STATE OF CALIFORNIA

ENERGY RESOURCES CONSERVATION

AND DEVELOPMENT COMMISSION

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BUSINESS MEETING

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SACRAMENTO, CALIFORNIA

WEDNESDAY, NOVEMBER 2, 1983

10:13 A.M.

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COMMISSIONERS PRESENT

Arturo Gandara, Vice Chairman

Russell L. Schweickart, Commissioner

Karen K. Edson, Commissioner

Geoffrey D. Commons, Commissioner

EX OFFICIO

Bill Foley

STAFF PRESENT

Roger Ganse

William Chamberlain

David Mundstock

R. Michael Martin

John Chandley

Gregg Wheatland

Steve Cohn

Al McCuen

Ted Rauh

Linda Greule, Secretary

PUBLIC ADVISER'S OFFICE

Ernesto Perez

ALSO PRESENT

Matthew Brady, Attorney, Ducane Heating Corporation

Peter Baumgartner, Attorney, Pacific Gas and Electric Company

Bruce McDonough, Attorney, Northern California Power Agency

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P R O C E E D I N G S

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VICE CHAIRMAN GANDARA: Let's call today's business meeting to order. I'll note at the beginning that Commissioner Imbrecht will not be with us today, he is away on business. He should be back with us for the next business meeting.

With the Commission's concurrence, I'd like to note a request that I believe we can accommodate, and that is to move Item 2 to No. 3 and Item 3 up to No. 2. With no objection, then we'll proceed that way.

The first item, then, is the Commission consideration and possible adoption of an order instituting rulemaking to extend the regulations for the solar tax credits and conservation tax credits. Commissioner Edson?

COMMISSIONER EDSON: Yes. This is a rulemaking to deal with three different types of things. One, the changes to the statute which were enacted by the trailer bill to the budget, and two pieces of legislation extending the conservation and solar tax credits and making various modifications. Secondly, dealing with an outstanding conservation tax credit petition that was postponed because of the uncertainty of that extension of the statute. And lastly, to make clarifying amendments to the regulations, I guess that clearly -- it's the regular -- such a

reauthorization of the tax credit regulations. I would move the OIR that is before us.

VICE CHAIRMAN GANDARA: Is there a second?

COMMISSIONER SCHWEICKART: Second.

VICE CHAIRMAN GANDARA: Is there discussion? Commissioner Commons?

COMMISSIONER COMMONS: I have, I guess, a number of questions on the issue. The first one is, what is the person year allocation in the existing work plan, and would the approval of this have any impact on that?

COMMISSION EDSON: I would have to defer to Mr. Ganse to find out the exact allocation of the work plans. This is work that has been anticipated, I know, for some time. I have called it to the staff and the Commission's attention many times over the last several months, and I believe that there is staffing allocated. What the specific allocation is, I'm not sure.

MR. GANSE: Yes. This is work that would involve two divisions, the Conservation Division and the Development Division. I've spoken with the Conservation Division, and this does fall under the allocation that we have in the approved work plans which I believe is 1 PY for the modification of the regulations. I'm not exactly sure at this time of the allocation in the Development Division. I can check on that before the meeting is over today.

COMMISSIONER COMMONS: Well, I'd like to know how much of that we have utilized so far, and whether or not this would -- this action could result in a further modification of the work plan, at least before I were to vote on the item.

COMMISSIONER EDSON: Commissioner Gandara, let me make one more comment, and that is that frankly, most of the staff work has already been done on the modifications of the regulations that we're talking about with this rulemaking. There is the need for an additional rulemaking after January of this year to deal with more complicated issues, specifically the added language in the solar tax credit statute broadening leasing provisions, and secondly, an issue that you and I have talked about dealing with wind machine performance.

I think with that, there is a significant work plan issue. With this effort, though, I think that clearly the staffing has been budgeted, and frankly, most of the work has already been done with the exception of the upcoming hearing and finally bringing the issue before the Commission.

We're not dealing with particularly controversial items here that will have a significant staffing impact.

VICE CHAIRMAN GANDARA: If I might suggest a way to proceed here, it does appear that some, in fact, most of the issues listed for consideration by the OIR are issues

that frankly, we would be required to undertake in any case because of legislation that has been passed. I would suggest that we proceed to approve the OIR and since we will be hearing the recommendations, the staff recommendations on the work plan modifications as a result of the first quarterly review at the next business meeting, between now and then, I think it would be helpful if the staff would come back with an estimate as to what the staff time would be to complete these items, and perhaps in conjunction with the Committee, and that if the resources seem to -- required seem to be substantially different from those which are already allocated in the budget, then that, of course, becomes an item for the quarterly review issue November 16th. In fact, some of the more discretionary items might then be down scoped in scale.

Commissioner Commons?

COMMISSIONER COMMONS: One of the things that we're trying to do on the regulations from the NOI Committee is to put all of the issues into one hearing process because it's the Committee's feeling that we go through one set of hearings on modifications, it requires less staff time and less participation time by those who are interested in the issues, and that there is value in the consolidation.

I think that raises a question in my mind, if we're talking about in 60 days going through another set of

hearings on the same regulations for changes as to whether or not they ought to be consolidated, and if there is a scoping issue, that we handle them all at one time.

COMMISSIONER EDSON: I'd like to respond, if I may. The second stage that I referred to will, I think, without question, be a very complicated and lengthy rule-making. The staff estimates that if we -- that the scope of the leasing rulemaking is such that it is likely to take 8 to 12 months to complete.

It's been compared for me to the -- some of -- potentially, the magnitude of the contracting rulemaking now going on at the PUC, for PURPA contracts. For that reason -- and this rulemaking is dealing with changes to the statute in some cases that took effect January of this year, and in other cases, that will take effect January 1 of next year.

For that reason, it was my feeling that it was incumbent on the Commission to deal with the modifications that we could deal with quickly on an expedited schedule and put into a second rulemaking, those which were much more complicated, and were likely to take a significantly longer period of time.

We -- it is, I think, very important for us to have updated tax credit regulations available to the public as soon -- as close to January 1st of this year as possible,

since in a number of cases, the changes do effect tax filings that are due by April 15th of 1984.

COMMISSIONER COMMONS: Well, let me then, on the leasing question, on the solar, I would be in support of your position, given the enormous complexity. Let me get to the wind issues that we've discussed, which I don't think have quite as much complexity.

One of the problems I've had under the existing regulation is that we are not getting information on the wind machines as to operating data, and the amount of energy produced. In fact, I've heard some reports that there may be some wind machines that produce little or no energy, and there's an enormous differential in the types of machines, and there's been a lot of problems, and research institutions have said they've had difficulty of getting data.

I think it's very important in the area of trying to generate electricity from the wind machines that we get a better understanding of the types of problems, and operational information as to performance. One of the thoughts that has come to my mind is where the state is granting tax credits, we would have the ability under the regulations to make available that information to the public domain so that utilities, research organizations, and our own Commission could study as to what the performance are

so we would have a better understanding of the benefits of the tax credits, and how the wind machines are performing.

The obtaining of this information, as a pre-requisite in the granting of the tax credits, I think it's within the legal authority of the Commission. If we could add that item to this list, which wouldn't be an 8 or 12 month study of an identification of the list of information that would be useful, that would take care of my only objection.

COMMISSIONER EDSON: Commissioner Commons, my only disagreement with you is the magnitude of the work that would be necessary to impose the kind of requirement you're talking about. As you and I have discussed privately, the staff is currently developing a performance reporting system for wind farm developers. An Advisory Committee -- we are -- we will be forming an Advisory Committee made up of developers, and utilities, and other experts in the area to help with the development of the kind of reporting information that is desirable.

That work, though, even the final development of what the scope of that report will be is not going to complete it, I think, until very near the end of this year, which puts us well beyond the kind of time line I outlined for you which is -- which would call for adoption of actual regulations for the two tax credits as close to the end of

the year as possible.

I think that what I would propose is that the issue that you're describing, and it's what I proposed to you privately as well, be incorporated with the leasing issues that can be taken up next year after the staff work has been completed on the performance system. If it can move much more quickly than the leasing issue, there's no reason that it couldn't be brought to a close, and brought before the Commission sooner.

COMMISSIONER COMMONS: Well, let me try one alternative to that, and then close the discussion, at least as far as I would be concerned. I see nothing wrong with including the wind issue that I've suggested on the issue as part of what we're approving in terms of the Commission.

I can see the Committee coming back in December with all items but that one completed, and that item, if it does require further time, go to June. But I think we have an issue of significance that should not take a lot of time in terms of person years, and to allow it just to continue, possibly indefinitely, I would feel very uncomfortable with it.

COMMISSIONER EDSON: Well, I have two -- well, I would oppose that change. The current schedule for this work which would allow us to meet the deadline that I outlined calls for distribution of the proposed amendments

to the Office of Administrative Law approximately a week from today, and I think there is absolutely no question that we are not prepared to go forward in the area you described within that time frame.

COMMISSIONER SCHWEICKART: Yes. Let me just point out also to Commissioner Commons that in fact it is not an issue of the wind performance concept not moving forward, in fact, the staff has the schedule laid out now for the formation of this Advisory Committee for the development in conjunction with the industry of appropriate performance measures which are not, at this point, really -- upon which there is at the moment not good concensus, and would, in a regulatory, or in a rulemaking environment, be very difficult to handle.

So that I think that issue, while conceptually it is right, technically, at this time, is not right, and the work is proceeding so that the performance criteria which would be required in such an amendment to the tax credits has a defensible basis for adoption.

So again, I want to assure you that not only is there a need to expedite moving ahead with what's before us, but that the wind issue is not lying dormant.

COMMISSIONER COMMONS: Well, I will defer to Commissioner Gandara's original recommendation in light of the further discussion and look at it as a work plan issue

which will come up two weeks hence, and so, I will not propose an amendment.

VICE CHAIRMAN GANDARA: Okay. I think that would be appropriate, because I think that most of the items I see here are things that need to be acted upon rather immediately. At the same time, I do think there are some issues that need to be addressed in the wind area, and I frankly was reserving some of my concerns for the work plan review.

