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STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

CALIF. ENERGY COMMISSION
OCT 25 1983
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BUSINESS MEETING

1516 NINTH STREET
1ST FLOOR HEARING ROOM
SACRAMENTO, CALIFORNIA

WEDNESDAY, OCTOBER 19, 1983

10:15 A.M.

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COMMISSIONERS PRESENT

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

EX OFFICIO

- Bill Foley
- Gordon F. Snow

STAFF PRESENT

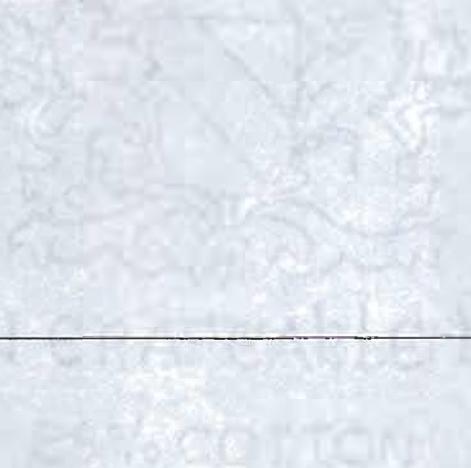
- Randall M. Ward, Executive Director
- William Chamberlain
- John Chandley
- Karen Griffin
- Ted Rauh
- Sherry Liberty
- Dale Bosley
- Linda Greule, Secretary

PUBLIC ADVISER'S OFFICE

- Ernesto Perez

ALSO PRESENT

- Jack L. Kerin, NCSBCS
- Michael Martin, NCSBCS



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1 a prehearing conference to identify the issues in the
2 case and ordered on May 12th that evidentiary hearings
3 commence on the 21st of July on the matter before us.

4 On the 21st of July, rather than move into
5 evidentiary hearings, the staff and Respondent had agreed
6 to a set of stipulations and the Committee was presented
7 with a proposed stipulation for settlement between the
8 parties, which responded adequately, in the Committee's
9 estimation, to the matter at hand, without further pursuit
10 of litigation and the rather expensive and time-consuming
11 process.

12 That stipulated settlement is presented in
13 the backup material and I can certainly provide any further
14 information any members of the Commission may wish on
15 the matter. It basically involves a three-part, six-month
16 testing program, which the Respondent has agreed to conduct;
17 having already made changes in its process, both staff
18 and Respondent expect that the results of the special
19 test program would result in clear passage of the
20 insulation material, in which the case the issue would
21 be satisfactorily resolved. Should that not be the case,
22 the Respondent will voluntarily decertify its product
23 and notify the public, and the Commission would remove
24 it from its list of certified insulation materials until
25 the Respondent then subsequently went through a full

1 certification process, again, after making further
2 corrections to its product.

3 The Committee considered this to be a very
4 adequate settlement and further testing program, and
5 the action before the Commission today is the ratification
6 by the Commission of that Committee decision, and at
7 this point, unless there are further questions, I would
8 move the Commission decision, proposed Commission decision
9 contained in the backup book.

10 CHAIRMAN IMBRECHT: It appears complete.
11 Is there a second to the motion?

12 COMMISSIONER EDSON: Second.

13 CHAIRMAN IMBRECHT: Seconded by Commissioner
14 Edson, moved by Commission Schweickert that we adopt
15 the proposed stipulation for settlement in the matter
16 of Cell-U-Fill Company.

17 COMMISSIONER SCHWEICKART: I believe there
18 are no parties here who wish to address it. My understand-
19 ing was that Cell-U-Fill elected to -- is happy with
20 the proposed decision and I don't believe there is any
21 further comment.

22 EXECUTIVE DIRECTOR WARD: That's my understanding
23 also.

24 CHAIRMAN IMBRECHT: With a stipulation, that
25 would be the case.

1 Is there any member of the public who wishes
2 to testify in this matter? Commissioner comments? Is
3 there objection to unanimous roll call?

4 Hearing none, ayes four, nos none, the matter
5 is passed, the stipulation agreed to by the Commission.

6 I should have at the opening that item 2,
7 consideration and possible adoption of a petition for
8 rulemaking by Ducane Heating Corporation, and item 3,
9 consideration and possible adoption of CFM survey forms,
10 as well as on the consent calendar two claims for exemption
11 from the Residential Building Standards, items 6a. and b.,
12 have been rescheduled to our next business meeting on
13 November 2.

14 So, as a consequence, items 2, 3 and 6a. and b.
15 are off calendar.

16 The next item before us is a contract with
17 Lawrence Berkeley Lab for \$15,000 to develop a home energy
18 rating and labeling system model for use in California.

19 Karen?

20 MS. GRIFFIN: I'm Karen Griffin with the
21 Conservation Division.

22 The contract which is before you today is part
23 of the two-part of the first part of our -- the first
24 year of our home energy rating demonstrating. The other
25 part of the contract is the actual work with local

1 governments to try three rating systems, and that will
2 be -- come before you as those individual cities are
3 selected; that process is about to be released but has
4 not yet been made available to the public.

5 This particular contract is to develop the
6 actual technical work for the rating system which will
7 be used in our demonstration. We have chosen to work
8 with Lawrence Berkeley Laboratory because they have an
9 extensive background and have developed a rating system
10 using a national data base, using the DOE 2.1 model,
11 which is also consistent with the modeling work done
12 with our own Residential Building Standards, and we have
13 a strong belief that this information and rating system
14 which we are now developing will be compatible with all
15 the work which has already been done within the Commission.

16 This contract is part of our existing budget,
17 it was approved as part of our work plan, as well.

18 Are there any questions on the contract?

19 CHAIRMAN IMBRECHT: Commissioner Schweickart.

20 COMMISSIONER SCHWEICKART: Yes. Mr. Chairman, I
21 want to be certain here that we, while doing very good
22 work proposed here in this contract and with good intention,
23 do not run ourselves into a potential problem downstream.
24 I've talked with staff about this and I believe that
25 we have satisfactorily come to an understanding.

1 My concern is that the bulk of the work that
2 would be required in the rating system which is proposed
3 here for, in essence, tailoring to the California existing
4 housing situation and to be utilized in some test cities,
5 I believe, comes out of original work separate from the
6 work that we've done in new residential buildings.

7 Ms. Griffin mentioned the basis being DOE 2.1,
8 and so we do have some common basis. Nevertheless, my
9 concern is, that as we move from a tool here being developed
10 or extended from the work already done at LBL into the
11 California existing residential sector, to be used
12 principally in evaluating existing homes or rating
13 existing homes, that we not set up an incompatibility
14 as that system is extended into new homes as a rating
15 tool, with the fundamental rating system on an energy
16 basis, namely, the point system and the accrued calculation
17 methods used to develop the Residential Building Standards.

18 So, my concern is to insure, at the outset
19 of this work, that there will, in fact, be compatibility
20 as the scope of this tool, which I totally support in
21 concept, is, in fact, consistent with three and a half
22 or four years of detail work and analysis that went into
23 the development of the Residential Standards. And I,
24 therefore, would move to add to the work statement the
25 following paragraph, and I can pass this around; I'll

1 read it out loud, but perhaps passing it would help.

2 And that is that, quote:

3 "The rating system shall be developed so that
4 it can be expanded to new homes and be compatible and
5 consistent with the calculation methods used for the
6 state's Energy Efficiency Standards for new homes, and,
7 in particular, the point system simplified calculation
8 method.

9 "A system is 'compatible' when it produces
10 results that can be easily and fairly compared to those
11 produced by the other calculation method.

12 "A system is 'consistent' when it produces
13 results that differ from those produced by another
14 calculation by no more than plus or minus 5 percent."

15 So, this is simply a statement in the statement
16 of work here in the proposed contract which would insure
17 that downstream we don't have two things being developed
18 in different directions which may not be consistent.

