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STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

BUSINESS MEETING

FIRST FLOOR HEARING ROOM
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

WEDNESDAY, SEPTEMBER 7, 1983

10:13 A.M.

Reported by:

Mardi Sines

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COMMISSIONERS PRESENT

1
2 Charles R. Imbrecht, Chairman
3
4 Arturo Gandara, Vice Chairman
5
6 Russell L. Schweickart, Commissioner
7
8 Karen K. Edson, Commissioner
9
10 Geoffrey D. Commons, Commissioner
11

STAFF PRESENT

12 Randy Ward, Executive Director
13
14 Kent Smith, Deputy Director
15
16 Bill Chamberlain, General Counsel
17
18 Wendell Bakken
19
20 B.B. Blevins
21
22 Luree Stetson
23
24 Karen Mathies, Secretary
25

PUBLIC ADVISER'S OFFICE

Ernesto Perez

ALSO PRESENT

23 Gordon F. Snow, Resources Secretary, Ex Officio
24 Ted Anderson, Shell Oil Company
25

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(Faint background watermark: BARON ERASME BOND RESOLUTION)

P R O C E E D I N G S

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3 CHAIRMAN IMBRECHT: Good morning. We'll
4 now begin the business meeting in the matter of Review
5 and Revision of the Commission's Energy Shortage Contingency
6 Plan. I see we have Gordon Snow with us today.

7 Item 1 is the Commission Consideration and
8 possible adoption of amendments to the California State
9 Plan for the Institutional Conservation Program.

10 Commissioner Edson would like to make a few remarks.

11 COMMISSIONER EDSON: The Institutional Conserva-
12 tion Program is better known as the federal schools
13 and hospitals grant program. What you have before
14 you are proposed amendments to that plan that fall
15 into three categories:

16 One, a series of amendments would allow us
17 to use the petroleum violation escrow account monies
18 that we received this year in the budget.

19 The second makes adjustment to the scoring
20 criteria, in particular the staff is recommending that
21 we eliminate credit for energy savings to prior to
22 completing the proposed energy conservation project,
23 mainly because it has been very difficult to quantify
24 and verify those savings and it's the staff's view
25 that experienced applicants have been able to manipulate

1 those numbers to their own advantage.

2 The result is that the specific project that
3 is being applied for will receive more credit.

4 And lastly, the proposed changes before you
5 deal with the energy auditor training program. In
6 the past, the Commission has complied with, contrary
7 to the agenda memo, the Commission has complied with
8 federal regulations by contracting with community colleges
9 for auditor training. We no longer have that contract
10 money, so these plan changes allow a more flexible
11 approach to auditor training. In particular, it would
12 allow the Marin Community College to continue to train
13 programs under an existing program they have. It allows
14 existing utility commercial auditors to qualify as
15 federal schools and hospital program monitors, and
16 it allows an association of energy engineers program
17 for certifying energy managers to qualify energy auditors
18 for this program.

19 What I'd like to do before any questions
20 can be posed to Mr. Bakken is note two changes that
21 I will be proposing in a motion.

22 The first appears on page A-1. It's an error
23 that was incorporated in this draft, and it's one of
24 the first of what I think, I'm afraid to say will be
25 many errors we'll begin to see as a result of some

1 of the staffing turnovers that occurred, but in Section A,
2 this material states that a draft copy of the plan
3 was sent to the Advisory Council. Unfortunately, the
4 plan -- this draft was not sent to that group, however
5 they were all consulted on the changes that are incorporated
6 here. So, I would propose changing this to say that
7 in September the following institutions and coordinating
8 agencies were consulted regarding these changes to
9 the state plan. I would also correct the name of the
10 Executive Director of the County Supervisors Association,
11 changing that from Denny Valentine to Larry Naake.

12 And the second change appears on page E-7.
13 Commissioner Commons has had a continuing interest
14 in the scoring criteria and he made some suggestions
15 for changing the rating of various criteria which I'm
16 in concurrence with and I think the staff also agrees
17 with. That would, on the top of page E-7, change the
18 number of points allocated for type of energy conversion
19 from 14 to 20, which increases the credits given for
20 alternative energy projects. And, lastly, reduces
21 the weight given to the type of energy saved, reducing
22 that from 11 to 5, which reduces the weight given to
23 electricity savings versus natural gas savings.

24 And with that, let me invite any questions.
25 Mr. Bakken, the manager of the program, is here to respond.

1 CHAIRMAN IMBRECHT: Maybe you could explain
2 to me the practical impact of changing those points values.

3 COMMISSIONER EDSON: Well, as I indicated,
4 it increases the credit given for, say, a biomass conver-
5 sion project or a solar project, as opposed to a project
6 which, in particular, saves electricity.

7 Maybe you can give a specific project example,
8 Mr. --

9 MR. BAKKEN: Well, by increasing -- well,
10 typically the solar projects and biomass--alternative
11 energy projects tend to have longer paybacks than do
12 some of the more straightforward conservation programs.
13 Consequently, in the past, they have not been able
14 to overcome that barrier by the way the points have
15 been weighted.

16 What we're doing here is giving some of these
17 biomass solar projects a little extra boost towards
18 being able to rank in our scoring procedure. And,
19 we're not necessarily changing the weighting of electricity
20 versus natural gas. We still weight the electricity
21 savings versus natural gas, but we're dropping that
22 down in the overall scoring to make the most important
23 two items, simple payback and use of renewable resources.

24 So, --

25 CHAIRMAN IMBRECHT: I guess I'm trying to

1 conceive of what type of projects would likely be traded
2 under those circumstances. If you could give me some --

3 COMMISSIONER EDSON: Given the weight given
4 to simple payback, it's hard for me to --

5 CHAIRMAN IMBRECHT: That's predominately --

6 COMMISSIONER EDSON: --imagine that it will
7 make a very dramatic difference in the actual projects
8 that come before --

9 MR. BAKKEN: Right. We're still heavily
10 weighted toward simple payback. Perhaps programs --
11 projects with four- to four-and-a-half-year paybacks
12 will drop down in the ranking, whereas maybe a solar
13 project will come up enough that it will be fundable.
14 It's not going to affect those projects, cogeneration
15 projects or HVAC projects that have currently been
16 funded at two-and-a-half to three-year paybacks.

