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STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

CALIF. ENERGY COMMISSION
AUG 5 1983
RECEIVED BUDGETS

BUSINESS MEETING

1516 NINTH STREET
1st FLOOR HEARING ROOM
SACRAMENTO, CALIFORNIA

WEDNESDAY, JULY 27, 1983
10:15 A.M.

Reported by: Patricia A. Petrilla

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COMMISSIONERS PRESENT

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

STAFF PRESENT

- Kent Smith
- William Chamberlain, General Counsel
- Gregg Wheatland
- Steve Cohn
- Dwight MacCurdy
- Sarah Michael
- Ralph Chandler
- Andy Coughanour

EX OFFICIO

- Bill Foley, PUC

PUBLIC ADVISOR'S OFFICE

- Ernesto Perez

ALSO PRESENT

- Patricia Fleming, San Diego Gas & Electric
- Alex Hinds, County of Lake
- Don Cargill, County of Lake
- Eldon Clawson, California Manufacturers Association,
Chamber of Commerce
- Rick Oakley, CMA

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P R O C E E D I N G S

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3 COMMISSIONER GANDARA: Let's call today's
4 business meeting to order. Item No. 1.

5 MR. WHEATLAND: Commissioner, yesterday the
6 Petitioner contacted the staff and the Public Adviser and
7 notified us that he wished to withdraw the petition. We
8 asked him to submit his -- a letter to us withdrawing the
9 petition, and told him at that time we could withdraw it
10 from the Commission's agenda.

11 I would recommend that this item be carried over
12 for two weeks, and if we receive the letter in that time,
13 then we can withdraw it permanently from the agenda.

14 COMMISSIONER GANDARA: Okay. I would ask the
15 Commission's guidance on the matter here. I think there's
16 no problem with carrying it over. Even if we carry it over,
17 however, dropping it at the request of the Petitioner, it
18 may present another issue. It may be that other interested
19 parties may have indicated an interest in it.

20 The question then becomes, when does a petition
21 become the property of the Commission as opposed to the
22 property of the Petitioner? I recall that we had at least
23 one instance before the Appliance Standards Committee when
24 Honeywell submitted a petition, and the -- we had a hearing,
25 and we were ready to go forth with the recommendations at

1 which time the Petitioner wished to drop the petition.

2 At that point in time, other parties had asserted
3 an interest in the petition, and other parties would have
4 been -- lost their opportunity, timely opportunity, given
5 that that recommendation was eventually acted upon by the
6 Commission, and enacted into the Building Standards Code.

7 So, clearly, the case is distinguishable here.
8 The Committee has not heard it, there has not been that
9 much investment. There may be that no other party has
10 announced an interest in it, but I think those are matters
11 that would be of interest to the Commission two weeks from
12 today when it's being rescheduled, and I -- you know, I --

13 COMMISSIONER SCHWEICKART: Our petition impoundment
14 staff has been cut from the budget, I believe.

15 COMMISSIONER GANDARA: Well, in any case, it may
16 be that a decision on this matter, nonetheless, would just
17 result in somebody else that had an interest filing another
18 petition, okay, whether or not it's impounded, we're required
19 to act on it within 30 days.

20 MR. WHEATLAND: Your point is well taken. The
21 reason that we are recommending just simply withdrawing
22 this petition, is that the staff recommended denial of the
23 petition, and it was our feeling that the facts in this
24 particular case are unique to the Petitioner.

25 His particular problem is that the air conditioner

1 that he would like to market doesn't fit his cabinet, and
2 the staff recommended that he enlarge the cabinet rather
3 than petition to sell a noncomplying unit. At this point,
4 we haven't received any indication of interest from any
5 other manufacturer, and I don't believe the Public Adviser
6 has either.

7 COMMISSIONER GANDARA: Well, it will be put over
8 to two weeks from today, then.

9 MR. WHEATLAND: Okay, very good.

10 COMMISSIONER GANDARA: Item No. 2?

11 COMMISSIONER EDSON: I think you're item number 3.

12 COMMISSIONER GANDARA: Okay. Commissioner Commons
13 indicated the Load Management Committee has some comments.

14 COMMISSIONER COMMONS: The Commission in June
15 adopted an order concerning the load management program of
16 San Diego Gas and Electric, and San Diego Gas and Electric
17 has submitted a petition to, I think, make the order more
18 consistent with the schedule for hearings, and to make some
19 technical changes to the draft order which will make further
20 review and activity in this program consistent with their
21 rate hearings with the PUC, and also to make the order
22 adopted by the Commission consistent with the Executive
23 Director's report that was presented to the Commission.

24 COMMISSIONER SCHWEICKART: Mr. Chairman, I'll move
25 the order.

1 COMMISSIONER GANDARA: Any objection? Was there
2 a second?

3 COMMISSIONER EDSON: Second.

4 COMMISSIONER GANDARA: There's a second, any
5 objection to the order?

6 COMMISSIONER COMMONS: Do we have the clarification
7 on the four dates in the order, because I'd like to make
8 sure what we are moving on.

9 COMMISSIONER SCHWEICKART: The published -- the
10 printed order in our back-up book, I assume is the --

11 COMMISSIONER COMMONS: No, there is one change to
12 that.

13 COMMISSIONER SCHWEICKART: I see.

14 COMMISSIONER EDSON: Perhaps a substitute motion.

15 COMMISSIONER GANDARA: Commissioner Commons?

16 COMMISSIONER COMMONS: Yes, if you give me about
17 two minutes, I think we can handle it. I'd like to ask
18 Dwight MacCurdy as to the one change that the Committee
19 recommended which you've discussed with San Diego Gas and
20 Electric on the change in dates from June to February. I
21 do not believe that's in the packet that we have.

22 MR. MacCURDY: Well, actually, it may appear that
23 way, but we changed the order. We did add a fourth paragraph
24 on the second page which accounts for that.

25 COMMISSIONER SCHWEICKART: It's in the book.

1 COMMISSIONER COMMONS: Oh, my book doesn't have
2 that fourth page.

3 COMMISSIONER SCHWEICKART: All right, the last
4 paragraph reads: "Paragraph 4 is further modified by
5 changing the first progress report due from March 31st, '84
6 to February 28th, '84, and the second progress report due
7 from June 1st, '85 to February 28th, '85."

8 COMMISSIONER COMMONS: No objection to the motion.

9 COMMISSIONER GANDARA: Okay. The motion is
10 adopted with no objection.

11 Item No. 3. Are there any comments?

12 MR. SMITH: Item No. 3 is the consideration and
13 possible approval of loans and grants for a Geothermal
14 Development Grant Program. There are 17 grants in the
15 package. Sarah Michael from Development Division, Small
16 Power Producers Office will present that.

17 MS. MICHAEL: Today we would like to present the
18 Commission's Grant and Loan Committee's recommendations
19 for funding of the Geothermal Grant Program. I think as
20 all of you are aware, the program was established by AB 1905
21 by Assemblyman Bosco and allows the Commission to award
22 grants to local governments to fund geothermal projects.

23 To date we have funded 39 grants with a total
24 dollar amount of about \$2 million. Ralph Chandler will
25 actually go through the sequence of events leading to the

1 recommendation. In your binder, there should be a background
2 package that lists the number of applications, and those
3 that actually have been recommended for funding. For any of
4 the Commissioners who don't have that, we have extra copies
5 available. So, Ralph?

6 MR. CHANDLER: Okay. Prior to my summarizing the
7 process staff followed to develop the recommendation before
8 you today, I'd like to provide the Commission with the
9 status of a couple of staff activities related to the grant
10 program which have been completed or are in progress since
11 the last rounds of grants were issued in December of last
12 year.

