

SEP 2 1983

STATE OF CALIFORNIA  
ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

BUSINESS MEETING

1516 NINTH STREET  
1st FLOOR HEARING ROOM  
SACRAMENTO, CALIFORNIA

WEDNESDAY, AUGUST 24, 1983

10:10 A.M.

Reported by:

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ALSO PRESENT (Con't.)

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Rick Oakley, ARI & CMA

Bruce Ishimatsu, Attorney, Nippondenso

Kenny Mayeda, Nippondenso

George Okazaki, Nippondenso

Charles Eley, CCAIA

Bob Raymer, CBIA

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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. We have a long and very difficult agenda today, and  
5 so we appreciate not only your cooperation but efforts both  
6 on the part of Commission members, as well as those that  
7 offer testimony to be as succinct and articulate as possible.  
8 I'm sure everybody is capable of that.

9 We have a couple of housekeeping matters to attend  
10 to before we begin, and the first is a most significant one,  
11 and I'd like to recognize Mr. Jay Miller, who is a  
12 consultant to the Joint Committee on Science and Technology,  
13 which I believe is under the jurisdiction of Senator Art  
14 Torres for a special presentation to the Commission. Mr.  
15 Miller.

16 MR. MILLER: Thank you, Chairman Imbrecht. I have  
17 a resolution here from the California Legislature on behalf  
18 of Senator Art Torres and many other members of the  
19 Legislature too numerous to mention, relative to commending  
20 Russell L. Schweickart. I'd like to read it if I may.

21 (Laughter)

22 CHAIRMAN IMBRECHT: You can swallow your muffin,  
23 Rusty.

24 COMMISSIONER SCHWEICKART: Along with my teeth.

25 (Laughter)

1 MR. JAY MILLER: It's short.

2 "WHEREAS, Russell L. Schweickart has been Chair  
3 of the California Energy Commission these last three and  
4 one-half years, and

5 "WHEREAS, the California Energy Commission has  
6 made great strides in the scientific applications of new  
7 energy technologies throughout the state, and

8 "WHEREAS, the California Energy Commission has  
9 accomplished unprecedent record of assessment of industrial  
10 and residential energy needs and their effects on statewide  
11 infrastructure, and

12 "WHEREAS, the California Energy Commission has  
13 proven an effective defender of the environment by a  
14 systematic synthesis of both developmental priorities,  
15 envirosphere protections, and

16 "WHEREAS, the California Energy Commission has  
17 successfully demonstrated our state's abilities in long-term,  
18 large scale, science and engineering planning and policy, and

19 "WHEREAS, in the Executive Offices of the Governor,  
20 Russell Schweickart provided the State of California with  
21 significant insights into the appropriate role of science  
22 and engineering and the service of human kind, and

23 "WHEREAS, his personal achievements in academia  
24 the Astronaut Corps, and in family life demonstrate possession  
25 of the right stuff, and

1 (Laughter)

2 "WHEREAS, quality leadership is a rare and valued  
3 commodity, especially when it so aptly integrates spiritual  
4 and professional attributes,

5 "NOW, THEREFORE, IT BE RESOLVED by the Joint  
6 Rules Committee of the Senate and the Assembly, that the  
7 members commend Russell L. Schweickart, former Chair of the  
8 California Energy Commission for his outstanding personality  
9 and professional performance."

10 CHAIRMAN IMBRECHT: What was the vote?

11 (Laughter, applause.)

12 COMMISSIONER SCHWEICKART: Thank you very much.  
13 For my acceptance speech I will say that things are looking  
14 up. I would not have believed that anything could be kept  
15 so secret in this Commission.

16 (Laughter)

17 COMMISSIONER SCHWEICKART: So, Mr. Chairman,  
18 there is hope yet.

19 CHAIRMAN IMBRECHT: Thank you, Mr. Miller, and  
20 I'm sure all the members of the Commission join in adding  
21 their commendations to Rusty for his service as Chairman,  
22 and as advisor to Governor Brown.

23 Another item I'd like to turn to just briefly,  
24 and again in the context of the housekeeping, and this is  
25 an announcement that I believe the members of our staff,

1 certainly our more senior members of the staff have been  
2 looking forward to, and I just want to advise Commission  
3 employees that I know are listening that the Department of  
4 Finance has given final approval to our request to permit  
5 eligible employees to take advantage of the "Golden  
6 Handshake Early Retirement Program" and that the application  
7 process should begin very shortly.

8           This allows those that are 50 years of age, with  
9 five years of service or more, to receive an additional two  
10 years of extra service credit if they retire early, and  
11 I know that's something that we welcome by those that are  
12 eligible.

13           Lastly, we had removed Item 7 from the Commission  
14 Agenda today because of additional information that was  
15 received subsequent to the calendaring of that item, which  
16 was a briefing to inform the Commission on a new staff  
17 report which analyzes energy savings potential in existing  
18 office and retail buildings through efficient lighting and  
19 HVAC systems.

20           One individual had already made plans to journey  
21 here to Sacramento, and as a courtesy to him, we're going to  
22 take his testimony as a part of our record to be included  
23 when we consider the item in full at a later date, and I  
24 have been assured that his testimony will be succinct, so  
25 I'd like to call upon Mr. James Himonas, I believe.

1 MR. HIMONAS: That's correct.

2 CHAIRMAN IMBRECHT: Thank you. Mr. Himonas?

3 MR. HIMONAS: Good morning. My name is James  
4 Himonas, I'm the President of Novitas, Incorporated in  
5 Santa Monica. I regret that it's been essential to appear  
6 here, and I regret that it's essential to take your time,  
7 but it's a matter of extreme urgency, I believe, to both  
8 the Commission and to us.

9 The purpose of my visit is to correct the  
10 inequities caused by the dissemination of inaccurate  
11 information contained in California Energy Commission Staff  
12 Report titled, "Energy Savings Potential in California"  
13 P300-83-003, dated March 1983.

14 Five facts. The report singles out only one  
15 product for staff approval of an array of perhaps hundreds  
16 of products that the staff could have considered. That  
17 product is personnel sensors, or more commonly known as  
18 occupancy sensors.

19 It states in 17 different places in the report,  
20 including charts and tables, that personnel sensors are not  
21 cost-effective.

22 Fact Number 2. The report is fallacious. It  
23 contains numerous errors, inconsistencies, and various  
24 biases that are not supported by facts. I will point out  
25 only two glaring mistakes here today, because it's too long

1 to point out all the problems.

2 First of all, there is a claim that occupancy  
3 sensors will save only 12 to 24 percent of lighting in  
4 individual offices, that appears on page C-20. It has been  
5 amply proven before this Commission in the past year, in a  
6 number of hearings, that occupancy sensors will save 40 to  
7 50 percent of this lighting, and I'm not going to attempt  
8 to demonstrate that fact again here.

9 Secondly, there is a claim that "personnel  
10 sensors do not affect the light usage during nighttime or  
11 weekend hours, since...most lights are off during nonworking  
12 hours". This appears on page A-7. We know, as I think most  
13 people know, that there is an enormous waste of lighting  
14 after normal working hours, that is, between the hours of  
15 6:00 p.m. and 10:00 p.m.

16 We sent our photographers out very quickly on  
17 Monday, and I'd like to show you what happens in a typical  
18 city like Los Angeles. That photograph was taken in  
19 Century City, the Century City Towers, taken at 6:30 p.m.  
20 Our photographer stayed until 9:30 p.m., and at 9:30, this  
21 is what they saw. The report claims that no more than 14  
22 percent of electricity is ever used in buildings after 6:00  
23 p.m. at night.

24 Our photographers then moved over to West Los  
25 Angeles, and at 10:00 p.m., four hours after, or five hours

1 after normal working hours, this is the Federal Building,  
2 with now approximately, let's say, 30 percent of the lights  
3 still on between 10:00 and 10:15.

4 They then moved on at 10:30 into the Westwood  
5 Village, another significant area of Los Angeles, here  
6 are three buildings between the hours of 10:15 and 10:40,  
7 where obviously there are more than 14 percent of the lights  
8 on. There's a lot more of that. The staff has had pictures  
9 and data of this dating back for two years now.

10 Fact Number 3. The report was disseminated in  
11 what we consider to be a highly irresponsible manner. The  
12 report was offered to the public without any process for  
13 public review.

14 Secondly, the report was not submitted to the  
15 Commissioners for their comments prior to dissemination to  
16 the general public throughout the United States.

17 Thirdly, the report acknowledges the assistance of  
18 Dr. Verderber and Steven Selkowitz of the Lawrence-Berkeley  
19 Laboratories. Both gentlemen, in conversations with me,  
20 said that they were consultants on the report, they did  
21 provide information. As of Monday, neither of them have  
22 seen a copy of this report.

23 Fact Number 4. The report claims that three  
24 occupancy sensor manufacturers were consulted, page 48,  
25 states three manufacturers. I called as many as I could find.

1 It was then learned that manufacturers were consulted, but  
2 they were not occupancy sensor manufacturers, they were,  
3 in fact, competitors, companies that make competitive  
4 products to occupancy sensors, they are Lutron and Honeywell.

5 Fact Number 4. The report is in our opinion,  
6 again, damaging to conservation. It will dissuade people  
7 from using the most effective means to turn off lights,  
8 which is also the most effective way to save energy anywhere  
9 in the United States.

10 Fact Number 5 is the report threatens our business,  
11 and the business of every occupancy sensor manufacturer in  
12 the United States. As you know, California Energy Commission  
13 reports are widely disseminated, they're widely read, and  
14 heretofore they have been highly regarded.

15 We have a recommended action to help correct what  
16 we think have been incredible inequities and indiscretions.  
17 First of all, we request that we stop all dissemination of  
18 this report. I was assured of that on Friday by a member  
19 of the Commission staff, yet this morning, a report was  
20 received by an energy conservation dealer in Los Angeles who  
21 says that the postmark date is Monday, August 22nd.

22 Second, we request that an immediate notice to  
23 all recipients of the report that the information regarding  
24 the occupancy sensors is (a) not fully verified, (b) may  
25 be erroneous, and (c) is not the official position of the

1 California Energy Commission.

2           Finally, we ask that you provide all occupancy  
3 sensor manufacturers, if they so desire, a copy of the  
4 report, and a list of the names and addresses of all people  
5 who received the report throughout the United States so that  
6 rebuttals can be made by the individual companies in their  
7 own names.

8           We believe that the principles of fairness and  
9 responsibility have been severely neglected by the issuance  
10 of this report. I resent the fact that it was removed from  
11 the calendar today for full discussion, and that's why I'm  
12 here, and I believe that the cause of conservation has been  
13 jeopardized. We seek the assistance of the Commissioners in  
14 eliminating this inequity and frankly, more importantly,  
15 preventing ones in the future, and we know the Commissioners  
16 have always acted fairly toward us and every other  
17 manufacturer in the state.

18           That's the end of my prepared remarks which are  
19 going -- which I will provide to you the 12 copies. I will  
20 make one other statement. It has been the position of my  
21 company, and myself as an individual taxpayer, that the  
22 State of California need not provide funds to companies like  
23 us, through tax credits, in order to sell our products.

24           This report, once again, is very strongly directed  
25 toward providing funds to assist companies like mine to sell

1 their products. If we cannot make products that are  
2 economically practical for people to use, then we shouldn't  
3 be in business, and the State of California should not be  
4 subsidizing any inefficiency by us or any other company so  
5 that we don't go the final step to make products that are  
6 economically efficient.

7 We don't need tax credits for our products, and  
8 we don't need to tax every citizen in this state in order  
9 for me to make a profit, and we stand by that statement, and  
10 we will continue to stand by that statement. Thank you.

11 If anyone would like questions, I'd be glad to --

12 CHAIRMAN IMBRECHT: Well, let me just make a  
13 couple of brief comments, and obviously, if other  
14 Commissioners care to offer anything, they're entitled to,  
15 as well.

16 MR. HIMONAS: Yes.

17 CHAIRMAN IMBRECHT: To begin with, that is  
18 definitely a staff report, and only a staff report. It is  
19 the typical practice of the Commission on a wide variety of  
20 items that come before us for consideration for a staff  
21 report to be circulated for precisely the reason that you're  
22 demonstrating today, to allow the public an opportunity to  
23 critique and comment upon its contents prior to the  
24 Commission adopting it as the official position of the  
25 Commission. I want to assure you that we will certainly take

1 into consideration your remarks, and will be considering  
2 this matter in the not distant future.

3 I believe that one of the reasons that the staff  
4 requested that it be pulled from the agenda was as a result  
5 of other commentaries similar to your own, and the  
6 recognition that there were, perhaps, other issues that  
7 needed to be more fully flushed out before it came to us  
8 for a final determination.

9 Thank you very much.

10 MR. HIMONAS: Thank you, Commissioner.

11 COMMISSIONER SCHWEICKART: Just as a word, perhaps,  
12 for the record, if you'd like to see that, or whatever, I  
13 think it's very important to understand that the Commission,  
14 and the Committee of the Commission dealing with nonresi-  
15 dential building standards has brought lighting controls  
16 as one of the major opportunities for nonresidential energy  
17 saving in nonresidential buildings, and in particular,  
18 occupancy sensors are one of the several control strategies  
19 which are strongly supported and endorsed in those proposed  
20 standards which are now also out for review.

21 In addition, we are holding hearings at this  
22 time, I think they're scheduled for next month, I'm not  
23 sure of that, perhaps as early as next week, on additional  
24 types of occupancy sensors for inclusion in the array of  
25 devices which can be used consistent with the regulations

1 that exist at this time. So this is not a subject, as you  
2 know --

3 MR. HIMONAS: Yes.

4 COMMISSIONER SCHWEICKART: -- this hearing notice,  
5 that we're not -- very much interested in, and we'll  
6 certainly take a close look at the report and your comments.

7 CHAIRMAN IMBRECHT: Commissioner Commons?

8 COMMISSIONER COMMONS: One aspect of -- your name  
9 is Jimenez?

10 MR. HIMONAS: Himonas.

11 COMMISSIONER COMMONS: Himonas. -- of your  
12 comments would have concern to me. I think it's important  
13 that we as Commissioners not always pass on reports, and  
14 that there be the ability of the staff to have reports.

15 But on the other hand, bringing a report to us  
16 and having a formal hearing here is very difficult for us  
17 to handle, I find, 10, 20, 30, 40 changes in that type of  
18 information. Where possible, I think we maybe should take  
19 a look at the procedure of having a draft of the staff  
20 report. I think we did that on the R&D Committee that  
21 Commissioner Gandara was chairing, we had a draft of the  
22 R&D Report, and we had a workshop where people who are  
23 interested and have concerns would have a draft of the  
24 report, a workshop would be held, and staff would be present,  
25 and the Committee would be present that's overseeing the

1 particular, and then before there is wide and broad  
2 circulation, there is some opportunity for the public,  
3 working with the Committee, to address some of the technical  
4 issues. That might be an appropriate venue, and raise some  
5 of the problems in a more efficient manner.

6 CHAIRMAN IMBRECHT: Well, as you've accurately  
7 indicated, that's the typical practice. In this instance,  
8 it was not followed.

9 MR. HIMONAS: Commissioner, may I make one more  
10 statement for clarification? There have been numerous  
11 reports that have been distributed before the Commission  
12 has seen them, and that has to be expected in our process.  
13 My objection in this case is that one product was singled  
14 out for disapproval, and very severe disapproval, and as I  
15 say, there are 17 charts and statements that say things  
16 like this -- "personnel sensors, these show an extremely  
17 poor typical payback".

18 The report is extraordinary to me. I really must  
19 question the motives of whoever wrote this, and whoever  
20 allowed it, and why this report was allowed to be written  
21 that way. For if there were 20 products, or 10 products,  
22 or 5 products that were disapproved, that's fine, but every  
23 other product that is in here is recommended, and for some  
24 strange reason, occupancy sensors are taken as a major  
25 section of this report, and rather than just disposing them,

1 off-hand, there was a great case made against them.

2 Now, Commissioner Schweickart, and the other  
3 Commissioners, and Commissioner Edson have been subjected  
4 to reams of information, have also heard the approvals, as  
5 Commissioner Schweickart said, of the occupancy sensors.  
6 It's very curious to me why this report was issued, and  
7 we frankly ask your assistance in getting to the bottom of  
8 it. Thank you.

9 CHAIRMAN IMBRECHT: Well, I can assure you that  
10 we'll consider your comments with great seriousness.

11 MR. HIMONAS: Thank you. In the meantime, our  
12 business is badly hurt because of this, badly hurt.

13 CHAIRMAN IMBRECHT: I anticipate that this will  
14 be something that we'll have some further discussions on,  
15 perhaps by the end of the day.

16 MR. HIMONAS: Thank you very much.

17 CHAIRMAN IMBRECHT: Okay. Thank you.

18 (Agenda Item 1, under separate cover.)

19 CHAIRMAN IMBRECHT: The next item is Number 2,  
20 the Commission consideration and possible adoption of a  
21 resolution declaring the Commission's intent to petition  
22 for a waiver from proposed United States Department of  
23 Energy Appliance Efficiency Standards; directing Commission  
24 staff to continue efforts to quantify the energy savings  
25 resulting from California's appliance efficiency standards

1 and identify areas for improvement, et cetera.

2           We have a number of people that wish to offer  
3 testimony on this item. First we should begin with a  
4 presentation by the staff. I think it is important to put  
5 this item in the proper context prior to additional  
6 testimony as to what is actually before us for consideration  
7 and possible adoption.

8           MR. MATTHEWS: Good morning. I'm Scott Matthews,  
9 I'm the Power Plant Siting Program Manager for the Commission  
10 staff, however, I was on special assignment to conduct this  
11 project.

12           To my left is Jon Blees, legal counsel, assigned  
13 to the appliance standards. To my right is Dr. Mike Jaske,  
14 who is with our Forecasting Office, and who is primarily  
15 responsible for development of the estimates of the benefits  
16 of the appliance standards.

17           The reason that I was selected to conduct this  
18 study -- no, before I say anything else I want to say that  
19 the purpose of this morning's item is to adopt a resolution  
20 which implements some recommendations that were made in the  
21 California staff report, entitled, "The California Appliance  
22 Standards, A Historical Review, Analysis and Recommendations."  
23 This report is also known as the "white paper".

24           The reason that I was selected to conduct the  
25 analysis is that I conducted the socioeconomic studies of

1 the 1976 and 1977 appliance standards. In addition, I was  
2 in charge of the implementation section during the develop-  
3 ment of the appliance standards enforcement program that's  
4 currently in effect, and I was in charge of the appliance  
5 standards development section during the time of the  
6 development of the large air conditioner standards, and the  
7 ballast standards.

8           We distributed the report on the 21st of July. I  
9 sent the report to 37 individuals who I knew had an  
10 interest in the white paper and in the appliance standards  
11 themselves. In addition, we sent a notice of availability  
12 to List 51, which contains some 3,000 people. So far about  
13 195 copies of the report have been distributed.

14           The first slide please. The reasons that we did  
15 the report -- well, there are several reasons. First of all,  
16 in the last several proceedings before the Commission, we  
17 had been criticized about the propriety and some of the  
18 issues that were examined during the adoption of the  
19 existing standards, and so we needed to investigate the  
20 process that we went through.

21           Some of the appliance manufacturers in recent  
22 proceedings have asked for more detail on the amount of  
23 savings accredited to each appliance, and we had published  
24 in the recent BR Reports. We had received a number of  
25 requests from outside sources asking us to respond to

1 controversial issues that had been raised about the  
2 appliance standards, and we thought we'd put those responses  
3 in one document.

