There's no reason at all to  
18 adjust it accordingly.

19 Q Do you think in your expert opinion that  
20 all of the generations that listed in table A-3,  
21 that you would expect it to run 24 hours per day  
22 on a peak day?

23 A No, I would not expect that to happen.  
24 But as we've discussed switching over to oil is a  
25 treacherous process, and you could not move easily

1 back onto gas.

2 Q Turn with me to page 8 of your  
3 testimony. And your conclusions, it says  
4 preliminary conclusions. You say, number 3, --

5 A Which testimony, please?

6 Q Exhibit 72. You say Encina and South  
7 Bay will be compelled to operate on oil during  
8 periods of ISO system stress.

9 First of all, what do you mean by ISO  
10 system stress?

11 A Well, in a modeling context I mean those  
12 are times when you're going to be turning on your  
13 combustion turbines, the units that you typically  
14 want to reserve to pick up in case of a sudden  
15 unanticipated outage of either transmission system  
16 or generator. And they're also more expensive.

17 Q Would those be RMR conditions?

18 A RMR conditions. I'm not quite sure what  
19 that means. Are you talking about stage 1, or  
20 stage 2?

21 Q Would you say it's the same as having to  
22 generate to satisfy your RMR contracts, if they  
23 existed?

24 A No, not necessarily.

25 Q Okay, would you say, this statement,

1 does it distinguish simply running the units for  
2 commercial reasons as compared to system  
3 reliability reasons?

4 A When the system is under stress all the  
5 units would be on, and for both commercial, and  
6 more importantly, reliability reasons.

7 Q Okay. Does this statement distinguish,  
8 though, that commercial reasons from ISO system  
9 stress reasons?

10 MR. VARANINI: I'm going to object.  
11 That's -- I think it's a triple complex question.  
12 It's certainly a compound question. I don't know  
13 how he's supposed to answer it.

14 HEARING OFFICER GEFTER: Mr. Hanschen,  
15 can you simplify the question.

16 BY MR. HANSCHEN:

17 Q Does your point number three apply to  
18 generation simply for commercial reasons?

19 A Well, we're talking here in terms of  
20 during periods of ISO system stress. Now, when  
21 the system's stressed, I guess the ISO could be  
22 viewed as a commercial opportunity to a generator.

23 But the fact of the matter is we're  
24 talking here about supporting the system  
25 reliability.

1           Q     Mr. Weatherwax, did you read the  
2           prehearing conference statement of Cabrillo Power  
3           I, LLC, in this matter?

4           A     Yes, I did.

5           Q     In that statement Mr. Varanini indicates  
6           that, makes a distinction between fuel oil, saying  
7           that Encina would be burning something much  
8           dirtier, a thicker oil called residual oil. Is  
9           that your understanding?

10          A     I do not have it in front of me, but  
11          maybe I will take it subject to correction.

12          Q     Is it your understanding that Mr.  
13          Varanini, in the prehearing conference statement,  
14          drew a distinction between the fuel oil that the  
15          staff assumed to be burned by Cabrillo in case of,  
16          in the FSA, as compared to burning of a dirtier,  
17          residual oil?

18          A     There was some discussion of that. I  
19          did not pay close attention, since South Bay is on  
20          residual oil, other than the CT.

21          Q     Do you know what type of oil Cabrillo  
22          has in its tanks now?

23          A     Yeah, our estimate, which we did two  
24          years ago, we were saying it was about .35 percent  
25          low sulfur residual oil. That's what we use for

1           our modeling and reflected the stuff that's been  
2           around there for the better part of a decade.

3           Q     Okay. Do you know what's in its tanks  
4           now, though?

5           A     Do I know what's in the tanks now?

6           Q     Yes.

7           A     I believe less of it.

8           Q     Okay. Do you know, first of all, is  
9           residual oil a number 6 oil?

10          A     I use that term. Maybe it's not  
11          precisely correct, but, yeah, I think so.

12          Q     Is that common parlance is that residual  
13          is a fuel oil number 6?

14          A     Yeah, you hear it sometimes referred to  
15          as bunker C crude and various things, yeah, it's  
16          heavy oil, I think about 6.25 million Btus per  
17          barrel or something like that.

