

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
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STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

BUSINESS MEETING

CALIF. ENERGY COMMISSION

MAY 27 1983

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FIRST FLOOR HEARING ROOM
SACRAMENTO, CALIFORNIA

WEDNESDAY, MAY 18, 1983

10:20 A.M.

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I N D E X

		<u>Page</u>
1		
2		
3	Proceedings	1
4	Agenda Item 1 - Under separate cover	
5	Agenda Item 2 - Commission consideration and	
6	possible designation of a	
7	Committee in the Tosco Application	
	for a Small Power Plant Exemption	
8	Garret Shean - Presentation	1
9	Commission Questions	2
10	Commission Order	3
11	Agenda Item 3 - Consideration and possible adoption	
12	of an order instituting hearing (OIH)	
13	to amend the Commission's Residential	
14	Building Standards, Title 24, sections	
15	2-5351 and 2-5352	
16	Commissioner Schweickart - Presentation	3
17	Commission Questions	6
18	Commission Order	13
19	Agenda Item 4 - Removed	
20	Agenda Item 5 - Commission consideration and possible	
21	approval of a financing and imple-	
22	mentation plan for alternate energy	
23	research and development programs as	
24	described in the Commission's report	
25	"Exploring New Energy Choices for	
	California."	
	Commissioner Commons - Presentation	14
	Agenda Item 6 - Commission consideration to approve	
	or reject petition of David E. Baker	
	of Fast Payback Energy Products. The	
	petition seeks rulemaking hearings	
	in order to qualify for tax credits	
	for his energy conservation device	
	which modifies the openings of	
	washers and dryers.	
	Gary Heath - Presentation	16
	Commission Questions	17
	Commission Order	21

INDEX (continued)

	<u>Page</u>
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	

Agenda Item 7	- Commission Consideration and Possible approval to award City of Cupertino a Fuel Efficient Traffic Signal Management Grant of \$31,735.00 using unallocated funds and funds available with the withdrawal of Yuba City from the program.	
	Commissioner Edson - Presentation	21
	Commission Questions	22
	Commission Order	22
Agenda Item 8	- Approval of Minutes	23
Agenda Item 9	- Commission Policy Committees' Report	
	Commissioner Commons, R&D Committee	23
	Commissioner Edson, Loan and Grant Committee	24
	Dennis Fukumoto, AB-163 - Presentation	25
	Commission Questions	26
	Commission Order	27
	Marty Walton, SB-5 - Presentation	28
	Commission Questions	29
	Commission Order	49
	Marty Walton, SB-992 - Presentation	50
	Commission Questions	50
	Commission Order	54
	Dennis Fukumoto, AB-135 - Presentation	55
	Commission Questions	55
	Commission Order	61
Agenda Item 10	- General Counsel's Report	
	Bill Chamberlain - Presentation	24
Agenda Item 11	- Under separate cover	

1 outlined the requirements, if the Commission wishes to
2 have the matter heard by a committee, and has provided
3 a letter from Chairman Imbrecht to the Executive Director,
4 making his recommendation. Also included within your
5 package of materials is a resolution, should the Commission
6 desire to designate the committee as recommended by the
7 Chairman. So, that essentially is the item.

8 VICE CHAIRMAN GANDARA: Who has presided over these
9 small power plant exemptions in the past? We've had two,
10 have we not?

11 MR. SHEAN: We have had two.

12 COMMISSIONER SCHWEICKART: Various committees.

13 MR. SHEAN: And various committees, although
14 the Regulations have been changed so that there are
15 alternatives to that.

16 COMMISSIONER EDSON: Don't our Regulations set
17 a goal of 135-day processing?

18 MR. SHEAN: That is correct.

19 COMMISSIONER EDSON: How much time has transpired?

20 MR. SHEAN: Almost six weeks.

21 COMMISSIONER SCHWEICKART: I would recommend
22 that Commissioner Commons be authorized to get on with it.

23 VICE CHAIRMAN GANDARA: Any -- do I hear a motion
24 for the item before us, although I --

25 COMMISSIONER SCHWEICKART: In the absence of

1 the Chairman, I'll move his recommendation?

2 VICE CHAIRMAN GANDARA: Do I hear a second?

3 COMMISSIONER EDSON: I'll second the motion.

4 VICE CHAIRMAN GANDARA: Would you call the roll,
5 please?

6 SECRETARY MATHIES: Commissioner Commons?

7 COMMISSIONER COMMONS: Pass.

8 SECRETARY MATHIES: Commissioner Edson?

9 COMMISSIONER EDSON: Aye.

10 SECRETARY MATHIES: Commissioner Schweickart?

11 COMMISSIONER SCHWEICKART: Aye.

12 SECRETARY MATHIES: Commissioner Gandara?

13 VICE CHAIRMAN GANDARA: Aye.

14 SECRETARY MATHIES: Chairman Imbrecht?

15 (Not present.)

16 VICE CHAIRMAN GANDARA: Item No. 3 is consideration
17 and possible adoption of an order instituting hearings
18 to amend the Commission's Residential Building Standards.
19 Again, Commissioner Schweickart, as Presiding Member of
20 the Commission, would you inform the Commission of how
21 you wish to proceed on that?

22 COMMISSIONER SCHWEICKART: Okay. We have some
23 materials being passed out here. The proposed order
24 instituting hearings on amendments to the residential
25 building standards are being brought before the Commission

1 to initiate a process which is consistent with the annual
2 republication of Title 24 by the Building Standards
3 Commission, into whose basic schedule on these building
4 standards publications our process must fit. And we are
5 initiating at this time, or proposing to initiate at this
6 time, via this hearing order, a process which will provide
7 or get underway the consideration by the Committee of a
8 number of items which have been identified to date for
9 proposed hearing for amendments, clean-up or otherwise,
10 to the residential building standards, as well as an
11 opportunity for other petitions to the Commission for amend-
12 ments to the standards to be dealt with.

13 So, essentially, this would initiate the process
14 both to handle any future petitions which the Commission
15 may deem acceptable for consideration, as well as the
16 particular -- what do we have here; nine items identified
17 in this current order at the motion of the Committee itself.

18 Now, I can refer to these to illuminate the
19 Commission on the nature of the particular items contained
20 within the hearing order at this time. Most of them are
21 a result of the Implementation Advisory Committee on the
22 residential buildings standards that was established several
23 months ago and in which the Commission, the Committee and
24 a number of people from the building industry, from
25 manufacturers, from academia, architects, et cetera, have

1 been dealing with the various implementation issues which
2 have been submitted to the Committee.

3 A number of these, in fact, most of them, were
4 identified by CBIA. In dealing with these implementation
5 issues, the Implementation Advisory Committee, at the outset,
6 indicated that there were a number of ways in which we
7 could deal with matters. Some of the matters brought before
8 us can be dealt with administratively, with no formal
9 Commission action whatsoever. And a number of actions
10 have already been taken in that regard.

11 Secondly, if there are changes in the wording
12 of the standards, that is, in Title 24, in order for certain
13 things to occur, then we must enter, by law, into the
14 Building Standards Commission annual update of Title 24,
15 and, by law, must initiate a rulemaking proceedings in
16 which these matters may be brought before the public for
17 final discussion and determination by the Commission.

18 A third channel for changes to the building
19 standards, or let me say in addressing the matters brought
20 before the Implementation Advisory Committee, is legislative
21 action, which clearly can supersede or bypass all of these
22 other processes. Nevertheless, it was the Committee's
23 decision that where these implementation issues fall within
24 the Commissioner's energy standards within Title 24, that
25 the Commission should initiate the action at this time

1 to establish the hearings in which these things may be
2 dealt with.

3 Now, there is an exception to that, and that
4 is, in fact, listed on page 2, section II A., which are
5 changes in climate zone boundaries, pursuant to request
6 from various local enforcement agencies, that particular
7 item, we have a request from Riverside County, I believe,
8 to modify a climate zone boundary in Title 24, and so the
9 Commission -- that is also incorporated in this set of
10 hearings.

11 The others, I stand at the Commission's desire
12 in whether or not to go into any or all of these items.

13 VICE CHAIRMAN GANDARA: Let me see if we're going
14 to have any public testimony with respect to these items.
15 Can I have -- is there anybody who wishes to speak to these
16 items?

17 MR. PEREZ: I have no indications of public
18 testimony.

19 VICE CHAIRMAN GANDARA: Commissioner Commons?

20 COMMISSIONER COMMONS: Commissioner Schweickart,
21 what are some of the changes that were generally supported
22 by industry which are not included in the order?

23 COMMISSIONER SCHWEICKART: Which are not included
24 in the order. Well, on the one side, for example, we have
25 issued interpretations -- actually, they may all be included

1 in here, too. Keep me straight here, John. There are
2 a couple of matters here where, in fact, the Commission
3 has taken administrative action, which lies within its
4 jurisdiction, and, at the same time, in the judgment of
5 the Committee, we opted to identify those, as well, so
6 that they could be amended into Title 24 to add further
7 clarification. But, for example, the Commission has issued
8 an interpretation to local jurisdictions related to the
9 treatment of a subdivision through which a climate zone
10 boundary falls, and how does the builder or the building
11 official, the local building official, treat that subdivision?
12 Does it actually get treated as one climate or another?
13 And the Commission Staff indicated, through an interpretive
14 memorandum to local building officials, that the climate
15 zone to be used for any single subdivision should be that
16 in which the majority of the homes would be built with
17 the existing lines.

18 COMMISSIONER EDSON: Commissioner Commons, I
19 think the building industry submitted a list of 10 problems,
20 and I think in all, but one, cases those problems are either
21 resolved by the issuance of the administrative actions
22 that Commissioner Schweickart has described or are specificall-
23 ly called out in this list. And that one exception is
24 a request that the shading requirements be restricted to
25 west glazing only. And I think the general sense of people

1 who have reviewed that recommendation is that it is
2 technically flawed, in that in some climate zones, in fact,
3 east shading is much more important than west shading.
4 Their request was based on the assumption that it's really
5 only important for west shading.

6 So, I think, in summary, the CBIA list of concerns
7 have either already been dealt with by administrative action
8 or are called out in this list of items.

9 VICE CHAIRMAN GANDARA: Well, let me interject
10 here. Is there a paragraph missing here? You have
11 section 1, 2 and 4. Is there a section 3, or is that
12 just a typo?

13 MR. CHANDLEY: I've renumbered all our OIH's
14 as a precedent. No, sir, it's missing.

15 VICE CHAIRMAN GANDARA: Okay. And so this will
16 be number 3 through whatever.

17 MR. CHANDLEY: Right, I don't believe there's
18 a section missing. Excuse me, you have discovered the
19 idiosyncrasies of my own Vyedecing approach. I've left
20 the 3 out that goes before the paragraph that precedes
21 section 4. Thank you.

22 VICE CHAIRMAN GANDARA: Okay. That's just a --

23 COMMISSIONER SCHWEICKART: That is between item
24 (i) and the paragraph that begins, "The Building Conserva-
25 tion Committee...."

1 MR. CHANDLEY: Yes.

2 VICE CHAIRMAN GANDARA: Well, that was just the
3 lead-in to my comment here, that 2(h) indicates that, "Any
4 additional changes requested by interested persons, pursuant
5 to timely petitions for rulemaking that are accepted by
6 the Commission"; so, there is no preclusion here --

7 COMMISSIONER SCHWEICKART: That's right.

8 VICE CHAIRMAN GANDARA: -- of any issue being
9 raised. So, that really raises in my mind, given some
10 limited Staff resources and expected limitations, is there
11 some reason why these issues are not being initiated by
12 petition from the industry?

13 COMMISSIONER SCHWEICKART: It's, again, the decision
14 on the Committee, on its own motion, to introduce these
15 items. They have been introduced in the -- to the Commission,
16 to the Committee in the Implementary Advisory Committee.

17 VICE CHAIRMAN GANDARA: Okay.

18 COMMISSIONER SCHWEICKART: And after discussion
19 within that Committee, the recommendation of the Building
20 Standards Committee is to initiate the hearing process
21 in which those would be formally dealt with.

22 VICE CHAIRMAN GANDARA: Well, I think that's
23 entirely appropriate and good. I also want to call attention
24 to 2(h), and that is that any item or any issue can be
25 the subject of a petition, as well, so that --

26 COMMISSIONER SCHWEICKART: Right. As I indicated,

1 there were two purposes here. One was to start a process
2 into which any and all petitions, which the Commission
3 so deems, are handed, that's item (h). And the others
4 are specific, related to things already in hand.

5 VICE CHAIRMAN GANDARA: Any further discussion?
6 Commissioner Commons?

7 COMMISSIONER COMMONS: Is there any question
8 outstanding on the percentage of glass in a house?

9 COMMISSIONER SCHWEICKART: There was a great
10 deal of discussion on the percentage of glass permitted
11 or authorized pursuant to the new building standards. There
12 is a great deal of misunderstanding that there is some
13 limit established by the standards on the amount of glass,
14 which there is not.

15 COMMISSIONER COMMONS: Is that in Package B?

16 COMMISSIONER SCHWEICKART: Again, Commissioner
17 Commons, in any prescriptive package, which is consistent
18 with the standards; or, for that matter, in any particular
19 house design which complies with either the point system
20 or the computer methods that are approved there will be
21 a resulting glass area. In Packages B and A and C, there
22 are limitations, there are definitions, there are resulting
23 glass area limitations for those particular packages. There
24 is no particular reason why any builder should build to
25 those packages, given the total flexibility in the standards,

1 to build to any design he may wish, so long as it meets
2 the performance.

3 In other words, if you want 40-percent glass
4 in your house, you may do so, so long as you compensate
5 for that by higher performance in other features in the
6 home, which allow the home, then, on the whole, to meet
7 the performance criteria.

8 COMMISSIONER COMMONS: Going back to the petitions,
9 how long would an individual builder or other party have
10 in terms of submitting or making a request for a petition
11 in this process.

12 VICE CHAIRMAN GANDARA: Under our petition process,
13 perhaps General Counsel can clarify it, but any petitioner
14 is required to have an answer by this Commission within
15 30 days as to whether his petition is accepted or rejected.

16 COMMISSIONER COMMONS: No, I mean as part of
17 this order where we're going to -- in trying to raise other
18 issues that, for one reason or not, may not be part of
19 the item --

20 COMMISSIONER SCHWEICKART: Commissioner Commons,
21 let me try and respond to your question in the following
22 way. The Building Standards Commission sets a date on
23 which it will publish, on an annual basis, which so far they
24 haven't quite managed to do, but on an annual basis,
25 hypothetically, the Building Standards Commission will

1 republish Title 24 with, if you will, any amendments batch,
2 so that the building industry has only an annual change
3 to the standards that they deal with. That, I believe
4 at one point the intention was every January the Building
5 Standards Commission would reissue Title 24 with all inter-
6 vening amendments adopted into a single update.

7 The Building Standards Commission then establishes
8 a schedule leading up to that publication, which the
9 Commission then attempts to meet by holding hearings in
10 a timely way so that submittals for amendments for the
11 next update can be made.

12 At the present time, we are assuming, in the
13 absence of a response to request for a hard schedule,
14 that September, I believe, is the target date for the Energy
15 Commission's updates to the Building Standards Commission.

16 VICE CHAIRMAN GANDARA: So, I take it the sooner
17 we adopt this, the sooner you can get started.

18 COMMISSIONER SCHWEICKART: The sooner we adopt
19 this, the sooner we get started.

20 But in terms of how late someone may apply to
21 the Commission for an amendment to the standard, have due
22 process met, in terms of public hearing, and still the
23 Building Standards Commission's date is fundamentally up
24 to the Building Standards Commission, who has so far not
25 given us a hard date. And we will move ahead expeditiously

1 with any and all petitions the Commission decides should
2 be heard by the Committee and make a recommendation to
3 the Commission.

