

COMMITTEE MEMBERS PRESENT

Joseph Desmond, Presiding Member

James Boyd, Associate Member

HEARING OFFICER, ADVISORS PRESENT

Susan Gifter, Hearing Officer

Michael Smith, Advisor

Kevin Kennedy, Advisor

STAFF AND CONSULTANTS PRESENT

Kerry A. Willis, Staff Counsel

James W. Reede, Jr., Project Manager

Steve Baker

Dave Ashuckian

Sudath Arachchige

Natasha Nelson

William Walters
Aspen Environmental (via teleconference)

Alvin J. Greenberg
Risk Science Associates (via teleconference)

PUBLIC ADVISER

Nick Bartsch

REPRESENTING THE APPLICANT

Greggory Wheatland, Attorney
Ellison, Schneider and Harris, LLP

Ali Amirali
Michael A. Argentine
Calpine Corporation

REPRESENTING THE APPLICANT

Gary S. Rubenstein
Sierra Research

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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

2 1:45 p.m.

3 PRESIDING MEMBER DESMOND: I'd like to
4 welcome everyone here today to begin this hearing
5 on the Pastoria Expansion project. Specifically
6 the purpose of today's hearing is to receive
7 parties' testimony into record; to allow for
8 questions; and to establish the evidentiary record
9 on which to base findings and conclusions
10 consistent with Public Resources Code 25523.

11 I am the Presiding Member Desmond. To
12 my left is Commissioner Jim Boyd, Associate
13 Member. To his left is his Advisor, Mike Smith.
14 And to my right, Kevin Kennedy, and Sue Gefter,
15 the Hearing Officer. And also with us today we
16 have Nick Bartsch -- there's Nick, okay, --
17 Assistant to the Public Adviser.

18 We also have the applicants, if they
19 would introduce themselves, beginning with Mr.
20 Wheatland.

21 MR. WHEATLAND: Good afternoon; Gregg
22 Wheatland, counsel for the applicant. With me at
23 the table here is Mike Argentine, who is the
24 Project Development Manager. We have some
25 additional Calpine Staff. Would you like them to

1 introduce themselves --

2 PRESIDING MEMBER DESMOND: Please.

3 MR. WHEATLAND: -- at this time?

4 UNIDENTIFIED SPEAKER: (inaudible).

5 UNIDENTIFIED SPEAKER: (inaudible).

6 MR. RUBENSTEIN: Gary Rubenstein, Sierra
7 Research (inaudible).

8 MR. AMIRALI: Ali Amirali, Calpine.

9 PRESIDING MEMBER DESMOND: Thank you.
10 Anyone else?

11 MR. WHEATLAND: That's it.

12 PRESIDING MEMBER DESMOND: Okay. Also,
13 we have a number of CEC Staff here present today.
14 If they would identify themselves?

15 MS. WILLIS: Thank you. I'm Kerry
16 Willis, Staff Counsel. And to my left is Dr.
17 James Reede, our Project Manager. On the phone we
18 have Will Walters, our air quality staff; and Dr.
19 Alvin Greenberg, who will be commenting or
20 answering questions on hazardous materials and
21 worker safety and fire.

22 DR. GREENBERG: Good morning -- or good
23 afternoon.

24 MS. WILLIS: Thank you, Alvin. And we
25 also have in the audience Steve Baker and Dave

1 Ashuckian. Dave is not one of our normal siting
2 staff members; he's our Office Manager for
3 electricity analysis office, to answer any
4 questions on efficiency.

5 PRESIDING MEMBER DESMOND: Thank you.

6 DR. REEDE: Good afternoon, I'm Dr.
7 James Reede. Additionally we have staff members
8 present, Ms. Natasha Nelson, soil and water;
9 Sudath Arachchige for transmission system
10 engineering. And that's it as far as
11 participants.

12 PRESIDING MEMBER DESMOND: Very good.
13 Also representatives from the San Joaquin Valley
14 Air Pollution Control District.

15 HEARING OFFICER GEFTER: Mr. Wheatland,
16 do you know whether anybody from the Air District
17 will be calling in?

18 MR. WHEATLAND: No, I don't.

19 HEARING OFFICER GEFTER: Does staff
20 know?

21 PRESIDING MEMBER DESMOND: Okay, very
22 well. Housekeeping items, I'm not aware whether
23 there are any additional procedural matters that
24 need to be brought here before the attention of
25 this Committee today?

1 Commissioner Boyd.

2 ASSOCIATE MEMBER BOYD: I just wanted to
3 commend the staff for the good work they did with
4 respect to the final FSA. They turned it around
5 very quickly, and I know these are tough times
6 around this place. So I think they should be
7 acknowledged that they responded very rapidly and
8 did a very nice job. So, thank you; the public
9 thanks you.

10 PRESIDING MEMBER DESMOND: Very well.
11 Thank you. Procedurally, there are no intervenors
12 in this proceeding.

13 Staff and applicant filed a stipulation
14 agreeing that each of their proposed exhibits
15 identified in attachment 1 to the stipulation may
16 be entered into evidence, without objections,
17 based on sworn declarations of the witnesses
18 sponsoring the exhibits.

19 The stipulation and attachment 1 are
20 hereby identified and admitted into the record as
21 Joint Exhibit A.

22 Under the stipulation the parties
23 jointly move all the exhibits listed in attachment
24 1. The Committee is satisfied that the list of
25 exhibits is inclusive. We'll receive the exhibits

1 identified in attachment 1 into the record as if
2 each were identified and discussed during this
3 hearing. The exhibits shall be received as
4 numbered in attachment 1.

5 Additional exhibits shall be received,
6 if necessary, during the course of the proceeding.
7 We ask the reporter to bind Joint Exhibit A into
8 the transcript. We've also circulated the
9 Committee's exhibit list as a reformatted version
10 of Attachment 1. The exhibit list includes the
11 receipt date for the exhibits, and the list can be
12 modified as additional exhibits are submitted.

