

BEFORE THE  
CALIFORNIA ENERGY COMMISSION

In the Matter of ) Docket No. 15-PMAC-1  
 )  
Petroleum Market Advisory )  
Committee Meeting )

MEETING OF THE PETROLEUM MARKET ADVISORY COMMITTEE

ENERGY INSTITUTE AT HAAS  
2547 Channing Way  
University of California, Berkeley  
Berkeley, California

TUESDAY, FEBRUARY 10, 2015  
1:00 P.M.

Reported by:  
Kent Odell

**APPEARANCES**

**Commissioners Present** (\*Via WebEx and telephone)

Janea A. Scott, California Energy Commission

**CEC Staff Present**

Ivin Rhyne, Office Manager, Natural Gas, Procurement  
Analysis, Distributed Generation Integration,  
Transportation Fuels Data

Gordon Schremp, Energy Assessments Division

Ryan Eggers, Supervisor, Transportation Fuels Data Unit

Samantha Arens, Staff Counsel

Jim Sweeney, Committee Chair, Director,

Stanford University Precourt Energy Efficiency Center

Sam Wade, Chief, Transportation Fuels Branch,

California Air Resources Board

Severin Borenstein, Professor, Haas School of Business

Economic Analysis and Policy Group, University of

California, Berkeley

David J. Hackett, President, Stillwater Associates

Kathleen E. Foote, Senior Assistant Attorney General and

Antitrust Chief, California Attorney General's Office

Amy Meyers Jaffe, Executive Director of Energy and

Sustainability, University of California, Davis

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P R O C E E D I N G S

FEBRUARY 10, 2014 1:18 p.m.

CHAIR SWEENEY: Okay, hello. Welcome.

Technical difficulties called "parking spaces" delayed the beginning of the meeting, so I'd like to call this meeting to order. It appears we have a quorum here, so we're able to proceed. In fact, we've got everybody, right? Oh, we have everybody but Amy, which is a quorum.

Okay, the first order of business is the Minutes. You've all had a chance to review them by email, I hope everybody has. You have a copy in front of you in hard copies. Are there any corrections to the Minutes? Have you integrated all the corrections that all Committee members have already sent you?

MR. RHYNE: Yes, I have. I've integrated all the corrections I was given into the Minutes you have there in your hand.

CHAIR SWEENEY: Okay. Are there any further corrections? In that case, can we have a motion to accept the Minutes as written?

MS. FOOTE: So moved.

CHAIR SWEENEY: So moved.

UNIDENTIFIED SPEAKER: Second.

1                   CHAIR SWEENEY:  And second.  All in  
2 favor?

3                   (Ayes.)  Opposed?  Abstentions?  Okay, it  
4 is passed unanimously.

5                   CHAIR SWEENEY:  The second item is the  
6 Charter.  We should have -- we talked about this  
7 at the last meeting and in front of you, you have  
8 -- we just started a few moments ago.  Presumably  
9 everybody has had a chance to look at the  
10 Charter, but I'd like everybody to take a look  
11 now and see if this is acceptable.  We have the  
12 opportunity to discuss it.  If there's any  
13 objections to it, if they're minor objections, we  
14 can wordsmith here; if there's major objections  
15 or major wordsmithing, let's take that under  
16 advisement and we have the opportunity to delay  
17 approval until such time because we don't want to  
18 take a lot of time wordsmithing here during the  
19 meeting.

20                   So everybody takes a look now and those  
21 of you who have not read it carefully, at least  
22 look over it right this moment.

23                   MS. FOOTE:  I think there were a couple  
24 of comments on this last time, right?  Or were  
25 there?

1           MR. RHYME: So there were comments on  
2 this in the last meeting. There was a specific  
3 request to add language regarding the three-year  
4 term, which was added to this, and to clarify the  
5 fact that the communication restrictions of the  
6 Bagley-Keene, the Open Meetings Act, was added to  
7 the charter, both of which were done. Other than  
8 that, the charter remains unchanged.

9           CHAIR SWEENEY: Okay, if everybody had a  
10 chance to look it over, are there any suggested  
11 changes to the Charter as it's written? Hearing  
12 none, do we have a motion to accept the Charter  
13 as written here?

14           MR. HACKETT: So moved.

15           CHAIR SWEENEY: So moved.

16           MS. FOOTE: Second.

17           CHAIR SWEENEY: All in favor?

18           (Ayes.) Opposed? Abstentions? Okay,  
19 the Charter is adopted as written.

20           The third item, a briefing by the ARB  
21 staff on the Low Carbon Fuel Standard. Okay,  
22 that's you, Sam Wade?

23           MR. WADE: Yeah, that's correct. Hi, Sam  
24 Wade with the Air Resources Board. Thanks for  
25 the opportunity to present today on the Low

1 Carbon Fuel Standard. Can I have the first  
2 slide?

3 The Low Carbon Fuel Standard is one of  
4 the key programs that the Air Resources Board is  
5 using to meet the Assembly Bill 32 goals of  
6 achieving a timely level of greenhouse gas  
7 emission reductions by 2020.

8 This program was originally adopted in  
9 2009 and was amended in 2011. The program  
10 targets changes in the transportation fuel mix.  
11 Specifically, we hope to achieve a reduction in  
12 carbon intensity of the transportation fuel pool  
13 by at least 10 percent by 2020. Next slide.

14 The transportation sector is the major  
15 source of emissions in California, it's  
16 responsible for 40 percent of the greenhouse gas  
17 emissions, 80 percent of the NO<sub>x</sub> emissions, and  
18 95 percent of particulate matter in the state.  
19 The Low Carbon Fuel Standard works with other AB  
20 32 programs including the cap-in-trade program,  
21 our Advanced Clean Cars Program, and Smart Growth  
22 policies including SB 375 to drive emission  
23 reductions from this sector. Next slide.

24 California is not alone in this endeavor  
25 of promoting clean fuels. The Pacific Coast

1 Collaborative Jurisdictions, including British  
2 Columbia, Washington and Oregon, have all been  
3 working on policies similar to this. British  
4 Columbia has its program in place, Washington is  
5 moving forward under Executive authority  
6 currently, and Oregon is working on legislation  
7 currently to remove a sunset on their program  
8 which is currently only a reporting-type of  
9 program, but they will transition to a  
10 compliance-based program assuming that  
11 legislation passes.

12           There's recently been some studies out  
13 there showing that the volumes of fuel that are  
14 needed to achieve all of these clean fuel goals  
15 simultaneously across the West Coast will be  
16 available in the timeframe that's needed to meet  
17 the targets and jurisdictions. Next slide,  
18 please.

19           So let me get into how the Low Carbon  
20 Fuel Standard works. The program sets carbon  
21 intensity Standards for gasoline and diesel, and  
22 the fuels that replace them, so there's one  
23 Standard for gasoline and gasoline substitutes,  
24 and one Standard for diesel and diesel  
25 substitutes.

1           Carbon intensity is the measure of  
2 greenhouse gas emissions associated with  
3 producing and consuming the fuel on a full  
4 lifecycle basis, which is measured in grams of  
5 carbon dioxide equivalent per megajoule.

6           My next few slides briefly explain what  
7 full lifecycle analysis really is. Next one,  
8 please.

9           So on the fossil fuel side for CARBOB  
10 with the blend stock, you know, you could see  
11 from these little thought bubbles where the  
12 source of emissions are in the full lifecycle,  
13 roughly 12 grams per megajoule in the extraction  
14 step, 14 grams in the refining step, and 74 grams  
15 when the fuel is combusted in the vehicle, so for  
16 a total of 101 across the lifecycle. Next slide,  
17 please.

18           For a low carbon fuel such as biogas  
19 burned in a heavy-duty truck, the numbers look  
20 different. There's very little at the extraction  
21 step, but there's a significant flare credit  
22 assigned there because it's assumed otherwise  
23 that methane would leak into the atmosphere.  
24 There's processing and getting the fuel to the  
25 vehicle and then the vehicle step where we do

1 adjust for efficiency of natural gas engines  
2 versus diesel engines, so you end of with a value  
3 of about 20 for something like biogas CNG.

4 So conceptually this is just looking at  
5 the full lifecycle and weighing everything on  
6 sort of an apples to apples basis, and promoting  
7 the cleanest fuels. And if the Committee has any  
8 questions, feel free to interrupt me, I'm going  
9 to go through the next few slides --

10 PROFESSOR BORENSTEIN: Sam?

11 MR. WADE: Yes.

12 PROFESSOR BORENSTEIN: So you kind of ran  
13 by this point, that the ICCT finds the clean fuel  
14 goals and jurisdictions achievable. Would the  
15 oil industry agree with that statement?

16 MR. WADE: No, it's certainly a point of  
17 controversy. The Western States Petroleum  
18 Association and others feel that the goals are  
19 challenging, and some would say not achievable.

20 PROFESSOR BORENSTEIN: Who is the ICCT?

21 MR. WADE: They are an independent group  
22 that's looking at this because they're interested  
23 in clean fuels and clean transportation.

24 PROFESSOR BORENSTEIN: What does ICCT  
25 stand for?

1           MR. WADE: International Council for  
2 Clean Transportation.

3           COMMISSIONER SCOTT: Is that Allen Wade's  
4 group?

5           MR. WADE: That's right. And they've  
6 taken on just a look across --

7           PROFESSOR BORENSTEIN: I just -- that was  
8 my impression that there was a lot of  
9 disagreement.

          MR. WADE: There absolutely  
10 is still controversy about whether the targets  
11 are achievable, both in California and in these  
12 other jurisdictions. But ARB has done a lot of  
13 our work internally and we've seen similar work  
14 from other outside experts to indicate that it is  
15 possible. The primary folks who sponsor research  
16 that shows that it's challenging to achieve it  
17 would be the folks such as WSPA who, you know,  
18 are essentially seeing their demands slightly  
19 reduced as a result of this program, so...

20           PROFESSOR BORENSTEIN: Yeah, but the  
21 International Council for Clean Transportation --

22           MR. WADE: They have their own thoughts  
23 on where this should go.

24           MR. HACKETT: Pardon me. This is Dave  
25 Hackett, Stillwater Associates speaking. I would

1 ask a question of Commissioner Scott and I was  
2 wondering, I know that Energy Commission has  
3 Senior Analysts who pay attention to  
4 transportation energy demand. Are those analysts  
5 going to be looking at the data that the Air  
6 Board is producing?

7 COMMISSIONER SCOTT: That's a great  
8 question. I might turn to my Senior Analyst  
9 here. Is that on our plan to take a look at the  
10 data of the Air Resources Board? I think we work  
11 pretty closely with the Air Resources Board most  
12 of the time to make sure that our numbers are  
13 lined up and that we're in agreement on most  
14 things, so I would imagine that we're doing it  
15 here, too.

16 MR. SCHREMP: Thank you, Commissioner  
17 Scott. This is Gordon Schremp, Senior Fuels  
18 Specialist with the Energy Commission. Yes, we  
19 do look at the markets, we especially look at the  
20 markets of fuel availability. There are  
21 different types of fuels, as Sam has pointed out  
22 for compliance with this Regulation. We're very  
23 interested in low carbon intensity fuels that  
24 could be available nationally, as well as  
25 internationally. The Air Resources Board is

1 doing a really good job as of late in  
2 illustrating what volumes could be available in  
3 the U.S., internationally. We are looking at  
4 that same information, we intend to also look at  
5 additional sources of fuel availability because,  
6 yes, that's a critical issue on what could be  
7 available and certainly over what period of time.  
8 So we're very interested in that for fuel supply  
9 availability purposes. And we're in the midst of  
10 our Integrated Energy Policy Report process that  
11 will culminate with a policy document some time  
12 later this year, and that document will have a  
13 transportation element to it, transportation fuel  
14 element, and we always do look at Federal/State  
15 Regulations that could affect supply  
16 availability. So it's part of our sort of normal  
17 process, if you will.

18 MS. MEYERS JAFFE: Can I - it's Amy  
19 Meyers Jaffe from University of California Davis.  
20 I serve with Jim Sweeney's colleague, John Wyatt  
21 and a group of professors who look at and model  
22 fuels for the United States and many people from  
23 Duke and MIT, and we found the report submitted  
24 by WSPA on this shortage of fuels that will be  
25 available to be highly flawed. And it had a lot

1 of assumption in it that are assumptions that are  
2 incorrect as a matter of scientific fact and also  
3 resulting from other people's modeling of the  
4 same issues. So I would say that it's not  
5 correct to say that, having looked at it  
6 carefully with a panel of several other academic  
7 experts, it's not correct to say that WSPA's  
8 assessment that there's going to be a shortage is  
9 accurate. It had a lot of assumptions about  
10 refineries closing that aren't going to close, it  
11 had a lot of presumptions about what's going to  
12 happen in Biofuels shuffling from one location to  
13 another. It had a lot of assumptions about  
14 natural gas markets and biogas markets that were  
15 incorrect. It had a lot of assumptions about  
16 what the feedstock for refining in California was  
17 going to be, whether it was going to be domestic  
18 crude or international crude.

19           So I would just caution anybody listening  
20 or trying to make an assumption about, you know,  
21 I'm not saying that there's an easy clear path  
22 that the industry has pointed to and that they  
23 know they're going to use to comply to the  
24 Standard as it tightens over time, but I would  
25 say that the documents that the industry has

1 presented were also highly flawed.

2 CHAIR SWEENEY: I want to clarify what  
3 you said. You've clarified that the study from  
4 WSPA is flawed. Did your group also confirm that  
5 there would be sufficient fuel available to meet  
6 the Standard over some significant period of  
7 time, at some reasonable cost? Was that positive  
8 conclusion or just a conclusion that there was  
9 enough errors in WSPA's study that you couldn't  
10 take that as a given yourself?

11 MS. MEYERS JAFFE: I don't want to speak  
12 for that committee of scholars. I would say  
13 myself as a scholar, having looked at some of the  
14 research, there are quite a few pathways. I  
15 can't say, I mean, I'd have to sit down and  
16 remember exactly what each of those pathways  
17 were, but there has been scholarship that shows  
18 that at least so far the Standard is being  
19 complied with and there's reasonable market for  
20 pollution credits. And I think as you go out any  
21 number of years, there's an assumption of a  
22 certain number of years that it's going to be  
23 able to do that, and I don't want to speak to the  
24 longer term because I kind of don't remember what  
25 the panel found in the very long term. I know in

1 the short term, I think that it was found that  
2 there was going to be enough material available.

3 MR. WADE: So if I could, I can dive back  
4 into what's been happening in the short term if  
5 that's helpful, then speak a little bit as to  
6 what we as ARB think of the long term.

7 So to date Low Carbon Fuel use in  
8 California has been increasing with significant  
9 initial penetrations of Renewable Diesel, for  
10 example, coming to market.

11 The Low Carbon Fuel Standard's Credit  
12 Market System has been functioning relatively  
13 well with roughly 30 trades per month. And to  
14 date credits have exceeded deficits in all  
15 quarters, and a significant bank of credits has  
16 been built.

17 The mix of fuels that have been  
18 generating credits has also shifted over time  
19 from 2011 and 2014. We see much greater  
20 penetration of non-ethanol alternative fuels. As  
21 I mentioned, Renewable Diesel and Biodiesel are  
22 representing larger shares of the total pie of  
23 credit generation.

24 On the next slide --

25 PROFESSOR BORENSTEIN: Can I just -- so

1 it looks like, I mean, none of the non-blue goes  
2 in conventional vehicles, conventional autos.

3 MR. WADE: On the light-duty side?

4 PROFESSOR BORENSTEIN: Yeah, is that what  
5 --

6 MR. WADE: Yeah, you're just pointing out  
7 the connection of light-duty versus heavy-duty.

8 PROFESSOR BORENSTEIN: So it seems like -  
9 - is that the pathway that light-duty vehicles  
10 would just be using 10 percent Ethanol and all  
11 the other compliance is going to come through  
12 heavy-duty LNG and Diesel?

13 MR. WADE: Well, there's many potential  
14 possibilities in the future. To date, the carbon  
15 intensity of Ethanol has been declining, so that  
16 is still the primary alternative fuel in the  
17 light-duty space. In the 2020 timeframe, we have  
18 done a projection as part of our recent Initial  
19 Statement of Reasons for this rule and we see  
20 slightly greater contributions from electricity.  
21 But it's true that overall we see the heavy-duty  
22 side over-complying and those credits, you know,  
23 being transferred to the light-duty side to meet  
24 the Standard overall.

25 CHAIR SWEENEY: Now, a second point and

1 question here, we see only very tiny sugar-based  
2 Ethanol in 2014, somewhat lighter in 2011, is  
3 that mostly the input of Ethanol from Brazil or  
4 other countries?

5 MR. WADE: Yes, that's the primary source  
6 of that type of fuel.

7 CHAIR SWEENEY: So why has that  
8 disappeared mostly?

9 MR. WADE: That's an excellent question.  
10 You know, partially we've heard recently about  
11 Brazil upping its domestic consumption targets,  
12 there's also been supply issues associated with  
13 drought in the last few years, but our belief is  
14 that this type of fuel will be able to come to  
15 California in significant volumes in the 2020  
16 timeframe. And I'll leave it there for now.  
17 It's true that the trend has been sort of up for  
18 a little while and then back down recently.

19 CHAIR SWEENEY: Now, the final question  
20 that I have at least from this graph, we have a  
21 small but significant set of electricity and  
22 hydrogen, I'm assuming that's mostly all  
23 electricity, very little of it hydrogen.

24 MR. WADE: Currently, yes.

25 CHAIR SWEENEY: That's being collected by

1 the Utilities. Are the Utilities selling any of  
2 these credits? Or are they holding all of their  
3 credits -- almost all of it?

4 MR. WADE: Yeah, the Utilities were  
5 waiting for PUC authorization to transact the  
6 credits and that did create some delay, they now  
7 have that authorization and they can transact. I  
8 can't speak to exactly what those market systems  
9 have done --

10 CHAIR SWEENEY: But do you know if they  
11 have in fact, now that they have the authority,  
12 whether they have in fact transacted, or do you  
13 know if they mostly simply are holding them --

14 MR. WADE: Since there's only a few large  
15 utilities, I don't want to speculate or release  
16 confidential information here about how they've  
17 transacted in the marketplace, but you could  
18 check with the Utilities themselves.

19 MS. FOOTE: Could you explain just  
20 briefly how that works, the Utilities and  
21 precisely what it is that the PUC has  
22 jurisdiction over versus what CARB does?

23 MR. WADE: Yeah. So the CPUC has the  
24 authority to tell the Utilities what they can and  
25 cannot do with these credits and they first had

1 to give them authorization to sell the credits,  
2 and then they have a decision that will tell them  
3 how the money that's raised from the sale of the  
4 credits can be returned to their ratepayers. So  
5 ARB authorizes the program that creates these  
6 credits and says that the Utilities will be the  
7 folks who receive the credit in certain cases.  
8 So that's the interaction between the two  
9 regulatory agencies.

10 MS. FOOTE: Thank you.

11 PROFESSOR BORENSTEIN: Can you just  
12 remind us what the formula is for how carbon  
13 content (indiscernible)?

14 MR. WADE: Sure. I don't have that  
15 number on these slides. So conceptually it's the  
16 average mix emission factor of electricity in  
17 California adjusted for the energy efficiency of  
18 electric vehicles. So you get a CI number from  
19 looking at the lifecycle of producing electricity  
20 on average in California, and then you adjust it  
21 for the fact that electric vehicles are more  
22 efficient than conventional.

23 MR. HACKETT: On Renewable Natural Gas, I  
24 know that quite a lot of it is produced out of  
25 state. How does it get to California to be

1 consumed by Californians?

2 MR. WADE: So currently, unlike in say  
3 the Renewable Portfolio Standard and other  
4 California Programs, there's no explicit tracking  
5 of the deliverability of that fuel, so if you  
6 have a landfill and you put Renewable Natural Gas  
7 on the pipeline outside of California, and you  
8 show that that pipeline system connects to  
9 California, and you take credit for the same  
10 amount of volume that you put onto the pipeline,  
11 we allow that under the Low Carbon Fuel Standard.