19 CHAIRMAN IMBRECHT: Okay. I assume you're
20 making -- offering it in the form of a motion and I guess
21 you stated that.

22 First, is there a second?

23 COMMISSIONER EDSON: Second.

24 CHAIRMAN IMBRECHT: Seconded by Commissioner
25 Edson.

1 I would like to ask -- well, state one concern.
2 I understand exactly what you're heading towards and
3 your motivation, and it's justifiable. However, in the
4 event that the people at LBL doing the work felt that
5 there was some basic incompatibility, rather than, in
6 effect, putting a strait jacket on the system, they develop,
7 particularly with the parameters of plus or minus 5 percent,
8 and so forth, I would ask that, if we could not expand
9 that, to ask them to report to us what concerns they
10 might have.

11 I mean, in effect, what I read from that is
12 that an assumption of what has been done is, for purposes
13 of argument, absolutely correct; and even if they were
14 to discover something in the course of their work and
15 I'm not -- and I, frankly, have no idea that that might
16 occur, but in the event that it might occur, I think
17 that rather than asking them to change or modify, I think
18 we ought to first ask them to report to us reasons or
19 justifications for their concern and then decide
20 whether or not we want to require them to go forward
21 with the remainder of your language or go back to the
22 drawing boards.

23 You know, I just --

24 COMMISSIONER SCHWEICKART: Let me try an analogy.

25 CHAIRMAN IMBRECHT: -- think this has the

1 implication, in some senses, of saying: Well, even if
2 you found something that was absolutely wrong, bury it,
3 change your system and don't even tell us what your
4 discovery is.

5 COMMISSIONER SCHWEICKART: Let me suggest some-
6 thing here. In some sense, and I realize I may be creating
7 an analogy which can't be stretched very far, but it's
8 almost as if we're talking about an equivalent of the
9 transcontinental railroad, where somebody is coming from
10 the east and somebody is coming from the west and both
11 are creating very good railroads, but unless there is
12 some understanding at the outset, it's highly unlikely
13 that they will meet together, let alone be the same gauge
14 if and when they do meet.

15 CHAIRMAN IMBRECHT: Well, I think it would
16 be --

17 COMMISSIONER SCHWEICKART: I think it's important,
18 if what we're after is transportation across the country,
19 going from existing residential houses through new, highly
20 efficient residential construction, that we have consistency
21 there, or else we're going to find ourselves in the middle
22 of the country with two good railroads which miss by
23 a mile, in which case nothing -- you know, they're
24 basically incompatible and the question is: who's going
25 to change.

1 Now, in this case, we've already invested --
2 see, one could suggest the opposite; that is, to take
3 the point system on which four years of work has been
4 done in developing the new Residential Standards and
5 extrapolating that down into less efficient existing
6 homes and develop a rating system thereby. That would
7 guarantee the consistency I'm looking for.

8 Conversely, had we not established Residential
9 Standards, we might be able to take the work that was
10 done by LBL in existing homes as a rating system and
11 move up into new construction.

12 But if we simply pay money--we've already spent
13 a tremendous amount of taxpayers' money on the development
14 of Residential Standards--if we now start issuing money
15 on a contract basis coming from the east, but without
16 any constraint as to where they will intercept --

17 CHAIRMAN IMBRECHT: I've got your --

18 COMMISSIONER SCHWEICKART: -- it seems to me
19 we're paying for a potential disaster.

20 CHAIRMAN IMBRECHT: I think I've got your --

21 COMMISSIONER SCHWEICKART: That's --

22 CHAIRMAN IMBRECHT: I've got your point, and
23 I guess where I would say, is I think we ought to direct
24 them that that ought to be their goal: to meet the
25 parameters stated in your amendment motion. But, at

1 the same time, indicate that in the event they find that
2 there is a problem in performing to those standards that
3 we ought to ask them to report to us on some interim
4 basis during the course of the contract. That's all
5 I'm -- you know, because I think that I could also construe,
6 similarly, an interesting analogy that would suggest
7 in some sense is that what we're saying, you know, if
8 you find a mistake or a system that you're going to propose
9 is going to be incompatible to those standards but, for
10 very justifiable reasons, we don't want to hear that,
11 we simply want you to go ahead and do it just as we
12 instructed in this work plan. To me, that's not exactly
13 the most open way in approaching a research institution
14 like LBL. So, I'm just asking for a slight modification
15 to your language on the basis that in the event that
16 they finally cannot perform to those standards, that
17 they must report to us.

18 Commissioner Commons?

19 COMMISSIONER COMMONS: Which committee is this
20 contract with?

21 MS. GRIFFIN: As you know, I have a series
22 of programs in my office that are not formally assigned
23 to any committee. This includes everything in the local
24 government one. This is not formally assigned to any
25 committee. As a matter of courtesy, some time ago, we

1 adopted Commissioner Edson as the Commissioner for local
2 government programs, and so she, more than anyone else,
3 would be involved. But, again, as you know, the Commission
4 has decided to not give full coverage to every program
5 in my office.

6 COMMISSIONER COMMONS: Well, I think that points
7 out one of the problems I'm having with the contract
8 here, is I don't think it was right to come before the
9 Commission.

10 I also think it sounds to me like it's related
11 primarily to Residential Building Standards and, clearly,
12 Commissioner Schweickart had interest in the matter in
13 gathering some of the issues.

14 Has -- is LBL aware of Commissioner Schweickart's
15 proposed amendment?

16 MS. GRIFFIN: They are aware of his concerns.
17 We discussed them yesterday afternoon with LBL. LBL
18 was in agreement, willing to accept these additional
19 suggestions that the Commissioner has made.

20 You have to keep in mind that the actual issue
21 which we are talking about, in terms of being sure that
22 we have a compatible rating system and a compatible point
23 system is really an issue for next year's work, in terms
24 of the detailed work, because it will -- you have submitted
25 to the resources agency a contract for approximately

1 \$75,000, which will allow the rating system currently
2 under development at LBL to expand to passive solar homes.
3 At the moment, it does not address passive solar homes,
4 which, of course, is a large part of our Title 24 homes.
5 And, so, that the system we have now is for existing
6 homes, it is a draft one. LBL is confident that it is
7 consistent with the point system, but they want to propose
8 that it be described as a draft this year and that, if
9 we get the contract, if the Governor and the legislature
10 give us a contract next year to expand it to new homes,
11 then certainly having a consistent point system and rating
12 system will be fundamental in that work statement.

13 COMMISSIONER COMMONS: Well, my concern is
14 that --

15 MR. RAUH: Let me add something from a technical
16 perspective, as well, in terms of the compatibility between
17 the two efforts.

18 DOE 2.1 or DOE 2 is a basic program that has
19 as its genesis Cal ERDA, which is a program jointly
20 developed by the Energy Commission and LBL some six or
21 seven years ago. We're quite familiar with the components
22 of DOE 2, we used it in the nonresidential project, we
23 used it in the residential project; the CALPAS program
24 was validated with DOE 2.1. During the residential
25 proceeding, the same gentleman who is working on -- who

1 would work on this contract did energy calculations for
2 the Residential Building Standards Committee at that
3 time, as an independent verification of the budgets,
4 at which time he used basically the DOE 2.1 program to
5 run the same kinds of packages we did throughout the
6 state; there was a high degree of correlation because
7 the basic programs do basic, similar things.

8 So, I think we're quite confident that the
9 concerns of the Committee -- or Commissioner Schweickart
10 and the Commission, in general, will be taken care of
11 as we put these things together, because the basis of
12 what the point system has been developed is an outgrowth
13 of the DOE 2.1 computer program.

