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STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

BUSINESS MEETING CALIF. ENERGY COMMISSION

APR 29 1983

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WEDNESDAY, APRIL 20, 1983

10:35 O'CLOCK A.M.

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COMMISSIONERS PRESENT

- Charles R. Imbrecht, Chairman
- Arturo Gandara, Vice Chairman
- Russell L. Schweickart, Commissioner
- Karen K. Edson, Commissioner
- Geoffrey D. Commons, Commissioner

STAFF PRESENT

- John Geesman, Executive Director
- Bill Chamberlain, General Counsel
- Ralph Chandler
- Leon Vann
- Mark Urban
- Kent Smith
- Nancy Powers
- Valerie Campbell
- Ron Kraft
- Luree Stetson
- Ray Tuvell
- Karen Mathies, Secretary

PUBLIC ADVISER'S OFFICE

- Ernesto Perez
- Gary Heath

ALSO APPEARING

- Roy Cunniff, Geothermal Project, New Mexico State University
- Michael C. Gardner, Southern California Edison Company

ALSO APPEARING (Con't.)

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Patricia Fleming, San Diego Gas and Electric Company

Alan Mirviss, SolarCal Council

1	<u>INDEX (Con't.)</u>	<u>Page</u>
2	Agenda Item 11 - Approval of Minutes	57
3	Agenda Item 13 - Briefing on Staff Interventions in	
	CPUC Proceedings	
4	Mark Urban - Staff Presentation	58
	Commission Order	68
5	Agenda Item 14 - General Counsel's Report	
6	Bill Chamberlain - Presentation	70
7	Agenda Item 15 - Executive Director's Report	71
8	Agenda Item 10 - Staff Briefing on the status of the	
	83/84 California Energy Commission	
9	budget	
	Kent Smith - Staff Presentation	71
10	Valerie Campbell, CSEA Job Steward	98
	Commission Order	97
11	Agenda Item 12 - Commission Policy Committees' Report	
12	Luree Stetson - Staff Presentation	104
	Ray Tuvell - Staff Presentation	
13	Discussion of:	
	AB 646 - Baker	105
14	Commission Position	119
	AB 886 - Kelley	112
15	Commission Position	113
	AB 988 - Baker	120
16	Commission Position	123
	AB 1110 - Areias	123
17	Commission Position	126
	AB 1315 Papan	126
18	Commission Position	129
	AB 1386 - Katz & SB 849 - Montoya	130
19	Commission Position	140
	Commission Order RE: Representation	147
20	AB 1445 - Filante	148
	Commission Position	152
21	AB 1780 - Hauser	153
	Commission Position	157
22	SB 5 - Montoya	157
	SB 1016 - Montoya	157
23	Commission Position	159
	SB 48 - Vuich	159
24	Commission Position	163
25	Discussion of Commission Represent-	
	tation on Spot Bills	165

	<u>INDEX (Con't.)</u>	<u>Page</u>
1		
2	Agenda Item 12 - Further Discussion on Issue of (Con't.) Representation	172
3	Commission Position	183
4	Adjournment	183
5	Reporter's Certificate	184
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
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P R O C E E D I N G S

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3 CHAIRMAN IMBRECHT: We'll call the meeting to
4 order, notice the presence of a quorum. I'll make a couple
5 of housekeeping announcements before we begin.

6 Items 5 and 6 and 9 on the agenda, 5, 6, and 9
7 have been removed, so those are off, and we'll have a little
8 shorter meeting as a consequence.

9 Also, in order to accommodate, there's some people
10 that have travel difficulties, we're going to change the
11 order of consideration of business for today as well. We
12 will take up Item 4 first, and then begin at the top of the
13 list with -- the first item that's listed will be the
14 second item to be considered.

15 So, first we'll turn to Item 4, which is a contract
16 with the City of San Bernardino, Board of Water Commissioners
17 for \$2,750,000 for design and construction of the San
18 Bernardino Geothermal District Demonstration Heating System
19 and marketing of the geothermal heat, et cetera. I believe
20 Commissioner Edson, is that correct, is making a presentation
21 on this.

22 COMMISSIONER EDSON: This is a project that is
23 funded from the Commission's Geothermal Resource and
24 Development Account. It has been -- it was specifically
25 funded by act of the Legislature in the Commission's budget.

1 I think the staff has prepared a detailed
2 presentation on this, so let me just invite them to come
3 forward and walk us through the project.

4 CHAIRMAN IMBRECHT: Can we get the lights turned
5 on, as well?

6 MR. CHANDLER: Thank you, Commissioner Edson.
7 Good morning, Commissioners. My name is Ralph Chandler.
8 I'm Manager of the Geothermal Program within the Development
9 Division.

10 The Energy Commission, through its Geothermal
11 Program is actively promoting the development of our state's
12 extensive geothermal resources. With considerable private
13 financial and technical support being given, the development
14 of high temperature resources for large scale projects, the
15 Geothermal Program has directed much of its efforts towards
16 promoting the development of low to moderate temperature
17 geothermal resources.

18 The overall objective of the Geothermal Program
19 is to accelerate the development of these resources not only
20 as a cost-effective means of displacing conventional fuels,
21 but also as a stimulus for local economic development.

22 Only recently has the direct use of our state's
23 geothermal resources begun to receive the attention and
24 financial support it deserves. The contract for consideration
25 today would provide to the San Bernardino City Water

1 Department the financing necessary to design and construct
2 a utility system which will demonstrate the economics of
3 conveying geothermal energy as an alternative to fossil fuels
4 in meeting the year-round hot water needs of public, private
5 and federal facilities in and around the City of San
6 Bernardino.

7 I'd like to briefly give a little bit of background.
8 The use of geothermal was first considered by the City Water
9 Department of San Bernardino as early as 1980. The
10 geothermal retrofit of the San Bernardino Wastewater
11 Treatment Facility was shown to be feasible by a DOE funded
12 study completed in 1981.

13 The State Legislature then appropriated \$390,000
14 for the treatment plant project in its fiscal '80-'81 budget.
15 Subsequently, the extent of the geothermal resources in and
16 around San Bernardino was extensively studied by the
17 California Division of Mines and Geology.

18 In 1981 -- excuse me, in 1982, the San Bernardino
19 City proposed to the Commission funding for a feasibility
20 study that would expand upon that digester project and
21 look at evaluating the technical and economic feasibility of
22 a district heating system.

23 Concurrently, as Commissioner Edson stated earlier,
24 the State Legislature appropriated \$2,750,000 as a grant loan
25 for the San Bernardino Demonstration Geothermal District

1 Heating Project.

2 I'd like to briefly cover some of the major
3 significant points of the contract itself. The contract
4 has been written in accordance with the state contracting
5 requirements, and terms and conditions of the budget item
6 for the State Budget Act of fiscal year 1982-83.

7 A total of \$2,750,000 is allocated with 50 percent
8 available during the current fiscal year, and the remaining
9 50 percent available in the fiscal year '83-'84. The
10 contract is considered local assistance and thus is exempt
11 from the current contract freeze.

12 The contractor will be limited to payments of 50
13 percent of the authorized amount until user service contracts
14 have been signed for at least 60 percent of the planned
15 capacity of the system to assure that revenues therefrom
16 will be realized.

17 After one year of system operation, the contractor
18 and the Commission shall evaluate the system performance
19 using the following criteria: (a) the heating system
20 delivers the contracted heat to users; and (b) the heating
21 system generates net revenues after payment of reasonable
22 annual operating costs and system replacement and expansion
23 reserve costs.

24 When the system performs per the criteria, the
25 grant will convert to a loan. Principal will be repaid with

1 interest, the rate to be based on the state pooled money
2 investment account. That interest rate currently stands
3 at 10.77 percent. The effective rate will be reviewed and
4 may be adjusted annually. Repayment period is not to exceed
5 10 years after conversion of the grant to the loan.

6 We have today assembled a panel from both San
7 Bernardino, their consultant, and the resource development
8 firm, Geothermal Republic. I'd like to just bring you up
9 to date briefly.

10 The construction on the digester project, the
11 geothermal retrofit has proceeded rapidly. The pipeline was
12 laid and connected to the heat exchanger, and the digester
13 project was dedicated on April 5th of this year. It is
14 working quite successfully.

15 We're now ready to move into the next phase,
16 namely, providing the grant loan as allocated by the
17 Legislature to design and build the district heating system.
18 Commission consideration here today is for funding of that
19 project as a follow-on and extension of the initial,
20 successful digester heating project, using that same
21 geothermal resource.

22 If it would please the Commission, I will answer
23 any questions from the staff's perspective. If not, I'd
24 like to move on, then, with the overview that we have
25 prepared today to get in more detail, and describe the

1 scope of the project.

2 CHAIRMAN IMBRECHT: Fine, thank you. Any
3 questions from the Commission? Please proceed, then.

4 MR. CHANDLER: I'd like then to introduce Mr. Roy
5 Cunniff, the primary consultant on this project. Mr.
6 Cunniff is Chief of the Geothermal Energy Project at New
7 Mexico State University and was instrumental in that campus'
8 district heating project, and getting it implemented and
9 on-line, and that system has been operational now for one
10 year.

11 MR. CUNNIFF: Mr. Chairman, Commissioners, I'm
12 Roy Cunniff for the record. I've been in geothermal hot
13 water for the last five years.

14 We have a slide presentation this morning which
15 will give you full details on the proposed San Bernardino
16 Project. I'll beg your leave, we'll have to turn the lights
17 down in order to see some of the slides, the slides are
18 quite dark.

19 The briefing is entitled, as you see there. The
20 scope of the briefing, as is shown in this next -- or the
21 briefing outline is shown here. This is technically a
22 decision briefing. We will lead you through the background,
23 the scope of the project, the cost, what the targets of
24 opportunity are, leading then into a recommendation, a joint
25 recommendation for the City of San Bernardino Water

1 Department and your staff.

2 You do have paper copies of the briefing slides
3 in front of you, if you'd care to make notes as we go through.

4 CHAIRMAN IMBRECHT: Thank you.

5 MR. CUNNIFF: The scope of the brief is as shown
6 here. The well to be used is shown in the right slide. This
7 is a picture of Meeks and Daily Well No. 66, which is an
8 artesian flowing geothermal well. It's a good resource.
9 The scope of the resource is shown on the left side --
10 correction, the resource parameters, geothermal resource
11 parameters on the next slide.

12 This well was drilled 20 years ago. It was tested,
13 pump tested at 4,500 gallons per minute. It was in service
14 as an irrigation well for about 15 years. For the last five
15 years, the water company has allowed the well to not be put
16 into service, and has flowed artesian and drained into Warm
17 Creek in San Bernardino.

18 As part of the digester project, successfully
19 completed and dedicated the 5th of April, the well was capped,
20 and these are pictures of the dedication ceremony showing the
21 amount of water that flows out of that well. It's a good
22 resource; a clean resource, only moderately elevated boron
23 and fluoride contents to the extent that, as you will see
24 later in the briefing, there are no negative environmental
25 effects of this project.

1 The geothermal resource exploration work done by
2 Republic Geothermal has demonstrated there is, in fact,
3 adequate resource base for many additional wells. At least
4 one additional well was planned in this project.

5 Those dollars appropriated by the Legislature are
6 displayed here by rough plan budget category of expenditure.
7 You will note that the pipeline itself is the largest single
8 line item, and I'll cover that later. Concerning the
9 resource base, the -- and the other items that this money
10 will buy, the slide on the right will show you what these
11 categories of expenditures are.

12 First, and most important is expanding the
13 resource base, and by that I mean adding a minimum of one
14 additional well. That is just prudent insurance that the
15 City Water Department will be able to guarantee water -- hot
16 water delivery to the customers that they sign up in the
17 first phase of this contract.

18 There is reasonable certainty, a high degree of
19 reasonable certainty that a follow-on well would be successful.
20 There's enough resource information now been gathered to
21 give high confidence to that drilling.

22 The distribution system is more than five miles
23 of insulated pipeline which will connect a series of five
24 clusters of users which I'll cover a little bit later in
25 the briefing.

1 All of the users, and there are some 30 planned
2 users, will be tied together by an instrumentation system
3 so the city can monitor temperature and water flow rates at
4 the various end points of the system to assure customers
5 and themselves that the system is working adequately. That
6 same system instrumentation will gather the information they
7 need for building purposes, for keeping track of the sales
8 of the hot water.

9 Retrofit is a user responsibility. This appro-
10 priation provided no funds, appropriately so, for retrofit,
11 and becomes a user responsibility. Part of our efforts, the
12 focus of our efforts was to assure -- to find customers
13 that could use this resource, and to find customers that
14 could afford to retrofit to use the resource. It had to
15 be affordable, and we think we have done that.

16 Turning to the cluster concept, the chart -- the
17 slide on the left shows the five clusters of users that
18 have been identified as the potential market. Most of the
19 users in these clusters have been contacted. We have
20 visited their buildings. We have examined their equipment
21 rooms, their utility service rooms. We know what it takes
22 to retrofit; they know what it will cost to retrofit.

23 Talking you through each of the clusters, the first
24 one, the digester complex is roughly a mile south of the
25 existing well. That pipeline is installed and in place.

1 That resource is currently heating the one digester. As
2 part of the new contract, five maintenance buildings in the
3 digester area will be connected with geothermal. In addition,
4 there are a number of other users, and I'll now take you
5 through a short slide show of those users.

6 This is the digester itself. Just to the left of
7 the red object, on the left side of the screen is the heat
8 exchanger that's connected to the geothermal pipeline.
9 Another picture of that heat exchanger.

10 This is the personnel building at the digester
11 complex. It's one of five buildings that will be retrofitted
12 to geothermal. Currently heated with natural gas. This is
13 the San Bernardino Blood Bank, County Blood Bank. It's a
14 private facility I should say, and it's located very close
15 to the digester.

16 Across the street from the blood bank is the San
17 Bernardino Animal Shelter, where a hot water circulating
18 system heats the animal runs. This is going to be expanded
19 with a third animal run. It's a good target for geothermal.

20 A few hundred feet away, and this is E Street in
21 San Bernardino, is the Orange Show Motel. They're quite
22 interested in buying the geothermal hot water. Up the
23 street from the Orange Show Motel, two blocks, is the
24 Continental Nine Motel. They also are interested.

25 Each of these two motels has right next to it a

1 Denny's Restaurant, and each of these two restaurants is a
2 good candidate, and we've talked to them, and visited their
3 facilities. There's also a bowling alley near that.

4 The central city cluster is about a mile north
5 of the well field. The planned users are summarized there
6 -- I will highlight the fact that we're looking at approxi-
7 mately 280,000 therms per year of natural gas avoidance for
8 the central city complex -- the central city cluster.

9 Turning to a brief review of those buildings, the
10 first building is a state building, and just to the right
11 of it on this slide is the EDD building. This is a
12 candidate for geothermal energy. They have a circulator
13 hot water system. Next to that is the Cal-TRANS building
14 which is an even better candidate for geothermal.

15 City Hall in San Bernardino is a good candidate.
16 Not shown in this slide, obviously, just behind City Hall,
17 a planned 13-story Ramada Inn is under final design for
18 construction. Planned opening now is mid-summer next year.
19 We have talked to the Ramada Inn people, they are quite
20 interested, quite excited about the idea of buying geothermal
21 hot water.

22 A few blocks to the north of City Hall is the
23 St. Bernardine Retirement Center. It's a private retirement
24 center. They also can use this hot water. A few blocks to
25 the east of the downtown City Hall is another retirement

1 complex. This one is Meadow Brook, and it's composed of two
2 elements, a high-rise on the left and garden apartments on
3 the right. They also could use this water, are interested.

4 Across the street from Meadow Brook is the Rudy
5 Hernandez Center. The picture here shows a solar collector
6 on the roof which is heating the swimming pool. The building
7 heat and domestic hot water systems are natural gas-fired;
8 geothermal would take -- would substitute for that natural
9 gas usage.

10 We then have a county cluster, and this cluster
11 is one of the two that has grown considerably in concept
12 since the earlier studies. We originally looked at only
13 two county buildings, the county jail and the GSA building.
14 Subsequently, as I'll show you through the rest of the
15 briefing slides, there looks to be a bigger target of
16 opportunity there.

17 The County "Super Block" is a new building under
18 construction just off of the downtown area. The county now
19 has decided that rather than tying it into the existing
20 steam system that heats the county facilities there, they
21 would like to convert it to geothermal.

22 Very nearby is the County Hall of Records building
23 which is also a good candidate for geothermal. A little
24 further to the east, the County Jail is an excellent
25 candidate for geothermal. The county is quite excited about

1 the geothermal usage here. Across the street from the jail
2 is the GSA building. Not considered in the earlier study,
3 the county maintenance buildings shown in the next two
4 slides, which are just nearby.

5 A building that was considered, but not included
6 in the total therm count, is the County EPDWA building. So
7 we now have seven San Bernardino County buildings that are
8 candidates for geothermal energy.

9 The Hospitality Lane cluster is one that is
10 really excited about geothermal. We're excited about the
11 possibility of selling the geothermal water to them, and
12 they are quite interested in getting it. It's about a mile
13 to the southeast of the digester complex. It's on the north
14 side of Interstate 10, and as you can see by the cluster
15 concept, that the area is bounded, Interstate 10 on the south,
16 and Interstate 15 on the west.

17 Hospitality Lane is growing very fast. The Truck
18 Wash, the owner of this has been interested in geothermal
19 for the last four years, he's been waiting patiently for
20 the city to provide hot water to him, because he wants to
21 get off of natural gas.

22 CHAIRMAN IMBRECHT: Excuse me, sir, if I may just
23 interrupt. We do have quite a few items on our agenda. Can
24 you give me some indication of how many more slides you have?
25 I hate to interrupt you, but I think we can probably take

1 action on this matter and move on.

2 MR. CUNNIFF: There are five slides in this
3 carousel that we can skip, Mr. Chairman, we can just go
4 right to the left side. We have pictures of each of these
5 motels and restaurants in Hospitality Lane, a very attractive
6 target. That will be the second focus of our effort.

7 Service contracts we were targeting by July.

8 CHAIRMAN IMBRECHT: All right.

9 COMMISSIONER SCHWEICKART: Mr. Chairman, let me
10 support your question here. I don't believe that the issues
11 being presented to us are relevant to the decision that we
12 have before us, and I don't believe it's necessarily
13 appropriate to take peoples time, including the speaker's
14 time, in using the time --

15 CHAIRMAN IMBRECHT: Formal business meeting for
16 this purpose, I agree, and I really would like to ask you
17 to summarize your presentation. I don't mean to be rude
18 in any sense, but we do have other items we need to get on
19 with in terms of decisions.

20 MR. CUNNIFF: Let me cover then two more slides,
21 Mr. Chairman. Turn to the environmental factors, next to
22 the last slide.

23 As you can see, there is a negative environmental
24 effect of this project. A formal declaration has been made.
25 Surface disposal appears to be no problem. Given that fact,

1 Mr. Commissioner, this last slide shows the conclusions and
2 the recommendations for this project. The recommendation is
3 a joint recommendation with the City of San Bernardino Water
4 Department and your staff.

5 CHAIRMAN IMBRECHT: Thank you very much. Will you
6 get the lights please. Does anyone else wish to be heard
7 on this matter? Yes, sir. Would you make room for the
8 witness please?

9 MR. GARDNER: Mr. Chairman, Commissioners, I'm
10 Mike Gardner, representing Southern California Edison
11 Company. We would urge the Commission to approve this
12 contract. The company has been interested for some time in
13 geothermal direct heat, and we think this is a good use, and
14 a good contract. We'd urge the Commission to support it.

15 CHAIRMAN IMBRECHT: Thank you very much. Are there
16 questions from any members of the Commission?

17 COMMISSIONER SCHWEICKART: Yes.

18 CHAIRMAN IMBRECHT: Yes, Commissioner Schweickart.

19 COMMISSIONER SCHWEICKART: Yes, I'd like some
20 clarification here. I want to understand what it is that
21 we have before the Commission, and I'm not sure whether
22 Mr. Geesman can provide us that information, or whether
23 Mr. Urban is more appropriate to respond.

24 What is the Commission's option here, in this
25 matter, that is, was this not a directed expenditure by the

1 Legislature in last year's budget? Is this a situation
2 where the Commission has the option of whether or not to
3 proceed with the project?

4 EXECUTIVE DIRECTOR GEESMAN: The Budget Act, as
5 specified in the memo in your back-up package contains
6 requirements that the project had to meet before we could
7 go forward with the project, and we're here today to indicate
8 that those requirements have been met, and recommending to
9 you that the contract be approved.

10 COMMISSIONER SCHWEICKART: All right. Those
11 conditions having been met, nevertheless, the expenditure
12 is essentially then directed in the Budget Act, is that
13 correct?

14 CHAIRMAN IMBRECHT: Do we have to certify that
15 the conditions have been met?

16 EXECUTIVE DIRECTOR GEESMAN: Yes.

17 CHAIRMAN IMBRECHT: All right, so that --

18 COMMISSIONER SCHWEICKART: So our responsibility
19 is certification of the conditions. And then regarding the --
20 if I then proceed to say that the expenditures directed by
21 the Legislature, then the Commission's responsibility was
22 then to issue a contract, is that what's before us then?

23 EXECUTIVE DIRECTOR GEESMAN: That's correct.

24 COMMISSIONER SCHWEICKART: And is this a competitive
25 contract, were there competitors in it?

1 EXECUTIVE DIRECTOR GEESMAN: We did not go to an
2 RFP process.

3 MR. CHANDLER: No, the contract was directed to be
4 with the Board of Water Commissioners with the City of San
5 Bernardino, based on the findings of the CEC funded feasi-
6 bility study which we have presented the conclusions of
7 those findings in this briefing today.

8 COMMISSIONER SCHWEICKART: All right. So the
9 Budget Act, then, both directed the expenditure on meeting
10 certain conditions, both directed the expenditure and
11 directed the contract?

12 MR. CHANDLER: Correct.

13 COMMISSIONER SCHWEICKART: And so the Commission
14 is essentially signing its name today, it's essentially
15 directed, having made certain findings, that it put its
16 name on a specific contract for this matter?

17 MR. CHANDLER: That's correct.

18 EXECUTIVE DIRECTOR GEESMAN: Well, the control
19 language in the Budget Act did impose some obligations on
20 us. It's not just a function of you approving the contract
21 and that being the end of it. The back-up memo covers what
22 those conditions are, and there are some instances where
23 your discretion, staff's discretion are actually called upon.

24 In particular, Item F indicates that the
25 Commission and the Board shall agree prior to encumbrance of

1 state funds for the project on a prudent level of expenditure
2 of state grant funds which will not be exceeded for develop-
3 ment of the wells, pumps, storage tanks, and so on, until
4 the Board has executed service contracts.

5 The Legislature indicated a desire on its part to
6 see this project funded, and left the details largely up to
7 us. We would continue to manage the contract.

8 COMMISSIONER SCHWEICKART: All right. There is
9 nonetheless, no responsibility, or for that matter, authority
10 granted within the Budget Act for the Commission to assess
11 whether or not this is the most cost-effective project, the
12 most worthy project, or anything else for this expenditure
13 of funds, is that correct?

14 EXECUTIVE DIRECTOR GEESMAN: In the sense that you
15 don't have the discretion to direct the money elsewhere,
16 that's correct.

17 CHAIRMAN IMBRECHT: Commissioner Commons?

18 COMMISSIONER COMMONS: On page 79, Chapter 326 the
19 first provision states, "The amount appropriated in Category
20 A shall not be encumbered until funding from private utility
21 and federal government sources is assured and the feasibility
22 of the project can be established." And "The project
23 generates commercially salable power, the appropriation of
24 state funds in Category A shall become a loan to be repaid."

25 I have two questions in regard to this paragraph.

1 COMMISSIONER EDSON: Excuse me, I think that might
2 be a different project. The language regarding this
3 particular project begins towards the bottom of that page.

4 COMMISSIONER COMMONS: Oh. My two questions are
5 what is economic feasibility, and is that defined in terms
6 of flow rates or temperatures? How in this contract are
7 we determining when the project becomes economically
8 feasible, and when our resources are allocated?

9 Second is, if the project resource doesn't prove
10 economically feasible, how many dollars of the state funds
11 have been allocated, and are there any curtailment procedures
12 to ensure that no more funds are necessary if the project
13 turns out not to be feasible?

14 MR. CHANDLER: The contract stipulates that the
15 contractor will be limited to payments of no more than
16 \$1,375,000, or that amount that's available this current
17 fiscal year, until user service contracts have been signed,
18 at least 60 percent of the planned capacity of the system
19 to assure that the revenues therefrom will be realized.

20 One year after system operation, the contractor
21 and the Commission will evaluate the system performance
22 using the following criteria: that the heating system
23 delivers the contracted heat to the users, and (b) that the
24 heating system generates net revenues after payment of
25 reasonable annual operating costs and replacement costs to

1 ensure repayment of the loan. The loan term shall not
2 exceed 10 years.

3 COMMISSIONER COMMONS: All right. So, what
4 you're saying is that we're obligated to \$1,375,000 no matter
5 if we produce any power whatsoever or not?

6 MR. CHANDLER: I'm saying that the Commission has
7 the authorization through the terms of this contract to
8 disburse up to that figure.

9 COMMISSIONER COMMONS: Okay. We can disburse up
10 to that figure. How do we make the determination in the
11 contract as to how that occurs? Is there some set of
12 performance criteria or guidelines in terms of how those
13 funds get allocated? What are the protections here on the
14 one hand to the contractor, and on the other hand to state
15 funds and the expenditure of the monies?

16 MR. CHANDLER: Well, the contractor will proceed
17 on the implementation plan set forth in the contract, the
18 work statement. The first step in that work statement is
19 to lock in the user service contracts. In addition, he will
20 begin the construction of the project. We will not exceed
21 the amount that we have indicated, that I have indicated,
22 until -- that there is sufficient number of users under
23 contract with the City of San Bernardino to issue anything
24 beyond the amount available for the current fiscal year.

25 COMMISSIONER COMMONS: Well, I guess the question

1 I'm trying to ask is not getting answered. We're first
2 going to go and spend \$1,375,000, and then we're going to
3 go out and get the customers?

4 MR. CHANDLER: No, you're going to have such long
5 lead items as the pipeline that needs to be ordered,
6 ordered by the City of San Bernardino while they begin to
7 implement the heating system project. At the same time,
8 you'll have service user contracts negotiated and in place
9 to assure that the number of customers are on-line to
10 ensure that the revenues received from this project are
11 in place for repayment of the loan.

12 COMMISSIONER COMMONS: I'm still not satisfied with
13 the answer. You know, I think there's someone here -- is
14 there anyone else here with the contractor who can give me
15 better clarification?

16 CHAIRMAN IMBRECHT: Please come forward. Let's
17 try to get this matter concluded, I'm running out of patience
18 frankly.