4           During the adoption of the large air conditioner  
5 standards, Commissioner Varanini asked that the staff put  
6 together an overview of the appliance standards. A relook  
7 at where we're going with the standards, and where the  
8 future of the standards should be, and this is a response to  
9 that request.

10           Part of that policy look is to examine whether the  
11 standards which are now -- some of the existing standards  
12 which are now five years old, are still effective and to  
13 make recommendations on how to increase the stock of energy  
14 efficient appliances.

15           Finally, because of proposed federal action, and  
16 proposed legislation, the document is -- was designed to  
17 make recommendations on how the Commission should respond to  
18 that.

19           The Warren-Alquist Act has several requirements  
20 that effect appliance efficiency, that require the standards.  
21 Section 25402(c) requires that the Commission adopt standards  
22 for all appliances that the Commission determines use a  
23 significant amount of energy on a statewide basis, and that  
24 the minimum levels set by the Commission had to be based on  
25 feasible and attainable efficiencies, and that they reduced

1 the electrical consumption growth rate.

2           In addition, the other criteria that's relevant  
3 here is that the standards had to be drawn so they did not  
4 result in any added total cost to the consumer over the  
5 life of the appliance.

6           At the same time of the development of the Warren-  
7 Alquist Act, another piece of legislation was adopted which  
8 added Section 25960 to the Public Resources Code, which  
9 required that no new residential type gas appliance that is  
10 equipped with a pilot light shall be sold in the state after  
11 an alternative means had been certified by the Commission.  
12 This caused the IID standards.

13           The next slide is a listing of the appliance  
14 standards that the Commission has adopted in its history.  
15 I wanted to show this slide for a couple of reasons. One,  
16 I wanted to give clarity in what we mean by when we say  
17 appliance standards. Usually individuals focus on one or  
18 two standards when, in fact, we've adopted standards on a  
19 large variety of products.

20           The other thing I'd like to point out is that the  
21 Commission has adopted standards four times in its history,  
22 twice in 1976 for the IID standards, and for the first group  
23 of appliance efficiency standards; a year later in 1977 for  
24 the gas furnaces, water heaters, and plumbing standards;  
25 and then not again until five years later, last year, when

1 we adopted the large air conditioner and ballast standard.

2           Also, I'd like to point out that the appliance  
3 efficiency standards are in two tiers. The reason for this  
4 is that the Warren-Alquist Act required that the appliance  
5 standards become effective one year after the Commission  
6 adopted them. When the staff put together a proposal which  
7 had technically feasible standards which did not result in  
8 added total cost to the consumer that would become effective  
9 one year after the standards were adopted, the manufacturers  
10 were concerned that they wouldn't be able to manufacture  
11 those in sufficient quantity in the time allowed.

12           So the Commission adopted its strategy of having  
13 two tiers. The first standard which did come into effect  
14 a year after the adoption was designed to get rid of the  
15 most inefficient, lowest level efficient appliances. The  
16 second tier appliance standard was the one that was the  
17 more stringent standard, but allowed the manufacturers time  
18 to retool.

19           The next slide shows the issues that were of prime  
20 concern to the Commission, although there were a large list  
21 of issues that the Commission examined during its adoption  
22 of the standards, these were the ones that most time was  
23 spent on, and going through the dockets, it's what you see  
24 the most information on.

25           A modestly significance over the enegy use is a

1 criteria in the Warren-Alquist Act, so that was examined.  
2 The technical feasibility of the proposed standards, the  
3 life cycle cost to the consumer, the amount of energy savings  
4 to be achieved, the economic impacts on manufacturers,  
5 wholesalers, contractors, retailers, consumers, broader  
6 economic issues such as impacts on employment and capital,  
7 and environmental impacts as required by the California  
8 Environmental Quality Act.

9 I want to emphasize here that we did a great deal  
10 of work on the socioeconomic impacts of proposed standards  
11 even though there was no direct requirement in the state  
12 law that we do so. But the Commission adopted a policy during  
13 the intermittent ignition device standards that those impacts  
14 were important, and each time that we've adopted the  
15 standards we've had either a contractor's study, or a staff  
16 study on the socioeconomic effects.

17 As you probably would surmise, during the process  
18 of adopting standards, we held a large number of public  
19 hearings. There was active involvement by the industry  
20 that frequently the Commission would modify staff proposals  
21 to minimize the effects on the industry. One good example  
22 of that is the adoption of the two-tier standard approach.

23 In implementing and enforcing the standards we've  
24 well, enforcement, we took two approaches. One was to  
25 examine whether or not there were appliances being offered

1 in California that the manufacturers had not certified.  
2 This table shows that what we found was that there were  
3 very few noncertifiable appliances in the California markets.  
4 The manufacturers had done a very good job in certifying  
5 to us.

6           The other approach we took was to test to see  
7 whether or not the certified levels were, in fact, what the  
8 energy -- what the energy consumption was when the appliance  
9 was tested. We found a disturbingly high number of  
10 appliances that failed the test, and as you can see we've  
11 decertified -- or some of those appliances have been  
12 withdrawn from sale.

13           The results of the enforcement program is a  
14 recommendation that the staff continue to spot check the  
15 retail stores to maintain a presence in the market, but to  
16 emphasize the testing program. As you can see, we haven't  
17 done much testing yet, and we don't know what else is out  
18 there.

19           The other way that the staff has implemented the  
20 standards is through the issuance of directories. Because  
21 the manufacturers have to certify each appliance to us, we  
22 have a wealth of information on the appliance models  
23 available in the state and their efficiencies. The staff  
24 puts this information together in appliance directories to  
25 assist enforcement agencies and consumers in making their

1 decisions. I believe these directories can be much improved  
2 to help consumers buy more efficient products by having them  
3 in a more easy to use format, and by having them better  
4 distributed.

5 In the discussion of benefits, the white paper  
6 uses information that was generated during the last BR IV  
7 process. There is no new analytical work, per se, in this  
8 document, but rather is simply from -- just a reaggregation  
9 of information from the adopted forecast.

10 The first table there shows the savings to the  
11 average consumer. This table also will give you the  
12 information as far as what assumptions are in the  
13 appliance-by-appliance savings that was shown in later  
14 graphs. To understand this, it's perhaps best to just take  
15 an example.

16 The refrigerator is the first one at the top of  
17 the page. The first column is engineering estimate of  
18 additional first cost. This is a staff estimate from the  
19 Conservation Division of what it actually costs to manu-  
20 facture the appliance marked up to reflect retail level  
21 prices. These estimates are much lower than what we  
22 predicted at the time of the adoption of the standards.  
23 There are a number of reasons for this, but the primary  
24 reason is that staff tended to be very conservative when the  
25 standards were adopted.

1           The second figure is the annual average energy  
2 savings per unit between the appliance model that meets  
3 the standard versus one that doesn't. So in the refrigerator  
4 case, it's 153 kilowatt-hours per year.

5           The next figure is the sales weighted average  
6 price of electricity or gas in California. Some consumers,  
7 obviously, will pay more than this, some will pay less. The  
8 next figure is how long the appliances last in California  
9 on a typical basis. The next figure is just the dollars  
10 saved in the first year, so it's 8.4 cents times 153  
11 kilowatt-hours.

12           The next column, the present value of fuel prices  
13 is one way to calculate the present value of the income  
14 received from a conservation device. This is you take the  
15 price per kilowatt-hour for each year, over the next 20  
16 years, and you discount them for 4 percent and add them up.  
17 So to get the last column, you multiply 153 kilowatt-hours  
18 times \$1.23 and you get the total dollar savings of \$190.

19           The next chart is a detailed breakdown of the  
20 staff's estimate of energy savings expressed in terms of  
21 electricity and natural gas. I'll skip that chart as being  
22 rather complex for me to explain and complex for most people  
23 to understand. The next chart is much easier to understand,  
24 it's the dollar savings from the California Appliance  
25 Standards.

T.2

1           This is the actual reduction in utility bills --  
2 an estimate of actual reduction in utility bills, the  
3 number of dollars that consumers will have in their pockets,  
4 so it's undiscounted. So in 1983, consumers will have  
5 \$317 million more to spend than they would have if we hadn't  
6 adopted the standards.

7           The total cumulative savings, if you added up all  
8 the dollars over all the years, would be around \$27 billion.

9           Now, there are a number of other benefits besides  
10 just simply giving the consumers more income. One of the  
11 benefits is that these dollars, because they'll be spent on  
12 consumer goods, generate more employment than dollars spent  
13 on utility bills, because utilities providing utility  
14 services is a very capital intensive kind of operation,  
15 whereas general consumer spending has much more labor  
16 intensiveness to it.

17           The next slide is another way of expressing savings  
18 in energy, however, because of the air conditioner standards,  
19 we save more peak megawattage than you would do if you just  
20 looked at energy savings across the board. The number that  
21 seems most dramatic to me there is that in 1987 the standards  
22 will reduce the need for peak power by 1,750 megawatts. This  
23 is larger than any project that's ever been proposed to the  
24 Commission.

25           Now, all these savings are from existing standards.

1 If the Commission went out and adopted new standards, even  
2 more savings would be achieved. The white paper examined  
3 only those standards that we classified as additionally  
4 achievable in the last Biennial Report process. These are  
5 the standards that are going to be adopted in the next  
6 couple of years.

7           It shows that we can double the electricity  
8 savings, and that we get increased total cumulative savings  
9 by another \$12 billion. National Resources Defense Council  
10 has estimated that if we looked at a larger horizon, we  
11 could increase -- in other words, from our standards over  
12 a longer period of time, we could increase total cumulative  
13 savings on a net basis by \$25 billion by the year 2010.

14           The white paper spent time investigating the areas  
15 of controversy that have been raised about the standards  
16 over the last few years.

17           COMMISSIONER EDSON: Could I interrupt you for  
18 one second?

19           MR. MATTHEWS: Uh-huh.

20           COMMISSIONER EDSON: When you talk about future  
21 standards, is that -- is our ability to do that affected by  
22 pending legislation or not?

23           MR. MATTHEWS: It was not considered. It was  
24 just looking at the technology that's available today, the  
25 economics that are available today, and seeing what you could

1 do in the next few years. So there's no reality test in  
2 that sense.

3           COMMISSIONER GANDARA: If I might add, that policy  
4 decision was made during the consideration of the Biennial  
5 Report, in the forecast, when conservation was divided into  
6 reasonably expected to occur, and additional achievable  
7 conservation. Since this appears in additional achievable  
8 conservation, it was not reasonably expected to occur for  
9 a number of reasons, including the one that you mentioned,  
10 but it was really more an exercise for the scenario work  
11 as to the potential for conservation.

12           MR. MATTHEWS: The most significant area of  
13 controversy is the question of whether or not the savings  
14 from the standards would occur without the standards. In  
15 other words, whether because consumers were affected by  
16 increasing electricity prices and gas prices, whether they  
17 would go out and buy more efficient appliances than they  
18 would if the standards caused them to do the same thing.

19           Unfortunately, there's very little evidence on this  
20 issue. What evidence we have says that the market has very  
21 little effect on consumers decisions. I think as an aside  
22 here, we've tried, over my experience with the appliance  
23 standards, which is in early 1976, to get detailed data from  
24 the manufacturers on sales weighted shipment by efficiency  
25 of appliances so that we could evaluate how much the price

1 effect, or the market effect would be affecting our  
2 calculations of savings. Manufacturers have been unable and  
3 unwilling to give us that data ever since we started asking,  
4 and the first letter I sent out was in June or March of  
5 1976.

6 We recently have asked again, the Committee asked  
7 earlier this year to try to do the same thing.

8 One of the reasons that the market appears not to  
9 have much effect is that consumers don't consider energy  
10 efficiency to be a large influence on their decision.

11 PGandE did a survey of retail appliance store -- appliance  
12 store retailers and discovered that 68 percent of the  
13 consumers didn't even ask the salesperson about the relative  
14 energy efficiency of an appliance.

15 In addition, consumers don't have the right infor-  
16 mation about the benefits and the more efficient models.  
17 For instance, 27 percent in the PGandE survey didn't even  
18 know that there was any significant energy difference in  
19 refrigerators, and there's a doubling between the most  
20 efficient and least efficient refrigerator in efficiency.

21 The Institute of Heating and Air Conditioning  
22 Industries asked its members what would happen if the  
23 standards were eliminated, and 88 percent of those people  
24 who buy appliances, or manufacture them, contractors, thought  
25 that they would buy less efficient units if there weren't

1 any standards; 74 percent of the members thought that the  
2 manufacturers would promote less efficient units.

3 Another reason that it appears that the market  
4 doesn't have effect is that many appliances are purchased  
5 by homebuilders, landlords, contractors who don't have any  
6 incentive to buy energy efficient products because they  
7 don't pay the utility bills.

8 Carrier Corporation has provided some interesting  
9 data about -- well, with Florida and New York City. Florida,  
10 as you know, has some of the hottest temperature and long  
11 central air conditioning season. New York City has one of  
12 the highest electrical rates in the country, yet the  
13 efficiency of central air conditioners sold in those areas  
14 of the country are no higher than the rest of the country,  
15 but in California, of course, the efficiencies are much  
16 higher because of the standards.

17 Another issue examined by the white paper is  
18 whether manufacturers are being -- deemed severely affected  
19 by the standards. One of the things that I predicted in  
20 '76 and '77 was that there will be rather severe effects on  
21 the manufacturers. The evidence available today says that  
22 I was wrong.

23 I looked at appliance sales, that would be the  
24 one that would most dramatically show whether the standards  
25 had had some adverse effect. In this chart, I plotted a

1 number of things. I looked at a lot of other factors, but  
2 just for graphical purposes, I just showed these. The top  
3 line is refrigerator sales over time, from 1973 to 1982.  
4 The second line there is central air conditioning sales.  
5 The double dashed line is dishwashers. We do not regulate  
6 dishwashers. I wanted to show that as an example, what  
7 happened to an appliance that we don't regulate. I looked  
8 at a lot of other appliances, and they all have the same  
9 shaped curve over time. This is all shipments to California.

10           The next solid line is new housing starts, and the  
11 bottom line there is room air conditioners. The pattern  
12 that jumps out at you is the differences in the economy as  
13 reflected by new housing starts has a dramatic influence on  
14 appliance sales in California, and since the appliance  
15 standards have been adopted, new housing starts has dropped  
16 something like 79 percent and, of course, there's been a  
17 rather severe drop in appliance sales since then. You don't  
18 really see any effect of the standards.

19           In 1983, I understand, although I don't have any  
20 data yet, of course, that all these factors are going up  
21 quite a bit, again, unrelated to the standards. The  
22 conclusion there is not that the standards have or haven't  
23 had any adverse effect, but that the effect of the standards  
24 is so minor in comparison to other economic forces that it's  
25 just lost in the muddle of the numbers.

1           There was another concern that the appliance  
2 manufacturers would be moving out of the state as a result  
3 of the standards and making it more difficult to sell  
4 appliances in the state. Appliance Manufacturer, which is  
5 a leading trade journal, did a recent study and found that  
6 California led the nation in new appliance manufacturing  
7 plants from 1977 to 1981, the same period of time that you  
8 see there, the time when the appliance standards are coming  
9 into effect.

10           Again, it wasn't necessarily because of anything  
11 that was going on, it had more to do with other factors that  
12 led to decisions about where to site manufacturing plants.  
13 It also has something to do with California having a  
14 relatively secure energy situation.

15           Another issue examined by the white paper is  
16 whether consumers are being penalized as a result of the  
17 standards. One factor that's very evident in this issue is  
18 that consumer groups support the standards. The reasons for  
19 this is that low income consumers don't buy appliances, they  
20 rent appliances in large measure, and so without the  
21 appliance standards, they would be forced to accept an  
22 appliance that was purchased by somebody else.

23           In addition, when they do buy appliances, low  
24 income persons typically buy used appliances, and so they  
25 receive the benefit of the trickle down of the new appliances

1 that meet the standards for the used market, but any cost  
2 difference is lost in the translation. So there is virtually  
3 no cost increase, but all benefit to them.

4           Also, consumer groups have told us that consumers  
5 don't have the right kind of knowledge to choose efficient  
6 appliances. The other issue is whether consumer choice has  
7 been adversely affected by the standards. We took a look at  
8 directories. This is somewhat difficult to do because the  
9 definition of a model changes over time, so looking at the  
10 percentages sometimes has more relevance than what a model is.

11           If you look at the percentages in models available  
12 at the adoption, versus the percentages of models available  
13 in 1983, you'll see a dramatic increase over time. A couple  
14 of things come out at you. One is that when the Commission  
15 adopted the standards, and one of the reasons that I predicted  
16 severe shortages at the time is that there weren't a lot of  
17 models that met the standards. What happened is that the  
18 manufacturers have done a very good job in retooling and  
19 producing models available for the California market.

20           Also interesting to note in some of the categories  
21 is there are a large number of models available elsewhere in  
22 the country that don't meet the standards. If something  
23 like the room air conditioner standard got preempted by  
24 the federal government, 70 percent of the models that don't  
25 meet the standards would then be eligible to be dumped into

1 California.

2           The last issue that was examined is whether or not  
3 small businesses were being unduly burdened by the standards.  
4 We don't have any evidence, again, we've heard stories. One  
5 of the things I've looked at was whether or not taxable  
6 sales had changed over time because of the standards. What  
7 this chart shows is that, if you look at the percentages,  
8 household appliance dealers have been doing a little better  
9 as a percentage of total retail stores over the time that  
10 the standards have come effective.

11           Again, I don't think that any credit or blame can  
12 be given to the standards I think that other economic forces  
13 have a bigger part to play in this.

14           The first we heard of a possible problem to small  
15 businesses was in an August 1982 petition addressing the  
16 issue of the inventory clearance period with the small  
17 businesses claiming that they were unable to unload non-  
18 complying appliances in the year provided by the law. There  
19 is legislation going through the Legislature now that would  
20 eliminate the inventory clearance provision entirely.

21           The report concludes with several recommendations.  
22 First of all, -- no, the recommendation slide, Brian.

23           The first recommendation is that the Commission  
24 should continue to defend the appliance standards and  
25 maintain its capability to set and implement standards. This

1 is not a new recommendation, obviously, it's the same or  
2 similar language is available in the BR's III and IV. The  
3 primary place that we need to defend the standards is from  
4 the U.S. Department of Energy no-standard standard that  
5 Jon Blees will discuss in a minute.

6           Secondly, the Commission should improve its  
7 quantification of the effects of the standards. Even though  
8 I believe we have the leading edge on quantifying savings  
9 from any conservation measure, we have a lot yet to learn,  
10 and that the Commission should support the staff's  
11 continuing efforts to improve its forecasts.

12           Finally, the Commission should explore measures  
13 to supplement the standards. Appliance standards are a  
14 rather crude way of achieving the goal of increasing the  
15 stock of appliances. The best they can do is to cut off  
16 the least efficient ones at the bottom of the scope. The  
17 reason for that is that we have to make sure that they do  
18 not add total life cost to the consumer.

19           Many consumers, or even most consumers would be  
20 better off to buy an appliance greater than one that just  
21 meets the standards. Therefore, we think that the Commission  
22 should support the staff in its examination of alternative  
23 ways of adding to the savings achieved by the standards, one,  
24 by making the Commission's directories more available and  
25 more useful, by examining such alternatives as the efficient

1 appliance lease program, encouraging the use of rebates,  
2 and conditioning the use of public funds for housing,  
3 financing -- for housing financing, and to include energy  
4 efficient appliances.