4 VICE CHAIRMAN GANDARA: Given the urgency of
5 getting started, do I hear a motion?

6 COMMISSIONER SCHWEICKART: I would move the OIH.

7 VICE CHAIRMAN GANDARA: Do I hear a second?

8 COMMISSIONER EDSON: I second the motion.

9 VICE CHAIRMAN GANDARA: Let's call the roll,
10 please.

11 SECRETARY MATHIES: Commission Commons?

12 COMMISSIONER COMMONS: Aye.

13 SECRETARY MATHIES: Commissioner Edson?

14 COMMISSIONER EDSON: Aye.

15 SECRETARY MATHIES: Commissioner Schweickart?

16 COMMISSIONER SCHWEICKART: Aye.

17 SECRETARY MATHIES: Commissioner Gandara?

18 VICE CHAIRMAN GANDARA: Aye.

19 SECRETARY MATHIES: Chairman Imbrecht?

20 (Not present.)

21 VICE CHAIRMAN GANDARA: I have a note on the
22 fourth item here that it has been continued to June 1, '83.
23 My recollection was, at the last business meeting, direction
24 was given to the Executive Office that when items were
25 pulled that the Commission would receive a memo as to why

1 or the circumstances for that. Simply for orderliness
2 of the proceeding, let's see if we can do that in the future.

3 Let me just ask whether there are any people
4 here --

5 MR. GEESMAN: I believe that there is a memo
6 to that effect.

7 VICE CHAIRMAN GANDARA: There is? I apologize.
8 I don't --

9 COMMISSIONER COMMONS: Let me state --

10 VICE CHAIRMAN GANDARA: Maybe you can inform me.

11 COMMISSIONER COMMONS: -- that the Presiding
12 Member of the Committee is requesting the postponement
13 and has notified the applicant in this instance of the
14 postponement.

15 VICE CHAIRMAN GANDARA: Well, I don't have a
16 memo, but I appreciate knowing.

17 Is there anybody who wishes to speak to it, none-
18 theless, who may be here, who did not receive notice of --
19 okay, let's proceed to Item No. 5.

20 Commission consideration and possible approval
21 of a financing and implementation plan for alternate energy
22 resource and development programs. Commissioner Commons,
23 this falls within your purview. Would you like to inform
24 the Commission?

25 COMMISSIONER COMMONS: The R&D Committee has

1 issued the final report, or the Commission has issued the
2 final report on exploring new energy choices for California.
3 The Committee is initiating developing a financing and
4 implementation plan for that report because we cannot go
5 ahead in the development and research on alternate energy
6 resources unless we have a financing and implementation
7 plan.

8 I think one of the key areas in terms of being
9 able to develop such a plan would be to have a workshop,
10 where people from the industry, people from the financing
11 community, third-party financing people, utilities, that
12 we could all sit together in an informal setting and discuss
13 some of the alternative ways that we can proceed.

14 The Committee will be putting out possibly some
15 more papers. We're looking for having this workshop sometime
16 in July. There's a possibility that we may actually hold
17 the workshop in either one of the major financial centers
18 of the state, in the San Francisco or Los Angeles areas.
19 And what we wanted to do at this time was to bring it to
20 the attention of the Commission that the Committee is working
21 in the area and will hold a workshop and may, at some subse-
22 quent date, in July, bring back to you a report in this
23 area.

24 VICE CHAIRMAN GANDARA: Okay. So, you're not
25 asking the Commission for any action at this point in time.

1 COMMISSIONER COMMONS: No.

2 VICE CHAIRMAN GANDARA: Okay, fine.

3 Any questions? comments?

4 (No response.)

5 VICE CHAIRMAN GANDARA: Item No. 6, Commission
6 consideration to approve or reject petition of Mr. David
7 Baker, of Fast Payback Energy Products.

8 Commissioner Edson, is this a Tax Credit Committee
9 issue or is this, at this point in time, a petition from
10 Mr. Baker with a Staff response?

11 COMMISSIONER EDSON: At this point it is a petition
12 from Mr. Baker with a Staff response. The Committee has
13 not --

14 VICE CHAIRMAN GANDARA: Okay.

15 COMMISSIONER EDSON: -- was not involved in the
16 development of the recommendation.

17 VICE CHAIRMAN GANDARA: Is Mr. Baker here to
18 speak to it?

19 MR. HEATH: No. The Public Adviser's Office
20 will be representing Mr. Baker.

21 VICE CHAIRMAN GANDARA: Okay, proceed.

22 MR. HEATH: You have before you a petition, with
23 a Staff recommendation to deny the petition. The petition
24 was for a request for a rulemaking for the conservation
25 tax credit which would be applied to the washers and dryers

1 in the laundry industry.

2 I have informed Mr. Baker of the Staff's decision
3 or recommendation to deny the petition; he has declined
4 to come before the Commission today, based upon that
5 recommendation, because of the jurisdictional issue.

6 I would like to point out for the Commissioners
7 that in the Staff analysis there is heavy emphasis upon
8 the RCS Program, and I'd like to point out for the Commis-
9 sioners that Mr. Baker's petition dealt with the commercial
10 and industrial sector and not the residential sector, and
11 that Staff's analysis dealing with this matter was probably
12 inappropriate from his and my perspective.

13 MR. GEESMAN: Let me break in here. We had
14 difficulty contacting him to clarify that his petition was
15 for a device relating to nonresidential applications only.
16 As a consequence, we analyzed it for both residential and
17 nonresidential application.

18 MR. HEATH: We have advised Mr. Baker that his
19 relief in this matter would probably be a legislative one
20 and we advised him to contact his state assemblyman and
21 senator, if he wished to pursue the matter, in the light
22 that the Energy Commission did not have jurisdiction over
23 this matter.

24 VICE CHAIRMAN GANDARA: Are there any questions?

25 COMMISSIONER EDSON: I take it, then, Mr. Heath,

1 you concur with the Staff's finding that the Commission
2 does not have the authority to make Mr. Baker's device
3 eligible for the nonresidential --

4 MR. HEATH: I do agree.

5 COMMISSIONER EDSON: -- credit?

6 COMMISSIONER COMMONS: Can you explain the basis
7 for that, please?

8 MR. HEATH: My understanding of the conservation
9 tax credit applies at this time primarily to the residential
10 area. This device or devices that Mr. Baker has proposed
11 be considered are ones which are of -- would be used in
12 the commercial and industrial area; therefore, it does
13 not have the jurisdiction of the Energy Commission.

14 COMMISSIONER EDSON: Well, I actually think there
15 is -- there are extensive conservation tax credits in the
16 nonresidential sector. Perhaps Mr. Fay can review that,
17 the specific provision of law which restricts our ability
18 in this area.

19 MR. FAY: Mr. Baker's problem isn't quite as
20 broad as expressed by the Public Adviser's Office.

21 The statute, Revenue and Taxation Code, section
22 23601.5(f)(5)(i), sets up generic categories for application
23 of conservation devices in other than dwellings, and it
24 includes six different categories, none of which remotely
25 relate to devices modifying the openings of laundry

1 equipment. And it was on that basis that we determined
2 that there was no legal authority for the Commission to
3 adopt standards.

4 COMMISSIONER SCHWEICKART: Mr. Fay, can you give
5 us an example of some of those six?

6 MR. FAY: Electrical or mechanical furnace igni-
7 tion devices; devices modifying the openings of restaurant
8 food preparation appliances, so as to achieve increased
9 energy efficiency; devices modifying the heating and cooling
10 device systems; storm thermal windows; glazing materials;
11 heat pumps; load management devices; insulation of floors
12 and walls.

13 COMMISSIONER EDSON: Let me --

14 MR. FAY: So, there is a broad range that is
15 eligible in nonresidential applications.

16 COMMISSIONER SCHWEICKART: But would require
17 specific legislation for this particular device proposed
18 by the petitioner to receive tax credit, and that would
19 be a legislative matter.

20 MR. FAY: Right.

21 COMMISSIONER EDSON: Let me suggest, Mr. Heath,
22 that you inform Mr. Baker, as well, that there is legisla-
23 tion moving this year that he could seek amendment to.

24 MS. FONTES: I've mentioned that. I've also
25 talked to Mr. Baker and I mentioned that to him.

1 VICE CHAIRMAN GANDARA: Do I hear a motion to
2 accept the Staff recommendation?

3 COMMISSIONER EDSON: I would move that we accept
4 the Staff recommendation.

5 COMMISSIONER SCHWEICKART: Second.

6 VICE CHAIRMAN GANDARA: Commissioner Commons,
7 question?

8 COMMISSIONER COMMONS: I'd like to amend that
9 motion. The Staff recommendation, I believe, is based
10 on the RCS, and I think what we should do is move to deny
11 the petition on the basis of the legal statement of
12 Mr. Fay, without the discussion on the residential, because
13 there is some confusion in the writeup; even though it
14 does incorporate the final information, I do find the Staff
15 recommendation is not totally on line with the discussion
16 that we heard from Mr. Fay.

17 VICE CHAIRMAN GANDARA: Let's -- I believe that
18 the proposed action is just to reject the petition, and
19 I think any elaboration beyond that, the Staff is free
20 to communicate with Mr. Baker or the Public Adviser. I
21 think at this point, then, the only issue is to reject
22 the petition.

23 COMMISSIONER COMMONS: But the motion was made
24 based on the Staff recommendation --

25 COMMISSIONER EDSON: Let me amend my motion that

1 we deny Mr. Baker's petition.

2 COMMISSIONER SCHWEICKART: Second.

3 VICE CHAIRMAN GANDARA: Would you call the roll,
4 please?

5 SECRETARY MATHIES: Commissioner Commons?

6 COMMISSIONER COMMONS: Aye.

7 SECRETARY MATHIES: Commissioner Edson?

8 COMMISSIONER EDSON: Aye.

9 SECRETARY MATHIES: Commissioner Schweickart?

10 COMMISSIONER SCHWEICKART: Aye.

11 SECRETARY MATHIES: Commissioner Gandara?

12 VICE CHAIRMAN GANDARA: Aye.

13 SECRETARY MATHIES: Chairman Imbrecht?

14 (Not present.)

15 VICE CHAIRMAN GANDARA: Item No. 7, the considera-
16 tion of the award to the City of Cupertino regarding a
17 traffic signal management grant.

18 COMMISSIONER EDSON: I would like to provide,
19 as the Presiding Member of the Loans and Grants Committee,
20 a brief explanation of this item.

21 As you might recall, at an earlier business meeting,
22 we made a change to the data processing contract for the
23 traffic signal timing program, which freed up money from
24 a variety of previously made grants.

25 In addition, Yuba City has asked the Commission

1 to reduce the amount of their earlier award because, as
2 they investigated implementation of the grant award, they
3 discovered that they could not use all of the funds.

4 What we have before us now is a recommendation
5 that we take the money freed up from the City of Yuba City
6 and as well as the data processing money freed up from
7 the grant awards and award it to the City of Cupertino,
8 which is the remaining eligible jurisdiction.

9 I concur with the Staff's recommendation and
10 would move that.

11 COMMISSIONER SCHWEICKART: Second.

12 VICE CHAIRMAN GANDARA: Is there any discussion?
13 Commissioner Commons?

14 COMMISSIONER COMMONS: Commissioner Edson, does
15 it meet the standards that we established in terms of pay-
16 back?

17 COMMISSIONER EDSON: Yes, it does.

18 VICE CHAIRMAN GANDARA: Would you call the roll,
19 please?

20 SECRETARY MATHIES: Commissioner Commons?

21 COMMISSIONER COMMONS: Aye.

22 SECRETARY MATHIES: Commissioner Edson?

23 COMMISSIONER EDSON: Aye.

24 SECRETARY MATHIES: Commissioner Schweickart?

25 COMMISSIONER SCHWEICKART: Aye.

1 SECRETARY MATHIES: Commissioner Gandara?

2 VICE CHAIRMAN GANDARA: Aye.

3 SECRETARY MATHIES: Chairman Imbrecht?

4 (Not present.)

5 VICE CHAIRMAN GANDARA: Item No. 8, approval
6 of the minutes. I would move approval of the minutes.

7 COMMISSIONER SCHWEICKART: Second.

8 VICE CHAIRMAN GANDARA: Any objection?

9 (No response.)

10 VICE CHAIRMAN GANDARA: Without objection.

11 The Commission Policy Committees' report, do
12 we have any -- Commissioner Commons?

13 COMMISSIONER COMMONS: From the R&D Committee,
14 the Public Utilities Commission order is instituting hearings
15 on the long-term avoided cost contract. These are workshops
16 which are going to be initiated May 23 and finish on
17 June 25; the number of the workshops is uncertain. The
18 Development Division is looking at participating in that,
19 and the Research and Development Committee may bring back
20 to the full Commission a position after the end of the
21 workshops and before formal hearings are on this very
22 important item.

23 VICE CHAIRMAN GANDARA: Okay. I think it does
24 raise one particular issue, and that is that, up to now,
25 basically all -- this would be in the form of the

1 participation in the PUC proceeding, this petition being
2 handled by the former Intergovernmental Affairs Committee
3 and the -- now the Government Relations Committee. Your
4 recommendation, I think, best would appropriately be made
5 to the Committee before it comes to the full Commission.

6 COMMISSIONER COMMONS: Yes.

7 VICE CHAIRMAN GANDARA: Any other Policy Committee
8 reports?

9 COMMISSIONER EDSON: The Loan and Grant Committee,
10 as you know, has been involved in the recommending alloca-
11 tion of oil overcharge funds. I simply wanted to report
12 that at the Assembly Ways and Means Committee hearing yester-
13 day, the Commission was awarded \$2 million for local
14 government alternative energy projects, \$2 million for
15 multifamily rental sector conservation; in addition,
16 \$1.5 million was allocated to the traffic signal timing
17 effort.

18 VICE CHAIRMAN GANDARA: Any other Committee reports?

19 (No response.)

20 VICE CHAIRMAN GANDARA: If not, then we'll proceed
21 to Item No. 10, the General Counsel's report.

22 MR. CHAMBERLAIN: Mr. Chairman, the only item
23 that I have is the need for a closed session on two items;
24 one involving the Commission's participation in the BPA-83
25 rate case, and the other involving litigation for which

1 we have just gotten a decision in the Borg-Warner Lennox
2 case.

3 VICE CHAIRMAN GANDARA: Okay. We will be holding
4 an executive session later.

5 And let's proceed for now, then, to the Executive
6 Director's Report.

7 (Agenda Item No. 11 under separate cover.)

8 VICE CHAIRMAN GANDARA: Do we have any public
9 comment before we retire to executive session?

10 COMMISSIONER SCHWEICKART: We have certain legis-
11 lation.

12 MR. GEESMEN: We've got the Governmental Affairs
13 Staff here. I don't know if that that was supposed to
14 come under Commission Policy Committees' reports or not.

15 VICE CHAIRMAN GANDARA: That's right, it usually
16 comes under the Commission Policy report, but let's then
17 move on to legislation. Okay?

18 MR. FUKUMOTO: You have before you three bills.
19 The first bill is AB-163 Goggin, regarding building standards.
20 In the previous business meeting, you took a generic position
21 to oppose any bill which delayed implementation of the
22 current 1982 building standards. We are coming back with
23 AB-163 because there is some question as to whether or
24 not this bill follows under that generic category. Just
25 to protect ourselves, so that we will have a position

1 on this bill, it is being brought to you again.

2 Generally, what the bill does is extend exemption
3 from the 1982 standards for six months for single-family
4 homes, from June 15 to December 31, 1983.

