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STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

CALIF. ENERGY COMMISSION
AUG 13 1984
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BUSINESS MEETING

1516 Ninth Street
First Floor Hearing Room
Sacramento, California

Wednesday, August 1, 1984
10:00 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

STAFF PRESENT

- Kent Smith, Deputy Director
- John Chandley
- Steve Cohn
- Mike Jaske
- Jon Blee
- Bill Pennington
- Dick Ratliff
- Mike Sloss
- Cynthia Praul
- Ted Rauh
- Lorri Gervais, Secretary

PUBLIC ADVISOR'S OFFICE

- Ernesto Perez

ALSO PRESENT

- Mike Gardner, Southern California Edison Company
- Pat Fleming, San Diego Gas and Electric Company
- Robbie Bernstein, San Diego Gas and Electric Company
- Mike Cleano, Rigell Systems

- 1 Robert Ladine, R. C. Systems
- 2 Dana Battison, Efficient Electrical Products
- 3 Geoffrey Bales, Southern California Edison Company
- 4 Philip Weismehl, California Public Utilities Commission

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P R O C E E D I N G S

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3 CHAIRMAN IMBRECHT: Okay, will the meeting please
4 come to order. Commissioner Gandara, would you like to
5 lead us in the flag salute.

6 (Pledge of Allegiance.)

7 CHAIRMAN IMBRECHT: Okay, ladies and gentlemen, we
8 have not a long agenda in terms of a number of items, but
9 we have a couple of difficult issues to deal with today
10 and so we'll ask for forbearance and patience.

11 As a bit of housekeeping, we'll take up Item 3
12 first. Item 1, which is the Southern California Edison
13 Load Management, I believe at the request of SCE, will
14 be taken up as our first item upon reconvening after our
15 lunch recess. And then we'll go through the rest of the
16 agenda in order.

17 So, the first item before us today is the
18 Commission discussion, consideration and possible action
19 to secure utility compliance with CFM filing requirements.

20 Commissioner Commons, do you want to open this?

21 COMMISSIONER COMMONS: Yes, Mr. Chairman. At
22 our -- the Committee had a data adequacy and issues work-
23 shop with the utilities on the Electricity Report, and
24 we requested the utilities to do the following: For all
25 items that they intended not to comply with the Commission-

1 directed order on the CFM filings, that today would be
2 an opportunity for them to come before the Commission
3 and that they should submit to the Commission prior to
4 today letters as to those items they intended not to comply
5 with.

6 They were further given the opportunity, if
7 there were items that they intended to comply with, although
8 they thought that circumstances had changed, or they would
9 like to address the Commission on any of those items,
10 that this would also be the appropriate opportunity.

11 They were then further requested on those items
12 that they have not submitted but they intend to comply
13 with, to submit to the Committee to the docket letters
14 by tomorrow as to how they intend to comply with the remain-
15 ing items and what the scheduled dates are.

16 What I've given to the other Commissioners is
17 a summary of utility compliance with CFM filing requirements,
18 which is a staff-prepared document.

19 In terms of a general summary, because there's
20 a lot of detail in terms of this, and I think the only
21 items that we want to bring before the Commission today
22 are those items where I think the issues are substantial
23 and substantive.

24 First of all, in reviewing the letters that
25 we have received, I find no major issues that I would

1 find need to bring before the Commission from Pacific
2 Gas and Electric, from SMUD, and from LADWP.

3 Concerning Southern California Edison and San
4 Diego, both of whom have representatives here, there are
5 two or three sets of issues and they're somewhat related
6 and what I'd like to do is give you a report on where
7 we are on them and also ask if the respective representa-
8 tives from each of them would discuss these items.

9 First, in looking at Southern California Edison,
10 the major concern that I had was that the submittal from
11 the utility on the demand forms was not compatible with
12 the submittal on the resource plans.

13 In other words, when we looked at the number
14 of metagwatts and the number of gigawatts, we had one
15 set of information on the one and one set of information
16 for the other, and I believe Southern California Edison
17 has said that they are willing to make that consistent
18 and that they'll present information to us today on that.

19 The second area with Southern California Edison
20 was related in that there's a separate price documentation
21 or set of price information in the demand forms and in
22 the supply forms and I believe that this can be again
23 resolved at the Committee level and Mr. Gardner, I think,
24 will have some comments.