5 Jon Blees will now describe the DOE activity.

6 MR. BLEES: Thank you. I'm Jonathan Blees, an  
7 attorney at the Commission.

8 The National Energy Conservation Policy Act  
9 directs the Federal Department of Energy to set national  
10 efficiency standards for 13 different household appliances  
11 and directs DOE to give first priority to nine of those  
12 appliances.

13 The Act also allows DOE to make a determination  
14 that a national standard is not necessary, either because a  
15 standard would not be technologically feasible, or would not  
16 be economically justified. Either determination by DOE  
17 for a particular appliance, a decision to set a real  
18 standard for an appliance, or a decision to set a so-called  
19 no-standard standard preempts all state regulations relating  
20 to the efficiency of that appliance.

21 However, the Act also allows states to petition  
22 DOE for a waiver from preemption. The state is required to  
23 show that it has a significant interest in maintaining its  
24 standards. Furthermore, DOE cannot grant a waiver if it  
25 finds that maintenance of a state standard would impose an

1 undue burden on interstate commerce.

2           In 1980, DOE issued its first set of proposed  
3 appliance standards for eight different appliances. The  
4 Energy Commission participated in DOE proceedings on those  
5 proposed standards. We generally supported the DOE  
6 standards, although we recommended in some instances that  
7 they be made more stringent.

8           In 1981, DOE announced that it was going to  
9 re-evaluate its appliance efficiency program in response to  
10 a large number of comments that it had received on the 1980  
11 proposed standards.

12           In April of 1982, DOE issued a new set of proposed  
13 standards. This set of standards proposed no-standard  
14 standards for all eight appliances under consideration at  
15 that time, and the eight appliances are listed in that slide.  
16 All of those eight appliances are appliances that are  
17 covered by Energy Commission standards, either IID standards  
18 or efficiency standards.

19           The Energy Commission again participated in DOE  
20 proceedings on these proposed standards, along with the  
21 consumer groups, utilities, and some appliance manufacturers,  
22 we strongly criticized the proposal for no-standard standards.

23           In December of 1982, DOE issued its first final  
24 standards as shown on the slide. DOE issued a no-standard  
25 standard for both clothes dryers and kitchen ranges and ovens.

1           In April of this year, the Energy Commission filed  
2 with DOE a waiver petition to save the Energy Commission's  
3 IID standards for kitchens, ranges, and ovens from federal  
4 preemption. DOE has scheduled hearings on that petition in  
5 September, and I anticipate a final decision on the petition  
6 this fall.

7           DOE has been planning to issue final standards for  
8 the remaining appliances for which it has proposed a  
9 no-standard standard in the fairly near future.

10           The resolution before you today, one of the three  
11 recommendations contained in it, directs the filing of a  
12 waiver petition to preserve from federal preemption the  
13 Energy Commission standards for the six appliances listed  
14 on the lower part of the slide. This recommendation is  
15 consistent with the Commission's stated policy in the last  
16 two Biennial Reports in which the Commission has stated its  
17 intent to preserve the standards from federal preemption.

18           That's all I have.

19           CHAIRMAN IMBRECHT: Thank you. That completes  
20 the staff presentation. We have a number of individuals  
21 that wish to testify. Are there any questions from members  
22 of the Commission?

23           Again, I think it's important to stress that the  
24 report in question is not subject to adoption today, nor is  
25 it proposed that it be adopted as a finding of the Commission.

1 Rather, it is basically background information relative to  
2 the proposed resolution relating to seeking a waiver from  
3 the Department of Energy if and when they adopt their  
4 no-standard standard.

5 First I'd like to call Mr. James Herr representing  
6 Dow Chemical.

7 MR. HERR: This isn't the issue that I'd like to  
8 address, Chairman Imbrecht.

9 CHAIRMAN IMBRECHT: Fine, thank you. You'll  
10 alert me which item it is that you --

11 MR. HERR: Yes.

12 CHAIRMAN IMBRECHT: Mr. Kent Anderson representing  
13 the Association of Home Appliance Manufacturers. Excuse me,  
14 yeah, why don't you take the Public Advisor's seat for now.

15 MR. ANDERSON: Thank you, Mr. Chairman. My name  
16 is Kent Anderson, I'm the Vice President of Government  
17 Relations with the Association of Home Appliance Manufac-  
18 turers. This is really the first opportunity I've had to  
19 appear before this Commission on the subject of appliance  
20 standards even though we were involved in many of the early  
21 proceedings in '76 -- I guess '75-'76, during the adoption,  
22 and I don't recall -- I don't think any of the present  
23 members of the Commission were there, so we can all say that  
24 we had nothing to do with anything that happened back then.

25 I would like to make a couple of comments on the --

1 both on the staff report --

2 CHAIRMAN IMBRECHT: Some of us say that frequently.

3 MR. ANDERSON: We're all innocent.

4 COMMISSIONER EDSON: Some of us wouldn't mind.

5 MR. ANDERSON: I would like to make a couple of  
6 comments both on the staff report, and on the resolution.  
7 First, some general comments. I think there's a lot of  
8 energy savings and conservation going on as a result of  
9 appliance efficiency. There's going to be more in the future.  
10 I think we're very encouraged. We're, as an industry,  
11 actively involved in that area.

12 I think also, consumers are pursuing the least  
13 costly options that are available to them to conserve  
14 energy, and it's being done across the board in a whole  
15 bunch of areas, they're reducing usage patterns, they are,  
16 in fact, purchasing more efficient products.

17 Our industry which basically represents the  
18 household appliance, or white goods industry, refrigerator,  
19 freezers, ranges, ovens, clothes dryers, clothes washers,  
20 has done, I think, a good job in producing more efficient  
21 products, they're available, and they are being bought in  
22 the marketplace.

23 I think one of the main issues in contention, and  
24 I've got a whole inventory of things that I would disagree  
25 with Mr. Matthews on, but I'm really not prepared to take the

1 time and go into it in detail today with the Commission,  
2 that we would disagree with is to what extent are standards  
3 really responsible for those kinds of activities? And I  
4 think our general industry view is that there is a lot of  
5 that activity that would occur whether there were standards  
6 or not, and I agree with them that that is one of the most  
7 important issues of controversy.

8 With regard to the current Commission standards --  
9 COMMISSIONER EDSON: Excuse me. Do you have some  
10 information that would bolster that assertion?

11 MR. ANDERSON: We'd be happy to provide it to you.  
12 I think there is a lot of data and information available.  
13 My general reaction to the staff report is, you've gotten  
14 about half of the story.

15 COMMISSIONER EDSON: Well, for example, Mr.  
16 Matthews talked about some information from the Carrier  
17 Corporation, which I assume is dealing with the appliances  
18 different from those that you represent, that would indicate  
19 that the efficiencies in other states are much lower than  
20 here in California despite, in some cases, comparable or  
21 higher rates, and similar weather patterns. Do you have  
22 similar comparisons that would refute that for your  
23 industry?

24 MR. ANDERSON: I think there is a lot of data  
25 available. Mr. Matthews cited two or three examples out of

1 the DOE rulemaking proceeding in support of that position.  
2 There were 1,800 comments filed in the last DOE proposal.  
3 He cited only two or three of them. There was a lot of  
4 rebuttal comments given, and data provided both by our  
5 industry and other industries on those issues, and I think,  
6 you know, to be fair, you ought to have both sides of that  
7 argument so you can evaluate the data and the information.

8           It's there. If you want to send a truck to  
9 Washington and load it up with paper, it's available.

10           COMMISSIONER SCHWEICKART: My understanding is  
11 that letters were sent to the industry requesting such  
12 information, and that it was declined. Is that -- do you  
13 have --

14           MR. ANDERSON: Well, we can go into another issue.  
15 We've tried to respond. I know Commissioner Gandara sent  
16 a letter to us, an extensive letter for data earlier this  
17 year. We sent him two responses, and I have met with him  
18 also. A lot of that information that I think the staff  
19 would like and has requested we simply don't have available,  
20 and some of it is a problem.

21           As a trade association, we cannot deal with price  
22 information on products. It's probably one of the most  
23 sensitive antitrust issues for restraint of trade. We can't  
24 gather it, we won't gather it, our lawyers won't let us  
25 gather it, it potentially could be used in restraint of

1 trade. So any request for sales price information to us,  
2 as an association, is just something that we can't deal with.  
3 I've tried to explain that. I understand the need for it,  
4 and the value of it, but please don't ask us to get it for  
5 you because we can't do it.

6 Some of the other data that we've tried to provide,  
7 we have good national data, sales data, unfortunately we  
8 don't gather data on sales by state. We know what comes out  
9 of a factory. We can count little white boxes that are  
10 produced, and we can get good data on sales of models on a  
11 national basis, but we don't know how many of those go into  
12 California. We know on a gross basis, but by model, we  
13 don't necessarily know what's going into California.

14 So it's not a question, I think, of our unwilling-  
15 ness to provide that information, it's just a question of how  
16 much data is available and what can we provide. We're willing  
17 to sit down and discuss those issues and try to be as  
18 responsive as we can.

19 CHAIRMAN IMBRECHT: Commissioner Gandara.

20 COMMISSIONER GANDARA: If I might interrupt here  
21 again, as -- I mean, it works both ways. If such data is  
22 not available, I don't know how it could be claimed that the  
23 market would, in fact, produce these effects. But simply  
24 to get it on a more technical basis, I would like to ask  
25 Mr. Jaske to review the efforts that we've made in this area.

1           We have made a very serious and determined effort  
2 to try to answer this particular question. I made not only  
3 one request, I modified my request substantially and sent  
4 a second letter. But Mr. Jaske, I think is in the best  
5 position, as an economist, as a forecaster who has dealt with  
6 the technical issue of this problem, it's an issue that the  
7 Committee itself, the Biennial Report Committee raised  
8 during the forecasting process, and we were very seriously  
9 interested in that, and we continued those efforts.

10           I think if Mr. Jaske could give us at least what  
11 the outlines, or the boundaries of the technical problem is,  
12 and at least the way it could be pursued, the way we tried  
13 to pursue it, and what we're doing in that area.

14           MR. JASKE: As Mr. Matthews explained earlier,  
15 the savings estimates documented in this report are primarily  
16 a repackaging of staff forecast materials that are consistent  
17 with the BR IV analysis. We have known for some time that  
18 those analyses do not fully address this particular issue  
19 of what consumers would do in the absence of standards or  
20 other details that are necessary to improve the savings  
21 estimates that are documented in the report.

22           There was essentially a pair of efforts launched  
23 in the fall of last year when the staff began gearing up  
24 to improve savings estimates. The first of those was to  
25 seek information which would illuminate the central question

1 of what has been happening to the distribution of sales  
2 efficiency in California over time, and how does it  
3 compare relative to other portions of the country. Essen-  
4 tially what one needs to do to do that is to get by  
5 appliance category, by year of purchase, a rather detailed  
6 breakdown of sales within various efficiency classes, and  
7 one might want a half a dozen classes spanning everything  
8 from top to bottom so as to understand what has happened  
9 over time.

10           If one were to get that data, you would presumably  
11 see in 1977, 1978 as the inventory clearance period expired,  
12 that you had an essential dropping off or elimination of  
13 sales in the lowest rated efficiency groups, and a shift in  
14 the distribution toward higher efficiency groups.

15           This request was made to various of the appliance  
16 industry trade groups, AHAM included. They declined to  
17 supply the information on the grounds explained by Mr.  
18 Anderson, principally regarding availability of price  
19 information. But it's our understanding that there is  
20 tremendous volume of information available within the  
21 industry, that essentially the industry has not disclosed  
22 to anyone -- has not disclosed it to DOE in comments to DOE  
23 proceedings, it has not disclosed it to this Commission.

24           The extensive number of comments referred to by  
25 Mr. Anderson, when reviewed shows small snippets of information

1 carefully constructed to make a particular point, and they  
2 do not represent data in the sense that one can take data,  
3 analyze the data, and come to an independent analysis. They  
4 are essentially allegations contained within testimony of  
5 individuals representing themselves, or interested parties.

6 In the spring of this year, certain members of  
7 the appliance industry met with Commissioner Gandara, and  
8 I was at that meeting. We tried to explain to them our  
9 intent for this information, and subsequent to that, another  
10 request has gone out, as yet unresponded to, to my knowledge.

11 At this point there is essentially no information  
12 to either confirm or deny the position taken by Mr. Anderson.  
13 The information is simply not available. So that -- we  
14 turned to a second approach, and that was attempting to  
15 get information from individual consumers in California  
16 about the appliances they had in their home, and after a  
17 period of negotiation, Pacific Gas and Electric Company  
18 agreed to conduct a special survey of their customers which  
19 would essentially gather a few demographic characteristics  
20 and the make, model, and model number of the principal  
21 appliances contained within persons homes, year of purchase,  
22 and other descriptive factors.

23 We have just received that information within the  
24 last month, are in the process of keypunching it, and are  
25 going to attempt to make some analysis of it. It will not

1 substitute for this broader detailed, and hopefully  
2 comprehensive sales information that's really necessary,  
3 but it will point us down the direction of analysis that  
4 will attempt to support or deny the fact that rising  
5 prices, or rising incomes, or any other of a number of  
6 factors have contributed to changes in efficiency over time,  
7 and what might be expected to happen with efficiency in  
8 the future.

9 CHAIRMAN IMBRECHT: I think the --

10 COMMISSIONER GANDARA: Let me just add that in  
11 these discussions that both Mr. Anderson, the representative  
12 from Whirlpool, I forget the gentleman's name, Mr. Wolf  
13 from Trane, they have generally -- we've had an amicable  
14 relationship in terms of trying to resolve some of these  
15 data needs, but there is certainly a difference of opinion  
16 as to the availability of data and the willingness to  
17 provide it.

18 We do accept confidential data. We could accept  
19 price information that way. We can accept it directly from  
20 the manufacturers, we don't need to receive it from the  
21 trade associations. We asked the trade associations because  
22 we felt that an aggregation would launder individual  
23 competitive information and therefore would be useful to  
24 us to some extent. We don't even need appliance-by-appliance  
25 price information as much as we need ranges or categories

1 simply because it's a difficult technical problem. We've  
2 tried to work around it.

3 We could do it without any of all that by  
4 conducting an extensive survey, and I think the estimates  
5 of that, Mr. Jaske once told me would be about a half a  
6 million dollar project, that would be an end-use survey.

7 So suffice it to say that there has been  
8 considerable diligence by the Commission in trying to  
9 resolve and address this particular thorny issue. In the  
10 absence of that, we have to look at secondary data surveys,  
11 and so forth, and that is the particular issue that Mr.  
12 Matthews has been addressing today.

13 But I also want to take the opportunity to indicate  
14 that, indeed, insofar as they were willing to do so, the  
15 trade associations have, indeed, been providing us with some  
16 information, some of it which we were already collecting  
17 from other sources, but nonetheless, there is a cooperation  
18 up to a point there that has been helpful. I didn't wish  
19 to deny that.

20 CHAIRMAN IMBRECHT: Thank you, Commissioner  
21 Gandara. Commissioner Commons?

22 COMMISSIONER COMMONS: Mr. Anderson, has your  
23 association supported the non-standard standards?

24 MR. ANDERSON: We have a -- I guess a long history  
25 involved in this issue, and from the very beginning.

1 Initially, when this appliance standards program developed  
2 at the Department of Energy, it was a consumer information  
3 program for labeling. It was a voluntary target program  
4 for improvements in efficiency. We supported those  
5 activities from the very beginning.

6 Before there were ever voluntary improvement  
7 targets the legislation was changed to develop mandatory  
8 standards. We reluctantly supported the concept of DOE  
9 studying mandatory standards in return for a concern that  
10 we had that there be some uniform requirements. That if  
11 there were going to be standards, they be federal standards.

12 I think we historically have always said that  
13 we didn't really believe standards were necessary, and  
14 we've consistently said that. We didn't take a position on  
15 the proposed mandatory standards that DOE first came out  
16 with. We commented extensively on it, as a trade association  
17 we cannot typically say that a standard is okay or not  
18 okay because it can have potential competitive effects,  
19 and we have to distance ourselves from those issues.

20 We agreed with the finding on no-standards because  
21 we believed that over the last 10 years the evidence that  
22 we have, and I disagree strongly with Mr. Jaske on his  
23 comments about selective data, we submitted extensive data  
24 in the DOE rulemaking on the efficiency improvements of all  
25 products, and to this day, I have never heard anyone on the

1 Commission staff explain to me how products that are not  
2 subject to any regulation in California or any other state,  
3 such as clothes washers and dishwashers have improved by  
4 40 to 50 to 60 percent over the last 10 years. We submitted  
5 that data.

6 To us, a lot of that evidence on the workings of  
7 the marketplace on other products not subject to regulation  
8 have never, you know, (a) been acknowledged by the staff,  
9 or (b) adequately explained why that would occur. You know,  
10 we're kind of frustrated at some of those issues, because  
11 again, in the staff report, that whole issue is not addressed.

12 So we, I think feel that we provided data, we're  
13 trying to be cooperative, we think the evidence generally  
14 supports our belief. We certainly don't agree that you  
15 can attribute all savings that are occurring as a result of  
16 conservation to standards, and that is one of the basic  
17 areas of disagreement of the staff report, is that every-  
18 thing that's attributed to being saved is attributed to  
19 standards, and we just don't think that's reasonable.

20 But I guess in answer to your question is, you  
21 know, indirectly, we really don't feel that standards are  
22 necessary at this point in time.

23 COMMISSIONER COMMONS: Well, would you say it's  
24 true that if we take the refrigerators, and we have the same  
25 set of models available in California that are available

1 nationwide, and so the standards are not having an impact  
2 there in terms of which models can be sold in this state,  
3 but then we take window air conditioners, or some of the  
4 other models where there is a substantial difference between  
5 what's available in California, and what's available in the  
6 rest of the United States, and I don't know any manufacturer  
7 or retailer, or distributor that would carry models without  
8 the intent to sell, and that clearly, on those models where  
9 were excluded from California, where the standards are having  
10 an impact, there is a difference in terms of the energy  
11 efficiency of those models in California, and those models  
12 nationwide.

13           We had the information from Carrier Corporation  
14 showing a clear difference in the amount of energy consumed  
15 in Florida and New York where you would think it would be  
16 the other way around compared to California. Do you have  
17 any hard evidence to -- I think Commissioner Edson asked  
18 that question -- to support that -- well, the market is  
19 working. The question is, is it working as well as the  
20 standards are working, or working well enough, I mean,  
21 that's the issue.

22           You haven't been able to provide us with data  
23 and information. It seems, in just looking at the charts  
24 that there is -- the market isn't working because models  
25 are being sold that do not meet our standards in the rest

1 of the nation on some appliances.

2 MR. ANDERSON: Well, it's difficult to deal with  
3 this issue on a broad-brush basis because the effects are  
4 different on different products. Take the case of refri-  
5 gerators and freezers. We believe that the vast majority  
6 of products sold today exceed the California standards.

7 Now, there's a threshold question of why is that?  
8 Is it because of the standards, or is it because there have  
9 been technical improvements that are cost-effective in the  
10 products that have resulted in it? And you know, we can  
11 argue until the cows come home on that issue, and look at  
12 all the data we can, but it still basically comes down to,  
13 you know, why did that happen.

14 I think in any case, it's happening, and it's  
15 not realistic to expect that a manufacturer is going to  
16 go back and retool and redesign a product to make it less  
17 efficient. We don't think it's reasonable to assume that  
18 a manufacturer will redesign a total product line for a  
19 market as in California that represents about 10 percent  
20 of the total market, and some products it's much less than  
21 that.

22 What they will simply do is sell the products that  
23 comply in California. They won't redesign their total  
24 product lines, you can't afford it. We're a highly tooled,  
25 highly specialized production lines, and we'll adjust this

1 as we can.

