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STATE OF CALIFORNIA  
ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

CALIF. ENERGY COMMISSION  
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BUSINESS MEETING

1516 NINTH STREET  
1st FLOOR HEARING ROOM  
SACRAMENTO, CALIFORNIA

WEDNESDAY, JANUARY 11, 1984  
10:23 A.M.

Reported by: Patricia A. Petrilla

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COMMISSIONERS PRESENT

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

EX OFFICIO

8 Bill Foley

HEARING OFFICER

10 Stan Valkosky

STAFF PRESENT

12 Randall M. Ward, Executive Director  
13 Bill Chamberlain, General Counsel  
14 Gregg Wheatland  
15 Bill Pennington  
16 R. Michael Martin  
17 Ted Rauh  
18 Arlene Ichien  
19 Karen Griffin  
20 Carroylin Threlkel  
21 Ray Tuvell  
22 Lorri Gervais, Secretary  
23 Linda Greule, Secretary

PUBLIC ADVISOR'S OFFICE

25 Ernesto Perez  
Gary Heath

ALSO PRESENT

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- David Goldstein, Natural Resources Defense Council
- Joseph McGuire, Air-Conditioning and Refrigeration Institute
- Richard Dean, Whirlpool Corporation
- Kent Anderson, Association of Home Appliance Manufacturers
- D. V. Dorey, General Electric
- Rick Oakley, California Manufacturer's Association
- Mike Gardner, Southern California Edison

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P R O C E E D I N G S

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3 CHAIRMAN IMBRECHT: I think we'll convene the  
4 meeting. We'll wait for Commissioner Commons before we  
5 proceed to Item 1.

6 A couple of housekeeping announcements to begin  
7 with. We have three items that have been removed from the  
8 agenda for various reasons, Item 3, Item 7, and Item 12  
9 have been pulled until the next business meeting. Item 4,  
10 which is the continuation of the adoption of the few  
11 remaining issues relative to the nonresidential office  
12 building standards will be taken up at 1:30 when we  
13 reconvene on conclusion of our luncheon recess, which we'll  
14 take at 12:00 o'clock.

15 We'll wait just a moment for Commissioner Commons  
16 before we move to Item 1.

17 (Pause)

18 CHAIRMAN IMBRECHT: Okay. The first item on the  
19 agenda is Commission consideration and possible adoption of  
20 a petition for rulemaking filed by the Natural Resources  
21 Defense Council to revise and upgrade the energy efficiency  
22 standards for refrigerators, refrigerator/freezers, room  
23 air conditioners and central air conditioners. I think we'll  
24 turn first to Mr. Ward on behalf of the staff, and then  
25 we'll ask to hear from the petitioner.

1 EXECUTIVE DIRECTOR WARD: We have Mike Martin  
2 and Bill Pennington from the --

3 CHAIRMAN IMBRECHT: Is your microphone on?

4 EXECUTIVE DIRECTOR WARD: Got me?

5 CHAIRMAN IMBRECHT: No.

6 (Checking microphones.)

7 EXECUTIVE DIRECTOR WARD: Excuse me. We have  
8 Mike Martin and Bill Pennington from the Conservation  
9 Division to outline the petition. A correction, to be  
10 totally consistent with the summary of the staff position,  
11 which is item number 3 on your cover memo, the item number  
12 6, Commission action recommended is inconsistent with that.  
13 It was an error in putting that together. In fact, the  
14 staff position is that this is a policy issue that's up to  
15 the Commission to decide based on some of the past action,  
16 both before I was Executive Director and subsequent to my  
17 appointment, that would be somewhat inconsistent with this,  
18 and so I raised it as a policy issue.

19 CHAIRMAN IMBRECHT: All right, fine, thank you.

20 MR. PENNINGTON: The staff finds the NRDC petition  
21 to have major technical merit, and we view this petition as  
22 accurately characterizing that there is a major opportunity  
23 to increase the efficiency of appliances in a cost-effective  
24 way. We also think that through this petition, there is the  
25 possibility of accomplishing major energy savings.

1            Supporting evidence from the petitioner is  
2 thorough, and we find it technically compelling. If a  
3 decision for granting the petition, and adopting the order  
4 instituting hearings was to be made solely on technical  
5 grounds, staff would recommend in favor of the petition.  
6 However, granting the petition appears to be difficult from  
7 a policy perspective, and also a budgetary perspective.

8            In terms of policy, prior to last spring,  
9 Commission policy, as expressed by previous Biennial Reports,  
10 was that the Commission should pursue upgraded standards  
11 for appliances, particularly for refrigerators and freezers.  
12 However, in reaction to proposed legislation last spring,  
13 there was a Commission approved position of establishing a  
14 moratorium on further appliance standards development, and  
15 staff believes that the different perspectives of these  
16 two policy aspects need to be reconciled if the petition  
17 is to be granted.

18            In terms of budget and work plan issues, we have  
19 considered how we could conduct the work that would be  
20 necessary in response to this petition, given that this  
21 work was unanticipated by approved work plans, and is  
22 essentially unbudgeted.

23            We believe that the work necessary to develop  
24 proposed regulations, and to justify those proposed regula-  
25 tions with supporting evidence is a relatively straight-

1 forward task. We think that this is probably something on  
2 the order of a 2 person month activity. The petitioner has  
3 provided extensive data in support of the petition. There  
4 also is information available that the Commission has put  
5 together previously in developing the Biennial Report, and  
6 working on other long-range plan activities for appliance  
7 standards programs.

8 We would expect that if we were to conduct this  
9 proceeding, we would fold in the clean-up aspects of the  
10 standards, which is Agenda Item 4, and that would require  
11 an additional three-fourths of a person month to do the  
12 technical work necessary to prepare those changes.

13 However, that staff allocation, that estimated  
14 resource level does not consider other support activities in  
15 the Commission that would be necessary to promote these  
16 standards, such as the legal support, environmental analysis,  
17 and other sundry supports that would be necessary to get the  
18 documents put together and out.

19 COMMISSIONER COMMONS: Excuse me. Could you  
20 repeat the PY, I missed that.

21 MR. PENNINGTON: Two person months for the  
22 technical work associated with revised standards for  
23 refrigerators and freezers, and three-fourths of a person  
24 month for the clean-up items that are Agenda Item No. 4.

25 The troublesome or difficult aspect of this is that

1 it's difficult to estimate what impact there would be in  
2 terms of resources necessary to actually adopt the standards,  
3 to actually respond to comments that are made by the public,  
4 and particularly if this became a controversial proceeding  
5 that required extensive time to deal with, certainly the  
6 estimate staff has made would be less than what would be  
7 required.

8           In order to accommodate the two and three-fourths  
9 person months estimate of resource necessary to prepare the  
10 technical documentation for our proposed standard, there  
11 would be several aspects of the appliance work plan that  
12 would need to be revised. Those include the building  
13 program budget, would have to cover technical analysis,  
14 primarily advice that we otherwise would expect from the  
15 appliance program to deal with appliance related building  
16 standards issues.

17           There would not be budget available to deal with  
18 additional appliance standards petitions that have yet to  
19 be received by the Commission. There would not be resources  
20 to establish, during the remainder of the fiscal year, an  
21 appliance industry advisory group, and it would be necessary  
22 to reduce staff involvement in national industry organiza-  
23 tions, but we feel that these are feasible changes to be  
24 made to accommodate the additional resources.

25           CHAIRMAN IMBRECHT: Let me see if I understand

1 you correctly. The two and three-quarter months that you're  
2 -- personnel months that you're talking about are a bottom-  
3 line floor, is that not correct? You're saying that's the  
4 minimum it would take to do technical analysis?

5 MR. PENNINGTON: That's what we think it would  
6 take to establish a proposed standard and support it with  
7 justification.

8 CHAIRMAN IMBRECHT: And that would encompass  
9 anticipated hearings and response to submissions by other  
10 parties, et cetera?

11 MR. PENNINGTON: That would be the development of  
12 the staff documentation necessary, the development of  
13 proposed standards language, and the presentation of that  
14 at a hearing or hearings. It would not include extensive  
15 response to comment, if there was that, if that was necessary.  
16 It's short of that.

17 CHAIRMAN IMBRECHT: Okay. I'm going to hazard a  
18 guess that there might be substantial comment, this would  
19 be my sense of the situation. So it seems to me like  
20 we're really talking a minimum as opposed to a realistic  
21 estimate. Two and three-quarters does not sound realistic  
22 to me, I would say.

23 MR. PENNINGTON: The required change that we're  
24 talking about here relates to only a minimal portion of the  
25 standards themselves. It requires a change to the

1 efficiency levels that are written into the standards for  
2 various appliances. It doesn't require us to do extensive  
3 revision of procedures associated with the program. It  
4 doesn't require us to develop a lot of strategy kinds of  
5 work to work out the procedural matters.

6 We basically would be taking our appliance  
7 standards as they stand and changing the efficiency levels.  
8 We would, of course, have to support that with documentation.  
9 The documentation that is available currently, either from  
10 the petitioner, or in-house already, is available, we think,  
11 to put that together with a very quick, and very short  
12 staff commitment.

13 Beyond that, responding to comments on that,  
14 criticisms on that work is something that is very difficult  
15 to estimate how much resources would be necessary, and is  
16 of the unknown at this point.

17 CHAIRMAN IMBRECHT: Okay, thank you.

18 EXECUTIVE DIRECTOR WARD: Mr. Chairman, I might  
19 add that this considers only the refrigerator freezer, not  
20 the central air conditioner standard in terms of the  
21 resource requirements.

22 MR. PENNINGTON: Yeah. That was the point I  
23 was going to get to next. We believe that there could be a  
24 similar process for developing proposed standards language  
25 and supporting that with justification for the air

1 conditioners, and indeed, we have in-house data, and again,  
2 the petitioner has supplied substantial data to support  
3 such change. We believe that it would take a similar amount  
4 of resource to develop that proposed standard so that we're  
5 talking about another 2 plus person months to do that.

6 We think, however, that if the decision was made  
7 to grant the petition, that there would be insufficient  
8 technical resources available to do both aspects of the  
9 petition simultaneously. The program would be stretched  
10 quite thin with the expertise that we have.

11 I mean, one of the reasons why we can -- we think  
12 we can do this work as quickly and efficiently as we're  
13 saying is because we have specific expertise that knows  
14 the problem, and knows the details, and has a background on  
15 the issue. That resource will be, essentially exhausted  
16 with doing the refrigerator/freezer petition.

17 So that if we were going to try to accommodate  
18 the air conditioning petition simultaneously, we would have  
19 to recruit other staff --

20 CHAIRMAN IMBRECHT: I understand.

21 MR. PENNINGTON: -- that would be less skilled  
22 staff, that would have an impact on other programs,  
23 probably. Our recommendation, I guess, is that if the  
24 petition is granted, that the two proceedings be handled  
25 sequentially, rather than simultaneously, and that we pick

1 up air conditioners after we finish refrigerators and  
2 freezers.

3 CHAIRMAN IMBRECHT: Thank you. Anything further?  
4 Anything further you wish to add?

5 MR. PENNINGTON: No.

6 CHAIRMAN IMBRECHT: Any further staff comments?

7 EXECUTIVE DIRECTOR WARD: Well, also, my associa-  
8 tion with the resources necessary to accomplish this effort  
9 was fairly recent, and I -- I think it's fair to mention  
10 that in summary of Bill's comments, it appears that the  
11 technical information is available, and so there's not  
12 anticipated much time to produce a technical document  
13 consistent with this petition.

14 But I have some questions based on the intensity  
15 by which we went through the first quarter work plan that  
16 there may be some other things that suffer as a result of  
17 that, and I apologize for not being able to provide that  
18 information at this point, and maybe that's something that  
19 the Budget Committee could get into.

20 I think this is a policy issue, again. Once  
21 that's decided, then we'd be able to deal with that.

22 CHAIRMAN IMBRECHT: Wonderful.

23 EXECUTIVE DIRECTOR WARD: That's exactly my thought.

24 COMMISSIONER GANDARA: I have a question, Mr.  
25 Chairman.

1 CHAIRMAN IMBRECHT: I used to think I debated  
2 budgets a long time. Commissioner Gandara?

3 COMMISSIONER GANDARA: What is the staff  
4 recommendation again?

5 EXECUTIVE DIRECTOR WARD: The staff recommendation  
6 is consistent with the summary of the staff position, that  
7 based on previous actions, the Commission's support of  
8 legislation, and adopted budget material, that this is  
9 somewhat in conflict with that, and that it's a policy  
10 issue for the Commission to deal with.

11 COMMISSIONER GANDARA: Well, I don't know if that's  
12 a recommendation. Is the recommendation to accept, deny, or  
13 no recommendation?

14 EXECUTIVE DIRECTOR WARD: There is no recommendation.

15 COMMISSIONER GANDARA: So you're retracting the  
16 recommendation in Item 6?

17 EXECUTIVE DIRECTOR WARD: Well, I -- that's a  
18 fair assessment.

19 CHAIRMAN IMBRECHT: I read it, the recommendation  
20 is simply contradictory to the summary of the staff position.  
21 Okay. Thank you very much. Next I would like to call upon  
22 Mr. David Goldstein, representing the petitioner, for his  
23 presentation.

24 MR. GOLDSTEIN: Thank you, Mr. Chairman and  
25 Commissioners. My name is David Goldstein. I'm the senior

1 staff scientist for the Western Office of the Natural  
2 Resources Defense Council. We're a nationwide environmental  
3 organization with over 10,000 members in California.

4 We submitted the petition because appliance  
5 efficiency is a key component of a least cost solution to  
6 California's electric energy problems. It's a key component  
7 because it has very low cost, and very high potential  
8 impact on electricity use.

9 For example, refrigerators are the largest single  
10 residential consumer of energy in California, and use the  
11 equivalent of about 2,000 megawatts of power plant in their  
12 operation. The potential savings from the standards that  
13 we've requested that the Commission look into in the  
14 petition are on the order of \$15 billion in net benefits to  
15 California over the next 25 to 30 years, until the year 2010.

16 In numbers that make more emotional appeal, that's  
17 \$1,200 of present value savings for every family in  
18 California in the year 2010 from appliance efficiency. To  
19 put into perspective the budget issue, if the staff estimate  
20 is on the order of 2 person months is correct, even if it's  
21 small by a factor of 10, the savings to employees of the  
22 Energy Commission from the standard will exceed the budgetary  
23 cost, leaving savings to the other 10 million projected  
24 households as pure net benefit.

25 We submitted the petition because the present

1 standards are obsolete. The refrigerator standards were  
2 set in 1976 based on 1974 technologies, and in response to  
3 standards, the technology has improved dramatically. In  
4 this country, the California standards would have required  
5 a 55 percent improvement in efficiency, and the industry  
6 met that, not just in California, but nationwide with a 59  
7 percent improvement in efficiency.

8           However, while the American industry was improving  
9 their efficiency by 59 percent, Japanese manufacturers were  
10 improving efficiencies by 220 percent to 500 percent. So  
11 there's a tremendous amount of increased technological  
12 progress that's been made in the time since the Commission  
13 last considered this issue in 1976.

14           Similarly for air conditioners, at the time the  
15 Commission set its standard, the level of the standard was  
16 constrained not by cost-effectiveness, but by the availability  
17 of models on the market. Well, since then, partly in  
18 response to the California standard, and to standards that  
19 other organizations like ASHRAE have set, there have been  
20 the introduction of equipment of higher efficiencies that  
21 are readily available right now, and some very high  
22 efficiencies that are available in less extensive production  
23 in the United States, and we feel the Commission should  
24 look at those to evaluate their cost-effectiveness, because  
25 we found that those improvements would be very cost-effective.

1           From a policy perspective, the Biennial Reports  
2 for the last three cycles have emphasized the importance of  
3 appliance efficiency standards. We feel that the Commission  
4 should act in a way that is consistent with those Biennial  
5 Reports, that if any changes in policy of this major a  
6 nature, and without appliance efficiency standards, there  
7 would basically be no policies by which the Commission  
8 could capture this immense conservation benefit from  
9 appliances.

10           We think the Biennial Report is the proper forum  
11 for settling those major policy issues. Concerning the  
12 minor policy issue of consistency with the moratorium, my  
13 understanding is that the purpose of the rolling moratorium  
14 on appliance standards was so that the industry would not  
15 face a constantly moving target; that a standard, once set,  
16 would remain in force for a significant period of time.

17           CHAIRMAN IMBRECHT: That's true, although, just  
18 so you understand what was encompassed in the legislation,  
19 it was a rolling moratorium after a two year freeze.

20           MR. GOLDSTEIN: Okay. I'm not familiar with the  
21 exact wording of the two year freeze, but it --

22           CHAIRMAN IMBRECHT: I think I can appreciate your  
23 point, absent that last fact.

24           MR. GOLDSTEIN: It's clear that the kinds of  
25 efficiency improvements that we have suggested in the

1 petition are not the kind that could be implemented with an  
2 effective date shorter than two years from now in any event.  
3 In other words, it would be fully consistent with our  
4 petition for the Commission to attempt to design the  
5 standards with an effective date in 1987, and I think that  
6 would solve the policy issue that's reflected in the debate  
7 in the Legislature, whether or not it's exactly consistent  
8 with the letter, because I haven't seen the legal analysis  
9 of it.

10 But the point is that to demand design changes  
11 from appliances, you have to allow, as the Commission has  
12 in the past, a couple of years for manufacturers to adjust  
13 their production facilities. We think that is consistent  
14 with the kind of policies we're asking in the petition.

15 On a more philosophical level, appliance standards  
16 benefit every major interest group that I can think of in  
17 the State of California. They obviously benefit residential  
18 customers through lower utility bills, they benefit the  
19 utilities of the state, most of whom support appliance  
20 standards. They benefit industrial and commercial customers  
21 through lower rates, or reduced rate increases, and also  
22 because with appliance efficiency standards, they're not  
23 responsible for paying incentive payments to get at  
24 consumers to buy efficient appliances that the utilities  
25 would otherwise, and properly so, try to impose.

1           The interesting thing is that increased appliance  
2 efficiency standards also benefit the appliance manufacturers.  
3 They do this in two ways. First of all, the appliance  
4 industry is facing a threat from the Japanese, whose  
5 magnitude I don't believe they properly appreciate.

6           The Japanese refrigerator manufacturers are  
7 producing products that use two-thirds less electricity  
8 than American models. They're very attractive products,  
9 they're fully frost-free, some of them offer features, or  
10 gimmicks that American ones do not offer.

11           Currently they're not made in the sizes that are  
12 appropriate to the American market, but that's something  
13 they could change practically overnight, if they seek to  
14 penetrate the American market. Plus, there's some evidence,  
15 at least in room air conditioners, that they might have an  
16 edge on American manufacturers in terms of quality.

17           If we seek to prevent the kind of debacle  
18 that overtook the American auto industry due to Japanese  
19 imports in the 1970's, I think appliance efficiency standards  
20 are the best way to do it, because they'll force the  
21 industry to become competitive with the best in the world  
22 on the level of energy efficiency.

23           CHAIRMAN IMBRECHT: Have you any evidence to  
24 suggest that Japanese manufacturers are making any significant  
25 effort to penetrate the refrigerator/freezer market in the

1 United States?

2 MR. GOLDSTEIN: I don't have any --

3 CHAIRMAN IMBRECHT: I haven't seen any marketing,  
4 let me put it that way.

5 MR. GOLDSTEIN: I've seen -- there's an article  
6 in "Business Week" about six months ago that suggests some  
7 plans of a limited number of manufacturers to penetrate the  
8 American market in, I think, room air conditioners and  
9 refrigerators.

10 When I asked a Japanese researcher about this  
11 issue about a year ago, I found that there was a great deal  
12 of reticence to even raise the issue that the manufacturers  
13 in Japan were very sensitive about that issue, and would  
14 not be very likely to leak information about an attempted  
15 marketing effort until it was well underway. It is  
16 something that is hard to find out about, because they're  
17 not particularly forthcoming with the information, yes, we  
18 plan to have 20 percent of the American market by 1987.

19 But the -- I believe the potential exists.

20 CHAIRMAN IMBRECHT: Well, the purpose of my  
21 question is, and all the variety of discussions that have  
22 been held on this, there's a contention by many that the  
23 Japanese product is not currently designed to meet American  
24 market demands.

25 MR. GOLDSTEIN: That's true only --

1           CHAIRMAN IMBRECHT: That in many instances it is  
2 a smaller unit with less features, and so forth, than what  
3 the American marketplace --

4           MR. GOLDSTEIN: Whoever told you that probably  
5 hasn't seen the Japanese refrigerators, because while they  
6 are smaller units, they don't have less features, and some  
7 of them have more features.

8           For example, there's one Japanese refrigerator  
9 that offers a fast freeze feature that it's supposed to  
10 preserve food that you're freezing yourself better, and  
11 that's not available on any American model. Several of  
12 them have doors that allow you to reach into the cabinet  
13 and get out a can of beer, or soft drink without opening  
14 the main door that seems real neat.

15           I've looked at the brochures, I've showed them to  
16 various people, and they'll look at some of the other  
17 features and say, gee, I wish they had those on American  
18 ones, I'd like to buy them. So obvious -- the feature issue  
19 is a line that I've heard from the manufacturers that just  
20 isn't borne out by my experience.

21           CHAIRMAN IMBRECHT: Let me put it this way, and  
22 this may be to some extent a common sense in the marketplace  
23 reaction, but I haven't seen any reticence on the part of  
24 any segment of the Japanese electrical device manufacturing  
25 industry to attempt to penetrate the American market where

1 they think they've got a product that will sell in America.

2 That leaves me to wonder, or question why we  
3 haven't seen efforts by the Japanese manufacturers to  
4 indeed market their products in the American market as we  
5 have seen in so many other product lines that deal with  
6 electronic, or electrically powered items.

7 I find it difficult not to conclude that they  
8 would be here if they felt they had a product that indeed  
9 met the expectations of the American public, and would be  
10 here in a big way, as they are in so many other areas,  
11 almost without exception.

12 MR. GOLDSTEIN: Well, I can offer one possible  
13 explanation for it, which is that the Japanese refrigerators  
14 cost slightly more than the American ones for the same  
15 capacity, because of their higher efficiency, and perhaps  
16 also because they're not mass produced in as large numbers  
17 as the American ones.

18 Current data suggests that the American consumer  
19 will not buy a three year payback on energy savings in  
20 refrigerators, and as a result of that, if I were a  
21 Japanese entrepreneur, I probably would hesitate to  
22 introduce these devices into the market until that changes.

23 Well, will it change? Maybe it will, maybe it  
24 won't. The American manufacturers were pretty convinced  
25 that Californians wouldn't buy Japanese automobiles in 1972,

1 but they turned out to be wrong, and they turned out to be  
2 wrong due to a couple of rather sudden events that increased  
3 peoples' consciousness of the importance of miles per  
4 gallon in automobiles.

5 I would submit that that's a significant risk,  
6 but certainly not a certainty, or a predictable result for  
7 the American manufacturers.

8 CHAIRMAN IMBRECHT: One final question I've got,  
9 in some of the other written submittals, and I assume we'll  
10 hear testimony to this effect later in the proceeding,  
11 there has been an allegation that the means by which the  
12 Japanese measure the energy consumption of their product  
13 lines is a different test or yardstick than applied here  
14 in the United States, and as a consequence, the figures  
15 which you've cited are inflated. Do you have any comment?

16 MR. GOLDSTEIN: Yes. I'm familiar with the  
17 Japanese test procedures. The best judgment and evidence  
18 that I have is that they represent an accurate portrayal  
19 of the energy consumption that these units will have in  
20 the field.

21 It's a different procedure than the American  
22 procedure, it's more realistic than the American one. I'm  
23 not sure whether the American test procedure is completely  
24 accurate for very highly energy efficient models. But if  
25 it is -- I have no reason to believe it is not. If it is,

1 then I think the test procedures should give comparable  
2 results.

3 A stronger statement is, there's no reason to  
4 believe that there is a bias one way or the other. In  
5 other words, there's no reason to believe that the Japanese  
6 test procedure produces more optimistic results than the  
7 American procedure. They're different procedures, I could  
8 go into the details if you're interested in how they do  
9 their measurements.

10 CHAIRMAN IMBRECHT: I might want to come back to  
11 that.

12 MR. GOLDSTEIN: They both -- the Japanese one  
13 seems realistic; the American one may well also be realistic.

14 CHAIRMAN IMBRECHT: Do we end up comparing apples  
15 and apples?

16 MR. GOLDSTEIN: The way -- the only way to compare  
17 apples and apples would be to test Japanese refrigerators  
18 using the American test methods.

19 CHAIRMAN IMBRECHT: Okay. I just want to look to  
20 that, and I want to hear from our staff as well as to the  
21 conclusion that the numbers cited on savings are indeed  
22 accurate. Okay, thank you. Anything further that you'd  
23 care to add, and then Commissioner questions.

24 MR. GOLDSTEIN: Yeah, let me continue on the  
25 point of the benefits of standards to manufacturers. One

1 benefit that I'm surprised they haven't realized is  
2 increased profitability. Standards will cause an increase  
3 in first cost as a purchase of energy supply, and so what  
4 happens with standards is manufacturers find themselves  
5 partially in the alternative energy business, as well as  
6 the refrigerator business, and they will make money on that.

7 Or alternately, if they only charged enough to  
8 cover costs, then all of the estimates of the costs of  
9 standards are inflated by more than a factor of two, and  
10 the refrigerator standards would pay back in about one  
11 year, rather than two and a half or three years.

12 But what's more likely is that the manufacturers  
13 will take the same mark-up on the efficiency improvements  
14 that they take on the rest of the production, and so they  
15 will make more profit from selling refrigerators, and that  
16 seems like an obvious benefit to them, and to their  
17 distributors.

18 I'd also like to note with the issue -- with  
19 respect to the issue of manufacturers that since it seems  
20 like all of the logical arguments say that manufacturers  
21 ought to favor in their own economic self-interest, a  
22 cost-effective standard, it seems like the opposition we're  
23 getting from manufacturers is one of ideology rather than  
24 self-interest -- or rather, ideology in the face of self-  
25 interest.