18          Q     Do you know what the staff assumed in  
19          its FSA as the sulfur content of the oil that  
20          would be burned in case of a curtailment?

21          A     I don't think the staff assumed anything  
22          at all. Oh, I'm sorry, I was referring to  
23          appendix A. No, in the basic document I do not  
24          know what they were assuming.

25          Q     Is low sulfur number 2 also a fuel oil?

1           A     Well, it's typically thought of as  
2     distillate, but sure, it comes from petroleum,  
3     they're all fuel oils.

4           Q     If you were going to buy fuel oil in the  
5     California market right now, what would be most  
6     commonly available on the market?

7           MR. VARANINI:   I'd object.

8           MS. LUCKHARDT:   This is beyond the scope  
9     of, way beyond anything that I think is in his  
10    testimony.

11          MR. HANSCHEN:   Actually he has quite a  
12    bit on his chart on the amount of pollutants.  
13    Because he makes some assumptions on what will be  
14    burned in his chart that's attached to his  
15    testimony.

16          MS. LUCKHARDT:   My understanding is that  
17    his chart reflects something that happened in  
18    1999 --

19          MR. HANSCHEN:   Well, if --

20          MS. LUCKHARDT:   -- assumptions and  
21    wouldn't these be more appropriately asked of an  
22    air quality witness?

23          HEARING OFFICER GEFTER:   Yes.  I was  
24    going to suggest that you hold these questions for  
25    the air quality witness.

1 BY MR. HANSCHEN:

2 Q Turn with me to your chart, Mr.

3 Weatherwax, --

4 A I'm sorry, which --

5 Q This is attached to your testimony,  
6 exhibit 72, 1999 modeling results.

7 A Thank you.

8 Q Did you make some assumptions as to the  
9 fuel oil content of the fuel oil that would be  
10 burned here, the sulfur content?

11 A Yes, we did. We made different  
12 assumptions for natural gas and for distillate and  
13 for JP4.

14 Q Okay. Now, if I'm reading this chart  
15 correct, are you showing in your energy output  
16 column you show 67 billion Btus for the second  
17 fuel, is that right?

18 A That is correct.

19 Q And this is out of 67 billion Btus out  
20 of a total burn of 29,251 million Btus -- trillion  
21 Btus?

22 A 29.251 trillion Btus, yeah.

23 HEARING OFFICER GEFTER: All right,  
24 again, we can read the charts. If you have a  
25 bottomline question you can ask the question.

1 BY MR. HANSCHEN:

2 Q It's a small number isn't it, Mr.  
3 Weatherwax?

4 A Well, it is. It was 9000 barrels of  
5 oil. All occurring in January.

6 Q Has Cabrillo added SCR to their units at  
7 Encina?

8 MR. VARANINI: I'm going to object as  
9 it's outside of direct.

10 HEARING OFFICER GEFTER: It's a question  
11 we would like to know the answer to.

12 MR. VARANINI: We have --

13 HEARING OFFICER GEFTER: If this  
14 witness, if you have another witness --

15 MR. VARANINI: We have a witness that is  
16 a definitive expert on air tomorrow.

17 HEARING OFFICER GEFTER: All right,  
18 we'll do that tomorrow. Hold your question for  
19 tomorrow.

20 BY MR. HANSCHEN:

21 Q Let me ask you some questions, Mr.  
22 Weatherwax, about exhibit 91. Turn with me to  
23 page 2, the large answer there, the large block  
24 answer about halfway down.

25 You see that?

1           A     Um-hum.

2           Q     Can you point to me Mr. Filippi's  
3           testimony where he rejected a situation in which  
4           only 2000 megawatts are being imported into the  
5           SDG&E service area as unrealistic?

6           A     Yes, that was case one.

7           Q     Is that the basis for his rejection, or  
8           is it based on the fact that it assumed a 24 hour  
9           maximum peak use of the units?

