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STATE OF CALIFORNIA  
ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

CALIF. ENERGY COMMISSION

JUL 2 1984

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BUSINESS MEETING  
VOLUME II OF II

1516 NINTH STREET  
1st FLOOR HEARING ROOM  
SACRAMENTO, CALIFORNIA

WEDNESDAY, JUNE 20, 1984  
9:18 A.M.

Reported by: Patricia A. Petrilla

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COMMISSIONERS PRESENT

- Charles R. Imbrecht, Chairman
- Arturo Gandara, Vice Chairman
- Russell L. Schweickart, Commissioner
- Geoffrey D. Commons, Commissioner
- Barbara Crowley, Commissioner

EX OFFICIO

Bill Foley

STAFF PRESENT

- Randall M. Ward, Executive Director
- William Chamberlain, General Counsel
- Ted Rauh
- Steve Cohn
- John Chandley
- Leon Vann
- Dave Morse
- Allen Edwards
- John Rozsa
- Bill Pennington
- Carol Chesbrough
- Lorri Gervais, Secretary

PUBLIC ADVISOR'S OFFICE

- Ernesto Perez
- Sharon Joyce

ALSO PRESENT

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Mike Gardner, Southern California Edison Company

Robert Foster, California Electrical Alliance

T. David McFarland, California Electrical Alliance and  
American Home Lighting Institute

Martin Klepper, Lane and Edson, P.C.

Jim Cassie, San Diego Gas and Electric Company

Dave Ferguson, Southern California Edison Company

John Bowles, International Energy Systems

Patrick Quinn, International Energy Systems Corp.

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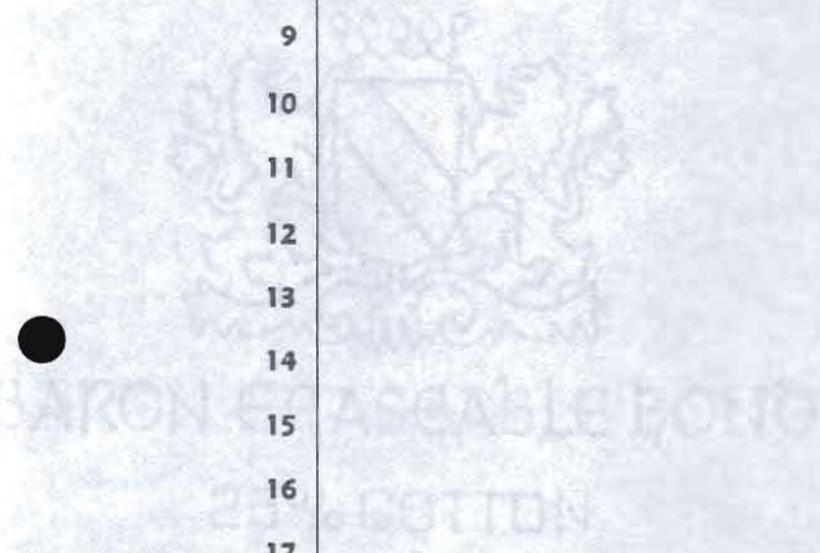
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P R O C E E D I N G S

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3 CHAIRMAN IMBRECHT: We'll call the meeting to  
4 order. We're going to take some Committee reports to  
5 begin with, and suggest that we try to get the folks that  
6 are going to be in the R&D report presentation down here.

7 I think the SCE and the OIR 2 testimony in  
8 particular, should be held until we have the rest of the  
9 Commission. I'll just note a quorum is present, Commissioners  
10 Crowley, Commons and myself. Commissioner Commons, you  
11 have some reports?

12 COMMISSIONER COMMONS: Yes, some short ones, but  
13 fairly numerous. One is the R&D Committee will be having a  
14 joint workshop with the Air Resources Board and South  
15 Coast, and our Chairman will be presenting a slide show  
16 at that, and the Commission will be represented by the  
17 Chairman and myself, and this conference, or workshop is  
18 going to be on methanol, and I encourage anyone who would  
19 like to attend to join us.

20 On Coldwater, I just want to notify and alert  
21 everyone that the staff has proposed, as far as I know,  
22 first confidential hearing concerning steam adequacy that  
23 has ever occurred in a siting case, and they requested that  
24 the Commissioners not attend, that it is a confidential  
25 hearing, and it will be going on today and tomorrow, and

1 this has been with the approval of both our legal counsel  
2 and Public Adviser in the proceeding.

3 On the Siting Committee, I think based on  
4 yesterday's discussions, we should add to the areas that we  
5 looked at, the following three, unless there's some other  
6 thought.

7 One is during the data adequacy stage, how do we  
8 protect the status of potential intervenors, or other  
9 parties who want to be a participant in the proceeding,  
10 and I think to address the issue as to when you don't have  
11 an actual case, as to how do you constitute a party to  
12 protect potential parties' rights.

13 It doesn't appear to me that there's anything in  
14 the regulations that clarifies that.

15 Second is to take a look at what is substantial  
16 compliance within the data adequacy, do we need a definition,  
17 do we need an interpretation, or is it fine the way it is.

18 Third is to take a look at Appendix C in  
19 relationship to that data adequacy question, are there items  
20 in there that are not data adequacy but can be part of the  
21 substantive process and are not normally expected to be  
22 submitted at the time that an applicant files a siting  
23 petition.

24 Third is from the Conservation Committee, I  
25 personally submitted, and that there was not time to come

1 before the full Commission, rebuttal testimony, essentially  
2 asking in the SCE rate case that the case be held open in  
3 the area of appliance incentives, so that the work of the  
4 workshop being conducted jointly by the Public Utilities  
5 Commission and ourselves, and our joint workshop to be held  
6 at the PUC on July the 9th, be able to be incorporated.

7           The reason this is very important is in our  
8 proceeding, and following the directions of the Commission,  
9 we have tried to right at the beginning of the proceeding  
10 place significant emphasis on developing incentives in  
11 other programs. The incentive programs are particularly  
12 critical, and the SCE rate case is currently before the  
13 PUC, and the Presiding Commissioner of that, Chairman Grimes  
14 is also the one who will be hosting that workshop.

15           In order to, I feel, to live up to what the  
16 Commission directed the Committee to do in terms of looking  
17 at these programs, it's required us to be active participants  
18 in encouraging these type of incentive programs as a way of  
19 cost-effective energy savings.

20           So essentially what we've done is requested that  
21 the docket on the programs be held open for that. Any  
22 Commissioners who would like a copy of that testimony, that  
23 would be welcome to do so.

24           That's the Committee reports.

25           CHAIRMAN IMBRECHT: Okay, thank you. Any further

1 Committee reports? Commissioner Crowley, do we have a  
2 legislative --

3 COMMISSIONER CROWLEY: We have no legislative  
4 report.

5 CHAIRMAN IMBRECHT: Okay, fine. I'm informed  
6 that Commissioner Gandara will be here shortly, he's  
7 attending another meeting. I believe we should go ahead  
8 and go back to -- is Martin Klepper present?

9 MR. RAUH: No, he's not here yet.

10 CHAIRMAN IMBRECHT: He's not here yet. All right,  
11 are the representatives of Southern California Edison  
12 present?

13 COMMISSIONER CROWLEY: They just walked out.

14 CHAIRMAN IMBRECHT: Are you prepared to proceed  
15 with your item?

16 MR. GARDNER: Yes, sir.

17 CHAIRMAN IMBRECHT: All right, fine. Let's turn,  
18 then, to Item No. 10, Commission consideration and possible  
19 action regarding Southern California Edison's petition for  
20 reconsideration of a Commission order regarding their  
21 residential load management program.

22 I believe submitted to us this morning is an  
23 amended petition for reconsideration which I assumed you  
24 would like adopted as part of our record.

25 MR. GARDNER: That's correct, Mr. Chairman.

1           CHAIRMAN IMBRECHT: All right, without objection,  
2 that will be the order. Mr. Gardner, would you like to  
3 present your amended petition to us?

4           MR. GARDNER: Thank you. Mr. Chairman, members  
5 of the Commission, Mike Gardner representing Southern  
6 California Edison Company. We had previously filed a  
7 petition asking the Commission to reconsideration of  
8 portions of their decision and order with regard to our  
9 residential load management program.

10           Upon some thinking of our own, we determined that  
11 the petition probably concentrated too much on procedural  
12 issues and did not give the Commission sufficient information  
13 on our actual concerns with the decision and order. That  
14 is the reason for our filing today the amended petition.

15           What we would like to do is have the Commission  
16 accept the amended petition today, act on the petition as  
17 soon as the Commission feels that it can, and assuming that  
18 the Commission were to grant the petition, refer the matter  
19 back to the Committee for hearing of the issues as  
20 expeditiously as the Committee could do so, and bring back  
21 Committee recommendations to the full Commission for  
22 consideration when the Committee finishes their own  
23 deliberations and is able to prepare their recommendations.

24           CHAIRMAN IMBRECHT: Okay. Commissioner Commons,  
25 do you have a reaction to that request? Are you in a

1 position to recommend action this morning, or would you  
2 prefer to see this held in abeyance?

3 COMMISSIONER COMMONS: Well, I'd like to -- I  
4 don't think Commissioner Schweickart has even -- who is the  
5 other member of the Committee has finished reading the  
6 petition but --

7 CHAIRMAN IMBRECHT: Okay, excuse me.

8 COMMISSIONER COMMONS: But essentially, I think  
9 this Commission has supported cost-effective load management  
10 and if -- of a utility who has, I think, taken very  
11 substantial and constructive efforts to both design and  
12 implement a load management program that would be cost-  
13 effective, and ties it to the resource plan, raises questions  
14 as to whether or not the program as designed, could be  
15 successfully implemented.

16 I think we certainly owe them the courtesy of  
17 holding a hearing on that matter, and I would be prepared  
18 to do so.

19 If we were to do something, I would think due to  
20 our close working relationship with the Public Utilities  
21 Commission on this that their close cooperation in terms  
22 of if there were to be any modification should be encouraged.

23 If we were to go forward, if it were the wish of  
24 the Commission to go forward, I would be prepared to call  
25 either -- I guess it would have to be a hearing in Sacramento

1 on July 11th. I understand that that's an acceptable date  
2 to the Public Utilities Commission, and that would allow  
3 us to bring this matter back to the Commission at our  
4 first meeting in July.

5 CHAIRMAN IMBRECHT: Okay. Do I understand that,  
6 then, to be a recommendation that we grant the petition,  
7 the amended petition?

8 COMMISSIONER COMMONS: Oh, before I make such a  
9 recommendation, would the second -- the other Committee  
10 member to have an opportunity.

11 CHAIRMAN IMBRECHT: Sure.

12 COMMISSIONER SCHWEICKART: Mr. Chairman, my  
13 concern here is that I -- well, let me put it this way.  
14 I think that as time passes in all matters of this kind,  
15 there are many areas in which after any decision the  
16 various parties find that they would prefer some improvement.

17 Certainly this is the case with Edison and this  
18 petition, in its several forms, reflects that concern on  
19 their part. The judgment that the Commission ends up with  
20 is always one of whether or not the concerns are of  
21 such magnitude that a difficult and extended proceeding  
22 having been concluded should, in fact, be reopened.

23 Edison has apparently made the judgment that they  
24 feel it is in these particular narrow issues. The issue  
25 which concerns me is that since the decision, I have become

1 aware of -- I guess I should say non-actions, notwithstanding  
2 recommendations and guidance provided within the decision  
3 which disturbed me.

4 That if we open the Edison decision, I would  
5 frankly prefer to broaden it to assure that some of those  
6 areas are covered, and I specifically would like to  
7 examine in the area of certain R&D policies, more  
8 explicit direction to the utility.

9 So, I have no strong opposition to granting  
10 Edison's concerns in the petition, but I would, at the  
11 same time, want to see the issue opened a bit more broadly  
12 to include some concerns that I have.

13 COMMISSIONER COMMONS: I'm prepared to make a  
14 motion.

15 CHAIRMAN IMBRECHT: All right.

16 COMMISSIONER COMMONS: I'd like to move that the  
17 Commission reopen the Southern California residential load  
18 management program, and it be assigned back to Committee  
19 for a hearing on July 11th here in Sacramento, and as  
20 expeditiously as possible, be brought back to the Commission.

21 CHAIRMAN IMBRECHT: Do I hear a second?

22 COMMISSIONER SCHWEICKART: I'll second it.

23 CHAIRMAN IMBRECHT: Okay, the motion is properly  
24 before us. Commissioner Commons, do I understand you to  
25 mean that it's to be reopened in its entire scope, not

1 limited in any respect, or would you like it limited to  
2 the Edison raised issues, and those which Commissioner  
3 Schweickart would care to enumerate?

4 COMMISSIONER COMMONS: Well, in response to your  
5 question, one is by saying that we will bring it back as  
6 expeditiously as possible, we're clearly not going to  
7 reopen all matters, but it's possible in a hearing that if  
8 you make one type of change, that that affects something  
9 else, and I would not want to preclude based on the  
10 information that was heard that we'd make one adjustment  
11 without making another adjustment.

12 But I would like to bring this back July 17th,  
13 before the full Commission.

14 CHAIRMAN IMBRECHT: Okay, I'm going to ask for  
15 some comments. Mr. Gardner, do you have a reaction?

16 MR. GARDNER: Mr. Chairman, I think Commissioner  
17 Schweickart has obviously raised his own concerns. It  
18 would not be -- it was not Edison's request that we reopen  
19 it beyond our two limited areas. However, I think if the  
20 Commission desires to look at different areas, that's  
21 within their purview.

22 Again, I think one of our major concerns is an  
23 attempt to complete this expeditiously. The Committee  
24 has indicated that they will make all attempts to do so,  
25 and I'm confident that they will. So, I think we have no

1 objection.

2 MR. COHN: Mr. Chairman?

3 CHAIRMAN IMBRECHT: Yes, Mr. Cohn?

4 MR. COHN: I would like to address the Commission  
5 not in my capacity as the adviser to Commission -- or to  
6 the Committee on this case, but rather in my capacity as  
7 the attorney on the PUC rate case intervention, which  
8 implements the decision which the Commission reaches.

9 I was down this week to request official notice  
10 at the Public Utilities Commission of the previous order  
11 that was granted, and the PUC staff amended its testimony  
12 to support the order as currently issued by the Commission.  
13 The caveat I want to make here is simply that given the  
14 process which we have used with the Public Utilities  
15 Commission to arrive at a decision in a timely manner to  
16 allow them to reach a decision in their rate case, any  
17 more delay could jeopardize that agreement which we have  
18 with the Public Utilities Commission.

19 I would therefore recommend that any changes we  
20 make be extremely limited in scope so that we can attempt  
21 to reach some accord with the PUC staff. I think the --  
22 some of the items mentioned by Edison in their petition  
23 could perhaps be done in a manner so as not to totally  
24 upset the apple cart, so to speak, before the PUC.

25 I'm not sure exactly which changes Commissioner

1 Schweickart has in mind, but a caveat I would simply want  
2 to leave here is if there are any extensive changes in the  
3 order, I would say that there's no guarantee that we'll  
4 be able to successfully implement those in the current  
5 Edison rate case.

6 CHAIRMAN IMBRECHT: I would think beyond major  
7 changes, also, not having some notice as to the areas where  
8 there may be some changes could be an important considera-  
9 tion in your negotiations. I would suggest that if possible,  
10 the Committee try to at least define as it begins this  
11 operation what issues would be under consideration so that  
12 the PUC staff could at least rely upon the remainder of the  
13 decision as being relatively unchallenged, or unquestioned.  
14 Is that then an acceptable suggestion, Commissioner  
15 Schweickart?

16 COMMISSIONER SCHWEICKART: Oh, I think that's an  
17 obligation on the Committee in any case. The issue which  
18 is of some concern to me, however, is the scheduling, and  
19 I believe that the scheduling that Commissioner Commons  
20 indicates would violate the law..

21 That is, if we're to have a hearing on the 11th  
22 of April -- April, pardon me, I'm a little out -- the 11th  
23 of July, I don't believe -- and I think the business meeting  
24 is the 18th of July, not the 17th, if I'm not mistaken,  
25 that does not provide adequate time for noticing, or at least

1 for providing any proposed decision with 10 days notice  
2 or whatever the minimum is prior to the adoption before the  
3 full Commission. I see General Counsel leaning forward  
4 to address the issue.

5 MR. CHAMBERLAIN: The only thing the Open  
6 Meetings Act would require would be that you agenda the  
7 item, that you put the item on the agenda for the meeting  
8 of the 18th. You would not be required to provide the  
9 proposed decision 10 days in advance. Good form would be  
10 that you'd get it out early enough that people could look  
11 at it before the meeting, but the Open Meetings Act would  
12 not require that.

13 COMMISSIONER SCHWEICKART: Well, I certainly have  
14 no objection to dealing with it on the 18th if we can have  
15 the hearing on the 11th. But I think the other end of the  
16 sandwich, if you will, is properly noticing a hearing on  
17 the 11th of July, haven't backed that one up, we're  
18 pretty close right now, I think, and we would have to put  
19 out a hearing order defining the scope of the hearing  
20 almost instantly, I think. If someone wants to back that  
21 up, -- what I'm concerned with Mr. Chairman, is just to  
22 ensure that we --

23 CHAIRMAN IMBRECHT: It's June 20th, that would  
24 give you 21 days, so that meets all the notice requirements  
25 I'm aware of.

1           COMMISSIONER SCHWEICKART: Yeah, all right. So  
2 it looks as though we can --

3           COMMISSIONER COMMONS: That's why I picked that,  
4 I didn't want to go in that 4th of July week.

5           CHAIRMAN IMBRECHT: That gives you really, four  
6 or five days to get the notice on the street, so without  
7 any problem.

8           COMMISSIONER CROWLEY: How many days are required?

9           CHAIRMAN IMBRECHT: Ten, in some circumstances,  
10 14, is that not correct?

11          MR. COHN: That's correct, but not in this  
12 instance.

13          CHAIRMAN IMBRECHT: Not in this instance, but  
14 those are the only two numbers that I think about.

15          MR. COHN: I would strongly urge that if there is  
16 going to be a reconsideration that a decision be reached  
17 no later than July 18th. I think any later would, as I  
18 said before, jeopardize the schedule before the PUC, and  
19 I know that the briefs won't be due in that case -- in the  
20 Edison rate case, in August, and the evidentiary record  
21 will be closed sometime in mid-July, so even as it is,  
22 this will be stretching.

23          CHAIRMAN IMBRECHT: I think the Committee  
24 understands the importance of the issue. Okay. Is there  
25 any other member of the public that wishes to testify on

1 this matter? Hearing none, is there objection to a unanimous  
2 roll call? Hearing none, ayes 4, noes none, the motion is  
3 carried, the amended petition for reconsideration --  
4 excuse me, I'm sorry, is granted, as well as broader  
5 reopening encompassed within Commissioner Commons' motion.

6 Okay. Is Mr. Klepper present as yet?

7 COMMISSIONER SCHWEICKART: Mr. Chairman, let me  
8 suggest something here, and it may be moving a second  
9 motion here, but I believe that -- let me speak without  
10 making a formal motion.

11 CHAIRMAN IMBRECHT: Sure.

12 COMMISSIONER SCHWEICKART: But I believe here for  
13 clarity, and for the sake of the record, it would probably  
14 be best if the Commission were to reopen the Edison load  
15 management case consistent with an order to be published  
16 by the Commission within a week, or something of that kind.

17 I'm a bit concerned about the way in which you  
18 just stated the decision, because I think the motion was  
19 in fact to reopen the case, and implied in that would be  
20 that a Committee hearing order would define the scope of  
21 the matter, and I'm not unhappy with that, but the way in  
22 which you just stated it, I thought, ambiguous in that it  
23 specifically refers to granting the motion, the petition  
24 by the Applicant, in addition to something more.

25 I think Commissioner Commons' motion certainly

1 includes -- totally encloses the petition --

2 CHAIRMAN IMBRECHT: That's correct, and that's  
3 what I stated, and maybe we could use the playback services  
4 with that.

5 COMMISSIONER SCHWEICKART: If the understanding  
6 is that the case is reopened by the Commission, then I  
7 think that's -- I have no further problem.

8 CHAIRMAN IMBRECHT: I'll make it very clear, the  
9 motion was to reopen the Edison load management case, it  
10 was passed four to nothing, I interpret that as including  
11 within it the petition for reconsideration. That's what  
12 I was attempting to say, but I said it, I have to admit,  
13 in kind of a constrained fashion.

14 COMMISSIONER COMMONS: We're at 10:00 o'clock --

15 CHAIRMAN IMBRECHT: Yes, is Mr. Klepper present?

16 EXECUTIVE DIRECTOR WARD: Mr. Chairman, Mr.  
17 Klepper won't be here until approximately 11:00 o'clock.

18 CHAIRMAN IMBRECHT: All right, fine.

19 EXECUTIVE DIRECTOR WARD: We can go to Item No.  
20 22.

21 MR. PENNINGTON: Could I make a recommendation  
22 here? I believe that we don't need Mr. Klepper's presence  
23 to consider Item 6, we definitely do for Item 11, but I  
24 would propose that we go ahead with Item 6 at this point.

25 EXECUTIVE DIRECTOR WARD: That's fine, Mr. Chairman.

1 CHAIRMAN IMBRECHT: Well, I would ask for the  
2 advice of the Public Adviser on that one. Is Mr. Perez  
3 here?

4 COMMISSIONER COMMONS: Since he's going to be here,  
5 I see no reason not to hear it when he's here.

6 COMMISSIONER SCHWEICKART: May I speak to this  
7 just a moment?

8 CHAIRMAN IMBRECHT: Certainly.

9 COMMISSIONER SCHWEICKART: The reason -- if I  
10 could support what Bill is saying, and I think logically,  
11 it would be a good idea to hear the report on -- let me  
12 put it this way. In order to move ahead with the contract  
13 for Mr. Klepper in a different area, I think it would  
14 certainly be best if the Commission were to hear his  
15 report on the area of nonresidential building standards  
16 first, okay?

17 COMMISSIONER COMMONS: I support that.

18 COMMISSIONER SCHWEICKART: I think all said and  
19 done, that's a good idea, one gets a feel for him, you get  
20 an idea of the kind -- the quality of the presentation,  
21 et cetera. On the other hand, clearly, it's not necessary,  
22 and I think that's the point that Mr. Pennington is making.

23 CHAIRMAN IMBRECHT: Well, we've got a long time  
24 until 11:00 o'clock. Let me suggest we take the other  
25 items we've got, and if Mr. Klepper still isn't here, then

1 we'll take Item 6 before he arrives.

2 So the next item will be --

3 EXECUTIVE DIRECTOR WARD: Item No. 22.

4 CHAIRMAN IMBRECHT: Item No. 22, Commission  
5 consideration and possible adoption of proposed amendments  
6 to the residential building standards, the Commission will  
7 consider the permanent repeal of Section 2-5352 Subsection  
8 (o), which requires that recessed lighting be type IC,  
9 which was repealed on an emergency basis on March 7th, '84,  
10 and second, will consider changes in the climate zone  
11 boundaries for Climate Zones 11 and 16 of Shasta County  
12 as depicted in Figure 2-53(g).

13 Mr. Ward, excuse me, Mr. Chandley.

14 MR. CHANDLEY: Mr. Chairman, I had spoken with  
15 a number of the parties to this proceeding earlier in the  
16 week, and last week, and they were unclear about what the  
17 starting time would be, and I indicated it would most  
18 likely be at 10:00 o'clock, possibly later, but definitely  
19 no earlier, so I don't think those parties are here yet.

20 CHAIRMAN IMBRECHT: Okay. Let's take the OIR 2  
21 testimony in that case.

22 EXECUTIVE DIRECTOR WARD: Yes. Item No. 23,  
23 Mr. Chairman, this is consideration of the staff recommenda-  
24 tions on our testimony in front of the Public Utilities  
25 Commission regarding the long-term standard offer for

1 contract power produced from independent power producers.  
2 We have Dave Morse from the Assessments Division and Leon  
3 Vann from the Development Division to outline that for you.

4 CHAIRMAN IMBRECHT: Commissioner Schweickart?

5 COMMISSIONER SCHWEICKART: Yes, Mr. Chairman.

6 When I was briefed on this matter the other day, I had a  
7 momentary lapse in memory which caused me to ask why, since  
8 we normally deal with matters which may in one way or  
9 another have to be presented to the PUC, lead to litigation,  
10 or potentially lead to it, that we have dealt with these  
11 matters in executive session, why this matter was agendaed  
12 for the public business meeting.