13 We understand that neither staff nor
14 applicant intends to cross-examine any witness
15 today. But they will make witnesses available for
16 questioning by the Committee. We have questions
17 on the topics of air quality, transmission system
18 engineering, efficiency, and possibly hazardous
19 materials.

20 HEARING OFFICER GEFTER: And before we
21 go on, we added exhibit 3 to the exhibit list,
22 which was the technical assessment study prepared
23 by Southern California Edison, and wanted just to
24 note that on the record, that we -- because it
25 wasn't included originally in Attachment 1 to the

1 stipulation. And I don't believe there'd be any
2 problem with that from the parties.

3 MR. WHEATLAND: No objection.

4 MS. WILLIS: No objection.

5 PRESIDING MEMBER DESMOND: Okay. At
6 this time I'd ask the reporter to swear some of
7 the witnesses in before they testify on the
8 subject of air quality.

9 THE REPORTER: Would all please stand
10 who are testifying. Raise your right hands.

11 Whereupon,

12 GARY RUBENSTEIN

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

16 THE REPORTER: Please state your full
17 names.

18 MR. RUBENSTEIN: My name is Gary
19 Rubenstein.

20 HEARING OFFICER GEFTER: Also, may we
21 have Mr. Will Walters also sworn while we discuss
22 the topic of air quality.

23 Whereupon,

24 WILLIAM WALTERS

25 was called as a witness herein, and after first

1 HEARING OFFICER GEFTER: And you can't?

2 Okay, how about this?

3 In the FSA, Mr. Walters, at page 40 of
4 the air quality testimony, okay, there is a
5 statement which says that -- it's the middle of
6 the second paragraph -- it says: Staff has not
7 found any existing 7F simple cycle turbine
8 performance data to indicate that this project,
9 which to staff's knowledge is first-of-a-kind
10 commercial 7F, et cetera, et cetera.

11 And so what I wanted you to explain is
12 why this is a first-of-a-kind commercial 7F simple
13 cycle. I understood that we had several of these
14 online.

15 MR. WALTERS: We have a lot of 7Fs
16 online, but we don't have any that are running in
17 a simple cycle mode.

18 HEARING OFFICER GEFTER: So this would
19 be the first simple cycle. And the question --

20 MR. WALTERS: Yeah, that is long term as
21 a simple cycle.

22 HEARING OFFICER GEFTER: -- that I have
23 then, it kind of dovetails into the efficiency
24 testimony, which says that the 7F simple cycle is
25 one of the -- has been used for many years and is

1 one of the most common turbines used in the
2 industry.

3 And so, are you saying that the 7F has
4 never been used as simple cycle in California?

5 MR. WALTERS: I'm saying that it hasn't
6 been used or meant to be used in that way for long
7 term. I'm trying to think, I think maybe the --,
8 and, Gary, maybe if you can remember this as well,
9 I think the Sunrise project may have been
10 operating simple cycle for a very short period of
11 time during the crunch. But it was never meant as
12 a long-running peaker facility.

13 MR. RUBENSTEIN: That's correct that the
14 Sunrise units were 7FAs and they operated, I
15 believe, for a period of a year, year and a half,
16 maybe two years, in simple cycle.

17 I think, Ms. Gefter, the reconciliation
18 of the two statements is that the 7FA is a gas
19 turbine, is a proven technology; it has been used
20 very often throughout the country and throughout
21 the world. There are a number of operating plants
22 in California using this technology. However, all
23 of those units are combined cycle plants.

24 HEARING OFFICER GEFTER: Okay. That
25 clears it up. I also wanted both Mr. Rubenstein

1 and Mr. Walters to address the new offset package,
2 and to explain to us how you believe this is now
3 in compliance with what the USEPA would require.

4 And so, Mr. Walters, if you want to
5 expand on your most recent testimony on that
6 topic?

7 MR. WALTERS: All right. Essentially
8 the changes to the offset package were done based
9 on the comments received from USEPA. And those
10 comments dealt with how the NOx-to-PM10 offset
11 ratio was calculated, along with the distance
12 ratio.

13 And the zero offset package meets the
14 definition of how that calculation should be done
15 by EPA's findings; and has increased the amount of
16 NOx for PM10 substantially.

17 And so reviewing essentially EPA's
18 comments and the revised emission offset package
19 we found that the new package essentially
20 completely addressed those comments.

21 HEARING OFFICER GEFTER: Okay. There
22 was something in your most recent testimony, this
23 was filed on March 17th, where you have a, let's
24 see, there's like a little footnote at page 5.
25 This would be marked as -- it's exhibit 102 for

1 the record, and it's at page 5.

2 And there's a footnote there where you
3 say: the applicant did not specifically note
4 which of the three NOx ERC sources will retain the
5 remaining balance." This was under table 28.

6 MR. WALTERS: Yes.

7 HEARING OFFICER GEFTER: Could you
8 clarify that, or could Mr. Rubenstein clarify
9 that, so that for the record we would have a more
10 definitive answer?

11 MR. RUBENSTEIN: Yes, I'll respond to
12 that even though it's Mr. Walters' footnote. The
13 credits that were identified both in the
14 applicant's supplemental testimony and in the
15 staff's supplemental testimony, the quantity of
16 credits available and the certificates we
17 identified exceeded the quantity of credits that
18 are actually required to satisfy the District
19 requirements.

20 There will be a surplus that will be
21 returned back to the applicant after those credits
22 are surrendered. We did not specifically -- I
23 believe we specifically identified which
24 certificates that surplus would come from. But we
25 have identified sufficient credits and committed

1 to provide the required amount.

2 And the proposed condition of
3 certification that the staff has developed will
4 insure that we satisfy the District's requirements
5 and surrender the proper amount.

6 HEARING OFFICER GEFTER: All right.

7 And, Mr. Walters, also at page 6 of this same
8 document, exhibit 102, your most recent testimony,
9 at page 6 there is, in your summary it says: While
10 the issue of NSR equivalency for the annual period
11 may still be problematic on a district-wide level,
12 it will not affect the project's offset
13 requirements."