12 MR. HACKETT: And so is that -- how  
13 different is that than the Ethanol issue where  
14 indeed the Brazilians are probably importing more  
15 Ethanol from the U.S. than they're exporting.  
16 And so it does give some thought to using the  
17 same kind of mechanism to essentially translate  
18 Brazilian Ethanol, but the benefit of Brazilian  
19 Ethanol translates to the benefit of Renewable  
20 Natural Gas.

21 MR. WADE: I see the analogy. We have  
22 not used that accounting framework to date. We  
23 could consider it moving forward.

24 PROFESSOR BORENSTEIN: So basically, I  
25 was going to actually ask this, the U.S. is

1 shipping corn ethanol to Brazil and Brazil is  
2 shipping sugar ethanol to the U.S.

3 MR. WADE: In some volumes, yes, that's  
4 true. The magnitude of that is the question.  
5 You'll hear from WSPA and BCG that that ethanol  
6 swap is going to be very large and is going to be  
7 problematic for the overall goals --

8 PROFESSOR BORENSTEIN: In some ways, it's  
9 not the problem of this committee, actually if --

10 MR. WADE: Yeah, if you folks are  
11 interested in exploring it more, we can come back  
12 to more recent data on what's been happening  
13 there. Yeah, as you can see right now, in 2014  
14 we did not import a significant amount of  
15 sugarcane.

16 Okay, so moving on, slide 10 is about the  
17 credit price history and the volumes of credits  
18 transacted. I just want to give you folks a  
19 sense of how that looks. We've seen credit  
20 prices as high as \$80.00 per metric ton in 2013,  
21 and then primarily we believe because of the  
22 lawsuit issues that I'll be getting into over the  
23 next few slides, prices have gone down  
24 dramatically, down to around \$26.00 per metric  
25 ton recently. But transaction volumes have

1 actually been increasing in the last few months.

2 PROFESSOR BORENSTEIN: I'm sorry, I  
3 didn't understand. The existence of the lawsuits  
4 drove it to 80's?

5 MR. WADE: No, I believe the lawsuits  
6 helped bring it down to \$26, so I'll touch on  
7 that in the next few slides.

8 Because of the uncertainty, so the result  
9 of the lawsuit -- I'll just short circuit and  
10 start here -- the result of the lawsuit was that  
11 the Standard remained fix at a one percent  
12 declining carbon intensity for 2013, 2014, and  
13 2015. And originally the Standard was supposed  
14 to decline in those years, so in '14 through '15.  
15 So as a result of that we believe that the market  
16 saw that as a bear signal and the prices came  
17 down.

18 PROFESSOR BORENSTEIN: Okay. And \$26.00  
19 a ton, it looks like translates to like \$0.6 a  
20 gallon?

21 MR. WADE: So it depends on which year  
22 you're talking about right --

23 PROFESSOR BORENSTEIN: In 2020.

24 MR. WADE: Yeah, in 2020, that's what I  
25 figured, yeah. Okay, so let me just quickly

1 touch on the legal challenges that are faced with  
2 this program and we believe have created sort of  
3 an uncertainty in this market. There was Federal  
4 challenges based on the Commerce Clause in the  
5 Constitution, and that was appealed all the way  
6 to the Supreme Court, the Supreme Court denied  
7 the Plaintiff's request for review and found  
8 essentially in favor of the ARB by not hearing  
9 that case. So that lawsuit was resolved  
10 primarily in favor of ARB.

11 With respect to the State Court issue,  
12 there was a finding of procedural issues  
13 associated with the California Environmental  
14 Quality Act and the Administrative Procedures  
15 Act, and so that Court did, as I said, fix the  
16 standard at one percent for 2014 and 2015, and  
17 required ARB to readopt the program which I'll  
18 get to on the next slide, but it allowed us to  
19 keep enforcing it at this one percent level. So  
20 that had the impacts, as I said, of diminishing  
21 the incentive for at least near term investment  
22 and also reducing, we believe, the credit price.  
23 Next slide.

24 So staff as a result of that lawsuit will  
25 be bringing the rule back to the Board for a

1 complete re-adoption. On February 19th, we'll  
2 have the first of two hearings on this issue.  
3 The first hearing will basically lay out the new  
4 proposal to the Board, explain the new and  
5 updated CEQA analysis that was done, and the  
6 second hearing which was tentatively July of this  
7 year will be the actual Board adoption of this  
8 new program. So although primarily the reason  
9 we're bringing the rule back to the Board is the  
10 Court challenge, we're also using the opportunity  
11 to clarify and enhance the Regulation in a few  
12 ways and adjust based on, you know, five years of  
13 running this program.

14 So on the next slide, I'll get into a  
15 little bit to what is moving around or being  
16 changed in this new proposal. The core concepts  
17 of the program remain the same, but we have a few  
18 areas we've adjusted. The first is we've updated  
19 all of our models that we use to calculate the  
20 carbon intensity of every fuel and as a result of  
21 the uncertainty created by the lawsuit, we  
22 thought it was appropriate to reduce the targets  
23 and actually make them slightly less stringent in  
24 the 2016 through 2020 timeframe. So I'll go into  
25 that more in a second. But we've also put

1 forward a cost containment mechanism to put an  
2 upper bound on the credit price of \$200.00 per  
3 credit, and we've been streamlining the protocol  
4 process, or the pathways process for this program  
5 to basically find easier ways to get CI values to  
6 each advanced fuel.

7 CHAIR SWEENEY: Before you go ahead, a  
8 clarification. A credit is one kind of carbon  
9 dioxide --

10 MR. WADE: Yeah.

11 CHAIR SWEENEY: So you envision that the  
12 maximum price will be \$200.00 per ton carbon  
13 dioxide and kept lower. Has there been  
14 consideration in the Air Resources Board about  
15 the provision in AB 32 that said that the  
16 portfolio of action must be cost-effective if you  
17 have a \$200.00 marginal price for something? And  
18 much lower price for others? Have you considered  
19 that?

20 MR. WADE: We have considered that and  
21 I'm familiar with some of the cost curve work  
22 that you did earlier in the AB 32 process. Yes,  
23 we certainly think that's important and meeting  
24 the cost-effectiveness requirement of AB 32 is  
25 something that ARB takes very seriously. But we

1 have the overall -- we sort of look at it as we  
2 have some transformational policies such as the  
3 Low Carbon Fuel Standard and the RPS, which may  
4 cost more and augment your ton basis in the near  
5 term, but may be necessary to incent the types of  
6 advanced technologies that we need to see achieve  
7 the longer term goals of the Governor and others.  
8 So we don't rank everything on a dollar per  
9 metric ton basis, and march up the cost curve as  
10 some folks have proposed, but we have certain  
11 targeted programs such as the Low Carbon Fuel  
12 Standard and RPS, and then we have the Cap-and-  
13 Trade Program that generally picks things up and  
14 we have energy efficiency programs, other stuff  
15 that gets some of the lower cost measures done.  
16 So I hope that answers your question.

17 CHAIR SWEENEY: Sounds like you say that  
18 the requirement that it be cost-effective is  
19 being superseded by other goals --

20 MR. WADE: No, let me restate that, then.  
21 I don't want to convey that at all. Let me say  
22 that some of these expensive reductions are  
23 needed in the long run and we are starting some  
24 of those now. So, you know, if you envision the  
25 upper end of your cost curve including some of

1 these low carbon fuels, and we've sort of said we  
2 will do some of those now so that more of them  
3 will come to market in the long run, and  
4 hopefully be available at a lower price.

5 PROFESSOR BORENSTEIN: So the \$200.00 per  
6 ton is the wrong denominator, that Sam is arguing  
7 that the ARB is arguing that in the long run you  
8 get a lot more than that one time, it transforms  
9 the market.

10 MR. WADE: Yeah, transformational  
11 effects.

12 PROFESSOR BORENSTEIN: And nobody has  
13 done that calculation.

14 MR. WADE: Sure, and let me just add  
15 that, you know, we'll get into this potentially,  
16 but applying a \$200.00 per ton carbon price in a  
17 Cap-and-Trade Program would have very different  
18 effects than applying a \$200.00 per ton carbon  
19 price in a Low Carbon Fuel Standard.

20 CHAIR SWEENEY: Yeah. As Professor  
21 Borenstein reminded us, this is not the mission  
22 of our committee --

23 PROFESSOR BORENSTEIN: Right.

24 CHAIR SWEENEY: -- and I think it's  
25 appropriate and I may even remind people of that,

1 but let us move on.

2 PROFESSOR BORENSTEIN: Can I ask about  
3 the -- so the \$200.00 per ton price cap  
4 translates into only about \$.26 a gallon in 2020.  
5 How do you think about it in earlier meetings,  
6 not today?

7 MR. WADE: Well, the credit price is  
8 currently at \$.26 --

9 PROFESSOR BORENSTEIN: No, if it were  
10 \$200.00 --

11 MR. WADE: Oh, because the reduction is  
12 less in those years and the impact on CARBOB or  
13 on the gasoline is proportionate to the total  
14 reduction you're asking for, it's less than that.

15 PROFESSOR BORENSTEIN: So even with the  
16 \$200.00 per ton today, I mean, it's much smaller  
17 --

18 MR. WADE: It's much less than that,  
19 that's right, and we have those data in our staff  
20 report, I mean, it has less than a cent  
21 currently, we believe.

22 CHAIR SWEENEY: This calculation seems to  
23 be beyond my comprehension.

24 PROFESSOR BORENSTEIN: You're paying for  
25 the reduction, not for the emission.

1           CHAIR SWEENEY: Right. We're saying that  
2 the marginal value of a reduced ton of carbon  
3 dioxide is \$200.00.

4           MS. MEYERS JAFFE: Right, so I think -  
5           (cross talk)

6           PROFESSOR BORESTEIN: Well, that was a  
7 price cap on what you have to pay.

8           MS. MEYERS JAFFE: Right, but the  
9 timeline issue was an important issue, like Joan  
10 Ogden has done this work on the timeline price  
11 for hydrogen if L.A. gets their private project  
12 off the ground, and I forget the number of years  
13 again, so I don't think we were talking about  
14 this because it doesn't affect the petroleum  
15 market this year, but, you know, the price of  
16 hydrogen is less than gasoline after five years,  
17 so I think that is very -- you have to look in  
18 each field and you would have to go and rebuild  
19 the supply curve and so forth, and since we're  
20 actually here to deal with petroleum prices for  
21 this year, I think we can ask ARB if this program  
22 is increasing petroleum prices for this year. I  
23 think if we want to talk about five years from  
24 now, we should get people like Joan and others  
25 who actually have worked on that topic and have

1 them come and talk about it.

2 CHAIR SWEENEY: Well, I think you have a  
3 point, that this price cap is not binding at this  
4 point, it's not relevant, and so it has not  
5 influenced this year's petroleum margin price.  
6 And so I agree that we can go on. The logic,  
7 though, is what I'm questioning because if we  
8 charge \$200.00 per ton of something, that is a  
9 marginal cost that we're assigning to carbon  
10 dioxide to get there. In fact, if a gallon of  
11 gasoline is reduced by 10 percent, and we only  
12 therefore apply this to a tenth of a gallon, it's  
13 \$200.00 per -- yeah, divided by -- it works that  
14 way, so let's move on even though the concept may  
15 be very much a high price for carbon.

16 MR. WADE: Sure. Well, we're happy to  
17 discuss that with you further.

18 MS. MEYERS JAFFE: And it's also a cap,  
19 no one is saying that you're going to reach the  
20 cap.

21 MR. WADE: Sure, that's right. And we  
22 believe that this is only going to occur in a  
23 case of an unexpected market event, we don't see  
24 this as part of the normal operations of the  
25 system, we don't anticipate getting to this level

1 and staying there, for example.

2 CHAIR SWEENEY: And is it true that  
3 you're still assessing how the cap will be  
4 implemented, whether the government will sell  
5 more credits at \$200.00, or whether they'll just  
6 force the market to occur at \$200.00 with no pre-  
7 sales?

8 MR. WADE: The proposal as currently  
9 drafted is that the market is essentially as I  
10 said, we're forcing a credit clearance market to  
11 occur.

12 CHAIR SWEENEY: Right, so you're keeping  
13 this by forcing some people to sell and make it  
14 available for others to buy, but not changing  
15 supply and demand balance, yeah. By the way, I  
16 think that editorial, I think that economics is  
17 really confused.

18 MR. WADE: I fully appreciate your  
19 perspective --

20 CHAIR SWEENEY: But it's petroleum  
21 markets now that we're evaluating, so I suggest  
22 that we go on, even though as Chairman I --

23 MR. WADE: Well, I will take that up. On  
24 the next slide, let me just talk about how the  
25 program curve has been proposed to be adjusted,

1 you know, in the 2016 year it's adjusted from a  
2 3.5 percent reduction target to 2.0, and so on.  
3 You know, I think essentially as I said that the  
4 main driver for this change from ARB's  
5 perspective is the fact that we have had such  
6 uncertainty in the system, you know, we are  
7 concerned about the total volumes being available  
8 to meet the original curve, so we've made an  
9 adjustment to make the program work more  
10 smoothly. And the next slide helps highlight  
11 what our projection of fuel availability or  
12 carbon intensity reduction is, so the first line  
13 I have up here is the initial compliance curve,  
14 pre-litigation. If you click once, that's the  
15 actual compliance curve that occurred as the  
16 result of the litigation. Next slide.

17           And here's the historic carbon intensity  
18 reduction that we've seen. Next, please. So we  
19 believe that that has led to a banking  
20 opportunity basically during that period of time.  
21 Next slide.

22           Here is the new proposed curve that has  
23 us still achieving a 10 percent target in 2020,  
24 but if you flip to the next slide, the way we're  
25 projecting fuels moving forward, you know, and

1 the CI reduction moving forward is a little  
2 different than that curve. And so, one more  
3 click, please, so that represents a period where  
4 we think that we'll be drawing down this bank  
5 that's been built up under the period of legal  
6 challenge, and will allow us plenty of time for  
7 investment in Low Carbon Fuels to accelerate even  
8 further, and for these fuels to come to market in  
9 California. One more click, please.

10 And the last thing I would mention here  
11 is that we've only looked out to 2020 in our  
12 target setting so far, but our analysis goes out  
13 further and, you know, obviously the governor  
14 recently released some big goals on petroleum  
15 reduction, so we do believe that in the long run  
16 if this program is supposed to help contribute  
17 toward those goals, it will require another  
18 adjustment to targets. Next slide.

19 MR. HACKETT: Hang on a second. So the  
20 fight over, you know, that part of the sinus  
21 right, the ARB right, the oil companies' right,  
22 if it all comes around, where does that little  
23 dotted line cross the green dash line?  
24 Essentially what's happened is a bank of credits  
25 have been built up, and there's a lot of them,

1 okay, and as soon as the Regulation is adopted,  
2 then that's likely to be drawn down because the  
3 industry won't find enough carbon intensity  
4 reduction fast enough, so they use credits  
5 instead of CI reduction. So the problem is,  
6 where do those two lines cross? Do they cross in  
7 this case in 2018, or earlier, or later? That's  
8 what kind of the bottom line --

9 MR. WADE: Yeah, that's correct. I mean,  
10 there's certainly differences of opinion about  
11 that both --

12 MR. HACKETT: That's the big difference  
13 out there, how do you get to this number? Can  
14 you make that?

15 PROFESSOR BORENSTEIN: But without this  
16 adjustment, these lines pretty clearly would have  
17 crossed in 2015?

18 MR. WADE: Well, I think that the green  
19 line would have shifted, right? I mean, if you  
20 had more certainty around the program in the long  
21 run, hopefully you would have had more investment  
22 and more fuels coming to market.

23 MR. HACKETT: Certainly there were many  
24 that thought 2015 would have been the crossover,  
25 yeah.

1           MR. WADE: Okay. Next slide, please. So  
2 just a little more about how the cost containment  
3 provision works. It basically allows folks to,  
4 if they have deficits at the end of a period, and  
5 they say, "I wish to participate in this cost  
6 containment market," the folks on the credit  
7 generation side come forward and say, "I have  
8 credits to sell." The two folks are then brought  
9 together by ARB, and then ARB releases a list of  
10 those that have credits to sell, and they  
11 instruct the debits folks to go out and acquire  
12 those credits. If they buy their pro rata share  
13 of the total number that are available and the  
14 pro rata share is determined by their number of  
15 deficits relative to the total amount that are  
16 out there, then they are allowed to carry any  
17 further deficits after buying that pro rata share  
18 forward. So is this making sense to folks? Do  
19 you want me to --?

20           PROFESSOR BORENSTEIN: A certain amount  
21 of sense, but I think I understand, whether it  
22 makes sense --

23           MR. WADE: Understood.

24           PROFESSOR BORENSTEIN: -- so the idea is  
25 that there will be some set of people who will

1 say, "Yes, we have credits to sell or 200 --

2 MR. WADE: Yeah, and they weren't  
3 previously transacted with folks who had  
4 deficits.

5 PROFESSOR BORENSTEIN: And the people on  
6 the short side of the market, then, would buy  
7 their pro rata share of the amount that has been  
8 brought to market.

9 MR. WADE: Yeah.

10 PROFESSOR BORENSTEIN: And then they  
11 would be given a delay.

12 MR. WADE: Yeah, that's right. They're  
13 allowed to carry anything left after that forward  
14 and pay a five percent annual interest rate on  
15 that in terms of the amount they owe of deficits.

16 PROFESSOR BORENSTEIN: Well, if you got  
17 up to \$200.00, presumably everybody would want it  
18 to sell at the \$200.00 it already has, or \$199.

19 MS. MEYERS JAFFE: Well, what you're  
20 doing is, if there are shorts that aren't  
21 covered, you're telling the players who are  
22 holding the assets that they have to cover them  
23 for \$200.00.

24 PROFESSOR BORENSTEIN: Well, but it  
25 doesn't sound like the sellers have to sell.

1           MR. WADE: The sellers are not forced to  
2 sell, but we believe that if they thought it was  
3 attractive to sell, or if they didn't think it  
4 was attractive to sell at \$199.00, they'd feel it  
5 was attractive to sell at \$200.00, right?

6           MS. MEYERS JAFFE: Well, how are we going  
7 to -- it's only going to work if you can force  
8 the guys who have credits to sell to the people  
9 who are short, otherwise you're the squeeze.

10          MR. WADE: Yeah, but what's the advantage  
11 to someone to squeeze 'cause we're not going to  
12 let folks transact beyond \$200.00 a ton, right?

13          PROFESSOR BORENSTEIN: No, and that's  
14 right if somebody is actually manipulating the  
15 market, but if the market is truly short and  
16 there's a --

17          MR. WADE: Yeah, that's right. This  
18 provision is not designed to address the long  
19 term shortage, it's designed to address either  
20 market inflation or a short term shortage. In  
21 the long term, you adjust the target curve to fix  
22 a long term fundamental imbalance.

23          MS. MEYERS JAFFE: So the risk to the  
24 participant of hoarding their long position would  
25 be that the government is going to step in and

1 either issue more credits or relax the standard.

2 MR. WADE: That's right.

3 MS. MEYERS JAFFE: And that will be their  
4 incentive to sell.

5 PROFESSOR BORENSTEIN: Although they're  
6 claiming that they're not going to do it during  
7 that --

8 MR. WADE: No, I think we do plan, if  
9 there is a long term fundamental imbalance, we  
10 would adjust the targets.

11 PROFESSOR BORENSTEIN: Okay, okay.

12 MS. MEYERS JAFFE: It's like selling at  
13 the top of a bubble, right?

14 PROFESSOR BORENSTEIN: Well, not really,  
15 it's like the bubble getting relieved because God  
16 suddenly created --

17 (Cross talk)

18 MS. MEYERS JAFFE: -- we let you out of  
19 your rents, we changed the title.

20 MR. WADE: This is providing some  
21 certainty that ARB does not believe transactions  
22 should occur above \$200.00 a ton. So anyway,  
23 next slide, please.

