

EVIDENTIARY HEARING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for Small Power) Docket No.
Plant Exemption, Modesto) 03-SPPE-01
Irrigation District for the)
Modesto Electric Generation)
Station Project (MEGS))
_____)

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

WEDNESDAY, JANUARY 7, 2004
2:04 P.M.

Reported by:
Peter Petty
Contract No. 170-01-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

James Boyd, Presiding Member

HEARING OFFICER, ADVISORS PRESENT

Stanley Valkosky, Hearing Officer

Al Garcia, Advisor

STAFF AND CONSULTANTS PRESENT

William Westerfield, Staff Counsel

James Reede, Project Manager

Steve Baker

PUBLIC ADVISER

Margret J. Kim, Public Adviser

APPLICANT

Joy A. Warren, Staff Attorney

Greg Salyer, Generation Manager

Mike Kreamer, Resources Planning and Development
Manager

Modesto Irrigation District

Susan Strachan

Strachan Consulting

Gary Rubenstein

Sierra Research

Steven Brock, Supervising Mechanical Engineer

PB Power, Inc.

INTERVENORS

Robert Sarvey

I N D E X

	Page
Proceedings	1
Opening Remarks	1
Introductions	1
Background	3
Overview and Procedure	4
Hearing Officer Valkosky	4
Energy Resources	5
Applicant	5
Witness M. Kreamer	9
Direct Examination by Ms. Warren	9
Exhibits 38, 39	11/72
Witness G. Rubenstein	30
Direct Examination by Ms. Warren	30
Witness G. Salyer	60
Direct Examination by Ms. Warren	60
Applicant witnesses cross-examination by Mr. Sarvey	50
Applicant witnesses redirect examination by Ms. Warren	69
CEC Staff	82
Witness S. Baker	82
Direct Examination by Mr. Westerfield	83
Exhibit 40	83/116
Cross-Examination by Ms. Warren	102
Cross-Examination by Mr. Sarvey	102
Redirect Examination by Mr. Westerfield	112
Intervenor Sarvey	116
Exhibit 41	117/119
Exhibit 42	121
Exhibit 43	120/121
Exhibit 44	120/121
Exhibit 45	121
Exhibit 46	121

I N D E X

	Page
Revised Decision Recirculation Opinions	123
CEC Staff	126
Applicant	126
Intervenor Sarvey	127
Closing Argument	128
Applicant	128
CEC Staff	133
Intervenor Sarvey	134
Public Comment	138
Schedule	139
Closing Remarks	142
Adjournment	142
Reporter's Certificate	143

P R O C E E D I N G S

2:04 p.m.

1
2
3 PRESIDING MEMBER BOYD: Good afternoon,
4 everybody; happy new year. This is the second
5 evidentiary hearing for the -- but not the second
6 hearing in total -- for the Modesto Electric
7 Generation Station, or MEGS, as it's
8 affectionately known, perhaps.

9 And, as always, before we get too deep
10 in this we'd like to introduce the Committee; ask
11 the parties to identify themselves for the record.

12 Here before you on the dais you have
13 Commissioner Boyd, Chair of this Committee; and
14 Mr. Valkosky, our Hearing Officer; and Al Garcia,
15 who has been here before representing former
16 Commissioner Pernell.

17 And I'd like to turn now to the
18 applicant.

19 MS. WARREN: Yes, thank you. I'm Joy
20 Warren representing Modesto Irrigation District,
21 the applicant. With me is Michael Creamer up at
22 the table and Susan Strachan. And we have an
23 assortment of others behind us that are available
24 if needed.

25 PRESIDING MEMBER BOYD: Thank you. Our

1 Public Adviser.

2 PUBLIC ADVISER KIM: Good afternoon; I'd
3 like any members of the public to know that I'm
4 available to be conferred with with respect to any
5 procedural aspects of this proceeding, if they so
6 wish to participate.

7 And I'd like to just briefly summarize
8 that for those members who wish to make any oral
9 comments, here's a blue card. And if you would
10 rather submit any written comments we have a
11 comment form.

12 It's my understanding at this time that
13 we have one member who may or may not wish to
14 provide comment.

15 HEARING OFFICER VALKOSKY: And for the
16 record you are Margret Kim.

17 PUBLIC ADVISER KIM: Margret Kim.

18 HEARING OFFICER VALKOSKY: Thank you,
19 Margret. Staff.

20 MR. WESTERFIELD: Thank you,
21 Commissioner Boyd. My name is William
22 Westerfield. I'm the attorney representing Energy
23 Commission Staff. And to my left here is Dr.
24 James Reede, the project manager for the MEGS
25 project. And also with me today is Mr. Steve

1 Baker, who I expect will be testifying on the
2 issue of energy resources.

3 PRESIDING MEMBER BOYD: Thank you. Mr.
4 Sarvey, you're going to have to introduce yourself
5 as the intervenor.

6 MR. SARVEY: Bob Sarvey, Intervenor.

7 PRESIDING MEMBER BOYD: Thank you. Is
8 there anyone we've missed? I believe not, so a
9 little bit of background and I'll turn it over to
10 Mr. Valkosky.

11 The Committee scheduled today's events
12 in a notice that was published on December 4th in
13 response to the applicant's request to reopen the
14 evidentiary record. As explained in the notice,
15 we will receive evidence solely on the topic of
16 energy resources.

17 And at the request of the applicant I
18 would remind you the filing of testimony for
19 today's hearing was extended to December 31, 2003.
20 All parties filed testimony and/or proposed
21 exhibits and they consist of the following:

22 The applicant's prepared testimony,
23 declarations and r, sum, s for energy resources
24 dated December 31 and January 2nd.

25 Secondly we have staff's supplemental

1 testimony on energy resources dated December 22nd.
2 And we will have intervenor Sarvey's statement and
3 proposed exhibits which I see before us here.

4 So, with that, Mr. Valkosky, I'll turn
5 this over to you to continue.

6 HEARING OFFICER VALKOSKY: Thank you,
7 Commissioner Boyd. The November 2003 proposed
8 decision set an upper operating limit on the
9 facility of 5000 hours per year.

10 As set forth on page 18 of the proposed
11 decision two factors concern the Committee.
12 First, the characterization of a facility allowed
13 to operate 8760 hours as a quote "peaking"
14 facility.

15 And second, lack of evidence concerning
16 the impact on energy resources for the project to
17 operate more than 5000 hours per year. In other
18 words, and as noted at finding 21 at page 48 of
19 the proposed decision, in the Committee's view the
20 evidence simply did not contain a sufficient
21 analysis to allow it to gauge the impact on energy
22 resources were the project to operate more than
23 5000 hours per year.

24 The decision was based on the evidence
25 of record as it existed at that time.

1 The purpose of today's hearing is to
2 take additional testimony from the parties and
3 then determine whether this additional evidence is
4 sufficient to warrant modifying our existing
5 decision.

6 We'll proceed as at the prior
7 evidentiary hearing, beginning with applicant,
8 followed by staff, and concluding with Mr. Sarvey.

9 During the respective presentations I'd
10 like applicant and staff witnesses to respond to
11 the major points of contention raised by Mr.
12 Sarvey in his statement.

13 I'd also like the parties, at the
14 conclusion of the evidentiary presentations, to
15 provide opinions on whether recirculation of any
16 future revised decision is necessary in the event
17 the Committee concludes that the evidence is
18 sufficient to support a finding of no impacts to
19 energy resources.

20 Are there any questions? Seeing no
21 questions, we'll begin. Ms. Warren, your
22 witnesses.

23 MS. WARREN: Yes. First the applicant
24 would like to thank the Committee for this
25 opportunity to present the testimony to address

1 the narrow issue as you phrased it regarding
2 energy resources and the question of whether
3 operating the MEGS project up to 8760 hours per
4 year would be an unnecessary and wasteful or
5 inefficient use of energy resources.

6 Applicant believes that the supplemental
7 testimony filed by Commission Staff and by
8 applicant, itself, does provide now sufficient
9 evidence on which to base the conclusion that the
10 MEGS project, as permitted to operate up to 8760
11 hours per year, will not have an unmitigated
12 impact on energy resources.

13 The project's objectives have been well
14 documented. The applicant's testimony shows how
15 the proposed simple cycle plant will address all
16 the objectives in a more efficient manner,
17 consuming less natural gas than would any other
18 alternative, including a combined cycle plant.
19 Even if it should be called upon to operate up to
20 8760 hours per year in the occasional year.

21 When looked at in conjunction with MID's
22 entire integrated resource plan, the proposed
23 plant permitted up to the 8760 hours per year is
24 necessary to applicant's operations and to
25 applicant's diversified resource portfolio. It's

1 the most conservative response under the
2 integrated resource plan to meet the needs of MID
3 and the state.

4 We did, as you mentioned, submit
5 prefiled testimony on the limited question before
6 the Committee today. And this testimony was
7 prepared by the panel, as referenced in that
8 testimony. And all the members of that panel are
9 available today for questioning.

10 However, we propose to have Mike
11 Kreamer, MID's Resource Manager, present an
12 overview of the testimony. And then if need be we
13 can access the other witnesses.

14 Before Mr. Kreamer is sworn in you
15 asked, Mr. Valkosky, that we address some of the
16 issues regarding the intervenor's testimony. And
17 we do have a number of concerns with regard to
18 that testimony. I don't know if you want me to go
19 into that at this point, or wait until the end.

20 HEARING OFFICER VALKOSKY: No, will Mr.
21 Kreamer address those within the scope of his
22 testimony, his direct?

23 MS. WARREN: Mr. Kreamer will address
24 specific issues raised, but I think I have -- I
25 would like to address some more global concerns

1 that we have regarding the issues, such as we
2 believe that some of the statements are outside
3 the scope of today's hearing.

4 We also believe that much of what is
5 provided is not set upon any foundation. He
6 presents some facts that are -- or some arguments
7 based on facts that are outside the record to
8 date. And more importantly, we'd like to address
9 some of the portions that we believe are totally
10 irrelevant to the issue before this Committee and
11 the Commission. Issues that are before federal
12 agency and that have been presented at this point
13 without reference to the full record before the
14 federal agency.

15 HEARING OFFICER VALKOSKY: Okay, Ms.
16 Warren, are you talking specifically about the
17 material contained in Mr. Sarvey's statement,
18 which I -- well, I'm unsure whether that is to be
19 testimony. Or are you talking about the documents
20 he proposes as exhibits?

21 MS. WARREN: I have some issues with
22 both. My last comment regarding the federal
23 agency and FERC-related matters is in reference
24 to, I think, one paragraph in his statement and
25 the attachments he's made thereto. And I can go

1 into that in more detail at this time, again, or
2 if you'd like, we can wait until the --

3 HEARING OFFICER VALKOSKY: Okay, why
4 don't we do this. We'll wait until we get to Mr.
5 Sarvey; let him make his presentation. At such
6 time I think, you know, it will be fair to provide
7 you an opportunity to rebut Mr. Sarvey's statement
8 as well as to make any motions that you deem
9 appropriate to the admissibility of the documents
10 proposed as exhibits.

11 MS. WARREN: All right, I appreciate
12 that.

13 HEARING OFFICER VALKOSKY: Okay.

14 MS. WARREN: In that case Mr. Kreamer's
15 available as a witness.

16 HEARING OFFICER VALKOSKY: Swear the
17 witness, please.

18 Whereupon,

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

23 DIRECT EXAMINATION

24 BY MS. WARREN:

25 Q Can you please state and spell your name

1 for the record.

2 A Yes. Mike Kreamer, last name is
3 K-r-e-a-m-e-r.

4 Q And what is your position with the
5 applicant?

6 A It's Resource Planning and Development
7 Manager for Modesto Irrigation District.

8 Q And what are some of your
9 responsibilities as resource manager?

10 A As resource manager, responsible for a
11 number of things, including updating of our long-
12 term load forecast; resource planning, typically
13 three years and out, up to 20, perhaps.
14 Developing a long-term resource plan and
15 developing recommendations on long-term resources
16 that will fit in the portfolio and provide the
17 diversity and risk management techniques that are
18 needed for the district. And to move forward with
19 getting those approved. And then moving forward
20 again with the development of those projects.

21 Q Did you submit prefiled testimony
22 regarding the issues related to energy resources,
23 consumption by the proposed MEGS project?

24 A Yes, I did.

25 Q Do you have a copy of that testimony

1 before you today?

2 A Yes, I do.

3 Q Do you have any changes, additions or
4 clarifications to your prefiled testimony at this
5 time?

6 A No, I don't.

7 Q Can you identify the documents that are
8 incorporated and referenced in your testimony?

9 A The documents that are included or
10 referenced are the CEC's 2003 Integrated Energy
11 Policy Report and the applicant's comments on the
12 Committee's proposed decision, which was dated
13 November 25, 2003.

14 Q The first of which is available on the
15 website indicated in your testimony?

16 A Yes.

17 Q And the second of which was docketed in
18 this matter previously?

19 A Yes.

20 Q To the best of your knowledge are all
21 the facts contained in your testimony true and
22 correct?

23 A Yes, they are.

24 Q Do the opinions contained in your
25 testimony represent your best professional

1 judgment?

2 A That's correct.

3 Q Do you adopt such testimony as your
4 testimony in this proceeding?

5 A Yes, I do.

6 Q Can you please summarize that testimony?

7 A Sure. At the December 2, 2003 Committee
8 hearing on the proposed decision the Committee
9 granted MID's motion to reopen the evidence solely
10 to address the uncertainties on the record on
11 energy resources regarding the potential impact of
12 the MEGS project permitted to operate up to a
13 level of 8760 hours per unit per year.

14 The proposed decision would limit MEGS
15 project operating hours to 5000 hours per unit per
16 year.

17 Both the MID Staff and Commission Staff
18 have maintained that the project, as proposed,
19 operated up to 8760 hours per year for each unit
20 would not cause significant adverse impacts on
21 energy resources; and that the 5000 hour per year
22 limitation be deleted from the proposed decision.

23 Also at the December 2, 2003 hearing the
24 Committee requested further information on the
25 MEGS project operating hours up to 8760 hours per

1 year, information on what the result would be an
2 unnecessary, wasteful and insufficient use of
3 natural gas.

4 MID's supplemental testimony regarding
5 the energy resources, in that testimony we
6 provided evidence that the MEGS project, simple
7 cycle power project, be permitted up to the 8760
8 hours per year per unit. That that level would
9 not constitute wasteful or an inefficient use of
10 energy. And that provided we have provided
11 evidence such that flexibility is necessary in
12 evidence such that the flexibility is necessary to
13 meet the project objectives.

14 MID has an obligation under its current
15 PG&E/MID interconnection agreement which is a FERC
16 rate schedule 116, section 4, to balance its loads
17 and resources. As such, MID does an integrated
18 resource plan and maintains that plan. And as a
19 result of that plan the MID selection of a two-
20 unit simple cycle project was, in fact, the result
21 of MID's integrated resource plan which modeled
22 both the two-unit simple cycle project and
23 combined cycle technologies, operating in concert
24 with the remainder of the resources in our
25 integrated resource plan.

1 And those resources included demand side
2 management, renewables technology, combined cycle
3 power, hydropower, coal power, peaking power and a
4 mixture of long- and short-term power resources,
5 power contracts.

6 It was through this process that the
7 selection of the two-unit simple cycle project was
8 made and recommended to be approved by the MID
9 Board of Directors; and, in fact, was.

10 MID's collective studies show that each
11 of the MEG units can potentially operate in excess
12 of 7900 hours a year. But not on a continuous
13 basis. In approximately 100 simulation runs of
14 future market scenarios this level of operation
15 was predicted to occur about 5 percent of the
16 time.

17 These extended operating hours provide
18 benefit for ancillary service markets, for
19 spinning reserves regulation, as well as for
20 serving MID's load, internal local load, use in
21 emergencies and resource optimization through
22 sales.

23 Consistent with our integrated resource
24 plan MID just recently commissioned the Woodland 2
25 combined cycle project in July of this year. And

1 the next generation addition is not anticipated
2 until approximately 2010.

3 The need for operating hours. I'd like
4 to discuss that a bit. Under the Western
5 Electricity Coordinating Council, WECC, planning
6 and operating criteria, MID must plan and invest
7 in for the possibility of a major generating unit
8 for transmission line outage. And we must do that
9 for an extended period of time.

10 For example, major work on our regional
11 transmission including the three-line intertie,
12 500 kV intertie, to the northwest, up at the
13 California/Oregon border, those lines typically --
14 our share of that is about 600, or 260 megawatts.
15 And normal routine maintenance is usually planned
16 for the offpeak months.

17 And during those offpeak months MID
18 needs the flexibility to replace the resources
19 that we typically import over those lines. So
20 that the work can be done. And that's typically
21 done, as I said, in the offpeak hours. In
22 addition, we need the ability to operate the MEGS
23 during onpeak hours to meet system loads.

24 Regulation. Regulation is one of the
25 most effective uses of a peaking turbine in

1 support of an electric system; and is to operate
2 at low megawatt output levels online synchronized
3 to the grid, and ready to ramp up when needed in
4 response to a number of things, including not only
5 normal load growth, but system problems.

6 A unit online with its rotating mass
7 contributes to the total western system generating
8 inertia, which instantaneously responds in support
9 of maintaining a 60 cycle frequency. While
10 operating at low levels ready to ramp up the unit
11 can move from low levels minimum up to the maximum
12 load level output under automatic generation
13 control and rebalance the system after the loss of
14 another generator or major transmission line.

15 A peaking unit may log many clock hours,
16 but not necessarily produce a lot of energy to
17 meet regulation needs. So it can operate for an
18 extended period of time with very little loads
19 while still providing all the ancillary services
20 and providing the ability to regulate up and down,
21 as well.

22 A limitation of 5000 clock hours on a
23 peaking unit would, or we believe, arbitrarily
24 limit the effectiveness as a regulating resource.