1 I'd like to single out one particular argument  
2 the manufacturers have made in the national context against  
3 appliance standards. In the national context, they've  
4 argued that you don't need standards because market forces  
5 will accomplish the same purpose.

6 If the Commission accepts that argument, it  
7 belongs in the Biennial Report. That is, if you think  
8 that refrigerators will increase their efficiency three-fold,  
9 then the forecast of electricity needs for the year 2000,  
10 should reflect that increase in efficiency.

11 Right now the BR doesn't do that. It projects  
12 very little change in appliance efficiency as a result of  
13 market forces. So if you believe the market forces argument,  
14 it belongs in the Biennial Report, and it belongs in -- as  
15 part of the utilities resource plans.

16 Now, I'm pretty confident that if you did that,  
17 the utilities would come in here very upset, because they  
18 don't believe that market forces will accomplish that kind  
19 of savings, and they don't want to plan for their  
20 reliability based on that hypothesis.

21 In fact, the rigorous evidence that we've been  
22 able to find suggests that market forces have been  
23 strikingly ineffective in the past in producing any increase  
24 in appliance efficiency.

25 CHAIRMAN IMBRECHT: What periods?

1 MR. GOLDSTEIN: Pardon me?

2 CHAIRMAN IMBRECHT: In what periods when you're  
3 saying in the past?

4 MR. GOLDSTEIN: From 1973 to 1981.

5 CHAIRMAN IMBRECHT: Okay.

6 MR. GOLDSTEIN: I'd next like to note that there  
7 are other states and regions that are interested in pursuing  
8 appliance efficiency in concert with the Energy Commission  
9 and can contribute in terms of staff work to helping to  
10 reduce the Energy Commission workload, and also can  
11 contribute to getting a more region-wide and uniform  
12 standard among the different states.

13 I've been assured by the Northwest Power Planning  
14 Council that they would be willing to work cooperatively  
15 with the Energy Commission, should the Commission grant our  
16 petition. I believe that there will also be work on  
17 improving appliance efficiencies in the State of Florida,  
18 and so there may be avenues for joint ventures in sharing  
19 the staff work with that state as well. But I'm confident  
20 that the Northwest Planning Council can contribute.

21 In summary, we urge the Commission to grant this  
22 petition because we believe the issue is important and  
23 significant. In fact, we believe it's one of the most  
24 important things the Energy Commission can do to help the  
25 ratepayers, and the California economy, and to help increase

1 the reliability of energy forecasting, which the Commission  
2 had done so much to improve over its history, since 1975.

3 Granting the petition does not necessarily mean  
4 that you agree with all the technical conclusions that we're  
5 presenting in the petition. It just means that you think  
6 that they're interesting enough, and have enough likelihood  
7 of being true, that it's worth a public proceeding, and  
8 staff effort in order to go through this with proper  
9 procedures, and to promulgate a standard if the facts, as  
10 gathered by the staff and by the public that will be  
11 participating, justify increasing the stringency of the  
12 standard, as we believe they do.

13 CHAIRMAN IMBRECHT: Okay, any questions? Thank  
14 you. Commissioner Schweickart.

15 COMMISSIONER SCHWEICKART: Mr. Goldstein, I  
16 wonder, since in the end, whether that's for purposes of  
17 analysis, 2002, or 2010, or whatever, but whatever one  
18 wants to pick as a temporary end, the public will pay either  
19 for the energy used in appliances without the change of  
20 standards, or they will pay for the energy used and the  
21 facilities needed to produce the energy with the new  
22 standards, which you're arguing for, as well as to pay for  
23 the higher costs of the additional -- and higher efficiency  
24 refrigerators.

25 Have you made any estimates of the bottom-line

1 cost to California ratepayers and homeowners one way or  
2 the other?

3 MR. GOLDSTEIN: Yes, we've --

4 COMMISSIONER SCHWEICKART: I recognize, in the  
5 formal presentation, you would do so, but it seems to me  
6 that the Commission is basically faced with a question of  
7 whether moving forward with this proceeding is, in fact,  
8 worthwhile, in light of budget policy, and other issues  
9 which we've got to look at.

10 MR. GOLDSTEIN: Okay. We estimated using a 2010  
11 final date. The present value of costs and benefits of  
12 standards to Californians. For the cost, we used the  
13 Biennial Report estimate of about 8 cents a kilowatt-hour,  
14 levelized, 1983 dollars for new power supply, and assumed  
15 that would be 10 cents by the time you got it to the end-use  
16 consumer.

17 Then for air conditioners, we included the capital  
18 -- the capital recovery of a power plant who is dedicated  
19 to producing the peak load that air conditioners would  
20 consume, and use the cheapest power plant, because it would  
21 be something like a cycling plant that would only be used  
22 occasionally.

23 The results of that calculation were the refrigera-  
24 tor standard -- let me get this a little bit -- well, the  
25 refrigerator standard would save approximately \$13 billion

1 in electricity costs, and the freezer standard about \$2  
2 billion in electricity -- oh, here are the more accurate  
3 numbers we've calculated -- \$12.9 billion in savings from  
4 refrigerators at a cost for the higher first cost of the  
5 appliance of \$1.2 billion.

6 For freezers, a savings of \$2.3 billion, and a  
7 cost of \$0.2 billion. Air conditioners, a savings of  
8 \$5.5 billion for a cost of \$2 billion.

9 COMMISSIONER SCHWEICKART: And the cost you  
10 refer to there is the cost of the -- the increased first  
11 cost of the appliance itself, is that correct?

12 MR. GOLDSTEIN: That's right, it's based --

13 COMMISSIONER SCHWEICKART: Aggregated over that  
14 period and discounted to present value?

15 MR. GOLDSTEIN: That's right.

16 COMMISSIONER SCHWEICKART: All right.

17 CHAIRMAN IMBRECHT: Commissioner Commons?

18 COMMISSIONER COMMONS: Mr. Goldstein, have you  
19 compared how the refrigerators and air conditioners are in  
20 other states that don't have standards compared to this  
21 state?

22 MR. GOLDSTEIN: Okay. Let me separate the  
23 question into the two appliances. For refrigerators, the  
24 manufacturers do not sell any, or many appliances that do  
25 not meet the California standard anywhere in the nation.

1 So apparently they complied with the California standard in  
2 all of their products, and figured that it wasn't worth  
3 maintaining two different lines for the savings of \$20 or  
4 less in manufacturing costs that it represents to produce  
5 the lower 1975 style efficiency.

6 For air conditioners, there are standards in  
7 other states. Forty some states have adopted ASHRAE  
8 standards for efficiency, and those standards have varied  
9 over time, becoming increasingly stringent, with the most  
10 recent bump for 1984 carrying the central air conditioner  
11 standard to 7.8 EER compared to California's 8.0.

12 So what we've seen is that efficiencies nationwide  
13 for air conditioners are lower than they are in California,  
14 but national efficiencies have been increasing on a schedule  
15 that is consistent with the increases in these other  
16 national standards, as well as the increases in the  
17 California standards.

18 COMMISSIONER COMMONS: Well, the point I'm trying  
19 to drive at is -- all right, I have to go out and buy a  
20 refrigerator, and not just because I'm on the Energy  
21 Commission, I know it still consumes electricity, and the  
22 consumer is not totally naive, and I don't think you can  
23 attribute 100 percent of the savings that you're discussing  
24 as coming from the standards.

25 Some people are going to go and want a refrigerator

1 that's going to last longer, be more efficient. Not  
2 everyone takes the perspective of three years. A lot of  
3 my friends, and maybe it's because I'm from Pasadena, they  
4 buy a refrigerator, they would prefer it to last the life  
5 of their home, and 15 years is considered a reasonable  
6 period of time, and to look at it from a longer term  
7 viewpoint.

8 Now, there are other people in the market who  
9 possibly look at a shorter term viewpoint. But the market  
10 is not composed of one type of buyer, and I think when you  
11 present the numbers that you're presenting, you're making an  
12 assumption that is erroneous.

13 Now I recognize that if everyone were to do what  
14 you're saying, the cost/benefit ratio, if your numbers are  
15 correct, would remain constant. But I don't think you can  
16 say that if we had no standards in the state, that the  
17 savings would be anywhere like the numbers that you're  
18 discussing.

19 MR. GOLDSTEIN: Commissioner, when we discussed  
20 this issue, a similar issue last time, with respect to  
21 nonresidential buildings, I think I would agree with you --  
22 I agreed with you then, that the market will accomplish a  
23 significant fraction of the conservation that's technically  
24 feasible and cost-effective with or without Energy  
25 Commission standards.

1           However, for appliances, if you look at data that  
2 tests rigorously, a hypothesis that market forces make a  
3 difference, and by that I mean, you look at states, or  
4 other -- you look at areas where the only difference  
5 between different sets of consumers is that one faces a  
6 higher electricity price than the other.

7           Question: Is there any evidence that consumers  
8 in areas with higher electricity prices, choose products  
9 of higher efficiency? The answer is, I have not seen a  
10 single piece of evidence that allows that interpretation  
11 despite having looked for several years.

12           COMMISSIONER COMMONS: Well, let me give you a  
13 piece of evidence and an alternative. One alternative to  
14 setting a standard is give an incentive. One of the things  
15 in fact, this Commission just recently established a  
16 Committee to try to look at and evaluate different ways of  
17 accomplishing the same objective, which is cost-effective  
18 savings of energy.

19           One method is standards, another method is the  
20 market. Well, one way, if the market is not working, is  
21 to utilize the practice that the PUC has instituted in  
22 the recent PUC case concerning PGandE. They allowed \$75  
23 for refrigerators that had a savings of 25 percent above  
24 our standards.

25           Now, previously it had been \$100 and \$50, based on

1 25 and 20 percent, and it's very interesting to note that  
2 the majority of persons buying refrigerators in the PGandE  
3 territory, opted for the 100 percent rebate, by putting an  
4 incentive onto the refrigerators, we actually had 80  
5 percent of the people in PGandE territory opt that way.

6           Isn't that an alternative to setting a standard,  
7 is to have another type of mechanism which is an incentive?  
8 One thing about a standard is it would mean that there  
9 might be some people who -- I have a guest cottage. I  
10 don't use a refrigerator there very often. I turn it off,  
11 in fact, 80 percent of the time.

12           For me, the standard might be cost-ineffective,  
13 and it doesn't allow people to enter into the market who  
14 are not using the refrigerator in the same way that the  
15 average person does. And so in a sense, we're restraining  
16 or restricting the market, while an incentive would allow  
17 me to take that into account.

18           MR. GOLDSTEIN: Commissioner, I certainly agree  
19 with you on the importance and validity of incentives. I  
20 think the numbers that I've seen, show that they seem to  
21 affect on the order of 50 percent of the market, which is  
22 pretty good participation, and perhaps we can get better  
23 than that.

24           I think that standards are more equitable to a  
25 larger number of people than incentives for a couple of

1 reasons. First is that nonparticipants have to pay the  
2 cost of incentives when all the benefits are, in fact,  
3 justified by the purchaser spending the money himself.

4 COMMISSIONER COMMONS: On the other hand, the  
5 participant is forced to buy the refrigerator that he may  
6 not want if you have the standard, so that there is a loser  
7 on both sides.

8 Let me say the point I'm driving at. Your petition  
9 is very narrow in my feeling. If there is a question as to  
10 the energy savings, what you're really giving us a choice  
11 to do is say, increase the standards. You're not allowing  
12 us to look at and evaluate all the options that may be  
13 available.

14 You may have your opinion on it, I'm sure we'll  
15 have testimony from others, and I'm trying to find out why  
16 we should have a narrow or restricted hearing on the topic,  
17 rather than allowing differing viewpoints to be brought up  
18 as evidence as part of the hearing procedure in order to  
19 evaluate different alternatives.

20 It may be the case that not -- that standards  
21 aren't the answer in all cases. It may turn out that it is,  
22 but if we don't even allow other information to come to the  
23 floor, it's kind of a one-sided hearing process.

24 MR. GOLDSTEIN: I think it would probably be, in  
25 order to discuss alternatives to standards in the process --

1 in the public process that would occur if the petition were  
2 granted. You know, we -- if as a result --

3 COMMISSIONER COMMONS: You would not object --

4 MR. GOLDSTEIN: -- of our petition, we found an  
5 increased incentive program in the state, we would be happy  
6 with that result.

7 COMMISSIONER COMMONS: If we were to grant your  
8 petition, would you support the broadening of it to have it  
9 include consideration of market forces, incentives, and  
10 other ways of accomplishing the same objectives to try to  
11 determine what is most cost-effective?

12 MR. GOLDSTEIN: Yes.

13 CHAIRMAN IMBRECHT: I think we're talking more  
14 than half a PY now, as we expand generally. Any further  
15 questions? Thank you, Mr. Goldstein.

16 MR. GOLDSTEIN: Thank you.

17 CHAIRMAN IMBRECHT: We may recall you for some  
18 further testimony later. Okay. We have a number of other  
19 people that wish to speak in opposition to the petition.  
20 First I'd like to call upon Mr. Joseph McGuire.

21 MR. MCGUIRE: Mr. Chairman and members of the  
22 Commission, my name is Joseph McGuire, and I am the Director  
23 of Public Affairs for the Air-Conditioning and Refrigeration  
24 Institute.

25 ARI is a national trade association of the

1 manufacturers of air conditioning and refrigeration systems,  
2 and those components. Our collective membership manufactures  
3 over 90 percent of the U.S. made air conditioning and  
4 refrigeration equipment.

5           Although several products of ARI's membership  
6 are regulated by the Energy Commission's Appliance  
7 Standards Program, they are not commonly thought of as  
8 appliances. The cooling systems produced are considered  
9 contractor products, as they require installation by  
10 qualified professional contractors.

11           The products covered by the CEC appliance program  
12 include central air conditioners with a capacity of less  
13 than 65,000 Btuh per hour, including heat pumps, and water  
14 cooled air conditioners; central air conditioners with  
15 capacities of 65,000 to 135,000 Btu per hour, and package  
16 terminal air conditioners and heat pumps which are included  
17 under the room air conditioner category of the appliance  
18 program.

19           My comments on the NRDC petition will concentrate  
20 on these referenced products as they relate to the NRDC  
21 petition. We urge the Commission to reject the petition of  
22 the NRDC before it today, because it is misleading and  
23 factually incorrect.

24           The NRDC petition refers to a 1980 DOE finding  
25 that standards for central air conditioners, at an EER of 9.9

1 would be economically justified for California. They do  
2 not mention in the petition, however, that since that time  
3 several technical errors in DOE's computer based assumptions  
4 were found.

5 As the Commission is aware, in 1983, DOE issued  
6 a no-standards standard for central air conditioners on the  
7 grounds that the standards could not be economically  
8 justified.

9 The NRDC petition also states that equipment with  
10 an EER of 14.0 is cost-effective, yet they make no mention  
11 of what applications would be appropriate for such products,  
12 or what they mean by cost-effective.

13 It is true that a small number of systems are  
14 available in the 14.0 EER range, but this does not mean  
15 that the level is cost-effective for all applications.  
16 Practically speaking, few if any units are sold at this  
17 range. This is because the highest efficiency number does  
18 not always represent the best and most practical unit.

19 You must remember that by jacking up the efficiency  
20 of a system, you necessarily increase the initial cost, and  
21 when you get into the range of 14.0, you increase the size  
22 of the unit considerably. Efficiency levels this high often  
23 result in very large compressors, or from the need for dual  
24 compressors. Such systems lose their ability to control  
25 humidity considerably.

1           So while the 14.0 efficiency number is available,  
2 it is by no means -- it can by no means be said to be  
3 cost-effective.

4           The petition also quotes the Carrier Corporation  
5 as saying in 1982 that fewer than 10 percent of air  
6 conditioners sold nationwide have EER's exceeding 9.0. ARI  
7 figures on national sales by SEER show 19 percent of all  
8 manufacturer shipments between January and June of 1983  
9 were above the 9.0 level, 8 percent were above 9.5, and a  
10 full 77 percent were above 8.0.

11           These very encouraging figures on trends in the  
12 energy efficiency of central air conditioners and heat  
13 pumps are due to a number of factors and do not necessarily  
14 point to the need to raise California's appliance  
15 standards. Our national statistics for the first half of  
16 1983 show many encouraging signs for energy efficiency.

17           In the central air conditioner category of 65,000  
18 Btuh and under, 78 percent of the shipments had an SEER  
19 greater than 8.0 compared to 75 percent in 1982. Thirteen  
20 percent were in the range of 9.0 to 9.4, as compared to  
21 9.56 percent in 1982. A full 19 percent were greater or  
22 equal to 9.0 compared to 14.0, 14 percent in 1982.

23           For unitary heat pumps under 65,000 Btu's, 65  
24 percent of the shipments were greater than 8.0 compared to  
25 54 percent in 1982. The number of units shipped in the 8.5

1 to 8.9 SEER range increased from two percent in 1982 to  
2 seven percent in 1983. Twelve percent of the heat pumps  
3 shipped in the first half of 1983 were 9.0 SEER or over  
4 compared to six percent in 1982.

5 In the split systems category, the percent of  
6 units in the 8.5 to 8.9 SEER range decreased by seven percent,  
7 but in the 10.0 and over range, shipments increased by 10  
8 percent. These statistics show an industry that is  
9 responding to an improved marketplace for energy efficient  
10 products.

11 Utility incentive programs, we believe, encourage  
12 purchases of the most efficient systems. Today it is hard  
13 to find advertisements in the trade magazines, or in product  
14 brochures that do not mention energy efficiency. We believe  
15 consumer awareness, and the real market energy prices are  
16 the primary reasons for these improvements.

17 We support the Commission's desire to work for  
18 an improved education program for consumers in this area,  
19 and we hope to work closely with the Commission on some of  
20 these projects. We also work very closely with the  
21 professional societies, such as ASHRAE, who work very  
22 closely with our industry in the manufacturing of our  
23 products, and the specifications for field installment.

24 The NRDC petition, we believe, wrongly presumes  
25 that efficiency standards should force technology to change.

1 This should not be the purpose of the standards. If they  
2 are to be justified, they should be only as a floor.  
3 Technology can only be dictated by the market, the price of  
4 energy, and the resources available to manufacturers for  
5 research and development.

6 Any standards program should recognize the nature  
7 of the industry to be regulated, it's distribution system,  
8 it's mix of large and small manufacturers, and its need  
9 for predictability. Legislation in California last year  
10 sought to institute a more predictable approach to further  
11 regulation. Such a concept we believe is meritorious.

12 I urge you to reject the petition on its misleading  
13 statements. We believe such an action in no way signals  
14 an opposition to energy conservation by the Commission or  
15 even its appliance program, but it should be a reflection of  
16 a marketplace that is improving. A motion to begin new  
17 proceedings on increasing the standards at this time we  
18 believe would be unfortunate for the potential for a closer  
19 government/industry partnership.

20 That concludes my statement. I would be happy  
21 to answer any questions the Commission may have.

22 CHAIRMAN IMBRECHT: Thank you very much. Are  
23 there any questions? Commissioner Schweickart?

24 COMMISSIONER SCHWEICKART: Are you claiming that  
25 the changes in the industry that you cited in terms of

1 delivered products and efficiencies thereof, were totally  
2 unaffected by the California standards?

3 MR. McGUIRE: I cannot say they were totally  
4 unaffected, but I also am not saying that the California  
5 standards were fully responsible for those improvements.

6 COMMISSIONER SCHWEICKART: Okay, so we're somewhere  
7 in-between.

8 MR. McGUIRE: Probably somewhere in-between.

9 COMMISSIONER SCHWEICKART: Okay, that's -- I  
10 appreciate the rationality of that statement. You also  
11 acknowledged within your statement that, although I think  
12 I perhaps missed it in Mr. Goldstein's presentation, or  
13 in his written comments, you seemed to indicate that the  
14 petitioner is arguing that standards should be established  
15 in some sense to define the upper performance, and --  
16 whereas you feel they should only be used as a floor.

17 I don't know whether Mr. Goldstein made that  
18 statement or not, but I take it that you do accept the  
19 concept of standards serving as a floor in terms of knocking  
20 off the lower end.

21 MR. McGUIRE: What I said was, if they are to  
22 be justified, it should be as a minimum, and not as something  
23 to force technology higher. I think in his statement, what  
24 I was addressing was the fact that on air conditioners, he  
25 mentioned a 14.0 EER number, which he said, in my opinion,

1 proved that technology was improving.

2 Well, technology is improving, and the 14.0  
3 number was not a cost-effective number in the industry's  
4 point of view, and therefore, by reading the petition, it  
5 was in my opinion that the technology forcing issue was  
6 one of the reasons why the standards should be made higher.

7 COMMISSIONER SCHWEICKART: All right. Certainly  
8 improvements in technology should also reflect a change in  
9 the floor, would that not also be the case?

10 MR. MCGUIRE: Well, not necessarily. I think  
11 that --

12 COMMISSIONER SCHWEICKART: No, I understand  
13 not necessarily. Clearly one doesn't have to have standards,  
14 necessarily, at all. So necessary is not the issue, but  
15 let me say that if standards are to be viewed, not as  
16 something we should define in the upper end, but essentially  
17 says below this level -- forms a floor, that below this  
18 level the society's in fact being disserved, as well as  
19 perhaps the end-user, then would dramatic changes in  
20 technology not suggest a gradual and commensurate raising  
21 of the floor, as well?

22 MR. MCGUIRE: With all that you added to that,  
23 I wouldn't agree with that. I think if they are to be  
24 justified, and I think it's hard to justify the standards,  
25 they should be as a minimum. But as technology does increase,

1 I don't think you can correspondingly say that the floor  
2 should be raised. I don't think there is a need to do that  
3 at this point.

4 I think that the technology and the marketplace  
5 have shown that more efficient products are sold, are  
6 available and are sold, and therefore, I don't agree that  
7 you necessarily should bring up the minimum standards in  
8 California because that has happened.

9 COMMISSIONER SCHWEICKART: All right. Just on a  
10 somewhat rhetorical basis, nevertheless, I would be interested  
11 in your response. Is there any fundamental difference  
12 between the argument which you're essentially making for  
13 rejection of the petition, which by the way, I find to be  
14 rather ridiculous on the face of it, that what we're  
15 debating here, it seems to me, improperly today, is the  
16 letter of the standard that one would argue for or against,  
17 rather than whether or not a petition ought to be granted.

18 But that notwithstanding, let me ask on a  
19 rhetorical basis, is there any fundamental element of the  
20 arguments that you present in terms of rejecting this  
21 petition, which would not, or could not also have applied  
22 to the automotive industry, let's say back in 1970, or '68?  
23 That is, are you -- is there a fundamental difference  
24 which you are in some way indicating which would apply to  
25 the appliance market, but which would not have been valid

1 at that time for the automotive industry?

2 MR. McGUIRE: I'm not sure if I can answer that,  
3 not knowing that much about the automobile manufacturers  
4 and that program. I think, you know, maybe the debate here  
5 is broader than the petition, but I think the petition,  
6 based on what's in it, does not justify increasing the  
7 standards. That was the primary point I'm trying to make.

8 COMMISSIONER SCHWEICKART: All right. Would you  
9 then not acknowledge that if we take a larger marketplace,  
10 forget California, and forget even the nation, let's take  
11 the world marketplace, that certainly market forces apply  
12 there as well as they do in California, or wherever else  
13 you feel they -- have been arguing that they apply, would  
14 you not acknowledge then that there is essentially, if in  
15 fact, let me -- and I at the moment will make an assumption  
16 here.

17 If in fact we grant Mr. Goldstein's fundamental  
18 arguments about efficiency improvements in, let's say, the  
19 Japanese technology and the U.S. technology, that in fact  
20 there is, then, a rather strong international marketing  
21 force which is created, which will either be satisfied,  
22 or resolved, I guess I should say, in terms of the penetra-  
23 tion of the existing market by that higher efficiency  
24 product, or some form of protective mechanism which would  
25 preclude the resolution being handled by an open market?

1 MR. MCGUIRE: Well, when you have --

2 COMMISSIONER SCHWEICKART: I mean, how can one  
3 explain a vacuum persisting in the middle of --

4 MR. MCGUIRE: When you're speaking of the  
5 international market, are you talking about air conditioners  
6 and refrigerators, because I think there are major  
7 differences in the products.

8 COMMISSIONER SCHWEICKART: I'm speaking clearly in  
9 general. I think Mr. Goldstein's remarks related pretty  
10 much to refrigerators in that particular international  
11 instance, but I'm interested in the principal here, and  
12 whether there are some -- whether I'm missing some fundamental  
13 market information, or conceptual information about the way  
14 markets work.

15 I mean, it is the reason why we're driving  
16 Toyotas and Datsuns, and other things around, especially in  
17 California today. I mean, they were better performing, they  
18 saved a heck of a lot of gas. Their cost was essentially  
19 equal to, or greater than finally the high efficiency U.S.  
20 products.

21 So the market forces apparently do work, and what  
22 I'm asking is, is there some principal here which I'm  
23 missing which would make this particular industry immune  
24 to that element. It seems to me we are talking here about  
25 factors which are real.

1 MR. McGUIRE: No, I don't think this industry is  
2 immune, but there are different categories of product lines  
3 in the industry that will be affected differently by  
4 manufacturers in other countries. For example, in our  
5 trade association, our product line is compressors, are  
6 experiencing competition in the United States from Japanese  
7 compressor manufacturers for a number of reasons, but to  
8 say that that is necessarily going to happen with manu-  
9 facturers of large systems is not necessarily correct.

10 The market in the United States is different than  
11 in Japan for air conditioning, and I think if the Japanese  
12 manufacturers, or from any other countries were to market  
13 central air conditioning systems in the United States, they  
14 would have the same constraints and realities that United  
15 States manufacturers have in terms of how big systems are,  
16 and what the desires of the consumers are, and other factors.