2           In the case of room air conditioners, the main  
3 problem we have had from day one with the California  
4 standards has been the standards on room air conditioners.  
5 They were set too high, they eliminated too many products,  
6 there are not adequate models available in the state.

7           The difficulty with room air conditioners is  
8 California probably has the widest variance in hours of  
9 operation of any state in the country. It ranges from  
10 less than 100 hours to more than 2,000. The standards  
11 were set based on an assumed average usage rate of around  
12 400 to 450 hours.

13           I would argue that a less efficient product is  
14 probably cost-effective for those people that don't use it  
15 that often, but they're prescribed from using that in the  
16 state, and we have continued to express our concern on that  
17 particular product and ask for some way to deal with it.

18           The room air standards are 10 to 15 percent  
19 higher than central air conditioner standards. What logic  
20 tells you that a small package that goes in a window should  
21 be more efficient than a product that sits outside in the  
22 backyard that is unconstrained by space.

23           Now, I can say I wasn't involved at the time, and  
24 you can say you weren't involved at the time, but it's an  
25 issue that's a serious problem for industry, and we're going

1 to continue to squeak about it, and gripe about it, and do  
2 whatever we can to try to address it, but that's a problem.

3           So I think the impact on the different products  
4 has been very diverse. It had to do with weather standards  
5 that were set at the time, and what happened technically  
6 and economically in the products. It's a real complicated  
7 issue. I commend Commissioner Gandara for trying to make  
8 it as objective and factual as possible, but it's a tough  
9 issue, tough nut.

10           CHAIRMAN IMBRECHT: Well, I think that it's -- we  
11 have others that want to testify, and I think we need to  
12 move on. I would just indicate that I'm confident that the  
13 Commission will be more than willing to address those  
14 issues, but that there is a concomittant responsibility on  
15 the part of the industry to try to cooperate with us in  
16 assuring that we do have a sound analytical basis for  
17 arriving at any conclusions.

18           We're not being asked to adopt this report today.  
19 Obviously, this issue is going to continue. I think  
20 Commissioner Gandara indicated that this Commission does  
21 have the regulatory ability to handle proprietary information  
22 in a confidential fashion.

23           During my short tenure here I've heard complaints  
24 about a wide range of things that the Commission has been  
25 involved with, or actions taken in the past, but I can tell

1 you that one area that I have never heard questioned is  
2 the manner in which we have handled proprietary information.  
3 There's never been any cloud or suspicion raised that I'm  
4 aware of that suggests that it hasn't been handled in the  
5 most professional of manners, and I think that that ought  
6 to be reflected upon by the appliance industry, and recognize  
7 that we have had similar issues with the petroleum industry,  
8 the building industry and so forth, and ultimately, when  
9 we've had cooperation, generally speaking we've been able  
10 to work out a resolution that is acceptable to both the  
11 Commission, on behalf of the people of the state, and the  
12 industries affected.

13 So, I urge you to continue to suggest to your  
14 colleagues in the appliance industry that there is not a  
15 lack of willingness to address these issues, but that we  
16 need to be met halfway on it.

17 MR. ANDERSON: Mr. Chairman, could I, with your  
18 leave -- I got sidetracked on a few specific issues here.  
19 I would like to make --

20 CHAIRMAN IMBRECHT: Yes, I believe a couple of  
21 other comments, if you'd like, and then try to move on to  
22 the next witness.

23 MR. ANDERSON: A couple of comments on the  
24 resolution and the staff report. With regard to the  
25 resolution, as I think I probably have made clear, we've

1 got some difficulty with the numbers and the attribution of  
2 savings to standards. We think there are savings occurring,  
3 but we question how much of it is attributable to standards.  
4 I have no basic problem with the general recommendations of  
5 the staff in the resolution.

6 I think California has the right to petition DOE,  
7 it should, it's a forum for debating and discussing the  
8 issues, and if California prevails on the need for their  
9 standards, so be it.

10 With regard to the staff report, I think we  
11 strongly disagree with some of the data. As I mentioned,  
12 It's only half of the argument, and you really should get  
13 both sides. It is a good start at compiling the data, and  
14 the facts and history of the program, and I think that's  
15 useful. I would recommend that you hold --

16 CHAIRMAN IMBRECHT: You would agree that it  
17 adequately defines the areas of controversy, but doesn't  
18 necessarily address all the issues in the response to the --

19 MR. ANDERSON: Well, I guess I have a problem  
20 with the -- you know, the areas of controversy are okay,  
21 but what the staff did is, they said here's an area of  
22 controversy, and then they spent three pages saying why  
23 they didn't think it was an area of controversy. So there  
24 was no presentation of the facts about why it is a  
25 controversy, or recognition that there is another side.

1 I would recommend that the Commission consider  
2 holding either a hearing or a workshop on the staff report  
3 and allow us some time to prepare some material, and maybe  
4 some data, and bring it in and go through a detailed  
5 presentation on the subject. We're just not prepared to  
6 do that today.

7 I think we'd also like to request some opportunity  
8 in the future to make a more formal presentation to the  
9 Commission on the issue from, sort of our perspective. We'd  
10 like to do that.

11 The final area is on future activities. I think  
12 we would be generally supportive of anything the Commission  
13 can do to assist the marketplace. There are some market  
14 inequities out there. I don't think there is widespread,  
15 or there are significant market failures that the staff  
16 has identified related to our products.

17 I will pass around to you, so you can look at it,  
18 two consumer directories that our association just recently  
19 put out on room air conditioners and refrigerator/freezers  
20 where we took all the products available on the market  
21 and we've ranked them by efficiency so a consumer can go  
22 in, and if he wants to buy a manual defrost refrigerator,  
23 it will list that manufacturer with the highest efficiency  
24 from the lowest efficiency, and it's a shopping tool.

25 I am in the process of discussing that with the

1 staff, and we'd love to have some feedback on how that thing  
2 can be improved. I think we're willing to discuss with the  
3 staff ways to improve the certification and enforcement  
4 activities. There's a lot of information and education  
5 ideas that I think we can develop workshops, we're generally  
6 supportive of rebates and incentives to buy more efficient  
7 appliances.

8           So I think there's a wide range of issues that we  
9 can continue to discuss. Thank you for the opportunity to  
10 comment.

11           CHAIRMAN IMBRECHT: Fine. Thank you very much,  
12 Mr. Anderson.

13           Next, Earl Ruby representing the California  
14 Building Industry Association.

15           MR. RUBY: Thank you, Chairman Imbrecht. Earl  
16 Ruby, California Building Industry Association. I would  
17 wonder, especially in a time of Energy Commission budget  
18 tightening, if a lot of the appliance standards have not  
19 outlived their usefulness.

20           I base this on a couple of thoughts. One, as we  
21 look at both the new residential and the nonresidential  
22 standards, they are performance based, and they require  
23 appliance efficiencies as an integral part of meeting the  
24 standard. The standard -- the appliance efficiency does not  
25 exist in a vacuum, but is rather a part of the overall

1 compliance with the standard.

2           The second thing I would note is that during  
3 seminars that we've conducted about the state to about 550  
4 builder members, I made sort of an informal poll, and I  
5 asked the builders how many knew what the efficiency was  
6 of their gas furnace, or the efficiency of their air  
7 conditioner. The answer came back, 6 out of 550.

8           Now the reason for that is that an appliance  
9 efficiency has never before been an issue. A builder is  
10 really ambivalent about using that as a basis for making  
11 a purchase. There are a number of factors that enter in,  
12 but efficiency has never been one of them.

13           When you point out to the builder that first,  
14 there is no direct tie-in between appliance efficiency and  
15 cost, and that secondly, by going to a higher efficiency  
16 appliance as part of meeting the standard, he may be able  
17 to have more flexibility in other parts of the design, then  
18 it becomes an item of interest, and you'll see a lot more  
19 emphasis in higher efficiency appliances, regardless of  
20 whether we have minimum efficiency appliances or not.

21           They're, by and large, a good trade-off for other  
22 things that builders would be less likely, or less apt to  
23 want to do.

24           In the retrofit market, speaking just in the  
25 residential area --

1           CHAIRMAN IMBRECHT: You're saying -- if I  
2 understand that correctly, then you're in effect saying that  
3 for the non-white good appliances, because of the building  
4 standards, we're going to have a full effect --

5           MR. RUBY: We're going to be going for -- yes,  
6 sir.

7           CHAIRMAN IMBRECHT: -- on appliance efficiencies  
8 because the market is going to change.

9           MR. RUBY: We'll be going for more efficient  
10 appliances because they're a good buy --

11          CHAIRMAN IMBRECHT: Almost sounds like endorsement  
12 of the building standards.

13          MR. RUBY: -- regardless of whether you have a  
14 minimum standard or not.

15          CHAIRMAN IMBRECHT: I see.

16          MR. RUBY: On the retrofit market, as it pertains  
17 to residential construction, I would question whether there  
18 are many consumers out there buying a new heat pump, buying  
19 a new air conditioning system. They're more apt to buy a  
20 new compressor, a new blower, some subcomponent of that  
21 system, and by and large, those systems are not controlled  
22 under your minimum appliance efficiency standards, so you're  
23 replacing pieces rather than systems in the residential  
24 market.

25          The final comment I would make is I think

1 California, Florida and perhaps one other state are  
2 considering going in for a waiver to the DOE no-standard  
3 standard, and it's my understanding that Florida has  
4 recently adopted the ASHRAE 90 concensus standard. They  
5 have set-back the seasonal energy efficiency requirement  
6 for air conditioning from 8 to 7.8 so that it would be in  
7 compliance with the ASHRAE 90 standard, and the effect has  
8 been negligible on the Florida studies of additional energy  
9 consumption by making that small concession to the national  
10 standard.

11 So, we are not opposed to appliance efficiency  
12 standards per se, but we're wondering if the concept of  
13 a single manual listing appliance efficiency standards has  
14 perhaps not outgrown its usefulness because of some later  
15 developments in both residential and nonresidential  
16 efficiency standards.

17 Thank you, sir.

18 CHAIRMAN IMBRECHT: Thank you very much. Questions?

19 COMMISSIONER COMMONS: I have one question.

20 CHAIRMAN IMBRECHT: Yes, Commissioner Commons.

21 COMMISSIONER COMMONS: Wouldn't the bill that is  
22 going through the Legislature now, which would delay our  
23 instituting new standards give time to the Department of  
24 Energy, and industry, and ASHRAE to develop national  
25 standards that are realistic? Isn't that sort of the attempt

1 here to --

2 MR. RUBY: Well, that's one of the bills that's  
3 going through, they're a variance on the theme, I believe  
4 it's the Russell bill and the Montoya bill that you have  
5 reference to. Both of them, with variations, would adopt  
6 the ASHRAE standards which are a national concensus standard.  
7 Does that answer your question, sir?

8 COMMISSIONER COMMONS: Yes.

9 CHAIRMAN IMBRECHT: Okay, fine. Thank you.

10 MR. RUBY: Thank you.

11 CHAIRMAN IMBRECHT: Mr. Sasnett representing  
12 General Electric.

13 COMMISSIONER SCHWEICKART: While he's coming up,  
14 Mr. Chairman, let me just comment briefly on Mr. Ruby's  
15 testimony. The one thing which Earl didn't mention is that  
16 the building standards assume, as the base in most climate  
17 zones, not all, the existing appliance standards as the  
18 minimum efficiency appliance, and then in several areas  
19 identify ways of gaining additional flexibility by going  
20 above that minimum standard, but the base is assumed within  
21 the building standards.

22 CHAIRMAN IMBRECHT: Thank you.

23 MR. SASNETT: My name is Russell M. Sasnett, I'm  
24 Manager of Regulatory Relations for the General Electric  
25 Company's Major Appliance Business Group in Louisville,

1 Kentucky. I appreciate the opportunity to comment on  
2 these proceedings this morning.

3 I would like to reiterate our support for, or  
4 to state our support for what Mr. Anderson said as a part  
5 of our trade association. However, I'd like to make a  
6 couple of comments beyond that relative to Commissioner  
7 Edson's discussion on data and supplying data.

8 Last year, in the BR IV draft report, a request  
9 was sent out to comment. General Electric did comment on  
10 BR IV, and provided, I thought, a fairly substantial  
11 analysis of energy savings relative to three particular  
12 products, refrigerator/freezers, room air conditioners, and  
13 central air conditioners.

14 Those analyses were provided at that time and  
15 subsequent to that were reported on at the Joint Committee  
16 on the State's Economy when the hearing was held in Los  
17 Angeles. I find nothing in the current report that indicates  
18 that those analyses were considered or rebutted in any  
19 manner; and I might indicate to you the orders of magnitude  
20 of differences we have with those.

21 For central air conditioners, the estimate of  
22 calculations, or the estimate of savings due to standards  
23 in the year 1985 in -- that's extracted from the current  
24 report is 515 gigawatt hours. General Electric's estimates,  
25 due to the standards for those products, was 40.9.

1           We did, however, indicate that a total savings  
2 due to improvements in efficiency in central air conditioners  
3 of 352.9 gigawatt-hours. So the 352 in total is not that  
4 far different from the estimate provided in the current  
5 report, but the amount due to the standards is significantly  
6 different.

7           On refrigerator/freezers -- I will give you just  
8 two more, and then I -- refrigerator/freezers, there was  
9 11.4 that we estimated versus 335 in the current report,  
10 but our estimate, due to the -- in the total was 372,  
11 actually more energy savings.

12           On room air conditioners, the picture changes  
13 somewhat. The current estimate is 65, our estimate is  
14 32.4, with a total of 42.4. So the standards are contributing  
15 more savings in the room air conditioner percentage-wise  
16 than the others. However, the standards are severely  
17 restricting the market, and that's the issue that Mr.  
18 Anderson brought up, and I think is one that we are greatly  
19 concerned about, the level of those standards and how  
20 restrictive they are.

21           There's one other point that I'd like to make  
22 relative to the calculations. This has to do with peak  
23 load, because the justification for these standards in the  
24 beginning had to do with peak load reduction, particularly  
25 room air conditioners.

1           The current report states that the savings in the  
2 10th year will be 907 megawatts due to room air conditioner  
3 standards, 907. My estimate is that if you turned on every  
4 room air conditioner in the State of California at the  
5 exact same time during the peak, you would have 1288  
6 megawatts. But all air conditioners don't run at the same  
7 time. As a matter of fact, a lot of utilities estimate a  
8 load factor on room air conditioners at around .4.

9           If you take these numbers and bring them down to  
10 a more realistic estimate, at least in our view, we're  
11 talking about somewhere around a 67 megawatt savings in that  
12 10th year as opposed to 907. That's an over an order of  
13 magnitude difference, and I think that that is a sufficiently  
14 serious challenge that we do need to have this workshop and  
15 discussion, and at least a consideration of the analyses  
16 that we've presented in the past, and to give us an answer  
17 as to why our analyses are improper, if they indeed can  
18 be shown. Thank you very much.

19           COMMISSIONER EDSON: I'd like to hear from the  
20 staff about why --

21           CHAIRMAN IMBRECHT: I would as well, because if  
22 there are specific documents that have been presented, I  
23 guess I would be curious as to why --

24           COMMISSIONER GANDARA: Let me -- if I might  
25 comment on this.

1 CHAIRMAN IMBRECHT: Sure, Commissioner Gandara.

2 COMMISSIONER GANDARA: Since I presided over the  
3 electricity forecast and was a member of the Biennial  
4 Report Committee -- during the time that we were holding  
5 those hearings, and was, in fact, several months after the  
6 issues had been raised on the appliance standards issue, I  
7 invited the appliance manufacturers, and I invited Mr.  
8 Clawson, who raised the issue as well, to appear before the  
9 forecast proceedings.

10 There was, in fact, at no time, during any time,  
11 during any hearing, or any part of either the electricity  
12 forecast, the Biennial Report proceedings, in which anybody  
13 from the appliance industry appeared, and that is to the  
14 best of my recollection, and it can be confirmed by anybody  
15 else's memories here.

16 I believe the gentleman here did submit, subsequent  
17 to the adoption of the electricity forecast, to the Office  
18 of Administrative Law, a detailed comments, taking issue  
19 with some of the electricity forecast findings. As you know,  
20 the Office of Administrative Law does not hold hearings.

21 The manufacturers have chosen to work through that  
22 area as opposed to bringing their issues before a forum  
23 where it can be adjudicated. So I'd like to provide that  
24 correction. Perhaps, I think it might not be a clear  
25 understanding of our process, but at that point in time, the

1 proceedings were terminated there.

2           Mr. Jaske who was the chief forecaster, in fact,  
3 the Committee did spend a considerable amount of time trying  
4 to ascertain how the staff dealt with this particular issue,  
5 and in a number occasions directed staff to do further work  
6 on this, and staff tried to be as responsive as they could  
7 within the limits of that, but I'll let Mr. Jaske speak  
8 for himself.

9           MR. JASKE: The principal time at which these  
10 issues were raised were in the technical issues -- principally  
11 in July of 1982, during conservation quantification hearings,  
12 three days of hearings specifically designed to elicit  
13 these kinds of issues, and there was no participation by  
14 members of the public, although proceedings were open and  
15 noticed.

16           Later in the year, the Committee made the decision  
17 as to which programs should meet the test of reasonably  
18 expected to occur, and those were then embodied in the  
19 preliminary electricity report, which was made available  
20 for public comment for a period of time. I'm not aware of  
21 comments at that time either.

22           MR. SASNETT: Mr. Chairman?

23           CHAIRMAN IMBRECHT: Yes? Let's try to get this  
24 resolved, because you've made, in your view, official  
25 presentations. I think that we do have an obligation to

1 respond to them.

2 MR. SASNETT: Yes, sir. I think that if you will  
3 check our filing, that we made it directly to the Energy  
4 Commission. I think it was made in a timely manner, due  
5 to the notice that was given, relative to the BR IV draft  
6 report review. It was filed prior to the deadline, and in  
7 that document, we did, indeed, point out these numbers that  
8 I just gave you and went through.

9 And yes, indeed, we have subsequent to that  
10 provided that same information to the Office of Administrative  
11 Law. I think that I'd like to comment relative to the  
12 current report.

13 I think this is a -- the report has finally  
14 addressed the issue that we've been after for quite some time  
15 to find out, what are the savings attributable to each  
16 product so that we can, indeed, have a dialogue of data and  
17 understanding of what is appropriate, because I do indeed  
18 believe that there is a considerable energy savings due to  
19 appliances, and appliance efficiency improvements, and I  
20 think that the debate is, is what's the cause of that  
21 improvement as opposed to whether or not there are savings.

22 I think that that's where we need to address these  
23 issues, and I think that the methodology and the analysis  
24 that I've provided perhaps deserve some further consideration,  
25 and I'd be happy to participate in a discussion on that.

1 I might also add that it's a long ways --

2 CHAIRMAN IMBRECHT: I'm confident that we'll  
3 accept your invitation.

4 MR. SASNETT: Pardon?

5 CHAIRMAN IMBRECHT: I'm confident we'll accept  
6 your invitation.

7 MR. SASNETT: I might remind you that it's a long  
8 way from Louisville, Kentucky to Sacramento, and it is  
9 costly in participating in all of these, and I was under --

10 COMMISSIONER EDSON: Perhaps we could go there.

11 (Laughter)

12 COMMISSIONER EDSON: I have relatives that live  
13 over there.

14 MR. SASNETT: Okay, well great. Thank you very  
15 much.

16 CHAIRMAN IMBRECHT: Let's see, when is the Derby  
17 held -- in May?

18 MR. SASNETT: The first Saturday in May, always  
19 the first Saturday.

20 (Laughter)

21 CHAIRMAN IMBRECHT: We'll probably want a  
22 resolution before May, but in any case -- anything further  
23 you'd like to add?