25 Another main element, one of three that

1 I believe is very important, is the WECC requires
2 that all operating such as MID control voltage on
3 its system. And voltage control is accomplished
4 by the installation of dynamic Volt AP Reactive or
5 VAR sources such as generators, or installation of
6 static capacitors. Dynamic sources, as a
7 generator, provide the best source of VAR control.
8 Static VAR sources have a tendency to fail or
9 become more ineffective as the gap between the
10 installed capacity of static VAR capacity and the
11 demand by the customers for VAR capacity gets
12 greater.

13 All transmission studies conducted on
14 systems in central California require special
15 attention to voltage and VAR control. This is due
16 to high reliance on static VAR sources such as the
17 static capacitors to meet the load.

18 Solution to provide for a more stable
19 electric system during normal and stress
20 conditions is to add dynamic VAR sources such as
21 the MEGS plant.

22 The pretty much summarizes, I think,
23 where we're at.

24 Q Okay. In response to the Committee's
25 request, let me ask you if you've had an

1 opportunity to review the information that
2 intervenor has submitted on this issue?

3 A I have, yes.

4 Q Do you have any comments regarding those
5 prefiled documents?

6 A I do have a couple of comments on that.
7 Mr. Sarvey has proffered testimony on a number of
8 areas and I think certainly one of those is MID's
9 profile not being conducive to the operation of a
10 peaking plant. And in conjunction with that it's
11 ability to peak at a time when it's in the
12 summertime being used, it may or may not be a full
13 load range.

14 I think in addition to that there were a
15 number of others. I'll go ahead and list them
16 out. Project benefits during stage one
17 emergencies he addressed the need for operating
18 flexibility and quick ramp-up times in support of
19 transmission imports and exports over our
20 transmission agency northern California, or COT,
21 line, California/Oregon Transmission project.

22 And a choice of cycle selection for
23 planned full load operation during some portion of
24 the year. As well as a document that was in one
25 of our board reports.

1 I think to understand how the proposed
2 MEGS two-unit simple cycle project relates to each
3 of these issues, I think one must be knowledgeable
4 of MID's integrated resource plan.

5 The plan and its obligations that are
6 set forth in MID's control area interconnection
7 agreement, which also drives much of the planning
8 issues that we have to plan for, such as short-
9 term reaction times and other things, are all in
10 that agreement. And those all have to be met.

11 And I believe it's unfortunate perhaps
12 that Mr. Sarvey doesn't appear to have
13 participated in that process for development of
14 that integrated resource plan.

15 On one of the issues in particular I'd
16 like to address, there's a couple of them. And
17 one is the comment with respect to the evidence
18 that MID's load profile is not well served by a
19 peaking generator.

20 This comment is, I believe, absolutely
21 incorrect. It does make sense. MID is a, like
22 most of the central valley California towns and
23 loads, is a peaking summer -- has a peaking summer
24 load. We have a load factor of about 48, 49
25 percent. And, as such, we have a very summer/

1 winter comparison of about two-to-one on our load.
2 Two times in the summertime.

3 MID's tendency to operate in those
4 cases, you know, in almost all cases that's going
5 to require the assistance of peaking generating
6 resources in the summertime in order to meet those
7 high summertime peak loads.

8 The rest -- another issue on that is
9 MID's testimony, or the understanding that MID has
10 testimony, provided testimony that the generation
11 will operate 24 hours a day in the canning season.
12 I think that's somewhat out of context from this
13 perspective. MID is a summertime peaker. MID,
14 like a number of towns throughout the valley, has
15 food processing loads that occur in the summertime
16 when the crops come in.

17 The proposed MEGS project is not
18 designed to operate one hundred percent of the
19 time at full output just because the canneries are
20 on. That project was designed to meet MID's
21 system load which includes the cannery load; and
22 it may or may not be operating at full load during
23 that period of time. There's a number of things
24 that will still allow that to provide peaking
25 capacity.

1 As we go into the summer months we
2 certainly have the ability, and if the market is
3 right, and we can buy supply that will -- some
4 baseload supply that will -- cheaper than we can
5 generate it in that fashion, we will certainly buy
6 it. And sometimes offpeak the supplies can get
7 pretty inexpensive. So we do buy those, offload
8 the units, can shut them down. We can also make
9 sure that we have the people capability there out
10 of these units.

11 So it's not an automatic, then, just
12 because the cannery load is there and the loads
13 are high that these are going to run for three
14 months out of the year at a baseload fashion. The
15 load is certainly there, but by the time you add
16 all the resource mix together it doesn't add up to
17 that in a typical fashion. So I did want to
18 respond to that a little bit, and at least make
19 that comment.

20 Mr. Sarvey has also expressed his
21 concern related to the inefficient use of natural
22 gas supplies. He cites a study conducted by the
23 National Petroleum Institute as evidence of
24 declining natural gas supplies. As a result Mr.
25 Sarvey recommends that MID conduct or rather,

1 pardon me, construct a combined cycle plant in
2 lieu of the proposed MEGS two-unit simple cycle
3 project as a way to help conserve dwindling gas
4 supplies.

5 We tend to agree with part of that
6 statement. Certainly the conservation is
7 required. We recognize that conservation,
8 alternative fuel supplies are needed. MID has
9 just completed the Woodland 2 combined cycle
10 project in July of this year. It became
11 commercial, a \$65 million project.

12 We also, a couple of months ago, as part
13 of our long-term resource plan, took before our
14 board four long-term power purchase contracts, 100
15 megawatts worth for out to ten years. Roughly a
16 total combined cost about \$207 million to also be
17 part of this resource mix.

18 Modesto's Board of Directors has, in
19 fact, approved and recommended -- we recommended
20 to them and they've approved that we pursue a 5
21 percent demand side management program by 2005.
22 They recently approved our renewables policy for 5
23 percent renewables beginning in 2005 and expanding
24 1 percent a year through 2017, in conjunction and
25 following what the recommendations of the state.

1 We have invested in coal resources in
2 the southwest. We have hydro resources. We have
3 all different kinds of things, resources that MID
4 has invested in. And we do recognize the need for
5 fuel diversity and conservation.

6 So, it's not -- with respect to that
7 combined cycle plant, the combined cycle plant is
8 absolutely the wrong technology in our estimation
9 for this particular need that we have. The simple
10 cycle project provides the best overall when
11 combined -- when integrated into our integrated
12 resource plan and mixed with all the resources
13 that we have to operate and use, it provides the
14 best system efficiency that we can come up with at
15 this time.

16 MID does understand the concern of the
17 Committee and Mr. Sarvey in regard to efficient
18 use of energy resources. However, based upon the
19 most current testimony it's evident -- by Mr.
20 Sarvey, it's evident that Mr. Sarvey does not
21 possess a good working knowledge at least of MID's
22 integrated resource plan. Or how the proposed
23 MEGS two-unit simple cycle project integrates into
24 that plan.

25 Once again, the MEGS project is not

1 intended to be a stand-alone generation project
2 where it just generates energy and accumulates
3 money. But it's one of a number of resources in
4 our integrated resource plan that has to work in
5 concert with all of the other resources in order
6 to -- in the portfolio in order to achieve the
7 highest rate of system efficiency.

8 Construction of the new combined cycle
9 project in lieu of the simple cycle project, as I
10 said earlier, would be less efficient for the need
11 that we have right now. And for the type of
12 operation required for us currently in the near
13 future because of the minimum must-run generation
14 requirements and its inability to be very
15 efficient at lower loads.

16 That concludes my comments.

17 MS. WARREN: The witness will be
18 available for questioning.

19 PRESIDING MEMBER BOYD: Thank you.
20 Question. I just want to make sure I wrote this
21 down correctly. You said your scenario analyses
22 basically leave you with the conclusion that
23 perhaps 5 percent of the time your units could
24 exceed 7900 hours a year.

25 And furthermore you said that whereas

1 there's been a lot of discussion throughout these
2 hearings of a fairly set regime of peaking plant
3 that may be required to run baseload during the
4 summer months ag season, the use of the word
5 required has been perhaps over used in some of the
6 documents that I took the trouble of re-reading to
7 prepare for this hearing today.

8 And what you just said is in your
9 integrated energy resource plan concept that you
10 may or may not need to run this plant to meet the
11 peak requirements that coincide with the ag
12 season. It just depends on what's available out
13 there.

14 MR. KREAMER: Actually I think, if I
15 may, just as a clarification --

16 PRESIDING MEMBER BOYD: Please correct
17 me if I'm misstating it.

18 MR. KREAMER: We do anticipate that we
19 will have to run the project. Obviously it's a
20 peaking plant and when the canning season and the
21 food processing load comes on, it comes on at a
22 time when also does all of your air conditioning
23 loads and all of the peak loads that we have.

24 So the project was built to operate
25 during that peak load season as a primary thing,

1 to meet those peak loads.

2 It was also designed or integrated or
3 thought in our resource plan to provide all of the
4 other services and ability to run for emergencies
5 offpeak. You know, in the offpeak months you
6 have maintenance outages and things to cover for
7 those and some of the other things.

8 But back on the summer months, yes, it
9 will operate. Will it operate at its full output?
10 Perhaps. I think there's two things that
11 influence that. I would have to say that it is
12 probably in all likelihood, I can't envision a
13 time when it probably, except for perhaps in the
14 offpeak hours on a Sunday or at night where it
15 won't be online and running, whether it'll be
16 running full load or not, our peak summer load in
17 the summertime can vary as much as 100 megawatts
18 from one week to the next. So it depends upon the
19 load given at the time and where it's operating.

20 And, again, it also depends upon the
21 market. If the market has supplies that can be
22 purchased to run kind of that baseload around the
23 clock, because even in the summertime a lot of
24 times your night time loads are higher, or they
25 can be certainly.

1 So if we can fill in that base and even
2 a little more base throughout the daytime then it
3 can offload that and let that unit provide what it
4 was designed to provide, which was that peaking
5 capacity.

6 So the concept, I think, that it would
7 be online and absolutely fully loaded through all
8 of the hours of the day is probably not correct.

9 I hope that provides some clarification.

10 PRESIDING MEMBER BOYD: Yeah, I guess
11 I'm just struggling with the fact that there's
12 been a lot of talk in the past. Peakers are great
13 up to somewhere in the vicinity of maybe 3000
14 hours of operation. Then the cost effectiveness
15 begins to come into question. A lot of that is
16 predicated on the cost of gas, which doesn't seem
17 to show that it's going anywhere but up these
18 days.

19 And contrary to some statements that
20 have been made, we have lots of reserves, I'm glad
21 to hear your comments about a concern about gas,
22 because I certainly have that as one who has
23 watched it painfully closely for the last three
24 years.

25 I think we understand totally the

1 benefits and advantages of a peaker as it relates
2 to the flexibility it affords one, or simple cycle
3 as a peaker as to the flexibility you need and it
4 affords you. We just continue to struggle with
5 where do you draw the line between what's the most
6 efficient use of a now more scarce resource, gas,
7 and between a peaker and a combined cycle
8 facility. And where you draw the line. And
9 that's what we're talking about today, in effect.

10 So, I appreciate your testimony and it
11 helps fill out the record some.

12 MR. KREAMER: If I may I'd like to add
13 one more thing. You had made a comment regarding
14 our study in which we indicated that we would be
15 maybe operating 7900 -- I made the comment, as
16 well, over 7900 hours 5 percent of the time.

17 That study is the Stochastic model study
18 that went through 100 or so iterations. It has a
19 number of range of variables. It also has a low
20 side, and that low side is that it can also be
21 operating 5 percent of the time at 1 percent, you
22 know, at a very minimum load.

23 And so when you look at that I think it,
24 you know, and the overall process of that model,
25 it doesn't define, from our perspective, a

1 combined cycle project. And so, you know, even
2 though it can reach that upper end and we want it
3 to be able to, to be not constrained so that we
4 can, because somewhere between a typical 30
5 percent of the time, or even 5000 hours up to the
6 upper limit, there is something that maybe it's
7 not linear, but there are hours involved in there
8 that can come into play.

9 And I think there's also a number of
10 issues that can drive you to that point. As, for
11 example, you know, when the energy crisis hit in
12 the months of, I'm sorry, what was it 2000,
13 perhaps, we were running in January and February;
14 we ran a tremendous amount of hours in our current
15 peaker plant. And I think at that point in time
16 we always used to envision that these kinds of
17 emergencies would not happen except in the summer.
18 And we found out that's not true.

19 And I don't think anybody could really
20 make the statement that they couldn't occur again
21 in those off months.

22 So, somewhere between the level that
23 you're referring to and what our study showed in
24 that upper end, there are other hours in there
25 that we're going to have things, as our study

1 showed, as a result of outages, as a result of
2 market pricing, hydro conditions, you know, a lot
3 of different things that can impact the ability to
4 operate in that other end.

5 The frequency is not great. But I think
6 when the time does come, I think that it would be
7 remiss to try to limit that project from trying to
8 meet the needs of the western system, at least at
9 this point in time. It just, I believe it would
10 be more advantageous to have those types of units
11 available when that's what their purpose is for.
12 I believe --

13 MS. WARREN: One of our other witnesses
14 has indicated he has something to add to the
15 response to that question if that's acceptable.

16 HEARING OFFICER VALKOSKY: Sure, go
17 ahead and swear him in.

18 Whereupon,

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

23 DIRECT EXAMINATION

24 BY MS. WARREN:

25 Q Would you please state and spell your

1 name for the record.

2 A Yes, for the record my name is Gary
3 Rubenstein, that's R-u-b-e-n-s-t-e-i-n.

4 Q And you participated in the preparation
5 of the prefiled testimony for the applicant
6 related to the energy resources issues we're
7 discussing today?

8 A Yes, I did.

9 MS. WARREN: And at this point I can
10 take him through the entire litany of accepting
11 the testimony. I don't know if that will be
12 necessary --

13 HEARING OFFICER VALKOSKY: I don't think
14 that's necessary.

15 MS. WARREN: -- just to answer the
16 questions. All right, then.

17 BY MS. WARREN:

18 Q Gary, you had additional information to
19 respond to the Commissioner's questions?

20 A Yes, I did. And getting specifically,
21 Commissioner Boyd, to your question about how you
22 draw the line between a judgment as to whether a
23 simple cycle or combined cycle plant might be more
24 appropriate.

25 I think one of the more telling aspects

1 can be found on pages 9 and 10 of our prefiled
2 testimony which discusses the Stochastic modeling
3 that went into the integrated resource planning
4 process that Mr. Kreamer referred to.

5 We can all hypothesize different
6 circumstances which would lead to the 95th
7 percentile high year, for example, in which the
8 plant might operate with each of the units running
9 close to 8000 hours a year. Or 95th percentile
10 low scenario in which each of the units might only
11 operate 800 hours a year.

12 The judgment is the same whether it's a
13 financial judgment or an energy resources
14 judgment, because I think, as the Committee's
15 indicated, they're both going to be driven largely
16 by the price of natural gas.

17 The judgment is really going to be
18 driven based on over the average of all of those
19 simulations, what the expected operation is going
20 to be.

21 And at the bottom of page 9 in our
22 prefiled testimony we indicated that that average
23 was approximately 30 percent of the hours in a
24 year for all of the different range of simulations
25 which would be somewhere around 2500 to 2700 hours

1 per year.

2 I think intuitively the Committee could
3 see that if you add a plant, that over a 30-year
4 life was only going to operate on average 2500 to
5 2700 hours per year, that the idea of having
6 colloquially what we'll refer to as a peaking
7 plant, a simple cycle unit, might make some sense.

8 But what comprises that average is the
9 entire range from 800 hours in some years all the
10 way up to 8000 hours or 8760 hours in other years.
11 To the extent that that average, that long-term
12 average was higher it would drive the decision
13 more and more towards a combined cycle plant. And
14 exactly where that line would be would depend on
15 what the forecasts in natural gas prices were, and
16 the various operating cost elements of both the
17 simple cycle and combined cycle plant.

18 But, with an average of only 30 percent
19 operating hours per year, over a very long-term
20 period of time, I don't think it's quite so much
21 of a stretch to conclude that a simple cycle plant
22 is appropriate in that case.

23 PRESIDING MEMBER BOYD: Thank you. I
24 thought I was back in my linear programming
25 class --

1 (Laughter.)

2 PRESIDING MEMBER BOYD: -- long ago when
3 I read this section.

4 HEARING OFFICER VALKOSKY: Mr. Kreamer,
5 as I read your testimony you explicitly indicate
6 that you're not seeking a permit to run the MEGS
7 project for 8760 hours for every year of its life.
8 Is that a correct understanding?

9 MR. KREAMER: That is a correct
10 understanding; that's what I testified in there,
11 yes.

12 HEARING OFFICER VALKOSKY: Okay. Now,
13 one of the things that concerns the Committee is
14 how do we assure that that doesn't happen?

15 MR. KREAMER: Well, to be honest with
16 you I don't know the best way to answer that. I
17 can tell you how MID in its integrated resource
18 plan will insure that it won't happen. I think
19 if, and I made this comment before, it was not our
20 intent to do that. That's not the cycle selection
21 we made.

22 And we didn't make a combined cycle
23 selection because we didn't have a need for a
24 combined cycle selection. So the need wasn't a
25 24-hour-a-day, 8760-hour year after year after

1 year need. It ranges a much broader scale than
2 that.

3 If we find ourselves, and I've made this
4 comment before in testimony, that there are
5 occasions which, to be perfectly honest with you,
6 we might find ourselves wanting to operate 8760 at
7 as high an output as we can get. And some of
8 those things can come from a lot of different
9 reasons. They can come from emergencies; they can
10 come from just all sorts of things, loss of units,
11 loss of transmission. And the range of time can
12 be narrow; it can be pretty broad.

13 It can also come from entering into
14 arrangements to help to provide reserve sharing
15 within entities in the northwest, so that, you
16 know, if they hit one of these really cold spells
17 again where they hit on occasion, we can provide
18 stuff like that. But we've never envisioned that
19 that's a year after year after year type of a
20 process.