24 We've already touched on this, but we  
25 just wanted to emphasize, you know, how the LCSF

1 credit value impacts both the low carbon fuel  
2 production costs and the fuel product costs. You  
3 know, in this year, 2020, the production target  
4 is 10 percent. The impact for a low carbon fuel  
5 producer is dramatic on a cents per gallon basis  
6 if the credit price is \$100.00 a ton, you know,  
7 for the average biodiesel you're up above \$1.15,  
8 \$1.16 per gallon, whereas the impact on carbon  
9 diesel in that same year for the same reduction  
10 is, I believe that's \$.14 or \$.15 per gallon  
11 there. So you know, this is the fundamental  
12 shift that we believe occurs on the production of  
13 the fuel side of things, and the economics there.  
14 The impacts on the consumer, we don't believe,  
15 are fully straightforward. We hope that you  
16 folks can in your academic careers help further  
17 clarify this stuff for us; we believe that if  
18 there is full pass-through, what the producer  
19 sees and what the consumers are going to see, but  
20 there is complexity there and I put one  
21 publication that addresses some of that  
22 complexity there at the bottom. I know that's  
23 not the current task in front of you with this  
24 committee, but it's related, right? And so  
25 anyway, I'll leave it there.

1           CHAIR SWEENEY:  But just to confirm what  
2  this is saying, you're saying \$100.00 credit  
3  price at most is what would increase the price of  
4  gasoline if the markets were working well, about  
5  15 cents.

6           MR. WADE:  Yeah, at \$100.00.

7           CHAIR SWEENEY:  At \$100.00, and \$.30 a  
8  gallon, and that I would have calculated actually  
9  a little bit of a lower number, but we may have  
10  used a different parameter.  And the logic you've  
11  used to do this is saying if you apply \$200.00 a  
12  ton of carbon dioxide to a whole gallon of  
13  gasoline, it would have increased the price on  
14  the order of \$2.00.  If you apply it to only 10  
15  percent because you have to have a ten percent  
16  reduction, the additional cost is 10 percent of  
17  \$2.00, which is \$.20, so it would be \$.20 at  
18  \$100.00 credit price at \$200.00 credit price  
19  which is why I don't quite see why there's \$15.00  
20  at \$100.00 credit.  But the bottom line I think  
21  you're saying is, even if you get to that limit,  
22  we shouldn't see any price bites in the gasoline  
23  price and that's relevant for our committee, of  
24  course.

25          MR. WADE:  No dramatic price bites.

1 That's right, and that's what I want to leave  
2 with you today is that we feel like, with the  
3 cost containment mechanism in place, there is not  
4 the potential for runaway price impacts from this  
5 program.

6 MR. HACKETT: Assuming sufficient supply  
7 of low carbon intensity renewable fuels.

8 MR. WADE: No, I would say even without  
9 the sufficient supply of low carbon fuels, our  
10 cost containment mechanism prevents a price spike  
11 associated with --

12 PROFESSOR BORENSTEIN: Assuming that  
13 people believe ARB is going to loosen the  
14 Standard.

15 MR. WADE: Yeah, assuming that ARB  
16 believes that, given this five additional years  
17 we have to adjust things, we will make  
18 appropriate adjustments.

19 CHAIR SWEENEY: So are you also  
20 considering a more, I'll call it, conventional  
21 price cap, where if the price gets to \$200.00,  
22 the agencies willing to sell more credits into  
23 the market at \$200.00 per ton, which is more  
24 conventionally how you do it.

25 MR. WADE: Yeah, that's certainly more

1 conventional. That concept was considered and is  
2 not part of the staff proposal currently.  
3 Partially that would essentially have ARB raising  
4 revenue again and, you know, when you compare the  
5 Cap-and-Trade program to the LCFS, we have  
6 different goals with each of those programs.  
7 We're not attempting to use this as a revenue  
8 generation program. You know, we are not saying  
9 we're going to be finding a way to spend money if  
10 from this program, so the concepts are that this  
11 program will not raise revenue for the  
12 government.

13 CHAIR SWEENEY: I imagine this will be  
14 discussed in the future because it is unusual  
15 economic theory that you have going there, but at  
16 least there is the notion that if you can make  
17 the cost containment mechanism work your way and  
18 some other way, the price impact per gallon of  
19 gasoline will be limited toward the order of \$.20  
20 a gallon. And therefore we would be absolutely  
21 surprised to see gasoline prices jump  
22 significantly more than that as a result of this  
23 coming in.

24 MR. WADE: That's correct.

25 CHAIR SWEENEY: Is that a fair statement?

1 MR. WADE: That is what the purpose of  
2 the cost containment mechanism is, and we believe  
3 we've achieved that.

4 CHAIR SWEENEY: Okay. Let's move on.

5 MR. WADE: All right, so let me just  
6 close. I know I was supposed to have 20 minutes,  
7 I may have gone a little over that, I apologize.

8 CHAIR SWEENEY: I think you had 20 minutes  
9 and we had 35 minutes.

10 MR. WADE: Deliberate as long as you  
11 want, of course.

12 So just to reemphasize our timing again,  
13 we have our first Board hearing in February on  
14 the 19th, and then we'll have at least one 15-day  
15 set of changes which is our terminology for how  
16 we adjust something once we have a regulation  
17 package on the street. So we'll be reacting to  
18 stakeholder comment up until the second Board  
19 hearing tentatively scheduled for July.  
20 Following hopefully a Board adoption of this new  
21 and improved LCFS in July, we'll be adjusting our  
22 market system tools and our processes, and then  
23 the new rule will be in place January 1, 2016.  
24 So that's all I have.

25 CHAIR SWEENEY: Thank you. Is there any

1 other members, especially other than those who  
2 have been speaking a lot, who have questions or  
3 comments? If there's none, then those who have  
4 been speaking a lot can speak more. Okay, any  
5 other comments. The assumption, I assume, that  
6 Severin does not. Okay.

7 MR. WADE: Thank you.

8 CHAIR SWEENEY: Thank you very much for  
9 the enlightening discussion and listening to our  
10 comments that went well out of the scope of our  
11 charge.

12 Okay, Ryan Eggers on data.

13 MR. EGGERS: Yes. Good afternoon  
14 everybody in the audience and the members of the  
15 Petroleum Market Advisory Committee. My name is  
16 Ryan Eggers. I am the Supervisor of the  
17 Transportation Fuels Data Unit. During your last  
18 meeting you asked for a quick briefing on what  
19 sort of information that the Energy Commission  
20 can provide on Petroleum, which tangentially hits  
21 my particular unit which handles the petroleum  
22 industry data collection duties here at the  
23 Energy Commission.

24 So there are basically three different  
25 types of information that my unit collects, the

1 first is our PIIRA information or better known as  
2 Petroleum Industry Information Reporting Act of  
3 1980. This is California-specific petroleum data  
4 where we go out and survey different petroleum  
5 companies within California to get information  
6 from them. We also have proprietary sources of  
7 data that we collect, Opus was brought up during  
8 the last meeting that would fit under this  
9 particular heading. And we also collect open  
10 source information for data analysis that we keep  
11 for historical purposes. So my presentation  
12 should hit one of each of these different data  
13 types.

14 So looking more closely at PIIRA, PIIRA  
15 information basically hits the data gapping  
16 between Department of Oil, Gas and Geothermal  
17 Resource -- actually, it's Division of Oil, Gas,  
18 Resource Information which collects crude oil  
19 extraction information here in California. And  
20 on that one side, we also have the Board of  
21 Equalization Gasoline and Diesel Retail Sales  
22 numbers. PIIRA pretty much hits all the other  
23 interactions in between that, we get refinery  
24 production information, import/export  
25 information, terminal inventory levels. We also

1 have an E15 Survey which I'll talk about a little  
2 bit later, which has retail sales volumes at the  
3 actual retail station level.

4 We do collect this information at mostly  
5 individual company or actual individual location  
6 levels, so we do have very specific information  
7 with this regard. That being said, our  
8 regulations do specify that this information is  
9 confidential, so there would need to be some sort  
10 of confidentiality agreement in place for us to  
11 share it. But we can aggregate it and report it  
12 publicly, and we actually do report it publicly.

13 CHAIR SWEENEY: Now, I want to clarify  
14 either with you or Committee staff, if we as a  
15 committee would like to use this confidential  
16 information, are you saying we would have to sign  
17 some Confidentiality Agreement about it? Or are  
18 you saying we're not able to do it because  
19 everything has to be conducted in public?

20 MS. ARENS: I'm Samantha Arens, I work  
21 in the Legal Department at the CEC. And we can  
22 analyze that issue further. Ryan was correct, we  
23 are bound by law in the terms of what we can  
24 share in terms of PIIRA, it's actually statute,  
25 not regulation -- well, regulation in addition to

1 that, but we have statutory limits on what we can  
2 share and we're required to aggregate and  
3 anonymize it. As to whether or not we could  
4 provide it with a NDA or other Confidentiality  
5 document in place, that's something that we can  
6 analyze further in the legal office and get back  
7 to you on.

8 CHAIR SWEENEY: And will you then analyze  
9 whether the mechanism is to simply provide it in  
10 a closed session that we will then, you know,  
11 make sure there's no communication after an NDA,  
12 or are there other things that get in the way of  
13 the data being able to be available to this  
14 Committee if the Committee believes it's needed  
15 in order to do our job?

16 MS. ARENS: We will look at the whole  
17 picture and so, for instance, under the Bagley-  
18 Keene Act, there are certain specified reasons  
19 that we have to go into closed session, and in  
20 order to do that, we have to fall within one of  
21 those preset categories. And so we will  
22 certainly look at, you know, if we would be able  
23 to do this and, if so, how procedurally that  
24 would take place.

25 PROFESSOR BORENSTEIN: Could I ask, when

1 you say "we" I'm trying to figure out, is "we"  
2 all of the CEC that does have access to this?

3 MS. ARENS: The CEC does have access to  
4 this. When I say "we will analyze it," --

5 PROFESSOR BORENSTEIN: No, no, no, I mean  
6 we can look at this, but you can't, I'm just  
7 struck by the fact that the Committee is not  
8 considered part of the CEC for this purpose, but  
9 for Bagley-Keene coverage, apparently they are  
10 considered part of the CEC, so it seems to be  
11 getting the worst at both ends.

12 MS. ARENS: I understand your  
13 frustration.

14 CHAIR SWEENEY: Well, the State of  
15 California.

16 PROFESSOR BORENSTEIN: And it seems like  
17 maybe one procedure would be to somehow figure  
18 out how we are part of the CEC so that since that  
19 was the point of having this --

20 CHAIR SWEENEY: Be careful what you're  
21 asking for.

22 MR. SCHREMP: Professor Borenstein, I  
23 think to clarify, this is Gordon Schremp with the  
24 Energy Commission, I don't want there to be an  
25 impression that all 400-500 employees of the

1 Commission have access to this data; actually,  
2 it's a very very small subset of employees. The  
3 data access is in a protected drive, there are  
4 only a few staff members who have access to this  
5 information, and so it's very restricted  
6 internally so that the information is only had by  
7 those who need to see the data.

8           PROFESSOR BORENSTEIN: No, and I  
9 understand that, but that's at the discretion of  
10 the CEC, like if a Commissioner really wants to  
11 see these data, the Commissioner can. Right?

12           MR. SCHREMP: Yes.

13           PROFESSOR BORENSTEIN: Okay, and so I'm  
14 just -- and I'm just -- it seems the legal  
15 interpretations are hitting us both ways.

16           CHAIR SWEENEY: So I think what we've  
17 been promised is a complete analysis of how we  
18 can use it --

19           MS. ARENS: If we can use it, right.

20           CHAIR SWEENEY: If we can use it, but I  
21 think you're hearing from at least one other than  
22 me that if we think it's important to do our job,  
23 to use the confidential data, and if the  
24 California Energy Commission is asking us to do  
25 the job, then it does behoove the California

1 Energy Commission to find a way to make both of  
2 those possible.

3 MS. ARENS: Certainly.

4 CHAIR SWEENEY: And that you will figure  
5 out how to make it happen.

6 MS. ARENS: We will help you do your job  
7 to the best that we can within the confines of  
8 the law. And I think Professor Borenstein's  
9 question is right on, what exactly is the nature,  
10 how is the committee's role defined? It is an  
11 Advisory body, but you're not employees of the  
12 Commission, and it's that line that we need to  
13 look at closely. And you can certainly have  
14 access to aggregated and anonymized data. The  
15 question that we will look at in the Legal Office  
16 is as to the raw data.

17 CHAIR SWEENEY: Right. And just to point  
18 out again, there are restrictions on people who  
19 are members of the California Energy Commission  
20 by being a particular type of government employee  
21 that are not restrictions on us, as well. I for  
22 one do not want to be classified as a CEC member  
23 for that purpose.

24 MR. RHYNE: So Chair Sweeney, I just want  
25 to make sure that what I'm hearing in a clear to

1 do, which I had hoped we would be able to wrap up  
2 before this meeting, but obviously we weren't  
3 able to, is to get very clear definitions from  
4 our legal staff as to how and to what extent you  
5 as members of this committee are able to access,  
6 both PIIRA data if at all possible, and/or  
7 proprietary data because that's another  
8 classification data. Obviously you can access  
9 any open or public data source that you wish, but  
10 to what extent we're able to release or brief  
11 you, or under what circumstances we can show you  
12 or share that data with you. So I'm taking that  
13 as a clear to do on the part of our team.

14 CHAIR SWEENEY: And let me add, there are  
15 several different levels. One level is taking  
16 the confidential data and aggregating it in such  
17 a way that you are protecting privacy, that may  
18 be sufficient for all we need. I don't think any  
19 of us actually know at this point. It may be  
20 that we'll need to go down to the raw data and so  
21 therefore it's important to know what are the  
22 limits of how you're able to go into this and  
23 bring it back to this committee.

24 MS. ARENS: As to the subscription  
25 service data, we have certain agreements with our

1 subscription service provider where we're under  
2 contract as to how we can use the data and who  
3 gets access to it. And having looked at the  
4 subscription service agreements, my initial big  
5 picture impression is that we're okay sharing the  
6 data so long as, again, it's aggregated and  
7 anonymized in such a way that the raw data can't  
8 be reverse engineered. And then if there comes a  
9 specific time when you want raw data in addition  
10 to that, it just depends on which data it is, for  
11 instance, the OPIS Agreement is different from  
12 the C-PLATT Agreement, and it depends on, again,  
13 the nature of our relationship, whether you're  
14 consultants, things like that. But that's  
15 something that we can look into further. We can  
16 get started on that now and if the specific  
17 instance arises where you say, "I want this raw  
18 data from C-PLATT, then we'll have to look more  
19 closely at the terms of that subscription  
20 agreement.

21 PROFESSOR BORENSTEIN: Yeah, I just have  
22 to say I think this is absolutely critical. The  
23 point of this committee, I think, at its heart is  
24 to ask a group of outside experts with price  
25 spikes, is this market power or is this a

1 competitive working market? And the way one does  
2 that is by looking at individual firm behavior,  
3 looking at their incentives to restrict output,  
4 and whether they actually are restricting output,  
5 that's what we did in the California electricity  
6 crisis, it would allow us to identify market  
7 power. But --

8 CHAIR SWEENEY: We have some disagreement  
9 as to what's the mix of the difference.

10 PROFESSOR BORENSTEIN: But anyway, but we  
11 will have to -- if the price suddenly does  
12 something like it did in October of 2012, then  
13 this maybe I'm betting we'll be asked to meet  
14 suddenly and we'll be asked, "We need you to tell  
15 us what's going on." And at that point, if we  
16 get told, well, we're going to need a couple  
17 months to figure out whether you can access the  
18 data, you know, there's not much point in being  
19 here.

20 MS. ARENS: Okay, we can look at this  
21 now.

22 CHAIR SWEENEY: So we're all in  
23 agreement, I endorse almost everything he said,  
24 including this point that we don't agree on some  
25 of these issues. But in terms of the data,

1 absolutely. And I think that in some sense if we  
2 do not have the right to have as much data as we  
3 need, it's always in your hands, you might be  
4 willing to go back and ask whether the Committee  
5 is being allowed to do its job.

6 MS. ARENS: Okay, we will get a head  
7 start on looking at this now and, again, we will  
8 do everything that we can to help you do your  
9 jobs within the confines of the law.

10 CHAIR SWEENEY: Good, we got a deal.  
11 Okay, thank you.

12 MR. EGGERS: All right, well continuing  
13 on, while I didn't want to touch on the  
14 individual data items in this particular  
15 presentation, if you want to look at more  
16 description on what sort of information the  
17 Energy Commission is collecting in this regard, I  
18 do have on me some of the forms, the CEC forms of  
19 the information we're collecting via PIIRA.  
20 These forms can also be found at the website  
21 here, as well.

22 That being said, a lot of PIIRA data  
23 collection sort of piggybacks on EIA work, we're  
24 interested in a lot of the same sort of  
25 information that the EIA collects. And so we

1 have them submit the same forms that they do to  
2 the EIA to us, as well, along with the other  
3 forms I was talking about which are addendums to  
4 those forms for more specific California  
5 information.

6 Now PIIRA information can also be broken  
7 further down into five different groupings. We  
8 track marine and pipeline movements with crude by  
9 rail becoming more important. We also are  
10 getting individual railroad filings such as Union  
11 Pacific and BNSF that would also fit into this  
12 particular section, as well. But most of all,  
13 marine and pipeline information comes from our  
14 W700s and Kinder Morgan filings. Refinery  
15 operations are covered with EIA 800 and 810  
16 forms, as well, also with some other forms that  
17 cover different refinery actions here in  
18 California.

19 Terminal sales are covered with our  
20 weekly -- that's what the "W" stands for -- 08s  
21 and M08s also, an annual report for that, as  
22 well. Trucking and Jobber movement is covered  
23 with the W900s and the M782s are also very  
24 important. And then we also get retail sales  
25 with our annual A15 Retail Sales Outlet Report.

1 This is a little bit of a complicated report  
2 since there is no master list for all the  
3 different retail stations here in California.  
4 After doing this a couple years, we figure we get  
5 about 80 percent compliance on that particular  
6 report. And through using the BOE, we were able  
7 to bootstrap up to approximately 10,000 retail  
8 stations here in California and that's how we  
9 come up with that determination.

10 But for the most part, our reporting  
11 compliance is pretty good, it ranges from 95  
12 percent up. This is sort of I wouldn't say  
13 strictly regulated markets, so people do come in  
14 and out all the time, so it is sometimes tough  
15 tracking down people who just might come into the  
16 market for a brief amount of time, and making  
17 sure that they report to us. So that is one of  
18 the caveats of PIIRA data, it is a survey form,  
19 it isn't always direct perfect accounting.

20 Also, we don't get a lot of daily or  
21 weekly import/export movements, actually we  
22 collect no daily information via PIIRA, and so if  
23 you want to link up to like daily price  
24 movements, I'm not sure this data would be able  
25 to provide you the sort of distinction you're

1 looking for.

2 Reporting also below the State level is  
3 difficult, there are few players in the  
4 California Petroleum industry, and so aggregating  
5 these up in order to anonymize, you'd have to go  
6 all the way up to the State level in order to do  
7 that, otherwise we run the risk of not complying  
8 with confidentiality agreements.

9 As I mentioned before, retail level  
10 reporting is on an annual basis only, and we only  
11 collect the sales volumes, but we do collect both  
12 diesel, gasoline and all the fuel sales that we  
13 can get a hold of through this reporting  
14 procedure.

15 Also, PIIRA doesn't have any sort of  
16 pricing information outside of the Dealer Tank  
17 Wagon 900 Form, so all of this stuff is sort of  
18 detached from whatever pricing information you  
19 would be collecting.