13 First, in March of this year, a reception was held
14 at the capital to allow second round grantees to meet with
15 their representatives and personally inform them of the
16 nature of the geothermal activities they are embarking on.

17 The legislative reception coincided with the
18 release of the staff's first report to the Legislature on
19 this grant program, and by all measures, the reception was
20 considered a success, and we intend to conduct a similar
21 function later this summer for round three applicants.

22 Secondly, on an administrative matter, the
23 Commission's General Counsel's Office, in reviewing the
24 procedures governing the grant program, has recommended
25 administering the program through formal regulations.

1 Development of regulations will require the Commission to
2 conduct a rulemaking proceeding. Once the Commission
3 approval has been granted, the regulations will undergo
4 final review by the State Office of Administrative Law
5 before being published in the California Administrative Code.

6 Thirdly, I'd like to just mention that legislation
7 has passed the Assembly, and next month will go before the
8 Senate Finance Committee which if passed, and signed into
9 law, will impact the manner in which future grant cycles
10 are conducted.

11 AB 1780 as currently drafted will allow units of
12 Indian government eligibility for grant funding, and further
13 will require the Commission to submit an approved list of
14 projects recommended for grant funding to the Legislature
15 by April 1st for inclusion in the Commission's budget. This
16 process will commence in April of next year.

17 At this time, I'd like to briefly describe the
18 procedures we've followed to arrive at the recommendation
19 before you today. In February of this year, a program
20 opportunity notice was issued to solicit grant applications.
21 Concurrently, staff conducted a series of workshops in
22 Riverside, El Centro, Quincy, Calistoga and Ukiah.

23 As a result of these efforts, 27 pre-applications
24 were submitted requesting roughly \$2 million in grant funds.
25 The pre-applications were reviewed by staff, and constructive

1 comments provided to the applicants.

2 In May, 22 final applications were submitted
3 requesting \$1,350,000. I think it should be noted that the
4 final grant requests were very evenly divided between the
5 resource development projects, the planning type studies,
6 and the impact mitigation activities. These proposals were
7 evaluated by a Technical Advisory Committee.

8 Again, I'd like to emphasize that the membership
9 of the Technical Advisory Committee has been broadened
10 considerably, pursuant to Commission direction in March of
11 this year. Current membership of the Committee is now
12 two staff members from the Development Division, one from
13 Siting, a geothermal specialist from the Department of
14 Conservation, and the Chairman of the local Sierra Club
15 Energy Policy Committee, a representative from the Indepen-
16 dent Power Producers Association, and a representative from
17 the County Supervisors Association.

18 This Committee evaluated and ranked the final
19 grant applications, and based on the revised criteria
20 adopted by the Commission in March. This revised criteria
21 included a minimum point total that must be achieved by
22 grant applications prior to being considered for final
23 funding approval, and allowed a more equitable evaluation
24 of the projects within their respective funding categories.

25 The results of the TAC Committee's review were

1 presented to the Commission's Loan and Grant Committee and
2 form the basis of the recommendations before you today.

3 If you have no questions, Andy Coughanour, Program
4 Manager, is here to briefly discuss the individual
5 recommendations of the Loan and Grant Committee.

6 COMMISSIONER GANDARA: Are there any questions for
7 staff? Commissioner Commons?

8 COMMISSIONER COMMONS: In your opinion, how do
9 you feel the new procedure is working?

10 MR. CHANDLER: Well, I think the -- as I indicated
11 in my brief statement, that I think the new procedure did
12 allow us to more equitably evaluate the proposals in their
13 own categories. I think there was the elimination, if you
14 recall, of the general criteria that we applied across the
15 board, and we ended up only applying criteria to the
16 specific projects in their own respective categories, and
17 I think it kind of got away from the apples and oranges
18 type problem that was raised in the past.

19 I think broadening the Technical Advisory Committee
20 did pose some obstacles, but certainly in the final analysis,
21 provided us with some input and expertise from other sectors
22 that this program is directed to that, frankly, the
23 technical staff didn't have that depth to bring into the
24 evaluation. So on that basis, I think the inclusion of
25 outside, public members certainly brought more input and

1 more issues to be raised and put on the table for a solid
2 final recommendation to take before the Committee.

3 COMMISSIONER COMMONS: Is there any improvement
4 in the quality of the projects that we are recommending to
5 be funded?

6 MR. CHANDLER: I think so. I think that's more a
7 function of just as the program matures, and the level of
8 interest and understanding of what the grant program does
9 has brought just a general and overall improvement in the
10 applications that we've seen come in the door now, and I
11 would expect as we embark on the fourth round, and the
12 level of funding that's available for that fourth round,
13 to see even a further improvement in those applications.

14 COMMISSIONER COMMONS: And what has been the
15 acceptance from the applicants of the revised criteria?

16 MR. CHANDLER: Well, as you know, we republished
17 the grant application manual that included the revised
18 application criteria and alluded to the fact that the
19 Technical Advisory Committee makeup in itself would be
20 slightly modified.

21 I feel that many of the applicants who were
22 first time grant applicants themselves saw no difference,
23 having not participated in earlier rounds, so to them it
24 was not a change, or trying to understand any new procedures.
25 For those that were involved in earlier rounds, I think it

1 was easily handled and not something that was burdensome to
2 them at all.

3 COMMISSIONER GANDARA: Any other comments? We
4 have two people who wish to speak.

5 COMMISSIONER EDSON: I do have one comment,
6 unless the Commission -- if the Commission does not want to
7 hear Mr. Coughanour's presentation of all the projects, the
8 Committee would like to offer one amendment to the
9 recommendations.

10 Subsequent to the presentation, and the meeting
11 of the Technical Advisory Committee, and presentation to
12 the Loans and Grants Committee, the County of Lake, which
13 in the package you have before you, among the projects
14 listed for funding, came in asking for a revision to their
15 application.

16 If you look at the first page that lists the
17 projects, Lake County Department of Public Works was listed
18 number three. They had proposed a project for the
19 construction of brake check turnouts on Socrates Mine Road
20 for a total cost of \$227,600. The Technical Advisory
21 Committee had recommended partial funding of the first
22 stages of the project which were essentially the engineering
23 design phases.

24 The Committee -- Lake County has subsequently
25 come in demonstrating that they have already paid for the

1 engineering and design work, and asking for a change in the
2 project to have the Commission share the cost of some of the
3 top priority work. This would be for actual construction
4 of turnouts on Socrates Mine Road.

5 As you might recall, that is the road which is
6 used for access to the Geysers area. It's been the site
7 of several very serious and tragic accidents, and I think
8 the Commission has found in its analysis of the Geysers
9 area that work on that road is a very important mitigation
10 activity.

11 The Committee recommends that we revise this
12 funding recommendation to the amount of \$98,900 to cover
13 the cost of part of that high priority work which will be
14 shared by the County, and I believe Pacific Gas and Electric
15 Company.

16 COMMISSIONER GANDARA: Motion with an amendment.

17 COMMISSIONER EDSON: With that amendment, I would
18 move the recommendation.

19 COMMISSIONER COMMONS: Second.

20 COMMISSIONER GANDARA: As I indicated earlier,
21 we have two people who wish to comment unless there are
22 Commissioner questions with respect to changes. We have
23 comments from Mr. --

24 COMMISSIONER SCHWEICKART: I do have one question.
25 How many turnouts are assumed here in terms of the planning

1 on Socrates Mine Road?

2 COMMISSIONER EDSON: The project would include
3 the eventual construction of six ramps and two brake
4 check stations, as I understand it. The work that we're
5 proposing to fund would be the construction of the initial
6 brake check station and one of the ramps. The County would
7 be picking up a second ramp, and the -- some necessary
8 pipeline relocation costs associated with that work.