10           HEARING OFFICER GEFTER:  Mr. Hanschen,  
11           again, that is a question that you can ask Mr.  
12           Wood, who did that analysis --

13           MR. HANSCHEN:  I can ask Mr. Filippi.

14           HEARING OFFICER GEFTER:  You can ask Mr.  
15           Filippi.  Sorry.  But this witness doesn't know  
16           what Mr. Filippi had in mind.

17           MR. HANSCHEN:  I'll stipulate to that.

18           HEARING OFFICER GEFTER:  All right.

19           (Laughter.)

20           MR. HANSCHEN:  He definitely doesn't  
21           know what Mr. Filippi --

22           HEARING OFFICER GEFTER:  All right,  
23           okay, --

24           MR. HANSCHEN:  -- testified to.

25           HEARING OFFICER GEFTER:  -- let's move

1 on.

2 BY MR. HANSCHEN:

3 Q Page 3, your footnote shaping refers to  
4 burning more gas fired generation during electric  
5 peak periods and less during the electric off-peak  
6 periods, which can only come out of storage, do  
7 you see that?

8 A Yeah.

9 Q Is the pack and draft system a type of  
10 storage?

11 A It is. And it's a rather modest amount  
12 in this area, and of course, none present at the  
13 plants, themselves. Unlike other systems.

14 MR. HANSCHEN: I have no further  
15 questions.

16 MR. VARANINI: We'd move these two  
17 exhibits into --

18 HEARING OFFICER GEFTER: Yes, do you  
19 want to move 72 and 91?

20 MR. VARANINI: Yes.

21 HEARING OFFICER GEFTER: Any objections  
22 to 72 or 91 going into the record?

23 MR. VARANINI: We'd also like to do a  
24 couple things. We had --

25 HEARING OFFICER GEFTER: Let's get

1 through these two documents first.

2 Is there any objection to 72 and 91  
3 being received into the record?

4 Hearing no objections, exhibits 72 and  
5 91 are received in the record.

6 Mr. Varanini.

7 MR. VARANINI: I'd like to have this ISO  
8 letter that was referred to in Mr. Weatherwax's  
9 testimony marked for identification as an exhibit.

10 HEARING OFFICER GEFTER: Do you have  
11 copies for the Committee and --

12 MR. VARANINI: Yes, ma'am.

13 HEARING OFFICER GEFTER: -- for the  
14 parties?

15 MR. VARANINI: Yes.

16 HEARING OFFICER GEFTER: Okay, that will  
17 be marked as exhibit 92.

18 MR. HANSCHEN: Is this being admitted  
19 just for the fact that there's a letter from the  
20 ISO? Or, I assume this witness isn't testifying  
21 to the truth of the matters, is that correct?

22 MR. VARANINI: That's correct, he's  
23 entering it into evidence as a letter from the ISO  
24 to the PUC.

25 This exhibit 92 is a letter to the PUC

1 from Cal-ISO dated August 7th.

2 Mr. Varanini, what is the purpose of  
3 offering this exhibit?

4 MR. VARANINI: This letter sets forth  
5 certain concerns that the ISO has on fuel  
6 switching and reliability processes of the system.  
7 The concern is power plants shifting from gas to  
8 oil, tripping off line and creating additional  
9 problems, compounding problems, and air quality  
10 issues.

11 HEARING OFFICER GEFTER: Do you have any  
12 other witnesses on this topic right now?

13 MR. VARANINI: No.

14 HEARING OFFICER GEFTER: Mr. Weatherwax,  
15 you may be excused.

16 DR. WEATHERWAX: Thank you.

17 HEARING OFFICER GEFTER: There is Larry  
18 Tobias here from Cal-ISO. Perhaps Mr. Tobias can  
19 come forward as the Committee's witness.

20 PRESIDING MEMBER LAURIE: Well, I want  
21 to make sure there's an understanding as to what  
22 we're going to be asking Mr. Tobias this evening.  
23 We're calling Mr. Tobias as the Committee's  
24 witness. Is it your intention --

25 HEARING OFFICER GEFTER: Make him

1 available for --

2 PRESIDING MEMBER LAURIE: To make him  
3 available for what purpose?

4 HEARING OFFICER GEFTER: For the  
5 questions that the parties had of all the other  
6 witnesses who -- or should have been questions of  
7 Cal-ISO.