17 COMMISSIONER EDSON: And, frankly, we seldom
18 get beyond about three or four years.

19 CHAIRMAN IMBRECHT: Okay. Commissioner Commons.

20 COMMISSIONER COMMONS: I think the major
21 impact would be given the weighting for electricity
22 versus gas versus oil. It would make it more easy
23 to have a natural gas savings project by reducing the
24 third criteria and that would be the primary impact.

25 The secondary impacts is there would be for

1 the renewable plus coal, there is more weighting. The
2 previous weighting made it very difficult for a natural
3 gas savings project to be funded.

4 CHAIRMAN IMBRECHT: Commissioner Gandara.

5 COMMISSIONER GANDARA: I had one question
6 for Presiding Member and/or for staff: As I recall,
7 when some of these projects come before us, one of
8 the requirements for some of them, I don't think it's
9 all of them, has been that they need to have -- the
10 applicant need to have expended some funds already
11 with respect to either having completed a technical
12 feasibility study or -- is that correct?

13 MR. BAKKEN: That's true. They have to go
14 through, on their own expense, an energy audit of the
15 facility; and secondly, they do a technical feasibility
16 study, which may or may not have been assisted in funding
17 through this program.

18 COMMISSIONER GANDARA: Does that remain unchanged
19 in these proposals?

20 MR. BAKKEN: Yes, it does.

21 COMMISSIONER GANDARA: I raised this issue
22 before and let me just mention my concern again. I
23 think that the intent is a good one. I have no problems
24 with the idea that basically somebody's already done
25 some work and knows what they want to do and can make

1 effective use of the funds, will be able to then apply,
2 and -- on the other hand, I was concerned that, to
3 some extent, a large potential for conservation may
4 exist in some schools or hospitals or institutions
5 that might not be as aware, and therefore, would not
6 have expended those funds to begin with. I mean, if
7 that's a criterium, then they would essentially not
8 be in the running for that and I think I became concerned
9 in particular when I saw some grants, I guess, going
10 to institutions that seemed to have, I think, considerable
11 sophistication and expertise and therefore be able
12 to take advantage of the funds.

13 Do we have programs that are targeted at
14 perhaps bringing the other institutions' level of awareness
15 and technical sophistication to where they might indeed
16 take advantage of these funds and apply for them?

17 MR. BAKKEN: Well, what we have done, during
18 this particular upcoming grant cycle, is we have gotten --
19 we've done our mass mailings. We've gotten the lists
20 from the health facilities people, from the Department
21 of Education, from the post-secondary commission, California
22 community colleges, and mailed directly to those people,
23 announcements of the availability, in addition to our
24 regular mailing list.

25 Secondly, we are going to have workshops for

1 these people two weeks from now.

2 Thirdly, we're proposing, in this particular
3 set of amendments, a method by which members of the
4 staffs of these facilities can be trained to be certified
5 energy auditors and become certified, which, during
6 the last year, hasn't been available. We are not doing
7 the training, but there are places that will be able
8 to train these people. The federal rules require certifica-
9 tion by the state of energy auditors, and many of the
10 places have been held back because they haven't had
11 funds to hire somebody and they haven't been able to
12 certify anybody on their staff at this point.

13 So, we're proposing to be able to allow these
14 people to be certified so they can use in-house people
15 to do this work.

16 And, that's primarily how we're doing it.
17 We're doing as much one-on-one conversing as possible
18 and working with these various trade associations,
19 if you will, to make people aware. And, then as people
20 have problems, we work with them as much as we can.

21 COMMISSIONER GANDARA: Well, again, since
22 this particular portion remains unchanged, I would
23 just hope that we would have some focus in trying
24 to reach those high schools, that perhaps, you know,
25 would not have the sophistication to be as -- in a

1 position to take as much advantage as some others--

2 COMMISSIONER EDSON: My understanding is
3 that requirement is in place by federal regulation--

4 MR. BAKKEN: The certification requirement?

5 COMMISSIONER EDSON: Yes.

6 MR. BAKKEN: Yes.

7 COMMISSIONER EDSON: And the prior energy
8 audit requirement.

9 MR. BAKKEN: Yes, those requirements of the
10 three-tier program are by federal rule. We -- I might
11 also add that our loan program will loan people funds
12 to conduct these studies.

13 COMMISSIONER EDSON: Right, which was going
14 to be my next point, that we are, through the loan
15 program, trying to reach those more difficult-to-reach
16 sectors that -- we have found that, I think, a large
17 amount of the money does tend to go to the very sophisticated
18 institutions that you're referring to. Attempts to --
19 we find -- we've also, as we've tried to confine the
20 program in building efficiencies, have run into problems
21 because as we do that, we tend to drop off the lower-
22 income institutions, so we are continuing to look at
23 that and trying to find ways that don't obviously require
24 tremendous staffing effort here.

25 CHAIRMAN IMBRECHT: Okay. Fine. Is there

1 any member of the public that wishes to comment or testify
2 on this item?

3 (No response.)

4 CHAIRMAN IMBRECHT: Do I hear a motion?

5 COMMISSIONER EDSON: I move the changes before
6 us with the two changes that I indicated on page A-1
7 and on page E-7.

8 CHAIRMAN IMBRECHT: All right, fine. It's
9 been moved, and seconded by Commissioner Commons, that
10 the amendments be adopted per changes noted. Is there
11 objection to unanimous roll call?

12 (No response.)

13 CHAIRMAN IMBRECHT: Hearing none, that will
14 be the order.

15 Item No. 2 is further consideration of the
16 contingency plan.

17 (Item No. 2 under separate cover.)