14 COMMISSIONER COMMONS: Yes, but this isn't --

15 MR. RAUH: And they have been validated.

16 COMMISSIONER COMMONS: This isn't my concern.
17 My concern is taking a contract where there's been good
18 faith negotiation between the Commission and a contractor
19 and amending it on the floor without the contractor being
20 present or possibly aware of that --

21 CHAIRMAN IMBRECHT: Well, I --

22 MS. GRIFFIN: He is aware. He could not attend.
23 But he is aware and he agrees.

24 CHAIRMAN IMBRECHT: I know the individual personal-
25 ly in question and I know that there is ongoing

1 communications between Ms. Griffin and Mr. Rauh and he
2 on a variety of issues, so I'm confident that he's
3 probably --

4 COMMISSIONER COMMONS: Well, I'd like to ask
5 Commissioner Schweickart.

6 Have you discussed this, your amendment with
7 LBL personally and are they willing to have a contract
8 with your amendment?

9 COMMISSIONER SCHWEICKART: No. I have discussed
10 it with them indirectly, through the staff and my adviser,
11 who was informed this morning by Ms. Griffin that it
12 was discussed with Mr. Levine yesterday after our
13 discussion, and my understanding is that they have no
14 problem with the amendment that I am proposing to the
15 work statement.

16 MS. GRIFFIN: That is correct.

17 CHAIRMAN IMBRECHT: Okay. Well, with that
18 assurance, I'll accept the amendment. I just don't want
19 to take any action, the reason I expressed any concern
20 is I think it's very important that we always bend over
21 backwards to continue to allow our work to be critiqued,
22 if it's justifiable and valid.

23 COMMISSIONER SCHWEICKART: I don't think that's
24 the issue here.

25 CHAIRMAN IMBRECHT: Well, that's a concern

1 that I have and that's the reason I expressed the
2 concern.

3 COMMISSIONER SCHWEICKART: I assure you that
4 any errors which are found, or anything else, will be
5 dealt with on the annual revision basis, as we've always
6 done. I would, nevertheless, like to make sure that
7 the people coming from the east have a target, namely,
8 Cheyenne, Wyoming, or something, that we're all headed
9 for, since we're already in Cheyenne.

10 CHAIRMAN IMBRECHT: Let's drive the golden
11 spike. Is there objection to unanimous roll call?

12 The spike is in and the contract is approved.

13 COMMISSIONER EDSON: As amended.

14 COMMISSIONER SCHWEICKART: As amended.

15 CHAIRMAN IMBRECHT: As amended, yes.

16 We have one item remaining on the consent calendar.

17 EXECUTIVE DIRECTOR WARD: We still have not --

18 CHAIRMAN IMBRECHT: Oh, pardon me. I'm sorry.

19 Excuse me. I was just -- reaction upstairs.

20 The next item is the contract with the Public
21 Employees' Retirement System for \$121,655, to pay the
22 actuarial costs for the two years extra state service
23 time of CEC employees who participate in what is, in
24 effect, the Golden Handshake Program.

25 Ms. Liberty, would you like to present this item?

1 MS. LIBERTY: Good morning. Yes.

2 This is the final phase of the Energy Commission's
3 participation in the Early Retirement or Golden Handshake
4 Program. The \$121,655 interagency agreement that we're
5 bringing forward today is that portion of our responsibility
6 our reimbursement costs to the Public Employees' Retirement
7 System. This amount is actually a maximum amount that
8 could be required for us to pay over the next two years
9 and has been done based on the estimates of the Public
10 Employees' Retirement System. And the different methodologies
11 that they have given us to arrive at these funds are
12 available for your review, and I've brought Dale Bosley,
13 our Budget officer, along today if you have any specific
14 questions about how we arrived at the cost-savings figures.

15 EXECUTIVE DIRECTOR WARD: We're looking at
16 about \$60,000 potentially this year, and it does result
17 in savings and that's part and parcel to the agreement
18 with the Department of Energy to be authorized
19 to enter into this contract on the Golden Handshake.

20 COMMISSIONER COMMONS: I don't understand how
21 it results in savings. Can you explain to me why we
22 save money?

23 EXECUTIVE DIRECTOR WARD: Well, theoretically,
24 you're not going to be paying an individual's salary
25 for the remainder of the year, because they're retiring,

1 they're going to be getting subsequent retirement benefits.

2 COMMISSIONER COMMONS: But aren't we going
3 to be paying some other individual a similar salary, so --

4 EXECUTIVE DIRECTOR WARD: Well, in our situation,
5 we are under an attrition budget, and this is designed
6 to reduce our number of authorized positions.

7 COMMISSIONER COMMONS: But the only salary
8 savings that I could perceive would be those salary savings
9 between the date that an employee retires and the date
10 that a layoff were to occur.

11 MS. LIBERTY: Well, we've -- and that's actually
12 on the attachment there for the -- that's what we've
13 given you, is salary savings to that date. But, in addition,
14 there are costs involved for us that are offset by the
15 maximum salary savings that we have this year next year.
16 So, it does cost us money next year, but we still come
17 out with a net savings over the two-year period.

18 COMMISSIONER COMMONS: Well, that's what I'm
19 questioning. I don't quite understand at this stage
20 the figures that are being presented, and, as I read
21 this, we have five prospective employees and they may
22 take advantage of this program up to November 23 --

23 MS. LIBERTY: Actually, it's November 17.

24 COMMISSIONER COMMONS: -- and that their layoff
25 is supposed to occur in this calendar year. So, I would

1 be seeing a salary savings for five employees maybe
2 averaging one and a half months, and I don't see how
3 you add up to \$31,000 on --

4 EXECUTIVE DIRECTOR WARD: Commissioner Commons,
5 I think this is an appropriate issue for executive session.
6 I don't think that we can appropriately discuss issues
7 that relate to a January 1 layoff that relate to savings
8 and correlate that to the Golden Handshake. There are
9 some sensitive issues, and I understand the questions
10 you're raising and they're fair questions, so it has
11 nothing to do with that.

12 CHAIRMAN IMBRECHT: All right, I'll accept
13 the advice of the Executive Director and we will put
14 this item over for the executive session, which we already
15 plan to hold to discuss litigation matters, and we'll
16 take it up for formal action after the conclusion of
17 the executive session.

18 I think I can explain your questions, as well,
19 Commissioner Commons.

20 We now have on the last item on the consent
21 calendar the claim of exemption of Security Owners
22 Corporation for its Hidden Lakes III and IV project,
23 item 6c. Are there any questions on the consent calendar?

24 Do I hear a motion for adoption?

25 COMMISSIONER EDSON: Move adoption.

1 CHAIRMAN IMBRECHT: Moved by Commissioner Edson.
2 Seconded by Commissioner Commons?

3 COMMISSIONER COMMONS: Schweickart.

4 CHAIRMAN IMBRECHT: Okay.

5 COMMISSIONER COMMONS: If he wants --

6 CHAIRMAN IMBRECHT: Commissioner Schweickart,
7 fine. That we adopt the claim for exemption. Are there
8 questions?

9 Is there objection to a unanimous roll call?
10 Hearing none, that will be the order.

11 Next is approval of the minutes. The only
12 correction I would offer is, on the last page of the
13 minutes "EPA" should be corrected to be "BPA."

14 Are there other corrections or additions to
15 the minutes? Without objection, we'll adopt the minutes,
16 with the correction as noted.

17 Commission Policy Committee. Actually, I'm
18 informed that there's an individual that wishes to address
19 us on this item and will be arriving at 11:00. So, I
20 think we'll move on.

21 Is there an Executive Director's Report?

22 COMMISSIONER COMMONS: Oh, I have -- do you
23 want to come back to that?

24 CHAIRMAN IMBRECHT: Well, I will just come
25 back to it after our executive session.

1 COMMISSIONER COMMONS: Committee reports?

2 CHAIRMAN IMBRECHT: Yes.

3 COMMISSIONER COMMONS: Because I'm not sure
4 which -- it's not clear to me from the notation I have
5 from our Public Adviser --

6 COMMISSIONER COMMONS: Well, I have other --

7 CHAIRMAN IMBRECHT: -- which Committee report
8 the gentleman in question wishes to address, and, so,
9 I thought we could go into executive session and reconvene
10 by 11:00, or after 11:00, and he would be accommodated.