17 COMMISSIONER SCHWEICKART: Okay. Well, I think  
18 those are fairly equivalent, and we did have -- they had  
19 to put safety belts on when they sent their cars here, and  
20 smog control devices, and all those sorts of things. All  
21 right, I appreciate your response, thank you.

22 CHAIRMAN IMBRECHT: Thank you. Commissioner  
23 Gandara, did you have a question?

24 COMMISSIONER GANDARA: I forgot my question by now.

25 CHAIRMAN IMBRECHT: Okay. Commissioner Commons,

1 you going to pass?

2 COMMISSIONER COMMONS: Pass.

3 CHAIRMAN IMBRECHT: All right, thank you very  
4 much. Next, Mr. Richard Dean representing the Whirlpool  
5 Corporation.

6 MR. WHEATLAND: Chairman Imbrecht, maybe while  
7 the next gentleman is coming up, I can indicate that George  
8 Amaroli from the Public Utilities Commission called our  
9 office and asked us to state for the record that he is  
10 sending a letter to the Commission indicating the support  
11 of the Utilities Division of the Public Utilities Commission.

12 Mr. Amaroli, correct me if I'm wrong, Bill, but  
13 he is the Chief of the Conservation Branch of the PUC.

14 MR. FOLEY: That's right.

15 COMMISSIONER COMMONS: I have a copy of that letter,  
16 if you'd like, I can introduce it into the record.

17 CHAIRMAN IMBRECHT: All right, fine. Thank you.  
18 Mr. Dean.

19 MR. DEAN: Good morning. My name is Richard Dean,  
20 and I am Director of Government Relations for Whirlpool  
21 Corporation. We manufacture a full line of home appliances  
22 and central heating and cooling equipment, including those  
23 products specified before the Commission that are in the  
24 NRDC petition.

25 We urge that the California Energy Commission not

1 adopt the NRDC petition on the basis that its factually  
2 flawed and misleading, and based on the presumption that  
3 manufacturers need the club of a standard to improve  
4 efficiency. To rely on the assertions in that document as a  
5 basis to commence rulemaking, I believe, would not be a  
6 productive use of Commission resources.

7 In the alternative, I would propose that the  
8 Commission sanction the Appliance Advisory Committee approach  
9 and/or convene a workshop to identify, discuss, and evaluate  
10 issues that may or may not indicate need for action on the  
11 appliance standards program.

12 Whirlpool believes, as I'm sure you do, that the  
13 creation of a cooperative atmosphere is necessary in order  
14 to objectively evaluate appliance efficiency issues.

15 Before the Commission passes judgment on the NRDC  
16 petition, I'd like to discuss in some detail the errors of  
17 fact which attempt to justify higher standards for  
18 refrigerators and room air conditioners. I'm very concerned  
19 that the Commission receive information upon which to base  
20 a decision which is verifiable and accurately portrays the  
21 major appliance market both nationally and in California.

22 Let me first turn to NRDC's claim that "virtually  
23 no additional progress has been made beyond the currently  
24 effective standard". They compare the correct AHAM average,  
25 that's the Association of Home Appliance Manufacturers,

1 average 1981 refrigerator energy consumption of 1,190 KWH  
2 per year to an NRDC estimated energy consumption in 1978 of  
3 1,250 kilowatt-hours. The implication is that the five  
4 percent reduction in energy consumption between 1978 and  
5 1981 represents virtually no progress.

6 In contrast to NRDC's allegations, let's look at  
7 the facts. In 1978, the average energy consumption of a  
8 refrigerator/freezer was 1,453 kilowatt-hours. When compared  
9 to the 1981 energy consumption of 1,190 kilowatt-hours,  
10 represents a more accurate shipment-weighted energy consump-  
11 tion reduction of 18.1 percent over that period.

12 This number is based on actual industry data that  
13 was collected and aggregated by Ernst & Whinney. Clearly,  
14 as an industry, we've made progress at a rate of over three  
15 times what is in the NRDC petition.

16 With reference to the currently effective  
17 California standard, Whirlpool-manufactured refrigerators  
18 in 1981 consumed 12.6 percent less than if we'd just met the  
19 standards. That average included models which were as much  
20 as 35 percent better than the standard.

21 Perhaps more significant is that our 1984 refrigera-  
22 tor line is projected to consume, on a production weighted  
23 basis, a full 25 percent less energy than the California  
24 standard. The point is that we are making progress in  
25 building more efficient refrigerators without the need for

1 higher standards.

2           The danger is that if a higher standard forces  
3 designs that are not acceptable to the marketplace,  
4 consumers will be faced with unappealing choices among  
5 products that may not save significantly more energy when  
6 compared to voluntary industry efforts. Furthermore,  
7 replacement of less efficient products may be delayed, to  
8 the detriment of California energy conservation goals.

9           I would like to add parenthetically that we have  
10 submitted voluminous testimony to the Commission indicating  
11 how higher standards on room air conditioners in California  
12 have delayed replacement of older less efficient products.  
13 I'm making the same basic parallel.

14           The NRDC petition references a 16 cubic foot  
15 no-frost refrigerator that consumes 865 kilowatt-hours,  
16 which is 40 percent less than the California standard. The  
17 implication is that this represents the state-of-the-art  
18 that should be the energy design standard that the industry  
19 should adopt. In my view, this is an overly simplistic,  
20 misleading suggestion.

21           While it is quite true that we can produce  
22 refrigerators in the range of those efficiencies, it can  
23 only be done at a cost, and within a size category that will  
24 meet the needs of only a small portion of the marketplace.  
25 These segments of the market whose needs may not be met

1 include low income buyers, large families, purchasers who  
2 desire more highly featured units, and so forth. Our  
3 challenge as a manufacturer is to meet the expectations of  
4 all market segments, and maintain consistently high quality  
5 levels.

6 In addition, the NRDC cites a partial-automatic  
7 defrost unit that theoretically uses 66 percent less energy  
8 at 175 kilowatt-hours per year. We were advised by Mr.  
9 Goldstein last week that this unit is being sold by Sunfrost  
10 Corporation of Arcata, California.

11 We've attempted to locate this company for the  
12 purpose of inquiring about their unit. Frankly, we wonder  
13 if the company even exists after not being able to find  
14 either an address or a telephone listing. Even more  
15 astounding, according to Commission staff, Sunfrost Corpora-  
16 tion is not even in the Commission's directory.

17 The petition goes on to assert that the Japanese  
18 have increased the efficiencies of their refrigerators from  
19 55 to 80 percent by 1981, compared to a 31 percent increase  
20 by U.S. appliance manufacturers. On the surface, these  
21 differences seem to be quite significant.

22 However, the Commission should be aware that the  
23 Japanese efficiency increases are based on Japanese test  
24 procedures, which according to the meetings we've had with  
25 Matsushite engineers in Japan, give energy values of

1 approximately 20 percent less than with the DOE test. For  
2 example, if the DOE test had been run on a Japanese  
3 refrigerator, a 1,000 kilowatt-hour unit would be -- would  
4 rate out at 1,200 kilowatt-hours. This factor alone casts  
5 doubts on the wide differences between Japanese and U.S.  
6 industry achievements.

7 It's also interesting to note that in the NRDC  
8 petition we cannot find what base the Japanese efficiencies  
9 were calculated from. The U.S. base is 1972.

10 NRDC also claims that the proposed DOE standards  
11 in 1980 were exceptionally cost-effective. What the  
12 Commission may not be aware of is that the Carter Adminis-  
13 tration's Wage and Price Council, U.S. Department of Justice,  
14 Small Business Administration and U.S. Department of  
15 Commerce all condemned the standards as being anti-  
16 competitive and unjustified.

17 To increase room air standards (sic) would be  
18 detrimental to California consumers. Of the 41 models in  
19 our 1984 room air conditioner line, we can only offer 16  
20 models for sale in the state. To raise the standards would  
21 pressure prices even higher than the premiums paid today in  
22 California, and may likely cause voids in several size  
23 categories.

24 As higher and higher prices continue to delay  
25 replacement of inefficient air conditioners, I wonder how

1 much incremental energy will be saved.

2           Finally, I must respond to the energy savings  
3 projections in the petition. It appears that the 12,000  
4 megawatts of end-use power savings is based upon, as far as  
5 we can determine, a 450 kilowatt-hour per year standard.  
6 Given today's level of technology, I believe it would not  
7 be possible for consumers to replace their current  
8 refrigerators with a commercially feasible, no-frost  
9 refrigerator with a capacity of more than 15 cubic feet, at  
10 a feature level demanded by today's consumer.

11           Moreover, at the historic replacement rate of  
12 four percent per year, even with a 450 kilowatt-hour  
13 refrigerator, it's unlikely that the savings could be that  
14 high. It is also interesting that NRDC does not appear to  
15 factor any energy efficiency improvements by industry into  
16 its savings projections.

17           We again urge that you reject the petition, if  
18 not on its merits, because it may be inconsistent with  
19 Commission policy.

20           Last year when the Commission decided to support  
21 the standards freeze bill, or the Goggin Bill, AB 191, there  
22 seemed to be the implication that action to amend current  
23 standards would not be on the planning horizon. In addition,  
24 discussion of the creation of an appliance advisory group  
25 also implied endorsement of a cooperative working

1 working relationship with industry. I believe support of  
2 the petition would be somewhat contrary to that direction.

3 I'd like to, before concluding my formal remarks,  
4 make a couple of responses to questions that you have asked,  
5 that Mr. Goldstein has responded to. One of the issues  
6 that surfaced this morning is that the market forces don't  
7 work, and that products that are not regulated by standards  
8 don't increase in efficiency.

9 It's interesting to note that products that are  
10 not covered by any national standards, such as clothes  
11 washers and dishwashers, there have been significant  
12 increases in efficiency, and we believe to a large degree,  
13 this is due to demands of the marketplace.

14 For instance, clothes washers have increased in  
15 efficiency by almost 52 percent, and dishwashers by 45  
16 percent in the same period since 1972.

17 It's also interesting to note that there's been  
18 a PGandE study, which Mr. Anderson may comment on later,  
19 which indicates that purchasers of refrigerators are  
20 motivated by both energy efficiency and price. So I think  
21 there's some indication there that the marketplace does  
22 respond to that.

23 I have a comment which I would like to read to  
24 you from some testimony we gave to DOE. It's sort of a  
25 Harvard Business School type case study of how the marketplace

1 does work in terms of the FTC labeling program, and I'd  
2 like to share that with you, because I think it's relevant  
3 to today's proceedings.

4 I'm going to conceal some of the competitive names  
5 here for competitive reasons, but in 1978 we established  
6 objectives for a new 14 cubic foot refrigerator to be 28  
7 inches wide with foam blown insulation, which is a very  
8 efficient design, which would replace a 30 inch wide  
9 fiberglass insulated model, and was intended to compete  
10 directly with a comparable model manufactured by Greenville  
11 Products, now that's part of White Consolidated Industries.

12 At the time, the Greenville model had an energy  
13 rating which would have converted to \$75 per year on today's  
14 FTC label. Since we were cooling a completely new unit,  
15 we wanted to be assured of being energy competitive for  
16 several years. We therefore set an objective that would  
17 have converted to \$60 a year, or \$15 less per year on an  
18 annual operating cost basis.

19 The tooling release had hardly been issued before  
20 the Greenville model was improved to the equivalent of \$65  
21 per year. When the FTC labeling program was established,  
22 we adjusted our objective to \$59, the rating that was  
23 achieved with our 1981 models.

24 But in June of 1981, the AHAM directory -- in the  
25 AHAM Directory, Greenville showed models of \$57 and \$51 and

1 our model had fallen behind. In the January 1982 directory,  
2 they showed a model at \$48 and this was still the best  
3 value in the latest directory.

4           However, during the last half of 1983, we made  
5 models available that would rate out at \$47. This model  
6 would appear in the 1984 AHAM Directory. In addition, there  
7 will be a special high efficiency model listed in the  
8 equivalent of \$44. While we do not choose to reveal our  
9 future plans, we will be assured that they will -- it's  
10 competitive posture will be protected.

11           What I'm indicating here is that there is  
12 competition within our industry to provide high efficiency  
13 products to the marketplace, so I think we have a demand  
14 push and a demand pull type of situation here.

15           A couple of final comments. Mr. Goldstein  
16 asserts that these standards, or increased standards would  
17 be of benefit to our industry. I don't necessarily agree  
18 with that approach. He brings up the point that we'd be  
19 protecting ourselves from Japanese competition.

20           We consider ourselves a major manufacturer of  
21 sales of almost \$3 billion a year, and we are not about to  
22 jeopardize our competitive posture in this company by not --  
23 or in this country by not being totally aware of what the  
24 Japanese market is. We are aware of Japanese products, we  
25 are constantly testing Japanese products, we've torn them

1 apart down to the last screw, you know, we are aware of what  
2 the Japanese are doing. We don't think that they, at this  
3 time, provide a significant threat to our industry.

4           They will find a niche in the market, there's no  
5 doubt about it, but it's an extremely expensive product  
6 to import into this country, because basically you're  
7 shipping a cavity full of air, so they do have some costs  
8 that domestic manufacturers don't face.

9           It's also interesting that when you price products  
10 in today's marketplace, it's not possible, because of  
11 competitive price pressure, to recover each additional  
12 dollar that you put into the product. For instance, if  
13 something costs you \$25 in terms of materials, labor, and  
14 burden, it's unlikely that you'd be able to get the full  
15 \$25 increase out of that price. So it is something less,  
16 and I don't think that the implication that we can recover  
17 on a dollar-for-dollar basis ought to be left unchallenged.

18           One last point on quality, I am aware of a  
19 domestic manufacturer that is now producing room air  
20 conditioning units for Panasonic. So Mr. Goldstein did  
21 raise the issue that there's been some studies, and I did  
22 read the Harvard Business School study on air conditioner  
23 quality, but it also is interesting that based on the  
24 conclusions in that report, that the Japanese are coming to  
25 us to build some room air conditioners for them.

1           So at this point, I'd be pleased to answer any  
2 questions you might have.

3           CHAIRMAN IMBRECHT: Are there questions for Mr.  
4 Dean? Commissioner Commons?

5           COMMISSIONER COMMONS: First I'd like to correct  
6 for the record that this Commission has not taken a position  
7 on the Goggin bill. Three Commissioners did sign a letter,  
8 but there has not been a formal action by the Commission on  
9 the bill.

10          Since you mentioned the bill, and how this  
11 Commission's attitude was, what is your company's attitude  
12 on that?

13          MR. DEAN: We support the concept of a freeze --  
14 you're asking me about the freeze approach, we support the  
15 general concept of a freeze, because it does put some  
16 degree of order into the system. We have a significant  
17 problem with the Goggin bill as it currently exists, because  
18 of the data disclosure requirements. We feel that that  
19 could be negotiated with the Commission without the need  
20 for legislative language which would require specificity  
21 with respect to the type of data to be released.

22          COMMISSIONER COMMONS: One aspect of the bill has  
23 the five year rollover concept, which my understanding from  
24 industry is beneficial in that it allows you to do  
25 engineering and design, and then have a stable market. It

1 appears in the petition that we have, that there's a  
2 difference between the air conditioning, and the refrig-  
3 erators in terms of the number of years the standard has  
4 been in effect in the Commission. Is there a reason for us  
5 to distinguish between the two on that basis, in your  
6 opinion?

T.3 7 MR. DEAN: In my opinion, and I'm not sure I  
8 exactly understand your question, but I don't think the  
9 amount of time that the standard has been in effect is  
10 really relevant to the argument in the petition. In the  
11 case of air conditioners, the standard that exists today  
12 is still challenging, it still prevents what you might  
13 term inefficient products -- we may not term it this way,  
14 but how you may determine it, from coming into California.

15 If that standard had been in effect for 15 years,  
16 it's still a challenging standard. In the case of  
17 refrigerators and freezers, on the other hand, we feel that  
18 the marketplace is demanding efficient products today, we  
19 are continuing to build efficient products, so the amount  
20 of time that the standard has been in effect, I don't think  
21 is relevant to the argument.

22 COMMISSIONER COMMONS: Well, then, I listened to  
23 your argument concerning the petition. It's almost like  
24 you had submitted a petition to us that the existing  
25 standard is not the appropriate standard, in any event. If

1 we were to grant the petition, would you want to see any  
2 change in terms of the rulemaking proceedings that would  
3 subsequently follow, which would address some of the  
4 comments that you made in your presentation?

5 MR. DEAN: Well, as I mentioned, we do oppose  
6 adoption of the petition, and we'd rather discuss these  
7 issues on a more informal basis. However, based upon the  
8 way the staff order to institute hearings is drafted, it  
9 would appear that it's very, very restrictive.

10 It might be more beneficial, and perhaps less  
11 adversarial to discuss other options available, other  
12 decision options available such as consumer education  
13 programs, there may be other ways to track efficiencies,  
14 there's a monitoring program, there may be other policy  
15 options available that may be precluded by that staff draft.

16 So if there would be more options available during  
17 a hearing to discuss and consider, that would be beneficial.

18 CHAIRMAN IMBRECHT: Okay. Commissioner Gandara.

19 COMMISSIONER GANDARA: I have a question for you,  
20 Mr. Dean. On the NRDC petition as you responded to it, as  
21 they responded to it, has mainly been responded to in terms  
22 of the merits of the issues, a lot of factual, perhaps  
23 disagreement, or asserted factual disagreement, and yet  
24 when we're dealing with a petition, we're only dealing  
25 with respect to whether there is a prima facie case made for

1 an order instituting hearings, in which case, of course,  
2 the factual determinations are made as to whether you are  
3 correct in every respect, or whether Mr. Goldstein is  
4 correct in every respect.

5           It seems to me that over the time that I've been  
6 presiding over the appliance efficiency standards, there have  
7 been repeated requests made for the kind of information that  
8 you say can be negotiated or can be provided. I have  
9 invited the appliance industry to participate in making  
10 these market force arguments in the electricity proceedings  
11 where I believe it was properly pointed out by Mr. Goldstein  
12 that would be the place to make the argument.

13           I invited you the time I was presiding, and we  
14 didn't get a response. Commissioner Commons has also  
15 invited that dialogue, I'm not quite sure that at the time  
16 of the hearings come up, in fact, will be there, but I'm  
17 hopeful.

18           So that to some extent, to be fair, I think I  
19 would be skeptical about the -- an informal arrangement as  
20 to either the provision of information, or to a resolution  
21 of an issue that frankly at this point, really, is there  
22 merit on its face, not is every point correct or accurate.

23           In particular, I guess I was a bit concerned by  
24 your statement in which you indicated that you support at  
25 first the Goggin bill, and then would hold the Commission to

1 what you perceive to be its agreement, or its quid pro quo,  
2 and yet you would back off from the data requirement that  
3 was an element of that bill.

4 As you know, there really isn't one bill, there  
5 are two bills, there's the Senate version and the Assembly  
6 version, and one version also contains a labeling requirement.  
7 Would you also support that?

8 MR. DEAN: No.

9 COMMISSIONER GANDARA: So you would support only  
10 those portions of whatever bill you're referring to that  
11 would restrict the Commission, but you would not support  
12 those portions that would make it both informative for the  
13 Commission to be able to evaluate this issue, and you would  
14 not support the labeling requirement, which would be an  
15 information program to the consumer as well, right?

16 MR. DEAN: The labeling program, as I take it,  
17 would deal with whether or not the product qualifies, or  
18 is certified by the state as qualifying under the standards,  
19 is that the labeling that you're referencing?

20 CHAIRMAN IMBRECHT: It's a data manufacturing  
21 labeling requirement.

22 MR. DEAN: Pardon me?

23 CHAIRMAN IMBRECHT: Date of manufacture labeling  
24 requirement.

25 COMMISSIONER GANDARA: I'm not quite sure exactly

1 what the Goggin bill contains.

2 CHAIRMAN IMBRECHT: That's what's in the bill, and  
3 that's a date of manufacturing labeling requirement designed  
4 to facilitate efforts of local building officials and others  
5 to ensure that the products being sold in California --

6 MR. DEAN: Date of manufacturing labeling I  
7 thought was current law. The labeling that --

8 CHAIRMAN IMBRECHT: Am I misstating?

9 COMMISSIONER COMMONS: The bill that we passed  
10 this year had the date of manufacturing.

11 CHAIRMAN IMBRECHT: That's correct.

12 MR. DEAN: The date of manufacturing is current  
13 statute as I understand it.

14 CHAIRMAN IMBRECHT: You're correct, I'm sorry.  
15 What provision of labeling is there in the Goggin bill?

16 MR. DEAN: I think Commissioner Gandara is  
17 referencing a label which would say this product is  
18 certified by the California Energy Commission, or complies  
19 with it --

20 COMMISSIONER GANDARA: Yes. I believe -- I'm not  
21 quite sure of the elements, but it is a labeling requirement,  
22 yes.

23 MR. DEAN: We have an advisory --

24 COMMISSIONER GANDARA: The one -- frankly, the  
25 labeling requirement that was originally in the Katz bill

1 before the appliance industry reneged on their particular  
2 agreement to include that in return for the unlimited  
3 inventory clearance period. So it is that same labeling  
4 requirement, and the Katz bill was watered down to include  
5 only the date of manufacture, which I believe you still  
6 object to, is that correct?

7 MR. DEAN: Date of manufacture, I think we can  
8 come to a mutually acceptable resolution on that point. I  
9 don't think that's a big --

10 COMMISSIONER GANDARA: Have we come to a  
11 resolution on that point? I mean, this date of manufacture  
12 on photo plates?

13 MR. DEAN: That is a -- perhaps Mr. Anderson at  
14 AHAM can best reference that. But within the industry,  
15 we're discussing some potential alternatives which may  
16 comply with the requirements.

17 COMMISSIONER GANDARA: Or changes.

18 MR. DEAN: Yeah.

19 COMMISSIONER GANDARA: Well, I guess the point  
20 that I'm trying to make, Mr. Dean, here, is that on a policy  
21 point, you seem to say the Commission made a statement, and  
22 should be held to it. There's some disagreement as to  
23 whether the Commission really made that statement with  
24 respect to that particular bill.

25 On the other hand, the appliance industry

1 made its statement that it was not held to in the Katz bill,  
2 and in fact, may not be held to in the Goggin bill. So I  
3 mean, I think what I'm trying to state at this point, that  
4 if there's certainly questions of reliability here of  
5 information and reciprocity.

6 But really, my major question was, why, given the  
7 history of concern that you've had over the quality of data  
8 the staff has provided over the procedures of the Commission,  
9 over the policies of the Commission, why you wouldn't  
10 welcome hearings, why you wouldn't welcome, or why you  
11 wouldn't be frankly in support of the order instituting  
12 hearings.

13 Here the issue is finally joined, you were concerned  
14 during the AB 1111 review that, in fact, there was some  
15 Commission, you know, had made its determinations on a basis  
16 that was not, you know, accurate, or to your liking back  
17 in '75 or '76, and you wished to have a full review.

18 I mean, here's the opportunity for a full review.  
19 Here's an opportunity for a determination of, you know,  
20 whatever arguments you wish to make, the standards versus  
21 the market, or someplace in-between. Here is the place to  
22 really deal with the issue of whether the industry is in  
23 fact competitive enough, or whether in fact, as support and  
24 articles indicate, there's been substantial concentration  
25 over the past 10 years.

1           There's a forum where, in fact, all these issues  
2 you're concerned about can be decided, and for the Commission  
3 to accept the petition is not going to say that its accepting  
4 the fact that it's going to issue standards. It's accepting  
5 the fact that there is an issue that's deserving of  
6 investigation, and in fact, what you may find at the end  
7 of this order for this hearing process is the ratification  
8 of your point of view.

9           You've presented the information, you've presented  
10 substantial arguments, the Commission may find that your  
11 arguments have great force, and in fact, it's ratified  
12 everything you've been saying up to now. Why wouldn't you  
13 welcome a forum?

14           MR. DEAN: A rulemaking itself, or a hearing is  
15 what you're suggesting, is a more formal procedure. We  
16 think a workshop type approach where we can sit down, NRDC,  
17 Whirlpool, General Electric, the industry, yourselves, the  
18 staff, and discuss some of these issues on a more informal  
19 basis may be more productive.

20           COMMISSIONER GANDARA: An order instituting  
21 rulemaking does not preclude workshops. As a matter of fact,  
22 it's generally a procedure that the staff often has  
23 workshops prior to a hearing to be able to refine the issues,  
24 and present information, it's not one or the other.

25           MR. DEAN: If you read that petition literally,

1 it implies that the only road, or the only option open is  
2 to institute higher standards, and we oppose higher  
3 standards, and that is the reason for us -- for our opposi-  
4 tion to the petition.

5 COMMISSIONER GANDARA: Well, are you proposing  
6 a modification to the petition that would be acceptable to  
7 you that then we could proceed on this series of workshops  
8 and hearings? Do you have a proposal that you would  
9 support an OIH an OIR?

10 MR. DEAN: What I am suggesting -- also in  
11 response to Commissioner Commons' question, I'll respond to  
12 yours in the same way, we oppose the petition. We would  
13 prefer doing this on a more informal basis. But if the  
14 Commission, in their judgment, feels that it's appropriate  
15 to institute an order for hearings, then to expand the  
16 scope of the options that are available may be more  
17 appropriate. At least we'd be able to get these issues out  
18 on the table.

19 COMMISSIONER GANDARA: Well, in any case, I can't  
20 recall of any particular rulemaking hearing which there has  
21 been a preclusion of anybody making arguments for whatever  
22 point of view. I mean it seems to me that, you know,  
23 certainly, any rulemaking I've been involved in can, in fact,  
24 have as its posture -- even if you were to read it the way  
25 you do, which is severely constrained, I wouldn't read it

1 that way, but assuming that that would be the case, you  
2 could still during that rulemaking proceeding, present an  
3 alternative that could be considerably persuasive to the  
4 Committee, right?

5 And to rebutt the particular proposal that would  
6 be embodied in the petition, and that alternative could  
7 certainly be one, and the Committee is free to propose  
8 alternatives in its recommendation to the Commission, and  
9 recommend a denial, and an alternative proposal at the end  
10 of the process.