14 So, is this sort of your speculation, or
15 are you making a finding that the project would
16 comply with the USEPA and -- equivalency
17 requirements?

18 MR. WALTERS: No. The project does
19 comply. The issue in terms of what I'm talking
20 about in terms of equivalency really deals with
21 future issues, and essentially future potential
22 impacts as the result of the use of these offsets.

23 So, the project, itself, complies
24 because the application was submitted and the
25 offset requirements were all based on the rule

1 requirements at that point in time. And any
2 changes to the rule requirements that may occur
3 due to the equivalency report is a future issue.

4 But what we were trying to do is
5 identify and to make sure that there would not be
6 a future impact from the use of these offset
7 credits on the NSR rule and offset requirements
8 for other newer facilities.

9 HEARING OFFICER GEFTER: Okay. With
10 regard to your proposed AQSC-9, which is being
11 revised -- it's also at page 6 of the same
12 document -- it says that if the project owner does
13 not participate in the voluntary California
14 Climate Action Registry, then the project owner
15 shall report to the CPM.

16 How will the Energy Commission know
17 whether the project owner is participating in this
18 Registry or not? And should the language be more
19 specific as to whether the project should let the
20 CEC know how this works?

21 MR. WALTERS: I suppose that could be
22 added into the verification.

23 HEARING OFFICER GEFTER: Okay.

24 MR. WALTERS: That, you know, the
25 project shall identify the GHG emissions are

1 reported to the California Climate Action
2 Registry; and if not, shall be reported.

3 HEARING OFFICER GEFTER: All right.
4 Would there be any objection if that language is
5 added?

6 MR. RUBENSTEIN: No, there wouldn't be.
7 The Registry is a public record, and those
8 documents are all publicly available.

9 HEARING OFFICER GEFTER: All right.
10 Then I also wanted, Mr. Rubenstein, to again
11 address the question of the pre-1990 offsets, and
12 why we are still having to consider those as part
13 of your offset package.

14 MR. RUBENSTEIN: Actually that's the
15 issue that you just discussed with Mr. Walters
16 regarding the District's reconciliation. The
17 USEPA policy is that credits approved before the
18 Federal Clean Air Act Amendments of 1990 were
19 adopted, can be used to offset project impacts as
20 long as the Air District properly accounts for
21 them in their nonattainment planning.

22 The San Joaquin Air District and EPA
23 have reached agreement on how that accounting is
24 to be formed. Part of that accounting mechanism
25 includes an annual reconciliation report that has

1 to be provided to EPA.

2 That report is prepared in either August
3 or September of each year for the prior 12-month
4 period. And consistently the San Joaquin District
5 has demonstrated to EPA that their offset
6 requirements are at least as stringent as those
7 that would be required by the USEPA.

8 Based on that showing the use of free
9 1990 credits in the San Joaquin District is just
10 as legitimate as the use of any other credits.

11 HEARING OFFICER GEFTER: Okay, well, I
12 appreciate that, Mr. Rubenstein, because I hadn't
13 heard that before in this record. And I'm
14 wondering, is that -- where that is actually
15 written down. Is that a reconciliation document
16 between the USEPA and the District? And, if so,
17 can we have a copy of it?

18 MR. RUBENSTEIN: Yes. I'll take a look
19 at our exhibit list and see whether we provided
20 the most recent copy. And I'll get back to you
21 before this hearing is closed.

22 HEARING OFFICER GEFTER: Appreciate
23 that, thank you.

24 PRESIDING MEMBER DESMOND: I had some
25 additional questions here I want to go back to.

1 Under 4.1-29 in the staff-proposed mitigation it
2 talks about requiring EPA -- to engine complying
3 equipment where available, and including equipment
4 idle time restrictions.

5 I was just curious what the monitoring
6 of the idle time restrictions was. This was the
7 limit to five minutes, I believe, of construction
8 equipment during the construction phase?

9 MR. WALTERS: That would be -- in terms
10 of mitigation monitoring it would be the
11 requirement of the AQCM who's supposed to be
12 onsite to make sure that the vehicles don't idle
13 beyond; and, in fact, that all of the different
14 measures during construction are met.

15 PRESIDING MEMBER DESMOND: Okay. Thank
16 you. Second question, then, dealt with on page 4-
17 1-40, indicating staff made a preliminary
18 determination the applicant's offset proposal
19 meets the District requirements. Further down it
20 reads: And the District's latest annual
21 demonstration report for equivalency of offsets
22 report is scheduled to be released on November 18,
23 2005." I assume that was released? We're past
24 2005.

25 MR. WALTERS: Yes. In fact, that was a

1 report that Susan Gelter and Gary Rubenstein were
2 just talking about --

3 PRESIDING MEMBER DESMOND: Okay, just --

4 MR. WALTERS: -- whether or not it has
5 been provided.

6 PRESIDING MEMBER DESMOND: Okay.

7 MR. WALTERS: Staff also has copies of
8 both of the last two reports. There's only been
9 two to date. And so, if needed, we can provide
10 the copies, you know, either from us or from the
11 applicant.

12 PRESIDING MEMBER DESMOND: Okay.

13 MR. WALTERS: And just to let you know
14 what the status is, EPA still has not reviewed the
15 latest report due to staff limitations and issues
16 going on with kind of similar offset issue -- or
17 an offset issue, perhaps not similar, in the South
18 Coast. They haven't had the time yet.

19 PRESIDING MEMBER DESMOND: Thank you. I
20 have no further questions.

21 HEARING OFFICER GELTER: Okay.

22 DR. KENNEDY: This is Kevin Kennedy.
23 Just one follow-up question to that, whether or
24 not USEPA has commented on the FDOC.

25 MR. RUBENSTEIN: Yes, they have. They

1 submitted comments which were supportive, with the
2 exception of the interpollutant offset ratio. And
3 it was that comment by EPA that led to the
4 revision of the FDOC in January, which was the
5 subject of the supplemental testimony both by the
6 staff and the applicant.