18 CHAIRMAN IMBRECHT: Moving on to Item No. 3,
19 this is a contract with public employees retirement
20 system. It appears to be fairly straightforward. Provide
21 four- to six-hour training program to instruct Energy
22 Commission personnel and employee benefit administrators
23 in the basic retirement benefit elements, et cetera.

24 COMMISSIONER EDSON: I'll move the contract.

25 CHAIRMAN IMBRECHT: Motion--

1 COMMISSIONER SCHWEICKART: And I'll second
2 it, but I have a question. And that is, for the staff,
3 is there any particular reason why this counseling
4 cannot be done by referring people to whoever would
5 be doing the training, as opposed to taking essentially
6 two or about three or four person-days from people
7 who are fairly heavily worked right now. That is,
8 do we need to get the training or can we simply refer
9 people who are eligible here to the people who would
10 otherwise do the training and save some staff time and
11 money.

12 DEPUTY DIRECTOR SMITH: I think to the extent
13 possible we would want to do that, because we have
14 very severe staff limitations in the area. In fact,
15 this interagency agreement and the \$3000-some that
16 is included there provides not only for the training,
17 but for the in-house processing at the public retirement
18 system, of these forms. So, that we are making as
19 much use as possible --

20 CHAIRMAN IMBRECHT: Maybe I'm misunderstanding.
21 This is something I should have looked into a long
22 time ago, but I can't understand why it is we have
23 to sign a -- what does the Department of Personnel
24 Administration do with their own funds that --

25 DEPUTY DIRECTOR SMITH: I believe that this

1 was a --

2 CHAIRMAN IMBRECHT: --I mean, aren't they
3 a --

4 COMMISSIONER SCHWEICKART: Service --

5 CHAIRMAN IMBRECHT: --a service oriented
6 agency for other operating arms of the state government?
7 Aren't they a control agency, in effect, that's there
8 to provide services to the rest of us?

9 DEPUTY DIRECTOR SMITH: No. No. Their responsi-
10 bility is to administer the retirement funds which
11 are administratively and legally separate from the
12 other funds available to state government. And, to
13 some extent, administratively, they're somewhat separate
14 from the other control agencies. So, they don't have
15 the same sort of role as the Department of General
16 Services or the State Personnel Board.

17 The enabling legislation that set up the
18 early retirement program, the Golden Handshake, I believe
19 requires that agencies that are participating reimburse
20 the public retirement system and the amount here is
21 just a little over \$3000. It's clearly to our advantage.

22 CHAIRMAN IMBRECHT: It's the principle of
23 it all. Yes, Commissioner Commons.

24 COMMISSIONER COMMONS: I'm probably going
25 to oppose this motion, along the lines of your questioning,

1 but I have a few questions I would like to ask. Aren't
2 the rules in writing?

3 DEPUTY DIRECTOR SMITH: The rules governing
4 what?

5 COMMISSIONER COMMONS: The program. Don't
6 they have--

7 COMMISSIONER SCHWEICKART: The Golden Handshake.

8 COMMISSIONER COMMONS: Don't they have something
9 in writing as to what the program is?

10 DEPUTY DIRECTOR SMITH: That's correct.

11 COMMISSIONER COMMONS: And you're saying
12 I could not go and get a copy of that? or we can't
13 get a copy of that?

14 DEPUTY DIRECTOR SMITH: You certainly can,
15 and we have copies of the rules.

16 COMMISSIONER COMMONS: And we don't understand
17 what they mean?

18 DEPUTY DIRECTOR SMITH: No. The rules and
19 the calculations that have to be performed are individual
20 for each retiree, depending on their contributions
21 and set of criteria that the public retirement system
22 has set.

23 COMMISSIONER COMMONS: How many people do
24 we have who are potentially eligible for this program?

25 DEPUTY DIRECTOR SMITH: We have, I believe,

1 in excess of 20; my understanding is that approximately
2 six of those have indicated that they have immediate
3 plans to take advantage of this. There may very
4 well be more--

5 COMMISSIONER COMMONS: Why do we need to
6 train four people to handle six?

7 DEPUTY DIRECTOR SMITH: As I indicated, in
8 response to Commissioner Schweickart's question, to
9 the extent possible, we would prefer that PER's staff
10 perform this work and that we minimize the involvement
11 of our own. I believe the four was an upper range,
12 just to provide an indication of how many people would
13 be involved in the processing of these here at the
14 Commission.

15 We certainly --

16 COMMISSIONER COMMONS: Well, I'd like to
17 move to amend the motion to instruct one Energy Commission
18 personnel, rather than four.

19 COMMISSIONER GANDARA: For the same price?

20 COMMISSIONER EDSON: Doesn't the Executive
21 Office have the discretion to enter into contracts
22 for less than \$3000?

23 DEPUTY DIRECTOR SMITH: I believe it's \$1500.

24 COMMISSIONER EDSON: \$1500.

25 COMMISSIONER SCHWEICKART: Sounds about right.

1 CHAIRMAN IMBRECHT: Sounds about right to
2 me, too.

3 COMMISSIONER GANDARA: We were getting four
4 for \$3800 and now we're going to get one for \$3800?
5 What--

6 CHAIRMAN IMBRECHT: No.

7 DEPUTY DIRECTOR SMITH: No, the training
8 is just one --

9 CHAIRMAN IMBRECHT: We're talking about maybe
10 saying no to the whole motion--

11 DEPUTY DIRECTOR SMITH: --portion of what's
12 being included--

13 CHAIRMAN IMBRECHT: --and let the Executive
14 Office handle this for less than \$1500.

15 DEPUTY DIRECTOR SMITH: Yeah, it's the processing
16 within PERS and overhead and a number of things that
17 we're required to reimburse them for.

18 COMMISSIONER GANDARA: Okay. I just have
19 one question, comment to this contract and the next
20 one, which is --

21 CHAIRMAN IMBRECHT: Well, hang on. Let's
22 take care of this one first. I mean, as I look at
23 the breakout here, \$570 of publications for six employees?
24 I mean, does -- the balance seems a little out of --

25 COMMISSIONER EDSON: They'd probably prefer

1 the cash.