5 COMMISSIONER SCHWEICKART: Dennis, let me make
6 sure I understood what you said. Are you saying that it
7 is alleged that this bill does not delay the standards?

8 MR. FUKUMOTO: That is a question that has been
9 raised and, therefore, we are going through this procedure
10 just to protect ourselves in case that that issue is raised
11 at some point in the legislative process.

12 COMMISSIONER SCHWEICKART: All right. I think
13 it's fairly clear that the standards would be implemented
14 according to this bill at the end of this calendar year,
15 as opposed to June 15 of this calendar year.

16 MR. FUKUMOTO: Correct, and that is the Staff's
17 position.

18 COMMISSIONER SCHWEICKART: All right. So, I
19 see no rational argument whatsoever that this does not
20 delay the implementation of the standards.

21 MR. FUKUMOTO: I can't speak for the rationale
22 of the legislative process. I'm just saying that that
23 was a question that is possible to be raised; so, just
24 to protect ourselves, that this is an issue that we should
25 take a formal position on this bill.

1 COMMISSIONER EDSON: Is the -- excuse me.

2 COMMISSIONER COMMONS: Can we say it's the consen-
3 sus of the Commission that this falls within the previous
4 order of the Commission?

5 COMMISSIONER SCHWEICKART: Well, let's make it
6 more explicit. I would move that the Commission oppose
7 AB-163.

8 MR. FUKUMOTO: And that is the recommendation
9 of the Governmental Relations Committee.

10 COMMISSIONER SCHWEICKART: Right.

11 VICE CHAIRMAN GANDARA: Is there a second?

12 COMMISSIONER EDSON: Second.

13 VICE CHAIRMAN GANDARA: Okay. Call the roll,
14 please.

15 SECRETARY MATHIES: Commissioner Commons?

16 COMMISSIONER COMMONS: Aye.

17 SECRETARY MATHIES: Commissioner Edson?

18 COMMISSIONER EDSON: Aye.

19 SECRETARY MATHIES: Commissioner Schweickart?

20 COMMISSIONER SCHWEICKART: Aye.

21 SECRETARY MATHIES: Commissioner Gandara?

22 VICE CHAIRMAN GANDARA: Aye.

23 SECRETARY MATHIES: Chairman Imbrecht.

24 (Not present.)

25 VICE CHAIRMAN GANDARA: Small power plant siting?

1 MR. FUKUMOTO: There are two bills on this issue,
2 which the discussion should be held jointly, but we would
3 like to get your votes separately on the bill; but just
4 because it's a similar matter, we should discuss them to-
5 gether, and Marty Walton, of the OJ Staff will conduct
6 the discussion.

7 VICE CHAIRMAN GANDARA: I might suggest, since
8 they are separate, let's not discuss them together because
9 it can get very confusing; let's discuss them separately,
10 okay? And I think, why don't we start with SB-5 and why
11 don't we start with the conclusions, the recommendations
12 and the recommended position.

13 MR. WALTON: Okay.

14 VICE CHAIRMAN GANDARA: And if there any questions,
15 you can work backwards from there.

16 MR. WALTON: I believe SB-5 was taken up at the
17 last business meeting, so that some of the issues were
18 discussed at that time and the subject was put over to
19 this meeting.

20 The Government Relations Committee on SB-5 was that
21 the Commission support the bill, if amended, to include
22 certain conditions, which are itemized, and amendments
23 attached to your package. Essentially, the amendments
24 that are being recommended by the Government Relations
25 Committee are to restrict the Energy Commission's

1 jurisdiction to essentially nonresidential projects, which
2 are at least 1 megawatt in size; require developers to
3 make a binding election at the outset of the process as
4 to whose jurisdiction their project would be sited under;
5 create an escrow account under the control of the Department
6 of Finance and appropriate \$150,000 to be placed in the
7 account for the purposes of funding applications which
8 come to the Commission under the provisions of SB-5; and
9 to provide authority for the Commission to furnish siting
10 assistance in the form of technical analysis to projects
11 and local agencies processing projects which do not fall
12 under the Commission's siting jurisdiction.

13 VICE CHAIRMAN GANDARA: Are there any questions?
14 Commissioner Commons?

15 COMMISSIONER COMMONS: Just one small question.
16 Under the authority to provide technical analysis, is that
17 subject to adequate funding?

18 MR. WALTON: Yes, that would be one of the provi-
19 sions included in the amended language, would be that any
20 siting assistance could only be provided, subject to
21 appropriations therefor.

22 COMMISSIONER SCHWEICKART: Let me just express
23 for the Commission's consideration a budgeting and planning
24 problem which I see related to this bill. It probably
25 feeds over also in terms of its value into the next matter.

1 One of the difficulties in the siting process
2 is that it can be and has recently been moving more and
3 more toward a "feast or famine" type of situation, in terms
4 of Staff requirements. The Division Director and the
5 Executive Office, and others, have, traditionally, a great
6 deal of difficulty in assuring that the Commission can
7 legitimately handle rather complex and demanding cases,
8 such as the Belridge case, while, at the same time, when
9 there doesn't happen to be one and we're in a lull between
10 other cases, retaining that Staff, given the obvious
11 pressures.

12 Now, in the past, we have had support from the
13 legislature and from the Governor's Office and from the
14 Commission for the locational analysis activity of the
15 Commission in terms of siting matters, in terms of forward
16 planning, for siting of facilities; so that the same exper-
17 tise which was available in a rather complex siting case
18 could be applied rationally to other necessary work, when
19 the demand of a siting case was not that high.

20 Now, that's always been a challenge which -- in
21 terms of presenting those staffing requirements to the
22 legislative analysts, to the legislature, et cetera.

23 At the current time, we are receiving little
24 support for locational analysis activity and, as a result,
25 there is a very difficult task in rationally planning for

1 adequate staff to perform the siting responsibilities of
2 the Commission.

3 To some extent, there has been an image of the
4 kind of work which is identified in the Montoya bill, the
5 kind of work that many local jurisdictions would like of
6 the Commission, that is, advisory or analytic work, pursuant
7 to local siting of facilities or local handling of energy
8 projects, which could, in a sense, fill in those valleys
9 and smooth the staffing requirements over time.

10 The difficulty that I have, and Ross and I have
11 talked about this, the difficulty I have is that where
12 that responsiveness to local government meets a hard time
13 constraint, and it's -- what, AB-83?

14 MR. FUKUMOTO: AB-84.

15 COMMISSIONER SCHWEICKART: 84? Okay. Then,
16 this does not serve that capability of scheduling staff
17 easily back and forth, without, in some sense, jeopardizing
18 support to local jurisdictions.

19 So, though I think there's much in this bill
20 that's to be commended, I think we should be careful not
21 to see this as a solution to that difficult problem, unless
22 there are some amendments or some considerations that can
23 be built into the bill which would allow scheduling of
24 staff response; otherwise, we simply build up the demand
25 but we don't handle the discrepancy between peak and valley

1 in terms of staffing requirements.

2 VICE CHAIRMAN GANDARA: I would say -- let me
3 respond to that, and then you, Commissioner Commons.

4 I would say that that was raised and was a concern
5 with some of the initial recommendations, so that these
6 recommendations do reflect those considerations, and it
7 was on the recommendation of the Siting and Environmental
8 Staff, that they indicated that the escrow account of
9 \$150,000 would provide an ability to do that. Nonetheless,
10 I think you raise still a further question, whether that
11 would be adequate in terms of being able to deal with an
12 unknown, essentially, demand at this point in time.

13 Perhaps Mr. Deter can respond to your question
14 on that matter.

15 MR. DETER: Yes. I think you put it very well,
16 our concern with budgeting for Staff and trying to anticipate
17 the large power plants coming in and still being able to
18 maintain a minimum amount of expertise to handle cases.

19 I think that one way we solved it was to set
20 up an escrow account, as Commissioner Gandara pointed out.

21 Secondly, I think that the permit assistance
22 function that we would give to the local -- or that we
23 would provide for local agencies would have to be thought
24 out ahead of time, we'd actually develop work plans for
25 that for consideration by the Commission and by the

1 legislature in putting together a budget. That also it
2 would have to be an understanding and we'd have to put
3 together guidelines and criteria that would clearly indicate
4 that the total level of assistance would have to be subject
5 to the availability of staff therefor; so that they would
6 understand that if we did have, for example, a power plant
7 come in, like Belridge, which was not budgeted for, that
8 this would take a second priority as far as staffing is
9 concerned.

10 I guess my point goes to, that Commission manage-
11 ment, including the Commissioners, have to be in a continual
12 mode of making priority decisions regarding which projects
13 are most important to work on at any point of time. It
14 would require diplomacy and working with the counties.
15 We don't have any budget to give permit assistance to the
16 counties in this coming fiscal year, because all of our
17 locational analysis was cut out. But it may be that some
18 of the power plant cases don't come in as we scheduled;
19 in that case, we will provide them permit assistance, I
20 mean, as a thing that we would normally try to do; if only
21 limited to telephone conversations, even that is some form
22 of permit assistance. So, I think --

23 COMMISSIONER SCHWEICKART: Well, I was trying
24 to be realistic about it. I think the difficulty I have,
25 and take the instant case, if we happen to have a request

1 from Rosemead for assistance on a cogeneration project
2 in terms of analysis and EIR work, or whatever, at the
3 same time that we have a very high demand in the Staff
4 and, in fact, saturation on trying to responsibly handle
5 the Belridge expedited siting case --

6 MR. DETER: Right.

7 COMMISSIONER SCHWEICKART: -- then I would suggest
8 that Senator Montoya would not easily acknowledge, indeed,
9 that we don't have the Staff to help in his jurisdiction,
10 when six months earlier we may have helped a local juris-
11 diction in Orange County or somewhere else. So that,
12 realistically, what I'm suggesting is, that this bill,
13 though it may, in fact, help locals, I see as being
14 asynchronous and, essentially, random in terms of its demand
15 level vis-a-vis the ongoing major power plant siting load.
16 Hopefully, they'll be out of phase, in which case it will
17 help with the staffing problems. However, if they ever
18 get in phase, it simply aggravates the staffing problem.

19 MR. DETER: I guess I --

20 COMMISSIONER SCHWEICKART: Which is not a reason
21 not to do it --

22 MR. DETER: Yes.

23 COMMISSIONER SCHWEICKART: -- but I want to make
24 it clear that that is a penalty, and if there is anything
25 which Senator Montoya would consider which would, in fact,

1 enable scheduling of this, that would be helpful.

2 MR. DETER: I understand your concern. And I
3 think as far as responding to specific permits that the
4 county is in the process of making decisions on, that that's
5 going to happen. But I think that the majority of permit
6 assistance in this function is not going to be tied to
7 a particular schedule. For example, it will be working
8 on cumulative impact work for the county or for a jurisdiction,
9 i.e., Imperial Valley or a small hydrobasin, that is not
10 tied to a particular schedule. Therefore, you may not --
11 you may be able to slide the work. There's two ways you
12 can solve priority problems: One, cut out the work all
13 together; or, second, adjust the schedules. The way that
14 we've been able to coordinate the locational analysis with
15 power plant siting cases is by adjusting the schedule of
16 both of the locational analysis work, primarily.

17 COMMISSIONER SCHWEICKART: Right, right.

18 MR. DETER: And then, secondly, of course, the
19 power plant siting schedules also slide, we have to be
20 very responsive to them, too. So, nothing is definite
21 in the world of trying to figure out what to work on and
22 what not.

23 COMMISSIONER SCHWEICKART: But we've had a major
24 element which was totally under our control, namely, the
25 rate at which work was done on locational analysis, so

1 we could schedule.

2 MR. DETER: Yes, that's right. But -- well,
3 not totally, because we, as a part of the locational analy-
4 sis program, for example, we did the EIR for the American
5 Lignite Project and that was on a time-certain schedule,
6 just as power plant siting cases were. Another one was,
7 we did the EIR for the SMUD Photovoltaic facility, and
8 that was also scheduled. But we had sufficient staff
9 resources, and our projects, we had probably 20 projects
10 in-house at that time, probably six to seven were
11 regulatory cases. When you -- the schedules can slide
12 around enough to the point to where you can adequately
13 manage it.

14 COMMISSIONER SCHWEICKART: Okay.

15 MR. DETER: I understand your concern and I think --

16 COMMISSIONER SCHWEICKART: It's your problem.

17 MR. DETER: Yes, I agree, it is, it is --

18 COMMISSIONER SCHWEICKART: Let me point out.

19 MR. DETER: -- definitely a problem.

20 VICE CHAIRMAN GANDARA: Commissioner Commons?

21 COMMISSIONER COMMONS: I think there are two
22 issues here. One is on the providing of the technical
23 assistance and, clearly, that would have a lower priority
24 than our handling a siting case, where we have the ultimate
25 responsibility, and that's based on provision of resources.

1 My concern is on the other area, and that is
2 on the siting, and I think Commissioner Schweickart raised
3 an issue and we may want to consider an amendment to the
4 bill. Our own staffs are being reduced, and anytime we
5 have to do a siting, we're going to have to have a committee.
6 And our staffs are being reduced by, roughly, 50 percent,
7 and it takes a significant amount of work on any siting
8 case of the Commissioners in doing the effort, also it
9 takes a significant amount of work, it can be a 1-megawatt
10 plant and have complicated problems in certain instances,
11 otherwise, this would not have gotten to the stage it is
12 in terms of legislation. And if we don't have anyone to
13 work on it, we won't even know whether there are the problems.

14 Maybe we should have in the bill that the Commis-
15 sion has the ability to accept an application or the ability
16 to reject an application if it does not have the manpower
17 capability to handle the particular request. I think one
18 of the things that would be very, very terrible is for
19 us to accept someone's application and not have the ability
20 to respond efficiently and effectively; or if we were to,
21 on a 1-megawatt facility, to downgrade the effort on a
22 larger application, like Belridge, so we weren't able to
23 provide the necessary attention to something that's larger
24 and more important in terms of overall state demands.
25 Because I could see the problem very definitely occurring

1 and I think, just to orderly operate the Commission, if
2 we don't have the staffing, we should have the ability not
3 to accept the application.

4 VICE CHAIRMAN GANDARA: Commissioner Edson.

5 COMMISSIONER EDSON: Let me reiterate the concern
6 that I raised at the last business meeting about this whole
7 approach, and I think it is part of the reason that in
8 BR-IV the Commission elected not to restate its previous
9 recommendation that this kind of legislation proceed.

10 My concern is that, by giving developers the
11 authority to decide whether to seek a permit from the Energy
12 Commission or the local jurisdiction, you're essentially
13 authorizing forum shopping, which I think is actually quite
14 inappropriate. One of the options described in the analysis
15 is to allow local jurisdictions to essentially delegate
16 their siting authority to the Commission. It's something
17 of a reverse of our delegated geothermal siting authority,
18 where, under statute, we have the authority to, responding
19 to a local government's petition, allow them to assume
20 responsibility for siting geothermal power plants that are
21 located solely within their jurisdiction. And I think
22 in this situation a much more reasonable way to go and
23 a way that would allow us to assess the impact on our budget
24 and impact on our staffing would be to suggest that the
25 bill be amended to allow local agencies to petition us

1 to assume this kind of siting authority within their
2 jurisdiction, and, at that time, we would be in a position
3 to evaluate the extent to which that proposal would have
4 an impact on our staff resources and we would know that
5 we were handling this because of the inability of a local
6 jurisdiction to handle these kinds of projects themselves.

7 COMMISSIONER SCHWEICKART: Do we have a motion
8 before the Commission, either for amendments or on the
9 specific issue before us?

10 COMMISSIONER EDSON: I would suggest that we
11 support the bill, if amended to adopt the approach I just
12 described, rather than to allow developers to decide which
13 forum they would seek a permit from.