7 And so with that change, I believe it's
8 accurate to say that USEPA has reviewed and
9 approved the FDOC.

10 DR. KENNEDY: Thank you.

11 HEARING OFFICER GEFTER: Mr. Rubenstein,
12 I just want to get back to the issue that there
13 are no other 7F frame turbines operating in simple
14 cycle.

15 And is that with -- does that mean that
16 the new approach in this project is that you're
17 adding SCR to the 7A frame -- 7F frame, I'm sorry.

18 MR. RUBENSTEIN: Yes. There are, I
19 believe, simple cycle 7FA turbines operating
20 outside of California; none of them are equipped
21 with SCR.

22 There are no 7FA simple cycle units
23 operating in California either with or without
24 SCR.

25 HEARING OFFICER GEFTER: All right.

1 So, --

2 MR. WALTERS: And, in fact, the earlier
3 case that I mentioned, Sunrise, did not have an
4 SCR attachment, was operating in simple cycle. It
5 was operating with, I believe, a 9 ppm restriction
6 with just the dry loNox combustor.

7 HEARING OFFICER GEFTER: So, in
8 California the typical simple cycle is usually an
9 LM6000, is that the typical generator that you're
10 seeing here in California?

11 MR. RUBENSTEIN: Typically they've been
12 either LM6000s or in some cases LM5000, older
13 units.

14 HEARING OFFICER GEFTER: All right. And
15 is that also -- you're proposing, and staff is
16 agreeing, that it's not necessary to have a CO
17 catalyst in this project?

18 MR. RUBENSTEIN: That's correct.

19 HEARING OFFICER GEFTER: And is that
20 because it's a 7FA frame, or is it that you've
21 never done it before, or what's the reason why?

22 MR. RUBENSTEIN: No, it's not a question
23 of technical feasibility. The dry loNOx
24 combustors on the 7FA have extremely low CO
25 emissions without any after treatment. And

1 consequently the oxidation catalyst is not needed
2 to meet the BACT requirements for CO.

3 In addition, although CO emissions from
4 turbines of this type are normally elevated during
5 a startup, in simply cycle operation the startup
6 is fairly quick, so there is less of a -- there's
7 both a shorter period and a lower magnitude of
8 high CO emissions during the startup.

9 So for both of those reasons we don't
10 believe that an oxidation catalyst is needed here.

11 HEARING OFFICER GEFTER: Thank you. And
12 does Mr. Walters agree with that?

13 MR. WALTERS: Yes, staff concurs with
14 that. The limit for operation is 6 ppm, which is
15 under the hourly standard of 9 ppm. So the
16 maximum emissions are less than the ambient air
17 quality standard at the point of release.

18 HEARING OFFICER GEFTER: Thank you,
19 that's helpful.

20 PRESIDING MEMBER DESMOND: Move on to
21 questions regarding transmission system
22 engineering. And the reporter will need to swear
23 the witnesses in before they testify.

24 DR. REEDE: Could we hold on for a
25 second? He stepped out of the room for a quick

1 second.

2 PRESIDING MEMBER DESMOND: Okay.

3 MR. WALTERS: William Walters; going to
4 sign off.

5 HEARING OFFICER GEFTER: Mr. Walters --
6 we don't need Mr. Walters anymore. You can sign
7 off, that's fine.

8 MR. WALTERS: All right, thank you.

9 HEARING OFFICER GEFTER: Thank you.
10 Let's go off the record.

11 (Off the record.)

12 HEARING OFFICER GEFTER: Back on the
13 record.

14 PRESIDING MEMBER DESMOND: At this time
15 I'd like to address the hazardous materials.

16 HEARING OFFICER GEFTER: We'll ask Dr.
17 Greenberg to be sworn for staff.

18 DR. GREENBERG: Okay.

19 THE REPORTER: Dr. Greenberg, --

20 DR. GREENBERG: I cannot hear the court
21 reporter.

22 Whereupon,

23 ALVIN GREENBERG

24 was called as a witness herein, and after first
25 having been duly sworn, was examined and testified

1 as follows:

2 THE REPORTER: Please state your full
3 name for the record, please.

4 DR. GREENBERG: Alvin J. Greenberg.

5 HEARING OFFICER GEFTER: Okay.

6 MR. WHEATLAND: And Mr. Argentine is
7 available to answer questions on hazardous
8 materials, if he could be sworn in, please.

9 Whereupon,

10 MICHAEL A. ARGENTINE

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

14 THE REPORTER: Please state your full
15 name.

16 MR. ARGENTINE: Michael A. Argentine.

17 HEARING OFFICER GEFTER: Thank you.

18 EXAMINATION

19 HEARING OFFICER GEFTER: Dr. Greenberg,
20 we have your new testimony on the security
21 perimeter fence that you had proposed in the
22 original condition, and then you've now withdrawn
23 that.

24 And I wanted to ask you a couple things
25 about the proposal. Initially were you suggesting

1 that the entire facility install this device, not
2 just the expansion facility?

3 DR. GREENBERG: That would be correct.

4 HEARING OFFICER GEFTER: Oh, okay.

5 DR. GREENBERG: The entire facility.

6 HEARING OFFICER GEFTER: All right. And
7 is this being installed in other power plants
8 around the state that you're aware of?

9 DR. GREENBERG: Yes, it is.

10 HEARING OFFICER GEFTER: Okay. Even
11 existing plants?

12 DR. GREENBERG: Existing plants, and
13 some that are going through the siting process
14 have not objected to perimeter breach detection.

15 HEARING OFFICER GEFTER: Okay. Do you
16 anticipate, based on all your research and all
17 the, I guess it looks like you've done quite a bit
18 of work in this field already -- do you anticipate
19 that by the year 2011, which is when this project
20 may be online, that either the state or the
21 federal government will have regulations along
22 these lines?