19 MR. CHANDLER: Letters of intent are in place,
20 and that was part of the funded feasibility study effort.
21 The Legislature, in the language in the Budget Act, asks
22 for the -- to initiate, design, and construct the project.
23 Part of the first task of that will be to identify and lock
24 in user contracts. That was not to be completed prior to
25 the funding of this contract. Letters of intent, as Roy

1 Cunniff explained, have been secured with many of the
2 prospective users.

3 EXECUTIVE DIRECTOR GEESMAN: I think as you'll
4 find on page 5 of the back-up material, funding to the San
5 Bernardino Water Department will be limited to \$500,000 until
6 the Board of Water Commissioners has executed service
7 contracts of a sufficient number of users to assure that
8 at least 60 percent of the planned capacity of the system
9 will be utilized.

10 COMMISSIONER EDSON: And in fact, that portion of
11 the contract is in keeping with the language on page 81 of
12 the budget which directs the Commission and the Board to
13 agree prior to encumbrance of state funds for the project
14 on a prudent level of expenditure is not to be exceeded
15 until the Board has executed service contracts with a
16 sufficient number of users to assure that at least 60 percent
17 of the planned capacity of the system will be used.

18 COMMISSIONER GANDARA: Just a point of information.
19 Mr. Geesman, would you direct me to the reference that you
20 made on page 5?

21 CHAIRMAN IMBRECHT: That's page 5 of the memorandum
22 which is at the beginning of our agenda item in our books,
23 and it's down at the bottom of that page, after the proposed
24 budget.

25 EXECUTIVE DIRECTOR GEESMAN: It's a memo from Ron

1 Kukulka to me that should be in your back-up books for this
2 agenda item.

3 COMMISSIONER GANDARA: I guess -- I see that now,
4 and in fact, I was looking for the reference to page 81 as
5 well, I found that. The question I have is really one of
6 information. You indicated in your opening comments, in
7 response to Commissioner Schweickart's question that the --
8 basically, the Legislature directed both the funds --
9 specified the funds and directed the contract, but at the
10 same time, you also indicated that we have to make certain
11 findings.

12 I guess I'm looking for those findings. What are
13 the findings that we have to make specifically?

14 EXECUTIVE DIRECTOR GEESMAN: I would identify
15 those as basically subparagraph (f), this is page 2 of the
16 same back-up memo, and I read I think the first half of the
17 paragraph to Commissioner Schweickart. "The Commission and
18 Board shall agree prior to encumbrance of state funds for
19 the project, a prudent level of expenditure for state grant
20 funds which will not be exceeded for the development of the
21 wells, pumps, storage tanks, and transmission pipelines until
22 the Board has executed service contracts with a sufficient
23 number of users to assure that at least 60 percent of the
24 planned capacity of the system will be utilized and the
25 revenue therefrom will be realized."

1 CHAIRMAN IMBRECHT: The recommendation of staff is
2 that that level be \$500,000, that's correct.

3 EXECUTIVE DIRECTOR GEESMAN: That's correct.

4 COMMISSIONER GANDARA: So, I guess when I look at
5 the budget language from '79 to '81, you know, that is
6 precisely that language on page 81, so the only thing that
7 we really have a choice in this matter is to the level of
8 the prudent expenditures.

9 MR. CHANDLER: And I have to interject here. When
10 that contract request memo was written, the level of prudent
11 expenditures was put on the table in the contract negotiations
12 as \$500,000. In presenting the budget, in going through the
13 negotiations with the contracts office and ourselves, it
14 was deemed that the more appropriate prudent level would
15 be the \$1,375,000 figure that I've referred to in my remarks.

16 So that when the contract request memo was written
17 back in February, the figure has changed from \$500,000 to
18 \$1,375,000, the amount of funds available this current
19 fiscal year, and that is to allow the San Bernardino City
20 Water Department to begin to implement the construction of
21 this project of which \$1,800,000 is pipeline costs alone.

22 To just put down a deposit on a long lead item like
23 a pipeline system, \$500,000 was argued by them, and accepted
24 by staff as an insufficient amount to make available to
25 initiate this project. So the contractor then negotiated to

1 determine a prudent level to be the \$1,375,000, and that's
2 the way the contract is written. Granted, the original
3 contract request memo had \$500,000, but in going through the
4 negotiations with the city, it's been deemed more appropriate
5 to be at a level of \$1,375,000.

6 COMMISSIONER GANDARA: You just confused me.
7 You're saying that the prudent level of expenditures that
8 you're recommending is \$1,375,000?

9 MR. CHANDLER: That's correct.

10 COMMISSIONER GANDARA: Okay. So, then, I guess
11 getting back to the original question, is what action is
12 the Commission being requested to take, and it would seem
13 to me that the action is to determine the level of prudent
14 expenditure, that's the only choice that we have.

15 CHAIRMAN IMBRECHT: Well, now I'm getting confused,
16 because as I read the budget, it says the pipeline is going
17 to cost a million eight.

18 MR. CHANDLER: That's correct.

19 CHAIRMAN IMBRECHT: We're giving them a million
20 three to begin the construction of the pipeline, and we
21 condition the allocation of the remaining funds on a
22 demonstration of 60 percent of the capacity will be consumed,
23 is that accurate?

24 MR. CHANDLER: That's correct.

25 CHAIRMAN IMBRECHT: So what happens if we don't

1 meet that 60 percent user rate? We've got a pipeline that's
2 two-thirds complete and that's it?

3 MR. CHANDLER: I would suggest that the results
4 from the feasibility study indicate that we have not only
5 evidence of a confirmed resource, but the successfulness of
6 the digester project, that certainly, there's risk in this
7 project, as there's a risk in any project, but that the
8 evidence, and the recommendations of the --

9 CHAIRMAN IMBRECHT: Suggest the risk is known.

10 MR. CHANDLER: That's right.

11 CHAIRMAN IMBRECHT: Okay.

12 COMMISSIONER COMMONS: I still have not had my
13 question answered.

14 CHAIRMAN IMBRECHT: All right. Commissioner
15 Commons.

16 COMMISSIONER COMMONS: My question does not relate
17 to the 60 percent users. My question relates to, I am one
18 of those users, and I am not getting flow rates and tempera-
19 tures from the project that I felt was necessary. You may
20 have 60 percent users, and you may have dissatisfied
21 customers. What is the protection to the state in terms of
22 the allocation of the funds if the project does not deliver
23 commercially feasible, or economically feasible heat?

24 MR. VANN: Commissioner, the Legislature directed
25 us to perform a feasibility study. We conducted that study

1 and the results show that the resource is sufficient to
2 satisfy the needs of the city and the users, and it would
3 be economically feasible to implement at least in the city
4 buildings, and now we are expanding it to private buildings.

5 The design of those facilities -- the current well
6 has been tested. The resource is verified. The only
7 variable that remains to a user hooking up to the line is
8 do they design their heat exchanger system of sufficient
9 size to handle their heating loads.

10 The only insurance that we have that that work is
11 completed adequately is to review the plans and specifications
12 of those that are going to tie into the system.

13 I would like to make one other distinction. This
14 project is initially a grant, not a contract. It is a grant
15 to the city. It does not revert to the form of a loan until
16 after the system is up and operating. So the original intent
17 was to provide grant funds to the city.

18 In other words, in certainly my opinion, the
19 Legislature had already considered the risk of the project,
20 and was actually instructing us to move forward prudently,
21 but to move forward nonetheless.

22 CHAIRMAN IMBRECHT: Okay, fine. I guess the
23 question then before us is whether we will certify that
24 conditions have been met. Is there objection?

25 COMMISSIONER GANDARA: Yes.

1 COMMISSIONER SCHWEICKART: Yes.

2 CHAIRMAN IMBRECHT: All right.

3 COMMISSIONER GANDARA: Let me suggest a motion
4 that I think is within the scope of our authority given what
5 we have here.

6 CHAIRMAN IMBRECHT: Fine, thank you.

7 COMMISSIONER GANDARA: Okay. And I would move that
8 the Commission agrees with the Board of Water Power
9 Commissioners -- Water Commissioners, that the prudent level
10 of expenditures of the state grant funds which will not be
11 exceeded for development of wells, pumps, storage tanks
12 and transmission pipeline, et cetera, shall be the staff's
13 recommendation of \$1,375,000, and that having determined
14 that prudent level of expenditures, that the staff is
15 directed to implement the legislative direction.

16 CHAIRMAN IMBRECHT: Do I hear a second?

17 COMMISSIONER EDSON: I'll second that motion.

18 CHAIRMAN IMBRECHT: Okay. Moved and seconded.

19 Is there a question or clarification necessary? There's
20 objection to the unanimous roll call, would the Secretary
21 please call the roll?

22 SECRETARY MATHIES: Commissioner Commons?

23 COMMISSIONER COMMONS: Abstain.

24 SECRETARY MATHIES: Commissioner Edson?

25 COMMISSIONER EDSON: Aye.

1 SECRETARY MATHIES: Commissioner Schweickart?

2 COMMISSIONER SCHWEICKART: Abstain.

3 SECRETARY MATHIES: Commissioner Gandara?

4 COMMISSIONER GANDARA: Aye.

5 SECRETARY MATHIES: Chairman Imbrecht?

6 CHAIRMAN IMBRECHT: Aye. Motion is carried.

7 Next item on the agenda is Commission consideration
8 and possible approval of the appeal to the full Commission of
9 rejection of the Petition to Intervene in 82-DSA-1, the
10 Mono County Petition for Delegated Siting Authority.

11 Contrary to the staff memorandum, my understanding
12 is that Commissioner Commons is prepared to make a presenta-
13 tion on this matter.

14 COMMISSIONER COMMONS: The Committee has received
15 a request for intervention, and there is not unanimous
16 consent on the part of the Commission to grant that petition,
17 and what I'd like to do today is to provide the Commission
18 an opportunity to review where a Committee may want to grant
19 a petition and there is another Commissioner who would prefer
20 that that not be, as to whether or not the Committee should
21 do so, or we should bring the matter before the Commission.

22 On the merits of the case, I think we should give
23 an opportunity to the petitioner, if it is not decided to
24 proceed forward, to have an opportunity to come before the
25 full Commission in discussing the specific petition. But I'd

1 like now to ask if Commissioner Schweickart would like to
2 address the issue.

3 COMMISSIONER SCHWEICKART: The concern that I
4 expressed to Commissioner Commons on this has nothing to do
5 with the substance of Mr. Canada's petition, but rather
6 deals with the issue of whether the informality which the
7 Commission has heretofore determined should govern its
8 proceedings related to nonadjudicatory proceedings should
9 essentially be altered because of the insistant nature of a
10 particular person who wants to have the title of intervenor,
11 when in fact it has no substance in the Commission's
12 proceeding.

13 My fear here is that by simply granting this peti-
14 tioner's desires as a matter of elimination of a nuisance,
15 perhaps, that the potential status downstream, even years
16 from now should Mono County make a decision which raises
17 certain legal issues, that the status, the implied status of
18 this particular person who was granted the title of
19 intervenor, may, in fact, be weighed by a court as being
20 different from the weight of anyone else who has taken part
21 in the matter before the Energy Commission at this time.

22 One therefore runs into a matter of escalation,
23 that is, someone else who is interested in the matter may
24 feel it obligatory to protect his or her interests, in also
25 petitioning for intervention, and the next thing, we're

1 into rules of evidence, when the whole intention of the
2 Energy Commission in the Warren-Alquist Act has been to
3 maintain an informal process, and open access, and easy
4 access for interested members of the public in Commission
5 decisions.

6 Therefore, it impresses me that the matter of
7 whether or not formal intervention is granted within what
8 would otherwise be a nonformal process, is not a matter the
9 Commission should treat lightly. As a result, I have talked
10 with Commissioner Commons about this matter, but unfortun-
11 ately, it only came to my attention this morning that a --
12 the Committee was considering granting intervenor status to
13 Mr. Canada.

14 So, my recommendation on this is simply at this
15 point to continue the item to the next meeting. Unfortun-
16 ately, Mr. Canada was notified by telephone that the matter
17 would essentially be moot today, and that he need not attend.

18 So, then, to summarize, my concern is one of a
19 matter of principle in terms of Commission procedure, that
20 we should determine when proceedings are informal, notwith-
21 standing the fact that someone wants the title of intervenor,
22 that we should not simply grant it as a means of taking
23 someone off our back.

24 Furthermore, that in terms of hearing Mr. Canada
25 on the specifics of his petition, we may want to continue

1 that for two weeks.

2 CHAIRMAN IMBRECHT: Commissioner Commons?

3 COMMISSIONER COMMONS: I'd like to ask legal
4 counsel -- I think the first issue is one of jurisdiction,
5 is this an item that's within the jurisdiction of the
6 Committee, or is it in the jurisdiction of the Commission?

7 MR. URBAN: Well, as I review the record in this,
8 the Committee has already made a determination which was
9 that a formal petition to intervene is not necessary, and
10 that was made on March 2nd, 1983, and Mr. Canada has
11 appealed that to the full Commission, so it's now in the
12 hands of the full Commission.

13 If they want to give it back to the Committee,
14 they can certainly do that.

15 COMMISSIONER COMMONS: As the Presiding Member of
16 the Committee, I will accept the recommendation of Commis-
17 sioner Schweickart that we hold this over for two weeks.

18 CHAIRMAN IMBRECHT: All right, fine. Without
19 objection, that will be the order.

20 MR. PEREZ: I'd like to make objections, Chairman
21 Imbrecht, I just wanted to make --

22 CHAIRMAN IMBRECHT: Excuse me, I'm trying to move
23 things along. Yes, excuse me, Mr. Perez.

24 MR. PEREZ: Yes. I'd like to just point out that
25 the basis of my objection is Section -- Title 20, California

1 Administrative Code Section 1103 which authorizes the
2 Executive Director, in fact, requires the Executive Director
3 to place items on the business meeting agenda at the request
4 of the Public Adviser.

5 I want to clarify a procedural point here, and
6 that is that the Public Adviser placed this item on the
7 business meeting agenda. I am not certain I clearly under-
8 stand the statements of Commissioner Schweickart in the
9 sense that although he qualifies his remarks as saying that
10 they do not go to the merits of this issue, his comments are
11 directed to the particular intervenor.

12 I also want to say that this Commission has never
13 denied a petition to intervene in any proceeding, and I
14 regard the contemplated possibility of that fact as a serious
15 one, that certainly I agree with Commissioner Schweickart,
16 ought to be examined very carefully and very seriously by
17 this Commission.

18 The final thing I want to say is that the Committee
19 when it took its action in denying Mr. Canada's request for
20 formal intervention, cited an outdated regulation which
21 contained the historical distinction that Commissioner
22 Schweickart was referring to between adjudicatory and
23 nonadjudicatory proceedings, and in the process of this
24 Commission's attempts to comply with the Office of Adminis-
25 trative Law's AB 1111 review, the Commissioners voted last

1 year to drop the distinction between adjudicatory and
2 nonadjudicatory.

3 Finally, I would submit to the Commissioners in
4 their consideration for the next two weeks, if you do decide
5 to carry over this item, that the question of benefits and
6 burdens be evaluated, and that a determination be made
7 consistent with the policies enumerated in the Warren-Alquist
8 Act, that the Commission assume the burdens and costs of
9 public participation in its proceedings.

10 Mr. Canada is making a petition which he's firmly
11 grounded in our regulations, and the Warren-Alquist Act, and
12 he's not asking for a discretionary act on the part of the
13 Commission.

14 I'd certainly be glad to answer any questions
15 the Commissioner's may have, but that is the position of
16 the Public Adviser's Office as the advocates of this agenda
17 item.

18 CHAIRMAN IMBRECHT: Are there any questions of
19 Mr. Perez?

20 COMMISSIONER SCHWEICKART: Yeah. Mr. Perez, you
21 surprised me in one instance. You said that this is not a
22 discretionary matter for the Commission. Would you clarify
23 that?

24 MR. PEREZ: It's not a discretion --

25 COMMISSIONER SCHWEICKART: Clearly, a petition to

1 intervene is to some extent discretionary.

2 MR. PEREZ: It's not a discretionary matter in the
3 point of view that my office takes, which is to interpret and
4 to comment on regulations and statutes for the Commission
5 in a way which is aimed at achieving maximum public partici-
6 pation. So, it would be my office's view that where a
7 member of the public petitions to intervene, where our
8 regulations specifically provide that intervention is avail-
9 able, that the Commission's attitude be favorably disposed
10 towards that intervention, and that petitions to intervene
11 in any proceeding of the Commission, which is the same kind
12 of broad description given in the beginning of Title 20,
13 California Administrative Code Section 1200, be maintained.

14 COMMISSIONER SCHWEICKART: Mr. Perez, what is
15 intervention, then?

16 MR. PEREZ: Well, it's --

17 COMMISSIONER SCHWEICKART: What is intervention
18 compared with nonintervention in terms of the rights and
19 ability of an individual to represent his or her interest?

20 COMMISSIONER GANDARA: Excuse me, Mr. Chairman,
21 could we postpone it until next time around? I think the
22 advocacy of the Public Adviser on it could best be fully
23 explored then, and I think we're agreed that we want to hear
24 the item, and we'll hear it in two weeks.

25 CHAIRMAN IMBRECHT: That's my preference as well,

1 and I think we can accommodate Mr. Canada --

2 MR. PEREZ: I'm satisfied with that, thank you,
3 Chairman Imbrecht.

4 COMMISSIONER COMMONS: The Committee will come to
5 the Commission with a recommendation. We will take no
6 action without the Commission's support --

7 CHAIRMAN IMBRECHT: Well, the matter is now before
8 the jurisdiction of the full Commission. That's the
9 procedural posture we find it in, so it's put over for two
10 weeks at the order of the Chair.

11 (Agenda Item 2 and Agenda Item 3 were prepared
12 for the Commission under separate cover.)

13 CHAIRMAN IMBRECHT: The next item before us relates
14 to the Blythe site, and it is nearly lunch time. I think we
15 perhaps ought to take any public testimony that remains on
16 this issue, and then adjourn to an executive session for
17 consideration of further action. Does anyone --

18 EXECUTIVE DIRECTOR GEESMAN: Mr. Chairman --

19 CHAIRMAN IMBRECHT: Yes, Mr. Geesman.

20 EXECUTIVE DIRECTOR GEESMAN: It was pointed out
21 to me Monday that earlier, I believe it was in 1978, the
22 Commission had recommended, or taken a position of support
23 for rate base treatment of the site, and transmitted that
24 recommendation to the PUC.

25 I think that happened before I was here, but I

1 should have known about it anyway. That would not change the
2 staff recommendation, but I wanted to make sure that you
3 were aware of that earlier position by the Commission.

4 CHAIRMAN IMBRECHT: Yes, we are. Thank you. Pat
5 would you like to be heard on that? Excuse me.

6 MS. FLEMING: Only to --

7 CHAIRMAN IMBRECHT: Excuse me. Commissioner
8 Gandara.

9 COMMISSIONER GANDARA: Just so that we have an
10 efficient discussion, I'd like to know what's before us,
11 precisely, at this point. There was a draft letter, I mean,
12 what is it that we're going to be directing the discussion
13 towards?

14 CHAIRMAN IMBRECHT: Well, I think the discussion
15 will be the appropriateness of the staff draft letter which
16 I believe was provided to each of the members of the
17 Commission on an attorney/client basis.

18 MR. URBAN: Yeah. I think that what the public
19 has before them is the synopsis of the position that was
20 taken provisionally at the last meeting, which was to
21 indicate that the PUC should not require SDG&E to sell the
22 site, and then I think there were three or four other
23 matters that were publically outlined as a result of the
24 executive session by the Chairman.

25 That's what's publically available. There's also

1 a draft prepared by counsel of a possible position outlining
2 that that's subject to privileged discussion.

3 COMMISSIONER GANDARA: That's my question, because
4 I provided comments to that, and I don't know what happened,
5 I don't know what other comments people had, and I don't
6 know what former version that is, or are we not dealing with
7 that level of specificity.

8 CHAIRMAN IMBRECHT: Well, frankly, as that was
9 provided to us, as I said, on an attorney/client privilege
10 basis, I think that that's an appropriate discussion as to
11 the exact terms of the letter, in a course of -- in executive
12 session to determine what is the appropriate action to be
13 taken. At least that would be my guess.

14 Commissioner Schweickart?

15 COMMISSIONER SCHWEICKART: Yes. If I could,
16 Mr. Chairman, I would like to -- while fully supporting the
17 final decision on this matter in executive session for
18 reasons of litigation, and I think is appropriate, I would
19 like to state the principles upon which I have expressed
20 interest in this matter over the past several months, and
21 on which I believe the Commission should be taking action,
22 or not taking action, as the decision of the Commission may
23 be, but upon which we should be considering action.

24 It may further aid in anything San Diego or any
25 other party may want to say, at least to the extent that I

1 believe this to be the central issue. The central issue for
2 me at this point is not the question of whether or not this
3 site is currently appropriate for retention, either in the
4 rate base, or in some other means of funding.

5 The issue, in my view, is one of appropriate
6 jurisdiction by all parties involved. That jurisdiction
7 being in the first instance on the part of the applicant
8 and the Energy Commission in handling an application for a
9 power plant through the two-step process of NOI AFC, which
10 was done, and deliberated upon, and a final decision made
11 in the form of an NOI, and subsequently, further testimony
12 and deliberation by the Commission in 1852, and other
13 biennial reports, et cetera.

14 Those were formal proceedings, duly noticed, in
15 which all parties have addressed issues such as need, demand
16 growth, environmental considerations, reliability, a whole
17 host of issues that lie within the Commission's jurisdiction.

18 That action having been taken, the matter now sits
19 in the general rate case before the PUC. It is my opinion
20 that the PUC's responsibility is one of deciding on the
21 appropriate level of expenditure claimed to support approved
22 utility actions, that is, a review process, and then a
23 deliberation on the proper or appropriate allocation of
24 costs to the ratepayers, and stockholders.

25 It is then following the decision of the PUC on

1 the appropriate allocation of approved costs, the utility's
2 decision whether or not to proceed with the facility, to
3 drop the site, or whatever else, in their own view, is
4 appropriate action.

5 What I consider in this instance to be inappro-
6 priate is within the CPUC proceeding for issues of need,
7 resource plan review, alternatives consideration, or any
8 other issue related to siting, to be relevant to the
9 decision before the PUC. That, I would argue, lies within
10 the jurisdiction of the Energy Commission, and appropriately
11 so if we are, in fact, to balance all of these factors in
12 assuring an adequate supply of electricity for California.

13 It may well be that the currency of the NOI
14 decision on this site is no longer valid, and if that is
15 in serious question in the minds of the PUC, then I would
16 suggest an option would be to re-refer it to the Energy
17 Commission, or to re-refer it to the applicant for bringing
18 it before the Energy Commission, if they feel that's
19 appropriate.

20 But if they are going to act at this point on this
21 matter in the general rate case, it would seem to me that it
22 is a matter of saying, are these costs, in fact, validly
23 presented by the utility, and if so, how should they be
24 allocated between ratepayers, and stockholders, and by what
25 design, that is, rate basing, non-rate basing, or whatever.

1 My concern here is not whether or not the site is
2 retained, because without hearing testimony from all parties
3 involved on a current basis, I do not believe that I could,
4 by law, let alone any responsibility, vacate an earlier
5 decision of the Commission made on an evidentiary basis.

6 It would seem to me that it is an issue here of
7 appropriate respect for one another's jurisdiction in acting
8 on this case. I am not at this point prepared, and would
9 not comment on the substantive issue of whether or not the
10 ratepayer should pay for continued holding of this site,
11 not without due process and adequate hearing.

12 CHAIRMAN IMBRECHT: Well, just to clarify
13 procedurally where we are, the Commission did decide at its
14 last meeting to send a letter, at a minimum, that in effect
15 said to the PUC that they should not take action which would
16 require the disposal of the Blythe site by San Diego Gas
17 and Electric.

18 As to the exact language and the other strategic
19 considerations as to other levels of intervention, that was
20 left for today's meeting, and in my view, because it does
21 involve legal matters, and indeed, strategic decisions as
22 to how best to present our views in the PUC proceeding,
23 that those are issues best left for an executive session
24 discussion.

25 Without objection, that would be my order, and I

1 would suggest that we recess for lunch for one -- let's
2 recess I would say until 1:30, and --

3 COMMISSIONER SCHWEICKART: Mr. Chairman, if I
4 could --

5 CHAIRMAN IMBRECHT: Yes.

6 COMMISSIONER SCHWEICKART: My purpose in making my
7 little speech was to ensure that interested parties here
8 understand the basis upon which my particular interest in
9 this case lies.

10 CHAIRMAN IMBRECHT: I understand.

11 COMMISSIONER SCHWEICKART: Now, I would appreciate
12 it, before we go into executive session, if anyone cares to
13 address those particular issues, to the extent that they were
14 not addressed in public testimony two weeks ago, that I
15 would certainly benefit from hearing any comment they may
16 have.

17 CHAIRMAN IMBRECHT: That's certainly appropriate.

18 COMMISSIONER SCHWEICKART: I have no problem with
19 deliberation in executive session.

20 CHAIRMAN IMBRECHT: That certainly is appropriate.
21 Does anyone wish to comment on any of the issues raised by
22 Commissioner Schweickart?

23 MS. FLEMING: I wondered if I could make a
24 statement on behalf of my company?

25 CHAIRMAN IMBRECHT: Certainly.

1 MS. FLEMING: I do want to thank the Commission
2 for their continued consideration in this matter. Not to
3 sound repetitious, I just feel the need to remind you of the
4 stand that San Diego Gas and Electric is taking in this
5 matter.

6 Our resource plan shows that after 1988 we need
7 capacity somewhere in the southwestern region of the United
8 States. We're talking about looking at the prudence of
9 long-range planning rather than short-range. This site is
10 a proven viable site. It's good for almost any technology,
11 those proven today, or those that may prove out tomorrow.

12 As for our economic analysis, our economists tell
13 me for the same level of rates at present value, the rate-
14 payer would receive three times the amount of generating
15 capacity ownership by retaining the site, or put another way,
16 if we lost the site, then we'd have to invest some \$435
17 million, or three times the level of rates on a present
18 value basis.

19 It is best, therefore, to carry the cost now, than
20 to try to spend more money later. In other words, carry the
21 cost now to save money later.

22 Furthermore, the calculations of the economists
23 show that once the plan is in service, the rates would be
24 about \$77 million lower each year over a 30 year life of the
25 facility, and the reason for the \$200 million calculation as

1 the worth of the site in the future, is that the price of
2 the scarce and increasingly expensive water contracts in the
3 future, the license certainty of that plant site, and the
4 studies and the permits that we've already obtained.

5 Finally, I'd just like to say that the PUC has
6 found that that \$45 million expense was reasonable and
7 prudent expenditure on the part of my company, and that it
8 was sound business judgment to proceed with and holding
9 onto that site up to this point.

10 I thank you for your consideration, and I hope we
11 will find some support after executive session.

12 CHAIRMAN IMBRECHT: Commissioner Commons?

13 COMMISSIONER COMMONS: One short statement. I
14 think the public should be aware that there is a bill that's
15 gone out of Assembly that would place a restriction on the
16 acquisition of sites that are not constructed on within five
17 years to be rate based, and I would hope that our Legislative
18 Committee would take a look at that bill and give us a
19 recommendation.