11 MR. DEAN: Well, again, you are in a better  
12 position to interpret the order to institute hearings than  
13 I, in terms of the options that are available. I personally  
14 would feel more comfortable, if you feel you must approve  
15 the petition, to at least specify that there are some  
16 options available during the proceeding to consider in  
17 addition to standards, either a standards increase or a  
18 standards rollback.

19 COMMISSIONER GANDARA: Well, then, you would  
20 support the petition if there were -- some language that  
21 would at least appear to you to provide those options? I  
22 think those options are there, and so therefore, I'm not  
23 particularly concerned that they -- that in fact, anything  
24 would be precluded.

25 But you would support the petition with such

1 modified language?

2 MR. DEAN: If in your judgment you felt the  
3 petition was an appropriate way to go, as opposed to a less  
4 formal discussion, then I feel that those elements should  
5 be included, yes.

6 COMMISSIONER GANDARA: To get to the issue of  
7 formality, what is your concern about formality? Let me  
8 just state right now that an order instituting hearings,  
9 an order instituting rulemaking is simply a device by which  
10 the application of the Administrative Procedures Act, and  
11 our regulations, go into force, and that means that if the  
12 Committee, or the Commission holds a hearing, that there  
13 is -- the public is notified so that any interested party  
14 could come and participate, and be notified, that's --  
15 there is a transcript made of the record so that any  
16 interested party at the end of the proceeding, if they feel  
17 that the recommendations are not supported by the evidence  
18 acquired during the hearing process could, in fact, challenge  
19 such a recommendation, that party might be you, in fact,  
20 it might work in your behalf.

21 Whereas, an informal may in fact, does not provide  
22 that, but you know, nobody knows when people get together --  
23 nobody knows what information, nobody knows the basis of  
24 the information, nobody knows the expert testimony, or  
25 so forth. I'm -- what to you is this distinction between

1 the formality of a hearing process, and an informality?

2 MR. DEAN: In our view, as I mentioned, we think  
3 that a hearing presumes that an increase in the standards  
4 is a more appropriate policy direction than any of the  
5 other alternatives available.

6 COMMISSIONER GANDARA: Okay, I can assure you  
7 it does not mean that. We can ask our legal counsel. Does  
8 that mean that?

9 MR. WHEATLAND: Commissioner, when we drafted the  
10 order, we very carefully drafted it in a neutral way that  
11 would not presume that, so that the action the Commission  
12 would take would be merely to review and revise the standard.  
13 In the first paragraph of the order we note that the NRDC  
14 requested that the standard be upgraded, but we tried to  
15 avoid that word in terms of the operating paragraphs.

16 So all that the Commission would be doing would  
17 be reviewing and considering revisions to the standard.  
18 Those could be adjustments in either direction.

19 In addition, the order specifies that any person  
20 can provide comments, either orally or in writing, and  
21 the Administrative Procedure Act will require the Commission  
22 to respond to those comments as part of the rulemaking  
23 process.

24 CHAIRMAN IMBRECHT: Well, let me just intrude  
25 there, for a moment. Coincidental to your comments, I have

1 been reviewing the draft order during Commissioner Gandara's  
2 questioning. I was going to conclude that the order as  
3 drafted was ambiguous on that point for the following  
4 reasons, and I might say that I believe I can perceive  
5 what you are attempting to achieve.

6           You're correct that the first paragraph does  
7 indeed note that the petitioner asks that the standards  
8 be revised and upgraded, but then in the second paragraph  
9 you say, or the draft petition says -- draft order says,  
10 that the Commission hereby grants the petitioner's request,  
11 but then, in effect, restates what that request is.

12           I can appreciate how people might read this and  
13 infer from that, that by granting the petition as defined  
14 in Paragraph 1, we are indeed granting it with the premise  
15 of upgrading the standards, and I think that that should be  
16 rewritten in any case to indicate that the petition --  
17 something to the effect that the Commission heard the  
18 petition, that there was substantial disagreement as to  
19 the factual foundation for the petition, and that in the  
20 event the Commission were to adopt a petition instituting  
21 a rulemaking, indicating that rather than granting the  
22 petitioner's request, indeed we were instituting a rulemaking,  
23 perhaps even at our own motion, that would fully illuminate  
24 the broad range of issues that could be considered in such  
25 a proceeding.

1 COMMISSIONER GANDARA: Mr. Chairman?

2 CHAIRMAN IMBRECHT: Yes?

3 COMMISSIONER GANDARA: Since I had the floor, I  
4 would think it would be inappropriate to include that kind  
5 of language in an OIH, an OIR at the beginning, because I  
6 don't think we've ever done that. I think if the concern  
7 is the one that's been expressed here, and you wish to  
8 address it, I have some proposed language that was  
9 suggested for Paragraph 5, and that is that following the  
10 first two sentences, it shall also state, "The staff shall  
11 also prepare a report for refrigerators, and another report  
12 for air conditioners. Staff shall evaluate alternatives  
13 to the proposed standards."

14 I think that that, you know, clearly indicates  
15 the intent of what we're trying to do here. But I would  
16 be concerned here about prejudicing the OIH by language  
17 that we've never really had before in an OIH.

18 CHAIRMAN IMBRECHT: How does that prejudice the  
19 OIH?

20 COMMISSIONER GANDARA: That there's a substantial  
21 factual disagreement about what's been presented --

22 CHAIRMAN IMBRECHT: Is that not an accurate  
23 statement?

24 COMMISSIONER GANDARA: Well, I think that's --  
25 yes, I think that --

1           CHAIRMAN IMBRECHT: That's an accurate statement,  
2 is it not? I mean, there have been challenges as to the  
3 basic analytical foundation for some of the claims of  
4 savings and comparison. All I'm suggesting is we make note  
5 of that existence of disagreement, but I would just  
6 emphasize again, if you look at the precise language in  
7 Paragraph 2, I don't think that that accurately states a  
8 proposed resolution.

9           If we are granting the petitioner's request, that  
10 petitioner's request is to revise and upgrade the standards.  
11 I don't believe that --

12           COMMISSIONER GANDARA: Well, the point is that  
13 you and I are in disagreement here, perhaps we should  
14 continue with the testimony, and when it's over, we'll,  
15 you know, make proposals, and amendments, and so forth.  
16 I'm trying to be responsive to Mr. Dean's concern here,  
17 is every alternative looked at. That would have been done  
18 in any case. I don't think that any Committee here has  
19 ever refused to look at alternatives, and proposals, and  
20 considerations and -- but my proposal can take care of that.

21           CHAIRMAN IMBRECHT: But to some extent, the  
22 jurisdiction of the Committee, relative to that issue in a  
23 rulemaking proceeding is circumscribed by the language of  
24 the order.

25           COMMISSIONER GANDARA: To some extent, but you

1 would also look at the orders that create the Committees,  
2 and the Committees are given the authority to issue orders  
3 of their own, okay. So you can debate it whichever way you  
4 want.

5 Mr. Chairman, if you're concerned about my  
6 administration of the Committee, then I would suggest that  
7 you appoint another Committee to have -- have an ad hoc  
8 to handle the particular issue. But if you're going to have  
9 a Committee --

10 CHAIRMAN IMBRECHT: Commissioner Gandara, I was --

11 COMMISSIONER GANDARA: But if you're going to have  
12 a Committee, then you grant to that Committee the respect  
13 that it will conduct the proceeding in a fair way.

14 CHAIRMAN IMBRECHT: Well, I think you took  
15 inferentially far more from my comments than was intended.  
16 Commissioner Commons?

17 COMMISSIONER COMMONS: I think for the benefit of  
18 those who are participating, a little help in terms of the  
19 rules that we have to follow might help you in terms of your  
20 comments to us, and I'd like to read from Section 11347.1,  
21 petition for adoption amendment to repeal, relief,  
22 reconsideration, which deals with petitions.

23 I think the two important areas are Section (a)  
24 and Section (b). First, in addressing the comment of our  
25 Chairman, which essentially is an amendment to the petition,

1 is "a state agency may grant or deny such a petition in part,  
2 and may grant such other relief, or take such other actions  
3 as it may determine to be warranted by the petition, and  
4 shall notify the petitioner in writing of such action."

5           So in reviewing the petition, it appears to give  
6 us a fair amount of flexibility in terms of listening to  
7 the public comment, and then addressing the issue of the  
8 petition.

9           The operative statement in Paragraph A which is  
10 the basis upon which we must act, is we have to act within  
11 30 days, and I believe the petitioner granted the Commission  
12 the privilege of extending that to this business meeting.  
13 Why the agency has reached such a decision on the merits of  
14 a petition, so essentially, the action we take has to be on  
15 the merits of the petition, and not on other factors or  
16 considerations.

17           I'd ask Mr. Chamberlain take a look at it, and  
18 maybe this would be the appropriate time for your comment.

19           MR. CHAMBERLAIN: I would just note that the  
20 statute says, gives you two options. You could deny the  
21 petition, in which case you have to indicate why you've  
22 reached a decision on the merits of a petition, or you can  
23 schedule the matter for public hearing in accordance with  
24 notice and hearing requirements of the APA.

25           It doesn't say that you have to grant the petition,

1 and in any way infer the validity of the merits of the  
2 petition if you are granting it, if you are just setting a  
3 hearing, and that was the intent of our order instituting  
4 hearings.

5 CHAIRMAN IMBRECHT: Well, I appreciate the intent.  
6 I question whether the language as it's written indeed  
7 suggests that neutrality. The way it reads to me, it says,  
8 the Commission hereby grants the petitioner's request,  
9 et cetera, and I --

10 MR. CHAMBERLAIN: That has been standard language  
11 in petitions brought by industry, and -- I mean, that  
12 terminology has been used for quite some time without  
13 inferring that the Commission was committing itself in any  
14 way to do what the petitioner asked.

15 CHAIRMAN IMBRECHT: Okay. I believe what you  
16 said to me a moment ago was that our options were to deny  
17 or institute hearing, and as a consequence, I quarrel, then,  
18 with the language of that saying that we grant the petition.

19 In any case, any further comments of this witness?  
20 Thank you, Mr. Dean. Next I'd like to call upon Mr. Kent  
21 Anderson. Oh, a slide show.

22 MR. ANDERSON: I brought along a few pictures,  
23 if you don't mind.

24 (Slide presentation being set up.)

25 MR. ANDERSON: Thank you, Mr. Chairman, I'll try to

1 be as concise and brief as I can, and not duplicate any of  
2 the comments that have already been made.

3 I'm making these comments on behalf of the  
4 Association of Home Appliance Manufacturers which represents  
5 the manufacturers of refrigerator/freezers and room air  
6 conditioners that are subject to this petition.

7 The Natural Resources Defense Council has often  
8 spoken and written on the subject of appliance efficiency  
9 standards primarily as a proponent of mandatory government  
10 regulations. Just as often, they have made sweeping  
11 generalizations based on what we believe is incomplete  
12 data, or assumptions that we believe are contrary to facts.

13 Statements like these have often been made: The  
14 free market has failed. Government standards are essential  
15 if gross inefficiencies are to be avoided. Most appliances  
16 are not bought by the people who end up stuck with the  
17 utility bills, so the actual purchaser cares only about  
18 first cost, not about efficiency.

19 Japanese manufacturers are already marketing  
20 refrigerators twice as efficient as U.S. models; and unless  
21 government sets standards, appliance manufacturers will  
22 find themselves in the same plight as U.S. auto makers.

23 The purpose of our presentation is to respond to  
24 these statements, which we believe are really myths. Most  
25 of these statements are contrived by combining a few facts

1 with a lot of preconceptions. In many cases, obviously,  
2 contrary evidence has been ignored.

3 First, let's consider the premise that the free  
4 market has failed. It implies the presumption either that  
5 consumers don't recognize the need for more efficient  
6 appliances, or that manufacturers are failing to provide  
7 them. We don't believe either is correct.

8 Consumers are very much aware of rising energy  
9 prices. Look at the evidence. In the auto industry,  
10 demand for more fuel efficiency out-paced the carmakers  
11 ability to react and led to the huge influx of smaller  
12 imports.

13 Because of the different nature of the U.S.  
14 appliance industry, which is characterized by intense  
15 competition, U.S. manufacturers have been able to respond  
16 to changing consumer demand.

17 I would emphasize that this conclusion is based  
18 on at least 10 years worth of real world sales data, not  
19 on any think tank theories or computer models. NRDC and  
20 other proponents of appliance standards often choose to  
21 ignore these facts, but they do represent what's going on  
22 out there in the real world.

23 Using sales weighted data, which covers all of the  
24 products sold, that is, data based on appliances actually  
25 sold, rather than merely on the number of models which are

1 offered for sale, provides the best indicator of actual  
2 consumer behavior. Such data for the appliance industry  
3 is collected on a regular basis by AHAM.

4 For the 10 years from 1972 to 1982, sales weighted  
5 efficiency of home appliances has improved dramatically.  
6 Refrigerators were up 59.4 percent. Freezers up 54.7 percent.  
7 Clothes washers up 51.6 percent; and dishwashers up 45  
8 percent, to name a few. These results are based on official  
9 Department of Energy test procedures.

10 The efficiency of these products is used in  
11 labeling where the Federal Trade Commission requires such  
12 labels. These labels are one of the reasons that the market  
13 is working. This is what a refrigerator label looks like.  
14 Shoppers can compare efficiency as easily as they can compare  
15 prices.

16 NRDC was fond of the serving that the sole  
17 reason that refrigerator efficiency has improved is the  
18 imposition of appliance standards by the State of California  
19 and that unless forced to do so by the California Energy  
20 Commission, manufacturers would not have provided more  
21 efficient units.

22 Setting aside the consideration of the part of  
23 the national market which California represents, and NRDC's  
24 desire to believe that it has changed the course of history,  
25 the upper march of appliance efficiency predated the

1 California standards, perhaps by as much as five years, and  
2 has occurred in product lines not even regulated in  
3 California, clothes washers and dishwashers, for example.

4           The Department of Energy recently concluded that  
5 standards would only save 16 percent of the energy that will  
6 be saved over the time of the federal standards. In the  
7 case of refrigerator/freezers, they concluded the savings  
8 would amount to 80 cents per consumer per year, representing  
9 .22 percent of electrical savings.

10           For freezers, 23 cents per year, representing .07  
11 percent of the total electric consumption, and room air  
12 conditioners, 24 cents per year, or .1 percent of total  
13 electrical consumption. So much for the failure of the  
14 market. In fact, the market is working very well, and  
15 manufacturers are producing more and more efficient  
16 appliances for one very important reason, they sell better.

17           Now let's look at the myth that most appliances  
18 are bought by builders or contractors who are interested  
19 only in first cost, and don't care about efficiency. This  
20 presumes that homebuyers are too ignorant or shy to ask  
21 about the efficiency of the appliances that come with the  
22 house and end up stuck with huge utility bills.

23           There are two ways to put this one to bed. First  
24 is the overall trend toward higher efficiency of appliances  
25 actually sold. All the builder, and contractor, and landlord

1 sales are included in this data, so even those must be  
2 trending upward. The second is data that we have compiled  
3 on appliances installed in new housing.

4           According to this information, in the two  
5 categories of our products covered by this petition,  
6 refrigerators and room air conditioners, most are not bought  
7 by builders at all. In the case of refrigerators, only  
8 12.6 percent of total sales, and for room air conditioners,  
9 only 1.8 percent are purchased by builders. The majority  
10 of the units are bought by others.

11           The implication is clear, most appliances are  
12 bought by the people who pay the bills, and are well  
13 positioned to make intelligent choices on first cost,  
14 efficiency, and usage patterns without NRDC, or anybody  
15 else deciding what's best for them.

16           Now for the allegations that Japanese manufacturers  
17 are already marketing refrigerators twice as efficient as  
18 those made in the U.S. I thought you might be interested  
19 in seeing a picture of a Japanese refrigerator. We have  
20 reviewed much of the work that Dr. Goldstein has published,  
21 including his article in the February-March issue of  
22 "Technology Review".

23           The unit he has often referred to is a Toshiba  
24 Model GR4118A. This unit has been tested by some appliance  
25 manufacturers here in the U.S. with some very interesting

1 results. First, although the Japanese gross volume  
2 measurement system -- under -- using the Japanese gross  
3 volume measurement system, this unit is advertised as a  
4 14 and a half cubic foot unit. Using the federal test  
5 procedures published by DOE, it's actual rating in this  
6 country is 12.5 cubic feet. The U.S. market went by 12 and  
7 a half cubic feet refrigerators about 25 years ago. Today,  
8 the most popular size, based on sales data is between 17  
9 and 18 cubic feet, with many larger sized units bought by  
10 people with large families, or those who prefer to save  
11 gas by shopping less frequently and storing more.

12           Secondly, the Toshiba unit does not have automatic  
13 defrosting, a feature demanded by most U.S. consumers. This  
14 is important for two reasons: consumer satisfaction and  
15 power consumption. The power required in manual defrosting  
16 is not counted in the efficiency calculations from a non-  
17 automatic unit under the DOE test procedures.

18           When Mr. Goldstein makes his comparison between  
19 the Toshiba and U.S. refrigerators, he has used 1975 data  
20 for the latter comparison. In 1975, according to that  
21 comparison, the typical U.S. refrigerator was a 15 cubic  
22 foot unit, with a separate zero degree freezer, and automatic  
23 defrosting which used 1,800 kilowatt-hours per year.

24           Today many companies make similar, but slightly  
25 larger 16 cubic foot models which use less than 1,000

1 kilowatt-hours per year. On that basis, the units selling  
2 today are twice as good as the ones used by Dr. Goldstein  
3 for comparison. Even the worst unit currently made in the  
4 U.S. in the most popular 17 cubic foot size uses only  
5 1,348 kilowatt-hours per year, 25 percent better than the  
6 unit chosen for comparison to current Japanese products.  
7 These readily available facts are often overlooked.

8           If we were to compare the Toshiba to the most  
9 efficient unit of similar size and features made here in  
10 the United States, we would find that while the Toshiba  
11 unit uses only \$30 of electricity per year, a comparable  
12 U.S. model uses \$38. For only \$43 you can operate an auto  
13 defrost 18 cubic foot unit for a year.

14           Bear in mind too that the margin is even narrower  
15 if one takes into account the cost of power needed to  
16 manually defrost a Japanese unit, and the U.S. units in that  
17 small size range, have generally not been the subject of  
18 much engineering improvement, because they don't sell very  
19 much here in the United States.

20           It should be obvious, based on these facts, that  
21 the highly touted Japanese unit is undersized for the U.S.  
22 market, overrated in capacity, not automatic defrost, and  
23 is not twice as efficient as claimed.

24           How about the argument about the need for  
25 government intervention to save the appliance industry from

1 the fate which befell the U.S. auto industry? We've already  
2 seen the dramatic response to the U.S. appliance industry  
3 to market demands for more efficiency. Even in clothes  
4 dryers and room air conditioners where technical realities  
5 limit the improvements, there has been substantial progress,  
6 and it is continuing.

7 In almost every product category, year after year,  
8 as domestic competition forces manufacturers to make better  
9 products to attract more and more sophisticated consumers,  
10 the most popular refrigerator size displays a typical  
11 pattern, with today's least efficient unit being almost as  
12 efficient as the very best was 10 years ago.

13 The principal touchstone of international  
14 competitiveness is productivity. Productivity in the major  
15 appliance industry has consistently outpaced all U.S.  
16 manufacturing as a whole. Sometimes by two to one.  
17 Productivity in our industry grew by 4.6 percent per year  
18 for more than 20 years between 1958 and 1981, while a  
19 comparable figure for other U.S. durable goods makers was  
20 2.5 percent.

21 This improvement in productivity has made possible  
22 a steady decline in the number of people in the -- on the  
23 appliance industry payroll, down from 161,000 10 years ago  
24 to 99,000 today. This remarkable improvement is behind the  
25 steady decline in the real cost of appliances, which amounts

1 to about 59 percent in the last 23 years.

2           According to AHAM's data, a refrigerator which  
3 took an average worker 153.4 hours to earn in 1959, now  
4 takes just 79.2, a 48 percent decrease. If the auto  
5 companies had done as well as our industry, a full-size  
6 U.S. made Ford or Chevy four-door sedan would cost about  
7 \$3,900 today.

8           I think, Mr. Schweickart, that may address one  
9 of the differences between the auto industry and the  
10 appliance industry, and why they are where they are.

11           Another way to look at the same dramatic improve-  
12 ment is to look at the consumer price index for all items  
13 as compared to household appliance index. While the CPI  
14 rose by 189 points between '67 and '82 for all items, the  
15 appliance index rose by only 83, only 44 percent as much.

16           A similar pattern appears in the BLS producer  
17 price index. Taking into account this extraordinary  
18 performance by the appliance industry over a 25 year period,  
19 with no government regulation, with a 10 year trend of  
20 increasing efficiency of virtually all products, and a  
21 steady increase in value to the consumer, it's hard to take  
22 seriously any allegation that we need government to save  
23 us from the Japanese or anyone else.

24           I think one of our basic premises is that the  
25 consumer is the best source of conservation. We believe

1 that it is time to seriously evaluate market oriented  
2 approaches as alternatives to mandatory standards such as  
3 improving the FTC energy labels, improved consumer  
4 education, utility incentives, or other approaches that  
5 may be targeted to real market failures if, in fact, they  
6 do exist.

7           For instance, AHAM has developed a consumer  
8 purchase guide within the last year that lists all  
9 refrigerator/freezers and room air conditioners by ranking  
10 them by efficiency. We are also working with consumer  
11 environmental groups, and environmental groups, including  
12 NRDC, as part of an ad hoc coalition to promote energy  
13 efficient appliances. We think that's a worthwhile  
14 exercise and is worth pursuing.

15           Having reviewed this NRDC petition, I hope you'll  
16 find as I have that it has very little merit. There are  
17 few industries with a record of achievement like ours, and  
18 we're proud of it. On the flip side, who can show a  
19 similar record by an industry regulated by any state or  
20 federal government with or without the help of NRDC.

21           I have a number of specific comments on the NRDC  
22 petition, but I think in the interest of time, I'll defer  
23 those. We might suggest that an approach to dealing with  
24 this petition would be to deny the petition without  
25 prejudice, and conduct a workshop or informal hearing to

1 discuss all of these issues and the policy options that  
2 might be available for the Commission. I'd be happy to  
3 answer any questions that you may have.

4 COMMISSIONER GANDARA: Are there any questions  
5 for Mr. Anderson? Commissioner Edson?

6 COMMISSIONER EDSON: If you're able to respond, I'd  
7 be interested in your response now, otherwise if you can  
8 provide information to me later, I'd appreciate that. I  
9 was interested in the slide that you showed based on a  
10 study by DOE suggesting that 16 percent of the energy  
11 savings is the amount attributable to the standards. Can  
12 you tell me how that number was developed?

13 MR. ANDERSON: Well, it essentially evaluated how  
14 much energy savings would occur without standards, which  
15 I think is one of the points that we have consistently  
16 tried to raise with the Commission, is that there is an  
17 assumption in most of the previous analytical work by the  
18 Commission that there would be no savings whatsoever  
19 without standards, so that the savings are calculated  
20 simply based on what the average efficiency was before  
21 the standards, and what it would be after the standards.

22 COMMISSIONER EDSON: I understand what the  
23 number represents, I'm interested in how they got it.

24 MR. ANDERSON: Well, I'm not sure you want to take  
25 the time to go into it.

1           COMMISSIONER EDSON: Well, that -- if it is a  
2 lengthy --

3           MR. ANDERSON: It was a very elaborate computer  
4 model that tried to forecast consumer response to price  
5 increases, energy price increases, and tried to forecast  
6 consumer behavior in response to those prices.

7           COMMISSIONER EDSON: I'd be interested in any  
8 information you have on it.

9           COMMISSIONER GANDARA: Commissioner Schweickart?

10          COMMISSIONER SCHWEICKART: Yeah. I just want to  
11 make a quick statement here. This appliance business  
12 drives me bananas, frankly, because we end up with two  
13 sides of the issue that -- and ridiculous statements -- on  
14 the one hand that there are no energy savings attributable  
15 to standards, and on the other hand, that all energy  
16 savings and appliances are attributable to standards.

17           That's absolute pure hogwash. I don't know of  
18 any rational person who feels either of those positions,  
19 nor has the Commission, contrary to what you and others  
20 seem to claim, to my knowledge, ever formally made any  
21 such statement that all savings in -- or all improvements  
22 in efficiency of appliances have been due to California  
23 standards.

24           I frankly feel that it damages the rational debate  
25 absolutely and discredits both sides of the debate by making

1 any such statements. That's just -- I just want to put that  
2 on the record.

3 COMMISSIONER GANDARA: And your observation as to  
4 what the Commission position has been is correct,  
5 Commissioner Schweickart.

6 I have a request from the Chairman here to  
7 recess until 1:30. He desires to be present for the rest  
8 of the witnesses, or people offering testimony regarding  
9 this issue, and he indicates there are four people still  
10 to be heard from, and he suggested that we recess until  
11 1:30. I have no objection with that -- but it should be a  
12 ruling from the Chair. We are recessed until 1:30.

13 (Thereupon the morning session of the business  
14 meeting of the California Energy Resources Conservation and  
15 Development Commission was recessed for lunch at 12:25 p.m.)

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3 CHAIRMAN IMBRECHT: I think we'll go ahead and  
4 reconvene the meeting. We have a couple of additional  
5 witnesses on Item No. 1, and we're going to try to conclude  
6 that, and my apologies to those of you here on Item 5,  
7 we're going to be delayed shortly, until we resolve the  
8 appliance issues.

9 I'm also going to move to Item 4 immediately  
10 after consideration of 1, since I believe that involves  
11 many of the same players as Item No. 1.

12 The next witness to call is Mr. Deke Dorey,  
13 representing General Electric.

14 MR. DOREY: Mr. Chairman, Commissioners, I will  
15 be very brief and basically add only one comment to what  
16 has been said before. Let me say, however, that General  
17 Electric does endorse the comments made by Mr. McGuire,  
18 Mr. Dean, and Mr. Anderson preceding me.