23 DR. GREENBERG: That's a very timely
24 question because as we sit here now, Homeland
25 Security Secretary Michael Chertoff has indicated

1 a number of times in the last week that he is
2 dissatisfied with the voluntary compliance of the
3 chemical industry and those other industries that
4 store and use hazardous materials in their
5 voluntary compliance efforts.

6 And there is a bill in the U.S. Senate,
7 hosted by Senator Collins of Maine, that would
8 give the Department of Homeland Security
9 regulatory authority in this matter.

10 So, I anticipate there being something
11 perhaps even in this year.

12 HEARING OFFICER GEFTER: Okay. Along
13 those lines, then, I would ask the applicant,
14 would you object to language in a condition that
15 would not necessarily be as stringent as the
16 condition originally proposed by Dr. Greenberg,
17 but would say that once the project is ready to go
18 online that the project would then comply with
19 existing security, federal and state existing
20 security rules?

21 MR. WHEATLAND: Well, that condition
22 really would not be necessary because if the state
23 or the federal government adopts a condition that
24 would be applicable to all existing facilities we
25 would be required to comply.

1 The Commission generally has not
2 imposed, in its decisions, requirements of a
3 blanket compliance with future regulatory actions.
4 And that kind of logic, if applied, could apply to
5 everything that the plant does.

6 So we think it's a better practice for
7 the Commission not to have a blanket condition.
8 We certainly would comply if there is a federal or
9 a state law that would require it of all existing
10 facilities.

11 HEARING OFFICER GEFTER: Okay, Mr.
12 Wheatland, I understand that concern. What I'm
13 trying to do is reconcile the information and
14 testimony that staff has provided on this topic
15 with sort of a, you know, look at current
16 conditions and anticipated future conditions.

17 So this is a much more real kind of
18 prospective condition than perhaps another one
19 might be. I mean this is, you know, clearly
20 there's a lot of concern with regard to this
21 subject.

22 So, I'm --

23 MR. WHEATLAND: There is concern with
24 respect to this subject. We have not heard that
25 concern voiced with respect to the operation of

1 generating facilities such as this plant.

2 Mr. Greenberg is right, there has been
3 concern with respect to facilities that
4 manufacture or store chemicals in large volumes,
5 or extreme hazardous materials. But we have not
6 seen that expressed with respect to the power
7 industry.

8 I want to stress that Calpine will
9 comply with whatever state or federal standards
10 are adopted.

11 HEARING OFFICER GEFTER: Um-hum.

12 MR. WHEATLAND: But I think a blanket
13 condition is really against the practice of the
14 Commission in other siting cases.

15 Would, for example, the Commission go
16 back and amend the applications of other plants
17 that have already been licensed to impose a
18 similar condition would be the question that we
19 would ask.

20 PRESIDING MEMBER DESMOND: Just for
21 clarification, then, the applicant would object to
22 such a blanket order, is that correct?

23 MR. WHEATLAND: We're not objecting, but
24 we are suggesting that it's not a good practice
25 for the Commission to adopt it. But if it was

1 adopted, we would not object.

2 PRESIDING MEMBER DESMOND: Thank you.

3 HEARING OFFICER GEFTER: Dr. Greenberg,

4 do you have any other comments on other issues

5 regarding hazardous materials or worker safety?

6 Do you have any updates --

7 DR. GREENBERG: No, I do not --

8 HEARING OFFICER GEFTER: -- that you'd

9 like to share with us?

10 DR. GREENBERG: -- unless there is a

11 question on the fire prevention issue from the

12 Committee.

13 HEARING OFFICER GEFTER: That was a

14 concern that we raised at the prehearing

15 conference, and the question was whether the

16 compliance issue had been resolved from the

17 previous project. And do you have --

18 DR. GREENBERG: As of last week it had

19 not. However, it is a compliance issue; it's

20 being handled by the compliance project manager.

21 I last spoke with the Deputy Chief there, Deputy

22 Chief Scott. He is leaving Kern County Fire

23 Department as of April 1st. But nevertheless, he

24 informed me less than ten days ago that there

25 still was an impasse. But nevertheless, it is my

1 view, and I believe, you know, Ms. Willis' view,
2 that this is a compliance issue from the previous
3 project, as opposed to the expansion.

4 HEARING OFFICER GEFTER: Okay. And it
5 is not interfering with the adoption of a
6 condition in this project regarding fire safety.

7 DR. GREENBERG: That is correct. The
8 fire safety issue for this expansion has been
9 resolved to my satisfaction. Certainly the
10 resolution of the payment needs to come to
11 fruition. But the relocation of the Kern County
12 Fire Department Station from Meckler to Tejon has
13 decreased their response time considerably to this
14 project. So I'm satisfied that as long as this
15 impasse continues, that this is really a
16 contractual problem between Kern County and the
17 applicant, and does not impact right now on
18 anyone's ability to respond to hazardous materials
19 incidents, a fire or emergency response.

20 HEARING OFFICER GEFTER: Thank you, Dr.
21 Greenberg. Now, you mentioned that there's a new
22 fire station that's closer to the facility. Is
23 that part of your testimony, your written
24 testimony?

25 DR. GREENBERG: Yes, it is.

1 HEARING OFFICER GEFTER: Thank you.

2 DR. KENNEDY: Dr. Greenberg, one point
3 of clarification in terms of your response to the
4 Hearing Officer on the perimeter security
5 question. She asked whether other power plants,
6 new or existing, were installing these sorts of
7 perimeter security devices, and you indicated yes.
8 And I just wanted to clarify whether you're saying
9 that, as a consistent practice, all new plants
10 were, all or most existing plants are doing that,
11 or if you're simply aware of some instances in
12 which that's the case?

13 DR. GREENBERG: No, it's not consistent
14 along the lines of every new power plant.
15 Certainly those that are -- some are choosing to
16 have guards 24/7. Others are staffed 24/7, with a
17 significant staff during the day and a minimal
18 staff at night.

19 It depends on the circumstances. If
20 this were an urban location and even if it were
21 not using anhydrous ammonia, but in an urban
22 location, I would be making a much stronger case.
23 And would not be willing to compromise and step
24 down here on this issue.