14 COMMISSIONER SCHWEICKART: I would second
15 Commissioner Edson's motion, provided it were acceptable
16 to indicate that one -- that a basis, among others, for
17 rejection of such a petition would be the staff resources
18 available to responsibly accept the petition. That is,
19 I think it should certainly not be the only, but should
20 be one of the explicit, express considerations. I fear
21 the kind of misunderstanding, if it is not an express
22 provision, that might occur if a particular district and
23 a particular legislator were to have the Commission not --
24 elect not to handle something in his or her district. That
25 is my only concern. I think it needs to be expressed.

1 COMMISSIONER EDSON: I don't have a problem
2 with that. I guess I would envision something which left
3 that as a discretionary decision of the Energy Commission,
4 whether to accept that petition or not. But --

5 MR. DETER: Yes, the potential downside of having
6 to have it in your budget is that your budget is prepared
7 roughly a year before the time it's instituted and then
8 there's a year there, so you could be talking about two
9 years before the time the application finally comes to
10 the Commission. In many small power plants you may not
11 know, including the project applicant, may not know --

12 COMMISSIONER SCHWEICKART: I think there's some
13 misunderstanding. I'm not proposing anything here which
14 is in any way, to my understanding, in conflict with this.
15 What I am suggesting is, that in an amendment to the legisla-
16 tion that it indicate that the Commission, in responding
17 to petitions, may grant or deny, in part, based upon
18 available staff resource.

19 MR. DETER: I think that's certainly legitimate.

20 COMMISSIONER SCHWEICKART: That's all.

21 MR. WALTON: Excuse me --

22 VICE CHAIRMAN GANDARA: I guess I would have
23 a concern over that. I have a lot of problems with a number
24 of issues here, but I have a concern with that because
25 I think I would be concerned about the discretionary nature

1 of it, that somebody might then allege that resources are
2 found for some projects and not others, and some of which
3 might be more troublesome with local jurisdictions than
4 others, which, you know, might, in fact, be favored in
5 some way. I can foresee, then, a considerable number of
6 friendly interventions as to whether resources would be
7 available or not. And let me just say, as a bottom line,
8 I think almost at any other time I would be very supportive
9 of this type of legislation. I think that we are going
10 to be facing the position next year, and perhaps years
11 after that of saying no, and I think I, frankly, am not
12 very keen on adding new mandates to the Warren-Alquist
13 Act. I think, in fact, there's going to have to be a re-
14 prioritization by the legislature as to what we can do
15 within the resources that are made available to us. I
16 don't think we can run around trying to sort out these
17 priorities, when, in fact, we're given far less resources
18 than we can support things for.

19 So, while I am in agreement and support of the
20 concept and I think would normally be a responsibility
21 that ought to be handled here--you know, it's not that
22 we have minimal resources for locational analysis, we have
23 zero resources for locational analysis, that has been zeroed
24 out--I think it's very difficult to obtain resources for
25 this kind of activity, and, frankly, I think that the demand

1 is going to be there and the demand ought to be felt where
2 perhaps it has been traditionally placed before and an
3 education regarding the demand for this kind of technical
4 assistance and permit assistance will be, perhaps, fruitful
5 in the long run, too, as it's been in the short run. I
6 can't even begin to imagine adding new requirements to
7 the Commission here.

8 So, above and beyond the discretionary nature
9 of sort of being able to pick and choose which ones you
10 want, I couldn't support this legislation unless it came
11 with an actual tag identified of funded resources that
12 are going to be available here, not in some account someplace
13 to be credited against in the future. You can't staff
14 this kind of expertise that way.

15 COMMISSIONER EDSON: Let me clarify one point
16 in that. That was, that my suggestion was not that we
17 handle petitions for specific projects; that we accept
18 petitions from a local jurisdiction for projects within --
19 future projects within their jurisdiction.

20 And let me now ask a question. Are you, then,
21 suggesting that we oppose this bill? Are you suggesting,
22 as a representative of the Government Relations Committee,
23 that your recommendation is that we take a position of
24 oppose?

25 VICE CHAIRMAN GANDARA: I am recommending in

1 my individual capacity, not so much with the Committee
2 itself. I think that the recommendations that you see
3 here were largely out of a discussion that the Government
4 Relations Committee had several weeks ago, and, so, I
5 think they accurately reflect the concerns at that point
6 in time. The action then taken by the Government Relations
7 Committee is that any further exposition to the Commission
8 was going to await a merger of the SB-992 and this
9 particular SB-5, and that was the subject of the last
10 Government Relations Committee meeting and it was no clearer
11 then. So, the decision that was made was to proceed with
12 the SB-5, and 992 basically comes to you with no recommenda-
13 tion from that Committee. So, I'm really speaking more --
14 not really as a Committee position, but really as my
15 individual position and concerns with respect to -- and
16 what would be my recommendation, I think my recommendation
17 would be probably yes, to oppose it; that, in fact, we
18 have a problem with Policy Committees adding mandates to
19 the Commission and Budget Committees not adding the resources,
20 and so that I think we ought to relate to the Policy
21 Committees that we are very receptive to new mandates,
22 as long as they communicate to the Budget Committees what
23 it is that we're being asked to do.

24 COMMISSIONER SCHWEICKART: Commissioner Gandara,
25 I'm -- having been in that same seat you've been in recently,

1 I am quite sympathetic to that dilemma.

2 I would suggest, however, that the solution to
3 that dilemma is to indicate that explicitly within recommended
4 amendments; that is, I think, were the resources provided
5 and could they be counted on, then they could be budgeted.
6 In some sense, fundamentally, there's no distinction between
7 these projects and large projects. We're still -- although
8 we do have reporting requirements on the part of the
9 utilities, future cases that they plan to submit and calen-
10 dars, et cetera, the frank result of that is that you're
11 somewhat silly if you count on it at all, and, in fact,
12 it's been so abysmal on the part of the utilities that are
13 coming forward when they said they would, that the legisla-
14 tive analyst has essentially totally disregarded any budget
15 planning that we do based on the utility-recommended
16 submittal dates.

17 So, the problem is already here. This bill would
18 simply add slightly to it, and, depending on the particular
19 and incidental phasing, could either be helpful or harmful.

20 MR. DETER: It seems to me like it wouldn't neces-
21 sarily add to the problem. We've got the problem. But
22 that, in times of scarce resources, as Commissioner Gandara
23 points out, it's difficult to justify resources to do certain
24 work. We've used locational analysis in the past to be
25 able to prioritize and to maintain a minimum level of siting

1 expertise. That was completely wiped out in the budget
2 this year.

3 If we don't have something similar to this, that
4 has at least a legislative legitimization of the program,
5 and we end up budgeting based on our expected cases, we
6 are going to be in a situation to where we have to hire
7 and fire on a yearly basis, depending upon on how many
8 large power plants come in. If that's the situation, we
9 will never be able to maintain the expertise here needed
10 to provide independent assessment on siting cases. And
11 that's my concern.

12 So, I understand your concern. We're in a tight
13 time situation. But, it seems to me, one way to be able
14 to better get the budget to do siting, which is one of,
15 as I understand it, one of the major thrusts of the new
16 administration is to make sure that we do --

17 VICE CHAIRMAN GANDARA: It's not for 1-megawatt
18 power plants.

19 MR. DETER: Well, but a lot of 1-megawatt power
20 plants added together equal a whole lot. For example,
21 PGandE in the 1994 resource plan provides 63 percent of
22 their additional resources are going to be these types
23 of power plants. So, cumulatively, they're a lot.

24 But this at least gives us a better chance, I
25 think, to keep the resources in our budget to do this work

1 in the future. That's my point. And we weren't very
2 successful with the locational analysis, even though it's
3 essentially that.

4 COMMISSIONER COMMONS: I have a point of
5 information.

6 Commissioner Edson, in your motion were you in-
7 cluding Committee recommendations that would restrict this
8 to nonresidential, 1 megawatt or over, and that there would
9 be an escrow account under the Department of Finance, like
10 the Committee recommendation?

11 COMMISSIONER EDSON: Let me -- I'll respond and
12 I'd like to offer a comment, as well. I think my amendment
13 would include the size restriction contained in No. 1 and
14 it would include establishment of an escrow account. So,
15 yes.

16 In response to Commissioner Gandara's suggestion
17 that we oppose the bill, out of concern about the fiscal
18 situation, our ability to perform the work, I don't have
19 a problem opposing the bill, except I think our grounds
20 should be beyond just fiscal grounds and also extend to the
21 policy implications of allowing developers to decide
22 whether or not the state will preempt to local jurisdiction
23 in this area.

24 VICE CHAIRMAN GANDARA: Commissioner Schweickart?

25 COMMISSIONER SCHWEICKART: Commissioner Gandara,

1 I would also be supportive of opposing the bill. I think
2 the points you make are realistic and I, frankly, feel
3 that there may be a problem at some point, as these projects
4 begin to multiply and if local jurisdictions, in fact,
5 resist siting and present a problem. But I think Commis-
6 sioner Edson -- right?

7 COMMISSIONER EDSON: Yes.

8 COMMISSIONER SCHWEICKART: -- Edson's arguments
9 are persuasive, that we really have only one example of
10 this at this point. And given that valid observation,
11 plus the realism of the budgeting process at the moment,
12 I would also concur in opposing the bill, on both grounds.

13 VICE CHAIRMAN GANDARA: Commissioner Commons?

14 COMMISSIONER COMMONS: I'd like to suggest, since
15 I don't think we have a three-vote position here today,
16 is that we --

17 COMMISSIONER SCHWEICKART: Wait a minute. One,
18 two --

19 COMMISSIONER COMMONS: I don't think -- I don't
20 think we have three votes on one position or another at
21 this stage today.

22 VICE CHAIRMAN GANDARA: Well --

23 COMMISSIONER COMMONS: That what we do --

24 VICE CHAIRMAN GANDARA: We'll take a vote in
25 a minute and see what the count is.

1 COMMISSIONER COMMONS: Well, because if we take
2 a vote on it, then it makes it difficult to bring the matter
3 up again. What I'd like to do is recommend that we give
4 it back to the Committee, that we give it back to the
5 Committee with the comments that we've heard today, and
6 bring it up at the next Commission meeting.

7 VICE CHAIRMAN GANDARA: Well, we don't have a
8 motion before the -- is that a motion or --

9 COMMISSIONER COMMONS: Okay, I will make a motion
10 that we give it back to the Committee, with the comments
11 that have been made today, and be brought back at the next
12 Commission meeting.

13 VICE CHAIRMAN GANDARA: Okay. Is there a second
14 to that motion?

15 (No response.)

16 VICE CHAIRMAN GANDARA: Okay. Do I hear any
17 other motions?

18 COMMISSIONER EDSON: Let me change my original
19 motion. That we oppose SB-5 out of concern about our
20 resources and also out of concern that preemption of local
21 jurisdictions should not be based on the decision of a
22 project proponent.

23 VICE CHAIRMAN GANDARA: Okay. A second for that?

24 COMMISSIONER SCHWEICKART: Second.

25 VICE CHAIRMAN GANDARA: Any further discussion?

1 Commissioner Commons?

2 COMMISSIONER COMMONS: Well, I'll oppose the
3 motion because I think it is not giving the legislature
4 the opportunity, which at least some members of the legisla-
5 ture are expressing, to have the Commission have the ability,
6 where local jurisdictions so wish, to site power plants,
7 which is one of the primary purposes. The legislature
8 clearly is aware that if they give us a responsibility,
9 they have to give us the resources.

10 As to the second argument, as to that it's in
11 opposition to local precedent, with the amendment that
12 was earlier suggested by Commissioner Edson, that there
13 has to be a petition from the local jurisdiction to us,
14 I think that resolves the problem. And, so, I will be
15 opposing the motion.

16 VICE CHAIRMAN GANDARA: Okay. I'll be supporting
17 the motion. We'll call the roll in a minute. But let
18 me say that, as with any other bill, I'm subject to changing
19 my mind, depending on the creative abilities of being able
20 to write into the bill the resources so that we can plan
21 sufficiently ahead of time, not one-year lag time afterwards.

22 Call the roll, please.

23 SECRETARY MATHIES: Commissioner Commons?

24 COMMISSIONER COMMONS: No.

25 SECRETARY MATHIES: Commissioner Edson?

1 COMMISSIONER EDSON: Aye.

2 SECRETARY MATHIES: Commissioner Schweickart?

3 COMMISSIONER SCHWEICKART: Aye.

4 SECRETARY MATHIES: Commissioner Gandara?

5 VICE CHAIRMAN GANDARA: Aye.

6 SECRETARY MATHIES: Chairman Imbrecht?

7 (Not present.)

8 VICE CHAIRMAN GANDARA: SB-992?

9 MR. WALTON: Excuse me, can I have just a point
10 of clarification? Is the Commission supporting the concept
11 behind SB-5, or would the Commission consider that?

12 VICE CHAIRMAN GANDARA: We're opposing the bill
13 for the two reasons that were given in the motion.

14 SB-992.

15 MR. WALTON: Okay. Senate Bill 992, by Senator
16 Garamendi, would create the office of permit assistance
17 in the Governor's Office of Planning and Research and would
18 invest in the newly created office the functions currently
19 provided for under existing law to the Office of Planning
20 and Research, to provide technical assistance to local
21 agencies in developing expediting permit processes.

22 COMMISSIONER EDSON: Excuse me. I don't have
23 a copy of the bill here, but my understanding was that
24 the office would be created in the Resources Agency, not
25 in the Office of Planning and Research.

1 MR. WALTON: That, there was an amendment last
2 week, on May 11, which amended the bill to place the office
3 back into the Office of Planning and Research. And you're
4 correct, it had been intended to place it under the Resources
5 Agency.

6 COMMISSIONER SCHWEICKART: Just out of curiosity,
7 why is the bill then before us? That essentially puts
8 it right where it had always been, doesn't it?

9 VICE CHAIRMAN GANDARA: That's right.

10 MR. WALTON: That's correct. Originally, I under-
11 stand from the author's office, that the intent originally
12 had to place the authority within a line organization of
13 state government. Apparently, there had been some negotia-
14 tions between the Governor's Office and the bill author,
15 and, so, the author made these amendments upon the request
16 of the Governor, to put it back in the Office of Planning
17 and Research.

18 COMMISSIONER SCHWEICKART: Well, I recommend
19 we take no position on the bill. It doesn't fall in the
20 category of priority one which comes before the Commission,
21 at least the way I understand it. Is that correct? Now,
22 with the amendment?

23 VICE CHAIRMAN GANDARA: I have a question with
24 respect to that.

25 COMMISSIONER COMMONS: I'll second the motion.

1 VICE CHAIRMAN GANDARA: Okay. Discussion. There
2 is proposed amendments to SB-992 in my package. Now, is
3 this Staff-proposed amendments, or is this proposed amend-
4 ments that are currently in consideration in the legislature?

5 MR. WALTON: The amendments you see before you
6 were Staff-proposed amendments.

7 VICE CHAIRMAN GANDARA: Okay. So, the explanation
8 that is on the last page, it says that, "The addition to
9 the Public Resources Code would grant the Energy Commission
10 express authority to provide technical assistance upon
11 request of local agencies and developers," et cetera.

12 That relates only to as a result of your proposed
13 amendments?

14 MR. WALTON: Yes.

15 VICE CHAIRMAN GANDARA: Okay.

16 MR. WALTON: That's correct.

17 VICE CHAIRMAN GANDARA: So, that -- I have no
18 problem with the recommendation. I just want to make sure
19 that the bill, in its present form, doesn't incur any
20 additional obligations upon us.