19 General Electric Company manufactures and sells  
20 in California refrigerators, freezers, refrigerator/freezers  
21 and room air conditioners, all of which are subject to the  
22 Commission's energy efficiency standards, and of course,  
23 they're subject to this petition.

24 We urge the Commission to deny this petition on  
25 the basis that we feel there are still major unresolved

1 issues regarding existing standards, which ought to be  
2 resolved before it's appropriate to consider new standards.  
3 The staff report entitled, "California's Appliance  
4 Standards, An Historical Review, Analysis, and Recommenda-  
5 tions" which was dated last July, was presented by the  
6 staff to the Commission at the business meeting on August  
7 24th, 1983.

8 Now, General Electric's testimony at the  
9 Commission business meeting on that date, and G.E.'s  
10 subsequent response to Commissioner Gandara and Commons'  
11 request for comments on the staff report, challenged the  
12 energy savings claimed by the staff as being grossly  
13 overstated, and further, we've provided a calculation  
14 methodology for consideration.

15 The Commission, at that business meeting,  
16 indicated the desirability of a workshop to consider the  
17 staff report, and the issue of savings due to standards.  
18 Industry data are needed for proper analysis to evaluate  
19 the effect of standards on energy savings, and we understand  
20 that the Commission and AHAM plan to meet to discuss these  
21 data needs.

22 So in light of this, General Electric would  
23 urge the Commission to follow through on the workshop plan,  
24 on the review of the staff report after the data needs  
25 meeting, and to currently deny NRDC's petition at this time.

1 Thank you.

2 CHAIRMAN IMBRECHT: Thank you. Any questions for  
3 Mr. Dorey? Commissioner Commons?

4 COMMISSIONER COMMONS: From your testimony of  
5 this, and the -- at the previous time before the --

6 MR. DOREY: Excuse me, I did not testify  
7 previously.

8 COMMISSIONER COMMONS: Your company's testimony.

9 MR. DOREY: Yes, that's right.

10 COMMISSIONER COMMONS: It would appear to me that  
11 you're saying that the existing standards as currently  
12 written are not the ones that you would support.

13 MR. DOREY: We -- our contention is, and has been  
14 that the existing standards as -- the background information  
15 justifying the savings for the existing standards was  
16 inaccurately presented.

17 COMMISSIONER COMMONS: Well, let me then ask you  
18 specifically, do you support the existing standards as they  
19 are currently written?

20 MR. DOREY: No.

21 COMMISSIONER COMMONS: Then the issue that -- I  
22 think we have two issues before us. One is a petition to  
23 take a look at those standards to see whether they should  
24 be revised. We have the applicant who has suggested a  
25 specific order in terms of how they would like to see it

1 addressed, and I think we have a staff recommendation that  
2 is somewhat different than that.

3 I've not yet heard any evidence from anyone that  
4 has come before us today saying that on the merits, that  
5 the existing standards are that which we should continue.  
6 Everyone is arguing that we should make a change. There  
7 just is a lot of differences in terms of what type of  
8 change.

9 If we were to expand the order to include some  
10 of the considerations that your company has brought before  
11 us previously, and by inference, to be a part of your  
12 remarks today, would that take care of your concerns?

13 MR. DOREY: No, not entirely, because as some of  
14 the gentlemen have said before me, we would certainly  
15 prefer the less formal arena of a workshop approach rather  
16 than the more formalized approach involved in this petition.

17 COMMISSIONER COMMONS: Okay. Thank you.

18 CHAIRMAN IMBRECHT: Any further questions?

19 COMMISSIONER COMMONS: Oh, I have one other one.

20 CHAIRMAN IMBRECHT: Yes, Commissioner Commons.

21 COMMISSIONER COMMONS: One of my concerns has  
22 been as this Commission has moved with industry and with  
23 some of the environmental groups to try to lay this issue  
24 to rest, we've been looking at the Newt Russell and Terry  
25 Goggin bill. What has been your company's position on the

1 Terry Goggin bill? Are you in basic support of the concept  
2 of five year rolling standards?

3 MR. DOREY: No, we're not. I think our basic  
4 company position is that we are not in support at the  
5 present time of any standard, as such, referring to -- we  
6 would greatly prefer the free market approach to any  
7 standard. So I couldn't come out and say that we were in  
8 favor of them or any of them for that matter.

9 COMMISSIONER COMMONS: Thank you.

10 CHAIRMAN IMBRECHT: Okay. Mr. Rick Oakley.

11 MR. OAKLEY: Thank you, Commissioners. I think  
12 that most of the -- some of my stuff is in duplication,  
13 but anyway, I represent the California Manufacturer's  
14 Association.

15 We agree with the staff, and their report that  
16 the Commission should base their acceptance or rejection  
17 of the petition on policy and budget considerations. The  
18 CMA and the Commission reached a policy understanding  
19 which culminated in a two-year holding period, or mora-  
20 torium, if you will, on any new standards which is  
21 embodied in AB 191, along with the five-year rolling cycle.

22 The purpose of this moratorium was to enable the  
23 industry and the Commission to sit down and work together,  
24 to explore the entire program, viable alternatives to  
25 standards, and a way in which the industry can reasonably

1 provide information which the Commission needs to evaluate  
2 the effectiveness of this program.

3 In 1983-84 and 84-85 budgets, those budgets did  
4 not, and the proposed 84-85 budget does not include funds  
5 essentially for new standards. These scarce resources  
6 must be used for the maintenance of current standards, and  
7 the implementation of the nonresidential building standards  
8 which you've recently adopted, and the clean-up of the  
9 residential building standards program embodied in AB 163.

10 The industry is ready and willing to sit down with  
11 the Commission and the staff, and explore these kinds of  
12 options. The advisory committee concept which has been  
13 discussed amongst your staff, and amongst the Commission,  
14 is supported by the industry.

15 We urge the Commission to essentially reject the  
16 petition without prejudice, and go with a more informal  
17 alternative of the advisory committee concept, through a  
18 series of workshops and explore all of these viable options.  
19 We think the petition at this time is inappropriate, given  
20 the last current policy of the Commission in support of a  
21 moratorium and your budget constraints.

22 The industry would truly like to work in  
23 partnership with the Commission, in a positive framework,  
24 to improve the efficiency of its products. Thank you.

25 CHAIRMAN IMBRECHT: Thank you, Mr. Oakley.

1 Questions? Thank you very much. Okay. I think the issue  
2 is before us at this point in time. Is there any witness,  
3 that any member of the Commission would like to hear from,  
4 further detail?

5 COMMISSIONER SCHWEICKART: What was your question?

6 CHAIRMAN IMBRECHT: Any witness that any member  
7 of the Commission would like to hear from, further detail?

8 COMMISSIONER GANDARA: Yes, there is.

9 CHAIRMAN IMBRECHT: Commissioner Gandara.

10 COMMISSIONER GANDARA: I would like to hear from  
11 the staff first. I don't know whether they would be  
12 appropriate to consider the management layers. I guess my  
13 first question is, was this petition handled according to  
14 the procedures that have been set forth for petitions?  
15 Was it handled differently, or was it handled the same  
16 way?

17 MR. PENNINGTON: Do you want to answer that,  
18 Gregg?

19 MR. WHEATLAND: Yeah. In terms of the procedures  
20 that are followed, the main procedure is to acknowledge  
21 receipt of the letter, and the completeness within seven  
22 days. We've handled it in that same way, and so as far as  
23 I'm aware, the procedure has been the same in handling this  
24 procedure, and bringing it to the Commission's attention.

25 COMMISSIONER GANDARA: At some point in time, I

1 was given some proposed procedures for the administrative  
2 manual, or whatever, that outlined how petitions should be  
3 handled, you know, all the way down to the 30-day response  
4 time, day 0 to 3, day 4 to 7, and so forth. Are those  
5 procedures in effect?

6 MR. CHAMBERLAIN: It's my understanding that they  
7 are. This was something that was being developed by the  
8 Executive Office, I believe Nan Powers was working on it,  
9 and our office, and we came to closure on it in late  
10 October, or early November, and I believe it was modified  
11 one last time at the request of your office. Then, I don't  
12 know, I think there just hasn't been an opportunity to  
13 get back to the Commission and explain it in full, and as  
14 I understand it, the staff is operating under those  
15 procedures.

16 COMMISSIONER GANDARA: Okay. If that's the case,  
17 then it would appear that since this item was calendared  
18 originally for December 28th, with the announced staff  
19 position as indicated under paragraph 6, that because of  
20 the merits of the petition, they were recommending  
21 Commission adoption, I'd like to ask when was that  
22 recommendation changed, at whose direction?

23 EXECUTIVE DIRECTOR WARD: My discussion of this  
24 issue related to the summary of the staff position, not  
25 the Commission action recommended, that was a logical

1 conclusion of that summary, Mr. Commissioner, and it was  
2 something that had not been caught as it went through the  
3 process, and I can only assume that it might have been a  
4 preliminary, lower level staff initial recommendation.

5 But my discussion with the division chief, and  
6 the Executive Office recommendation was totally consistent  
7 with the summary of staff position. So it wasn't something  
8 that was changed within the last week, two weeks, three  
9 days, it was something that was done when this thing was  
10 first discussed.

11 COMMISSIONER GANDARA: Well, you're saying that  
12 the Commission action recommended signed by Mr. Rauh is not  
13 the staff recommendation?

14 EXECUTIVE DIRECTOR WARD: That's correct, and  
15 Mr. Rauh would agree to that also.

16 COMMISSIONER GANDARA: And is there some reason  
17 why he signed it if, in fact, that's not the staff position?

18 EXECUTIVE DIRECTOR WARD: I can only assume it  
19 was an oversight, Commissioner.

20 MR. PENNINGTON: I can answer that partially. We  
21 were in a process where we were having difficulty getting  
22 this document typed. It was during the holiday season,  
23 clerical staff was short, the document changed hands between  
24 three or four offices in getting typed. It was a mistake  
25 for that particular language to continue to stay there.

1 The intention was to edit that and make no  
2 recommendation.

3 COMMISSIONER GANDARA: Given the visibility of  
4 this position -- this petition, and the sensitivity of  
5 the issues, and the petitions, you would think that such  
6 a recommendation would be an oversight?

7 MR. PENNINGTON: The oversight was that it was  
8 edited out at one time and the version that is there  
9 reappeared on a consecutive version of the document.

10 COMMISSIONER GANDARA: Perhaps we can ask Mr. Ted  
11 Rauh since he signed it. Was it an oversight on your part,  
12 Mr. Rauh?

13 MR. RAUH: Yes. Having Item 6 on that memo,  
14 and having my signature with Item 6 on it was an oversight.

15 COMMISSIONER GANDARA: Okay. Well, the reason  
16 I ask is because according to your general procedures, it  
17 says here that from day 10 to 14, the staff's initial  
18 evaluation is hand-carried to the Executive Office for  
19 review. Once the evaluation is approved by the Executive  
20 Office, it is returned to staff, copies are forwarded to  
21 Commissioners, the Secretariat, General Counsel's Office,  
22 et cetera.

23 So you're saying that the oversight also continued  
24 to the Executive Office review and approval?

25 EXECUTIVE DIRECTOR WARD: Well, it was obviously

1 an oversight, Commissioner. I think the point to be taken  
2 here is simply that -- I think the narrative in the summary  
3 adequately displays our position, and I think it's a  
4 logical consequence of the summary, based on previous  
5 action the Commission has taken.

6 So, you know I -- to talk to the point at hand  
7 is one issue, but to talk to an oversight, administrative  
8 oversight is another. And on the oversight issue, I will  
9 -- you know, I will assume responsibility for that over-  
10 sight. I apologize for that.

11 COMMISSIONER GANDARA: Okay, fine. Well, we'll  
12 leave it at that, then, although I will later on in the  
13 discussion, take the issue as to whether it is consistent  
14 with the previous Commission policy. But I would urge  
15 that closer attention certainly be paid, that there not be  
16 this kind of oversight, because the principal importance  
17 of what occurred from day 10 to 14, is that was mailed  
18 to the petitioner and to other interested parties is, in  
19 fact, what the staff position is going to be.

20 If this has been the staff position, and had been  
21 the staff position, even going to the December the 28th  
22 meeting, we now have a passage of two weeks time in which  
23 neither this Commission, or any interested party was in  
24 fact offered --

25 EXECUTIVE DIRECTOR WARD: Commissioner, I --

1           COMMISSIONER GANDARA: Excuse me, was offered  
2 any information as to a change in the staff position. Now,  
3 the reason I consider that before us is because we've had  
4 considerable testimony here by people who are opposed to  
5 the petition. It may be that some people who might have  
6 been in favor of the petition did not appear based on  
7 the fact that the staff was recommending adoption of the  
8 petition.

9           Now, when there's a staff change like that, that  
10 is announced for the first time at the business meeting,  
11 I think that puts at a disadvantage both people who might  
12 be in support of that petition, as well as the transcript  
13 of the hearing record.

14           So that's the point I'm trying to make. If it's  
15 an oversight, leave it at that, but there should have been  
16 some notice, you know, some inquiry -- some initiation  
17 at the business meeting.

18           EXECUTIVE DIRECTOR WARD: My first indication of  
19 seeing that was yesterday afternoon. I apologize, I agree  
20 with most of your summation. I however do take issue with  
21 the concerns that may have been involved by interested  
22 parties because I don't think you can conclude the staff  
23 recommendation as consistent with Item No. 3 Commissioner.

24           I think Item No. 3 adequately narrates a  
25 position here that indicates there have been previous policy

1 actions of this Commission, and that certainly based on  
2 that, the petition is subject to a future policy decision  
3 of the Commission, and it wasn't intended, certainly, to  
4 prejudice anything, it was intended to raise that policy  
5 issue.

6 COMMISSIONER GANDARA: Well, I understand that.  
7 I'm not imputing anything, although I would say that the  
8 -- you know, to some people it might appear otherwise, and  
9 I think --

10 EXECUTIVE DIRECTOR WARD: I concur with that, and  
11 I do, you know, I humble myself on the oversight.

12 CHAIRMAN IMBRECHT: I think we've covered the  
13 point.

14 COMMISSIONER GANDARA: Now, if that's the case,  
15 I have no other questions for staff, but in order to get  
16 into Commission discussion, I would move the adoption of  
17 the petition, and make one modification to the OIH, as I  
18 indicated I would make earlier, which is in paragraph 5.

19 In paragraph 5, after the second sentence, there  
20 be an additional sentence inserted which is -- shall read  
21 as follows: The staff shall also prepare a report for  
22 refrigerators and another for air conditioners. It shall  
23 evaluate alternatives to the proposed standards.

24 If that motion gets a second, I would like to  
25 be recognized to discuss some of the other issues that have

1 been raised, which is the budgets, and policies and so forth.

2 CHAIRMAN IMBRECHT: Fine.

3 COMMISSIONER SCHWEICKART: Second.

4 CHAIRMAN IMBRECHT: It's been moved and seconded,  
5 moved by Commissioner Gandara, seconded by Commissioner  
6 Schweickart. Commissioner Gandara, you're recognized.

7 COMMISSIONER GANDARA: Okay. I have been  
8 concerned by the initial presentation in here, in that  
9 there is some concern not only as to the factual matters,  
10 which I think what we're really dealing with here is a  
11 -- is something far less than resolution of that, but at  
12 the same time, I think I have some concerns about some of  
13 the presentations that have been made with respect to  
14 budgets, and with respect to the policy issues, and I'd  
15 like to address those concerns.

16 First of all, with respect to whether there is  
17 an adequate budget, or resource to be able to undertake  
18 this petition if it's permitted -- if it's adopted by the  
19 Commission. I'd like to recall the work plan history that  
20 this Commission went through, and in the approved work plans  
21 of last August, following the adoption of the budget, there  
22 was an allocation, a proposed staff allocation of 2.2 PY  
23 for appliances.

24 You will recall that at that time, I indicated that  
25 I thought that was inadequate. The Commission supported

1 that view and increased and augmented the PY allocation to  
2 the 3.45 PY. At that point in time, there was no set work  
3 for the additional 1.25 PY that was allocated. What the  
4 staff had budgeted for was for 2.2 PY.

5 The resolution that the Commission made at that  
6 time was that the personnel will be transferred from Siting  
7 and Environment to do some work in Conservation, that the  
8 tasks and that the budget allocations for those tasks had  
9 been redecided by the Committees, and would be decided in  
10 concert with the Executive Office.

11 Subsequent to that decision, I requested from  
12 the Executive Director -- Division Chief of the Conservation  
13 area, a proposal for what the allocations were now going to  
14 be in view of the revised work plan.

15 By that time, we had already received the NRDC  
16 petition, so I therefore requested that should the  
17 Commission adopt this petition, having taken consideration  
18 in the work plan allocation, and in fact, it was done so.  
19 At that time, I was informed that there might be a budget  
20 constraint, I was also informed of the activities that the  
21 staff was budgeting for the additional PY.

22 The presentation that was made earlier as to what  
23 would be dropped, or what would be required to be dropped,  
24 were in fact representations that were, in fact, slightly  
25 different than were made to the Committee, and I would say

1 that I was relying, up til now, on what the staff had told  
2 the Committee, and in a subsequent discussion with Ted Rauh  
3 and the Executive Director, we ratified the changes not  
4 only for the appliance area, but also for the emergency  
5 planning area, for contingency planning.

6 More specifically, I think that it has been  
7 testified to that they would require an increase of two  
8 and three-quarters months, person months, with three-  
9 quarters of that actually being for the clean-up amendments,  
10 which is another item before you today.

11 First of all, I'd like to separate those, because  
12 whether or not you act on this petition, that three-quarter  
13 month is really not an issue that would have to be done,  
14 really, under any circumstance.

15 With respect to the additional two months that  
16 would be required, the Committee reports did have the  
17 concern that we were under constraints there, and reviewed  
18 what the staff was proposing. The Committee discussed it  
19 with the staff, and seemed to settle it at that time, that  
20 trade-offs were made between some things that would have  
21 lesser priority if the Commission did, indeed, adopt this  
22 petition.

23 Among those things were, in fact, the items that  
24 were presented to you today, with one exception, and that  
25 is that the division had budgeted for nonresidential building

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1 standards work out of the appliance budget, and in fact,  
2 at the time we went through the work plans, there was an  
3 issue that in fact the appliance budget was going to be for  
4 appliance work.

5 Another thing was that the staff had budgeted  
6 for -- and I did request the staff, but that should really  
7 reflect the nonresidential budget. That is reflected in  
8 Mr. Pennington's statement today in which he said that that  
9 particular portion would, in fact, have to be shifted to  
10 that other budget.

11 Another item, however, that he didn't mention  
12 that was also budgeted under the appliances was the --  
13 some work for the Southern California Edison rate case.  
14 As you recall, at our work plan, I opposed our involvement  
15 in that SCE rate case. The Commission disagreed with me  
16 and supported it, but assured me that the allocations that  
17 were going to be made, were going to be made specifically  
18 for that, when they were made for the SCE rate case.

19 If my memory serves me correctly, I -- well, I  
20 won't speculate what it was, but it certainly did not  
21 include that there would be support coming out of some  
22 other programs. So that is another one month that,  
23 in fact, would reduce the two months now that the staff has  
24 indicated to a one month requirement.

25 You are correct, Mr. Chairman, that that might be

1 a minimum estimate, I don't know.

2 CHAIRMAN IMBRECHT: I'm not sure I follow the  
3 assumption on the reduction from two to one. Would you  
4 try that on me one more time?

5 COMMISSIONER GANDARA: Yes. The staff was  
6 budgeting -- was charging the appliance program for work  
7 that was going to be done for the SCE rate case, and the  
8 Commission specifically made an allocation for the SCE  
9 rate case.

10 Nowhere in the deliberations of that increase of  
11 that 1.2 PY was there -- that some of that time was going  
12 to be allocated to the SCE rate case. The SCE rate case  
13 was allocated separate and identifiably as was the OIR II.

14 Now, with respect to what's left in the budget,  
15 I think there are certain discretionary items, such as  
16 involvement in non-Commission activities which I certainly  
17 would support, and I would support that there be, you know,  
18 perhaps an allocation made by the Commission for that. But  
19 in terms of when you have resources under constraint, I  
20 think that the petition should not give way to discretionary  
21 activities, but perhaps discretionary activities should  
22 give way to petitions that this Commission might, in fact,  
23 be worthy of investigation.

24 So that is the history of the budget process.  
25 So at most, what we may be talking about is, in fact, at

1 least being able to do this work if the Commission so  
2 decides, within the allocated resources.

3 Now, the second issue I'd like to address is the  
4 policy issue. Much has been made that, in fact, the  
5 Commission has a policy that seems to be in a different  
6 direction from the petition. I would say that that  
7 certainly is not the case.

8 The Commission position, if it is to be taken as  
9 a Commission position, what was articulated in the letter  
10 last year, was that there be a moratorium for two years,  
11 there'd be no standards set in two years. Well, in fact,  
12 1983, two years from that is 1985, and if we were to start,  
13 a proceeding today, if that would be the wish of the  
14 Commission, we really wouldn't have anything that would be  
15 in effect within that two year time frame, so it doesn't  
16 violate that, although I would question, really, as to  
17 whether the Commission would adhere to a policy articulated  
18 at a time when there was a quid pro quo, and the  
19 reciprocity expected from an industry with respect to  
20 legislation then underway, but in fact, this year it  
21 appears that all bets are off again.

22 Now, the -- there has been no standards set in  
23 this area in the past five years, so it doesn't violate  
24 that aspect of the policy. In addition to that, it really --  
25 when you look at the position the Commission has taken with

1 respect to the petition for a waiver of the standards, of  
2 the DOE no-standard standards, in fact, there is no  
3 substantial difference in the policy that this Commission  
4 had taken. It is all within the policy framework of what  
5 we have had before.

6 Now, the last issue I would like to undertake is  
7 that the history of petitions and the history of how this  
8 Commission has dealt with petitions that have raised  
9 budget concerns. Again, I would first refer you to the  
10 guidelines with respect to staff in recognizing and dealing  
11 with the petition, and in those guidelines, the criteria  
12 for initial staff evaluation, a petition for rulemaking  
13 under the preliminary staff recommendation, the first item  
14 to look at is does the petition have merit.

15 The second item is the -- should the petitioner  
16 be granted a hearing. The third item, are there specific  
17 questions or requests for additional data the staff would  
18 make of the petition to assist staff in evaluating the  
19 petition.

20 There is, in fact, no guidance to the staff in  
21 making recommendations, or avoiding recommendations on the  
22 basis of budget concerns, or policy concerns, which  
23 actually should be more the problems of the Commission.  
24 As was indicated earlier, by the language read by Commissioner  
25 Commons with respect to the requirements of the APA, there

1 should be a ruling certainly made on the merits of the  
2 petition.

3 Now, I would be concerned if that policy would  
4 change, certainly because the Commission can at any point  
5 in any petition, begin to raise non-merit concerns, budget  
6 concerns, and I would be concerned, really, as to whether  
7 that should enter into our immediate concern with respect  
8 to the ruling on whether the petition should proceed to  
9 hearings.

10 I did review, for as long as I've been on the  
11 Commission, how the Commission has dealt with petitions,  
12 and I have reviewed as to how it has dealt with any  
13 petitions on which budgets have, in fact, been raised as a  
14 concern.

15 There was, in fact, one instance in the two and  
16 a half years I've been on the Commission, on April 13th  
17 of 1982, Mr. Ruemmler of RLM Wholesale Distributors  
18 petitioned the Commission to commence rulemaking proceedings  
19 for establishing minimum performance standards applicable  
20 to solar water and space heating devices which qualified  
21 for solar tax credits.

22 The summary of the staff position at that time  
23 was as follows: while the concept of minimum performance  
24 standards has merit, the staff proposes that the petition  
25 be, because of the large quantities of staff resources

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1 which would be required to develop standards, the  
2 Commission considered that, it is in the minutes of that  
3 meeting, and the Commission rejected that position, and  
4 dealt with the merits of the petition, accepted the  
5 petition, and the Committee proceeded to deal with the  
6 issue, not -- and budgets and resources, and the ability  
7 of the Commission to deal with that was one of the issues,  
8 that in fact the Committee proceeded to hear, and alterna-  
9 tives, I should say.

10 So I would certainly conclude my presentation  
11 here by saying that I do believe that we have spent the  
12 amount of time, and we've strayed very far from what really  
13 should have been a rather pro forma concern, or pro forma  
14 pattern, and that that has, in fact, been followed for most,  
15 if not all the petitions that I can recall.

16 The only petitions that I can recall that have  
17 ever been denied by this Commission have been petitions  
18 in which specifically we did not have jurisdiction to rule  
19 on that petition, or to grant the requested relief, or  
20 secondly, when there certainly was an error in the under-  
21 standing of the regulation the petitioner proposed, and/or  
22 the change the petitioner proposed, and that was clearly  
23 brought to the attention of the petitioner.

24 So for the purposes of establishing approval of  
25 the petition, and embarking on the orders for hearings or

1 rulemaking, I think clearly that were the Commission to do  
2 anything other than to accept this petition would be a  
3 substantial deviation, not only on a procedural basis, and  
4 on a technical basis, as well as on a policy basis.

5 With that, Mr. Chairman, I really have no further  
6 comments.

7 CHAIRMAN IMBRECHT: You rest your case. Okay.  
8 Any other member of the Commission wish to address the  
9 issue? Commissioner Commons?

10 COMMISSIONER COMMONS: I think we have before us  
11 not just an issue on the particular petition, but it's an  
12 issue, I think, in some sense, as Commissioner Gandara has  
13 characterized, as to what is the process or the procedure  
14 that this Commission will follow when applicants submit  
15 a petition to us.

16 From what I could gather today, I found no  
17 testimony that was enumerated in support of the current  
18 standards. I found the -- just a total bifurcation with  
19 essentially one group saying, we do not need standards,  
20 and that there are other approaches that will work, and  
21 I look at the Public Utilities Commission, and the fact  
22 that they are paying incentives, and I think that's a  
23 serious question that ought to be looked at.