20 So that covers our PIIRA, well, it  
21 doesn't finish our PIIRA reporting, I'm sorry, so  
22 we basically here at the Energy Commission use  
23 this information for two important reports, along  
24 with our IEPR activities, but this information  
25 basically goes into --

1                   COMMISSIONER SCOTT: That's Integrated  
2 Energy Policy Report.

3                   MR. EGGERS: Thank you, Commissioner.  
4 This information goes into our Weekly Fuel  
5 Summary which can be found on the Energy Almanac  
6 which we post this every week of different  
7 utilization rates, or production totals for  
8 California Refineries, and also their inventory  
9 levels. This is also information that goes into  
10 our Petroleum Watch, which I'll talk to you about  
11 a little later in my presentation.

12                   Now, moving on to our proprietary  
13 sources, in the last meeting you guys talked  
14 about OPIS information which is our Oil Price  
15 Information Service information. This is where  
16 we're getting all of our daily price information,  
17 and we get things like gasoline prices at actual  
18 retail sales levels, along with diesel, jet fuel,  
19 propane, we have ethanol prices as part of that,  
20 along with biodiesel prices, so all of our  
21 pricing information really does come from OPIS.

22                   Now, our next two subscriptions is PIERS  
23 and PLATTS C-Flow, this is marine movements of  
24 different blend stocks in crude oil happening on  
25 the West Coast. The thing to remember with

1 import/export data is we actually have to combine  
2 roughly about seven to eight different data  
3 sources in order to get a true accounting on  
4 what's going on along the West Coast, so  
5 reporting on that information is always a slow  
6 process, usually reported once every quarter, and  
7 it's usually a couple of months behind after the  
8 quarter that we actually produce it. And Gordon  
9 has a great graph that shows all the different  
10 sort of movements of petroleum products here in  
11 California.

12 MS. MEYERS JAFFE: Do you even have the  
13 monthly data? Or you only have the quarterly  
14 data?

15 MR. EGGERS: We have monthly, it's  
16 monthly, yeah. And we do put that out on the  
17 Energy Almanac.

18 MR. SCHREMP: And further to your  
19 question, in some of the data sources such as  
20 PIERS, you could actually see a delivery date, a  
21 loading date, an unloading date, and also the  
22 State Lands Commission collects this kind of data  
23 by individual marine terminal, and they can have  
24 a specific load and unload date, so greater  
25 specificity than just a month.

1           MR. EGGERS: We're also attempting to get  
2 a hold of the Industry Information Resources, or  
3 IIR Petro-Cash which will give us a historic sort  
4 of accounting of different refinery maintenance  
5 that's happened here in California, and also  
6 future plant maintenance information will also  
7 come from this service.

8           MR. HACKETT: Hey Ryan?

9           MR. EGGERS: Yes.

10          MR. HACKETT: This is a real unfair  
11 question, but I'm going to ask it anyway. How  
12 much do you guys spend in a year on data?

13          MS. ARENS: That's a good question. I  
14 mean, I don't know that the --

15          MR. HACKETT: Is it six figures?

16          MR. RHYNE: You're talking about -- just  
17 make sure I understand the question -- how much  
18 does the Energy Commission spend total on these  
19 -- paying for these proprietary --

20          MR. HACKETT: Yeah, just kind of in the  
21 ballpark.

22          MR. RHYNE: The ballpark is in the six-  
23 figure range.

24          MR. HACKETT: It's six figures.

25          MR. RHYNE: Total, I mean, as a sum.

1           MR. HACKETT:  And then one other  
2 question, I know the answer to this one, but I'll  
3 ask it anyways, do any other states do this?

4           MR. SCHREMP:  I think the Energy  
5 Commission has activity, we call it the Western  
6 States Coordination, we do a monthly webinar and  
7 there are Western State Energy officials and  
8 representatives attending these webinars.  Most  
9 of the other states have very very small staffs,  
10 they could have a couple of people involved in  
11 all energy issues for the state, and I do not  
12 know of any of them in the Western States that  
13 are actually paying and buying information to  
14 this level, to get to your question.  So I think  
15 we're highly unusual in that regard.

16          MR. RHYNE:  I would even go as far as  
17 suggesting that California acts as an information  
18 hub to a number of other Western States who rely  
19 on us to do and be a source of a lot of  
20 information in aggregate form in many respects,  
21 but information that they wouldn't otherwise be  
22 able to obtain if they were trying to do this  
23 individually.

24          MR. HACKETT:  A plug for what staff does  
25 -- this monthly Western States presentation that

1 Gordon and his folks put together is really quite  
2 good, I mean, we download it and go through it  
3 and go, "Oh, man, that's cool." There's a lot of  
4 good information in there.

5 MR. EGGERS: So like the PIIRA data, the  
6 proprietary sources have their caveats, as well.  
7 The first and foremost is there are restricted  
8 terms of use on many of the contracts for this  
9 information. Luckily most of them do say  
10 contractors, we are able to share the information  
11 with contractors, but we do need to refer what  
12 your exact status is as far as that relationship  
13 is. Like any other data source, it is difficult  
14 to reconcile some of these data points with other  
15 databases that collect similar information, and  
16 so it does take a little bit of staff expertise  
17 to make these things sort of line up.

18 One of my pet peeves is prices in the  
19 OPIS information can only be averaged, we don't  
20 have actual sales totals to go along with the  
21 prices to come up with completed price for any of  
22 these prices, so all we have is a straight  
23 station average when we average up on these.

24 Also in the case of the marine data, all  
25 of our marine data, in general, one single source

1 doesn't cover the entire sort of movements of  
2 petroleum products here in California. And we  
3 really do need the full spectrum of all of them  
4 put together in order to get a real good idea of  
5 where things are moving here in California.

6           Then of course there's the Open Source  
7 Information, we collect much of the same  
8 information that the Energy Information  
9 Administration does as far as refining  
10 activities. As I mentioned earlier, we piggyback  
11 on a lot of those, but we also collect the weekly  
12 national and California prices, as long as we get  
13 access to a lot of the regional marine movements  
14 and company level for import movements of crude  
15 oil. We also look, as I mentioned earlier, Board  
16 of Equalization numbers for Final Sales Retail  
17 numbers of Diesel and Gasoline sales. We also  
18 get dyed diesel figures from them as well, and  
19 these are the numbers that we sort of reconcile  
20 with our A15 reporting activities.

21           Gordon mentioned the States Land  
22 Commission, but we also use the U.S. Corps of  
23 Engineers Marine Movement Information in order to  
24 get the imports/exports of different petroleum  
25 products that balance all in order, as well.

1           But the caveats with the Open Source data  
2 is they tend not to have a lot of detail in their  
3 information, or not the sort of detail we want in  
4 order to look at California local sort of issues.  
5 There's also large lag times with a lot of this  
6 information. They have reconciling that, you  
7 know, these sources need to do on their side, and  
8 then we need to firm them up and, as I mention  
9 here, we also need to reconcile them with our  
10 other sources in order to get our numbers all  
11 lined up. And as I said, with less detail it's  
12 kind of incomplete for detailed analysis.

13           So where that leads us --

14           CHAIR SWEENEY: One question, when you  
15 say "difficult to reconcile," is that simply  
16 because the reporting definition is different, or  
17 are you seeing explicit differences that you say  
18 they can't be both true?

19           MR. EGGERS: It's mostly -- it's a lot of  
20 different definitions, but it's also calling the  
21 same product different names, and when you're  
22 doing this with computer work, the computer wants  
23 it all the same name. So it does take a human  
24 hand in order to get this all lined up properly.

25           That being said, we are hoping to revise

1 a product that sort of went defunct called the  
2 *Petroleum Watch*, we used to produce this monthly  
3 publication from 2006 to 2013, and because of  
4 staffing difficulties it sort of fell along the  
5 wayside. But as part of interacting with you in  
6 the future, we're looking to revive this monthly  
7 documentation and then basically have the  
8 Petroleum Market Advisory Committee comment on  
9 the sort of analysis that they would like to see  
10 in this particular document. We would then do  
11 the analysis, work up the graphs, and then put it  
12 into this document to then give to the public to  
13 also inform them on what's going on in the  
14 petroleum industry. A lot of the things you  
15 asked for at the last meeting, like crack spread,  
16 different prices at both California PADD 5 and  
17 California level, are in this particular  
18 documentation, crack spreads wasn't because an  
19 actual crack spread wasn't actually discussed,  
20 instead we did margins instead, but different  
21 utilization rates for the refineries, not the  
22 actual individual refineries, but for refinery  
23 operations in the whole of California are found  
24 in the back of that particular publication along  
25 with a little brief analysis explaining what's

1 happening with those particular charts.

2 We're hoping, you know, moving on into  
3 the future that for the most part we'll be able  
4 to document a lot of what's happening in the  
5 Petroleum Market Advisory Committee, or at least  
6 some of the analysis that you guys are thinking  
7 about by incorporating that into this particular  
8 document. And if there are specific issues you  
9 want to look at that aren't currently addressed,  
10 but that are sort of one-off sort of things,  
11 we're hoping to put that in as like a hot topic  
12 sort of analysis within this particular document.

13 CHAIR SWEENEY: Just as a personal view  
14 here, if this committee can get credit in goosing  
15 -- in motivating the California Energy Commission  
16 into making this sort of data available, in  
17 parallel with this very good electricity data, I  
18 think we could all pat ourselves on the back and  
19 say we accomplished something of value. I think  
20 public availability of all of this is very  
21 useful.

22 MR. EGGERS: Well, that concludes my  
23 presentation. Anything else? Thank you very  
24 much.

25 MR. RHYNE: And I will note for the

1 record that the *Petroleum Watch*, a copy of the  
2 draft *Petroleum Watch* -- I shouldn't say "draft"  
3 at this point, it is posted -- of its first  
4 iteration is available there in your packets, and  
5 also available online via a link on Petroleum  
6 Market Advisory Committee's site. I emphasize  
7 that it is its first iteration and in the future  
8 we're going to be cleaning it up and working with  
9 our media folks to sort of put a little bit of a  
10 gloss on it, but I think the feedback of this  
11 committee is going to be helpful, as well, in not  
12 only identifying what the ongoing pieces of  
13 analysis should be in there, but also any hot  
14 topics that would be of interest. Certainly we  
15 will be interested in doing that. I will also  
16 say that it's sometimes difficult to give exactly  
17 -- I'll use the crack spread as an example --  
18 exactly the data that is mentioned at these  
19 committee meetings, but our staff really does  
20 work very hard to try and give a reasonable  
21 approximation using if not that exact thing, then  
22 some other data that gives you at least a sense  
23 of the question you were driving at. So if these  
24 don't hit the mark in some way, or you think that  
25 we're missing something, we're certainly open to

1 that feedback and would be willing to integrate  
2 that in future iterations.

3 MS. MEYERS JAFFE: So I guess I would  
4 just say, thinking forwardly about what's  
5 happening this month, we're probably going to  
6 want to see the refinery maintenance study.

7 CHAIR SWEENEY: And just in this, on page  
8 3 of this *Petroleum (Market) Watch*, as far as you  
9 can tell, are these data that you've graphed up  
10 through, well, in January, consistent with any  
11 other information that you have, that we can look  
12 at these data and see the trends of gasoline in  
13 California versus other states? And if I were to  
14 eyeball it, I don't see a very large price spike  
15 in California prices relative to the rest of the  
16 United States, but do you have any data that's  
17 contrary to the conclusion one might reach from  
18 looking at this?

19 MR. EGGERS: Not yet, but Gordon's  
20 presentation is going to hit on that --

21 MR. RHYNE: But that's a perfect Segue to  
22 give the next presentation.

23 CHAIR SWEENEY: Thank you. Any last  
24 question for Ryan? Thank you. That is helpful  
25 and it also gives guidance to the legal staff as

1 to which pieces of data that they should be  
2 looking at contractually. Okay, Gordon.

3 MR. SCHREMP: Thank you, Chair Sweeney  
4 for teeing that up. I'm, once again, Gordon  
5 Schremp in the Energy Assessments Division at the  
6 Energy Commission. You'll be talking to the  
7 Committee members today about what we've seen so  
8 far with retail price tracking and offering up  
9 information for you to consider and also, I think  
10 if we go to the next slide here, looking for some  
11 feedback, some direction on is this kind of  
12 information useful, is there something else you'd  
13 like us to be looking at, or how we examine  
14 retail prices. We're looking for that kind of  
15 feedback from the committee members either here  
16 today or as we go through this process in the  
17 future. Next slide, please.

18 So I'll give you just a little bit, a  
19 tiny bit of overview of the marketplace here.  
20 California's market, we'd say, and certainly  
21 Professor Borenstein would say, is isolated, it's  
22 a time and distance issue. We don't have  
23 pipelines connecting us to be supplied from, say,  
24 Texas, or Washington State, or even Utah for that  
25 matter. But we don't need pipelines. Why?

1 We're essentially self-sufficient. We have  
2 refining capacity in the Bay Area, Southern  
3 California, Bakersfield Regions, and we produce  
4 basically all of our own fuel needs nearly, as  
5 well as most of Nevada and about half of Arizona.  
6 So we have the fuel supply here and the rub comes  
7 when we have a significant unplanned outage or a  
8 series of unplanned outages such as we had in  
9 2012.

10 So imports are a small portion, I'm  
11 talking about imports of fuel. This is like base  
12 gasoline you blend with Ethanol called CARBOB, a  
13 little bit of diesel fuel, but the imports are  
14 really not that necessary to balance out demand  
15 with incremental supply.

16 And more recently we've seen an increased  
17 amount of exports by marine vessel, not  
18 dissimilar to that of the United States which set  
19 records for refined product exports in 2013 and  
20 broke the record or will break the record in 2014  
21 for exports of diesel, gasoline and jet fuel  
22 because the economics worked: lower crude oil  
23 prices, pretty good refining operation in the  
24 margins, and their relative competition to  
25 markets in Central, South America, Europe, and

1 even as far away as Southeast Asia in some cases.

2 MS. MEYERS JAFFE: So I have a question  
3 for you on that. So theoretically we have, I  
4 guess, gathered since we're exporting, we have a  
5 surplus of refining capacity and so theoretically  
6 if there was somehow a shortfall in the market on  
7 the refining side, you might say, an inspected  
8 refinery outage, one would expect the export  
9 levels to go down because you could sell that  
10 extra surplus gasoline in the state. Is that the  
11 dynamic that you see?

12 MR. SCHREMP: Well, I think --

13 MS. FOOTE: -- going to pay more for it  
14 than we are.

15 MS. MEYERS JAFFE: Right, that's why I'm  
16 asking, because this map would imply that's the  
17 dynamic or --

18 MR. SCHREMP: Why don't we go ahead and  
19 get to --

20 PROFESSOR BORENSTEIN: That's a nice map.

21 MR. SCHREMP: There's the Committee  
22 member who is the genesis of this map's creation,  
23 no names here, Mr. Hackett. But I think the  
24 refineries in California and the other locations  
25 in the United States are sort of free to sell

1 wherever they want, but it's not willy nilly,  
2 we're merchant refiners, we go wherever the best  
3 price is. Most of them will have the vast  
4 majority of their output, normal volume of output  
5 under a contractual obligation to supply. So  
6 these are contracted volumes for most of their  
7 output. Some refiners will have maybe a little  
8 bit less than, say, 90 percent, and they'll have  
9 unbranded volumes they'll sell them to that will  
10 have a significant position; that could be like  
11 Tesoro, Valero, more independent refiners, but  
12 when there's a refinery problem, what we see in  
13 these markets is those that are selling to the  
14 unbranded market will either pull back those  
15 sales temporarily and sell that volume to  
16 whomever is having the problem and they say, "I  
17 need that, I'll pay you a higher market price,"  
18 and that's what happens to the unbranded market,  
19 it goes up in price, tightens supply, so --

20 MS. MEYERS JAFFE: So there's two things,  
21 number one, when I'm exporting I have the added  
22 cost of shipping the product to China, which is a  
23 cost, and so the Chinese market has to be higher  
24 than the California market, by greater than the  
25 cost to ship it.

1           MR. SCHREMP: I think actually what we're  
2 seeing is the destinations for the export  
3 gasoline diesel from California is in most cases  
4 going nearer -- Western Canada, West Coast of  
5 South America, and so what the refiners look at  
6 is, who is my competition? So the competition is  
7 someone in India reliance refining someone in  
8 Southeast Asia, and they have a significant  
9 transportation cost to get into that market, less  
10 so than the California refiners. However, the  
11 California refiners have a higher cost of  
12 production, certainly they have some Chinese or  
13 Southeast or Indian producers, so it's that  
14 dynamic, whoever is competing in that or out  
15 competing in those local markets. So we're  
16 seeing that if you look at EIA export data, where  
17 is it going? It's usually closer to home, to  
18 your point, less of a transportation cost  
19 element. But that changes. That will shift over  
20 time, new entrants to the market, people exiting  
21 the market like the big refinery in the Virgin  
22 Islands that went away and left a hole, and left,  
23 in part, more exports from the United States as a  
24 consequence.

25           PROFESSOR BORENSTEIN: Can I ask a couple

1 questions? So first of all, if you had given  
2 this presentation five or six years ago,  
3 California wouldn't have been more of an  
4 importer, right?

5 MR. SCHREMP: Yes.

6 PROFESSOR BORENSTEIN: So they used to  
7 actually be a pretty strong importer in the  
8 summer and --

9 MR. SCHREMP: At times I think it got  
10 upwards of 15 percent rather than, say, just the  
11 three to six percent, yes?

12 PROFESSOR BORENSTEIN: So when we say  
13 three to six percent, where's that coming from?  
14 And has the CEC ever tried to actually map out a  
15 supply curve of sorts? I see three to six  
16 percent is not coming all the way from the Gulf  
17 because that's not a big -- there's not enough  
18 cost from the Gulf.

19 MR. SCHREMP: Yes, Ryan mentioned one of  
20 the data sources we do look at from the EIA is a  
21 Gulf Coast to West Coast movement and, you're  
22 absolutely right, we're seeing far less of that  
23 over time, not a need for it, and it's going  
24 somewhere else. Now it's going to the Eastern  
25 Sea Board, Florida, places like that. Where we

1 see other components coming from varies, and it's  
2 usually so small, there could be cargos of  
3 opportunity. Is there an arbitrage window that's  
4 opened up recently? Meaning is it worth my while  
5 to pay the transportation cost, send it there,  
6 and by the time my cargo arrives the price is  
7 still high enough that I make money? And so  
8 people take that opportunity to move cargos into  
9 California opportunistically. But we've had, and  
10 that's 2012 when we see temporary supply  
11 tightness develop and a little bit more imports  
12 coming in because the price rose and attracted  
13 additional supply. We see other circumstances  
14 such as jet fuel where the California market is,  
15 say, a little net short, if you will. And we've  
16 seen sort of standard imports coming in, so  
17 they'll come in from, say, Southeast Asia, some  
18 really more complex refineries that have jet fuel  
19 export capability, but that's where the excess of  
20 supply for, say, jet fuel is available. So it  
21 depends on the product and it depends on the  
22 market circumstance at the time, but you're  
23 absolutely right, over time we've seen that it's  
24 gone less and less and less, and part of that had  
25 to do with what? Declining gasoline demand, six

1 of the last eight years since the peak in 2004.  
2 So they said, "Oh, I have more excess refining  
3 capability available." And now what's happened?  
4 Good margins, crude oil prices allowed me to  
5 export more economically to some of these other  
6 markets, no differently than a Gulf Coast  
7 Refiner.