24 MR. SASNETT: No thank you.

25 CHAIRMAN IMBRECHT: Commissioner Commons?

1           COMMISSIONER COMMONS: Yes. Mr. Sasnett, this  
2 year I'll be the Presiding Member on the Forecast Committee,  
3 and it would be of great help to the Committee, I think  
4 also to the utilities in this state in trying to make our  
5 estimates in terms of conservation from energy savings, and  
6 from the improved efficiencies. So I would ask you and  
7 any other manufacturer, we will send out a formal request,  
8 but we will be going through that this year.

9           I'm a little confused by your testimony, and I'm  
10 trying to understand it. It seems outside of the area of  
11 the window air conditioning units where you have a disagree-  
12 ment with the standards that were adopted, because you feel  
13 that they are too severe, that in other areas, you do not  
14 seem to feel that the standards that this Commission has  
15 are having much impact on your company, because most of the  
16 efficiency gains are gained because of the industry and not  
17 the standards.

18           Now, would I interpret that to mean that you're  
19 not then in opposition to the standards that we have,  
20 outside of the one that you mentioned; and also, what has  
21 been your position as a company in terms of no-standard  
22 standards at the Department of Energy?

23           MR. SASNETT: First of all, from the position of  
24 each of the -- and the impact on General Electric with  
25 each of the standards, since I provided the information, we

1 provided the information back last year, we have subsequently  
2 sold our central air conditioning business, and so the  
3 comments that I would make now, the impact on that would not  
4 be appropriate, I think.

5           Relative to the room air conditioner business,  
6 we are severely impacted negatively by the standards. So  
7 far as the refrigerators and refrigerator/freezers, of  
8 course, we are, along with the rest of the industry, are  
9 not affected by them because we have surpassed them, and  
10 all of our models equal or exceed the California standards.

11           Now, to your second question relative to our  
12 position on this, General Electric has been, since the  
13 beginning of the program, in favor of the free market  
14 approach to this and believes that, indeed, our customers  
15 and the consumers will react to these issues, and are  
16 indeed reacting to them, and we do not feel the standards  
17 are needed.

18           CHAIRMAN IMBRECHT: Thank you. Any further  
19 questions?

20           COMMISSIONER SCHWEICKART: Yes.

21           CHAIRMAN IMBRECHT: Commissioner Schweickart?

22           COMMISSIONER SCHWEICKART: Mr. Sasnett, you just  
23 made reference to something which I'm interested in, namely,  
24 you've been harmed by these standards. Could you describe  
25 to me how you've been harmed by these standards? I presume --

1 has your market share decreased in California compared with  
2 others?

3 MR. SASNETT: Market share is -- I don't think  
4 would address the issue, Commissioner. I think that the  
5 sales, actual sales would be more appropriate, and yes,  
6 we've had considerable loss in sales since 1980 relative --

7 COMMISSIONER SCHWEICKART: And you attribute that  
8 to the standards?

9 MR. SASNETT: Yes, we do.

10 COMMISSIONER SCHWEICKART: How do you do that?  
11 How do you separate that from other obvious effects in the  
12 economy which have decreased everyone's sales? In fact,  
13 if your sales have not decreased relative to other  
14 manufacturers, do you claim that they have?

15 MR. SASNETT: I haven't addressed that issue, sir,  
16 and I'd prefer not to discuss the market share issue, because  
17 that's a very sensitive issue.

18 COMMISSIONER SCHWEICKART: So, then, in some  
19 sense you're claiming that you're speaking for industry,  
20 then, that the industry has been harmed rather than  
21 General Electric?

22 MR. SASNETT: No, I'm speaking to General Electric.  
23 General Electric has been harmed from the point of view  
24 of lost sales, and I made those calculations on the basis  
25 of looking at it relative to national sales.

1           CHAIRMAN IMBRECHT: So your suggestion is that  
2 you've -- your sales have declined more in California than  
3 elsewhere in the country?

4           MR. SASNETT: Correct, yes, sir.

5           COMMISSIONER SCHWEICKART: And is there any -- have  
6 you analyzed that data in terms of the level of -- the  
7 degree of saturation of air conditioning in California, or  
8 other factors which would clearly be relevant to such a  
9 conclusion?

10          MR. SASNETT: I think that the saturation of the  
11 productions, Commissioner, would not -- I think that would  
12 affect the industry situation.

13          COMMISSIONER SCHWEICKART: Yes, but that's why I  
14 asked you how your market share went.

15          MR. SASNETT: Well, I think that from -- if you  
16 look at the particular product categories that we have, and  
17 I think -- and we can go into a lot of detail on this and  
18 demonstrate to you that as you have a larger capacity room  
19 air conditioner, the efficiency levels are just not --  
20 you're not able to achieve those, and neither are a lot of  
21 other people, other manufacturers, and therefore, the sales  
22 of those products are just absolutely forbidden in many  
23 categories, and particularly the built-in units, they're  
24 just absolutely forbiddin in California.

25                 Over 13,000 Btu capacity of a package terminal

1 room air conditioner, you just can't sell, they just aren't  
2 available.

3 CHAIRMAN IMBRECHT: I think to address your  
4 concern, Commissioner Schweickart, if you were to compare  
5 what your sales have been in California vis-a-vis other  
6 states, that I think you could reasonably hypothesize, have  
7 similar saturation levels in perhaps Florida, Arizona, or  
8 the warm climate zones that have been dependent upon air  
9 conditioning, certainly, as the warm climate zones of  
10 California, that might be a more relevant comparison.

11 COMMISSIONER SCHWEICKART: It might be as long  
12 as we had some idea of what saturation levels were. I mean,  
13 intuitively, one would think that the Floridians are probably  
14 cooled themselves about as much as Californians, but I don't  
15 know that. I'd certainly appreciate seeing the data.

16 CHAIRMAN IMBRECHT: I would think more, it's damn  
17 uncomfortable there.

18 COMMISSIONER SCHWEICKART: Yeah, they don't have  
19 too many mountains there.

20 CHAIRMAN IMBRECHT: Yeah.

21 COMMISSIONER EDSON: I still have not heard the  
22 staff indicate why G.E.'s information was not addressed in  
23 this report. I understand why it wasn't incorporated in the  
24 Electricity Report.

25 MR. JASKE: Me?

1 MR. MATTHEWS: That's your question.

2 (Laughter)

3 COMMISSIONER GANDARA: Let me indicate, I was just  
4 given a copy of a communication from General Electric  
5 received at the Commission November 1st, and it says --  
6 by Mr. Sasnett. It says, "attached please find G.E.'s  
7 comments on the Committee Report on Electricity." Frankly,  
8 I don't remember whether we adopted the report on October  
9 15th, or September --

10 COMMISSIONER SCHWEICKART: It was like November 2nd,  
11 it was election day, or --

12 COMMISSIONER GANDARA: November 2nd. Okay.

13 COMMISSIONER SCHWEICKART: Something like that.

14 COMMISSIONER EDSON: So, I understand that it --

15 COMMISSIONER GANDARA: Okay. Well, in any case,  
16 Mr. Sasnett's comments that he provided comments on the  
17 Electricity Report before the proceedings closed is correct.

18 CHAIRMAN IMBRECHT: All right, then that makes  
19 the question of Commissioner Edson to staff continually  
20 relevant.

21 COMMISSIONER GANDARA: Yeah.

22 MR. JASKE: May I respond by saying that staff  
23 shares the concerns expressed by several of the witnesses  
24 here today, that there may indeed be a better set of savings  
25 associated solely with the standards as opposed to savings

1 induced by price and other factors, and it has been the  
2 intent of the staff to acquire better data, and improve its  
3 methodology for quantifying the standards.

4           As I explained earlier today, we have been  
5 proceeding down several lines trying to get raw data, real  
6 information upon which staff can do analysis. At the point  
7 we get such information, and have sufficient resources to  
8 analyze it, we may come to a different conclusion than are  
9 embodied in this report.

10           But I believe the report expresses several cautions  
11 about the numbers and describes weaknesses. So, the  
12 specifics of Mr. Sasnett's letter are being carried forward  
13 on all of the appliance categories, to the extent we have  
14 resources, and have information available to us.

15           COMMISSIONER GANDARA: Let me -- I just read the  
16 communication, and I do recall it, and as -- let me respond  
17 to it as to what my thinking was at the time. Mr. Sasnett --  
18 let me provide some background information.

19           At this point in time in the proceedings, you may  
20 recall that the staff, the Commission staff had taken a  
21 position different from that which the Committee had been  
22 recommending, and Mr. Sasnett quotes selectively from the  
23 series of Committee Reports, or Committee Orders that were  
24 sent out regarding -- there were three of those, one was on  
25 the conservation reasonably expected to occur, the other was

1 on how the other forecasting parties happened to have dealt  
2 with this particular issue as well.

3           In any case, I do recall now that Mr. -- that what  
4 the communication mainly did was to selectively take the  
5 Committee's orders to cast doubt on the staff's work, and  
6 thereby rebound them back on what the Committee's recommenda-  
7 tion had been.

8           The -- I do recall reviewing this particular  
9 submittal, and the direction in which the selective use of  
10 the quotes were being used was not, frankly, in conformance  
11 with the entire message of those orders. So that your  
12 comments were received, I did review them, they were  
13 considered, and they were not, however, at least in my  
14 judgment at that time, considered to essentially substantially  
15 effect the forecast proceedings, and in any case, your  
16 comments would have been directed not only at the staff  
17 forecast, but frankly at all the forecast submittals of  
18 all the utilities.

19           I think that that was a point that you omitted  
20 there. But that provides some background on this, and I  
21 do recall having reviewed this document now. I can say  
22 that, frankly, if I were to do it over again, I don't think  
23 I would have done anything differently. You know, that may  
24 be a question of judgment, and you may take issue with that,  
25 but in fact, your communication was not ignored, it did not

1 raise issues that would lead to any different kind of  
2 resolution that were under consideration at the time by the  
3 Committee.

4 CHAIRMAN IMBRECHT: Okay. I think we should move  
5 on in trying to conclude this item. Thank you, Mr. Sasnett.

6 MR. SASNETT: Thank you very much.

7 CHAIRMAN IMBRECHT: Mr. Eldon Clawson is next  
8 representing the Appliance Manufacturers.

9 COMMISSIONER SCHWEICKART: While Mr. Clawson is  
10 coming up, I'd like to get one factual thing, and perhaps  
11 Commissioner Gandara is in the best position at the moment  
12 to answer it.

13 Did the submittal from G.E. include a methodology  
14 for the separation, or just assertion as to the allocation  
15 between savings and market forces -- between standards and  
16 market forces.

17 COMMISSIONER GANDARA: It just had estimates,  
18 and conclusions, as you can see in the final -- on page 4.

19 COMMISSIONER SCHWEICKART: Essentially the bottom  
20 line, but not a presentation of methodology by which they  
21 were arrived at, or anything of that kind.

22 COMMISSIONER GANDARA: Yes. I just thought I'd  
23 mention that to take the staff off the hook here, because  
24 it was the Committee's Decision and orders, interim orders  
25 that were being used in terms of quotations for a criticism

1 of the staff. But as you may recall, the Committee did make  
2 constructive comment on the staff's proposal.

3 CHAIRMAN IMBRECHT: Commissioner Commons, briefly.

4 COMMISSIONER COMMONS: Yeah. Mr. Sasnett, I  
5 would appreciate very much getting the backup on the  
6 methodology for this year's so we don't have the same  
7 problem in the next proceeding.

8 MR. SASNETT: Yes.

9 CHAIRMAN IMBRECHT: All right, thank you.  
10 Mr. Clawson?

11 MR. CLAWSON: Chairman Imbrecht, and members of  
12 the Commission, my name is Eldon Clawson, and you will  
13 recall, I appeared during the public comment period in  
14 July, shortly after this report was issued, and my  
15 principal point was that I thought, as Mr. Anderson said,  
16 it only told half the story, and that there was a need for  
17 an evidentiary hearing, or some sort of proceeding where  
18 the industry would be given an opportunity to address the  
19 specific issues raised by this staff report.

20 I've been very pleased, personally, by the  
21 discussion this morning, because I think I recognize that  
22 the Commissioners have concluded that these issues need to  
23 be addressed in some kind of further proceeding where there  
24 will be an opportunity provided to the industry to come in  
25 and provide direct evidence with respect to what the staff,

1 Scott Matthews and Jaske have identified as the real issue,  
2 and it's the one we have been looking for an opportunity  
3 to address, and that is what is truly attributable to the  
4 standards, and what in conservation is a result of market  
5 forces.

6 I filed a petition with the Commission before most  
7 of you were Commissioners asking that those issues be  
8 addressed in a separate proceeding, and one of the things  
9 that has not been mentioned this morning which I think  
10 should be incorporated in this further proceeding or  
11 evidentiary hearing is the impact on -- or whether or not  
12 you are filing for a waiver would cause an undue burden  
13 to be placed on interstate commerce.

14 The staff report that's before you does not  
15 address that in any detail at all, and yet that's one of  
16 the issues, as Mr. Bles pointed out, that is involved under  
17 the federal statute. So, I'm going to follow the Chairman's  
18 request this morning, and limit my comments to say that  
19 I do believe now, it is clear, that before any action is  
20 taken on the proposed resolution, particularly with respect  
21 to an adoption of a resolution of the numbers that are in  
22 this proposed resolution that I picked up this morning, that  
23 there be a further proceeding or evidentiary hearing.

24 If I can just comment speaking strictly as a  
25 lawyer, there's been a discussion of the problems of trade

1 associations in providing aggregate data. If there's an  
2 evidentiary hearing, then you may very well have many, many  
3 responses, as DOE had some 1,800 from individuals, and as  
4 Commissioners, and the triers of the fact would then be in  
5 a position to reach a conclusion, even though the evidence  
6 is not perfect.

7           Commissioner Gandara and I have exchanged letters,  
8 he has -- and I have complimented him on his ability to  
9 analyze the type of evidence that would clearly define an  
10 issue and give an answer if it were available, and have had  
11 to explain to him my inability on behalf of the little  
12 group of Appliance Manufacturers that I've represented, to  
13 provide that kind of perfect evidence.

14           It's not a perfect world, but without an evidentiary  
15 hearing on a staff report such as this which only gives you  
16 half of the picture, you haven't given the appliance  
17 industry what it is entitled to under the Administrative  
18 Code, and that is a chance to rebut these figures.

19           The presentation by Scott Matthews and the others  
20 was a good analysis of how they went about their work, but  
21 it does not yet provide, and there's nothing in your docket,  
22 there's no opportunity yet been provided to us to rebut this,  
23 and to show the evidence that is available, imperfect  
24 though it may be.

25           CHAIRMAN IMBRECHT: Fine, thank you very much.

1 Commissioner Commons?

2           COMMISSIONER COMMONS: Mr. Clawson, one of the  
3 major parts of the resolution seems to be that which you're  
4 actually wanting us to do, where it states that the  
5 Commission staff is directed to continue analyzing the  
6 existing benefits, and to quantify those benefits, and is  
7 in line with the type of hearing that you're seeming to  
8 want, which I think a lot of us up here would like too.

9           MR. CLAWSON: My concern specifically -- the  
10 reason I was here in July, the reason I'm back here again  
11 today is that I don't think the Commission can act on the  
12 basis of this staff report to file -- to adopt a resolution  
13 to petition for a waiver. I think the staff report is not  
14 yet ready for adoption, and the Chairman has indicated this  
15 morning that apparently it's not proposed to adopt this as  
16 a staff report this morning.

17           The second step which was made --

18           CHAIRMAN IMBRECHT: To adopt the staff report as  
19 Commission findings.

20           MR. CLAWSON: That's right. And the second step,  
21 which was very clear from the notice that I received, which  
22 was mailed on July 21st was that this was to be the basis  
23 for a resolution to petition DOE. Now, the other suggestions  
24 and recommendations I have not disagreed with. In fact, I  
25 am very much in favor of a number of those recommendations

1 in terms of finding better ways and working with the staff.

2 But on the issue of whether the Commission will  
3 now act this morning, or sometime later to authorize the  
4 filing of a petition for a waiver, I think that's premature  
5 based on this staff report at this time.

6 CHAIRMAN IMBRECHT: Thank you very much, Mr.  
7 Clawson. Mr. Rick Oakley. The last witness, and we'll try  
8 to have a resolution of this matter.

9 MR. OAKLEY: Thank you, Mr. Chairman, I'll try  
10 to be very brief. Rick Oakley, I'm representing the  
11 California Manufacturers Association, and I've also been  
12 asked to speak on behalf of the Air Conditioning/Refrigeration  
13 Institute.

14 We have no position on the resolution itself, but  
15 we'd like to make a couple of comments addressing the staff  
16 report. We have been encouraged by recent meetings with the  
17 staff concerning issues such as alternatives to standards,  
18 and many of those recommendations are contained in the  
19 staff report.

20 We are looking forward to participating with the  
21 staff in a workshop to develop a necessary research  
22 methodology for the data collection relating to study  
23 regarding impact of standards on manufacturers contained in  
24 AB 191, Goggin.

25 Since we've only received the staff report in late

1 July, we simply have not had an adequate time to prepare a  
2 meaningful response to the report. It is important that  
3 new information resulting from meetings with the Commission  
4 staff and the industry be incorporated in the staff report.  
5 For these reasons, we urge the Commission, which I think  
6 you've already indicated, to postpone adoption of the staff  
7 report and refer the matter back to the staff for workshops  
8 with the industry.

9 We think that such a referral will result in the  
10 opportunity for a meaningful exchange between the staff and  
11 the industry, Commission and the industry, which will  
12 produce, we think, a potential for concensus, and a final  
13 document which both the Commission and the industry can  
14 stand behind. Thank you.

15 CHAIRMAN IMBRECHT: Thank you very much, Mr.  
16 Oakley. Any questions?

17 I'd like to address a couple of questions to staff  
18 and also to counsel. I'm not sure who would be appropriate.

19 First, when is it contemplated that the Department  
20 of Energy might adopt their no-standard standards?

21 MR. BLEES: For the last couple of months DOE  
22 has been informally estimating that they will issue the  
23 standards in the next couple of weeks. I honestly don't  
24 know. I think it is likely that we will see them sometime  
25 in September.

1           CHAIRMAN IMBRECHT: What time frame are we allowed  
2 for filing of a waiver once the adoption of the no-standard  
3 standards is announced by DOE?

4           MR. BLEES: 120 days after publication of DOE  
5 standards in the Federal Register.

6           CHAIRMAN IMBRECHT: Which is typically a few  
7 days subsequent to the formal adoption, is that correct?

8           MR. BLEES: That's correct, yes.

9           CHAIRMAN IMBRECHT: Is there any necessity for  
10 us to adopt this resolution today?

11          MR. BLEES: No.

12          CHAIRMAN IMBRECHT: Okay. Let me ask counsel,  
13 from your perspective, the record that has been generated  
14 in today's proceeding relative to the report, does that  
15 raise any potential infirmities as to our ability to  
16 present our case for a waiver before DOE in the sense that--  
17 any adequacy as to consideration of comments raised in  
18 reference to the report, despite the fact that we're not  
19 adopting the report, would there be an inference drawn I  
20 guess is the best way to raise this question, if the  
21 resolution was predicated upon the report.