21 MR. WALTON: No, it does not. Although, to be
22 perfectly frank, there are provisions within existing law
23 that the Office of -- well, the Office of Planning and
24 Research may call on different government agencies for
25 assistance of an unspecified nature. So, there is that

1 authority existing to call upon virtually all government
2 agencies for assistance.

3 VICE CHAIRMAN GANDARA: Well, I guess my position
4 would be, then, that, if, again, it is appropriate for
5 it be a neutral position on our part, really doesn't involve
6 us, as long as we track it and make sure that no obligations
7 are placed upon us for the same reasons that I indicated,
8 at least in the last position. And that if we are required
9 to provide some assistance as we permit, I would suggest
10 that we're not going to have very many -- we aren't going
11 to have the ability to provide that assistance.

12 COMMISSIONER SCHWEICKART: It would seem to me,
13 Commissioner Gandara, that this is, clearly moving back
14 and forth, this is an issue of consolidation of responsibil-
15 ities, which is being discussed within the administration,
16 and, frankly, I would defer to a recommendation by the
17 Chairman. In his absence, I would move the motion.

18 VICE CHAIRMAN GANDARA: Okay. Fine. I would
19 say again, perhaps to comment on your last point, that
20 it does come to you with no recommendation from the
21 Government Relations Committee, it was heard by both of
22 us, so that -- okay. So, the motion is for a neutral posi-
23 tion on this bill.

24 COMMISSIONER EDSON: I have one question,
25 Commissioner Gandara.

1 VICE CHAIRMAN GANDARA: Yes.

2 COMMISSIONER EDSON: Did the Government Relations
3 Committee review the amendments proposed by Staff which
4 would have the Energy Commission provide technical
5 assistance, provided funding was allocated for that
6 purpose?

7 VICE CHAIRMAN GANDARA: This was discussed in
8 the same fashion that SB-5 was discussed about three or
9 four weeks ago. In the last Government Relations Committee
10 meeting we did not go into any particular depth on this,
11 feeling that SB-5 and 992 were essentially going in different
12 directions. So, given -- so, that the previous massaging
13 of the recommendations in SB-5 and 992 was kind of left
14 to the Commission's pleasure. So --

15 Would you call the roll, please?

16 SECRETARY MATHIES: Commissioner Commons?

17 COMMISSIONER COMMONS: Aye.

18 SECRETARY MATHIES: Commissioner Edson?

19 COMMISSIONER EDSON: Aye.

20 SECRETARY MATHIES: Commissioner Schweickart?

21 COMMISSIONER SCHWEICKART: Aye.

22 SECRETARY MATHIES: Commissioner Gandara?

23 VICE CHAIRMAN GANDARA: Aye.

24 SECRETARY MATHIES: Chairman Imbrecht?

25 (Not present.)

1 VICE CHAIRMAN GANDARA: Next bill, Mr. Fukumoto?

2 MR. FUKUMOTO: It's an item on the consent calendar
3 and a bill that Marty can analyze, AB-175 Seastrand.

4 VICE CHAIRMAN GANDARA: I see. Does anyone wish
5 to discuss this thing?

6 COMMISSIONER SCHWEICKART: Commissioner Gandara,
7 let me ask whether you have been present when this bill
8 has been discussed in Government Relations.

9 VICE CHAIRMAN GANDARA: I have -- no, I have
10 not.

11 COMMISSIONER SCHWEICKART: All right. The concern
12 let me suggest that I was present in your absence one day
13 when it was discussed. I don't know whether it has come
14 up again within the Committee for discussion subsequent
15 to that.

16 MR. WALTON: No, I don't believe it has.

17 COMMISSIONER SCHWEICKART: All right. Let me
18 simply express my concern, and unless the bill has changed,
19 and the Staff can keep me straight on that, the concern
20 that I had was a somewhat indirect one; that is, in reflect-
21 ing on whole New Melones Flat, the Commission continually
22 found itself in a position where New Melones, having gone
23 ahead into construction, that, notwithstanding the fact
24 that the basis of that decision was water rights, that
25 is, to go ahead with the construction, in the end, the

1 argument was continually made that the necessity for filling
2 New Melones, overriding the environmental concerns, et
3 cetera, et cetera, was because the state was running out
4 of energy. And, regardless of the analysis that was
5 performed, reference to the Biennial Report, or any other
6 assessments, the fact of the matter was that both at the
7 federal level and at the state level those arguments were
8 made.

9 My concern here, then, lies in the area of another
10 project over which we clearly have no jurisdiction, namely,
11 a hydro-project, which will create tremendous environmental
12 opposition because, although the dam itself, as I understand
13 it, lies outside the wilderness area in the Big Sur, never-
14 theless, the flood plain or the lake itself, the reservoir,
15 will penetrate back into a wilderness area. And, once
16 again, we may, and something which lies totally outside
17 our jurisdiction and having nothing at all to do with neces-
18 sary energy, nevertheless, find a project going ahead,
19 and, in the end, we end up with explaining, you know, why
20 shouldn't this be filled, you know, the state is in desperate
21 need of energy.

22 Now, again, it's a strange case because it, admit-
23 tedly, lies outside our area of jurisdiction in terms of
24 the bill itself, at least as I understand it. We have
25 no siting responsibility, we have no anything else.

1 My recommendation within Government Relations
2 was that we clearly state expressly in this bill, if it
3 moves ahead, that there is no rationale in terms of needed
4 energy tied with this particular facility. So, that at
5 least -- I mean, that's not going to stop somebody from
6 making such a claim in the end, if the project moves ahead,
7 but at least there is on record that that is not the
8 rationale for moving ahead with this project. And, at
9 that point, I believe the recommendation of Government
10 Relations was to remain neutral, which is, I believe, the
11 recommendation ahead of -- or proposed here. But I feel
12 I would be remiss if I did not point out that unfortunate
13 repetition or potential repetition of history.

14 COMMISSIONER EDSON: Are you suggesting,
15 Commissioner Schweickart, that the Commission simply
16 transmit that information to the author of the bill, or
17 that, in fact, the bill -- we take a position on the bill
18 itself? I'm a little unclear.

19 VICE CHAIRMAN GANDARA: Let me --

20 COMMISSIONER SCHWEICKART: Well, I guess, to
21 follow through, it would be some kind -- it would be a
22 position which recommended a provision within the bill
23 which expressly stated whether or not there was energy,
24 an energy issue related to moving ahead with this project.
25 I mean, the only way this project moves ahead is, as I

1 understand it, if the legislature exempts existing law,
2 creates an exception to existing law which would preclude
3 this project. And I would like to see an amendment to
4 the bill which would indicate that such exemption in no
5 way is justified by energy needs.

6 VICE CHAIRMAN GANDARA: Are you recommending
7 a neutral-unless-amended?

8 COMMISSIONER SCHWEICKART: How about neutral-
9 and-amend?

10 VICE CHAIRMAN GANDARA: It's not a very strong
11 negotiating position, is it?

12 COMMISSIONER SCHWEICKART: No, it's not at all.
13 But --

14 VICE CHAIRMAN GANDARA: Let me suggest something
15 here. Since it is practice to inform the author of the
16 Commission's position on a bill, when requested, we could
17 inform the author of the bill of the neutral position and
18 any other information related, concerned specifically with
19 respect to the needed determination here.

20 COMMISSIONER SCHWEICKART: I have no objection
21 to handling it in that way. I believe that this concern
22 is clearly legitimate. We got bashed and beat around on
23 New Melones, having had nothing at all to do with it. This
24 is exactly the same potential. It's clearly not going
25 to be during my watch because, you know, I'm going to be

1 long gone before this project is built, but I don't like
2 to see unnecessary flailing around, when that's clearly
3 not appropriate, it has nothing to do with it.

4 VICE CHAIRMAN GANDARA: Commissioner Commons?
5 I'm sorry.

6 COMMISSIONER COMMONS: First of all, I don't
7 think this should have been on the consent calendar.

8 The second is, to me there's a difference between
9 our taking a formal position, even the no position, than
10 our not taking any position whatsoever. And I would be
11 of the school on this particular project that we just not
12 take any action whatsoever.

13 VICE CHAIRMAN GANDARA: Okay.

14 COMMISSIONER COMMONS: Other than if someone
15 wants to communicate to the author.

16 VICE CHAIRMAN GANDARA: There is a difference
17 in the Commission. Do I hear a motion --

18 COMMISSIONER SCHWEICKART: Let me suggest we
19 combine them with Commissioner Commons' expressed concerns.
20 I would support, and let me just move the Commission take
21 no position, but we ask -- we direct the Staff to inform
22 the author of the express concern as stated in the discus-
23 sion.

24 COMMISSIONER COMMONS: But that's not the action
25 I want to take.

1 COMMISSIONER SCHWEICKART: You wanted no position.

2 COMMISSIONER COMMONS: Well, I wanted us to inform
3 the author of your statements, but not have a formal motion
4 as to position, because then it's officially taking a posi-
5 tion.

6 COMMISSIONER SCHWEICKART: All right, I -- fine.
7 Well, to take no position is not much of a position.

8 COMMISSIONER COMMONS: Yes, but I would suggest
9 the -- is it --

10 COMMISSIONER SCHWEICKART: Let me propose we
11 take no action other than to direct the Staff then to inform
12 the author of the concerns expressed in the discussion.

13 COMMISSIONER COMMONS: I'll second that motion.

14 VICE CHAIRMAN GANDARA: Okay. I have a question.
15 We direct the Staff, generally, as I said before, it's
16 been, and I think you've been an adherent of communicating
17 these through the Commission -- I'm sorry, do you wish
18 to modify it, directing this to --

19 COMMISSIONER SCHWEICKART: I would then move
20 that the Committee inform the author --

21 VICE CHAIRMAN GANDARA: The Commission, the Commis-
22 sion inform the author.

23 COMMISSIONER SCHWEICKART: The Commission inform
24 the author.

25 VICE CHAIRMAN GANDARA: Okay. So shall it be.

1 Do I hear a second on that? Okay.

2 Call the roll, please.

3 SECRETARY MATHIES: Commissioner Commons?

4 COMMISSIONER COMMONS: Aye.

5 SECRETARY MATHIES: Commissioner Edson?

6 COMMISSIONER EDSON: Aye.

7 SECRETARY MATHIES: Commissioner Schweickart?

8 COMMISSIONER SCHWEICKART: Aye. -

9 SECRETARY MATHIES: Commissioner Gandara?

10 VICE CHAIRMAN GANDARA: Aye.

11 SECRETARY MATHIES: Chairman Imbrecht?

12 (Not present.)

13 VICE CHAIRMAN GANDARA: Okay. I believe that
14 that is all we have under the legislative calendar, and
15 we are at the point in time where we have two items left.
16 We have the executive session and then we have a -- when
17 we return and announce the results of the executive session,
18 we will then receive public comment.

19 Let me ask the Commission's pleasure on this. I would
20 estimate a trip to Bill's and getting organized, about
21 12:30, a half-hour discussion in the executive session,
22 that we can reconvene here at 1:15?

23 COMMISSIONER COMMONS: Could we take public comment
24 before we go to executive session, in case someone --

25 VICE CHAIRMAN GANDARA: I would -- I'm hungry,

1 for one thing, and, secondly, I know Mr. Steel's presenta-
2 tions, and while the public comment, it says here, anyone
3 person will be allowed to make a comment for five minutes,
4 I think we'll be hard-pressed to stay within five minutes;
5 and, nonetheless, a reasonable time would be appropriate.
6 You know, we're targeting for five minutes, Mr. Steel.
7 But in the case there are Commissioner comments, and so
8 forth, I can foresee that we would probably have a number
9 of problems. Okay? Thank you.

10 We'll recess -- we'll reconvene in the third-
11 floor conference room at 12:30, and then reconvene here
12 as the full Commission at 1:15.

13 (Whereupon, at 12:20 p.m., the business meeting
14 was recessed, to reconvene at 1:15 p.m., the same day.)

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AFTERNOON SESSION

2:40 p.m.

1
2
3 VICE CHAIRMAN GANDARA: The Commission will recon-
4 vene.

5 The Commission met in executive session. Let
6 me say that at the last Commission meeting there had been
7 a continuance of the executive session to discuss a
8 personnel matter. I am required to make an announcement
9 as to the action the Commission took at that continuance,
10 the action was the following:

11 The Commission has decided to engage in a search
12 for an Executive Director. The search will be a national
13 search. And, thirdly, we will be contracting with the
14 Cooperative Services Division of the State Personnel Board
15 in order to acquaint the criteria set forth by the
16 Commission, narrow down the list of candidates that will
17 be presented to the Commission.

18 With respect to today's executive session, the
19 item before the Commission was a report on the litigation
20 with respect to the furnaces issue. And, for your recollect-
21 tion, that was the question as to which system test to
22 use. The General Counsel informed the Commission of the
23 court action, which was, essentially, a ruling that the
24 Commission's action had been a change in the standard and
25 that the Commission is prohibited or directed not to enforce

1 that change till one year from its action, which would
2 be December 16, 1983. We will be complying with a writ
3 from the court, asking us to comply with that particular
4 judgment. No further action was taken by the Commission
5 on that matter.

6 The second item under consideration by the
7 Commission was testimony to be filed in the BPA rate case.
8 The Commission took no action on that matter.

9 With that, let us proceed with the items that
10 are still left over from this morning. We have public
11 comment, I have two requests for public comments.

12 May I hear from a Mr. Gerald Steel. Mr. Steel,
13 let me indicate that the Commission's announcement says
14 that any member of the public may comment for five minutes
15 on an issue. I know you have much to say. With the fore-
16 bearance of the Commission, I doubt that, if you will be
17 able to stay within five minutes; on the other hand, I
18 do want an estimate of the time that you would need, to
19 want a time certain.

20 MR. STEEL: I can finish my presentation in 10
21 minutes. You may have questions which may cause it to
22 go beyond that.

23 VICE CHAIRMAN GANDARA: Okay, 10 minutes it will
24 be.

25 MR. STEEL: The issue that I am bringing before

1 you requires no action on your part, it's for your informa-
2 tion, for any input that you have into it, in its form
3 at this stage. I hope to have this in a legislative form
4 by next week, and I will be back next week, if I am success-
5 ful, with asking your support for the legislative form.

6 Basically, it has to do with the implementation
7 of the residential performance standards --

8 VICE CHAIRMAN GANDARA: Mr. Steel, let me interrupt
9 here. Are you picking up Mr. Steel's comments?

10 THE REPORTER: (Affirmative nod.)

11 VICE CHAIRMAN GANDARA: Go ahead, then. You
12 might want to stay close to a microphone.

13 MR. STEEL: Okay. It has to do with the implement-
14 ation of the residential performance standards, and there's
15 basically -- it's a comprehensive proposal that you're
16 seeing here. But it's basically based on one observation
17 that has recently been made by myself, and it's a key observa-
18 tion and I want you to be aware of this observation.

19 I have here a graph showing the energy consumption
20 of houses built to different standards, all compared to
21 the zero point for the pre-1975 house, and it happens to
22 be all for zone 8, the other zones look similar. You see
23 a '79 Title 24 home. By the way, all of these homes have
24 the -- they're all the standard base house of the Energy
25 Commission, they just -- they don't have any windows moved,

1 they don't have any window area change, they just have
2 the features that were in the law at the time that the
3 dot was made, plotted.

4 What I want to bring to your attention, besides
5 the CBIA goals for 70 percent between -- energy savings
6 between 1980 and '85, and between '85 and 1990, their goal
7 to have 80-percent energy saving, I want to bring to your
8 attention that the -- what I have found is that the energy
9 budget, that's the budget number in the standards right
10 now, does not reflect the minimum performance of the Type A
11 base house, and it should. The budget number should reflect
12 the minimum performance of the base house, and I'm not
13 talking about moving glass areas around and dealing with
14 glass areas, I'm dealing with the other options.