13 I was reminded that it was me who suggested this  
14 procedure, whereupon I instantly agreed with it again, but  
15 did so in the context, which I'd like to reiterate here.  
16 That is, that my concern earlier which led to recommending  
17 this procedure was that when the Energy Commission -- that  
18 I believe it is entirely proper, and in fact appropriate  
19 that the Commission deliberate and reach its conclusion  
20 on matters of this kind in executive session, but that the  
21 Commission should provide opportunity to outside parties  
22 when it is about to take a position on matters of this kind  
23 so that they may inform the Energy Commission from their  
24 perspective in making its decision.

25 Therefore, I would remind the Commission, and

1 suggest that this is an opportunity for outside -- for  
2 presentation of considerations for the Commission, rather  
3 than an action in which we would deliberate and come to  
4 conclusion here in the general session.

5 Now, that -- if there is any further comment, I  
6 think that would be appropriate from General Counsel, but  
7 that's my interpretation of why we're doing this, and I  
8 frankly hesitate to get into deliberation and detail among  
9 Commissioners on issues that may in the end relate to  
10 matters of litigation.

11 MR. CHAMBERLAIN: Yes. I would just comment that  
12 the theory behind having a closed session, or matter of this  
13 type, is that the Commission is basically directing its  
14 attorneys under the attorney/client privilege as to how  
15 they wish the case to be handled.

16 However, it is entirely appropriate that the  
17 staff should brief you as to their positions in open session.

18 CHAIRMAN IMBRECHT: All right, fine. With those  
19 caveats, Mr. Morse, or Mr. Vann, who would like to begin?

20 MR. MORSE: Well, you have before you a backup  
21 package labeled confidential, attorney/client privilege.  
22 It contains an overview of the general policies contained  
23 within the testimony, and testimony from myself, Kevin  
24 Smith, and Scott Cauchois. If you would like, I would  
25 direct you to page 2 of the cover memo to the Commission

1 that outlines five key aspects of the policy contained in  
2 the testimony. You all have --

3 CHAIRMAN IMBRECHT: I can't seem to find that  
4 document.

5 MR. MORSE: A memo dated June 15th from the  
6 Executive Director.

7 (Pause to locate document.)

8 CHAIRMAN IMBRECHT: Well, I'm sorry, it's not in  
9 my -- dated what again please?

10 COMMISSIONER CROWLEY: It's the second page of  
11 that second transmittal.

12 CHAIRMAN IMBRECHT: June 15th, I see, just a  
13 two page memorandum. I see it, all right.

14 (Pause to locate document.)

15 MR. MORSE: I'll read into the record the five  
16 points that I referred to. First is to describe a general  
17 method for calculating avoided cost for standard offers to  
18 explain the data, analytical steps and models that are  
19 required, and indicate the appropriate sources for the data.

20 The second purpose is to critique other potential  
21 methodologies and argue that an oversimplistic, relatively  
22 less accurate methodology not be selected.

23 Third, to describe the analytical capabilities  
24 of the CEC staff, its models, data base, and sources, and  
25 to point out the close match between the task in point one,

1 and both the statutory mandate and long-standing technical  
2 capability of the CEC.

3 Four, to describe the established mandatory  
4 process the CEC has for performing and publicly validating  
5 the kind of analysis required in point one.

6 Five, to point out that the CEC does the necessary  
7 analysis as an integral part of the Electricity Report  
8 proceeding, to urge the PUC to rely on that proceeding to  
9 meet its responsibilities, and to identify the policies and  
10 conflicts which will arise unless the PUC decision reflects  
11 CEC determinations.

12 I would be happy to elaborate on any of those  
13 points that, and explain our basis for advocating those  
14 policies.

15 CHAIRMAN IMBRECHT: Are there questions of Mr.  
16 Morse? Let me ask Commissioner Schweickart, do you suggest  
17 that we have an executive session on this issue, those  
18 are items that you wish to -- since we were each briefed  
19 and had an opportunity to delve into some of these issues  
20 in some depth, I'm just -- obviously, if you desire one,  
21 we'll have it, but --

22 COMMISSIONER SCHWEICKART: Well, I believe we  
23 are scheduled for executive session, are we not?

24 CHAIRMAN IMBRECHT: That's right, but I'm just  
25 wondering if we can dispose of this matter now, or do you

1 feel there's something to --

2 COMMISSIONER SCHWEICKART: No, I think it should  
3 be raised in executive session.

4 CHAIRMAN IMBRECHT: Okay. No questions for Mr.  
5 Morse. Mr. Vann do you have anything to add?

6 MR. VANN: No.

7 CHAIRMAN IMBRECHT: Okay, I guess that takes  
8 care of it. I'm sorry, that's right, is there any member  
9 of the public that would like to address this issue? Okay.  
10 Thank you. Are we prepared to move forward on Item 22  
11 at this juncture? I saw some people arrive, Mr. Chandley,  
12 I was wondering if they --

13 MR. CHANDLEY: I don't know how many people are  
14 going to be here, but I don't think the parties are here  
15 yet.

16 EXECUTIVE DIRECTOR WARD: Yeah. I believe we  
17 can move on to Item No. 24.

18 CHAIRMAN IMBRECHT: We can do R&D now?

19 EXECUTIVE DIRECTOR WARD: Yes.

20 CHAIRMAN IMBRECHT: Okay. Item 24, Commission  
21 consideration and possible adoption of a Committee report  
22 on the Commission's Research, Development and Demonstration  
23 Program. Commissioner Commons?

24 COMMISSIONER COMMONS: Mr. Edwards?

25 (Documents passed out.)

1 MR. EDWARDS: The R&D Report is a mandated report  
2 by the Warren-Alquist Act that's intended to describe the  
3 Commission's Research, Develop and Demonstration Programs.  
4 The report has a number of functions. It shows the  
5 Commission's R&D objectives, and the process we use to  
6 choose our projects.

7 It describes, in general, the technologies where  
8 we have programs. It describes our current year programs,  
9 and those planned for the coming fiscal year, and it  
10 presents a list of the products we anticipate for fiscal  
11 year 84/85.

12 While the report is mandated before the Legislature  
13 and the Administration, we find that it's widely used by  
14 private industry and the academic community.

15 This year's R&D Report is similar in design to  
16 last year's, however, it's useful to point out where it has  
17 changed. First, the recommendations this year are more  
18 specific than last year. This year's report left out  
19 descriptions in programs concerning hydroelectric power,  
20 solarthermal power, cogeneration, finance and liquid fuels  
21 conservation.

22 These programs were -- well, an early decision  
23 was made by the Committee that these programs were not  
24 R&D and therefore should not be included in the report.  
25 This year's report was written to reflect the Governor's

1 actual budget for the current fiscal year, and the  
2 Commission's proposed budget for the coming fiscal year.

3 In addition, we footnoted the areas where the  
4 Commission's budget was different from the Governor's  
5 proposed budget.

6 The report has gone through a draft and public  
7 comment process. The Committee draft was released for  
8 public comment in early April, and comments were received  
9 until early May. We then -- after receiving the public  
10 comments, redrafted the report into its current form.

11 We received comments from both the utility  
12 companies and private industry, and although there were a  
13 few technical corrections suggested, in general, the  
14 comments were very favorable.

15 The R&D Report is expected to change substantially  
16 in the future. Current legislation modifying the Warren-  
17 Alquist Act, that's SB 1549, is expected to pass during  
18 this legislative session. It would mandate a report  
19 concentrating much more on energy development issues and  
20 policies rather than the current concentration on program  
21 descriptions.

22 This new report is expected to be due in June of  
23 1986, and the biannually after that. I've handed out an  
24 errata sheet on the current report, and if you have questions  
25 on the errata sheet, or on the report itself, I'd be glad

1 to answer them.

2 COMMISSIONER SCHWEICKART: Yes, Mr. Chairman, my  
3 first question is, does the errata sheet have an errata  
4 sheet? I cannot locate page 3-28 since the upper number on  
5 chapter three goes to 9.

6 CHAIRMAN IMBRECHT: That's right.

7 MR. EDWARDS: That is an error, that should be  
8 4-28.

9 COMMISSIONER SCHWEICKART: Aha.

10 MR. EDWARDS: It would be the paragraph on 4-28 --  
11 the entire page above anticipated costs.

12 CHAIRMAN IMBRECHT: And who requested that?

13 COMMISSIONER COMMONS: San Diego Gas and Electric.

14 CHAIRMAN IMBRECHT: I'm reading -- this is with  
15 respect to a contract on fuel cells?

16 MR. VANN: Yes, that is not in our budget.

17 CHAIRMAN IMBRECHT: I see, okay. Further  
18 questions?

19 COMMISSIONER SCHWEICKART: I suppose I'd like to --  
20 I mean, it seems to me the footnote says it's not in the  
21 budget already.

22 MR. EDWARDS: Yes, it does.

23 COMMISSIONER SCHWEICKART: So it's not clear to  
24 me that deleting that area doesn't simply leave unstated  
25 the sense of the Commission that this is a study which

1 should be performed.

2 MR. EDWARDS: Well, I think I'd have to defer to  
3 Commissioner Commons on that.

4 COMMISSIONER COMMONS: The issue as raised by  
5 San Diego Gas and Electric is that there is a similar type  
6 of work being conducted by GRI, and we may have some  
7 duplication, and that this is not a contract currently  
8 before the Commission, and it would not be appropriate in  
9 the budget document to include it here.

10 COMMISSIONER SCHWEICKART: My own sense of this,  
11 Commissioner Commons, has by and large avoided, or been  
12 remiss, I guess I would say, in dealing with fuel cell  
13 technology. I think a number of us have felt that but we  
14 have in fact, not yet taken any serious effort to redress  
15 that oversight, while in fact the proposed contract has  
16 been deleted from the budget, I think at least being in  
17 the report indicates that the Commission does feel that  
18 this technology should be examined by the state.

19 I applaud GRI for studying it, they've been  
20 working with it for 15 years. But it seems to me that there  
21 is a question open right now about the applicability of  
22 this emerging technology to the state, and in fact, to a  
23 certain extent, fuel cell technology is in some trouble.

24 It would seem appropriate to me that the state  
25 indicate an interest in assessing the value of this

1 technology to the state. Now, I recognize that it has  
2 been dropped from the budget, nevertheless, it seems to me  
3 excessive to also then remove any indication that we have  
4 an interest in the report, or am I misreading something.

5 CHAIRMAN IMBRECHT: May I suggest that really  
6 what needs to be done is that paragraph rewritten as  
7 opposed to deleted. I mean, I think it could be made more  
8 clear, but my recollection if I -- and Mr. Vann, you might  
9 correct me on this, but was that not an item -- I don't  
10 recall us pursuing that item with any great vigor.

11 MR. VANN: We did not.

12 CHAIRMAN IMBRECHT: My recollection is that there  
13 were some problems associated with that proposal as well,  
14 and that when asked for advice as to which items to pursue,  
15 in behalf of your budget, you know, I think the division  
16 had some diminished interest. Is that accurate, or not,  
17 I'm trying to remember, it's been a long time.

18 MR. VANN: In the marketing study itself, yes.  
19 San Diego's point on that particular paragraph was that a  
20 marketing study would duplicate a study they have ongoing  
21 right at this point in time with GRI on fuel cells, and  
22 that was their biggest concern with that paragraph because  
23 it did discuss specifically a contract to do market analysis.

24 CHAIRMAN IMBRECHT: See, I couldn't remember what  
25 it was, Commissioner Schweickart, but I recall that after

1 our budget went in, this was one of the items, you know,  
2 that we had asked for further advice, and we were told  
3 that there was no longer a need, or something of that nature,  
4 for this particular contract, that the same work was being  
5 done elsewhere.

6 My suggestion would be is that this item -- I  
7 mean, I understand Commissioner Schweickart's point, maybe  
8 the paragraph could be simply rewritten to say something  
9 to the effect, we know with interest, X study being conducted  
10 between GRI and San Diego Gas and Electric, and you know,  
11 we believe fuel cells hold great promise, or whatever, and  
12 we look forward to the results.

13 COMMISSIONER SCHWEICKART: Well, let me suggest  
14 that if you were to add that the Commission staff will  
15 review and evaluate this report or analysis for further  
16 consideration by the state. That is, I do not equate an  
17 industry study, whether marketing, or anything else, with  
18 what the Commission may emerge with from the standpoint  
19 of the interests overall to the state.

20 The Gas Research Institute has a particular charter  
21 which it protects, and does an excellent job in, as does  
22 San Diego Gas and Electric. But I think that the Commission  
23 itself represents the interests of the state, and may, in  
24 fact, have a different perspective, so that I don't -- I  
25 can't equate a study.

1 I think at the same time, clearly, the staff  
2 should account for any study done by industry, but it  
3 does seem to me that this is a technology, because of the  
4 potential environmental benefits of very clean power  
5 production, and some potential for cogeneration, especially  
6 in inner city applications, that this is a technology which  
7 we quite literally should be looking at to a greater  
8 extent than we have in the past.

9 CHAIRMAN IMBRECHT: See, I guess I draw the  
10 distinction, if the same study is being conducted elsewhere,  
11 and the results are going to be made available to us, and  
12 we know what the methodology is, et cetera, going into it,  
13 and it's being done on an independent bases, as opposed to  
14 on a captive basis, I'm not sure that there's any showing  
15 one way or the other on that, I would say that it's not a  
16 good use of public funds to duplicate something that's  
17 occurring elsewhere within the research world.

18 COMMISSIONER SCHWEICKART: Mr. Chairman, I don't  
19 believe you heard me. I said that the staff should review  
20 and analyze that study, not duplicate it. I didn't endorse  
21 duplicating the study.

22 CHAIRMAN IMBRECHT: Well, I thought I heard you  
23 say that we should do our own on the basis of where --

24 COMMISSIONER SCHWEICKART: I think there are many--  
25 there was no a priori assumption on my part that because

1 someone else does a study, we should not. I don't consider  
2 that duplicative.

3 CHAIRMAN IMBRECHT: I agree, however is it one  
4 that we should.

5 COMMISSIONER SCHWEICKART: On the other hand, it  
6 may be, and I think the only way one knows that is to review  
7 the work that is done, and that's my only point. I think  
8 that the technology has some inherent advantages which  
9 we should be tracking more closely, and if SDG&E and GRI  
10 are doing a study, then we should certainly review it.

11 But I don't think deleting the paragraph meets  
12 the real need of the state, or the obligation of the  
13 Commission, that's my problem.

14 CHAIRMAN IMBRECHT: Commissioner Commons?

15 COMMISSIONER COMMONS: If we were to retain the  
16 last sentence in the paragraph, and add the statement of  
17 you and Commissioner Schweickart, that we would continue  
18 to review, and analyze, or monitor work being conducted in  
19 the area, I think that would take care of it.

20 MR. VANN: We could also add in, Commissioner, the  
21 fact that we are holding the workshops as part of the ER,  
22 and in specifically --

23 COMMISSIONER COMMONS: Yeah, we will hold a full  
24 workshop just on fuel cells as part of the ER.

25 CHAIRMAN IMBRECHT: I endorse that, so I'll --

1 does that sound all right to you?

2 COMMISSIONER SCHWEICKART: Fine.

3 CHAIRMAN IMBRECHT: Okay. Further questions or  
4 comments? Commissioner Commons, do you want to make a  
5 motion?

6 COMMISSIONER COMMONS: Before I make the motion,  
7 I just want to thank publicly Allen for really a lot of  
8 good hard work here, and taking all the comments, and  
9 putting together this report, and keeping within budget and  
10 not making this -- even though it's thick, in not making  
11 this an exercise that required many PY of effort.

12 I move that we adopt the report with the errata  
13 sheet, with the corrections as identified on 4-28 as per  
14 the discussion.

15 CHAIRMAN IMBRECHT: I'll second that. Further  
16 discussion? Any member of the public wish to testify? Is  
17 there objection to unanimous roll call? Hearing none,  
18 ayes 4, noes none, the research and development report is  
19 adopted, and I presume that means will be transmitted  
20 appropriately as well.

21 Okay. Are we prepared to move forward on Item 22?  
22 It's five past 10:00, I think we should be able to. Item  
23 22, Commission consideration and possible adoption of  
24 proposed amendments to the residential building standards.  
25 The Commission will consider the permanent repeal of

1 Section 2-5352 Subsection (o) which requires that recessed  
2 lighting be type IC which was repealed on an emergency  
3 basis on March 7th, 1984; and second, changes in the  
4 climate zone boundaries for Climate Zones 11 and 16 in  
5 Shasta County as depicted in the appropriate figure. In  
6 addition, we will consider the disposition of other  
7 petitions filed in this proceeding.

8 Mr. Chandley, are you prepared to make a  
9 presentation?

10 MR. CHANDLEY: Yes, I think this will be very  
11 brief on my part. With respect to the recessed lighting  
12 standard, I think most of you will recall the history of  
13 this, this is a standard that we adopted back in August, in  
14 effect, of prohibiting the installation of non-IC type  
15 fixtures on the grounds that they did not allow the  
16 placement of insulation over the top of it, and therefore  
17 created a break in the insulation.

18 That standard was part of the package of measures  
19 which we adopted on an emergency basis pursuant to AB 163  
20 and were approved by the Building Standards Commission under  
21 that rubric.

22 Subsequently, California Electrical Alliance filed  
23 a petition asking that we repeal or amend that standard to  
24 allow the inclusion of their product in insulated ceilings,  
25 their products being the non-IC type fixtures. The

1 Committee has held two hearings on that, taken evidence on  
2 the energy losses, and I would -- let me just characterize  
3 where I believe the Committee is.

4           Everyone agrees that there are some energy losses  
5 associated with the use of non-IC type fixtures, precisely  
6 what those energy losses are is a subject of debate. Whether  
7 those losses are significant or not significant is a  
8 judgmental factor, but I think the direction that the  
9 Committee has chosen to go is that to the extent that we  
10 can quantify those losses from non-IC type fixtures, that  
11 builders who use those devices should be required to account  
12 for the energy losses through the calculation methodology  
13 when one is attempting to meet the energy budgets, and  
14 that there is no justification -- if that is possible, there's  
15 no justification for having a prohibition on that product.

16           For that reason, and the fact that the original  
17 standard was causing some disruption in the market, the  
18 Commission last March adopted the emergency repeal of the  
19 standard. We're recommending that you readopt that repeal  
20 on a permanent basis.

21           The emergency repeal took effect March 29th, and  
22 would remain in effect, I believe, until July 27th. So by  
23 acting today, you will have completed the rulemaking process  
24 for the repeal, and made that repeal permanent. So that's  
25 that particular item.

1 CHAIRMAN IMBRECHT: All right, fine. Now, let's  
2 take these individually as we proceed through them. Let  
3 me ask if there are -- I'm sorry, I did have -- Mr. Foster,  
4 on this particular aspect of this item? Yes, on the  
5 proposed repeal.

6 MR. FOSTER: Mr. Chairman, my name is Robert  
7 Foster, representing the California Electrical Alliance.  
8 With me is Dave McFarland, also representing the Alliance.

9 We'll be very brief. We know the time is limited.  
10 Mr. Chandley has, I think, accurately summarized the issue.  
11 We have, in addition, provided the Committee with analyses  
12 of energy losses that were conducted by Charles Eley and  
13 Associates, and we think that it demonstrated that the  
14 losses, in our judgment, are not significant.

15 If the repeal is made permanent, I think the  
16 Commission has time to further examine that issue, and make  
17 any changes that may be necessary. So we would simply urge  
18 you to repeal this on a permanent basis.

19 CHAIRMAN IMBRECHT: Okay. Questions or comments?  
20 Mr. McFarland?

21 MR. McFARLAND: I also represent the American  
22 Home Lighting Institute, a Chicago based trade association,  
23 which really represents about 90 percent of the production  
24 of recessed fixtures that are used in California and in  
25 residences around the United States.

1           We are pleased that this is going to be coming to  
2 an end, because we feel also that there's been far too much  
3 time and effort on our part, and on your part to put into  
4 this issue. We also support the Charles Eley study that  
5 was done on the energy consumption of recessed fixtures,  
6 and we feel that the energy losses are insignificant, and  
7 we certainly agree with the staff's recommendation, and  
8 the Commission's recommendation -- excuse me, the  
9 Committee's recommendation for repeal, permanent repeal of  
10 this matter.

11           CHAIRMAN IMBRECHT: Okay, thank you. Do I hear  
12 a motion?

13           COMMISSIONER SCHWEICKART: Mr. Chairman, I will,  
14 if you prefer, make a motion in part here, though I believe  
15 it might be more appropriate to move the adoption in its  
16 entirety.

17           CHAIRMAN IMBRECHT: The entire package?

18           COMMISSIONER SCHWEICKART: Yes.

19           CHAIRMAN IMBRECHT: You're in agreement with all  
20 these staff recommendations?

21           COMMISSIONER SCHWEICKART: These are the Committee  
22 recommendations.

23           CHAIRMAN IMBRECHT: Committee recommendations,  
24 excuse me. Why don't you move the Committee package, and  
25 we'll take a presentation on each issue ad seriatum, and --

1           COMMISSIONER SCHWEICKART: All right, fine. I  
2 would move adoption of the recommended -- let's see, what  
3 do we have here, an order? John, give me the right  
4 language here.

5           MR. CHANDLEY: I think at this time you should  
6 merely --

7           COMMISSIONER SCHWEICKART: Adoption of the report?

8           MR. CHANDLEY: No. I would recommend you separate  
9 the report from the adoption of the standards themselves,  
10 so that your first motion ought to be that you move to  
11 adopt the repeal on a permanent basis of Section 2-5352  
12 Subdivision (o), and to adopt the change in the climate  
13 zone boundary for Shasta County as set forth in the initial  
14 statement of reasons, and text of changes.

15           COMMISSIONER SCHWEICKART: So moved.

16           CHAIRMAN IMBRECHT: So moved by Commissioner  
17 Schweickart. I'll second the motion. Is there any further  
18 public comment? I'm sorry, we have to move to the Shasta  
19 item. Thank you Mr. Foster, Mr. McFarland.

20           COMMISSIONER SCHWEICKART: Now, Mr. Chairman, yes,  
21 in regard to the matter that we've just discussed, I would  
22 like to clarify for the Commission, so that there is not a  
23 misunderstanding, the position of the Committee.

24           Mr. Chandley certainly stated it correctly, but  
25 I think there came a bit of distortion, shall we say, on

1 the public testimony. While the Committee does believe  
2 and has recommended, and has moved that we in fact support  
3 our earlier emergency repeal which would then no longer  
4 restrict the marketplace from these non-IC fixtures, the  
5 use of these non-IC fixtures, the Committee does not, and  
6 had drawn no conclusion as to the significance, or  
7 insignificance of the energy loss in the use of these  
8 fixtures, but instead has -- would call the Commission's  
9 attention, and the industry's attention, to requirements  
10 within these standards for accounting for energy losses  
11 in an obligation to average, or to compute, and I'm using  
12 the words loosely here, to appropriately account for the  
13 losses through the ceiling.

14 Therefore, there is an obligation to in fact  
15 account for any energy losses due to the use of non-IC  
16 fixtures, or for that matter, any other nonuniformity in a  
17 ceiling which would cause increased heat flow.

18 The methodology by which that calculation will  
19 be made, I would point out to the Commission, is somewhat  
20 at issue. The Commission staff will be continuing to  
21 examine this issue, and will in future editions of our  
22 documentation indicate an appropriate manner for making  
23 such calculations.

24 In the interim, that issue is at limbo, and  
25 essentially is left, at this moment, I would say, to the

1 discretion of the local building official in facing  
2 certification of any plans brought before him -- him or her.  
3 But we have made no finding as to the significance of the  
4 energy loss, and there is continued debate on that issue.  
5 Nevertheless, whatever it is, it must be accounted for.

6 CHAIRMAN IMBRECHT: Okay.

7 COMMISSIONER SCHWEICKART: Imoving to the second  
8 one, I may be able to abbreviate that one, I believe, unless  
9 Mr. Chandley has something to the contrary, this issue of  
10 the Shasta County climate zone boundary is one which was  
11 in essence negotiated between the staff and the officials  
12 in Shasta County to the satisfaction of all parties, and  
13 I believe, unless there is someone here to speak to that  
14 issue that there is, and has been no controversy on this  
15 matter at all.

16 CHAIRMAN IMBRECHT: That's my understanding as  
17 well. Does any member of the public wish to address the  
18 issue of change in climate zones in Shasta County, Climate  
19 Zones 11 and 16?

20 COMMISSIONER SCHWEICKART: That being the case,  
21 unless there is further deliberation, I'd call the question.

22 CHAIRMAN IMBRECHT: Is there objection to a  
23 unanimous roll call? Hearing none, ayes 4, noes none,  
24 the motion to adopt the repeal of the stated section, and  
25 the changes in the two climate zones is carried.