25 The third area is one of the more difficult

1 areas that we're going to go through in the proceeding,
2 and that is in the conservation area. The submittals
3 that have come in from staff and the utilities have an
4 enormous spread with some of the utilities forecasting
5 substantially more conservation than our staff and some
6 of the utilities forecasting substantially less conserva-
7 tion than our staff, and this is going to be, on the demand
8 side of the forecast, probably one of the most difficult
9 areas to pull together.

10 It's also the area that the Commission⁹ in the
11 CFM forms made the most exemptions for the utilities and
12 reduced the level of effort and staff in accord with our
13 own cutback in personyears here, and so a lot of the data
14 that is needed here in order for the Committee to bring
15 forth to the Commission a recommendation is not incorporated
16 or included in the staff forecast, because they were depend-
17 ent solely on the part of the utilities.

18 And what we're looking here, primarily the forms
19 91 and 92. In the area of Edison, Mr. Gardner and myself
20 have initiated discussions and we do not feel at this
21 time that this matter's ripe for the Commission and what
22 we would like is to look at this between now and the next
23 Commission meeting to see if we can resolve this, and
24 if it hasn't been resolved, we will bring it back to you
25 at that time.

1 Maybe before you go to San Diego, you'd like
2 to let Edison then discuss these areas.

3 CHAIRMAN IMBRECHT: That's fine. Mr. Gardner?

4 MR. GARDNER: Thank you, Mr. Chairman.

5 Mike Gardner representing Southern California Edison.

6 I think Commissioner Commons has very fairly
7 summarized where we sit in these issues. Let me briefly
8 go through them. With the difference in the supply and
9 demand forms, we can reconcile that fairly easily. What
10 would happen if the Commission were to adopt the forecast
11 we submitted, would be no change in our resource plan.
12 It would cause some additional oil and gas consumption
13 in existing units, but there would not be a resource plan
14 change, future resources added. And we can provide informa-
15 tion as to how that would happen.

16 With the difference in the price assumptions
17 in supply and demand forms, basically what happened in
18 the supply forms is we did simply make a price assump-
19 tion; it's not based on alternative resource plan and
20 that resulted in us not filing a form E-10. It seems
21 to me that the easiest way to deal with that is at the
22 price hearings which are scheduled for, I believe, the
23 17th, and --

24 COMMISSIONER COMMONS: 27th.

25 MR. GARDNER: 27th, okay, --

1 MR. COHN: 17th.

2 COMMISSIONER COMMONS: 17th, I'm sorry.

3 MR. GARDNER: Whichever date. We'll be there
4 with the people who can respond to that and explain why
5 we have the assumptions we do.

6 The level of conservation savings I would agree
7 with Commissioner Commons is something that we need to
8 see if we can work out between the Committee and the staff
9 and Edison. I'm optimistic that at a minimum we can sub-
10 stantially narrow the issues, and if there's anything
11 that needs to be brought back to the Commission, it can
12 be tightly drawn so that the Commission can more readily
13 deal with it.

14 COMMISSIONER COMMONS: Mr. Chairman, on the
15 demand and supply forms, it is my understanding that it
16 is the Commission's wish that the two filings be consistent,
17 one with the other, and I don't see a need, at this time,
18 to request an order from the Commission, because I think
19 that's incorporated within the CFM order that we had and
20 I think we've heard Edison say they intend to submit that
21 to make it consistent.

22 I just want to clarify that for the record.

23 CHAIRMAN IMBRECHT: That's fine. Is there any
24 objection to accepting Committee's recommendations?

25 Hearing none, that'll be-- Commissioner Gandara?

1 COMMISSIONER GANDARA: Yes, I had a question
2 for Mr. Jaske, if we could, before Mr. Gardner leaves.
3 I guess what would be helpful, Dr. Jaske, would be if
4 you would just refresh the Commission's understanding
5 of how the data that is supplied on these forms is used
6 by the staff and by the Committee and the reliance there-
7 upon by the Commission. I think it would be valuable
8 to get an understanding.

9 DR. JASKE: Fine, thank you. Mike Jaske, Assess-
10 ments Division.

11 The process establishing the forms and instruc-
12 tions for this cycle which was completed last August was
13 one which wanted to focus more than in previous cycles
14 on conservation and particularly upon conservation program
15 savings, because it was felt by the staff, as well as
16 the Committee, Commissioner Gandara in particular, that
17 it was programs that embodied policy decisions that we
18 could get a handle on future savings.