8 MS. FOOTE: And Gordon, I was just going  
9 to ask, does any of the imported stuff come in on  
10 a contracted basis?

11 MR. SCHREMP: I imagine that's -- the  
12 Energy Commission does not have access to sort of  
13 the contracts. We understand that refining  
14 organizations have their own supply departments,  
15 both for sourcing feedstocks such as crude oil,  
16 but also for, say, balancing out some supply,  
17 let's say in planning a large refinery  
18 maintenance activity, I won't be offering all my  
19 units, so I want to build my inventory so I do  
20 what? Still meet my contractual obligations when  
21 most of my refining units are down. I'll bring  
22 in some more components. So where I buy those,  
23 that's probably certainly a cargo opportunity,  
24 but then I could have a situation where I'm  
25 seeking additional supply in the moment, and so I

1 may contact others in the supply department and,  
2 in that case, I could buy someone's cargo, re-  
3 divert it to my refinery, and bring it in that  
4 way. And so there are different sort of  
5 arrangements depending on your circumstances.  
6 But because our imports are so low, there's not  
7 sort of an on-purpose need where when you get  
8 into a situation where "I want assurance and  
9 security of that supply, so I'll put it under  
10 long term contract." We don't really see that.

11 PROFESSOR BORENSTEIN: And when you talk  
12 about long term contracts and contractual  
13 shipments, none of these have pricing, these are  
14 just quantities, right?

15 MR. SCHREMP: That's correct. We just  
16 see the --

17 PROFESSOR BORENSTEIN: And quantities are  
18 determined by some index plus generally?

19 MR. SCHREMP: It's our understanding that  
20 cargos of imports and cargos for exports will be  
21 priced to some benchmark, and that benchmark from  
22 what we read is usually the oil price information  
23 service, spot price, refinery wholesale price, if  
24 you will, a couple days before or a couple days  
25 after my cargo arrives or I load the cargo. And

1 so it's that kind of benchmarking that companies  
2 will do, and they do that from what we read  
3 because they can enter into another financial  
4 instrument that hedges their risk that if I'm  
5 buying the price will go up, or if I'm selling  
6 the price will collapse. And so that's why  
7 they're doing this benchmarking from what we've  
8 read. We do not see those contracts.

9 PROFESSOR BORENSTEIN: Thank you.

10 MR. HACKETT: And Gordon, can you talk  
11 about what's changed on the supply side, talk  
12 about demand with gasoline demand in decline for  
13 quite a long time. What's changed on the supply  
14 side on this map?

15 MR. SCHREMP: On this map a couple of  
16 things have changed, 1) it's a visual change that  
17 if someone has seen an earlier genesis of this,  
18 is item 22 where there is now a black line coming  
19 to Las Vegas, that's from Utah. So this is the  
20 UNF Pipeline that is bringing supply in from the  
21 Utah area refineries, they usually have an excess  
22 of gasoline in the wintertime when we don't need  
23 it as much because they can produce more, because  
24 of the Reid Vapor Pressure Regulations, and then  
25 there's also diesel coming into Las Vegas. So

1 that's sort of a new entrant, and we understand  
2 that there is additional refining capacity or  
3 expansion occurring in Utah so that they can send  
4 more to this market. So rather than Las Vegas  
5 being solely dependent on pipelines supplied from  
6 the Southern California refineries, that's a  
7 change, so that's helpful I'm sure to that  
8 market.

9           In the Phoenix market, Phoenix-Tucson  
10 market supplied by those black lines indicating  
11 both from the west and from the east, a change  
12 has been the ability of the refineries to the  
13 east to make Arizona spec gasoline, this is one  
14 of the other boutique fields, it's pretty close  
15 to California reformat gasoline and so that  
16 change of the capability to produce this gasoline  
17 in conjunction with, we assume, better economics  
18 of production, why? Because we've seen a shift,  
19 more gasoline coming out of the east than is  
20 coming out of the west, so that's helped free up  
21 some production capacity, if you will, in  
22 Southern California refineries and for them maybe  
23 to consider, well, "I'll export to other  
24 markets."

25           MR. HACKETT: And so do you have any

1 thoughts on why refiners in Utah, Texas and New  
2 Mexico are taking market share from refiners in  
3 L.A.?

4 MR. SCHREMP: Because they're probably a  
5 little bit more competitive and able to do that.

6 MR. HACKETT: They've got low crude  
7 costs.

8 PROFESSOR BORENSTEIN: Yeah, they're  
9 getting cheap.

10 MR. HACKETT: They've got cheap crude,  
11 yeah.

12 MR. SCHREMP: Especially in Utah and in  
13 West Texas, that's correct.

14 So is California a more expensive market?  
15 Would consumers say that with gasoline and diesel  
16 fuel? The answer is probably yes, but there are  
17 reasons for this. They're in three categories, I  
18 would say, there's a greater tax burden, higher  
19 production costs, and as we've mentioned earlier,  
20 an isolated market. And so what are those higher  
21 prices? What do they look like? Well, they're  
22 at least \$.17 a gallon higher and these are  
23 looking at annual averages of California's retail  
24 price minus the U.S. average price, so about \$.12  
25 higher for diesel, and if you look at what are

1 the averages over the more near term, it's \$.35  
2 and \$.20 respectively. Next slide, please.

3 So here is the bar and it varies from  
4 year to year, you do see sort of a trend in this  
5 compared between California and U.S. gasoline  
6 going up. The high point was mentioned earlier,  
7 2012, where we set our all-time high for retail  
8 price in California. Next slide, please.

9 MR. HACKETT: Hang on a second. So just  
10 to make sure I know what you're measuring here,  
11 this is regular grade gasoline, and I guess these  
12 are EIA data?

13 MR. SCHREMP: Yes, so the Energy  
14 Information Administration provides, and this is  
15 what Ryan was mentioning earlier, is an example  
16 of publicly available data. You can download  
17 this information, anyone can, weekly refinery --  
18 sorry, I mean retail prices for California and  
19 the U.S. and selected other states and cities.  
20 Now, some of the cities don't go back very far,  
21 so anyone can replicate this information, so this  
22 is basically 52 data points per year, weekly  
23 prices.

24 MR. HACKETT: Okay. And so you're using  
25 all regular grades, you're not segmenting out

1 reformulated regulars from conventional regulars,  
2 it's just regular?

3 MR. SCHREMP: That's correct.

4 MR. HACKETT: Okay.

5 PROFESSOR BORENSTEIN: Wait, this is  
6 California. All of the --

7 MR. SCHREMP: First the U.S., yes.

8 MR. HACKETT: And so the absolute value  
9 gets somewhat skewed because you can't see the  
10 quality differential to conventional gas and  
11 reformulated gas.

12 PROFESSOR BORENSTEIN: You think that  
13 might be changing over this period?

14 MR. HACKETT: I don't know, I'm sort of  
15 torn between which is the best way to do it.  
16 I've always kind of liked to use the EIA's  
17 average for reformulated gasoline, so that's for  
18 cities that have air pollution problems like  
19 Washington, D.C., New York, Houston, etc.,  
20 Chicago. And so what you get with that is you  
21 sort of reduce the quality difference and those  
22 gasolines are similarly tough to make.

23 MS. MEYERS JAFFE: Right. Then it's  
24 apples and apples.

25 MR. HACKETT: Yeah. Thank you.

1           CHAIRMAN SWEENEY:  And this one, though,  
2  is explicitly the California reformulated  
3  California Standards minus U.S. Regular.

4           PROFESSOR BORENSTEIN:  All U.S. regular.

5           CHAIRMAN SWEENEY:  Right, all of U.S.  
6  regular.

7           MR. SCHREMP:  All types and formulations,  
8  regular grade, yes.  One can also look at, I  
9  believe, mint grade and premium with this dataset  
10 and do this kind of --

11          CHAIRMAN SWEENEY:  Right, but this is  
12 what this is that you plotted.

13          MR. SCHREMP:  Right.

14          MS. MEYERS JAFFE:  Well, you know,  
15 everyone makes such a big deal about 2012, but  
16 2013 and 2014 aren't that different, so what's  
17 that about?

18          MR. SCHREMP:  Once place you would look  
19 is if you have a higher, a greater amount of  
20 unplanned outages in the refinery maintenance  
21 data that we have not yet been able to purchase,  
22 but that would be one place to look to see what  
23 would be different, say, from 2011 and 2010.  But  
24 they are relatively small, I mean, that amount  
25 sustained over the whole year, but that's one

1 area you would look at, why is it that much  
2 higher than the U.S. average.

3 MS. MEYERS JAFFE: Well, I think the  
4 interesting phenomenon, of course I'd have to  
5 look at all the other data, but if you're showing  
6 a trend line where we're having higher exports  
7 over time, and also that means our prices are  
8 higher than the rest of the country adjusting for  
9 quality, then it would show that refiners are  
10 maybe favoring exports. We'd have to look at the  
11 arbitrage of that compared to, you know, what  
12 market is pulling that versus the Gulf Coast  
13 supplying those markets.

14 MR. HACKETT: Of course, these are retail  
15 prices, they're not spot prices.

16 MS. MEYERS JAFFE: Well, that's right.

17 MR. HACKETT: And so I think, Gordon,  
18 looking in your package, you deal with some other  
19 stuff. But I think he's got more tricks in his  
20 bag.

21 MS. FOOTE: So the retail prices lag  
22 anyway, so maybe that's what it is.

23 MS. MEYERS JAFFE: Well, also Richmond, I  
24 remember you had the Richmond fire, but it took  
25 the market a little while to adjust to the fact

1 that that capacity didn't come back on.

2 UNIDENTIFIED FEMALE SPEAKER:

3 Californians are just so price insensitive that  
4 when there's been a net drop as much as it's been  
5 that, you know, we're all celebrating, not  
6 noticing that we're still paying --

7 MS. MEYERS JAFFE: More than everybody  
8 else. That too.

9 PROFESSOR BORENSTEIN: I just wanted to  
10 point out the week to week standard deviation on  
11 these numbers are huge, as I recall. Within a  
12 year, the last time I looked to this, it's not  
13 unusual to have this differential be as low as  
14 \$.10 and as high as \$.50. So you don't want to  
15 get too hung up on --

16 MS. MEYERS JAFFE: Well, what I would say  
17 is, and that's why we talked a lot about the data  
18 we talked about, because it's an isolated market  
19 it would mean it might be more sensitive to  
20 refinery maintenance schedules than other  
21 markets, right? And certainly it would be more  
22 sensitive to unplanned outages, but it would be  
23 more sensitive to refinery maintenance than other  
24 markets and that would get to -- that's why you  
25 would take an inventory analysis to see if the

1 companies are planning or not planning the  
2 maintenance well from the point of view of  
3 whether the market is volatile or not volatile.

4 CHAIRMAN SWEENEY: This, of course, was  
5 retail, not a wholesale measure.

6 MS. MEYERS JAFFE: Right.

7 CHAIRMAN SWEENEY: And if we're talking  
8 about what the oil companies are doing, it's  
9 probably more wholesale data that's probably  
10 relevant to look at.

11 MS. MEYERS JAFFE: Right.

12 CHAIRMAN SWEENEY: And which -- are you  
13 going to get to that?

14 MR. SCHREMP: Yes. So --

15 MR. HACKETT: If we give him the chance.

16 MR. SCHREMP: Any questions, any time.

17 So same process here, let's take the average  
18 statewide retail diesel price in California,  
19 subtract the U.S. In this case, it's certainly  
20 California reformulated diesel, it's a different  
21 diesel, a slightly different kind of formulation.  
22 The other states are all the same, it's EPA or  
23 Federal ultralow sulfur diesel. So back to Mr.  
24 Hackett's earlier point about there are some  
25 different types of gasoline markets within the

1 U.S., in this case the rest are EPA ultra-low-  
2 sulfur diesel. And so we see it start to go  
3 back, we see it not in the same pattern where  
4 that average annual difference in retail price is  
5 rising, it's actually dropped off a little bit in  
6 the last couple years, a rather small amount, not  
7 a great deal. Next slide, please.

8           So one of the areas of why is it more  
9 expensive is certainly the level of taxation. So  
10 the American Petroleum Institute on a roughly  
11 quarterly basis will produce this information,  
12 and then you could see where does your state  
13 rank. And certainly everyone has the same  
14 Federal Excise Tax on their gasoline and diesel,  
15 and states will have their own excise tax, and  
16 then there's a sales on local taxes that API  
17 calculates for all of the states, so that's where  
18 that will vary. And then states can actually  
19 have a new tax they put into effect on January 1  
20 or July 1, that's more unusual and API has a  
21 state-by-state analysis so one can see if that's  
22 happening.

23           So basically here's the latest snapshot,  
24 it's from January 1, and California is ranking up  
25 there at number 2, not unusual, it's usually

1 volleying with New York, I think Pennsylvania has  
2 some new levels of taxation that went into effect  
3 that they're in the number 1 now. But that's why  
4 California is, in this snapshot, about \$.15 per  
5 gallon higher than the average for the U.S. So  
6 there in part lies some of the reason retail  
7 prices in California should be higher for  
8 gasoline than diesel. Next slide, please.

9           A little further down the list at number  
10 6 for diesel fuel, but still a higher level of  
11 taxation than comparing to the U.S. average,  
12 we're seeing about \$.11 for this snapshot. If  
13 you go back to earlier ones, you see a little bit  
14 higher, that's just how the market moves around.  
15 So that's where we're seeing a big chunk of that.

16           I think, I don't have the slides here,  
17 but there's also differences in the  
18 specifications for gasoline. Clearly, California  
19 reformulated gasoline is some of the cleanest in  
20 the world, if not. And by some estimates, \$.05,  
21 \$.10, \$.15 a gallon to produce that fuel, so that  
22 could be, say, another dime that goes with the  
23 \$.15 year 25, and now, okay, why at \$.35? Why at  
24 \$.38? And that has to do more, we believe, with  
25 the isolation of the market and you have a pretty

1 good price spike for 45 days, and then average  
2 that in for the year and, there you go, you can  
3 be up to these kinds of levels. So next slide,  
4 please.

5           So fuels under the Cap, clearly this body  
6 knows that went into effect. The Oil Price  
7 Information Service, among others, offers to  
8 provide some evaluation of what that might be for  
9 obligation purposes, compliance purposes, and  
10 basically their formula is to take the price of  
11 carbon in the market, not the LCFS credits, and  
12 then figure out what the carbon intensity per  
13 gallon of fuel is in terms of metric tons per  
14 gallon times dollar per metric ton, and lo and  
15 behold you get a price. And so they have a  
16 winter recipe gasoline, summer, next slide, and  
17 here are their calculations with the hypothetical  
18 \$0.11.80 per metric ton carbon price. And so you  
19 see you end up getting 9.510cts/gal for, say,  
20 gasoline, and diesel is a little bit more at  
21 about the 12.1cts/gal in this carbon price  
22 example. Next slide, please.

23           PROFESSOR BORENSTEIN: Wait. Could we  
24 just explain what the .00022 is?

25           MR. SCHREMP: That's the metric tons of

1 carbon per gallon of that fuel.

2 PROFESSOR BORENSTEIN: The .00891, I  
3 understand the first term, but then there's a  
4 second tiny adjustment to it.

5 MR. SCHREMP: That is for the Ethanol  
6 portion of the gasoline.

7 PROFESSOR BORENSTEIN: Right, now I  
8 remember.

9 MR. SCHREMP: I apologize for not  
10 covering that initially, but thank you for  
11 pointing that out. So the gasoline will have two  
12 components, it will have a petroleum hydrocarbon  
13 base gasoline which is 90 percent of the gallon,  
14 and 10 percent of Ethanol, and those are the  
15 metric tons per gallon of those two respective  
16 fuel types. And then diesel fuel in this example  
17 is 100 percent Carb ultralow sulfur diesel, but  
18 OPIS does show a B5, or a diesel that has five  
19 percent biodiesel, and so the number is a little  
20 bit less because it does contain five percent  
21 biodiesel.

22 So we've been looking at a daily, so now  
23 it gets to a question of prices, prices, prices,  
24 daily prices. Well, Ryan just told you, well,  
25 what? We don't collect daily prices. Through

1 PIIRA we do not collect daily prices. We do  
2 purchase daily price information from the Oil  
3 Price Information Service, they use a process of  
4 a credit card swipe for transactions that go into  
5 a database, so they're able to tell what did that  
6 credit card pay at that physical location on that  
7 day. So we buy that data so we get a daily  
8 download. It's about 70,000 locations. Well,  
9 that's going on all throughout the United States,  
10 so someone else gets access to that information  
11 through an arrangement, and that's AAA. So when  
12 you see AAA prices talked about, what are they  
13 using? An AAA survey? Nope. OPIS. So they  
14 have a State average for that data, they'll have  
15 sub regions, metropolitan regions, so what we've  
16 been doing is going to the daily AAA on the  
17 website, go get that information, put it into a  
18 spreadsheet, and then go back the next day and  
19 it's gone. But you have today's prices. So one  
20 must go there every day to get this information  
21 if you want to build your own sort of tracking of  
22 what's been going on, and so that's what we've  
23 been doing to get information not only for  
24 California because, once again, I said we buy the  
25 California data, I don't buy the Nevada data. I

1 don't buy the data from Washington, but this is  
2 one source to go get that information, and so  
3 we're looking at neighboring states, California,  
4 Washington, Oregon, Nevada, Arizona, and picked a  
5 couple of other locations, Texas is a huge state,  
6 Illinois, big refining in both states, and  
7 Florida, no refining, an import market. So  
8 that's the set of data we've been collecting  
9 daily to assess. And so I have something else in  
10 there, spot refinery wholesale or spot prices and  
11 this is for the San Francisco Bay Area, Los  
12 Angeles and Pacific Northwest, which is  
13 Washington refineries, not Oregon because Oregon  
14 has no refineries.

15           So why would you want to look at refinery  
16 wholesale prices? Well, how those prices are  
17 reported to us by OPIS, they'll show a physical  
18 price for the transaction, price that day,  
19 they'll show something they call Basis, and Basis  
20 is just a fancy term they use for the difference  
21 between the futures price for gasoline and the  
22 physical price for gasoline sold that day. And  
23 so the basis, that difference between those two  
24 prices, tells us something that what the market  
25 participants think is going on at that time in

1 that local market because we look at those basis  
2 points every day and we average them over the  
3 year, and so on average California refinery  
4 wholesale prices are a little bit higher than the  
5 big price on the futures contract for gasoline  
6 and for diesel fuel for the heating oil contract.  
7 And so why you want to look at that is because,  
8 is there something going on temporarily, right  
9 now in the market that is indicating the market  
10 is like, well, there's lots of supply, or supply  
11 could be tight. So we believe if the basis  
12 points are showing much higher than the annual  
13 average that, well, it's starting to be a little  
14 bit tight, at least the market participants think  
15 that in their transactions. And if we see  
16 negative, we go, "Oh, there's plenty of supply."  
17 And so you'll see some of that information in  
18 what Ryan has produced in *Petroleum Watch* where  
19 he charts that basis on a daily, so you can see.

20 So that's important to say why the market  
21 is either long or temporarily short, can be  
22 helpful when explaining why retail prices may be  
23 either farther apart or closer together. Next  
24 slide, please.

25 CHAIRMAN SWEENEY: Before you do that, so

1 the AAA, then, data, public data because it was  
2 on the website at one time, and so those things  
3 that if we wanted you could supply that, all of  
4 that raw data from AAA to any of us?

5 MR. SCHREMP: Great gray gray area  
6 question.

7 MS. MEYERS JAFFE: I mean, we could --

8 CHAIRMAN SWEENEY: Well, yeah, but we  
9 have to go on every day --

10 MS. MEYERS JAFFE: No, I'm saying that  
11 since we could do it, it seems to me having that  
12 sort of data would --

13 CHAIRMAN SWEENEY: Right. If in  
14 principle anybody could have done it, then it's  
15 publicly available, at least in my definition.

16 MS. FOOTE: And the question is, of  
17 course, how quickly could we convene a meeting  
18 anyway --

19 CHAIRMAN SWEENEY: Right, I mean if we --

20 MS. FOOTE: -- if there was something  
21 really interesting --

22 CHAIRMAN SWEENEY: -- put it in practice  
23 doing it, but if you're doing that effort then  
24 there shouldn't be a reason for not giving that  
25 data if we would like to see it. Is that

1 correct?