11 COMMISSIONER COMMONS: Yes. I just have some
12 reports on committees. Do you want to do that later
13 also? Whichever you want.

14 CHAIRMAN IMBRECHT: Fine. It's just not clear
15 to me, Commissioner Commons, whether or not he wishes
16 to address one of the reports that you wish to make.
17 You can see from this card that there's no indication
18 of what he wants to address.

19 So, is there an additional Executive Director's
20 Report?

21 EXECUTIVE DIRECTOR WARD: I think the only
22 thing I'd like to mention is the quarterly review of
23 work plans will be forwarded to Commissioners on the
24 24th. The Budget Review/Policy Committee will be meeting
25 on any deviations from the adopted work plan, and then

1 it's our intent to receive comments from individual
2 Commissioners and then bring that to the full Commission,
3 and I am hopeful that that will be at the next business
4 meeting.

5 CHAIRMAN IMBRECHT: Commissioner Schweickart.

6 COMMISSIONER SCHWEICKART: Yes. Randy, I should
7 have listened a bit more intently at the beginning of
8 what you said. Where are we going to be hearing about
9 deviations from current work plans?

10 EXECUTIVE DIRECTOR WARD: That will be --

11 COMMISSIONER SCHWEICKART: Did you address
12 that -- I mean, I'm not quite sure I --

13 CHAIRMAN IMBRECHT: He said that deviations
14 would be presented to the Budget Committee and, in turn,
15 a report made to the full Commission.

16 COMMISSIONER EDSON: Hopefully, at the next
17 business meeting.

18 CHAIRMAN IMBRECHT: Yes.

19 EXECUTIVE DIRECTOR WARD: And you would have
20 a copy of those work plans, as revised by the divisions,
21 on the 24th, so your staffs would be available to partici-
22 pate, I assume, in the Budget Review Committee.

23 COMMISSIONER SCHWEICKART: Let me ask it a
24 bit differently, then. What I am concerned with there
25 is, in essence, the Commission would be informed after

1 the fact of deviations. While being absent, and perhaps
2 this was discussed, I'm interested in what the work plan
3 requirements are or the staffing requirements are related
4 to the inquiry which I understand was sent out under
5 the Chairman's signature to a rather wide, large number
6 of people on our mailing lists, related to regulatory
7 review. It's my understanding at least that approved
8 work plans did not include any staff loading for that
9 activity, it has come up in the interim, and I'm interested
10 in an analysis on what's required there and when that
11 would come before the Commission. It seems to me that
12 we may find ourselves in a situation where work will
13 not be getting done as a result of additional work without
14 any Commission review.

15 CHAIRMAN IMBRECHT: That's a fair concern.

16 EXECUTIVE DIRECTOR WARD: It's a fair concern
17 and I don't think it's unique; I think there's some other
18 issues that you're going to be apprised of that we're
19 having some resource problems with, and, in fairness
20 to me and the staff, I would like to get some assessment
21 of policy priority on those issues and that's precisely
22 the reason we're going through this process. So, I want
23 to make it as open a process as possible and allow you
24 to participate in that process and voice your concerns.

25 I would anticipate that at the formal business

1 meeting, where we went over any revisions to that work
2 plan, that then Commissioners would have individual
3 opportunities to raise specific issues.

4 COMMISSIONER SCHWEICKART: Well, does that
5 mean that there will be no resources allocated to that
6 activity prior to the time it's brought before the
7 Commission?

8 EXECUTIVE DIRECTOR WARD: I would have to defer
9 to the Chairman, because it was the Chairman's letter
10 I think that directed the work to begin.

11 CHAIRMAN IMBRECHT: Well, that work was the
12 result of an Executive Order issued by the Governor to
13 all agencies, commissions, departments, et cetera.

14 My understanding is that the volume of response
15 has not been overwhelming. I have not been apprised
16 of what the implications are vis-a-vis that response,
17 but I believe we're at something less than 100 responses
18 at this point, many of which I think can be dealt with
19 fairly generically and also in the context of subsequent
20 considerations of the revision to Title 24 in the spring
21 of next year, as you proposed from the scheduling.

22 But you've raised a good point, and I think
23 what I'd like to suggest is, that we ask the staff to
24 assess that, present it to the Budget Committee and,
25 in the context of those reports, the rest of the

1 Commissioners on the 24th and we'll take action at the
2 next business meeting, either approve or reject.

3 I don't -- frankly, at this point in time,
4 the only staff resources that have been allocated to
5 it, basically, are the preparation of a letter and
6 internally in my own office in terms of collating the
7 input.

8 COMMISSIONER SCHWEICKART: When is the data
9 or information or some transmittal due --

10 CHAIRMAN IMBRECHT: I wish I could recall,
11 but I believe it's towards the end of the year we have
12 to present a report to the Secretary of Resources.

13 COMMISSIONER SCHWEICKART: So, then it would
14 not be --

15 CHAIRMAN IMBRECHT: Do you recall it, Dr. Snow?

16 DR. SNOW: I think it's the end of the year.

17 CHAIRMAN IMBRECHT: December 31, right.

18 COMMISSIONER SCHWEICKART: So, then holding
19 up two weeks on any further expenditure of staff time
20 would not be a problem in terms of meeting that schedule --

21 CHAIRMAN IMBRECHT: That's right. The report
22 doesn't require a report as to what specific changes
23 we may or may not make or propose vis-a-vis regulations,
24 but basically report as to what type of response we've
25 received, as well as what our plans are to deal with

1 or respond to that response, and I -- it is my view that
2 by indicating that we have now established an annual
3 review process for Title 24, that I am hopeful that will
4 be viewed as an appropriate response that each of the
5 issues raised relative to Title 24 will be dealt with
6 at that point in time, and I think the remaining issues
7 are relatively few in number, so --

8 COMMISSIONER COMMONS: Mr. Chairman?

9 CHAIRMAN IMBRECHT: -- that's why I think we
10 can probably give you a much better answer in the next
11 few days.

12 Yes, Commissioner Commons?

13 COMMISSIONER COMMONS: Yes. I have concerns.
14 I am not aware of -- I got a copy of your letter on this,
15 and in the NOI Committee, we were actually doing work
16 on that particular issue, and so it has no impact on
17 our -- on the workload.

18 But, this is something that's concerned me since
19 I joined the Commission and it has nothing to do with
20 this one particular issue, because I can think of probably
21 half a dozen areas where this Commission is continuing
22 to do work in areas where we do not have approved work
23 plans. And my understanding is, once we adopted a work
24 plan, that the Executive Director would only allow for
25 work to be done on the work plans as approved, unless

1 it was brought back to the Commission, or the Commission
2 delegated emergency situations to the Budget Review
3 Committee. And in the approved work plans, we approved
4 the work plans in two parts, if I recollect. We first
5 approved the work plans for the authorized level, that
6 was approved by the legislature and by the Governor;
7 and then there was transition work we had accessed out,
8 which we no longer have.

9 There are enormously serious problems that
10 are emerging, and under the Committee reports you will
11 hear some of them, that are caused by the use of people
12 in areas where it's not approved in the work plan. And
13 I just think there is no basis for any deviance whatsoever
14 without going back through the Commission, because if
15 you take someone off one project, if you do something
16 on a new project, you've taken someone off another project
17 and I just find it totally unacceptable a practice and
18 I would like it to cease and desist until we have a change
19 in the work plans on all areas where we have a work plan
20 and there's work being done outside of it.