19 So, the forms were organized to very explicitly
20 enumerate programs. We had several cycles getting infor-
21 mation from utilities about their current programs and
22 what they expected programs to be so that the forms
23 accurately enumerated those programs, and then in the
24 modification process, difficulties with quantifying
25 individual programs were brought forward, and the Committee

1 allowed utilities to do various kinds of groupings and
2 make certain modifications to the original forms, but
3 with the thrust of -- the intent was still to get detailed
4 information that could allow the quantification of individual
5 programs or groups of programs to be understood and assessed.

6 Staff made its plans to prepare its forecast
7 accordingly and so the material which we docketed June 1st
8 of this year does not include estimates of conservation
9 programs which are solely utility-sponsored, and for which
10 effectively Commission staff does not monitor and does
11 not have information to readily determine future savings,
12 and our plan was that through the review of utility sub-
13 mittals, as well as the hearing process, that we would
14 learn enough about those class of programs that we could
15 come up with a staff estimate of appropriate amount of
16 savings associated with those programs and that as part
17 of the scheduled revision of forecasts due November 1st,
18 that we would incorporate such savings into our revised
19 forecast.

20 What we have now from the utilities, unfortunately,
21 is filings which certain cases very badly missed the mark
22 of what was required, other cases approach what was required,
23 and so that we're not able to proceed to implement that
24 plan, namely to review utility program estimates to deter-
25 mine what, in fact, is compatible with our own forecast,

1 and revise our forecast.

2 So, from the staff's perspective, we think it's
3 very critical to get this information, and most of the
4 utilities, as the result of our data adequacy hearings,
5 seem to be prepared to supply additional information.
6 Hopefully that will be sufficient.

7 COMMISSIONER GANDARA: Thank you, Dr. Jaske.
8 I thought that would be useful review for the Commission,
9 because where we left this item in the last year or two
10 years ago when we did the forecast was, as Dr. Jaske
11 indicated, there was a situation where the utilities
12 asserted certain levels of penetration or achievement
13 for utility programs and staff did the same thing for
14 those programs which the Commission had initiated. And,
15 the issue was that the Committee then directed staff to,
16 in fact, incorporate utility conservation estimates of
17 their programs, and likewise, directed utilities to do
18 a better job of trying to quantify the Energy Commission
19 programs.

20 I think that history's very useful, because
21 what we have here is basically a situation in which the
22 Commission and the Committee -- the Commission basically
23 directed this, so the staff is trying to fulfill this
24 effort, and I think the current Committee is trying to
25 fulfill this effort, and it was something that I think

1 the utilities also very much were insisting the
2 Committee do.

3 All that is very useful background, because
4 from my point of view, I was not here for the first three
5 forecasts. I was here for the fourth forecast. I was
6 familiar, most familiar with the third and the fourth,
7 and what we have had, over time, is a situation where
8 the Commission and the utilities have departed from more
9 legalistic and contentious atmosphere of presenting fore-
10 casts and cross-examination and so forth, that in a sense,
11 might have worked for that period of time, but as we got
12 to work together, I think that in BR-III Commissioner Walker
13 was desirous of moving away from that model and getting
14 more direct testimony from the experts.

15 In the Electricity-IV process, the BR-IV process,
16 the Committee was likewise desirous of trying to diminish
17 that kind of examination or contention and to deal more
18 directly with the data and the issues.

19 So, that what we have here is a cooperative
20 effort that is highly dependent upon both parties satis-
21 fying each others' needs.

22 It does seem to me that if we wish to continue
23 on this -- in this mode, in this model of trying to deal
24 with how we arrive at a forecast, that it's most productive
25 for us to, in fact, you know, supply this data and to

1 use this data in this form, otherwise, I'm afraid the
2 situation is going to deteriorate to where it once used
3 to be of having lawyers adjudicate the forecast, examine
4 each other's witnesses, and so forth, than where we are
5 now.