20 CHAIRMAN IMBRECHT: Rest assured that we will.

21 All right, fine. Anyone else wish to be heard on this
22 matter? All right, fine. We will recess until 1:30.

23 Executive session will convene as quickly as we can all
24 arrive with lunch in the third floor conference room.

25 (Thereupon the morning session of the business
meeting of the California Energy Resources Conservation and
Development Commission was recessed for lunch at 12:10 p.m.)

AFTERNOON SESSION

--oOo--

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2
3 CHAIRMAN IMBRECHT: Call the meeting back to order,
4 and I'd like to begin by announcing the decision of the
5 Commission relative to the Blythe site matter, Item 7 on our
6 agenda.

7 The Commission has decided to send a statement of
8 position to the Public Utilities Commission, which I will
9 read in just a moment, and in addition, direct that our
10 General Counsel, Mr. Chamberlain, appear at the Commission
11 for purposes of testimony and cross examination, further
12 elucidation as to the meaning of our statement, and the
13 statement will be signed by myself on behalf of the
14 Commission and reads as follows:

15 "As part of the Public Utility Commission's review
16 of San Diego Gas and Electric Company's application for a
17 general rate increase (No. 82-12-57) the PUC is considering
18 the appropriate rate treatment of the company's potential
19 power plant site at Blythe. As you know, the Energy
20 Commission approved a Notice of Intention for a nuclear
21 facility at that site in 1977. During that proceeding, as
22 well as the Commission's AB 1852 proceeding, and in our
23 biennial report process, the Energy Commission has also
24 considered the suitability of a site for a coal facility,
25 and determined that it could potentially be acceptable for

1 that technology as well. Accordingly, at present, the site
2 has been found by the Energy Commission to be acceptable for
3 a nuclear facility, and to have potential value for other
4 technologies as well.

5 "Although review of our earlier findings with
6 regard to this site may have merit, it would be inappropriate
7 for the Public Utilities Commission to independently conduct
8 such a review in the context of this rate application. Some
9 of the questions raised in Decision 93892 and under review
10 in the current rate case, strongly suggest that the Public
11 Utilities Commission is conducting such a review.

12 "Questions regarding San Diego's plan for the site,
13 the need for additional generating capacity, and the need for
14 San Diego to retain this site, while legitimate, are outside
15 the jurisdiction of the California Public Utilities
16 Commission and should be referred to the Energy Commission.

17 "If the CPUC wishes the Energy Commission to
18 re-examine this issue, a letter or petition to that effect
19 would be appropriate. Absent such a review, however, the
20 PUC should base its rate decisions regarding this site on
21 the findings made by the Energy Commission in the Notice of
22 Intention and other related proceedings. The Public
23 Utilities Commission should not take action which would
24 eliminate the Blythe site from the resource plan of San
25 Diego Gas and Electric."

1 That will be signed by myself and we will have
2 copies of this typed up and available later this afternoon
3 from my office. As I indicated, Mr. Chamberlain will also
4 be directed to appear in the proceedings.

5 We don't have anyone here from legal counsel.
6 Maybe I can --

7 (Whispered discussion.)

8 CHAIRMAN IMBRECHT: All right, fine. Next item on
9 the agenda is Item No. 8, discussion of solar and conserva-
10 tion tax credit issues and possible action by the California
11 Energy Commission, and I believe Commissioner Edson is
12 prepared to make that presentation, and I have to excuse
13 myself.

14 COMMISSIONER EDSON: As I think the Commission
15 certainly knows, and many of the people here know, the Tax
16 Credit Committee and the staff of the Commission have been
17 working over the last several months on an analysis of the
18 solar and conservation tax credits.

19 That analysis began late last year after legislation
20 to extend the solar tax credit failed at the very end of
21 session. The analysis was undertaken in anticipation of
22 debate which would surround the extension of the tax credits
23 since portions of the conservation tax credit, and all of
24 the solar tax credits sunset at the end of 1983.

25 We had not anticipated that the finance budget

1 released in January would include retroactive elimination of
2 the tax credit -- both tax credits, and when that proposal
3 was made, we shifted the focus of the analysis to the 1983-84
4 fiscal year impacts.

5 We have briefed all the Commissioners on that
6 analysis which gives an indication of the treasury impact
7 that both credits have this fiscal year. That analysis, of
8 course, was really just intended as a way of better estimating
9 that impact, and not as a way of judging whether or not
10 particular technologies should be kept in the credit or not.

11 There has been some confusion over the last several
12 weeks about what the Commission's actual position is on the
13 proposal in the budget. What I have before the Commission
14 today is a resolution which in the bottom -- bottom line,
15 opposes any retroactive action to change the conservation or
16 solar tax credits, and beyond that, opposes any change that
17 would take effect before the end of 1983. That resolution,
18 I believe is available on that credenza if anyone is
19 interested in seeing it.

20 I can summarize it briefly. It recounts that the
21 solar credit was first enacted in '77 by an overwhelming
22 bipartisan vote, and that that legislation was extended
23 through December 31, 1983. That the conservation tax credit
24 was enacted also by an overwhelming bipartisan vote to
25 provide a tax credit for energy conservation measures with

1 varing sunset dates of December 31, '83 and December 31, '86.

2 The basis of the resolution -- the resolution goes
3 on to point out that consumers, business, all energy users
4 have been informed of the availability of these tax credits
5 through 1983, through a wide variety of institutions,
6 financial planning institutions, accountants, local govern-
7 ment, and state government agencies, that those businesses
8 marketing these measures have relied upon the existence of
9 these credits through 1983 in their marketing practices.

10 That a number of people have installed energy
11 conservation and solar measures since January 1 of this year,
12 relying on the implicit guarantee of a credit in the current
13 state law, and that retroactive repeal of these incentives
14 would unfairly effect them, and would also perhaps -- well,
15 would have very disruptive effects on California businesses,
16 and potentially would drive investment from California to
17 other states which do have tax credits.

18 The resolution concludes by urging the Governor
19 and the Legislature to fulfill the mandate provided in
20 current law, which continues the California solar energy
21 and conservation tax credits in that current form through
22 at least December 31st, 1983.

23 This resolution does not take up the question of
24 how specific conservation and solar measures should be
25 treated in extension legislation. The analysis that is

1 being prepared does address that question, and will be
2 presented, I hope at the next business meeting. In that
3 analysis, we attempt to weigh a variety of factors, such as
4 the extent of market development for various technologies,
5 the levelized costs of each of the measures, the capital
6 requirements, the existence of existing incentives.

7 We will present that kind of analysis to address
8 how these measures should be handled in extension legislation.
9 But I think that the first step for this Commission is to
10 make a strong statement in opposition to a precipitous
11 change in a law which has been in existence -- two laws
12 which have been in existence for several years, and in
13 changing a sunset date which also has been in existence for
14 that period of time.

15 COMMISSIONER SCHWEICKART: I'll move the resolution.

16 COMMISSIONER GANDARA: Is there a second?

17 COMMISSIONER EDSON: I'll second it.

18 COMMISSIONER GANDARA: Okay. Do we have any other
19 testimony on this matter?

20 MR. MIRVISS: My name is Alan Mirviss, and I'm
21 the Deputy Director of the SolarCal Council. I don't want
22 to say too much, except that I think there's already enough
23 uncertainty in the, both planning community, investment
24 community, and the solar community generally over the --
25 whether or not the tax credits can be extended.

1 I think that this resolution is very appropriate
2 in that it puts off the whole question of compromise until
3 the issue of extension is taken up, which is where it
4 belongs, until we get some resolution of today's problems,
5 and this is one step towards that, we will not be able to
6 move ahead in the solar community.

7 Thank you.

8 COMMISSIONER GANDARA: Thank you very much. Did
9 you identify yourself for the record? Alan Mirviss?

10 MR. MIRVISS: Yes. SolarCal Council.

11 COMMISSIONER GANDARA: Thank you. Any other
12 comments? Any Commission discussion? Commissioner Commons?

13 COMMISSIONER COMMONS: Let's see. I'm trying to
14 understand. I'd like to ask a few questions. What is the
15 meaning of to fulfill the mandate provided in current law?
16 What does that mean in the resolution?

17 COMMISSIONER EDSON: That simply means to continue
18 -- the current law sets a sunset date for these tax credits,
19 and it's the suggestion that that is a requirement of law
20 that these credits remain in effect through 1983.

21 The proposals to change these statutes, as you
22 know, are in the form of amendments to the budget trailer
23 bill, and I think one of the concerns that I have is that
24 that really is an inappropriate vehicle to use to change a
25 tax law which has been in effect for several years, and a

1 tax law which established sunset dates in an attempt to
2 provide some certainty to the investment community, and to
3 individual investors.

4 COMMISSIONER COMMONS: It seems like what we're
5 trying to do here is two things. One is to not have the
6 tax credits repealed retroactively, and second is we're
7 trying to have them continue in their current form through
8 at least December 31st, 1983.

9 COMMISSIONER SCHWEICKART: Those are synonymous, I
10 believe.

11 COMMISSIONER COMMONS: Well, retroactive means --
12 to me retroactive means that the Legislature would not take
13 action which would -- let's say you announce that you're
14 going to take action, people in industry are concerned --
15 I don't have my microphone on, I'm sorry.

16 That people in industry are concerned that if the
17 Legislature announces, or the Governor announces that they
18 may take action, that a law passed in September, if the
19 announcement were in March, that it would be retroactive in
20 September if it were dated back to July 31st. So the action
21 of retroactive means going backwards in time.

22 We're talking about from now til December 31st
23 is not retroactive in essence. It's just saying that we're
24 going to change the law, and rather than have the termination
25 date December 31st, it would, say July 1st, or September 1st.

1 I think they're two separate items, and both of
2 them are appropriate as part of the resolution, because
3 they're argued for in the whereas' that occur previously.
4 But the wording on retroactive, I think they're -- in terms
5 of the impact of any action of our Legislature or Governor
6 to state to the business community, we're going to do
7 something, and people go out and make an investment, that
8 this would have a very serious negative impact on the busi-
9 ness climate of our state, and the ability of people to plan
10 and to foster investments.

11 I just think -- I would prefer to see it clear
12 that we're one, opposed to a retroactive, and second, we
13 want to allow people to rest assured that the action that
14 had been taken by the Legislature and by the Governor,
15 through December 31st, that we're going to continue the
16 credits in their current form, as is the law.

17 It's two separate actions I see us taking, not one.

18 COMMISSIONER EDSON: Are you suggesting that we
19 change it so that there are two resolved clauses, would that
20 satisfy your concerns?

21 COMMISSIONER COMMONS: That's -- yes, I think
22 we're really doing two things, not one, and there's no
23 difference in terms of what you're seeking, it just is --
24 to me it's a little bit ambiguous to fill the mandate
25 provided in current law. That wording, and I think it's

1 very important to bring out in the resolution the opposition
2 to the retroactive nature of the proposals that have been
3 made.

4 COMMISSIONER EDSON: Well, rather than try to
5 redraft right now, let me suggest it in the generic, if you
6 will, that we have a -- one resolved clause which opposes,
7 urges the Governor and Legislature not to enact any
8 retroactive change to the law, and secondly, that second
9 resolved clause which urges that they retain the credit in
10 their current form through at least December 31st, 1983?

11 COMMISSIONER COMMONS: That would certainly
12 satisfy myself.

13 COMMISSIONER SCHWEICKART: I'll accept that as an
14 amendment.

15 COMMISSIONER GANDARA: I'll take that in the nature
16 of a friendly amendment.

17 COMMISSIONER SCHWEICKART: It's a friendly
18 amendment.

19 COMMISSIONER GANDARA: Is there any objection to
20 a unanimous vote on that? So be it.

21 Then Item 9 has been pulled from the calendar, is
22 my understanding.

23 COMMISSIONER SCHWEICKART: Could I inquire as to
24 the reason for that?

25 COMMISSIONER GANDARA: I do not know. Mr. Geesman?

1 EXECUTIVE DIRECTOR GEESMAN: I'm not certain I
2 know either.

3 MR. URBAN: I think the documentation on those
4 wasn't sufficient on the analysis in light of our position
5 two weeks ago.

6 COMMISSIONER SCHWEICKART: Let me say that this
7 is a matter of -- this is not a trivial matter in spite of
8 the fact it's on the consent calendar, and I would certainly
9 have appreciated a little warning as the Presiding Member
10 of the Committee that these matters are going to be pulled.

11 We're sitting in a rather inflammatory environment.
12 People think we're reaching for our matches, we're in
13 trouble.

14 EXECUTIVE DIRECTOR GEESMAN: Well, we've approved
15 one exemption, I believe on the last agenda's consent
16 calendar. These had not yet been brought to me as of yester-
17 day for a formal staff recommendation, and I understand it's
18 because of documentation problems. They were put on the
19 agenda because we had expected that by today we would have
20 resolved those problems. They'll be on the next one.

21 COMMISSIONER COMMONS: I have a question on that.
22 Have the parties in each of these cases been advised that
23 this item is being pulled?

24 EXECUTIVE DIRECTOR GEESMAN: I believe so.

25 COMMISSIONER COMMONS: Has your office, or the

1 Public Adviser's Office heard any objection from any of
2 these petitioners on the matter being carried forward two
3 weeks?

4 EXECUTIVE DIRECTOR GEESMAN: I'm certainly aware
5 of none, but that does not mean -- I don't want to speak
6 for the parties. I would have to check with the staff and
7 find out.

8 MR. HEATH: To my knowledge, no objections have
9 been recorded at this time.

10 COMMISSIONER COMMONS: And a procedural question.
11 If we had wanted to consider them, I'm not proposing that
12 we ought to, would it be within our authority to do so today
13 since they've been noticed?

14 EXECUTIVE DIRECTOR GEESMAN: I don't believe so.
15 I think that the procedure has a recommendation come from
16 me before it goes on your consent calendar, and the reason
17 these are being pulled is Conservation Division staff has
18 not come to me to request such a recommendation yet on any
19 of these.

20 COMMISSIONER COMMONS: Thank you.

21 COMMISSIONER GANDARA: Why don't we just
22 formalize this a little bit more. As a matter of practice,
23 why don't we establish the case that when items are pulled
24 from the agenda that there be a memo distributed to all
25 the Commissioners giving the reasons for that.

1 EXECUTIVE DIRECTOR GEESMAN: Okay.

2 COMMISSIONER GANDARA: Because I know it occurs,
3 and half the time I also am not aware of why, I just presume
4 that it's, you know, lack of some document, or so forth. I
5 think it would be useful to have that.

6 EXECUTIVE DIRECTOR GEESMAN: Okay.

7 COMMISSIONER GANDARA: That brings us to Item
8 No. 10, Mr. Geesman, staff briefing on the budget.

9 EXECUTIVE DIRECTOR GEESMAN: I'm going to have to
10 locate Kent Smith, he was going to provide the briefing.

11 COMMISSIONER GANDARA: Okay. While he's being
12 located, let's move, then, to No. 11. We don't have any
13 minutes, at least I don't have any in my agenda, is that
14 correct?

15 SECRETARY MATHIES: There aren't any.

16 COMMISSIONER GANDARA: There are no minutes.

17 COMMISSIONER COMMONS: I have a statement on the
18 minutes that aren't present, as a modification.

19 COMMISSIONER GANDARA: Commissioner Commons has
20 a statement on the minutes that aren't present.

21 COMMISSIONER COMMONS: I'd like to have a modifica-
22 tion of the minutes that aren't present to reflect on the
23 legislation on tax credits that was voted upon by this
24 Commission at the last meeting, that my vote of opposition
25 is in opposition to our having taken up this matter, prior to

1 our receipt of staff information detailing the impacts, and
2 that my position on the bill is an abstention.

3 COMMISSIONER GANDARA: I presume when the minutes
4 come before us they will reflect Commissioner Commons'
5 consideration here.

6 Moving on to Item No. 12, do we have any Commission
7 Policy Committee reports? None? Then we will move on to
8 Item No. 13. Do we have any briefing on staff intervention
9 in the PUC proceedings?

10 MR. URBAN: Two items. We did file appearances in
11 both the Helms case and the LNG case at the direction of
12 the Governmental Relations Committee, and we are also filing
13 testimony in the PGandE rate case, again at the direction of
14 the Governmental Relations Committee. This is our response
15 to Mr. Ahern's testimony on the proper treatment of conser-
16 vation and alternatives as a policy matter by the PUC.

17 COMMISSIONER SCHWEICKART: I'd like to inquire
18 about that. Are you representing the Governmental Relations
19 Committee, or are you representing the Commission, and how
20 are we handling that? Perhaps -- the Chairman is not here,
21 but perhaps Arturo, you can answer that.

22 COMMISSIONER GANDARA: The filing of appearances,
23 as you know, is just a place holding action, and those were
24 taken basically because of the timing that was involved,
25 okay, and that has generally been a case where the committees

1 have done that in the past, so that's nothing new.

2 With respect to the testimony with -- regarding
3 PGandE, it was my understanding that that testimony was
4 distributed to all the Commission's offices, is that not
5 correct?

6 COMMISSIONER COMMONS: Can you -- I'm sorry, I
7 missed it, testimony on what, on PGandE?

8 COMMISSIONER SCHWEICKART: Which particular --

9 COMMISSIONER EDSON: Testimony on -- I'm sorry.

10 COMMISSIONER GANDARA: Okay, the situation -- let
11 me add that I was not at the last Government Relations
12 Committee meeting where this item was discussed, so I
13 presume that in -- in fact, during the past week while I
14 was not here, that these things were discussed with the rest
15 of the Commissioners.

16 Now, the situation, as I understood it last week,
17 is that there had to be -- there was a filing deadline on
18 Friday, and on Thursday, there was a Government Relations
19 Committee, which the item was discussed. The situation is
20 the following: apparently during the proceedings, there
21 was testimony from Bill Ahern of the PUC indicating that
22 there could be a go slow and wait posture with respect to
23 alternatives in conservation.

24 In doing so, what was cited was the BR statement
25 regarding a window in which we could afford to wait to make

1 some decisions. What was prepared in response to that was
2 some testimony from the Development Division regarding both
3 to the Commission's consideration during the BR proceedings
4 that that window did not mean that one should retreat from
5 the conservation alternative energy development efforts, but
6 instead, that in fact, one should proceed. That the
7 current trends scenario basically indicated that we should
8 proceed along those lines.

9 That testimony, I believe was reviewed by the
10 Government Relations Committee last Thursday. Since I wasn't
11 here last Thursday, I had presumed that the input from the
12 various Commissioners had preceded also during that
13 Committee.

14 Now, is -- Mr. Urban, were you there?

15 MR. URBAN: Yes. I don't recall any indication
16 one way or another as to what had been reviewed. It was
17 testimony that was from Mr. Montgomery that had been
18 circulated. My understanding was it was circulated to
19 everybody well in advance of the Governmental Relations
20 Committee meeting.

21 COMMISSIONER COMMONS: I have not -- let the record
22 show that I have not seen any.

23 COMMISSIONER SCHWEICKART: You've got three blanks
24 up here.

25 COMMISSIONER COMMONS: What is the procedural

1 question in terms of presenting testimony?

2 COMMISSIONER GANDARA: Let me ask another question.
3 There was also additional information given to me that in
4 fact there had been a request for a delay in the submittal
5 and it had been granted by the ALJ. Is that correct, or
6 not correct?

7 MR. URBAN: Well, it was granted, so we have until
8 this Friday to submit the testimony.

9 COMMISSIONER GANDARA: We have until this Friday
10 to submit it, okay.

11 MR. URBAN: It actually has not yet left the door.

12 COMMISSIONER GANDARA: Okay. So the question then
13 before this Commission is has such testimony, you know, not
14 also been included, whatever revised testimony was a result
15 of that Thursday meeting? Has it been prepared?

16 MR. URBAN: There is -- I have seen, just as I
17 was leaving the office, a copy of a new draft of the
18 testimony, and I think -- Kent just arrived, is involved
19 with some of the review of that. It's substantially similar,
20 I think, to what's been distributed, which basically, as
21 you indicated, is a defense of our biennial report.

22 We're discussing the Montgomery/Miller testimony,
23 and what it's status is.

24 COMMISSIONER GANDARA: So we can bring a closure
25 to this, I guess the issue before us is, you know, is there

1 an objection to filing the testimony which has been prepared?
2 Does the Commission wish to make its approval contingent
3 upon the rest of the Commission members --

4 COMMISSIONER COMMONS: Well, a point of information.
5 Does the Committee have the authority to submit testimony,
6 if it does have the authority, does it have to restrict it
7 and say that this is a Committee not Commission testimony,
8 or is this an item that appropriately only occurs with
9 Commission approval?

10 MR. URBAN: Well, I think that depends on the
11 nature of the previous Commission action and proceedings,
12 and the nature of the testimony. In -- as we're getting more
13 and more of these cases, the current procedure is to have
14 a master resolution that lays out a position well in advance
15 of the case.

16 The problem here was that with the Ahern testimony,
17 it was sort of a bolt from the blue, that we really couldn't
18 have anticipated the PUC would have, it's only -- well, it's
19 in the PGandE rate case, it's sort of a general policy
20 statement on need and alternatives. The other factor is
21 whether the Commission has adopted policies in the area
22 that the testimony is presenting.

23 In this case, basically all the testimony that
24 Montgomery put together, and Sandy Miller is now the witness
25 on, was, was a restatement of Commission policies. With that

1 kind of testimony, it really is just a question of whether
2 they're correctly stating Commission policies, and I think
3 that's within the discretion of the intergovernmental -- or
4 of the Governmental Relations Committee.

5 What we've done, tried to do in those situations
6 is to circulate to all the Commissioner's so if there's an
7 objection, that can be voiced internally, and then if there's
8 a matter for debate, it's then considered either in
9 executive session or publically.

10 The reason for this sort of hybrid method in the
11 PUC cases is that their time lines for testimony which are
12 subject to various statutory requirements, and regulatory
13 lag plans, et cetera, don't match particularly well with
14 our two times a month business meetings, and that in fact
15 was the problem we had with this one.

16 COMMISSIONER COMMONS: Excuse me. I want to go
17 further on the point of information. What you suggested
18 sounds like a practical policy, but my point of information
19 is according to the rules and regulations of the Commission,
20 what are we required to do and what is the existing policy?

21 MR. URBAN: Well, I think that's --

22 COMMISSIONER GANDARA: Let me answer that because,
23 you know, I think the questions are appropriate, but at the
24 same time, it is, you know, Mr. Urban has indicated that in
25 the past we've had filing deadlines, testimony had generally

1 been prepared, you know, with maybe a few days of review.
2 It's not the best possible circumstances. The Commission
3 prefers not to operate that way, but in the past, the
4 Commission has delegated to the Intergovernmental Affairs
5 Committee, previous to that, to whatever Committee was
6 reviewing the intervention briefing -- intervention briefs,
7 and that this, you know, in my view, is no different from
8 what has been -- historically occurred in the past.

9 Now, if the Commission is making a statement
10 saying that it doesn't wish to follow this practice any more,
11 well, then, I think we should probably reach that decision.
12 But as of right now, we have a situation where there has to
13 be a filing made by Friday, an extension that we requested
14 to make that filing. It would seem to me that the most
15 expeditious way to proceed -- if the Commission is uncom-
16 fortable, you know, is to approve the filing contingent
17 upon Commissioners reviewing the material.

18 Now, it was my understanding that that had occurred,
19 that had been distributed, it's Mr. Urban's understanding
20 that that had occurred, and been distributed last week.
21 Apparently, you know, some people did not receive that, or
22 that's not a common understanding, but I think we're going
23 to resolve all sorts of general issues regarding that.

24 It probably would be useful to refer the issue of
25 procedure then back to the Government Relations Committee,

1 and express the concerns, you know, as to the procedure,
2 and we deal with those two things separately.

3 COMMISSIONER COMMONS: I still have the question
4 as to if you were to do it in the method you're suggesting,
5 would it then be in a report from the Commission, or would
6 it be a report from the Committee in terms of the interven-
7 tion?

8 COMMISSIONER GANDARA: I'm not aware of any
9 intervention briefs that have ever been filed on behalf of
10 Committees. They've been Commission documents.

11 COMMISSIONER COMMONS: All right, then --

12 COMMISSIONER SCHWEICKART: Once in a while we've
13 directed the staff to represent the Commission.

14 COMMISSIONER COMMONS: All right. Well, I have --
15 I'm off on the point of information, but I do have a comment
16 to make before we finish it, but it's not a point of
17 information.

18 COMMISSIONER GANDARA: What is the Commission's
19 pleasure on this?

20 COMMISSIONER SCHWEICKART: I would frankly support
21 Commissioner Gandara's suggestion that we authorize the
22 filing of the testimonies contingent on review and comment
23 by other Commissioners. If, in fact, there is not a majority
24 which support that, any editing which is appropriate, and I
25 would not presume there is any, I just haven't seen it, then

1 I would suggest that it not be filed.

2 COMMISSIONER EDSON: I would support that
3 suggestion.

4 MR. HEATH: Mr. Vice Chairman, there's an issue
5 on the Helms intervention. As you may recall, a little over
6 a year ago, the Center For Public Interest Law filed a
7 petition for the Commission to intervene before the PUC
8 in this matter. At that time there was no action on the
9 petition other than a statement by the Commission that at
10 some point in time they would reconsider their intervention.

11 Are we to take it now that there is an action on
12 that petition?

13 COMMISSIONER GANDARA: I was not aware of this
14 petition, and I don't recall that, you know, occurring at
15 any time I was present, so maybe I wasn't at that business
16 meeting, but if that was a request, this is an appearance,
17 then the Commission has yet to make a decision as to the --
18 as to any further elaboration as intervention.

19 I suppose if the petitioners wish to perceive it
20 as that, that would be appropriate. But I would not presume
21 to read into -- not knowing what the petition was about, and
22 the request, and position, and so forth, whether this is a
23 granting of that, or you know, this only speaks as to the
24 appearance on that.

25 But we're mixing two different issues here, you

1 know. If I may get back to the issue that we were on, which
2 is the PGandE briefing, I presume that was the nature of a
3 motion Commissioner Schweickart?

4 COMMISSIONER EDSON: I'll second that.

5 COMMISSIONER GANDARA: Second, okay. Commissioner
6 Commons, you wish to make a comment?

7 COMMISSIONER COMMONS: Yes. I'm going to oppose
8 the motion, and I think the motion extends much beyond just
9 the item at hand. It cannot have one set of procedures
10 for one Committee, and a different set of procedures for
11 another Committee, so I would interpret the motion to mean
12 that that is the procedure being followed by the Commission.

13 I note in the same regard that there was a March
14 change book submitted from the Budget Committee which
15 suggested the position of the Commission, rather than as a
16 Committee as to the budget of the Commission. I did have
17 an opportunity to express a few comments at a very late
18 date, none of which were adopted.

19 It's not the significance as to whether or not
20 they were adopted, there was no discussion. I think there
21 is a situation that is arising whereby two things are
22 occurring. On the one hand, there is not the opportunity
23 for a majority of the Commission to act. Second, and of
24 equal gravity, there is not the opportunity for the public
25 to participate in what is significant policymaking procedures

1 of the Commission.