25 However, the applicant has made a valid

1 point about its remote location. And that
2 convinced me that their skeleton staff at night,
3 three to four staffers, would be able to monitor
4 their perimeter security through the closed-
5 circuit tvs.

6 DR. KENNEDY: Okay, --

7 DR. GREENBERG: It's really site-
8 specific.

9 DR. KENNEDY: -- thank you, that's
10 helpful.

11 PRESIDING MEMBER DESMOND: Okay, thank
12 you. Unless there's any further questions, we'll
13 move now to transmission system engineering, if
14 the witness would be sworn in.

15 DR. GREENBERG: I will then sign off;
16 thank you.

17 PRESIDING MEMBER DESMOND: Thank you.

18 HEARING OFFICER GEFTER: Thank you.

19 THE REPORTER: Would you raise your
20 right hand, please.

21 Whereupon,

22 MICHAEL A. ARGENTINE, SUDATH ARACHCHIGE and

23 ALI AMIRALI

24 were called as witnesses herein, and after first
25 having been duly sworn, were examined and

1 testified as follows:

2 THE REPORTER: One at a time, please
3 state your full name for the record.

4 MR. ARGENTINE: My name is Michael A.
5 Argentine.

6 MR. ARACHCHIGE: Sudath Arachchige.

7 MR. AMIRALI: Ali Amirali.

8 PRESIDING MEMBER DESMOND: Thank you.
9 Please proceed.

10 EXAMINATION

11 HEARING OFFICER GEFTER: We've received
12 the Cal-ISO report which we are admitting as
13 exhibit 26. And what I wanted to start with is
14 staff's conclusions on the Cal-ISO report. We
15 have your updated testimony. And I wanted to ask
16 you whether you see this project, -- according to
17 the Cal-ISO report, the project is expected to go
18 online in 2011, that's in five years.

19 When you look at your analysis and when
20 you look at the Cal-ISO report, is that where you
21 are basing your final conclusions, looking at --

22 MR. ARACHCHIGE: Yes.

23 HEARING OFFICER GEFTER: Okay, it's five
24 years from now?

25 MR. ARACHCHIGE: That's right, yes.

1 HEARING OFFICER GEFTER: And that's
2 anticipating that all of the projects in the queue
3 ahead of the Pastoria expansion will take care of
4 all the congestion and the other mitigation that
5 is being required by Cal-ISO?

6 MR. ARACHCHIGE: That's right, yes.

7 HEARING OFFICER GEFTER: Okay. And then
8 there was another statement that Cal-ISO made in
9 that report, which is exhibit 26, where it said
10 Cal-ISO would point out that the existing Pastoria
11 SPS has had a recent history in tripping the
12 existing 750 megawatt facility, and has resulted
13 in operational concerns over its continued use.
14 And that's regarding the existing SPS.

15 And Cal-ISO also said that they will
16 consider grandfathering in that existing -- the
17 new expansion into the existing SPS. Would you
18 explain that concern to us?

19 MR. ARACHCHIGE: SPS in a special
20 protection scheme; there is a related system which
21 curtailed the generation which pass through the
22 transmission lines. So it is pretty much a relay
23 system that has implemented in the substation.

24 So what they are proposing is there is
25 an existing SPS, the Pastoria substation, and it

1 is letting pass through about 1400 megawatts. And
2 if it is exceeding more than 1400 megawatts of the
3 Cal-ISO planning standard, the ISO is proposing
4 that they are not allowing them to use the new
5 SPS. Because there are many SPS in that area, so
6 remedial action schemes can be utilized only a
7 certain extent, not more than that.

8 So that is why they are emphasizing that
9 they cannot propose new SPS, only modify the
10 existing SPS, which is at the Pastoria substation.

11 HEARING OFFICER GEFTER: Will that
12 change in five years after all the congestion has
13 been mitigated by the other projects ahead in the
14 queue?

15 MR. ARACHCHIGE: There is one
16 transmission line that is Pardee and Cottonwood,
17 which has overload criteria violation under the N-
18 2 contingency that has to be mitigated through an
19 SPS system, that would be a related system.

20 HEARING OFFICER GEFTER: I'm going to
21 turn to the applicant's witnesses. The question I
22 have is about the project's viability,
23 essentially, because this is going to make or
24 break the project.

25 If it turns out that the project is

1 ready to go online in 2011 and the other
2 facilities ahead in the queue have not taken care
3 of the mitigation, would that essentially affect
4 the viability of this project?

5 MR. AMIRALI: First of all, that is an
6 ISO requirement that all the projects take care of
7 the transmission system impact that they are
8 causing. And under the processes that we have got
9 right now in place, under which the projects are
10 being studied at the ISO, that situation will be
11 addressed.

12 And the ISO will not grant the projects
13 ahead of them any kind of authority to connect to
14 the grid should they have not completed the
15 upgrades. So that issue will virtually take care
16 of itself. It will not be a concern.

17 MR. ARGENTINE: Yeah, the only thing I
18 would add is that if the project becomes viable
19 the only way it will become viable is if we get a
20 power purchase agreement from someone, an entity
21 like, for example, Southern California Edison.
22 And it's their transmission system we're
23 interconnecting with. So, I mean we don't have
24 that at this time.

25 HEARING OFFICER GEFTER: All right. I

1 think we have the documents speak for themselves
2 from Cal-ISO and also from Edison, and we're going
3 to move on to the next topic. Thank you very
4 much.

5 MR. ARACHCHIGE: Thank you.

6 HEARING OFFICER GEFTER: And the next
7 topic's going to be efficiency.

8 PRESIDING MEMBER DESMOND: On the
9 subject of efficiency, which witness I think --
10 please identify themselves if they haven't already
11 been sworn in.

12 MS. WILLIS: For staff we have David
13 Ashuckian, who is appearing here at the request of
14 the Hearing Office, and Steve Baker, who
15 previously filed testimony.