21 Our resource planning, when we look at
22 those things, our integrated resource plan, we're
23 constantly looking at the efficiencies of the
24 resources, ourselves. And so if we see that we
25 have a simple cycle project with a heat rate that

1 can be improved through some combined cycle
2 process, or maybe better yet, if this thing is
3 operating in that range we've lost our peaking
4 capability. So it would indicate to us that we
5 need to make some resource enhancements so that we
6 have that peaking capability back available to us
7 again. That's really more the bottomline.

8 So it becomes more self-preventing in
9 our own resource planning. I understand your
10 concern. But our concern is there, just as well,
11 because it wouldn't be in our best interests to go
12 year after year after year in order to try to
13 continue to operate this plant in that fashion.
14 Even if it were economically sound because
15 somebody was willing to pay us more than it cost
16 us to operate, I think also you still run into the
17 gamut of the fact that we lose our peaking
18 capability and we need that peaking capability.
19 That's why we're designing this kind of plant.

20 HEARING OFFICER VALKOSKY: Okay. Along
21 that line, again I'm just trying to -- I think I
22 understand your concerns, but you also have to
23 realize the concern the Committee has in
24 hypothetically issuing an exemption which could
25 allow this project theoretically to operate 8760

1 for its 30-year life. All right?

2 So, you say at some point you would make
3 the decision to go to a combined cycle. After
4 what point? After a year's operation at 8760?
5 After six months? After two years? I mean is
6 there any way you can fix that?

7 MR. KREAMER: I think one of the things
8 we suggested early on is that we would follow up
9 every year of operation and every subsequent year
10 by filing a report to the Commission. And if two
11 subsequent years of operation the project operates
12 in excess of 8000 hours, we, ourselves, would
13 evaluate whether we had the right technology.

14 So, and we would also then try to do
15 something perhaps different. But I don't think
16 that that provides you the comfort you're looking
17 for in some sort of a guarantee.

18 HEARING OFFICER VALKOSKY: No, I
19 understand. And I realize the condition you
20 initially proposed. And I think part of the
21 problem with that condition is that the other shoe
22 never drops.

23 Say for two consecutive years the
24 project operates in excess of 8000 hours per year.
25 The project owner will evaluate the configuration.

1 What precisely does that do? What comfort does
2 that give to the Commission or to anyone else who
3 is concerned with it?

4 Now, that's fine, you know. I think
5 it's good that you'll perform that evaluation.
6 But really, so what?

7 MR. KREAMER: Well, you know, we could
8 commit to update the integrated resource plan if
9 that could provide you the comfort you're looking
10 for.

11 Again, keeping in mind that if we got
12 ourselves, or found ourselves in that type of
13 operation we, ourselves, would probably do one of
14 two things. It doesn't necessarily mean we have
15 to go build a combined cycle plant, or combine
16 this one.

17 But we have a lot of options. And I
18 think one of the things we would be looking at is
19 it's a twofold issue. One, we do need peaking
20 power, which is the criteria for why we designed
21 this project the way we did.

22 The other one is they're a pretty
23 economical turbine to operate, which I think is
24 where your concern comes from. And so there are
25 people, especially the more modern technology, who

1 might be willing to pay to have us operate that.
2 Or we might even find it fairly economical to
3 operate, ourselves, but probably not for that
4 length of time.

5 So, we end in the problem where we've
6 lost our primary design that we've designed it for
7 in the resource plan, which was the peaking power.
8 We have a couple of options. We don't need to
9 combine it. We could also go out and buy a longer
10 term resource to back that off, if it's up there
11 and operating in that base mode.

12 So, we have options. I don't think I
13 could ever provide you with the comfort level
14 you're looking at here absent the type of approach
15 you're taking.

16 HEARING OFFICER VALKOSKY: How about
17 something along the lines, and again would it be
18 practical to have something along the lines that
19 you could not operate for more than two
20 consecutive years in excess of 8000 hours per
21 year?

22 MR. KREAMER: Just a moment.

23 (Pause.)

24 MR. WESTERFIELD: Mr. Valkosky, can I
25 ask for a clarification of that question, if I

1 heard it correctly?

2 HEARING OFFICER VALKOSKY: Certainly.

3 MR. WESTERFIELD: Was your statement
4 that such a condition would be that applicant
5 would not operate the facility more than two years
6 in a row in excess of 8000 hours?

7 HEARING OFFICER VALKOSKY: Two
8 consecutive years.

9 MR. WESTERFIELD: Understand. Thanks.

10 MR. KREAMER: Mr. Valkosky, I would like
11 to ask a clarifying question. I guess what
12 provides me with a lot of concern about that is
13 the difference between focusing on hours of
14 operation and focusing on plant capacity factor.

15 We've had a lot of discussion in some
16 cases about baseload. And baseload, if you happen
17 to be a generating guy like I was at one point in
18 time, you like to think of baseload as wide-open
19 load. But, you know, the reality of the thing is
20 that MID could be operating at a fairly low load
21 range, because it needs to operate at that fairly
22 low load range.

23 So if we were operating and spending a
24 lot of the time of the year operating at a very
25 low load range to provide ancillary services both

1 to ourselves, which we need, which is one of the
2 reasons why we have proposed this project that
3 way, and for the purpose of perhaps providing
4 ancillary services to the rest of the region when
5 needed, then we could find ourselves operating at
6 a very low load range, which would be extremely
7 inefficient with a combined cycle type project.
8 And yet be very advantageous for the WECC as a
9 whole. And we wouldn't operate more than just a,
10 you know, a small capacity factor percentage of
11 the time on that project, as opposed to, you know,
12 operating 8760 at full load output.

13 I think one of the concepts we have, at
14 least as I keep hearing the question posed, that
15 everybody -- or is that the tendency is that we're
16 operating a full load, and therefore we're wasting
17 gas compared to a combined cycle project, and
18 that's really not the case.

19 Our study says we're going to run on an
20 average of about 30 percent. So it says on the
21 average over the life of the project except for
22 maybe 5 percent of the time at the low and 5 at
23 the high. We're going to be operating at low load
24 ranges in a peaking mode, in a peaking capacity,
25 in a peaking type of operation.

1 And if you're doing that, then I think
2 it's very much remiss to try to just tie something
3 to hours, especially a peaking project, when the
4 capacity factor for providing all of the things
5 that we're designing it for and in support of all
6 the different things, gets limited and we can't
7 provide the support because we have this, say this
8 hourly limitation on there that doesn't correlate
9 to the purpose of the project.

10 That's kind of my take on it. And it's
11 a different thing because a lot of times these
12 peaker projects are online at very low loads. And
13 obviously in our testimony we made the comment
14 that that's why the combined cycle process doesn't
15 fit with our need. Because they're very
16 inefficient to operate down at low --

17 HEARING OFFICER VALKOSKY: Right. Mr.
18 Kreamer, I don't think, certainly there's nothing
19 to my recollection in the proposed decision that
20 suggests a simple cycle is not appropriate.
21 Nobody, none of the weight of the evidence
22 certainly doesn't suggest that you should go to a
23 combined cycle.

24 And, again, I think you have a very good
25 point. Again, I guess I'm just trying to explore

1 if there is any way to get a rational limitation.

2 MR. WILLIAMS: I think the little caucus
3 back here did result in maybe something that we
4 can set forth to address this issue. And we've
5 got a couple actions. I would propose that Mr.
6 Rubenstein, one of our witnesses, could fill you
7 in. And then if you had any other questions we do
8 have our assistant general manager over energy
9 resources here with us today. If you had any
10 questions directly for him, although he is not
11 identified as a witness.

12 HEARING OFFICER VALKOSKY: Right, okay,
13 well, Mr. Rubenstein.

14 MR. RUBENSTEIN: Mr. Valkosky, I think
15 we do understand the Committee's concern and what
16 you're struggling with here. First, as Mr.
17 Kreamer pointed out, we think it's important that
18 if there is going to be some kind of a trigger
19 for, as you put it, the other shoe to drop, that
20 it should be based on energy production as opposed
21 to hours of operating. Because that is really
22 what this issue is all about in terms of natural
23 gas consumption. The plants operate at low loads;
24 they're consuming far less gas.

25 So, conceptually we think of this

1 trigger being based on megawatt hours or gigawatt
2 hours of generation per year as opposed to
3 operating hours, and it would be total for the
4 plant.

5 Then the second element of that would be
6 that if there were two consecutive years in which
7 this trigger level were to be exceeded, that we
8 would commence to taking one of the following
9 actions within some specified period of time:

10 Either submitting an application to the
11 Commission to convert this plant to a combined
12 cycle unit; alternatively committing to the
13 construction of a new combined cycle unit so as to
14 be able to return this plant back to a lower
15 operating level, or alternatively providing some
16 documentation to the Commission indicating that
17 MID had secured some alternative baseload resource
18 which, again, would have the objective of reducing
19 this plant back down to a lower operating level.

20 So if that's something that conceptually
21 addresses the Committee's concerns we could try to
22 flesh that out in some more detail. But I
23 think --

24 HEARING OFFICER VALKOSKY: Well, I can't
25 speak for Commissioner Boyd, but conceptually

1 you've certainly peaked my interest.

2 PRESIDING MEMBER BOYD: Yeah, I'm fine
3 with that, Mr. Rubenstein. It's consistent with a
4 lot of notes I'm making to myself right here. And
5 I appreciate your comments that you understand why
6 we're at this. I'm not sure the public at large
7 or even some of the people in the room understand
8 why we're at this.

9 But, you know, while you are California
10 folks, you're right down the road from us, we're
11 not granting you a license that we have any
12 recourse to. We're letting go of you in
13 perpetuity but for some conditions that we might
14 mutually agree upon.

15 And secondly, while, as I said, I
16 believe the folks right down the road here in
17 Modesto are honorable people, my prematurely gray
18 hair is the product of a lot of people, all the
19 way up to and including Mr. Lay, have assured us
20 they were honorable people, too, in the last few
21 years. And we were burned pretty bad.

22 So, we're looking to assure the citizens
23 of this state that they're getting the best bang
24 for the buck. And you have recourse to your
25 citizens because you're a local muni, and I

1 appreciate that fact. And we have to have the
2 ability to assure to the public at large that at
3 this point in time, post-crisis, although some
4 people think it's still a crisis, that we're
5 getting the biggest, you know, we're getting the
6 biggest squeeze we can out of every therm of gas,
7 and we're getting the biggest bang for the buck.

8 So we're trying to reach that point
9 here. So we're not trying to be a bunch of
10 bureaucrats, and I don't enjoy the fact that we've
11 stretched this thing out far longer than anyone
12 ever estimated it should have taken.

13 It's just that welcome to California in
14 this era. And we're all a little skittish. And
15 so I'm very positively disposed to what I'm
16 hearing here in the dialogue today with regard to
17 where you're going. And quite frankly, I'm very
18 positively disposed to the fact that there's some
19 things going into the record now here that may
20 help level what I did find heretofore as a very
21 inconsistent comparison.

22 It's kind of like we'd like our cake and
23 eat it, too, in terms of what we really intend to
24 do. But, you know, what we'd really like, to have
25 an unfettered total ability to do. So that's kind

1 of why for the limited public that's here, we do
2 what we do up here.

3 Thank you.

4 HEARING OFFICER VALKOSKY: So, Mr.
5 Rubenstein, am I to understand that you would
6 propose an alternate condition which essentially
7 would address the concerns in terms of a megawatt
8 hour limitation; and then have the other shoe drop
9 in terms of a conversion to a combined cycle if
10 you operate it for two years at a certain --

11 MS. WARREN: May I propose or offer that
12 we have a few members of our group that can
13 perhaps step aside and try to outline in more
14 particularity what that operative condition could
15 look like? And that may help out.

16 HEARING OFFICER VALKOSKY: Well, okay.
17 I mean, do you want --

18 MS. WARREN: We could continue while
19 just a few of us stepped out and it wouldn't hold
20 things up.

21 HEARING OFFICER VALKOSKY: Okay.

22 MS. WARREN: That may -- instead of
23 trying to visualize something, we could maybe have
24 something in front of us that would help a little
25 bit better.

1 HEARING OFFICER VALKOSKY: Well, I mean
2 we can -- and certainly I don't want to chill any
3 attempt to developing this because I think it
4 could be very fruitful, you could do that now, and
5 you could submit it in a couple of days if you
6 can't do it now.

7 I guess my preference is I'd rather not
8 delay this hearing any more than is necessary.

9 MS. WARREN: Well, without delaying the
10 hearing, we'll continue the hearing. I think that
11 there's a couple of members that could give it a
12 shot and see if we can come up with something
13 before the hearing would conclude.

14 HEARING OFFICER VALKOSKY: That would be
15 excellent. Do you have any further direct
16 testimony to --

17 MS. WARREN: No, I don't believe so.

18 HEARING OFFICER VALKOSKY: Okay. Cross-
19 examination, Mr. Westerfield?

20 MR. WESTERFIELD: No questions.

21 HEARING OFFICER VALKOSKY: Mr. Sarvey?

22 MR. SARVEY: Yeah, I have a couple. But
23 first of all I just kind of feel like my
24 prehearing conference has been accepted as
25 testimony and that I'm being picked apart as a

1 witness with no ability to respond because I'm not
2 an expert witness. So I don't know --

3 HEARING OFFICER VALKOSKY: No, Mr. --

4 MR. SARVEY: -- exactly how to handle
5 that particular situation.

6 HEARING OFFICER VALKOSKY: -- Mr.

7 Sarvey, I think that's an incorrect understanding.

8 I think what applicant's witness was doing was
9 basically providing a response to statements that
10 you had made.

11 MR. SARVEY: Okay.

12 HEARING OFFICER VALKOSKY: And that's
13 it. And I would assume, number one, you're
14 entitled to it, but two, I would assume you'd
15 welcome a response to your statements.

16 MR. SARVEY: Oh, no, absolutely I do.
17 I'm just saying I don't know how to respond to
18 certain statements that are being made because
19 essentially I have no -- anything that I would say
20 would be testimony and I'm not an expert witness
21 in this case, so --

22 HEARING OFFICER VALKOSKY: No, and
23 that's --

24 MR. SARVEY: -- I have to resort to just
25 asking questions, and somehow get where I want to

1 go.

2 HEARING OFFICER VALKOSKY: -- and that's
3 understood. But, again, I think out of respect
4 for your party status and your interest in this
5 and other proceedings, that your comments deserve
6 a response from both parties. That's all, that's
7 all that was intended.

8 MR. SARVEY: I'll proceed, thank you.

9 HEARING OFFICER VALKOSKY: You bet.

10 CROSS-EXAMINATION

11 BY MR. SARVEY:

12 Q Mr. Kreamer, what, to you, is the
13 industry definition of a peaker plant?

14 MR. KREAMER: Of a peaking plant?

15 MR. SARVEY: Um-hum.

16 MR. KREAMER: I think probably the best
17 definition might be that used by NERC, which is a
18 project that operates at an annual capacity factor
19 of approximately 20 to 30 percent, somewhere in
20 that range.

21 MR. SARVEY: In your PROSYM analysis
22 that's on page 6 in your comments on the PMPD,
23 which you've incorporated in your testimony, you
24 determined that MID will need to run the MEGS at
25 least 4000 hours a year by the year 2009 to serve

1 its own load, is that correct?

2 MR. KREAMER: I believe that's probably
3 about right, yes.

4 MR. SARVEY: Okay.

5 MR. KREAMER: And the reason for that is
6 that's just as we start to reach the point where,
7 as I mentioned earlier, we have -- it's estimated
8 that we'll need another plant, perhaps a combined
9 cycle, perhaps some other technology, in around
10 2010. And as our load grows so do the hours start
11 to grow, so we build a new project to put it back
12 in that mode.

13 MR. SARVEY: Does that conflict with the
14 previous testimony by Mr. Rubenstein that this
15 project will only be run on average 30 percent of
16 the year?

17 MR. KREAMER: I don't believe it does.
18 I believe in my estimation, I can't speak for Mr.
19 Rubenstein, but my estimation from my
20 understanding of what he was quoting, was our
21 studies that indicated that on average the project
22 will run about 30 percent of the hours in a year,
23 30 percent of the time.

24 And that on the outside edges it could
25 operate, like one in 20 chance that it could

1 operate over 7900 hours. And there's a one in 20
2 chance it could operate 1 percent of the time.

3 So it's kind of a striking zone over 100
4 to 200 studies. In this case we used 100, I
5 believe.

6 MR. SARVEY: Okay , that 4000 hours that
7 I mentioned previously, according to your
8 testimony this doesn't include load and reserve
9 sharing with other utilities. Do you have an
10 estimate or how much MID you think will need to
11 run the MEGS to supply these needs?

12 MR. KREAMER: I don't offhand.

13 MR. SARVEY: Okay.

14 MR. KREAMER: It does pretty much cover
15 our needs.

16 MR. SARVEY: Okay.

17 MR. KREAMER: And I will say, excuse me,
18 I will say this, that the studies, themselves,
19 Stochastic studies that we ran, those do take a
20 look at, those are a west coast snapshot, they're
21 not just an MID snapshot. Those are taken into
22 account, the WECC region, it takes into account
23 the market, the newest generator capability on the
24 west coast. And it puts the Ripon project and it
25 looks at its heat rate and its economies of scale

1 compared to everything else. And it says, you
2 know, how much would this unit be called on in
3 this range of market conditions, this range of
4 high gas prices, this range of outage report, the
5 weather conditions.

6 So it's a pretty good scale of about
7 that level. About 30 percent on average.

8 MR. SARVEY: Do you have like an
9 estimated gas price where you think this project
10 will no longer be efficient to run?

11 MR. KREAMER: No, I don't, off the top.
12 But the project, or at least the studies, do show
13 a pretty wide spread of gas. I think one of the
14 things that we do, we do go out and we do have a
15 gas policy. We have bought gas. We have about 40
16 percent of our gas bought for the next year.