9 COMMISSIONER SCHWEICKART: There's going to be
10 more ramps per linear mile of road than anywhere I can
11 think of. I hope they do put in the high priority ones
12 first.

13 COMMISSIONER GANDARA: Widening --

14 COMMISSIONER SCHWEICKART: That's right, a
15 continuous ramp, it's called a freeway.

16 COMMISSIONER GANDARA: Mr. Hinds, then followed
17 by Mr. Cargill from Lake County.

18 MR. HINDS: Hi. I'm Alex Hinds, Lake County
19 Geothermal Coordinator. As was just mentioned, the grant
20 application has been revised because the county felt it
21 was imperative to do the design work now to allow construc-
22 tion prior to the winter when the rains and the snow increase
23 potential accidents, and also eliminate the possibility of
24 further construction until late next spring.

25 I'd just like to thank the staff for their

1 cooperation, and Commissioner Edson. The grant application
2 has been pared down from a row of ramps to now only address
3 one brake check station and initially, the funding would
4 allow two ramps.

5 I believe that you have to drive Socrates Mine
6 Road to get a feel for it. It's one of the steepest,
7 windiest roads that major trucks use in the area, or
8 imaginable, and I hope the Commission will look kindly on
9 our revised application.

10 If you have any questions, I'm here, or Don
11 Cargill, the staff engineer is here for the more technical
12 questions. Thank you.

13 COMMISSIONER GANDARA: Any questions for Mr. Hinds?

14 COMMISSIONER SCHWEICKART: I guess I would like to
15 have some assurance that the initial ramps -- that the
16 ramps are going to be put in in priority order. I see a
17 head going up and down.

18 MR. HINDS: I have to yield to our engineer on
19 that.

20 COMMISSIONER SCHWEICKART: That is, if at any time
21 the public runs out of money for ramps, I would hope that
22 the ones which are most important are the ones that are in
23 first.

24 MR. HINDS: I certainly agree with your statement.
25 My understanding was that the initial brake check station

1 was given the highest priority, and that's more or less a
2 preventative measure, and then there's two or three ramps
3 that are considered top priority, and those would be the
4 ones that we'd put in.

5 COMMISSIONER GANDARA: Thank you, Mr. Hinds.
6 Mr. Cargill?

7 MR. CARGILL: Don Cargill, Department of Public
8 Works, Lake County. In response to --

9 COMMISSIONER GANDARA: Could you speak into the
10 microphone please a little bit?

11 MR. CARGILL: In response to the question about
12 the priority ranking of the ramps, they were ranked priority-
13 wise because we took in all the considerations where the
14 vast majority of the accidents have happened, and the
15 runaway trucks.

16 There are actually nine sites that we, you now,
17 we anticipate building in the future. We have reduced them
18 down now to the brake check station, which would be also
19 an educational type signing, what to do, what to do to your
20 vehicles before you descend the 18 percent grades. All the
21 sites that we have proposed right now are priority starting
22 down the hill, over the worst section of the roadway.

23 COMMISSIONER SCHWEICKART: You had me with you
24 until that last statement. Did I understand you to say
25 that you're going in priority with the initial brake station

1 at the top is the highest priority.

2 MR. CARGILL: That is the highest priority.

3 COMMISSIONER SCHWEICKART: And then I heard you
4 say --

5 MR. CARGILL: We have three locations.

6 COMMISSIONER SCHWEICKART: -- beginning at the
7 top of the road is where you're starting your --

8 MR. CARGILL: Top of the road at the Plant 13
9 location is the brake check station.

10 COMMISSIONER SCHWEICKART: Yeah.

11 MR. CARGILL: From that point, on the level ground,
12 you descend downhill.

13 COMMISSIONER SCHWEICKART: Right.

14 MR. CARGILL: The next three locations turned out
15 that they were the highest priority on the project.

16 COMMISSIONER SCHWEICKART: The next three starting
17 down from the top?

18 MR. CARGILL: That's correct.

19 COMMISSIONER SCHWEICKART: Intuitively, one would
20 expect one to get through the first section before the
21 brakes got hot enough to need a ramp.

22 MR. CARGILL: On 18 percent grades, it's very,
23 very serious. We've taken into consideration that the
24 truck drivers at the present should be checking their
25 vehicles before they leave the various sites. We're now

1 giving them an opportunity where they can stack at least
2 four semi truck and trailers at the top on the flat area.
3 Hopefully that will give them an additional checking
4 station. From that point on, it's a continuous set of
5 curves, and from 16 to 18 percent downgrade. The sites
6 are very close together, but it has been proven out that
7 that's where the accidents are happening.

8 COMMISSIONER SCHWEICKART: I'm intuitively looking
9 at two things. One, it takes a little while for the
10 brakes to heat up, therefore the top ramps are probably
11 the least critical unless the brakes can be shown to heat
12 up that rapidly coming out of the initial brake check
13 station.

14 Secondly, the further down the hill you go, the
15 more plants you have using the road, therefore, the density
16 of traffic at the lower end of the road is going to be
17 higher, and it would seem as though some of the bottom
18 turnout ramps might be the highest priority in terms of
19 safety.

20 MR. CARGILL: The lower ramps are also in the
21 flatest area of the road. The intersection of Ridge Road --

22 COMMISSIONER SCHWEICKART: I will leave the
23 engineering to you, if you consider what I said, and you
24 decide the other way, that's great, you can go ahead. I
25 just wouldn't feel right not suggesting that it be done

1 judiciously because I can easily picture the full funding
2 for all nine ramps being very difficult to get.

3 COMMISSIONER GANDARA: Thank you, Mr. Cargill,
4 are there any other comments, questions? If there are none,
5 then is there any objection to the motion as amended?
6 Adopted without objection.

7 COMMISSIONER EDSON: Let me take this opportunity
8 also to thank the staff. I think this is one of the
9 Commission's very well run programs, and I've always
10 appreciated the high caliber of work that's been done, and
11 the caliber of the presentations made to the Committee.

12 COMMISSIONER GANDARA: And let me second that
13 because I think when we started on this grant program, it
14 took about a year to iron out all the various criteria and
15 the assorted evaluation teams and so forth, but I think it,
16 you know, the staff has proven to be very responsive.

17 COMMISSIONER SCHWEICKART: Now that we've got it
18 working, we can write regulations and screw it up.

19 (Laughter)

20 COMMISSIONER GANDARA: Item --

21 COMMISSIONER SCHWEICKART: I'll move the consent
22 calendar.

23 COMMISSIONER GANDARA: Other items were pulled
24 off the calendar, just for information. Any second to
25 that motion?

1 COMMISSIONER COMMONS: I have a question on the
2 items pulled off.

3 COMMISSIONER GANDARA: Okay. Commissioner
4 Schweickart, pending clarification of this question,
5 Commissioner Commons is asking why Items 4 and 5 were
6 removed. Again, let me remind the Executive Office that
7 the Commission did request that when items were pulled off
8 the calendar that a memo be prepared for the Commission
9 indicating the reasons why so we would avoid speculation.

10 MR. SMITH: Item 4 was removed from the calendar
11 because the funding was not provided in our 1983/84 budget.

12 Item 5 is a somewhat different category, was
13 removed so that it could be considered in light of the other
14 work plan decisions that are going to be brought to the
15 Commission in the next two weeks.

16 COMMISSIONER GANDARA: Commissioner Commons?

17 COMMISSIONER COMMONS: My understanding is the
18 work plans will not be adopted by this Commission until
19 August 27th -- or August 24th.

20 MR. SMITH: The work plans will be presented to
21 the Commission initially on August 10th. It's a question
22 as to whether or not there would be support for adoption on
23 August 10th. You may be very right that following the
24 presentation on the 10th we may find that there are
25 significant issues that require additional time, and it

1 would be the following business meeting for adoption.