1 I believe there's some additional petitions,  
2 Mr. Chandley?

3 MR. CHANDLEY: Yes, on May 29th, the Committee  
4 issued an interim Committee Report recommending disposition  
5 of three other petitions: one filed by Charles Eley,  
6 one filed by the Williams Furnace Company, and the third  
7 filed by the manufacturers of Daikin Heat Pumps, IESC  
8 Corporation.

9 With respect to the Charles Eley petition which  
10 deals with various changes in the water heating and space  
11 heating budgets, the interim report states that the  
12 Committee is still considering all of these changes, and  
13 is requesting additional information, and we are, in fact,  
14 waiting for further information on a number of the input  
15 assumptions that would be necessary in order to make the  
16 changes in the budget calculations as they appear in the  
17 standards.

18 So no further action is contemplated for the  
19 Commission today on that particular item, but we will be  
20 holding additional hearings, as that information is made  
21 available.

22 COMMISSIONER SCHWEICKART: With the intention,  
23 Mr. Chairman, of meeting the -- I believe it is the  
24 September schedule for the State Building Standards  
25 Commission on further action.

1           CHAIRMAN IMBRECHT: Okay, fine, thank you. I  
2 understand that. That's certainly acceptable. The  
3 Williams Furnace, do you want to take that up?

4           MR. CHANDLEY: Well, let me handle Williams  
5 Furnace and the Daikin Heat Pump petitions together. Both  
6 of these petitions are seeking exemptions for their products  
7 from a requirement in the mandatory features section of  
8 the residential building standards.

9           That requirement is that when one installs any  
10 heating system, one must also install a -- what's called a  
11 dual setback thermostat, a thermostat that's capable of  
12 being set back two points through a clock mechanism. That's  
13 a requirement that applies to all heating systems. They've  
14 asked for exemptions for their products.

15           Now, for the Williams Furnace people manufacture  
16 gas wall furnaces in a zonal configuration, it would be  
17 multiple units in different areas of a home. Similarly,  
18 the Daikin heat pump is a multi-zone system, does not use  
19 any ducts, and the theory behind the request for an  
20 exemption is that a centralized thermostat is inappropriate  
21 for a multi-zone heat pump.

22           Moreover, the savings which we are seeking to  
23 achieve can, in fact, be achieved through a zonal system  
24 simply by having the occupant turn each unit off as he or  
25 she exits the room in which that unit is located.

FLOWER-BOND  
EXHIBIT NUMBER  
15A

1 I don't think there's any dispute about the  
2 theoretical possibility that savings, in fact, could occur  
3 from this. There is no way, however, for -- based upon  
4 any of the evidence that we have, for us to confirm the  
5 level of savings that would occur in the absence of having  
6 a centralized thermostat, the savings that would occur from  
7 the user patterns that would occur in these actual  
8 applications.

9 Because of the lack of empirical data on user  
10 behavior, I think the Committee was unwilling to provide  
11 an exemption for this. The testimony indicated -- the  
12 testimony from the hearings indicated that while significant  
13 savings were potentially achievable from those products,  
14 that without it, those savings would be even greater with  
15 the thermostat, and there was not reason to believe that  
16 the Commission's original judgment that such thermostats  
17 are highly cost-effective should be overturned.

18 For that reason, I think the Committee decided to  
19 recommend against any further action on both of these  
20 petitions. In effect that would end it for this year. We  
21 felt we should bring this before the Commission in case  
22 either of those parties wished to have the -- make a  
23 presentation in front of the full Commission, and in effect  
24 direct the Committee return and take another look at this  
25 matter.

1           COMMISSIONER SCHWEICKART: Let me just add one  
2 thing, Mr. Chairman, by way of going beyond Mr. Chandley's  
3 presentation. In fact, the Committee went well beyond in  
4 recommending that this whole area of the regulation of  
5 multi-zonal systems is one which I believe, the Committee  
6 believes, should be a focus of some attention in terms of a  
7 new -- if you will, a new technology, or at least a new  
8 use, evolution in the whole issue of heating and cooling.

9           Clearly, heating where the occupants are, and/or  
10 cooling where the occupants are, as appropriate, rather than  
11 cooling or heating the whole structure is a far more  
12 efficient theoretical way of handling things, and to the  
13 degree that technologies are evolving to enable physically  
14 that possibility, both with the primary heating and cooling  
15 systems themselves, and also, and perhaps even more so, with  
16 -- I use the word loosely, intelligent control systems in  
17 the home, that this is an area in which I believe there are  
18 likely very significant potential energy savings in the  
19 future.

20           However, while -- and in acknowledging that, the  
21 Committee report recommends that the staff be directed to  
22 further study the potential savings in this general area.  
23 So while Mr. Chandley's statement, I think is entirely  
24 correct in terms of the disposition of these two particular,  
25 relatively narrow petitions, frankly, this is an issue which

1 I see of large potential savings on utility bills, and  
2 unnecessary use of energy, or waste of energy, which the  
3 Commission should be dealing with, and I concur with Mr.  
4 Chandley, it will probably not occur this year, given our  
5 staff resources, but I did want to indicate it specifically  
6 as an emerging area in which there is developing technology,  
7 and large potential energy savings which we should be  
8 looking at.

9 CHAIRMAN IMBRECHT: Okay, thank you. Let me  
10 just ask both Mr. Chandley and Mr. Perez if you can take  
11 a look at the notice. The only concern I've got is your  
12 last comment is that the other three petitions should be  
13 brought before the Commission for disposition, and we should  
14 give people an opportunity to speak to them if they care to.

15 I'm just wondering if this one sentence that  
16 says, in addition, the Commission will consider the  
17 disposition of other petitions filed in this proceeding,  
18 if that constitutes adequate notice, and I'm looking at the  
19 last sentence under Item 22.

20 MR. CHANDLEY: Let me bypass that question and  
21 state that the interim Committee order is in itself, a  
22 notice was mailed out to all parties, both through the  
23 regular mailing list, and I personally served this on each  
24 of the parties to the proceeding. It contains a couple of  
25 statements, one of which is that the Committee intends to

1 present this interim report to the full Commission on  
2 June 20th. Any petitioners affected by the Committee's  
3 rulings may address the full Commission on their respective  
4 matters at that time. There are a couple of references like  
5 that.

6 CHAIRMAN IMBRECHT: Fine. Are any of the parties  
7 present? Any of the petitioners? Okay. Is there objection  
8 to accepting the Committee's report? Would you like to  
9 make a motion?

10 COMMISSIONER SCHWEICKART: Should I move the --

11 CHAIRMAN IMBRECHT: Why don't you do that.

12 COMMISSIONER SCHWEICKART: I move that the  
13 Commission adopt the Committee report.

14 CHAIRMAN IMBRECHT: Do I hear a second? Seconded  
15 by Commissioner Crowley, is there objection to a unanimous  
16 roll call? Hearing none, ayes 5, noes none, the Committee  
17 report is adopted.

18 All right. We're nearing the end of our long  
19 agenda, Commissioner Gandara, I call on you for Item 31,  
20 which is a presentation and consideration and possible  
21 adoption of the Annual Petroleum Review.

22 COMMISSIONER GANDARA: I apologize for being late  
23 Mr. Chairman. Before I get started on that, what Committee  
24 Report did I not object to, what Item was that?

25 CHAIRMAN IMBRECHT: That was Item No. 22, and it

1 was a recommendation as to the disposition of three petitions  
2 made to the Residential Conservation Committee for  
3 modifications.

4           COMMISSIONER GANDARA: Mr. Chairman, fellow  
5 Commissioners, what we have before us today is the proposed  
6 adoption of the Fourth Annual Petroleum Report. As you all  
7 may be aware, this is a requirement that is placed upon us  
8 by the Warren-Alquist Act, and in particular, that provision  
9 of PIIRA that requires us to analyze the petroleum supply  
10 and demand, and utilize the data that's collected under  
11 PIIRA to present to the Governor and the Legislature a  
12 picture of the state of petroleum, petroleum products and  
13 related fuels.

14           This is the first Annual Petroleum Review that  
15 had taken the integrated perspective in a number of areas.  
16 I'm pleased to say that this report has effectively combined  
17 the perspectives that I felt would occur when the merger  
18 of the fuels, old Fuels Policy Planning Committee and the  
19 Contingency Planning Committee occurred.

20           I am most pleased with the document. I should  
21 perhaps wait to see how you all find it, how you all find  
22 it and what you do with it. But notwithstanding what may  
23 ensue from here, I'd like to point out that the staff has  
24 worked closely with the Committee, the Mr. Rozsa has done  
25 an exemplary job of translating the staff concerns, and the

1 analysis to the Committee.

2           The Committee has, in turn, worked effectively  
3 with him, and in particular, I know that Mr. Oat (phonetic),  
4 Mr. Wilcox, and Mr. Wood have all done an excellent job.  
5 I'm sure that there are other people that I'm not familiar  
6 with that are to be complimented as well, but I don't think  
7 that I have -- since I've been at the Commission, ever been  
8 involved in the preparation of a document that I think has  
9 brought for the issues analysis, and has taken, I think a  
10 fairly good perspective from the very beginning.

11           I present it to you with considerable feeling that  
12 I think that this is the kind of example of work that can  
13 be done at the Commission. With that, I will turn it over  
14 to Mr. Wilson -- I'm sorry, Mr. Rozsa in a minute, and I  
15 would only like to say that there was an April draft of  
16 this report issued.

17           That April draft was the subject of a workshop, a  
18 publicly held workshop that was held in Los Angeles. The  
19 comments we received were incorporated where possible. In  
20 general, the comments were most favorable. I'd ask that the  
21 staff and my adviser, my previous adviser Allen Lee meet  
22 with all the Commissioners. I am informed that they did  
23 reach all the Commissioners, and we tried to incorporate  
24 those concerns.

25           In addition to that, we received written comments,

1 and we tried to be responsive to most of those, so that  
2 all in all, from the very beginning, this APR has had the  
3 kind of public exposure and input that I envisioned and  
4 thought the Annual Petroleum Review could benefit from.

5 With that, Mr. Rozsa will just take a few minutes  
6 to present the findings and conclusions. Staff is available  
7 to get into more detail should the Commission wish. If the  
8 Commission is familiar with the document, then given the  
9 time considerations, we will do as the Commission wishes.

10 CHAIRMAN IMBRECHT: Fine. About how long do  
11 you anticipate your presentation would take, Mr. Rozsa?

12 MR. ROZSA: I would say about 10 minutes,  
13 depending on questions.

14 CHAIRMAN IMBRECHT: Okay.

15 MR. ROZSA: What I propose to do would be to  
16 review the recommendations in the documents which you have  
17 copies of and indicate some of the reasons --

18 CHAIRMAN IMBRECHT: Okay. I'll tell you what I'm  
19 going to suggest is since we have a couple of more  
20 substantive matters to deal with, why don't we dispose of  
21 those as a courtesy to the people who are here, and then  
22 we'll come back to this.

23 If we could ask you to be patient, Mr. Rozsa,  
24 I think we could dispose of a couple of other items pretty  
25 quickly, and we'll come back to this item in just a few

1 minutes.

2 MR. ROZSA: Okay.

3 CHAIRMAN IMBRECHT: Let's turn to Item No. 6 at  
4 this juncture.

5 COMMISSIONER COMMONS: I think Commissioner  
6 Schweickart wants to be here, this is his item.

7 CHAIRMAN IMBRECHT: Okay. I may have misspoken,  
8 apparently, I'm not going to be able to complete these  
9 other items. Does anyone know where Commissioner Schweickart  
10 is? John, why don't you go ahead, I'm sorry, we might  
11 as well do it, and make the presentation now, and then we  
12 will immediately turn to Items 6 and 11.

13 MR. ROZSA: This APR was divided into four  
14 different sections, a section on petroleum, a section on  
15 natural gas, a section on contingency planning, and a section  
16 on conservation and alternate fuels, and I'd simply like to  
17 review the recommendations that are associated with each of  
18 those sections.

19 What I'll concentrate on are the key recommendations.  
20 In the area of petroleum, recommendations on this first  
21 page, the four here, that state government should continue  
22 to monitor product demands, that we should look at oil  
23 prices, and international oil developments, that we should  
24 evaluate and identify alternative fuels and technologies,  
25 and that we should continue to support the Petroleum

1 Industry Information Reporting Act.

2 All these recommendations are premised on the  
3 notion that California still is dependent upon petroleum  
4 and natural gas for the vast majority of its fuels, and  
5 because of this overdependence, the Energy Commission,  
6 state government through the Energy Commission needs to  
7 maintain an understanding of events, current events, future  
8 events, past events in this area, and that we should continue  
9 to do the things that we've been doing.

10 The next page involves recommendations that talk  
11 about things that we should do in the future, and the first  
12 of these is concerned with offshore oil and gas development.  
13 This recommendation which asked the Legislature to look at  
14 the advantages and disadvantages of further state involvement  
15 in offshore oil and gas development, including establishment  
16 of a consolidated permitting process under state authority  
17 is premised on the finding that offshore development issues  
18 are not confined to local jurisdictions, but are now  
19 expanding beyond these jurisdictions and creating conflicts  
20 between them, and that some state action in this area might  
21 be appropriate, including, possibly, the establishment of  
22 such a consolidated permitting authority.

23 The next recommendation that California should  
24 evaluate the need for state policies on independent  
25 refiners is premised on the fact that over the last year

1 or so, three independent refiners in California have gone  
2 out of business for a variety of reasons. It's not clear  
3 whether those reasons are the result of simply economic  
4 evolution, whether they're the result of the death of a  
5 previous regulatory system, or whether they mean that  
6 California is losing a certain amount of flexibility in  
7 dealing with its petroleum supply needs.

8 In any case, without taking a position on what  
9 should be done for independent refiners, we believe that  
10 the issue merits further study.

11 The third recommendation on this page is simply  
12 based on the finding that most of the increases in production  
13 in California have occurred in the thermally enhanced oil  
14 recovery area, and California should examine ways to further  
15 support developments of this still infant technology.

16 Finally, the last of the significant petroleum  
17 recommendations. The Energy Commission should evaluate  
18 whether to support or oppose the current federal crude  
19 export prohibition and provide recommendations to the  
20 Governor and Legislature on what position to adopt.

21 This is a continuing issue. Some argue that  
22 California suffers because of this export prohibition.  
23 Others argue that California benefits from it, and some kind  
24 of a decision ought to be developed as to whether we do  
25 benefit or suffer from it.

1           The next set of recommendations cover the natural  
2 gas area. The first that the Legislature should investigate  
3 the need for a comprehensive statewide natural gas planning  
4 function which would include integrated natural gas supply  
5 and demand forecasts, and the evaluation of utility resource  
6 plans was inspired by the realization that somewhere in the  
7 late 90's we may run out of gas for certain sectors of the  
8 consuming population, particularly electric utilities, and  
9 that we should begin now to take a look at whether in fact  
10 that will happen, and what might be necessary to deal with  
11 that problem.

12           The second recommendation deals with the difficulty  
13 that financing high cost projects poses for ratepayers.  
14 Currently, our ratepayers pay most of the cost of a  
15 project up front. This recommendation requests that the  
16 Legislature examine financing alternatives that would  
17 levelize project costs.

18           The third recommendation is related to the first  
19 recommendation in that the Energy Commission should be  
20 doing the evaluation of gas supply alternatives.

21           The final recommendation is an advisory to the  
22 Public Utilities Commission as to certain factors to  
23 consider within their coming contract carriage hearings.

24           On the next page, we have contingency planning  
25 recommendations. These simply urge the federal government

1 to continue to test their emergency planning procedures  
2 and for the State of California to continue to participate  
3 in these processes, and for the PADD V states to join  
4 together in coordinated planning to develop a joint policy  
5 for dealing with energy emergencies.

6 CHAIRMAN IMBRECHT: Mr. Rozsa, let me back up  
7 just one second. I passed over on natural gas, let me  
8 just ask, since the recommendation was made to consider  
9 some of the options relative to legislation in the petroleum  
10 area, any thought given to the suggestion we study a  
11 recommended position on the natural gas deregulation  
12 legislation pending in Congress which is, I would suspect,  
13 likely to be pushed again next year?

14 MR. ROZSA: Well, we haven't taken a position --

15 CHAIRMAN IMBRECHT: It's a tough issue, I know,  
16 but I mean --

17 MR. ROZSA: The reason we haven't taken a position  
18 on deregulation is because deregulation comes under a lot  
19 of different identities. Many bills are called deregulation  
20 bills.

21 CHAIRMAN IMBRECHT: I understand. What I'm  
22 saying is that there are a variety of elements that are  
23 a portion of all of those bills, and I just suspect that  
24 we're going to be turned to increasingly for some advice  
25 on what makes sense for the overall interest of the people

1 in this state.

2 One of the reasons we haven't taken a position  
3 is I think that we all kind of have come to the conclusion  
4 we don't really know what the best options are, or the  
5 best combination of options, maybe is a better way to  
6 describe it.

7 So I just throw that out as a query as to whether  
8 you consider that as a recommendation as well.

9 COMMISSIONER GANDARA: Let me say that the  
10 Fuels Policy Committee is most interested in this area.  
11 Mr. Rozsa has been a bit handicapped, as has the whole  
12 Commission, because our -- we have not received the approval  
13 of the BCP's to be able to have some people working in  
14 some of these areas that we had identified previously.

15 So that it's been a question of fitting what we  
16 can to the people we have, and what we need to do, and  
17 there's some other areas, you know, that we would like to  
18 do some work in.

19 In addition to that, part of the other problem  
20 has been some vacancies even among -- even though we do  
21 have authorized positions in the Fossil Fuels Office.

22 CHAIRMAN IMBRECHT: That is why.

23 COMMISSIONER GANDARA: So it's a combination of  
24 problems.

25 MR. FOLEY: Mr. Chairman, as you probably know

1 also, that there is no legislation this year, a substantial  
2 amount of deregulation of natural gas goes into effect on  
3 the first of January. That's not only gas that will remain  
4 regulated.

5 MR. ROZSA: It's fairly well accepted, I believe,  
6 in most quarters, that there won't be any.

7 CHAIRMAN IMBRECHT: Legislation this year?

8 MR. ROZSA: Legislation, and everybody will wait  
9 and see what happens on January 1st, and everybody is  
10 waiting.

11 CHAIRMAN IMBRECHT: I think you mean November 8th,  
12 or something like that.

13 MR. ROZSA: That also. But January 1st is when  
14 deregulation is supposed to take place.

15 CHAIRMAN IMBRECHT: I see, okay. I guess the  
16 other natural gas issue is maybe studying some of the  
17 implications of the Canadian pricing and contract issues  
18 without getting terribly specific.

19 MR. ROZSA: Yes. This is kind of a new development  
20 that does -- there's a pending free for all in natural  
21 gas pricing.

22 CHAIRMAN IMBRECHT: I just pass those along, those  
23 two areas that I've had a lot of inquiries on as of late,  
24 and think that perhaps we ought to consider in the future  
25 to start developing some sort of information base. Okay,

1 excuse me. Please continue.

2 MR. ROZSA: I think we're down to the last set  
3 of significant recommendations which are those associated  
4 with conservation and alternative fuels.

5 The first recommendation simply recognizes that  
6 the Commission really hasn't done much in the area of  
7 mass transit. We've looked at personal transportation, but  
8 I don't believe that we have any programs in the area of  
9 conservation through mass transit, and encourages the  
10 Commission to develop a capability to assess cost-effective--

11 CHAIRMAN IMBRECHT: Commissioner Commons?

12 COMMISSIONER COMMONS: When I was looking at the  
13 Los Angeles area rapid transit system, the energy saving  
14 aspect seems to be a very small consequence, vis-a-vis the  
15 rather substantial dollars. The reasons for mass transit  
16 appear to be primarily non-energy related, and if we were  
17 to invest what Commissioner Gandara just mentioned, our  
18 scarce resources in that area, I would tend to say that  
19 should be a work plan discussion, and we should ascertain  
20 one, what advantage it would have if we increased our  
21 capability, and second, what its status, and what is the  
22 expenditure before we delve into it.

23 Very many of the people who go into a mass transit  
24 system often were riding a bus previously.

25 MR. ROZSA: Right.

1           COMMISSIONER COMMONS: And you should recognize  
2 in my comment that I've been a supporter of the Los  
3 Angeles rapid transit system, not primarily for energy  
4 related reasons.

5           MR. ROZSA: Okay.

6           CHAIRMAN IMBRECHT: Okay, let's try to --

7           MR. ROZSA: Second recommendation is based upon  
8 the finding that about three and a half billion barrels of  
9 California's resources are in ultra heavy crude oil and  
10 tar sands, and only about 3,000 barrels a day of these  
11 resources are being currently exploited. This simply  
12 encourages that unconventional petroleum resources be --  
13 the research into improving extracting and processing  
14 techniques be supported.

15           The next two recommendations relate to a section  
16 in the APR which deal with the potential for coal in  
17 industrial uses. One of the difficulties in using coal in  
18 California is an absence of a fairly well accepted set of  
19 technologies for burning coal in environmentally sound  
20 ways, and this recommendation encourages the creation of a  
21 research and development program to develop such technologies.

22           Similarly, the next recommendation is based on the  
23 notion that people who would like to convert to coal won't  
24 necessarily know whether it's in their interests to do so,  
25 and this proposes that the Commission develop a capability

1 to evaluate the cost-effectiveness of individual coal  
2 conversion projects, and provide this service to potential  
3 conversion candidates.

4 It also notes that one of the largest areas that  
5 might benefit from this would be thermally enhanced oil  
6 recovery operations.

7 The fifth recommendation on this page relates to  
8 methanol work. It simply encourages the Commission to  
9 continue to evaluate the cost-effectiveness of methanol.  
10 Since the article in the APR says that that certainly --  
11 that's not clear at this point, whether it's a cost-  
12 effective substitute.

13 But in evaluating the cost-effectiveness of  
14 methanol, the value of diversifying California's fuel mix  
15 away from petroleum fuels should be considered, should be  
16 included.

17 Those are the significant recommendations  
18 associated with the Annual Petroleum Review. I also have a  
19 list of associated recommendations.

20 CHAIRMAN IMBRECHT: Okay, thank you very much,  
21 Mr. Rozsa. Commissioner Commons?

22 COMMISSIONER COMMONS: One comment. I've had a  
23 request from the California Truckers Association who  
24 indicate that the freight model that we have is probably  
25 the best one in the country, and that they would like to work

1 with staff and the Committee in both updating and using that  
2 model for energy conservation purposes, and I'd encourage  
3 you to follow up on that.

4 MR. ROZSA: I'll convey that.

5 CHAIRMAN IMBRECHT: Okay. Commissioner Gandara,  
6 do you have a motion?

7 COMMISSIONER GANDARA: Yes. I move that the  
8 Commission adopt this year's Annual Petroleum Review and  
9 that by that adoption, to forward it to the Governor and  
10 this Legislature as required by law by July 1st.

11 CHAIRMAN IMBRECHT: Is there a second? I'll  
12 second the motion. Is there any member of the public that  
13 wishes to testify on this matter? Hearing none, is there  
14 objection to a unanimous roll call? Hearing none, ayes 5,  
15 noes none, the Annual Petroleum Review for 1984 is adopted.

16 Compliments to Commissioner Gandara and the staff  
17 for their work on that project.

18 Now we'll turn to Item No. 6, Commission considera-  
19 tion and possible approval of a resolution outlining  
20 the policy strategy in regard to incentive programs for  
21 encouraging compliance of the new nonresidential building  
22 standards, and for exploring possible sources of funding  
23 for implementing these programs. Mr. Ward?

24 EXECUTIVE DIRECTOR WARD: Bill Pennington from the  
25 Conservation Division can talk to you a little bit about

1 this, and answer any questions that you might have.

2 MR. PENNINGTON: All right. Mr. Klepper is  
3 expected to be here at 11:00 o'clock.

4 CHAIRMAN IMBRECHT: We've held up for him as  
5 long as possible, go ahead.

6 MR. PENNINGTON: I would recommend we take up  
7 Item 11 before Item 6, because I think it's important for  
8 his presentation to be heard on Item 6.

9 CHAIRMAN IMBRECHT: All right, fine, contract  
10 for -- we'll turn to Item 11, contract for \$27,190 with  
11 Martin Klepper, Esq. -- it just dawned on me, we can  
12 adopt the minutes before we do that. Is there any --  
13 I'm trying to give the guy a few more minutes. Is there  
14 any objection to approval of the minutes as prepared?  
15 Item No. 26, yes. I've reviewed them, I think they're okay.