8 And with respect to the system and the  
9 description of the system. Also, I have questions  
10 for Mr. Tobias about the curtailment, if you have  
11 any information for us, that was mentioned several  
12 times tonight. As to why, within Cal-ISO's  
13 understanding of why the -- if you have  
14 information as to why both South Bay and Encina  
15 were curtailed last week.

16 Okay, let's start with that question.

17 MR. TOBIAS: The first thing, though,  
18 I'd like to make a request -- I'm still under  
19 oath, I know, from last Tuesday --

20 HEARING OFFICER GEFTER: Yes, you are.  
21 Right.

22 MR. TOBIAS: But consistent with last  
23 Tuesday's proceedings, you know, without having  
24 legal counsel here from the ISO, I'd like to  
25 request that Jeff could intercede if appropriate,

1 if that's okay?

2 PRESIDING MEMBER LAURIE: Yeah, we're --  
3 not at all.

4 MR. TOBIAS: Since this is being done,  
5 you know, originally with supporting testimony for  
6 Linda Davis.

7 PRESIDING MEMBER LAURIE: Sir, you are  
8 not a party to the action.

9 MR. TOBIAS: Okay.

10 PRESIDING MEMBER LAURIE: You're  
11 entitled to have legal counsel advise you as to a  
12 witness, but nobody else can represent you. If  
13 the Committee feels the questions are out of  
14 order, the Committee will so note, and not permit  
15 the questions.

16 MR. TOBIAS: Okay, good.

17 PRESIDING MEMBER LAURIE: I'm going to  
18 advise all the parties, I want to get out of here.  
19 And so think about the questions you need to ask  
20 Mr Tobias very quickly, and get it done, and that  
21 includes us.

22 So, I don't know how you want to start,  
23 Ms. Gefter, but I'm anxious.

24 HEARING OFFICER GEFTER: All right. We  
25 all are.

1       Whereupon,

2                               LAWRENCE TOBIAS

3       was recalled as a witness herein and having been  
4       previously duly sworn, was examined and testified  
5       further as follows:

6                               EXAMINATION

7       BY HEARING OFFICER GEFTER:

8               Q       The question I had for Mr. Tobias again  
9       is if you have information, as a representative of  
10      Cal-ISO, as to the reasons why the Encina and  
11      South Bay Plants were curtailed last week?

12                      Was it due to an RMR contract, or what  
13      was the -- what?

14              A       Well, I can speak to the extent of, you  
15      know, where I'm knowledgeable, why those units  
16      were required to be on line.  And to the extent  
17      they were curtailed, lack of gas, you know, from  
18      San Diego Gas and Electric Company.  So that we  
19      know of already.

20                      The extent that they were required to be  
21      on line was per RMR calls, reliability calls.  RMR  
22      in the essence that they were called, was to serve  
23      load.  If you try to serve load without those  
24      units from someplace else, you would overload the  
25      lines.  Therefore you have a reliability problem,

1 you use RMR to call them. So, within that context  
2 it was done.

3 Overall what we saw was more than just  
4 San Diego, more than just California's situation.  
5 We're back to the same situation we were in summer  
6 which is just plain lack of resources.

7 And so within that context everything  
8 that could be called upon was called upon last  
9 week.

10 HEARING OFFICER GEFTER: Thank you. Do  
11 any of the parties have any questions of Mr.  
12 Tobias that have come up this evening?

13 All right. I have one more question  
14 about the imports that were referred to in Mr.  
15 Weatherwax's testimony. He talks about imports  
16 coming into the San Diego region.

17 And the concern that Otay Mesa, if it  
18 were on line those imports would then not be able  
19 to be brought in, and there would be a gas  
20 curtailment.

21 BY HEARING OFFICER GEFTER:

22 Q To what extent does the San Diego region  
23 rely on those imports?

24 A For instance during the summer peak  
25 right now they absolutely rely on everything

1 that's in there. And full import capability if  
2 they hit, for instance, their one in ten year peak  
3 load, which hasn't occurred during these last two  
4 years.