In particular, I might note that some concerns have been raised with me with respect to an intent to drop some work on a draft wind ordinance, particularly after there's been a distribution of a model, or a draft, and the feeling being that without closing the loop on that one, that what's been distributed as a draft remains our statement as to what that may be.

So I think that is related somewhat to the issue that you're talking about, Commissioner Commons. So with that, let me ask the Secretary to call the roll on this item. Excuse me, I apologize, any public comment on this matter? Anybody wish to comment? Call the roll.

SECRETARY GREULE: Commissioner Commons?

COMMISSIONER COMMONS: Aye.

SECRETARY GREULE: Commissioner Edson?

COMMISSIONER EDSON: Aye.

SECRETARY GREULE: Commissioner Schweickart?

COMMISSIONER SCHWEICKART: Aye.

SECRETARY GREULE: Vice Chairman Gandara?

VICE CHAIRMAN GANDARA: Aye.

Okay. We will now be taking up Item 3, the Commission consideration and possible adoption of a petition for rulemaking by International Energy Systems Corporation. Mr. Martin?

MR. MARTIN: Good morning, Commissioners. On September the 27th, International Energy System Corporation of San Jose, California petitioned the Commission to exclude ductless multi-zone heat pumps from the requirements of Section 2-5352(h) of the Residential Building Regulations.

International Energy Systems markets Daiken heat pumps, that's D-a-i-k-e-n, which typically have one compressor unit, and two to five condensor units located in various zones of the building. The staff recommends that this subject be discussed in future rulemaking activities, and Mr. Chandley has a suggestion regarding another petition that we received in the mail that is -- yesterday from Williams Furnace that refers to the similar kind of control problems when we have multiple installation of wall furnaces. John?

MR. CHANDLEY: Mr. Vice Chairman, yesterday we received a petition from Williams Furnace Company, you're

probably very familiar with this issue, they're asking that individual, multi-unit gas fired wall furnaces be exempt from the setback thermostat requirement. Although we received this petition yesterday, and it would normally not be handled for about another 30 days, it seems to me that this raises essentially identical issues as the IES petition, and that if you decide to take the staff's recommendation to grant the IES petition, that you couch your motion generically, that is, broadly enough to incorporate similar petitions which are asking for consideration of relief from the thermostat requirement with respect to multi-unit heating systems.

I think this raises very similar things. This is something that was filed yesterday. Commissioner Schweickart?

COMMISSIONER SCHWEICKART: Yeah. It's not clear to me that they are all that similar. As I recollect it, with heat pumps we have a basic issue of -- at the moment, at least, relatively high-priced setback thermostats would provide, let me say somewhat smarter commands to the system itself in order to accommodate for certain system characteristics, and not just a simple setback.

Whereas, with the wall furnace, my understanding is that although it could be a multi-zone application, it would be straightforward and run of the mill setback

thermostat, if you will, so that the cost implications would be quite different.

Secondly, and I need my memory jogged here, it seems to me we've already dealt with the wall furnace setback thermostat requirement, though not expressed in terms of multi-zone, and decided that the setback thermostat would be required, is that not correct?

MR. CHANDLEY: Last February in a rulemaking, the Commission adopted an exception to the thermostat requirement for gravity gas wall heaters, and other heaters that are installed in additions, in additions only.

COMMISSIONER SCHWEICKART: In additions.

MR. CHANDLEY: So the general application of that rule to situations other than additions was not ruled upon that time, although the Commission may have discussed it in the hearings.

I'm not -- neither I, nor the staff are recommending at this time that the Commission agree with the merits of the petitions that are being filed. We're merely saying these are similar issues. If you choose to consider these possibilities for -- in the next rulemaking, that they be considered together, and all I'm asking is to be relieved of responsibility of bringing back this matter 30 days from now, since I believe that the issues raised are similar even though you're quite right in saying that the units

operate in a somewhat different manner.

VICE CHAIRMAN GANDARA: Let me suggest a way to proceed here. The petition before us is the International Energy Systems Corporation, and what has been brought up before us appropriately is the consideration of a possible joinder of this other item. However, the Williams Furnace petition frankly is not properly before us, because it hasn't been publicly noticed, and so therefore, anybody who might want to comment on it, I think would not have had that kind of notice.

On the other hand, I do think that it is reasonable that to the extent that efficiencies can be achieved in terms of staff time by consolidation and joinder of these petitions as we've done in the past, I think it's useful to have brought the matter before the Commission.

I would suggest that what we do is that we go ahead and we act on the International Energy Systems Corporation petition, that we calendar the Williams Furnace petition for the next business meeting, and that the -- it seems to me that both of these items would frankly be referred to the residential building standards -- the Buildings and Conservation Committee, and that it would be at the discretion of the Committee to join these issues if our presentations of arguments by staff, as you've indicated here, that they present substantially similar arguments.

I've recently become both interested in the joinder of some of these issues, but at the same time, have also become concerned that if the parties have some say as to whether their issues will be joined, or be allowed to respond, and I think at this point in time, whether IES would have any objection to joinder or not, and whether the Committee itself would have any joinder or not (sic), that if the staff felt, nonetheless that they were substantially similar issues, and there was some disagreement on joinder, it could be brought back before the Commission.

In any case, I think that to put it on the agenda for next time would be a way to at least accelerate the processing of it. I don't think that we would necessarily be prejudicing IES's petition right now by the digression of the discussion. But at the same time, I think that there's no way that you would be holding a hearing, Commissioner, before the next business meeting on this item, so I'm sure that you've had an opportunity to review it and join it if possible.

COMMISSIONER SCHWEICKART: Let me just indicate that the Committee is moving forward with a hearing process on revision, or amendments of the building standards, residential building standards. For planning purposes, we will essentially move in such a manner as to be able to include -- incorporate both petitions, assuming that they

are both in business meetings approved in that single process.

So I would move this -- that we grant this -- the hearing of this petition.

VICE CHAIRMAN GANDARA: Is there a second? Is there any further discussion? My understanding is that the schedule that you are proceeding on would allow the joinder if you so -- if the Committee so desired.

COMMISSIONER SCHWEICKART: I think, frankly, my feeling is that joinder is not the issue. Expeditious handling is the issue, and we are not moving so rapidly that bringing this, the Williams petition before us in the next business meeting would preclude it being incorporated in the hearings.

VICE CHAIRMAN GANDARA: Very good.

COMMISSIONER SCHWEICKART: I think that's the central point.

VICE CHAIRMAN GANDARA: Any further staff comment?

MR. MARTIN: That's just fine with us.

VICE CHAIRMAN GANDARA: Is there any public comment? If not, would you call the roll please?

SECRETARY GREULE: Commissioner Commons?

COMMISSIONER COMMONS: Aye.

SECRETARY GREULE: Commissioner Edson?

COMMISSIONER EDSON: Aye.

SECRETARY GREULE: Commissioner Schweickart?

COMMISSIONER SCHWEICKART: Aye.

SECRETARY GREULE: Vice Chairman Gandara?

VICE CHAIRMAN GANDARA: Aye.

We will proceed with the Item No. 2, the Commission consideration and possible adoption of the petition for rulemaking by Ducane Heating Corporation. Mr. Wheatland, or Mr. Martin, again, I guess, I believe.

MR. WHEATLAND: Well, I would like to suggest that the Petitioner is here today, represented by Mr. Brady, and perhaps it would be best if he introduced to you his petition and explained the relief that they're requesting.

VICE CHAIRMAN GANDARA: Very good. Welcome back, Mr. Brady.

MR. BRADY: Thank you very much. It's a pleasure to be back here sitting on this side of the table, rather than over there. My name is Matthew Brady, for the record, and I'm here to plead the case of Ducane Heating Corporation.

On September 17th -- excuse me, September 12th of this year, Ducane Heating Corporation submitted a petition to this Commission seeking in the alternative, equitable relief from the application of the Commission's adopted 71 percent seasonal efficiency standard, or in the alternative, an emergency rulemaking.

COMMISSIONER SCHWEICKART: Smile.

MR. BRADY: Smile, you're on candid camera.

(Gentleman taking picture of Mr. Brady.)

MR. BRADY: Whoever he is I -- you know, we'll go from there. All right. In the altnerative, an emergency rulemaking to provide similar relief from the 71 percent seasonal efficiency standard.

Ducane Heating Corporation is a relatively small company -- who was that guy, anyhow?

Is a relatively small company in this industry of relative giants, and manufactures primarily horizontal gas and oil fan type furnaces for other manufacturers -- excuse me, for other marketers.

The basis of Ducane's petition is as follows: It will not be able to meet, and has not yet been able to meet your 71 percent standard. It is not alone, however. Notwithstanding the staff's petition and commentary, and we'll let the staff address that, there is only one other manufacturer that currently has, according to the studies we have completed, and the questions we've asked, a validly certified piece of equipment that can be sold in this state. Not four as the staff has asserted, one.

Ducane itself is running out of its old inventory. It has been selling its inventory in California, but it's concerned it's going to run out with two things, (a) the return of the building industry, and (b) the return of cold weather, when people start turning on their furnaces and find

out the thing doesn't work any more.

The equipment which is available on the market today, primarily a piece of equipment manufactured by BDP and I'll defer to staff as to what that stands for, will not fit in all instances, and a horizontal gas furnace will fit. It is a -- a horizontal gas furnace might be considered like a Dachshund, and what we're really talking about is something that's much -- it's a little fatter.

It won't fit in all instances without substantial retrofits, and that adds substantial costs at about $42.50 an hour in order to do that retrofit work.

Next is the higher price of the units which is available and does qualify, which is the BDP unit. According to a Sacramento market study completed over the last two days, the purchase price for that unit is approximately $925 to $975 depending on who you talk to, uninstalled. Installation is $42.50 an hour. It takes about 12 to 16 hours to put one in, and that assumes that you don't have to knock any walls down, or move any floor joists, et cetera.