15 What happens, what you have done is you have --
16 this is the class of houses, this little dark splotch on
17 this picture, is the class of houses that will typically
18 meet the A base house, be consistent with the A base house.
19 You have set the CEC budget based on the A base house on
20 a nil, if you will, or upper case, not in the top, of that
21 group of houses that will meet, that will comply with the
22 A base house condition, the A base house package.

23 What that means is, if I try to create another
24 package that complies with your budget, I have to create
25 a set of houses that are this much efficient, because they

1 all have to be better than the budget. You don't have
2 all of your houses that comply -- you don't have all of
3 your A, all of the houses that comply with the A package
4 do not meet the budget, with the budget number that you
5 have now.

6 Therefore, what I am proposing is that you reset
7 the budget number to correspond to the minimum reasonable
8 performance of the A base house, not adjusting the window
9 areas, leaving the window orientations alone, because you
10 can obviously make a very bad house if you put all the
11 windows facing west. When I say leaving the window orienta-
12 tion alone, you should make the budget, and I propose a
13 legislative action to do that, should make the budget at
14 the minimum performance of the base house, so that all
15 of the houses which meet the base house also meet the budget.

16 On the second page of the performance I give
17 you the example of calculating the minimum performance.
18 The second -- this is the thing that says "minimum performance
19 of the CBIA/GBS house," et cetera, et cetera.

20 COMMISSIONER SCHWEICKART: Mr. Steel, what does
21 GBS stand for?

22 MR. STEEL: My initials.

23 COMMISSIONER SCHWEICKART: Oh, I see.

24 MR. STEEL: Since I am interpreting the CBIA's
25 proposal, if you will.

1 COMMISSIONER SCHWEICKART: Is this -- and, again,
2 let me ask again, so that I --

3 MR. STEEL: So, sell my proposal at this; it
4 will move as their proposal if it moves.

5 COMMISSIONER SCHWEICKART: And so the references
6 on your chart --

7 MR. STEEL: All the --

8 COMMISSIONER SCHWEICKART: -- up there to CBIA,
9 goals and that sort of thing, are your proposed goals?

10 MR. STEEL: Oh, no, the CBIA goals are from their
11 1980 energy -- comprehensive energy policy. CBIA has a
12 October 1980 comprehensive energy policy for 10 years,
13 and those are the goals of it. And they say that they
14 want to have legislation implemented by January of '85
15 that will implement this goal and they'd like to phase
16 it in, they'd like to phase in the implementation of it,
17 but they want the legislation in place by January of '85.

18 COMMISSIONER SCHWEICKART: Could you explain
19 the ordinate on your graph?

20 MR. STEEL: This?

21 COMMISSIONER SCHWEICKART: Yes.

22 MR. STEEL: This is the energy, this dot right
23 here is the energy consumption of the -- or is the -- yes,
24 the total energy from here to 100 percent is the energy
25 consumption of a 1974 home, it has 22-percent glass area

1 equally distributed on the four sides, and 10 percent slab.

2 COMMISSIONER SCHWEICKART: This is then equivalent
3 to kBtu's per square foot?

4 MR. STEEL: The actual number was something like --

5 COMMISSIONER SCHWEICKART: Or is this something
6 aggregated over --

7 MR. STEEL: -- 160 kBtu's per square foot.

8 COMMISSIONER SCHWEICKART: Well, what I'm trying
9 to understand here, in terms of percentage of total energy --
10 annual energy savings, are you talking about assuming a
11 certain housing construction rate and a certain degree
12 of --

13 MR. STEEL: No, no, this is a single house.

14 COMMISSIONER SCHWEICKART: A single house energy
15 consumption.

16 MR. STEEL: Energy consumption.

17 COMMISSIONER SCHWEICKART: And 100 percent repre-
18 sents what?

19 MR. STEEL: 160 kBtu per square foot per year
20 total energy consumption for space heating, cooling and
21 hot water.

22 COMMISSIONER SCHWEICKART: Which is what, an
23 arbitrary number or a --

24 MR. STEEL: No, it's -- I have taken the same
25 house in all of this and put the requirements of the law

1 into that house at each state. So, in this case, you had
2 no insulation in the house, it's essentially a B-type house,
3 if you will, but has equal glazing distribution, 1,384-
4 square-foot house that we were all using. But it has no
5 insulation and it has single-pane windows, and it has 10-
6 percent uncovered slab, and it has slightly higher infiltra-
7 tion corresponding to the CEC's predictions.

8 COMMISSIONER SCHWEICKART: Okay. Well, I can
9 easily get a point down there, if you'll pardon me, if
10 I have an understanding of what is 100 percent. Now, I
11 can clearly, if I have a --

12 MR. STEEL: A hundred percent, this is the percent
13 total annual energy savings compared to the pre-'75 home.
14 It's the percent energy savings for space heating and
15 cooling and hot water, compared to homes built to pre-'75
16 minimum code.

17 COMMISSIONER SCHWEICKART: Let me try it a different
18 way, Mr. Steel. At the top there you have -- I'm just
19 trying to clarify it, I want to try and understand what
20 you're saying, if you'll pardon me here.

21 VICE CHAIRMAN GANDARA: This doesn't count against
22 your time.

23 COMMISSIONER SCHWEICKART: No, that's right,
24 it is my time.

25 The top bullet up there, or hex --

1 MR. STEEL: Right here?

2 COMMISSIONER SCHWEICKART: And hex is very
3 appropriate, Mr. Steel, I must commend you. Has a label
4 on it that says, "CEC 1990 Goal - 91 Percent."

5 MR. STEEL: Yes.

6 COMMISSIONER SCHWEICKART: Now, I must say that
7 I don't have any idea of what you're talking about there,
8 but --

9 MR. STEEL: Would you like me to explain it?

10 COMMISSIONER SCHWEICKART: -- you're certainly
11 talking about 91 percent of 100 percent, because that dot
12 is located on your scale at 91 percent.

13 MR. STEEL: Yes.

14 COMMISSIONER SCHWEICKART: Now, that is 91 percent
15 of what?

16 VICE CHAIRMAN GANDARA: Savings of the 1975 home.

17 MR. STEEL: Of the savings of the pre-'75 home.

18 COMMISSIONER SCHWEICKART: So, you're saying
19 that the pre-'75 -- 100 percent would --

20 MR. STEEL: No energy.

21 COMMISSIONER SCHWEICKART: Uses no energy at
22 all.

23 MR. STEEL: For space heating, cooling, and hot
24 water, right; 100 percent savings of the energy used for
25 space heating, cooling --

1 COMMISSIONER SCHWEICKART: I see. Now, where
2 did this CEC goal come from?

3 MR. STEEL: From your '79 Biennial Report. Your
4 '79 Biennial Report says that you want 80-percent energy
5 savings compared to houses built at that time, and an 80-
6 percent energy savings compared to the 1979 home --

7 VICE CHAIRMAN GANDARA: That's BR-II. Is that
8 BR-II?

9 COMMISSIONER EDSON: Yes. I mean, '79 is BR-II.

10 VICE CHAIRMAN GANDARA: It's before my time,
11 I never heard of it.

12 COMMISSIONER SCHWEICKART: I just want to under-
13 stand your label.

14 MR. STEEL: It's the only goal -- it's referred
15 to in the Committee report and the adoption of standards.

16 VICE CHAIRMAN GANDARA: Let me indicate that,
17 for the Commission's clarification, since I presided over
18 the electricity forecast, and conservation quantification
19 was a big issue and there was a conservation compendium
20 that was prepared as a direction for the conservation quanti-
21 fication effort for the utilities, as well as the Staff,
22 underlying the forecast adopted by this Commission in 1982,
23 as far as the 1983 electricity report, it does not contemplate
24 any further standards or conservations beyond the 1982
25 residential building standards.

1 So, if that is a BR-II figure, it certainly is
2 not a figure that is either in the BR-III or in the BR-IV,
3 it does not constitute a Commission goal, it does not
4 constitute anything that is contemplated under the either
5 current trends or accelerated alternative scenario. So,
6 I think it's a historical relic, actually.

7 MR. STEEL: It's a historical relic, then. None-
8 theless, I plotted it because it was also spoken to when
9 the current standards were passed, Commissioner Reed quoted
10 that section of the Biennial Report and I'm merely refresh-
11 ing your memory of her quote at the time the standards
12 were passed.

13 COMMISSIONER SCHWEICKART: Okay, let's come to
14 some relevance now, if you don't mind. Why, having disposed
15 of the upper point, as a mere curiosity, let me understand,
16 Jerry, where you have plotted for zone 8 the budget as
17 currently outlined in Title 24.

18 MR. STEEL: 79.7 percent. It's that dotted line.
19 I put it there for a reason, but that's the level it would
20 be whenever it was implemented.

21 COMMISSIONER SCHWEICKART: All right. So, the
22 budget is 79 percent.

23 MR. STEEL: Well, closer to 80.

24 VICE CHAIRMAN GANDARA: No, wait, 75, 75.

25 MR. STEEL: No, this is the budget right here.

1 Say, this is the budget relaxed 20 percent. This is the
2 budget. The budget is --

3 COMMISSIONER SCHWEICKART: It's 79 percent.

4 MR. STEEL: It's actually very close to 80 percent.

5 COMMISSIONER SCHWEICKART: Yes, all right.

6 MR. STEEL: It's over 79-1/2.

7 COMMISSIONER SCHWEICKART: All right. And then
8 the next line down is your proposed relaxation of the budget
9 by 20 percent.

10 MR. STEEL: That's true --

11 COMMISSIONER SCHWEICKART: Except 20 percent,
12 that seems pretty close together --

13 MR. STEEL: That 20 percent --

14 COMMISSIONER SCHWEICKART: -- for a 20-percent
15 difference.

16 MR. STEEL: That 20 percent is if you go from
17 no energy use to the CEC budget, then it's 20 percent more
18 energy used than that, it's 20 -- that's like 20 percent --

19 COMMISSIONER SCHWEICKART: All right.

20 MR. STEEL: -- up there, and this is like 5 percent.

21 COMMISSIONER SCHWEICKART: All right, I understand
22 what you're saying.

23 MR. STEEL: It looks, coming from the other
24 direction --

25 COMMISSIONER SCHWEICKART: All right, now I

1 understand what it is you're saying. If you --

2 MR. STEEL: Okay, very good, because it is
3 important. See, the --

4 VICE CHAIRMAN GANDARA: Let me ask another ques-
5 tion, Mr. Steel.

6 MR. STEEL: Okay.

7 VICE CHAIRMAN GANDARA: Given that this CEC 1990
8 goal was, as we determined, a historical relic --

9 MR. STEEL: Okay, throw it off.

10 VICE CHAIRMAN GANDARA: -- these CBIA goals that
11 were adopted in 1980, have they been reaffirmed recently
12 by CBIA or --

13 MR. STEEL: They have not modified --

14 VICE CHAIRMAN GANDARA: --I mean, are those
15 historical --

16 MR. STEEL: -- their energy policy, it's their
17 current policy, they haven't modified it. And I have talked
18 with them and they feel, the CBIA feels good about those
19 goals.

20 VICE CHAIRMAN GANDARA: Do they do these plans
21 once every 10 years, every decade, or --

22 MR. STEEL: I haven't asked them that question,
23 but I can certainly find out, if you'd like to know. I'll
24 be talking with Dennis tomorrow.

25 VICE CHAIRMAN GANDARA: I'd just be interested

1 in whether it's a current --

2 MR. STEEL: Nobody has --

3 VICE CHAIRMAN GANDARA: Whether it's currently
4 endorsed by CB--

5 MR. STEEL: Nobody has said that it's not, and
6 I have talked to two of the three members of their energy
7 committee and to Bob Rivinius and to Earl Ruby, so far.

8 The key -- I mean, this is real important, because
9 it's a clean-up action that has to go on in order to have
10 orderly implementation in the future, more energy standards
11 that are tighter, which is to everyone's advantage as
12 new technology develops, even though you weren't having
13 yet to set a goal for it.

14 The concept is that if you have an A base house,
15 that you should go to the minimum performance of that house--
16 here's all the houses that can meet the A base house, dif-
17 ferent options in the A base house--should go to the minimum
18 performance to set the budget number, so that all of the
19 houses, all of the options in the A base house meet that
20 budget number. What you've done is you've gone into the
21 middle of the houses, all the options that meet the A base
22 house, and you've set the budget number, so that many of
23 the houses that meet the A package do not meet the budget
24 at budget number.

25 What that means is, that if you have this as

1 the number and now you create an alternate package, the
2 houses that meet that alternate package will be a group
3 of houses up here, above it, because they all have to be
4 above the budget. So, you'll have an optional package
5 here and you'll have the A base house here.

6 Now, we basically all agree to the A base house.
7 We didn't understand the computer method at the time. But
8 what you're doing by putting the budget into the middle
9 of it, is you're only creating options that are better
10 than the base house, you know, the class of buildings that
11 can meet an alternate package is better than the class
12 of buildings that meets the base house, because you model
13 in the center.

14 What you need to do to have a reasonable performance
15 method, you need to go down to the minimum performance,
16 not including glazing issues, minimum performance of the
17 A base house and set the budget there, so that an alternate
18 package has a class of houses that are essentially equal
19 to the A base houses.

20 So, what I have done on this page that says
21 "Minimum performance," et cetera, et cetera, I have cal-
22 culated, starting with the A base house, the way it's
23 modeled now, I have selected minimum options, rather than
24 the ones that were selected by Staff, in order to evaluate
25 where the budget should be, based on the A -- based on

1 minimum performance of the A base house. The first item
2 in the second paragraph is I've chosen the heat pump instead
3 of gas, heat pump isn't required to have a setback thermo-
4 stat in the package, and I -- the submittals numbers are
5 submittals that you have in your files that verify all
6 the numbers. You get 5.4 more energy units of consumption
7 if you selected a heat pump package in the A base house.

8 The next one is water heater tank size. Staff
9 modeled a small tank. I'm selecting a large tank, which
10 is allowed. I get 4.2 more energy units of consumption
11 when I select the larger water tank because of more losses.

12 Air conditioning efficiency, Staff modeled 8,
13 the package allows 7-1/2, that adds one more energy unit,
14 if I take the minimum assumptions.

15 The slab perimeter heat loss, Staff assumed that
16 the carpet was insulating the whole perimeter of the house
17 in the A house, even though they knew it was 50 percent
18 uncarpeted. They didn't take that into account when they
19 modeled it. I selected another model where I uncarpeted
20 the whole perimeter, which I agree is extreme, but, just
21 for example purposes here, I took that minimum, that adds
22 2 energy units.

23 Finally, I note that CEC Staff, in calculating
24 today the B house versus the A house in this zone, they
25 find the B house is 4.8 units beyond the A house budget.

1 I note that because I'm going to calculate the B house
2 performance also.

3 So, the next paragraph just simply adds up the
4 total energy consumption, then, of that minimum A house
5 and the minimum B house. You see that the minimum A house
6 is 57.3 energy units, the minimum B house is 60.1.

7 I then am proposing a CBIA/GBS package, it's
8 on the next page, there's two ways that it's presented,
9 that also is 57.3 energy units. So, this is a package
10 that has minimum performance equal to the minimum performance
11 of the A base house. It cannot be put into effect now
12 through CEC, it can only be put into effect through a legis-
13 lative action, and so I'm proposing a legislative action.