2 Not only do I oppose the motion, but I'm going to
3 ask legal counsel to prepare a written memo addressing the
4 legality of the motion.

5 COMMISSIONER GANDARA: Is that a substitute
6 motion, or are you requesting that of counsel independent
7 of the action we're doing here? I think we have a motion,
8 we have a second, and we can proceed to a vote, and then
9 you can make your request of the General Counsel. Would you
10 please call the roll?

11 SECRETARY MATHIES: Commissioner Commons?

12 COMMISSIONER COMMONS: No.

13 SECRETARY MATHIES: Commissioner Edson?

14 COMMISSIONER EDSON: Aye.

15 SECRETARY MATHIES: Commissioner Schweickart?

16 COMMISSIONER SCHWEICKART: Aye.

17 SECRETARY MATHIES: Commissioner Gandara?

18 COMMISSIONER GANDARA: Aye.

19 SECRETARY MATHIES: Chairman Imbrecht?

20 MR. URBAN: As I understand it, operationally
21 what this means is that the executive office will circulate
22 what we're filing today with the PUC to all the Commissioners,
23 we'll file it, if there's a substantive objection to that,
24 then we'll have to get back to the PUC and basically amend
25 the testimony. But that's the --

1 COMMISSIONER GANDARA: No, I think what we've
2 indicated here is that the testimony that's been prepared
3 will be distributed to all the Commissioners. We have until
4 Friday to file with the PUC, and you know, absent the
5 Commissioners raising any objections to that filing, it will
6 be filed by Friday.

7 MR. URBAN: It has to arrive at the PUC offices
8 on Friday.

9 COMMISSIONER GANDARA: Friday at 5:00?

10 MR. URBAN: Basically, yeah.

11 COMMISSIONER GANDARA: Okay, well, we have until
12 Friday.

13 MR. URBAN: So, I just want to --

14 COMMISSIONER COMMONS: My understanding of the
15 motion was that if there was an objection, that there would
16 be an executive session called.

17 COMMISSIONER SCHWEICKART: Excuse me. Since it
18 was my motion, let me -- although it was, I guess
19 Commissioner Gandara's suggested wording, the motion was
20 that should there not be three supporting Commissioners for
21 the proposed testimony that it would not be filed. There
22 was no mention made of executive session.

23 COMMISSIONER GANDARA: That's my understanding of
24 the motion, and that's my understanding of what we approved.

25 We will proceed to the next item. Do we have --

1 while we're at it, maybe we can proceed with General
2 Counsel's report. Do we have General Counsel's report?

3 MR. CHAMBERLAIN: I suppose the only thing I have
4 for the record is to announce --

5 COMMISSIONER SCHWEICKART: Go for it, Bill, go
6 for it.

7 (Laughter)

8 MR. CHAMBERLAIN: -- to announce that the U.S.
9 Supreme Court today unanimously upheld the Commission's
10 position for the last five years with respect to the
11 constitutionality of California's nuclear laws. I think
12 this is a very significant case in the history of the
13 relationship between states and the federal government in
14 the regulation of electrical generation.

15 Were it not for the decision here, it's quite
16 possible that states would have lost a significant amount of
17 the power that they have enjoyed for many decades to regulate
18 utilities that generate electricity.

19 As you all know, some 31 or 33 states joined us
20 in this, and I was -- I think all of us felt fairly good
21 about the result, but even some of us were surprised by the
22 unanimous result.

23 COMMISSIONER GANDARA: Thank you. And we have an
24 Executive Director's Report?

25 EXECUTIVE DIRECTOR GEESMAN: Yeah, I want to turn

1 it over to Kent Smith to provide you with a briefing on the
2 current status of our budget.

3 COMMISSIONER GANDARA: Okay. Let me separate this
4 from Item -- I assume that Item 10 and Item 15 are two
5 different items.

6 EXECUTIVE DIRECTOR GEESMAN: I'm sorry. I have
7 nothing to report.

8 COMMISSIONER GANDARA: On Item 15, okay. Since
9 this particular -- Item 10 might be particularly lengthy,
10 I'd like to know if there's anybody who wishes to provide
11 public comment at this point in time who might have other
12 business.

13 MR. HEATH: Yes, there is one person. Valerie
14 Campbell, CSEA Job Steward.

15 MS. CAMPBELL: It may be that my questions will
16 be covered by the presentation. If you'd prefer, I could
17 wait and see if it's covered.

18 COMMISSIONER GANDARA: Okay, that would be fine.
19 Let's proceed with Item No. 10.

20 MR. SMITH: What we wanted to do is, if we can,
21 provide you with an overview of the budget proposals for
22 the Commission's resources in 1983-84. What we're going to
23 be doing is to display the Commission's adopted budget
24 proposal that was before the Commission in September of '82
25 and submitted to finance at the beginning of October.

1 We're going to briefly go over the current
2 Department of Finance proposal as modified by a recent
3 budget change letter, and then compare that to the Commis-
4 sion's current resources. We have representatives from
5 each of our divisions in the audience if there are questions
6 about the effects of the budget proposals.

7 I think we have a display, is that ready?

8 COMMISSIONER COMMONS: Can we turn down the lights
9 a little bit?

10 COMMISSIONER EDSON: Is this the same thing that
11 was just handed out?

12 MR. SMITH: That's correct. I'd like to call your
13 attention to the third column, CEC 1983-84 budget sumittal.
14 I guess, Nan, why don't you go ahead and screen that for
15 right now. That's a little hard to read.

16 Basically what we proposed in the fall was a
17 restoration of Commission resources, somewhat in excess of
18 the 1981-82 levels. You'll notice that the total number of
19 personnel years that are reflected there, it's 548. That
20 compares with the current Governor's budget display, which
21 shows the Commission having in the neighborhood of 545 in
22 1981.

23 About 20 of those positions that would have been
24 added back to the Commission were associated with special
25 projects to be funded from the Energy and Resources Fund.

1 The thought was that if those projects didn't go, that those
2 resources would fall by the wayside.

3 In the regulatory and planning area, additional
4 resources requested were fairly modest. The bulk of the
5 resources requested not associated with the ERF proposals
6 were in Conservation Division. Those were targeted for the
7 appliance standards development activity, and for the
8 building standards development activity.

9 COMMISSIONER EDSON: Are you -- you're describing
10 now the cuts?

11 MR. SMITH: Describing the proposal that we made
12 in the fall.

13 COMMISSIONER EDSON: Fine, thank you.

14 MR. SMITH: In Development Division, we proposed
15 some additional technical staff in the Synthetic Fuels and
16 Small Power Producers area, and in Administrative Services
17 Division, we were proposing to convert a number of temporary
18 help positions that in fact had been carrying out an ongoing
19 workload, converting those to permanent positions, and that
20 resulted in the overall increase that was shown.

21 The total number of -- or amount of special
22 project dollars was something in the neighborhood of about
23 \$48 million, which would have been the full share of ERF
24 funds for energy projects.

25 The next column I'd like to direct your attention

1 to is the fourth column, and what we'll be doing is
2 comparing that fourth column, which is the current Department
3 of Finance budget with the first column which represents
4 current year resources that the Commission has. Those are
5 displayed by program element, not by organization or
6 position.

7 As we go through this, I'll highlight a couple of
8 things in addition to the contrasting current year to this
9 Department of Finance proposal, I'll also indicate where
10 there's been a recent change in the Department of Finance
11 proposal as a result of the change letter that was submitted
12 about a week ago.

13 The most significant of those changes is in the
14 power plant siting area. The proposal had been to increase
15 the staff in that area to provide resources to handle
16 additional siting cases. Department of Finance agreed with
17 that, and an additional 30 positions in total were added to
18 the Commission's budget for power plant siting work.

19 Four of those positions were directed to the
20 General Counsel's Office, four attorneys, I believe three
21 attorneys and one hearing officer. The remainder were
22 split between technical staff in Siting and Environmental
23 Division, and management and support, clerical and managerial
24 help within that division.

25 Also, in Siting and Environmental Division, the

1 Governor's budget proposed, and there was no change as a
2 result of the budget letter, in the CEQA analysis resources
3 and locational analysis resources, those were eliminated.
4 So there would be no major new initiatives and the work that
5 had been targeted for the Imperial Valley area, in looking
6 at cumulative impacts, and a bulk of the work that had been
7 planned in the Geysers area, looking at cumulative impacts,
8 would not be done, given the current finance proposal.

9 There was an indication from finance that if we
10 had legal obligations under CEQA for projects that needed
11 to be brought to completion in cumulative impacts, or
12 locational analysis area, that we should use a portion of
13 carryover staff, a portion of staff that might have a slack
14 workload in the siting element to complete that work.

15 So, basically the direction was that if you needed
16 a few more months work to finish up what you've been doing
17 in the Geysers area, Imperial Valley, go ahead and do that,
18 but no further resources are going to be provided.

19 The regulatory and planning area also includes the
20 resources for Assessments, Forecasting area. The Department
21 of Finance budget at the present time reflects simply a
22 reduction of four positions, there are four vacancies, that
23 were proposed to be reduced in the Demand Office and Systems
24 Offices. Those were in the March change letter, directed
25 toward supplementing the Conservation Program, and we'll

1 touch on where those went in this March change letter next.

2 COMMISSIONER COMMONS: Excuse me. You said
3 proposed, was that proposed by you, or proposed by finance --

4 MR. SMITH: That was part of the submittal from
5 the Budget Committee to Department of Finance for restoration
6 of resources, and for a shift of resources internally.

7 There were specifically two clerical positions in
8 the Demand Office, and I believe one clerical and one energy
9 analyst position in the Systems Office that have been vacant
10 for some time.

11 The most dramatic of the effects of this Governor's
12 budget proposal is in the Conservation Program. In the
13 buildings area, the reduction is in excess of 50 percent.
14 There are no resources provided for additional standards
15 development activity. There was concurrence with a shift
16 of resources within the Conservation Program that allowed --
17 and that total of about eight positions to be targeted for
18 the enforcement and maintenance of the standards, the
19 implementation function.

20 Even with that shift within the Conservation
21 Division, trying to meet our minimum obligations, it's not
22 going to be possible, given the current resource levels, to
23 respond to industry concerns for modification of standards,
24 adjustments to standards, and as I say, there will be no
25 standards development resources provided at all.

1 Also in Conservation Division, the Governor's
2 budget originally proposed to completely eliminate the
3 resources for the Liquid Fuels Conservation and Contingency
4 Planning Office. As a result of the shift of resources, to
5 ensure that we met minimum legal obligations, we now have
6 1.9PY, it's the equivalent of two positions.

7 Those would be two energy analyst positions to
8 ensure an orderly phasing out of the project work that had
9 begun there. There would be no additional analytical work,
10 no additional technical work, and obviously, no initiatives
11 in either the contingency planning or the liquid fuels
12 conservation area with this proposal.

13 Utility systems reflects a slight reduction. That
14 reduction is in part -- well, in fact, is entirely due to
15 the opportunity provided to shift resources to cover legal
16 obligations in liquid fuel conservations and to try to
17 provide some of the resources needed in the buildings and
18 appliances area.

19 The management and support area reflects
20 proportional reductions.

21 In the Development Division, and Development
22 Program, you see reflected a 25 percent reduction overall.
23 That's a little over half of the Solar Office, a reduction
24 of more than a third to the Synthetic Fuels Program area.
25 In the case of Small Power Producers and Finance and

1 Technology Development, there is a display problem in the
2 Governor's budget. The positions for those offices were
3 not reduced, so there was no need for a restoration, but
4 there was also a display problem that needed to be corrected,
5 and that's what's reflected in the small power producers
6 area.

7 Finance and Technology Development, there was no
8 change, those resources remained, and in fact, the change
9 letter that was submitted to the fiscal committees added
10 \$200,000 in contract funds to the Finance and Technology
11 Development Office. Those funds were to be directed to
12 contracts developing third party financing, and bringing
13 to the Commission expertise in the financial area, and
14 business development area that we didn't have internally.

15 The remaining area is policy management and
16 administration. That reflects a 29 percent reduction.
17 Included organizationally in that area is the Policy
18 Evaluation Office. That office was eliminated in this
19 proposal. In fact, programmatically, those resources are
20 spread into some of the other program areas, but that office
21 would not exist under the proposal.

22 Resources in most of the small offices, in
23 Commissioners offices, and Public Adviser's Office were
24 proposed to be reduced proportionally by Department of
25 Finance, and those reductions were not altered by this

1 change letter.

2 In administrative services there were reductions
3 spread throughout the units there. The ones that are of
4 the greatest concern include the Grants and Loans Office
5 where we anticipate a growing workload into the next year,
6 responding to federal grant reporting requirements, and the
7 likelihood of the need to have staff do needed administrative
8 requirements for the oil overcharge funds, presuming that
9 the Commission will be administering a portion of those.

10 We have a concern in the human resources area.
11 In personnel, staff were reduced at a time when they are
12 needed to administer what appears, if this budget is
13 adopted, to be the certainty of formal civil service layoffs.
14 The need to maintain a placement function, to keep attrition
15 as high as possible.

16 In business services, the functions had sustained
17 two reductions in staffing this year. The first is part of
18 an initial budget reduction, that was the equivalent of
19 about seven positions. They relied heavily on temporary
20 help. When we had to furlough temporary help part way
21 through the year, their units were hard hit. That includes
22 resources for the library, for the publications unit, for
23 our word processing unit. This budget proposal would reduce
24 those functions further.

25 There are a number of specific operating expense

1 concerns that we have in the administrative area as well.
2 I don't want to get into an unnecessary level of detail, but
3 examples of those include the fact that the proposed
4 Governor's budget does not provide sufficient money to
5 pay the rent on this building next year. The rent amount
6 that's simply removed from our accounts --

7 COMMISSIONER EDSON: I might support that.

8 (Laughter)

9 MR. SMITH: It's about \$1.1 million. The Department
10 of Finance determined that since we were reducing staff that
11 there would be a new tenant in a portion of the building,
12 and that new tenant would pay the rent for the remaining
13 part of the year. It simply is -- based on our conversations
14 with General Services, it's not realistic to expect that
15 that happens that quickly. That the Energy Commission will
16 have the \$1.1 million removed from its accounts.

17 There were not funds provided to reimburse the
18 Attorney General for legal services that in the Governor's
19 consolidation of attorneys, we would be required to make
20 greater use of than at present. There are other examples.

21 COMMISSIONER COMMONS: Have you offered space to
22 the Department of Finance who is probably most aware of our
23 rent problem?

24 MR. SMITH: Excuse me?

25 COMMISSIONER COMMONS: Have you offered space to

1 the Department of Finance who is most aware of our rental
2 problem?

3 MR. SMITH: No, we have not.

4 Basically, those are the things I wanted to
5 highlight. One other area that you should be aware of, and
6 that is that the budget proposes, even with the addition of
7 200,000, a substantial change in the Commission's ability
8 to rely on external expertise through a contracting process.

9 In 1981-82, the Commission was able to contract
10 for services in the neighborhood of \$8.5 million. In the
11 current year, that number was reduced to about \$5.2 million.
12 In the proposed Governor's budget now, that's further
13 reduced to about \$1.9 million.

14 The kind of new work, the kind of outside
15 expertise, the kind of technical assistance that the
16 Commission has been able to rely on is simply not going to
17 be available except in a very few areas.

18 COMMISSIONER EDSON: Were you to translate the
19 '82-'83 -- can you translate the '82-'83 position number
20 into a dollar figure for me?

21 MR. SMITH: Yeah, the '82-'83, and I'll refer
22 you here to the fifth -- excuse me -- yeah, to the fifth
23 column, it looks like that number folds in special project
24 amounts -- I don't know -- Ron?

25 MR. KRAFT: Yeah, I think the best way to answer

1 it, in terms of staff, the dollars related to staff, we were
2 authorized in the current year about 15 --

3 COMMISSIONER GANDARA: Excuse me, would you please
4 come up. Excuse me, Ron, it's not going to be caught on
5 the recording machine, so would you please come up, identify
6 yourself, and answer the question?

7 MR. KRAFT: Okay. The dollar figure for '82-'83
8 on the sheet that you have says \$50.7 million. Of that
9 amount, \$15.4 million is budgeted for staff, and the rest
10 would be for operating expenses and/or special funded ERF
11 projects.

12 MR. SMITH: Identify yourself.

13 MR. KRAFT: Oh, I'm Ron Kraft, the Commission's
14 Budget Officer.

15 MR. SMITH: I'd like to mention one more before
16 we have other questions, and I just reminded -- go ahead.

17 COMMISSIONER SCHWEICKART: Just a second. Ron,
18 if you could break that down one more. How much of that
19 \$50 million is ERF?

20 MR. KRAFT: Approximately, let's say \$7.9 million
21 in the current year. I don't have a chart -- I think the
22 chart breaks down funding source at the very bottom under
23 '82-'83, and you see --

24 COMMISSIONER EDSON: 9.8?

25 MR. KRAFT: Yeah, you see 8. -- approximately 9 --

1 excuse me, \$9.8 million coming out of ERF.

2 COMMISSIONER SCHWEICKART: Okay.

3 MR. SMITH: The other expense item I needed to
4 highlight was the reduction in EDP funds. That reduction
5 in the proposed budget would seriously effect our ability
6 to make improvements in the forecasting area, to carry out
7 some of the work that we are going to be required to do
8 during the biennial report process, and during the hearing
9 process in producing the Commission's forecast.

10 It's going to affect other areas as well, including
11 the PIRA work, and potentially, some of the administrative
12 areas, such as the MIS system. It's a substantial impact
13 on the Commission's ability to carry out some of the
14 analytical work that we need to do.

15 COMMISSIONER COMMONS: Mr. Smith, looking at the
16 budget from a broad perspective, we're having roughly a 60
17 percent reduction in the budget from --

18 MR. SMITH: In dollars, yes.

19 COMMISSIONER COMMONS: -- from \$50 million to
20 roughly \$20 million. And of that \$20 million, approximately
21 a little over \$4 million is in administration, and it
22 appears that close to \$4 to \$5 million is in siting. So
23 we have maybe \$10 million that have been allocated to siting
24 and to administrative.

25 It would look, then, that we have somewhere around

1 a 70, 75 percent reduction in nonsiting, nonadministrative
2 dollars. Are you proposing that we eliminate roughly two-
3 thirds to three-quarters of our programs? What is the
4 recommendation of management in terms of the elimination of
5 programs, because I'm sure you're not recommending to us
6 that we reduce the quality of the work on the existing
7 programs.

8 Second, is -- are there programs that we have a
9 legislative mandate to do that we're not going to be
10 sufficiently funded to accomplish, I think you mentioned
11 the demand forecasting area. Are there other areas? What
12 is the plan of the Executive Director's Office in terms of
13 trying to live within the budget?

14 EXECUTIVE DIRECTOR GEESMAN: To answer your first
15 question, we're not making any recommendation. We had
16 proposed a budget to the Commission which the Commission
17 approved as a proposal last fall. I think that's represented
18 in one of those columns up there.

19 The Budget Committee made a recommendation to the
20 Governor's Office a couple of weeks ago in response to the
21 Governor's January budget. We were asked by Commissioner
22 Edson to provide the Commission with an update on where we
23 were and how the various proposals compared to each other,
24 but we're not making an independent proposal of our own
25 today.

1 COMMISSIONER EDSON: Perhaps --

2 EXECUTIVE DIRECTOR GEESMAN: As it currently
3 stands, the budget which the Legislature will be considering
4 before it in subcommittee hearings will be the budget that
5 the Governor has put in front of them. The Commission
6 itself has not made an independent proposal separate from
7 that of the Governor.

8 COMMISSIONER COMMONS: And the second question?

9 EXECUTIVE DIRECTOR GEESMAN: The second question
10 would be yes, there are areas that are part of our
11 statutory mandate that we are unlikely to be able to carry
12 out as a result of these cuts. They are principally in
13 the conservation and development areas, but I would include
14 several of the assessment programs as well, principally
15 because of the reduction of contract funds, and especially
16 because of the reduction of EDP funds.

17 COMMISSIONER EDSON: Let me comment briefly,
18 Commissioner Commons. On the last item we discussed, you
19 raised a concern about the full Commission not having been
20 very involved in various budget submittals and having an
21 opportunity to review the budget positions.

22 As you recall, that was discussed briefly at the
23 last business meeting. I asked to have this placed on the
24 agenda so that the Commission could review where things
25 currently stand relative to what was submitted last fall, and

1 relative to our current year baseline budget, and asked for
2 that in hopes that the Commission could arrive at a consensus
3 position that should be represented before the Legislature
4 in legislative budget hearings, that is independent from
5 the budget that has been developed by the Department of
6 Finance.

7 I think my feeling at this time is that the most
8 appropriate step for the Commission to take is to take a
9 position supporting the -- essentially the Commission's
10 '82-'83 baseline budget. Here the staffing level is reflected
11 at 47.4. Mr. Kraft indicates that that reflects a cost of
12 \$15.4 million.

13 In addition to that, I would assert that the
14 Commission should defend the oil overcharge funding amounts
15 that it has asked for, which as I recall, total \$12.5 million.
16 In addition, we should advocate the baseline contract amounts
17 that Mr. Smith referred to, which I think is -- he said the
18 baseline was \$5.2 million, which represents an addition of
19 \$3.3 million over what is in the Governor's proposed budget.

20 COMMISSIONER COMMONS: Excuse me. Can we have the
21 lights put on again?

22 COMMISSIONER GANDARA: Commissioner Edson, would
23 you clarify the baseline contract funds?

24 COMMISSIONER EDSON: Mr. Kent Smith, I think
25 indicated that -- went through a series of numbers indicating

1 what amounts we had had for outside service contracts. I
2 believe those to be consulting contracts essentially.

3 MR. SMITH: Right. The current year amount was
4 \$5,176,000. The Department of Finance budget now provides
5 us with \$1,867,000.

6 COMMISSIONER COMMONS: Commissioner Edson, when
7 you're talking about the baseline now, is this the 1982-83
8 budget, or the 1983-84 budget submittal?

9 COMMISSIONER EDSON: I'm speaking of the far
10 left-hand column on the chart that you have, the '82-'83
11 budget as it currently exists.

12 COMMISSIONER COMMONS: Would there not be changes,
13 for example, due to inflation, due to change in location, on
14 rent, changes in legislation during the course of the year
15 which would make the baseline probably not an accurate
16 figure as to what our requirements may be this year? There
17 may be some areas we've had some inflationary costs, there
18 might be other areas where we've completed some work so that
19 it would not be an exact replica of what our current needs
20 would be?

21 COMMISSIONER EDSON: Well, I don't suggest that
22 the Commission try to delve into the budget in sufficient
23 detail to determine whether or not every current activity
24 of the Commission will necessarily continue through the
25 next year, and in the cases of activities that would not,

1 what should substitute for them.

2 I certainly think that you're correct in suggesting
3 that some current year work will finish up before the end
4 of the next fiscal year, and that there would be some
5 shifting of Commission priorities. I think, though, that
6 the Commission over the last several years has gone through
7 a series of cutbacks in staffing levels and in contract
8 dollar allocations, and that we're now in a position where
9 we have what I think is arguably the minimum staffing level
10 that allows us to carry out our statutory obligations, and
11 that we should assert that position before the Legislature.

12 COMMISSIONER COMMONS: How are you considering
13 treating the ERF \$9.8 million and the SAFRUA \$8.9 million?

14 COMMISSIONER EDSON: As I suggested -- well, as
15 I think you know, the Energy and Resources Fund has -- the
16 Governor's budget proposes that that be eliminated, and that
17 money augment the general fund. The Commission has a series
18 of programs which over the last several years have benefitted
19 from augmentations from that source of funding.

20 In recent months, we have allocated oil overcharge
21 funds to some of those activities. I think as a policy
22 matter, we should continue to advocate for oil -- excuse me,
23 for the existence of the Energy and Resources Fund, and the
24 use of that money for energy and resources purposes. In terms
25 of the allocation of those funds, however, and the amount of

1 staffing, I think the oil overcharge action we took several
2 weeks ago gives some guidance as to the priority programs of
3 the Commission.

4 COMMISSIONER COMMONS: And would you be considering
5 -- I'm just trying at this point to understand what you're
6 reflecting here. If we are receiving possibly \$12 million
7 in oil overcharge monies, would that go against the ERF and
8 SAFRUA account, or would that be over and above the \$50
9 million?

10 COMMISSIONER EDSON: I guess I'm not --

11 MR. SMITH: I think technically that money would
12 add on to any returning loan money that we would get, and
13 any other funds that would be available.

14 COMMISSIONER EDSON: What I'm suggesting is that
15 rather than -- I think the \$50 million number is a difficult
16 number to try to work from. I think what it reflects is the
17 total level of funding from a number of sources in the
18 '82-'83 budget, some of which may be reflected again in this
19 budget, some of which may not.

20 For example, we may have a higher level of
21 repayment in the Energy Conservation Account, I think is the
22 first account there. We may have a lower level of reimburse-
23 ment in other areas. So, I can't really speak in terms of
24 exactly -- I don't want to take an action which suggests that
25 we would not want to spend our schools and hospitals loan

1 repayments on schools and hospital loans in the next fiscal
2 year.

3 I think that we can know -- assert a position in
4 support of our current year staffing levels, in support of
5 our current year service contract levels, and in support of
6 the oil overcharge activities that we have already acted on.

7 COMMISSIONER COMMONS: Can you identify what that
8 would mean in terms of dollars on the chart that we have?
9 That --

10 COMMISSIONER EDSON: There's not a one-for-one
11 match, that's the difficulty.

12 COMMISSIONER COMMONS: The problem I have is if
13 we receive or don't receive oil overcharge monies, or we
14 do or do not receive monies for schools and hospitals, other
15 contract programs, there is a direct correspondence in terms
16 of manpower requirements, and it's hard for me to separate
17 out the workload requirement of the Commission from the
18 total amount of funding that we have.

19 COMMISSIONER EDSON: Well, I would argue that there
20 is not necessarily a one-for-one workload match, that in
21 fact --

22 COMMISSIONER COMMONS: No, it's not one-for-one,
23 but it's not zero-for-one.

24 COMMISSIONER EDSON: Well, my point is simply that
25 it probably takes the same staffing level to handle a

1 relatively small amount of conservation loan monies coming
2 in in our schools and hospitals program, than it takes to
3 handle something several times that amount.

4 MR. SMITH: If I might address that, my under-
5 standing is that the 2.1 is that the oil overcharge money,
6 I believe under the federal law, cannot displace state
7 funds, so that that would add to whatever level of funding
8 we had.

9 The second is as that is being considered by the
10 Legislature, my understanding is that the staffing necessary
11 will be considered along with that, as a separate issue.

12 COMMISSIONER GANDARA: I would add that it seems
13 to me that there could be further elucidation in a number
14 of areas here, but that we're really talking about a rather
15 -- it's really a rather broad policy judgment.

16 Just reviewing the various columns that we have
17 here is an '83-'84 budget submittal that was prepared last
18 summer. There have been considerable intervening events
19 that make that budget proposal unlikely. One of those
20 clearly being the Governor's '83-'84 proposed budget.