16 All right. Is there objection to approval of the  
17 minutes as prepared? Hearing none, the minutes are adopted  
18 as prepared. Now we'll turn to Item 11, that's the last  
19 thing I can see that we've got to clean up.

20 EXECUTIVE DIRECTOR WARD: We can do the  
21 Executive Director's Report, if you --

22 CHAIRMAN IMBRECHT: You've got an Executive  
23 Director's Report?

24 EXECUTIVE DIRECTOR WARD: Yeah, it's fairly brief.  
25 First of all, progress on the deficiency appropriation, I

1 understand it's been signed by the Governor, and we're  
2 going through the mechanical processes necessary to  
3 receive that money, so that issue is now behind us.

4           The budget, we were successful in the Legislature  
5 with those items that were approved by the Department of  
6 finance, both in the original budget, and in March change,  
7 in both houses. The two items of most significance to  
8 the Commission were augmentations largely relating to  
9 building industry concerns, one relating to the nonresiden-  
10 tial standards that would be for other building types,  
11 another related to an annual review of new technologies  
12 that could be incorporated into the point system for the  
13 residential standards.

14           Those items -- let's see, the nonresidential  
15 standards item was about \$813,000. The technology review  
16 was in the vicinity of \$250,000 for a total of 8 or 9  
17 personnel years.

18           CHAIRMAN IMBRECHT: 8.8 I believe.

19           EXECUTIVE DIRECTOR WARD: Okay. The industry,  
20 as I understanding, is mounting a fairly serious campaign  
21 with the Governor's office in an attempt to dissuade him  
22 from vetoing those augmentations. I think a point in our  
23 favor is that it isn't general funds, so it does not relate  
24 to the major issue of the economic reserve that I assume  
25 you've read about in the newspaper.

1           The most important issue, I think, would be the  
2 personnel years. The Chairman and myself met with the  
3 agency, and the agency was favorably -- the Resources  
4 Agency was favorably inclined to support those on the  
5 basis of the industry concerns.

6           So I think that we've done everything humanly  
7 possible to try to represent the Commission's best interests.

8           CHAIRMAN IMBRECHT: I would make that even more  
9 clear, Secretary Van Vleck does support those augmentations,  
10 and we'll make that position clear.

11           EXECUTIVE DIRECTOR WARD: Luree Stetson and  
12 myself met with Senator Rosenthal and his committee staff  
13 on the ER/BR integration. The concern -- there were  
14 concerns being raised by the gas company, and I understand  
15 that the Chairman and Vice Chairman have met with the gas  
16 company representative and largely resolved some of the  
17 initial problems that were evidenced a week or so ago.

18           So we expect some resolution of that, and don't  
19 anticipate any problems, and we'll keep you apprised as  
20 issues develop on that.

21           With that, that will conclude my report.

22           COMMISSIONER COMMONS: Would you explain that  
23 please?

24           EXECUTIVE DIRECTOR WARD: There is a section in  
25 that bill that specifically mentions the forecasting of

1 natural gas, and I don't have the historical perspective on  
2 it that other Commissioners may, but previous language was  
3 not as explicit as this bill specifically is with regard  
4 to information on natural gas, and there was some concern  
5 on the part of the gas company that we would be -- the  
6 intent was to ask for more information in our annual  
7 forecast, for our annual forecast, which is not the case,  
8 and we have indicated that.

9           They would like natural gas, as I understand it,  
10 specifically removed from that legislation. We have  
11 emphasized that we don't think that it really affects this  
12 bill, and there's no intent to affect them, and if they  
13 have any concerns about any additional informational  
14 requirements, that there are other pieces of legislation  
15 that are currently moving that they could seek those kinds  
16 of amendments in.

17           COMMISSIONER COMMONS: So the result was it was  
18 not removed?

19           CHAIRMAN IMBRECHT: That's correct.

20           EXECUTIVE DIRECTOR WARD: No, it has not been  
21 removed, but it has not been in the -- it's an Assembly  
22 bill, that has not been -- excuse me, it's a Senate bill  
23 but it has not been before the Assembly committee, policy  
24 committee.

25           COMMISSIONER COMMONS: I have one other question.

1 CHAIRMAN IMBRECHT: Okay, fine.

2 COMMISSIONER COMMONS: Could you give us an  
3 update as to what is occurring on the Little Hoover  
4 follow-up in meetings with both the Legislature and the PUC,  
5 and what the schedule and status is?

6 EXECUTIVE DIRECTOR WARD: I'm really not prepared  
7 at this point in time to do that. Let it suffice to say  
8 that there have been no meetings since the last time you  
9 were advised, to the best of my knowledge, on the Little  
10 Hoover, and I'm not sure at this point, in the Legislature,  
11 given the near-term adjournment, that anything is going  
12 to be happening specifically before August.

13 But I'd be happy to provide you a more substantial  
14 briefing at the next business meeting.

15 CHAIRMAN IMBRECHT: Okay, further questions?  
16 All right, thank you -- oh, Commissioner Gandara.

17 COMMISSIONER GANDARA: Just one thing. What is  
18 the status of the LBL/PVEA contract?

19 EXECUTIVE DIRECTOR WARD: Oh, yes, the LBL/PVEA  
20 contract was sent back to us as originally adopted by the  
21 Commission and I have signed that contract, and it is at  
22 the Department of Finance. So it is not the revised  
23 contract, in fact, it is under the terms that were  
24 specifically discussed by the Budget Committee I guess for --

25 CHAIRMAN IMBRECHT: So DOE saw the light,

1 basically?

2 EXECUTIVE DIRECTOR WARD: That's right, that's  
3 right.

4 COMMISSIONER COMMONS: I have one other question.

5 CHAIRMAN IMBRECHT: Commissioner Commons.

6 COMMISSIONER COMMONS: In relationship thereto,  
7 we'd also add a discussion of an RFP to try to get input  
8 from some other organizations, and I was wondering what  
9 the status on that RFP is.

10 EXECUTIVE DIRECTOR WARD: Again, I believe that  
11 I spoke to -- at the last juncture that there was any  
12 information on that, I did speak to you, Sylvia Siegel  
13 from TURN has talked to me, the Conservation Division is  
14 working with her in trying to develop a way that she can  
15 achieve some of her ends and still be in keeping with  
16 the procedures associated with the expenditure of Petroleum  
17 Violation Escrow Account monies, and I'll have to brief you  
18 at the next business meeting as to the specifics and where  
19 we're at.

20 COMMISSIONER COMMONS: Thank you.

21 CHAIRMAN IMBRECHT: Okay. Questions? Thank you  
22 Mr. Ward. Now we will turn to Item 11, and that's a  
23 contract for \$27,190 with Martin Klepper, Esquire, of the  
24 law firm of Lane and Edson for consultation services. Mr.  
25 Klepper will be used to assist the staff in the Appliance

1 Standards Committee to evaluate incentives to encourage  
2 the use of energy saving high efficiency refrigerators and  
3 air conditioners in California. This is funded through  
4 our 83/4 fiscal year budget. Now, Mr. Pennington.

5 MR. PENNINGTON: The Conservation Programs  
6 Committee and the Conservation Division staff have been  
7 tasked with perhaps one of the more significant conservation  
8 programs that the Commission has addressed in the  
9 proceeding responding to the NRDC petition on refrigerator,  
10 freezer and air conditioning efficiency.

11 Besides the very large potential energy savings  
12 that exist through high efficiency refrigerators and air  
13 conditioners, the proceeding may establish a precedent  
14 setting policy that will be extended to other appliances,  
15 and new buildings, concerning whether standards incentives  
16 or a balance of both is the proper future Commission program  
17 strategy.

18 As a subset of that proceeding, the Committee and  
19 staff have been directed to evaluate utility incentives  
20 programs, program proposals from the proceeding participants  
21 and recommend to the Commission how to implement such  
22 programs.

23 It is likely that we will consider massive, multi-  
24 million dollar incentives programs which will require  
25 particularly effective preparation by the Commission to

1 intervene in the PUC's utility funding decision-making  
2 process.

3           Perhaps more importantly, the utility incentives  
4 programs are to be considered -- if they are to be  
5 considered in any way as substitutes for maximum stringency  
6 standards, they must be exceptionally well designed to  
7 provide comparably reliable energy savings.

8           A complicating factor in this analysis is the  
9 desirability of applying partial funding from manufacturers  
10 to improve the cost-effectiveness of any utility incentives  
11 program that might be considered. This proposed contract  
12 with Martin Klepper is intended to provide the Commission  
13 with independent expert advice in the evaluation, design,  
14 and presentation of utility refrigerator and air conditioner  
15 incentives programs.

16           It is expected that through his involvement, the  
17 Commission will be able to produce a more objective, better  
18 conceived, and more credible incentives program proposal.  
19 Martin Klepper is a nationally recognized expert on  
20 innovative energy financing and incentives programs. He  
21 conducts nationwide consulting on these subjects for  
22 national and state government agencies, private corporations,  
23 and private and public utilities.

24           He also is a sought-after speaker on innovative  
25 financing and incentives. Mr. Klepper has recently

1 conducted a comprehensive research and evaluation project  
2 for Bonneville Power Administration to advise them on  
3 program policy and design of alternative incentives programs.  
4 He also has just completed a consulting contract with the  
5 Energy Commission to identify the most feasible and  
6 effective strategies that the CEC should pursue to promote  
7 maximum compliance with the Energy Commission's optional  
8 office standards.

9           The principal action on this contract was to  
10 negotiate a consensus on program strategies, with principal  
11 PUC staff, utility conservation program directors, and  
12 building industry representatives.

13           The work for BPA and the Energy Commission is  
14 directly transferrable to the Appliance Program.

15           In considering this contract, the Commission  
16 should decide on several issues. First, is the contract  
17 necessary and desirable. The Conservation Division staff  
18 is severely limited in terms of person power, expertise  
19 in incentives and financing, and time to complete the  
20 project.

21           Martin Klepper and his principal staff person,  
22 Marlene Michaelson, can provide valuable additional  
23 resources, and expertise within the time frame allowed for  
24 the project. In addition, Mr. Klepper can provide, perhaps  
25 invaluable credibility to the Commission because of his

1 national reputation. The manufacturer's societies, AHAM,  
2 ARI, and also, NRDC, all have indicated that they support  
3 this contract, and would view the addition of Mr. Klepper  
4 as an independent adviser to the project as being worthwhile.

5 The second issue, is a sole source contract with  
6 Mr. Klepper justified. At the time that Mr. Klepper was  
7 added to the technical reviewers of the nonresidential  
8 building standards program, staff investigated in  
9 conjunction with Commissioner Walker, who was the presiding  
10 member at that time, who was the most qualified to advise  
11 the Commission on innovative energy financing and incentives.

12 Mr. Klepper was chosen, and approved by the  
13 Commission, and the control agencies. Since that time,  
14 Mr. Klepper's experience with Bonneville and with the  
15 Energy Commission has made him even more qualified as the  
16 sole contractor to do this work.

17 Third issue, is Mr. Klepper's high hourly fee  
18 of \$150 per hour reasonable. Mr. Klepper's fee, without  
19 question, is very high compared to typical CEC contractors.  
20 However, the Energy Commission will be paying for Mr.  
21 Klepper's unique experience and expertise in financial  
22 energy consulting. This expertise demands a high fee.

23 Mr. Klepper typically charges clients \$200 per  
24 hour. The staff has the judgment that people in this area  
25 of expertise demand a high rate, no matter which state

1 program is being advised on financial management, financial  
2 consulting matters. We've attempted to contact the  
3 Controller's office and General Services to identify what  
4 a typical fee is, and as yet, don't have that information  
5 back.

6 But it's our general sense, working with -- or  
7 getting the input from several different Conservation  
8 Division people who have extensive state experience, that  
9 over \$100 per hour is a typical fee for this kind of service.

10 The contract also uses subordinate staff to  
11 conduct basic data collection, analysis and report writing  
12 under Mr. Klepper's direction in order to minimize the  
13 required number of hours that Mr. Klepper would spend and  
14 to maximize his productivity.

15 The final issue, is the support staff on the  
16 contract justified? In response to Committee direction,  
17 the original contract proposal has been revised to delete  
18 one of the staff people, a supervisory attorney from the  
19 contract. The current proposal includes only one staff  
20 person who is not an attorney, and places the bulk of  
21 the basic analysis on that person.

22 That staff person is Marlene Michaelson. She  
23 has a master's degree from Harvard School of Government,  
24 and has experience and training in quantitative analysis  
25 and public policy. She was the lead staff person for the

1 BPA incentives project, and has done energy analysis --  
2 extensive energy analysis in the past. Staff expects that  
3 Ms. Michaelson will be quite capable of providing infinite  
4 analysis of special issues that arise during the proceeding,  
5 and is a critical part of this contract's objective, to  
6 augment staff's resources.

7 In summary, this contract provides, in staff's  
8 judgment, needed additional resources and expertise to  
9 carry out this project. It will provide increased  
10 credibility for the program results because of Mr. Klepper's  
11 reputation, and because of his involvement in previous  
12 incentives programs, both at the national level, and  
13 within the State of California.

14 Finally, that the participants, the major  
15 participants in the proceeding believe that this contract  
16 would be useful in promoting the project.

17 COMMISSIONER GANDARA: Thank you, Mr. Pennington.  
18 Are there any questions by the Commission of Mr. Pennington?  
19 I have some questions, then, Mr. Pennington. Item 6 is  
20 also related to the same contract. Can you tell me, was  
21 that a sole source contract?

22 MR. PENNINGTON: Yes, it was.

23 COMMISSIONER GANDARA: Can you tell me what the  
24 amount of that contract was?

25 MR. PENNINGTON: \$15,000.

1           COMMISSIONER GANDARA: And was that a contract  
2 separate from, or was that the TAG contract?

3           MR. PENNINGTON: That was the TRC contract.

4           COMMISSIONER GANDARA: TRC, what's that.

5           MR. PENNINGTON: Technical Review -- originally  
6 called TAG.

7           COMMISSIONER GANDARA: Since Item No. 6 had to  
8 do with incentive options and so forth, I would expect the  
9 methodology to be fairly similar for Item 11?

10          MR. PENNINGTON: Well, not really. We are  
11 proposing through Item 11 to have a considerable amount of  
12 resource devoted to separate quantitative analysis that  
13 would be done by the contractor, in fact, that's the reason  
14 for having the additional staff person assigned to that  
15 contract, to assist with that.

16          COMMISSIONER GANDARA: You mentioned the expertise  
17 of the contractor in a number of areas. You didn't  
18 specifically mention expertise in appliances, in appliance  
19 incentives, can you comment on that?

20          MR. PENNINGTON: I believe that he has a limited  
21 expertise in appliances, and appliance incentives. He is  
22 familiar with national incentives programs that are general  
23 relating to buildings, and other kinds of conservation  
24 programs, so I believe that he does have some expertise and  
25 understanding of appliances through that work, but he's

1 not an expert in refrigerators or air conditioners.

2 COMMISSIONER GANDARA: I suppose I should ask if  
3 there are no other questions of the Commission, is there  
4 any member of the public that wishes to address this item?  
5 If not, is there a motion for approval of the contract?

6 COMMISSIONER COMMONS: I'll move.

7 COMMISSIONER GANDARA: It has been moved by  
8 Commissioner Commons to approve the contract. Is there a  
9 second to the motion?

10 COMMISSIONER SCHWEICKART: Yes, Mr. Chairman, I'll  
11 second the motion, but I would suggest that since Mr.  
12 Klepper is now in the room that we move on with Item No. 11,  
13 or 6, I guess it is, that would give people a chance to see  
14 the quality of the work that Mr. Klepper has done, and  
15 make some judgment as to whether he's worth \$150 an hour.

16 COMMISSIONER GANDARA: Well, we've been bouncing  
17 items back and forth. Let me ask whether, you know, again,  
18 that there is any Commission objection to holding the  
19 motion in abeyance until we hear the --

20 COMMISSIONER COMMONS: I'll withdraw the motion  
21 so it won't be on the floor.

22 COMMISSIONER GANDARA: Okay, fine. The motion has  
23 been withdrawn.

24 //

25 //

1           COMMISSIONER GANDARA: There is a recommendation  
2 that we move to Item No. 6, and unless there's an objection,  
3 I believe it's a reasonable proposal. So can we move to  
4 Item No. 6, Mr. Pennington? We will come back to Item No.  
5 11.

6           MR. PENNINGTON: Yes. Item No. 6 will be  
7 presented by Mr. Klepper. I have copies of the final  
8 report that he has written on this subject that any member  
9 of the public can get a copy of.

10           COMMISSIONER SCHWEICKART: Before -- Mr. Chairman,  
11 let me suggest that before we move into this, that it  
12 would be appropriate for a couple of comments, I think,  
13 mainly from myself and Mr. Pennington here. I know  
14 Commissioners were justifiably unhappy with the late  
15 arrival of the report for their -- for this business meeting.  
16 I would point out that there are reasons for that which I  
17 think Mr. Pennington can go into in terms of the scheduling  
18 issue.

19           The problem here is that Mr. Klepper's contract  
20 expires, what, at the end of -- what's the date? End of  
21 June, and this was the last business meeting on which this  
22 could be brought forward without a second extension, I  
23 believe, to Mr. Klepper's contract, which none of us felt  
24 comfortable with.

25           As a result, the completion of the work was

1 compressed rather tightly, and the report was received a  
2 little closer to the business meeting itself than anyone  
3 was comfortable with, including all the parties involved.  
4 So there are some circumstances, some apologies due there,  
5 I think, that I'd like to offer from the part of the  
6 Committee, but Bill, if you want to add anything to that  
7 by way of reasoning why we're sort of jammed into a last  
8 minute operation here, I think --

9 MR. PENNINGTON: Well, the only other thing I  
10 would comment on is that we held a workshop on June 6th,  
11 and received additional feedback from the public at that  
12 point, and that the final report has incorporated additional  
13 material in response to that, and that's provided us a very  
14 short time frame for finalizing the document, and getting  
15 it reproduced and distributed.

16 CHAIRMAN IMBRECHT: Okay, fine. Why don't we  
17 turn to Item 6, then, and we'll take the presentation for  
18 that. It's Commission consideration and possible approval  
19 of a resolution outlining -- well, I've already read this,  
20 policy strategy, et cetera, for incentive options, new  
21 nonresidential building standards, and exploring possible  
22 sources of funding for implementing these programs, et  
23 cetera. Mr. Pennington, Mr. Klepper?

24 MR. KLEPPER: Mr. Chairman, Commissioners, it's a  
25 pleasure to be here. I've given an awful lot of talks over

1 the last couple of years in energy financing. I don't  
2 recall being in the position of giving one where I was  
3 being judged based on whether I was worth the hourly rate  
4 that we charge. I'd just like to ask if you'd put that  
5 in abeyance and listen to the report, and not try to analyze  
6 the value of the services in terms of dollars.

7 We were asked by the Commission about three months  
8 ago to undertake a very intensive preliminary examination  
9 of financial and nonfinancial incentives that could be  
10 offered by the Commission, or by utilities within the state  
11 to spur faster use of the nonresidential commercial office  
12 building standards before the mandatory implementation date  
13 of January 1, 1987.

14 The objective was to try to maximize energy  
15 savings through voluntary compliance between now and  
16 January 1, 1987. The primary goals of our undertaking  
17 were to familiarize the design community with the standards,  
18 to develop feedback for CEC on the results through a  
19 monitoring effort, to obtain and identify peer group  
20 experience so that other members of the building community,  
21 of the design community, and building code officials could  
22 have some buildings up and operating where they would see  
23 the results of the use of the new standards.

24 We wanted to be able to ideally have model buildings  
25 or buildings developed that would serve as models so that

1 when the standards became mandatory and members of the  
2 design community wanted to know how do you solve particular  
3 problems, there would be buildings that they could look at,  
4 examine, feel and touch.

5           Obviously, we also wanted to be able to have these  
6 standards as widely used as possible to result in energy  
7 savings, and finally, we wanted to be able to develop a  
8 set of incentives that would serve for a model for other  
9 kinds of building standards that were developed by the  
10 Commission.

11           We wanted to be able to finally have the basis  
12 for concensus and support for the use of these standards so  
13 that when they become mandatory on January 1, 1987, there  
14 is the kind of support, and the kind of concensus within  
15 all the different groups and associations that need to  
16 support those standards so that they will be well received,  
17 and so that they will be operational.

18           We had two primary constraints on our effort, and  
19 they're very important ones. The first is that we were  
20 asked to undertake this as a preliminary examination within  
21 a very short amount of time, within a two to three month  
22 period, and I apologize as well for the fact that some of  
23 this material wasn't in the hands of the public, or in the  
24 hands of the Commissioners before -- or within a short  
25 period of time.

5  
T.4  
1           The second limit is a limitation on funding. One  
2 of our tasks was to try to identify available funding, both  
3 within the Commission and within the utilities, and we were  
4 very aware of the limit on funding as well as the limit  
5 in the time available to implement any program because we  
6 were looking to implement a program that would be up and  
7 running and effective within a two and a half year period.

8           This led us to try to identify and establish  
9 reasonable goals for the Commission's undertakings. Within  
10 a two year period, we think that it would be reasonable to  
11 try to develop an incentive program that would result in  
12 installation of conservation -- in development of buildings,  
13 of approximately 100 buildings, and that the Commission  
14 should focus this effort, and these financial incentive  
15 programs on small and medium size office buildings.

16           It was very clear in our meetings and discussions  
17 that the large office building owners have the capability  
18 to go ahead and implement the standards on their own. It's  
19 the small office building developers, the medium size office  
20 building developers, those who are developing speculative  
21 buildings with the initial costs are extremely important  
22 to them, and where they're passing on their energy costs  
23 to their tenants, that it's critical that they have some  
24 further assistance, some further incentive if they're going  
25 to be expected to use these standards before they become

1 mandatory.

2           Our methodology, which is laid out in the report,  
3 included initial meetings with staff and members of the  
4 Committee to identify the various options that were worthy  
5 of further consideration. We then undertook a detailed  
6 telephone interviewing of 21 different individuals that had  
7 been identified by the Commission to draw them out, and  
8 identify, and explore with them their reaction to each of  
9 these incentive programs.

10           We held three different sets of personal meetings  
11 in San Francisco, one with the utility representatives,  
12 one with the PUC, and one with representatives of the  
13 design and development community. In each of those meetings,  
14 we explored both substantive reactions to each of the  
15 financing options, as well as the various funding opportuni-  
16 ties and sources of potential funding.

17           We then wrote a draft report and presented it to  
18 a public hearing approximately two weeks ago in this room  
19 where we obtained additional feedback and discussion on  
20 each of those items.

21           We revised the report and submitted it as our  
22 final report, and that's the report that I'm going to try  
23 to summarize for you today.

24           Throughout our effort, we assumed that the  
25 Commission would be providing assistance in education, in

1 information and in training to the design community, and  
2 to the other professionals that need to deal with these  
3 standards. It was very, very clear throughout all our  
4 discussions and analysis that that type of training, that  
5 type of information, the kind of guidebooks that the  
6 Commission is undertaking to prepare are an essential  
7 prerequisite to the use of these standards, whether we're  
8 talking about January 1, '85, January 1, '87, or at any  
9 other time, and that a financial incentive program has to  
10 be viewed as something that will go beyond that that will  
11 be an additional incentive, but it will in no way replace,  
12 and should not be viewed as a replacement for that kind of  
13 training, and that kind of information and education.

14 Before going through the five different options  
15 that we examined, I thought it would be useful to give you  
16 an overview of some of the key issues, or key information  
17 that I think that we were able to obtain as a result of our  
18 effort.

19 The first is that all of the parties that we  
20 contacted, all of the elements in the decision-making,  
21 perceived that there would, in fact, be additional costs  
22 and delays involved if they were to use these standards  
23 before they became mandatory.

24 Even individuals who were intimately involved in  
25 assisting this Commission in developing those standards and

1 who were active supporters of the standards, felt that they  
2 would be incurring delays and extra costs if they were to  
3 design buildings using those standards between now and the  
4 date they became mandatory.

5 One of the members of the building industry, I  
6 think summarized the attitude best when he said he can't  
7 imagine any small or medium size building owner using these  
8 standards until they become mandatory without any -- some  
9 kind of additional incentive.

10 The second is the importance of information and  
11 training which I've just mentioned. The third lesson is  
12 that getting real experience before January 1, '87 seems to  
13 be extremely important, extremely important because there  
14 is so much uncertainty and lack of real confidence in the  
15 whole process of using these new standards within the  
16 different communities that are involved.