21 EXECUTIVE DIRECTOR WARD: Commissioner, you're
22 evidencing my frustration, because I've had requests
23 from any number of Commissioners that constitute resource
24 demands that could be construed to be a deviation from
25 a work plan, and until I have some formal guidance from

1 the Commission, via the Budget Review Committee going
2 through this process, you know, I'm basically going to
3 continue to face that frustration. So, I think what
4 we're --

5 CHAIRMAN IMBRECHT: I think what we had originally
6 decided upon, and I think we're going to have, to some
7 extent, to rely upon, trust your judgment on these things,
8 and that is, that at any instance where you feel that
9 you are being requested to devote resources by any
10 Commissioner, including myself, that deviates from those
11 work plans, you should present it to the Budget Committee,
12 and particularly in the instance where there is any
13 exigency or requirement of some rapid response.

14 EXECUTIVE DIRECTOR WARD: Well, at this point
15 in time I need a Budget Committee hotline, then.

16 CHAIRMAN IMBRECHT: I take it that's generically
17 directed to all four Commissioners, right?

18 COMMISSIONER EDSON: Touche.

19 COMMISSIONER COMMONS: Would that be staffed
20 by students?

21 CHAIRMAN IMBRECHT: I'm not aware of the dozens
22 of examples that you've cited, Commissioner Commons,
23 but maybe we can discuss that and you can --

24 EXECUTIVE DIRECTOR WARD: I think that as you,
25 as Commissioners, have an opportunity to look at what

1 the divisions have prepared and we go through this Budget
2 Review Committee, I think it will simplify some of these
3 things. But I am experiencing a degree of frustration
4 with it at this point in time, so bear with me.

5 COMMISSIONER COMMONS: I would like to request
6 that this be placed definitely on the agenda for the
7 next business meeting, so it's not that it might come
8 before us but that it does come before us.

9 CHAIRMAN IMBRECHT: What specifically are you
10 referring to?

11 COMMISSIONER COMMONS: Any modification of
12 work plans or any deviation from the existing work plans.

13 CHAIRMAN IMBRECHT: I think what I'd rather
14 do, to make it somewhat more workable for you, Commissioner,
15 is to allow you the opportunity to review it, and those
16 areas that you have specific concerns then would be
17 addressed both in the Budget Review Committee and then,
18 if they're not resolved there, potentially the full
19 Commission.

20 COMMISSIONER COMMONS: Well, the reason I want
21 it placed on the agenda is, if it's not placed on the
22 agenda today or tomorrow, it can't be brought up on the
23 next business meeting and it will be rather late for
24 me to determine --

25 CHAIRMAN IMBRECHT: Didn't we already indicate

1 that we were definitely going to have --

2 EXECUTIVE DIRECTOR WARD: That's my understanding,
3 is we're proceeding for the --

4 CHAIRMAN IMBRECHT: November 2 meeting.

5 EXECUTIVE DIRECTOR WARD: -- next business
6 meeting. There's some question as to the Chairman's
7 schedule that week and I'm unclear as to what the Vice
8 Chair's schedule is also, but I understand we are meeting
9 on the 24th. I would assume we'd go ahead and put it
10 on the agenda and if there was some extenuating circumstance
11 that caused it to be removed, then everyone would be
12 notified appropriately.

13 CHAIRMAN IMBRECHT: Fine.

14 COMMISSIONER COMMONS: I'd like to get clarifica-
15 tion and repeat Commissioner Schweickart's question.
16 Is the operating policy now that the only work that is
17 going on, pending that meeting, is that work which was
18 approved in the work plan? Is that the way you're going
19 to operate during the next two to four weeks?

20 EXECUTIVE DIRECTOR WARD: Well, I guess, you
21 know, when you bring up executive orders that come from
22 the Governor's Office that relate to summation of
23 regulations that have been initiated by this Commission,
24 it would be my guess that there would have to be some
25 initial work continued on that. I mean, I'm not talking

1 about deviating from work plans in any major areas, other
2 than where I really don't feel I have any control or
3 choice, unless I'm given subsequent direction by the
4 Commission.

5 COMMISSIONER EDSON: It's my understanding
6 that the work being done so far is pretty ministerial.

7 EXECUTIVE DIRECTOR WARD: That's my understanding.

8 CHAIRMAN IMBRECHT: That's exactly what I tried
9 to indicate, Commissioner Edson, that I feel that --

10 EXECUTIVE DIRECTOR WARD: That's my understanding
11 also.

12 COMMISSIONER EDSON: It seems to me we shouldn't
13 stop sending the form-letter response that's going out
14 to people that sent in comments, that a subsequent review
15 and analysis probably wouldn't begin until after the
16 work plan review --

17 EXECUTIVE DIRECTOR WARD: That's right exactly.

18 COMMISSIONER EDSON: -- in two --

19 EXECUTIVE DIRECTOR WARD: In fact, I don't
20 think all the responses are due in until the first of
21 November, so it's really, I think --

22 COMMISSIONER COMMONS: Well, I'm not referring
23 to that particular item. I'm referring to some of the
24 other items that have me concerned, particularly when
25 I understand we are now under our 348 persons and we

1 had supplemental allocations of transitional staff for
2 work activities. If we're using those supplemental --
3 continuing those supplemental activities, that means
4 we're taking out from the heart of the approved work
5 plan, and I think all those activities, other than the
6 petroleum violation point, shouldn't continue until we
7 have direction from the Commission saying --

8 CHAIRMAN IMBRECHT: Can you give me an example
9 of what you're referring to?

10 COMMISSIONER COMMONS: All right. We are
11 continuing to do work on transportation, which has been --
12 we're entering into a contract and that's being transferred
13 over to Caltrans and that's had a serious impact on CFM,
14 which you'll hear about subsequently.

15 CHAIRMAN IMBRECHT: Okay, that's specific.
16 All right.

17 Commissioner Schweickart, yes.

18 COMMISSIONER SCHWEICKART: Mr. Chairman, somewhat
19 related to this and at least an aggravating factor is
20 a question which has begun to nag me when I got the latest
21 summary on where we stand in terms of current personnel,
22 current staffing.

23 Correct me if I'm wrong, Randy, but my understand-
24 ing is that with the known, both existing and anticipated
25 definite departures from the Commission that we are now

1 below our authorized level in the new budget.

2 EXECUTIVE DIRECTOR WARD: That is correct.

3 COMMISSIONER SCHWEICKART: And that, on the
4 other hand, there will be or may be both further voluntary
5 departures and perhaps layoff in order to bring the staffing
6 in particular areas down to what is authorized in the
7 budget, thereby bringing us considerably below our
8 authorized total staffing levels.

9 The question I have is: Do we have any
10 indication of authorizing for hiring to fill back in
11 those areas where we have had departures beyond that
12 required within the budget?

13 EXECUTIVE DIRECTOR WARD: Yes.

14 COMMISSIONER SCHWEICKART: We have had that
15 authorization to hire?

16 EXECUTIVE DIRECTOR WARD: Yes.

17 COMMISSIONER SCHWEICKART: So, we will likely
18 find ourselves, then, in a position of both hiring and
19 firing simulanteously in order to maintain the 348 --

20 EXECUTIVE DIRECTOR WARD: I'm not sure I would
21 characterize it as "likely." I would -- I think, again,
22 that this issue is something that may be more appropriately
23 discussed in executive session. There are any number
24 of management options that relate to this issue, and
25 I think until you hear those options, I really can't

1 answer your question.

2 COMMISSIONER SCHWEICKART: All right. Well,
3 my concern here is clearly, again, related to how do
4 we get the work done that's been authorized and planned
5 when, if one looks at the overall authorized limit and
6 the loading or the available resources, it looks good
7 across the board, but when you look at the details and
8 we've got gaping holes and we just can't get it done.