14 There's just two other items that I'd like to
15 mention, as you look these over. The first one is that
16 you'll see on one page it says, "CBIA/GBS alternative
17 component package," on the next page you'll see it says
18 "CBIA/GBS budget-setting package." I've introduced the
19 new concept where I defined a budget-setting package that
20 has no options in it and is very specifically defined.
21 That package, the budget-setting package is my proposal.
22 Anytime we create a new standard, we always have a budget-
23 setting package and it's specifically defined and you just
24 take that package and model it in CALPAS 1 or 3 or MICROPAS
25 or the point system and you get the performance number

1 by using that pristine package, and it's very important
2 that you have a pristine package because all of this
3 difficulty we're talking about is happening because you
4 have options in your base house. So, this defines a pris-
5 tine package that is equivalent to the -- that the minimum
6 performance of this pristine package is equivalent to the
7 minimum performance of the A base house.

8 I've also tightened up the A base house on that
9 page, where it says Type A house, I've tightened it up
10 by requiring an SEER of 8 and requiring just a 40-gallon
11 water heater or moving the heat pump without the thermostat,
12 setback thermostat, and I've tightened up that package
13 and that's what I'm calling the CEC budget, which is essen-
14 tially your CEC budget, you -- that's sort of the package
15 you modeled, but I'm tightening it up, so, in fact, that's
16 the minimum now. So, that houses now built to the Type A
17 budget-setting package will be houses that will up above
18 this line, not below it. It removed all of the things
19 that allowed it to go below it.

20 There's that, the budget-setting package, then
21 there's the alternate-component package. I would be
22 proposing the budget-setting package sets the budget numbers,
23 it sets the reference level, but the builders actually
24 work off the alternate-component package that is deemed
25 by the Commission to be equal to the budget-setting package.

1 It's deemed that that package, which you'll notice it has
2 intelligent setback thermostat, it has the 40-gallon maximum
3 water heater, it has the minimum of SEER of 8 for the cooling
4 system, that package is equal, that's going to produce
5 a class of houses that are going to be better than the
6 minimum that's being modeled, equal or better than the
7 minimum being modeled.

8 So, that's one of the features of the proposal,
9 is it introduces the concept of budget-setting packages
10 and it uses that concept consistently.

11 The other feature of this proposal is that every
12 three - it only allows the standard to be changed every
13 three years, the budgets. You can always change your
14 calculation techniques and you can always change your budget
15 number on an approved calculation technique, but you can't
16 change the budget-setting package, except but once in three
17 years. The way it works is, that someone would come in
18 tomorrow with a budget-setting package that's better than
19 the one you have now, you would certify it, if it met the
20 criteria on the front of the proposal here, which means
21 it's cost-effective and -- cost-effective and marketable
22 is what those criteria are designed to produce. If you
23 certify that it meets the criteria, then you certify it,
24 and if you wait six months and the legislature doesn't
25 add any criteria that throws the package away, you then

1 have a certified package and that certified package will
2 notch the energy budget down automatically at the three-
3 year periods. Every three years any certified packages
4 that are on the books that are better than the budget-
5 setting package you've got right now automatically notch
6 the budget down. So, it's a process where you don't --
7 you keep things constant for the builders and you come
8 out every time there's a triennial state code, which
9 corresponds to these years, you change the budget correspond-
10 ing to new technology and a more energy-efficient house,
11 cost-effective and marketable.

12 That's essentially the proposal. There is one
13 minor thing that may not be important right now; but I
14 only allowed the budget to notch down to the CEC budget
15 or what I'm calling the budget, the Type A house for the
16 budget-setting packages, I'm only allowing it to notch
17 down that far after three years, just because I think the
18 system will still be too new to allow you to notch down
19 to something you might be able to certify. But on -- at
20 1990 you're able to notch to whatever you -- whatever pack-
21 age you've got that meets the criteria and is more energy
22 saving. You notch to it. This is a zone-by-zone basis.
23 Every zone is treated by itself. I mean, if you have a
24 package in a zone that meets the criteria, then you'll
25 notch with it. And, now, every package you certify doesn't

1 meet this criteria. You just need one package certified
2 that meets the criteria and notches the budgets. You can
3 pass as many packages as you want that are not cost-effective,
4 but just as long as they save the same amount of energy
5 as the budget-setting packages that are in effect at the
6 time, you know, the time we're talking about.

7 So, when you notch to here, then you'll have
8 a whole set of packages that are equal to that. When you
9 notch to here, you'll have a whole set of packages that
10 are equal to that that you'll pass, and the people can
11 have ahead of time, once they know what the certified level
12 is going to be, they then bring you packages for certifica-
13 tion that are equal.

14 That's essentially the proposal. I'm giving
15 it to you for information. I'd appreciate if you -- the
16 language is fairly specifically set out on the front page.
17 I have been processing it through the building community.
18 I hope to have their support in a few days, and I hope
19 it then becomes a proposal of the building community. The
20 way that I'm framing it to them is that we'll bring it
21 over to you, and if you find that you can support this
22 proposal in the legislature, then we will amend Goggin's
23 bill, assuming I have the Orange County builders in line
24 and I 've been working with them and I think I have them,
25 but we will amend Goggin's bill to include this language

1 that you're going to see next week, if I'm on schedule,
2 to remove the delay in subsection (3) of Goggin's bill
3 and substitute this provision instead, so, that the standard
4 will go into effect. And then with your support and the
5 builders' support, I believe that the whole bill can be
6 moved to the legislature in less than a week and can take
7 effect before June 15, because I don't believe that there --
8 you know, I don't believe that there would be enough
9 dissidence to stop that, because the legislators have
10 already promised no delay, and if they had something you
11 could support, they would work with it.

12 If you don't support it, which you have many
13 reasons why you might choose not to, but if you don't
14 support it, then my proposal is to encourage the Goggin
15 bill to go through for a six-month delay and run this as
16 a separate bill, which requires a majority vote, and once
17 it receives the majority vote, it then goes into effect
18 on January 1. So, we're looking at the -- assuming that
19 I can gather the support that I think I'm gathering, we're
20 looking at -- you know, we can touch the bill up, touch
21 the language up, touch the proposal up; I'm not concerned
22 about details. I'm concerned about the overview concept
23 of phasing in every three years to what the current technology
24 has and the manufacturers knowing what they have to do
25 to get a better house. They've got the criteria in front

1 of them, they bring it in, they prove to you they've done
2 it, and it's automatic. It like harnesses the manufacturer
3 to bring you packages to lower the budget so they can sell
4 more of their product. And it gives the builders, the
5 out for the builders is, criteria 6 says, "Certified package
6 must meet any criteria that are legislatively added during
7 the six months after certification." So, if you certify
8 a package, you know, six months from now, the builders
9 don't like it, they -- and they can get two-thirds of the
10 vote in the legislature to add a criteria to limit it,
11 then that package will not be one that will drop the budget.
12 But it takes two-thirds vote of the legislature, and the
13 concept is that they would do it by adding a criteria,
14 which would be a general criteria. If they don't act within
15 six months, then it automatically goes into effect. So,
16 it gives them a check and balance, but as long as it's
17 administrated reasonably, they'll never need to use that
18 check and balance, and it's hard to get two-thirds vote,
19 so -- I mean, you know, for a little thing; so, it would
20 have to be a pretty big thing, in their opinion, to get it.

21 So, the notching down every three years is an
22 important feature. And the important feature is going
23 to the minimum of the A house performance to set the current
24 budget level rather than going to the middle, so that other
25 packages that are certified will have the same range of

1 energy savings.

2 That's the proposal and I would appreciate any
3 comments after you've looked at it and I'd be glad to discuss
4 it and answer questions now or later.

5 VICE CHAIRMAN GANDARA: Are there any comments?
6 Questions?

7 COMMISSIONER SCHWEICKART: Jerry, as usual, you've
8 come with about 80,000 ideas in the last two minutes, which
9 I think is a genetic issue with you, but that's okay. They
10 are, generally, interesting ideas.

11 One of the questions I have, I'm looking for
12 the use of the word "marketable," and I don't see it here.

13 MR. STEEL: Marketable and cost-effective are
14 as only defined by the six criteria, or, really, the five.
15 The first -- just to explain those criteria, these criteria
16 have not yet been approved but they've been reviewed, so,
17 they're in process of thinking, and, certainly, if there
18 is a better way to formulate them, it will certainly be
19 considered at this time.

20 The first criteria, you're familiar with the
21 life-cycle cost curves that show saving energy and lowering
22 the 30-year cost, and you get down to a minimum of the
23 life-cycle cost curve and then you add another measure
24 and it raises the life-cycle cost to the consumer and saves
25 more energy. The first criteria says that the last item

1 in your package on that life-cycle cost curve has to be
2 lowering the cost to the consumer in his dollars. Now,
3 I believe that that's not a difficult requirement to me.

4 COMMISSIONER SCHWEICKART: We believe we already
5 did it.

6 MR. STEEL: No, you didn't do it and meet the
7 other criteria. Yes, you did it without meeting the other
8 criteria.

9 COMMISSIONER SCHWEICKART: Oh, okay. Then let's
10 go to the other criteria.

11 MR. STEEL: The next criteria is that the package
12 must be a no-orientation package, 25 percent of the glass
13 on each side of the building.

14 COMMISSIONER SCHWEICKART: I see. So, right
15 away, what you're saying here in this criteria is that
16 the most cost-effective measure in home building, namely,
17 passive solar orientation --

18 MR. STEEL: You may use it.

19 COMMISSIONER SCHWEICKART: -- will not be counted
20 in this --

21 MR. STEEL: But it can't set the standard.

22 COMMISSIONER SCHWEICKART: I see. Okay.

23 MR. STEEL: It's something that you can use.

24 But, you see, the reason for doing that is, that most buyers
25 don't think of it in terms of life-cycle cost; that's their

1 best medicine --

2 COMMISSIONER SCHWEICKART: I'm interested in public
3 policy being based on something other than the lowest life-
4 cycle cost to the consumer and minimizing the unnecessary
5 building of power plants.

6 MR. STEEL: I appreciate that concern.

7 COMMISSIONER SCHWEICKART: Yes, let's go on,
8 I understand it. So, No. 3 is --

9 MR. STEEL: No. 3 is that you can't assume more
10 than 25 percent of the floor area is free, uncarpeted slab.

11 No. 4 is that you must keep the window area in
12 the package at least 20 percent of the floor area. Now,
13 I do note to you, in case you don't know, that the glass
14 manufacturers who I work with are coming out next year
15 with a .36 double-glazing window, low-emissivity double-
16 glazing window, U-value, which is almost a factor of 2
17 higher than the current double-glazing. When they come
18 out with that product, I suspect that you're going to find
19 that people will be able to have windows in their houses
20 and they'll still be reasonably energy-efficient. I think
21 the concept of making the windows really tiny, to save
22 energy, is not as healthy as keeping the windows reasonably
23 sized and making the manufacturers come up with more
24 efficient window systems. So, that's why that criteria
25 there.

1 The last criteria -- the fifth criteria says
2 that you can't -- the fifth criteria says that you can't
3 say in your package you have to have an SEER of 10 for
4 your air conditioner and force a person to put an air
5 conditioner in the house if he didn't want one. That's
6 all it says. It says you have to let him build the package
7 somehow without the air conditioner, if he wants to do
8 that, too. In other words, you have to have a package
9 for the guy who doesn't want to buy an air conditioner
10 can use.

11 VICE CHAIRMAN GANDARA: Is this for the -- your
12 clients for the whole-house fans and ceiling fans?

13 MR. STEEL: No, it's that people, you know, not
14 everybody buys an air conditioner.

15 COMMISSIONER SCHWEICKART: All right, got you,
16 Jerry. Go on.

17 MR. STEEL: The last criteria is the catch-all
18 that says there's a holding period six months after
19 certification that the legislature could still take action
20 and stay within the process.

21 COMMISSIONER SCHWEICKART: All right, fine. Now,
22 where is the marketable issue?

23 MR. STEEL: Marketable is considered to be the
24 20-percent glass area, the builders have been arguing that
25 they need 20- to 22-percent glass to have a marketable

1 product.

2 COMMISSIONER SCHWEICKART: So, that's the definition
3 of it. In other words, if the builders come in afterward,
4 after going through Jerry Steel's thing, and say that what-
5 ever other things here are unmarketable, then that doesn't
6 count, it's --

7 MR. STEEL: No, that doesn't count.

8 COMMISSIONER SCHWEICKART: -- what you've defined
9 here as marketable.

10 MR. STEEL: Yes, precisely.

11 COMMISSIONER SCHWEICKART: I see.

12 MR. STEEL: The way that it works is, it says --
13 it says, or supposed to say -- well, it doesn't say it
14 any more, but that's okay. What the concept was, is that
15 these are not the only criteria that the Commission would
16 use in certifying. These are criteria that must show,
17 but if somebody comes in --

18 COMMISSIONER SCHWEICKART: Are these the only
19 criteria that the builders will use in --

20 MR. STEEL: These are the only --

21 COMMISSIONER SCHWEICKART: -- objecting to any-
22 thing that comes out?

23 MR. STEEL: Yes.

24 COMMISSIONER SCHWEICKART: I see.

25 MR. STEEL: Except any criteria they could add

1 in the six months. You know, if you allow a housing
2 product to be certified that has, say, a product that's
3 only been out on the market six months and has a lot of
4 questions about its durability, then they might -- and
5 you allow something like that to set your package level,
6 then they might legislatively, if they were concerned enough,
7 go back and say something to postpone it a while until
8 its durability was proven. But, you know, that's a --
9 we can't know what you're going to do. It's presumed that
10 if you keep with the spirit of cost-effective and market-
11 ability in approving your houses--and I tell you that there
12 are a lot of cost-effective techniques that were not
13 considered in the initial work--I can give you a package
14 in any zone that will meet your CEC budget right now that's
15 cost-effective and marketable, that the builders probably
16 wouldn't object to, but it would probably take me a month,
17 month and a half to hone it down there, and the builders
18 still wouldn't be ready for it. Part of this proposal
19 is to give the builders a chance to break into the new
20 system, start building for the new system, find that the
21 package doesn't work for them, sneak into the point system
22 or sneak into the computer method, learn the point system
23 and computer method by having to use it over three years,
24 and when the three years are up, then we'll be able to
25 notch down to your CEC budgets and the builder won't be

1 so afraid of it because he'll have gotten used to the system.
2 But I only let you notch, in the proposal I only let you
3 notch to the CEC budgets in three years, not beyond, because
4 I want to give the builder even six years, I want to let
5 him work with that for a while, and then you can notch
6 down to whatever you have, a package that the manufacturers
7 have brought in and meets the criteria and you can certify
8 it.

9 VICE CHAIRMAN GANDARA: I'm not clear. Are you
10 proposing, you have 1993, '96, '99, are you proposing --

11 MR. STEEL: Notches down every three years. So,
12 it's just a process --

13 VICE CHAIRMAN GANDARA: Up to this --

14 COMMISSIONER SCHWEICKART: The term of art, by
15 the way, is the word "ratchet," I mean more people will
16 understand what you're saying if you say "ratchet."