17 The only real way to answer their questions to  
18 overcome their concerns, and to address those barriers, is  
19 to actually go through the process and have them go through  
20 the process on buildings that they're responsible for and  
21 that they're designing so that when January 1, '87 comes,  
22 there are peer group members in each profession who can say  
23 well, we've used these, we've lived with them, we've  
24 answered the problems, they're not that difficult, they're  
25 solvable, and you can move ahead.

1           At the same time, to the extent there are lessons  
2 to be learned, to the extent there are any modifications  
3 that need to be made in those standards, the Commission and  
4 the design communities would have had a chance to learn  
5 those lessons and made those modifications before they  
6 become mandatory.

7           There was a clear consensus that to be effective,  
8 a financial incentive must go directly to the developer,  
9 and that's a key part of our recommendation to you. Despite  
10 the fact that it's the designers, the architects, the  
11 engineers who are responsible for complying with the  
12 standards, they all made it clear that it's their client,  
13 it's the developer who makes the ultimate decision as to  
14 whether they spend their time and their money to comply with  
15 the new standards, and that the only way they thought you  
16 could motivate those developers is to provide the incentive  
17 to them, not directly to the design community.

18           Finally, I think we had support from all the  
19 different elements, all the different organizations,  
20 associations, regulators that we talked to, support for the  
21 concept of obtaining use of these new standards as quickly  
22 as possible, and I think that support is very important,  
23 because it means that each of the parties, the utilities,  
24 and the PUC, and the design community, all want to be able  
25 to work with whatever financial incentive, or other

10  
1 incentive programs this Commission decides to try to  
2 implement to make the standards work, and to make them  
3 effective before they're mandatory.

4           The time is very short. We are constantly faced  
5 with the fact that to be effective, a program has to be  
6 started and operational, probably within the next 12 months.  
7 In our report we recommend that you shoot for developing a  
8 program by January 1, 1985.

9           But it was also clear that even if the buildings  
10 aren't finished, or completed in accordance with the new  
11 standards until January 1, 1987 when they become mandatory,  
12 there is still significant benefits to be obtained from  
13 that process.

14           Because on January 1, '87, if there's a building  
15 up that's been completed in accordance with the new  
16 standard, you can then start monitoring the use of that  
17 building, and that building can then be the model, and can  
18 be used for purposes of the peer group experience, and for  
19 purposes of learning all of the lessons that can be learned  
20 from having gone through the process.

21           In addition, by implementing the standards now,  
22 you will be setting the framework for using any kind of  
23 financial incentive program. For other building standards  
24 that might be developed in the future.

25           Let me turn now to a very brief summary of each of

1 the incentive programs that we analyzed in some depth as  
2 part of our report and try to give you a very brief sort  
3 of conclusion as to what our recommendation is to this  
4 Commission.

5           The most attractive program, without any question,  
6 was a direct payment, a direct subsidy, or a rebate to  
7 the developer. This program would work, as we proposed it,  
8 by having the implementing agency, whether it's a utility,  
9 a Commission, or one or more different trade associations  
10 involved, make a payment to a developer who agrees to  
11 construct a building in accordance with the new standards  
12 between now and January 1, '87.

13           There would likely be various points at which you  
14 would monitor that process to make sure that the design  
15 conformed with the new standard, to make sure it was  
16 properly approved by the local code officials, to make sure  
17 the building was constructed in accordance with the  
18 standards, and the payment could be timed at various -- and  
19 made at various checkpoints along the way to make sure that  
20 whoever was making that incentive payment, obtained what  
21 you're seeking, which is completion of a building in  
22 accordance with the standard.

23           The level of funding or incentive is a very impor-  
24 tant part of this program. We, as a result of the analysis  
25 that we went through, recommend that you try to set that

1 incentive level at a range of between 50 cents and \$1.00 a  
2 square foot in order to be an effective incentive to the  
3 building community.

4 Now, that would mean for a 100,000 square foot  
5 building, you'd be looking at an incentive to a developer  
6 of that project of between \$50,000 and \$100,000. That is  
7 the effective cost to the developer of having his construction  
8 process extend one month longer as a result of the need to  
9 obtain approval of these new standards, than if he was  
10 using the existing standards.

11 We had discussion with developers about lower  
12 levels of incentives, and I think there was a general  
13 feeling that a lower level of incentive for that size  
14 building would not be adequate, would not be significant  
15 enough to motivate any change in behavior, to -- would  
16 not be significant enough for them to be willing to assume  
17 the risk involved in using these new standards before they  
18 become mandatory.

19 What are the advantages of a direct payment  
20 program? Well, first, it's simple to operate, it's relatively  
21 easy to administer. It's a direct incentive to the building  
22 developer, he understands it, he knows what it means, it's  
23 real money that he can count on.

24 It's a flexible program. It's a program that can  
25 be targeted to different types of buildings. The criteria

1 can be limited to medium size buildings, to small buildings,  
2 it can be limited to certain geographical areas, if you  
3 want to.

4 It fits within existing utility conservation  
5 programs. Most of the utilities currently undertake rebate  
6 or direct payment programs. This is a program that would  
7 fit nicely within their existing format, and operations.

8 One of the most important aspects in establishing  
9 and implementing this program is going to be to set an  
10 incentive level. It is attractive to the community of  
11 developers, and at the same time is cost-effective. The  
12 cost-effective analysis is something that we do not have  
13 the resources to undertake as part of this project, but  
14 it's certainly something we think you must undertake before  
15 you go ahead with the program, or as part of moving ahead  
16 with the program.

17 Our conclusion is that the CEC should implement,  
18 if the resources are available, a direct payment financial  
19 incentive program as I've described.

20 The second type of program that seems very  
21 attractive and necessary is a design assistance program,  
22 and we examined and considered different types of design  
23 assistance. There is direct technical assistance for  
24 designers. We considered technical assistance for building  
25 code officials, a design competition, and various types of

1 awards that could be provided to developers and building  
2 code officials.

3           To try to summarize our recommendations, with  
4 regard to the design community themselves, the most  
5 important assistance for them, I think, would be a hotline,  
6 a direct link that they could have with someone who could --  
7 from the Commission who could give them authoritative  
8 answers to questions of interpretation in using these new  
9 standards.

10           A recommendation was made at our public hearing  
11 that there be direct access through some kind of computer  
12 modem so that the Commission staff could not only answer  
13 questions on the telephone, but could immediately review  
14 potential plans or approaches to solutions to potential  
15 problems and give the design community, and the building  
16 code official some authoritative answer so that they know  
17 how to interpret and how to apply the standards.

18           There was also support for expanding existing  
19 utility programs where utilities are already providing  
20 assistance to the design community in designing energy  
21 systems for new buildings, and there is a strong feeling  
22 that those programs could relatively easily be expanded to  
23 cover the new energy conservation standards.

24           With regard to building code officials, the  
25 hotline was also felt to be an extremely important device

1 to provide building code officials with information that  
2 they needed in a timely fashion. There was also a very  
3 strong feeling that local governments can play a critical  
4 role in serving as a means of implementing these new  
5 standards and that efforts should be undertaken to obtain  
6 local government's, as well as the state government's  
7 interest in using the new standards as quickly as possible,  
8 certainly before they become mandatory.

9           There was a lot of discussion, and we gave  
10 serious consideration to setting a priority system, or  
11 suggesting that local government set a priority system for  
12 the new standards, where any building that was submitted  
13 under the new standards would have priority over plans  
14 that were submitted under the existing standards.

15           There was a very strong feeling on the part of  
16 the building developers that that would be unfair that they  
17 did not want a system set up whereby a developer who  
18 developed a building in accordance with existing standards  
19 would be in any way penalized because he was not using  
20 the new standards, before the new standards become mandatory.

21           Discussion of design competition made it very  
22 clear that a design competition per se would not achieve  
23 the goals, the objectives that we were seeking, but that  
24 an awards program whereby a certificate and a very nominal  
25 \$100 award was made to any designer, any engineering or

1 architectural firm that was successful in designing a  
2 building that went through the approval process in  
3 accordance with the new standards would be a useful and  
4 important incentive, important to the extent that the  
5 design community is in the business of marketing their  
6 services, and one of the important aspects of their  
7 ability to market their services is to be in a position  
8 of saying that they have designed a building that complies  
9 with the new standards before those new standards are  
10 mandatory, and that it's a relatively low cost, fairly  
11 easy to administer program, and that it's a program that  
12 would spur the implementation and the use of the new  
13 standards.

14           We considered a construction loan interest  
15 reduction program, a program whereby lenders would offer  
16 construction loans to builders that decided to construct  
17 a building in accordance with the new standards at a lower  
18 construction loan interest rate than would otherwise be  
19 charged with the Commission or someone else subsidizing  
20 that payment.

21           The construction industry, the developers liked  
22 that program. They thought that type of program was one  
23 that they understood, it was one that would have a direct  
24 and immediate impact on them in terms of a lower construction  
25 cost, but that it was very clear, it's an extremely complex

17  
1 time consuming and an administratively burdensome program  
2 to set up and to operate.

3 In addition, the lending community we felt would  
4 not have sufficient incentive to participate in this type of  
5 program because of the volume or the size of the program  
6 is limited, since this is really a demonstration program,  
7 a program that's limited in time, and limited in scope,  
8 you would not have sufficient incentive for bankers to go  
9 out and sell this program, which is something they would  
10 have to do.

11 In addition, by the time a building developer  
12 approaches a lender for a construction loan, he has often  
13 made some of the very important initial decisions in the  
14 design of the building, so the lenders often don't get  
15 involved in the process until too late to be able to make a  
16 difference.

17 Turning to the funding issue, we also were asked  
18 to consider what sources of funds would be available to  
19 support any of these financial incentive programs. Not  
20 only was it important to identify which programs would be  
21 successful if undertaken, but where if anywhere were there  
22 funds available to support these programs.

23 We considered both the level of funding that would  
24 be needed, and the source of funding. I've addressed the  
25 question of the level of funding a bit earlier. In terms

18  
1 of source of funding, there were really three different  
2 places that we considered. The first is PVEA funds, the  
3 second were various funds, or support from the utilities,  
4 and the third was the CEC budget itself.

5 In terms of PVEA dollars, to the extent that those  
6 dollars can be made available, that is the most direct way  
7 to run a program, would be for CEC to undertake to fund  
8 that program, whether it's the design assistance program,  
9 the hotline, or the direct financial incentive program to  
10 developers.

11 CEC can set up and administer that program with  
12 its own dollars, it's administratively the easiest and  
13 probably the most effective way to do it.

14 The second most attractive source of funding for  
15 that reason would be CEC budget funds, if there are any  
16 discretionary funds that could be made available, even  
17 initially, to get the program started.

18 The third source of funding was the utility  
19 funding. In our discussions with the PUC, it seemed fairly  
20 clear that undertaking participation in any rate cases that  
21 would be forthcoming and participating in any special  
22 proceeding, or having the PUC undertake a special proceeding,  
23 would be too costly, and too time consuming, given the  
24 fairly limited objectives of this program.

25 However, the PUC did make quite clear to us that

19

1 they felt that each of the utilities had some discretionary  
2 funds available that could be used to support some of these  
3 programs. In some cases, the utilities already have rebate  
4 programs for commercial buildings. In other cases, they  
5 have existing design assistance programs for new buildings.

6 In some cases, they have unspent funds from  
7 programs that were undertaken and where the market demand  
8 wasn't as expected, and the PUC felt that they had some  
9 discretion to move those dollars over to this type of  
10 program.

11 In discussing this with the utility representatives  
12 many of them also indicated that they thought that they  
13 could identify pieces of program dollars that could be  
14 made available to support implementation of the new  
15 standards. What they would like is some further under-  
16 standing or assurance in some cases of the fact that the  
17 PUC feels they do have the discretion to use these dollars.

18 In order to develop programs that provide  
19 incentives for these new standards with each utility, it's  
20 necessary for the CEC to work with at least the key officials  
21 in each of those utilities to help them develop a program,  
22 and then to try to obtain with them whatever assurances  
23 might be needed from the PUC in order to permit them to  
24 fund these programs at the necessary levels for the next  
25 two years.

20

1           Because of the uncertainties surrounding each of  
2 those funding sources, we recommend that the CEC pursue  
3 all those financing options. There is a fairly long lead  
4 time involved in obtaining allocation of any PVEA funds.  
5 There's certainly a long lead time involved in getting  
6 funds from the CEC budget, and probably the fastest, or  
7 most immediately available support will come from the  
8 utilities, but that will also require at least six months  
9 in terms of their development of their program budgets  
10 to free up dollars for some of these incentives.

11           In conclusion, I think that what we are recommending  
12 is a very modest program for the state, a program that if  
13 it were funded at the \$10 million level could be implemented  
14 January 1, 1985, could be undertaken within that two year  
15 time frame to produce very important results for the state  
16 that would lead to much greater acceptance, support, and  
17 success of the effort that has already been undertaken to  
18 develop these new building standards.

19           I'm available for any questions.

20           CHAIRMAN IMBRECHT: Are there questions?  
21 Commissioner Commons?

22           COMMISSIONER COMMONS: Are there any existing  
23 office buildings that meet the proposed standards?

24           MR. PENNINGTON: I'd like to respond to that.  
25 I believe that there are a number of existing office

21  
1 buildings that comply with various aspects of the standards,  
2 the lighting requirement, the HVAC requirement, whatever.  
3 I think that there is a very limited number of buildings  
4 that comply comprehensively to the whole set of standards.

5 COMMISSIONER COMMONS: Are there any --

6 COMMISSIONER GANDARA: Excuse me, I didn't under-  
7 stand that response. The building standards and performance  
8 standards, is it not?

9 MR. PENNINGTON: There's very few buildings that  
10 have demonstrated compliance with standards through a  
11 performance approach. With the current standards approach,  
12 probably one percent of the buildings use that approach  
13 for compliance, and from that experience, there's a very  
14 limited number of buildings that would meet this budget.

15 I don't think we have any specific, comparable  
16 performance indications from any buildings that would show  
17 that it would comply with these standards. However, you  
18 would, on the other hand, conceptually it's quite feasible,  
19 and so you would expect that there would be some.

20 COMMISSIONER GANDARA: Well, I still don't have a  
21 -- I'm trying to get an answer to Commissioner Commons'  
22 question, and he asked are there any buildings that meet  
23 the standard, the nonresidential standard? As I understand  
24 it, the new nonresidential standard is a performance, there  
25 is a budget.

22

1           Now, understandably, that there are recommendations  
2 or various measures to achieve that budget, and so it's  
3 broader than that. You responded more in terms of the  
4 measures. Regardless of the measures, I guess the question  
5 is, are there buildings that are meeting the bottom line  
6 performance budget.

7           MR. PENNINGTON: Okay. I don't have any specific  
8 evidence that that's the case in terms of a number. I  
9 expect that that is the case.

10           MR. KLEPPER: Could I respond slightly differently?  
11 In our -- as a result of the efforts that we undertook,  
12 there were a number of people who suggested that we ought  
13 to be considering financial incentives that went beyond an  
14 incentive for a developer who met the standard, but that  
15 would be based on performance, and if you did 10 percent  
16 better than the standard, your incentive would be 10 percent  
17 higher; and if you performed at 20 percent better, your  
18 incentive would be 20 percent higher.

19           We didn't feel that our task as it was outlined  
20 to us was to consider what kind of financial incentive  
21 program would result in the most energy efficient buildings  
22 being constructed in the state. We felt that the state had  
23 already decided to adopt mandatory regulations which would  
24 set a standard, and that your objective was to undertake to  
25 support a limited financial incentive program if it were

23

1 feasible that one could be undertaken that would result in  
2 sufficient use of that standard to generate support for the  
3 standard itself.

4           It was clear in our meetings, particularly with  
5 the designers, and engineers and developers that they don't  
6 have any confidence that a building that is designed  
7 starting today that tries to meet those standards is going  
8 to be smooth, and easy, and not create any problems  
9 throughout the process.

10           The fact that someone may have developed or  
11 designed buildings that exceed those standards, and has  
12 paid the time and effort and costs involved in doing that,  
13 doesn't really answer their problem, or their concern,  
14 because they did it based on efforts to obtain approval  
15 through the code process when there was a different  
16 standard in place that the code officials were comparing  
17 their building to, and were examining it from.

18           COMMISSIONER COMMONS: Are there any buildings  
19 currently planned or under construction that would -- in  
20 meeting the proposed standards?

21           COMMISSIONER SCHWEICKART: Commissioner Commons, I  
22 wonder if I could ask you to explain the line of your  
23 questioning, because you're sort of asking the wrong  
24 person a very good question, but it's not clear why.

25           COMMISSIONER COMMONS: The purpose of the

24

1 questioning is in the presentation, it was considered very  
2 important that we be able to demonstrate to the industry  
3 that one can meet the proposed standards by having  
4 examples of buildings of different sizes constructed that  
5 meet the standards before they go into effect, and second  
6 is in someone putting up those buildings to find out if  
7 there are any problems that need to be addressed by the  
8 Commission prior to the time that they go into effect.

9 In looking at various incentive programs, the  
10 first and foremost thought in my mind is that we want to  
11 ensure that we do have some examples of buildings that  
12 are constructed that meet these standards so that when the  
13 full standards go into effect we have something to turn  
14 back to or go back to to ensure.

15 Before I spend a lot of dollars in terms of 50  
16 cents or \$1.00 a square foot, since the standards are cost-  
17 effective, it would be my supposition that people were  
18 either building now, or planning to build prior to the time  
19 that the standards go into effect, buildings that would meet  
20 those standards since it's in their economic interest.

21 COMMISSIONER SCHWEICKART: Well, okay, that's a  
22 question of whether you need incentives at all in a program  
23 which is cost-effective, but that's true of every program.  
24 I mean, we're caught here to a certain extent in a dilemma  
25 of moving away -- well, let me say -- let me hold that one

1 in abeyance, but let me say with the question of whether or  
2 not incentives are appropriate in terms of things which are  
3 ultimately cost-effective to the participant.

4 COMMISSIONER COMMONS: I'm trying to establish  
5 whether there is -- I think one of the first questions  
6 before you expend public funds is the question of need, and  
7 that did not state your question --

8 COMMISSIONER SCHWEICKART: Okay. Let me just  
9 point out that despite the fact that we may have a great  
10 discussion on this, that was not Mr. Klepper's charge, and  
11 I think that asking him, although it's a nice thing to  
12 ask Mr. Klepper, it's a nice day, and we've got lots of  
13 time, nevertheless, it was not part of his responsibility  
14 and I'm not sure that the Commission is informed in terms  
15 of the resolution before us from Mr. Klepper's work.

16 That having been said --

17 COMMISSIONER CROWLEY: Have at it.

18 COMMISSIONER SCHWEICKART: -- it's your floor.

19 MR. KLEPPER: Okay. Well, Bill may have an  
20 answer, but it was not within our charge to answer the  
21 particular question you've raised, but the question really  
22 addresses -- I think the answer to the line of questioning  
23 that you're pursuing is something that we did address, and  
24 that is, is it necessary to have buildings constructed in  
25 accordance with these standards, and perhaps the statement

1 that I've just made, having a building constructed in  
2 accordance with the standard is a slightly incorrect  
3 statement, incorrect in terms of the inference that you've  
4 drawn from that.

5           The objective is not simply to be able to say  
6 that that building meets the performance standard, even  
7 though it was constructed last year, and now there's a new  
8 performance standard, and we can go back and examine that  
9 building and determine that if it were built today in  
10 accordance with the standard, it would meet that standard.

11           The objective is rather to give the design  
12 community the experience that they need in having gone  
13 through an approval -- a design and approval process for a  
14 certain category of buildings at a time in which these  
15 standards were the standards that were used to review their  
16 plans and specifications, and then to give this Commission  
17 the ability to monitor the result of that effort over some  
18 period of time so that you can say, there's a building that  
19 went through the approval process and was designed in  
20 accordance with our current -- our new standard that will  
21 be mandatory, and here's the amount of energy it has used  
22 for the last 12 months, and here's the amount of energy  
23 it would have used if it were not built in accordance with  
24 those standards.

25           It's the peer group experience that will result

1 from going through that process that cannot be duplicated  
2 by simply identifying, even if you were able to identify  
3 any buildings currently constructed that met or exceeded  
4 these particular standards.

5 COMMISSIONER COMMONS: Mr. Chairman, I'll hold  
6 that line of questioning until later. I do have one other  
7 question. I was trying to go through my mind how it would  
8 cost a builder who hadn't started construction, because he  
9 clearly couldn't have started construction if he is to  
10 redesign the building to meet the criteria, and I was  
11 thinking of a 100,000 square foot building, and say it was  
12 \$60, \$70 a square foot, that's \$7 million.

13 I was trying to see why, if he hasn't taken out  
14 his construction loan, so he has no funds running, how you  
15 would come up with the cost of \$50,000 in terms of delay.  
16 He has some land costs, possibly some off-site costs, but  
17 I couldn't come up with that type of figure, and I wanted  
18 to know how you arrived at that.

19 MR. KLEPPER: The figure would be the approximate  
20 delay if he were to have a delayed -- if he were to draw  
21 down his construction loan, and have a delay after he had  
22 drawn down his construction loan of one month, based on  
23 approximately one percent a month at \$7 million, you have  
24 \$70,000 as his cost, in fact, at the point at which he's  
25 drawn down his construction loan, the building is designed,

1 and that's one of the reasons that a construction loan  
2 interest rate program probably gets into the process too  
3 late.

4 The developer is going to in fact be -- you're  
5 right, he clearly has to design the building up front, and  
6 he has to design it from the very beginning in accordance  
7 with the new standards.

8 COMMISSIONER COMMONS: Yeah. I'd suggest to you  
9 that if you're talking of a 100,000 square foot building,  
10 if that construction loan is in place, and has been drawn  
11 down that that builder is -- you're only paying interest  
12 on the money that's been drawn down, not on the fact that  
13 the loan is in place, and that a person who has gone that  
14 far is not going to go and reapply unless they have other  
15 reasons, and that that figure is nowhere close to the  
16 \$50,000.

17 CHAIRMAN IMBRECHT: Excuse me. I think we're  
18 kind of running afield here, and --

19 COMMISSIONER SCHWEICKART: Well, let me say, to  
20 the extent that Commissioner Commons will vote, or a  
21 decision will be based on this. Let me just point out the  
22 fallacy in your statement. The statement, Commissioner  
23 Commons is -- or the concern, I suppose, represented in the  
24 analysis here is the perception that building to the new  
25 standards after draw down of the construction loan, and

1 having gotten approval on all of the rest of it with the  
2 new standards will delay overall construction by a month,  
3 typically, and therefore, \$50,000, \$70,000 compensates me  
4 as the building owner or investor for that risk that that  
5 may be the case.

6 Now, if you can tell me that all of the delay is  
7 in the certification process, and none of it after I take  
8 out my construction loan, then that's fine, but that's not  
9 the perception out there that Mr. Klepper came up against.  
10 So the perception of delays within construction when I have  
11 large outlays in a construction loan is exactly what the  
12 incentive displaces.

13 MR. KLEPPER: I think that's exactly right.  
14 Another way to look at that incentive level, and as I said,  
15 you can do a lot more quantitative analysis to come up with  
16 the incentive level, and that was, I think should be clear.

17 But the incentive, if you're undertaking to  
18 construct a \$7 million project, and you're planning a \$7  
19 million project a \$15 or \$20,000 incentive is too small an  
20 incentive to make you change, make major decisions in the  
21 way you're going to have that building designed. In view  
22 of the risk, and the perceived risk, not the real risk,  
23 but the perceived risk that this new standard is going to  
24 result in extra costs, in extra time -- extra costs in  
25 terms of real costs that the designer may charge during the

1 design process, but also with potential delays and costs  
2 involved during the construction of the building itself.

3 It's to compensate, or provide an incentive to  
4 that developer to be willing to take all of those risks  
5 that the incentive is necessary.

6 CHAIRMAN IMBRECHT: Okay. I'd like to ask a  
7 couple of questions myself. Let me tell you that my  
8 overall impression is that this is a little bit -- and I  
9 just have to say it bluntly, a little bit superficial. I  
10 mean, there's an analysis of only two incentive programs  
11 that I see here, the write down program, and the question  
12 of direct rebates, and then summarily rejected, the only  
13 place I can even see a reference to them is at page 36  
14 under conclusions, summarily rejected are tax credits,  
15 design competitions, prereview of design prior to code  
16 inspection.