2 MS. ARENS: We are looking into this  
3 issue and so my understanding of the AAA data is  
4 that it is in essence the OPIS raw data, and  
5 since we pay for OPIS's raw data, it could  
6 potentially be construed as an end around our  
7 user agreement with OPIS, but again this is an  
8 initial impression, this is something that we  
9 will look into further.

10 CHAIRMAN SWEENEY: Okay, there's another  
11 mechanical issue. Since AAA posted on a daily  
12 basis and they take it down, that data doesn't  
13 disappear, has there been any discussion with AAA  
14 about just making that whole data series  
15 available so you don't have to go through this  
16 mechanism of doing it?

17 MS. MEYERS JAFFE: They probably have an  
18 agreement with OPIS that they can't do that.

19 CHAIRMAN SWEENEY: Could be, maybe not,  
20 because they've made it public every day.

21 MR. SCHREMP: But certainly it sounds  
22 like this should be on the list to come back  
23 about, how could you go about getting such  
24 information from the Commission --

25 MS. ARENS: But you could certainly go in

1 and track the AAA data which is publicly  
2 available itself.

3 CHAIRMAN SWEENEY: Yeah, we could if we  
4 were ready to spend the time and effort doing it.  
5 But because you do it so much better than any of  
6 us could, we'd rather rely on you. Okay.

7 MR. SCHREMP: So what came up earlier, I  
8 don't know if Chair Sweeney said this, but I  
9 think there was a hell of a chart and I saw lines  
10 going down, and some comment about "what price  
11 fight?" So, good point. Retail prices have been  
12 going down in California and other places in the  
13 United States and it's primarily been driven by a  
14 continued decline in crude oil prices, which more  
15 recently have rebounded a bit. But so maybe a  
16 better way to say, well, has something been  
17 changing there, we looked at what's the  
18 difference between the retail price in  
19 California, such as I showed earlier, and the  
20 U.S. But we think more importantly, or  
21 appropriate, what's the difference between a  
22 California retail price and a neighboring state?  
23 Because markets are different, they're supplied  
24 by different crude oil sources, certainly the  
25 west coast markets are similar, they have foreign

1 imports, Alaskan imports, Washington no local  
2 production, California local discounted price  
3 production, so we think looking at Washington,  
4 looking at Nevada and Oregon and Arizona are  
5 maybe a good place to see what's been going on,  
6 and do we see a difference in the gap between  
7 California and those other states? So that's  
8 what these lines are. They're showing take the  
9 California retail price, subtract it from these  
10 other locations every day, Saturday, Sunday...  
11 And so you can see, well, the U.S. price, where  
12 did we start on the 31st of December, and where  
13 are we as of the 5th? We're a little bit lower.  
14 So, like, what?! What's going on there? Well,  
15 what's been going on in other parts of the United  
16 States is that prices have been rising in  
17 Illinois, prices have been rising in Texas, and  
18 where California and the West Coast prices were  
19 declining so you can get this kind of, well, it  
20 looks like the prices haven't changed at all  
21 relative to the United States.

22 MS. MEYERS JAFFE: Yeah, I mean, I'm  
23 being arbitrary, but when we talk about very very  
24 recent, you know, you have this threat of the oil  
25 workers' strike and that was locational to

1 specific markets.

2 MR. SCHREMP: Yes, the current labor  
3 issues on two fronts, 1) the refinery workers --

4 MR. HACKETT: But that doesn't show up at  
5 retail. It's too soon for it to show up at  
6 retail, so we need to switch to the spot  
7 discussion.

8 MS. MEYERS JAFFE: Spot.

9 PROFESSOR BORENSTEIN: But wait, before  
10 we go on, I just want to point out these numbers  
11 also have huge standard errors on them, I mean,  
12 there's a lot of uncertainty. If you took that  
13 38.3 back a month, you would find that in  
14 December it rose about \$.58, the differential,  
15 which wasn't Cap-and-Trade, who knows what it  
16 was? These numbers are just incredibly volatile.

17 MR. SCHREMP: There is some degree of  
18 variability, volatility with the numbers, but I  
19 think the longer you look at the data and compare  
20 them to similar periods, there would be an  
21 expectation if there's a fee or an obligation  
22 being monetized by the fuel supply which somehow  
23 is a line item, or embedded in their wholesale  
24 rack price, that over time, month in and month  
25 out, you would start to see a higher sustained

1 held differential that wasn't there before. So  
2 if you go back into January of 2014 and look at  
3 the differentials and compare them to now,  
4 they're all up except in Nevada they're about the  
5 same, they're all up about eight, ten cents. So  
6 we've seen even a jump from, say, last January.  
7 So this is just a measure of one way of looking  
8 at prices when they're declining and moving  
9 around, to compare them to one another.

10           What if I just walk through the rest of  
11 these, and then --

12           CHAIRMAN SWEENEY: But before you do, if  
13 we go through the analysis that the marginal cost  
14 of providing gasoline now that it's under the  
15 Cap-and-Trade system is about ten cents a gallon  
16 more, you do the calculation of nine and a half,  
17 so it's about ten cents a gallon. So if that  
18 number is passed through completely, you would  
19 expect that California relative to others to go  
20 up about ten cents as a result of that, okay?  
21 Nevada looks like that's about what happened.  
22 Other states, it may have been a larger amount.  
23 But as Severin suggests, of course there's some  
24 high variability in these data.

25           MS. MEYERS JAFFE: So the other thing

1 that just brings to my mind, which I'll just  
2 mention, you know, I don't have any data to  
3 support what I'm saying, which is that in past  
4 analysis that I've done with retail prices, the  
5 crude oil feedstock cost is the highest  
6 variability, even on retail prices, and I can  
7 show you a paper on that. So the interesting  
8 thing is, I'm just throwing this out here, but I  
9 don't know if it's really true, but I'm thinking  
10 it's true, is that California is in the process  
11 of changing where it gets its crude oil from.

12 MR. SCHREMP: It's a very small change at  
13 this point if you're referring to crude by rail  
14 imports.

15 MS. MEYERS JAFFE: Right.

16 MR. SCHREMP: It's one percent last year,  
17 total volume of crude oil.

18 MS. MEYERS JAFFE: And is the source of  
19 our imports changing?

20 MR. SCHREMP: Only in respect similar to  
21 Washington State, Alaska crude oil source  
22 declined for California and Washington State  
23 because Alaska production continues to decline,  
24 made up by, in California, greater amounts of  
25 foreign imports from wherever, Iraq, Saudi

1 Arabia, South America. So we've seen a change  
2 over the last 10, 15 years where our foreign  
3 imports have now gone up over \$.52.

4 MS. MEYERS JAFFE: So the reason I  
5 mentioned that is because Saudi Arabia, as you  
6 know, has started this price war and therefore  
7 they lowered all of their prices to the United  
8 States over the last two months, so I just  
9 mention that to make their crude very very  
10 competitively priced compared to other crudes.

11 MR. SCHREMP: So I think that in  
12 California, I mean, we don't see what crude oil  
13 acquisition costs are. This is data that is  
14 reported to the Energy Information Administration  
15 on a monthly basis, and I don't know if it's  
16 State-specific or company-specific.

17 MR. HACKETT: I think it's at the PADD  
18 level.

19 MR. SCHREMP: So it would be PADD 5, so  
20 say for example Tesoro would be reporting for -

21 (cross talk)

22 PROFESSOR BORENSTEIN: -- about the  
23 economics here and what matters is the cost of  
24 the marginal barrel they're monitoring.

25 CHAIRMAN SWEENEY: Yeah.

1           PROFESSOR BORENSTEIN:  So these aren't  
2 going to be marginal barrel, they're going to be  
3 overall average acquisition costs, and there's a  
4 fair amount of variation, I suspect.

5           CHAIRMAN SWEENEY:  But, I mean, if I were  
6 to summarize just through our data, it looks like  
7 for Arizona and Nevada, the cost increase has  
8 been around the order of what you would  
9 theoretically expect from increased margin costs.  
10 And from Oregon and Washington, it's more than  
11 you would expect just from that alone, so we've  
12 got to ask what those other things are going on,  
13 of course.  But at least for two of the states  
14 you'd wonder if it didn't increase somewhat like  
15 that and, too, you'd just wonder why it didn't  
16 increase a little bit more.

17           MR. SCHREMP:  So in these markets that  
18 are interrelated, complex, ever-changing, yes,  
19 there is always something going on.  So we'll go  
20 to the next slide.

21           So now let's look at the retail price and  
22 I take it that orange line, you go, well, that's  
23 kind of level, isn't it?  And you see that blue  
24 line down on the bottom left, that's kind of  
25 level also.  So that means the retail price

1 between those two states hardly changed at all  
2 over this entire period of time. They both  
3 either went down together or up and back down  
4 together. So one takeaway is that, wow, it looks  
5 like maybe the Washington-Oregon retail price  
6 markets are behaving in a similar fashion. Well,  
7 why would that be? Maybe because Oregon gets  
8 most of their fuel from Washington State  
9 Refineries, as one plausible explanation.  
10 Arizona, Nevada, you're getting gasoline  
11 primarily from the California refinery market,  
12 it's all one big market, so maybe their markets  
13 are behaving for gasoline in a similar fashion  
14 over the same period of time. But if you take  
15 Washington and compare it to some of the other  
16 states, you see a decline. So what's been going  
17 on is that Washington prices have declined more  
18 than California, they dropped even more.

19           So here is where you look at the refinery  
20 data. And lo and behold, when back at the 31st  
21 of December when we look at the basis points, the  
22 difference between the actual final price of  
23 refinery wholesale gasoline and the futures  
24 market on that day, and fast forward to the 5th  
25 of February, we see that they were very similarly

1 bunched on the 31st and it grew to the tune of  
2 about \$.13 a gallon. So the basis is much higher  
3 in California most recently, through the 5th, and  
4 if you go a little bit further through yesterday,  
5 it's a little bit higher still, to Committee  
6 member Jaffe's point, the refinery strike  
7 nationally that has struck three refineries, two  
8 in California, one in Washington State, has  
9 really only had the material impact on one  
10 refinery operations, Tesoro Golden Eagle that was  
11 in turnaround for most of the three units and  
12 made the decision not to use replacement workers  
13 to bring all of the refinery back on line so that  
14 refinery remains idle. We've seen in the spot  
15 prices that that seems to have had an impact on  
16 the local markets, so there is some sort of more  
17 recent, but there is a lag effect to get into  
18 retail. So we think that can be one reason, if  
19 you go back one slide, please, why \$.24 and \$.22  
20 higher since the 31st in retail price compared to  
21 Nevada and Arizona, so one place to potentially  
22 look is the other markets are a bit over-  
23 supplied, if you will, the Pacific Northwest  
24 compared to California. Next slide, go again in  
25 the Diesel.

1           Same thing. Tracking on a daily basis,  
2 diesel prices California versus the same set of  
3 states, as well as the U.S. average, and we're  
4 seeing a similar rise, \$.17, not quite as high as  
5 the gasoline. Next slide, please.

6           And we're seeing that when you look at  
7 the sort of pairing of Washington and Oregon,  
8 we're seeing that, yeah, that's sort of showing a  
9 similar pattern, there's some fluctuation there,  
10 but it's kind of sort of flat, and then Nevada  
11 and Arizona are behaving not always the same, but  
12 it looks like there's a bit of a premium up in  
13 Nevada compared to Arizona. Next slide, please.

14           So in conclusion, it looks as though when  
15 you look at just these daily retail prices,  
16 California versus some neighboring states, it  
17 does appear that there certainly is a range, the  
18 range, as Committee member Borenstein said, does  
19 fluctuate. But the OPIS calculation of about  
20 \$.10 a gallon for gasoline, and about \$.13 for  
21 diesel fuel does appear at least to fall within  
22 the range at this time through the 5th of  
23 February.

24           CHAIRMAN SWEENEY: Now you have all  
25 retail. Now, do you have the equivalent data

1 here for wholesale instead of dealer tank wagon  
2 prices, or prices that L.A. have, or something  
3 like that?

4 MR. SCHREMP: So other types of pricing  
5 data, this I think goes back into the proprietary  
6 subscription, so we do buy daily business day  
7 OPIS refinery wholesale prices. We do buy OPIS  
8 rack pricing data, but individual racks in  
9 California by individual companies, by both  
10 branded and unbranded postings for that day,  
11 that's once a day, each business day, so that's  
12 information we do purchase and so we do have that  
13 data, that proprietary data that we bought --

14 CHAIRMAN SWEENEY: You've seen it and you  
15 understand it, right?

16 MR. SCHREMP: Well, won't ever truly  
17 understand --

18 CHAIRMAN SWEENEY: No, but I mean, so you  
19 could without revealing any confidentiality ask  
20 whether the trends that you saw at the retail  
21 level are very consistent with the data that you  
22 saw at the wholesale level? You can legally say  
23 that without violating anything. And the trends  
24 I mean is that vis a vis Washington and Oregon  
25 maybe up to \$.10 a gallon price difference, it

1 may be up to \$.15 a gallon price difference  
2 there, when you've looked at the things that  
3 separate out what the retail dealers are doing,  
4 would you get it roughly the same answer?

5 MR. SCHREMP: I would say yes and no.  
6 Part of the reason is the refinery wholesale  
7 prices are only in areas with refineries, so you  
8 won't have a commensurate Oregon refinery  
9 wholesale price, Nevada, or Arizona --

10 CHAIRMAN SWEENEY: Well, you still have  
11 Washington.

12 MR. SCHREMP: So we have Washington to  
13 look at, a different product, you know,  
14 conventional gasoline in California. With regard  
15 to rack distribution, truck rack wholesale  
16 prices, both branded and unbranded, we have  
17 California coverage for all fuels, we have some  
18 limited other locations, Nevada, Arizona for  
19 diesel fuel, but do not have commensurate  
20 coverage for export gasoline markets at those  
21 wholesale levels at the distribution terminals in  
22 those two states.

23 CHAIRMAN SWEENEY: Okay, you've got some  
24 caveats. So what you have learned?

25 MR. SCHREMP: I think what we've seen is

1 a rise in the diesel markets a little bit between  
2 the California rack market and the export markets  
3 in Nevada and Arizona. I can't speak to  
4 Washington State.

5 CHAIRMAN SWEENEY: Are they consistent  
6 with the numbers we've seen here, about \$.10 a  
7 gallon?

8 MR. SCHREMP: Yes, in that range, that's  
9 correct.

10 CHAIRMAN SWEENEY: Okay, but between  
11 Washington where there isn't, where there is a  
12 refinery in California, have you seen it rise on  
13 the order of maybe \$.15 over that time?

14 MR. SCHREMP: For gasoline we've seen a  
15 rise of -- and this is through the 5th, let's  
16 see, let me get -- a rise of 12.6 cents, almost  
17 13 cents between California and Washington,  
18 between the refinery wholesale markets and diesel  
19 fuel only about two cents.

20 CHAIRMAN SWEENEY: Okay. Okay, so if I  
21 understood what you said correctly, the price  
22 differential growth that we see is somewhat more  
23 at the retail level than at the wholesale level,  
24 within the caveats of the data that you have.

25 MR. SCHREMP: Consistently across the

1 states we've examined, yes.

2 CHAIRMAN SWEENEY: Yes, okay. Thanks,  
3 that's helpful to know.

4 COMMISSIONER SCOTT: I think one thing  
5 that we want to do here, too, and Gordon  
6 mentioned it at the very beginning of his  
7 excellent presentation -- he knows data like very  
8 few other people that I know -- is this is kind  
9 of the preliminary analysis for pulling together  
10 the best data that we have and we'd really like  
11 your thoughts, too, on what other data we ought  
12 to be pulling in, whatever advice you have for us  
13 on how we should continue to track this  
14 information just kind of along the questions,  
15 Chair Sweeney, of what you were asking, is also  
16 feedback we're looking for from you all, either  
17 today or you can send him a note.

18 CHAIRMAN SWEENEY: I guess my own  
19 personal view, I'd like to understand at each one  
20 of those levels because the retail level tends to  
21 be more susceptible to the price dynamics; that  
22 is, prices at the retail level tend to go up  
23 faster than they go down and that means if you're  
24 trending up versus down, you tend to have more of  
25 the retail variability, whereas if you go back to

1 wholesale level, which in the retail it's loads  
2 and loads and loads of different players. At the  
3 wholesale level, it's a more limited number of  
4 players. So I personally like to look at  
5 different wholesale measures whether it's dealer  
6 tank, wagon, or spot prices, or jobber prices and  
7 so forth, to the extent that you have it. That's  
8 my personal preference for data, which is that I  
9 hope we're able to as we move forward be able to  
10 look at those, as well.

11 MR. SCHREMP: And just before Mr. Hackett  
12 chimes in, I just want to point out with the  
13 refinery wholesale prices, speaking of volatility  
14 that someone brought up earlier, you can see some  
15 significant volatility in those daily market  
16 assessment prices. We understand, we don't see  
17 the transactions, we don't know how many parties  
18 have transacted on a particular day, OPIS does,  
19 they talk to all the participants, so it's been  
20 characterized as a thinly traded market, so you  
21 can have a couple of really strong buyers, you  
22 can have a pretty good spike one day, and  
23 certainly susceptible to news, either real  
24 tightness in the market, or perceived by some  
25 fire, and so we see a great deal of volatility in

1 those prices, just want to say that that's a more  
2 thinly traded collection of transaction prices.  
3 Yes, Mr. Hackett.

4 MR. BRODY: Gordon?

5 MR. SCHREMP: Yes.

6 MR. BRODY: Gordon, it's John Brody, I'm  
7 with Valero. Is the line item for AB 32 being  
8 added to the invoice when at the rack, really  
9 below the rack, for sales to retail outlets in  
10 which case the retail prices would include the  
11 fuels under the cap impact where the wholesale  
12 prices upstream of that may not? And that's why  
13 you may be seeing a larger differential state at  
14 the retail level than the wholesale level,  
15 because AB 32 applies to sales at the rack.

16 MR. SCHREMP: Thank you, John. That's a  
17 good clarifying point.

18 MR. BRODY: The other comment that I just  
19 wanted to throw out, if FRG, Federal Reformulated  
20 Gasoline costs about \$.05 a gallon more to make  
21 than conventional and it's 21 percent of the U.S.  
22 market, not counting the 10 percent California,  
23 take 21 percent of \$.05 and that's, you know, a  
24 penny a gallon is maybe the fact of comparing  
25 CARB, then at least maybe your differential

1 between average U.S. price being, you know, one  
2 cent of that is only due to the RFG where  
3 California is obviously is 100 percent RFG.

4 CHAIRMAN SWEENEY: Okay, thank you.

5 MR. BRODY: I think it's just CARB is  
6 more expensive to me.

7 CHAIRMAN SWEENEY: Thank you for that  
8 clarification. I'd like to move the public  
9 comment to the end of the time period, even  
10 though I actually appreciate that very helpful  
11 clarifying comment.

12 MR. BRODY: Okay, no problem, it's 5:30,  
13 I'm about ready to leave.

14 CHAIRMAN SWEENEY: Yeah, but thank you  
15 anyway, even though I'm telling you to stop!

16 MR. HACKETT: And so the issue that he  
17 brings up is how the companies with wanting to  
18 sort out, how they pass that additional cost  
19 through, they put it at a price and they have it  
20 as a line item, and so I mentioned this briefly  
21 at the last meeting, and it sounds like it hasn't  
22 completed sorted out yet, and so you sort of have  
23 to be a little bit careful in your comparison at  
24 this point because there's no clear consensus --

25 CHAIRMAN SWEENEY: I think that's a very

1 fundamental point. It still doesn't --

2 PROFESSOR BORENSTEIN: Which just points  
3 out the retail, although I think there are huge  
4 problems with all of these measures, and I think  
5 we're taking them way too seriously for the 45  
6 days -- I think retail is the one that right now  
7 we can at least get some rough indication on and  
8 not the upstream prices, which they really  
9 haven't worked out according to what I've been  
10 reading.