17 MR. STEEL: Okay, good. Okay, ratchet down.

18 VICE CHAIRMAN GANDARA: To the 91-percent level,
19 is that what you're talking about?

20 MR. STEEL: The level is determined by meeting
21 the criteria. Any house that's a -- see, the criteria
22 are the best guess at being --

23 VICE CHAIRMAN GANDARA: Maybe you misunderstood
24 me. When you say "ratchet" or "notch," or whatever, every
25 three years, are we talking about increasing --

1 MR. STEEL: Making the budget tighter every three
2 years.

3 VICE CHAIRMAN GANDARA: Increasing the budget.
4 To what ultimate goal?

5 COMMISSIONER SCHWEICKART: To whatever shows
6 to be cost-effective and marketable.

7 MR. STEEL: Cost-effective and marketable. What-
8 ever is cost-effective and marketable and certifiable by
9 these criteria --

10 VICE CHAIRMAN GANDARA: So, you're saying --

11 MR. STEEL: -- defines it.

12 VICE CHAIRMAN GANDARA: -- that we ought to set
13 residential building standards every three years?

14 MR. STEEL: Yes. This -- you process them all
15 the time, according to these rules. If I bring you a package,
16 that I show it meets all these criteria and it meets them
17 according to your standards and your -- you know, your
18 rules, and I use your rules and show you I've got a good
19 package, you certify it. Suppose I bring one in the six
20 months, you certify it. Okay? It sits on the book for
21 six months, and if the legislature doesn't take an action
22 to add another criteria of throwing it out, it is done,
23 the next time you hit one of these dates on the schedule,
24 that becomes the budget for that zone. And it just automatic-
25 cally keeps notching down to the cost-effective and

1 marketable levels. And the manufacturers, you put a harness
2 on them, where they want to bring you in these things because,
3 you know, if I'm selling insulation and I bring you in
4 a package with insulation or a bunch of other cost-
5 effective items, then --

6 COMMISSIONER SCHWEICKART: Maybe we would finally
7 get support out of the insulation contractors, huh?

8 MR. STEEL: Yes, I'm looking for that.

9 COMMISSIONER SCHWEICKART: Or maybe finally the
10 Concrete Masonry Association --

11 MR. STEEL: I'm looking for that.

12 COMMISSIONER SCHWEICKART: -- would support us,
13 huh? Is that what you're saying? I see.

14 MR. STEEL: I'm trying to bring people in to
15 support, I'm trying to harness the manufacturer, as one
16 of the builders --

17 COMMISSIONER SCHWEICKART: Well, the manufacturers
18 have been tough, Jerry, they've really been opposing the
19 building standards.

20 MR. STEEL: Well, as one of the builders said,
21 to answer that issue, he said, "We want the manufacturers
22 to deserve the tighter package of sales, rather than have
23 it be a windfall." Because in the B package now, here
24 in the B package now you've put in quite a number of non-
25 cost-effective items, and that's a windfall for those

1 manufacturers. You have found, when you set the lowest
2 life-cycle cost, like in zone 13, R-19 was not cost-
3 effective, yet you put it in the B package to try to get
4 the same energy level. So, that was a windfall to the
5 manufacturer, at the expense of the home buyer, to the
6 benefit of the ratepayer.

7 VICE CHAIRMAN GANDARA: Let me understand some-
8 thing. Is it not cost-effective or is not minimal life-
9 cycle costs? I thought all the measures were cost-
10 effective.

11 MR. STEEL: Taken as a whole. But if you look
12 at each item in the packages, in the B house they always
13 have several items that are not -- items that are not cost-
14 effective. Over 30 years, you won't get your money back.
15 And, see, that's the objection the builders have to the three
16 packages. The A package they object to because they consider
17 it not mass marketable today; 50-percent floor areas are
18 uncommon, and all the houses point in the same direction,
19 require education beyond where everybody's at right today.
20 The B house has actual non-cost-effective measures in it
21 and they object to having to put non-cost-effective measures
22 into their house. Now, this package --

23 COMMISSIONER EDSON: But, as a whole --

24 MR. STEEL: Sorry?

25 COMMISSIONER EDSON: -- package B is cost-

1 effective?

2 MR. STEEL: As a whole, all the measures together,
3 it's cost-effective, but it has items that are very cost-
4 effective and items that are very un-cost-effective. But
5 the net sum is that it's cost-effective, compared to today,
6 but it's not the best shot.

7 COMMISSIONER SCHWEICKART: Jerry, you said, though,
8 is anybody going to build to the B package?

9 MR. STEEL: The way that you --

10 COMMISSIONER SCHWEICKART: What was your quote
11 in the advisory --

12 MR. STEEL: Yes, you'd be a fool to build to
13 the B package.

14 COMMISSIONER SCHWEICKART: Right, right.

15 MR. STEEL: But the problem is that, you see,
16 you've set the budget in the middle of the A package, so
17 when someone tries to meet the -- to create another package,
18 that's a good one, the house is built so that it will be,
19 as a class, more energy-efficient than the houses built
20 to the A package. And we didn't understand that when the --

21 VICE CHAIRMAN GANDARA: Excuse me --

22 MR. STEEL: -- budgets were passed.

23 VICE CHAIRMAN GANDARA: Are the measures in the
24 A package cost-effective?

25 MR. STEEL: All of the -- all of a group of

1 measures, all of one set of options in the A package are
2 cost-effective, they may not be marketable.

3 VICE CHAIRMAN GANDARA: Okay, I know, but,
4 individually, are they cost-effective?

5 MR. STEEL: Yes, individually, every -- except
6 for just fine tuning down right near the bottom if it was
7 \$20 apart.

8 VICE CHAIRMAN GANDARA: Well, if the objection
9 is to a package that may include non-cost-effective items,
10 then why wouldn't, then, there be a great desire, then,
11 on that same criterion to build the A package? All of
12 which the measures --

13 MR. STEEL: Because there's two nonmarketable
14 features in it. The two nonmarketable -- or marketable
15 or the nonmarketable feature is the 50-percent slab. Similar
16 to that feature is the orientation which they just aren't
17 educated enough. Orientation was a good idea. I expect
18 in 10 years there's going to be 50 percent of the houses
19 oriented. But they aren't -- it's -- you're just one little
20 gnat on the builder's brow and he can't respond to you,
21 he just doesn't know how, he'd rather fight you. I mean,
22 I'm not supporting that position, I'm just saying that's
23 the way life is out there.

24 What I'm trying to do is give the builder something
25 he can live with that's consistent with your A base house,

1 but, as he's educated, have a standard system that the
2 manufacturers can work with that will continually notch
3 down the budget and save more energy than you had previously
4 planned.

5 VICE CHAIRMAN GANDARA: Okay. Let me ask the
6 Commission's wish at this point. We indicated 10 minutes
7 allowance for questions from the Commission and we've now
8 occupied about 40 minutes, 45.

9 COMMISSIONER SCHWEICKART: Well, I only have
10 a comment --

11 VICE CHAIRMAN GANDARA: Any further questions?

12 COMMISSIONER SCHWEICKART: -- I don't have any
13 further questions or anything. But, I mean, Mr. Steel
14 will proceed with his agenda no matter what, anyway.

15 But I do have one statement that I'd like to
16 make, Jerry, and I say it very seriously and very sincerely,
17 and that is, that I, as a Commissioner involved in this
18 matter, will take great offense if you represent that having
19 presented this to the Commission and us not having asked
20 certain questions, that there is any implied tacit support
21 or approval --

22 MR. STEEL: I see none of that at this moment.

23 COMMISSIONER SCHWEICKART: -- of what you said.

24 All right. Let me just simply state, as an observation,
25 that you are not very careful in either talking with us

1 or other people I'm aware of, in terms of separating yourself
2 from the terms you use. For example, CBIA/GBS house. Okay?
3 I have checked with CBIA, they do not in any way acknowledge
4 that they have anything to do with that.

5 Now, I want to make sure, if you want to use
6 that for CBIA, you go ahead, but what I'm saying is, in
7 terms of the Commission, I will emphatically react to any
8 implied suggestion that the Commission supports something
9 just because when you sent us a letter, or whatever, you --

10 MR. STEEL: I --

11 COMMISSIONER SCHWEICKART: -- say you've talked
12 with the Commission and they didn't object to it, and the
13 implication is that we support something.

14 MR. STEEL: I only came to give you this presenta-
15 tion so that you could be thinking about it, so that next
16 week, if I bring you some legislative action, you will
17 be prepared to make a decision quickly on whether you wish
18 to be a part of it or not, because the Goggin bill needs
19 to be moved and it somewhat depends on your decision.

20 COMMISSIONER SCHWEICKART: All right. Jerry,
21 in spite of the fact that we can't keep up with the letter
22 a day that you send to us, the fact of the matter is that
23 we do read them and your letters are always interesting.

24 MR. STEEL: Well, thank you.

25 VICE CHAIRMAN GANDARA: Although he has accused

1 Commissioners of not reading his mail.

2 MR. STEEL: Thank you very much for the ample
3 five minutes.

4 VICE CHAIRMAN GANDARA: Thank you, Mr. Steel.
5 Mr. Beavers?

6 MR. BEAVERS: Stu Beavers, with the Concrete
7 Masonry Association. I just had a few comments on Jerry's
8 proposal. He had shared it with me before lunch and I
9 had indicated that I had some problems with it, and I thought
10 that perhaps I might like to publicly state some of the
11 problems that I have with it.

12 First of all, it clearly involves some significant
13 changes to the regulations, in the sense that it reduces
14 the budget, and I would question what effect that has on
15 design manual and other items such as that.

16 I would go back and say that the process of setting
17 the regulations themselves was a long and arduous task.
18 I don't remember the exact time, but it seemed to me like
19 it was 30 years, but it was probably more like two and
20 a half or three years, and Mr. Steel was deeply involved
21 in the process, and through the adoption of the regulations
22 themselves, appeared to be a significant contributor, he
23 appeared to be in support of the regulations at various
24 times, and yet, now, less than 30 days before implementation
25 date on a set of regulations that were adopted, I think

1 approximately two years, I haven't looked up the date,
2 but --

3 COMMISSIONER SCHWEICKART: June '81.

4 MR. BEAVERS: Approximately two years ago, why,
5 it has occurred that there are some glitches in the
6 regulations. And, assuming that the regs were essentially
7 correct at the time of the adoption, it leaves one to ask
8 the question, or at least me, at least, to ask the question
9 as to what new findings or developments dictate that they're
10 not correct now.

11 The presentation that's made seems, to me, to
12 be based on a change in modeling assumptions more than
13 anything else, and that may be, you know, not totally every-
14 thing that it's based on, but that's what it appears to
15 be based on. And the proposed changes appear to be a proposal
16 for the sake of political expediency. They don't particularly
17 seem to be that technical, but, rather, either through
18 the acceptance of the builders or through whatever may
19 or may not happen in the legislature, it seems to involve
20 a matter of political expediency rather than technical
21 data, so to speak, and technical research.

22 And that brings me to the question of the
23 propriety of a technician, such as in this case Gerald
24 Steel, an engineer who made sizable technical contributions
25 to the adoption of the regulations, now taking the position

1 that in the name of political expediency these --

2 MR. STEEL: Your interpretation.

3 MR. BEAVERS: -- these kinds of significant changes
4 are required.

5 This proposal advocates setting the regulations
6 through the legislative process rather than through a code-
7 setting process, and I have to say that that scares me.
8 I really don't look forward to the day that we set our
9 codes at the state legislature, because I'm not sure --
10 I'm not always sure that the Commission understands code-
11 setting process, but I'm reasonably sure that there are
12 not that many people across the street that understand it.

13 Finally, I'd just simply say that I really have
14 no argument with Jerry's technical credentials, I think
15 that they're sound. And if the proposal is technically
16 sound, then it should be handled through the petition process
17 and be subjected to public participative review and comment
18 and the adoption process by the Commission.

19 VICE CHAIRMAN GANDARA: Thank you, Mr. Beavers.

20 Any questions for Mr. Beavers? Comments?

21 (No response.)

22 VICE CHAIRMAN GANDARA: Is there any further
23 public comment? Mr. Daum?

24 MR. DAUM: I'm Skip Daum, also with the Concrete
25 Masonry Association.

1 For everyone's edification, I think rather than
2 through innuendo and illusion, it would be to our benefit
3 to learn specifically with whom Jerry has consulted or
4 at least on whose behalf, so we, in the public, fully under-
5 stand who, other than himself, is interested in promulgating
6 this through the legislative route.

7 VICE CHAIRMAN GANDARA: Well, let me say that
8 we're at a public comment period, I would hope that
9 Mr. Steel would be forthright with respect to your question,
10 I don't think that --

11 MR. DAUM: Okay, instead of having --

12 VICE CHAIRMAN GANDARA: -- it's appropriate for
13 the Commission to --

14 MR. DAUM: -- it back and forth with that, that's
15 fine. But I would suggest that that forthrightness be
16 forthcoming in a very short period of time, so that the
17 Commission and the Staff and other people whose interests
18 are affected know full well who is suggesting these things.
19 For instance, the glass manufacturer has a new product,
20 maybe he wants a delay for two years until his is ready.

21 VICE CHAIRMAN GANDARA: Don't misunderstand me,
22 Mr. Daum. If it is the Commission's interest or a Commissioner
23 here has a question of Mr. Steel, that would be fine; I
24 just don't want to get into the mode of having public
25 commenters cross-examine each other --

1 MR. DAUM: Nor do I.

2 VICE CHAIRMAN GANDARA: -- during the public
3 comment period. But if there is someone here who wishes
4 to ask that question of Mr. Steel --

5 MR. STEEL: I'd be happy to answer his question.

6 VICE CHAIRMAN GANDARA: Let me ask it then,
7 Mr. Steel, since that's come up. Just -- no editorializing,
8 just indicate who you've been speaking to, which is the
9 current --

10 MR. STEEL: I am funding my effort through my
11 own surplus, there is no one who has approached me to do
12 this. I am doing it because I feel that it's right to
13 do and not, you know -- but just for that reason and that
14 reason only.

15 VICE CHAIRMAN GANDARA: The question was who,
16 not why.

17 MR. STEEL: Um-hum. And I have, however, in
18 the last -- starting Monday, I contacted Stan Swartz and
19 asked him to meet with me, and we spent three hours talking
20 about this proposal. He directed me to Steve Lamar and
21 Bob Rivinius, and I've now met with both of them, talked
22 with Steve, met with Bob. Bob directed me to Dennis O'Brien
23 and I hope to meet with him tomorrow. And I've also talked
24 with Earl Ruby on the phone. And my last person, we're
25 back to Roger Werbel. And that is everyone except the

1 Orange County people, who Steve Lamar said he would get
2 in contact with.

3 VICE CHAIRMAN GANDARA: You indicated in your
4 comments to the Commission that, were all these things to
5 happen, you would, therefore, or we would, therefore, or
6 everybody jointly would, therefore, amend the Goggin bill,
7 that's the author's bill. Have you --

8 MR. STEEL: That bill --

9 VICE CHAIRMAN GANDARA: I mean have you --

10 MR. STEEL: I have talked with --

11 VICE CHAIRMAN GANDARA: Is that presumptuous?

12 MR. STEEL: I've talked with Steve Lamar on that
13 issue and he has -- he is aware of the path that's necessary
14 in order to amend Goggin's bill, and if it -- and I should
15 know in a number of days whether that is a feasibility
16 or not. I'm negotiating those sides. I just wanted to
17 let you know what I was negotiating in case you had any
18 input that would improve the product. I am trying to get
19 the Orange County builders and the CBIA to give me support
20 and I do not have their support now, because I haven't
21 talked to all of their people.

22 VICE CHAIRMAN GANDARA: Thank you very much,
23 Mr. Steel.

24 Mr. Daum, I believe your question is answered.
25 Any further comments of the Commission?

1 REPORTER'S CERTIFICATE

2 I, AMBER WHITSETT, an electronic court reporter,
3 do hereby certify under penalty of perjury:

4 That I am a disinterested person herein; that
5 the foregoing hearing of the California Energy Resources
6 Conservation and Development Commission was reported by
7 me, Amber Whitsett, an electronic court reporter, and that
8 the foregoing pages constitute a true, complete and accurate
9 transcription of the aforementioned proceedings.

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

13 I have hereunto set my hand this 27th day of
14 May 1983.

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17 Amber Whitsett
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