17 I guess I have to say that what I would be looking  
18 for is -- it seems to me that a wide range of other potential  
19 incentive approaches including creative utilization of  
20 both the federal and state tax codes, not necessarily in  
21 the context of tax credits, but perhaps in the context of  
22 accelerated depreciation allowances, or other approaches  
23 that I would contemplate we would see included from an  
24 analysis coming out of a law firm, frankly.

25 Secondly, I'm not sure what we're being asked to

1 do here. If we're being asked to approve, as I read the  
2 recommended action here on the agenda item, presentation  
3 and possible approval of a proposed action plan for an  
4 incentive program. I'm not sure what the action plan is,  
5 and it's a little hard for me to vote to approve something  
6 with no cost/benefit analysis to say we need a rebate, not  
7 to know other than a broadest range ball park what that  
8 should be, and further, what benefits the ratepayer of the  
9 state have expended through the utilities, the ratepayer  
10 expended through us by virtue of surcharge, or in turn,  
11 taxpayer, or overcharged oil patrons through PVEA.

12 How can I approve an action plan without knowing  
13 what the benefits are to the people that are going to pick  
14 up the tab.

15 COMMISSIONER SCHWEICKART: Mr. Chairman, excuse me,  
16 let me take -- let me step between you and Mr. Klepper on  
17 that for just a moment and absorb what I believe is  
18 appropriate for the Committee, and leave to Mr. Klepper  
19 what I believe is appropriate for him.

20 The action before the Commission is in my hand  
21 here, namely a resolution for adoption by the Commission,  
22 which I had intended to hand out at the time I was going  
23 to introduce that --

24 CHAIRMAN IMBRECHT: Okay, I assumed that I had  
25 all the material, pardon me if that's --

1           COMMISSIONER SCHWEICKART: No, that's unfortunately  
2 not the case. The resolution here comes out of the  
3 recommendations and the analysis done by Mr. Klepper in the  
4 area of incentives, appropriate incentives for the  
5 nonresidential building program in this two year period.

6           Now, as a result, that, I believe, would be  
7 more properly directed to me. I can continue on the nature  
8 of the resolution at this time, if you wish. On the other  
9 hand Mr. Klepper can pick up specifically the first part of  
10 your question.

11           CHAIRMAN IMBRECHT: Let me pursue a couple of my  
12 questions, I mean, why such a limited list of options, and  
13 what's the premise for the rejection of those which are  
14 not --

15           MR. KLEPPER: Okay. Let me answer the second  
16 one first, because they're both fair questions, and  
17 important ones. I don't think that we have summarily  
18 rejected the items that you mentioned. They're listed in  
19 the conclusion as a final conclusion, and as a summary of  
20 what is in the rest of the report.

21           We do go through each of the options that are  
22 considered, including the various types of design assistance,  
23 construction loan interest rate program, the direct payment,  
24 et cetera, and after the discussion of each item, we have a  
25 separate conclusion that follows that item.

1           Then on the last two pages, we really just have  
2 nothing more than a summary of those separate conclusions  
3 that follow the substantive part of the report.

4           CHAIRMAN IMBRECHT: Is there a description of your  
5 analysis of tax credits in here?

T.5 6           MR. KLEPPER: No. The report says, and that was  
7 the first part of your question, let me address that. The  
8 report says that one of the initial things that we did as  
9 part of our methodology, as part of our approach here was  
10 to sit down with the Committee, Commissioner Schweickart  
11 and the CEC staff and discuss the various financial  
12 incentives that might be undertaken as part of our study.

13           One of the types of financial incentives we  
14 discussed at that time were various types of federal and  
15 state tax credits. We decided after an initial series of  
16 correspondence between us and the Commission, that we should  
17 not spend our limited time and resources for this project  
18 examining further those tax credits, because the decision  
19 was made that the time necessary and the effort that would  
20 be necessary to obtain any additional tax credits on  
21 behalf of -- from the state for this type of program was  
22 not within the realm of the time and effort that was  
23 available in order to meet our objectives, our very limited  
24 objectives of getting some buildings constructed in  
25 accordance with these new standards within the next two years.

34

1           So as a result in effect of a first cut at all  
2 potential options, we considered tax credits, and we  
3 decided that the tax credit program was not a program that  
4 would meet the objectives of this research effort.

5           Now, we have undertaken studies where we've looked  
6 in depth at 20 or 30 different financing options and  
7 considered them in depth. This was a task where we were  
8 asked to take a quick look at those options that looked  
9 most attractive for the Commission, and in doing that, we  
10 started with the assumption that we could preclude or  
11 eliminate some without significant detailed analysis.

12           I believe the report says that we considered tax  
13 credits as one of the options that was eliminated, and  
14 therefore is not addressed in this report. It certainly is  
15 reflected in our correspondence, all of which in effect is  
16 part of our work product for the Commission.

17           There are a range of other third party financing  
18 options that could be considered in a more extensive  
19 evaluation and analysis of incentives. We were trying to  
20 meet the Commission's objective of having a good hard look  
21 taken at those programs that had the highest likelihood  
22 of being useful and meeting your objectives within the  
23 time frame in which we were working, and in doing that, we  
24 exercised our experience and our judgment in precluding, or  
25 excluding from the detailed analysis certain of those options.

1 I'd be happy to go over the rationale with  
2 respect to any of them, if you'd like to do that.

3 CHAIRMAN IMBRECHT: Let me ask, did you consider  
4 other tax incentives beyond tax credits?

5 MR. KLEPPER: Other tax incentives in terms of  
6 depreciation, for example?

7 CHAIRMAN IMBRECHT: For example, I mean, one of  
8 the major incentives utilized to generate increased  
9 investment in the capital plant areas in our industrial  
10 sector has been within the last couple of years a  
11 substantial revision of accelerated depreciation analysis.

12 MR. KLEPPER: Mr. Chairman, we have done  
13 substantial work in developing and implementing third party  
14 financing programs for energy conservation using various  
15 types of tax benefits, tax credits, depreciation, and other  
16 forms of tax benefits.

17 When I said tax credits, I meant tax benefits.  
18 We were, in effect -- we in effect precluded consideration  
19 of tax benefits because of the time involved in obtaining  
20 any legislative approval of tax benefits. If there were  
21 tax benefits available at the federal level for construction  
22 of a building, they're available now to construction,  
23 they will continue to be available for construction of a  
24 building whether it is in accordance with existing standard  
25 or a new standard.

1 CHAIRMAN IMBRECHT: Let me be devil's advocate  
2 for just a moment. There's also a fair body of public  
3 knowledge that there will be no appreciable, or substantial  
4 Petroleum Violation Escrow Account funds available to this  
5 or to any state before mid-1985 at the earliest. Similar  
6 substantial delay, obviously, and frankly, in the context  
7 of what would be necessary to move state legislation, it  
8 would seem to me, and I'm not suggesting that would be  
9 easy or anything, but it seems to me that another funding  
10 source you did identify has a substantial delay associated  
11 with it as well.

12 You indicated in your discussion of our own  
13 budget that the budget has been passed for this year, and  
14 so this is primarily an option for 85-86 fiscal year, again  
15 a substantial delay, and I guess the only one that would  
16 have the prospect of any rapidity, and have my own skepticism  
17 about that, is utility funding, which would require PUC  
18 approval, and obviously through their rate cases, and I  
19 guess that means a minimum of a year as opposed to six  
20 months.

21 MR. KLEPPER: I think that if you want to focus  
22 on the tax benefits, the reason that --

23 CHAIRMAN IMBRECHT: I don't want to focus on them  
24 particularly, as in the context of relative assessment of  
25 the other ones that were considered.

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1 MR. KLEPPER: It is the only other important  
2 potential financial incentive that is not addressed in any  
3 depth in our report, and the reason it isn't, as I said,  
4 is because in our initial discussions, we decided to  
5 preclude it, and I think the decision to preclude it was a  
6 function both of timing, and of a sense that we obtained  
7 from discussions with the Commission that it was not a  
8 feasible alternative in terms of the political climate that  
9 would be needed to obtain support for that kind of tax credit.

10 I believe that the state had recently been through  
11 a fairly extensive battle in connection with the solar  
12 energy tax credits, and there was not a sense that the  
13 Legislature was in a frame of mind to which additional  
14 energy tax credits for new building standards would be  
15 appropriate.

16 In addition, we were focusing on a very limited  
17 objective, namely, getting some action over a short period  
18 of time, not to have a program in place that would continue  
19 to provide an incentive for anyone after January 1, '87  
20 who undertook to use these new standards.

21 Generally, tax credits are used where there's an  
22 objective to change behavior over a much longer period of  
23 time. It takes the tax lawyers and others some time to  
24 start using, and implementing, and calculating their making  
25 their business decisions in accordance with the tax credits.

1           So it was a combination, I guess, of a sense of  
2 the political climate as well as a sense of the objectives  
3 of this project that we had made an initial decision to  
4 preclude a detailed examination of tax benefits.

5           CHAIRMAN IMBRECHT: Okay. I would just emphasize  
6 I don't think tax credits and tax benefits are interchange-  
7 able concepts. I think that there are substantial tax  
8 incentives or opportunities there that are far more targeted  
9 potentially than tax credits, and provide greater opportunity  
10 for monitoring and insurance that they're applied fairly  
11 and so forth.

12           But I've made my point and I won't pursue it any  
13 further. Any further comments or questions? Commissioner  
14 Gandara?

15           COMMISSIONER GANDARA: In the spirit of confusion  
16 that reigned yesterday, let me ask whether the item has  
17 been properly noticed. Commissioner Schweickart says he  
18 has a resolution. I think that when this item was noticed  
19 I assumed it to be more of an informational item given that  
20 the materials -- I requested them yesterday and received  
21 them yesterday.

22           CHAIRMAN IMBRECHT: It says resolution.

23           COMMISSIONER GANDARA: Yes, I realize that, but  
24 it also says it's based on a report, and the report was  
25 not made available until yesterday, and it does seem to me

1 that unless the resolution is fairly narrow and covers what  
2 we have in the informational agenda item, I -- you know, I  
3 just raise the question as to whether there is any problem  
4 of adequate notice here.

5 I'm not suggesting that --

6 CHAIRMAN IMBRECHT: Well, why don't we hold that  
7 for a moment and take a look at Commissioner Schweickart's  
8 resolution. Why don't we ask you to present that now.

9 COMMISSIONER SCHWEICKART: Let me comment on it  
10 first, in going back one step, if I may, I think Mr. Klepper  
11 can speak frankly to the work that he has done, and I think  
12 has done so, and that should speak for itself.

13 I would like to confirm, however, so that there is  
14 no misunderstanding on the part of you, Mr. Chairman, or  
15 any of the other Commissioners, that basically what Mr.  
16 Klepper has indicated, in terms of guidance from the  
17 Committee and the staff to my knowledge, is correct. That  
18 is it was our judgment that tax credit and any legislation,  
19 any de novo legislation to provide incentives, although  
20 highly commendable in terms of providing incentive, was  
21 not appropriate given the time frame of the two year  
22 transition which we were confronting, since it would  
23 barely be in place, if in fact it could make it, in time to  
24 in fact effect the result we were looking for.

25 Therefore, we directed Mr. Klepper to focus on

1 those near-term incentives possibilities which could affect  
2 designers, builders, the industry, et cetera.

3 We may differ in judgment on that, but I don't  
4 believe that should redound to Mr. Klepper's disbenefit or  
5 discredit.

6 Secondly, in the area of -- I lost my thought --

7 CHAIRMAN IMBRECHT: Notice perhaps, or --

8 COMMISSIONER SCHWEICKART: No, I was going to get  
9 to that, but I'll get to that now, since I've lost my  
10 intermediate thought. In the area of the notice, let me  
11 suggest and remind Commissioner Gandara what I said at the  
12 outset, that is, Mr. Klepper's contract expires at the  
13 end of June, this is the last business meeting the  
14 Commission had as an option to hear Mr. Klepper's report.

15 We attempted to get the report, the resolution  
16 done and provide them to you as soon as possible.

17 COMMISSIONER GANDARA: Excuse me, am I in error,  
18 do we not have a meeting on the 27th or 28th?

19 CHAIRMAN IMBRECHT: 28th.

20 COMMISSIONER SCHWEICKART: Okay. I'm sorry, we  
21 do have one on the 28th.

22 MR. PENNINGTON: That was not scheduled at the  
23 time that we had to agenda -- put on the agenda this  
24 particular item.

25 COMMISSIONER SCHWEICKART: All right. In any case,

1 I have no discomfort whatsoever with holding the resolution  
2 until the 28th which would give you plenty of time to look  
3 at both the resolution and any further examination of  
4 Mr. Klepper's report.

5 So, I have -- as I say, I am perfectly comfortable  
6 with continuing the Commission action on the resolution,  
7 which in fact, I still have here, and you haven't seen at  
8 all. I don't think it will present any particular difficulty,  
9 nevertheless, you know, here's the resolution.

10 CHAIRMAN IMBRECHT: We can read it.

11 COMMISSIONER SCHWEICKART: Now I come back to  
12 my intermediate thought which re-emerged -- and disappeared  
13 again.

14 (Laughter)

15 CHAIRMAN IMBRECHT: It's been a long meeting,  
16 Rusty.

17 COMMISSIONER CROWLEY: Rusty, the PVEA funding?

18 COMMISSIONER SCHWEICKART: The PVEA funding, yes,  
19 thank you very much, Commissioner Crowley. The PVEA  
20 funding issue. I would -- notwithstanding new PVEA money,  
21 Mr. Chairman, I would point out that we are in a position of  
22 of reallocating \$1.7 million of unallocated PVEA funding  
23 from the streetlighting program, I believe, and it is in  
24 fact exactly that potentiality which led us to include  
25 within the considerations of available funding for incentives,

1 PVEA.

2 Now, the one thing that I would ask, and I don't  
3 know what the schedule for those issues is, when is that --  
4 is that on the agenda for the 28th of June?

5 MR. PENNINGTON: I believe it's on the agenda for  
6 the first July meeting.

7 COMMISSIONER SCHWEICKART: The first meeting in  
8 July, all right. Well, I do want to assure that the  
9 Commission deals with the report, and the resolution which  
10 we have here, prior to that decision. That is the only  
11 timeliness issue which I feel is quite real here.

12 MR. PENNINGTON: I might just add one more  
13 comment related to the potential of a short-term access to  
14 funding from the utilities. At the time we began this work,  
15 it was not clear to us that we couldn't intervene in  
16 perhaps Edison's rate case, or one of the more near-term  
17 actions that the PUC was going to conduct, and perhaps that  
18 utility funding might be available in 1985.

19 So that was -- and we found during the course of  
20 this that that was impractical, basically.

21 COMMISSIONER SCHWEICKART: As I say, Mr. Chairman,  
22 I'm happy at this point to move on into the resolution at  
23 your desire. On the other hand, to move it in terms of  
24 adoption to the 28th is no problem for me.

25 CHAIRMAN IMBRECHT: Well, you know, I would --

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1 before I could vote on this resolution, which basically  
2 commits us, as I read it, to that reallocation which you  
3 just proposed, it seems to me we had better be pretty clear  
4 as to the constraints on PVEA monies and particularly in  
5 the context of how they were appropriated to us, and what  
6 approval we need to reallocate them for these purposes  
7 which would seem to me on the surface are a little hard to  
8 rationalize as paybacks to overcharged petroleum purchasers.

9           Whereas, the streetlight program, and the others,  
10 are -- at least have some logical nexus to overcharges for  
11 transportation oriented petroleum products. To use those  
12 funds to establish a local government program to minimize  
13 delay in the design and building permit approval process  
14 for offices, I think faces some legal questions that should  
15 at least be explored before we vote on this resolution.

16           COMMISSIONER SCHWEICKART: I have no problem in  
17 exploring those and holding them up against other programs  
18 well established and accepted by the Commission within the  
19 PVEA program.

20           CHAIRMAN IMBRECHT: Fine. The other thing I  
21 would just note is that again, I'm a little troubled by  
22 recommending or allocating any dollar sum based upon the  
23 estimates of that which is in the report, \$50 to \$100,000  
24 per building, as I understand it -- or 50 cents to \$1.00  
25 per square foot, and I guess the target as enunciated was

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1 100 buildings. This would accomplish between 17 and 34,  
2 I guess, maximum, if you assume that was the adequate  
3 incentive, and again -- I don't know, I just feel we need  
4 a heck of a lot more information to vote for a resolution  
5 that as I read it, we are directing the Conservation Division  
6 staff to take immediate action to pursue the following  
7 initiatives:

8 Allocate unspent funds and propose allocation of  
9 future funds from the Petroleum Violation Escrow Account  
10 to --

11 COMMISSIONER SCHWEICKART: That's correct, Mr.  
12 Chairman, and what we're saying is --

13 CHAIRMAN IMBRECHT: That strikes me as a binding  
14 direction, then, that in effect --

15 COMMISSIONER SCHWEICKART: It is a binding  
16 direction to the staff to take action to pursue those  
17 initiatives, that's correct. Now, that's a pretty fuzzy  
18 binding. It says, let's find some money to back up the  
19 commitment of the Commission to provide incentives to  
20 support these new standards.

21 CHAIRMAN IMBRECHT: And to pursue the following  
22 initiatives, and then it says, allocate unspent funds from  
23 the Petroleum Violation Escrow Account to this program.

24 COMMISSIONER SCHWEICKART: Do you have a problem,  
25 sir, with initiating action to pursue that?

1 CHAIRMAN IMBRECHT: No, but it's a little fuzzy  
2 to me whether the next line that says allocate is a  
3 direction to them to allocate or to take action to do that.

4 COMMISSIONER SCHWEICKART: I would point out, sir,  
5 that the Conservation Division has no ability to allocate.  
6 They can only pursue the action to bring before the  
7 Commission proposals to allocate.

8 CHAIRMAN IMBRECHT: All right. I speak as one  
9 individual, and I'd be probably more comfortable to put  
10 this over to the 28th and get the answers on the legal  
11 questions and also some consideration of cost/benefit, but  
12 I encourage others to speak if they --

13 COMMISSIONER SCHWEICKART: I would only say,  
14 Mr. Chairman, that we are not here voting on any -- next  
15 week, or two weeks from now, not today, I'm not proposing  
16 that, that there is no proposal here to vote on any  
17 specific program.

18 It is basically a directive of the staff to  
19 investigate bringing before the Commission, or to take  
20 action to bring before the Commission specific programs.  
21 At the time they bring the specific programs, clearly all  
22 of these things, cost/benefit, the legal aspects, priorities  
23 for other uses, for alternative uses, and all of those things  
24 are properly before us.

25 It seems to me that the direction here is clearly

1 to have the staff, based upon the analysis done by Mr.  
2 Klepper, and other information, bring incentive programs  
3 in this area before the Commission as we indicated at the  
4 time that we adopted the standards. The thing which  
5 disturbs me, and creates quite a bit of concern for me is  
6 taking action in terms of bringing incentives, working with  
7 the marketplace, working with industry, and all of the  
8 other commitments that we have made recently, to a point  
9 where we drop away from mandatory standards, where we move  
10 toward incentives, and when it comes to actually allocating  
11 the money, to actually making the decision, that we may be  
12 backing away from that, and I'm concerned with that.

13 CHAIRMAN IMBRECHT: Oh, wait -- well, okay. Let  
14 me make my position very clear. I'm not in any respect  
15 suggesting that we shouldn't pursue incentives, and it's  
16 been, I think pretty clear that that's been my position for  
17 a long time. That's one of the directions we ought to move  
18 in terms of conservation.

19 I guess I'm not persuaded that this report based  
20 upon short-term considerations and so forth, necessarily  
21 gives us a good or complete menu of options, or sufficient  
22 information enough to reach some of these conclusions, and  
23 that's what I was trying to bring out in terms of some of  
24 my questions, and I'm not --

25 COMMISSIONER SCHWEICKART: I'll tell you what. I'll

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1 ask the staff to specifically sit down with you to investi-  
2 gate any other ideas that you may have that are timely in  
3 meeting these requirements that the Committee may very well  
4 have been short-sighted in terms of eliminating unnecessarily  
5 certain options which are timely.

6 So I'll ask the staff specifically to get together  
7 with you on that.

8 MR. KLEPPER: I'd like to, if I could, also make  
9 it clear that our report was never intended to be a document  
10 that could be used as a -- to implement the program. We  
11 never undertook to actually design a program so that you  
12 could say, okay, we're going to now vote to implement that  
13 program, and clearly, none of the more detailed issues that  
14 you would address when you sit down to design a program are  
15 addressed in our report.

16 It was simply designed to give you an examination  
17 of all of the options that we were considering, and help  
18 you focus and identify on those that seemed most likely, if  
19 any turned out to be worth pursuing, and when we began this,  
20 it wasn't at all clear that any one of these would be  
21 feasible within the time frame, or that all of them might  
22 not be feasible within the time frame, but that some  
23 judgment would need to be applied so that you could  
24 allocate your resources in developing that detailed program  
25 option, and in allocating any funds to one or more than one

1 program.

2 CHAIRMAN IMBRECHT: Okay. Well, I am but one  
3 Commissioner in this, and I just will again ask if there's  
4 any other Commissioner feels differently, and wants to  
5 pursue it.

6 COMMISSIONER GANDARA: Is there a public comment  
7 on it?

8 CHAIRMAN IMBRECHT: We have two -- yes, let me  
9 call upon first Mr. Jim Cassie, representing San Diego  
10 Gas and Electric.

11 MR. CASSIE: Thank you. Mr. Chairman, Commissioners,  
12 my name is Jim Cassie from San Diego Gas and Electric.  
13 I'll try to be brief. Last time I got to appear here it  
14 was 1979, it was raining --

15 CHAIRMAN IMBRECHT: How do you spell your name,  
16 now, anyway?

17 MR. CASSIE: It's C-a-s-s-i-e.

18 CHAIRMAN IMBRECHT: You didn't fill out this card?

19 MR. CASSIE: No.

20 CHAIRMAN IMBRECHT: One of your staff people did?

21 MR. CASSIE: I've been accused of a lot, but I  
22 can spell.

23 CHAIRMAN IMBRECHT: One of your staff people did?

24 MR. CASSIE: No, I think it was Mr. Perez, but  
25 that's okay.

1 CHAIRMAN IMBRECHT: Excuse me, I just was trying  
2 to understand why it was misspelled, but go ahead.

3 MR. CASSIE: I might have misspelled the company  
4 but not my name.

5 (Laughter)

6 COMMISSIONER GANDARA: Maybe he filled out the  
7 card last night down at Fat's.

8 (Laughter)

9 MR. CASSIE: I would like -- I was told of this  
10 today, and I thought I would come over and suggest a couple  
11 of things. As you move on the resolution to consider some  
12 of the constraints that we find ourselves under from your  
13 sister regulatory body, the PUC, and I had an opportunity  
14 to talk to Commissioner Schweickart, and we discussed this,  
15 but let me read you something that is in our current rate  
16 case, our 84-85 rate case which the Commission rendered.

17 There is a section in there, page 110.5, which  
18 they state, and I don't think this is for all utilities, but  
19 just for us, it says phase out present and reject proposed  
20 programs which require incentive payments to participants  
21 borne by all ratepayers including nonparticipants, but which  
22 are only cost-effective to the participants.

23 What that says to me is that if I get some kind of  
24 incentive, but it's paid for by this gentlemen -- it's this  
25 whole cost-effective argument, and what it -- as I read it,

1 the general ratepayer in general would have to benefit from  
2 the incentive.

3 All I'm asking is that if it's possible to  
4 incorporate something in the resolution that reflects the  
5 conditions which the PUC has placed upon our company, I  
6 think we'd feel a little more easier -- a little more easy  
7 with the resolution itself.

8 COMMISSIONER SCHWEICKART: Mr. Chairman, let me  
9 say that I've already talked with Mr. Cassie, and I have  
10 no problem with including that in the resolution.

11 CHAIRMAN IMBRECHT: Okay. Commissioner Commons.

12 COMMISSIONER COMMONS: I don't want to get into  
13 a divergence here, but I have had personal communications  
14 with the president of your company on the nonparticipant  
15 test and its use, and we are currently having discussions  
16 with the PUC on this matter, and I would strongly oppose  
17 that type of position.

18 What has happened, the way the nonparticipant test  
19 is being used, is with a utility like your own, which has  
20 the highest utility rates in the state, that a program  
21 doesn't pass the nonparticipant test, but we go to the  
22 least expensive utility in the state, like SMUD, it does  
23 pass the nonparticipant test, and when looking at  
24 conservation programs such as nonresidential building  
25 standards, where a building that would be presumably having

1 a life of 30 to 50 years, the nonparticipant test looks at  
 2 average cost, which is the cost of doing business today,  
 3 and doesn't get into the real question in terms of the  
 4 avoided cost as to this type of program and the incentive  
 5 to have energy efficiency rather than to have to build  
 6 another power plant.