9 EXECUTIVE DIRECTOR WARD: I understand.

10 CHAIRMAN IMBRECHT: I understand and agree
11 with you, Commissioner Schweickart, and I just would
12 indicate that that concern has already been expressed
13 to the other appropriate control agencies and I think
14 they understand exactly where we are and what remedies
15 have to be done, and that's why I think we'll hear a
16 report in executive session.

17 Anything else you wish to report on? All right,
18 fine.

19 Is there any General Counsel's Report, short
20 of the executive session?

21 MR. CHAMBERLAIN: No.

22 CHAIRMAN IMBRECHT: All right. It is 11:00.

23 Let me just find out whether Mr. Jack Kerin is in attendance.

24 MR. KERIN: Jack Kerin.

25 CHAIRMAN IMBRECHT: Which item on -- or what

1 matter on item 8 would you care to address, sir?

2 MR. KERIN: I'd like to speak to the -- I don't
3 know the item on the agenda, but I think it would be
4 the --

5 CHAIRMAN IMBRECHT: Well, item 8, as it was
6 indicated to me, is Committee reports, and that's fairly
7 general.

8 MR. KERIN: The particular item or specific
9 item is the House Resolution 3244, relating to the Energy
10 Efficiency Standards for Appliances, and --

11 COMMISSIONER COMMONS: I'm sorry, I couldn't
12 hear you, sir.

13 MR. KERIN: Specifically, the item that I would
14 like to address is the House Resolution 3244, which deals
15 with the Energy Efficiency Standards for Appliances.
16 And at this point, I'd like to represent the National
17 Conference of States on Building Codes and Standards
18 and make this Commission aware of their concerns and
19 solicit their support in some of the activities.

20 CHAIRMAN IMBRECHT: Well, why don't we turn
21 then to the Government Relations Committee Report, and,
22 basically, the report is that the Committee recommends
23 to the Commission, and you'll find this under item 8,
24 that we adopt a support position for HR 3244. And before
25 going into the reasons, why don't we hear your presentation,

1 sir.

2 MR. KERIN: My name is Jack Kerin, I am a member
3 of the board of directors of the National Conference
4 of States on Building Codes and Standards, and the
5 immediate past president.

6 The Conference, very briefly, was founded in
7 1967 for the purpose of providing greater cooperation
8 and coordination among the state agencies involved in
9 the building-code or building-regulatory process. The
10 membership of the organization is delegate membership
11 appointed by the various directors; our membership also
12 includes state members representing interests such as
13 yourself in the energy area, handicap regulations. Our
14 membership also extends to all industry and other code-
15 writing or code-related organizations.

16 COMMISSIONER EDSON: Are you a national or
17 a California --

18 MR. KERIN: It's a national organization.

19 CHAIRMAN IMBRECHT: National.

20 MR. KERIN: We also serve as an executive branch
21 organization of the National Governors' Association,
22 where we provide technical support and input to the
23 National Governors' Association through a letter of agree-
24 ment of understanding developed approximately two years
25 ago.

1 COMMISSIONER SCHWEICKART: One thing I don't
2 understand. Are you a governmental body?

3 MR. KERIN: No. It's a nonprofit organization
4 represented -- made up of government representatives,
5 industry representatives. The whole purpose is to provide
6 the coordination between states and local governments
7 and the federal government in the area of building.

8 COMMISSIONER SCHWEICKART: I'm curious because,
9 frankly, we've been in the business for quite a while
10 and I don't recall having noticed our interaction so far.

11 MR. KERIN: Well, perhaps this is an area that
12 we could improve on in the future. I think that we
13 certainly do have some very well-qualified people repre-
14 senting various states and agencies.

15 CHAIRMAN IMBRECHT: Could I ask -- excuse me.
16 Could I ask you to address the question of HR 3244?

17 MR. KERIN: Yes, I will. The energy committee
18 of the National Conference of States on Building Codes
19 and Standards has recommended, and the board has adopted,
20 a resolution in support of the House Resolution 3244.
21 The basis of the resolution is that the process by which
22 the Department of Energy, the United States Department
23 of Energy determined that these standards were not necessary
24 and their action, they also determined, was preemptive
25 and affected any state or local government that had such

1 standards in effect, much like the State of California,
2 that these lack of standards preempted and made those
3 standards nonenforceable.

4 They then took the position that they would
5 entertain petitions from the various jurisdictions, and
6 that all indications are that they will approve those
7 petitions if they're submitted. This created what we
8 feel is a potential for chaos, in that one of the criteria
9 is that only states may petition the Department of Energy
10 for an exemption to their preemption, which would put
11 a state in a position of petitioning for their own
12 regulations or providing a separate petition for any
13 county or city, which is the case in many states, for
14 preemption in order to maintain the standards that they
15 felt and the Conference feels are, in fact, valid standards
16 for energy efficiency. We don't feel that the need for
17 energy efficiency has gone away.

18 CHAIRMAN IMBRECHT: So, well, in essence, you
19 recommend the same position that the Government Relations
20 Committee unanimously recommends to the Commission?

21 MR. KERIN: We do. And we go one step further,
22 in urging that the -- as we have at the Conference, that
23 the delegation from the state, the congressional delegation,
24 be also advised and encouraged to take --

25 CHAIRMAN IMBRECHT: Well, for your information,

1 when we take positions on federal legislation, we auto-
2 matically communicate with all members of the California
3 congressional delegation, both in the senate and in the
4 house, as well as other appropriate parties in Washington.
5 So, that happens --

6 MR. KERIN: So, without going any further,
7 I think we're both headed in the same direction, and
8 would certainly, on behalf of the Conference, ask --

9 CHAIRMAN IMBRECHT: Let me just complete the
10 Committee Report.

11 Basically, HR 3244 is, I think to a large extent,
12 a state's rights issue; I hate to put it in that context,
13 but I think that's the best and most accurate way to
14 describe it. And, frankly, would have the potential,
15 as I read it, of minimizing the kind of red-tape hoops
16 that are clearly going to be costly to this Commission
17 and other state agencies in terms of seeking a waiver
18 from the no-standard standards.

19 If the presumption is that they're going to
20 be approved, to go through the exercise, to me, seems
21 to be the height of futility, or stupidity, or whatever,
22 and so that's why we recommend that position. That is
23 the only action we recommend today in the Government
24 Relations Committee Report, and so, as Presiding Member,
25 I will move for adoption of the report.

1 COMMISSIONER SCHWEICKART: Second.

2 CHAIRMAN IMBRECHT: Second by Commissioner
3 Schweickart.

4 Commissioner Commons?

5 COMMISSIONER COMMONS: Yes. Let me play the
6 devil's advocate for a moment because it is an important
7 issue and I'd like to. And, unhappily, when we have
8 bills before us, we often, due to the exigencies of time,
9 don't have the opportunity to notice, so people who may
10 be interested don't appear.

11 One of my concerns that I've heard as we've
12 proceeded in this area is the ability of industry to
13 potentially have to manufacture appliances that could
14 have to meet 50 different standards. What impact would
15 3244 have in terms of having multiple standards from
16 one state to another state?

17 CHAIRMAN IMBRECHT: Let me address that. It
18 won't have any impact, but, as I recall, you voted for
19 the --

20 COMMISSIONER COMMONS: Remember, I'm only playing
21 devil's advocate.

22 CHAIRMAN IMBRECHT: I understand, but it's
23 important for me to suggest some consistency in positions.

24 You voted for the motion here at the Commission
25 to authorize our General Counsel to petition for a waiver

1 from the no-standard standard. In the event that 3244
2 were adopted, it would simply have the impact of freeing
3 up very needed staff in our General Counsel's office
4 and elsewhere in the Commission from pursuing that petition
5 for a waiver from a no-standard standard. So, this is
6 entirely consistent with past action of the Commission,
7 which, in fact, would have the impact, in the event it
8 were to pass and be signed, which I have my questions
9 about, in the event that were to occur, it would simply
10 mean a savings for us and the same net result as that
11 which you supported a few weeks ago.