2 DEPUTY DIRECTOR SMITH: I believe all of
3 the amounts are upper limits and this interagency agreement
4 is to establish a ceiling on the amount of the reimbursement,
5 not to specify the amounts that we're going to be transferring.

6 COMMISSIONER COMMONS: Mr. Chairman--

7 CHAIRMAN IMBRECHT: Yes.

8 COMMISSIONER COMMONS: I think if we have
9 eight people, the retirement application costs are
10 approximately \$102 per application and that we resubmit
11 this back to the Executive Office and see if they can
12 do it within their \$1500, and if they have a problem,
13 let them come back to us in the future.

14 EXECUTIVE DIRECTOR WARD: If I might mention
15 something. I think the sensitivity of the issue, I
16 certainly share some of the same questions that you're
17 raising on this. I think the dollar amount should
18 be viewed as a ceiling to give us the flexibility to
19 make sure that it's done in accordance with acceptable
20 procedures and that we don't have to come back to the
21 Commission again. I think that's an issue, if you
22 want to -- I think we should refine the figures and
23 all the kinds of comments you will -- you've been making
24 are to be taken seriously, but I hate the idea of having
25 to come back again, if it might stall the effort here

1 in any way.

2 CHAIRMAN IMBRECHT: Kent, let me just --
3 one quick housekeeping inquiry: Can't you expend up
4 to \$1500 in training on your own?

5 EXECUTIVE DIRECTOR WARD: That appears to
6 be what I'm hearing.

7 DEPUTY DIRECTOR SMITH: That's correct.

8 CHAIRMAN IMBRECHT: So you can get this thing
9 underway, right? or is this going -- this is upper
10 limits?

11 EXECUTIVE DIRECTOR WARD: That's right. In
12 other words, as Kent's indicating, there doesn't seem
13 to be a clear intention of spending the total amount.
14 I think it's a flexible figure to give us the ability
15 to deal with it within those resources. If we can
16 accomplish it within \$1500, we'd certainly do it.

17 CHAIRMAN IMBRECHT: Well, why don't we let
18 you give it a try.

19 COMMISSIONER EDSON: Perhaps it would be
20 useful to continue this item to the next business meeting--

21 CHAIRMAN IMBRECHT: Why don't we let you
22 give it a try and we'll continue this to the next business
23 meeting.

24 It's not a big amount of money, but it's
25 excessive expenditure for such a few number of people.

1 Okay, that'll be continued.

2 Item 4 is a contract with the California
3 National Diversity Data Base, Department of Fish and
4 Game, for \$5000--

5 COMMISSIONER SCHWEICKART: I'll move this
6 contract.

7 CHAIRMAN IMBRECHT: --comprehensive data
8 for biological resource analyses. Moved by
9 Commissioner Schweickart. Seconded by Commissioner Commons.

10 Does anyone wish to testify on Item No. 4?

11 (No response.)

12 CHAIRMAN IMBRECHT: Is there objection to
13 unanimous roll call?

14 COMMISSIONER GANDARA: I have one question.

15 CHAIRMAN IMBRECHT: Yes, Commissioner Gandara.

16 COMMISSIONER GANDARA: I thought there was
17 an executive order that did not permit interagency
18 agreements. That's the last Governor's executive order?

19 DEPUTY DIRECTOR SMITH: No, it permits inter-
20 agency agreements to be approved with an exemption
21 to the freeze, so our process has been, as with other
22 contracts, would be for the Commission to act on the
23 item today. Our next step then would be to process
24 the freeze exemption and then complete the interagency
25 agreement.

1 CHAIRMAN IMBRECHT: Is there objection to
2 unanimous roll call?

3 (No response.)

4 CHAIRMAN IMBRECHT: Hearing none, that will
5 be the order.

6 Does anyone wish to move an item from the
7 consent calendar?

8 One is a no-cost time extension; the other
9 are exemption claims for residential building standards.

10 Item -- I'm sorry, b.1) has been removed
11 from the agenda.

12 (No response.)

13 CHAIRMAN IMBRECHT: Okay, is there a motion
14 on the consent calendar?

15 COMMISSIONER EDSON: I move --

16 CHAIRMAN IMBRECHT: Moved by Commissioner Edson.

17 COMMISSIONER SCHWEICKART: Second.

18 CHAIRMAN IMBRECHT: Seconded by
19 Commissioner Schweickart. Is there objection to unanimous
20 roll call?

21 (No response.)

22 CHAIRMAN IMBRECHT: Hearing none, that will
23 be the order.

24 Is there objection to approval of the minutes?

25 COMMISSIONER COMMONS: Yes.

1 CHAIRMAN IMBRECHT: Yes, Commissioner Commons.

2 COMMISSIONER COMMONS: Just a minor technicality.

3 We have unanimously approved on all the divisions except
4 siting, and I think it was unanimous on siting, also.

5 CHAIRMAN IMBRECHT: What --

6 COMMISSIONER COMMONS: In terms of the work
7 plans.

8 CHAIRMAN IMBRECHT: Is there something --

9 COMMISSIONER COMMONS: It just says we approved--
10 we unanimously approved every one but siting. And
11 I think we unanimously approved siting.

12 CHAIRMAN IMBRECHT: Okay, will the staff
13 please note that.

14 Any further objections?

15 (No response.)

16 CHAIRMAN IMBRECHT: Hearing none, the minutes
17 are approved.

18 Are there any Policy Committee reports?

19 (No response.)

20 CHAIRMAN IMBRECHT: General Counsel?

21 MR. CHAMBERLAIN: No.

22 CHAIRMAN IMBRECHT: Executive Director?

23 (No response.)

24 CHAIRMAN IMBRECHT: Boy, this is clean. Does
25 any member of the public wish to comment on any matter

1 before the Commission?