17 We also have in place a risk management
18 policy. And let me get the number, I forgot --
19 it's about 1.6 million. If we get close and look
20 like we're going to exceed that, we have to go buy
21 more resources, whether it be gas or energy, in
22 order to improve that value, that value of risk,
23 back down into the range of -- into the acceptable
24 risk range.

25 MR. SARVEY: In your professional

1 opinion and in your knowledge of the industry do
2 you see gas prices continuing to accelerate?

3 MR. KREAMER: I think from what I've
4 seen and the information we get from the folks
5 that provide information to us like that, there
6 will be -- it does indicate a slight rise in the
7 prices over the next year or two. And then it
8 looks like it's back down again actually for an
9 extended period of time.

10 MR. SARVEY: Is MID currently exporting
11 electricity to the northwest in connection with
12 the California/Oregon Transmission project?

13 MR. KREAMER: We do on occasion on a
14 short-term market. We don't have a long-term
15 arrangement at this point in time.

16 MR. SARVEY: Do you anticipate one?

17 MR. KREAMER: I hope so. Yeah, I would
18 like to see that in some form or fashion. Keeping
19 in mind that if we do that hopefully it'll be a
20 seasonal diversity issue, so we'll be getting
21 something back, ourselves, at a later time, which
22 will offset.

23 MR. SARVEY: If it is a seasonal
24 diversity issue do you feel that a combined cycle
25 configuration would be more efficient to supply

1 the energy for that need?

2 MR. KREAMER: No, I don't.

3 MR. SARVEY: In your testimony on page 9
4 you state: the applicant needs the operational
5 flexibility to maintain the best mix of resources
6 for short- and long-term planning.

7 However, in the MID Board report that
8 MID submitted in the post-hearing brief, the staff
9 reported to the board that one of the negatives of
10 building this project is that long-term resources
11 will exceed 80 percent by 2005, is that correct?

12 MR. KREAMER: Could you repeat your
13 question, please?

14 MR. SARVEY: Sure. In the -- do you
15 want me to give you the preface question, as well?

16 MR. KREAMER: If you don't mind.

17 MR. SARVEY: Okay. In your testimony on
18 page 9 you state: the applicant meets the
19 operational flexibility to maintain the best mix
20 of resources for short- and long-term planning.

21 However, in the MID Board report that
22 MID submitted in its post-hearing brief the staff
23 reported to the board that one of the negatives of
24 building the project MEGS is that long-term
25 resources will exceed 80 percent by 2005, is that

1 correct?

2 MR. KREAMER: I don't know if that's a
3 correct statement. I have to go back and review
4 that. I know that there was a statement in there,
5 and I believe you cited that, that said that it
6 was one of the cons of building the simple cycle
7 unit is that it would delay the construction of a
8 combined cycle.

9 MR. SARVEY: That was actually my next
10 question.

11 MR. KREAMER: Yeah, but I don't recall
12 the other statement.

13 MR. SARVEY: Okay.

14 MR. KREAMER: I'd have to go back and
15 look at that.

16 MR. SARVEY: Well, I'll give you the
17 question anyway. In that same board report one of
18 the cons of building the MEGS project is that the
19 MEGS project would delay the need for a larger
20 combined cycle unit with lower -- and I emphasize
21 this -- lower production costs, isn't that true?

22 MR. KREAMER: That statement was made,
23 yes.

24 MR. SARVEY: Okay, thank you.

25 MR. KREAMER: I would like to amplify on

1 that answer, though, if I may?

2 MR. SARVEY: I'm not asking for it, so
3 it's a ruling by Mr Valkosky as to whether you can
4 continue or not.

5 MS. WARREN: Mr. Valkosky, if not now I
6 can simply ask him to elaborate on redirect.

7 HEARING OFFICER VALKOSKY: Yeah, that'll
8 be --

9 MS. WARREN: So it's up to you when
10 you'd prefer --

11 HEARING OFFICER VALKOSKY: -- fine, Ms.
12 Warren.

13 MR. SARVEY: In your testimony on page 5
14 you state in our limitation our evaluation as an
15 incomplete method to limit or evaluation energy
16 resources. The way in which in our limitation
17 applied will not take into account whether the
18 plant is running with partial or full output, 10
19 megawatts or 95 megawatts, you have in parentheses
20 there.

21 And this question kind of follows what
22 we were discussing earlier. Would a condition
23 which limited the output in megawatt hours rather
24 than hours of operation, and let's say for
25 example, 500,000 megawatt hours, since that's 5000

1 hours times 100 megawatts, would that provide the
2 flexibility that MID needs, and would the
3 applicant accept that as a condition?

4 MR. KREAMER: You know, I think that we
5 are in the process of trying to provide a solution
6 or recommend a solution, ourselves. Obviously the
7 hour solution, an hour cap on the operation is
8 not, I don't believe, the right approach. I
9 believe an energy approach is a good approach.

10 MR. SARVEY: Okay.

11 MR. KREAMER: But whether 5000 hours is
12 a correct level, off the top of my head sitting
13 here, I don't know. I think the people working on
14 it to develop, whether, you know, we believe --
15 what level we believe might give the right level
16 of operation, give us the comfort level we need.

17 MR. SARVEY: So at these reduced loads
18 that you anticipate running the MEGS project, and
19 you cite 10 megawatts, does the efficiency of the
20 MEGS go down, does the heat rate go up?

21 MR. KREAMER: Yes, it does.

22 MR. SARVEY: And can you give us an
23 idea, say if you're running at 10 megawatts, what
24 the efficiency of that project would be at that
25 time?

1 MR. KREAMER: I'm going to defer that
2 real quick. Let me -- if you don't mind --

3 MR. SARVEY: Okay.

4 MR. KREAMER: Around 14,000 Btu.

5 MR. SARVEY: Around 14,000 --

6 MR. KREAMER: Yes.

7 MR. SARVEY: -- if you're running at 10
8 megawatts?

9 MR. KREAMER: Yes.

10 MR. SARVEY: Okay. Now, my
11 understanding of the LM6000, and I'd probably have
12 to ask Gary this question, is that you wouldn't be
13 able to run it at less than 30 or 40 percent and
14 still maintain your air permit conditions, is that
15 correct, Gary?

16 MR. RUBENSTEIN: The two key factors in
17 terms of whether it would be able to meet its
18 emission limits or whether water injection was
19 enabled, and whether the SCR catalyst was at
20 operating temperature, and I believe at a load of
21 10 megawatts, both of those conditions would be
22 satisfied.

23 So, somewhere in that range of 10 to 15
24 megawatts would be the true minimum load, and the
25 plant would still be able to comply with all of

1 its emission limits.

2 MR. SARVEY: Thank you, Gary. You
3 mentioned that if the MEGS ran at 10 megawatts, 15
4 megawatts the heat rate would be about 14,000.
5 What's the heat rate on McClure peaker plant?

6 MR. KREAMER: On our McClure plant?

7 MR. SARVEY: Um-hum.

8 MR. SALYER: I can answer that --

9 (Parties speaking simultaneously.)

10 MS. WARREN: We need to get him sworn
11 in.

12 HEARING OFFICER VALKOSKY: Please,
13 you'll need to be sworn and --

14 MS. WARREN: This is another one of the
15 identified witnesses, Greg Salyer.

16 HEARING OFFICER VALKOSKY: Okay.

17 Whereupon,

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

22 DIRECT EXAMINATION

23 BY MS. WARREN:

24 Q Would you please state and spell your
25 name for the record.

1 MR. SALYER: Greg Salyer, G-r-e-g
2 S-a-l-y-e-r.

3 MS. WARREN: And what is your position
4 with the District?

5 MR. SALYER: Generation Manager.

6 MS. WARREN: And what does that job
7 entail?

8 MR. SALYER: That entails managing all
9 the generations assets for MID, both internal and
10 external assets.

11 MS. WARREN: And that would include the
12 McClure plant?

13 MR. SALYER: Yes.

14 CROSS-EXAMINATION

15 MR. SALYER: Okay, to answer the
16 question, it depends on the load. Like when we
17 talk about the LM6000 we talked about at 10
18 megawatts the heat rate was around 14,000.

19 McClure, at full load, it's in the high
20 12,000s, but if you're down in the 10 megawatt
21 range, you're probably looking at 18,000 or 19,000
22 on heat rate.

23 MR. SARVEY: Thank you. You've
24 indicated in your PMPD comments that the Henrietta
25 and Tracy decisions are a precedent for a peaker

1 project to run 8000 hours. Would 8000 hours
2 provide enough operational flexibility? Or do you
3 need the 8760?

4 MR. KREAMER: 8000 per unit, yeah.

5 MR. SARVEY: 8000 per unit. So you
6 don't actually need the 8760, correct?

7 MR. KREAMER: 8000 per unit would
8 probably provide adequate.

9 MR. SARVEY: Thank you, Mr. Kreamer.
10 Your testimony on page 13 is that MID also played
11 a part in assisting California through the energy
12 crisis by dropping firm load and by offering its
13 less efficient McClure peaking units at the
14 request of CalISO and PG&E. Were you required to
15 do that, or was that you responding to actually a
16 request? I mean did you have to provide that
17 generation to the McClure, or could you actually
18 say no, which you later did. We don't have it, we
19 can't provide it or we don't want to provide it,
20 for whatever reason.

21 MR. KREAMER: Being a WECC member,
22 Western Electricity Coordinating Council member,
23 and under our interconnection agreement with PG&E,
24 when requested by PG&E we have an obligation to
25 contribute to trying to protect the system from

1 further damage.

2 So, yes, we did have an obligation, at
3 least through part of that, to respond.

4 MR. SARVEY: And would your McClure
5 peaker plant approached 877 hours, did that negate
6 your obligation to provide that energy?

7 MR. KREAMER: I think yes.

8 MR. SARVEY: Okay. That year of 2000
9 did MID exhaust the 877 hours that the McClure
10 peaker plant was licensed for?

11 MR. KREAMER: I'm sorry, just a moment,
12 please.

13 I'm sorry, Mr. Sarvey, could you repeat
14 that question?

15 MR. SARVEY: Yeah. Did MID exhaust the
16 877 hours that the McClure peaker was licensed for
17 in that year of 2000?

18 MR. KREAMER: I don't know off the top
19 of my head whether they did. I know they were
20 close.

21 MR. SARVEY: Okay. I believe the
22 previous testimony MID submitted was 91 percent,
23 does that sound accurate?

24 MR. KREAMER: That sounds pretty close,
25 yes.

1 MR. SARVEY: Okay, thank you. So even
2 in 2001 when MID ran that peaker plant for the
3 CalISO, they still didn't meet the 877 hours of
4 peaking capacity for their own needs, is that
5 correct? Since you only ran it 91 percent.

6 MS. WARREN: We're going to defer that
7 question to Greg Salyer.

8 HEARING OFFICER VALKOSKY: Mr. Salyer,
9 you've got to go to the mike.

10 MR. SALYER: What MID did was we held
11 back on a margin for all needs to make sure we did
12 not exceed our air permit. If we would have had
13 more hours we definitely would have ran more
14 hours. But we saw that 877 as an absolute limit
15 and left a margin not to exceed that.

16 MR. SARVEY: What percentage of MID's
17 load is served by its own generation in
18 California?

19 MR. KREAMER: Yeah, is that an annual
20 basis question, --

21 MR. SARVEY: Well, your annual report
22 says 89 percent.

23 MR. KREAMER: Okay.

24 MR. SARVEY: Does that sound reasonable?

25 MR. KREAMER: Yeah.

1 MR. SARVEY: Okay. So why is the
2 McClure peaker project limited to 877 hours per
3 year?

4 MR. SALYER: Actually there's a
5 requirement in rule 8703 with the local air
6 district that required it to be held to that. It
7 was basically based on a 10 percent capacity
8 factor. And with that we were not required to
9 have an SCR on the unit. So that's where it came
10 from.

11 MR. SARVEY: So is that McClure peaking
12 unit still limited to 877 hours as we speak?

13 MR. SALYER: Yes, it is. But by April
14 of 2005 we will have to retrofit that with SCR
15 technology to be able to continue running.

16 MR. SARVEY: And at that time do you
17 plan on permitting that project for much more than
18 877 hours?

19 MR. SALYER: We are looking at that
20 right now. We are going to have to submit a new
21 ATC on the plant when we put on an SCR, and that
22 decision is still being evaluated.

23 MR. SARVEY: Would you suspect that if
24 you were going to ask for a permit for 8760 hours
25 for that project?

1 MR. SALYER: I don't know the answer to
2 that at this point.

3 MS. WARREN: And at this point if
4 there's much further getting into the details on
5 our McClure plant I would question the relevancy
6 of too many more details examining the operation
7 of McClure when we're here for the proposed new
8 plant.

9 HEARING OFFICER VALKOSKY: Understood.
10 How much more you got, Mr. Sarvey?

11 MR. SARVEY: Probably just one more
12 question on the McClure plant, and then a few more
13 general questions.

14 HEARING OFFICER VALKOSKY: Okay, one
15 more question on McClure.

16 MR. SARVEY: Has MID begun the upgraded
17 McClure peaker plant to meet the more stringent
18 air standards?

19 MR. SALYER: We've started the process
20 of selecting an Owners Engineer to be able to put
21 together this spec to make that modification. And
22 we have not awarded contract to Owners Engineer
23 yet.

24 MR. SARVEY: And just one more question,
25 and I think you've probably answered this already.

1 I think you stated earlier that the average heat
2 rate for the McClure peaker plant is 13,000,
3 correct?

4 MR. SALYER: Fair enough, at full load,
5 yes.

6 MR. SARVEY: That's it for McClure.
7 Okay. In the AFC on page 2-3, the MEGS net heat
8 rate is estimated at 9911. Is that an accurate
9 figure?

10 UNIDENTIFIED SPEAKER: (inaudible).

11 MR. SARVEY: If an MID residential
12 customer in your service area thinks that your
13 rates are too high, or that you've made a bad
14 investment, can that ratepayer switch to PG&E? Or
15 is he stuck with MID as a provider?

16 MR. KREAMER: MID has an open access
17 policy, I believe at this time we're still in
18 effect. Let me verify. They're free to move
19 about the country, I guess, and find another
20 provider if they would like.

21 MR. SARVEY: You mean somebody in
22 Mountain House could actually have PG&E?

23 MR. KREAMER: We have an open access
24 policy. They can find a third-party provider,
25 yes.

1 MR. SARVEY: That's interesting.

2 MR. KREAMER: Yeah, if the law allows,
3 that's correct.

4 MR. SALYER: Our rates are still
5 considerably less than PG&E's.

6 MR. SARVEY: Yes, they are. I have one
7 more question. Gary, if the MEGS project is
8 limited to 5000 hours will it still have to supply
9 the ERCs in the same quantity to do the quarterly
10 requirements of the pollution control district?

11 MR. RUBENSTEIN: I believe we would have
12 to reassess that depending on exactly how the
13 condition was worded.

14 MR. SARVEY: So essentially you wouldn't
15 -- I think you testified before that since you
16 were going to run a full quarter you couldn't
17 predict exactly when this project was going to run
18 a full quarter, that you actually went and got
19 emission reductions for the entire year, was that
20 correct?

21 MR. RUBENSTEIN: If the condition was
22 worded the way it is in the proposed decision, and
23 it was 5000 hours per unit per year, that was an
24 operating limitation, then the odds are pretty
25 good that we would not be able to change our

1 emissions offset package, because we wouldn't know
2 which quarter the units might be operating in.

3 MR. SARVEY: Thank you, Gary. That's
4 all I have, thank you.

5 HEARING OFFICER VALKOSKY: Redirect, Ms.
6 Warren?

7 MS. WARREN: Yes.

8 REDIRECT EXAMINATION

9 BY MS. WARREN:

10 Q Mr. Kreamer, you indicated that you had
11 some additional information regarding the board
12 report Mr. Sarvey quoted earlier in his
13 examination of you?

14 MR. KREAMER: Yes. Let me find that,
15 just a moment.

16 In the board report where we referenced
17 the delay out of a combined cycle unit for a more
18 efficient baseload MID's reference is to own
19 generation and to buy, purchase power resources.

20 MID chose, in this case, to own the
21 Woodland 2 combined cycle; to buy baseload for ten
22 years; and to build a simple cycle project. The
23 deferring of this, as you had indicated, was not
24 just strictly the economic issue. The con is how
25 much can you own. It's not a matter of strictly

1 efficiency, it becomes a matter of how much of
2 each of those types of things in your resource
3 portfolio makes sense to have.

4 So, in this case, the delay of something
5 that is perhaps more economical to operate, but
6 necessarily doesn't fit into the resource plan is
7 not necessarily the issue. I think it was maybe
8 taken a little out of context.

9 MS. WARREN: Nothing further.

10 HEARING OFFICER VALKOSKY: Recross, Mr.
11 Westerfield.

12 MR. WESTERFIELD: No questions.

13 HEARING OFFICER VALKOSKY: Mr. Sarvey.

14 MR. SARVEY: No. Thank you, Mr.
15 Kreamer.

16 HEARING OFFICER VALKOSKY: Ms. Warren,
17 anything else on redirect?

18 MS. WARREN: No, but I don't know if you
19 want to do it now or at the conclusion, we would,
20 of course, like to submit our testimony as an
21 exhibit into evidence.

22 HEARING OFFICER VALKOSKY: Yeah, let's
23 do the exhibits now.

24 MS. WARREN: I think, based on what you
25 passed out as a new exhibit numbers, the

1 applicant's supplemental energy resources
2 testimony dated December 31, 2003, would be
3 exhibit 38.

4 There was an additional declaration of
5 Steven Brock that was submitted on January 2nd, as
6 exhibit 39. And we would move those into
7 evidence.