22          MR. URBAN: I think whether we file a waiver  
23 petition really is as much a policy matter as anything else,  
24 so they wouldn't look at whether the report that we had, or  
25 the information we had, what the factual -- they wouldn't

1 look behind a decision now as a -- there would be a question,  
2 of course -- there are questions that have been raised that  
3 we'd obviously have to address within the DOE forum when  
4 our waiver petition is filed with the evidence that we'd  
5 present to them, and then when there's a response from the  
6 various industry groups, we're going to have to address a  
7 lot of the concerns that were raised.

8 But DOE -- it's inconceivable that they'd look  
9 behind the motion to see what the factual record we had, or  
10 for filing a waiver petition.

11 CHAIRMAN IMBRECHT: Okay, thank you.

12 Any other Commissioners have questions or comments  
13 they'd like to offer at this point in time?

14 COMMISSIONER GANDARA: If I might, let me just  
15 say that the Committee has in this year enjoyed perhaps a  
16 -- at least a communication that I don't think was there  
17 previously with respect to appliances, and that notwith-  
18 standing that, there are differences, and there are  
19 differences in points of view, and we're not going to  
20 resolve those today. It's unlikely we would resolve them  
21 next week, or next month, or even next year.

22 The petition that will be filed before DOE will  
23 contain, basically, the facts of our petition, the facts  
24 of the Commission's case. What the Commission chooses to  
25 put in that petition is, of course, open for some future

1 date.

2           The appropriate forum for some of the issues that  
3 have been raised is, in fact, the DOE forum. That's why  
4 they have the processes they do, that's why they will have  
5 the hearings. The questions of whether there is a burden  
6 on interstate commerce is something that is more appropriately  
7 in that forum, it also is not something we should disregard,  
8 however, and it is something that has been considered  
9 throughout the last year and a half when DOE was about to  
10 issue its no-standard standard.

11           I believe I came into the Commission in February  
12 or March of 1981, and we were expecting DOE to issue a  
13 no-standard standard in May of 1981. So since that time,  
14 we have basically, you know, been holding things in abeyance.  
15 We have basically had an opportunity to in fact be able to  
16 put together the various threads and pieces of the particular  
17 arguments that have been brought forth today.

18           I frankly don't see that from an analytical  
19 point of view, if, in fact, DOE were to issue its no-standard  
20 standard any time less than a year from now, that we would  
21 have any substantially better analytical support than we  
22 have now, and that is to say that frankly, the analytical  
23 work that has been done here by the Assessments Division,  
24 in my judgment, being familiar with this area, and this work,  
25 is probably the best work that's been done.

1           I think that given that, there is no necessity  
2 really not to wait. I think we need to relieve staff of  
3 the uncertainty over this issue. We need to begin the  
4 preparations. We've had, as I said before, General Counsel,  
5 Assessments Division, and other people poised since May of  
6 1981 to file this particular petition prepared, and I think  
7 that we're ready to do so now.

8           The indications are fairly clear. There is not  
9 a meeting of the minds on this issue, there will be  
10 differences, so from my point of view, I don't see any  
11 reason why we should not wait -- why we should not act  
12 today, rather.

13           So with that, let me just move that we adopt the  
14 resolution that's been presented for you today. You should  
15 have an amended resolution before you that takes into  
16 account at least some of the industry concerns and taking  
17 into account some of the Commissioner concerns that have  
18 been expressed to me.

19           There has been a modification made in the first,  
20 second, third, fourth, fifth "WHEREAS", that's been  
21 separated into where it now reads, "WHEREAS, the adopted  
22 standards are cost-effective," and I don't believe anybody  
23 has disputed that, and "WHEREAS, the staff report estimates  
24 that the standards will save" and so forth.

25           It basically moves away from the certainty that

1 has been asserted as beyond doubt to a staff report  
2 estimate because, indeed, that simply, from my point of  
3 view, is very strong, and unless anybody can come up with  
4 some better numbers, which would be fine if they do it,  
5 but basically, it also is responsive to at least some of  
6 the concerns that I have heard.

7 Other than that, the report -- I mean, the  
8 resolution remains the same. So that's my motion, Mr.  
9 Chairman.

10 CHAIRMAN IMBRECHT: All right, the motion is  
11 before us, is there a second?

12 COMMISSIONER SCHWEICKART: I'll second it.

13 CHAIRMAN IMBRECHT: It's been moved and seconded  
14 to adopt the resolution as presented in amended form to us.  
15 Is there discussion? Commissioner Commons?

16 COMMISSIONER COMMONS: I'm going to support the  
17 motion and I would like to give the reasons why. First, I  
18 think this Commission this year, in the area of appliance  
19 standards, has taken some very positive forward going steps  
20 in terms of supporting legislation which will remove the  
21 appliance standards on some 5 to 10,000 small businesses in  
22 this state.

23 Second, working towards a process which will make  
24 the standards more workable in terms of industry by having  
25 them for fixed periods of time, and moving in the direction

1 of encouraging the federal government to take positions  
2 that are more in accord with the cost-effectiveness to the  
3 consumer.

4 More importantly than that, though, is I've  
5 talked privately with home builders, with utilities, and  
6 with various businesses, and generally, in the home building  
7 industry, the builders are under a lot of competition, it's  
8 a very, very difficult market, and without having these  
9 types of standards, they would be under a lot of pressure  
10 to put in less efficient, lower cost standards, even though  
11 they recognize that it will hurt not only their sales,  
12 and cost the consumer more, but they'll sell less.

13 As we have less efficient energy standards on our  
14 appliances, when we go to the savings and loan, and we  
15 attempt to qualify for the loan, what happens is you add  
16 up the cost of the mortgage, plus the cost of the utility  
17 bills, and then look at the consumer financial capability.  
18 That's a very important bottom line in terms of the afford-  
19 ability or ability of a person to buy a home, and industry  
20 and the home building industry recognizes this, and they  
21 recognize that in the marketing of their homes that the  
22 appliance efficiency is not an important element in the  
23 consumers first choice and that the standards are having an  
24 effect.

25 The utility companies I've talked with, without

1 getting into if they're in support of a specific number on  
2 a specific standard, there's certainly reasonable agreements  
3 or disagreements as to what the standards ought to be on  
4 any one appliance, and that's not the issue before us today,  
5 have also indicated that they have generally been supportive.  
6 In fact, they've taken positive actions to encourage  
7 consumers to buy even more energy efficient appliances  
8 in the state.

9           Further, in listening to the testimony, and my  
10 action is not based on the information in the white paper,  
11 because I'll be honest with you, I haven't read it, but on  
12 the testimony that was presented today. I think there were  
13 two very important pieces of information.

14           One, outside of the refrigerator and freezer area  
15 where the standards are not having much impact, it appears,  
16 whether or not the standards have encouraged the industry  
17 in working with other states to at least get up to our  
18 minimum levels, or whether or not our standard is out of  
19 date is a separate issue.

20           But in a lot of areas, we have models that are  
21 not sold in this state, that are sold nationwide, so we  
22 have a prima facie case that the standards are having an  
23 impact on California.

24           Further, the testimony introduced by General  
25 Electric on the central air and room air conditioners gives

1 a quantification of this. If the estimated on central air  
2 conditioners was 391 out of 948 megawatts was brought about  
3 by the standards, and I would consider that substantial. In  
4 the room air conditioners, it was 93 out of 141. If there  
5 is such a difference, the issue that has been raised by  
6 industry as to whether or not the two standards are in line  
7 with each other, I think that's a real issue that's raised,  
8 but doesn't affect, I think, the issue before us as to  
9 whether or not this state should request preemption from  
10 the federal government standards of no-standard standards.

11 Because based on the evidence that's been presented  
12 here today, and there's been no evidence presented contra-  
13 dicting it, the standards are having significant, cost-  
14 effective energy impacts on California.

15 CHAIRMAN IMBRECHT: Thank you for the comments.  
16 Commissioner Schweickart?

17 COMMISSIONER SCHWEICKART: Yes, just a few brief  
18 comments. First of all, I think the staff should be  
19 commended for an attempt to shed some light on this issue  
20 which has been extremely controversial, and I think they  
21 have contributed to the level of the debate which will not  
22 resolve it, but will certainly inform it.

23 In fact, I consider that fundamentally the report,  
24 not to control my decision, or the Commission's action on  
25 this resolution, which I believe to be principally a policy

1 matter, but rather to inform our decision. I also would  
2 like to commend the industry for coming forward with the  
3 degree of data and information that they have, and I would  
4 encourage a continued joining of the issues which have been  
5 identified as the major areas of controversy. I think they  
6 have certainly been delineated well in the discussion today.

7           Nevertheless, I do consider this only to be a  
8 bit of information which I must consider along with many  
9 other factors. One of those factors, and a principal one  
10 for me is that the state does have standards. They were  
11 adopted by this Commission pursuant to law. They did  
12 account for, and in fact were based on cost-effectiveness.

13           One can always argue the judgments exercised in  
14 that, nevertheless, they were duly adopted by this Commission  
15 and pursuant to law. It is, therefore, in my view, an  
16 obligation on the part of the state to defend, in fact, its  
17 duly constituted laws and regulations, and it would seem to  
18 me, in fact, quite irresponsible were the Commission not to  
19 petition for a waiver from this preemption at the federal  
20 level.

21           Therefore, I find myself coming out in strong  
22 support for the recommendations within the resolution,  
23 though, frankly, I welcome further input from industry on  
24 the report, and I certainly come up a long way from being  
25 totally convinced by the analysis in the report as a final

1 analysis on this matter.

2 CHAIRMAN IMBRECHT: Commissioner Edson.

3 COMMISSIONER EDSON: Everyone is giving their  
4 lip, so I guess I can speak up to this.

5 CHAIRMAN IMBRECHT: Yes. I won't disappoint you.

6 COMMISSIONER EDSON: No, I concur that the  
7 Commission has a fundamental responsibility to defend its  
8 standards, and also I agree with several of the statements  
9 that the report is informative, but isn't the sole basis  
10 for a decision to move forward with a resolution that says  
11 that we will fight a no-standard standard at the federal  
12 level.

13 I just wanted to note that I think the whole  
14 question of how you attribute the savings from the standards  
15 program is an extraordinarily difficult one. It's  
16 certainly not resolved by this report, I mean, I don't think  
17 the staff suggests that it is, and I don't think the industry  
18 can suggest that based on what they've presented today that  
19 they have made the case that they have a better estimate  
20 of how those savings should be assigned.

21 It's an issue that we confront in all kinds of  
22 areas. The utilities have to try to decide how to  
23 attribute savings from ZIP versus RCS versus something --  
24 versus the tax credits. In our analysis of the tax credits,  
25 we have to try to decide how you attribute energy savings,

1 whether the tax credit is causing it, or price is causing it.  
2 There are very, very difficult questions, and until we have  
3 the kind of data that Dr. Jaske described, I think ultimately  
4 you're left either with an extraordinarily subjective  
5 assumption, or left as the staff concluded, simply having  
6 to assign all savings to the program that's being analyzed.

7 I think that I would encourage people to continue  
8 trying to join that issue as Commissioner Schweickart. I  
9 hope that in this area, where I think there is a potential  
10 for gathering data that could be quite useful in conducting  
11 that kind of analysis that we should continue to pursue it.  
12 In the final analysis, though, I think that in my mind  
13 there's no question that we should move forward with this  
14 resolution and continue to defend the state standards which  
15 I think are certainly saving considerable energy, whether  
16 or not as much as the staff analysis asserts or not is  
17 another matter.

18 CHAIRMAN IMBRECHT: For the record, I would like  
19 to note that Whirlpool represented by Mr. Andy Takacs,  
20 T-a-k-a-c-s, submitted a letter to me this morning along  
21 with written testimony, and we will adopt that by reference  
22 for purposes of the record. I believe that it basically  
23 raises the same points which have been raised in other  
24 testimony offered by representatives of the industry, and  
25 I'll provide that to the secretariat.

1           I said I wouldn't disappoint. One of the things  
2 that I long ago remember from law school was the whole  
3 question of a case or a controversy, and whether or not it's  
4 right to reach a decision, and I have to say that I was  
5 generally inclined to support the resolution when I came  
6 to the meeting today, and I'm not inclined to do so today.

7           Frankly, my view is that we do not have a ripe  
8 controversy, but rather that we should wait until the  
9 standards are adopted. We have roughly four months at that  
10 point to consider whether or not a resolution of this nature  
11 is, indeed, appropriate, and I think that would be the  
12 rational time for such an issue to be brought to us for our  
13 consideration.

14           I personally think that the foundation of the  
15 resolution would be much stronger if we were, indeed,  
16 adopting a staff report as the position of the Commission,  
17 and in effect, it said clearly what we believe as an  
18 official Commission position, savings are, that can be  
19 rationally attributed to the standards.

20           I understand Commissioner Schweickart's position  
21 relative to the fact that the standards were appropriately  
22 adopted according to law. I have no question in my mind  
23 about that, but I believe that the relevance of whether or  
24 not to file a waiver for what is at this point still a  
25 hypothetical federal action, but nevertheless a waiver that

1 we would expect from federal action, should be based not  
2 upon the facts as they existed, or we knew them to exist  
3 as a Commission, three, four, or five years ago, but rather,  
4 based upon the facts as they exist today.

5 I think that we have an obligation from a public  
6 perspective to be cognizant of change of circumstances, and  
7 as a consequence, I believe that we also have the responsi-  
8 bility to clearly put this issue, in effect, in the ball  
9 park of industry, to put the burden on the industry.

10 My personal preference today would be that we  
11 would notice an appropriate proceeding that allowed us to  
12 exercise our statutory responsibilities, also to require  
13 information from the industry that we believe necessary to  
14 make a rational and analytical judgment on the issue of  
15 whether or not the standards genuinely have the impact that  
16 we projected and are currently relying upon, and whether  
17 or not that justifies continuation of such a regulatory  
18 program.

19 I think that by putting the burden on the industry  
20 to in effect show up, or prove up their case, and to put  
21 up or shut up at that point as to whether or not they have  
22 had a forum, and an adequate hearing is a, from my  
23 perspective, more rational, and more reasonable process  
24 that's based upon, in effect, giving the interest an adequate  
25 day in court and an opportunity to ensure that their

1 concerns have been addressed, and ultimately, the decision  
2 by this Commission has been reached relative to their  
3 concerns.

4 I'm not comfortable with leaving this, and I  
5 again address the point raised by Commissioner Edson, to  
6 purely a subjective call. That's not satisfactory to me.

7 COMMISSIONER EDSON: And I would suggest this  
8 isn't a subjective call.

9 CHAIRMAN IMBRECHT: That this is not a subjective  
10 call?

11 COMMISSIONER EDSON: That's right.

12 CHAIRMAN IMBRECHT: Well, that's your own  
13 conclusion. I have to say that from my perspective, it is  
14 subjective at this point in time, and that we haven't  
15 received an adequate showing as to why some of the savings  
16 that have occurred in other nonregulated industry lines  
17 have occurred separate and distinct from savings that have  
18 occurred in those areas that are regulated.

19 Perhaps that is part of a record that existed  
20 in proceedings some time ago. I think I have an obligation  
21 to look at these matters independently, and to ensure that  
22 I'm comfortable with those conclusions. As a consequence,  
23 it's my intention to abstain on the motion today, and let's  
24 not -- and the reason for that is from my view, very clear,  
25 and that is that I am neither convinced that the standards

1 are ineffective, nor that they are as effective as  
2 represented. Absent an adequate forum in which those  
3 matters can be considered, I don't believe it would be  
4 appropriate for me to either take a position against  
5 supporting a waiver, because at some point in the future  
6 I may determine that it is totally justifiable to support  
7 such a waiver, and will join with the remainder of the  
8 Commission and advocate that all necessary resources be  
9 allocated to the Commission for that potential fight, which  
10 I would anticipate will be quite lengthy and costly.

11 But because of the fact that I don't believe  
12 we're at that point from the time frame, I think we would  
13 be much better off from a procedural standpoint to provide  
14 that forum, to adopt findings that we all have confidence  
15 in, and then determine whether or not a waiver is appropriate.

16 Secretary, would you please call the roll?

17 SECRETARY MATHIES: Commissioner Commons?

18 COMMISSIONER COMMONS: Aye.

19 SECRETARY MATHIES: Commissioner Edson?

20 COMMISSIONER EDSON: Aye.

21 SECRETARY MATHIES: Commissioner Schweickart?

22 COMMISSIONER SCHWEICKART: Aye.

23 SECRETARY MATHIES: Commissioner Gandara?

24 COMMISSIONER GANDARA: Aye. I'd like to make a  
25 few comments however. I do --

1 CHAIRMAN IMBRECHT: Excuse me, we're in the middle  
2 of a roll call, then I'll recognize you.

3 COMMISSIONER GANDARA: After?

4 CHAIRMAN IMBRECHT: Yes.

5 COMMISSIONER GANDARA: Okay, I appreciate it. Aye.

6 SECRETARY MATHIES: Chairman Imbrecht.

7 CHAIRMAN IMBRECHT: Abstain. Motion is carried  
8 four to nothing. Commissioner Gandara.

9 COMMISSIONER GANDARA: With respect to several  
10 comments that were made, I agree with Chairman Imbrecht on  
11 one area, and that is that our petition submittal should be  
12 based on the facts as they are today, and in fact, that is,  
13 indeed, what has been done with the petition that has been  
14 submitted.

15 The one petition which petitioned for a waiver on  
16 the IID's on kitchen ranges. As you know, the Commission  
17 had standards on both clothes dryers and the kitchen ranges,  
18 but the Commission reviewed the situation, and decided that  
19 it would not file the petition and include the clothes  
20 dryers, only the kitchen ranges, feeling that in fact, the  
21 penetration and saturation of that was sufficient.

22 On a second matter, I -- certainly what we're here  
23 for is to provide the forum for people to comment, but I  
24 would just say that over the past two years, that indeed,  
25 there should not be a suggestion that there has not been an

1 available forum for which the manufacturers or the trade  
2 associations can raise these issues. There have been  
3 numerous occasions in which many similar issues have been  
4 raised, and requests for data have been asked for.

5           Then let me also say that we have had four  
6 extensive forums, the Four biennial Reports and we are yet  
7 to have another one, and I think that indeed, then I think  
8 we should again invite the industry, and I only mention  
9 that because of -- certainly it takes more forums, or fori,  
10 that certainly we should proceed in that, but that at least  
11 the record thus, now, is not encouraging as to the degree  
12 of improvement that's going to come out of those particular  
13 proceedings.

14           CHAIRMAN IMBRECHT: Okay, thank you very much,  
15 Commissioner Gandara.

16           I believe that the other items that remain on the  
17 agenda are all going to require substantial discussion. We  
18 do have the necessity for a brief executive session, so  
19 I'm going to call a recess now until 1:30. The Commission  
20 will reconvene in executive session to consider personnel  
21 and litigation matters in my office in five minutes.

22           (Thereupon the morning session of the business  
23 meeting of the California Energy Resources Conservation and  
24 Development Commission was recessed for lunch at 12:43 p.m.)

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AFTERNOON SESSION

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2  
3 CHAIRMAN IMBRECHT: We'll call the meeting back to  
4 order. I'm getting tired of having to apologize for our  
5 long sessions. I should state for the record that the  
6 executive session was limited to two items of discussion,  
7 one relating to personnel matters and the other relating  
8 to potential litigation, and exclusively limited to those  
9 areas of discussion.

10 The third item on the agenda for consideration  
11 today is the petition of Nippondenso of Los Angeles for a  
12 rulemaking on appliance efficiency standards, and we have  
13 a variety of potential orders available to us for our  
14 adoption.

15 I would call first upon the representatives of  
16 Nippondenso to present their petition. Gentlemen?

17 MR. URBAN: Excuse me, before they do, I just  
18 want to make sure the Commissioners know which documents  
19 we now have before us in this matter.