2 COMMISSIONER COMMONS: Well, I believe we had a
3 contract on the agenda at the last business meeting that
4 my understanding was it was to be heard at this business
5 meeting that had been pulled.

6 MR. SMITH: I'm not familiar with that.

7 COMMISSIONER COMMONS: We had two contracts on
8 the last business meeting, and we did not take positions
9 on -- are you saying you're not going to have any contracts
10 until we adopt a work plan?

11 MR. SMITH: Yeah. Our recommendation would be
12 that the contracts being considered in the context of all
13 contracts and the amount of -- rather limited amount of
14 money that's available in 1983/84, and we would expect that
15 the Commission would want to address potential trade-off
16 possibilities.

17 COMMISSIONER COMMONS: Well, I guess, Mr. Chairman,
18 my question would be, is that a decision that's appropriate
19 for the Commission, or is it a decision that will be taken
20 independently by the Executive Director's Office? I'm not
21 saying I disagree with the decision, I just found out this
22 morning that certain items were pulled off the calendar,
23 it's a procedural issue.

24 COMMISSIONER GANDARA: Well, again, let me remind
25 the Executive Office that due to questions like this, we had

1 requested previously that there be a memo prepared with
2 respect to why items are being fulled from the calendar
3 so that if any Commissioners have any questions regarding
4 that, we could preferably deal with it that way.

5 On the other hand, the items were calendared by
6 the Executive Office, is that correct?

7 MR. SMITH: I believe that's correct, yes.

8 COMMISSIONER GANDARA: And at various times, or
9 various reasons, they remove items according to their best
10 management judgment. I would think that if the Commission
11 wished to continue an item, that the Commission clearly
12 could decide to do that, and it could be rescheduled, I
13 would imagine.

14 But I don't see anything inappropriate in the
15 action taken here, but -- are you proposing a particular
16 action, Commissioner Commons?

17 COMMISSIONER COMMONS: Yeah, I guess if we have
18 a two week delay, there's not a problem, but we have some
19 ongoing responsibilities in doing the CFM where a delay
20 of six weeks in getting some of our consulting work on
21 contract work could act as a difficulty in trying to meet
22 our schedules, and I agree with the concept in principle,
23 but I just want to make sure that we're able to orderly
24 conduct our business, and that this not be a blanket
25 exception.

1 COMMISSIONER GANDARA: I would agree with that.
2 Let me just say that the item has been noticed. It is
3 before us. It is up to the Commission to agree whether to
4 pull it off or not. If the Commission wishes to pursue it
5 for some action, you know, at this time, you're indicating
6 that you're not objecting.

7 COMMISSIONER COMMONS: No, I'm not objecting.

8 COMMISSIONER GANDARA: The consent calendar has
9 been moved, is there a second? I'll second it.

10 COMMISSIONER EDSON: I'm sorry.

11 COMMISSIONER GANDARA: The consent calendar?

12 COMMISSIONER SCHWEICKART: Everybody's trying to
13 shift gears here.

14 COMMISSIONER GANDARA: The consent calendar has
15 been moved and seconded, any objection? The consent
16 calendar is adopted.

17 Approval of the minutes?

18 MR. SMITH: I'd like to make a comment on the
19 minutes, we had a request to speed the production of the
20 minutes following business meetings. This set of minutes
21 is actually two sets for the prior business meeting, and
22 the one preceding that. Our intent is to provide the
23 minutes within two weeks of the business meeting, rather
24 than the delays that we've experienced to this point.

25 That means a briefer version of the minutes, and

1 in some cases a need to rely on the transcript.

2 COMMISSIONER GANDARA: Okay. The next item is
3 the Commission Policy Committees' Reports. Any Committee
4 reports?

5 COMMISSIONER EDSON: I don't think -- did we
6 actually move the minutes?

7 COMMISSIONER SCHWEICKART: I moved them.

8 COMMISSIONER EDSON: I'll second it.

9 COMMISSIONER GANDARA: Moved and second. Any
10 objection to approval of the minutes? Without objection.

11 Commission Policy Committee's Reports? Any
12 Committees? Commissioner Commons?

13 COMMISSIONER COMMONS: I want to indicate that
14 the Department of Energy has approved the revised RCS plan
15 with some very minor technical amendments so we now have
16 an adopted RCS Plan.

17 COMMISSIONER EDSON: The Tax Credit Committee
18 wanted to make sure the Commission was aware that the
19 budget trailer bill contained changes to the solar energy
20 and energy conservation tax credits. The solar credit --
21 both credits were reduced by five percent effective August 1
22 for the lower cost installations, in the case of the solar
23 credit installations costing less than \$12,000 or the
24 conservation credit installations costing less than I
25 believe \$6,000.

1 So the solar credit went from 55 percent to 50
2 percent and the conservation credit from 40 percent to 35
3 percent that is effective August 1st, next week. The 25
4 percent credit of both credits remained unchanged with the
5 exception that for 1983 claims, installations after August 1
6 -- between August 1 and December 31st, taxpayers can take
7 only 50 percent of their credit in 1983 and must carryover
8 the remainder in subsequent years.

9 There were two other significant changes. The
10 pool and spa credits were eliminated effective August 1, and
11 that moves up the date from December 31st, and finally the
12 two credits were extended, the solar tax credit was extended
13 for three years, through 1986, and the conservation credit,
14 that portion that was scheduled to sunset is extended for
15 two years, through 1985.

16 COMMISSIONER SCHWEICKART: And finally, the
17 Building Standards Committee would like to announce that
18 at least the major battle of the standards going into
19 effect and being implemented is now behind us with the
20 final passage of the Goggin Bill.

21 At this point, the highest priority in terms of
22 staff work is shifting to getting the revised conservation
23 manual out including a number of changes in the point
24 system and other factors. That is a very high priority in
25 terms of industry being fully able to implement the standards

1 in an orderly way. At the same time, we are finding
2 ourselves extremely short on staff, and we'll be having
3 some additional clean-up amendments for the regulations
4 coming before the Commission within the next several
5 business meetings.

6 I would like to thank, at least on the record,
7 the tremendous number of people, both currently in the
8 Commission and staff members who have left over the last
9 several years and months, as well as a very large number
10 of outside parties who took a very active and responsible
11 role in the -- both the development and the pre-implementation
12 I guess, of the standards. A rather wide range of inputs
13 from people; and I would like to personally thank all of
14 them for those four years and more of work in getting to
15 this point.

16 But I think that the Commission, and its staff,
17 and many other parties can be very proud of the set of
18 standards that is now in force and effect in the State of
19 California and literally sits there as a model for many
20 other states who have already moved to adopt them. I'd
21 like to publicly thank those people.

22 COMMISSIONER GANDARA: Thank you, Commissioner
23 Schweickart. Any other Committee policy reports?

24 COMMISSIONER COMMONS: The R&D Committee had a
25 very successful workshop in San Francisco, attended by over

1 150 persons. I think one of the significances here was
2 that this was jointly cosponsored by the PUC and the CEC
3 and was over 80 percent attended by the private sector,
4 and there was a questionnaire handed out concerning
5 attitudes of R&D, and needs and requirements. If anybody
6 would like a copy of that questionnaire, please contact me.

7 COMMISSIONER GANDARA: Any other committee
8 reports? None, then we'll move on to the General Counsel's
9 Report.

10 MR. CHAMBERLAIN: Yes, Mr. Chairman, I just have
11 two items. First, we have need for a closed session to
12 discuss the Commission's position of the Bonneville rate
13 case. Additionally, I would just like to announce that
14 two attorneys who I believe have served the Commission
15 quite well, are leaving us as of August 1st.