21 The next action that this Commission took, you
22 know, with the participation of various members, as well as
23 various advisers and the divisions chiefs, and the Executive
24 Office, was essentially to prepare a technical change budget
25 that would essentially permit the Commission to continue to

1 function along its legal mandates.

2 What we are facing here is a revised, or a final
3 '83-'84 budget that would substantially impair at least the
4 minimum legal mandates that the Commission must fulfill.
5 So that without necessarily getting into the particular
6 numbers, or you know, as Commissioner Commons has indicated,
7 clearly there have been changes since the fiscal '82-'83
8 baseline budget, inflation among all the other factors that
9 he mentioned, you know, changes in programs, and so forth,
10 that what we're talking, nonetheless, is essentially as
11 Commissioner Edson indicated, is a preparation of the budget
12 for a legislative submittal, or counterpoint to the final
13 '83-'84 budget.

14 It certainly is a tender issue, and needs to be
15 handled with, I would say, some delicacy and tact, but
16 nonetheless, proceeding with -- as we would, with nothing
17 else, we would not be asserting what the policy goals
18 roughly -- not in any great precision, because we probably
19 can't get that precision today, but that we at least have
20 in the BR IV a current trend scenario that assumes the
21 continuance and existence of certain policies, and that to
22 some extent, that minimum requirement may be in the baseline
23 budget.

24 The more open question seems to be that the fiscal
25 '82-'83 contract funds in the various categories at the

1 bottom will probably have to be reviewed again, since some
2 of those -- those are very project specific, and clearly,
3 that's something that we cannot make a judgment on today, and
4 to add to the PY budget. But I think what we're really
5 talking about now is a rough target of the PY budget, a
6 minimum baseline contracts for technical assistance that's
7 related to those PY's and maintenance of that work, and I
8 suppose that what is being left open is that we engage again
9 in a process whereby we have a consensus on what budget -- a
10 budget that reflects the policy consensus of the Commission.

11 I think that not to develop that would certainly
12 not be prudent of us. I guess the question that I would
13 have is that we would have to certainly accept some impreci-
14 sion at this moment, which I think can be worked out as we
15 proceed.

16 But we're dealing, I guess, with a basic decision
17 as to whether, do we need to prepare yet another budget, and
18 I would say that yes, we probably do. I think the mechanism
19 for that is probably open for consideration. Commissioner
20 Schweickart?

21 COMMISSIONER SCHWEICKART: Yeah, there are times
22 when we all miss Commissioner Varanini. He used to put
23 things in Swahili, I'll try to do it in English.

24 I think we're all looking here at a question of an
25 appropriateness of the Energy Commission's budget on what are

1 the controlling factors. One of the things which is not a
2 controlling factor is trade-off with the general fund. If
3 we're not at odds with the general fund, and even if we were,
4 I would propose an equitable hit would be far more appro-
5 priate than what we see before us.

6 But we're not, and so with the funding
7 fundamentally coming out of the ratepayer's surcharge, the
8 question is, what are the policy issues, then, which ought
9 to properly scope or size the budget. What is the current
10 state of energy challenge in the world? What are the
11 Commission's policies expressed in the biennial report, in
12 other statements, or documents, or deliberations of the
13 Commission, and have they changed?

14 It is not my impression that anywhere has the
15 Commission indicated any shift in its policy. If anything,
16 I believe the general perception is that we have had a
17 breather in the world in terms of oil prices, but that
18 we're probably at the bottom, and we're likely to see things
19 move back up, and that continued, and committed action on
20 cost-effective conservation, on the development of alterna-
21 tive technologies, on synthetic, nonpetroleum based fuels,
22 and on all of the other actions of the Commission is
23 entirely appropriate, and that there is no rationale
24 whatsoever for cutting back on the current activities of
25 the Commission, other than shooting holes in Jerry Brown's

1 ghost. I find that a totally insufficient motivation, or
2 argument for cutting the Commission's budget, and at the
3 same time, in reflecting Commissioner Edson and Commissioner
4 Gandara's real world observations, I do not believe that it
5 is appropriate for the Commission at this point, if it is
6 in fact to be timely represented in the deliberations going
7 on in the Legislature now, that we develop an alternative
8 budget to that of the Department of Finance that dots every
9 "i" and crosses every "t", reviews every program, et cetera.

10 I believe that Commissioner Edson's fundamental
11 proposal that we support the current '82-'83 baseline in
12 terms of personnel years, and contract dollars, that we
13 assure continued alternative development through the --
14 essentially, the level of funding currently supported by ERF,
15 but perhaps as a substitute on oil overcharge return monies,
16 is an appropriate guideline from which the Commission should
17 now move in representing itself in the legislative budget
18 deliberations.

19 I would propose, just to get something on the
20 floor, that the Commission direct the Vice Chairman, and
21 second member of the Budget Committee, to represent it in
22 supporting this budget before the Legislature.

23 COMMISSIONER EDSON: Is that a motion?

24 COMMISSIONER SCHWEICKART: Why not. That's a
25 motion.

1 COMMISSIONER COMMONS: We need a second, Karen.

2 COMMISSIONER EDSON: Well, I second the motion.

3 COMMISSIONER GANDARA: Commissioner Commons?

4 COMMISSIONER COMMONS: I think what's at stake here
5 is not if we have 474, or 305 people, or 338 people, but I
6 think the real issue is much broader, and we're going in
7 that direction in terms of the motion, but I don't think
8 we're going far enough.

9 I think it's a head-on confrontation. Do we have
10 an energy policy in the State of California or do we not?
11 What reason is there to site power plants in the State of
12 California if we don't have an energy plan? We're not going
13 to have forecasts that are going to be worth anything. We're
14 not going to have development of alternate energy, and we're
15 not going to have a conservation program.

16 As far as I'm concerned, looking at the budget,
17 and the more I've reflected upon it, I think the position of
18 this Commission should be, we should abolish the Energy
19 Commission if this budget is adopted. Whether or not
20 someone wants to have a siting authority with two or three
21 judges to review a particular facility, I think that is an
22 issue that could go to the Legislature.

23 But this isn't an energy policy, or an energy
24 program. We have \$10 million for a few small projects that
25 we're able to get from the federal government, and there is

T.6
1 no way that the State of California, with the limited funds
2 that we're discussing here, needs five Commissioners -- in
3 fact, I dare say, they don't need any Commissioners to
4 administer this program, they could be put with the PUC or
5 in the Governor's Office.

6 As to the motion itself, as to the exact number of
7 persons, I think it raises the framework, or the issue as
8 to whether or not we need to have a 5 or 10 percent increase
9 to meet the program objectives, as in the 1983-84 budget
10 submittal, or due to changes in circumstances, that that
11 should be reduced a certain percentage.

12 I think that's a very small issue, and shouldn't
13 be the issue that we should engage in. I think we really
14 should engage in the real issue, is does California give
15 up the policy direction that it has initiated. Do we give
16 up conservation as part of the State of California. Do we
17 go the direction of the federal government in not having an
18 alternative energy policy, and do we depend on forecasts
19 that have cost multiple billions of dollars in other states,
20 in other areas of the country by not doing an adequate job.

21 I'll support the motion in terms of the concept.
22 The specific numbers, I think are not relevant.

23 COMMISSIONER GANDARA: I think probably enough has
24 been said on it. Is there any objection to a unanimous vote
25 on this? So be it.

1 I might remind the Commissioners that I overlooked
2 a Committee Report. We do have some legislative matters that
3 OGA wished to bring to the Commission's attention. Shall we
4 proceed with those, Ms. Stetson?

5 MR. PEREZ: Commissioner Gandara? I believe Ms.
6 Campbell had reserved the right to make a comment at the
7 end of your discussion.

8 COMMISSIONER GANDARA: Ms. Campbell, I'm sorry,
9 go ahead.

10 MS. CAMPBELL: I'm a job steward here at the
11 Energy Commission and I would just quickly want to say that
12 although we all recognize that there may be some changes and
13 fluctuations in the budget, at least we're hopeful that
14 there are, nevertheless, staff reductions do appear to be
15 likely, and in order to deal with that, the personnel here
16 needs to know some very specific things.

17 In particular, I would ask you to make available
18 the number of positions by job classification which are
19 scheduled for reduction. The budget implications, while
20 we see it in dollars and programs, we do not see it in
21 positions and job classifications.

22 That is what is really going to affect the
23 personnel here. So, in order for people to make their own
24 decisions on what they're going to do, they're going to
25 have to know that. So, I would like to ask that the

1 Commission direct the staff to straightforwardly and
2 promptly identify the number of positions by job classifica-
3 tions which would be eliminated in the final 1983-84 budget,
4 which was on the column four, and to make this information
5 available to the employees as soon as possible.

6 MR. SMITH: I'd like to comment on that. The
7 Governor's budget includes a volume, it's referred to as
8 the Salaries and Wages Supplement. That lists all of the
9 position by organization and unit.

10 The programmatic part of the Governor's budget
11 includes a section referred to as changes in authorized.
12 That on a position-by-position basis eliminates the positions
13 that would bring the budget into balance with the level of
14 resources overall.

15 The budget change letter that was recently
16 submitted added some 35 positions back to that. That's a
17 general guideline. Those do not become final until the
18 budget process is completed, and the Commission has an
19 opportunity to look at the level of resources, look at the
20 proper organization structure to carry out the work that
21 we're directed to do by the Legislature.

22 That will occur in July and probably in early
23 August. Those preliminary indications are certainly
24 available, but the final answer won't be available until
25 summer.

1 MS. CAMPBELL: I would like to ask the Commission
2 to please make available this information in summary form
3 so that the employees can understand it. This way we would
4 have to go to the Governor's budget, to various appendices,
5 et cetera, et cetera, et cetera, and the simple fact of the
6 matter is, people need to know where they stand.

7 EXECUTIVE DIRECTOR GEESMAN: We'll certainly
8 produce that from the Governor's budgets, but I think the
9 point that Kent was making was that it can be no more than
10 a preliminary indication because final determinations won't
11 be able to be made until after the Legislature enacts a
12 budget, the Governor signs a budget, and the Commission then
13 makes an allocation of positions.

14 It would be unwise to attempt to lock too much of
15 that in concrete now in advance of that date, but we can
16 certainly make available in a usable form the positions that
17 the Governor's proposal has identified.

18 COMMISSIONER EDSON: I'd like to make a brief
19 comment, and that is that I certainly understand the
20 employees need to try to get as much certainty as possible
21 as soon as possible when you have major life changing
22 decisions looming, depending on the outcome of this kind of
23 deliberation.

24 It certainly is preferable to know as soon as
25 possible, but I hasten to add that I think it's -- we have

1 every reason to believe that some portion of these positions
2 will be restored in the legislative hearings, and I urge the
3 staff people out there who are debating whether or not to
4 leave quickly, to watch those proceedings, and to be careful
5 how they reach those conclusions, because there is hope that
6 some activities will be retained, and perhaps augmented.

7 MS. CAMPBELL: If I could comment. We all
8 understand that there are changes yet to go, and certainly
9 we're optimistic that they will be favorable. Nevertheless,
10 just from a matter of personal planning for each individual,
11 I think it would be wise to proceed on a worst case infor-
12 mationally so that what -- how do these reductions translate
13 to positions and types of positions, that's very important
14 to the staff.

15 COMMISSIONER GANDARA: Well, I think for now
16 what -- Commissioner Schweickart?

17 COMMISSIONER SCHWEICKART: Yeah. Val, I respect
18 the desire of everybody to be able to plan ahead, and at the
19 same time I very strenuously object to the concept that
20 you've suggested, and I would not have any part in directing
21 the Executive Office to do that in any detail.

22 I think that is the best way, if you will, to
23 guarantee the decimation of the real value of the
24 Commission. It is some of the most valuable programs that
25 are under attack, if you will, in the proposed budget. By

1 taking the action you recommend, whether there is any
2 intention or not, we will lose the very people who are most
3 valuable to the State of California in enacting these energy
4 policies. I would suggest that I would not support that at
5 all.

6 COMMISSIONER COMMONS: I concur with that.

7 COMMISSIONER SCHWEICKART: I think individuals
8 must realistically appraise what is likely to happen, and
9 to monitor very closely, as Commissioner Edson said, the
10 proceedings. I don't think that I would want to bias any
11 such list by the policy represented within the distribution
12 presented to us by the Department of Finance.

13 I think that is not an appropriate basis on which
14 people should be making their plans, or at least not one
15 which I would endorse. It may be appropriate, but it's
16 certainly not one I would support.

17 COMMISSIONER GANDARA: I think that there is
18 concensus among the Commission regarding your request, but
19 for the moment, what at least can be made available,
20 certainly since it's a public document, is the final '83-'84
21 budget. I think that can be pulled out. Again, you know,
22 look at it with a grain of salt.

23 But that certainly, you know, cannot be withheld
24 from the employees. At the same time, I also would concur
25 that I would think it at least unwise, given the circumstances

1 that we find ourselves in, to spend a lot of management time
2 in trying to plan for scenarios that we just don't know what
3 the probability of them may be.

4 COMMISSIONER EDSON: Just one last comment, and
5 that is, I think if there's any message to take back from
6 the discussion we had today on the budget, and the kind of
7 position the Commission will assert, that that position is
8 that we retain current staffing levels, and that we, I think
9 the very message is that at least one of the goals of this
10 Commission is to make sure that there are no layoffs.

11 MS. CAMPBELL: We would be delighted if that were
12 the case. Can we expect some sort of a summary form, that
13 people who are not familiar with the budget can use for
14 translation of the Governor's budget?

15 MR. SMITH: Yeah, we can provide you with those
16 pages pulled out, and copies of that's material.

17 COMMISSIONER GANDARA: They're fairly specific,
18 just xerox those pages.

19 COMMISSIONER EDSON: It's straightforward.

20 MR. SMITH: It's really pretty straightforward.

21 MS. CAMPBELL: Thank you.

22 COMMISSIONER GANDARA: Okay. Again, Ms. Stetson,
23 lets proceed with the bills before us. I think we can
24 proceed with several changes in your memo. We will not be
25 taking up AB 1272, and we have added to the agenda SB 48.

1 MS. STETSON: And we will not be taking up SB 5,
2 as I understand it.

3 COMMISSIONER GANDARA: Yes, SB 5 has been postponed.

4 COMMISSIONER COMMONS: Can you repeat those
5 changes please?

6 COMMISSIONER GANDARA: AB 1272, the solar tax
7 credit bill will be postponed, as will the SB 5, the power
8 plant certification bill, and what has been added, as my
9 request, is SB 48, which --

10 COMMISSIONER EDSON: Do we have an analysis of
11 that here?

12 COMMISSIONER GANDARA: Yes, you should, it's been
13 ready for some time, that's a line extension case. Since I
14 -- again, you know, the number of actions set forth here,
15 I was not present at this Committee meeting, so Ms. Stetson,
16 if you would just take the lead in proceeding.

17 MS. STETSON: Well, let me first -- would you like
18 me to go through all the bills, or just the ones we've
19 supported -- we support or oppose? In the past we've put
20 the neutral bills aside unless some Commissioner had a
21 comment on them.

22 COMMISSIONER GANDARA: Let me just ask how familiar
23 the Commissioners may be with the package that was inserted,
24 and would it be useful for Ms. Stetson to go through a brief
25 digest of each bill and the recommended positions, and

1 therefore -- I would prefer that myself, because I do have
2 some differences with some of the recommendations.

3 COMMISSIONER EDSON: Yes, I would appreciate that.

4 COMMISSIONER GANDARA: Okay. Let's proceed then,
5 bill by bill.

6 MS. STETSON: Okay. AB 646 is a bill by Assembly-
7 man Baker that basically raises the limit for offsets for
8 cogeneration projects from 50 megawatts to 104 megawatts. We
9 are in the process of coordinating with Assemblyman Baker's
10 office with the opponents and proponents of the bill. We
11 were called in because of our expertise.

12 There was a meeting a couple of days ago, yesterday
13 I believe, and there will be a meeting tomorrow in working
14 out differences between all parties. As I understand it, the
15 ARB is not particularly enamorate of this bill, and feels
16 that it should not be raised to 104 megawatts.

17 Our staff has recommended support with amendment,
18 and the amendment would be to define the size of the project
19 which is currently megawatts to heat input rates, because
20 they maintain that that would be an easier way of assessing
21 the actual size of the project.

22 There were some amendments offered yesterday. Our
23 staff is going over those concepts, and we will be meeting
24 tomorrow, not with a decision, but to offer -- a position to
25 offer the Assemblyman, but just our expertise as to what

1 the bill, or the proposed amendments to the bill would
2 actually do.

3 COMMISSIONER GANDARA: Are there any questions or
4 problems with the recommended position here? Commissioner
5 Commons?

6 COMMISSIONER COMMONS: If this bill went into
7 effect, would it result in an increase in air pollution in
8 any of the smog impacted areas in the State of California?

9 MS. STETSON: Well, in fact, the proposed amend-
10 ments that are different than the original bill, would
11 actually, according to the proponent, decrease air pollution
12 because it would allow the bottom cycle to be added to a
13 power plant and have only the fuel burning portion of the
14 project be considered.

15 He maintains it's a more efficient way of a
16 cogeneration project, and therefore would lessen the air
17 quality. He also maintains that you have to assume that
18 projects are being built under 50 megawatts right now so
19 that people can circumvent the -- not circumvent, but take
20 advantage of the air quality offsets that are in the law.

21 COMMISSIONER COMMONS: Let me make sure I under-
22 stand your answer, or you understand my question. Currently
23 on a cogeneration plant of over 50, it would not be automatic
24 that the party would be given a right for offsets, even
25 though there might be a power plant not required to be

1 constructed because of a cogeneration plant.

2 By having the increase from 50 to 100, there would
3 automatically be, to my understanding, an offset granted.
4 My question is, and I want to make sure I understood your
5 answer, is with or without the bill, just making a comparison
6 of with or without the bill, what are the air pollution
7 impacts on the smog -- on the areas in the State of
8 California where we have serious air pollution problems?

9 MS. STETSON: According to staff, it would not
10 increase the air quality conditions. This bill would not
11 have anything to do with that. According to the proponents,
12 it's offering an amendment, he maintains that it would
13 actually decrease air quality.

14 COMMISSIONER SCHWEICKART: On what grounds, Luree?

15 COMMISSIONER COMMONS: Are you proposing that that
16 would be the amendment incorporated into our support position
17 on the bill, that there would be no increase in air
18 pollution because of this bill?

19 MS. STETSON: I'm not recommending anything. The
20 proponent that's offering amendments, and the sponsor of the
21 bill is -- and let me again reiterate that it's not reflected
22 in this analysis, this is the bill as introduced, but the
23 proposed amendments by the sponsor of the bill maintains that
24 his proposed amendment would actually decrease air quality
25 needs because if you assume that projects are going to be

1 built under 50 megawatts, so that they can take advantage of
2 current law, you're having two inefficient projects being
3 constructed.

4 If you can combine the two by raising the mega-
5 wattage to 104, if you can combine the two with a bottom
6 cycle, and that's all I know about the process, you would
7 be able to actually have a more efficient project, and have
8 more energy produced at the same time.

9 There are two benefits, one is better air quality,
10 and the second is a better production, or more efficient
11 production. If you have specific questions, we can get Ray
12 Tuvell down here, and he could go into the specifics of the
13 bill.

14 COMMISSIONER COMMONS: All right. And I'm starting
15 to understand that the fact of no increase only occurs
16 based on the assumption that the developer would be putting
17 in two under 50 megawatt plants, but the actual impact on
18 the air pollution in the basin, as compared to a non-
19 cogeneration plant which would have enforced on it strict
20 air pollution requirements of a new project, it would
21 actually be an increase in air pollution due to the bill.

22 MS. STETSON: Well, according to the staff, this
23 bill would not increase air pollution because they say, if
24 you'll notice on page one, that appropriate air quality
25 mechanisms would also have to be installed.

1 COMMISSIONER COMMONS: Well, Mr. Chairman, I would
2 like to suggest that if we were to support the bill, it
3 would include an amendment to it that there would be no
4 increase in air pollution.

5 MS. STETSON: Well, let me add one thing. The
6 bill is in the process of being amended, so whatever we do
7 here will not reflect what the actual bill will be, and
8 that's something that will probably be taken to the
9 Governmental Relations Committee Thursday, we hope to do --
10 or excuse me, Friday.

11 COMMISSIONER GANDARA: Let me suggest something.
12 I mean, we then -- the position then be to support in
13 concept with technical amendments, with, you know, the
14 expression of concern that there not be -- there be
15 minimized probability of increased air pollution. If that
16 seems to be a problem, then the staff should bring this back
17 to our attention.

18 I would agree with Commissioner Commons' concept
19 in principle as well, although I think the permitting
20 process for the offsets are quite complex in how they work,
21 so I wouldn't want to presume that I know exactly that that
22 is actually, technically feasible.

23 But as I understand the ARB position, your concern
24 is that right now a cogenerator is required to find its own
25 offsets. If he doesn't find those offsets, then he can

1 petition the ARB, and the ARB will then, you know, find those
2 offsets for him, and I think that that --

3 MS. STETSON: That's for every project under 50
4 megawatts.

5 COMMISSIONER GANDARA: That's correct.

6 MS. STETSON: This bill would increase that to 104.

7 COMMISSIONER GANDARA: So that the concern I think
8 of the ARB is not so much that it would increase the air
9 pollution, but that the burden would fall on them to find
10 the offsets.

11 MS. STETSON: Exactly, right.

12 COMMISSIONER GANDARA: But I think the concept is --

13 COMMISSIONER COMMONS: Well, I'll --

14 COMMISSIONER GANDARA: Okay. Any other problems
15 with that?

16 MS. STETSON: AB 886 --

17 COMMISSIONER GANDARA: Okay, excuse me, before
18 we -- is that the Commission's wish that that be the
19 position?

20 COMMISSIONER SCHWEICKART: I just wanted to confirm
21 that in fact Commissioner Gandara's presentation of the
22 current statute is correct regarding -- under 50 megawatt
23 projects. It is clear, and I think fully agreed that under
24 50 megawatts the proponent of the project, and any affiliate
25 of the proponent, as I recall, would have to provide their

1 own offsets only up to the limit within their own company
2 or affiliation.

3 MS. STETSON: Only if they own -- right, within
4 that air basin.

5 COMMISSIONER SCHWEICKART: However, the question
6 beyond that is are additional offsets in fact provided and
7 needed for that project to go on-line, or does the ARB just
8 absorb all the offsets that they can from the project, and
9 then it goes on with an exemption for the rest. That's my
10 question.

11 COMMISSIONER GANDARA: Let me suggest this. Why
12 don't we get Ray Tuvell, let's proceed with the other bills,
13 and we can return to this one, before we speculate on this
14 one.

15 COMMISSIONER SCHWEICKART: All right, because
16 frankly, I would not support the bill if what we're really
17 looking at here is simply an additional incentive to
18 larger and larger cogenerators not to have to provide any --
19 to acquire any more offsets, other than those which they
20 have direct control over.

21 COMMISSIONER GANDARA: Let's have the secretary
22 call Ray Tuvell, and let's proceed to the next bill, hold
23 that one over, that being AB 1110? Transportation?

24 MS. STETSON: Yeah, this is a Rusty Areias bill
25 that's basically based on a concept that we had in the BR, I

1 believe, which encourages maximum coordination of all
2 public transportation services, fares, and transfer
3 privileges.

4 COMMISSIONER SCHWEICKART: What one are you on?

5 MS. STETSON: AB 1110.

6 COMMISSIONER GANDARA: Okay. I just became aware
7 that I'm going by a memo of April 15th, and your insert is
8 April 18th. Okay. So why don't we proceed along the
9 memo that the rest of the Commissioners have, which is
10 April 18th, and you were about to do that in any case, with
11 886.

12 MS. STETSON: Right. AB 886 is a bill that lowers
13 the minimum geothermal parcel size which the State Lands
14 Commission can lease or issue from 640 acres to 40 acres,
15 and I believe Commissioner Gandara was at our Government
16 Relations Committee meeting when we discussed this.

17 We basically suggested a neutral position since
18 staff didn't have any evidence to indicate whether this
19 would promote more geothermal siting or not.

20 COMMISSIONER GANDARA: Let me explain the -- I was
21 present at this meeting. Let me explain the Committee's
22 reasoning. I believe that the bill, the current situation,
23 that the minimum parcel size is 640 acres, and the bill would
24 allow for 40 acre parcels to be leased.

25 There is one consideration that says that a holder

1 of a 640 acre parcel could acquire it, hold onto it, and
2 perhaps not develop it, and the suggestion being that the
3 more parcels you have, the greater likelihood you have a
4 multiplicity of developers, and therefore, it would be
5 developed sooner rather than later.

6 The Committee considered that argument, and felt
7 that there didn't appear to be any evidence that that would
8 be the case, and in fact was concerned whether the result
9 might just be the opposite. That in fact, that there might
10 be a minimum size which might be required.

11 It was concerned about potential acquisitions of
12 40 acre parcels being held for speculation, and for sale for
13 perhaps, you know, what would have been the holder of the
14 640 acre parcel. In any case, the Committee could not
15 determine whether one or the other was accurate, and saw
16 no reason to really take a position one way or the other,
17 and they recommended a neutral position.

18 That's the best of my recollection. Are there any
19 questions or any concerns with the position?

20 COMMISSIONER EDSON: I would support that
21 recommendation.

22 COMMISSIONER COMMONS: I would support the bill.

23 COMMISSIONER GANDARA: I'm sorry, we --

24 COMMISSIONER SCHWEICKART: Support the recommenda-
25 tion.

1 COMMISSIONER GANDARA: Support the recommendation.
2 Okay. Three votes for supporting the recommendation, and
3 Commissioner Commons, you --

4 COMMISSIONER COMMONS: Support the bill, one vote
5 for supporting the bill.

6 COMMISSIONER GANDARA: Okay. Would you please
7 record Commissioner Commons -- that the Commission position
8 would be to take a neutral position on it, and Commissioner
9 Commons dissents from that.

10 COMMISSIONER COMMONS: Commissioner Commons
11 supports the bill.

12 COMMISSIONER GANDARA: We have Ray Tuvell, can
13 we return to AB 646? Mr. Tuvell, the question posed -- well
14 let me let Commissioner Schweickart pose his question.

15 COMMISSIONER SCHWEICKART: Ray, I'm reading the
16 Legislative Counsel's Digest, description of the bill.
17 What's either not included here, or is not the case, is --
18 well, let me word that a slightly different way.

19 The Legislative Counsel's Digest in describing
20 the current situation indicates that a project proponent
21 of a cogeneration project smaller than 50 megawatts, need
22 only to the extent offsets are available from facilities
23 owned or operated by the applicant, need to provide those
24 offsets.

25 It does not go on to say that in order for the

1 project to move forward that somebody else has got to
2 supply the offsets. It simply says that the proponent need
3 only provide what he has, up to 50 megawatts. My question
4 is, what happens below 50 megawatts today in a cogeneration
5 project where the project proponent can only come up with
6 say, 25 megawatts of equivalent offsets? Does he go ahead,
7 or does he not go ahead?