7 But if we seriously want to get into the issue  
 8 as to that type of proposed amendment, we will need, I  
 9 think, a real discussion as to the ratepayer test, which  
 10 to me is the critical test, is it good for the ratepayers  
 11 of San Diego, not whether or not it's good for a particular  
 12 nonparticipant.

13 Further, any program has some participants and  
 14 some nonparticipants, and if each program had to benefit  
 15 those who don't participate, you'd have no conservation  
 16 program that you would do.

17 We followed the same thing in terms of new  
 18 construction where people already in a city don't benefit,  
 19 it's only the people moving in, so you'd have no power  
 20 plants built. This whole nonparticipant issue I think is  
 21 one that I would strongly oppose in terms of what Mr. Cassie  
 22 is suggesting.

23 MR. CASSIE: Well, I want you to understand this is  
 24 not our language, this is out of our rate case.

25 COMMISSIONER SCHWEICKART: Let me speak to this.

1 Commissioner Commons, believe me if you look at the  
2 detailed wording, there is not incompatibility between  
3 what you said, and what the detailed wording is there. I  
4 don't think we should deliberate it at this time. I'm  
5 going to specifically sit down with you in terms of the  
6 way we worded it here, and I'll guarantee you there's no  
7 problem in terms of your statement.

8 CHAIRMAN IMBRECHT: Okay. Thank you, Mr. Cassie,  
9 unless there are further questions? Hearing none, Mr.  
10 Ferguson, representing Southern California Edison.

11 MR. FERGUSON: Good afternoon. My name is Dave  
12 Ferguson, I'm supervisor of conservation programs,  
13 Southern California Edison. I have represented Edison at  
14 most of the workshops conducted regarding the Lane and Edson  
15 contract, or the report that they've put out.

16 Generally, I'd like to say that Edison supports  
17 the concept of incentives for encouraging conservation. We  
18 currently have two programs that already utilize those in  
19 the nonresidential sector, one is for off-peak cooling,  
20 another is for our daylighting program.

21 The reason I'm here today, and wanted to make a  
22 statement is the fact that as a program develops in support  
23 of what I see the objective of this activity being in  
24 developing or having the standards that will come into  
25 play -- effect in 1987, is that utilities be given the

1 maximum amount of flexibility in developing any such program.

2 I realize that I don't -- that no specific  
3 recommendations have been made as to what a utility's role  
4 should be, whether a utility will propose a role and have  
5 it approved, I'm not sure how that will work out. But what  
6 my concern is, or what the concern of the company is, is  
7 that we be given that flexibility and maximum amount of  
8 participating in developing any such program.

9 One other issue that I would like to point out  
10 is the issue of discretionary funds as it's stated in the  
11 report. The Public Utilities Commission has granted our  
12 utility, and I think other utilities, some flexibility to  
13 shift funds between programs.

14 We are currently in a rate case, as a matter of  
15 fact, the conservation witness got off the stand yesterday.  
16 We don't know what the final decision will be in December,  
17 so we're not sure what the funding will be for 1985, and  
18 so there is some uncertainty as to how we can move forward  
19 in support of a concept, or program designed to do what  
20 this -- what I believe this objective to be.

21 We certainly support the concept of it, and to  
22 the extent that we can, we would support it, and that's  
23 essentially all I have to say.

24 CHAIRMAN IMBRECHT: You would support implementation  
25 of a rebate program?

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1 MR. FERGUSON: Yes. As a matter of fact, we have  
2 one now for daylighting. Generally we offer design  
3 assistance, and we'll fund up to \$20,000 for redesign of a  
4 building plus we have a rebate program designed around  
5 estimating the energy savings that will occur if a day-  
6 lighting strategy is in fact designed in --

7 CHAIRMAN IMBRECHT: Would you propose additional  
8 funding for this particular rebate program in your rate case?

9 MR. FERGUSON: We already have incentive dollars  
10 identified in the rate case principally directed at our  
11 existing market, and not so much toward the construction.  
12 The reason we did so is that we considered the daylighting  
13 program a pilot project. We didn't have a substantial  
14 track record, so to speak, to base a large full implementation  
15 program, but we would expect we would have some dollars  
16 available to direct toward the new construction market.

17 I can't say if that's \$300,000, or a million, or  
18 anything like that, at this point.

19 CHAIRMAN IMBRECHT: Okay. Any further questions  
20 for Mr. Ferguson? Commissioner Schweickart?

21 COMMISSIONER SCHWEICKART: Yeah. Mr. Ferguson,  
22 if you have any specific recommendations on wording of  
23 this resolution when it comes up on the 28th, I would  
24 appreciate hearing as soon as possible from you on that.

25 MR. FERGUSON: Okay.

1 CHAIRMAN IMBRECHT: Okay, fine. Thank you very  
2 much. Further comments? Is there anyone that takes  
3 exception to hearing this on the 28th? All right, fine,  
4 we'll -- do we have any notice problems on that?

5 COMMISSIONER SCHWEICKART: Let me just point out  
6 for the Chair that Mr. Klepper will not be available, and  
7 that's another reason why we wanted to get that in today  
8 is because he was on the West Coast, and will not be  
9 available at that time. So if there are any further  
10 questions for Mr. Klepper and his report, we would have to  
11 handle them either indirectly or handle them now.

12 CHAIRMAN IMBRECHT: All right, fine. Are there  
13 further questions? Okay, thank you very much.

14 MR. CHAMBERLAIN: In answer to your question,  
15 Mr. Chairman, there are no notice problems because we have  
16 a regularly scheduled meeting that was noticed that we  
17 can continue this item to.

18 CHAIRMAN IMBRECHT: All right, fine. This will  
19 be continued until June 28th, then. I believe I can just  
20 make that statement.

21 So, the last item we've got before Executive  
22 Session is Item 11 which is a contract for \$27,190 with  
23 Martin Klepper, Esq. of the law firm of Lane and Edson,  
24 et cetera. I've read this, I think three times now, so --

25 MR. PENNINGTON: I would like to comment, Mr.

1 Chairman, that we have revised the budget and to a certain  
2 extent, the work statement in response to Committee comments,  
3 and the proposed contract is now \$25,600.

4 CHAIRMAN IMBRECHT: What was eliminated?

5 MR. PENNINGTON: Basically, the direction from  
6 the Committee was that we should eliminate the supervising  
7 attorney. We previously had a three person project team,  
8 now we've cut that down to a two person project team, and  
9 also, the activities that were originally to be conducted  
10 late in the project, in terms of coming up with a detailed  
11 program plan, that's been revised somewhat to try to front  
12 load the analysis and work here, and have the contractor  
13 participate in early meetings on the project, and make  
14 recommendations which the full Committee would then carry.

15 CHAIRMAN IMBRECHT: Okay. Anything further?  
16 Any questions of Mr. Pennington? Commissioner Commons?

17 COMMISSIONER COMMONS: I have a few questions.  
18 One of the items in here shows roughly 20 percent of the  
19 cost of the contract is in travel. Is that high, is that  
20 unusual? I recognize it's a -- in a sole source that you  
21 have no one in California, do we have expenses that you  
22 would incur if it weren't from a California contractor.

23 It does seem like a fairly large sum of money  
24 as a percentage of the total contract, yet I also recognize  
25 that the work is of no benefit to the Committee or the

1 Commission if they don't participate in the process, which  
2 means meeting with the participants in the process.

3 EXECUTIVE DIRECTOR WARD: Commissioner, I think  
4 a general comment would be that, you know, the travel is  
5 an up to figure, and it's not part of the contract to the  
6 extent that we're not specifically requesting travel of  
7 the consultant.

8 COMMISSIONER COMMONS: Is it normal that we would  
9 have -- do we have any contracts where travel is this  
10 higher percentage of a contract?

11 EXECUTIVE DIRECTOR WARD: I'm not specifically  
12 aware of it, but I don't think it's out of character, given  
13 this specific contract, the number of Committee meetings,  
14 hearing that are going to be held, workshops, the involvement  
15 in your Committee on the proceeding, that you have the  
16 latitude to have this kind of expertise available to you,  
17 based on my discussions with you and staff.

18 It was my sense that it was reasonable. Again,  
19 it is an up to figure, and would have to be billed on an  
20 as needed basis, and approved on an as needed basis.

21 COMMISSIONER COMMONS: Mr. Chairman, you weren't  
22 here when we initiated the discussion on this, and this was  
23 an attempt by the Committee to try to meet the guidelines  
24 established by the Commission for the Committee to try to  
25 develop a plan. We were looking at trying to get cost-

1 effective energy savings from the appliances that include  
2 matters other than standards.

3           One of the reasons, or two of the reasons that  
4 were mentioned by Mr. Pennington in what I thought was a  
5 very excellent presentation, was one is, our limitations  
6 on staff do not provide us with the time, I believe, in  
7 order to give careful consideration to the incentive areas,  
8 and second is that staff, being a party to a rulemaking  
9 proceeding, could be considered biased by various parties.

10           To have someone that could work with the large  
11 number of participants, which would include the manufacturers,  
12 the original petitioner, the utilities, the manufacturers,  
13 in terms of trying to put together a cost-effective program  
14 might be beneficial in terms of the savings.

15           What we're talking about in terms of megawatts  
16 is some 1,000 to 1,500 megawatts from the staff estimate, of  
17 cost-effective energy savings from the appliances, and it's  
18 clearly important to the Committee, I think to the  
19 Commission, that we try to look at the most cost-effective  
20 ways of trying to achieve those savings, and incentive  
21 programs are clearly one area that could provide a benefit  
22 to ratepayers.

23           CHAIRMAN IMBRECHT: Well, let me just react  
24 personally, again, I -- as you well know from both a  
25 philosophical and practical standpoint, I strongly support

1 conceptually incentives, and other market-oriented approaches.  
2 As I read the work statement, again I would just -- I guess  
3 what I'm asking, what are we going to get that's new? What  
4 will we receive that is -- I mean, the first task, identify  
5 and review incentive programs conducted by California  
6 Utilities and other state agents and utilities. Now, is  
7 that nationwide, or is that --

8 MR. PENNINGTON: Yes, it's nationwide. The first  
9 two tasks, frankly, Mr. Chairman, are to pay the contractor  
10 to come up to speed on the project, and there's a very  
11 limited amount of money associated with that, and I think  
12 it's a reasonable cost, so that they, you know, come to  
13 where the status quo is on the project.

14 Subsequent to that is when they get into real  
15 analysis. I think that's reflected in the budget.

16 CHAIRMAN IMBRECHT: So they will, as I read  
17 this, they will not initiate any proposals themselves, but  
18 will be reviewing proposals made by the utilities and the  
19 appliance manufacturers.

20 COMMISSIONER COMMONS: And by our staff.

21 CHAIRMAN IMBRECHT: And proposals made by our  
22 staff.

23 COMMISSIONER COMMONS: In their participation, of  
24 course, in the proceedings, they, like any other participant,  
25 certainly would have the right to put forth ideas, and would

1 be encouraged to do so.

2 CHAIRMAN IMBRECHT: Well, I guess my concern is  
3 limiting it to the universe of that which exists today, and  
4 suggest that there isn't some room for innovation in the  
5 future, and I'm just not sure in my own mind that every  
6 viable means of providing incentives have necessarily been  
7 tried to date, and I'd like to see some new concepts put  
8 before us, as opposed to a rehash of everything that has  
9 gone before. I hope that that is the ultimate objective  
10 of such a study.

11 COMMISSIONER CROWLEY: Isn't that what the  
12 language submittals from proceeding participants is designed  
13 to elicit, is other proposed -- other innovative proposals?

14 COMMISSIONER COMMONS: There is no intent in task  
15 3 to in any way shape or form restrict the consultant to  
16 putting forth concepts which they then also would review.  
17 In fact, they would be encouraged to do that.

18 CHAIRMAN IMBRECHT: Okay, do we have a motion  
19 before us?

20 COMMISSIONER SCHWEICKART: No, we don't it was  
21 withdrawn.

22 CHAIRMAN IMBRECHT: So we're prepared to make a  
23 motion.

24 COMMISSIONER COMMONS: I would so move the contract  
25 as -- would we call that as amended, or the attached.

1 CHAIRMAN IMBRECHT: Is there a second?

2 COMMISSIONER SCHWEICKART: Again, in the  
3 principal of Commissioner Commons always seconding, I will  
4 second his motion.

5 CHAIRMAN IMBRECHT: All right, seconded by  
6 Commissioner Schweickart. Is there discussion?

7 COMMISSIONER SCHWEICKART: Yes. Let me then  
8 follow up with a comment, and I find myself in something of  
9 an awkward position. First of all, I believe that Mr.  
10 Klepper has done good work on the contract that has --- that  
11 we just heard a report on, and I don't have, frankly, any  
12 problem with that, given the constraints which were  
13 established at the outset, principally by the Committee  
14 and the Commission staff.

15 However, I find myself in an awkward position  
16 again, of being jammed into a time constrained commitment  
17 of the Commission, namely that we will consider on the  
18 schedule established incentive programs in the appliance  
19 area. We therefore are quite realistically in a position  
20 where we cannot have a competitive bid.

21 At the same time, the fees here are certainly on  
22 the upper end, if not exceptionally high, in terms of the  
23 services being provided, and therefore happen to call atten-  
24 tion to the contract that we're dealing with. So I find  
25 myself caught, unfortunately, between a sole source, high

1 priced contract, and not living up to a Commission commitment  
2 that we will responsible look at and deal with incentives  
3 in the appliance area in a timely way which has already  
4 been -- the time frame of which has been established by  
5 the hearing schedules, and adoption, et cetera.

6 On the whole, given those alternatives, my own  
7 option here will be to support the contract, and honor the  
8 Commission's commitment.

9 EXECUTIVE DIRECTOR WARD: Commissioner, if I  
10 might add one comment, I think it's important to point out  
11 what Mr. Pennington has already stated, that Mr. Klepper  
12 is recognized as being an objective third party by the  
13 industry, and I think that's extremely important here,  
14 when we're talking about incentives.

15 So I guess to the extent that we're buying that  
16 recognition, that should be recognized in the total of the  
17 contract.

18 CHAIRMAN IMBRECHT: Is this typically the type of  
19 study we turn to a law firm to conduct?

20 MR. PENNINGTON: No. I think we are contracting  
21 for expertise in financing -- energy efficiency financing  
22 and incentives, and the fact that the person that we're  
23 turning to is an attorney might be a little exceptional,  
24 but we're not really paying an attorney here, I don't believe.  
25 I mean, that's not the principal expertise that --

1           CHAIRMAN IMBRECHT: Well, it looks to me like  
2 that's the way the budget for this is built, but --

3           MR. PENNINGTON: Well, unfortunately, as I said  
4 earlier --

5           COMMISSIONER SCHWEICKART: It's attorneys fees,  
6 but not attorneys work.

7           CHAIRMAN IMBRECHT: That's right, and that's kind  
8 of what I'm saying, and I say that as a proud member of  
9 the profession, and I'm not trying in any way to --

10          COMMISSIONER SCHWEICKART: Even if it may be  
11 more productive, an attorney.

12          CHAIRMAN IMBRECHT: But you know.

13          MR. PENNINGTON: It is the judgment of long-term  
14 state employees that I've consulted on these rates that  
15 to pay for a financial expert, these rates are not unusually  
16 high.

17          CHAIRMAN IMBRECHT: Commissioner Gandara?

18          COMMISSIONER GANDARA: Mr. Chairman, I frankly  
19 find myself in a delicate position here, as Commissioner  
20 Schweickart indicated. I have some concerns about this  
21 contract. I have concerns about its sole source nature,  
22 and that's not new to the Commission, I've expressed those  
23 concerns in general before.

24                 I don't think I want to get into the merits or  
25 demerits of the contractor's work, but Commissioner

1 Schweickart indicated that we should move to Item 6 to  
2 get a feeling for that, and frankly, I disagree with  
3 Commissioner Schweickart.

4 I don't feel that the work represented in Item 6  
5 is of the quality or level that we're used to. I hesitate  
6 to say that in a public session, but I don't know how we're  
7 going to get around it here, I just -- you know, I don't --  
8 I don't want to go into more detail than that, but I think  
9 there were several concerns raised, and expressed, you and  
10 I agree.

11 I am concerned that the information provided to  
12 us today indicates, and I quote Mr. Klepper's work on the  
13 appliance incentive program will be very similar to that  
14 performed on the nonresidential incentive program. I would  
15 be disturbed if that would be the case.

16 I don't think that given Mr. Pennington's own  
17 statement, if I understood him correctly, I asked him  
18 what the qualifications or experience of the contractor  
19 happened to be with respect to appliances, and particularly  
20 refrigeration and air conditioners, and Mr. Pennington  
21 indicated that that was not very much, or little, or  
22 whatever, and we have a sole source contract, the justifica-  
23 tion has to be that you need the capabilities of the  
24 contractor to deliver that.

25 I would have preferred not to have raised some

1 of these concerns, as I said before, the way we've done it,  
2 but in view of the fact that I am concerned that there has  
3 been a disconnect here somehow. I support the search for  
4 incentives, in fact, when I was presiding over the  
5 Appliance Standards Committee, that was part of the  
6 direction given to the staff in preparation of the White  
7 Paper, and there were some few ideas there, I have been  
8 harping on that now for several years. So I don't have a  
9 problem with that.

10 We had a resolution before this Commission not  
11 too long ago, or a decision to make as to whether we  
12 would delete that language related to incentives from the  
13 order. The Commission did so. The Commission did not say  
14 that there would be no work done by the staff in this area.

15 Now, whether there is sufficient staff to do it  
16 or not, I'm not quite certain, but as I see the proposed  
17 task in this contract before us, I do not see a task  
18 definition of a contractor uniquely qualified expert in  
19 this area. I see more of a facilitator role. I see more  
20 of a coordinator role to elicit from people what their views  
21 or opinions are, to evaluate and essentially on that  
22 basis, some proposed -- I don't see, there may be a question  
23 of semantics, the kinds of analysis that I think this area  
24 might require.

25 I just don't think that this, in the urgency of

1 time, and all that, that this contract is well considered.  
2 That's my judgment. The Commission could choose to defer  
3 this item. I'm not quite sure that the problems I see  
4 could be remedied. In any case, I will not support this  
5 contract.

6 CHAIRMAN IMBRECHT: Okay. Further comments or  
7 questions? Commissioner Commons, did you want to be  
8 recognized?

9 COMMISSIONER COMMONS: I have one question for  
10 Mr. Pennington. Have you talked with either the petitioner,  
11 or any of the participants as to their attitude.

12 MR. PENNINGTON: Actually, Mr. Ted Rauh has  
13 talked to Kent Anderson of AHAM, Joe McGuire of ARI and  
14 David Goldstein of the Natural Resources Defense Council,  
15 and it's my understanding that they --

16 MR. RAUH: Maybe I ought to answer that since I  
17 talked.

18 MR. PENNINGTON: Okay.

19 MR. RAUH: I, unfortunately, was unable to get  
20 through to Mr. David Goldstein. The other two gentlemen  
21 indicated general support for this activity, a high  
22 concern that the Commission have adequate resources to do  
23 a competent evaluation, interest in the fact that this  
24 provided an independent evaluation of both the ideas being  
25 proposed by the utilities, staff, and their own ideas.

1           Mr. Kent Anderson indicated a strong interest in  
2 working with the contractor to be able to identify and  
3 clearly articulate the interests of the industry in terms  
4 of potential financial support, or potential integration  
5 of their activities with anything that California chooses  
6 to do in the financial incentive area.

7           COMMISSIONER COMMONS: The only other comment I  
8 would have, despite the fairly substantial travel budget,  
9 the proposed contractor is in Washington where both of  
10 these associations are located, and that would facilitate  
11 communication with both associations.

12           CHAIRMAN IMBRECHT: Okay. Well, I'm frankly  
13 torn as well, and I guess what I'm left with, and I'd like  
14 some representation that we're going to get a more detailed  
15 document here than occurred terms of incentives for  
16 nonresidential standards, I --

17           MR. PENNINGTON: Well, that is clearly what's  
18 expected.

19           CHAIRMAN IMBRECHT: Item 4, optimize target eye  
20 and scope timing incentive level. When I see a recommenda-  
21 tion for an incentive level, I want to see some kind of  
22 cost/benefit analysis to have some credibility, and --

23           MR. PENNINGTON: Absolutely. The scope of analysis  
24 here is considerably different than the charge that was  
25 given to Mr. Klepper on the nonres incentives.

1           COMMISSIONER GANDARA: Mr. Pennington, who is  
2 going to be doing the economics work on this? You have  
3 engineering expertise, what kind of economic expertise lies  
4 within the senior attorneys, and nonlegal professionals,  
5 and so forth that is of the nature that we have down here  
6 for conservation measures?

7           MR. PENNINGTON: I expect that the basic  
8 engineering costs, and the identification of efficiency  
9 measures to be applied to these appliances will come  
10 substantially from DOE's work as a continuation of the  
11 expectation that we had, that DOE's work was comprehensive  
12 and should serve as the basis for this.

13           That work will also be reviewed and evaluated  
14 by staff, and by other participants in the proceeding, and  
15 my expectation is that there will be an identification of  
16 some deficiencies in that work that will be addressed by  
17 staff and by other participants.

18           So I expect that that aspect of the analysis will  
19 come basically from the proceeding, and that it will not  
20 be the contractor that will provide that.

21           CHAIRMAN IMBRECHT: Commissioner Crowley?

22           COMMISSIONER CROWLEY: It is unclear to me in  
23 the delineation of some of these tasks and correlating them  
24 with the allocation of budget, why it requires attorney  
25 people to do some of these tasks, and I -- you'll have to

1 explain that to me.

2 MR. PENNINGTON: I don't believe it does require  
3 an attorney to do these tasks. Mr. Klepper is an expert  
4 on energy efficiency financing, and happens to be an  
5 attorney.

6 COMMISSIONER SCHWEICKART: In response to that,  
7 Commissioner Crowley, I'd point out, I'm an astronaut.

8 COMMISSIONER CROWLEY: No, but you're not ---

9 COMMISSIONER SCHWEICKART: I don't know whether  
10 that has anything to do with energy.

11 CHAIRMAN IMBRECHT: He frequently claims he's not  
12 an attorney, but --

13 COMMISSIONER CROWLEY: But you've made my point,  
14 and that is that I don't see ---

15 COMMISSIONER SCHWEICKART: You don't need me  
16 either, right?

17 (Laughter)

18 COMMISSIONER CROWLEY: You have not made decisions  
19 based on that -- on putting forth that as a requirement for  
20 the decision-making, and my question is, to them, of what  
21 advantage is it to us in this contract performing some of  
22 these tasks, to have attorneys dealing with some of these  
23 issues, task 3, participate in public meetings on proposed  
24 incentive programs.

25 It is not clear to me why that requires, one, an

1 astronaut, or two, a senior attorney.

2 (Laughter)

3 COMMISSIONER CROWLEY: I would like to know why  
4 it's the task personnel is structured as attorneys.

5 MR. PENNINGTON: Well, the intention here is  
6 to be specific, that we intend to get Martin Klepper to  
7 do that work, and the identification of his classification  
8 was a way of saying exactly that, that we want Klepper,  
9 and not someone else at Lane and Edson.

10 COMMISSIONER CROWLEY: Okay, but you don't  
11 specify it as Mr. Klepper, you specify it as a senior  
12 attorney, okay, thank you.

13 CHAIRMAN IMBRECHT: Commissioner Commons?

14 COMMISSIONER COMMONS: Mr. Chairman, I think a  
15 number of the Commissioners have raised issues that this  
16 Commission should have addressed by staff before we bring  
17 this to a culmination, and with the permission of the  
18 secondary, and yourself as Chairman, I'd like to request  
19 that we hold this item over till the 28th.

20 CHAIRMAN IMBRECHT: Again there's no problem, I  
21 assume, Mr. Chamberlain. If there is no objection, -- okay,  
22 no objection, let's hold this over till the 28th. I would  
23 suggest that we probably need to have some conversation with  
24 Conservation staff on this though, and express some of our  
25 concerns.

1 Well, we waited a long time, and we didn't get  
2 through those two items. I understand that under public  
3 comment, Mr. Patrick Quinn would like to address the  
4 Commission.

5 MR. BOWLES: My name is John Bowles, but Pat  
6 Quinn is right here beside me, so that the two names are  
7 there. Specifically we would like to comment on the  
8 Daikin heat pump request for an interim delay of --- on the  
9 requirement of the setback thermostats.