That's contrasted with the truly horizontal gas type furnace, the one that is available on the market is -- it's kind of a hybrid, it goes both ways, vertical and horizontal, of approximately $450 to $700, a price increase of anywhere from 40 to 100 percent above.

Lastly, Ducane is concerned about the distributors, the people who buy its product, primarily Trane, Climate Control, Heil-Quaker, Board Warner, Lux Air, Mansheft and Payne. Their dealers may not have a product available to sell when they need to buy a product because the manufacturer of the BDP units, Carrier, admittedly could supply the market, but may not supply it, or may supply it at a higher price yet, because this hearing will tell them that they've got the exclusive block on the market.

That is the basis of our petition. It's simple. We need some relief. We're looking for an additional four months to start manufacturing today, or as soon as possible, a new product so that it can be available for the cold weather to come. They are in the process now of redesigning their systems so that they will have a highly efficient unit at a cheaper price than their present units, but they just have not been able to get the work done in order to do that.

They've had lots of time without any question, it just hasn't been done. That's the basis of our petition That is what we're seeking. I'll leave it to the staff, and would ask an opportunity to respond to them.

VICE CHAIRMAN GANDARA: Okay. Mr. Wheatland, Mr. Martin?

MR. WHEATLAND: Thank you. You have a copy of our

issue paper before you which sets forth the staff's recommendations. We recommend that the petition be denied. We have not evaluated the information that Mr. Brady referred to today, but even if the information is true, the staff's position is there's at best a concern with the retrofit market, and not a justification for allowing an unlimited exemption for the manufacturing of a new product that does not meet the standard.

I'd like Mr. Martin to briefly address the question of the availability of product that does currently meet the standard as certified by the Commission.

MR. MARTIN: There is a correction I'd like to make in the issue memo that you have. On the second page, the reference to four manufacturers competing with Ducane. Actually, there are many brands, but the two sources are the BDP Division of Carrier, and BDP stands for the three trade names, Bryant, Day and Night and Payne, and the other company is Consolidated Industries who are marketing under a host of brand names, apparently in the same way that Ducane.

I did get a phone call from corporate headquarters of Carrier, and they reminded me that in 1982 they had stated that should nobody be able to meet the demand for furnaces in California, but then they had capacity to meet them, and that this was still the case with horizontal

furnaces.

I have much more limited information than Mr. Brady on the price issue. In effect, there was one phone call from one distributor in the San Francisco area who claimed actually that the BDP unit was slightly lower priced than the Ducane unit. So I guess I've been around long enough that you have to be very careful as to what you're comparing. I really can't comment on that.

The BDP unit is designed to be mounted as an upflow or horizontal flow unit, and this -- the distributor I talked to said it was very attractive to him because he only had to stock one, whereas the Ducane was only available to -- as a horizontal unit, and it really does appear to do the job.

Mr. Brady also stated that installed, the BDP unit was no larger than the Ducane unit. The general use of these furnaces appears to be in attics, crawl spaces, or basements, and certainly in my house, if I did decide to have a central system which I don't think I will, I don't have a place for the more conventional upflow furnace, and I think I would go to a horizontal funace.

But I have -- in an older house, a huge attic, and a crawl space that is maybe adequate, but could be expanded with a shovel in a very short time. So I'm not sure that is a very relevant comment.

MR. WHEATLAND: I'd like to add a procedural note to this and that is that the relief that the petitioner is requesting today is for us to institute a rulemaking proceeding. Under the rules of the Administrative Procedure Act, for a normal rulemaking proceeding, it would require a minimum of 120 days, and perhaps as many as 150 days before the Commission could adopt an amendment, and for it to become effective.

Obviously, the Commission couldn't take such action before -- in the time frame that the petitioner needs us to act.

The alternative would be for the Commission to adopt an emergency rulemaking proceeding, and adopt an emergency rule. But very frankly, as we've admitted in the staff report, given the very close scrutiny that OAL has given to Commission regulatory actions, in our opinion it's very doubtful that OAL would find the facts the petitioner has set out sufficient to constitute an emergency rule; and for procedural reasons, as well as the substantive concerns that we have, we recommend that the petition be denied.

VICE CHAIRMAN GANDARA: Mr. Wheatland, Mr. Brady listed as part of his petition, I guess a third request, which was, I believe, a reference to the Commission's power to grant equitable relief from -- is that separate from, or the same issue as the emergency regulation?

COMMISSIONER SCHWEICKART: Commissioner Gandara, by your leave, and just to have something in the record juxtaposed, could you review in three sentences what the basis of emergency action by OAL is, and then respond? I just want to get those on the --

MR. WHEATLAND: Basically -- yes. Under the Administrative Procedures Act, the Commission must find there is a threat to the health, safety, or general welfare of the public. Obviously, health or safety are not affected by this regulation, and the only possible finding would be that there was a threat to the general welfare, and --

COMMISSIONER SCHWEICKART: All right. Well, without editorializing, what are the other criteria?

MR. WHEATLAND: Health, safety, or general welfare.

COMMISSIONER SCHWEICKART: Oh, those -- that is the basis for emergency rules.

MR. WHEATLAND: An emergency ruling, right.

COMMISSIONER SCHWEICKART: All right, thank you.

MR. WHEATLAND: And the ruling that the Commission would make would have to be accompanied by a set of findings setting forth the facts that constitute the threat to the health, safety, or general welfare.

COMMISSIONER SCHWEICKART: Okay.

MR. BRADY: If I could make a --

COMMISSIONER SCHWEICKART: And Commissioner

Gandara's --

MR. WHEATLAND: Oh, yes. With reference to the third request that the petitioners make is for the Commission to exercise its inherent powers to essentially stay enforcement of the requirement that prohibits Ducane from manufacturing noncomplying units after December 22nd of 1982.

As we explained in the issue memo, there is an instance where the Commission has exercised such inherent powers recently with respect to a petition by Nippondenso, but we feel that the facts of the Nippondenso petition in which they had a product that was not in existence at the time the standard was set is much different than the facts here, where the petition has been in effect -- the standard has been in effect for more than five years.

I wanted to add that Ducane did participate in the rulemaking proceeding last year in which the Commission was asked by Ducane to defer, or eliminate the requirement that applied to them, and after a very thorough rulemaking record, the Commission declined to grant Ducane's request.

VICE CHAIRMAN GANDARA: Mr. Martin, or Mr. Wheatland, whoever is appropriate, just so that we clarify any differences of points of view here, Mr. Brady has referred to a four month delay in the staff's commentary. You request that -- I mean, you indicate that the request

is a request for a 15-month delay.

MR. WHEATLAND: Yes. I think I can clarify that. Under the terms of the current standard that's in effect, Ducane cannot manufacture noncomplying appliances after December 22nd of 1982. They can still sell furnaces that were manufactured before that date, but they can't continue to manufacturer after December 22nd of 1982.

The Ducane petition asks for permission to continue to manufacture such appliances through March of 1984. That's approximately a 15-month period in total in which they would be able to manufacture noncomplying units. It's approximately four months from today, and I believe that's the four months that Mr. Brady is referring to.

VICE CHAIRMAN GANDARA: Okay. What you're saying is that Ducane should not have been manufacturing these furnaces after -- for sale in California --

MR. WHEATLAND: Yes, after December 22nd of '82, and indeed, I don't believe they are.

MR. BRADY: That is correct, they are not manufacturing them.

MR. WHEATLAND: They're still selling out of their existing inventory of furnaces that were manufactured prior to December 22nd of '82. So what they're asking here is for permission to sell in California furnaces that were manufactured after that date.

VICE CHAIRMAN GANDARA: Okay. Are there any other questions for staff?

COMMISSIONER SCHWEICKART: Yes. I thought I had it and then your very last phrase threw me back again, Gregg. Have they been manufacturing this furnace after December 22nd, 1982 at all?

MR. BRADY: No.

COMMISSIONER SCHWEICKART: No. So then, the four month issue would be to market furnaces which are manufactured before that time, or would it be the intention to go back into production?

MR. BRADY: If I can address that point.

MR. WHEATLAND: Yes, please.

MR. BRADY: Ducane Heating has been basically living off its inventory. They're trying to get rid of their inventory. They're concerned they're going to run out. They think they are going to run out based on the increased sales activities that started in late August.

Given that they're going to run out of inventory and given that they don't have a product that they can sell, they're asking for the opportunity, after the Commission's authority, or based on -- based on your permission to start manufacturing units to meet its contractual obligations, or the market demand. That's what they're seeking.

So I'm talking about a four month window to allow

us to go ahead and start manufacturing. We may be able, in fact, to manufacturer enough of them in the next few weeks to meet our demand in the following period, not unlike what is applicable with the percentage efficiency difference that's been given to the upflow and downflow units as a part of the -- what is it, the Lennox suit, where they sued you and ended up with an extension, or a grant, basically, of a greater efficiency allowance in order to allow them to manufacture products that don't meet 71, it meets another number, or basically a testing change -- that's right, it's a testing change.

I'd like to address a couple of points, if I might, that have been raised, if that adequately answers that question, Commissioner Schweickart.

COMMISSIONER SCHWEICKART: Well, let me pursue just a couple of other elements of it, Mr. Brady. First of all, Ducane markets in all 50 states, as I recall, from the petition.

MR. BRADY: Correct.

COMMISSIONER SCHWEICKART: And I take it that these -- that this inventory, that this limited inventory of this previously manufactured product would still be viable for sales in other states, is that correct?

MR. BRADY: That is correct.

COMMISSIONER SCHWEICKART: All right. So that if

you have an inventory problem, and you're coming up against a deadline for marketing in California, then it seems to me it would aid the inventory drain on other states, is that not correct?

MR. BRADY: I believe that --

COMMISSIONER SCHWEICKART: It's not as --

MR. BRADY: I believe that the difference is that the unit that is manufactured for California has differences in it than a unit that's manufactured in other states, even right now. They have a, you know, basically a warehouse with California type units in it because of certain air quality efficiency standards, as well as certain efficiency requirements that are not required in other states.