2 COMMISSIONER EDSON: I have legislation in
3 my package, Mr. Chairman.

4 CHAIRMAN IMBRECHT: Pardon me?

5 COMMISSIONER EDSON: Is legislation being
6 taken up today? I have --

7 CHAIRMAN IMBRECHT: I didn't believe we --
8 Excuse me, yes, Commissioner Commons.

9 COMMISSIONER COMMONS: I'd like to ask the
10 Executive Director's office: At our last business
11 meeting, I believe we had discussed in terms of providing
12 support to those persons who will be laid off, that
13 we would have two persons assigned to that task, and
14 it wouldn't require a modification of the work plan.
15 I'd like to have a report on, are there two persons
16 currently working -- I think it's been a month, now,
17 and what is the status in terms of what is our support
18 that we're providing to these people?

19 DEPUTY DIRECTOR SMITH: In fact, there are
20 more than two persons working. As we indicated earlier,
21 Clare Poe is in a lead role in that office. He has
22 clerical assistants; and then in addition to that,
23 we've asked a number of staff people, managers here
24 at the Commission that have worked with industry to
25 form a support group for that office to strengthen

1 the industry contacts. And that group, I believe,
2 includes three upper-level management individuals.

3 What we would propose to do is, as part of
4 the Executive Director's report at the next business
5 meeting, is to ask the head of that office, Clare Poe,
6 to come in and provide a detailed description of his
7 activities and the success that they've had to that
8 point.

9 COMMISSIONER COMMONS: My concern is that
10 the primary time for job seeking should be August/September,
11 and as soon as possible. I understand he's only on
12 half-time with the Commission here, and I continue
13 to be concerned in terms of the priority and the alloca-
14 tion of resources to that; also, from a cost-savings
15 standpoint and our need for transitional funds, during
16 the period that people are looking or seeking employment,
17 it's a very difficult time, and I just want to raise
18 this issue because I have continuing concern that we're
19 doing everything possible to help those people. I
20 think it'll also make it more orderly for the Commission
21 during this period.

22 DEPUTY DIRECTOR SMITH: Well, we certainly
23 share your sense of the priority and the urgency of
24 having that office receive all the resources that it
25 requires and to start to produce some placement results.

1 And, in fact, that's been happening.

2 COMMISSIONER COMMONS: Would you please,
3 then, when he makes his report, I'd like to have an
4 update in terms of our placement activity, including
5 a breakout between public and private sector placement
6 and how many have been accomplished by the office and
7 how many have been accomplished by the employees.

8 DEPUTY DIRECTOR SMITH: We'll do that.

9 COMMISSIONER COMMONS: Thank you.

10 CHAIRMAN IMBRECHT: Okay, fine. I don't
11 see Luree. I'll try to run through the Government
12 Relations Committee report, which are basically to
13 ratify where we had solicited and received the support
14 of three members of the Commission as to the Commission
15 position that had to be taken relative to pending legisla-
16 tion.

17 I think each of the presentations are fairly
18 straightforward.

19 191 represented the compromise that was discussed
20 in detail with the appliance industry relative to appliance
21 standards, provided a two-year freeze, and a rolling
22 five-year period for adoption of new standards. There
23 would be no roll-back, nor could there be any roll-back
24 of existing standards, and finally the manufacturers
25 were required to supply the Commission with data on

1 appliance sales, which will be used to study the effects
2 of the standards, basically prove or disprove, once
3 and for all, the arguments as to the relative merits
4 of the standard approach.

5 Commissioner Commons.

6 COMMISSIONER COMMONS: As, I think it's appropriate
7 for me to raise the issue on the case of 191, since
8 I was one of the signatories on it, and in support
9 of the legislation.

10 I think it's a question I would like to ask
11 of the Commission: Where there are three or more
12 Commissioners who support legislation, although we
13 have not brought it through the full Commission, I
14 have found that the concept of the public process is
15 the opportunity for me to listen to other viewpoints
16 or public comments, sometimes as resulted, or the concept
17 is it could change my opinion. And, I'm not sure it
18 would be appropriate for us to state that the California
19 Energy Commission supports, even if it would be appropriate
20 for us to say a majority of the Commissioners of the
21 California Energy Commission support a piece of legislation,
22 unless it's actually gone through the Commission.

23 I understand the need for us sometimes to
24 act and to respond in a timely fashion. Maybe the
25 question there is allowing a Committee, whether it's

1 a unanimous viewpoint, to act in terms of a Committee,
2 or state what the Committee's opinion is, but I raise
3 the issue here in that I was a supporter. I think
4 it's more appropriate to raise it as a supporter than
5 maybe as one who is not in support of the action that
6 was taken in the particular case.

7 I clearly will support the legislation, or
8 the recommended position, but I think there's a question
9 as to procedure as to how we should operate in the
10 future.

11 And, I guess what I'd like to do is, rather
12 than having discussion at this meeting on it, I think
13 there's also a question as to when the Committee should
14 act. Because, I'd like to request you, as the Chair,
15 to have this issue go back to the Governmental Relations
16 Committee and come up with a recommendation as to how
17 we can --

18 CHAIRMAN IMBRECHT: Deal with the exigency
19 of time as well as the practical--

20 COMMISSIONER COMMONS: --deal with the problems
21 and deal with the procedure and not have the discussion
22 at this time.

23 CHAIRMAN IMBRECHT: All right, fine. I'll
24 accept that recommendation.

25 Commissioner Gandara.

1 COMMISSIONER GANDARA: Yes, I have a comment. I
2 have no problem ratifying the elements of the letter
3 dated August 30th. On the other hand, I guess I do
4 have a problem of how do we characterize that as whether
5 it's supporting AB191. AB191 has passed both the Senate
6 and the Assembly, and the versions are different, and
7 neither version contains the elements that are in this
8 letter fully.

9 For example, the Assembly Bill passed and
10 notwithstanding an L.A. Times editorial in support
11 of it, given the Energy Commission's indication that
12 we would approve of it.

13 Nonetheless, there were some significant
14 changes that were made. For example, there is no longer
15 the data request element in it, that, in fact, was
16 the subject of the L.A. Times editorial support, as
17 well as our support of it.