8 MR. TUVELL: Yeah. The Leg. Counsel's explanation
9 provides an understanding of the obligation that is placed
10 on the cogenerator, and it says, if he's a certain size, all
11 he has to do is come up with emissions from facilities that
12 he currently owns or operates as offsets. If he doesn't
13 have any, then he has none to come up with, he gets his
14 permit.

15 Now, what is supposed to be happening is the --

16 COMMISSIONER SCHWEICKART: And air quality degrades?

17 MR. TUVELL: No. What is supposed to be happening
18 is for those types of situations, the air regulatory agencies
19 are supposed to get the offsets for them by passing rules
20 and regulations necessary to reduce emissions from existing
21 facilities, at least in an equivalent amount to what this
22 new facility would increase the emissions in that area.

23 COMMISSIONER EDSON: How has it been operating so
24 far?

25 MR. TUVELL: That is one of the problems that

1 became quite evident in our discussion with Assemblyman
2 Baker yesterday, and that is that the air regulatory
3 agencies seem to indicate that it appears to be working in
4 some districts, and not in others. But when we asked for
5 detail in regard to which districts it was operating in, and
6 which districts it wasn't operating in, they didn't have
7 that detail available.

8 As a result, Assemblyman Baker requested that we
9 have a meeting with the air regulatory agencies tomorrow to
10 get more detail on exactly what the situation is.

11 COMMISSIONER SCHWEICKART: Ray, does this go back
12 to the formation of banks, offset banks by the APCD's for
13 cogeneration?

14 MR. TUVELL: Same concept. Same concept. We're
15 going back to the original CALBO AB 524 concept.

16 COMMISSIONER SCHWEICKART: But as I recall that,
17 there were specific air polluters who were to be, in essence,
18 catalogued within a bank, and made available to project
19 proponents to procure those offsets as I recall. That the
20 air agencies were to develop those banks, but the description
21 you just gave is slightly different from that.

22 It says that if I'm the air officer in the local
23 county, and these guys can only come up with 25 megawatts
24 worth out of 50, then I've got to tighten down on everybody
25 else in the county the equivalent of 25 megawatts worth. I

1 don't provide him specific things which he then procures.

2 So, now I'm --

3 MR. TUVELL: That's correct. I mean, the
4 fundamental procedure available to the local air regulatory
5 districts to secure offsets, emission reductions from
6 existing facilities is to pass a regulation that says, okay,
7 you facilities out there of this type, and it describes it,
8 you will control your emissions by a certain percentage.

9 The district then takes those emission reductions
10 and stores them away especially for cogenerators, or
11 implementation of this legislation. No different, no
12 different procedurally from what they do for attainment
13 purposes of ambient air quality standards.

14 In other words, they go about passing regulations,
15 and getting reductions, and using them any way they want,
16 to attain the standards, or to provide offsets for select
17 new facilities. Procedurally it's no different. I think
18 where we might be getting hung up here a little bit is what
19 the legislation directed was for the districts to give the
20 permits to these cogenerators, okay, whenever they apply,
21 but don't let that be hung up by the fact that the district
22 may not have implemented this procedure to get the offsets.

23 So the districts you move ahead, cogenerators, you
24 move ahead.

25 COMMISSIONER SCHWEICKART: So the cogeneration

1 offsets may be realized in the same way that attainment
2 goals are being realized.

3 MR. TUVELL: Oh, yes, that's right. Fundamentally
4 that's what's supposed to be happening. I think what we're
5 finding out, though, and I think the big surprise to me, and
6 a lot of other people in the meeting yesterday is that a lot
7 of the districts have politically made the decision that
8 they're not going to implement this legislation, and they
9 haven't done it.

10 COMMISSIONER SCHWEICKART: Which legislation,
11 granting cogeneration permits, or --

12 MR. TUVELL: No, they're granting the permits, but
13 they're not undertaking any activity to get the offsets.

14 COMMISSIONER SCHWEICKART: Okay.

15 MS. STETSON: Well, as I understand it, one of the
16 counties that's very concerned, a southcoast that was
17 represented at the meeting, indicated that they can't do it,
18 that they've adopted new source review rules, and so forth,
19 but EPA has not approved that for some reasons, and there's
20 a problem between actual offsets and paper offsets.

21 COMMISSIONER SCHWEICKART: All right. Well, then,
22 I would move toward Commissioner Commons' recommendation that
23 we would support this bill only if it is amended to assure
24 the realization of the offsets by the air districts.

25 MR. TUVELL: I'd certainly concur on that. Our

1 primary objective from the staff level is certainly to give
2 benefits to get more cogeneration in, but certainly not at
3 the cost of the environment in no way, shape or form. And
4 we are aware that the mechanism exists for the air regulatory
5 agencies to implement this legislation, and to take care of
6 environmental problems. There simply shouldn't be any that
7 arise. The question is whether or not they're going to do it.

8 COMMISSIONER GANDARA: A concern I would have with
9 that strict a position is whether we would be burdening
10 cogeneration with a requirement that is perhaps stricter than
11 might be the case for other potential polluting, and less
12 desirable alternatives.

13 COMMISSIONER SCHWEICKART: No, they have to --

14 COMMISSIONER EDSON: They have to find the offsets.

15 COMMISSIONER SCHWEICKART: They must find the
16 offsets.

17 MS. STETSON: They have to first find the offsets.

18 COMMISSIONER SCHWEICKART: I would suggest that I
19 would rather burden cogeneration, or let me say an increase
20 in the size of cogenerators for whom this applies, it would
21 be a good citizen, then, a good alternative energy source
22 being burdened with being a bad citizen.

23 COMMISSIONER GANDARA: So be it. There appears
24 to be a concensus here, Commissioner Commons -- we would
25 support the bill reflecting Commissioner Commons' requirement

1 that it be structured in such a way that no increased air
2 pollution would result. Okay, any objection to that? That's
3 recorded as the Commission's position. Thank you very much,
4 Mr. Tuvell.

5 MR. TUVELL: Thank you.

6 COMMISSIONER GANDARA: We were on AB 988. Ms.
7 Stetson?

8 MS. STETSON: AB 988 is a bill by Assemblyman
9 Baker. I believe you also were -- reviewed this bill. It
10 abolishes the Geothermal Resources Board which hasn't met
11 in a number of years and transfers its functions to the
12 State Oil and Gas Supervisor and to the Superior Court.

13 This Board, as I understand it, collects informa-
14 tion regarding geothermal resources, approves agreements
15 among multiple parties, has an appeals process also for that,
16 and certifies wells. Now, as I understand it, the bill has
17 been amended to give the appeals function to the Director
18 of Conservation and not to the Superintendent -- the State
19 Oil and Gas Supervisor, excuse me. That was an amendment
20 taken up last week, I believe.

21 We are basically recommending a neutral position
22 on the -- or the Committee recommended a neutral position on
23 the bill. There was some interest in some of the authority
24 that the Board had at one point by staff, and maybe we could
25 incorporate some of their functions here, but that wasn't

1 something, I believe, that the Committee wanted to get
2 involved in.

3 COMMISSIONER GANDARA: Right. The Committee
4 consideration of this is that the information that was
5 given to us, that until this bill was introduced, even
6 among our more knowledgeable geothermal staff, they were
7 not aware that this Board existed, it has not met in a
8 number of years.

9 On a good government basis, there was concern that
10 in fact, you know, it hasn't met, hasn't -- not doing
11 anything, that perhaps we ought to support it. On the
12 other hand, there's much legislation on a good government
13 basis that we don't take a position on if it doesn't
14 directly effect us, and based on that consideration, since
15 it didn't effect us, we decided to be neutral on it.

16 Yes, Commissioner Commons.

17 COMMISSIONER COMMONS: I would prefer we use in
18 this bill the terminology of no position rather than neutral.

19 COMMISSIONER GANDARA: Whatever the Commission's
20 wish. The problem here is that it has been discussed before
21 with OGA, and I believe that the problem it poses for OGA
22 is that she is often solicited for what the Commission's
23 position may be, and a concern that a no position statement
24 is, in fact, not of service to the legislative inquiry, and
25 some may read that, you know, as support, and some may view

1 that as opposed.

2 So, Ms. Stetson, would you like to restate your
3 concern over that?

4 MS. STETSON: Well, I think with neutral positions
5 it indicates that we have some interest in the bill, in the
6 legislation. Geothermal obviously is of importance to the
7 Commission. If we take a neutral position, we -- I would
8 recommend a neutral position for all bills in which we've
9 reviewed and actually don't want to take a position, and for
10 bills that we review, and which the Committee feels that
11 there is nothing germane about the bill, vis-a-vis our
12 current authority and so forth, that we would recommend a
13 no position.

14 COMMISSIONER GANDARA: It's the same thing.

15 COMMISSIONER COMMONS: My concern is --

16 MS. STETSON: Really, to the outside world, it
17 doesn't make any difference, it's just something for us as
18 far as tracking our bills.

19 COMMISSIONER COMMONS: On something like this,
20 where there's a jurisdictional question, I think it's much
21 wiser, where there are amendments, not to necessarily state
22 that our position is neutral, but at this time not to have
23 a position.

24 COMMISSIONER GANDARA: Okay. I believe I received
25 an indication from the other Commissioners that they have no

1 problem with a neutral position. So again, can we record
2 the Commission position as neutral with Commissioner Commons
3 abstaining or objecting.

4 COMMISSIONER COMMONS: Well, let me try a motion.
5 I'd like to move that our position be no position.

6 COMMISSIONER GANDARA: Is there a second? I move
7 that the Commission's position be neutral. Is there a
8 second?

9 COMMISSIONER EDSON: Second.

10 COMMISSIONER GANDARA: Second, okay. Would you
11 please call the roll.

12 SECRETARY MATHIES: Commissioner Commons?

13 COMMISSIONER COMMONS: Pass.

14 SECRETARY MATHIES: Commissioner Edson?

15 COMMISSIONER EDSON: Aye.

16 SECRETARY MATHIES: Commissioner Schweickart?

17 COMMISSIONER SCHWEICKART: Aye.

18 SECRETARY MATHIES: Commissioner Gandara?

19 COMMISSIONER GANDARA: Aye.

20 SECRETARY MATHIES: Chairman Imbrecht?

21 COMMISSIONER GANDARA: Ms. Stetson?

22 MS. STETSON: Yeah. AB 1110 by Assemblyman Areias
23 is a bill that encourages the maximum coordination of public
24 transport services, fees and so forth. I believe it was
25 specifically stated in the 1981 Biennial Report that this

1 type of coordination is beneficial, and I'd recommend a
2 support position for that bill, and the GR Committee
3 recommended that also.

4 COMMISSIONER GANDARA: That was the Budget
5 Committee's BR position, it's been supported over a period
6 of years. Is there any problem with a unanimous vote for
7 support? Commissioner Commons?

8 COMMISSIONER COMMONS: The amount of discussion and
9 analysis that we have on this bill is very limited, and we're
10 moving into an area that we have spent much less time on,
11 and I'm wondering if without more information, if we're
12 able to take a position in terms of what exactly this bill
13 is doing, and whether or not we want to be getting into this
14 area.

15 COMMISSIONER EDSON: Isn't this a spot bill, Luree?

16 MS. STETSON: It looks like it.

17 COMMISSIONER SCHWEICKART: Why are we taking a
18 position on a spot bill?

19 COMMISSIONER EDSON: Then perhaps we shouldn't take
20 a position if it's a spot bill.

21 COMMISSIONER COMMONS: I would --

22 MS. STETSON: It hasn't been amended, though, since
23 it was heard in the Assembly Rev and Tax Committee. It's
24 up to the Commission as to what you want to do.

25 COMMISSIONER COMMONS: I would prefer at this time

1 not to take a position, and if at a later date you want to
2 bring it back to us to look at it.

3 MS. STETSON: Well, again, the basic reason why
4 we suggested the support is that the 1981 Biennial Report,
5 in which a lot of effort and work goes into, and I know the
6 Conservation Division had recommended that we support the
7 concept -- or support, excuse me, because it conforms with
8 our publically stated position in the BR.

9 I don't think it would hurt us, and as every bill
10 is amended, we go back and see what the amendments do and
11 actually change our position, could actually do that.

12 COMMISSIONER COMMONS: My problem is you haven't
13 provided me enough information to know whether or not I
14 would support the bill.

15 COMMISSIONER EDSON: Well, Commissioner Commons,
16 if you read the bill, I think the analysis after it reflects
17 what the bill is doing. The bill is very brief.

18 COMMISSIONER SCHWEICKART: Frankly, it's difficult
19 to oppose it, it's so exciting.

20 COMMISSIONER EDSON: I would support the position
21 of support on the bill but suggest that we track it closely
22 so that in the event it is amended --

23 COMMISSIONER SCHWEICKART: Find out when it
24 becomes --

25 COMMISSIONER GANDARA: Is there any problem with a

1 unanimous vote on that?

2 COMMISSIONER COMMONS: Yeah, I'm going to pass.

3 COMMISSIONER GANDARA: Will you please record
4 Commissioner Commons' passing on that one?

5 MS. STETSON: Let me add, there are quite a few
6 bills this year that are spot bills. We do follow those
7 very closely. Bills that actually have something to do with
8 our current authority, we do provide analyses and bring them
9 before you. When the bills are amended significantly, we
10 then review those and change our position accordingly.

11 COMMISSIONER GANDARA: AB 1315.

12 MS. STETSON: AB 1315 is a bill that came out of
13 the Assembly Office of Research carried by Assemblyman Papan.
14 Basically, it establishes a state assistance fund for small
15 businesses to promote energy efficiency through improvements
16 and conservation projects.

17 It takes \$20 million from the general fund, and is
18 going to use those for seed monies for leveraging loans to
19 small business. I've talked to Andy Rose with the Alternative
20 Energy Development Authority about this bill. He has some
21 concerns with it. The Committee -- well, before I go into
22 that, let me say that the Committee recommended a neutral
23 position, basically -- there were a couple of things
24 mentioned.

25 One is, why do you need something like this now

1 with the current alternative energy development authority,
2 and also the current SAFE BIDCOE. Mark Brawley, I believe
3 is working on this bill. I believe it will be amended. It
4 does have some problems with it right now, and I believe the
5 Committee recommended a neutral position, but track closely.

6 COMMISSIONER GANDARA: Let me expound on that a
7 little bit, I was not there for this discussion. My
8 recommendation on this one would be to oppose it. We do
9 have a SAFE BIDCOE. Everything that's in the proposed bill
10 can be done by BIDCOE, and in fact, perhaps the only issue
11 here is whether that funding should go to the SAFE BIDCOE.

12 In essence, it would set up another SAFE BIDCOE
13 that would be limited only to energy efficiency improvements.
14 You'd have considerable duplication, and new expenditures
15 so that -- and given that we do have a Commission representa-
16 tive on SAFE BIDCOE, that we should also be aware that there
17 has been some technical assistance provided. It might be
18 requested of this, by this organization, if this bill were
19 to proceed, and it would just multiply -- it would just
20 multiply the demands for which we have little resources.

21 Commissioner Commons?

22 COMMISSIONER COMMONS: I tried to contact Mark
23 Brawley this morning to find out what his position is, and
24 he is working on amendments on the bill, and although I share
25 most of your viewpoints on it, what I would think what we

1 should do at this stage is to send it back to Committee, and
2 find out what the amendments are, and to track it, and not
3 take a position which -- it's \$20 million in small business,
4 it's a lot of dollars, and I think we should send it back to
5 Committee and get further clarification.

6 COMMISSIONER GANDARA: This bill is set for 4-25,
7 is that what that says, the Commission will not meet again
8 before this bill is heard?

9 MS. STETSON: That's correct, that's what it
10 says here.

11 COMMISSIONER GANDARA: So it is a priority one.
12 I would perhaps say that my office did get a hold of Mr.
13 Brawley, and that -- at least as filtered through two
14 different people now, and including my office, that his
15 concern was that he could not actively really take a position
16 because it would appear self-serving on his part. I'm sure
17 he may work in technical amendments, but I do think that we
18 have a -- should indicate that on the record.

19 I don't know, that's what Luree said, and that's
20 what other people have said. I don't know. I don't even
21 have that information.

22 COMMISSIONER SCHWEICKART: Let the record show
23 it's alleged.

24 MS. STETSON: That's true.

25 COMMISSIONER GANDARA: In any case, I feel that

1 the -- you know, unless the position is -- oppose it unless
2 it's amended, that the funds can go to SAFE BIDCOE.

3 COMMISSIONER COMMONS: I'm willing to support a
4 motion to oppose --

5 COMMISSIONER EDSON: I support that motion.

6 COMMISSIONER COMMONS: -- to oppose the bill.

7 COMMISSIONER EDSON: Unless amended to direct the
8 funds to SAFE BIDCOE.

9 COMMISSIONER GANDARA: Okay. You would support
10 that?

11 COMMISSIONER COMMONS: Yes.

12 COMMISSIONER GANDARA: Commissioner Schweickart?

13 COMMISSIONER SCHWEICKART: No, no, I am supporting
14 it. I am opposed to duplication of government unnecessarily
15 and I am not opposed in any way whatsoever to small business.

16 COMMISSIONER GANDARA: Here. Here. Okay, a
17 Commissioner consensus.

18 MS. STETSON: So, the position there is oppose
19 unless amended to give the monies to SAFE BIDCOE, an
20 existing agency?

21 COMMISSIONER GANDARA: Right. We're not oppos-
22 to the funding, we're opposed to a new organization --

23 MS. STETSON: I will also check with Mark Bra-
24 because I believe this bill was amended yesterday, and
25 are some amendments that will need to be incorporated

1 allow, as I understand it, SAFE BIDCOE to make small business
2 loans that still aren't included in the bill. So we may have
3 to support it with that -- excuse me, oppose, and offer
4 amendments too.

5 COMMISSIONER GANDARA: Okay. Next bill?

6 MS. STETSON: AB 1386 - Katz is identical to
7 SB 849 - Montoya which I believe the Government Relations
8 Committee --

9 COMMISSIONER EDSON: I'm sorry, which bill are
10 you talking about, I'm not sure.

11 MS. STETSON: AB 1386, oh, I'm not sure if you
12 have that.

13 COMMISSIONER SCHWEICKART: I do in mine.

14 COMMISSIONER EDSON: Do you have the analysis?

15 COMMISSIONER SCHWEICKART: No.

16 MS. STETSON: You've seen this analysis before, I
17 believe. This is the business inventory clearance bill,
18 identical to SB 849. Let me say one thing. I was told by
19 the Chamber of Commerce -- excuse me, Rick Oakley who is
20 no longer with the Chamber, that 1386 would be amended to
21 reflect SB 849.

22 COMMISSIONER SCHWEICKART: Who's Oakley with?

23 MS. STETSON: He's an independent contractor now.
24 If you'll recall, SB 849 was heard in the Senate Energy
25 Committee last week, and amendments were proposed -- I have

1 copies of that -- amendments were proposed by John Geesman
2 to have a two year business inventory clearance, and also a
3 labeling requirement showing the date the appliance was
4 manufactured, and the point the appliance, at the time of
5 manufacture, complied with the California Appliance
6 Efficiency Standards on the effect of that date.

7 COMMISSIONER COMMONS: Excuse me. I think his
8 testimony was it should be amended either to have a two
9 year extension or, not and.

10 MS. STETSON: Correct. What the Committee and the
11 author agreed with was to have the labeling requirement
12 showing the date clearly on the appliance, and the fact that
13 it complied with the California Appliance Efficiency
14 Standards on the date of manufacture.

15 The last handout I gave you shows the specific
16 amendments in AB 849 (sic). AB 1386 is supposed to be
17 amended to reflect 849. It has not at this point. It is
18 set for hearing, I believe next Tuesday in the Assembly
19 Natural Resources Committee.

20 COMMISSIONER COMMONS: I move we support with the
21 amendment of the labeling plus the certification.

22 MS. STETSON: Labeling with?

23 COMMISSIONER COMMONS: With the statement of
24 certification.

25 COMMISSIONER GANDARA: Is there a second?

1 COMMISSIONER EDSON: How does that compare to the
2 Committee's recommendation?

3 COMMISSIONER GANDARA: Well, it's -- I need some
4 clarification here from Ms. Stetson. The clarification that
5 you provided to Commissioner Commons, I -- the Committee's
6 consideration was the following: That the Appliance
7 Standards Committee has underway a report that will be a
8 recommendation to the Commission, that will be a closure of
9 what the Commission directed the Committee to hold a series
10 of small business hearings on the inventory clearance issue.

11 The recommendation of the Committee to the
12 Commission will be that -- well, the findings first of all
13 are, is that there is no basis on which -- on the information
14 submitted to the Committee that one could establish that
15 there is an inventory clearance problem, one.

16 On the other hand, given that most of the
17 Commission's Appliance Efficiency Standards have gone into
18 effect, and only about four or five are remaining, and based
19 on some sensitivity analysis done, that if 5 percent or 10
20 percent, or 15 percent of inventory were to hold over, that
21 the energy savings, or the energy increase in consumption
22 due to those appliances would not be significant.

23 The result of which is that based on that
24 inconclusiveness, the Committee will be recommending to the
25 Commission, the following: One, that we would support a

1 two year inventory clearance. That would be an increase of
2 one year from the current one. The reason for that being
3 is that though we can't determine if there is a problem, if
4 people feel there is a problem, then we should support the
5 extension for another year.

6 On the other hand, the main purpose of that is
7 that the Committee felt that there needed to be a definite
8 end date to it. The reason for that line, as a result of
9 the enforcement problems that would be created. If we did
10 not have an end to the inventory clearance period, then we
11 would not have a point of sale control, or a point of sale
12 check. We would only be able to check for compliance by
13 checking the manufacturer's date.

14 That currently is contained in code as opposed to
15 a specific date, say 4-12-83, or whatever. In addition to
16 that, one of the other findings in the proceedings is that
17 the practice in the industry is to in fact have very little
18 inventory, to order directly for delivery to the site, the
19 result of which is that there will not be, again, that
20 ability to be able to have a point of sale, or a point of
21 inventory check and that resulted in the second recommenda-
22 tion which is that there be a clear indication of the date
23 of manufacture of the items, so that the building inspectors
24 would be able to check that.

25 And in addition to that, that there be a statement

1 that the appliance conforms with the California Efficiency
2 Standards, okay.

3 Now, the result of all that was that the
4 Executive Director was directed to present the results of
5 that analysis to the Committee, and it was supposed to be
6 the support with amendments of the two year and the labeling,
7 as we have generically put those two other elements in.

8 Now, you indicated earlier that the position put
9 forth was the or, the two year or that, wasn't it two year
10 and the labeling?

11 MS. STETSON: That's what he was instructed to say.
12 However, when he got up there, he said or. I don't know if
13 that was a slip or what. The point being --

14 COMMISSIONER EDSON: Well, I think -- frankly, I'm
15 not sure it matters.

16 COMMISSIONER SCHWEICKART: Me either. In fact,
17 I think it's not clear to me if we have the labeling, why
18 any inventory clearance limit is required, given that the
19 justification for having some requirement was enforcement,
20 but if you have the labeling, and a declaratory statement
21 by the manufacturer, then it would seem to me that enforce-
22 ment is straightforward without the two year issue.

23 COMMISSIONER GANDARA: Well, it's not that the
24 enforcement is straightforward, it's that there would be a
25 considerable burden, more of a burden on us, and where we

1 would be shifting the burden to would be to the field
2 inspectors, and the building inspectors, and even that would
3 not take care of it totally, so that we were concerned about
4 additional demands for us, the Commission in terms of
5 enforcement.

6 COMMISSIONER COMMONS: I'd have to disagree with
7 you here. We have the same amount of field inspection that
8 would be required, in fact, probably more so in the case of
9 having the two year inventory clearance than without. You
10 still have to go to the same number of retail shops, the
11 same number of distribution outlets, the same number of
12 construction sites to do the same amount of verification.

13 You don't avoid the problem by having the two
14 year inventory.

15 COMMISSIONER GANDARA: Well, the Committee's
16 report recommendation will be coming to you soon, but that
17 is the essence of the recommendations, and that was the
18 position as indicated, apparently there was a misunderstanding,
19 a miscommunication, and so it appears that we are where we
20 are here.

21 COMMISSIONER EDSON: I am slightly confused. You
22 indicated that there are appliances that are installed in
23 subdivisions, for example, that don't necessarily come
24 through retail outlets, is that --

25 COMMISSIONER GANDARA: That's correct.

1 COMMISSIONER EDSON: And that's why the labeling
2 provision is important, am I --

3 COMMISSIONER GANDARA: No, that's why it is
4 difficult to determine whether there is an inventory
5 clearance problem, okay, and that's where we create an
6 enforcement problem. In fact, it was alleged during these
7 hearings that in fact that that might even lead to some
8 noncompliance because there's no --

9 COMMISSIONER EDSON: I think that's a problem
10 currently, isn't it?

11 COMMISSIONER GANDARA: -- there's no way of
12 checking it. Yes, that probably is correct.

13 COMMISSIONER EDSON: So that's not a new problem
14 created by extending the one year inventory clearance to
15 two, it's a problem under current law in terms of
16 enforcement.

17 COMMISSIONER GANDARA: That's right.

18 COMMISSIONER SCHWEICKART: And just pursuing that
19 slightly further, that enforcement which we now currently
20 do would not in any way suffer, become more difficult,
21 were there to be no inventory clearance, provided that the
22 labeling would be required, would there? I mean it's not --

23 COMMISSIONER GANDARA: Well, yes. The question
24 arose, first of all, that there is regional distribution and
25 that the manufacturers -- that the labeling aspect might in

1 fact not be well received, and might be opposed by the
2 manufacturers because they would not want to say, send to
3 a regional distribution center in Colorado all appliances
4 that go to the west saying that these appliances meet
5 California standards. There was a concern there.

6 So that the recommendation was to essentially to
7 request both amendments, not knowing exactly what would be,
8 you know, well received or not.

9 EXECUTIVE DIRECTOR GEESMAN: Which is what we did,
10 but the two year portion, other than Senator Rosenthal, did
11 not seem to enjoy any support at all. The industry, as
12 represented by the State Chamber of Commerce, agreed to the
13 labeling requirement, and we provided the language contained
14 in the bill analysis as the amendment for the labeling, and
15 then the bill passed out of the Committee with that
16 amendment.

17 COMMISSIONER GANDARA: The other consideration the
18 Committee had is that while there were no significant
19 energy losses because of our many appliance standards, only
20 a few remain to go into effect, from those established in
21 '78 -- '77, '78, and the two established last year, that the
22 possibility of future standards therefore then be affected.

23 As you recall under the accelerated alternative
24 scenario, you have the additional achievable conservation
25 which projects an upgrading of all our appliance efficiency

1 standards, and now the findings then, as a result that we
2 have an unlimited inventory clearance would be very
3 different for that circumstance than it would for if you
4 consider only the present standards. So there was that
5 concern again.