COMMISSIONER SCHWEICKART: All right. I would also presume that to some extent, given the way any other organization works, that to crank up a production line that's been shut down for virtually a year here will, at least to some extent, require a diversion of personnel, and things of that kind, that have been scheduled for other activities.

MR. BRADY: That's different than retooling an entire production line.

COMMISSIONER SCHWEICKART: But that's underway anyway, right?

MR. BRADY: That is true, but you've got the tools necessary to manufacture, basically sitting in a warehouse. You pull them out, and crank them back -- put them on to make the right shaped units, and the right welding system.

COMMISSIONER SCHWEICKART: I have no further questions.

T.2 MR. BRADY: I have a couple of responsive comments to the staff's position, if I might.

VICE CHAIRMAN GANDARA: Excuse me, Mr. Brady, before you proceed on that, I just want to make sure there are no other Commissioner comments for the staff.

COMMISSIONER COMMONS: I have a question for legal counsel.

VICE CHAIRMAN GANDARA: Okay. Commissioner Commons?

COMMISSIONER COMMONS: Would we subject ourselves to any potential liability to manufacturers who have attempted to comply if we were to modify these standards, and that they are having -- taken efforts based on a rulemaking petition, invested resources, in that sense?

MR. WHEATLAND: Commissioner, I believe we would. When we were in the furnace proceeding last year, representatives of furnace manufacturers that manufactured complying appliances raised that very concern. So I believe that the Commission would be subject to potential challenge from manufacturers who now comply with the standards.

I want to add a footnote, though, that Mr. Brady is alleging that there currently is -- correct me if I'm wrong, but there is actually no one that's currently complying with the standards.

MR. BRADY: That's not correct. I'll correct that when I get a chance.

MR. WHEATLAND: Yeah, for the respect of those that are, then, we are subject to a potential challenge on that basis.

COMMISSIONER COMMONS: I have one other question for staff. Has there been any allegement that there are not adequate furnaces available on the market at this time to take care of existing demand from manufacturers that comply?

MR. MARTIN: I have made inquiries of wholesalers and contractors, in fact, I made a point since this came up, of asking people who called me up on this, and it appears that you can get a 30 day delivery on a horizontal furnace from BDP without any difficulty.

VICE CHAIRMAN GANDARA: Mr. Brady, would you proceed with your response?

MR. BRADY: Yes, thank you. Just so it's very clear, we are talking about only one manufacturer that makes a product that complies. If the staff says there is two, we will be presenting evidence to this Commission

in the near future, I was hoping to have a telecopy available this morning to hand to the Commission, indicating that the other manufacturer whose product is alleged to comply, or has been certified by the manufacturer to comply, does not, according to tests done by an independent testing laboratory. I may have that this afternoon, which I will deliver to you.

So we're talking about one manufacturer, and you're right, you may be able to get delivery from BDP in 30 days, but at what cost? Not only for the equipment, but for the installation. You're talking about a very substantial cost difference to start with.

Secondly, the issue of Mr. Martin's about the size of the equipment, you're basically limiting the California market to one piece of equipment, and it may not be a situation, and I suspect it is not, that one size will not fit all, and that's basically what the staff is leaving you with.

On the procedural issues, Mr. Wheatland and I have discussed this matter, and I have talked with the Office of Administrative Law, and based on the petition as it was filed, and subsequently amended when we learned that BDP did have a qualifying product, they had indicated to me informally that that would present facts sufficient in their mind to not outright reject the declaration that it is

an emergency, because you're basically talking about equipment that may not be available, or may not be available at a reasonable price that could be installed in everybody's house.

Dealing with the liability of the manufacturers, I have a tough time believing that if this Commission were to act -- do you need to switch that?

(Secretary making tape change.)

MR. BRADY: -- to act in a manner to give limited relief as we seek for a limited component of the market, horizontal gas fan-type furnaces, that there would be a successful challenge. I'm unaware of any case law that would allow an manufacturer to say, agency you cannot change your mind. There are cases that say the exact opposite, many cases, but I'm not aware of one that says you cannot change your mind.

That's basically all I have in response. Thank you.

VICE CHAIRMAN GANDARA: Thank you, Mr. Brady. Is there anybody else who wishes to comment on this item? If not, then do I hear a motion for disposition of this?

COMMISSIONER COMMONS: So moved.

VICE CHAIRMAN GANDARA: Moved by Commissioner Commons.

COMMISSIONER EDSON: Move to deny?

COMMISSIONER COMMONS: Support the staff recommendation.

VICE CHAIRMAN GANDARA: Is there a second?

COMMISSIONER SCHWEICKART: Second.

VICE CHAIRMAN GANDARA: Seconded by Commissioner Schweickart. Any further Commissioner discussion?

COMMISSIONER COMMONS: Yeah, just one.

VICE CHAIRMAN GANDARA: Commissioner Commons?

COMMISSIONER COMMONS: I think this Commission this year has paid a lot of attention to the problem which this is a part of, and there's been substantial change in the state in this area.

First of all, the Warren-Alquist Act has been amended, and we've removed the inventory clearance period for dealers and distributors. Second is there's been a major effort to work with manufacturers and try to establish some consistency, includes legislation that's before us, and I have a concern that we have to operate in good faith, and when you take a position, and you go through a public hearing process like we did last February, there can be an issue as to when something should have an effective date, but after a Commission decides an effective date, people invest resources, and make commitments, and I think it would be very hurtful to this Commission, and to the ongoing work and cooperation with manufacturers to

treat one manufacturer in a different way, after we've come to a public hearing process, which I did not participate in this case, and made a decision, and people invested resources.

I think we'd lose, therefore, a lot of credibility with a lot of people, and we would be taking a giant step backwards in that effort. Furthermore, I think we would probably have a negative economic impact on those people who have tried to cooperate and work with this Commission, and have invested resources both in the working with us, and in their retooling efforts to do so.

I also would be concerned that we would be subject to lawsuits if we were to do so, and that those lawsuits could be substantial. I find nothing has been presented to suggest that there's not an adequate supply of furnaces on the market, and that the emergency provisions, even if we wanted to do so, could be called up.

But if -- and further, I find that there is nothing in this instance that is suggestive of the Lennox and Board cases where there was a very narrow issue as to whether or not there was the one year notice given to manufacturers, and in this case, clearly there has been the one year notice, and that in essence, the manufacturers have had an intent of this Commission for over a period of five years.

I feel that -- then in summary, I feel that a lot of the good faith, and good work of many parties in trying to move ahead in this area of appliances would suffer dramatically if we were to take any action in support of this petition.

VICE CHAIRMAN GANDARA: Thank you, Commissioner Commons. For my part, let me just mention that -- the basis for denial of the petition on -- at least with my vote would be that the issue has been examined already, as has been indicated with General Counsel, it's been brought up a number of times during the proceeding, as well as when there appear to be indications that we would be subject to the lawsuit, and the possible outcome of the lawsuit, and then secondly, that it does appear to be sufficient manufacturer capability to, in fact, meet the needs of the California market, so that I don't think we can find a threat to the public health, safety or welfare.

Lastly, I think it's important to really keep it in perspective, and what's relevant is not what OAL would find, but what we would find as to whether there is that threat, and I don't think we have a sufficient basis for that.

So with that, let me just ask the secretary to call the roll.

SECRETARY GREULE: Commissioner Commons?

COMMISSIONER COMMONS: Aye.

SECRETARY GREULE: Commissioner Edson?

COMMISSIONER EDSON: Aye.

SECRETARY GREULE: Commissioner Schweickart?

COMMISSIONER SCHWEICKART: Aye.

SECRETARY GREULE: Vice Chairman Gandar?

VICE CHAIRMAN GANDARA: Aye.

(Item No. 4 under separate cover.)

(Thereupon the morning session of the business meeting of the California Energy Resources Conservation and Development was recessed for lunch at 1:00 p.m.)

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AFTERNOON SESSION

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VICE CHAIRMAN GANDARA: We will proceed with Item No. 5.

COMMISSIONER SCHWEICKART: Again, I'd move the consent calendar, in keeping with the intent of the consent calendars, unless there is objection.

COMMISSIONER COMMONS: That's Item 6.

COMMISSIONER SCHWEICKART: Oh, I'm sorry. I --

VICE CHAIRMAN GANDARA: Geysers transmission.

COMMISSIONER SCHWEICKART: I had --

VICE CHAIRMAN GANDARA: Do we have a staff presentation, or --

COMMISSIONER COMMONS: Let me just initiate this for a moment. Under the Commission reorganization, there were three committees that were combined into sort of the NOI and AFC Committee, and one of those includes the Geysers Cumulative Impact Committee.

The material that we have before us will sort of wrap up items on the cumulative Environmental Impacts that have been outstanding, and we have a staff presentation on this issue, and the Committee is in support of the staff position and recommendations, and will be making a motion at the end of the presentation in support thereof.

VICE CHAIRMAN GANDARA: Let me ask a question,

whether having read the backup agenda material, I don't quite understand exactly whether this is more in the nature of a Committee report, or whether there is Commission action to be taken on this today, and if so, what that is exactly.

COMMISSIONER COMMONS: I talked with Ross Deter on that very subject as to whether or not it should be a report, or whether or not there should be Commission action, and since it's tying in fairly closely with transmission line cases that will be coming before this Commission, later this winter, or early spring, it was the feeling that there should be established a Commission position on the issues.

VICE CHAIRMAN GANDARA: Okay.

COMMISSIONER COMMONS: Rather than just the acceptance of a staff report.

VICE CHAIRMAN GANDARA: Well, before we get into a long presentation, or anything like that, as I see the Commission action requested is the Commission should approve the proposed method of resolving the Geysers transmission issue, and the question I have, what is the proposed method of resolving the Geysers transmission issue, because that isn't clear to me.

MR. McCUEN: I'll respond to that.

VICE CHAIRMAN GANDARA: I mean, are we going to get to that, or should we listen to the whole presentation

first, or what? I'm trying to determine now whether there is an actual item.

MR. McCUEN: The intent of staff was to recommend that the issue of generation curtailment be resolved as a matter of compliance regarding the Geysers 16 decision. That's the recommendation with regard to generation curtailment.