12 COMMISSIONER COMMONS: So, you're saying the
13 only instance that 3244 applies is when DOE has a no-
14 standard standard?

15 CHAIRMAN IMBRECHT: That's precisely correct.
16 The summary at the top of the report is about as succinct
17 and well-written a summary of a bill that I've seen in
18 a long time, and we looked at it in detail and that's
19 exactly what it does do. So --

20 COMMISSIONER COMMONS: I see. But we've opened
21 the question, if DOE had a standard that was an unreasonable--

22 CHAIRMAN IMBRECHT: If DOE had a national --

23 COMMISSIONER COMMONS: Let's say it had an
24 unreasonable standard that --

25 CHAIRMAN IMBRECHT: All the bill does is say,

1 in those instances where there is no standard, an attempt
2 to make that a preemptive issue, the ability of the federal
3 government to do so is constrained. In the event that
4 DOE determined now, or at some later point, that there
5 was a need for a national standard, under those circum-
6 stances, the California standard and other states'
7 standards would be preempted. That's, in essence, what
8 the bill does.

9 Yes, sir?

10 MR. MARTIN: I'm Michael Martin. I am a member
11 of the energy committee that passed this bill to -- resolu-
12 tion, excuse me, to the board of directors of NCSBCS.

13 One of the concerns we had is that the no-
14 standard standards will preempt every state that has
15 any standard, and the staff of DOE believed that that
16 is actually every state. And that one of the aspects
17 that they have is model codes, which are produced by
18 model code organizations, and those states that do not
19 have the wherewithal to come up with a petition in the
20 time needed will end up being unable to use that part
21 of the model codes. And, in effect, this would be an
22 aspect that would make for less uniformity in the present
23 program, which the Chairman so aptly described here,
24 rather than more uniformity. And that was one of our
25 concerns, as well.

1 I would like to mention, Jack didn't bring
2 out that the delegates to NCSBCS are appointed by the
3 governors of the individual states. I think he mentioned
4 directors; I think they are then approved by the board
5 of directors. But they are appointed by the governors.

6 CHAIRMAN IMBRECHT: Who is our representative?

7 MR. MARTIN: Mr. Kerin.

8 MR. KERIN: I am the delegate from the State
9 of California, and a member of the board of directors.

10 CHAIRMAN IMBRECHT: Thank you.

11 Okay. Are there further concerns? Questions?
12 Is there objection to a unanimous roll call adopting
13 the Committee Report?

14 Hearing none, the Commission is on record in
15 support of HR 3244. Gentlemen, thank you very much.

16 MR. MARTIN: Thank you.

17 CHAIRMAN IMBRECHT: We might as well complete
18 the remainder of the Committee reports. Commissioner
19 Commons?

20 COMMISSIONER COMMONS: Yes. Two reports. I
21 was informed that Secretary -- Hodel or --

22 CHAIRMAN IMBRECHT: Hodell.

23 COMMISSIONER COMMONS: -- Hodell has signed
24 the regulation on tax, which is the commercial equivalent
25 to RCS, and that means the clock is running and we have

1 six months in which to develop regulations and to work
2 with the Public Utilities Commission and the utilities
3 in developing those regulations. And so that occurred
4 as of yesterday.

5 Second is, I sent to the other Commissioners
6 yesterday and to the Executive Office of -- very sad
7 state of affairs in the Assessment Division in the area
8 of manpower for doing our forecasting work. Essentially,
9 staff in that area, as far as we can identify through
10 doing a head count, is down about 45 percent. They have
11 come to the Committee with a long list of alternatives,
12 all of them which would essentially have major modifications
13 to how this Commission has done forecasting in the past,
14 and I considered beyond the purview of the Committee
15 to entertain, would be a matter that would have to go
16 to the Commission if we were to change substantially
17 the nature of our forecast. There was particular emphasis
18 in terms of substantially reducing the conservation
19 quantification, where I feel the Committee has been given
20 strong direction from the Commission that that is to
21 be done.

22 The reason I'm bringing this to your attention
23 is, one of the alternatives is to have the CFM delayed
24 in terms of the staff forecast. It is my feeling that
25 it would be more appropriate to delay when we do the

1 work than to change how we do forecasting in the
2 Commission. And the Committee is going to grant that
3 modification request.

4 The reason I want to bring it before the full
5 Commission is, that could have an effect on the BR schedule
6 and other documents that are turned out by the Commission.
7 And, under the way that we approve the CFM, the
8 Committee may make a modification, but any Commissioner
9 or the staff or any utility may bring that matter to
10 the full Commission. I feel that this is the only modifica-
11 tion that is significant or is substantive, and before
12 the modification was made I wanted to bring it to the
13 attention of the Commission so that everyone would be
14 aware of it first, and if the Commission wanted to direct
15 us not to do so, we could explore it further.

16 In the making of the 60-day extension, I want
17 also the Commission to be aware that it is not clear
18 as to whether or not it should be 90 or 120 days, or
19 if there are emergency actions that can be taken to actually
20 make that 60 days not have to be 60 days. Going more
21 than 60 days, to me, seemed at this time not a necessary
22 action, but it would mean that there would have to be
23 corrective actions taken very shortly in terms of beefing
24 up the staff so that they can proceed. Because at 45-
25 percent reduction there is no way that they can proceed.

1 Before granting a modification, I did go out
2 and review how other utilities and what the manpower
3 loading of other utilities is in doing their forecasts.
4 Essentially, the level that the staff is at now is the
5 same level as what a major utility in the state would
6 be doing a forecast for one utility; but our staff has
7 to make forecasts for five utilities, and that's not
8 five times as much, but it's certainly more than a 1-1
9 ratio. I found no reason to believe that they could
10 accomplish the work that was scheduled within the time
11 frame that they have left, given their manpower shortage
12 and the unlikelihood of solving that problem totally
13 in a very -- in the very immediate future. So, I just
14 wanted to bring this before the rest of the Commission,
15 because I understand it will have impact on other
16 committees and other reports.

17 CHAIRMAN IMBRECHT: Fine. Well, I think we
18 obviously would desire if anything possible can be done
19 to mitigate this be done and --

20 EXECUTIVE DIRECTOR WARD: I think the comment
21 I'd like to make is the same as I made on a previous
22 issue, relative to the work plan: As we go through the
23 work plan, I think this is an opportunity for the
24 Commissioners to point out the specific areas of concern
25 and I would include that in those areas. I mean, obviously,

1 it has work-plan implications, and, as such, I think
2 need to be addressed in the aggregate with all other
3 work-plan concerns.

4 CHAIRMAN IMBRECHT: What is the current deadline
5 for staff response?

6 COMMISSIONER COMMONS: The statutory deadline
7 for all of the utilities is March 1. What we have tried
8 to do is treat staff and the utilities the same, which
9 would be a March 1 deadline. With a modification, that
10 would mean that the first staff forecast, rather than
11 being March 1, would be May 1; but then there is not
12 the evaluation of the resource plans and the full hearings
13 that come up under the CFM. I would think it would be
14 quite likely that there would be an impact on a 60-day --
15 a 60-day delay could have -- I haven't gone through a
16 BR cycle. So I just want to let the BR Committee be aware
17 of that and they can figure out what impact it would
18 have on that.

19 CHAIRMAN IMBRECHT: Okay. Let me just suggest
20 that I think since the deadline for the Commission staff
21 is March 1, this is a little premature to take any action
22 that results in a 60-day extension. I appreciate you
23 calling it to our attention, but I think we ought to
24 address this, as suggested, in the context of overall
25 work plan, priority, allocation of staff that we have

1 and determine the relative importance of this versus
2 others.

3 I personally think, I was of the view that
4 this was something that was impending. I personally
5 think that we will be able to resolve some of those problems
6 well in advance of March 1; in fact, I'll be shocked
7 if we're not.