24 On the other hand, we have the petitioner who is  
25 saying that our standards are out of date and that they are

1 not working because they're not there -- they're not  
2 appropriate. In terms of looking at what the law says, I  
3 think Commissioner Gandara's statement is correct that we  
4 have to look at it to the merits, and it's not budget  
5 considerations that determine whether or not we grant a  
6 petition.

7 In fact, how we handle the petition, I think is a  
8 problem that we have to address to our Budget Committee, and  
9 it does not say that we have to complete this process or  
10 hearing -- am I correct, Mr. Chamberlain, that there is not  
11 a deadline that we have 30, 90, or 180 days in order to  
12 complete this proceeding?

13 MR. CHAMBERLAIN: That's correct. The statute  
14 provides for no such deadline.

15 COMMISSIONER COMMONS: Well, obviously, if we  
16 accept the petition, it's got to work within the confines,  
17 the constraints of our budget. We've had no testimony that  
18 says that this is an emergency, that the health and welfare  
19 of the State of California is at stake, and I think it can  
20 go back into our second quarterly review process, and the  
21 budget questions, and the schedule can be worked out in  
22 due course.

23 So the budget to me is not an issue in terms of  
24 whether or not we accept a petition. We haven't been  
25 inundated with petitions. I don't think the issue here is

1 one of -- that this is frivolous, or other type of petition.  
2 I think the issues that have been raised have been on the  
3 merits.

4 I would be very much concerned to turn down any  
5 petition that was brought in good faith before us on a  
6 significant issue, because essentially, who am I to  
7 determine, without allowing the Committee to hold a  
8 workshop, or have a discussion as to the merits of a  
9 particular issue until it's been studied.

10 The idea of prejudging -- I think the problems  
11 that we may have had sometimes in the past, as we've tried  
12 to make those decision with allowing people to bring in  
13 information and evidence. I agree with many of the people  
14 that were opposed to the petition, that the process would  
15 work much better, done in a more informal basis than in a  
16 hearing basis, and after the discussion, I will present  
17 some amendments to try to encourage a workshop approach,  
18 and some discussion, which I would have preferred to the  
19 petition approach here, and a formal rulemaking proceeding,  
20 because I think the issues should first have been discussed  
21 in a workshop, and then if after that period of time that  
22 there was something needed, we should have gone to rule-  
23 making, I think.

24 But we're not given that opportunity here, because  
25 we're faced with a petition, and so we have to respond to it.

1 I wish we hadn't had the petition. I do have a serious  
2 concern, though, and that is, I'm one of the three  
3 Commissioners who signed the letter from this Commission  
4 in support of the Goggin bill, and most of the people who  
5 oppose the petition today are also in opposition to the  
6 Goggin bill.

7 If we're trying to move together, I can understand  
8 if we have a difference of opinion as to whether or not  
9 there should be standards or no standards, but it had been  
10 my thought that there was a general agreement among the  
11 appliance industry that the five year rolling concept made  
12 sense for California.

13 The testimony received today suggests that it is  
14 not, and I guess I would have to feel in my own mind, more  
15 so than at the beginning of the meeting, that maybe the  
16 Goggin bill is not going to pass now, and that the two  
17 year moratorium essentially is not supported by at least a  
18 substantial number of persons who presented information  
19 and testimony to us today.

20 In any event, the petition that is being brought  
21 before us, does concern appliances that were done prior to  
22 the five year period, and I am firmly in belief in not  
23 making changes here unless there is a very unusual  
24 circumstance, for example, there are no freezers available  
25 in the State of California that meet the standards that have

1 been set, or very few, that we really have to send a  
2 signal out to industry that we're not going to make changes  
3 except on a periodic review basis, and the five-year  
4 concept, as expressed in the Goggin bill, I do think  
5 makes sense.

6 I do -- there's one other aspect, though, on the  
7 petition, from my viewpoint, and that is if it is narrow  
8 and restricted in terms of what we look at. Since it  
9 could have been General Electric that had submitted the  
10 petition today asking us to eliminate the standards, and  
11 if the petition were accepted as it is currently written,  
12 and I were General Electric, I would submit a petition to  
13 do the same.

14 But when we look at the question of on the merits,  
15 I would have to oppose the petition as prepared by staff,  
16 because I think it would be one-sided and biased.

17 CHAIRMAN IMBRECHT: The order, you're talking  
18 about?

19 COMMISSIONER COMMONS: The order as written  
20 by staff, I would consider it one-sided and biased, and  
21 I've heard testimony on both sides, and as far as I'm  
22 concerned, both sides have a right to bring their case.

23 I think the amendment that Commissioner Gandara  
24 has presented here, if it's accepted by the Commission  
25 would take care of that. I would like to make sure that

1 that amendment takes care of industry's request, and at the  
2 appropriate time, I do have some other technical amendments  
3 that I would like to make.

4 CHAIRMAN IMBRECHT: Thank you. I guess we're  
5 each in line for -- anyone else care to wade in?

6 COMMISSIONER SCHWEICKART: I forgot what I was --

7 CHAIRMAN IMBRECHT: All right. I'll lead off.  
8 I just -- to begin with, I share the concern that  
9 Commissioner Commons just expressed relative to the  
10 agreement that had been reached on the Goggin legislation.

11 As I listened to the testimony this morning, I  
12 think this is accurate, I didn't hear anyone repudiate the  
13 two-year freeze, and the five-year rolling time period for  
14 adoption of standards within the same product category.

15 I did hear some concerns expressed about other  
16 provisions in the bill. I do have to say that the context  
17 of ensuring a cooperative and productive relationship, it  
18 is essential that when agreements are made, they be  
19 respected by parties on both sides of the agreement.

20 I do feel, in all sincerity, that an agreement  
21 was struck, and that the provisions that were encompassed  
22 within the bill that were considered onerous to the  
23 appliance industry were part and parcel of the agreement  
24 in order to provide relief to the appliance industry as  
25 well.

1 I caution from the dias, as strongly as I can,  
2 and urge those that represent various interests within the  
3 appliance industry to seriously reflect upon the importance  
4 of your word, indeed, being something that can be relied  
5 upon for a period beyond 30 or 60 days, because that  
6 greatly poisons the atmosphere, in my view, in terms of  
7 how we produce a cooperative as opposed to an adversarial  
8 relationship.

9 I am hopeful that there will be a reflection on  
10 that, and a continued recognition that when an agreement  
11 is struck, if you speak on behalf of the party you represent,  
12 it is anticipated that you have the authorization to make  
13 that commitment, and not, indeed, find yourself in the  
14 position of being forced to return to your principles, and  
15 having that decision second-guessed.

16 I might say as well that it was largely because  
17 of that agreement -- I might say in defense of staff, I  
18 fully believe that budgetary and work plan allocations are  
19 entirely relevant considerations to be raised to us in  
20 terms of determining whether or not we institute a rulemaking  
21 proceeding that does have staff implications, or resource  
22 implications.

23 The reason I say that is that it is apparent that  
24 this agency, nor any agency, is not in the position to do  
25 everything it might desire. I think we are asking staff to

1 expand their horizons in some interesting ways, and I think  
2 potentially conflicting ways down the line. I recall very  
3 well a month ago when we had the predominant discussion of  
4 the nonresidential office building standards, a very strong  
5 desire on behalf of the members of the Commission -- I  
6 think this was uniformly accepted, and by those that were  
7 participating in the hearing as well, that we try to move  
8 aggressively to complete work on other nonresidential  
9 building classes.

10 So that's an added resource commitment, in effect,  
11 that we certainly have reason to anticipate into the future,  
12 a demand upon the same division of the Commission, as with  
13 the additional appliance standards for consideration in a  
14 lengthy proceeding.

15 I might say as well that I am not persuaded that  
16 the estimates as to staff time associated with this proceed-  
17 ing are even remotely within the ball park. It is quite  
18 apparent from the contentious nature of this entire issue  
19 that any proceeding is going to be lengthy, and certainly  
20 is going to require the assimilation and consideration of  
21 voluminous data.

22 Indeed, if the contentions of the industry are  
23 to be supported, data obviously is going to have to be  
24 provided, and in turn, that will require substantial  
25 rebuttal, consideration I would suspect, as well.

1 I might say as well that I also think it is  
2 appropriate for staff to raise policy considerations as  
3 they best understand them, and I think they in good faith  
4 raised a consideration relative to the majority of this  
5 Commission having signed a document that indicated support  
6 for the Goggin bill as it is currently in print, and which,  
7 as I indicated earlier, I believe was at the time, likewise  
8 understood to be a commitment from the industry.

9 In response to one of the comments Commissioner  
10 Gandara made, I would just say that my recollection of the  
11 work plan discussions where you indeed made a request for  
12 additional staff associated with appliance. I recollect  
13 you enumerating a number of potential tasks necessary to  
14 be done in the appliance field, including in particular,  
15 the preparation and adequate support for the waiver  
16 petition before the Department of Energy.

17 I do not recall any enunciation or anticipation  
18 of an effort to revise or expand, or strengthen the standards.  
19 I do think that at some point, we have to close on what we  
20 are going to do within a given fiscal year, and that to have  
21 a moving target, if you will, constantly, as to what our  
22 resource abilities and constraints are, does not make for  
23 a very sound management.

24 Now we find ourselves better than halfway through  
25 the current fiscal year, and faced with a decision that as

1 I indicated earlier, I believe has substantially greater  
2 resource implications than that which has been represented  
3 to us.

4 As a consequence, I would be far more comfortable  
5 in utilizing the informal approach that Commissioner  
6 Commons suggested earlier, with an understanding that in  
7 the event there is a demonstration that we should be making  
8 movement in either of these areas, whether it be refrigera-  
9 tors singularly, or refrigerator/freezers singularly, or  
10 air conditioners singularly, or combined, that that would  
11 best be approached in the context of appropriate budget  
12 change proposal submittals to the Department of Finance  
13 and the administration for the coming fiscal year.

14 I am at this point left somewhat in a dilemma  
15 as to what appropriate action should be taken today. I  
16 think the ability to demonstrate to all the members of  
17 the Commission good faith on the part of the industry is  
18 to some extent eroded by virtue of the comments made, as  
19 I made reference to earlier, to a lack of understanding of  
20 the Goggin bill.

21 At the same time, I also feel strongly that it  
22 is incumbent upon us as Commissioners, as we bring policy  
23 judgments to bear on these issues, that we also take into  
24 consideration our own feelings, however flob they may  
25 or may not be, as to the appropriate timing to move forward

1 in a given regulatory area.

2 I do not think, in an effort to generate increased  
3 cooperation with the industry, that I believe is ultimately  
4 essential if, on behalf of the citizens of the state, we  
5 are going to achieve the conservation we all believe is  
6 possible, I don't believe that the timing of this is well  
7 taken, and I share again, Commissioner Commons' thoughts  
8 that I would prefer that we were addressing this issue in  
9 a different procedural format than this particular petition.

10 So I guess what I'm ultimately left, at this  
11 point in time, is that I'm not inclined to support the  
12 petition. I am inclined to address the issue, and to  
13 demonstrate to parties on both sides that this Commission  
14 has an obligation to continue to review and update, where  
15 appropriate, any standards that we may consider.

16 I do think, though, that if we are going to under-  
17 take such an action, it should be in the contemplated  
18 budget process that we ordinarily deal with. I for one  
19 am not terribly inclined to have this sent back to the  
20 Budget Committee for a determination as to how we are  
21 going to, in effect, squeeze blood from a turnip, and  
22 find additional staff to take on yet another task at this  
23 point in time.

24 At the same time, in the event that the petition  
25 is granted, I do also, and I recognize, as having indicated

1 that I am not likely to support the petition, that my  
2 ability to suggest changes is likewise somewhat erroded as  
3 a consequence. But I do think that the language in  
4 paragraph 2 should be modified to indicate, as well as  
5 suggest that in paragraph 5, that the Commission proceeding  
6 does not contemplate adoption of the petition as presented  
7 by NRDC, but rather it contemplates a broader rulemaking  
8 hearing to consider the variety of issues associated with  
9 appliance standards.

10 Commissioner Edson?

11 COMMISSIONER EDSON: As the third signatore to  
12 the letter, I think it's important to comment. I think  
13 there are really a couple of points to make. One is that  
14 when I signed the letter, it was my understanding that it  
15 was a compromise between all parties, and that in fact,  
16 as we agree to a moratorium on new standards, and a rolling  
17 freeze on existing standards, that the industry was agreeing  
18 to provide data to the Commission, and to the language in  
19 the bill, which contained those requirements.

20 We now hear today that that's not the case.  
21 Notwithstanding that, I think it's worth pointing out that  
22 first of all, these standards are outside of the five-year  
23 period and secondly, that it is, in a practical way, I  
24 think, impossible for us to complete this rulemaking and  
25 have these standards take effect in less than two years.

1           So to the extent that there is a two-year  
2 moratorium in that bill, I don't think we are in any way  
3 violating the spirit of the commitment that we offered  
4 several months ago, and it's -- in light of that, and also  
5 in light of the very substantial savings that we're talking  
6 about with these proposed standards, that I think we owe it  
7 to the petitioner and to the state to air this issue, and  
8 to consider the possibility of achieving the savings -- the  
9 potential savings that exists.

10           We heard from the petitioner an estimate of those  
11 savings of \$15 billion between now and the year 2010. We  
12 heard from the industry that that is grossly overstated,  
13 and that it should be much lower. If you take the 16  
14 percent figure offered by DOE, that gives us nearly two  
15 and a half billion, and if you split the difference, we're  
16 still talking about nearly \$9 billion.

17           I don't think that we can, today, reject a  
18 petition that offers such substantial energy savings to  
19 the State of California on the grounds that we don't have  
20 the two person months, the estimate given to us by the  
21 staff as the needed staff time to complete the work on this.  
22 We simply don't have that flexibility in our budget to  
23 proceed. I would suggest that we do have that flexibility  
24 and it is work that will, I think, clearly continue beyond  
25 this fiscal year, and we may end up with additional

1 flexibility beyond this.

2 CHAIRMAN IMBRECHT: Okay. Commissioner  
3 Schweickart, or are you going to adopt by reference?

4 COMMISSIONER SCHWEICKART: I'll make just a  
5 couple of comments. Number one, the Commission's policy  
6 is articulated in the Biennial Reports. We have been very  
7 consistent in the Biennial Reports, stating what our  
8 policy was in this area, and it has been consistently  
9 indicated as a high priority of the Commission to move  
10 ahead where appropriate with appliance -- with updating  
11 of appliance standards.

12 I don't think there's any question in terms of  
13 the issue, Mr. Chairman, that you raised related to  
14 budgeting constraints, there's no question, that especially  
15 in the conservation area, the Commission is under very  
16 severe pressure in terms of its available staff to do  
17 almost anything, included what could be considered  
18 obligatory actions.

19 Nevertheless, to make policy judgments in terms  
20 of what is appropriate for the benefit of California  
21 ratepayers and citizens based on our current staff alloca-  
22 tions, where action that is requested of the Commission,  
23 in this case by a petition, clearly falls within legislative  
24 directive, is in my mind inappropriate.

25 That is, it would invite, it seems to me, the kind

1 of action where policy committees of the Legislature are  
2 essentially bypassed by fiscal committees. That is, let's  
3 not finance something, and that way we'll kill it. I would  
4 point out that that's in fact how we got where we are, and  
5 it was in fact this industry which made an appeal before  
6 the finance committees of the Legislature, rather than the  
7 policy committees, which cut our appliance program in half  
8 a couple of years ago.

9           It certainly is effective, one can argue against  
10 that, and at the same time, it seems to me that it bypasses  
11 the very nature of the democratic process, the political  
12 process which says what is the policy, what are the  
13 statutory obligations of the Energy Commission.

14           So I feel, frankly, that it's much more appro-  
15 priate to make our judgments based upon what our policy  
16 that's been articulated in our formal documents is, along  
17 with what our statutory mandates are if, in fact, we are  
18 not able to achieve the personnel assignments required,  
19 or the budget in order to accomplish those tasks, that's  
20 a very real problem which we're going to have to live with,  
21 and set priorities internal to the Commission, based on  
22 personnel that we have, but is certainly not one where our  
23 responsibility, it seems to me, in terms of what actions are  
24 appropriate, should be based.

25           So while recognizing the practical problems, I

1 believe that de facto, we do not hand over our statutory  
2 obligations or responsibilities as Commissioners to heavy  
3 handed budget cutting. In the end, that wins out, if you  
4 don't have any resources, but I don't think you begin --  
5 at least I'm not willing as a Commissioner, to begin playing  
6 the game that way.

7 CHAIRMAN IMBRECHT: Well, just a brief rejoinder,  
8 I would just indicate that it seems to me we're really  
9 talking about basic obligation of management, and that is  
10 to set priorities within the constraints of the resources  
11 you have available.

12 As I hear your description, you would set those  
13 resource allocations subsequent to an adoption of this  
14 proceeding. I would set them now, and not invite that  
15 question, recognizing that those constraints do exist. I  
16 think that's really the practical difference between what  
17 we're saying.

18 All right. Commissioner Commons has some  
19 amendments to offer and then we'll move to a vote.

20 COMMISSIONER COMMONS: Procedurally, what I'd  
21 like to do is read the amendments one by one, and those  
22 that the maker of the motion accepts, include within the  
23 main motion, and only vote separately on those that the  
24 maker would like to have voted on separately.

25 CHAIRMAN IMBRECHT: Fine.

1           COMMISSIONER COMMONS: Most of them are technical,  
2 there are about seven.

3           CHAIRMAN IMBRECHT: That's an acceptable procedure.

4           COMMISSIONER COMMONS: I think I passed out a  
5 copy to the Commissioners of most of the amendments in  
6 handwriting, so it's not clear, but at least it will be  
7 easier to follow. On page 2, under the second line, in  
8 order to make 2 consistent with the Presiding Member's  
9 recommendation on 5, is to strike the words, "grants  
10 petitioner's request for" and insert the word, "hereby  
11 orders". So we'll insert the word "orders".

12           CHAIRMAN IMBRECHT: That's acceptable? All right,  
13 that will be adopted.

14           COMMISSIONER COMMONS: On page 6, -- page 3,  
15 item 6, at the bottom, insert the words, "Committee's  
16 recommendations and/or proposed regulations" rather than  
17 just say, "proposed regulations". I think normally we  
18 have before the Commission --

19           CHAIRMAN IMBRECHT: Would you repeat that please,  
20 you're talking about the fourth line, after the word --

21           COMMISSIONER COMMONS: No, on page 3, item 6,  
22 at the very bottom, before the words "proposed regulations",  
23 insert the words "Committee recommendations and/or".

24           CHAIRMAN IMBRECHT: All right. Which holds out  
25 the option that there would be something, as opposed to new

1 regulations with the --

2 COMMISSIONER GANDARA: Let me --

3 COMMISSIONER COMMONS: This is not the one on  
4 top, this is the one on the very bottom that I'm referring  
5 to.

6 COMMISSIONER GANDARA: Let me suggest whether  
7 by just changing the first recommendation on line 4 to  
8 "recommendations" doesn't take care of your concern,  
9 Commissioner Commons?

10 COMMISSIONER COMMONS: That's fine.

11 COMMISSIONER GANDARA: That's recommendations  
12 which allows for --

13 COMMISSIONER COMMONS: Crossing off the words,  
14 "on the proposed regulations".

15 CHAIRMAN IMBRECHT: So you'd substitute the  
16 word "recommendations" for "regulations".

17 COMMISSIONER GANDARA: Right.

18 COMMISSIONER COMMONS: That's fine.

19 CHAIRMAN IMBRECHT: All right.

20 COMMISSIONER COMMONS: Due to the staff proposal,  
21 and I think the budget picture, I don't feel strongly  
22 about it, but I'd like to propose it to the Presiding  
23 Member. On the top of page 3, rather than say the  
24 "Committee may in its discretion" so not putting the  
25 Committee into the position of having to do the budgets,

1 just say, "the Committee shall set one schedule of staff  
2 reports and Committee hearings for refrigerators, and a  
3 subsequent schedule for air conditioners". What that would  
4 do is pass, probably, half of this work into the next  
5 fiscal year, and would I think help in solving the budget  
6 problem, but I'm willing to go the way of the Presiding  
7 Member on it. I would just suggest it as a budget  
8 strategy.

9 COMMISSIONER GANDARA: What is the exact proposed  
10 change?

11 COMMISSIONER COMMONS: All right, instead of --  
12 after the word "Committee" --

13 CHAIRMAN IMBRECHT: Insert the word "shall".

14 COMMISSIONER COMMONS: Strike "may in its  
15 discretion" and insert the word "shall" and then in line  
16 4, strike the words "and -- after "and freezers and",  
17 strike the word "set" and then you leave the word "a", and  
18 then you strike the word "separate or".

19 CHAIRMAN IMBRECHT: It would read as follows:  
20 "The Committee shall set one schedule of staff reports and  
21 Committee hearings or Commission hearings for refrigerators  
22 and freezers, and a subsequent schedule for air conditioners".

23 COMMISSIONER GANDARA: I would agree to the first  
24 changes. I think that at this point in time, if you just  
25 leave the set or subsequent schedule for air conditioners,

1 I think the Committee certainly will take into account the  
2 constraints. I'm not quite sure exactly what that would  
3 mean, subsequent schedules, would that -- whether the  
4 Commission would order the Committee to first complete  
5 one set of hearings before starting another or --

6 COMMISSIONER COMMONS: That's fine. Let's have  
7 it, the Committee shall set one schedule of staff reports,  
8 and then the rest of the sentence, the paragraph reads as is.

9 COMMISSIONER GANDARA: Okay.

10 COMMISSIONER COMMONS: All right. Then going to  
11 the last page, again a technical amendment, under 7, "the  
12 Executive Director shall also ensure" and insert after that  
13 "reports and" so it's not just drafts of proposed regulations  
14 but that all reports are made available to all interested  
15 parties.

16 CHAIRMAN IMBRECHT: Okay.

17 COMMISSIONER COMMONS: And then on the bottom, on  
18 paragraph 8, any person present at, and we have it hear  
19 only as hearings, I wanted to insert the word "workshops/  
20 hearings" and be given an opportunity, we said to make  
21 oral comments, I think we obviously -- they should be  
22 allowed to submit written evidence and/or make oral comments.

23 We should strike at the discretion of the  
24 Commissioner presiding at these hearings, the presiding  
25 Commissioner always runs the meeting, and I think that is

1 procedurally suggested that the process isn't fair.

2 COMMISSIONER GANDARA: That's fine, I have no  
3 problem with that.

4 COMMISSIONER COMMONS: Then the last one, which  
5 maybe -- I held back to the end, where the Presiding Member  
6 may want to look at this separately, I feel that there's  
7 been, and it's probably my fault more than any other  
8 Commissioner, is I've really encouraged industry to try  
9 to work with the Committee and to hold a workshop discussion,  
10 and then this concept of the petition came up after those  
11 conversations were heard.

12 One of the things I've learned in the Commission  
13 is that it really helps in a process if we have a workshop  
14 that gets the issues out prior to the time that the staff  
15 goes and puts together a report. So what I would like to  
16 do, and whether it needs to be done in words in the order,  
17 or if it just is something that we agree on doing, is on 6,  
18 where we say, "The Appliance Standards Committee will hold  
19 at least one hearing" is we insert, "will hold at least  
20 one workshop prior to staff drafting each report".

21 I think that would show a lot of good faith on  
22 the part of this Commission in terms of addressing some of  
23 the issues that were raised today, and would reduce some of  
24 the tension that may be in the air.

25 CHAIRMAN IMBRECHT: Okay. It's up to each --

1           COMMISSIONER GANDARA: The only problem is the  
2 Committee has always held workshops before hearings.

3           CHAIRMAN IMBRECHT: Okay, fine. I think we  
4 understand all the amendments suggested by Commissioner  
5 Commons, and --

6           COMMISSIONER COMMONS: And there's one last one  
7 on 6, "to receive comments" and it should be on the proposed  
8 regulations. On page 3, number 6, it should be "to receive  
9 comments on approaches and proposed regulations".

10          CHAIRMAN IMBRECHT: Proposed recommendations.

11          COMMISSIONER COMMONS: Or on proposed  
12 recommendations instead.

13          CHAIRMAN IMBRECHT: Make it that way, and we'll  
14 be consistent throughout the text of the draft.

15          COMMISSIONER SCHWEICKART: Mr. Chairman, let me  
16 point out that that doesn't make sense here, because the  
17 statement is the Committee shall then make it's recommenda-  
18 tions, certainly not on its proposed recommendations.

19          COMMISSIONER COMMONS: We're crossing off the  
20 words, "on the proposed regulations".

21          COMMISSIONER SCHWEICKART: Yes. Well, I would  
22 agree, I think there may have been a misunderstanding --

23          COMMISSIONER COMMONS: I'm talking about the line  
24 right above, the line right above, "to receive comments on",  
25 instead of "the proposed regulations", the Chairman's

1 comment is correct, we could say, "on the proposed  
2 recommendations".

3 CHAIRMAN IMBRECHT: Fine. Okay, I think --

4 COMMISSIONER SCHWEICKART: I had one --

5 CHAIRMAN IMBRECHT: Commissioner Schweickart.

6 COMMISSIONER SCHWEICKART: Yes. I'd like to ask  
7 the General Counsel here, in reflecting on Commissioner  
8 Commons' first amendment, that is, on page 2, number 2,  
9 after hearing on a petition, blah, blah, blah, the  
10 Commission hereby it was, "grants the petitioner's request  
11 for rulemaking" and with the amendment will be "orders  
12 rulemaking".

13 Is there a requirement that we either specifically  
14 grant or deny a petition? I mean what -- I'm asking a  
15 technical question, this has nothing to do with the policy  
16 or any other thing, but I'm --

17 MR. CHAMBERLAIN: There is certainly --

18 COMMISSIONER SCHWEICKART: We're doing what's  
19 been requested in a way, and yet we're avoiding granting  
20 a petition.