16 PRESIDING MEMBER DESMOND: Okay.
17 Please.

18 MR. ARGENTINE: Have been sworn or
19 haven't been?

20 PRESIDING MEMBER DESMOND: Who have not
21 yet.

22 THE REPORTER: If you have not yet been
23 sworn, please raise your right hand.
24 Whereupon,

25 DAVID ASHUCKIAN and STEVE BAKER

1 were called as witnesses herein, and after first
2 having been duly sworn, were examined and
3 testified as follows:

4 Whereupon,

5 GARY S. RUBENSTEIN and MICHAEL A. ARGENTINE
6 were recalled as witnesses herein, and having been
7 previously duly sworn, were examined and testified
8 further as follows:

9 THE REPORTER: Please state your full
10 names, one at a time.

11 MR. ASHUCKIAN: Dave Ashuckian, Manager
12 of California Electricity -- Electricity Analysis
13 Office.

14 MR. BAKER: Steve Baker.

15 HEARING OFFICER GEFTER: Thank you. And
16 Mr. Rubenstein will be on for the applicant?

17 MR. WHEATLAND: And Mr. Argentine.

18 HEARING OFFICER GEFTER: And Mr.
19 Argentine, thank you.

20 PRESIDING MEMBER DESMOND: Very good.

21 EXAMINATION

22 HEARING OFFICER GEFTER: All right, Mr.
23 Baker, I have questions for you regarding your
24 testimony on efficiency. And I know we've talked
25 about this previously at the prehearing

1 conference, but I'm concerned that within your
2 testimony there are inconsistencies.

3 On the one hand you say that this
4 project is efficient as a peaker, but on the other
5 hand you say that it is not efficient and it could
6 be, you know, used as a combined -- could be
7 combined cycle, or possibly the project should be
8 a combined cycle if it's going to be running 8760
9 hours a year.

10 On the other hand you say it may
11 displace older facilities. But on the other hand
12 you say that it wouldn't. And, you know, I just
13 wanted to ask you to reconcile the testimony and
14 explain to us how this project makes sense as a
15 peaker and how you define efficiency for this
16 project.

17 MR. BAKER: I'll have to confess you've
18 lost me as to the various items you say you found
19 in my testimony. I --

20 MS. WILLIS: Just one moment. Maybe,
21 Ms. Gefter, you could point out the parts that
22 you're having confusion with, because --

23 HEARING OFFICER GEFTER: Sure. At page
24 5.3-4 of the testimony, of the FSA.

25 MR. BAKER: Which paragraph?

1 HEARING OFFICER GEFTER: All right,
2 well, I would say the paragraph where it starts:
3 The ability of the project to compete in the
4 market" it's the fourth paragraph on that page.
5 And then at the end you say: It can be argued that
6 the project should not be built as simple cycle,
7 but rather as a more efficient combined cycle."

8 And --

9 MR. BAKER: That paragraph is actually
10 more toward transmission constraints, and perhaps
11 I'd have been better advised to let the
12 transmission people state that.

13 There's, you know, a serious question as
14 to whether it will actually be able to sell power
15 as a peaker. But that's, I think, a separate
16 question, and that doesn't really, in my mind,
17 interfere with my opinion on whether it should be
18 permitted as a peaker or not.

19 The whole idea of this case coming
20 before the Commission is Calpine has hopes to
21 provide transmission capacity in the future for
22 this project. At the time I wrote this testimony
23 I did not believe that they really had a firm
24 handle on transmission capacity, and I mentioned
25 it here. But their hope is that, as we just heard

1 from the transmission folks, they hope to have
2 capacity in the future.

3 Maybe because of that it would be better
4 if we could just ignore this paragraph.

5 HEARING OFFICER GEFTER: So, are you
6 suggesting that we just delete it from your
7 testimony?

8 MR. BAKER: If you wish.

9 HEARING OFFICER GEFTER: Disregard it?

10 MR. BAKER: I think that would probably
11 be simpler.

12 HEARING OFFICER GEFTER: All right. And
13 then in the following paragraph you say: In spite
14 of staff's belief that the market will allow more
15 efficient generators to operate while less
16 efficient are idle" to me that sounds like you're
17 saying that this project is going to displace less
18 efficient projects.

19 Now, what, in fact, are you saying in
20 the next sentence?

21 MR. BAKER: Do you mean the first
22 sentence in the paragraph?

23 HEARING OFFICER GEFTER: Yeah.

24 MR. BAKER: What I'm saying is if there
25 happen to be more efficient plants available than

1 this one when the power is needed, those would be
2 dispatched. If this is one of the most efficient
3 ones available at the time the dispatch is
4 required, then this project would likely be
5 dispatched.

6 That was just a lead-in to the following
7 paragraph. Just trying to set the scene.

8 HEARING OFFICER GEFTER: Okay.

9 MR. BAKER: Because I've jumped over
10 quite a few different topics in this piece of
11 testimony here.

12 HEARING OFFICER GEFTER: Yeah, and it
13 was -- you also talk about the project operating,
14 you know, 8760 hours per year. And if you go up a
15 little bit further on that same page, to the very
16 first paragraph, what you say here, it's the very
17 first paragraph, the second sentence you say:
18 Such use would amount to baseload operation."

19 MR. BAKER: If, for one year in time the
20 plant were to operate full time that would be
21 effectively baseload, yes. The intention, I
22 believe, as I understand the application, the
23 intention is not for this plant to operate
24 baseload all the time. The intention is for it to
25 be available to operate up to 8760 hours a year

1 should the exigency arise that the power is
2 needed.

3 That's the whole idea behind peakers;
4 they're insurance policies. We buy them; we have
5 them in our pocket; we hope we never have to use
6 them. But they're there when we need them.

7 THE REPORTER: Madam Chair, can I
8 interrupt real quick? If anybody is using like a
9 cellphone-type device and sending messages or
10 something, it's creating a disturbance in the
11 sound system. So if anybody is doing that, please
12 refrain. If not, it's just a mystery. It sounds
13 like that type of signal.