8 COMMISSIONER COMMONS: In the granting of the
9 modification that doesn't mean that staff has to use
10 that full 60 days. I just want the utilities and the
11 public to be aware that that's --

12 CHAIRMAN IMBRECHT: Let me say, when I used
13 to write term papers, anytime I had an extension, it
14 still meant that I wrote it the last two weeks. I mean --
15 and I don't think this is quite the time to send a signal
16 that there's going to be an extra 60 days to accomplish
17 a work responsibility. That might be the case two or
18 four weeks from now, but I think it's a little premature
19 to take that action today. That's my personal view.
20 Others might differ, but feel free.

21 COMMISSIONER EDSON: It's probably a day-to
22 day slip, so -- of course, planning the decision may
23 mean that you're already granting a two-week delay.

24 CHAIRMAN IMBRECHT: Well, that's better than
25 60 days.

1 COMMISSIONER SCHWEICKART: Mr. Chairman, let
2 me speak here out of some long experience in this area
3 to say that even if Commissioner Commons were able to
4 guarantee holding to the schedule, frankly, meeting the
5 BR legislative deadlines will be a miraculous accomplishment
6 if you're able to do it. Let me put it that way.

7 I would suggest that this is something which,
8 as Presiding Member on the BR Committee, that you review
9 as soon as you possibly can, because Commissioner Edson's
10 observation is very real: The work is going on now in
11 order to desperately try to get the work done by the
12 1st of March, it's not as if it's waiting. And there's
13 a great deal of analysis and data collection, and many
14 other activities, which go on before the actual crash
15 report-writing itself, as you point out.

16 I think we -- this is something I discussed
17 yesterday with staff. I think we have a very major problem
18 coming up on the whole BR area, and I would suggest,
19 if I heard Commissioner Commons correct, and I've never
20 looked into this, but I think I heard him say that the
21 authorization is that the Committee has the option of
22 redirecting staff, and other Commissioners have the option
23 of challenging that direction of the Committee. It would
24 seem --

25 COMMISSIONER COMMONS: Well, we have --

1 COMMISSIONER SCHWEICKART: -- that the ball
2 lies still, in spite of the little pass-off we saw a
3 moment ago, in Commissioner Commons' court, in terms
4 of how he directs his staff on CFM and then it's up to
5 the rest of us to decide whether we support that delay.

6 COMMISSIONER COMMONS: Well, what I will do
7 is, I think in deference to the Presiding Member of the
8 BR Committee, who has held that post for all of two weeks,
9 is you are now noticed that this is impending.

10 CHAIRMAN IMBRECHT: I understand.

11 COMMISSIONER COMMONS: And what I'll do is --

12 CHAIRMAN IMBRECHT: Fine.

13 COMMISSIONER COMMONS: -- we will finalize
14 the rest of the order and I will not put in the 60-day
15 extension, pending the next business meeting.

16 CHAIRMAN IMBRECHT: Fine.

17 COMMISSIONER COMMONS: And we'll have a separate
18 order on that, which will allow the BR Committee time
19 to look at that.

20 CHAIRMAN IMBRECHT: I would appreciate that.
21 I might just say as well that we have already begun to
22 make every effort to communicate the essential nature
23 of the increases we requested, vis-a-vis preparation
24 of the BR in the coming budget-year. So, I think there's
25 a growing recognition of the implications of that work

1 requirement.

2 Okay. Further Commission Committee reports?

3 Now, I think it's --

4 COMMISSIONER SCHWEICKART: Let me just make
5 a very brief one. As most of you are aware, I sent a
6 letter to Secretary Chilton, regarding the scheduling
7 of the Title 24 publication cycle in order for us to
8 establish a definite schedule for industry in terms of
9 our own revision of Building Standards, annual cycle
10 of revisions to the Building Standards. I believe many
11 of you have gotten a copy of the response on that; for
12 those who have not had a chance to look at it, the Building
13 Standards Commission has opted to annualize their cycle
14 on a July 1st rather than January 1st date, and I will
15 then be bringing a resolution before the Commission annual-
16 izing our cycle to be responsive to the 1 July phasing.
17 And it is our understanding with the Building Standards
18 Commission then that we will be holding to that, so that
19 the industry that we affect rather dramatically have
20 a regular cycle. The Building Standards Commission has
21 assured me that they will make every attempt to hold
22 their cycle to what they have stated.

23 CHAIRMAN IMBRECHT: Excellent. I think that's
24 a very good procedural improvement.

25 Okay. Further Committee reports? All right.

1 We have one remaining item on the agenda and
2 that's item 5, that's pending in the executive session,
3 which we will recess for. Let me request: Is there
4 any member of the public who wishes to address the
5 Commission?

6 COMMISSIONER COMMONS: Yes.

7 CHAIRMAN IMBRECHT: Commissioner Commons.

8 COMMISSIONER COMMONS: Two very short items.
9 I think it would be helpful to at least myself and maybe
10 the other Commissioners if --

11 CHAIRMAN IMBRECHT: You're doing this as the
12 public member of the Commission, right?

13 COMMISSIONER COMMONS: That's right. Thank
14 you. It didn't fit in the Committee reports.

15 CHAIRMAN IMBRECHT: All right.

16 COMMISSIONER COMMONS: If we had an agenda
17 as to what would be covered in an executive session,
18 so we'd be aware of what we would be looking at if there
19 were to be an executive session.

20 And second is, there are still areas in the
21 Commission where we have contracts or other matters that
22 come before the Commission which are not within the purview
23 of any committee, and I think that that would be something
24 that should be reviewed with the Administrative or Budget
25 Committee.

1 COMMISSIONER EDSON: I would just note that
2 I've talked to the Executive Director about having contract
3 priorities come before the Commission with the work plan
4 material, and I am hopeful that we'll be able to have
5 that comprehensive list of contracts for this current
6 fiscal year before us at the next business meeting, which
7 would be --

8 CHAIRMAN IMBRECHT: I'm not going to even attempt
9 to offer direction on how to handle contracts. I had
10 enough problem the last time when I thought I was summarizing
11 the views.

12 EXECUTIVE DIRECTOR WARD: It's our intent to
13 include those in the work plan review also.

14 CHAIRMAN IMBRECHT: Okay. Does any member
15 of the public wish to address the Commission, other than
16 Commissioner Commons?

17 Thank you. Hearing none, we will recess to
18 the small conference room here so we can try to move
19 along. We have both matters of litigation and personnel
20 policy decisions to cover.

21 (Recess at 11:25 p.m.)

22 CHAIRMAN IMBRECHT: We'll call the meeting
23 back to order.

24 I don't recall if we had a motion on item 5
25 when we put it over, moved by Commissioner Edson, seconded

1 by Commissioner Schweickart, that we adopt the contract
2 of the Public Employees' Retirement System for \$121,655,
3 to pay actuarial costs, et cetera, for two years extra
4 service time, basically the Golden Handshake Program.

5 Commission Commons is now absent, may the record
6 show. Is there objection to the unanimous roll call?

7 Hearing none, that will be the order, ayes
8 three, nos none.

9 Is there further business to come before the
10 Commission?

11 COMMISSIONER SCHWEICKART: The report on the
12 results of the executive session.

13 CHAIRMAN IMBRECHT: Oh, I'm sorry. In terms
14 of reporting on the executive session, we discussed person-
15 nel options and the implications of the decision just
16 made relative to those personnel decisions, as well as
17 two matters of litigation in which the Commission is
18 involved. I think that's a sufficient report, is it
19 not? Okay.

20 Further business to come before the Commission?
21 Hearing none, the meeting is adjourned. Thank you.

22 (Whereupon, at 12:00 p.m., the business meeting
23 of the State Energy Resources Conservation and Development
24 Commission was adjourned.)

25 --o0o--

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