21 MR. CHAMBERLAIN: There is certainly a requirement  
22 that you deny a petition if that is your intention. If you  
23 intend not to take any further action with respect to it,  
24 and if you deny the petition, you have to state in writing  
25 what your reasons for denying it are, and those reasons

1 have to be based on the merits of the petition.

2           However, I don't believe there is any technical  
3 difference between granting the petition and setting  
4 hearings in accordance with a request set forth in the  
5 petition. That's what the petition is all about, is to  
6 ask the Commission to set hearings, and I interpret either  
7 language to be sufficient to satisfy the statutory  
8 requirement.

9           COMMISSIONER COMMONS: Bill, I'm relying on  
10 Section 11347.1(b) which gives us the right, may take other  
11 relief, or take such other action as may be determined to  
12 be warranted, and I think that's in accord with your  
13 comment in response to Commissioner Schweickart.

14           CHAIRMAN IMBRECHT: All right, fine. The issue  
15 is before us. It has been moved by Commissioner Gandara,  
16 seconded by Commissioner Schweickart that the proposed  
17 order, as amended be adopted. Any further comment?

18           Secretary please call the roll.

19           SECRETARY GERVAIS: Commissioner Commons?

20           COMMISSIONER COMMONS: Aye.

21           SECRETARY GERVAIS: Commissioner Edson?

22           COMMISSIONER EDSON: Aye.

23           SECRETARY GERVAIS: Commissioner Schweickart?

24           COMMISSIONER SCHWEICKART: Aye.

25           SECRETARY GERVAIS: Commissioner Gandara?

1 COMMISSIONER GANDARA: Aye.

2 SECRETARY GERVAIS: Chairman Imbrecht?

3 CHAIRMAN IMBRECHT: No. Okay. Thank you, the  
4 order is adopted as amended.

5 We'll now turn -- let me just make one quick  
6 information question. Is Dina Hunter, is she still present?

7 MR. GARDNER: Mr. Chairman, I'm Mike Gardner  
8 of Southern California Edison. She has left, and I can  
9 cover that item in its proper order.

10 CHAIRMAN IMBRECHT: Fine we'll take it up in order  
11 at that time. Thank you very much.

12 Now, let's turn to Item No. 4 which is somewhat  
13 related, and I think we can at least relieve those that  
14 are here on appliance issues from further attendance, if  
15 that's their desire.

16 Item No. 4 is Commissioner consideration and  
17 possible adoption of an order instituting rulemaking to  
18 amend the regulations on appliance efficiency standards.  
19 The proposed amendments are administrative in nature and  
20 include such matters as changing inventory clearance and  
21 labeling requirements to comply with AB 1836, et cetera.  
22 Mr. Ward?

23 EXECUTIVE DIRECTOR WARD: Mike Martin from the  
24 Conservation Division is prepared to answer your questions  
25 and go over the issue.

1 MR. MARTIN: Commissioner, these amendments are  
2 summarized in the memo before you. There are none of them  
3 that are in any way controversial, or will affect the  
4 stringency of the standards.

5 CHAIRMAN IMBRECHT: Fine. Let's see if we have  
6 any opposition to them. Mr. Dorey wishes to testify.

7 MR. DOREY: Yes, Commissioners. Deke Dorey again,  
8 General Electric. I would like to make only one comment  
9 in relation to the appliance labeling required under AB  
10 1386, and SB 849.

11 General Electric would submit that the Commission  
12 can interpret the mandate of these two bills to be fulfilled  
13 by use of the date code currently used by many manufacturers  
14 in the serial number on the nameplate that's attached to the  
15 product.

16 For those products that have not had any change  
17 in the minimum standards within the past two or three years,  
18 we believe that the issue of the date of manufacture,  
19 relative to enforcement of energy standards, is not really  
20 significant.

21 There have not been any changes in California  
22 standards for refrigerators, freezers, or room air  
23 conditioners since September of -- November of 1979, more  
24 than four years ago. We feel that to require manufacturers  
25 to change the labeling requirements to include a date of

1 manufacture for enforcement purposes, where the likelihood  
2 of the need virtually approaches zero, is somewhat  
3 unnecessary.

4 For that reason, General Electric would urge the  
5 Commission to accept the date coded serial number already  
6 appearing on most appliances as meeting the requirements  
7 of AB 1386 and SB 849.

8 CHAIRMAN IMBRECHT: A question to counsel, would  
9 that be appropriate information for us to consider in the  
10 context of the rulemaking, as opposed to in this forum?

11 MS. ICHIEN: That's correct.

12 CHAIRMAN IMBRECHT: I think that's the place where  
13 that point should be raised, Mr. Dorey.

14 MR. DOREY: Okay, fine. Thank you.

15 CHAIRMAN IMBRECHT: Okay, fine. Thank you. Any  
16 further comments?

17 COMMISSIONER SCHWEICKART: Move it.

18 CHAIRMAN IMBRECHT: Moved by Commissioner  
19 Schweickart, seconded by Commissioner Gandara, is there  
20 objection to -- does anyone else wish to be heard on this  
21 matter? Hearing none, is there objection to a unanimous  
22 roll call? All Commissioners, save Commissioner Commons  
23 being present, aye, it's approved four to nothing.

24 Thank you very much.

25 (Agenda Item No. 2, Under Separate Cover.)

1 (Agenda Item No. 5, Under Separate Cover.)

2 COMMISSIONER COMMONS: I would like to take a  
3 five minute break.

4 CHAIRMAN IMBRECHT: Take a five minute break.  
5 Well, I'll tell you, we have -- okay, I'll tell you what  
6 we will do, very briefly. We need, I believe, Mr. Chamber-  
7 lain, you have a couple of items for executive session.  
8 Let's move to an executive session for 15 minutes maximum  
9 and we'll be back here at 20 minutes to 5:00.

10 (Executive Session.)

11 CHAIRMAN IMBRECHT: Will the meeting please  
12 come to order. With your forebearance, we're going to do  
13 our best to be out of here in one hour maximum.

14 (Agenda Item No. 6, Under Separate Cover.)

15 CHAIRMAN IMBRECHT: Item No. 8, Commission  
16 consideration and possible adoption of Committee recommenda-  
17 tions of the award of Federal Solar Energy and Energy  
18 Conservation Bank funds, \$185,400 to be allocation on  
19 this item. Commissioner Edson.

20 COMMISSIONER EDSON: I'm batting 1,000, so let  
21 me try it again.

22 CHAIRMAN IMBRECHT: That's better than me.

23 COMMISSIONER EDSON: The Commission authorized  
24 the use of approximately \$185,000 from the Conservation  
25 Bank funds to demonstrate a conservation program in multi-

1 family rental housing. Unfortunately, after a series of  
2 workshops around the state, the Commission did not receive  
3 applications for the use of those funds.

4 What we have before us today is suggesting that  
5 that money be divided among the other recipients of the  
6 funds in proportion to the original allocation.

7 MS. GRIFFIN: I would say that we held a  
8 competition among the 10 remaining original participants  
9 who are the only organizations who are eligible to receive  
10 the money under the HUD guidelines. These were the three  
11 that did respond to us, and then we ranked them the same  
12 way that the Commission directed that we rank the initial  
13 order, and then the funding allocation was achieved that  
14 way.

15 CHAIRMAN IMBRECHT: Commissioner Commons?

16 COMMISSIONER COMMONS: Would these three proposals  
17 have been funded if we'd had sufficient funds on the initial  
18 go-around?

19 MS. GRIFFIN: Yes, sir, they would have.

20 COMMISSIONER COMMONS: Thank you.

21 CHAIRMAN IMBRECHT: Okay, moved by Commissioner --  
22 is there anyone who wishes to testify on Item No. 8? I'm  
23 sorry, did I neglect, is Mr. Daum here, Skip Daum?  
24 Apparently he wanted to testify on Item 6, and I apologize  
25 for that oversight. Mike, do you want to --

1 MR. GARDNER: I don't believe I need to make any  
2 comments. Ms. Hunter had submitted a card earlier, and  
3 found it necessary to leave. I could answer any questions  
4 about Edison's program that you might have, otherwise I'll  
5 be quiet and let you get on with your business.

6 CHAIRMAN IMBRECHT: Fine. Moved by Commissioner  
7 Edson, seconded by Commissioner Schweickart, is there  
8 objection to a unanimous roll call? I'm sorry, Commissioner  
9 Gandara?

10 COMMISSIONER GANDARA: I have a question. Is  
11 there some requirement that we commit these funds before  
12 the end of the year, is there some urgency?

13 COMMISSIONER EDSON: There is a -- my under-  
14 standing is that there is a time limit that applies to how  
15 quickly the funds must be spent. There is some concern  
16 that perhaps not all three of these recipients will be  
17 able to spend the additional funds that are being allocated,  
18 and the staff is prepared to re-evaluate several months  
19 down the road, and if the money is not being spent, come  
20 back before the Commission and recommend one final allocation.

21 MS. GRIFFIN: Commissioner Gandara, if money is  
22 not allocated by these groups by June 30, and not out of  
23 their pocket -- well, it must be allocated by June 30, or  
24 it reverts to HUD. The state does not retain the money,  
25 and they must spend it, physically out the door by

1 September 30. So there is a great deal of pressure upon  
2 them to go ahead and move it, and as I said, it's only the  
3 10 applicants in our original funding pool who are eligible  
4 under the HUD regulations, those are the only ones that  
5 HUD has approved among these, and these would have been  
6 worthy projects if we'd had the money the first time.

7 COMMISSIONER GANDARA: Okay. Well, what are the  
8 restrictions on these funds? I mean, can they be used only  
9 for these types of projects or --

10 MS. GRIFFIN: Yes, sir, this is very heavily  
11 restricted, it's the HUD Energy Bank interest buydown and  
12 grant for low income. It's a very tangled program, that's  
13 why we've had some difficulty designing the multi-family  
14 project, because the regulations are so tough.

15 COMMISSIONER GANDARA: What's behind my thought  
16 on this is that we had a very long discussion earlier about  
17 studying alternatives to the appliance petition, and I'm  
18 just wondering whether thought had been given to some of  
19 the alternatives, or incentives that could be proposed and  
20 utilize these funds, if they are so programmable. Are  
21 they restricted --

22 MS. GRIFFIN: They are very much restricted.  
23 They can only be used for interest subsidies for a certain  
24 set of measures, such as ceiling insulation, storm windows  
25 and doors, for projects that have been previously approved

1 by HUD for a certain classes of lower income customers.  
2 You can't use it for planning money, or any kind of general  
3 incentives.

4 COMMISSIONER GANDARA: Yeah, I know, but my  
5 question is, that I guess that generally I've seen a lot of  
6 focus on these programs on the envelope in terms of energy  
7 efficiency, and I haven't seen much focus on the appliances,  
8 and I'm wondering whether -- I believe that under the  
9 multi-family proposal that was reviewed, there was a  
10 component that focused on efficient appliances as well, was  
11 there not?

12 COMMISSIONER EDSON: I think that's in the  
13 Petroleum Violation Escrow Account program.

14 MS. GRIFFIN: That's the Petroleum Violation, yes.  
15 One of these projects is an appliance, the Edison one  
16 concentrates on evaporative coolers for their lower income  
17 clients, customers.

18 COMMISSIONER GANDARA: Well, I think we can  
19 proceed on this for now. I would just like to urge sort  
20 of a consideration of --

21 CHAIRMAN IMBRECHT: Every contest of Karen versus  
22 any other authority in the city on utilization of these  
23 funds, she's won in my experience thus far, so I wouldn't  
24 doubt her expertise on it. If she says it can't be used,  
25 I'm fairly confident she's right.

1           COMMISSIONER EDSON: Just comment, that if you  
2 recall, these were funds that came to the state very  
3 quickly. We had a very short amount of time to put  
4 together a proposal for the federal government, and we  
5 ended up essentially serving as a conduit for the 10  
6 applicants that Karen mentioned.

7           In the future, I think we plan to structure the  
8 process so that the Energy Commission itself has much more  
9 discretion in how funds can be allocated. But in this  
10 round, we don't have that discretion, we are restricted  
11 to these specific programs that were funded several months  
12 ago.

13           CHAIRMAN IMBRECHT: All right. Is there  
14 objection to the unanimous roll call? Hearing none, that  
15 will be the order.

16           Item No. 9, Commission consideration and possible  
17 adoption of Committee recommendations awarded \$192,566 for  
18 technical assistance in order to allow competition in our  
19 next grant and loan cycle. Commissioner Edson.

20           COMMISSIONER EDSON: This I believe is --

21           CHAIRMAN IMBRECHT: Cleaning off the desk.

22           COMMISSIONER EDSON: Yeah. As you recall, the  
23 Commission received some Petroleum Violation Escrow Account  
24 funds for expenditure within the schools and hospitals  
25 grant program. The opportunity notice went out, and this

1 is the first part of that award. These are the technical  
2 grants that are before you today.

3 In the future, after the more thorough evaluation  
4 that's required for the more complicated projects, the  
5 remainder of the funds will come before the Commission.  
6 There are eight applicants for technical assistance for a  
7 total of \$192,000.

8 CHAIRMAN IMBRECHT: Commissioner Commons?

9 COMMISSIONER COMMONS: I have a number of  
10 questions on this program. First of all, did we -- are  
11 there any applications that we rejected?

12 COMMISSIONER EDSON: No.

13 MS. GRIFFIN: No.

14 COMMISSIONER COMMONS: Is there any backup  
15 information other than we have, what are the criteria that  
16 we used in evaluating these programs?

17 MS. GRIFFIN: The criteria for awarding a  
18 technical assistance grant is the adjusted energy use  
19 index of the building, which is the energy use per square  
20 foot, that is the criteria which was adopted by this  
21 Commission as part of our institutional conservation plan.  
22 You addressed it about five months ago. It's part of a  
23 federal program.

24 COMMISSIONER EDSON: Commissioner Commons, the  
25 plan was before the -- was before the Commission as

1 Ms. Griffin just mentioned, about five months ago, and as  
2 you recall, we spent quite a bit of time going over the  
3 evaluation criteria. This series of recommendations was  
4 developed at adhering to those criteria.

5 COMMISSIONER COMMONS: Well, I'm noting when I  
6 look at the projects that we have some projects, like the  
7 Center for Employment Training, we're putting up \$14,029  
8 and they're putting up \$1,500, so the match is --

9 CHAIRMAN IMBRECHT: No, we're putting up -- I'm  
10 sorry.

11 COMMISSIONER COMMONS: We're putting up 10  
12 percent -- 90 percent, they're putting up 10, and we have  
13 three projects in a row where it looks like it's close to  
14 a 50-50 match.

15 MS. GRIFFIN: Yes, sir. As you remember, this  
16 program is a 50-50 grant for almost all. Up to 10 percent  
17 of the money can be used for hardship cases. Those are  
18 either cities or counties whose reserves are so low, or  
19 their energy bills are so high that they need additional  
20 assistance.

21 Remember, this is the audit that then gives them  
22 the information about what they can really save in their  
23 buildings, so this is a critical component for them going  
24 forward.

25 COMMISSIONER COMMONS: Well, why would CSU Los

1 Angeles, CSU Long Beach, CPSU San Luis Obispo, part of the  
2 California State University, be considered a hardship case?

3 MS. GRIFFIN: They're considered a hardship  
4 because they have no reserves.

5 COMMISSIONER COMMONS: I heard the Governor's  
6 speech.

7 CHAIRMAN IMBRECHT: Not after this budget.  
8 (Laughter)

9 COMMISSIONER COMMONS: I heard the Governor's  
10 speech, I don't think they qualify as hardship.

11 MS. GRIFFIN: They qualify as hardship under the  
12 DOE regulations because they have no reserves.

13 COMMISSIONER COMMONS: Well, if we don't spend  
14 the money on these areas, it appears to me we have lots  
15 of excess funds, and then they would go into building  
16 retrofit programs, is that not correct?

17 MS. GRIFFIN: That's correct.

18 COMMISSIONER COMMONS: My understanding is, in  
19 the building retrofit funds, our leverage of our grant  
20 funds is significantly better than we're accomplishing here,  
21 and also our energy savings is significantly better than  
22 we're accomplishing here.

23 MS. GRIFFIN: Well, of course, the energy savings  
24 is greater because those are actual projects, whereas these  
25 are the engineering analyses leading to projects. That is

1 also a 50-50 percent match with some of them being up to  
2 90 percent in hardship cases.

3 COMMISSIONER COMMONS: On the two -- the Center  
4 for Employment Training and Natividad Hospital, can you  
5 give me some information as to why these would be considered  
6 hardship?

7 MS. GRIFFIN: I cannot, the technical staff is  
8 off at workshops, or gone home.

9 COMMISSIONER COMMONS: I guess I'd like to make  
10 an amendment to the motion. I'd like -- if I may, Mr.  
11 Chairman?

12 CHAIRMAN IMBRECHT: Certainly.

13 COMMISSIONER COMMONS: I'd like to move that we  
14 approve today the second, third, and fourth projects,  
15 and we hold until the next business meeting the remainder  
16 until we get further information.

17 COMMISSIONER GANDARA: Second.

18 CHAIRMAN IMBRECHT: Moved and seconded to approve  
19 the Chope Hospital, the Foothill-DeAnza Community College  
20 District, and the Marysville Joint Unified School District  
21 technical assistance grants, and retain the remainder of  
22 the items until the next business meeting. Moved and  
23 seconded by Commissioner Commons and Commissioner Gandara,  
24 respectively. Any discussion?

25 COMMISSIONER EDSON: I would just comment that

1 the criteria for hardship, as well as the criteria for  
2 evaluating the projects was fairly spelled out, is  
3 fairly spelled out in the state plan that was before this  
4 Commission and considered by this Commission some time ago.  
5 These are projects which were evaluated according to this  
6 criteria, the money has been allocated according to this  
7 criteria, no projects have been turned down that applied for  
8 this kind of money. I don't see any reason to delay  
9 awarding it.

10 CHAIRMAN IMBRECHT: Okay. I think this will  
11 probably resolve it, let me just state my position on it  
12 very quickly. I -- the two issues -- the only two that  
13 cause me concern are the Employment Training and the  
14 Natividad Hospital. As to the CSU items, frankly, the  
15 mere indication that some elements of our higher educational  
16 system is becoming conscious of the need to get their own  
17 act in order in terms of energy consumption is encouraging  
18 to me. I'd hate to slow that down, and also because I  
19 share the view that the CSU system has been very financially  
20 constrained in the last couple of years. They're going to  
21 be a ways away from getting any money out of this next  
22 budget cycle.

23 So for those reasons, I will support staff. I  
24 don't think the remainder of the funds are significant.  
25 Further discussion? Will the Secretary please call the roll?

1 SECRETARY GERVAIS: Commissioner Commons?  
2 COMMISSIONER COMMONS: Aye.  
3 SECRETARY GERVAIS: Commissioner Edson?  
4 COMMISSIONER EDSON: No.  
5 SECRETARY GERVAIS: Commissioner Schweickart?  
6 COMMISSIONER SCHWEICKART: Abstain.  
7 SECRETARY GERVAIS: Commissioner Gandara?  
8 COMMISSIONER GANDARA: Aye.  
9 SECRETARY GERVAIS: Chairman Imbrecht?  
10 CHAIRMAN IMBRECHT: No. Motion dies for lack of  
11 a majority. The main motion is now before us, adoption as  
12 proposed, any further discussion? Is there objection to a  
13 unanimous roll call?  
14 COMMISSIONER COMMONS: Object.  
15 CHAIRMAN IMBRECHT: Okay, please call the roll.  
16 SECRETARY GERVAIS: Commissioner Commons?  
17 COMMISSIONER COMMONS: Abstain.  
18 SECRETARY GERVAIS: Commissioner Edson?  
19 COMMISSIONER EDSON: Aye.  
20 SECRETARY GERVAIS: Commissioner Schweickart?  
21 COMMISSIONER SCHWEICKART: Aye.  
22 SECRETARY GERVAIS: Commissioner Gandara?  
23 COMMISSIONER GANDARA: Abstain.  
24 SECRETARY GERVAIS: Chairman Imbrecht?  
25 CHAIRMAN IMBRECHT: Aye. The motion is carried

*Example*

1 3 to nothing.

2 The next item is Item 10, Commission consideration  
3 and possible approval of a memorandum of understanding  
4 between the Energy Commission and the California Conservation  
5 Corps. Mr. Ward, are you handling that, or someone else?

6 EXECUTIVE DIRECTOR WARD: I have myself and  
7 Carroylin Threlkel from the Conservation Division. As you  
8 recall, I think it was Commissioner Schweickart's interest  
9 that this be brought formally before the Commission with a  
10 chance for interested parties to comment. I think there  
11 was some concern about the types of people we'd be able  
12 to get, and the focus of interest, and that it would be  
13 handled as professionally as possible.

14 The Executive Director and the Conservation  
15 Division, I think are satisfied that we are going to be  
16 represented well. We have, I think, a very good supervisory  
17 relationship established for watching over this hotline,  
18 and trying to abide by the concerns that were introduced  
19 by Commissioner Schweickart, I guess a month ago now.

20 CHAIRMAN IMBRECHT: Okay. Commissioner Schweickart,  
21 do you have any --

22 COMMISSIONER SCHWEICKART: Yes. Just let me ask,  
23 is Cal-SEIA represented? Carroylin, can you state  
24 affirmatively that Cal-SEIA was aware that this item was  
25 on the agenda today?

*Erondale*

1 MS. THRELKEL: Yes, they were aware. I also sent  
2 a copy of the item to Ms. Dewitt at Cal-SEIA and spoke with  
3 her about it.

4 COMMISSIONER SCHWEICKART: All right, fine. I'll  
5 move the MOU.

6 CHAIRMAN IMBRECHT: Moved by Commissioner Schweic-  
7 kart, seconded by Commissioner Gandara, is there objection  
8 to a unanimous roll call?

9 COMMISSIONER GANDARA: I have a question.

10 CHAIRMAN IMBRECHT: Pardon me, Commissioner  
11 Gandara.

12 COMMISSIONER GANDARA: Is the fleet vehicle  
13 going to be a Pinto or a Concord?

14 MS. THRELKEL: It's an alcohol vehicle.

15 (Laughter)

16 COMMISSIONER GANDARA: I'd like to contribute mine.

17 (Laughter)

18 COMMISSIONER EDSON: I have a Honda Civic that --

19 CHAIRMAN IMBRECHT: I'll treat that as a  
20 rhetorical question, we'll handle this --

21 EXECUTIVE DIRECTOR WARD: There is a --

22 COMMISSIONER GANDARA: And give mine --

23 CHAIRMAN IMBRECHT: Is there objection to a  
24 unanimous roll call? Hearing none, that will be the order.  
25 You can deal with that matter between the Executive Director

1 and your own office.

2 EXECUTIVE DIRECTOR WARD: Mr. Chairman, there's  
3 also an interesting looking Mercury Capri sitting out there  
4 that I'm sure is not going to be used in the near term.

5 CHAIRMAN IMBRECHT: A what?

6 COMMISSIONER COMMONS: I think we all should thank  
7 Randy Ward for his efforts in this area, in solving a  
8 problem that had been with us for about nine months.

9 CHAIRMAN IMBRECHT: Without question.

10 EXECUTIVE DIRECTOR WARD: I would have to defer  
11 that, I appreciate the thanks, but Carroylin Threlkel  
12 from the Conservation Division --

13 CHAIRMAN IMBRECHT: The idea --

14 EXECUTIVE DIRECTOR WARD: -- we're very concerned  
15 about it.

16 CHAIRMAN IMBRECHT: Kudos for all those involved.  
17 Item 11, I'm told we can pull because there's no time  
18 urgency. Is there any member of the Commission that has  
19 concerns about Item 11?

20 COMMISSIONER GANDARA: Yes.

21 COMMISSIONER COMMONS: I have.

22 CHAIRMAN IMBRECHT: All right. In that case,  
23 why don't we put it over until the next business meeting.

24 COMMISSIONER COMMONS: Well, I have one question.

25 CHAIRMAN IMBRECHT: There's no time -- pardon me?

1           COMMISSIONER COMMONS: I'd like to make sure that  
2 there hasn't been someone who has come up here to testify  
3 on this matter, and sat through the whole day.

4           CHAIRMAN IMBRECHT: Oh, certainly. I don't  
5 have any indication of anyone that wishes to testify on  
6 any of these remaining items. Does anyone wish to testify  
7 to Item No. 11? Fine, that will be over until the next  
8 business meeting.

9           Item 13, contract amendment with Envirosphere  
10 regarding the \$65,000 to provide funding for a technology  
11 transfer to the biomass technical support contract.

12           COMMISSIONER SCHWEICKART: Let me speak for the  
13 R&D Committee on this one. This, as you may recall, was a  
14 carryover from an earlier Envirosphere contract. This  
15 specifically dealt with the whole issue of public outreach.  
16 I met with the staff, Mr. Tuvell, and others went over  
17 the program and the record of Envirosphere in this area  
18 and made certain recommendations to Mr. Tuvell in terms  
19 of the way in which I feel we would get better results.

20           I think if Ray could address those and assuming  
21 that I am in concurrence with it, what he said, I would like  
22 to move the matter.

23           MR. TUVELL: In the meeting with Rusty, we  
24 identified that there are approximately seven projects that  
25 we intend to have press conferences, workshops, and other

1 activities through the end of this fiscal year, and  
2 Commissioner Schweickart pointed out that it may be very  
3 much worth our while to contact the interested organizations  
4 associated with the contract, or associated in some  
5 fashion with the contract, such as the Cotton Dealers  
6 Association, Dairy Association, Farm Bureau and others that  
7 we know have interest in the different biomass activities  
8 that we have going on, and get suggestions from them as to  
9 how best to handle these activities, whether or not we can  
10 have workshops and press conferences in conjunction with  
11 annual meetings they may be having, or other types of  
12 activities such as fairs, or demonstrations that they intend  
13 to move forward with, and solicit their comments and  
14 assistance in that area.