8 HEARING OFFICER VALKOSKY: Objection,
9 Mr. Westerfield?

10 MR. WESTERFIELD: Just a moment, please,
11 if I may.

12 We have no objection to exhibit 38, but
13 I'd like to defer for a moment on 39 because I'm
14 just not familiar with it.

15 HEARING OFFICER VALKOSKY: 39 is the
16 declaration, is that correct, Ms. Warren?

17 MS. WARREN: Yes, it's simply the
18 witness declaration that would look similar to all
19 of our other witness declarations attached to the
20 end. It's just that he was out of town on the
21 31st, and so there was a delay in getting his
22 signature on that declaration.

23 HEARING OFFICER VALKOSKY: That was, in
24 fact, submitted on January 2nd.

25 MS. WARREN: January, yes.

1 MR. WESTERFIELD: Okay, no, we have no
2 objection.

3 HEARING OFFICER VALKOSKY: Okay, thank
4 you. Mr. Sarvey?

5 MR. SARVEY: No objection.

6 HEARING OFFICER VALKOSKY: Thank you.
7 Exhibits 38 and 39 are admitted.

8 MS. WARREN: Thank you.

9 HEARING OFFICER VALKOSKY: Ms. Warren,
10 do you have anything else for your direct
11 presentation?

12 MS. WARREN: Nothing further on the
13 direct, although we would reserve the ability to
14 present to you the language, if we get some
15 developed, before the end of staff's presentation.

16 HEARING OFFICER VALKOSKY: Understood.
17 Again, I will try to proceed with this. We may,
18 after recess at some point. I'm sorry --

19 MR. GARCIA: Yeah, thank you, Mr.
20 Valkosky. I do have some questions. And I kind
21 of wanted to go back to some of the questions I
22 asked at a previous hearing. But before I do that
23 I wanted to commend Mr. Rubenstein on his proposed
24 solution to this. I don't know that that is the
25 perfect answer, but I think it's headed in the

1 right direction.

2 Part of the Committee's concern has to
3 do with the issue of natural gas availability.

4 And I think one of the things that we were
5 reacting to, the implication that there's plenty
6 of natural gas available. And as Commissioner
7 Boyd has mentioned, we do have concerns in that
8 area. And in fact, we have just put out -- the
9 Commission has put out a report that makes an
10 assessment regarding the natural gas supplies.

11 But one of the things I was getting at
12 at the last hearing was trying to assess what are
13 the boundaries of the modes of operation vis-a-vis
14 the configuration of the units. And I did some of
15 the mathematical quick-and-dirty calculations, and
16 it looks to me that, and I'm glad that Mr. Kreamer
17 explained that the units, when they would be
18 generating part of the time they would not be at
19 full load, but suffer with me if you will.

20 Assuming that they are running at full
21 load for 5000 hours I compared the projected fuel
22 usage in simple mode versus combined cycle mode.
23 And I got actually quite a difference. If you're
24 looking at just in terms of the heat rate, you're
25 looking at the difference between 38 percent and

1 as much as 60 percent for combined cycle with the
2 HRSG arrangement.

3 And that's not insignificant. That's a
4 lot of gas. And the amount is even more amplified
5 if you're considering full load operation. We did
6 ask the parties to address this issue previously.
7 And I guess it bothers me that we haven't really
8 seen any quantification of what the boundaries
9 are.

10 The other thing is that along with this
11 cost/benefit information, we don't really have a
12 feel for what's the incremental cost of taking
13 this configuration and adding a HRSG to it. If
14 we're talking \$100, well, gosh, you know, that's
15 a, you know, a slam dunk. If we're talking \$100
16 million, well, you might come up with different
17 conclusions.

18 And I'd like to, you know, if you have a
19 feel for that, I'd like to get some feedback on
20 both those issues.

21 MR. KREAMER: I don't have. I guess, if
22 I may, I heard you say that you took a look at
23 some calculations for 5000 hours. And I'm
24 assuming both simple and combined --

25 MR. GARCIA: Right.

1 MR. KREAMER: -- full load operation.

2 MR. GARCIA: Right.

3 MR. KREAMER: And, again those are
4 distinctly different animals.

5 One of the processes, of course the
6 integrated resource plan that we do, takes a look
7 not only at that, but it really takes a look at
8 all of the objectives that we have to meet in
9 order to meet our internal load and our obligation
10 to meet our customers' load, and to do it very
11 effectively and efficiently.

12 And so I don't have a lot of input on
13 what I can provide you on a gas comparison at 5000
14 hours wide open. I think we've already agreed
15 that if you're going to operate at a wide open
16 load for an extended period of time, there's
17 probably, you know, it makes sense to have a
18 baseload type of resource.

19 But, again, keeping in mind that this is
20 over a 30-year virtual project life, so, you know,
21 it's not our intent, you know. I think we've
22 established our intent is not to do that because
23 our project objectives are not to do that at this
24 point.

25 MR. GARCIA: Okay, but let me interrupt

1 for a second.

2 MR. KREAMER: Sure.

3 MR. GARCIA: As I recall reading, I
4 think it was in your own testimony, your own board
5 instructed the project management to design the
6 system such that a HRSG could be added at some
7 future time.

8 So obviously they appear to have
9 contemplated having the need for a combined cycle
10 at some point in the future, didn't they?

11 MR. KREAMER: Yes, that's correct, at
12 some point in the future. What we did is we did
13 as I expressed earlier in our resource plan, we
14 took a look at combined cycle, simple cycle, a
15 number of different configurations as well on the
16 local generation side. And took a look at all of
17 the economics and all of the need, as we run
18 through this in not a Stochastic model, but a more
19 definitive model, where we run through several
20 iterations, but not that many, to determine the
21 type of product that we need. What type of
22 generation do we need and where will it fit.

23 And it didn't point to a combined cycle
24 project. Obviously combined cycle, if you're
25 going to run baseload, is a more effective and

1 efficient process. But that isn't the -- the
2 combined cycle would not have met our project
3 objectives or our objectives in the resource plan.

4 So there was discussion about this. And
5 one of the things they did ask is can it work or
6 does it meet it, and the answer is no, it really
7 doesn't. There were a whole number of reasons why
8 it didn't meet the objectives.

9 But they did want us to do a number of
10 things. They'd just been freshly through the 2000
11 experience where we had the issue with not being
12 able to operate -- restrictions, so they asked
13 that we try to permit it for open hours.

14 And the other issue that came into play
15 was they also wanted to make sure that we
16 configured the project such that if we need a
17 combined cycle project down the road, that's an
18 alternative, is to turn that one into it. It
19 wasn't a directive to go do that down the road,
20 because again our resource plan will tell us
21 whether we need that size of a project. You know,
22 if you turn that into combined cycle you get a few
23 more megawatts. But we may need more than that,
24 so that project may not be what we need.

25 So it could be another project; it could

1 be that; it could be buy more; it could be a
2 number of things in order to try to relieve that.
3 But it was an option that they wanted to maintain,
4 and yes, they did want us to consider it again,
5 given all the project objections, could it meet
6 it. And if so, you know, why weren't we following
7 that one. And it just didn't meet it.

8 MR. GARCIA: Let me change the subject
9 for a little bit or slightly. The ancillary
10 services that we were talking about earlier, there
11 is no absolute requirement that they be provided
12 inhouse by MID, is that correct?

13 MR. KREAMER: No, that's not --

14 MR. GARCIA: Okay, you --

15 MR. KREAMER: -- no inhouse.

16 MR. GARCIA: -- could you --

17 MR. KREAMER: We have an obligation to
18 provide all of our ancillary services.

19 MR. GARCIA: Yeah, you can go out into
20 the market and purchase VAR support, and --
21 support and VARs and/or alternatively provide
22 things like capacitors in your system.

23 MR. KREAMER: We have to provide, we
24 have an obligation under interconnection agreement
25 to provide spinning reserves, so much in reserves,

1 planning reserves, operating reserves, including
2 so much spinning and the rest.

3 MR. GARCIA: Right.

4 MR. KREAMER: We are not a participant
5 with the ISO, so we can't just go buy from the ISO
6 those types of products. And so our ability to
7 buy products like that from the outside as
8 essentially extremely limited to maybe just a
9 couple of entities that are maybe directly next-
10 door. So it doesn't -- no, we really don't have
11 that opportunity.

12 MR. GARCIA: Okay.

13 MR. KREAMER: So we pretty much have to
14 self provide at this point in time.

15 MR. GARCIA: Okay. Let me go back to
16 the fuel costs. If we assume something like \$6.50
17 per MMBTU would it surprise you that at 5000 hours
18 running full load a difference between the simple
19 cycle -- I'm sorry, yeah, the simple cycle and the
20 combined cycle is as much as \$13 million on an
21 annual basis?

22 MR. KREAMER: No, I don't think so.

23 MR. GARCIA: No, you don't think so?

24 Or, no, it wouldn't surprise you?

25 MR. KREAMER: Well, I haven't run a

1 calculation, myself, but if that's the number it
2 doesn't -- I don't find it very surprising.

3 MR. KREAMER: Okay, all right. And
4 again, my calculations for the 8760 indicate that
5 the difference is as much as \$23 million a year.

6 MR. KREAMER: Okay.

7 MR. GARCIA: Okay. And I guess the last
8 point that I wanted -- and I'm not sure if you're
9 the person to ask this question, but with regards
10 to these incremental costs of say -- let's just
11 say that you're operating at full load 8760 a
12 year. And you are incurring the extra \$23 million
13 in fuel costs.

14 If you were to use that generation for
15 the purposes of providing to the MID ratepayers,
16 the ratepayers would be the ones to bear the brunt
17 of that incremental cost, is that correct?

18 MR. KREAMER: That would be correct,
19 yes.

20 MR. GARCIA: However, if you were,
21 instead, generating for the purposes of selling it
22 to the market it would be a third-party's, other
23 utilities and municipal utilities that would be
24 paying for the incremental cost, is that right?

25 MR. KREAMER: Well, if we were making a

1 sale to a third-party entity, they would be paying
2 us to cover our costs and a little margin, yeah.
3 Which would be to the benefit of our ratepayers.
4 And I'm assuming when we do that they are
5 offsetting some kind of a resource that's more
6 expensive to operate.

7 MR. GARCIA: Okay, but society's not
8 insulated from those incremental costs. Society,
9 you know, as a whole we have to pay that extra \$23
10 million.

11 MS. WARREN: I'm going to just interrupt
12 at this moment and say that I think we've
13 addressed the issue of the costs and the passing
14 on of costs numerous times in previous comments
15 and don't know that Mr. Kreamer or any of the
16 other witnesses here would be the appropriate
17 ones. If it's questions regarding setting of our
18 rates and that type of thing it would be different
19 witnesses on a different issue, if those are your
20 questions.

21 MR. GARCIA: Okay, that's all I had.

22 HEARING OFFICER VALKOSKY: Thank you.
23 Anything else for this witness? Mr. Kreamer,
24 thank you, you're excused.

25 MR. KREAMER: Thank you.

1 HEARING OFFICER VALKOSKY: Mr.
2 Westerfield, your witness, please.

3 MR. WESTERFIELD: Mr. Valkosky, we've
4 been going for well over an hour and a half and I
5 would request that we have a short break before we
6 present our witness if that's all right.

7 HEARING OFFICER VALKOSKY: All right,
8 we'll take a ten-minute recess until five minutes
9 to four.

10 (Brief recess.)

11 HEARING OFFICER VALKOSKY: We'll go back
12 on the record, please. Mr. Westerfield, your
13 witness.

14 MR. WESTERFIELD: Thank you, Mr.
15 Valkosky. I'll call Steve Baker now.
16 Whereupon,

17 STEVE BAKER
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 MR. WESTERFIELD:

23 Q Mr. Baker, did you prepare and submit
24 written supplemental testimony on the topic area
25 of energy resources?

1 A Yes, I did.

2 Q And would you briefly describe that
3 testimony including why you believe the project
4 would not inefficiently or wastefully consume
5 energy even when operating, at times, at baseload?

6 A In my prepared testimony I've tried to
7 describe the project's need for operating
8 flexibility. Now the Commission has not been
9 asked here to exempt a baseload around-the-clock
10 operating power plant. The Commission has been
11 asked to exempt a power plant that will provide
12 peaking, load following and ancillary services.

13 The outstanding criterion of such a
14 plant is that it be flexible; it be able to
15 operate at different loads, it be able to ramp up
16 and down quickly; come online, go offline as
17 needed. These criteria point to basically one and
18 only one kind of power plant commonly available
19 today, and that's what we call the simple cycle
20 gas turbine power plant.

21 In my knowledge there are no other
22 commonly available configurations of power plant
23 that can serve the objectives of this project.

24 I've talked about how it's impossible,
25 not just difficult but impossible to accurately

1 predict here today how this project will be called
2 on to operate throughout its 30-year life. Yes,
3 MID has to make projections in order to make
4 decisions and carry on with their life.

5 They have to guess, using as much
6 information as is available and using rather
7 sophisticated techniques. They have to guess how
8 much the project is going to be needed and at what
9 times and for how much power. But, at best, it's
10 only a guess.

11 There will be surprises throughout the
12 life of this project. There will be weather
13 swings when maybe the local area will need more
14 power because of weather conditions. Maybe
15 they'll have to produce more power to send to
16 other parts of the continent because of weather
17 conditions in those other locations.

18 There will be outages of other power
19 plants that have to be covered by this plant.
20 Some of those outages may take longer than was
21 planned. If you go into a maintenance turnaround
22 on a power plant and you come up with some nasty
23 surprises, a 30-day turnaround can become 60 or 90
24 days, and carry over into a season when you didn't
25 want to have that power plant out of commission.

1 There can be unexpected outages.
2 Sometimes power plants quit operating
3 unintentionally. Sometimes they can be fixed
4 quickly and sometimes they cannot. When those
5 power plants are not available other power plants
6 have to be there to carry the load.

7 So, with all these sorts of
8 uncertainties, plus nowadays we have to consider
9 the possibility of terrorist acts. Here's one
10 more possibility for surprise outages. Power
11 lines could be knocked down; power plants could be
12 put out of commission unexpectedly. So there is
13 certainly a need for power on an unexpected basis.

14 MID cannot, absolutely cannot predict
15 accurately for the next 30 years how much they're
16 going to need to run this power plant. I think
17 they've done a very responsible job of coming up
18 with a projection. And given the project
19 objectives, as stated in the application, that is
20 for peaking load following and ancillary service
21 duty I believe there is no other configuration
22 power plant that can serve those objectives, other
23 than a simple cycle plant.

24 Now, in analyzing the project my
25 question then is is there a significantly more

1 efficient way of serving these objectives. Is
2 there some power plant that they could propose
3 other than this one that would be significantly
4 more fuel efficient. And the answer is absolutely
5 not. The one they've proposed, an LM6000 Sprint
6 Gas Turbines is absolutely the most fuel efficient
7 configuration possible for this sort of a plant.

8 Therefore, I cannot conclude anything
9 other than that there will be no significant
10 energy resource adverse impacts from this project.

11 One other thing to emphasize. We've
12 talked about it here today, and we've talked about
13 it in a previous hearing. MID is, well, they have
14 responsibilities. They're not a merchant power
15 plant owner; they're not a private entity whose
16 only responsibility is to turn over a profit to
17 the board of directors.

18 They're a utility, a municipal utility,
19 and they have responsibilities not only in their
20 own service area, but basically to society as a
21 whole, to do their part to keep the lights on.
22 And that's not just as simple as, you know,
23 turning out baseload power. That involves
24 providing the ancillary services necessary to keep
25 the system in balance and stable.

1 They are committed to help provide these
2 services; to help provide the system stability.
3 They're required to do it. And if they were some
4 privately owned merchant plant they'd have the
5 option of just turning their back on the ISO and
6 saying, no, I'm not ready to generate today. Or,
7 here, I've got so many megawatts full load, take
8 it or leave it. They don't have that option.

9 They've got responsibilities that go way
10 beyond that; responsibilities that cannot be
11 fulfilled with a relatively inflexible combined
12 cycle power plant.

13 Q Thank you, Mr. Baker. I'd like to
14 direct you to your written supplemental testimony;
15 it's on page 3 of the staff's submission, the
16 first full paragraph that begins with the words,
17 "In order to be available".

18 And you make the statement there that
19 were the Commission to limit the number of hours
20 in any one year that the MEGS could operate it is
21 probable that in some of the subsequent years the
22 plant would run out of permitted operating hours
23 before satisfying MID's peaking power and
24 ancillary services needs for the year.

25 Could you elaborate on that and explain

1 for the Committee some of the considerations that
2 went into reaching that conclusion?

3 A My thinking here is basically what I
4 just alluded to in talking about the uncertainties
5 of operating a peaking load-following ancillary
6 services power plant.

7 No one knows today just how much that
8 plant is going to be needed next, you know, two
9 years from now, five years from now, 15 years from
10 now, 23 years from now. We can guess; we can
11 project. But nobody knows for sure.

12 If something terrible happens and say a
13 big storm knocks out the cooling system at Diablo
14 Canyon and it takes a year to repair it, that's
15 2000 megawatts gone from the central coast. A lot
16 of people are going to have to fire up a lot of
17 power plants to keep the lights on while we repair
18 2000 megawatts worth of nuclear capacity.

19 If terrorists should knock down several
20 large transmission lines, California could be
21 without a lot of import power for weeks or even
22 months. A substation, a terrorist act at a
23 substation knocking out transformers could take a
24 long time to fix. Transformers are not kept on
25 the shelf by any manufacturers. You order them a

1 long time in advance.

2 So a lot of our import power capability
3 could be out for weeks, months, or more. A lot of
4 power plants would have to come up and keep the
5 lights on in the interim while we were repairing
6 these things.

7 On the other hand we might go into a
8 period of very mild weather conditions. We may
9 find that the plant's not needed nearly as much as
10 it's currently predicted for. It may be several
11 years in a row.

12 People who talk about global warming
13 like to ignore normal weather cycles, but, you
14 know, the weather changes. And in 30 years time
15 we can only one thing for certain, the weather
16 will change.