The recommendation with regard to the need for additional outlet facilities, and possible expansion of the collector line system in the Geysers should be resolved as a matter of filing of the Geothermal Public Power Group's transmission line. That's the basic recommendation, is that those issues which were previously taken care of in regulatory cases be ultimately resolved in those two areas.

MR. RAUH: Identify yourself.

MR. McCUEN: My name is Al McCuen.

VICE CHAIRMAN GANDARA: Well, let me ask the question again. It seems to me that will near-term generation be curtailed. I don't think that's something we can resolve. Now, if the action requested is that we direct the Compliance Committee to look at that issue, then I think that certainly we can do that.

I'm not sure what the second one is, though, I mean the second matter, what is it that we would direct

what Committee to do what?

MR. COHN: Let me interject here, perhaps I can clarify it. The proposed actions are found in the last two pages of the staff report, just before the attachment, and there's really three issues of concern that were looked at in this issue paper, and in the context of the Geysers Cumulative Impact generic proceeding.

Essentially on all three issues, this issue paper says there's nothing more that can be done in this generic proceeding. On the first issue, that of generation curtailment, the issue paper says, to the extent that we can do anything, it would be through the Geysers 16 compliance to be sure that PGandE is adequately considering dynamic thermal loading.

On the additional outlet -- excuse me, collector line, that issue can no longer -- nothing further can be done in the GCI proceeding. Anything further in that area would have to be done in conjunction with either the Geysers 20 compliance proceeding, or in a possible new SMUD proposal for a transmission line, and then finally on a new outlet, similarly, nothing further can be done in this generic proceeding.

To the extent there are any further issues that would be considered in this potential NOI for the SMUD transmission line. So essentially it's a -- I see this as

a cleanup matter to let the Committee -- excuse me, the full Commission know that these issues have been looked at as directed by the Commission in the original order instituting this Committee, and that really, at this point, other specific proceedings are better equipped to deal with any outstanding issues, and there's really nothing left to do in this proceeding.

VICE CHAIRMAN GANDARA: Okay. So, it's more in the nature of an informational report, and at least indicating that the Geysers Committee will not -- there should be no further expectation on the part of the Commission that it will continue looking at these items.

MR. COHN: That's correct, and to the extent there's any action to be taken, as I see it, it would be a matter of closing the docket in 81-GCI-1. The other Committees, I think, are still active.

VICE CHAIRMAN GANDARA: Commissioner Schweickart?

COMMISSIONER SCHWEICKART: Yes. Unless I misread the report, I find the analysis here, or the results of the analysis, nothing else is settled, that the results of it are rather shocking. Not only shocking, but in terms of what I've just heard, I find that proposed Commission's determination to take action here rather shocking in omission.

It seems to me that we are dealing here with an

issue in which substantial quantities of low cost electricity are going to be curtailed as a result of a delay in this transmission line which does -- which directly effects those utilities not responsible for the construction of the line itself.

In other words, we have here, it seems to me, a situation in which PGandE may or may not be acting irresponsibly, and it has not yet been determined. Nor do I see any action on our part being proposed, which in fact will resolve this issue.

I find here a proposed action that the staff will review PGandE's analysis of a dynamic thermal loading, (if acquired), I mean, I can't imagine anything more weaselly, and we're dealing here with some of the lowest cost energy available in the state. It comports with our direct findings of preferred energy.

There is potential in the Geysers which is now not being developed as a result of questions about being able to get the power out of the area. I don't presume to jump into the middle of private versus public utility transmission issues, but let me say that the people of the state are not being served, and I don't see us taking any action.

Now, that's a bit of a speech, but I'm a little bit dismayed at what I see here as, well, we just studied it,

and now what we're going to recommend is we'll shift it over to another thing after we close this docket and study it again.

MR. McCUEN: If I could respond to that.

COMMISSIONER SCHWEICKART: Please.

MR. McCUEN: When the paper was written, I did not know whether or not we would be successful in acquiring additional information from PGandE. The information that we need now, and that we have requested, and they have now agreed to provide, will tell us the degree to which they can implement dynamic thermal loading as it was required by the Geysers 16 decision.

When we know that, we will know whether or not there will be curtailment in '84, and we'll know what we want to do about it. Okay, so we're not sweeping it under the rug, we're pursuing it to find out why it's delayed, and what we can do about it.

Okay. The position paper, or the issue paper is a bit outdated. By the time the ink had dried, things had changed, but I expect responses from PGandE in the near future, and they can probably speak to that today.

COMMISSIONER SCHWEICKART: Well, I'd like to understand what authority we have under the Compliance Committee, or the Geysers 16 compliance plan which has any sanction whatsoever related to it in terms of the performance

of the utility here. I mean, as I understand it, in essence, although there are lots of details, but in essence, PGandE who fundamentally controls the schedule on the Lakeville Geysers extension here, or upgrade, will suffer essentially, themselves, no loss.

But should they not perform, or should there be substantial further delay, or should the hydro be low, or 100 other things in the summer of 1984, other utilities may realize substantial losses of low cost -- relatively low cost power to the detriment of their ratepayers.

Is that not a correct statement?

MR. McCUEN: I think that's generally correct. I think it's also correct that the staff, and I think the Commission has done everything that they can to minimize the degree of curtailment, and we are continuing to do so.

COMMISSIONER SCHWEICKART: Well, what I'm asking is, and it's as much a legal question as anything else, in fact, I think it's principally a legal question, is what authority do we have. What exists in the compliance plans, do we have any authority to deny operation of PGandE plant in the Geysers as part of noncompliance with a stated intention.

Somewhere are there actions which we can take to the PUC? Are there -- what options does this Commission have to ensure responsible behavior on the part of a private or

investor owned utility to ensure that overall the ratepayers of the state are best served.

MR. COHN: Well, if you'll recall, the Commission specifically considered and rejected one condition which would have been a very strong enforcement measure, although of questionable validity, and that was our possibly ordering PGandE to wield the power for specific utilities.

For whatever reason, the decision did not go into this in detail. The Commission did not adopt that type of decision in the Geysers 16 decision. The Commission did, in the 16 decision, adopt a condition where PGandE would use dynamic thermal loading to the extent that that was practicable, and as I understand it, PGandE is attempting to do that.

The generation curtailment problem is being minimized, and of course, the chief thing that has happened to minimize this problem is that the Geysers 16 decision has so far been successfully defended in the courts from attack so that no injunction has issued to stop the construction of that line, and it is proceeding as closely as possible to schedule.

So those are really the principal things that have occurred. As far as what this Commission can do, I don't -- I think that should additional curtailment be necessary, I think that that is a question that is still left open.

But our option as far as ordering and wielding is not open to this Commission.

VICE CHAIRMAN GANDARA: Let me make a suggestion for the Commission here. Certainly the presentation of this has been informative to the Commission, but again, I'm still trying to get a handle as to what action, and really, you know, therefore, why it's on the agenda before us here. It would seem to me that it's one of two things, one, it's just pure information, and I -- therefore it's helpful in alerting us to a problem, perhaps the Commission ought to be taking some action.

But given that we don't have an actual item here, then we clearly can't do that today, except to refer some of this to staff, or to some other Committee to be able to do something.

The second interpretation that I can make of this item is that the Geysers Committee is being requested to be relieved of the responsibility to continue working on this particular item saying that insofar as their mandate as a Committee, that there is no more that they can do in this area, and that perhaps it's more appropriate for, indeed, the kind of thing that you're talking about, Commissioner Schweickart, that is, an enforcement action.

If that is the case, and that should be the recommendation, then the referral, then, ought to be to

that Committee which had that jurisdiction with the Compliance Committee, first known as the Geysers 16 Committee, and now more generically known as the Compliance Committee.

So with respect to the other issues, I think staff is just notifying us that those are best resolved on a case-by-case basis when we deal with Geysers 20 and any other applications that may come before us.

So with the Commission's indulgence, I'd just like to then move on to the next item, and notify at least the appropriate Committees for now that perhaps this, you know, this is something that they should be looking for in terms of the sanctions, or in terms of description of problem, and you know, if anything, about the only action I can see here is that we request the Compliance Committee to come back to the Commission.

COMMISSIONER EDSON: I would just note that the Compliance Committee and the Cumulative Impacts Committee are now one in the same, and it is -- those responsibilities were consolidated in the Siting Committee which Commissioner Commons presides over.

COMMISSIONER COMMONS: Well, let me say, after listening to Commissioner Schweickart's statement, and also in Los Angeles, testimony to the same ilk was submitted to the Legislature in terms of transmission line problems, and

I was not aware of this issue, and so I would be in default on this.

What I would like to do is accept the item as a staff report, and go back and meet with Commissioner Edson and staff, and come back and report to the Commission subsequently on the substantive issue that you've raised.

VICE CHAIRMAN GANDARA: That's fine by me. Any other direction one might give to the one in the same Committee?

MR. FOLEY: Can I ask one question? Is the PGandE dynamic thermal loading report done, or when is it due?

MR. McCUEN: If you're asking me, I asked them yesterday, and they could not tell me when it would be completed. I understand that they may be able to do so today.

MR. FOLEY: Thank you.

COMMISSIONER SCHWEICKART: All right. Let me once again just state my problem here. It is not only the specifics here, although the report that Mr. McCuen has presented to us indicates, if I read it correctly, that the earlier estimates for 1984 without dynamic thermal loading were a loss of $44 million, and $7 million with it, so that we're still talking about a substantial loss to the ratepayers of California as a result of the delay of this

line.

Now, I'm not in any way accusing PGandE of purposely delaying it, but it's not at all clear that there are appropriate controls to ensure either that this line moves ahead as expeditiously as possible, or that future planning by PGandE is done so that the potential in the Geysers can in fact develop at an expeditious rate.

It is a long-term institutional question, which it appears to me today falls between the cracks of the PUC the Energy Commission, the public and private utilities of the state in assuring the welfare of the ratepayers and citizens of California. I think it's something that's very important to be looked at, and addressed how -- these long-term planning issues which can effect rational energy development in California can be addressed.