15 Commissioner Schweickart has asked us to identify  
16 who those organizations would be, and have a letter go out  
17 under the signature of the Chairman of the R&D Committee  
18 asking for their suggestions and recommendations, and  
19 possibly setting up a brief meeting in which -- at which  
20 time we could discuss the activities that we intend to move  
21 forward with, and get their input at that time.

22 CHAIRMAN IMBRECHT: Commissioner Commons?

23 MR. TUVELL: Staff thinks that's an excellent  
24 idea, and we've already moved forward in identifying some  
25 of the organizations and intended to get back to the R&D

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1 Committee before we made any outside contacts.

2 CHAIRMAN IMBRECHT: Fine. Commissioner Commons,  
3 did you have a question?

4 COMMISSIONER COMMONS: It's a unanimous report  
5 from the Committee, delivered by Commissioner Schweickart.

6 CHAIRMAN IMBRECHT: Okay, fine. Then I assume  
7 that we have amendment -- pardon me, a motion from  
8 Commissioner Schweickart, seconded by Commissioner Commons  
9 to adopt the contract amendment. Is there objection to a  
10 unanimous roll call? Hearing none, that will be the order.

11 COMMISSIONER SCHWEICKART: Let me just say that  
12 my direction to staff was in fact to get back to the R&D  
13 Committee for us to review the participants in this group,  
14 and to review their recommendations before we direct  
15 Envirosphere in terms of the expenditures.

16 CHAIRMAN IMBRECHT: Okay. Items 14 and 15 have --  
17 pardon me, did we -- is 14 fairly uncontroversial?

18 COMMISSIONER GANDARA: It will take a couple of  
19 minutes.

20 CHAIRMAN IMBRECHT: All right, fine. Item 14,  
21 adoption of a policy for advisory groups. Commissioner  
22 Gandara.

23 COMMISSIONER GANDARA: Yes. As you recall, I  
24 requested that this item be prepared, I believe at the  
25 November meeting, and we held it over three business meetings.

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1 What the genesis of this happens to be, that I was invited  
2 to testify before a federal advisory committee, and for  
3 the first time, I became aware that there were apparently  
4 fairly good procedures at the federal level governing the  
5 creation, conduct, and termination of advisory committees.

6 I came back with the idea that in fact we should  
7 do the same, principally for the fact that I think, you know,  
8 while I don't think that we have had any particular problems,  
9 I think that there has been concerns raised at various  
10 points in time as to what the status of committees are,  
11 their relationship to the Open Meetings Act, the -- how  
12 long committees stay, how they're composed, who sits on a  
13 committee, who presides over it, and so forth.

14 I do recall that in at least one instance, we ran  
15 into a bit of a problem where, I think in residential  
16 building standards, where it was asserted about six or nine  
17 months after the fact that the Commission had -- may have  
18 been proposed that a committee in the Commission had not  
19 responded, or refused to do so, and later on that we  
20 enthusiastically created this implementation committee.

21 So this procedure also permits for the petitioning  
22 to the Commission for an advisory committee. The materials  
23 that you have before you are -- I would urge you to read  
24 in the following order, or to address: first, there's a  
25 draft resolution, it contains the whereas's, and then the

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1 resolution is on page -- I guess it's page 7 here, and the  
2 Attachment A which has guidelines for the creation and  
3 comments of advisory groups, and goes to the definition of  
4 what is an advisory group, task force, et cetera, and  
5 meetings of advisory groups, and then to read the memo  
6 that I requested the -- Mr. Valkosky who assisted me, in  
7 which I asked whether it would be -- first of all, what  
8 the legal requirement would be, and second, what would be  
9 preferable to create such a policy either by Commission  
10 resolution, or by regulation.

11 He has informed me, and you have that information  
12 as well, that the resolution is an entirely legal and  
13 appropriate way to do so, since it governs the internal  
14 conduct of the Commission. Let me just say that I think  
15 what this does is just puts all committees on the same  
16 footing in terms of having been reviewed by the Commission.

17 Basically, an advisory committee would be created  
18 to advise the Commission, to advise a committee, or to  
19 advise the staff, or whatever, but it does allow for a  
20 process whereby there is a public notice of creation of such  
21 committees, a review of composition of committees, and if  
22 the Commission so desires, for the appointment of a  
23 chairman, chairperson of that committee.

24 It's fairly straightforward. I would be pleased  
25 to answer any questions, or Mr. Valkosky here. It is

1 modeled basically over the Federal Advisory Act, and is a  
2 much briefer version, I think suitable for our purposes.

3 CHAIRMAN IMBRECHT: Okay. I have only one  
4 question, and that is, what is the reason for the prohibition  
5 against a Commissioner or a Commission employee being a  
6 member of an advisory group?

7 COMMISSIONER GANDARA: The reason for that is  
8 because I felt that advisory committees, again, that was  
9 at least my determination, my proposal, that advisory  
10 committees should be external to the Commission, and that  
11 the staff have a mechanism whereby to advise the Commission,  
12 it has a mechanism whereby its proposals can in fact come  
13 before the Commission.

14 Then it also raises the question that if the --  
15 a staff person was a member of a committee, then I would  
16 think that it might raise some concerns, if, for example,  
17 the Commission were then to appoint the Chairperson -- the  
18 staff person as the Chairperson of that committee.

19 I just thought that an arm's length relationship  
20 was perhaps a bit better for the advisory committees, and  
21 it was my conception that these advisory committees would  
22 be basically technical committees.

23 COMMISSIONER COMMONS: What about for a  
24 Commissioner being a member?

25 COMMISSIONER GANDARA: For the same reason, I

1 sort of felt that the -- again, that the recipient of a  
2 advisory committee's deliberations should, you know, could  
3 be a committee or a commission, but to have a Commissioner  
4 involved in the proceedings might, in fact, result in an  
5 expectation that that Commissioner has a predetermined  
6 position if considerations of those recommendations come  
7 before the Commission.

8 I note that, again, this comes mainly from my  
9 experience with respect to implementation of an advisory  
10 committee in which at some point in time, there was an  
11 insistence not only that the Commissioner chair the  
12 committee, but that the two Commissioners who were members  
13 of the Residential Building Standards Committee, be  
14 present at advisory committee meetings, and so forth.

15 I just thought that it was just general policy,  
16 rather than the expectations wouldn't be there, and I also  
17 felt, in that instance, at least, when I set that  
18 committee up, I felt at that point in time that the  
19 committee should -- deliberations should be directed by  
20 staff, which is the reason I did not recommend a chair by  
21 a Commissioner.

22 At the same time, I think I've had an opportunity  
23 since then to elaborate a little bit further, and indicate  
24 that I do think that this doesn't limit certainly, staff  
25 presentations before advisory committees, and so forth,

1 but it also gets to the issue, again, of Commission  
2 resources, that those be fairly clearly set forth at the  
3 time that these are created.

4 CHAIRMAN IMBRECHT: Commissioner Commons?

5 COMMISSIONER COMMONS: This Commission recently  
6 supported the formation of an R&D advisory council which  
7 included a member of the Public Utilities Commission and a  
8 member of our Commission. Would that be considered an  
9 advisory committee, and therefore subject to this restraint,  
10 or would that be considered something else?

11 COMMISSIONER GANDARA: Well, the -- this forms  
12 out part of the, I guess, problem as I see it. I was not  
13 aware, perhaps it was a meeting that I was not present,  
14 that created, in fact, the Commission forum that honored  
15 the advisory committee.

16 Whether the Commission approved a representation  
17 of this Commission to an R&D Committee or Council that has  
18 invited the committee, or someone else, I think that's  
19 another issue. But I would feel that if there's going to  
20 be an R&D Council, task force, advisory committee, or  
21 whatever, that in fact it would be making recommendations  
22 to the Commission, that in fact, that that also be -- you  
23 know be subject to these procedures, because I feel the  
24 Commission should have an opportunity to review certainly,  
25 you know, what the intent of that committee shall be, what

1 its product shall be, have a sunset on it, and so forth,  
2 if possible.

3 CHAIRMAN IMBRECHT: Okay.

4 COMMISSIONER GANDARA: Federal committees have a  
5 two year sunset.

6 CHAIRMAN IMBRECHT: Okay. I'm going to try to  
7 close on this because we were going to keep it short. I'm  
8 going to move that Item 5, under the "Now therefore be it  
9 resolved" on page 7, Item 5 be deleted, and the remainder  
10 of the items be renumbered.

11 COMMISSIONER COMMONS: I'll second that.

12 CHAIRMAN IMBRECHT: Okay. Now, the reason for  
13 that motion -- moved and seconded by myself, and Commissioner  
14 Commons' seconding, the reason is that since the Commission  
15 itself approves a creation of membership of all advisory  
16 groups, and including the formal membership on the  
17 Commission, I just think that it unnecessarily fetters  
18 your discretion.

19 I can see circumstances where a Commissioner  
20 might appropriately be a member of an advisory group or  
21 council, as Commissioner Commons indicated. Since the  
22 Commission as a whole has got to approve that anyway, in  
23 the event we found ourselves in the position where we would  
24 want to have an employee or member of the Commission  
25 involved in such a group, then it would be a more

1 cumbersome procedure of coming back and amending this  
2 resolution, as well as adopting that particular make-up.

3 So I -- from my perspective, I argue in favor of  
4 maximum discretion for the Commission acting collectively.

5 COMMISSIONER GANDARA: If I understood your  
6 explanation, I don't quite see what the problems are.  
7 You know, I don't know, since it's your motion, I suppose  
8 that it's appropriate for me to try to amend your motion?  
9 I guess I'm saying that I have strong feelings that in fact  
10 an advisory committees, you know, should be kept separate  
11 from the Commissioners or the Commission staff. I sort of  
12 feel that they're equipped to deal with the problems with  
13 respect to either a perception that either a Commission  
14 staff, or Commissioner is perhaps leading the Committee  
15 someplace, that it may perhaps be more a personal concern,  
16 that it --

17 CHAIRMAN IMBRECHT: That's a possibility. I  
18 guess what I would suggest is that in the event that  
19 anyone proposes the creation of a body with membership  
20 from the Commission, that's the appropriate time to  
21 argue that point up or down as to whether or not in that  
22 given instance it makes sense.

23 COMMISSIONER COMMONS: I could see a task force  
24 possibly being set up between multiple states where, in  
25 essence, it might be advisory to us in a sense, or it's a

1 committee that we've established, and so it would tend to  
2 be an advisory committee, and we would be allowed the one  
3 representative, and I would probably opt that it be an  
4 employee or a Commissioner from here rather than our going  
5 out and having someone from the outside world.

6 I really would agree with Commissioner Imbrecht  
7 that normally I would oppose having an employee or a  
8 Commissioner on there, but I can always vote against that  
9 at the time it came up, and this way I would have no  
10 opportunity to look at those instance where we may want to  
11 have a representative.

12 CHAIRMAN IMBRECHT: Absent --

13 COMMISSIONER GANDARA: Well, I'll tell you what  
14 my problems would be with that, is if you had an opportunity  
15 to vote on it, that would be fine, but say, for example,  
16 if I received an invitation to be a member of an advisory  
17 committee, that say on R&D policy in general, say for the  
18 federal government, that it would be up to me in my  
19 individual capacity, whether I wished to be a member of  
20 that Committee, it would seem.

21 Now, if you are saying that all Commissioners  
22 will commit at this point, that when they're requested to  
23 serve on committees, that they would be bringing that  
24 before the Commission, you know, or that that -- or their  
25 membership in committees --

1           CHAIRMAN IMBRECHT: That is an entirely different  
2 scenario.

3           COMMISSIONER COMMONS: I think that the Energy  
4 Commission could have a representative --

5           CHAIRMAN IMBRECHT: Let me give you a perfect  
6 point on target from today. You recall we had a letter  
7 from the Northwest Power Planning Council indicating some  
8 interest in having a combined appliance standard approach  
9 for the western states.

10           Well, let's say just hypothetically that we  
11 decided that that made sense, and to get that off the  
12 ground, we decided to respond to that letter, by virtue  
13 of some kind of communication from this Commission proposing  
14 the creation of an advisory committee that included  
15 representatives from each of the states affected.

16           Now, because of the extremely broad definition  
17 that you've got in your resolution as to what constitutes  
18 -- I mean, it says, advisory group, advisory committees,  
19 task force, panels, conferences, or similar groups, I mean,  
20 that pretty much covers the waterfront.

21           As a consequence, I would interpret that to mean  
22 that such a group would likely be covered by this resolution,  
23 and as Commissioner Commons indicated, under those circum-  
24 stances, I think that would be most appropriate for the  
25 Commission to be represented by a member of the Commission

1 or a senior staff person. That's the only reason I'm just  
2 suggesting that in terms of maximum flexibility without  
3 having to go back and amend this resolution at some point  
4 in the future. In the event we decided that was appropriate  
5 we could do so.

6 In any instance, you're going to get a bite of  
7 the apple every single time such a group is committed, or  
8 is created, because under the terms of your resolution,  
9 that has to come before the Commission with formal  
10 adoption of what the membership is going to be and so forth.

11 COMMISSIONER EDSON: Isn't the real question,  
12 though, where the burden should fall? I mean, I would  
13 think that if a proposal comes before the Commission which  
14 would violate any one of the resolved clauses in this  
15 resolution that the Commission could make an exception to  
16 that and proceed with the appointment.

17 It becomes a question of whether the -- that you  
18 are making an exception to place a Commissioner or staff  
19 person on the committee, or whether you are making an  
20 exception to preclude them from serving on a committee.

21 COMMISSIONER COMMONS: I think you would -- if we  
22 made an exception, we would have to notice it, because it  
23 would be a change of Commission adopted order, and it would  
24 make it --

25 CHAIRMAN IMBRECHT: Adopted policy.

1           COMMISSIONER COMMONS: It becomes an adopted  
2 policy that we're violating.

3           CHAIRMAN IMBRECHT: I think we understand the  
4 issue, and it's not that this is not life or death, why  
5 don't we just take a vote and see what happens.

6           COMMISSIONER GANDARA: I was going to suggest an  
7 alternative, which is you know, to cover such an instance,  
8 I would not object to language that would make an  
9 exception where the Commission is invited to send a  
10 representative to be a member of an advisory -- some other  
11 advisory board.

12           CHAIRMAN IMBRECHT: Okay. I --

13           COMMISSIONER GANDARA: That covers your particular  
14 circumstance.

15           CHAIRMAN IMBRECHT: That covers that particular  
16 circumstance, but I can come up with other hypos as well.  
17 I can even see circumstances where a Commissioner involved  
18 in an advisory committee to give some impetus to encourage  
19 outside citizen participation might be necessary or  
20 appropriate at times as well.

21           COMMISSIONER GANDARA: I didn't understand that  
22 exactly.

23           CHAIRMAN IMBRECHT: Well, you can create an  
24 advisory committee, and people will say -- one of the reasons  
25 that undoubtedly your presence was desired at the committee

1 you made reference to, was the feeling on behalf of the  
2 participants that they wanted to ensure that they were  
3 having an opportunity to speak to the decision-maker.

4 COMMISSIONER GANDARA: I was not a member of the  
5 advisory committee, I was asked to present some information  
6 on our Commission programs, which is a different matter.

7 COMMISSIONER EDSON: Then there's nothing to  
8 preclude a Commissioner from attending a meeting of an  
9 advisory committee whether or not the Commissioner is an  
10 actual member.

11 CHAIRMAN IMBRECHT: I think we have our --

12 COMMISSIONER SCHWEICKART: Let me point out that  
13 the Professional Advisory Group, the PAG, for the nonres  
14 standards basically functioned that way, where it was quite  
15 clear that the Committee had the chair that was outside  
16 the direct influence of the Commission.

17 My own -- again, it happens that I was in the  
18 middle of this at the federal level when OMB reorganized  
19 advisory committee rules, and the difficulty of having a  
20 member of whatever the institution is, either serving on it,  
21 or chairing it, is that it was immediately, at the federal  
22 level, discredited in the eyes of OMB, or the Congress, or  
23 whoever ended up receiving the advice, or let me say, where  
24 the output of the advisory group was utilized because the  
25 institution was sort of --

1 CHAIRMAN IMBRECHT: Clouding.

2 COMMISSIONER SCHWEICKART: That's right,  
3 controlling and clouding the issue. That's one of the  
4 reasons why the feds had such a restriction. Frankly, I  
5 think we could go either way. I think the difficulty in  
6 amending the proposed language is that it almost invites,  
7 ultimately, that same kind of abuse on the part of the  
8 Commission, in some cases, even an inadvertent.

9 I think generally speaking, it's a good guideline,  
10 but again, it seems to me that that can be dealt with either  
11 on an individual basis, or in general. I would prefer the  
12 general restriction, and making exceptions under cases  
13 where a Commissioner brings forward a case where an  
14 exception should be made, but I'm happy to go the other way  
15 as well.

16 So, I'm not going to vote on --

17 CHAIRMAN IMBRECHT: This is not a life or death  
18 issue for me either, so let's just take a vote and get it  
19 over with, I mean, unless you have some other -- I'd just  
20 as soon let's resolve it.

21 COMMISSIONER GANDARA: Well, if you want to take  
22 a vote, fine. I mean I -- again, I'd just like to  
23 reiterate, you know, at least that my intent was the way  
24 that I proposed my resolution and had you not pre-empted  
25 my motion, I would have made the motion the way it was, and

1 the way it's written.

2 CHAIRMAN IMBRECHT: Wait -- it's before us as --  
3 come to think of it, I guess we didn't have a main motion  
4 to adopt the resolution.

5 COMMISSIONER GANDARA: That's right.

6 COMMISSIONER COMMONS: You made the main motion.

7 CHAIRMAN IMBRECHT: I withdraw my motion.

8 All right, Commissioner Gandara moves, Commissioner  
9 Edson seconds that the resolution as proposed for a policy  
10 for adoption and formation of advisory groups be adopted  
11 by the Commission. I'm not sure how the vote will come  
12 out, so I will then move to amend that motion by striking  
13 item 5 on page 7, Commissioner Commons seconds, it's been  
14 debated, please call the roll. An aye vote deletes, a  
15 no vote retains.

16 SECRETARY GERVAIS: Commissioner Commons?

17 COMMISSIONER COMMONS: Aye.

18 SECRETARY GERVAIS: Commissioner Edson?

19 COMMISSIONER EDSON: No.

20 SECRETARY GERVAIS: Commissioner Schweickart?

21 COMMISSIONER SCHWEICKART: Abstain.

22 SECRETARY GERVAIS: Commissioner Gandara?

23 COMMISSIONER GANDARA: No.

24 SECRETARY GERVAIS: Chairman Imbrecht?

25 CHAIRMAN IMBRECHT: Aye, the motion fails for lack

1 of a majority. The main motion is before us. Is there  
2 objection to a unanimous roll call? Hearing none, that  
3 will be the order.

4 Item 15 has been put over for further discussion  
5 with its author.

6 We have no minutes to approve.

7 I am informed that there is no legislation that  
8 requires a position from the Commission this evening, so  
9 we will put that over, it's my report as Committee Chair,  
10 we'll put that over for two weeks.

11 General Counsel's report, anything further  
12 beyond our executive session.

13 MR. CHAMBERLAIN: No, Mr. Chairman.

14 CHAIRMAN IMBRECHT: Thank you. Executive  
15 Director?

16 EXECUTIVE DIRECTOR WARD: There are a couple of  
17 things. The Budget Committee is currently being briefed on  
18 the management reporting system to deal with work plan  
19 issues, and all that detail will be available to all  
20 Commissioners shortly, if it isn't already. Secondly --

21 CHAIRMAN IMBRECHT: What was that? I'm sorry.

22 EXECUTIVE DIRECTOR WARD: The management informa-  
23 tion system that we're using, standardized reporting  
24 procedures.

25 CHAIRMAN IMBRECHT: Oh, fine.

1 EXECUTIVE DIRECTOR WARD: Secondly, the adopted,  
2 or the Governor's budget just introduced, we'll have  
3 summaries of that to Commissioners tomorrow, and that's all.

4 CHAIRMAN IMBRECHT: All right. Commissioner  
5 Commons did have a Committee report under Item 17.

6 COMMISSIONER COMMONS: Yeah, I've got about three  
7 short ones. First of all, I'd like to say we successfully  
8 concluded the working out of the problem between the  
9 Commission and NCPA, and you have before you a copy of a  
10 written agreement that was reached, and that problem, I  
11 think, was amicably resolved, which could have been a  
12 substantial one for the Commission.

13 Second is, you have a copy of a draft report of  
14 the CEC/CPUC Integration Task Group, and how we are  
15 proceeding in terms of the CEC analysis into the SCE rate  
16 case, and I want to give you a brief report in terms of  
17 how we are proceeding on that task force.

18 As per the memorandum of understanding, or the  
19 agreement that was reached earlier which was the memo from  
20 Commissioner Calvo which was adopted jointly by both the  
21 Public Utilities Commission and our Commission, the intent  
22 was to take the first step in terms of the load management  
23 in the SCE rate case proceedings and that there would be a  
24 report made back to the two Commissions after 90 days.

25 That 90 day period has now been completed and Bill

1 Ahern and Randy Ward from our Commission have signed the  
2 memo which is agreed to by all six members of that task  
3 force.

4           On the SCE rate case, if anything, the two  
5 Commissions are going further in their coordination than  
6 had been expected. There will be a joint workshop of the  
7 PUC and the CEC at Southern California Edison this Friday.  
8 The staff of both Commissions have been working very  
9 diligently, and the issues that will be looked at concerning  
10 the economic assumptions that would be used in the load  
11 management aspect of the case, but the indications are  
12 that the PUC is looking at those assumptions as being  
13 part of their deliberations on other aspects of the  
14 Southern California Edison rate case.

15           We've had also, inquiries from the PUC concerning  
16 our participation in reviewing the R&D plans of Southern  
17 California Edison, and our Executive Director has responded  
18 by letter to the PUC, expressing that we would give limited  
19 cooperation and participation due to, one, this was ahead  
20 of where we were in terms of moving to working together,  
21 but primarily, at this time, because we did not have the  
22 staff resources that go into the area, and of course, there's  
23 -- there are other factors that are indicated.

24           In terms of where we're going to proceed, that  
25 essentially is back to the Commission, or to the Commissions

1 in terms of where we go during the next 90 to 120 days. I've  
2 met and talked with, I guess, now a majority of the PUC  
3 Commission and I feel that they are very supportive  
4 personally, and of also getting the feeling from some of  
5 the key PUC staff that the working relationship between  
6 their staff and our staff has improved dramatically in the  
7 recent weeks.

8 Due to where we are today in terms of our  
9 schedule, what I'd like to recommend to you, Mr. Chairman,  
10 is that we have the Committee report come back in two weeks  
11 with recommendations as to how we proceed without making an  
12 attempt tonight, at this time, to have such a decision.

13 CHAIRMAN IMBRECHT: Fine. I would agree with  
14 that. Maybe we ought to separately notice that item on the  
15 agenda.

16 COMMISSIONER GANDARA: Mr. Chairman, did you  
17 decide to hold over legislative --

18 CHAIRMAN IMBRECHT: Yes, I did, on the grounds  
19 that there are no bills that require action tonight. We  
20 checked, and what you've got there is not impacted by  
21 legislative deadlines.

22 COMMISSIONER GANDARA: Perhaps if we could be  
23 informed of the report of the Commission on SB 3.

24 COMMISSIONER COMMONS: I have another item before  
25 you go.

1           CHAIRMAN IMBRECHT: All right fine. Commissioner  
2 Commons wasn't completed.

3           COMMISSIONER COMMONS: Also, the Utility Programs  
4 Committee had its initial task force workshop with the  
5 private utilities at the PUC, which was another example of  
6 a joint workshop between the two commissions. Staff did  
7 a very good job at the workshop, the comments that we  
8 received afterwards were very positive, and we will be  
9 having a subsequent workshop at Burbank for the municipal  
10 utilities a week from Friday, and it's one of our hopes  
11 that we can, in the development of the catch program, have  
12 as participants of the plan, many of the smaller and  
13 medium size utilities that have generally not worked with  
14 this Commission. That is one of the objectives that we  
15 will be trying to do in that committee.

16           CHAIRMAN IMBRECHT: Thank you. I appreciate all  
17 your work on those efforts. I'll just briefly report on  
18 SB 3. Senator Montoya, at the request of Commissioner  
19 Gandara and I who met with him earlier this week, dropped  
20 the substantive provisions of the bill, and as a consequence,  
21 I think for the first time in a long time, there is no  
22 legislation pending in either house, that has the effect  
23 of gutting or eliminating this institution.

24           That, in context with the budget, I think means  
25 a little more peaceful year than the previous one that we've

1 just concluded. The bill was amended, so you will still  
2 see a live SB 3, it was amended to reflect the terms of an  
3 agreement that had been reached a year ago, as Commissioner  
4 Gandara had represented to us, between the PUC and us,  
5 relative to arriving at a joint reporting system for  
6 natural gas within a time certain.

7 COMMISSIONER GANDARA: Just a slight correction,  
8 it was two years ago, 1380, and with SoCal Gas. I think  
9 the PUC was in agreement at the time, I don't know, because  
10 of the changes in 1380, SB 3 was that it was still  
11 exactly the same.

12 CHAIRMAN IMBRECHT: In any case, that's all that  
13 remains on SB 3 at this point in time.

14 Okay. Is there any member of the public who  
15 wishes to address the Commission? Okay, hearing none, thank  
16 you for your patience, the meeting is adjourned.

17 (Thereupon the business meeting of the California  
18 Energy Resources Conservation and Development Commission  
19 was adjourned at 5:55 p.m.)

20 --o0o--  
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25

## REPORTER'S CERTIFICATE

1  
2  
3 THIS IS TO CERTIFY that I, Patricia A. Petrilla,  
4 Reporter, have duly reported the foregoing proceedings  
5 which were had and taken in Sacramento, California, on  
6 Wednesday, January 11, 1984, and that the foregoing pages  
7 constitute a true, complete and accurate transcription of  
8 the aforementioned proceedings.

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

12  
13 Patricia A. Petrilla

14 Reporter

15 Dated this 18th day of January, 1984.  
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