17 MID can predict the load, but, you know,
18 they can only basically guess at it. We don't
19 know what sort of economic growth will occur in
20 the central valley in the next 30 years. On the
21 one hand there might be a great influx of people
22 in business to the central valley. On the other
23 hand, there might be a great pouring out of people
24 in kind of a reverse dust bowl effect. Nobody
25 knows for sure.

1 All we can do is try to provide the
2 flexibility to respond to these uncertainties.
3 Building a simple cycle power plant is the most
4 appropriate way I can imagine to provide
5 flexibility to answer uncertain needs.

6 I've further gone on in my testimony and
7 talked about how the project allows MID to adapt
8 to future changes. By building a power plant
9 that is configured such that it could be converted
10 to a combined cycle plant in the future, they
11 allow themselves an extra degree of freedom. As
12 things change in the future, as things change over
13 time, they may bring online other purchased power;
14 they may bring online other combined cycle plants;
15 they may bring online cogeneration or renewables,
16 depending on the legal atmosphere in the state at
17 the time.

18 They may want to keep this plant for 30
19 years as a peaker and load follower, and bring on
20 other sources. Or they may decide that it's best
21 to convert this to a baseload, a combined cycle,
22 and come up with some other source of peaking and
23 ancillary service power. Maybe someone will come
24 out with an even better peaking plant in the next
25 few years that will become available within the

1 30-year life span of this plant.

2 By proposing the project as they have,
3 MID has allowed themselves the absolute maximum
4 flexibility to adapt to the future.

5 Q All right, Mr. Baker, you also make a
6 statement in your testimony under the section
7 heading, adapting to future changes, where you say
8 it is possible that the plant might be called upon
9 to operate up to 8760 hours for one or more years,
10 or substantially less than expected in other
11 years. Even if such operating patterns emerge, no
12 alternative would fulfill the project's
13 objectives, can represent a more efficient use of
14 energy.

15 Can you elaborate on the considerations
16 which led you to that conclusion?

17 A In addition to what I've just described,
18 I can point out that a plant such as this, for
19 peaking, load following, ancillary services, is an
20 extremely high value asset. The flexibility
21 available from a plant like this is of immense
22 value in maintaining system stability.

23 You have to be willing to pay for that,
24 okay. The payment is in certain conditions when
25 it is running at full load, well, yes, at that

1 moment if we had a combined cycle available it
2 would be more efficient, it would burn less gas.

3 But then when the momentary need for
4 full load is over and you want to ramp the plant
5 down or shut it off for a few hours and then bring
6 it back up again, the combined cycle doesn't look
7 very attractive.

8 It's possible, again, we don't know, w
9 have no way of knowing, but it's possible that
10 they may need to run this plant full load for a
11 couple of years at a time until some unexpected
12 exigency is dealt with. For instance a Diablo
13 Canyon outage or a major substation outage, or
14 whatever.

15 They don't intend to run this plant 8760
16 hours a year for 30 years. If they did I would
17 not suggest to the Committee that it should be
18 exempted. Their intention is to run this plant as
19 a peaker, a load follower, an ancillary services
20 plant. And during certain periods of the 30-year
21 life of the plant it's very possible that it will
22 have to run full load for considerable amounts of
23 time.

24 Now, because of possible needs of that
25 nature, and because of air quality rules and

1 requirements that only Mr. Rubenstein here is
2 capable of understanding, let alone describing,
3 it's my understanding that this plant should not
4 be limited to any number of operating hours per
5 year. If it were, it would greatly -- it would
6 potentially greatly hamper its ability to serve
7 its purpose, which is to act as an ancillary
8 services load follower peaker.

9 Some years during the 30 the plant may
10 hardly operate at all. Some years they may need
11 to operate it continuously. Some of that, you
12 know, sometimes they may be running it at part
13 load, sometimes at full load. We don't know.
14 What we do know is that we need the flexibility of
15 a simple cycle peaker in order to meet these
16 exigencies.

17 Q All right, thank you. I think I'd like
18 to ask you a couple questions in response to some
19 of the comments that Mr. Sarvey made and has
20 submitted.

21 In your professional judgment would an
22 operational profile of baseload operation for an
23 expected one-quarter of the year affect your
24 professional judgment that the facility is or
25 should be considered to be a peaker?

1 A I think it's too easy to be simplistic
2 and to say this project is a peaker and that
3 project is a baseload. You have to look at what
4 the plant will be, may be called upon to do during
5 its lifetime. If the plant will be required for
6 load following, if it'll be required for spinning
7 reserve, for standby reserve, if it'll be required
8 for daily cycling, if it'll be required for VAR
9 support, if it'll be required for automatic
10 generation control, then you can't do that with a
11 combined cycle plant.

12 You have to have the simple cycle plant.
13 If you call it a peaker, fine. If you call it a
14 baseload, fine. You can call it George or Sally.
15 It doesn't matter what you call it. You need the
16 flexibility of the simple cycle plant in order to
17 serve the objectives of this project.

18 Q And also Mr. Sarvey, in his written
19 comments, made a statement, I think, on page 1 of
20 his comments that stated: As a peaker plant it
21 will not be available to fulfill its peaking
22 function in the critical summer months because the
23 project will operate at baseload when peaking
24 needs are highest."

25 Do you have a response to his comment in

1 that regard?

2 A I believe Mr. Kreamer took a shot at
3 responding to that a few minutes ago. I believe
4 the comment is based upon some earlier testimony
5 by an MID official who described the likelihood
6 that the plant would be called to operate around
7 the clock for three months of the year during the
8 canning season.

9 Well, perhaps it will in some years.
10 And perhaps it won't in other years. If it is
11 operated at full load, then MID will have to be
12 able to provide other load following and ancillary
13 services and peaking duty. Their McClure plant is
14 one of the options until it's 877 magic hours are
15 consumed. I would hope they would have other
16 sources.

17 They would certainly be motivated to
18 reserve the MEGS project as their system stability
19 and ancillary services plant because since it's so
20 modern and efficient it would be the least fuel
21 consumptive, the most fuel efficient way of
22 providing those services.

23 Even if it does have to run at or near
24 full load for considerable periods of time, they
25 still would have the option of either finding

1 other sources of baseload power, purchase power,
2 whatever, when needed so that they could restore
3 the MEGS to its ancillary services job. Or they
4 could perhaps shut down some interruptible load,
5 whatever is necessary.

6 The plant allows them the flexibility to
7 do what they need if it's built as a simple cycle.
8 If it's built as a combined cycle it no longer
9 allows them that flexibility.

10 Q All right, thank you very much.

11 MR. WESTERFIELD: I have no further
12 questions on direct.

13 HEARING OFFICER VALKOSKY: Thank you,
14 Mr. Westerfield. Before we go to cross, Mr.
15 Baker, just a couple of questions.

16 You mentioned a lot of uncertainties
17 existing and justifying the need for flexibility.
18 But these uncertainties would exist regardless of
19 what type of plant was proposed. I mean there are
20 just uncertainties inherent in life, isn't that
21 true?

22 MR. BAKER: Yes, but again let me
23 reiterate something I said a few moments ago. MID
24 is not the private party merchant power plant
25 owner that we're accustomed to dealing with in

1 these siting cases, that we've been dealing with
2 for the last 20, 25 years.

3 MID, as a utility, has responsibilities
4 that mean nothing to a merchant. Merchant owners
5 can decide whether or not to offer their power for
6 dispatch. And they have, you know, no
7 responsibility for keeping the lights on.

8 MID has a responsibility and part of
9 that responsibility is to provide system
10 stability. The kind of stability that can only be
11 maintained with an adequate number of megawatts of
12 the kind of power we're talking about with this
13 project.

14 HEARING OFFICER VALKOSKY: Okay. You
15 also indicated that flexibility was needed in the
16 event of a catastrophic event, such as a problem
17 with Diablo Canyon. If, in fact, there were
18 operating limitations imposed on MEGS and a
19 catastrophic event occurred, could not the
20 limitations be removed through our amendment
21 process? For at least the duration of the
22 catastrophe?

23 For example, you said you might need,
24 Diablo Canyon could be out for two years. If that
25 happens, and MEGS were limited to 5000 hours a

1 year, could they not come back and say, given the
2 energy situation we need to raise that limitation.

3 MR. BAKER: If it were necessary for the
4 Commission to impose that sort of limit on this
5 project in the first place, then perhaps it would
6 be possible, within the time situations involved,
7 to come back and get an amendment.

8 I'm sitting here speaking from the
9 ignorant viewpoint of not understanding why it's
10 necessary to put a limitation on the project.

11 HEARING OFFICER VALKOSKY: No, and I
12 understand that, but I'm just trying to clarify my
13 understanding of your position, whether that
14 limitation is an absolute limitation, or is a
15 flexible limitation which could be removed should
16 circumstances warrant.

17 MR. BAKER: I've dealt with numerous --

18 HEARING OFFICER VALKOSKY: Let's limit
19 it to that.

20 MR. BAKER: I've dealt with numerous
21 amendments to different projects since I've worked
22 here. And I personally believe there's a level of
23 uncertainty in not only the timeframe, but also
24 the outcome of an amendment process.

25 I have, you know, -- I'm talking just,

1 you know, generalities here. If this, if that.
2 They might have to operate so many hours. But
3 what if something came up and they were near the
4 end of their 5000 hours, and then all of a sudden
5 they find out that, hey, we've got to generate
6 another 3760 hours this year in order to keep the
7 state's lights on. And, you know, we have 36
8 hours in order to get that amendment.

9 I guarantee you the Energy Commission
10 has never turned around a major amendment in 36
11 hours.

12 HEARING OFFICER VALKOSKY: No, and I
13 think we should end this. The point was the
14 speculative nature of it. And I think that
15 point's not served by engaging in further
16 speculation.

17 On page 4 of your testimony, second
18 paragraph, second-to-last paragraph, you state
19 that the MEGS will not present a significant
20 adverse impact even if it is operated in baseload
21 mode for extensive periods of time.

22 Is there any bracket to what you mean by
23 extensive periods of time?

24 MR. BAKER: Several years at a time.
25 Again, you know, this project is intended to exist

1 for 30 years. And given normal maintenance
2 procedures, you can expect it to operate for at
3 least that long.

4 There may be times during its life when
5 it could be necessary for them to operate it at
6 full load for one, two, three, four years while
7 major problems are being solved both within and
8 outside of MID's district.

9 I don't know, I'm speculating. What I'm
10 saying is that this project offers such
11 flexibility and it does so at the greatest
12 possible fuel efficiency currently available, that
13 I don't believe it would be a significant impact.

14 If they were going to use the McClure
15 plant to run baseload for two or three years, that
16 would be a different story. Because that's a very
17 inefficient plant. But we're talking here about
18 the absolutely most efficient flexible plant
19 available.

20 Again, if MID wanted to build a baseload
21 plant, they would not have proposed a simple
22 cycle, they are smart enough to have proposed a
23 combined cycle. But they don't want a combined
24 cycle, they don't want a baseload plant. They
25 want and need a peaker. And that's what they've

1 asked for.

2 HEARING OFFICER VALKOSKY: Okay. Last
3 point. As noted in the proposed decision there is
4 testimony in the record, unrefuted testimony in
5 the record, indicating essentially that the impact
6 upon energy resources of operating the plant at
7 8760 hours had not been performed.

8 Is it now your testimony that that
9 analysis has been performed, and that operation at
10 that level will not result in significant adverse
11 impacts to energy resources?

12 MR. BAKER: Yes, sir. When I said that
13 that was at a hearing in Modesto a couple months
14 ago. And staff was blindsided. We were told that
15 energy resources was not on the agenda for that
16 hearing. I showed up to testify on noise. Mr.
17 Khoshmashrab, the initial author of the energy
18 resources section was there only as a training
19 session to observe me testify on noise.

20 We walked in the door and all of a
21 sudden we found out that energy resources was an
22 issue. No, we had not done that analysis at that
23 time. But since then, believe me, we've looked at
24 it.

25 HEARING OFFICER VALKOSKY: Okay. And as

1 I say, your conclusion now is that there would be
2 no adverse impacts?

3 MR. BAKER: That's correct.

4 HEARING OFFICER VALKOSKY: Okay, thank
5 you. Cross-examination, Ms. Warren?

6 MS. WARREN: I just have one question.

7 CROSS-EXAMINATION

8 BY MS. WARREN:

9 Q Based on the fact that now you've done
10 this examination, in your opinion would a
11 condition of exemption be necessary at this time
12 in order to insure that the MEGS plant operates in
13 a manner that is not wasteful or inefficient?

14 A I can't speak from a legal standpoint,
15 but from the technical and engineering standpoint,
16 don't believe any such limitation is necessary.

17 MS. WARREN: Thank you.

18 HEARING OFFICER VALKOSKY: Okay. Mr.
19 Sarvey, cross-examination?

20 MR. SARVEY: Yes.

21 CROSS-EXAMINATION

22 BY MR. SARVEY:

23 Q Mr. Baker, can you describe that
24 analysis that you did to conclude that the MEGS
25 will have no impact to energy resources if they

1 run say 8760 hours?

2 A Again, I believe your question is
3 continuing the confusion here. We're talking
4 about 8760 hours as though it's going to be for
5 the life of the project. No one here intends this
6 project to run 8760 hours for 30 years. And as
7 long as we keep allowing ourselves to believe that
8 in the back of our minds we're never going to come
9 to a sane answer.

10 If the project should operate for 8760
11 hours for one or two years in a row, three years
12 in a row, that would be an undesirable situation.
13 And I have absolutely no reason to think that if
14 that occurred MID would not be scrambling to try
15 to come up with some other way of satisfying their
16 needs than to operate a simple cycle plant year
17 and year on end at full load.

18 Q I believe that Mr. Valkosky had
19 previously asked you had you completed this
20 analysis, and all I was asking was what that
21 analysis consisted of. I wasn't really trying to
22 get into an argument. So I'll move on.

23 Do the applicant's objectives, in your
24 professional opinion, override an impact to energy
25 resources?

1 A That question doesn't make sense to me
2 because given their objectives I believe they have
3 picked the most efficient possible plant to serve
4 those objectives. Therefore there are no adverse
5 impacts on energy resources.

6 Q Previously you said that if the McClure
7 peaker plant was to run 13,000 hours you would
8 consider that a impact to energy resources.

9 A Excuse me, I don't recall using the
10 number 13,000 hours anywhere.

11 Q 13,000 was the heat rate. And basically
12 you had indicated that you would say that that was
13 an impact, or --

14 A I am sorry, Mr. Sarvey, I don't recall
15 the 13,000 heat rate being applied to McClure, and
16 I don't know exactly what you're talking about.
17 If you can make things clearer for me perhaps I
18 can find a question that I can answer.

19 Q I'd have to pull the transcript up to do
20 that for you, and I don't have that available. So
21 I'll just move on, thank you.

22 Mr. Kreamer testified that 8000 hours
23 for both units was acceptable to meet MID's needs.
24 Do you have any reason to question Mr. Kreamer's
25 judgment on that?

1 A No reason to question it. But from my
2 standpoint I don't see any need for a limitation,
3 whether it be 5000, 8000 or 8759.

4 Q So if the applicant were to propose to
5 license a peaker plant with a heat rate of 13,000
6 would you consider that an inefficient use of
7 energy resources?

8 A Excuse me, the nominal heat rate of the
9 LM6000 Sprint is about 8600 Btus per kilowatt--

10 Q I'm just asking you theoretically.

11 A What was the question again, please?

12 Q If the applicant were to propose a
13 peaker plant that had a heat rate of 13,000 would
14 you consider that an inefficient use of natural
15 gas and an impact to energy resources?

16 A I'm sorry, there's so much mirrors and
17 smoke in that question I really can't imagine how
18 I can answer it. You're coming up with a question
19 that I can't even get my arms around to come up
20 with an answer.

21 If you're talking about building another
22 McClure at this time, I think I would have a lot
23 more to say about it than I do about this.
24 McClure technology is not the equivalent of an
25 LM6000 Sprint.

1 Q Okay. And if the applicant were to
2 propose to you a single cycle project that had a
3 heat rate of 6700, would you then determine that
4 the MEGS project represented an inefficient use of
5 energy resources?

6 A If they proposed a simple cycle at 6700,
7 did you say?

8 Q The heat rate is 6700.

9 A Then I'd ask them where they're buying
10 that machine.

11 Q I don't think that quite answers my
12 question. I don't think I've gotten too many
13 answers yet so far, Mr. Baker, so I'll move on and
14 try something else here.

15 HEARING OFFICER VALKOSKY: Excuse me.
16 Mr. Baker, could you just give Mr. Sarvey a yes or
17 a no? It's a hypothetical question.

18 MR. BAKER: There's no such thing as a
19 simple cycle at 6700 Btus, Mr. Valkosky. That's
20 50 percent efficiency. Nobody offers that yet.
21 Maybe a generation from now it'll be available.
22 But right now there's no such machine.

23 HEARING OFFICER VALKOSKY: Mr. Sarvey,
24 does that suffice?

25 MR. SARVEY: No, but I'm going to move

1 on, Mr. Valkosky, --

2 HEARING OFFICER VALKOSKY: Okay.

3 MR. SARVEY: -- thank you. I appreciate
4 your effort.

5 BY MR. SARVEY:

6 Q Would you consider if the applicant
7 proposed this project as half combined cycle and
8 half single cycle, do you think that would be a
9 better project configuration for the applicant's
10 objectives here?

11 A I have no way of knowing that. They'd
12 have to propose it, and they'd have to tell us
13 what kind of service it was intended to serve.
14 And then I could look at it.

15 Given what they've told us about the
16 service they need from this plant, the objectives
17 they need to meet, it appears to me that the
18 proposed plant is the most efficient way of
19 achieving those ends.

20 Q So, Mr. Baker, you've supervised and
21 prepared energy resources testimony for the Energy
22 Commission for many years and probably most of the
23 projects, is that correct?