6 I think it's in everybody's interest to do that.
7 In this instance, I thought it would be useful to go through
8 that kind of background because without the kind of involve-
9 ment that comes from having to sit through these hearings,
10 sometimes it's difficult to perhaps fully appreciate the
11 success of the effort depends on this cooperative process
12 and that I'd be the last one to say that it has worked
13 perfectly all the time, but on the other hand, I think
14 it works better than to have a list of interrogatories
15 and have a situation where we're going to have to be dealing
16 with all sorts of emotions and the kinds of things that
17 I think that we probably would stand benefit most if we
18 continued in the direction that we're headed now.

19 So, with that, -- let me -- I know you're the
20 first one up, Mr. Gardner. My words are not directed
21 simply at you. I think they're directed to the other
22 parties that are here that I think, in my view, there's
23 sincere desire in the Commission to try and adjudicate
24 a forecast without having to be contentious about it,
25 and that that depends, I think, on everybody's cooperation,

1 and I know everybody's trying and there's limitations
2 on what everybody on the receiving end, as well as the
3 sending end, but to -- since Commissioner Commons won't
4 say it, since he's in the midst of the process, I'll say
5 it, since I was in the process last time, that the
6 Committee depends on that, because the Committee is in
7 a position, also, to some extent, of having to review
8 independently the staff's, as well as your submittals,
9 and so with that, that becomes most difficult.

10 So, let me urge my, you know, at least my feelings
11 on the other participants in this process. I know there
12 are the utilities, but I thought it would be useful to
13 get the review from Dr. Jaske as to what this data is
14 used for and where it's coming from and that the effort
15 that is ongoing is frankly, again, a direction that came
16 out of the Commission last time.

17 CHAIRMAN IMBRECHT: Commissioner Commons.

18 COMMISSIONER COMMONS: Mr. Chairman, this item
19 essentially comes from the staff. One of the reasons
20 I wanted to agendize it is I know one of your concerns
21 is the schedule and how we want to make sure that we are
22 able to have an Electricity Report out so we can have
23 the Biennial Report out, and I would be remiss if I weren't
24 to inform you one of the reasons that, since staff has
25 raised this issue within the Committee, is they are

1 concerned that unless we get this data that they're not
2 going to be able to do their work within the schedule
3 that has been set, and that's really the elephant that's
4 within this document. That's the basis of their concern,
5 not only the fact that they can't do the forecast without
6 the data, but that the schedule will slip, and part of
7 this we can take care of on the Committee and that's something
8 that will have to be addressed within the Committee mostly,
9 but I just wanted you to have that background as --

10 CHAIRMAN IMBRECHT: All right, appreciate --

11 COMMISSIONER COMMONS: --to why --

12 CHAIRMAN IMBRECHT: --that. I guess -- are
13 there open issues with respect to Southern California?

14 COMMISSIONER COMMONS: We can move on to San Diego.

15 CHAIRMAN IMBRECHT: Thank you, Mr. Gardner.

16 MR. GARDNER: Thank you.

17 COMMISSIONER COMMONS: Concerning San Diego
18 Gas and Electric, the first issue is similar which was
19 a major inconsistency between the demand submittal and
20 the resource plan and in the case of San Diego, the differ-
21 ence was not as much in terms of gigawatts or energy,
22 but rather in terms of the number of megawatts which is
23 an element of the resource plan, and I believe San Diego
24 Gas & Electric has agreed to revise its resource plan
25 so that the two are compatible and that Pat Fleming is

1 here to address that issue today.

2 The second area where there were significant
3 discussions on going were in the area of the conservation
4 forms, particularly forms 92A and forms 92B, and I believe
5 San Diego Gas & Electric would like to make a presentation
6 on those forms and then I'd like to ask Mike Jaske to
7 present staff's viewpoint.

8 MS. FLEMING: Good morning, Commissioners. For
9 the record, I'm Patricia Fleming, representing San Diego
10 Gas & Electric.

11 With me today is Ms. Robbie Bernstein, who is
12 our energy management support services supervisor and
13 also in the audience is Mr. Dave Schultz, who will be
14 primarily responsible for the conservation area of the
15 CFM.

16 What we would like to reiterate this morning
17 is that we do have the strong intention of cooperating
18 and working with the staff at the Energy Commission in
19 resolving some of these differences and misunderstandings
20 and understanding the information and where we're coming
21 from, as far as reasonably expected to occur. With that,
22 for a more detailed explanation, I think I'll turn the
23 microphone over to Ms. Bernstein.