11 CHAIRMAN SWEENEY: Fair enough. But I  
12 think one can --

13 PROFESSOR BORENSTEIN: But I think, in  
14 general, you can't make much of these prices.

15 CHAIRMAN SWEENEY: -- one can in  
16 principle find out what that is being reported,  
17 whether it's being reported on either side of it,  
18 and then there's the caveat: better make sure  
19 we've got it consistently down.

20 PROFESSOR BORENSTEIN: And I think six  
21 months from now or a year from now we will have a  
22 much clearer picture both of exactly how the  
23 reporting is being done and longer run average,  
24 which is where it will show up. But when you  
25 look at how these markets clear day to day, the

1 volatility, how it is driven by one refinery, or  
2 one tanker showing up and the price dropping, and  
3 then bigger demand over a weekend than expected  
4 and the price going up, you just can't make too  
5 much of --

6 MS. MEYERS JAFFE: So let me just comment  
7 on that point. If you're working in the market  
8 with this many refineries, and this many  
9 shipments of gasoline and diesel fuel and  
10 everything all around the state, and your  
11 inventory practice is such that, whether cargo  
12 arrives or doesn't arrive, and that kind of thing  
13 is moving the price each day, then the industry  
14 is not carrying enough inventory, working  
15 inventory. That would be my statement to what  
16 you've just said.

17 PROFESSOR BORENSTEIN: Well, actually not  
18 carrying enough is an interesting question when  
19 we're going to get to discussing market power,  
20 but I think that there's no question that if you  
21 look at the day to day volatility and the  
22 differentials at the wholesale level, they are  
23 really quite astounding.

24 MS. MEYERS JAFFE: I would say that that  
25 is worth intensive study.

1           PROFESSOR BORENSTEIN: I agree with you,  
2 though I'm not entirely convinced we're going to  
3 be able to reach any definitive conclusion. It's  
4 really tough --

5           CHAIRMAN SWEENEY: All right, I guess the  
6 way I interpret it, and no disagreement with what  
7 you have said, Severin, but I've interpreted  
8 given the variability and given what I use as a  
9 theoretical benchmark that they should go up  
10 about ten cents, I don't see any red flags yet to  
11 show that there's anything that would cause us to  
12 have significant alarm that we have a real  
13 problem. It may be in the next six months or  
14 year we will see such data, but no data that  
15 you've reported so far, given the variability,  
16 causes me to say I see an alarm bell we should be  
17 ringing. That's what I'm making of it.

18           PROFESSOR BORENSTEIN: I think that's  
19 right and just because I think there are media on  
20 the line listening, I just don't want a reporter  
21 to walk away saying, "Sure enough, we know  
22 exactly what's happening." We just have the  
23 vaguest indication of what's happened and over  
24 time we will become more certain of that.

25           CHAIRMAN SWEENEY: Right, but the most

1 vague indication so far, it's consistent with  
2 what we would expect to see which is not a  
3 dramatic increase. I don't consider a dramatic  
4 \$.10 reduction on top of the massive reduction  
5 we've seen with the crude oil prices falling, I  
6 would not call that dramatic.

7 PROFESSOR BORENSTEIN: Well, it is what  
8 the market should be generating.

9 CHAIRMAN SWEENEY: Exactly.

10 PROFESSIONAL BORENSTEIN: Marginal costs  
11 at \$.10 a gallon and --

12 CHAIRMAN SWEENEY: You'd expect prices to  
13 go up roughly that.

14 MR. HACKETT: You just have to look  
15 really hard to find it.

16 CHAIRMAN SWEENEY: Yeah.

17 PROFESSOR BORENSTEIN: There's a lot of  
18 noise --

19 CHAIRMAN SWEENEY: And using my much less  
20 rigorous methodology, and checking a few local  
21 gasoline stations I deal with, I can't find it, I  
22 can't find anything --

23 MR. HACKETT: I did see it at one gas  
24 station down in Newport Beach, somebody put a --  
25 a station I go by -- put it on for about a day,

1 put a dime on for a day and then it didn't last,  
2 it was gone. And the competition didn't follow  
3 him up, so he had to take it off.

4 CHAIRMAN SWEENEY: And I'm seeing roughly  
5 about \$2.70 a gallon for regular and \$2.90 for  
6 premium. But I'm going it in the urban areas  
7 like Palo Alto, or when I last bought it there  
8 was in Berkeley.

9 PROFESSOR BORENSTEIN: -- Berkeley  
10 stations.

11 CHAIRMAN SWEENEY: Well, that's two. I  
12 didn't want to run out of gasoline before I got  
13 to --

14 MS. FOOTE: But what you do still see is  
15 whoever is charging less has the lines across.

16 CHAIRMAN SWEENEY: Okay, let us give you  
17 a chance for the last observations that you have  
18 there. Have we pretty well finished this? I  
19 think so, but does anybody have any last  
20 questions for Gordon?

21 PROFESSOR BORENSTEIN: Thank you very  
22 much, this was great.

23 CHAIRMAN SWEENEY: Yeah, this is the sort  
24 of thing other than wanting more of it, this is  
25 the thing that I had thought that at the end of

1 the last meeting we said we needed in order to  
2 have the preliminary, so I would like to thank  
3 each of the people who have given comments so  
4 far, just what the doctor ordered, so thank you.

5 I would suggest that we take -- it is now  
6 3:40 -- that we take a five-minute break just  
7 because we have started at I think at 3:40, yeah,  
8 we started at about 1:15 and it's been two and a  
9 half hours, so a five-minute break, unless  
10 anybody objects, I think a five-minute break is  
11 in order. But let's not expand into a 15 or 20-  
12 minute break. Does anybody object to that?

13 MR. RHYNE: All right, then we'll go  
14 ahead and place the conference call on mute and  
15 we will unmute when we return.

16 (Break at 3:40 p.m.)

17 (Reconvene at 3:47 p.m.)

18 CHAIRMAN SWEENEY: Okay, is everybody  
19 ready for me to hit the mute button? Okay, we've  
20 finished all the presentations. We have  
21 opportunity for general topics regarding fuel.  
22 This is totally open first for the Committee  
23 members and then we will go to opportunity for  
24 public comment. Now, you've ordered this as an  
25 opportunity for public comment, and then that can

1 lead to action items because public comment  
2 itself may suggest action items.

3 MR. RHYNE: Right, so the action items  
4 were added as a way to make sure we captured  
5 anything that was identified through the course  
6 of the meeting for follow-up in the next meeting,  
7 so we've already I think asked for one action  
8 item, which would be a legal review of the PIIRA  
9 data and our proprietary data sources.

10 So if there are any other specific action  
11 items that the Committee requests, we'll make  
12 sure to capture them. And it's added as a sort  
13 of stopping point in the agenda to make sure that  
14 we do talk about those items before we move  
15 forward with the last piece.

16 CHAIRMAN SWEENEY: That's fine. So the  
17 floor is open for any of the participants here in  
18 the room.

19 PROFESSOR BORENSTEIN: So I was  
20 discussing with Chair Sweeney during the break,  
21 and I would like to make sure that there's time  
22 at the next meeting for us to actually discuss  
23 what -- I think the fundamental question this  
24 Committee is going to be asked, as I said, is to  
25 determine when there is a natural operation, a

1 competitive operation in the market versus some  
2 sort of market power and I think it would be  
3 useful to, before there is a spike, have a  
4 discussion of what that might look like and what  
5 data we might need to diagnose it. And I think  
6 that would be much different than this meeting  
7 and will have to involve a more free range  
8 discussion that will strain the edges of Magnate  
9 Eve. That's what we're here for.

10 CHAIRMAN SWEENEY: Any responses to that  
11 comment?

12 MS. FOOTE: It would be particularly  
13 useful to have input from a number of the staff  
14 people who are here, CEC and maybe non-CEC, as  
15 well.

16 PROFESSOR BORENSTEIN: Yeah, I think it  
17 would be very useful to have the people who are  
18 here today, particularly (indiscernible), I'm  
19 sure others, too, because as we discussed sort of  
20 how firms might exercise market power and what  
21 might be perfectly normal business operations, it  
22 would be very useful to have people actually know  
23 in great detail which data, that's too much, but  
24 I --

25 MR. HACKETT: Well, and so that kind of

1 begs the question of is there anything you guys  
2 need, are there any data needs out there that  
3 you're aware of that you should acquire in order  
4 to be able to hear, be able to sort of spot these  
5 things as they're coming at us.

6           CHAIRMAN SWEENEY: I guess I in principle  
7 agree that the time to have a lot of that  
8 conversation is before we need to make the  
9 judgment because there's going to be many  
10 difficult issues that you want to talk about.  
11 What I'm concerned about in practice is that if  
12 you were going to see a price spike and you  
13 believed it could be because of the exercise of  
14 market power, there's many different ways market  
15 power could be exercised. So this discussion  
16 would have to go through all of the various ones,  
17 or at least the bulk of the ones, and go through  
18 the analysis of that. And I'm not sure that we'd  
19 be able to actually effectively go through the  
20 type of analysis and discussion you would need  
21 within the time period of a meeting or two  
22 meetings and doing it. So in principle, I like  
23 it; in practice, I'm a little dubious, whereas if  
24 you see an actual event, then you can start  
25 beginning to see what's happened at the beginning

1 instead of tracing down, you don't have to  
2 hypothetically analyze all of the different ways  
3 it's happening. So I'm torn. I have these two  
4 points of view, the desire to have it ahead of  
5 time versus the desire to keep the conversation  
6 time-wise manageable.

7 MS. FOOTE: Well, in that respect I would  
8 find it very useful to hear from all of you folks  
9 who know the industry so much better than I do.  
10 I mean, I think I understand something about what  
11 market power is after all these years, but where  
12 are the various places in all of this where  
13 market power can be exercised? I mean, sure,  
14 there are not that many refiners, so maybe  
15 there's something there, but the trading aspects  
16 are areas where there may be some sort of unique  
17 set of circumstances that puts market power in  
18 the hands of an individual that you normally  
19 wouldn't think of as having market power because  
20 of timing, or something of that sort, or because  
21 of the thinly traded situation, or maybe because  
22 of something to do with import/export situation,  
23 or -- anyway, it would be very helpful to me to  
24 just kind of itemize or almost brainstorm all the  
25 different ways that market power, I mean, some

1 forms of market power kind of are always there,  
2 but there are these situations that can create an  
3 opportunity. I'm thinking about the energy  
4 crisis in electricity prices back in 2000-2001,  
5 there were people who were able to influence the  
6 market who unilaterally or normally you wouldn't  
7 think of as having a single trader even to do  
8 that through gaming.

9 CHAIRMAN SWEENEY: Yeah, you can do that.  
10 Now, of course all of those things were litigated  
11 over about -- I don't know if California hasn't  
12 settled the last of the things, have they? From  
13 2000 --

14 MS. FOOTE: Well, this is a different  
15 market from that --

16 CHAIRMAN SWEENEY: -- litigations are  
17 going on. So I don't think those analogies would  
18 be --

19 MS. FOOTE: No, I don't think they are  
20 analogous, this is a wholly different market, so  
21 it's one as to which there may or may not be  
22 those kinds of opportunities.

23 CHAIRMAN SWEENEY: I think you could  
24 identify places where supply can be reduced,  
25 whether it's in the imports or pipelines and the

1 refining operations.

2 PROFESSOR BORENSTEIN: Or storage.

3 CHAIRMAN SWEENEY: And storage, all of  
4 those things. I guess my speculation is that we  
5 will see an event, a physical event, let's be  
6 hypothetical now, a fire in a refinery in  
7 Richmond, for example, that reduces supply. And  
8 then prices spike somewhat, and you can go  
9 through analysis. Well, if we saw that, then we  
10 would focus a lot of our attention onto decisions  
11 that a refiner could make and recover from that,  
12 and how it could exercise market power. We might  
13 not in that case then go through all of the  
14 examples of how a refinery -- a terminal could  
15 changes things, or how pipeline changes could  
16 make it, so it's just the idea that basically any  
17 place in the supply chain that you are  
18 deliberately holding back supply could have an  
19 impact, and if we analyze all of them ahead of  
20 time, I'm wondering how manageable that would be.

21 PROFESSOR BORENSTEIN: Oh, well, I think  
22 actually analyzing them ahead of time will allow  
23 us to say these are places that look more  
24 vulnerable and these are places that actually  
25 look like they're pretty robustly competitive.

1 And that would be very useful to do beforehand.  
2 You know, I don't know the facts but we might  
3 find out there is plenty of pipeline capacity  
4 bringing the fuel in, and this I know is not  
5 true, but to bring fuel in from out of state to  
6 one part of California, but not to another part  
7 of California, that would change what we would  
8 then focus on when an event occurs. I also am  
9 not entirely convinced that we should just think  
10 about a big event.

11 CHAIRMAN SWEENEY: No, anything that led  
12 to a price spike, sure. I'm just speculating  
13 that that's more likely --

14 PROFESSOR BORENSTEIN: Not even a price  
15 spike, but just perpetually higher prices, so if  
16 we started to see over time the price  
17 differential between California than the rest of  
18 the United States, moving in a way that we don't  
19 understand, then I think that would be something  
20 we'd want to look at.

21 CHAIRMAN SWEENEY: Are you suggesting  
22 just movements from the status we've had in the  
23 last few years, or further a full evaluation of  
24 why the prices are now much higher in California  
25 than other places?

1                   PROFESSOR BORENSTEIN: Well, I think  
2 that's actually a pretty straightforward thing to  
3 do and I think I've done it, Gordon just did it  
4 in a way, but I think if we started to see sort  
5 of a six month or year-long period with much  
6 higher or lower margins, that's the sort of thing  
7 we could add value and delve into and say, well,  
8 why is this happening? So I was on the Attorney  
9 General's Gasoline Price Task Force in 1999 and  
10 2000, the issue has been on the table a long  
11 time, and I remember one of our recommendations,  
12 that study might be worth pulling up again, one  
13 of the recommendations was a concern that the  
14 wholesale market wasn't sufficiently liquid, and  
15 so there weren't a tanker coming in, actually  
16 it's back to the '80s or later, had a really  
17 noticeable effect and the risk of bringing a  
18 tanker in when it took two weeks to get it here  
19 was substantial. And one suggestion was do  
20 something to create a more robust futures market  
21 in California for California fuel, and one  
22 recommendation I think was that the State, which  
23 apparently buys about one percent of all  
24 California fuel, would sign long term contracts,  
25 or sign futures contracts for that fuel in order

1 to participate in the market and make it more  
2 likely. I'm not saying that we should be talking  
3 about that now, but those are the sorts of ideas  
4 about how to make the market --

5 MR. RHYNE: So can I -- not to interject  
6 -- I want to make sure that I understand what I'm  
7 hearing from the Committee members. Committee  
8 member Foote was suggesting what I thought was an  
9 analysis of where might the California Petroleum  
10 Market be vulnerable to the exercise of market  
11 power, or more or less vulnerable, rather than  
12 sort of a detailed analysis after the fact of a  
13 specific event. And I'm hearing you, Committee  
14 member Borenstein, sort of taking that and  
15 saying, well, one of the things that you looked  
16 at is the potential for, or made a recommendation  
17 at one point of adding some liquidity to the  
18 market under a previous effort --

19 PROFESSOR BORENSTEIN: Just to be clear,  
20 this wasn't mine, we had a group of 30 people --

21 MR. RHYNE: Sorry, it was a suggestion  
22 made by that group to add liquidity to the  
23 market, and that might be one of many possible  
24 options that might be recommended going forward  
25 at some point if analysis suggests it.

1           PROFESSOR BORENSTEIN:  But actually my  
2 bigger point was that that committee looked into  
3 what are the vulnerabilities, what are the sort  
4 of potential sticking points, and found that this  
5 problem with not having enough liquidity to  
6 import gasoline without -- basically it would be  
7 a big risk, but it's a potential problem in the  
8 sort of competitive functioning of the market.  
9 It sounds like that's actually become less of a  
10 problem, there's more liquidity in the wholesale  
11 market now.  But it needs to get some  
12 recommendations, I don't know.

13           CHAIRMAN SWEENEY:  If we're going to go  
14 down this route, then it would seem useful to  
15 resurrect any of the past studies that have  
16 looked at this in depth.  And your committee  
17 presumably was public record.

18           PROFESSOR BORENSTEIN:  Oh, yeah.

19           CHAIRMAN SWEENEY:  So it can be -

20           MR. HACKETT:  No, but I got some follow-  
21 on work from that.

22           CHAIRMAN SWEENEY:  So if we're going to  
23 go down this road, I think it would be at least  
24 efficient to bring in things that happened and  
25 the Attorney General's Office may have done some

1 things before because you've been asked many more  
2 times than you can count to investigate this  
3 market. And there may be something that can be  
4 made public. I know you're not operating  
5 generally in the public mode, but something may  
6 be made public that we can bring if we're going  
7 to do this. So I guess if we're going to do it,  
8 I would like us to do it in a serious way, not a  
9 half way basis, and then recognize that to get  
10 that handle we're going to have to schedule  
11 significantly longer meetings because I think the  
12 debate about this will be in this open meetings  
13 setting and --

14 PROFESSOR BORENSTEIN: Well, in some ways  
15 we've been spending time on all the set-up of the  
16 committee, which has been mostly the last meeting  
17 and a chunk of this meeting, I hope we won't have  
18 to do that again, so now we can spend time on the  
19 present.

20 CHAIRMAN SWEENEY: Yeah.

21 PROFESSOR BORENSTEIN: I will try to find  
22 that report and you guys probably got a copy,  
23 because I probably won't be able to find it, and  
24 I also wrote a paper in 2004 on market power  
25 issues in California's gasoline market, which

1 also sort of --

2 CHAIRMAN SWEENEY: Yeah. And maybe in  
3 doing that, you probably identified a group of  
4 others that is a group of other studies that you  
5 viewed had good intellectual quality that you can  
6 make sure we all get copies of that. Is there an  
7 easy process, I guess, to make sure it's both  
8 available to us and available to the public? Is  
9 that something --?

10 MR. RHYNE: Anything that's available  
11 online we can simply repost under our Petroleum  
12 Market Advisory Committee site if that's what you  
13 would choose to do, and that would centralize  
14 that information.

15 CHAIRMAN SWEENEY: I think we need  
16 something that's centralized, something therefore  
17 that we can each get an access to, and that  
18 anybody who is interested in following the nature  
19 of the discussion here and the public can also  
20 get that same access.

21 MR. RHYNE: I will set up sort of a sub  
22 folder on Petroleum Market Advisory Committee  
23 website for Market Power Related Studies and  
24 Information. That sub folder will be publicly  
25 accessible and so anything that is shared with me

1 and directed to put up there, I will have put up  
2 there.

3 CHAIRMAN SWEENEY: And --

4 PROFESSOR BORENSTEIN: Actually, can I  
5 just add? If the Attorney General's Office or  
6 anyone knows of a legal discussion of what  
7 activities are legal or illegal, I suspect you've  
8 done this analysis in most anti-trust settings  
9 simply raising your price and acting unilaterally  
10 is not considered illegal, and I would love to  
11 see something that actually goes through that  
12 carefully. I'm not asking you to --

13 MS. FOOTE: I bet every oil company has  
14 internal compliance.

15 PROFESSOR BORENSTEIN: And they are  
16 certainly not going to show them to us.

17 MS. FOOTE: That tells everybody exactly  
18 what is legal and what isn't.

19 CHAIRMAN SWEENEY: Right, but if there is  
20 something that has at some level, I mean, there's  
21 the standard anti-trust, you know, legal analyses  
22 applies specifically here, that would be good.  
23 Now, I guess the time, we have to pay attention  
24 to the timing of this. I believe that in the  
25 next meeting we're still going to want to have

1 some time for looking at data in even more depth  
2 than we have now so we can see some of this price  
3 status, so that would be one of the things that  
4 we're going to have to do. We've had the basic  
5 briefings on these things, although we probably  
6 are going to want an update on the Low Carbon  
7 Fuel Standard because, between now and then, the  
8 Air Resources Board is going to either adopt  
9 those rules or going to modify those, and so we  
10 either know that they've been adopted or modified  
11 in some way, so we're going to probably have  
12 that. But we do envision then starting this  
13 conversation as early as the next meeting?