24 A For 16 years and one and a half months.

25 Q Okay. And you're familiar with the

1 expediated review provisions of Public Resources
2 Code section 2552(e)(5)(B) that requires single
3 cycle projects to be converted to combined cycle
4 within three years?

5 A Plants that went through an expedited
6 process during California's recent energy
7 emergency were required to go through a certain
8 process. This project is not proposed to go
9 through that process. In fact, that process is no
10 longer available.

11 Q Do you think that policy was implemented
12 to promote energy efficiency?

13 A I would guess that that was one of the
14 purposes of it.

15 Q In your testimony on page 3 you state
16 that CalISO operating procedures can require MID
17 to provide energy with as little as ten minutes
18 advance notice for stage I emergencies.

19 Now, looking to your submission from the
20 CalISO on page 3 of 11, and calling your attention
21 to bullet 1.11, no obligation to provide excess
22 energy. Could you read that first sentence there
23 for me, in that paragraph?

24 A Excuse me, I believe you're asking me to
25 take a sentence out of context, and without

1 putting it in the context of the entire document,
2 I would prefer not to do so.

3 HEARING OFFICER VALKOSKY: Mr. Sarvey,
4 do you want to pursue this point?

5 MR. SARVEY: I'm just going to move on,
6 Mr. Valkosky. I don't want to take up a lot of
7 valuable Committee time running after questions
8 that are not going to get answered.

9 MR. BAKER: Mr. Valkosky, if the
10 objective here is to backstop that ten-minute
11 number in my testimony, I'd refer you to page 5 of
12 11 of that same operating procedure, paragraph
13 2.3, the very last sentence in that paragraph
14 says: Energy requested from operating reserves
15 can be called upon without prior notice, and shall
16 be deliverable within ten minutes."

17 BY MR. SARVEY:

18 Q Have you had any opportunity to review
19 the National Petroleum Institute Natural Gas
20 Report that I listed as an exhibit?

21 A No.

22 Q Have you had an opportunity to review
23 the findings that I submitted as a page of my
24 exhibit of my prefiled testimony?

25 A I'm not sure because I don't know which

1 page you're referring to.

2 Okay, I've seen this.

3 Q Okay. Do you have any reason to
4 disagree with the findings of traditional North
5 American producing areas are experiencing
6 declining production?

7 A No.

8 Q Do you agree that traditional North
9 American producing areas will only be able to
10 supply 75 percent of future demand?

11 A I have no reason to disagree with that.

12 Q Okay. Do you agree that new large-scale
13 LNG terminals will need to be built to meet future
14 demand, but will be delivered at a higher cost and
15 face major barriers to construction?

16 A I have no reason to disagree with that.

17 Q Okay. Do you agree with the main
18 conclusion that greater energy efficiency and
19 conservation are vital in the short-term and long-
20 term mechanisms to reduce price levels?

21 A In the general, yes. But then let's put
22 this project in context. MID is proposing to
23 build a very high value, small, specialized
24 project to serve a very specific need. If you're
25 going to try to address the situation of North

1 America's impending natural gas crisis, which is
2 driven in some part I believe by our air quality
3 regulators trying to force us to the cleanest fuel
4 available, and shutting down coal-fired power
5 plants to burn natural gas in them, when America
6 has probably the world's largest coal reserves,
7 then I'm going to say that in the context of that,
8 trying to solve that problem by changing or
9 stopping MID's process to build the peaking plant
10 they need to keep their system stable is
11 absolutely worthless.

12 If you're going to address our headlong
13 rush into energy --

14 HEARING OFFICER VALKOSKY: Mr. Baker, if
15 I could just request that you confine your remarks
16 to the question. I'm sure you have many views on
17 many policy areas, and frankly they're irrelevant
18 at this point.

19 Mr. Sarvey.

20 BY MR. SARVEY:

21 Q Do you have any reason to disagree with
22 the applicant's net heat rate listed in the AFC as
23 9911?

24 A Based on the fact that that's probably
25 an average of different operating rates, --

1 Q Okay, thank you.

2 MR. SARVEY: That's all.

3 MR. BAKER: -- no.

4 HEARING OFFICER VALKOSKY: Thank you.

5 Any redirect, Mr. Westerfield?

6 MR. WESTERFIELD: Perhaps a little.

7 REDIRECT EXAMINATION

8 BY MR. WESTERFIELD:

9 Q Mr. Baker, are you an expert with years
10 of training and experience in natural gas supply
11 and demand balances throughout the United States?

12 A No.

13 MR. WESTERFIELD: Based on that
14 testimony I move to strike his testimony in
15 response to the questions of Mr. Sarvey on natural
16 gas supply and findings and so forth.

17 HEARING OFFICER VALKOSKY: Mr. Sarvey,
18 we've got a motion to strike. Do you have any
19 objection?

20 MR. SARVEY: He is wanting to strike my
21 questions related to my exhibit here?

22 HEARING OFFICER VALKOSKY: I believe --
23 that's the way I interpreted it, is that correct,
24 Mr. Westerfield?

25 MR. WESTERFIELD: Yes, --

1 MR. SARVEY: I would --

2 MR. WESTERFIELD: -- his responses --

3 MR. SARVEY: I would object. His sole
4 purpose here is to testify on energy resources.
5 He needs to have a clear understanding of the
6 current natural gas situation, which I provided in
7 this exhibit, in summary form. And I think that
8 if he's going to stand here as a witness and tell
9 us there's no impact to energy resources, he
10 clearly needs to be aware of the situation on a
11 national and international level --

12 HEARING OFFICER VALKOSKY: Mr.
13 Westerfield, am I correct in recollecting that
14 part of the witness' testimony addresses, and I'm
15 not sure if it's under efficiency or reliability,
16 the adequacy of the gas supply?

17 MR. BAKER: Mr. Valkosky, there's no
18 reliability section in an SPPE process.

19 HEARING OFFICER VALKOSKY: Okay, then
20 it's in efficiency. You certainly have testified
21 on reliability in other cases. And is it not true
22 that the adequacy of the gas supply is within the
23 ambit of that testimony?

24 MR. WESTERFIELD: Mr. Valkosky, the
25 point being that Mr. Baker has admitted that he

1 has no expertise on the issues or on the findings
2 that he was subjected to responding to or
3 commenting on --

4 HEARING OFFICER VALKOSKY: Right, and
5 the response was?

6 MR. WESTERFIELD: -- and based upon the
7 lack of expertise I don't believe that his
8 testimony should be accepted as expert testimony
9 into the record. It lacks foundation.

10 HEARING OFFICER VALKOSKY: Well, I'm
11 going to overrule your objection, Mr. Westerfield.
12 As I recall the response was essentially that he
13 had no reason to disagree with it. That's an
14 adequate response. What the Committee does with
15 it, if anything, will be subject to future
16 revelation.

17 Please proceed with your redirect.

18 MR. WESTERFIELD: No more questions.

19 HEARING OFFICER VALKOSKY: All right,
20 anything from applicant on this, Ms. Warren?

21 MS. WARREN: Nothing further.

22 HEARING OFFICER VALKOSKY: Mr. Sarvey?

23 MR. SARVEY: I'm done, thank you, Mr.
24 Valkosky.

25 HEARING OFFICER VALKOSKY: Mr.

1 Westerfield, do you have anything further on your
2 direct?

3 MR. WESTERFIELD: Well, we actually
4 would like to move the supplemental testimony into
5 the record.

6 HEARING OFFICER VALKOSKY: Before that,
7 is there anything further?

8 MR. WESTERFIELD: Oh, no.

9 HEARING OFFICER VALKOSKY: Okay. Now
10 you're moving what we've identified as exhibit 40,
11 is that correct?

12 MR. WESTERFIELD: Yes.

13 HEARING OFFICER VALKOSKY: Ms. Warren,
14 objection?

15 MS. WARREN: No objection. I'm sorry,
16 I'm assuming I'm saying there's no objection to
17 the acceptance of the --

18 HEARING OFFICER VALKOSKY: To the
19 admission of --

20 MS. WARREN: -- testimony --

21 HEARING OFFICER VALKOSKY: -- exhibit
22 40.

23 MS. WARREN: That is correct, no --

24 HEARING OFFICER VALKOSKY: Right.

25 MS. WARREN: -- no objection.

1 HEARING OFFICER VALKOSKY: Mr. Sarvey?

2 MR. SARVEY: No objection.

3 HEARING OFFICER VALKOSKY: Thank you.

4 We'll receive exhibit 40.

5 Mr. Sarvey, as I understand it, please
6 correct me if I'm misunderstanding it, but your
7 submittal was essentially a statement. The
8 parties have responded in various manner to that
9 statement. And what I'm assuming is that you do
10 not wish that entered as testimony because you
11 have already stated that you're not an expert
12 witness in this area. Is that a correct
13 understanding?

14 MR. SARVEY: I'm definitely not an
15 expert in predicting gas supply availability and
16 such. And yes, I would say that's very true.

17 HEARING OFFICER VALKOSKY: Okay, fine.
18 Are there any materials you wish to enter as
19 evidence?

20 MR. SARVEY: I would like to enter all
21 my exhibits. I think they're representative of
22 things that the Committee needs to weigh, needs to
23 look at. I don't think we've even touched energy
24 resources. All we've discussed is the applicant's
25 need for flexibility. I don't think energy

1 resources was ever touched on. I haven't heard
2 anything new here, so I would like to enter that,
3 if possible.

4 HEARING OFFICER VALKOSKY: Okay. Well,
5 let's do your six documents one by one.

6 I've identified as exhibit, we'll call
7 it at the present time, exhibit 41, the natural
8 gas supply and demand article to which you refer.
9 I unfortunately don't have a copy of that, could
10 not locate that on the website. And that is not
11 something that's included in your prefiled
12 materials, is that --

13 MR. SARVEY: That's number one you're
14 speaking of?

15 HEARING OFFICER VALKOSKY: Yeah. Yeah,
16 the Energy Pulse article.

17 MR. SARVEY: Yeah, I had some serious
18 problems in my submission of my --

19 MS. WARREN: After much effort --

20 MR. SARVEY: -- prehearing --

21 MS. WARREN: -- applicant actually was
22 able to access it, so we provided you a copy of
23 what we were able to access just today.

24 HEARING OFFICER VALKOSKY: Appreciate
25 that. Is there objection to receiving this?

1 MS. WARREN: We don't have an objection
2 to that particular exhibit.

3 HEARING OFFICER VALKOSKY: Fine. Mr.
4 Westerfield?

5 MR. WESTERFIELD: Actually staff does
6 have an objection to that exhibit.

7 HEARING OFFICER VALKOSKY: On what
8 basis?

9 MR. WESTERFIELD: We've never seen it.
10 We don't know what the basis for it is. We say it
11 lacks foundation. And I question whether actually
12 Mr. Sarvey actually intended to offer this as an
13 exhibit.

14 HEARING OFFICER VALKOSKY: Okay, well,
15 that poses an interesting question. Mr. Sarvey,
16 do you want these as formal exhibits or since your
17 materials have been docketed, does that suffice?
18 And by docketed they are part of the overall
19 record of this case.

20 MR. SARVEY: I think any weight that the
21 Committee would want to weigh on it. I'm totally
22 satisfied whatever the Committee's determination
23 is on this evidence. If they think it should be
24 entered in as part of the evidentiary record, I
25 agree. And if they think it's public comment, I

1 agree with that, too. The Committee's made very
2 good decisions here and I don't want to question
3 them.

4 PRESIDING MEMBER BOYD: Could I seek
5 some clarification? Mr. Sarvey, is your ultimate
6 objective here to get the article by Andrew
7 Wiseman into the record, or to get -- or is this
8 the only reference, what-have-you, to the National
9 Petroleum Council's report?

10 MR. SARVEY: The Natural Petroleum
11 Council's report actually the findings were
12 submitted as part of the body of that, and that's
13 actually what I want to submit as an exhibit. But
14 I think that all the information in there is
15 pertinent. And as I said before, I don't think we
16 even talked about this information. And I think
17 it's real important to the Committee's decision.

18 So I'd leave that to the Committee to
19 decide.

20 HEARING OFFICER VALKOSKY: Okay, well, I
21 think with that, barring any objection, I will
22 note that they are, in fact, now a portion. I
23 thank applicant for an actual copy of that
24 article. And I will insure that the article,
25 itself, is docketed.

1 And as that they constitute part of the
2 overall record of the case. If that suffices, I
3 think we can just move off this point.

4 MR. SARVEY: That's fine.

5 PRESIDING MEMBER BOYD: Mr. Valkosky,
6 let me just offer gratuitously here and go on the
7 record, because I'm on the record, but so that the
8 audience knows some members of the Committee
9 aren't totally uninformed, the National Petroleum
10 Council representatives came and briefed me on
11 this report. So I'm intimately familiar with it.

12 HEARING OFFICER VALKOSKY: Fine. All
13 right, is there anything other that you wish, any
14 other points that you wish to raise, Mr. Sarvey?
15 Or comments you wish to make?

16 MR. SARVEY: Only to comment on the
17 relevance of exhibit 3 and 4. And --

18 HEARING OFFICER VALKOSKY: Okay, yeah,
19 the comments of the California parties in the
20 answer declaration.

21 MR. SARVEY: Pardon me?

22 HEARING OFFICER VALKOSKY: I believe
23 those are the comments of the California --

24 MR. SARVEY: Right.

25 HEARING OFFICER VALKOSKY: -- parties in

1 the answer declaration, both of which were --

2 MR. SARVEY: Correct.

3 HEARING OFFICER VALKOSKY: -- prepared
4 in response to litigation, right?

5 MR. SARVEY: Right.

6 HEARING OFFICER VALKOSKY: Okay. You
7 said you had a comment to make on those?

8 MR. SARVEY: Well, I just felt that they
9 should be entered as exhibits because they're
10 relevant in that the applicant's asserting that
11 some of the need for the flexibility of this
12 project is to provide services in case of stage 1
13 emergencies and such. And I just wanted to --
14 just kind of following up on Mr. Boyd's comments
15 about Kenneth Lay earlier, and I just wanted to
16 make sure the Committee was aware of the
17 situation.

18 HEARING OFFICER VALKOSKY: I understand
19 that, and I say by just satisfying ourselves that
20 these are part of the administrative record, I
21 think that's the appropriate part for those,
22 especially since they are documents prepared in
23 litigation. They are docketed.

24 MR. SARVEY: Okay, thank you.

25 HEARING OFFICER VALKOSKY: They're part

1 of the record.

2 MS. WARREN: However, Mr. Valkosky, as I
3 mentioned earlier, I do have some concerns
4 particularly with those two exhibits. And if the
5 appropriate motion is to strike them from the
6 docket, I'm not quite sure procedurally what the
7 correct motion would be. But I'm not --

8 HEARING OFFICER VALKOSKY: No, Ms.
9 Warren, you could have a motion to strike them as
10 a formal exhibit. In our proceedings parties can
11 submit any information which they deem relevant to
12 the docket as part of the administrative record.

13 MS. WARREN: Then I'd like the
14 opportunity, of course, to respond to those since
15 we have not previously had that opportunity.

16 HEARING OFFICER VALKOSKY: You can
17 certainly do that. What I'm saying is that they,
18 you know, they cannot be stricken as part of the
19 docket. They're there.

20 MS. WARREN: Understood. Then I would
21 like to respond when you --

22 HEARING OFFICER VALKOSKY: That's fine.

23 MS. WARREN: -- feel it's appropriate.

24 HEARING OFFICER VALKOSKY: No, that's
25 fine. You'll have an opportunity for closing.

1 MS. WARREN: Thank you.

2 HEARING OFFICER VALKOSKY: Okay.

3 Anything else at the present point, Mr. Sarvey?

4 MR. SARVEY: No, thank you.

5 HEARING OFFICER VALKOSKY: Okay. Before
6 we move to the closing, the last issue I have is
7 one of recirculation. The reason I bring this up
8 is that under --

9 MR. WESTERFIELD: Mr. Valkosky.

10 HEARING OFFICER VALKOSKY: I'm sorry,
11 yes?

12 MR. WESTERFIELD: I don't think staff
13 was given an opportunity to respond.

14 HEARING OFFICER VALKOSKY: Do you need
15 to respond now, or as part of your closing?

16 MR. WESTERFIELD: Well, I was responding
17 to what I thought was a motion by Mr. Sarvey to
18 admit these documents into evidence.

19 HEARING OFFICER VALKOSKY: No. We --

20 MR. WESTERFIELD: Then I didn't
21 understand, I'm sorry.

22 HEARING OFFICER VALKOSKY: -- I thought
23 I was clear that we got by taking them as
24 exhibits. And they are docketed. They are, by
25 definition, part of the administrative record.

1 And since that you have, you do not have the
2 option to strike them from the administrative
3 record.

4 MR. WESTERFIELD: And I understand that.
5 But I understood Mr. Sarvey to say that he wished
6 to have them admitted into the record as part of
7 the evidence. And maybe I misunderstood him, I
8 don't know.

9 MR. SARVEY: Actually I accepted Mr.
10 Valkosky's determination.

11 MR. WESTERFIELD: Okay.

12 MR. SARVEY: I put it to him.

13 HEARING OFFICER VALKOSKY: That was my
14 understanding, too.

15 MR. WESTERFIELD: Okay.

16 MR. SARVEY: Yeah.

17 HEARING OFFICER VALKOSKY: Okay.

18 MS. WARREN: Just to clarify then, they
19 as docketed items are treated as public comment,
20 is that correct?

21 HEARING OFFICER VALKOSKY: The weight
22 accorded items contained in the administrative
23 record is essentially equivalent to that given to
24 comment. They can be used to expand or clarify
25 the evidence of record. They cannot be used as

1 the independent, the sole basis on which a finding
2 may be based.