24 MS. BERNSTEIN: Thank you. Commissioners, we
25 have looked at the forms and we did submit our letter last

1 week regarding those forms and the inadequacy statements.
2 We, as far as the form 92, we feel that we can work with
3 the staff and complete that information. We would like
4 to provide that information, we're looking at towards
5 the end of August to submit the completion of those forms.

6 By the way, we did submit the forms and felt
7 that we were in compliance, but after the forms were sub-
8 mitted, there evidently was some information that the
9 staff felt that we needed to add and we will be doing
10 that, and hopefully be doing that by the end of the month.

11 Form 92B, which addressed the conservation poten-
12 tial, we still feel very strongly that the exact detail
13 on conservation potential per in use at this time is not
14 available at San Diego Gas & Electric Company.

15 Thank you.

16 COMMISSIONER COMMONS: One thing, Mr. Chairman,
17 on San Diego, I think it should be noted for the record
18 that they were the only utility to have submitted their
19 forms, both on the demand and supply plans, on time, and
20 the Committee appreciates that.

21 CHAIRMAN IMBRECHT: Okay. Thank you. It will
22 be noted for the record.

23 COMMISSIONER COMMONS: Pat, could you address
24 the demand/supply issue, please?

25 MS. FLEMING: Well, you're pointing out one of

1 the problems in submitting both on time is that our resource
2 planning people submitted the resource plan based on an
3 updated CFM-IV, not on the CFM-V. We have, in conversations
4 with the staff and the Commissioner, have agreed to adjust
5 that resource plan to take into account the differences
6 in megawatts that are shown in the forecasts and we intend
7 to do that.

8 COMMISSIONER COMMONS: Mike, did you want to
9 comment on the conservation forms?

10 DR. JASKE: I'm pleased to hear a specific date
11 that they're going to try to get the 92A forms to us, and
12 although that's beginning to be rather late, I think we
13 can still live with that.

14 COMMISSIONER GANDARA: I had one question. I
15 recall that when we were going through this for the Elec-
16 tricity Report-IV, that at that time you also were not
17 supplying the conservation forms. The reason, at that
18 point in time, also had to do with the fact that you had
19 a major study underway contracted to A.D. Little and the
20 expectation early August that would be somewhat finished
21 by June, it was not, and at the end, it really affected
22 your submittal.

23 I would presume that that A.D.L. work was then
24 completed later that year and would therefore be available
25 to form a basis for your submittal now. I guess I don't

1 understand exactly why you are having the problem you
2 have here in conservation.

3 MS. BERNSTEIN: Yes, we did have the Arthur D.
4 Little Study completed, and the Arthur D. Little Study
5 outcome was that San Diego Gas & Electric should not pursue
6 the conservation area and aggressively pursue load manage-
7 ment. It was basically a financial impact study. It
8 did provide a potential, but the potential was addressed
9 in an aggregate form and was not by specific end-use.

10 There is data in the Arthur D. Little that we
11 could review and see if there is some type of information,
12 but we have problems at San Diego Gas & Electric as time
13 goes on, in developing new and better information that
14 we find out that previous estimates are sometimes incorrect
15 and with Arthur D. Little there were several assumptions
16 that were made that would be changed at this time.

17 But, we can provide some of the information,
18 but we still would not want to provide it in the form
19 92B that addresses our conservation potential.

20 COMMISSIONER GANDARA: You say you would not
21 want to?

22 MS. BERNSTEIN: We can provide the information,
23 but we would not want to, as in compliance with form 92B.
24 We could supply the information that was in the Arthur
25 D. Little Study, but we would not want to submit it as

1 compliance with form 92B.

2 COMMISSIONER GANDARA: When you say you would
3 not want to, is there a difference between not wanting
4 to and not being able to?

5 MS. BERNSTEIN: We are concerned with the estimates
6 that are provided in the Arthur D. Little Study and what
7 SDG&E feels as inadequate data to provide potential for
8 conservation by end-use, and that is what is being requested
9 in CFM-V.

10 COMMISSIONER GANDARA: So, you're saying that
11 your filling out 92B somehow presumes a validity to
12 those numbers beyond which you're willing to endorse
13 and prefer not to --

14 MS. BERNSTEIN: That is correct.

15 I did want to add that we are trying to develop
16 accurate estimates of the conservation potential and we
17 are working with staff and as those become available,
18 we do want to supply them to the staff, but we do not
19 have them at this time.