16 One is Steve Burger, who as you know, took a
17 contract position -- was on contract, working up in the
18 Bonneville Power Administration for us this last month,
19 has decided to leave state service, and go into the private
20 sector, and Steve Kotz who has done an enormous amount of
21 work with respect to Nonresidential Building Standards,
22 the Insulation Quality Program, and other critical areas,
23 particularly involving OAL is leaving to go to the PUC
24 on August 1st.

25 COMMISSIONER GANDARA: Questions? Thank you

1 very much, Mr. Chamberlain.

2 Executive Director's Report?

3 MR. SMITH: Yes, I'd like to provide just a brief
4 overview of the effect of the Governor's decisions on the
5 budget. The bottom line is that the Conference Committee
6 recommendations were reduced by approximately \$12.5 million.
7 A significant portion of that was a reduction in our major
8 support for personal services and operating expenses of
9 about \$4.4 million.

10 The number of authorized staff in 1983/84 will
11 be 348. That's approximately a 30 percent reduction. In
12 Siting and Environmental, it's a 24 percent reduction in
13 staff. In Development, a 28 percent; half, full 50 percent
14 reduction in Conservation Division. Assessments, a smaller
15 reduction of 5 percent. Our Administrative Services are
16 being reduced 31, and the Executive Offices are reduced a
17 total of 40 percent.

18 This next year is obviously going to be quite
19 different, and our ability to deliver major products is
20 going to be quite different than it has been in the past.

21 In addition to reducing the number of authorized
22 positions from a total of 493 in 1982/83 to the 348 in
23 1983/84, the Governor's decision reduced the amount of
24 money available to fund those positions. Our administrative
25 staff has made an initial projection of a deficit in

1 salaries and wages to provide the funding for the 348.
2 That initial deficit projection is \$1,300,000. That can
3 translate to a need at the Commission to reduce staff below
4 the number of authorized positions, potentially as low as
5 285 positions.

6 Now, the rate of attrition between now and
7 January 1 will be a major influence over that. We're
8 discussing the way to proceed with the Department of
9 Finance, the State Personnel Board, and the Department of
10 Personnel Administration. There are some key issues here
11 that we'll be addressing as we produce the work plans for
12 the 1983/84 issue, we'll be discussing that further with
13 the Commission.

14 COMMISSIONER COMMONS: Why do we have to wait
15 until January in order to make all or part of this
16 transition?

17 MR. SMITH: The process that the Personnel
18 Board and the Department of Personnel Administration are
19 required to follow for the layoff of civil service
20 employees began at the Commission in March, in anticipation
21 of staff reductions. The process requires nine months in
22 order to complete a series of analyses, a large number of
23 those, and hearings at the Personnel Board are related to
24 what's referred to as the 3001 provisions, those are the
25 affirmative action provisions of state law.

1 In most of the classifications that would be
2 affected by layoff, there are employees in categories that
3 would be covered by the 3001 provisions. We have asked the
4 State Personnel Board to explore the possibility of a
5 portion of those layoffs occurring earlier than January 1.
6 At this point, though, the indication is that it's very
7 unlikely that that would be possible, but we're continuing
8 those discussions, those are going on this afternoon.

9 COMMISSIONER COMMONS: The deficit of \$1.3 million,
10 is that caused primarily by the lack of funds to take into
11 account the rules we must follow in laying off --

12 MR. SMITH: Yes. A million dollars of that was
13 provided by -- was to have been provided by the Legislature
14 to allow for an orderly transition to the lower level of
15 staff. Essentially, that would be the money that would
16 pay the salaries of the excess staff that are on board
17 today, and some number of which will continue to be with
18 us up until the time of layoff.

19 In addition, the Department of Finance withheld
20 from each state agency money for normal salary increases.
21 In the case of the Energy Commission, that figure was
22 \$187,000 that was reduced from the amount that we would
23 normally expect to pay out. Further, the Department of
24 Finance reduced the amount of money we had available for
25 salaries and wages for what's referred to as the salary

1 savings figure.

2 Normally, that's a figure that represents the
3 salaries that would be paid to positions that were expected
4 to be vacant. The indication is that that was -- even
5 though we have an excess of staff rather than vacant
6 positions, that amount, approximately four and a half
7 percent of the total, was also reduced from our budget.

8 Bottom line here, and the figure that our
9 accounting people are working with is that we have \$11.9
10 million to pay salaries and benefits, and the analysis
11 they're doing is based on current staff on board, their
12 salary levels, using the June payroll as a base, and we'll
13 be tracking that very closely as the employees leave.

14 COMMISSIONER COMMONS: You were saying we have
15 approximately how many people on board today?

16 MR. SMITH: Approximately 422, 421, somewhere
17 low 420's.

18 COMMISSIONER COMMONS: All right. So you're
19 saying, though, that because of the fact that we do not
20 have transition funds, that rather than going to 348, that
21 you're saying we have to go to 285?

22 MR. SMITH: That's the current projection. Now,
23 that number is going to change, depending on the rate of
24 attrition.

25 COMMISSIONER COMMONS: But when you --

1 MR. SMITH: If 70 employees voluntarily left,
2 found employment outside the Commission next month, then
3 we wouldn't have to reduce staff to that 285 figure.

4 COMMISSIONER COMMONS: The 285 is based on
5 no attrition?

6 MR. SMITH: No, 285 is based on approximately
7 half of the excess employees now leaving through normal
8 attrition, before the layoff, and the remaining portion
9 then being laid off, January 1.

10 COMMISSIONER COMMONS: All right. So that 285
11 number is probably a fairly realistic number in terms of
12 what we have to go down to? That would be --

13 MR. SMITH: Without some additional relief, if
14 we live within the amount of money, the \$11.9 million
15 that was provided, and there is no relief in the way of
16 other transition funds provided at a later date, then we
17 would not be able to pay the salaries of more than
18 approximately 285 staff in the last two quarters of this
19 fiscal year.

20 COMMISSIONER COMMONS: All right. Well, I think
21 that would have a significant impact in the development of
22 the work plans, because from what you're saying, we have
23 420 people between July 1st and December 31st, and we'll
24 have 285 people, one-third less, from January 1st until
25 June 30th.

1 MR. SMITH: Let me be clear here. We're proposing
2 that we develop a plan to stay within the amount of money
3 that we're budgeted for salaries and wages right now. That
4 plan would require that we go as low as 285 positions in
5 the second two quarters.

6 COMMISSIONER COMMONS: All right, but what I'm
7 saying is --

8 MR. SMITH: That potentially is an issue that
9 will be before the Commission and might necessitate either
10 a larger initial layoff, or a second phased layoff. We
11 also would recommend, and intend to pursue legislative
12 relief through Department of Finance.

13 There was an indication in the Governor's veto
14 message that the administration would look at these
15 transition problems on a statewide basis, but we believe
16 that we have to plan to stay within the amount of money
17 that was initially provided.

18 COMMISSIONER COMMONS: Well, to be fiscally
19 prudent, unless we were given that relief, I think from a
20 work plan point of view, we have no choice. My problem
21 here is that we have to do, during the first six months,
22 much more work than we can do during the second six months
23 because our staff is going to be reduced, and I'm hoping
24 the work plans that are being developed will take that
25 into account.

1 MR. SMITH: Yes, they will.

2 COMMISSIONER COMMONS: My next question is,
3 obviously, there is no way this Commission can carry on
4 the broad scope of activities that we have done before,
5 and my concern is, during the next six months, what
6 immediate changes are going into effect right now, because
7 as time goes by, we're now a month into the fiscal year.
8 By the time we adopt a work plan, we will be two months;
9 by the time we have layoffs, we'll be six months.