COMMISSIONER EDSON: Commissioner Schweickart, I'd just like to remind you that there were -- the PGandE is doing a long-term study, and that it was a requirement, a condition of the Geysers 20 decision, and I think Mr. McCuen, that is probably to say that Mr. McCuen was just referring to, is that correct?

MR. McCUEN: Yes, and we share exactly the same concerns, exactly the same concerns.

COMMISSIONER EDSON: So it's not as if the Commission and the staff have not had that concern, and

haven't pursued it. In fact, I think it's been pursued quite diligently.

MR. McCUEN: We're still pursuing it.

COMMISSIONER EDSON: That's right.

COMMISSIONER SCHWEICKART: Well, there are two things, pursuing the study and analysis so that we know what we're talking about is one thing, and I do believe that we're pursuing that diligently. What I'm not -- I don't see indicated here, nor do I know in any other way that is being pursued diligently is the mechanism by which direction out of, if you will, the government, representatives of the people, however you want to put it, can be addressed to the utilities of the state to assure that we don't allow jurisdictional disputes, private, public power issues to forestall the development of cost-effective energy, and rational energy for the citizens of California.

That issue I don't know that we're studying, I do believe we're pursuing --

COMMISSIONER EDSON: Well, Commissioner Schweickart, I would simply note that the Compliance Committee does have jurisdiction through conditions in at least Geysers 16 and Geysers 20 to pursue this issue, and I'd simply note that it's -- I think that the staff is exactly correct in not pursuing the issue until we have the information on which to base a decision. That's what we don't have yet.

VICE CHAIRMAN GANDARA: Mr. Baumgartner, you had requested to speak earlier on this item.

MR. BAUMGARTNER: For the record, my name is Peter Baumgartner, I'm an attorney representing Pacific Gas and Electric Company in San Francisco.

I must say I share Commissioner Schweickart's concerns on reading this -- the first part of this report, at least. I got the impression that we were faced with an imminent and immediate crisis in transmission at the Geysers. On investigation, however, I -- and a closer reading of the report, I became quite confused as to where the factual basis for the report itself came from.

T.6

Let me address some of the issues that the report outlines in the first page of the -- I think there are three here, and explain where we are with respect to all three of them.

With respect to generation curtailment, the dynamic thermal loading plan was fully implemented on July 26th, and I don't know with whom the staff spoke yesterday, but I'm assured by the chief transmission planner that it is fully implemented.

As a result of the implementation, plus other delays in the -- probably in the construction of various units at the Geysers, there have been no thermal curtailments at the Geysers, none, during the past summer. What the

situation will be next summer is something that's still under study. But under the circumstances, the report itself supports a conclusion that they will probably be minor if at all. Now, that's the Item A.

With respect to Items B and C, the company has taken the position that SMUD, as to our understanding, is about to file an NOI for the second -- the third outlet line, and so PGandE awaits, from our standpoint, to see what the proposals will be.

The collector line capacity problem cannot be solved until such time as we know where the third outlet line is going to connect. They can't be designed, or even conceptually designed until that point.

Now, that's where we come from, but it is not true that there have been thermal curtailments at the Geysers. The citizens of the state have not lost low-cost energy from that source in the past. As far as the future is concerned, and as far as the delays in the Geysers line, Lakeville line is concerned, the primary causes of delay, if you go right back to the source, was the failure to give proper notice of some hearings so that the entire hearing process had to be repeated. Then the line was conditioned in order to satisfy the intervenors and other people concerned with environmental problems, requiring helicopters to place towers and so forth, which not only

costs a lot more, but also takes a lot more time.

So for these various reasons, the line has not been placed in service. If it had been -- if the proceedings had not been delayed by the litigation, and if we'd been able to do it, just as we used to do 40 years ago, just run the equipment out there, and string the wires wherever we thought was engineeringly the best place to put them, the line would probably be in service now.

That's my response to the report.

VICE CHAIRMAN GANDARA: Are there any questions for Mr. Baumgartner? I have a request from a Mr. McDonough representing NCPA to comment.

COMMISSIONER SCHWEICKART: The one question I would have was was there a slip -- has there been a recent slip in the schedule for completion of the line?

MR. BAUMGARTNER: Yes, there has been because the --

COMMISSIONER SCHWEICKART: Okay. And the earlier schedule prior to that slip knew and accounted for helicopter and placement of certain towers, accounted for all of the questions of litigation, et cetera. In other words, that the original schedule which has now been slipped was based on knowledge of all of those decisions upstream that you just referred to, admittedly, had -- were there no public review at all, PGandE might have had a line there eight years ago for all I know.

Nevertheless, the process being what it is, the schedule has, nevertheless, slipped. Is that correct?

MR. BAUMGARTNER: That's correct. The schedule which was proposed as a target envisioned the line to be completed before the summer peak period of 1984, but the schedule was optimistic, and the present schedule, it looks very much like the line will not be finished until November of '84.

COMMISSIONER SCHWEICKART: All right. Now, is it also factually correct, at least in your -- as you understand it, that should there be curtailment in the summer of 1984, that none of it will be PGandE curtailment.

MR. BAUMGARTNER: That will depend upon the contract provisions, and the cause of the curtailment, for thermal curtailment, as I understand it, the contract provides that PGandE is the last -- are the last units to be curtailed.

MR. FOLEY: May I ask a couple of questions? Mr. Baumgartner, has the construction on the line between Lakeville and Contra Costa County slipped?

MR. BAUMGARTNER: I can't answer that question, because I don't know what parts of the line have been -- what towers have been placed and so forth. But the line is built in segments, and I'm not sure where they're working now.

MR. FOLEY: Okay.

MR. BAUMGARTNER: As far as I know, the problem is the slippage of the entire line, not some specific segment, but I --

MR. FOLEY: Well, there is a second segment between Lakeville and Contra Costa County which was certificated by the PUC, and I presume it's under construction.

MR. BAUMGARTNER: I don't know where that stands, I can't answer that.

MR. McCUEN: According to the PGandE engineers that I've spoken to, it's basically on schedule, I believe it's scheduled for June of '85, and the engineer indicated that so far as he knows, there would be no curtailment caused by that second section, by that southern section.

I might comment also that I was quite aware of the implementation of dynamic thermal loading by PGandE in July, I just didn't happen to get to it because I didn't give my little spiel. But that's as it may be.

MR. FOLEY: My other question is, Mr. Baumgartner, do you know why the -- why the power plant units of PGandE are to be -- that are under construction and scheduled to be completed before next summer, are they on schedule, do you know, are they going to slip?

MR. BAUMGARTNER: No, I think our units are pretty much on schedule. I'm not sure what's coming on

before next summer. I don't know at all about the other units, Bottlerock, and the others that are under construction.

MR. FOLEY: Thank you.

MR. McCUEN: If I might comment with regard to this last question. As of yesterday, I checked the schedules of all the units, and subsequent to completing the issue paper, the Bottlerock plant has slipped from June of '84 til November of '84. So that will assist to some degree in terms of minimizing curtailment in the summer. All the other units are as previously indicated say of -- let's say two months ago, they're basically on schedule.

VICE CHAIRMAN GANDARA: Thank you, Mr. Baumgartner. Mr. McCuen, I had hoped to expedite this. It appears nothing will be expedited today. Are there any other comments you wish to make before Mr. McDonough speaks? I did interrupt your presentation.

MR. McCUEN: No.

VICE CHAIRMAN GANDARA: Thank you. Mr. McDonough.

MR. McDONOUGH: Thank you, Mr. Chairman, my name is Bruce McDonough, and I'm attorney for the Northern California Power Agency. The agency has sited two geothermal plants before this Commission and will be part of a joint venture which appears shortly before the Commission in efforts to site a new outlet from the Geysers.

Most of my concerns have been addressed. The

first one had been about what action really is intended here. You're asked to adopt recommendations in this report, but those recommendations, if they can be called that, relate not just to the generic proceedings, but to particular siting cases, and it seemed to me inappropriate for this Commission to take action on recommendations in siting cases in this sort of generic proceeding.

I think you've dealt with that adequately. We also had concerns about the dynamic thermal loading question, and the enthusiasm of the Commission for that issue, but that also has been addressed.

Let me tell you finally that the NCPA contract with PGandE does require that PGandE not curtail until all the other non-PGandE units have been curtailed. The Santa Clara agreement requires that, and as far as I know, every agreement with PGandE does require that. I provide that as factual information.

This statement says that the staff has been unable to learn about those curtailment priorities. I point out that for cogenerators, small power producers, those contracts are on file with the California Public Utilities Commission, the interconnection agreements are on file with the Federal Energy Regulatory Commission. We'd be happy to provide copies of ours, and any other information that the staff wants.

VICE CHAIRMAN GANDARA: Thank you, Mr. McDonough. Any questions for Mr. McDonough? Okay. If I may why don't I -- why don't we just end the discussion of this item by directing the Siting NOI Committee, is that the appropriate committee?

COMMISSIONER EDSON: Is that the right title?

VICE CHAIRMAN GANDARA: I have to say I'm confused, because this indicates that Geysers Cumulative Impacts Committee has a report, and then it refers it to the Compliance Committee, and if it's one in the same Committee, I think, you know, it could have been short-circuited, I think.

But assuming that it's one in the same committee, let's refer it to itself. If not, then it's referred to the Compliance Committee, come back to the Commission with a recommendation.

Nonetheless, the information and presentation has been useful. Let me say that I -- you know, that I do think there are times that it is appropriate that we have information, or presentations, or briefings, but that in general, it should be clear what the action is both for the public which may be confused, as well as the Commission.

COMMISSIONER EDSON: I would just note on the staff's behalf, I don't think they ever quite had the opportunity to make a presentation today, which may account

for some of the confusion that tinted this whole discussion.

VICE CHAIRMAN GANDARA: That's correct. With that, Item No. 7 -- 6. Commissioner Schweickart?

COMMISSIONER SCHWEICKART: Move the consent calendar.

VICE CHAIRMAN GANDARA: Second?