10 CHAIRMAN IMBRECHT: This is Item No. 22 that  
11 we disposed of.

12 MR. BOWLES: Yes, I believe it's one item, Item c  
13 in the -- yes, in 22.

14 In previous hearings and submittals, we have  
15 presented what we believed to be relevant information  
16 supported by neutral objective third parties, such as  
17 Electric Power Research Institute, showing that these type  
18 heat pumps can effectively reduce both energy consumption  
19 and peak requirements, or peak demand.

20 During the previous hearings, we also amended our  
21 petition so that what we're requesting now is pending  
22 further notification in automatic thermostat with a dual  
23 setback clock mechanism is not required for any unit in a  
24 zonal multi-type heating system. We believe that this is in  
25 keeping with the position of the Building Conservation

1 Committee, consideration to have additional workshops and  
2 staff review on the matter of setback thermostats as  
3 applied to multi-zone heat pumps and as set forth in the  
4 Commission's recommendations, as these type heat pumps  
5 were not adequately addressed and considered during  
6 development of the Commission's position on setback  
7 thermostat.

8           Such multi-zone heat pumps have only been  
9 introduced in the California market in quantities over  
10 the last 18 to 20 months. One of the recommendations by  
11 the Building Conservation Committee, to the effect that  
12 without reliable evidence on occupant behavior in dwellings  
13 equipped with zonal heating systems, the Commission cannot  
14 determine whether the energy consumption of such systems,  
15 without the required thermostat, would be equal to or  
16 better than a central gas furnace equipped with required  
17 thermostat.

18           Pat, would you give them the information.  
19 Briefly, I think the best way of approaching this point, if  
20 you would just turn to Exhibit A, I think we can capsule  
21 what we've done there.

22           We've taken the current Commission basic home  
23 which is about 1,386 square foot home, we've assumed it's  
24 in Sunnyvale, and then we've made the comparison between a  
25 gas furnace without a setback thermostat, a gas furnace

1 with a setback thermostat, and a Daikin M3 system which  
2 would be adequate for that square footage house, without  
3 the so-called diversity features, and operation, and with  
4 the diversity.

5 Without a setback thermostat on a gas furnace  
6 and assuming eight cents a kilowatt-hour, and 70 cents  
7 per therm, we would come up with an annual cost in the  
8 Sunnyvale area of \$120 without a setback thermostat. With  
9 a setback thermostat and a gas furnace, we would come up  
10 with \$109.

11 With a Daikin M3 system, without diversity  
12 factor included -- factored into it, we'd come up with  
13 \$139, assuming that the occupant would be motivated to use  
14 it, we would come up with an annual energy cost of \$74  
15 or approximately a 30 percent savings in the energy cost  
16 over the gas furnace with a setback thermostat.

17 Obviously, if you moved into other areas, such  
18 as Sacramento, where the generation and electric costs  
19 would be in the neighborhood of three to four cents, the  
20 savings would be greater.

21 As we've appeared before the Commission before,  
22 our recommendation is simply that because as we understand  
23 it, the setback requirement becomes mandatory after July 1st.  
24 We would like to continue to work with the staff, and as  
25 we believe, really recommended there, and simply work with

1 them until the cost-effectiveness of whatever benefits  
2 there may be to applying a setback thermostat to the  
3 Daikin multi-zone equipment can be determined.

4           So we're simply requesting that this not apply  
5 to multi-zone equipment as of July 1, but that there be an  
6 interim period for us to do further work with the staff,  
7 because we feel that the benefits can be demonstrated, and  
8 we feel that both the comparison with a gas furnace heating  
9 system, and obviously in a standard ducted system, which  
10 we -- heat pump system, which we believe was the one that  
11 was focused on during most of the public hearings several  
12 years ago, why the multi-zone heat pump would definitely  
13 prove cost-effective and beneficial to the occupants.

14           CHAIRMAN IMBRECHT: Okay, thank you very much.  
15 Commissioner Schweickart, did you --

16           COMMISSIONER SCHWEICKART: I have no comment.

17           CHAIRMAN IMBRECHT: No comment. Okay. I think  
18 this is a request basically of staff, and I'm sure Mr. Ward  
19 will give your comments and your recommendation full and  
20 due consideration.

21           MR. BOWLES: As I say, our major concern is  
22 after the July 1, that the application of it -- puts the  
23 burden of it on this type of equipment, and we have been  
24 working with the staff for approximately four to five months  
25 now, and it's going to be extremely difficult, if not

1 impossible, to provide all of the information and do the  
2 work. So we're just trying to find out some way of  
3 bridging this interim gap while we are working with the  
4 staff.

5 CHAIRMAN IMBRECHT: All right, Mr. Chandley,  
6 are you in a position to comment on this, is that the  
7 reason I see you approaching the microphone?

8 MR. CHANDLEY: Yeah, I don't know whether it's  
9 necessary, but I'm going to point out anyway that it would  
10 be procedurally impossible to have that kind of interim  
11 relief granted unless you adopted today an emergency  
12 exemption to the standards.

13 Even then, if -- well, that's about it. I mean,  
14 it's basically impossible. They're asking for us to grant  
15 relief pending resolution of an issue. The Committee's  
16 recommendation, as I understand it, is to leave the standard  
17 as it is, pending resolution of the issue, and there is no  
18 way for us to do something in-between, short of an approval  
19 process which would be based upon an emergency, and I  
20 doubt very seriously whether we could justify such a  
21 finding.

22 CHAIRMAN IMBRECHT: Has this matter been timely  
23 raised by these parties in your view?

24 MR. CHANDLEY: Yes, we have -- yes, yes.

25 CHAIRMAN IMBRECHT: Yes.

1 MR. CHANDLEY: Yes, this request was made some  
2 time ago. This isn't the first time we've seen the  
3 request.

4 CHAIRMAN IMBRECHT: Well, I just want to  
5 understand.

6 COMMISSIONER SCHWEICKART: Mr. Chairman, let me  
7 comment on this. Yes, we're taking this at the current  
8 time as public comment because the parties were not here  
9 when we had the agenda item up, so from my own perspective,  
10 I believe we should essentially look at this as if it  
11 were occurring within the confines of the recommendation  
12 of the Committee, and I have no problem doing that.

13 CHAIRMAN IMBRECHT: Right.

14 COMMISSIONER SCHWEICKART: This issue was raised  
15 by Daikin, their so-called modified petition was presented  
16 within the confines of the proceeding, in fact, let me say,  
17 in effect, it is not a modified fish, in that it would still  
18 call on the Commission to grant an exemption from the  
19 existing building standards, which is what their initial  
20 petition did.

21 It seems to couch it in the sense that it  
22 acknowledges that there may be another proceeding that may  
23 change it, but that's of no substantive difference from  
24 the initial petition, which the Committee on due consideration  
25 has found not to be appropriate at this time.

1 That is, that the exemption from the requirement  
2 to have a dual setback thermostat for this particular type  
3 of equipment is in the judgment of the Committee not  
4 appropriate, and that the petitioner did not, as was  
5 indicated at the outset of the proceedings by the full  
6 Commission, carry the burden of evidence necessary to  
7 indicate that there should be a change, an amendment to  
8 the regulations to support the substance of their petition.

9 Again, if the Commission would -- wants to pursue  
10 it further, then I'm happy to go further into it, or  
11 call the appropriate staff to go into that matter further.  
12 I leave that to the Commission frankly, we already took  
13 action on it, but --

14 CHAIRMAN IMBRECHT: Okay, is there a desire --

15 MR. BOWLES: Well, I think it's one of the things  
16 that we're actively working with the staff to try to determine  
17 the exact cost-effectiveness. As I say, I think that we're  
18 about 60 percent of the way through, and it's just this  
19 time gap that as the 1st of July approaches, that I'm sure  
20 we will not be able to provide all the supportive information.

21 There is still one separate matter, there is a  
22 degree of interpretation of is there let us say an off-the-  
23 shelf thermostat today that will apply to this equipment.  
24 The staff has said that there is. Our best investigation,  
25 even as of to date, indicates that there is not. We've not

1 heard any single thermostat supplier come to us and advise  
2 us that there is such a standard off-the-shelf. Even as  
3 indicated in the Commission's report to study for this  
4 type of a "master type control system", which we will be  
5 pleased to do and participate in, it's a difficulty after  
6 the 1st of July of actually complying with the regulation  
7 as it exists.

8 Not only the constraints of providing the informa-  
9 tion of the staff, but also the availability of a "a  
10 standard".

11 CHAIRMAN IMBRECHT: All right. You can pick up  
12 the baton, Mr. Pennington.

13 MR. PENNINGTON: Prior to the last workshop,  
14 Mr. Jonathan Leber who is the Commission's -- or was  
15 previously, the Commission's senior electrical engineer,  
16 reviewed circuit diagrams for this equipment, and determined  
17 that there was a very straightforward way of applying  
18 off-the-shelf setback thermostats to their equipment.

19 CHAIRMAN IMBRECHT: And have you provided that  
20 analysis to these individuals?

21 MR. PENNINGTON: Yes, that was discussed with the  
22 petitioner.

23 MR. BOWLES: Yes.

24 CHAIRMAN IMBRECHT: Well, I guess the only issue  
25 is, is there any Commissioner that wishes to reopen this

1 matter?

2 COMMISSIONER COMMONS: I don't think we can in  
3 public comment, can we?

4 CHAIRMAN IMBRECHT: Well, we can rescind any  
5 action we've taken today, I think that's pretty clear, so  
6 it would require a motion to rescind the action taken with  
7 respect to this portion of Item 22. I'm not sure if our  
8 staff is really prepared to offer any suggestions to you,  
9 and I'm a little reluctant to rule on this basis, but I  
10 don't see any inclination to overturn the Committee's  
11 recommendation.

12 I guess we would encourage expeditious resolution  
13 of this to the extent that we can, and in the event that  
14 these gentlemen are successful in persuading the staff  
15 as to their case, what are the remedies available to us  
16 then?

17 COMMISSIONER SCHWEICKART: Mr. Chairman, let me  
18 try and relieve --

19 CHAIRMAN IMBRECHT: Must we wait another year, is  
20 that the --

21 COMMISSIONER SCHWEICKART: Let me try and -- I  
22 don't know whether we'll make you that much more comfortable,  
23 but let me try and characterize the situation. There is  
24 not any question in anyone's mind, at least certainly not  
25 on the Committee, or I believe within the staff, that as

1 was indicated in the Committee report earlier adopted that  
2 there are potential energy savings in zonal heating and  
3 cooling equipment, and heat pumps or any other equipment  
4 for that matter, all have that potential.

5           The fundamental issue that we're dealing with  
6 here in terms of an exemption from the regulation for this  
7 equipment is one which says that this equipment is so  
8 different as to warrant an exception vis-a-vis other  
9 equipment, and whether that's electric resistance wall  
10 heaters, or gas furnaces, or any other zonal heating  
11 method that for some reason this equipment should be hand  
12 oiled and exempted from a requirement for let me say  
13 hands-off semi-intelligent control of heating and cooling,  
14 namely, a dual clock setback thermostat.

15           If you or I put one of these devices in our home,  
16 and every time we enter the room, throw the switch to turn  
17 it on, and every time we leave the room, throw the switch  
18 to turn it back off again, or even something approximating  
19 that, we can clearly save energy compared with a dual  
20 setback thermostat on a gas furnace. I don't think there's  
21 a debate in the world, and the analysis here simply confirms  
22 that.

23           The fundamental issue is, do we walk in our  
24 houses, turn on the thermostat each time we go from one  
25 room to another, and turn it off when we leave the room, and

1 are we satisfied, frankly, that when we enter the room,  
2 and turn the thermostat on, that a few moments later, or  
3 a half an hour later, or whatever, the room will become  
4 warm.

5           Even if we do that, in times of escalating  
6 energy prices, are we going to do it a month later, or two  
7 years later, or 30 years later when the house is still in  
8 existence. Now, that's the fundamental question which the  
9 Committee was confronting, and to be honest about it, there  
10 was no data presented by the petitioner that indicated that  
11 somehow when people put these devices in their houses,  
12 they're going to behave differently from if they have other  
13 devices in their houses.

14           So the burden of carrying before the Committee on  
15 a petition the weight of evidence to open up or to create  
16 an exemption in the building standards was not carried, and  
17 is not carried by the materials presented here before you.

18           In a workshop specifically tailored to appropriate  
19 regulation of zonal heating and cooling equipment, not just  
20 this, but others, I believe that kind of data, and the  
21 assumptions associated with it for consistency throughout  
22 the regulations is possible to provide, but that is not a  
23 short-term matter, it is not something which can be done  
24 immediately, it is not something which the petitioner, in  
25 spite of -- and being as straightforward as we could all

1 through the proceedings, was able to provide to us, and I  
2 understand that July means that equipment will have to have  
3 a dual setback thermostat on it, and I would only say that  
4 any real difference between us here is that it is our  
5 considered technical judgment on expert opinion that in  
6 fact dual setback thermostats which can provide control of  
7 these devices is available.

8 That is the only place where we have any funda-  
9 mental disagreement.

10 MR. BOWLES: Right. I just wanted to comment on  
11 Commissioner Schweickart's -- that's exactly it. In other  
12 words, I believe it was in a hearing in January sometime,  
13 that we had understood there could be workshops, and we  
14 are -- we intend to, and we will be complete cooperative  
15 with the staff.

16 This is a new concept, and especially this type of  
17 a heat pump. When the setback thermostats were addressed  
18 over the last several years, why I don't believe the zonal  
19 type heat pumps were even in the market today, they are  
20 just coming into the market.

21 There is one other aspect of this that from an  
22 energy standpoint that we did present to the Conservation  
23 Committee at the previous meeting. This type of heat pump,  
24 because it cuts down the demand, has the effective  
25 capability of saving perhaps 5 to 600 megawatts in the

1 State of California in generation capacity if it were to  
2 be installed over the next 5 to 10 years.

3 So I think it is --- and as I say, we're not  
4 disagreeing at all with the Commissioner and the staff, it's  
5 simply that the burden of the information and data that  
6 has been presented on which the setback thermostats were  
7 based, the original resolution was based, were not these  
8 type -- this type of equipment, and so that -- and just in  
9 fairness to it, or to balance it out, we think there has  
10 to be this additional study, and it's just simply that it  
11 cannot be compressed into a period of the next 10 days, or  
12 something like that.

13 So, basically, I'm saying that we're in complete  
14 agreement with Commissioner Schweickart, but it does  
15 present a specific problem to us after the 1st of July.

16 CHAIRMAN IMBRECHT: Well, I guess -- one final  
17 question. In the event these gentlemen make their case  
18 appropriately, when can relief be provided, or is --

19 COMMISSIONER SCHWEICKART: Mr. Chairman, I --  
20 that will, in fact, be a work plan issue, but at the moment,  
21 I would have to say, given the priorities confronting the  
22 Building Conservation Committee, and absent the Governor  
23 signing the supplementary staffing, I don't see it coming up,  
24 period.

25 Now, if we get it, then I think we're in the

1 ball park where we're going to have to look at priorities  
2 and it may --

3 CHAIRMAN IMBRECHT: The option available to them  
4 at some point is to file a petition when they believe they  
5 can meet their burden.

6 COMMISSIONER SCHWEICKART: Well, yes, it's a  
7 slightly different question, and I would certainly recommend,  
8 and I think that's probably fairly clear, that if there  
9 were -- if you were -- let me just address it to the  
10 petitioner.

11 If you were to care to file another petition, if  
12 you will, to force the hand of the Commission to deal with  
13 your issue, then I would certainly come prepared with  
14 specific and substantial data which would address the  
15 issue which we have articulated is not addressed currently,  
16 and does not allow the Commission to move forward at all.

17 I think that's fairly clear, but on the other  
18 hand, let me simply say that we already have one, and perhaps  
19 two petitions which we have dealt with, I think one and  
20 another withdrawn in this area of -- that necessitates  
21 conservation division work, where we have accepted the  
22 petition on the merits of the petition, but are not  
23 scheduling any work because we quite literally have -- we  
24 have no staff available to do the work in consideration of  
25 the overall priorities of the Commission.

1           So we are caught between a rock and a hard spot  
2 acknowledging that yes, indeed there are real energy  
3 savings here, there are real impacts in the marketplace,  
4 we should be dealing with this, and we are not able to.

5           Now, if you care to file that petition and have  
6 it on record, I think that it would certainly be welcome,  
7 but I would suggest that you also need to deal with the  
8 issue which the Commission has identified the alternative  
9 to that is to allow us simply to schedule the workshops  
10 as we have staff available, and bring that information into  
11 the workshops.

12           MR. BOWLES: Just one question. If I understand  
13 the procedures, for example, if we support the documentation  
14 and the comparison of the gas heater with the dual setback  
15 thermostat versus the Daikin system without the -- in other  
16 words, increase the information and data here, what then  
17 would be the recommendation, because I think we can support  
18 it. This is --

19           COMMISSIONER SCHWEICKART: Again, I want to be as  
20 clear as I can possibly be, sir, and please, please, if you  
21 will listen. I don't want to be in any way presumptuous,  
22 but I want you to focus on what the dilemma of the  
23 Commission is, and let me move away from your area entirely.

24           We would not have to have R-38 in ceilings in  
25 certain climate zones in California, we could go to R-19

1 and achieve the same amount of energy savings if the  
2 occupants of the house opened the windows and turned on a  
3 whole house fan every time the outside temperature were --  
4 depending upon what one wanted, heating or cooling,  
5 appropriate.

6           Now, what I'm trying to get across is that there  
7 are fundamental assumptions which one must make in terms  
8 of the behavior of occupants of a dwelling in setting  
9 standards, energy efficiency standards. It is in that  
10 area that the Commission is absent information, your energy  
11 savings which you have documented, and which I don't think,  
12 although I can't say that for certain, we have no  
13 fundamental disagreement with numbers.

14           MR. BOWLES: That's right.

15           COMMISSIONER SCHWEICKART: We would have to look  
16 at that before I would say that, and I don't want to  
17 represent the staff here. But let me just say, arguendo,  
18 if we had no disagreement whatsoever in the numbers which  
19 you were using, we still have a fundamental problem, namely  
20 that the occupants of the residence must operate the  
21 system on an almost continuing basis in order to achieve  
22 the savings that you have indicated here.

23           The issue is not the efficiency of your system.  
24 The issue is not the numbers, or heating different rooms,  
25 or zones of a house, and not heating others when people

1 aren't there, the issue is what behavior should an Energy  
2 Commission of this sort, assume appropriate for setting  
3 energy efficiency standards on an equitable basis, not just  
4 for you, but for insulation manufacturers, for manufacturers  
5 of double glazing, et cetera, et cetera, et cetera, for  
6 many other devices.

7           What we have attempted to do in adopting residential  
8 building standards is to make consistent, and one can always  
9 argue whether we've achieved it, but to make consistent  
10 assumptions in terms of occupant behavior. Fundamentally,  
11 it has leaned toward the idea that we don't assume people  
12 are continually attentive to those behavior patterns which  
13 would minimize their energy consumption, and that we rely  
14 relatively heavily on devices which provide that kind of  
15 intelligence, e.g., dual setback thermostats.

16           Now, I hope that I've clarified for you, as we've  
17 attempted to do many times before, the fundamental problem  
18 that the Commission faces here. It is not the kind of data  
19 you have presented. It is a change of fundamental  
20 assumptions about the behavior of occupants over the life  
21 of a building.

22           CHAIRMAN IMBRECHT: Okay. I'm going to suggest  
23 that there is not sentiment to reopen this issue, that's  
24 what I hear from my other Commissioners, and we still have  
25 a long executive session ahead of us. I know that's

1 probably an unsatisfactory resolution to you, but I think  
2 that's basically where we are at this juncture, and I --

3 MR. BOWLES: Could we consult after we're finished  
4 with the Commission's legal counsel? I don't know which  
5 one of these gentlemen are the legal counsel.

6 COMMISSIONER SCHWEICKART: Sir, I am available to  
7 you.

8 MR. BOWLES: Pardon?

9 COMMISSIONER SCHWEICKART: If you're talking to  
10 me --

11 MR. BOWLES: No, I just wanted to ask the  
12 Commissioner's legal counsel a question.

13 MR. CHANDLEY: You can use the astronaut on this  
14 one.

15 MR. BOWLES: Pardon?

16 (Laughter)

17 COMMISSIONER SCHWEICKART: Both of us former,  
18 I think, John.

19 CHAIRMAN IMBRECHT: You certainly may, but you're  
20 going to do that after we adjourn the meeting, if that's  
21 all right.

22 MR. BOWLES: I'd just like to ask him that, fine.

23 CHAIRMAN IMBRECHT: Please feel free.

24 MR. BOWLES: Thank you.

25 CHAIRMAN IMBRECHT: Okay, if there's no further

1 business -- let me ask, Mr. Chamberlain, were any of your  
2 report items public matters, or are they all executive  
3 session?

4 MR. CHAMBERLAIN: Executive Session.

5 CHAIRMAN IMBRECHT: All right, fine. I'm going  
6 to suggest then that we -- what's the pleasure -- what time  
7 constraints do the other Commissioners have, because I'd  
8 like to suggest we take a half hour, and then go into  
9 executive -- what's your situations?

10 COMMISSIONER GANDARA: Mr. Chairman, I believe  
11 that we have a plane departing at 4:35, and I --

12 CHAIRMAN IMBRECHT: All right. Would it be  
13 acceptable if we started the executive session at 2:00 or  
14 do you want to do it earlier?

15 COMMISSIONER GANDARA: That would be fine by me.

16 COMMISSIONER COMMONS: How long is the executive  
17 session?

18 CHAIRMAN IMBRECHT: Well, one hour maximum, is  
19 that fair?

20 COMMISSIONER GANDARA: I have a question about  
21 the requirements of executive session, whether we really  
22 need one -- I mean, I don't know how many items there are,  
23 but at least with respect to the briefing and litigation,  
24 I've read the memo, I don't need any further briefing.

25 COMMISSIONER CROWLEY: No, I agree.

1           COMMISSIONER GANDARA: So, but there may be other  
2 items.

3           CHAIRMAN IMBRECHT: Well, I'm not --

4           COMMISSIONER GANDARA: I'm just trying to shorten  
5 the meeting.

6           CHAIRMAN IMBRECHT: I understand. Mr. Chamberlain,  
7 beyond the potential litigation, do you have other items to  
8 bring before us?

9           MR. CHAMBERLAIN: Well, I had four items, or  
10 three, I guess, that I was planning to bring up.

11          CHAIRMAN IMBRECHT: Can you describe them in  
12 general terms?

13          MR. CHAMBERLAIN: Yes, one relates to the  
14 Redwood Oil contract. One relates to the memo that I sent  
15 you regarding BPA nonfirm energy and I wanted to basically  
16 get your feedback on that memo. The third item related  
17 to briefing you with regard to the BPA 7K proceeding.  
18 Either of the last two, in fact all three of those items  
19 could probably be put over to the 28th if necessary. I  
20 understand from Mr. Ward that the agenda for that meeting  
21 may not be too bad.

22          But that's up to you. I just want you to know  
23 that I do need your feedback on those items.

24          CHAIRMAN IMBRECHT: I understand, but if you're  
25 not under time constraints at this juncture, it would be

1 my guess that all of us would like to have a little time  
2 at our desks before departures, and that type of thing.

3 COMMISSIONER SCHWEICKART: I have two items,  
4 personnel.

5 CHAIRMAN IMBRECHT: For executive session, all  
6 right.

7 COMMISSIONER COMMONS: And we have the OIR.

8 CHAIRMAN IMBRECHT: And we'll hear the OIR 2.

9 Well, --

10 COMMISSIONER COMMONS: Two o'clock sounds fine.

11 CHAIRMAN IMBRECHT: All right, 2:00 o'clock in  
12 my office.

13 MR. PEREZ: Chairman Imbrecht, if I could clarify  
14 one thing that's on the business meeting agenda for  
15 Thursday, June 28th. There is a motion filed by Mr. Pat  
16 Rogers on behalf of TIMCO. It may be continued between  
17 now and then due to the Committee's distribution of a  
18 proposed decision. So if you see that item getting  
19 continued, that's what has happened. Mr. Rogers is aware  
20 of this possibility, and has no problems with it.

21 CHAIRMAN IMBRECHT: All right, thank you very  
22 much. All right, executive session, my office at 2:00  
23 o'clock. The meeting will stand adjourned at the recess  
24 of the executive session.

25 (Thereupon the business meeting of the Energy  
Commission was adjourned at 1:20 p.m.)

## 1 REPORTER'S CERTIFICATE

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, June 20, 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 30th day of June, 1984.  
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