10 What changes are we doing in terms of reorienting
11 employees to work that we are going to have to continue
12 through this fiscal year?

13 MR. SMITH: The redirection of staff on a program
14 basis and a project basis are Commission decisions, and
15 that's why I indicated earlier that if it's possible to
16 make those decisions as soon as August 10th, that would be
17 very beneficial.

18 Beyond the program and project priority decisions
19 that have to be made, we believe that there are a number
20 of opportunities to reduce costs, and one of the things
21 that we're beginning this week is a task force, or a work
22 group to identify as many of those opportunities as
23 possible. Some of those we've talked about here in advance.
24 We want to thoroughly explore those, we want to see what
25 additional opportunities there are, and that effort is going

1 to be going on in the next two weeks also.

2 COMMISSIONER COMMONS: Well, I'm concerned -- I
3 think the Executive Director's Office has the authority
4 to shift people right now in terms of -- there are certain
5 areas that we obviously are not going to be able to continue
6 doing work, they've been clearly vetoed.

7 There are other areas that we have a requirement
8 to do work, and we're going to be faced with a very difficult
9 situation come next spring where we have an obviously
10 inadequate number of people, unless we get relief to do
11 that which we're required by law.

12 The problem with the Governor's veto is he
13 vetoed people, but he didn't eliminate work.

14 COMMISSIONER EDSON: I have a suggestion, and that
15 is that I think the current plan is for these work plan
16 decisions ideally to be made at the next business meeting.
17 My concern is there are too many issues, really, for us to
18 hear a presentation from the Executive Office and actually
19 make the decisions at that time.

20 I would suggest that we continue this business
21 meeting to a day later this week, or a day next week to
22 hear the full presentation of the staff of the work plan
23 issues so that by August 10th we will be prepared to make
24 some of the very difficult decisions that I think we're
25 going to have to make.

1 MR. SMITH: We'd be prepared to do that, to
2 identify the issues that we see right now, and provide an
3 initial detailed review of the impacts that we see.

4 COMMISSIONER COMMONS: Well, if we were to look
5 at our calendars, I won't be in, I know, Monday, I think
6 Tuesday and Wednesday, we are going to -- all of us are
7 going to be involved in another activity, is that correct,
8 Mr. Chairman?

9 COMMISSIONER GANDARA: Yes, that's August 2nd
10 and 3rd, I guess, given you're unavailability August 1st.

11 COMMISSIONER COMMONS: Is there any possibility
12 we could take Commissioner Edson's suggestion for this
13 Friday?

14 COMMISSIONER GANDARA: For --

15 COMMISSIONER EDSON: I'm sorry, did you suggest
16 a date?

17 COMMISSIONER COMMONS: This Friday.

18 COMMISSIONER EDSON: This Friday?

19 MR. SMITH: From the staff's standpoint, we could
20 be prepared to provide a review at that time.

21 COMMISSIONER GANDARA: Okay, why don't we then
22 continue this business meeting for a week from tomorrow, is
23 that correct, next Thursday? For the matters that have
24 been mentioned here with respect to work plans and a more
25 in depth discussion of changes in the work plans and so

1 forth, occasioned by the Governor's budget. What time --
2 is it the Commission's preference to start at 10:00, 9:00?

3 COMMISSIONER COMMONS: 9:00 is fine.

4 COMMISSIONER GANDARA: 9:00 o'clock. Any other
5 questions, comments?

6 COMMISSIONER COMMONS: In the executive session,
7 I have a personnel matter that I'd like to bring up.

8 MR. SMITH: We should also --

9 COMMISSIONER GANDARA: I'm sorry, Commissioner
10 Commons, what was that?

11 COMMISSIONER COMMONS: In the executive session,
12 I have a personnel matter.

13 MR. SMITH: We also have a personnel matter to
14 raise in executive session.

15 COMMISSIONER GANDARA: Well, I was about to
16 announce that we will have an executive session, there will
17 be two matters discussed, one personnel, and the other
18 some filing with respect to some of our proceedings, and
19 which might involve consequences for our litigation with
20 respect to BPA.

21 But before we move on that, let me say that the
22 executive session as well will be continued to August 2nd
23 and 3rd, again to continue meeting on matters of --
24 personnel matters, and if there --

25 COMMISSIONER COMMONS: Should we set a time,

1 you have to set a time, even though we can change it.

2 COMMISSIONER GANDARA: Okay. The Commission
3 will meet in executive session August 3rd, I believe,
4 1:00 p.m.

5 If there are no other matters here, we have some
6 requests for public comments. Commissioner Commons?

7 COMMISSIONER COMMONS: Yes. I'd like to ask that
8 we have on the agenda for our next business meeting, AB 3
9 from Bates and AB 58 from Bates. Is that sufficient, or
10 do I have to do something else?

11 COMMISSIONER GANDARA: Well, let me say, you
12 know, speaking for half of the Government Relations
13 Committee, we will look at those bills, and we will get
14 back to you, you know with respect to further -- you know,
15 what the Commission position ought to be.

16 Given that you want them discussed, we'll -- you
17 know, if there's some problem there, you know, we'll notify
18 you as soon as we can. If there's some urgency on those
19 bills, so that they have to be heard the next time.

20 COMMISSIONER COMMONS: Well, I'd like them
21 before the August 15th --

22 COMMISSIONER GANDARA: Okay. Well, I would say
23 that since the Executive Office requires calendaring these
24 particular items with some degree of certainty before --
25 you know, by today or tomorrow you need that filing, perhaps

1 the best way to ensure that is for you to calendar them,
2 Commissioner Commons, and perhaps between now and then,
3 the Government Relations Committee could have some
4 analysis and meeting done on that, so perhaps we might have
5 a recommendation for you.

6 But just to be assured that your wishes are
7 respected here, you should calendar them.

8 COMMISSIONER COMMONS: Okay.

9 COMMISSIONER GANDARA: Okay, any other comments?
10 We are in the public comments section. We have a request
11 from Mr. Eldon Clawson to comment, as well as Mr. Oakley,
12 Rick Oakley.

13 MR. CLAWSON: Good morning, Commissioners. My
14 name is Eldon Clawson, I'm an attorney at law, representing
15 this morning the California Manufacturers Association and
16 the California Chamber of Commerce.

17 I want to address my remarks to the notice dated
18 July 21st that accompanied the staff's report on California's
19 Appliance Standards. I received the report yesterday and
20 have read it last evening and on the plane coming up. You
21 may recall that on behalf of these two associations, it
22 was I who filed the petition that was earlier considered
23 by the Commission requesting a hearing be held by the
24 Commission on the issues involved before this Commission
25 acted to seek an exemption from preemption under federal law.

1 This morning I would just like to say to you that
2 I think although the staff has done a very good job and
3 that the report before you, and now sent out, raises the
4 important issues, that I don't think it's an adequate basis
5 upon which this Commission should act as proposed in the
6 notice, which is to bring this on a motion from the
7 Appliance Standards Committee to the full Commission on
8 August 24th.

9 The report itself says in many places that there
10 is not adequate evidence, and that the issues are unresolved,
11 and I have two alternatives that I would like to propose to
12 you for these reasons.

13 The first would be that the Commission direct
14 the Appliance Standards Committee to hold hearings on the
15 crucial issues before it is considered by the full
16 Commission. This is only a staff report, and the normal
17 procedure is for the Committee to hold hearings, and then
18 for the Committee to make a motion based on a decision
19 following those hearings.

20 If the Commission decides not to do that, I would,
21 in the alternative, strongly suggest, that you postpone,
22 at least until the second business meeting in September,
23 the consideration of this report.