20 CHAIRMAN IMBRECHT: Fine, thank you.

21 MR. URBAN: There is an order that was passed out  
22 today --

23 CHAIRMAN IMBRECHT: I'm sorry, I should have  
24 called on you for the procedural context.

25 MR. URBAN: Right -- that is a revised order

1 instituting hearings that is -- embodies the petitioner's  
2 request. It basically sets up a set of hearings to consider  
3 whether the rules should be changed, and also would  
4 authorize a Committee to make those changes and bring them  
5 back to the full Commission for final adoption.

6 CHAIRMAN IMBRECHT: That order has been --

7 MR. URBAN: That was passed out this morning.

8 CHAIRMAN IMBRECHT: This was the result of  
9 discussions between the petitioner and the --

10 MR. URBAN: And the legal office.

11 CHAIRMAN IMBRECHT: I don't think I saw a copy of  
12 that.

13 (Looking for documents.)

14 CHAIRMAN IMBRECHT: Thank you.

15 MR. URBAN: The other -- there had been earlier  
16 documents circulated. One was an order granting temporary  
17 relief. That has been withdrawn based on the petitioner's  
18 indication that that would not be availing to them. However,  
19 in the order instituting hearings, we do provide for  
20 temporary relief from enforcement until the Commission  
21 resolves which way it ultimately wants to go on the merits.

22 There is also an order denying the petition that  
23 was based on the staff report that was prepared on this  
24 matter, and just so that we're starting from a common point,  
25 our normal procedure on the orders on petitions is that if

1 there's -- we don't decide whether relief -- final rules  
2 should or should not be adopted, the issue is whether there's  
3 enough of an argument being made on both sides as to whether  
4 further hearings are necessary to decide the ultimate  
5 disposition of the matter. So that's basically the context  
6 for this matter, and we've agreed that the petitioner would  
7 go first, and the staff would then respond.

8 CHAIRMAN IMBRECHT: Fine. Would you please  
9 identify yourself.

10 MR. ISHIMATSU: Good afternoon, Mr. Chairman and  
11 members of the Commission. My name is Bruce Ishimatsu, I'm  
12 an attorney with the law firm of Mori and Ota in Los  
13 Angeles. I'm accompanied here today by representatives from  
14 my client, Nippondenso. To my right is Mr. Ken Mayeda  
15 who is a consultant with the company, and to my far right  
16 is Mr. Okazaki who is one of the technical people who is  
17 here, and has helped me prepare for this, and will respond  
18 in the event that there are questions that require information  
19 beyond my layperson's capacity at this point.

20 On behalf of the petitioner, we'd like to just  
21 summarize a couple of issues here, just to highlight them,  
22 and then respond in more detail, if required. We don't  
23 want to unduly tie up the Commission with this matter if it  
24 can be handled expeditiously.

25 Mr. Urban has accurately portrayed the posture of

1 this matter at this point, and the fact that the petitioner  
2 and the staff counsel have worked together on the proposed  
3 order that embodies the type of relief that we are requesting  
4 through this proceeding.

5 I'd like to just summarize two matters. One is  
6 the type of product that we have before us here, and then  
7 secondarily, a short summary about the reasons why we got  
8 where we are, as far as we can tell. Those reasons are  
9 relevant to the need for further proceedings in this matter,  
10 and that is the petitioner's position.

11 First of all, the product, I believe the  
12 Commissioners should have attached to, or been circulated  
13 at some point, a brochure that gives some visual impression  
14 and description of the spot cooling device that we have here.  
15 It is without a doubt an air conditioner, and we have been  
16 cast as the -- or characterized as a room air conditioner,  
17 subject to the room air conditioning efficiency standards.

18 The petitioner believes that that is an unfair  
19 characterization, or at least there is some dispute  
20 regarding the need for more appropriate standards, and  
21 testing procedures for this type of product. Historically,  
22 this product, I am told, is the only one of its type in  
23 the United States at this point.

24 It is a free-standing, portable air conditioner  
25 that is turned on and off as needed. It is used solely for

1 industrial use, it is not for sale, and not to be used for  
2 residential purposes. Its ultimate sales numbers would be  
3 limited. The client tells me that if it were permitted to  
4 sell, it anticipates somewhere in the neighborhood of 150  
5 units being sold in California. We think that is relatively  
6 insignificant as far as this product is concerned.

7           It was designed because there has been a growing  
8 need in factories, and in other commercial applications for  
9 a localized cooler. It seems that in many applications  
10 the central and typical room air conditioner does not serve  
11 the needs of an individual worker, for example, who happens  
12 to be located near a heat source in a warehouse, or on a  
13 loading dock.

14           The need arises when that one person, or one  
15 piece of machinery needs to be cooled, and the configuration  
16 of the room, or the fact that there is only one person  
17 working there, makes it somewhat wasteful to use a central  
18 air conditioning system that would cool the entire volume  
19 of that room, or escape through openings in the building  
20 when, in fact, you only want to cool one person. Up to this  
21 point, there hasn't been a device that could address that  
22 need.

23           Moreover, since this product does not cool the  
24 entire cubic volume of ambient air in a given space, it can  
25 be turned off and on as needed, and we believe that feature

1 also adds to the energy saving qualities of this spot  
2 cooling device.

3           Moving beyond that description, last year our --  
4 or the petitioner was contacted by the Energy Commission  
5 and told that they were selling an air conditioning unit  
6 that was technically a room air conditioner, and when it  
7 was tested, or then our client was requested to test it  
8 under the standard room air conditioning testing procedure  
9 that is available under the regulations, relying principally  
10 upon ASHRAE standards.

11           Our client was not sophisticated, and admittedly  
12 they made a mistake at that point. They proceeded with an  
13 application of conventional room air conditioning conditions  
14 and standards as called for by ASHRAE that frankly, this  
15 product would never be operated under, it was not designed  
16 to be operated under those conditions, and should not have  
17 been tested as such.

18           They proceeded to do that, came up with very low  
19 EER's and submitted their application for certification.  
20 Of course, it was denied.

21           We are here now trying to initiate proceedings  
22 that will allow us to have workshops, or hearings, or  
23 whatever is necessary to discuss between technical people,  
24 with the Commission, and with our company here, about the  
25 proper standards that should be applied for a product of

1 this kind.

2 I've passed out to counsel and to the Commissioners  
3 a three-page addition that we'd like considered in  
4 conjunction with our petition. The first page is just a  
5 description of some hypothetical conditions, and trying to  
6 draw distinctions between what it takes to run a room air  
7 conditioner, or central air conditioner versus a spot  
8 cooler under certain conditions.

9 The second page, which is a chart, is principally  
10 -- I'd like to direct the Commissioners attention to this,  
11 it's the second page, it's called Enclosure 1, it's color  
12 coded, and I won't go into detail about what these numbers  
13 mean. But conceptually, this is what happens.

14 The green dot that says, ASHRAE outdoor, is the  
15 point at which -- it represents certain conditions of  
16 temperature and humidity that are called for by the regula-  
17 tions for room air conditioners. Our company went ahead  
18 and applied those conditions to this product and tested it  
19 and came out with very unfavorable EER's.

20 The problem is, and they did not raise this at  
21 that time last year, the problem is, this product is  
22 designed to operate, as you see, at the upper level, which  
23 is called the ND, Nippondenso design target, that dot with  
24 the red circle around it. That represents temperature and  
25 humidity conditions that are only found in factory or

1 commercial situations. It's not found in the home, and it  
2 is at that point that this product is designed to operate.

3           When in fact operated at that level, it, in fact,  
4 exceeds the EER's that are set for room air conditioners  
5 as of this date. We wanted to bring this to the attention  
6 of the Commission because we think that this type of  
7 information merits additional investigation and discussion  
8 on this matter.

9           We think this illustrates the fact that this  
10 product is not designed for conventional room air conditioner  
11 use, never was, and will never be used for that. That the  
12 upper levels and upper limits of industrial use require a  
13 machine like this.

14           For example, if we were to take a room air  
15 conditioner that sits in the window of your bedroom and  
16 functions at the green level and below, and you were to  
17 try and use that same type of device in the upper levels,  
18 the pink levels, which are the industrial levels, it would  
19 either shut down immediately, or after a few minutes of  
20 running, or it would freeze up because of the overload.

21           By the same token, if you take our product which  
22 is in the pink, and you bring it down to the green, and try  
23 and run it in your bedroom at comfortable levels, it just --  
24 it won't be efficient, and isn't designed to be efficient  
25 at those levels and for that use.

1           In that pink area where Nippondenso has tried to  
2 address a need in the community for a heavy-duty high  
3 performance spot cooling device, the comparable air  
4 conditioning systems available today could not service that  
5 need and save as much energy as the Nippondenso Spot Cooler,  
6 and that takes us to the third page which is a small chart.

7           Again, I won't go into detail, this is merely  
8 by way of example. The example one at the top in the left-  
9 hand corner makes certain assumptions about a factory type  
10 scenario where there are about 70 workers, and there's  
11 200,000 square feet of space volume, et cetera, et cetera.

12           According to Mr. Okazaki, the energy requirements  
13 to cool this, the ambient air and the material in that type  
14 of warehouse would be about 11.9 million Btu's per -- is it  
15 watt hours? -- per hour, okay -- 1.19 million. I'm sorry.

16           If the object in a situation like that is to cool  
17 only the individual workers, 70 workers, and you really  
18 don't care what the temperature is at the top of the factory  
19 or in the back room because nobody is there, you can use  
20 one of the Nippondenso Spot Cooler models, and you would  
21 need about 35 of them for this application, but if you  
22 were to do that and cool 70 people, you would be using only  
23 52,500 Btu's -- I'm sorry, 525,000, which would be about 44  
24 percent of the requirements for the previous scenario.

25           Again, the purpose of this is to illustrate that

1 in real life, when you have one person, or 70 people, or  
2 whatever that need air conditioning, and you don't care about  
3 the masses of cubic air that surround the ceiling or  
4 wherever, then you can direct the spot cooler directly on  
5 to the person, shut it off when that person leaves, turn it  
6 on when they come back, and it doesn't run all night, so  
7 that it's comfortable when they walk in in the morning.  
8 We think that's an energy saving quality and characteristic  
9 of this device.

10           Similarly, the bottom example is if you wanted to  
11 cool a single piece of machinery, in this case a computer,  
12 based on this hypothetical situation, you would be using  
13 about half the energy to cool a computer room as opposed to  
14 using central air in this type of situation.

15           One of the items that has been dropped after  
16 being requested in the petition is the matter of retooling.  
17 I wanted to raise it only because it is a consideration, I  
18 think, in all of these appliance matters. The retooling  
19 issue, as far as we're concerned, is not a viable alternative,  
20 principally because to change the product to meet the  
21 ASHRAE standards would change the product from a commercial  
22 item to one that is more properly intended for the home.

23           CHAIRMAN IMBRECHT: Excuse me, if I can interrupt,  
24 perhaps we can move this along. I'd like to recognize  
25 Commissioner Edson for a motion.

1           COMMISSIONER EDSON: I'm prepared to make a motion  
2 to adopt the proposed order that's been prepared by the  
3 legal office.

4           CHAIRMAN IMBRECHT: Instituting hearing.

5           COMMISSIONER GANDARA: Second.

6           CHAIRMAN IMBRECHT: We have a motion and a second  
7 by Commissioners Edson and Gandara to adopt the order  
8 instituting hearing. I think perhaps we'll turn to our  
9 staff for any rejoinder they care to offer, and then we'll  
10 see if we can't move to a resolution.

11           (Laughter)

12           CHAIRMAN IMBRECHT: Have you counted?

13           MR. GAUGER: Yeah, I'm trying to decide whether  
14 recounter is necessary. I think looking at Enclosure 2, the  
15 staff has no qualms about --

16           CHAIRMAN IMBRECHT: Speaking is Bart Gauger from  
17 the Conservation Division.

18           MR. GAUGER: I'm sorry. We have no qualms about  
19 conceding that the spot cooler has a place and purpose, and  
20 that central air conditioning is not in any way competing  
21 with this. The real question the staff has is does, in fact,  
22 this piece of equipment operate at different temperatures,  
23 and -- because if it does operate in different temperatures  
24 should it have a different standard.

25           It clearly falls within the existing definition for

1 room air conditioners. If it has different criteria, we  
2 should either exempt it or change the regulation, and I  
3 guess that would lead us to the conclusion that the hearings  
4 would be in order to make that decision.

5 COMMISSIONER EDSON: As I understand the order,  
6 let me make sure I understand it correctly, we are granting  
7 the petition, and we are staying any enforcement pending  
8 either a decision by the Commission that enforcement should  
9 begin, or a change in the regulations that would --

10 MR. ISHIMATSU: That's our understanding.

11 CHAIRMAN IMBRECHT: That's right. There are a  
12 number of options. We can either exempt this product  
13 entirely from the standards, we can change our testing  
14 procedures to accommodate different testing for this  
15 particular type of product or class of products, or we can  
16 deny either of those forms of relief, and require compliance  
17 with the standards, in which case the product would have to  
18 be redesigned or not marketed in California. I think those  
19 are --

20 COMMISSIONER EDSON: And the reason I went with  
21 the petition is that I think that it -- I've been convinced  
22 that we should not begin enforcement of the current regula-  
23 tion pending acquiring the additional information we need  
24 to know whether or not we can devise a more appropriate  
25 test for this particular product, or whether -- before

1 determining whether there is some appropriate change in  
2 the regulation.

3 MR. GAUGER: If I might, I think that it's clear  
4 that the staff needs direction if we're not to enforce,  
5 because we're here today because of an enforcement action,  
6 and still, our belief --

7 CHAIRMAN IMBRECHT: Well, this order stays  
8 enforcement.

9 MR. GAUGER: Right.

10 CHAIRMAN IMBRECHT: So upon adoption by the  
11 Commission, that's as clear a direction as you can hope for.  
12 Is there objection to adoption?

13 COMMISSIONER SCHWEICKART: I would like just to  
14 make a brief comment. I think in some sense getting into  
15 the issue, it seems to me there would have to be a showing  
16 made before the Commission that one cannot take a room air  
17 conditioner, put wheels on it, put a couple of cute white  
18 ducts out in front, and call it whatever we call this, a  
19 portable spot cooler.

20 I mean, fundamentally, it would appear from the  
21 systems point of view to be a room air conditioner, albeit  
22 with wheels, and a couple of delivery hoses, so that I  
23 believe within the process, we're going to have to find  
24 something fairly definitive which says this is in some  
25 different category.

1 MR. GAUGER: It may take some very creative  
2 defintion.

3 COMMISSIONER SCHWEICKART: Well, I'm concerned  
4 about one putting wheels on an air conditioner, and calling  
5 this also a spot cooler and --

6 MR. GAUGER: Our original assumption was what's  
7 happened, and I think they've raised some issues.

8 COMMISSIONER SCHWEICKART: Nevertheless, I concur  
9 and will support the motion on the grounds that I think  
10 opportunity to present evidence on this is justified.

11 CHAIRMAN IMBRECHT: Okay, without objection, we  
12 will adopt the order. Gentlemen, thank you very much, and  
13 we'll inform you as to the appropriate further proceedings  
14 on the matter.

15 MR. ISHIMATSU: Thank you.

16 CHAIRMAN IMBRECHT: The next item on the agenda  
17 is consideration of a petition for rulemaking from Charles  
18 Eley, the California Council American Institute of Architects  
19 to amend the space conditioning and water heating budgets  
20 for the residential building standards. Mr. Gauger, this  
21 is your item again.

22 MR. GAUGER: Yes. Commissioners, this is a  
23 petition by Mr. Eley to make some revisions to the residential  
24 building standards. They are issues that were at various  
25 times raised in recent proceedings, and he was advised to

1 bring his concerns before the Commission in the form of a  
2 petition.

3           The staff has looked at the items he's recommending  
4 for change. We believe there are -- although we're not 100  
5 percent convinced that the changes need to be made, we  
6 think there are some issues here that need to be heard. We  
7 recommend that the Commission adopt this petition and  
8 issue an order which would be at some point in the future  
9 so that the hearings could be held and incorporated into  
10 the cycle which would lead to the Building Standards  
11 Commission's annual update.

12           We would also propose that at various times, there  
13 will be other petitions submitted which could be incorporated  
14 into that same --

15           CHAIRMAN IMBRECHT: Fine, I'm familiar with the  
16 proposal. Is this concurred in by the Committee?

17           COMMISSIONER SCHWEICKART: Yes. But let me just  
18 add, first of all, I'll move the OIH prepared for this item.  
19 Let me further indicate in so moving that -- and I believe  
20 it has been distributed to other Commissioners, the  
21 Committee will be bringing forward to the Commission a  
22 recommendation for regularizing the updating process on the  
23 regulations.

24           We are essentially anticipating an annual process  
25 which should, ideally, fit with the Building Standards

1 Commission annual update of Title 24. I have written to  
2 Secretary Chilton advising her of our intention to so  
3 regularize the Commission's process, and seeking any  
4 guidance she has on the annual date for the Title 24 updates.

5 This would fit directly into that, and absent  
6 anything further, I think the April date is appropriate if  
7 we assume that the Building Standards Commission will  
8 respect the January publication date anticipated in their  
9 enabling statutes. It is possible, and we would bring back  
10 to the Commission if the Building Standards Commission  
11 decides to shift that annual date, we would perhaps bring  
12 back an amendment to this OIH to be consistent with that,  
13 and to serve Mr. Eley and others in a timely way.

14 CHAIRMAN IMBRECHT: I noted that in the staff  
15 report, the positive change, and we have a motion by  
16 Commissioner Schweickart, seconded by Commissioner Gandara  
17 to adopt the petition for rulemaking under Item 4. Is  
18 there objection to the motion? Hearing none, that will be  
19 the order, thank you very much.

20 (Agenda Item No. 5 under separate cover.)

21 CHAIRMAN IMBRECHT: It appears to me we have one  
22 item left that's going to take a substantial amount of time.  
23 Why don't we try to clear off the rest of the agenda very  
24 quickly and then go to the contingency plan.

25 Item 8 is a contract with the League of Cities to

1 provide partial support for continuance of the "Energy  
2 Currents" insert of the Western City magazine. I think  
3 we're all probably familiar with it.

4 COMMISSIONER SCHWEICKART: I'll move the contract.

5 COMMISSIONER COMMONS: Second.

6 CHAIRMAN IMBRECHT: Motion and a second, is there  
7 objection to a unanimous roll call? Hearing none, that will  
8 be the order.

9 Item 9 is Commission approval for Ultrasystems to  
10 assign its interest in the contract of the joint venture  
11 with Ultrapower Energy Resources and Pacific Energy Resources  
12 known as Ultrapower I.

13 COMMISSIONER COMMONS: Move.

14 CHAIRMAN IMBRECHT: Motion. I'll second. Is  
15 there anyone who wishes to be heard on Item No. 9? Any  
16 objection to the assignment? Is there objection to a  
17 unanimous roll call? Hearing none, that will be the order.

18 The Consent Calendar, I'm advised that one of the  
19 items we have some question about, Item 10 Sub (2), which  
20 is an exemption from the residential building standards for  
21 R&J Futuristic Company, La Salle Heights. Commissioner  
22 Commons.

23 COMMISSIONER COMMONS: I understand that on page  
24 3, Item 5, that that is no longer being requested as an  
25 exemption?