COMMISSIONER EDSON: I'll second.

VICE CHAIRMAN GANDARA: Call the roll please.

SECRETARY GREULE: Commissioner Commons?

COMMISSIONER COMMONS: Aye.

SECRETARY GREULE: Commissioner Edson?

COMMISSIONER EDSON: Aye.

SECRETARY GREULE: Commissioner Schweickart?

COMMISSIONER SCHWEICKART: Aye.

SECRETARY GREULE: Vice Chairman Gandara?

VICE CHAIRMAN GANDARA: Aye.

Item No. 7, approval of the minutes. Do I hear a motion for approval of the minutes?

COMMISSIONER SCHWEICKART: Moved.

VICE CHAIRMAN GANDARA: Second?

COMMISSIONER EDSON: Second.

SECRETARY GREULE: Commissioner Commons?

COMMISSIONER COMMONS: Aye.

SECRETARY GREULE: Commissioner Edson?

COMMISSIONER EDSON: Aye.

SECRETARY GREULE: Commissioner Schweickart?

COMMISSIONER SCHWEICKART: Aye.

SECRETARY GREULE: Vice Chairman Gandara?

VICE CHAIRMAN GANDARA: Aye.

Item No. 8, Commission Policy Committee's Reports? Commissioner Commons?

COMMISSIONER COMMONS: Let's see, two brief reports. From the Utilities Conservation and Load Management Committee, staff between this Commission, and with the Public Utilities Commission, they have been meeting, and they are working towards trying to put together a framework within which the two Commissions can work jointly in line with previous discussions here within the Commission on the SCE rate case.

I think it would be premature to get into the various discussions, but I just wanted to let the full Commission know that there are continuing meetings of the staff. Bill Foley who sits with us is on the PUC staff on the joint task forces, and our Executive Director, and Ted Rauh who is sitting in for our Executive Director, are also on the Commission's staff, and progress is being made in order to try to fit into that schedule that had been discussed.

The second Committee I'd like to make a short report on is the Research and Development Committee.

Yesterday, on behalf of the Commission, I testified before the Senate Utilities Committee, and the testimony that was presented was presented based on myself as an individual, and it's in an area that I want to bring before the full Commission and make a request to the Chairman in terms of how we come up with a procedure where we give testimony before a Commission as to whether or not we should stay within Commission policy and how we address issues that come up, sometimes in the hearing itself, or sometimes giving short notice.

I had a prepared speech, but then last Tuesday or Wednesday, we got specific questions from the Committee which made it very difficult to clearly come to the full Commission, impossible, which actually asked questions in areas where we don't have policy. So, I think there is an issue here as to how do we respond responsibly to a legislative body, given short notice, or given long notice, and I don't find any fixed policies in the area.

Second, though, is there were two issues that were raised during the hearings where I was given official questions, and rather than responding to those questions at the hearing, because they dealt with issues that were within our Biennial Report, and asked for further elaboration, I requested and was granted permission to have the full Commission take a look at those issues, and then report back

to the Senate.

The first one concerned an issue as to -- well, let me read them, since they're short. In the Energy Commission's 1983 Biennial Report, the Commission points out that investor owned utilities recover RD&D costs from the state ratepayers, not stockholders, and that utility RD&D programs should therefore reflect state needs.

The Commission goes on to recommend that utilities be required to ensure that their RD&D expenditures are consistent with state energy policy and priorities to promote ratepayer interest. Question: Would you please elaborate on the Commission's view of the state's role in providing guidance on utility RD&D programs.

The second question was, both the Energy Commission's recent Biennial Report, and RD&D Report recommend that the Legislature should authorize the Energy Commission to recycle RD&D funds that are repaid by project sponsors for continued future costsharing of alternative energy projects.

Essentially the recommendation calls for the establishment of a low interest revolving loan fund for technical and economic feasibility and project demonstration costs. Would you please elaborate on this recommendation.

So what I'd like to do is turn it over to you as the Chair as to how you'd like to see this disposed, but

the preference of the Committee is that there be a formal Commission position submitted to them within three weeks.

VICE CHAIRMAN GANDARA: Well, let me suggest perhaps a vehicle for that, is, you know, we have two different kinds of committees, basically technical committees, and some more general policy overview committees.

It's long been my preference, and we can discuss it, but I would think that it would be appropriate for the R&D Committee to develop its recommendation in response to those questions and submit it for consideration by the Government Relations Committee, and at that same time, also submit that same response or information to the rest of the Commission so that the discussion would then be focused as to whether the recommendation coming from the Government Relations Committee would be in the same form as it comes on legislation.

The Government Relations Committee would then focus the discussion by the Commission representatives of the other Commissioners offices could certainly provide the input there. I think it would be better to vocalize that discussion there, and before the Commission, while permitting the R&D Committee to develop its recommendations. I would think that's a logical and useful policy for the other committees as well, Buildings, Conservation Committee, Appliance Committee and so forth.

Is there any objection to proceeding that way? Well, then, why don't we do that.

COMMISSIONER EDSON: I'd just like to point out to Commissioner Commons' benefit that in fact the Commission sponsored legislation on the second of those proposals in terms of the creation of a revolving account. It appeared in two different forms, I think around 1981, I think that's the correct year. Governmental Affairs, I think can help you. One was a very detailed piece of legislation, and another was a single section of law, two or three sentences.

So we've probably bracketed the possibilities with those proposals, and those were sponsored by the Energy Commission and supported by the Commission.

COMMISSIONER COMMONS: Well, they -- when they started to ask do we want to change from grants to loans on geothermal, how do we tie together the geothermal and the biomass, I just felt much more comfortable coming back and letting the full Commission take a look at ongoing Commission programs.

Do we need to have official notice on the next Commission meeting, or can it just come up under reports of Committees since there would presumably be action taken?

VICE CHAIRMAN GANDARA: I would think -- let me ask Mr. Chamberlain for an opinion here before I give my own.

MR. CHAMBERLAIN: Well, my own view would be that if there's going to be action taken, it should be agendaed as an item so that people would have notice that the item is going to be discussed and action will be taken.

VICE CHAIRMAN GANDARA: Well --

COMMISSIONER SCHWEICKART: What action? The only action is submitting a response to the Legislature to a question asked in a hearing.

VICE CHAIRMAN GANDARA: Why would that differ from legislation from where we set the generic notice.

COMMISSIONER EDSON: I think this can easily be looked upon as proposed legislation, potentially.

COMMISSIONER COMMONS: That would be my feeling.

VICE CHAIRMAN GANDARA: So it will be treated as -- similar to legislation, then, unless there are problems that develop otherwise. For now why don't we just do that.

Any other Committee reports? Well, I have an item, it's not an action item, but I think I would appreciate some Commission direction of how to proceed. It also seems to fall between the cracks of a lot of Committees and/or General Counsel's Report, whatever.

I have become concerned recently about, perhaps, the request for and creation, and consideration of creation of committees, advisory committees, and it's not clear whether these are -- may be at times advisory committees

to the Commission, advisory committees to the Committees, advisory committees to the staff, and so forth. I don't think that we have a policy on advisory committees.

In looking into this question, I have found that at least the Congress found it to be a problem with respect to the comment of the Federal Government, and it wasn't quite clear, at times, when advisory committees were speaking on behalf of what level of government. So what it led to was indeed a -- it created Public Law 92-463 which basically created a system governing creation and purpose of advisory committees in the Federal Government.

I certainly don't want to get into that level of detail, but my request would be that we direct the General Counsel to look and see if there is any similar state law that governs, or says anything about the duties and limits of those committees.

In my understanding there is not, or may not be, that the only reference may be as to what constitutes a committee for purposes of the Open Meetings Act. If that is the case, I would then, at least request that the direction be that we come up with policy for the establishment of such advisory committees.

Now, before we do that, it would -- at the moment, I would explain my intention that I believe that advisory committees should be certainly created by the Commission,

and the advisory committees should have a purpose in a definite length of time, and so forth, much in the same way that we have created committees within the Commission itself that that responsibility be available to the Commission and reviewable by the Commission.

So that would be the direction and the interest that I would have. With your concurrence, I think that we could direct the General Counsel perhaps to look into this matter, and propose some policies and directions for us. Is there any discussion?

COMMISSIONER EDSON: I tend to agree having been -- even having served on committees where -- Commission Committees where we have found it desirable to have advisory committees, I think formalizing that, and having some guidelines is probably important.

COMMISSIONER COMMONS: Well, let me extend your remarks. The relationship of the Committees to the Commission, and the relationship of Commissioners where we have appointed Committees with specified roles is an area that's still not clear in my mind as to when there are activities on behalf of the Commission.

For example, let's say there was an activity in the nonresidential building standards area, which we have a Nonresidential Building standards Committee. When would it be appropriate for me, other than speaking as an

individual Commissioner to take actions, or to direct staff, review staff in a nonresidential building capacity, or to participate as a Commissioner in a hearing, or discussion, or workshop on nonresidential building standards with the building industry.

Clearly, I would have a right to get informed to be knowledgeable, and if I wanted to go down and speak personally, I would have such rights. But it's not clear to me when the Commission votes, and allocates, and designates that there will be two, not one, but two, not three persons to a Committee, the responsibilities of those Committees vis-a-vis the Commission and activities therein.

I think that's related also to this same thing.

VICE CHAIRMAN GANDARA: Okay. I'm not as clear on the relationship, but I'm sure that there is at least some uncertainty about both. But in any case, for the moment, you know, I would like to pursue the issue of the advisory committee policy role and direction.

MR. CHAMBERLAIN: Well, I think I understand in general what you want on the advisory committee. I'm not sure I understood what Commissioner Commons wanted, but perhaps I can take that up with him individually.

VICE CHAIRMAN GANDARA: Yes, why don't we proceed.

COMMISSIONER SCHWEICKART: Let me say that I think it's important, Bill, in getting back to us to look at

mechanisms by which the staff can on some regular basis elicit the aid or advice of external parties. We have to be careful not to get into a semantic thing, and we end up then not having advisory committees, but having a task group, or an information club, or you know, everything else.