24 August is a terrible month. Everybody tries to
25 plan his vacation, the Legislature is on vacation, Congress

1 is on vacation. I know most manufacturing plants -- it
2 would be extremely difficult for people to respond
3 adequately on an August 24th date.

4 Let me point out also that prior to this meeting
5 starting this morning, I went to the Publications Department
6 seeking to purchase 15 copies, and I'm not critical, but
7 I was told, unlike the past, that they would not give them
8 to me and bill me, but that I must return to my office,
9 draw a check, and that it would take about four days before
10 they could put them in the mail.

11 Then by the time I can get them out to my clients
12 and other interested parties, the time for industry to
13 coordinate its activities is just gone.

14 In my opinion, and I say this respectfully, I
15 think the report is extremely slanted and biased. It
16 certainly represents the staff's position from an advocacy
17 standpoint, but it is not an adequate basis on which this
18 Commission should act, on the very important issues it
19 addresses.

20 The key issues really are whether the standards
21 themselves cause the energy savings, or whether the savings
22 are the result of free market forces and competition. The
23 question also is on the methodology. I would like, and
24 will, if there's adequate opportunity, employ expert
25 witnesses, as I have in prior proceedings before this

1 Commission, to address some of the methodological problems
2 and to address the issues.

3 I think there needs to be a full consideration,
4 preferrably at a hearing of the Committee rather than the
5 full Commission, of the effect on manufacturers, the
6 Commission's report -- I mean, the staff's report is very
7 self-serving, the effect on dealers and distributors.

8 Just as one example of the bias of this report,
9 the authors site many, many people that are favorable to
10 their position, but they do not site at all the joint
11 hearings held by the state's committee on -- I mean the
12 Select Committee on the State's Economy. If you just read
13 this and considered only what's within this report, you
14 would not even have explained to you the basis of the DOE's
15 conclusion that no standards were necessary, and the basis
16 for their rule, which is now final with respect to some
17 appliances, that there is no standard necessary, and
18 therefore, they adopted a final no standard rule.

19 Also, I think it's important that you give the
20 industry an opportunity to address preferrably again,
21 through a hearing, the question of the effect on consumers.
22 The savings that are claimed in this report are based on
23 engineering, calculations, as admitted by the staff, and
24 what is optimum for a consumer is not necessarily the
25 average, and certainly the question of whether you use

1 statewide figures must be taken into consideration.

2 Now, the most important issue, I think, and the
3 thing that I would like to stress as a lawyer, speaking
4 to this Commission, is that before the Commission acts in
5 an administrative proceeding like this, other -- the
6 interested parties must be given an opportunity to rebut
7 the evidence developed by the staff.

8 I don't know how many months, but I know it's
9 many, that this report has been in development by the
10 staff. It shows good academic work. It's obviously been
11 carefully reviewed and developed. To send out a notice,
12 and this notice was mailed on the 21st of July, it reached
13 my office only yesterday, and to expect the industry to
14 respond adequately, or to consider that an adequate oppor-
15 tunity to rebut the many assertions made in this report,
16 I respectfully submit is just not correct.

17 I do again ask that you refer this to the
18 Committee and that they hold hearings. I would just like --
19 and I'll conclude with this. The report just glosses over
20 the effect on small business. I participated, I think it
21 was in February when a group of about 23 small dealers
22 called on Assemblyman Katz at his office. The same day,
23 I think it was a number, about 19 or 20 called on Senator
24 Montoya.

25 Also, if the full record of the Joint Select

1 Committee on the State's Economy had been reviewed, and
2 fairly discussed in this report, it would have a
3 completely different tone than it does at present.

4 So, in conclusion, again, for the Commission to
5 consider this and act on August 24th at its business
6 meeting just does not present an adequate opportunity for
7 industry to rebut the many conclusions, and the weight of
8 the evidence that the state has marshalled in this report,
9 and I would respectfully request that you take one of those
10 actions. Thank you very much.

11 COMMISSIONER GANDARA: Mr. Oakley?

12 MR. OAKLEY: Rick Oakley, representing CMA's
13 Committee for Responsible Appliance Energy Policy. Just a
14 comment related to the report, I just obtained a copy this
15 morning. We have -- I have met with your staff, and they
16 have indicated a desire to meet with the industry and we're
17 trying to set something up for something -- week of August
18 15th to brainstorm some of the concepts that the staff had
19 suggested to the Commission on their proposed goals and
20 objectives for 1984/85 in this subject area.

21 We are excited and very, very amenable to meeting
22 with staff and doing that brainstorming session. I think
23 that will be very productive, and I think that will, I
24 think, bear some heavy weight on what comes out in this
25 proceeding.

1 I also want to express our appreciation to the
2 Commission for supporting AB 191 as amended in Senate
3 Energy Committee. But we are, you know, we are really
4 anxious to explore the alternatives to standards because
5 we think that many of these alternatives will be very,
6 very viable in increasing the efficiency of appliances in
7 the future, and I think your staff is excited in the same
8 area. So, just those comments.

9 COMMISSIONER GANDARA: Let me indicate just a
10 correction here, I don't know what Committee you're
11 referring to and when, but the Commission has not supported
12 AB 191, and its last position on 191 was to oppose it
13 unless amended.

14 COMMISSIONER EDSON: Commissioner Gandara, I
15 do believe that amendments were offered that were consistent
16 with the Commission's recommendation and the letter was
17 signed by three Commissioners. You may have been on
18 vacation at the time.

19 COMMISSIONER GANDARA: Okay. Well, with respect
20 to that, I recall that at one time I was advocating that
21 that be a viable vehicle for a Commission position, and
22 I think the rest of the Commission disagreed with me, and
23 they said that absent a Commission decision supporting --
24 you know, a Commission decision, a full Commission meeting,
25 that that would not be support, nonetheless, and we then

1 indicated.

2 But be that as it may, I was just surprised by
3 that. I thought I would comment on that. At least
4 technically, at least, the Commission's own procedures
5 that has taken such a position on 191, at this point, what
6 may have been said. That's not to say that it wouldn't,
7 or that it might not change it's opposition to neutral, or
8 even support, but that's the current status of AB 191's
9 position by the Commission.

10 Commissioner Commons?

11 COMMISSIONER COMMONS: Yes. I guess I first have
12 a procedural question. I think there were two requests.
13 Do we have any ability, when this is a non-noticed item, to
14 act on either of these requests?

15 COMMISSIONER GANDARA: I do not believe the
16 Commission can Commission formal action. This is a public
17 comment period. On the other hand, certainly, I don't
18 believe that this item has been calendared yet for the
19 August 10th meeting, and I believe that this notice went
20 out on July 14th -- I don't understand why Mr. Clawson
21 received it July 21st, but the notice went out on July 14th.
22 I notice from the sign-off sheet that I must have been
23 out of town or on vacation, in any case, it was July 14th.

24 Since that time, I believe that staff has discussed
25 postponing the scheduling of this item until August the 24th.

1 I don't think there's any --

2 MR. CLAWSON: Commissioner Gandara, may I give
3 you this copy of the notice? It was with the report that
4 I received yesterday.

5 COMMISSIONER GANDARA: Does that indicate
6 August 24th?

7 MR. CLAWSON: Yes, it does. May I read it?

8 COMMISSIONER GANDARA: Okay.

9 MR. CLAWSON: "This report will serve as the
10 technical support for the Commission's consideration and
11 possible action at the August 24th, 1983 business meeting
12 on a resolution proposed by the CEC's Appliance Standards
13 Committee."

14 COMMISSIONER GANDARA: Yes.

15 MR. CLAWSON: I would very much like to get a
16 copy, if I may, of the proposed resolution that -- if it
17 has been prepared.