18 On the other hand, it had labeling, which,
19 of course, we've supported all along, but it wasn't
20 quite clear that that was going to be that.

21 On the Senate version, the Bill has no labeling
22 requirement, but does have the data request element.
23 So, it seems to me that I guess it goes to Conference
24 Committee to get those ironed out, but I think supporting
25 AB191 is different from supporting our particular position--

1 CHAIRMAN IMBRECHT: Now, what would occur,
2 under these circumstances, Commissioner Gandara, is
3 it returns to the Assembly for concurrence to Senate
4 amendments and only if there is nonconcurrence would
5 it go to Conference.

6 And, my understanding of the situation is
7 that the Senate version, being the last version of
8 the Bill, reflects the agreed-upon compromise and,
9 in turn, the author is not going to ask for a concurrence--

10 MS. STETSON: There--the author has asked--

11 CHAIRMAN IMBRECHT: --or--

12 MS. STETSON: --for nonconcurrence. It is
13 in Conference Committee right now. It is not clear
14 whether Conference Committee will be taken up, or if
15 the author will rescind his request for nonconcurrence
16 and the Senate amendments will then be taken up on
17 the Assembly floor.

18 There was no, as I understand it, from the
19 author's office, there is no intent to go back over
20 the--

21 CHAIRMAN IMBRECHT: Well, what this position
22 represents -- let's just make it very clear -- is in
23 support of the Bill, as passed by the Senate--

24 MS. STETSON: That's correct.

25 CHAIRMAN IMBRECHT: --does not -- and, in

1 the event that the Conference Committee were to change
2 any of the elements enunciated in that letter, then
3 that would, in turn, render our deal moot,--

4 MS. STETSON: That's correct.

5 CHAIRMAN IMBRECHT: --basically.

6 COMMISSIONER GANDARA: But the Senate version
7 has no labeling requirement which we have already --

8 MS. STETSON: That is an oversight by the
9 Leg counsel. I don't even believe the author or the
10 sponsors of the Bill are aware of that.

11 COMMISSIONER GANDARA: Okay.

12 CHAIRMAN IMBRECHT: Commissioner Commons.

13 COMMISSIONER COMMONS: Mr. Chairman, I think
14 what we ought to do is, since there was a majority
15 in support of the letter position--

16 CHAIRMAN IMBRECHT: Yeah.

17 COMMISSIONER COMMONS: --is that the position
18 we take as a full Commission today should be to adopt
19 the position as expressed in the letter.

20 CHAIRMAN IMBRECHT: That's exactly what I'm
21 suggesting, but I just was going down a quick -- what
22 I'd like to do is make a report on all four of the
23 Bills. If we're in agreement, we can adopt in one
24 quick motion.

25 COMMISSIONER GANDARA: One more question

1 for Ms. Stetson. Is there any indication why the author
2 asked for nonconcurrency, given that we had worked
3 out these amendments with the author of the Bill?

4 MS. STETSON: Nothing specific from the author's
5 office, but I'd like to talk to you about that afterward.

6 COMMISSIONER EDSON: Is it -- will the --

7 CHAIRMAN IMBRECHT: It should be obvious
8 that this is the first that I've heard of it --

9 COMMISSIONER EDSON: You indicated that labeling
10 was left out by error on the Leg counsel's part?

11 MS. STETSON: Originally Terry Goggin's Bill
12 incorporated the one-year inventory clearance provision,
13 elimination and also labeling requirement, subjects
14 that were in the Katz Bill, AB1386. Terry Goggin reached
15 agreement with Katz that Katz would carry the one-
16 year inventory clearance period provision and he would
17 delete that from AB191. That was done in a former
18 version. However, when the latest amendment to AB191
19 was drafted, it's my assumption that Leg counsel put
20 in current law, which left in the one-year inventory
21 clearance provision.

22 COMMISSIONER GANDARA: I would definitely
23 support the Senate version then.

24 MS. STETSON: I believe that was an oversight
25 by Leg counsel. I don't even believe the sponsors

1 of the Bill are aware that that's in the --

2 CHAIRMAN IMBRECHT: All that we're taking
3 action on right now is ratification of the position
4 as enunciated in the letter which is, in turn, the
5 Senate version of the Bill, and obviously that does
6 not mean a blanket support of 191, in the event that
7 provisions are altered and our support would --

8 COMMISSIONER GANDARA: Okay, I would concur
9 with that. I would also--

10 CHAIRMAN IMBRECHT: --change.

11 COMMISSIONER GANDARA: --suggest that perhaps
12 the Chairman communicate with the author--

13 CHAIRMAN IMBRECHT: I fully intend to. And
14 I intend to communicate with some of the interests
15 involved, as well.

16 COMMISSIONER GANDARA: Okay, fine.

17 CHAIRMAN IMBRECHT: In terms of insuring
18 that they continue to have a --

19 COMMISSIONER GANDARA: No further questions.

20 CHAIRMAN IMBRECHT: --positive good faith
21 working relationship with me.

22 Okay. The second item is the extension of
23 the Annual Petroleum Report deadline, which is basically
24 to accommodate additional data input, so that the product
25 we present to the Governor and to the Legislature,

1 as currently required by law, is complete and accurate
2 to the best of our ability and I think we are all familiar
3 with that issue.

4 Let's see --

5 MS. STETSON: The third item is --

6 CHAIRMAN IMBRECHT: --why don't you handle
7 this report.

8 MS. STETSON: Right. The third item is SB4,
9 Senator Montoya's Bill, that dealt with intervenor
10 funding. We took a position on it in its former version,
11 a support position with amendments, and there's a letter
12 in your packet indicating that, I believe. The Bill
13 has been significantly amended to require a council,
14 to establish a council, advisory council to the PUC,
15 which would contract out intervenor funding. And,
16 let me go into more detail. It would require the utilities
17 to pay reasonable compensation in formal proceedings
18 using user fees, okay, that was established in the
19 Budget trailer Bill, but it would also create an advisory
20 council that would be comprised of the President of
21 the PUC and appointees of the Governor, A.G., Speaker
22 of the Assembly, and the Senate Rules Committee, and
23 would require the PUC to establish, after consultation
24 with the council, an intervenor program to provide
25 intervenors to represent residential ratepayers in

1 proceedings. And, it also has certain requirements
2 for the type of intervenor contract applicants, okay.
3 The problem that staff found with the proposal was
4 one of precensorship. One of the requirements that
5 the council would have to review is whether the intervenor
6 applicants can prevail in a case. So, that is a determina-
7 tion that the council would have to decide up front
8 that may, in fact, eliminate a lot of potential intervenors.