So let's make sure we're dealing with it on the basis of our relationships with regular responsibilities of defined external groups, or something of that kind.

I'm concerned because we are dealing now, in the conservation area, with quite a number of fairly critical issues where the Commission and the public, through the Commission, clearly benefit from having people involved on a regular basis where they assume some responsibility.

With our budget situation, we're going to be relying more and more on information, and even work being done by outside people. If at the same time we end up with impediments to access to that kind of thing, I think we may be shooting ourselves in the foot.

I know that that's not the intent, but I do think that we have to have some clear understanding of what the limits of these arrangements can and ought to be. But Commissioner Gandara, I happen to be somewhat familiar, from my previous experience with NASA, at about the time OMB -- I don't know if that's what you've got in front of you, but an OMB circular came out on advisory committees, and let

me assure you that in spite of what it says in the words, about 80 percent of the incentive there was to try and reduce the amount of relatively high level lobbying that was done, and pressure that was brought to bear on OMB and the administration by outside people because they knew what different agencies of the government were trying to do and supported it.

So it was -- some of the -- the parallel action at the Federal Government was clearly to cut off some communication and support from the outside world.

MR. RAUH: I'd like to --

VICE CHAIRMAN GANDARA: I think you're right, it's not the desired intent.

MR. RAUH: I'd like to second Commissioner Schweickart's comments too, I think that not only in conservation programs, but throughout the Commission, the budget levels in all of our program areas are going to necessitate a continued development. So we will -- the Executive Office I'm sure will be working closely with Bill on taking a look at all of the relationships between staff and Committees.

VICE CHAIRMAN GANDARA: Fine. So be it then.

General Counsel's report?

MR. CHAMBERLAIN: I have nothing today.

VICE CHAIRMAN GANDARA: Executive Director's

Report?

MR. GANSE: The only item that we would like to mention under Executive Director's Report would be a comment on the quarterly review process. The Executive Office has been working with the Commissioners advisors and the Budget Committee on modifications to the approved work plan for 83/84.

We do not have Executive Office or Budget Committee recommendations today. As we've agreed with the Budget Committee, Executive Office will be meeting with them next week to present these recommendations. It's my understanding that the Committee then intends to bring those recommendations before the full Commission at the next business meeting on the 16th.

VICE CHAIRMAN GANDARA: Commissioner Commons?

COMMISSIONER COMMONS: I think as the Executive Office knows, I've been concerned that this process, rather than taking two weeks, is now burdened off into six weeks, and my understanding is that where there's unanimous agreement on a particular issue or item, that staff is being allocated to work on a particular function?

MR. GANSE: I need a specific example.

COMMISSIONER COMMONS: Or has the whole process ground to a standstill and we're stifled and no progress is being made, even where there's unanimous agreement?

MR. GANSE: We're continuing to manage the organization and place staff where there are priority voids right now. We haven't made any substantive shifts where we can stand to wait until final decisions where those substantive shifts may represent depleting resources in a priority area to fill what is recognized as another priority area.

COMMISSIONER COMMONS: Well, I remember at the last Commission meeting I stated that I'd hold off for two weeks on granting a modification request after bringing it to the attention of the Commission, of 60 days on the forecasts, at the Chairman's request, and one of the items that was stated, would there be some attempt to alleviate that problem, and we requested where we have a 40 percent vacancy factor in the Demand Office, there would be some attempt at alleviation of this.

The office is also under tremendous pressure because there are other very important needs within this Commission where only people in that office have a technical capability. Specifically I'd like to know is what actions has the Executive Office taken during this two week period to alleviate that situation?

MR. GANSE: Specifically, we've redirected the work of two individuals within the Assessments Division to augment the forecast work going on within the division. Also,

we've improved the working relationship between Conservation and Assessments Division on the conservation quantification project by physically locating the conservation representative in the Demand Office for that portion of his time that he's working on the project so that he can receive direction from the staff.

We have --

COMMISSIONER COMMONS: On that last issue, would you please check with me after the Commission meeting, because my understanding as of 8:00 o'clock this morning is the latter has not occurred.

MR. GANSE: Okay. I'll be glad to talk with you about that. That's Executive Office direction as of last week, and my understanding was that it had occurred, so I'll need to check up on that. Those are the specific moves that we've made, but as I say, I don't believe it would be appropriate to accomplish any interdivisional transfers at this point, until after we've had the opportunity to meet with the Budget Committee next week on overall Commission priorities.

COMMISSIONER COMMONS: I have one further question. Is -- I understand we are now under our authorized level as a Commission?

MR. GANSE: That's correct.

COMMISSIONER COMMONS: Are we -- is the Executive

Office then have staff working on only those items that were approved through the Governor's budget, or are they working on discretionary items that were approved for excess manpower?

MR. GANSE: I think the only case of staff working on projects that were not specifically approved in the work plans by this Commission, is where we have the staff continuing to work on the PVEA work, which as you'll recall was approved for -- was approved to be worked upon by what we considered to be excess staff. To my knowledge that's -- that, and excuse me, there is one other case, and that would be the solar hotline in the Conservation Division which was also approved work, but was agreed would be performed by excess staff.

So those clearly are two issues that are priority issues that we're dealing with, with the Budget Committee as part of its quarterly review.

COMMISSIONER COMMONS: And as far as the Executive Office is concerned, there is no one working outside of either the approved areas in the work plan, or the discretionary areas for excess manpower, and we have project number control on time sheets to verify that that's occurring, and appropriate controls.

MR. GANSE: The time sheet exercise is one that is being initiated in response to a memo that we received

from you. That had not been done -- it normally was not done during quarterly review processes. We rely on our dealings with management of the divisions to assure that what work is going on, and how much of the allocated resources have actually been dedicated to projects.

To my knowledge, as I say, there are no other instances of unapproved work, except perhaps examples, perhaps in cases of where there has been new work that has been necessitated by legislation, for instance, the tax credit legislation required some work that we hadn't planned on. It still fits within the general category of tax reg modifications, but it's not the same work that we thought we were going to be doing.

So it represents something of a departure from the approved work plan.

COMMISSIONER COMMONS: I asked that question this morning during the first item, and I was told that it's all within the approved work plan.

MR. GANSE: Well, what I'm saying is that under the general heading of tax credit regulations there was an allocation. The work, in fact, is going to be a little different than we envisioned at the beginning of the year. This is all, as I was about to say, part of an agenda that we want to go through first with the Budget Committee, and the full Commission on those areas that represent new work

that we believe is priority work that should displace some other approved work so that we're in a transition period, and I think the best response I can give you to your question is that in this interim period, we're managing to -- in accordance with what we believe are the key priorities of the Commission, keeping any deviation from the approved work plan very much to the minimum.

VICE CHAIRMAN GANDARA: Let me say that on behalf of the Budget Committee, and on behalf of meeting with the other Commissioners that there is an agreement, and that the priorities should be the work plan issues, and that because of the structural imbalances that have occurred as a result of departures of personnel that there is an adjustment that's taking place, that the common understanding is that that adjustment to the work plan is being made as we proceed with the reconsideration of what approved changes there should be as a result of the first quarterly review.

I don't know whether we're getting ahead of our discussion here, but I would think that even though we will not be meeting as a Commission until November 16th, that it is the expectation that we certainly would be reaching some resolution of these issues prior to that, perhaps no later than November 7th.

So I guess the question that I would have for,

again, purposes of expediting this meeting, is whether anything that we would perhaps direct as a Commission here today, over the next five days would really make that much of a difference, or could it wait for our Budget Committee deliberations, and our Commission on November 16th.

COMMISSIONER COMMONS: Well, there is one item that would, because it would be too late to ask for it in two weeks. One thing I would like to know is within the first quarter, let's say we only go through the first quarter, is what our man -- our person year expenditure has been, vis-a-vis our budget allocation, so let's say we had allocated 4 PY for a particular work plan item, it would be important to me in looking at our allocation to one, find out have we used up 3 or zero, and if we've used up 3, have we accomplished 75 percent of our objective, and if not, why the overrun.

Unless I have the information in terms of -- not how many people are currently working in a position area, but how much manpower have we actually expended, it's difficult to say that we've done adequate management control of the organization, and I'd rather ask for that information now than surprise you with it on the day of the meeting.

VICE CHAIRMAN GANDARA: Any other questions for the Executive Office?

COMMISSIONER SCHWEICKART: Yeah, we're sitting

here running on three cylinders and going up a hill and Commissioner Commons apparently wants to jam his foot further on the accelerator and here by adding work

What I want to know is do we have any information yet on the Governor's recent announcement of a continued hiring freeze, are there any provisions for waiver within that, and do we have anything on that yet?

MR. GANSE: I don't have anything to report today. Rick Donaldson, our new Chief of Administrative Services, is meeting today with John Caffrey of Department of Finance, Ron Kurtz, head of the Personnel Board, and Mike Frost of DPA. That will be one of the topics that he'll be covering in there, so we can -- as soon as we have some details, we'll report back to you.

COMMISSIONER SCHWEICKART: All right. If there's anything written on that hiring freeze, or the provisions, I'd like to ask you to deliver it, or distribute it to Commissioners offices so that we can take a look at it.

MR. GANSE: Sure will.

COMMISSIONER SCHWEICKART: But I think we ought to make a maximum effort to get authority for rehiring here to begin filling some of these gapping holes.

VICE CHAIRMAN GANDARA: Any additional questions? If not, then our last item is public comment. Do we have any public comments? If not, then the Commission is

adjourned until November 16th.

(Thereupon the business meeting of the California Energy Resources Conservation and Development Commission was thereupon adjourned at 3:35 p.m.)

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REPORTER'S CERTIFICATE

THIS IS TO CERTIFY that I, Patricia A. Petrilla, Reporter, have duly reported the foregoing proceedings which were had and taken in Sacramento, California, on Wednesday, November 2, 1983, and that the foregoing pages constitute a true, complete and accurate transcription of the aforementioned proceedings.

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

Patricia A. Petrilla

Reporter

Dated this 10th day of November, 1983.