3 MS. WARREN: Thank you.

4 HEARING OFFICER VALKOSKY: That's the
5 difference.

6 MS. WARREN: Thank you for that
7 clarification.

8 HEARING OFFICER VALKOSKY: Okay.
9 Recirculation. The reason this is relevant, that
10 under the CEQA guidelines 14 CCR, I believe it's
11 section 15073.5, there are certain circumstances
12 under which a proposed mitigated negative dec
13 needs recirculation through the clearinghouse and
14 certain circumstances under which it does not need
15 recirculation through the clearinghouse.

16 I would like at this time to get the
17 legal counsel opinion from both applicant and
18 staff as to the applicability of this provision,
19 and any effect it has on the decision should --
20 should the Committee decide that it has been
21 persuaded there is no impact on energy resources.

22 Ms. Warren.

23 MS. WARREN: I'm happy to weigh in on
24 this as far as I can. Historically I think we've
25 looked to Commission Staff Counsel to address

1 these types of issues first, but it's up to you.

2 HEARING OFFICER VALKOSKY: Okay. Mr.
3 Westerfield.

4 MR. WESTERFIELD: I'd be happy to
5 address the issue, thank you.

6 I think it is staff's position that
7 there is no need to recirculate the PMPD should
8 the proposed condition of the 5000 hours be
9 dropped. I'd refer the Committee to, I guess,
10 15073.5(c) and (c)(4) in particular, because I
11 think the added or supplemental testimony here
12 today fits the category of new information added
13 to the negative declaration which merely
14 clarifies, amplifies or makes insignificant
15 modifications to the negative declaration.

16 I think the testimony here today
17 clarifies that the proposed limitation by the
18 Committee is not needed in order to mitigate a
19 possible adverse significant impact to energy
20 resources.

21 HEARING OFFICER VALKOSKY: Okay. Thank
22 you. Anything to add?

23 MS. WARREN: The only thing that I would
24 add would be that the CEQA guidelines do clearly
25 state when recirculation is required. And I don't

1 believe, as Mr. Westerfield said, that this would
2 fall into one of those categories.

3 In addition, in closing, as we've
4 discussed, we will have a proposed condition of
5 exemption. And specifically the guidelines call
6 for no recirculation in the event that one
7 mitigation measure is replaced by an essential
8 equivalent.

9 HEARING OFFICER VALKOSKY: Okay.

10 MS. WARREN: So, I concur that no
11 recirculation will be necessary in either event.

12 HEARING OFFICER VALKOSKY: Thank you.
13 Mr. Sarvey, do you have anything to add to this?

14 MR. SARVEY: I think it's extremely
15 premature to talk in terms of that because at this
16 point we don't know exactly what this new
17 condition is going to consist of. Whether it be a
18 substantial change to the decision is still
19 unknown at this point. So I don't really have an
20 opinion at this time.

21 HEARING OFFICER VALKOSKY: Well, I think
22 we are going to find out very soon. Before we
23 move to conclusionary statements, closing
24 statements by the parties and the apparent new
25 condition, anything else for the parties?

1 PRESIDING MEMBER BOYD: No, I -- never
2 mind.

3 HEARING OFFICER VALKOSKY: Ms. Warren?

4 MS. WARREN: I assume that you're now to
5 address my issues with regard to the references to
6 the FERC proceedings?

7 HEARING OFFICER VALKOSKY: This, look at
8 it as your final bite at the apple, or at
9 whichever of the apples you want to bite today,
10 okay?

11 MS. WARREN: Okay.

12 HEARING OFFICER VALKOSKY: Yeah, any
13 comments you would like to bring before the --

14 MS. WARREN: Let me address --

15 HEARING OFFICER VALKOSKY: -- Committee
16 including any condition or changes that you might
17 have.

18 MS. WARREN: Well, let me start with the
19 FERC issues. I will defer to the witnesses, and
20 then conclude with the proposed language that we
21 have had the opportunity to prepare.

22 In his testimony, or not testimony, in
23 his comment in his document Mr. Sarvey refers to
24 FERC proceedings and MID's role in manipulation.
25 It attaches exhibits 3 and 4, exhibit 3 being the

1 comment of the Cal parties in opposition to
2 certification of and approval of MID's agreement
3 and stipulation and supporting documents. And the
4 declaration of Phillip Hanser on behalf of the Cal
5 parties that was attached to that opposition.

6 What Mr. Sarvey doesn't do is provide
7 any context or background for this matter.

8 I think, first of all, the issue has not
9 been previously raised in this proceeding, is not
10 relevant to this proceeding, and does not have any
11 relationship whatsoever to whether the MEGS
12 project's hours of operation would be wasteful and
13 inefficient. And that is the issue before us
14 today.

15 Furthermore, the issue raised by Mr.
16 Sarvey is currently being litigated before a
17 federal agency, the Federal Energy Regulatory
18 Commission. And the FERC Staff has, after a
19 thorough investigation of the matter, found no
20 wrongdoing by MID and has recommended settlement
21 with MID acknowledging that there was no
22 wrongdoing found in the issues raised in the
23 proceeding.

24 In fact, the documents that Mr. Sarvey
25 doesn't produce or offer are the application

1 submitted to the Commission to approve the
2 agreement and stipulation entered into between
3 FERC Staff and MID, and all the attachments
4 thereto. Which includes MID's testimony and
5 evidence showing that it did not engage in any
6 wrongdoing. That is not at issue here.

7 Nor has Mr. Sarvey produced the response
8 by both MID and FERC Staff to the documents that
9 he has produced. So, not only is the information
10 irrelevant to the issue before this Commission
11 with regard to the MEGS project, and irrelevant to
12 this energy resources matter, Mr. Sarvey has not
13 produced sufficient portions of that litigation to
14 even enable the staff to put what he has produced
15 in any context.

16 And, in fact, as we said, FERC Staff has
17 found no wrongdoing by MID. Therefore, again our
18 position, the applicant's position is that the
19 Committee should not consider these comments with
20 reference to FERC in any way whatsoever in this
21 proceeding.

22 Before I go on to our proposed language,
23 let me just check and see if there's any other
24 issues. No. Then although the applicant does
25 concur with staff's analysis that no mitigation

1 would be necessary, and that the project as
2 proposed does not have -- that there's no evidence
3 that the project as proposed would have any impact
4 on energy resources, the Committee has asked for
5 some sort of measure that would give it comfort.
6 And we have taken that opportunity to prepare some
7 language that we would hope the Committee could
8 take, and look at.

9 We do have some copies --

10 HEARING OFFICER VALKOSKY: Have the
11 parties been provided copies of this?

12 MS. WARREN: We are just in the process
13 of doing that right now. Hot off the presses.

14 (Pause.)

15 HEARING OFFICER VALKOSKY: Thank you.
16 All right, at this time the Committee would like
17 to take a very brief recess to provide the parties
18 an opportunity to read this. Is there any reason
19 we need more than five minutes, Mr. Westerfield?

20 MR. WESTERFIELD: No.

21 HEARING OFFICER VALKOSKY: Mr. Sarvey?

22 MR. SARVEY: No.

23 HEARING OFFICER VALKOSKY: Okay, I have
24 five to five. We'll go back on the record at
25 5:00.

1 (Brief recess.)

2 MS. WARREN: Again, we've submitted
3 language. We don't believe that any condition of
4 exemption is necessary and I think we've made that
5 clear.

6 However, again, we wanted to address the
7 issue that was raised at the beginning of today's
8 hearing in the event that after receiving the
9 testimony here today the Committee still feels
10 that something is necessary.

11 What we've presented essentially is what
12 we have said in prior submittals that we would be
13 doing anyway; and I think we've just put it in
14 concrete terms. If you'd like, I'm happy to read
15 it into the record, or we can just obviously make
16 sure that the reporter has a copy.

17 HEARING OFFICER VALKOSKY: No, I think
18 provide the reporter a copy, and again, I will
19 docket this so that it is a part of the record.

20 I take it that the 760,000 megawatt
21 hours per year is 95 megawatts times 8000, is that
22 correct?

23 MS. WARREN: That is correct.

24 HEARING OFFICER VALKOSKY: Okay. Any
25 questions for applicant on this proposal? Mr.

1 Westerfield?

2 MR. WESTERFIELD: No questions.

3 HEARING OFFICER VALKOSKY: Mr. Sarvey?

4 MR. SARVEY: No questions.

5 HEARING OFFICER VALKOSKY: Any

6 questions?

7 MR. GARCIA: No.

8 PRESIDING MEMBER BOYD: I have no
9 question. I would say that I appreciate the fact
10 that the applicant recognizes there are perhaps
11 reasons that may be slightly beyond the pale of
12 technical opinion for considering things like
13 this. I appreciate it.

14 HEARING OFFICER VALKOSKY: Thank you.
15 Does that conclude your presentation today, Ms.
16 Warren?

17 MS. WARREN: That concludes it, thank
18 you very much.

19 HEARING OFFICER VALKOSKY: All right.
20 Mr. Westerfield.

21 MR. WESTERFIELD: Well, Mr. Valkosky, I
22 think I'll just limit my remarks to the, I guess,
23 proposed condition of exemption.

24 I think it is staff's position that no
25 condition of exemption is necessary, including

1 this one, because it does not believe that the
2 project, as proposed, would have a significant
3 adverse impact on energy resources. So, in short,
4 we don't believe this condition is necessary.

5 However, were the applicant to formally
6 propose this condition, or the Committee to
7 propose it, my understanding is that we would have
8 no objection.

9 HEARING OFFICER VALKOSKY: Okay. Thank
10 you. Anything else you wish to bring before the
11 Committee's attention today?

12 MR. WESTERFIELD: No.

13 HEARING OFFICER VALKOSKY: Questions for
14 staff?

15 PRESIDING MEMBER BOYD: No questions.

16 HEARING OFFICER VALKOSKY: Mr. Sarvey.

17 MR. SARVEY: Yeah. First I wanted to
18 thank the Committee for allowing me to intervene
19 in this project over the objections of the
20 applicant. I hope I haven't disappointed the
21 Committee. I also want to thank Mr. Valkosky for
22 a very fair hearing.

23 The Committee made a good decision in
24 the original PMPD. And there has been nothing in
25 anybody's submittals today or their testimony

1 today that has provided anything new.

2 There's only been references to energy
3 resources in terms of this being the applicant's
4 only alternative. And basically all we've
5 analyzed is the applicant's objectives in relation
6 to energy resources; we have not analyzed the
7 impact to energy resources. So I feel we have
8 done an incomplete analysis here.

9 But the most important thing to remember
10 here is the precedent that we're setting, allowing
11 a plant with a heat rate that is 3000 Btus per
12 megawatt hour more than its combined cycle
13 counterpart to operate 8000 hours, or 8760 hours.
14 And now we have a precedent for all peakers plants
15 in the state to cite MEGS as precedent to license
16 their peaking plant for 8000 or 8760 hours just as
17 this applicant has cited the Henrietta project and
18 the Tracy peaker project as precedent for their
19 allowance to be allowed to operate 8000 hours.

20 So, I think we're setting a very
21 dangerous precedent with this. And I think
22 there's no analysis to energy resources what this
23 precedent actually means. So I think, as I said
24 before, I think the Committee made a good
25 decision. I sympathize with the applicant's

1 megawatt hour limitation. I think perhaps that's
2 a better approach. But I think 8000 hours is way
3 too many.

4 And I would think 3000 hours would be
5 appropriate for a peaker plant, considering the
6 amount of inefficient use of natural gas that
7 would occur from the operation of this project.

8 Thank you.

9 HEARING OFFICER VALKOSKY: One final
10 question before we turn to public comment. Ms.
11 Warren, without forcing me to do the math is there
12 any problem from applicant's perspective were the
13 760,000 megawatt hours per year changed to
14 whatever 95 megawatts times 5000 hours per year
15 would be?

16 MS. WARREN: Yes, I think that would be
17 a problem.

18 HEARING OFFICER VALKOSKY: Okay, is
19 there any intermediate figure between that number
20 and 760,000?

21 MS. WARREN: I'm getting a fairly clear
22 indication that in order to meet the objectives
23 that we've addressed in this plant, that this
24 really is the number we need to have.

25 If you don't mind I think Gary has a few

1 additional comments to address that question.

2 HEARING OFFICER VALKOSKY: Certainly.

3 Mr. Rubenstein.

4 MR. RUBENSTEIN: Mr. Valkosky, as you
5 recall from our testimony the modeling analyses
6 that MID did indicated that there's a high
7 probability that one time during the 20-year life
8 of the project that operating level of 8000 hours
9 would, in fact, be met.

10 And the purpose of this condition and
11 framing it the way we did is if it happened for
12 two consecutive years in a row that would clearly
13 indicate that the underpinnings of that modeling
14 analysis had changed, that circumstances had
15 changed, warranting revisiting the issue.

16 If the number were to be 5000 hours
17 times 95 megawatts you'd have to go back to the
18 modeling analysis to see what the predicted
19 frequency was based on their current integrated
20 resource plan. And that might be five consecutive
21 years, and that's a number that I'm just making
22 up, but it would be some greater number.

23 And what we're talking about, I think,
24 is trying to pin down the distribution and the
25 probability by focusing on the extreme case, which

1 I think is where the Committee's greatest concern
2 is.

3 HEARING OFFICER VALKOSKY: I really
4 don't want to belabor this, but you mentioned a
5 20-year operating life. I was under the
6 impression that this was a 30-year operating life.

7 MR. RUBENSTEIN: I mentioned 20 years
8 because there's a 5 percent probability that will
9 occur, and 5 percent out of 20 years means that
10 there's a hundred percent chance that it will
11 occur once in a 20-year period. So, the
12 probabilities will be one and a half times over
13 the life of the project.

14 HEARING OFFICER VALKOSKY: Okay. All
15 right, thank you. Any public comment? Ms. Kim,
16 anything to add?

17 MR. KIM: Yeah, one member of the public
18 who was here left and he didn't have any comments
19 to make.

20 HEARING OFFICER VALKOSKY: Okay, thank
21 you.

22 Well, with that, we'll close the record
23 on this topic. The Committee will take the
24 matters discussed today under submission. And
25 with that, thank you all for your attendance and

1 participation.

2 We're adjourned.

3 MS. WARREN: If I can -- before we
4 adjourn, --

5 HEARING OFFICER VALKOSKY: Oops, --

6 MS. WARREN: -- be so bold as to --

7 HEARING OFFICER VALKOSKY: -- we're not
8 adjourned.

9 MS. WARREN: -- be so bold as to just
10 ask for a prospective timeline, what we can expect
11 to see next?

12 HEARING OFFICER VALKOSKY: I wish I
13 could give you an absolute date, but not knowing
14 what the desires of the Committee are, I mean it
15 will be in fairly short order, --

16 MS. WARREN: Okay, great.

17 HEARING OFFICER VALKOSKY: -- you know,
18 so --

19 MR. SARVEY: Are we filing briefs on
20 this?

21 HEARING OFFICER VALKOSKY: I think --

22 MS. WARREN: From applicant's
23 perspective we don't see a need to.

24 HEARING OFFICER VALKOSKY: No, I see no
25 necessity. Would you like to file something else?

1 MR. SARVEY: I just wondered whether the
2 Committee would want to see the perspective from
3 the -- after I review the evidentiary record
4 and --

5 HEARING OFFICER VALKOSKY: I think what
6 will happen, and again, if you wish to file
7 something, Mr. Sarvey, you certainly have that
8 right. But I think from the Committee's
9 perspective what's going to happen now is one of
10 two things. Either a revised decision will be
11 issued, and that will be scheduled for a business
12 meeting within 21 days of its issuance.

13 And there will be a period, I doubt that
14 there'll be another conference, but there will be
15 a period by which parties have to submit comments
16 on that revised proposed decision.

17 Or, the Committee will elect to stick
18 with the existing decision, in which case
19 consideration on that existing decision will be
20 scheduled for a business meeting. And there,
21 again, will be opportunity for submitting written
22 comments on that. And, of course, discussion at
23 the business meeting.

24 Does that suffice to answer your
25 question.

1 MR. SARVEY: Yes, thank you.

2 HEARING OFFICER VALKOSKY: Okay. Any
3 other matters?

4 MR. WESTERFIELD: Staff just wanted to
5 clarify that the evidentiary record is closed?

6 HEARING OFFICER VALKOSKY: Yes, it is.

7 MR. WESTERFIELD: And we would like to
8 request an expedited transcript.

9 HEARING OFFICER VALKOSKY: Okay, I think
10 that's appropriate.

11 With that, any other matters at all?

12 MS. WARREN: Oh, I guess one point that
13 I neglected to make that Mr. Kreamer just reminded
14 me, the other document relating to the FERC matter
15 which we again are arguing is irrelevant, but if
16 it is going to be considered by the Committee we
17 would proffer fairly strongly that all the
18 documents in that proceeding would need to be
19 considered. And so, in that case, are prepared to
20 submit at least the basic documents if the
21 Committee would so like that docketed.

22 HEARING OFFICER VALKOSKY: Ms. Warren,
23 materials submitted by Mr. Sarvey to the docket
24 are in the docket and receive the weight of public
25 comment. Mr. Sarvey has an absolute right to

1 submit comments to the docket.

2 You have a similar right. If you would
3 like to submit supplementary materials to the
4 docket, go ahead and do so.

5 All the Committee is concerned is what's
6 part of the evidentiary record at this proceeding.
7 If you believe other documents are relevant to
8 round out the record, by all means submit them.
9 It's your choice.

10 MS. WARREN: We definitely don't think
11 they're relevant. I just wanted to offer, since I
12 had brought them up before, to offer them as being
13 available and that we would be happy to submit
14 them.

15 HEARING OFFICER VALKOSKY: Okay. That's
16 it? Last chance.

17 Okay, we're adjourned. Thank you.

18 (Whereupon, at 5:15 p.m., the hearing
19 was adjourned.)

20 --o0o--

21

22

23

24

25

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 10th day of January, 2004.

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345