9 We had a similar problem with the SB4, as
10 it was originally drafted, because it stated that there
11 could be no duplication, if you recall, between intervenors.

12 CHAIRMAN IMBRECHT: What's the momentum of
13 SB4 at this point?

14 MS. STETSON: Well, at this point, SB4 is
15 on the Assembly third reading file. These latest amendments
16 were originally in AB801, a Bill by Gwen Moore. They
17 were put into Senator Montoya's Bill when it was before
18 her Committee. After --

19 CHAIRMAN IMBRECHT: With or without his consent?

20 MS. STETSON: That's correct. Senator Montoya
21 plans on --

22 CHAIRMAN IMBRECHT: No. With or without?

23 MS. STETSON: Without.

24 CHAIRMAN IMBRECHT: Without.

25 MS. STETSON: Without. The Bill, according

1 to Senator Montoya, will be going to Conference Committee.

2 I just wanted to raise this for your interest,
3 as I understand it, in Conference, Senator Montoya
4 will shift it back to his former version or there will
5 be some compromise between the two groups in that area.

6 But, this is raised for your interest, because
7 we have taken a position on this subject before.

8 COMMISSIONER COMMONS: Let me ask a question.
9 My sources, the L.A. Times editorial page, where they
10 say nothing is going to take place this year in this
11 area, is the L.A. Times editorial page correct, or
12 do you feel that something is moving?

13 I guess the question I'm asking is is this
14 a premature action on the part of the Commission, or
15 are we talking about something that is a real issue
16 this year?

17 MS. STETSON: I think it is possible for
18 intervenor funding or a CUB Bill to pass this year.
19 I'm the last person to try to second-guess what the
20 leadership of both houses are doing, but there is some
21 momentum on the Senate side to have a Bill passed in
22 which the Senate Democrats can say they have helped
23 on utility issues. The question is what format it
24 will take and right now Senate Democrats are pushing
25 for a CUB-type proposal.

1 COMMISSIONER COMMONS: I have one other request:
2 When the agenda goes out, are the people that the agendas
3 go to, are they notified of the legislation that's
4 going to be brought before the Commission?

5 MS. STETSON: No, they are not.

6 COMMISSIONER COMMONS: Because there are
7 often parties that we work with who have, I notice
8 sometimes on the support side or the oppose side, have
9 specific interests, and the only way they would have
10 any awareness that an issue that they may feel is important
11 to them is going to be discussed is through the agenda.
12 I recognize that sometimes on legislation we have to
13 have actions moved ahead early. But, I would think
14 there's a number of occasions, and this is clearly
15 the four that we have here today are those that we
16 could have identified for the public and maybe I'm
17 throwing something to the Public Adviser's Office --

18 MR. PEREZ: I think it follows the experience
19 the Commission had several weeks ago with respect to
20 the two Bills you had proposed for consideration,
21 Commissioner Commons. And, I agree with you, where
22 the Commission can anticipate in timely fashion, we
23 ought to specify the Bills to be considered.

24 CHAIRMAN IMBRECHT: The only assumption that
25 underlies either of those comments is that the position,

1 the interests involved consider the position that this
2 Commission takes on the legislation to be critical
3 as to its fate before the Legislature, and I'm not
4 certain that there are that many interests that would
5 reach that judgment.

6 MR. PEREZ: Chairman Imbrecht, I was approaching
7 it more from an approach of the Commission's attempt
8 to comply with the law and the adequate noticing requirements
9 therein.

10 CHAIRMAN IMBRECHT: Um-hum, that's -- I under-
11 stand.

12 Okay.

13 COMMISSIONER GANDARA: I have a question
14 for Ms. Stetson on the provisions -- under the provisions
15 of the Bill, can we apply for intervenor funding?

16 MS. STETSON: That's a good question. If
17 we can, do we support the Bill, as is?

18 I don't know. I'd have to check with the
19 legal--

20 COMMISSIONER EDSON: Ultimately, the PUC
21 makes the award.

22 COMMISSIONER GANDARA: That raises an issue
23 of conflict of interest.

24 MS. STETSON: Maybe we can add an amendment
25 to that effect.

1 COMMISSIONER SCHWEICKART: Mr. Chairman.

2 CHAIRMAN IMBRECHT: Yes, Commissioner Schweickart.

3 COMMISSIONER SCHWEICKART: I-- to the extent
4 that I understand the Bill, which is admittedly somewhat
5 sketchy, I am concerned about an inadvertent perversity
6 or an unintended perversity, which I see highly likely
7 here. That is, if I understand the proposal, as you've
8 outlined it in the background information, specifically
9 items 2 and 3, but I think 1, also.

10 There would be formed an advisory council
11 to the PUC, which would, in essence, along with the
12 PUC, determine a contractor who would be formally designated
13 to represent the public in CPUC proceedings.

14 Now, if I understand that correctly, and
15 I also understand human nature correctly, since the
16 CPUC controls the pursestrings, the contractor, in
17 fact, will work for the CPUC, not for the public, in
18 spite of having formal sanction of working for the
19 public.

20 As a result, what I fear here is an unintended
21 perversity, namely that in a controversial proceeding,
22 the contractor, being sensitive to a new contract selection--
23 contractor selection coming up, may very well, in fact,
24 under the guise of representing the public, move into
25 a get-along and go-along response in a PUC proceeding,

1 thereby being even worse than not having the public
2 represent themselves in a proceeding, in that essentially
3 they will have the formal hat of representing the public,
4 and in fact, not be doing so.