6 So that was the reason for saying, if there is a
7 problem, let's give it another year, we can't establish that
8 there is a problem, but on the other hand, that the loss of
9 the point of inventory, or point of sale checking would be
10 considerably burdensome, and for future standards might,
11 indeed, lead to significant energy loss.

12 COMMISSIONER COMMONS: For all of these, and I'm
13 not sure they're even gains, but possibly nebulous gains,
14 we're now going to require some 3, 4,000 businesses in
15 California to track appliances that come within the purview
16 of the Commission. We're going to have people going out to
17 have to verify whether or not it's been for two years, so
18 the tracking of the inventory is for two years, and what
19 we're going to do is, by having this bill, we're going to
20 get the bulk of the benefits, reduce administrative costs,
21 and the key thing is, the two provisions on the labeling
22 which protect the consumer in the state, and protect -- and
23 allow us to really work our enforcement, vis-a-vis the
24 manufacturers, and we have a way of verifying it.

25 COMMISSIONER SCHWEICKART: I'm confused at the

1 moment as to where we actually stand on this. We have a
2 bill before us that does not have an amendment in it which
3 we all consider essential. Furthermore, there's some
4 confusion as to the nature of the amendment that is apparently
5 going to be incorporated in it?

6 MS. STETSON: Well, we're talking about two
7 different bills here. One is SB 849, and the reason why I
8 raised this is because AB 1386 is also set for next Tuesday
9 hearing.

10 COMMISSIONER SCHWEICKART: Fine. Is 1386 going
11 to be -- going to incorporate the amendments that have
12 already been incorporated into SB --

13 MS. STETSON: They have not. We have a call into
14 the author's office to see if in fact they will be amending
15 it the same way as 849.

16 COMMISSIONER SCHWEICKART: And 849 is amended
17 currently?

18 MS. STETSON: As you see in front of you, I gave
19 you that sheet.

20 COMMISSIONER SCHWEICKART: And in front of me, it
21 does not say either and or, or, it says nothing at all
22 except that there should be labeling, I believe, unless I'm
23 reading it wrong.

24 MS. STETSON: That's correct. Senator Montoya
25 and industry agreed to the labeling requirement, not to the

1 two year extension.

2 COMMISSIONER SCHWEICKART: All right, fine. I
3 would move approval of 13 -- support of 1386 if it is
4 amended consistent with SB 849.

5 COMMISSIONER COMMONS: I'll second the motion.

6 COMMISSIONER GANDARA: Okay. Would you call the
7 roll?

8 SECRETARY MATHIES: Commissioner Commons?

9 COMMISSIONER COMMONS: Yes.

10 SECRETARY MATHIES: Commissioner Edson?

11 COMMISSIONER EDSON: Yes.

12 SECRETARY MATHIES: Commissioner Schweickart?

13 COMMISSIONER SCHWEICKART: Yes.

14 SECRETARY MATHIES: Commissioner Gandara?

15 COMMISSIONER GANDARA: No.

16 SECRETARY MATHIES: Chairman Imbrecht?

17 COMMISSIONER GANDARA: Okay.

18 COMMISSIONER COMMONS: I have a point here, before
19 we proceed. I think there's a question of procedure here
20 as to something that arose earlier today in terms of a
21 Committee taking an action and directing staff. Certainly
22 a Commissioner or member of the Committee may appear before
23 the Legislature and take a position on a bill, but I guess
24 there's a question as to whether or not a Committee should
25 direct staff to appear before the Legislature on a bill that

1 has not come before the Commission, and I'd like to know
2 whether there's any policy on this matter, or if that's
3 appropriate, where there is no -- I guess you could raise
4 the question in terms of one, whether or not the Commission,
5 through the biennial process has an existing position, and
6 second, as to where it does not.

7 COMMISSIONER GANDARA: I guess the question I
8 would raise is if a Commissioner has the right to appear
9 before a Committee, and that Commissioner delegates that --

10 COMMISSIONER SCHWEICKART: Legislative Committee?

11 COMMISSIONER EDSON: Yes.

12 COMMISSIONER GANDARA: Yes. Can that Commissioner
13 delegate his authority to represent the thinking of the
14 Committee, the Presiding Member of that Committee? What if
15 Mr. --

16 COMMISSIONER COMMONS: One feeling -- I can say
17 one feeling I would have --

18 COMMISSIONER GANDARA: I mean could I send --
19 Commissioner, if I sent my adviser to testify, would that be
20 a problem, as to my thinking?

21 COMMISSIONER COMMONS: No, I would not have a --

22 COMMISSIONER GANDARA: If I requested the Executive
23 Director to testify as to my thinking, in preparation of a
24 report that I would be issuing, was that a problem?

25 COMMISSIONER COMMONS: That would be a problem to

1 me.

2 COMMISSIONER GANDARA: Why is that?

3 COMMISSIONER COMMONS: I think the Executive
4 Director requires a concensus of the Commission in terms of
5 having majority support, and once a majority of the
6 Commission has spoken that it supports a piece of legislation,
7 it's appropriate for the Commission to ask the Executive
8 Director to take a position.

9 But if you and I were to take a position on a
10 Committee which may or may not have the support of the rest
11 of the Commission, even if we make the statement that this
12 is the Committee's viewpoint, and not necessarily the
13 Commission's viewpoint, I don't think it's understood in
14 that same framework before a Legislative Committee.

15 So, I think the Executive Director in that
16 organization should be exempt. Certainly, your adviser works
17 for you and I would feel very --

18 COMMISSIONER GANDARA: I think the Executive
19 Director works for me too. Mr. Geesman, did you represent
20 the position as work in progress of the Committee?

21 EXECUTIVE DIRECTOR GEESMAN: I represented it as
22 the position of the Committee, I named the two members of
23 the Committee.

24 COMMISSIONER SCHWEICKART: I frankly have some
25 similar problems of Commissioner Commons, and I think it's

1 -- it is not easy to expect, and it's not even reasonable,
2 I don't believe, to expect the Legislature, or other parties
3 to distinguish internal Commission procedure, to differen-
4 tiate between a Committee and the Commission, especially
5 when it's someone like the Executive Director, or a
6 Chairman or Vice Chairman who is then speaking for some
7 subset of the Commission.

8 I think it gets very confusing, and frankly I
9 don't think that the Commission is well served by that
10 occurring.

11 COMMISSIONER GANDARA: Is it any less confusing
12 if a Commissioner testifies?

13 COMMISSIONER SCHWEICKART: Let me say that whether
14 or -- it may be slightly, but marginally, slightly less
15 confusing, but it is certainly far less controllable.

16 COMMISSIONER GANDARA: Well, if the issue is one
17 of control, then I think we're talking about a different
18 matter.

19 COMMISSIONER SCHWEICKART: Well, I don't feel I
20 have a right to direct Commissioner Commons to sit in his
21 office and not represent his own opinion before any
22 Legislative Committee, but I think I have a right to expect
23 that John Geesman, or whoever the Executive Director is, in
24 fact reports to the Commission and not to a Committee of the
25 Commission, and I believe that Committees of the Commission

1 through Commission policy and deliberation, subject to
2 Commission policy and deliberation should, in fact, not
3 represent themselves before the Legislature.

4 COMMISSIONER GANDARA: Well, I would tend to
5 disagree because I think where we have a considerable number
6 of instances where the Commissioners, Chairman, and to date,
7 no Vice Chairman that I know of, that has been testifying
8 representing, you know, a position of Commissions, and so
9 forth and so on.

10 So it seems to me that under the circumstances,
11 where there is considerable work in progress, there is a
12 bill of considerable priority, a bill in which there is
13 great interest as to what the Commission position is going
14 to be, there is considerable interest as a result of our
15 BR positions on that, and in fact, in a situation where the
16 Committee has operated, to notify the other member of the
17 Committee, and his staff, and they participated in the
18 development of those positions, that in fact, you know, you
19 cannot paralyze or immobilize the presentation of vital
20 information before an issue of interest to the Legislature
21 and the Commission.

22 I would say that I don't make the distinction,
23 really, between a delegation of that type, and any other
24 Commissioner.

25 COMMISSIONER SCHWEICKART: Well, I think it's a

1 matter for the Commission to decide, and my own opinion is
2 that it's a very real distinction. It is the basis of the
3 reason -- of my reasoning to recommend that the Chairman not
4 be on the Legislative Policy Committee so that in fact by
5 the time it got to the Chairman who often represents the
6 Commission of necessity, he then became the third and
7 majority of the Commission so that there was, in fact, a
8 Commission position and not just a Committee position.

9 COMMISSIONER GANDARA: Well Commissioner Commons
10 would say that there's not a Commission position until you
11 take it --

12 COMMISSIONER SCHWEICKART: I understand that, but
13 effectively, it becomes the Commission position when you've
14 got three members who support a position.

15 COMMISSIONER GANDARA: Commissioner Edson, you've
16 been very silent about this.

17 COMMISSIONER EDSON: Well, I think circumstances
18 will frequently require the Commission, if it wants to have
19 any kind of influence over legislation, to provide its best
20 thinking. I think in a circumstance where a Committee is
21 directing the Executive Director, who presumably works for
22 the full Commission, that -- I would like to think our
23 Executive Director has good enough judgment to know when
24 it's necessary to poll the Commission in order to make sure
25 there is sufficient support in order to represent that

1 position, although I hasten to add that I think in that
2 circumstance, the position should be represented as a
3 Committee position and not a Commission position until the
4 full Commission acts in a formal business meeting.

5 COMMISSIONER GANDARA: I would agree with that, and
6 I would note that the -- that but for this action, it seems
7 to be under considerable question, you would not have the
8 bill before you amended, which you just supported.

9 COMMISSIONER COMMONS: Well, that's not correct,
10 I would have taken the amendment motion and had my two feet
11 walk over. But I'd like to move that the Executive -- I'm
12 going to make a very limited motion so that it does not
13 affect Luree Stetson, because I think where a Committee takes
14 an action, it's appropriate for our Legislative Adviser to
15 represent the Committee so we can take care of these
16 situations, but not the Executive Director.

17 What I'd like to do is move that the Executive
18 Director not take positions on behalf of the Commission
19 until there has been a Commission position. And by making
20 the motion very limited, it doesn't raise the issue as to
21 technical staff, or anyone else other than the Executive
22 Director.

23 COMMISSIONER GANDARA: Well, the Executive
24 Director doesn't take positions, you mean that the Executive
25 Director not convey positions?

1 COMMISSIONER COMMONS: Convey positions of the
2 Commission unless there has been a majority position of the
3 Commission.

4 COMMISSIONER GANDARA: Is there a second?

5 COMMISSIONER SCHWEICKART: I'll second it.

6 COMMISSIONER GANDARA: Would you call the roll?

7 SECRETARY MATHIES: Commissioner Commons?

8 COMMISSIONER COMMONS: Yes.

9 SECRETARY MATHIES: Commissioner Edson?

10 COMMISSIONER EDSON: No.

11 SECRETARY MATHIES: Commissioner Schweickart?

12 COMMISSIONER SCHWEICKART: No.

13 SECRETARY MATHIES: Commissioner Gandara?

14 COMMISSIONER GANDARA: No.

15 SECRETARY MATHIES: Chairman Imbrecht.

16 COMMISSIONER GANDARA: The motion fails for lack
17 of a majority. Shall we proceed with the next item?

18 MS. STETSON: Can I ask for clarification on one
19 thing.

20 COMMISSIONER COMMONS: Poor John, though, what
21 do you do, do you have a majority?

22 MS. STETSON: As I understand it, you are
23 supporting AB 1386 if it's amended to reflect the amendment
24 in SB 849. That would also lead me to believe you're
25 supporting 849 in it's present amended form, is that correct?

1 COMMISSIONER SCHWEICKART: It's not before us, but
2 I don't have any problem with it.

3 COMMISSIONER GANDARA: I took that to be the
4 Commission decision.

5 MS. STETSON: On both bills.

6 COMMISSIONER GANDARA: On both bills. That if
7 both bills are identical, they would support them.

8 MS. STETSON: All right. I just wanted to clarify
9 that.

10 COMMISSIONER SCHWEICKART: Oh, it is on both, I see.

11 MS. STETSON: AB 1445 is a Filante bill that deals
12 with the PUC. It's sponsored by the California Manufacturer's
13 Association to get at a problem they've had with PUC
14 decisions. It appears that the PUC decisions, along with
15 the Energy Commission's decisions can only be reviewed by
16 the State Supreme Court, and since the State Supreme Court
17 only reviews a couple of those a year, CMA has argued that
18 the PUC basically has no authority over it to present
19 positions or take -- make decisions, excuse me, that are
20 well thought out, and arguably could hold up in court.

21 The problem with this bill is that this decision,
22 excuse me, this legislation also affects our ability, and
23 allows any -- excuse me. Takes away the State Supreme
24 Court's jurisdiction over our decisions so that our decisions
25 would also have to go to an appeals board at the First

1 District Court of Appeal.

2 I've talked to the author's office. They are --
3 well, the Government Relations Committee recommended that we
4 amend the bill, as you'll see in the last page of your
5 analyses, to eliminate our relationship with that code
6 section, and state that in the Public Resources Code we would
7 not -- that we would have only State Supreme Court review of
8 any of our decisions, which is basically how the law has
9 been in the past.

10 I've talked to the author's office, and they have
11 agreed to do that, and CMA indicated that they are trying to
12 get at the PUC, not at the Energy Commission in decisions
13 made here at the Energy Commission.

14 COMMISSIONER GANDARA: I was -- let me add for the
15 Commission's consideration. I was not at this meeting, so
16 I guess I'd like some clarification. Does this say if the
17 author were to amend it at our request, we would then be
18 neutral?

19 MS. STETSON: No, this is new information since
20 the Government Relations Committee. What the Presiding
21 Member suggested, that it was neutral if amended to reflect
22 the last recommendation. I would suggest that we would
23 support if amended.

24 COMMISSIONER GANDARA: Okay.

25 COMMISSIONER EDSON: I would not --

1 COMMISSIONER GANDARA: Well, let me add some
2 clarification here, and then Commissioner Commons, and then
3 Commissioner Edson. I guess I'm responding to the bill
4 analysis, and what I have, and that my recommendation would
5 be at least to oppose unless amended because of the
6 substantial demands it would place in our legal office to
7 have to go through an appellate process.

8 MS. STETSON: I understand that. I think the
9 Presiding Member agrees with that, but he wanted to find out
10 if we can get an amendment into the bill. We can now, and
11 so this recommendation does not reflect the discussions I've
12 had with the author's office.

13 COMMISSIONER COMMONS: I think -- and this is one
14 of those unusual circumstances, rather than our position
15 being so much on the bill, our position is on the amendment,
16 and I think what we should do is take a position to amend the
17 bill to reflect what Ms. Stetson said.

18 COMMISSIONER EDSON: And my recommendation would
19 be that we -- if amended, so that it does not affect us, that
20 we would be neutral. I don't think that we necessarily want
21 to assert a position that forces PUC decisions to the Court
22 of Appeal level rather than to the Supreme Court.

23 COMMISSIONER COMMONS: Let me try first a motion
24 that we amend the bill to eliminate CEC from jurisdiction.

25 COMMISSIONER GANDARA: Is that the full extent of

1 your motion?

2 COMMISSIONER COMMONS: Yes.

3 COMMISSIONER GANDARA: Is there a second to the
4 motion?

5 COMMISSIONER EDSON: Let me ask for clarification.
6 Do you mean that if amended to eliminate the Commission, we
7 would be neutral?

8 COMMISSIONER COMMONS: No. I just want to take
9 the first step of just having us on record as wanting to have
10 an amendment to the motion to exclude us from the bill.

11 COMMISSIONER SCHWEICKART: I would make an
12 amendment to your motion. Frankly, we might go all the way.
13 I think the support for neutral if amended to remove the
14 CEC from jurisdiction.

15 COMMISSIONER COMMONS: I was just going to have
16 two motions. I think the important thing here is to have
17 ourselves excluded, and have it separate.

18 COMMISSIONER SCHWEICKART: Generally we take
19 positions on bills, not two positions on bills. I would
20 support neutral if amended to remove CEC.

21 MS. STETSON: Which is basically the Government
22 Relations Committee recommendation.

23 COMMISSIONER COMMONS: Accept it as a friendly
24 amendment.

25 CHAIRMAN IMBRECHT: Which --

1 MS. STETSON: AB 1445, the Filante bill that deals
2 with the PUC decision and the Supreme Court. You came in a
3 bit late.

4 CHAIRMAN IMBRECHT: I know. I've been working on
5 our budget, so --

6 MS. STETSON: Assemblyman Filante's -- no problem.
7 But Assemblyman Filante's office indicated that they would
8 amend us out of that bill, and that discussion is whether
9 we should be neutral if amended.

10 COMMISSIONER SCHWEICKART: Do we have a motion
11 before us?

12 COMMISSIONER GANDARA: Okay. We have a motion
13 before us. I would support the Committee's recommendation
14 here. I don't think there's any disagreement.

15 CHAIRMAN IMBRECHT: The motion is to accept the
16 Committee's position?

17 COMMISSIONER COMMONS: To amend us out and to have
18 a neutral position.

19 MS. STETSON: Neutral if amended.

20 COMMISSIONER COMMONS: Neutral if amended.

21 CHAIRMAN IMBRECHT: That's right, that's what we
22 recommended.

23 MS. STETSON: Right.

24 CHAIRMAN IMBRECHT: Without objection, that will
25 be the order. Is there objection? All right, fine.

1 Next, 1780 by Dan Hauser.

2 MS. STETSON: In your packet, I believe there was
3 a copy of language dealing with AB 1780 - Hauser. That is
4 a bill that the Energy Commission is sponsoring dealing with
5 Geothermal Resources Development Account. Karen will be
6 handing out language which was adopted by the Committee
7 yesterday.

8 COMMISSIONER EDSON: Is that Legislative Committee,
9 you mean?

10 CHAIRMAN IMBRECHT: Yes.

11 MS. STETSON: The Legislative Committee. What the
12 Government Relations Committee recommended was that we not
13 submit any project list to the Legislature in September, but
14 do it April 1st. Also, ask for a threshold of \$100,000, and
15 also that the Legislature could not eliminate any project,
16 or add any project, and could only increase or decrease 50
17 percent each grant.

18 Assemblyman Goggin did not want to go for that,
19 and accepted only the April 1st deadline.

20 CHAIRMAN IMBRECHT: Luree, I saw this language
21 this morning, and it appears to me he also accepted the
22 threshold of \$100,000.

23 MS. STETSON: That's not what I understand, but I
24 can double check on that.

25 CHAIRMAN IMBRECHT: It says it quite clearly here.

1 For a grant in excess of \$100,000, they award it.

2 MS. STETSON: Okay, that must be a typographical
3 error, because he told me he would not accept that.

4 COMMISSIONER EDSON: Frankly, I don't -- I would
5 be willing to -- although not necessarily in support of this
6 language, willing to continue sponsoring the legislation
7 with it. The ability of a statute like this to control
8 what the Legislature does in the budget, I think is quite
9 limited. As we see that the debate now flying around the
10 tax credit issue, and by having the concession that we
11 only submit the list April 1, and that we only provide the
12 list for those grants in excess of \$100,000, we have gotten
13 most of the concessions that I think are essential.

14 In fact, most of our grants in this area are for
15 less than \$100,000. It's only the development project
16 grants that are --

17 CHAIRMAN IMBRECHT: Which was the reason why I
18 recommended a threshold. But are you saying he did or did
19 not accept that?

20 MS. STETSON: Did not accept the threshold.

21 CHAIRMAN IMBRECHT: Did not accept it.

22 MS. STETSON: Did not accept any of our proposals,
23 other than the April 1st submittal.

24 COMMISSIONER EDSON: So then this does not reflect
25 what was accepted.

1 MS. STETSON: That is a typographical error. I
2 had her redo it based on language that the consultant was
3 drafting.

4 CHAIRMAN IMBRECHT: Commissioner Commons?

5 COMMISSIONER COMMONS: Mr. Chairman, I think that
6 the position that we should take is not an adversarial
7 position with the Legislature at this time on the bill, and
8 that what we should do is approve the bill in concept, and
9 ask staff to work in terms of trying to secure some of these
10 amendments that would be more favorable.

11 MS. STETSON: Well, I think it may be in the
12 Chairman's lap, actually.

13 CHAIRMAN IMBRECHT: I'll be happy to talk to --
14 are you talking about me or Chairman Goggin?

15 MS. STETSON: Both.

16 CHAIRMAN IMBRECHT: I think I can probably reason
17 with Terry on this.

18 MS. STETSON: Yeah, he indicated to me that he
19 wanted to see every single project, even the smallest that
20 we had, and believes in legislative oversight, did not want
21 any restrictions. I told him that we were concerned about
22 the nickle and dime items, and that our language would
23 basically catch some of the larger items that were farther
24 through the process.

25 But he did not -- he believes strongly in

1 legislative budget oversight.

2 CHAIRMAN IMBRECHT: Well, I don't think we ought
3 to oppose the bill at this point in time. I think we can
4 continue to raise these objections as it moves along the
5 process, and I'll try to raise them privately with him as
6 well. I would suggest that it might be appropriate, after
7 the bill, assuming it leaves the Assembly, for us to consider
8 it again at that point in time, and determine whether or not
9 we want to ultimately oppose it or not.

10 MS. STETSON: Well, we're the sponsor of the bill,
11 so it would be a matter of whether we want to drop it or
12 amend it.

13 COMMISSIONER EDSON: The trade-off is that in this
14 bill we are making Indian tribes eligible for these grants.

15 MS. STETSON: Right, and allowing us to use the
16 money in the same year as --

17 COMMISSIONER EDSON: But frankly, if we drop the
18 bill, I suspect it would appear someplace else.

19 CHAIRMAN IMBRECHT: Well, you know, I really have
20 to take exception with our ability to drop the bill. We are
21 not the author of the bill, we may be sponsors of it, but
22 one of the things that I ran into frequently, and had some
23 certain disagreements with various agencies when they would
24 try to get me to drop the bill, that's entirely Assemblyman
25 Hauser's call or decision, and he can proceed on the bill

1 without us, obviously.

2 So I don't think that our option is to drop the
3 bill. I think our option might be to recommend to him to
4 do that if we were terribly upset, but whether he'd agree
5 to that or not is, I would say, an open question.

6 MS. STETSON: I discussed that with him, and he
7 wasn't locked in one way or another. I left it up to him
8 to decide, and he went along with it. So, I think he is
9 looking at the Indian tribes as being beneficial to him and
10 his district.

11 (Whispered discussion.)

12 MS. STETSON: But I basically just wanted to keep
13 you all informed as to what had been added to a bill that
14 we're sponsoring.

15 CHAIRMAN IMBRECHT: Okay. Let's not take action
16 on that one, we'll just hold it in abeyance, and ask you
17 to bring it back to us at a later point.

18 The next one, SB 5, Senator Montoya.

19 MS. STETSON: That has been put over, as I
20 understand, for the Government Relations Committee to
21 discuss, the Montoya bill dealing with the applicant's
22 option to come before the Energy Commission.

23 CHAIRMAN IMBRECHT: Oh, that's right, at
24 Commissioner Gandara's request, actually, it's over.

25 MS. STETSON: And SB 1016 is a Montoya bill that

1 deals with contractors, would require utilities and
2 government entities to fall under the requirements of the
3 contractors license law. What that means is that conserva-
4 tion programs that the utilities currently implement through
5 various groups using people that don't have a State
6 Contractor's License, would be required to buy a contractor's
7 license for \$5,000 -- post a bond, excuse me, and pay a
8 \$200 fee every other year.

9 The Committee's recommendation was neutral. It
10 was raised in the analysis that there was no evidence of how
11 many groups are doing conservation work that would have to
12 cease operation.

13 COMMISSIONER EDSON: I'd like to comment on this.
14 I think the impact of this bill is not the fees or the bond,
15 it's that the workers would have to have four years journey-
16 man experience. In fact, we know that there are tens of
17 millions of dollars being spent in this state in OEO and
18 utility low income conservation programs that would have to
19 be stopped.

20 We may not know the specific number of employees
21 that could not continue work, but in fact, these are
22 community based groups where relatively low skilled people
23 are being taught conservation skills, that low income
24 communities are receiving weatherization services, and to --
25 I strongly urge the Commission to oppose this bill.

1 We would see a series of important low income
2 conservation programs, and some very innovative local
3 government conservation programs stopped.

4 CHAIRMAN IMBRECHT: I should just mention one of
5 the things, I think I've reported to each of you informally
6 as to the recommendations of finance on the oil overcharge
7 funds, but basically, it was finance's decision to attempt
8 to use the weatherization money through the California
9 Conservation Corps, and use them as the installers, so this
10 could be in conflict with that as well.

11 I might say that that was something that I frankly
12 had forgotten about when we talked about this bill, so I
13 think your recommendation is probably appropriate.

14 COMMISSIONER SCHWEICKART: So we're opposing the
15 bill?

16 CHAIRMAN IMBRECHT: Yeah. Is there objection?
17 That will be the order. Is that the conclusion of the
18 agenda?

19 MS. STETSON: And there's one bill that's been
20 added, SB 48. I believe everyone got a copy of that
21 analyses. This is the Vuich line extension bill. If you'll
22 recall, the Government Relations Committee directed me to
23 go talk to Senator Vuich regarding our involvement before
24 the PUC, and our position in trying to get amendments to the
25 bill that would tie line extension to building standards.

1 I've explained our position to her AA, she does not
2 have time to see me until after the 20th. I put it on the --
3 excuse me, Commissioner Gandara recommended that it be put
4 on the agenda today so we would have a position on the bill.

5 I talked to the author's office. They indicated
6 the bill probably would not be taken up on the Senate floor
7 until the last week of the month, but Commissioner Gandara
8 wanted to bring it up today.

9 COMMISSIONER GANDARA: It was my understanding at
10 the last meeting that it would be on the agenda for today,
11 and that by the time that this came, this business meeting,
12 OGA would have talked to Senator Vuich, and the expectation
13 is that we would have had a position ready to support at
14 this time.

15 Since, you know, she has not talked to Senator
16 Vuich, I am concerned that we will be proceeding along again
17 without a position on this bill, which frankly has had a
18 long standing Commission policy, and I don't see any reason
19 for any further delay. I would like to be hopeful and
20 optimistic about the amendments that we were seeking, which
21 is that they be conservation oriented.

22 But again, I think that we -- I've received
23 repeated requests, and I think that we need to have a
24 position on the bill.

25 CHAIRMAN IMBRECHT: As a practical matter, a

1 position on the floor isn't going to have any -- I mean, the
2 likelihood of that even being raised, or becoming a matter of
3 noticed record for the Senators before they vote is, I
4 would say somewhere between slim and none, so I personally
5 don't feel any exigency in terms of having a position before
6 it's voted on the Senate floor.

7 I think the key test is having a position before
8 it's heard in the Policy Committee in the Assembly.

9 COMMISSIONER COMMONS: Well, is there any change
10 that would occur in our position because of something that
11 were to occur, why we shouldn't act today?

12 CHAIRMAN IMBRECHT: Yes, if she were willing to
13 accept those amendments, I assume we would either be neutral
14 or support the bill.