20 We are also getting ready to file our 1986 NOI
21 and in that NOI we have submitted funds for further research,
22 not only in this area.

23 COMMISSIONER GANDARA: From my point of view,
24 I'm sure that the Commission and the staff would appreciate
25 more those conservation estimates which you do believe

1 in rather than those which you may have some concerns
2 about. I'm not quite so sure, you know, whether they're
3 on 92B or whether they're on some other really makes a
4 lot of difference. If those numbers you do believe in
5 could be put in such a way that is commonly used by the
6 other utilities for a comparison basis and for the staff,
7 I don't see the problem. But, I would leave that in the
8 Committee's hands. I don't think we can take it any further
9 here, but it does seem to me that it should be an issue
10 whether there's some imputed significance of the form
11 beyond which the Committee, itself, may give it.

12 CHAIRMAN IMBRECHT: Commissioner Commons.

13 COMMISSIONER COMMONS: The Committee is not
14 requesting any order or motion at this time, Mr. Chairman.

15 CHAIRMAN IMBRECHT: All right.

16 Thank you very much for your presentation. We
17 appreciate your appearance.

18 Ms. Fleming, root us on to vistory this afternoon,
19 okay?

20 MS. FLEMING: Oh, well, let me say I thank you
21 for hearing me first. It's an opportunity of a lifetime.

22 CHAIRMAN IMBRECHT: Ms. Fleming is attending
23 the Olympics this afternoon, I understand, and asked for
24 our consideration.

25 (Agenda Item No. 2 under separate cover.)

A F T E R N O O N S E S S I O N

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1 CHAIRMAN IMBRECHT: We'll reconvene the meeting.

2 (Agenda Item No. 2, under separate cover.)

3 CHAIRMAN IMBRECHT: Now we'll move on to Item
4 No. 1, which was Commission consideration and possible
5 adoption of a final order in the matter of Southern California
6 Edison in its load management--

7 COMMISSIONER COMMONS: SCE is not ready.

8 CHAIRMAN IMBRECHT: You're not ready yet, okay.
9 All right, fine. We'll pass on that order -- that item,
10 excuse me.

11 Item No. 4, Commission consideration and possible
12 adoption of proposed amendments to various sections of
13 the nonresidential building standards and the negative
14 declaration and notice of exemption prepared pursuant
15 to CEQA for those amendments.

16 Commissioner Schweickart, Item No. 4.

17 (Asides.)

18 COMMISSIONER SCHWEICKART: Oh, I must have missed
19 something. What happened to Edison?

20 COMMISSIONER COMMONS: We just voted on that.

21 (Laughter.)

22 CHAIRMAN IMBRECHT: They're asking for further
23 delay.
24
25

1 COMMISSIONER SCHWEICKART: Oh, I see. I forgot
2 all about voting for that. All right.

3 (Laughter.)

4 COMMISSIONER SCHWEICKART: On Item No. 4, these
5 matters are brought before the Commission, pardon me for
6 not having the dates, but it was, frankly, quite some
7 time ago. They were matters which were not, at the time,
8 apparently controversial. The Committee directed the
9 staff to proceed with them within its existing work plans
10 and as a result it has taken a bit of time. Nevertheless,
11 the notice was filed, the proposed regulations or amend-
12 ments published pursuant to OAL procedure. It is my under-
13 standing that no comments were received by any parties
14 nor, to our knowledge, is there anyone here today to address
15 these matters and I therefore move the proposed amendments
16 to the regulations contained within the proposed order.

17 CHAIRMAN IMBRECHT: The proposed amendment's
18 move by Commissioner Schweickart, seconded by Commissioner
19 Crowley of the Committee.

20 Let me ask, try to short-circuit this a bit,
21 is there anyone here that wishes to testify on this item,
22 either in support or opposition?

23 Hearing none, I have only one question and I
24 note with some irony here that we are now adopting utiliza-
25 tion of occupancy sensors, is that accurate? I'm trying

1 to put this in context with the previous discussions we
2 had. Somebody want to answer that for me?

3 We're saying occupancy sensory in lieu of lighting
4 standards for nonresidential--

5 MR. BLEES: No, no. The current nonresidential
6 building standards mandate the use of dual circuits and
7 dual switches in most large rooms or areas in nonresidential
8 buildings.