14 PROFESSOR BORENSTEIN: I'd love to, yeah,  
15 I think the sooner the better. Actually, that  
16 reminded me of one piece of data that did not  
17 come out of the meeting today, which is the  
18 tracking of the prices of the California Cap-and-  
19 Trade allowances because they're actually  
20 (indiscernible).

21 CHAIRMAN SWEENEY: Yeah.

22 MR. WADE: Are you guys looking for ARB  
23 to produce that slide?

24 PROFESSOR BORENSTEIN: If you want to -  
25 actually, I don't want just the quarterly options

1 though because that's not enough data, so there  
2 are other indexes.

3 MR. WADE: Yes.

4 CHAIRMAN SWEENEY: Okay, so that's the  
5 first topic. And I think -- I don't hear any  
6 Committee member or anybody seriously objecting  
7 to it, I just have my concern about the viability  
8 of it, but we'll find out. We'll start it and  
9 we'll find out how many rabbit holes that we end  
10 up having to go down, but there's no reason to  
11 not start that.

12 MS. FOOTE: All it takes is a really good  
13 Chair, and we know we've got that.

14 CHAIRMAN SWEENEY: Yeah, we've got, I  
15 mean, you've got pretty nice chairs in this  
16 conference room, they're a little hard, but if  
17 we're going to have a long meeting, I'd like  
18 softer chairs if we could.

19 Okay, are there other topics that any of  
20 the Committee members would like to bring to the  
21 table, or any of the people from the various  
22 State agencies? In which case I think it's time  
23 to go to the public comments.

24 MR. RHYNE: Okay, so I'm going to mention  
25 before we get into public comment, if there's

1 anyone online who would like to comment, the  
2 phone line is open and we also have the chat  
3 function on WebEx, so if you find it easier to  
4 provide your question via the chat function,  
5 please do so, but we will also ask that, as you  
6 unmute your phone if there's a lot of feedback,  
7 to be careful and just mute that again, otherwise  
8 we will have to mute you from this end.

9 CHAIRMAN SWEENEY: How do you deal with  
10 the order so that people know when they can get  
11 in --?

12 MR. RHYNE: I would recommend that we  
13 start first with the people in the room, we open  
14 the floor to those, anyone in the room who does  
15 wish to speak we'll ask you to provide your name  
16 and title so that the Court Reporter can have  
17 that. And seeing none, I don't think we have  
18 anyone here.

19 CHAIRMAN SWEENEY: No, we don't have.

20 MR. RHYNE: If there is anyone online,  
21 I'll ask you, you can use the chat function to  
22 let me know that you have a question; once you  
23 do, I will sort of let you know to go ahead  
24 first. So I'll pause for a moment. Anyone who  
25 wishes to address the Committee with a question

1 or a comment, please just pop into the chat  
2 function on WebEx and let me know now, and then  
3 I'll call out your names in the order that I see  
4 you pop up here. So I'll just pause for a  
5 moment. So, Mr. Chairman, I don't see anything  
6 popping up on the chat window.

7 CHAIRMAN SWEENEY: Then I'd like to  
8 invite anybody who is there that is having a  
9 computer problem to just speak up right now.  
10 Hearing none, I'd like to move on to the next  
11 issue, Action Item Topics for Next Meeting.  
12 We've really mostly done that. But are there  
13 other topics that you -- I think we've listed  
14 each one of the things we want to do.

15 MR. RHYNE: Before we add anything new,  
16 please let me recap what I have.

17 CHAIRMAN SWEENEY: That's helpful, thank  
18 you.

19 MR. RHYNE: So the first item is the  
20 Energy Commission Legal is going to provide just  
21 an exact sort of status with regard to this  
22 Committee and its ability to access both, or not  
23 access, both Petroleum Information Reporting Act  
24 data, as well as proprietary data, under what  
25 circumstances they can be accessed and under what

1 forums, and whether or not there are any  
2 requirements to sign things like an NDA.

3 MS. ARENS: We hope to have that by the  
4 next meeting, but at the very least, we'll give  
5 you an update on the status of our analysis.

6 COMMISSIONER SCOTT: Yeah, we probably  
7 need an answer at the next meeting, so I'm not  
8 quite sure when the next meeting will be, but we  
9 should figure out how to make sure that we have  
10 some clear answers for you all. We'll continue  
11 to volunteer the Legal Office to you, have that  
12 if we can, and I'll check with them to make sure  
13 it's okay in writing to you in advance, to your  
14 point, that we don't spend so much of the meeting  
15 kind of on the procedural stuff. And you can  
16 take a look at it, and if you have questions  
17 maybe we can jump in with questions instead of  
18 walking through a memo in detail, but that's up  
19 to how you all would like to --

20 CHAIRMAN SWEENEY: Because this is  
21 relevant, maybe we should talk about the  
22 timeframe that we have in mind about the next  
23 meeting, we'll still do the doodle poll to do it.  
24 Are we considering doing it roughly quarterly  
25 now? Do we see a need for moving it faster than

1 three months from now, say two months from now?

2 Any thoughts? First I'd like to ask --

3 MR. RHYNE: So the charter is pretty  
4 clear that you adopt it earlier and I believe  
5 also in the Bylaws that the meetings are meant to  
6 be at least quarterly, however they could be more  
7 frequently if you as Committee members, or the  
8 Commission, request it to be so for a particular  
9 event, or something going on. I would think, and  
10 I'm thinking out loud here, based on what I have  
11 with regard to data requests and the direction  
12 that I heard you moving with regard to the market  
13 power sort of topic focus, that three months may  
14 be appropriate.

15 CHAIRMAN SWEENEY: I think it's going to  
16 take you some time to gather this data, you can  
17 make those judgments yourselves, do the legal  
18 analysis, and do the filtering of it --

19 MR. RHYNE: Which would be right around  
20 the May timeframe.

21 CHAIRMAN SWEENEY: Yeah. So I would  
22 propose roughly on the order of three months  
23 unless somebody suggests differently. But then  
24 we'll do the doodle poll to figure out some time  
25 that we can -- what was really good, you kept

1 working the problem until you could get all  
2 members of the committee able to do it, and I'd  
3 like to keep shooting for that target.

4 PROFESSOR BORENSTEIN: So then the  
5 related question is location. I'm not sure this  
6 worked for everybody. We are happy to host, but  
7 if you want to move back to the CEC, we're happy  
8 to do that, too.

9 CHAIRMAN SWEENEY: I have a strong  
10 preference that, even though it's impossible to  
11 park in Berkeley --

12 PROFESSOR BORENSTEIN: It's not  
13 impossible, I'll show you.

14 CHAIRMAN SWEENEY: You've got to give me  
15 good information. But I would much rather go to  
16 Berkeley than Sacramento.

17 PROFESSOR BORENSTEIN: I would too, but I  
18 suspect there's a whole bunch of people here who  
19 would --

20 CHAIRMAN SWEENEY: How about some of you?

21 COMMISSIONER SCOTT: We're happy to come  
22 to Berkeley, that's fine.

23 PROFESSOR BORENSTEIN: Would a Friday  
24 afternoon be -- do you live down here?

25 COMMISSIONER SCOTT: I live in

1 Sacramento.

2 PROFESSOR BORENSTEIN: I know there's  
3 some Sacramento people who actually live in the  
4 Bay Area and Friday afternoons are better.

5 CHAIRMAN SWEENEY: And you're in San  
6 Francisco?

7 MS. FOOTE: I'm in San Francisco.

8 MR. HACKETT: I'm in Irvine, but my 90-  
9 year-old mom is up here, so it works out pretty  
10 well for me to drive up and spend a couple days  
11 with mom and then come over for this meeting, so  
12 this is fine.

13 CHAIRMAN SWEENEY: So how do you guys  
14 feel about coming down here versus Sacramento?

15 PROFESSOR BORENSTEIN: This is good?  
16 Okay.

17 CHAIRMAN SWEENEY: Okay, so we got the  
18 related issue pretty well solved.

19 MR. RHYNE: Great. So we'll target the  
20 next meeting to be here in Berkeley, potentially  
21 this room, in fact, and I will set up -- and  
22 that's on the list of to-do's now -- set up a  
23 doodle poll, again working through the same  
24 process we did last time to identify black-out  
25 dates first, set up the doodle poll, and then

1 we'll schedule a meeting date.

2 CHAIRMAN SWEENEY: All right, and it  
3 worked well, and I just want to reemphasize I  
4 think it's important to find a time when we're  
5 all in the room and you did that really well this  
6 time, and you've got a track record now.

7 MR. RHYNE: Okay, let me go through the  
8 remainder of the to-dos here. So I will be  
9 working with our Web Department to add a place on  
10 the Petroleum Market Advisory Committee website  
11 for Market Power Issues. There's also a standing  
12 request for anyone who has access to or knows of  
13 a study focusing on market power to provide that  
14 to me, as long as it is publicly available, it  
15 can't be something confidential or proprietary  
16 that we can't share with the public. And, Mr.  
17 Chairman, I would actually suggest that we open  
18 that request to even the general public who might  
19 be listening if they would provide a publicly  
20 available document, I don't think it would be a  
21 problem at all.

22 CHAIRMAN SWEENEY: I think that's quite  
23 appropriate. I would like to request if they do  
24 that, let us know what its status is: is this  
25 something that has been published in a peer

1 reviewed literature? Is it something within as a  
2 consulting report for a particular client? If  
3 so, who is the client? So we can have a little  
4 context and know about that. But, yes, I think  
5 that would be very valuable.

6 MR. RHYNE: The Committee has asked for  
7 at the next meeting an update on the Low Carbon  
8 Fuel Standards, which should include a slide, at  
9 least on Cap-and-Trade prices, not necessarily  
10 the auction prices, but in fact the --

11 PROFESSOR BORENSTEIN: Those are two  
12 separate topics, Cap-and-Trade and --

13 CHAIRMAN SWEENEY: Yeah, those are two,  
14 yeah.

15 PROFESSOR BORENSTEIN: An update on AB  
16 32.

17 MR. RHYNE: Right, AB 32.

18 COMMISSIONER SCOTT: Let me just note, I  
19 think, Sam, your timing, did you say a July Board  
20 Meeting, so that --

21 MR. WADE: If it would be fully adopted  
22 by May, the Board should act in July if they feel  
23 it's appropriate to do so.

24 CHAIRMAN SWEENEY: But don't you have the  
25 first meeting which they tentatively review it at

1 that time?

2 MR. WADE: Yeah, there is no voting  
3 action at that February meeting.

4 CHAIRMAN SWEENEY: So would the thing  
5 they review be substantially different than what  
6 you presented, possibly?

7 MR. WADE: It is possible, but there's a  
8 procedure for changes between those two Board  
9 hearings in response to stakeholder comments --

10 CHAIRMAN SWEENEY: So maybe a short  
11 report saying nothing has changed?

12 MR. WADE: Yeah, okay, we can do that.  
13 We can also provide the Cap-and-Trade prices and  
14 LCFS prices.

15 CHAIRMAN SWEENEY: Right.

16 MR. RHYNE: And finally the last item on  
17 here was for me to set up a doodle poll and  
18 schedule the next meeting.

19 CHAIRMAN SWEENEY: Great. The other  
20 thing that's implicit is sending us the draft  
21 Minutes of the meeting relatively soon after the  
22 meeting. It's much better for memories. The  
23 longer we wait, the fuzzier memories might be, so  
24 if you get that reasonably early, and then the  
25 Committee members can all give any comments they

1 have while their remembrances are fresh.

2 MR. RHYNE: Given that we've established  
3 now what those Minutes can look like, and the  
4 fact that I've got a good set of notes here, I  
5 don't see that being a problem. We'll get those  
6 out relatively quickly.

7 CHAIRMAN SWEENEY: Great. Anything else?

8 MR. RHYNE: Okay.

9 CHAIRMAN SWEENEY: Okay, now, there's a  
10 last item on here.

11 MR. RHYNE: So the last item on the  
12 agenda was intended originally, or was originally  
13 thought to be an item that would be held in  
14 closed session and, in fact, it was mentioned in  
15 the meeting notice as being a closed session item  
16 to consider Bylaws. Bylaws as distinct from the  
17 charter are binding on Committee members and have  
18 been drafted by our Legal Office, and they have  
19 recommended that in order to be in compliance  
20 with the Open Meeting Laws, that we really should  
21 have this discussion and perhaps adoption in an  
22 open session, and so as directed by the Chair, I  
23 have added that to the Agenda as an open item,  
24 and Mr. Chairman, the Draft Bylaws are there in  
25 your packet and I do have a version available.

1 MS. ARENS: I would just like if we could  
2 circulate it.

3 CHAIRMAN SWEENEY: It's one sheet, I'm  
4 still looking for this.

5 MS. FOOTE: Do you want to borrow mine?

6 CHAIRMAN SWEENEY: I must have one right  
7 here. There it is.

8 MS. ARENS: We can certainly discuss the  
9 subject today, but in terms of adoption if we  
10 want to move to adopt it, we would need to do  
11 that at the next meeting.

12 CHAIRMAN SWEENEY: Yeah, I think the  
13 useful thing -- now, has this been posted on the  
14 website so everybody --

15 MR. RHYNE: It is now up online, so  
16 anyone on WebEx can see it.

17 CHAIRMAN SWEENEY: Okay. Let's take a  
18 moment to read it.

19 Okay, now help us fully understand the  
20 relationship between this and the charter. You  
21 say these are binding on us, the charter is not  
22 binding. But this in many ways repeats in a more  
23 formulaic manner the things that are in the  
24 charter. Help us understand what we're voting  
25 on.

1 MS. ARENS: You did adopt the charter  
2 today, so --

3 CHAIRMAN SWEENEY: Yeah, we adopted it.

4 MS. ARENS: So that will likely be binding  
5 on you, but the bylaws have some specifics that  
6 are not contained in the charter, for example, a  
7 resignation, non-delegation of duties,  
8 confidential information, what constitutes a  
9 quorum, but decisions will be made on a consensus  
10 basis. Those are some examples of procedural  
11 items that I don't believe are in the charter.  
12 The Bylaws also have an article, Rules of Order  
13 which are not binding, but in the event you  
14 wanted to do something and you weren't sure of  
15 the procedure there, you could turn to these  
16 Rules of Order. So this, I think it would be a  
17 more procedural item.

18 CHAIRMAN SWEENEY: So we have two  
19 questions that we face. Do we feel, first, are  
20 there things that anybody sees now that they'd  
21 like to change? And, 2) do you feel comfortable  
22 enough with these that you'd like to adopt them  
23 today or wait until a subsequent meeting?

24 MS. ARENS: Well, I think we must adopt  
25 them at a subsequent meeting because we haven't

1 noticed potential adoption of the Bylaws. The  
2 notice that went out of the published agenda was  
3 just for discussion of the Bylaws.

4 CHAIRMAN SWEENEY: Fair enough.

5 MS. ARENS: So we can certainly discuss  
6 them today, but if you want to think about  
7 adopting them, that would need to wait --

8 CHAIRMAN SWEENEY: Okay, excellent. Does  
9 anybody see any objections here? I only see one  
10 thing, but I don't object to the words. If  
11 anybody wants to play games with Roberts Rules of  
12 Order --

13 PROFESSOR BORENSTEIN: I hate Roberts  
14 Rules of Order.

15 CHAIRMAN SWEENEY: I hate them. I think  
16 that that has to be definitive at the end, but if  
17 anybody starts playing that, I'm going to resign  
18 within the 30-day notice.

19 MS. ARENS: Well, we could, you know,  
20 those were a suggestion by our Acting Chief  
21 Counsel to put that in there as something you  
22 could turn to if you wanted to, but if you don't  
23 like them, we can delete this.

24 MS. FOOTE: There's -- actually, I like  
25 Roberts Rules of Order myself because everybody

1 pretty much knows what they are and how they  
2 work, and anything else --

3 CHAIRMAN SWEENEY: Could be worded as --

4 MS. FOOTE: -- as being misunderstood.

5 There is sort of a Roberts Rules of Light that I  
6 think League of Women Voters and organizations  
7 like that sometimes send out to nonprofits and so  
8 on that, you know, we might look at. But I think  
9 we've actually been operating on Roberts Rules of  
10 Order pretty comfortably. So far.

11 CHAIRMAN SWEENEY: It's the spirit, but  
12 there's a formality of Robert's Rules of Order  
13 that we have not followed all the way in asking  
14 who is going to speak, how much time they're able  
15 to take, who gives the floor, it's that formality  
16 that I don't like. The spirit, I think it's a  
17 very sensible --

18 MS. FOOTE: Those are optional.

19 CHAIRMAN SWEENEY: Yeah, I think the way  
20 we're running the meetings, if anybody objects,  
21 you know, we can talk about it easily. So I  
22 don't object to saying this, my intention is that  
23 if we get down to using the details of Roberts  
24 Rules of Order, then we really miss the point of  
25 what we're trying to do, we're trying to get an

1 intellectual progress on this. So I don't object  
2 to it, but just as long as nobody wants to take  
3 too much emphasis. What?

4 PROFESSOR BORENSTEIN: We have way too  
5 good a Chair; that will never happen.

6 CHAIRMAN SWEENEY: But you need better  
7 seat covers on these chairs.

8 MS. ARENS: We may not prefer language  
9 here for Article 5 is discretionary, it says  
10 Roberts Rules may govern the committee, and so if  
11 there's a particular instance when you want  
12 guidance, my intent here was to allow you to use  
13 those rules, but if you wanted to be less formal  
14 in the ordinary course of business, you wouldn't  
15 necessarily have to.

16 CHAIRMAN SWEENEY: Yeah. I think I don't  
17 object; and so if I look through I don't see  
18 anything. First, the substance of what we're  
19 doing we've already agreed to in the charter.  
20 The processes that a member can resign, I thought  
21 that was implicit anyway. Thirty days written  
22 notice, sure, you give 30 days, but if you stop  
23 performing you stop performing. Non-delegation  
24 of duties, so I don't see anything remarkable to  
25 object about this. But does anybody see anything

1 they don't like?

2 MS. FOOTE: It looks good to me.

3 CHAIRMAN SWEENEY: So then because  
4 they're not noticed, they should be noticed for  
5 next meeting, and they'll be the first item of  
6 business, no, the second item after the Minutes  
7 adopted.

8 MR. RHYNE: Okay.

9 CHAIRMAN SWEENEY: Okay, are there other  
10 items of business?

11 MR. HACKETT: There were some letters in  
12 our package, people expressing concerns about the  
13 impact of the work slowdown in the ports, and so  
14 can you talk about why we got those?

15 MR. RHYNE: So the Committee was provided  
16 some information on background that covered some  
17 letters that were sent to the Energy Commission  
18 regarding two different issues, one was the work  
19 slowdown at the Ports, and second was the ongoing  
20 labor issue that has affected at least two of the  
21 refineries here in California and an additional  
22 one in I think it was Washington that Gordon  
23 mentioned. That information was provided  
24 precisely because, while the Energy Commission  
25 has no position with regard to the labor status,

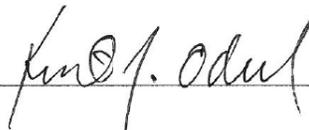


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A handwritten signature in cursive script, appearing to read "Kent Odell", is written over a horizontal line.

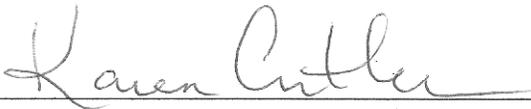
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IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of March, 2015.

  
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Karen Cutler  
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