14 HEARING OFFICER GEFTER: Perhaps you
15 could turn off your cellphones or your, you know,
16 BlackBerrys when you're sitting at the table
17 there. Thank you.

18 One of the other things, Mr. Baker, is
19 because, you know, we're talking about this
20 project as -- you're calling it a peaker, and
21 you're finding that it's still efficient, you
22 know, it's considered efficient. And then you
23 provide us a formula for determining its
24 efficiency at page 5.3-5 of your testimony. And
25 in which you created a ratio to try to figure out

1 how many hours per year the project should
2 operate.

3 Could you explain to us whether you
4 still are proposing this formula?

5 MR. BAKER: I've not proposed it. I
6 offered it because I was basically instructed to
7 do so. But I've made it very clear in my
8 testimony that I do not recommend such a
9 condition.

10 I simply offered it if the Committee has
11 to have something to put in the decision, then
12 this is a possibility. But I cannot recommend it.

13 HEARING OFFICER GEFTER: But then in
14 your -- if that's your -- okay, so the testimony
15 you're giving today actually you're proposing to
16 supersede the testimony that you have written,
17 because again, okay, at page 5.3-7 you say, under
18 conclusions: That staff concludes that with
19 incorporation of the proposed limitation on
20 operation the project would present no adverse
21 impacts on energy resources."

22 So my reading that indicates to me that,
23 in fact, it does -- the project would impose
24 impacts on energy resources if the condition were
25 not adopted.

1 MR. BAKER: That's not what I intended
2 to say. Perhaps if I'd said staff therefore
3 concludes that with or without incorporation of
4 the proposed limitation on operation. Because I'm
5 not recommending that limitation. I believe that
6 without it the project would still be certifiable.

7 HEARING OFFICER GEFTER: Okay. And your
8 finding that the project will be considered about,
9 what, 35 percent efficiency, which is compared
10 with a baseload which is about 54 percent
11 efficiency, is that --

12 MR. BAKER: Yes.

13 HEARING OFFICER GEFTER: Okay.

14 MR. BAKER: 54 is a fairly high number,
15 but the low to mid 50s is good for a combined
16 cycle.

17 HEARING OFFICER GEFTER: All right. And
18 35 percent is about the efficiency level of
19 existing combined -- old existing utility
20 projects, which are combined cycle?

21 MR. BAKER: Yes, that's true.

22 HEARING OFFICER GEFTER: So, what we
23 could also conclude is that the efficiency of this
24 project is the equivalent of an old project that's
25 already online --

1 PRESIDING MEMBER DESMOND: Let me
2 interject here. I think what we're talking about
3 is what's the efficiency of the proposed
4 technology as a peaking function, and you
5 identified in the testimony three types for which,
6 at least in this case, the applicant selected a
7 similar manufacturer based on the previous phase I
8 that was applied.

9 So we're not comparing the combination
10 of a simple cycle peaker against an existing
11 combined cycle baseload unit, or an older baseload
12 unit, is that correct, Mr. Baker?

13 MR. BAKER: That's correct, sir.

14 PRESIDING MEMBER DESMOND: Okay.

15 MR. BAKER: I believe what Ms. Gefter
16 just got at was comparing this plant to one of the
17 old existing steam boiler plants.

18 PRESIDING MEMBER DESMOND: That's
19 correct.

20 HEARING OFFICER GEFTER: Right.

21 MR. BAKER: And one thing to consider is
22 this, one of the main values of using a simple
23 cycle gas turbine as a peaker is its availability
24 to startup from cold, come online within a
25 relatively short period of time, run, and then

1 shut off and quit using fuel.

2 HEARING OFFICER GEFTER: Right.

3 MR. BAKER: Whereas these old steam
4 boiler plants are not that flexible. If you want
5 one of those old 1950s, 1960s era plants available
6 for peaking, you have to keep it running all the
7 time. You can't shut it off at night. And when
8 it's running, it's burning fuel. And when it's
9 burning at night it's wasting fuel.

10 So even though you can say yes at any
11 moment in time, that goes to Plant XYZ is doing 35
12 percent efficiency, if you look at the overall
13 annual fuel consumption of that plant based on its
14 useful power output at times of peaking, the thing
15 is really inefficient.

16 PRESIDING MEMBER DESMOND: But, Mr.
17 Baker, is it fair just to summarize in your
18 previous testimony based on the questions the
19 Hearing Officer was asking, the statement that you
20 made on 5.37, the paragraph beginning: Staff
21 believes" and the last sentence, that the high
22 efficiency, if you just re-read that last
23 sentence? The high efficiency of the proposed
24 PEFE?

25 MR. BAKER: The high efficiency of the

1 proposed PEFE should allow it to compete favorably
2 running at a high capacity factor, replacing less
3 efficient power generating plants, and therefore
4 having no impact on, or even reducing the
5 cumulative amount of natural gas consumed for
6 power generation."

7 PRESIDING MEMBER DESMOND: Okay, and so
8 the answers to the previous questions are
9 consistent with that?

10 MR. BAKER: Yes, sir.

11 PRESIDING MEMBER DESMOND: Thank you.

12 Okay, I have no further questions. No
13 questions?

14 Okay, unless there are any additional
15 questions the Committee will issue a proposed
16 decision based on the record submitted. The
17 parties are welcome to make any final remarks at
18 this time if they so choose.

19 Mr. Wheatland.

20 MR. WHEATLAND: The air quality document
21 that Ms. Gefter requested is not currently on the
22 exhibit list. But if you'd like to reserve a
23 late-filed exhibit number, we can docket that
24 exhibit today.

25 MS. WILLIS: And we have no objection.

1 PRESIDING MEMBER DESMOND: Very good.

2 Okay. There being none I will conclude this

3 hearing. Thank you.

4 (Whereupon, at 2:39 p.m., the hearing

5 was adjourned.)

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CERTIFICATE OF REPORTER

I, PETER PETTY, 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 outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of April, 2006.

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345