5 To the extent that Otay Mesa would have  
6 some effect on it in the future, depends on where  
7 they schedule. If they schedule to the ISO or  
8 they schedule to the southwest.

9 If they schedule to the ISO then like  
10 we've heard, they compete with imports coming into  
11 San Diego. But that's all they compete with.

12 Q Okay.

13 A Any problems caused within San Diego,  
14 local reliability problems on the 138-69, as I  
15 said in my testimony, those are preexisting.  
16 Those exist right now.

17 And through congestion management, to  
18 the extent possible that you have natural gas or  
19 other means, you would dispatch additional  
20 generation at Encina and South Bay principally, as  
21 well as all the combustion turbines.

22 HEARING OFFICER GEFTER: All right,  
23 thank you.

24 MR. TOBIAS: Essentially it's nothing  
25 different than what I said last Tuesday.

1 That's --

2 HEARING OFFICER GEFTER: Okay, thank  
3 you.

4 No other questions?

5 MR. OGATA: Ms. Gefter, I believe Ms.  
6 Duncan has a question.

7 HEARING OFFICER GEFTER: Ms. Duncan.

8 CROSS-EXAMINATION

9 BY MS. DUNCAN:

10 Q I was just trying to square up what  
11 you're saying with what was reported in the  
12 newspaper regarding the curtailment, that we had a  
13 sudden cold snap that took us off guard.

14 There were several plants down for  
15 maintenance because normally this time of year  
16 they are down for maintenance because they're not  
17 needed.

18 And my understanding also was that San  
19 Onofre was being refueled, and that created a  
20 sudden shortage when the weather turned on us in a  
21 very unpredictable way.

22 That's what was reported in the paper.  
23 You seem to be saying that we're repeating last  
24 summer. And that's not what was reported in the  
25 paper. So, they were going to the ISO and getting

1 a different story from them than what you've said  
2 here tonight.

3 A No. It is consistent with last summer.  
4 To the extent that you have a certain amount of  
5 generation to draw upon, and a certain amount of  
6 load to serve, that was the same situation. Not  
7 enough resources were available.

8 To the extent where it may have been  
9 different because of what was available, or what  
10 was not, it was a combination of what you just  
11 said, plant maintenance, refueling of two nuclear  
12 power plants, unplanned outages, all those played  
13 a significant part in bringing about the same  
14 situation that you saw in the summer, which is not  
15 enough resources to serve all the load.

16 HEARING OFFICER GEFTER: Okay, thank  
17 you.

18 MS. DUNCAN: Can I ask another question  
19 on that?

20 HEARING OFFICER GEFTER: Well, I don't  
21 know --

22 MS. DUNCAN: I have one more question  
23 that my understanding is there's an investigation  
24 going on right now at the CPUC --

25 HEARING OFFICER GEFTER: That's correct.

1 MS. DUNCAN: -- regarding those  
2 allegations of what happened last summer, and  
3 there is a report out that says that the inhouse  
4 instate generation was only at 60 percent  
5 capacity.

6 And right now the CPUC is having trouble  
7 getting those records from the generators.  
8 They're refusing to supply those. So they have  
9 gone to FERC for a request to get that  
10 information.

11 So, I'm having trouble buying into just  
12 an assumption here that there is a shortage of  
13 power, when the CPUC, themselves, are trying to  
14 establish whether or not there really was a  
15 shortage within the state.

16 HEARING OFFICER GEFTER: All right,  
17 well, you can talk about that with Mr. Tobias. I  
18 think there are no other questions with respect to  
19 the information we heard tonight, correct?

20 So we're going to adjourn.

21 PRESIDING MEMBER LAURIE: Let me note  
22 that I want to thank all the parties for the  
23 manner in which you handled the testimony tonight.  
24 It was all very competently and professionally  
25 done.

1                   HEARING OFFICER GEFTER: All right, off  
2 the record.

3                   (Whereupon, at 8:30 p.m., the hearing  
4 was adjourned, to reconvene at 10:00  
5 a.m., Tuesday, November 21, 2000, at  
6 this same location.)

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CERTIFICATE OF REPORTER

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of November, 2000.

VALORIE PHILLIPS

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