18 COMMISSIONER GANDARA: Well, again, you know, we
19 will have that for you. I mean, I imagine that's running
20 its course of the scheduling procedure. I mean, it goes
21 through the regular item agenda. I have an earlier version
22 that says August 10th; August 24th must be the correct date
23 then.

24 In any case, the purpose of this, this does not
25 constitute the formal notice, but the purpose of this is to

1 indicate the importance of this particular document and
2 its intention to be calendared for such a discussion.

3 MR. CLAWSON: Well, Commissioner, if I may
4 respond, I would think following your normal practice that
5 this goes out in advance, and then when the agenda is
6 prepared, which I receive about a week, at the most,
7 before the meeting, it would be on there, and that would
8 be wholly inadequate.

9 The purpose of sending this in advance, was in
10 the requests that I have made, and many others, is to get
11 as much notice as possible. So I would assume that this
12 is in the mill for the 24th.

13 COMMISSIONER GANDARA: Yeah, that's right. Mr.
14 Clawson, let me indicate that the report itself does not
15 introduce any new items, any new analysis. It's a compila-
16 tion of a number of issues that have been raised by you
17 and others. It is a historical review, and is analysis in
18 some portions that addresses those arguments which you have
19 indicated have not been there in the past.

20 It's got recommendations that are not hardly
21 surprising, it frankly does not rise to the status of a
22 new notice of a new topic, or anything like that, so that
23 it would seem to me that the comments that you've been
24 preparing, you know, throughout the years are just as
25 adequate.

1 MR. CLAWSON: Commissioner --

2 COMMISSIONER GANDARA: Again -- excuse me. Let
3 me just indicate, you know, that the Commission cannot take
4 formal action, at least that's in my judgment. If the
5 General Counsel has something other than that, you know,
6 perhaps I'd like to hear from them.

7 But as currently proposed, I will be scheduling
8 this item for August 24th, and I don't particularly think
9 that this is the time to engage in a debate about that.
10 This is public comment, you're entitled to your comment as
11 is Mr. Oakley, but we have gone round about this, and
12 though I am inspired and appreciate your confidence in the
13 Committee now, in wishing to hold Committee meetings and
14 workshops, and so forth, that clearly had not been your
15 preference in the past, where, in fact, most of the time
16 you reserved your comments for the full Commission hearings.

17 MR. CLAWSON: No, the petition I filed asked that
18 the Committee --

19 COMMISSIONER GANDARA: Let me say that this is
20 also in response to your request of a full Commission
21 hearing before the Commission took a position on the pre-
22 emptation.

23 MR. CLAWSON: But this does not notice a hearing.
24 This noticed only a vote on a motion to be made by the
25 Committee, supported by this staff, and I think I'm entitled,

1 and General Counsel, I expect would agree, to read this
2 notice, along with the recommendation in the back of this,
3 along with the statement that you are going to have a
4 motion for the Commission to act upon which would authorize
5 the filing of a petition for exemption from preemption.

6 And I'm -- my position --

7 COMMISSIONER GANDARA: You will have a copy of
8 the resolution within adequately noticed time, Mr. Clawson.

9 MR. CLAWSON: Well, that's my point. I don't
10 believe any notice that would come out subsequent --

11 COMMISSIONER GANDARA: Well, if it's defective,
12 it will be pulled from the agenda. If it's defective, it
13 will be pulled from the agenda, what else can I tell you.
14 I don't wish to get into a debate about it here, you know.
15 Your comments went to the substance that you could also
16 have made on August 24th, or can make again there, that's
17 fine.

18 But you know, before we engage in any more
19 discussion on this matter, Mr. Chamberlain, is there any
20 point to this?

21 MR. CHAMBERLAIN: I believe your points are well
22 taken, Commissioner Gandara. This hearing, as I understand
23 it, was something that was granted to industry, not because
24 it was legally required, but because the Commission agreed
25 that as a matter of policy, it was a good idea to give the

1 industry an opportunity to comment on its proposal to file
2 this petition for exemption with DOE.

3 Nothing in our statute or the federal law
4 requires the Commission to do that, and certainly, the
5 Commission could take an action to postpone the hearing
6 that has been voluntarily granted on the 24th, if arguments
7 are made to that effect, I believe your points are well
8 taken at this point.

9 COMMISSIONER GANDARA: Commissioner Commons?

10 COMMISSIONER COMMONS: The 24th is shaking out
11 to be a very long meeting. We have a number of items that
12 will be on the agenda from the CFM Committee which will
13 take a fair amount of time, plus it appears we'll end up
14 having the final disposition of the work plans, plus there's
15 a number of other items.

16 Is there a legal reason, in terms of the submittal
17 of our petition to the Department of Energy, that makes it
18 imperative that we hear this on August 24th rather than the
19 next business meeting?

20 MR. CHAMBERLAIN: Well, actually, Mr. Clawson
21 said something that was somewhat at odds with my under-
22 standing of the situation. He indicated that there were,
23 in fact, final rules now, that the federal government had
24 adopted relating to a no-standard standard. At whatever --

25 MR. CLAWSON: Only for some appliances, not all.

1 MR. CHAMBERLAIN: Okay.

2 MR. CLAWSON: Not the ones addressed by this
3 report.

4 MR. CHAMBERLAIN: At whatever point there is
5 such final rule, there is a limited period of time in which
6 the Commission may file a petition for exemption. I've
7 forgotten, I believe that's 120 days.

8 MR. CLAWSON: It is 120 days.

9 MR. CHAMBERLAIN: I would have to go back and
10 look at the federal law to be sure.

11 COMMISSIONER COMMONS: Well, I think the first
12 thing in reviewing his request, which should go to the
13 Committee to respond, is the first thing we should do is
14 find out if there is any legal requirement of our proceeding
15 on either August 10th, or August 24th, and I would encourage
16 the Presiding Member of the Committee if there is not, that
17 the request of the two week delay might not be of great
18 consequence.

19 COMMISSIONER SCHWEICKART: Let me suggest,
20 Commissioner Gandara, alternatively, I think the Committee
21 should consider whether or not to proceed with any such
22 debate. It would seem to me that given the Committee's
23 calendar, and the staff loading, and other things that the
24 Commission is facing given the very severe budget cuts, and
25 work plan scheduling, that we may just want to deal with this

1 in executive session. It is a matter of litigation, and
2 that is our normal procedure, if Mr. Clawson is encouraging
3 normal procedure.

4 MR. CLAWSON: If I could have one comment,
5 Commissioner. I don't consider this a debate. What I am
6 asking for is a hearing, an evidentiary hearing, where the
7 industry would have an opportunity to bring in qualified
8 people to speak to the issues raised by this report.

9 If it were just a matter of opinion, or argumenta-
10 tion, I would agree with Commissioner Schweickart. I'm
11 requesting, and I think the Commission should hear, before
12 it authorizes the filing of a petition for exemption from
13 preemption, in an evidentiary hearing, preferably before
14 the Committee, rather than the full Commission, where we
15 can bring in qualified people, and put evidence in the
16 record, rather than just argument.

17 Thank you.

18 COMMISSIONER GANDARA: Thank you very much. As
19 I indicated before, the Commission will retire into
20 executive session, and this business meeting will be
21 continued for the purposes of work plan discussions to
22 one week from this Thursday.

23 (Thereupon the business meeting of the California
24 Energy Resources Conservation and Development Commission was
25 adjourned at 11:30 a.m.)

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 which
5 were had and taken in Sacramento, California on Wednesday,
6 July 27, 1983, and that the foregoing pages constitute a
7 true, complete and accurate transcription of the afore-
8 mentioned proceedings.

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

12
13 Patricia A. Petrilla

14 Reporter

15 Dated this 4th day of August, 1983.
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