15 COMMISSIONER SCHWEICKART: I'd like to see something
16 on it before I'm ready to --

17 COMMISSIONER EDSON: Is there an analysis?

18 COMMISSIONER GANDARA: I believe you have the
19 analysis right before you.

20 MS. STETSON: There was an analysis handed out to
21 your office this morning, it was not included in the packet,
22 since it was added to the agenda.

23 CHAIRMAN IMBRECHT: Mine's back up in my office.
24 Well, does anyone feel a real -- here it is right here.

25 COMMISSIONER GANDARA: Another concern here is that

1 the nature of the amendments being sought are diametrically
2 opposed to the bill, and the likelihood of them really being
3 accepted I think, you know, are really zero.

4 COMMISSIONER EDSON: I don't see any reason -- you
5 know, we have a long standing policy on this issue. I don't
6 see any reason not to take a position of oppose unless
7 amended. If it's amended, we would be neutral.

8 COMMISSIONER COMMONS: Let me make sure I under-
9 stand. What this bill would do would increase the cost to
10 rural households of having line extensions?

11 CHAIRMAN IMBRECHT: That's correct.

12 COMMISSIONER GANDARA: Well, the characterization
13 can be -- a different characterization can be that the 1959
14 rules which the bill proposes to keep in place, in opposition
15 to a PUC determination is that it is -- subsidizes demand
16 consuming appliances, the line extension is conditioned on
17 the number of demand consuming appliances, and their various
18 rates. The position of the Commission was to be -- have that
19 reversed, to have a line extension, but have it to be
20 conditioned on conservation measures in the home.

21 What happened at the PUC, the PUC did not adopt
22 the Commission position, but they adopted a phased approach
23 of reducing the subsidy. They reduced the subsidy from 100
24 percent to 66 percent. What the bill proposes to do is to
25 extend for another three years a process that's been going

1 on for five years, for there to be a task force, or a study
2 of it to report back to the Legislature, and until then, the
3 1959 rules stay in effect.

4 COMMISSIONER COMMONS: So what you're really --
5 your position, Commissioner Gandara is to support amendments
6 particularly to the bill, that's what your primary interest
7 is.

8 COMMISSIONER GANDARA: Well, you know, I would
9 think that in the best of all possible circumstances, if we
10 were to get the amendments in the bill for the position that
11 we took before the PUC that yes, I would support that bill.
12 The likelihood that that is going to occur is zero, because
13 in fact, the bill is set up to in fact even do, or even
14 permit the small change that was proposed by the PUC.

15 COMMISSIONER EDSON: I would move that we oppose
16 the bill.

17 COMMISSIONER SCHWEICKART: Second.

18 CHAIRMAN IMBRECHT: Please call the roll.

19 SECRETARY MATHIES: Commissioner Commons?

20 COMMISSIONER COMMONS: Let's see, a motion, saying
21 yes would be to oppose these --

22 CHAIRMAN IMBRECHT: This -- that's correct. A no
23 would be to --

24 COMMISSIONER COMMONS: Yes.

25 COMMISSIONER SCHWEICKART: Get that, Karen?

1 SECRETARY MATHIES: Commissioner Edson?

2 COMMISSIONER EDSON: Yes.

3 SECRETARY MATHIES: Commissioner Schweickart?

4 COMMISSIONER SCHWEICKART: Yes.

5 SECRETARY MATHIES: Commissioner Gandara?

6 COMMISSIONER GANDARA: Yes.

7 SECRETARY MATHIES: Chairman Imbrecht?

8 CHAIRMAN IMBRECHT: No.

9 SECRETARY MATHIES: You're opposed.

10 CHAIRMAN IMBRECHT: The vote is 4 to 1 to oppose
11 the bill.

12 COMMISSIONER EDSON: He's opposed, he's in
13 support of the bill.

14 CHAIRMAN IMBRECHT: No, I recognize the -- I think
15 that is an issue with some very major political implications
16 associated with it, and I think it is -- I just don't think
17 it makes --

18 COMMISSIONER SCHWEICKART: We'll forgive you --

19 CHAIRMAN IMBRECHT: Huh?

20 COMMISSIONER SCHWEICKART: We'll forgive you,
21 there's a long history of this, would have convinced you to
22 join the majority.

23 CHAIRMAN IMBRECHT: I understand the arguments
24 entirely, I'm concerned about the implications --

25 COMMISSIONER SCHWEICKART: No, but you've heard

1 them under a different hat.

2 CHAIRMAN IMBRECHT: That's true. But --

3 COMMISSIONER SCHWEICKART: I have one further
4 item under this agenda item.

5 CHAIRMAN IMBRECHT: All right, fine.

6 COMMISSIONER SCHWEICKART: It is my understanding
7 that positions of the Commission have been represented in
8 the Legislature related to certain spot bills on -- that have
9 been entered regarding building standards, and I'd like to
10 inquire about that.

11 MS. STETSON: I'm sorry, what was the question?

12 COMMISSIONER SCHWEICKART: My understanding is
13 that there have been a number of spot bills introduced
14 related to building standards.

15 MS. STETSON: That's true.

16 COMMISSIONER SCHWEICKART: And furthermore, that
17 there have been questions asked, and there have been
18 responses given indicating support by the Commission for
19 the spot bills.

20 MS. STETSON: No, that is not true. There were
21 two bills that were brought to the Committee last week, SB
22 891 by Leroy Greene, to bring to the Committee's attention.
23 An analysis had not been done on it, and also SB I believe
24 1054, if I recall, which is a Montoya bill dealing with the
25 building standards, and any future standards, residential or

1 nonresidential would have to be -- well, let me start again.
2 Any future standards would have to be looked at by the
3 Commission with energy savings quantified, and that informa-
4 tion would have to go to the Building Standards Commission
5 for their review before any new residential or nonresidential
6 building standards were adopted.

7 That bill was before the Committee last Thursday,
8 I believe, and I believe the Presiding Member asked whether
9 Montoya would amend that bill to respond only to residential
10 and not nonresidential.

11 COMMISSIONER SCHWEICKART: The Presiding Member
12 is the Chairman.

13 CHAIRMAN IMBRECHT: I've had no conversations with
14 anyone over the issue.

15 COMMISSIONER SCHWEICKART: When you say the
16 Presiding Member --

17 MS. STETSON: Chairman Imbrecht asked me if Joe
18 Montoya would be willing to amend that bill to be applicable
19 only to residential buildings. All right?

20 COMMISSIONER SCHWEICKART: All right, well I am --

21 CHAIRMAN IMBRECHT: I haven't had any conversations
22 with Senator Montoya.

23 MS. STETSON: No, you asked me to talk to him
24 about that.

25 COMMISSIONER SCHWEICKART: All right. This is

1 again a very, very sensitive area, and I know the Chairman
2 respects that as well. At the same time, there has been no --
3 to my knowledge, no active coordination at all with the
4 Building Conservation Committee.

5 CHAIRMAN IMBRECHT: May I inquire what you've
6 heard that causes your concern?

7 COMMISSIONER SCHWEICKART: That there were
8 apparently -- I can track them down and give you some
9 specifics, but at this point, I'm inquiring as to what has
10 happened, because the understanding I've been given is that
11 there has been indication in the Legislature, I believe
12 through Luree, that there are certain -- that there is
13 support or something of that type for some of these spot
14 bills which are appearing.

15 MS. STETSON: All right. No.

16 COMMISSIONER SCHWEICKART: Even recognizing they're
17 spot bills. I think it's very critical that issues of that
18 kind be coordinated, because we're dealing with, as you
19 are aware --

20 MS. STETSON: Right.

21 CHAIRMAN IMBRECHT: Sure, most certainly.

22 COMMISSIONER SCHWEICKART: -- an extremely
23 sensitive area, and I'm dealing with it literally every day,
24 so I want to make sure that there's some coordination.

25 MS. STETSON: Right. We coordinated with Chris

1 Ellison in your office --

2 COMMISSIONER SCHWEICKART: Chris is the very person
3 who raised the issue to my attention.

4 MS. STETSON: right, and let me tell you. I was
5 in the Senate Housing Committee Tuesday when these bills
6 were up. We had no position and there was discussion on
7 the bill, all right? And the Chairman asked if anybody from
8 the Energy Commission was there, and I was there, so I went
9 up and indicated we had no official position, and which the
10 author had already indicated that, and they were asking
11 about language with the bill.

12 They didn't feel that the bill was clear enough
13 to indicate who was doing what, and I told them that we had
14 reviewed the bill, and there had been discussions internally
15 but no official position.

16 COMMISSIONER SCHWEICKART: All right. We'll get
17 in touch with you, Luree, but I want to stay in a real time
18 way, on top of any issues going on legislatively. I'd like
19 to work with the Committee here on legislative issues in
20 this area, but I think we've got to tighten up the coordina-
21 tion on it, because we're going to find ourselves blind-
22 sighted here with different stories coming around different
23 corners.

24 MS. STETSON: Right. Yes.

25 COMMISSIONER GANDARA: Let me ask a further question.

1 It's my recollection that at the first meeting of the
2 Government Relations Committee as constituted, that I'd
3 requested, and it was agreed that we would be sending those
4 bills which are relevant to the operations of the Commission
5 Committees to those Committee's for review, and in fact,
6 there was supposed to be a line added to all those elements
7 up on top that sort of, you know, indicated where that comes
8 from.

9 MS. STETSON: That's true. Every Commissioner
10 gets every copy of every bill, and every amendment currently,
11 and the analyses, when this analyses was completed, it was
12 given, I believe, to Chairman Schweickart's office.

13 CHAIRMAN IMBRECHT: Why don't we try this as a
14 procedure. I think that what Commissioner Gandara's
15 emphasizing, is it possible for someone in your staff to
16 segregate bills by virtue of Commission Committee responsi-
17 bility, and ensure that those bills which fall within the
18 jurisdiction of individual Committees are called to the
19 attention of the Presiding Member of that respective
20 Committee so that in the event that they do have comments
21 that they would care to share with the Government Relations
22 Committee, that can be done in a formal sense?

23 MS. STETSON: That can be done, but I think what
24 Commissioner Gandara is asking for is that the analyses,
25 after the staff has done the work in analyzing the bill, can

1 be provided to the Presiding Member of a Committee, and that
2 we would like to do, and are attempting to do. The problem
3 is whether it can be done 24 hours --

4 CHAIRMAN IMBRECHT: Did I misstate that somehow?

5 MS. STETSON: Pardon me?

6 CHAIRMAN IMBRECHT: Did I say something different
7 than that?

8 MS. STETSON: You just mentioned the bill, not
9 the analysis, they already get the bills.

10 CHAIRMAN IMBRECHT: All right, I'm sorry. I meant
11 in the context of the analysis so that when the Government
12 Relations Committee meets, I would like to operate in a
13 sense, if we have not heard from a Presiding Member of a
14 Committee, then we will just assume that they have no
15 additional comments to offer, beyond that which is in the
16 staff analysis.

17 But if the Presiding Member cares to share anything
18 with us, that affords the opportunity to do so.

19 EXECUTIVE DIRECTOR GEESMAN: I think Commissioner
20 Schweickart, though, is indicating a desire for something
21 more than just a paper coordination, but rather a day-to-day
22 contact on a hot issue, such as building standards, with the
23 Building Conservation Committee.

24 COMMISSIONER SCHWEICKART: In fact, I think for
25 your own protection --

1 CHAIRMAN IMBRECHT: That's fine, I don't have any
2 problem with that, that's fine.

3 COMMISSIONER SCHWEICKART: Well, I think for your
4 own protection, Mr. Chairman, when you're dealing with
5 legislative matters of this kind that fall rather directly
6 in the middle of a Committee responsibility, I think it's
7 not a matter of the absence of a comment being an indication
8 to you that there wasn't one.

9 I think there should be, for your benefit, an
10 affirmative thing, even if it's an adviser, I certainly
11 would delegate either of my advisers to give their initials
12 if I'm not around that we have no comment. But I think you
13 deserve that kind of information, and it needs to be timely,
14 but it needs to be positive.

15 CHAIRMAN IMBRECHT: Well, if there's any concern,
16 I just want to make it very clear that I have had absolutely
17 no contact of any sort whatever, with any legislator relative
18 to any piece of legislation dealing with building standards.

19 MS. STETSON: What happened -- right.

20 CHAIRMAN IMBRECHT: I have been asked for --

21 COMMISSIONER COMMONS: What have you been doing
22 the past week?

23 (Laughter)

24 CHAIRMAN IMBRECHT: Budget friends, and -- we're
25 incrementally inching our way up the hill. So, yes,

1 Commissioner Commons.

2 COMMISSIONER COMMONS: I have two points in
3 procedure I'd like to ask. In our Chairman's absence, we
4 took a vote on a number of bills, and I'm wondering if there
5 is a way to keep the record open, if he wishes, so that he
6 can express a vote on the bills that came out of his
7 Committee.

8 Second, we did have one tie vote of 2-2, and if
9 there is a way to allow him to break the tie vote.

10 CHAIRMAN IMBRECHT: Well, I think there is a way.
11 I, in all sincerity, that's called vote add-ons, and we've
12 had enough problems with that in the Legislature, I don't
13 think we need to do it here in the Commission. Certainly,
14 an issue that did have a tie vote, I would be prepared to
15 express an opinion on it if that could be brought to my
16 attention briefly, but I don't feel a need, necessarily, if
17 there was a Commission decision, my vote's going to be
18 irrelevant otherwise.

19 COMMISSIONER COMMONS: I'm certainly more
20 interested in the tie vote breaker.

21 CHAIRMAN IMBRECHT: Which one was it?

22 COMMISSIONER COMMONS: Could the secretariat --

23 COMMISSIONER EDSON: It wasn't a bill, as I recall.

24 MS. STETSON: It's a procedure.

25 CHAIRMAN IMBRECHT: Can you recall, Commissioner

1 Commons, what the issue was?

2 COMMISSIONER COMMONS: The issue was whether or
3 not the Executive Director should testify before the
4 Legislature on behalf of the Commission where there has not
5 been a Commission position established.

6 COMMISSIONER EDSON: I would restate it slightly.
7 I think the question was whether the Executive Director could
8 be directed to speak on behalf of a Committee where there
9 was not a Commission position taken.

10 CHAIRMAN IMBRECHT: Is there an incident in
11 question?

12 COMMISSIONER GANDARA: Incidents.

13 COMMISSIONER COMMONS: General procedural question.

14 CHAIRMAN IMBRECHT: To speak on behalf of a
15 Committee and to enunciate a Committee's position of the --

16 COMMISSIONER GANDARA: To give the benefit to a
17 Legislative Committee as to what, you know, in a matter of
18 interest the current thinking and proceedings underway, and
19 represented not as a Commission position, but represented
20 as a Committee consideration and recommendations.

21 COMMISSIONER COMMONS: The motion is restricted to
22 the Executive Director, not to anyone else.

23 CHAIRMAN IMBRECHT: I don't understand. Let me
24 ask a hypothetical. Are we talking about -- let's just
25 say hypothetically that the Fuels Committee has a viewpoint

1 on a piece of legislation which has not come before
2 Government Relations and ultimately to the Commission as a
3 whole. Are you saying under those circumstances, the
4 Executive Director is currently empowered to speak on
5 behalf of the Fuels Committee to the Legislative Committee?

6 COMMISSIONER GANDARA: No.

7 COMMISSIONER SCHWEICKART: It's not clear.

8 COMMISSIONER COMMONS: Let's say the Fuels
9 Committee -- let's say the Legislative Committee were to take
10 a position in support of a fuels bill, but that bill has not
11 come before the full Commission. Should the Committee have
12 the authority to designate the Executive Director to
13 testify on behalf of the Committee, not the Commission,
14 before the legislature?

15 CHAIRMAN IMBRECHT: Having no idea how the other
16 four of you came down on this, my inclination is no, to be
17 honest with you. But I would be interested in hearing any
18 arguments to the contrary. That is an advisory suggestion
19 of my potential vote.

20 (Laughter)

21 CHAIRMAN IMBRECHT: What are the arguments on the
22 other side, can anybody briefly elucidate a little more?

23 COMMISSIONER SCHWEICKART: Well, let me try to
24 express it from my own experience as Chairman, and it goes
25 back to advice I gave which you rejected in your wisdom.

1 (Laughter)

2 CHAIRMAN IMBRECHT: I understand what you're
3 referring to.

4 COMMISSIONER SCHWEICKART: All right.

5 COMMISSIONER COMMONS: We have a vote, so don't
6 change it.

7 COMMISSIONER SCHWEICKART: No, that's fine. I
8 think it's a serious matter which deserves consideration,
9 and it is made more difficult by the fact that both the
10 Chairman and Vice Chairman are the Legislative Policy
11 Committee. You'll pardon me, I haven't gotten used to the
12 new names yet. Governmental Relations Committee.

13 CHAIRMAN IMBRECHT: We'll work it all out.

14 COMMISSIONER SCHWEICKART: Yeah. So the issue,
15 the specific issue is whether or not the Executive Director
16 should be authorized, whether the Commission should
17 essentially allow the Executive Director to be authorized
18 by a Committee to represent the Committee prior to the time
19 that the Commission has taken a position on this specific
20 instance, in a legislative matter.

21 My -- again, the problem I have with it is, I
22 believe it creates confusion in that it is not easy to
23 differentiate in the heat of battle, in the legislative
24 forum --

25 CHAIRMAN IMBRECHT: I agree.

1 COMMISSIONER SCHWEICKART: -- whether this is a
2 Commission position, whether it's a Committee of the
3 Commission position, and --

4 CHAIRMAN IMBRECHT: Any time the Commission speaks
5 with more than one voice, the Legislature is going to have
6 a difficult time sorting it out.

7 COMMISSIONER GANDARA: So you would apply the
8 same principle to the Commissioners?

9 CHAIRMAN IMBRECHT: Huh?

10 COMMISSIONER GANDARA: You would apply the same
11 principle to the Commissioners then, the Commission speaks with
12 more than one voice.

13 CHAIRMAN IMBRECHT: No, I don't think that that
14 would be -- I don't think you can muzzle any Commissioner.

15 COMMISSIONER GANDARA: Okay. Would you muzzle
16 your adviser, if you told your adviser to go represent you
17 before a Committee?

18 CHAIRMAN IMBRECHT: Yes. I do not believe it's
19 appropriate for my adviser to make a presentation. I think
20 it's a right that rests solely --

21 COMMISSIONER GANDARA: Okay. Do you believe it's
22 appropriate to make that judgment about my adviser?

23 CHAIRMAN IMBRECHT: I don't -- listen, you handle
24 it in any way you care to, and if the Legislature cares to
25 entertain the comments of your adviser, that's their

1 prerogative.

2 COMMISSIONER GANDARA: What if I do not wish to
3 send my adviser, and then request the Executive Director to
4 represent, you know, the position of the Committee considera-
5 tion --

6 CHAIRMAN IMBRECHT: No.

7 COMMISSIONER GANDARA: -- as a Commission.

8 CHAIRMAN IMBRECHT: No, under those circumstances,
9 I don't believe so, because the individual Commissioner does
10 not have direct responsibility over the Executive Director.
11 That is a statutory responsibility of the Chair, and unless
12 I am directed by a majority of the Commission to the
13 contrary, and my personal view is that you have the ability
14 to direct your own staff, and ask them to do anything on
15 your behalf that you think is appropriate.

16 Asking the Executive Director, I think carries
17 with it an added implication of Commission acquiescence or
18 agreement with the position that's stated. The Executive
19 Director is, after all, you know, the formal leader of the
20 staff of the Commission.

21 Let me just put it -- to summarize my view on this,
22 I think that there are certain circumstances where prior to
23 formal action by the full Commission, it is important to
24 take a position in the Legislature. Under those circumstances,
25 I would just make this comment.

1 I would never authorize that unless another
2 Commissioner besides the two of us on the Government Relations
3 Committee had affirmatively indicated, and I'd probably
4 ask for it in some form of writing to have a clear record,
5 that that Commissioner supported the position of the
6 Government Relations Committee, thereby assuring that a
7 majority of the Commission indeed did support that position.

8 I anticipate that to be a -- not regular occurrence,
9 but under some circumstances, I can see how it would be
10 appropriate. Absent that kind of clear record of a majority
11 of the Commission supporting the position, I do not believe
12 the Executive Director should be empowered to speak on
13 behalf of the Government Relations Committee, or any other
14 Committee, for that matter.

15 COMMISSIONER GANDARA: So are you saying that in
16 your view --

17 CHAIRMAN IMBRECHT: It's fairly clear.

18 COMMISSIONER GANDARA: -- the Executive Director
19 should not exercise his judgment on -- as to whether he can
20 communicate, you know, the views of ongoing Commission
21 activities?

22 CHAIRMAN IMBRECHT: That is absolutely correct.
23 I feel very strongly about that.

24 COMMISSIONER GANDARA: In other words, the
25 Executive Director has to check with the Commission to get

1 three votes every time he would speak on a matter before
2 the Legislature?

3 CHAIRMAN IMBRECHT: Yes. I feel quite strongly
4 about that, in fact. I feel very strongly that there is no
5 staff at the Commission that should be empowered to represent
6 any position that has -- carries with it the onus or
7 suggestion of a Commission position.

8 COMMISSIONER GANDARA: What if it doesn't carry the
9 onus or suggestion of a Commission position?

10 CHAIRMAN IMBRECHT: Well, if the Executive Director
11 cares to appear as a private citizen on -- and I'm not
12 speaking about this particular Executive Director, I'm trying
13 to deal with this in the abstract, on their own time, on
14 vacation time, appear as a private citizen, that's their
15 obvious right, as any citizen in the state.

16 COMMISSIONER SCHWEICKART: Well, I would say short
17 of that that it falls back to the provision of the Chairman
18 directing the Executive Director in keeping with the policies
19 of the Commission so that even if the Commission hasn't
20 spoken to it in the form of a specific position on
21 legislation, if it is consistent with the policies of the
22 Commission, then it seems to me that our recourse is to beat
23 on the Chairman if he's not overseeing the Executive
24 Director adequately.

25 COMMISSIONER GANDARA: Well, I would say from a --

1 given how legislation proceeds, and given the issue of, you
2 know, certainly choosing an Executive Director who exercises
3 prudent judgment as to what is appropriate and not appropriate
4 that to say you are -- you should not speak, you know, you
5 are muzzled unless you have three votes to say with --

6 COMMISSIONER SCHWEICKART: Nobody ever promised
7 the Executive Director a rose garden.

8 CHAIRMAN IMBRECHT: That's right. I don't think
9 that it's fair to characterize it as muzzling anyone. I
10 think it's fair to characterize it, just as you indicated
11 a moment ago, you can explain these things in different ways.
12 I mean I -- it's similar to some of the things that happened
13 in our executive session, without going into that specifically
14 today.

15 I believe that the only people that have ability
16 to provide direction that can result in communication with
17 the Legislature is the Commission itself.

18 COMMISSIONER GANDARA: Well, let me say I --

19 CHAIRMAN IMBRECHT: I don't like to see a
20 situation -- I've been surprised at the situation that has
21 been here where the staff can have a position that's
22 independent of the Commission. I find that -- I'm not aware
23 of any precedent or other circumstances where that operates.

24 COMMISSIONER GANDARA: Well, let me say that I
25 don't quite agree, but I don't think we need to carry it

1 further, because it does appear that we are establishing
2 Commission policy and principle. All I would say is that
3 I would, you know, from my point of view, that I think that
4 I would be willing to abide by that, and hold the Executive
5 Director to such circumstance.

6 But that until the Commission changes that policy,
7 that that is going to be binding from now on, period. Okay.
8 And that I would expect at any time, any staff member, not
9 just the Executive Director, or any person under the, you
10 know, direction of the Chairman, according to our statute,
11 you know, is going to speak on any matter that represents
12 the Commission, as well as the Chairman, that in fact that
13 be the Commission position.

14 COMMISSIONER SCHWEICKART: That's not a change,
15 Arturo. That's essentially what it has been. It's never
16 been articulated, because it hasn't been that much of an
17 issue, but it's essentially what it is.

18 COMMISSIONER GANDARA: It has not been, we know
19 it hasn't been.

20 CHAIRMAN IMBRECHT: Explain that to me, I'm not --

21 COMMISSIONER GANDARA: You know, we have taken
22 positions, we have sent to the Legislature, you know, letters
23 articulating Committee positions, and the expectation that
24 it's going to be a Commission position because of a necessity
25 for having to get a viewpoint down there. You know, we --

1 COMMISSIONER SCHWEICKART: There's only one time
2 I know of that, Arturo, and that was last year when I was
3 on vacation, and at the very end of the Legislative Session,
4 the Legislative Policy Committee did that over my objection.
5 I expressed that, we did not raise it as an issue at that
6 time because the Legislative Session was over.

7 But up until that time, the Chairman, not serving
8 on the Legislative Policy Committee, was regularly brought,
9 both early through Luree, and during Karen's tenure --

10 COMMISSIONER GANDARA: I can assure you we can
11 examine the record, and there are letters from the RCS
12 Committee as well, not as her Presiding Member, but also
13 letters from the RCS Committee that were sent.

14 CHAIRMAN IMBRECHT: Let me ask this, what was the
15 precise motion before the Commission?

16 COMMISSIONER COMMONS: The precise motion was
17 restricted to the Executive Director --

18 COMMISSIONER GANDARA: That doesn't matter, we're
19 having a good conversation.

20 COMMISSIONER COMMONS: -- was restricted to the
21 Executive Director, and testifying on behalf of a Committee
22 when there was no Commission position. It did not encompass
23 the broader issue that we're looking at now, and I was
24 going to suggest that --

25 CHAIRMAN IMBRECHT: I don't even want to deal with

1 the broader issue until I've had a chance to consult with
2 individual Commissioners and understand their points of view
3 in some greater detail.

4 With respect to the limited issue that was before
5 us in terms of a motion, I assume that an aye vote would
6 provide that restriction. Is that an accurate assumption?

7 COMMISSIONER SCHWEICKART: I'm not sure whether it
8 was aye or no, I think it was aye.

9 CHAIRMAN IMBRECHT: The motion was stated in --

10 COMMISSIONER COMMONS: Positive terms.

11 CHAIRMAN IMBRECHT: That's right. In that case
12 I will vote aye. Okay. So the motion carries on a 3 to 2
13 vote.

14 (Thereupon the business meeting of the California
15 Energy Resources Conservation and Development Commission was
16 adjourned at 5:00 p.m.)

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1 REPORTER'S CERTIFICATE

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3 I, PATRICIA A. PETRILLA, an electronic court
4 reporter, do hereby certify under penalty of perjury:

5 That I am a disinterested person herein; that the
6 foregoing hearing of the California Energy Resources Conser-
7 vation and Development Commission was reported by me,
8 Patricia A. Petrilla, an electronic court reporter, and
9 thereafter transcribed into typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said hearing, nor in any
12 way interested in the outcome of said hearing.

13 I have hereunto set my hand this 29th day of
14 April, 1983.

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17 PATRICIA A. PETRILLA
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