1 COMMISSIONER EDSON: I don't have a page 3, Item 5  
2 on this. Are you on Futuristic or on --

3 CHAIRMAN IMBRECHT: Yeah, Futuristic.

4 (Pause)

5 COMMISSIONER COMMONS: Item 5, page 3.

6 CHAIRMAN IMBRECHT: Item 5, page 3. So your  
7 question is has the exemption from an R-12 insulation jacket  
8 on water heaters been dropped from the proposed exemption,  
9 is that your question? Staff? Question is whether or not  
10 the proposed exemption from the insulation jacket on the  
11 water heater has been dropped from the proposed exemption.

12 MR. CHANDLEY: Okay. The staff recommendation was  
13 that there be no exemption from the R-12 insulation require-  
14 ment. The proposed decision that you have in front of you  
15 also accepts that recommendation. In discussing this matter  
16 with the developer, he has agreed to accept that judgment,  
17 and will therefore --

18 CHAIRMAN IMBRECHT: There be no exemption.

19 MR. CHANDLEY: -- install R-12.

20 CHAIRMAN IMBRECHT: Okay, fine.

21 COMMISSIONER COMMONS: With that change, I have  
22 no objections.

23 CHAIRMAN IMBRECHT: All right, fine. Can I have  
24 a motion on the consent calendar?

25 COMMISSIONER SCHWEICKART: Moved.

1 CHAIRMAN IMBRECHT: Moved by Commissioner  
2 Schweickart.

3 COMMISSIONER EDSON: We're talking about 10 b  
4 now and not 10 a.

5 MR. CHANDLEY: Yes, 10 b, not a.

6 CHAIRMAN IMBRECHT: Well, 10 a, I didn't hear any  
7 objections to 10 a.

8 COMMISSIONER EDSON: Well, I think people are  
9 here to speak --

10 MR. GAUGER: I think there is an objection that  
11 maybe just speak --

12 CHAIRMAN IMBRECHT: Okay, fine. Let's turn to 10 a  
13 then. Any objection from whom?

14 MR. RAYMER: I'm Bob Raymer with the California  
15 Building Industry Association. This speaks to the number 1,  
16 right now you were speaking to the R&J and I wanted to  
17 speak to Proland Homes.

18 CHAIRMAN IMBRECHT: Fine. Go ahead and speak to  
19 Proland.

20 MR. RAYMER: Okay.

21 COMMISSIONER GANDARA: Mr. Chairman, I just want  
22 to know, I have a 10A1 and a 10A2 in my consent calendar.  
23 There's reference made to a 10 b. Am I missing something?

24 CHAIRMAN IMBRECHT: No. We're now on 10A1. I  
25 think we resolved the questions on 10A2, so now we're

1 considering 10A1 and apparently there is an objection.

2 COMMISSIONER GANDARA: Fine.

3 MR. RAYMER: Okay. The staff recommendations speak  
4 to both Pineview I and Pineview II developments, and although  
5 it's a continual building process, there won't be any time  
6 lap between the end of Pineview I and the beginning of  
7 Pineview II, Pineview II isn't set to begin for another  
8 8 to 10 weeks.

9 Okay. Right now there are buildings in Pineview  
10 I that are half completed, waiting for resolution of this  
11 exemption process, so the building officials can be  
12 satisfied as to what compliance is going to be. A problem  
13 that we've got, and we have let staff know is that there is  
14 a six to eight week backlog on dual glazing.

15 Now, this is out of the City of Martinez. I've  
16 since called Craig Prouty who is the owner, agent for this  
17 project. He's indicated that he did seek other manufacturers  
18 and that Like-It Window Manufacturers can get him the best  
19 deal, the best time, and it will be a six to eight week  
20 delay.

21 Now the problem that this sets is that he already  
22 has his single glazing products bought. They're on-site,  
23 ready to go in, the same with his R-11. Now, with his  
24 Pineview II development, the staff recommendations are fine.  
25 He has plenty of time to get his order of double glazing in,

1 to get his order of R-13 in, he can go ahead and put these  
2 in, it doesn't require a change in design. But he has  
3 already got these items bought for Pineview I. If we were  
4 to switch to double glazing in other than the custom  
5 buildings, the custom windows, it will cause a delay and  
6 the buildings will sit there, and consequently the whole  
7 sequence of events is going to be offset.

8 Now this in turn is going to cause him more  
9 financial damage in terms of the interest. He's going to  
10 have to pay the 13 percent on \$500,000 for six to eight  
11 weeks. It's the delay that is our concern, though, and --

12 CHAIRMAN IMBRECHT: What's he going to do with  
13 the single pane windows?

14 MR. RAYMER: Okay. The single pane windows --

15 CHAIRMAN IMBRECHT: Is that another loss for him,  
16 or --

17 MR. RAYMER: Well, that's a loss for him, but the  
18 fact is that it is going to cause a delay in that -- what  
19 it gets down to is --

20 CHAIRMAN IMBRECHT: Just helping you make your  
21 case, that's all.

22 MR. RAYMER: Fine. What we --

23 COMMISSIONER COMMONS: Is he on notice that we  
24 had not granted an exemption and left the rules for him --  
25 did he go out and purchase this knowing these standards were

1 in effect?

2 MR. RAYMER: No, this project has been going on  
3 for quite some time.

4 COMMISSIONER COMMONS: When did he buy this  
5 material, was it before or after the standards were adopted?

6 MR. RAYMER: Well, the standards were adopted a  
7 year and a half ago, or a year ago.

8 COMMISSIONER COMMONS: So wasn't he aware that  
9 the standard required this?

10 MR. RAYMER: He was under the 1843 exemption.

11 COMMISSIONER COMMONS: Did he buy these materials  
12 before the 1843 exemption went out?

13 MR. RAYMER: Yes, I would imagine so, I couldn't  
14 answer to that.

15 MR. GAUGER: I guess one thing that's not clear  
16 to staff is you indicated some of these buildings are ready  
17 for windows, which we would assume means they have a building  
18 permit, in which case they aren't looking for an exemption.  
19 So -- and you've said that he's agreed to put double paning  
20 in the Pineview II project.

21 It's not clear how many buildings, and what status  
22 exists in the last of Pineview I.

23 MR. RAYMER: We're speaking only to 12 buildings.  
24 That's all that is left of Pineview I.

25 MR. GAUGER: And they haven't gotten building

1 permits for those?

2 MR. RAYMER: Yes, they have building permits.  
3 It's a sequence part -- we're talking about inspection, and  
4 the building inspectors will not let them go forward until  
5 they know what they have to build to, and the question that  
6 is remaining in their minds is wall insulation and window  
7 glazing.

8 CHAIRMAN IMBRECHT: He pulled his permits prior  
9 to the expiration of 1843, there's no issue.

10 COMMISSIONER SCHWEICKART: He's got his building  
11 permits.

12 MR. RAYMER: These are after the expiration of  
13 1843. Okay, this --

14 COMMISSIONER EDSON: So that suggests that he  
15 pulled the permits after the standards were clearly in  
16 effect, and also made these purchases after the standards  
17 were clearly in effect.

18 CHAIRMAN IMBRECHT: Right.

19 MR. RAYMER: He started this process well over  
20 60 days ago. I think this is where the problem lies. Okay.  
21 In conversation with his building officials, they expected  
22 this to all be resolved quite some time ago. It's now gone  
23 a couple of weeks over that 60 day time period, which is  
24 not really the question.

25 The problem is Energy Commission staff had taken a

1 few vacations and whatnot, and this has gone on over that,  
2 and the building officials problems weren't answered. So  
3 this man, in essence, had a project which would could have  
4 been approved, but can't now, and the building officials are  
5 not going to go forward until they find out what the  
6 Commission says is legally approved. He's caught in a  
7 bureaucratic --

8 CHAIRMAN IMBRECHT: I have to say, your explanation  
9 doesn't make a lot of sense to me. If he's got building  
10 permits, and they were pulled prior to the expiration of  
11 1843, there's no issue, that's clear.

12 MR. RAYMER: No, they were not, and that is why --

13 CHAIRMAN IMBRECHT: They were pulled after the  
14 expiration of 1843, in which case they were pulled with  
15 full knowledge that the standards were --

16 MR. RAYMER: They were pulled after 1843, but  
17 not with full knowledge, and that is, of course, his problem.

18 COMMISSIONER COMMONS: One of the dangers I think  
19 we as a Commission have in terms of granting exemptions for  
20 one builder or another is we're not giving fair treatment  
21 to everybody in the same manner. So those persons who are  
22 able to come here, I think we have to be very, very cautious  
23 in terms of treating everyone the same way.

24 Otherwise we can get a reputation that you can come  
25 up here and you can do something your way, which helps the

1 big guy and hurts the little guy.

2 MR. RAYMER: Okay. Staff had resolved that the  
3 substantial funds had been committed prior to the adoption  
4 of the standards.

5 CHAIRMAN IMBRECHT: Let me ask a question. How  
6 did this get on consent if the applicant hadn't agreed?

7 MR. GAUGER: This is an issue that we weren't  
8 aware of until late yesterday.

9 CHAIRMAN IMBRECHT: Did he contact you, the  
10 applicant, or he's been through the CBIA?

11 MR. CHANDLEY: I think I can give you some of the  
12 history. Matters are put on consent simply because the  
13 regulations direct that they be put there. It's as simple  
14 as that. Regulations say that all staff recommendations  
15 should go on consent, and it doesn't say, only if everything  
16 is resolved, it says all will go on consent.

17 CHAIRMAN IMBRECHT: Is that right? What was the  
18 premise of that?

19 MR. CHANDLEY: Let me get beyond a procedural  
20 issue. I think what's happened here, my understanding of  
21 this, is that the claimant had an ongoing project, and he  
22 had a building official waiting around for a resolution of  
23 the claim of exemption which apparently was stuck in this  
24 Commission.

25 On an expectation that an exemption would be

1 approved by this Commission for certain kinds of things,  
2 an expectation probably created by the kinds of exemptions  
3 that we had already granted in the last two months, building  
4 permits were issued for a number of units, remaining units,  
5 in the first phase of this project, Pineview I.

6           Subject to the possibility that he might have to  
7 go back and retrofit those units. The units in Pineview II  
8 have not been applied for yet, and they will, of course,  
9 comply with whatever decisions we have here.

10           So the question that you have before you is  
11 whether you are going to impose the same kind of condition  
12 on the project, phase 2 of the project that you would --  
13 you want to impose the same kind of requirements in phase  
14 1 that you would on phase 2. With respect to phase 2, he  
15 has in essence agreed to carry out the staff's recommendation,  
16 that is, install double glazing throughout, as I understand  
17 it, on the grounds that there is no reason to ask for an  
18 exemption. He can get the materials, and there is no  
19 backlog in orders.

20           With respect to unit 1 or phase 1, he can still  
21 raise the legitimate issue, notwithstanding what I regard  
22 as the improper behavior of the building official in granting  
23 these permits and allowing construction to go ahead. His  
24 argument is that even if he had not gone ahead, since these  
25 were scheduled for immediate construction, as soon as the

1 permits were issued, and those permits would be issued  
2 immediately upon our decision, he would still be faced with  
3 the backlog for those materials which would delay those  
4 projects from six to eight weeks.

5           That is the basis on which if you chose to exercise  
6 your discretion in that manner, you could grant an exemption  
7 for the double glazing requirements for the remaining units  
8 in phase 1, but still require double glazing in phase 2.

9           Now all of these matters about the level of  
10 compliance, the agreement, the availability of windows for  
11 one phase as opposed to another phase, all of these came to  
12 light yesterday, and in fact, some of them this morning.  
13 So if we had had this much difficulty, we obviously would  
14 not have put it on the agenda, but at the time, we thought  
15 we were going to have all of this resolved well in advance.

16           MR. RAYMER: However, since it is an ongoing  
17 project over the past several years, it does meet the  
18 criteria of the exemption. Okay, what we were doing was--

19           CHAIRMAN IMBRECHT: We're talking about 12 units  
20 only?

21           MR. RAYMER: Yes, 12 units only, the remaining  
22 part of Pineview I.

23           CHAIRMAN IMBRECHT: Well, what's the pleasure of  
24 the Commission?

25           COMMISSIONER EDSON: I move the staff's

1 recommendation.

2 CHAIRMAN IMBRECHT: Is that Mr. Chandley's  
3 recommendation, or I guess it --

4 COMMISSIONER EDSON: The order that we have before  
5 us.

6 CHAIRMAN IMBRECHT: The order before us.

7 COMMISSIONER EDSON: Which means the 12 units are  
8 exempted from the dual glazing requirement.

9 MR. RAYMER: That is not before you, though.

10 CHAIRMAN IMBRECHT: That's not before us?

11 COMMISSIONER EDSON: That's not before us? Excuse  
12 me, then, I retract it. I misunderstood.

13 MR. CHANDLEY: Commissioner Edson, if I may  
14 address that --

15 CHAIRMAN IMBRECHT: I'm inclined to grant the  
16 exemption for the 12 units as well.

17 COMMISSIONER SCHWEICKART: I'm inclined to ask  
18 the staff, who I believe has some responsibility here for  
19 consistency, in fact, they're the primary keepers in  
20 consistency, since this is basically a staff authority in  
21 terms of recommending these exemptions, what would be  
22 consistent with the practice you had in dealing with these  
23 exemptions?

24 I value Commissioner Commons' comment fairly highly  
25 and frankly, I could go one way or the other, but I think

1 it's important that we maintain as much consistency as we  
2 can. Is there a staff recommendation on how to deal with  
3 this? Has this come up?

4 MR. GAUGER: The staff's recommendation would have  
5 been for double pane windows in all of the houses for which  
6 building permits have not been granted.

7 COMMISSIONER SCHWEICKART: Well, that sounds fine.

8 COMMISSIONER EDSON: But that sounds like it  
9 exempts the 12 units because they have building permits.

10 MR. GAUGER: Well, apparently there are some  
11 conditional building permits floating around, and I don't  
12 understand how you do that.

13 COMMISSIONER EDSON: Yeah, I mean, that's the  
14 confusion.

15 CHAIRMAN IMBRECHT: Well, to some extent it  
16 sounds as if --

17 MR. GAUGER: We -- pardon me. We did try and --

18 CHAIRMAN IMBRECHT: We're trying to remedy an  
19 error made by another public official, that's --

20 MR. GAUGER: There may be some other issues, but  
21 we did try and call around to some glass manufacturers this  
22 morning, and get a feel for what delays, what exists. We  
23 found at least one guy who said he could furnish a 60 house  
24 tract and have it loaded and on the truck in five days.

25 You know, I'm not presumptuous enough to say, we

1 can tell him who to get his materials from. Indications  
2 from several glass manufacturers were that the stock of  
3 single and double panes runs about the same delivery time.

4 CHAIRMAN IMBRECHT: Commissioner Commons?

5 COMMISSIONER COMMONS: I'd like to move the staff  
6 recommendation with the -- plus the exemption on the 12  
7 units on the double pane.

8 CHAIRMAN IMBRECHT: Which is in essence what  
9 Commissioner Edson moved as well, as I understand it.

10 MR. RAYMER: May I make a comment, please?

11 CHAIRMAN IMBRECHT: Well, I don't think you need  
12 to if you're going to get the action you want.

13 (Laughter)

14 CHAIRMAN IMBRECHT: There's an old rule in law  
15 school that when you've got the trier of fact on your side,  
16 shut up.

17 (Laughter)

18 CHAIRMAN IMBRECHT: So, is there a second to the  
19 motion?

20 COMMISSIONER EDSON: I have a question for  
21 Commissioner Commons.

22 CHAIRMAN IMBRECHT: I will second the motion  
23 and put it properly before us. Commissioner Edson.

24 COMMISSIONER EDSON: How are you dealing with the  
25 R-13 wall insulation requirement on the 12 homes? Are you

1 exempting that as well?

2 MR. RAYMER: That too is a problem for him.

3 COMMISSIONER EDSON: I understand that, I am  
4 asking Commissioner Commons what his motion encompasses.

5 COMMISSIONER COMMONS: The wish of the Commission.  
6 Yes, I'll include that.

7 CHAIRMAN IMBRECHT: Okay. The motion is before  
8 us. Is there objection to a unanimous roll call? Hearing  
9 none, that will be the order.

10 Okay. Without objection, we'll approve the  
11 minutes, Item 11.

12 We'll turn to reports later.

13 (Agenda Item No. 6 under separate cover.)

14 CHAIRMAN IMBRECHT: Very quickly, I'm going to  
15 dispose with Commission Policy Committee Reports unless  
16 somebody feels a real necessity to comment on them.

17 Is there a General Counsel's Report?

18 (No audible response.)

19 CHAIRMAN IMBRECHT: Excellent. Is there an  
20 Executive Director's Report?

21 DEPUTY DIRECTOR SMITH: There is, but we can  
22 cover it at the budget meeting next week and then report to  
23 the full Commission. We were going to report on the use of  
24 excess staff.

25 CHAIRMAN IMBRECHT: Okay. Is there any member of

1 the public that wishes to address the Commission on any  
2 item?

3           Okay. As a result of ongoing personnel discussions  
4 in our executive session, we are not going to adjourn this  
5 business meeting -- let me ask counsel for a quick bit of  
6 advice. Must I recess the executive session to a date in  
7 time certain, or may I recess it pursuant to the call of  
8 the Chair?

9           MR. CHANDLEY: Your wish is to hold a further  
10 executive session?

11           CHAIRMAN IMBRECHT: That's correct.

12           COMMISSIONER GANDARA: I can relate my under-  
13 standing, Mr. Chairman. The way we've done it in the past,  
14 which is that we continue the business meeting, you know,  
15 and that's essentially the formal action, and the executive  
16 session is the continuation of the business meeting, it has  
17 to be for a time and date certain, but between now and then,  
18 you can always notice a change in that.

19           MR. CHANDLEY: That is a correct assessment of  
20 the policy. The judgment of our office, however, has been  
21 within the last, I would say, month, that that policy is not  
22 correct. So, I regret to inform you that the way we read  
23 the current statute, and Government Code, is that the  
24 continuance may be occurred to any regularly scheduled  
25 business meeting, that is, those scheduled every two weeks,

1 or any special meeting of the agency which is noticed, fully  
2 noticed for that aspect.

3 All right. So- if you wanted to set it to a date,  
4 even a date certain, other than a regularly scheduled business  
5 meeting, you would have to put out the full 10 day notice  
6 required by the Government Code.

7 CHAIRMAN IMBRECHT: You're saying we cannot --  
8 suppose we had not concluded our business tonight, could we  
9 not have continued the business meeting until tomorrow?

10 MR. CHANDLEY: I think that's correct.

11 CHAIRMAN IMBRECHT: That is correct? Oh, my gosh.  
12 Well, I'm going to look into that further, and in the  
13 meantime, I'm going to recess this business meeting until  
14 10:00 a.m. next Wednesday, and if that is the appropriate  
15 call of the counsel's office, we'll simply adjourn at that  
16 point in time.

17 Thank you all very much for your patience and  
18 cooperation. The meeting is recessed.

19 (Thereupon the business meeting of the California  
20 Energy Resources Conservation and Development Commission was  
21 adjourned at 7:35 p.m.)

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## 1 REPORTER'S CERTIFICATE

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3 THIS IS TO CERTIFY that I, Patricia A. Petrilla,  
4 Reporter, have duly reported the foregoing proceedings  
5 which were held and taken in Sacramento, California, on  
6 Wednesday, August 24, 1983, and that the foregoing pages  
7 constitute a true, complete and accurate transcription of  
8 the aforementioned proceedings.

9 I further certify that I am not of counsel or  
10 attorney for any of the parties to said hearing, nor in  
11 any way interested in the outcome of said hearing.

12  
13 Patricia A. Petrilla

14 Reporter

15 Dated this 1st day of September, 1983.  
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