5 Now, if I look at -- one could say, "Well,
6 the advisory council would protect against that," but,
7 if I look at the composition of the advisory council,
8 it's the President of the PUC, appointees of the Governor,
9 the Attorney General, Speaker of the Assembly, and
10 the Senate Rules Committee. All fine people, but none
11 of them public. And, I am concerned with an inadvertent
12 sanctification of a contractor paid for by the PUC to
13 represent an interest which may be quite in conflict
14 with the CPUC staff, in fact, often is.

15 So, I frankly, am opposed to the Bill in
16 this form--

17 CHAIRMAN IMBRECHT: How do you reach the
18 conclusion that none of those are public? First off,
19 I mean I like to think of my elected officials as members
20 of the public to begin with, and are sent by the public
21 to control the government, but it says appointees of
22 those individuals. Presumably that means that you're
23 going to get a fairly broad cross-mix of political
24 and ideological viewpoints, appointed by those appointing
25 authorities, and, you know, I think the chances of

1 John van de Kamp and Willie Brown are going to
2 send the same type of person that George Deukmejian
3 is to that kind of consideration are something between
4 slim and none.

5 So, I mean, I tend to agree with you that
6 the President of PUC being on it, has some onus of
7 conflict associated therewith. But, other than that,
8 I don't see the other problem.

9 COMMISSIONER SCHWEICKART: Well, I guess,
10 Mr. Chairman, that while not in any way impugning any
11 of the members of the council, my own experience in
12 dealing with, let me say the controversial CPUC issues
13 or ratemaking and the philosophy and what goes into
14 that, is that there is no quote-unquote "public position".
15 There is no single public position; that is, it is
16 a diversity of input from the public which, in our
17 proceedings, we hear and which, I think, is appropriate
18 for the CPUC to hear.

19 I support more the idea of some test of legitimacy
20 on the part of such a council and deferral of legitimate
21 legal expense, rather than the PUC, regardless of the
22 advice of the council, hiring someone to quote-unquote
23 "represent the public". In the latter case, the case
24 proposed here, there would essentially be a representation
25 of the public to some extent implying a shutting out

1 of other public comment, as opposed to the first being
2 if someone has legitimate input, that they deserve
3 some form of compensation to represent themselves in
4 a very formalized process.

5 I'm concerned with the institutional structure
6 getting in the way of the intended purpose, I guess,
7 is the best way to put it, notwithstanding that many
8 of the people here are elected by the public.

9 COMMISSIONER EDSON: Commissioner Schweickart,
10 are you suggesting that you agree with the staff recommenda-
11 tion?

12 COMMISSIONER SCHWEICKART: Never got to that.
13 (Laughter.)

14 COMMISSIONER EDSON: As I understand the
15 staff recommendation, they are saying that the contracting
16 approach, as laid out in the Bill, has a number of
17 inherent problems and that they prefer, although they
18 had raised concerns with the earlier approach, which
19 essentially provides funding after the intervention
20 takes place, so that intervenors run the risk of not
21 being funded, they consider that preferable to this
22 contracting approach. And you also seem to be raising
23 concerns with it.

24 COMMISSIONER COMMONS: I have a couple of
25 questions--

1 COMMISSIONER SCHWEICKART: Well, I -- excuse
2 me, to respond to Commissioner Edson's question, I
3 suppose, although the recommendation doesn't seem to
4 be all that specific, I suppose what I would say is
5 I would oppose the Bill in the form presented here,
6 and support a Bill which provided a legitimacy test
7 and direct ratepayer or intervenor support, where that
8 was needed.

9 CHAIRMAN IMBRECHT: Which, as a practical
10 matter, is outlined in the April 4, '83 letter and
11 represents the adopted position of the Commission on
12 this Bill at this point, and I would suggest we strike
13 it from the agenda as our position is not changed.

14 And that we would support the Bill if it
15 were amended to reflect the terms of that letter, but
16 not in its current form. I would --

17 MS. STETSON: Yeah, I think that --

18 CHAIRMAN IMBRECHT: All right, I'm just going
19 to remove that from my report so we can conclude this.
20 We'll stick with our initial position absent objections.

21 MS. STETSON: Again, I don't think this version
22 of the Bill is what will come out of the Conference
23 Committee, so--

24 CHAIRMAN IMBRECHT: It doesn't sound to me
25 like it's going to.

1 MS. STETSON: And it's more in line with
2 what the author--

3 CHAIRMAN IMBRECHT: AB1942 by Assemblyman Davis.
4 It's fairly straightforward. It grants authority to
5 public agencies to enter into energy service contracts
6 and third-party financing, and lease agreements for
7 conservation alternative energy projects. There's
8 some question as to whether or not local agencies have
9 that authority, where state agencies already do have
10 that authority. It is merely an effort to extend the
11 benefits of that financing approach to local entities.

12 So, that is the report--

13 MS. STETSON: We supported former legislation
14 in that area.

15 CHAIRMAN IMBRECHT: That we support that
16 position, that's right. So, it will be a report on
17 those three Bills, AB191, 1905 and 1942. I will move
18 adoption of the Committee Report, seconded by
19 Commissioner Commons. Is there objection to unanimous
20 roll call?

21 (No response.)

22 CHAIRMAN IMBRECHT: Hearing none, that will
23 be the order.

24 Is there any member of the public that wishes
25 to comment on any item before us?

1 (No response.)

2 CHAIRMAN IMBRECHT: Hearing none, we will
3 recess to Executive Session in five minutes in my office
4 to consider personnel demotion, laterals.

5 Thank you and we will then formally recess --
6 or adjourn, I should say, the business meeting at the
7 conclusion of the Executive Session.

8 (Thereupon, the business meeting of the California
9 Energy Resources Conservation and Development Commission
10 was adjourned at 11:45 a.m.)

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REPORTER'S CERTIFICATE

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

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

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14 Mardi Sines

15 Mardi Sines
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