9 CHAIRMAN IMBRECHT: So that a master switch
10 can turn off all the lights--

11 MR. BLEES: They also allow, as -- excuse me?

12 CHAIRMAN IMBRECHT: So that a master switch
13 can turn off a lot of lights, is that the purpose?

14 MR. BLEES: No. The idea is that you can --
15 so, they're dual circuits and dual switches so that you
16 can reduce the lighting level by--

17 CHAIRMAN IMBRECHT: Oh, I see.

18 MR. BLEES: --by half when you don't need a
19 lot of light.

20 CHAIRMAN IMBRECHT: Like we have in our conference
21 rooms?

22 MR. BLEES: Right.

23 The standards also allow, as an alternative
24 to this dual circuit dual switching requirement, the use
25 of ultrasonic occupancy sensors. This was an amendment

1 that the Commission adopted about two years ago, to the
2 standards.

3 What's before you today, half of what's before
4 you today is a further amendment that would give to micro-
5 wave occupancy sensors the same treatment as is currently
6 given to ultrasonic occupancy sensors.

7 So, now there will be two different types of
8 occupancy sensors that can be used.

9 CHAIRMAN IMBRECHT: Okay. Not a very intelligent
10 question on my part.

11 MR. BLEES: Mr. Chairman, I also have a suggestion
12 to add to the order, and that is that you delegate, in
13 the order, to the Building Conservation Committee, as
14 you've done in the past, the authority to take these standards
15 to the State Building Standards Commission and to agree
16 on behalf of the Commission to any nonsubstantive changes
17 that the SBSC requires.

18 CHAIRMAN IMBRECHT: To conform with their --

19 MR. BLEES: Format, or other --

20 CHAIRMAN IMBRECHT: --their format and so forth,
21 sure.

22 MR. BLEES: --requirements, right.

23 CHAIRMAN IMBRECHT: All right, fine. That's
24 the amendment moved by Commissioner Schweickart, --

25 COMMISSIONER SCHWEICKART: I'll move--

1 CHAIRMAN IMBRECHT: --seconded by Commissioner
2 Crowley that delegation be given to the Building and Conser-
3 vation Committee.

4 Okay, is there objection to adoption of the
5 amendment?

6 COMMISSIONER GANDARA: Discussion?

7 CHAIRMAN IMBRECHT: Yes, Commissioner Gandara.

8 COMMISSIONER GANDARA: I have a question and
9 I do have a concern with the --

10 CHAIRMAN IMBRECHT: On this amendment, this
11 delegation?

12 COMMISSIONER GANDARA: No.

13 CHAIRMAN IMBRECHT: Okay. There's no objection
14 to adoption of the amendment. Ayes five, noes none.

15 Now, discussion on the main motion, as amended.

16 COMMISSIONER GANDARA: I do have a question
17 on the level of the radiation in -- as I understand it
18 here, it says "does not emit radiation in excess of 1
19 milliWatt per square centimeter. I read the rest of the
20 materials and basically, it appears to me that the level
21 of 1 milliWatt persquare centimeter was based on the testing
22 level or the level recommended conduction of the microwave,
23 home microwave system, and I do have a concern in that
24 it does appear to me that most of the environmental impact
25 analysis is based on the thermal effect of microwave

1 radiation and there does seem to be an unsettled issue,
2 really, as to whether there are also behavioral aspects
3 or behavioral effects of a low microwave radiation, and
4 in light of the fact that the -- it is indicated here
5 that the device will not emit anything greater than --
6 that the typical emission is .1 mW per square centimeter.
7 and that its maximum would be .15.

8 I don't quite understand why the same level
9 was chosen of one mW, as opposed to -- that's seven
10 times greater than the maximum amount that's indicated
11 in the device, and since we are uncertain in this area
12 that certainly the device could be permitted, essentially
13 a decision could be rendered which would permit the device
14 if we were to set that level at .2, let's say, which,
15 from the information supplied here, it is indicated that
16 that may be a recommendation from the Environmental Protective
17 Agency, so that I would frankly prefer that that one mW
18 per square centimeter, instead be changed to .2. I would
19 so make a proposal for an amendment unless it's explained
20 to me why the 1 is proposed.

21 There seems to me a distinctive difference here
22 between a, as I would understand it, unless I'm mistaken,
23 that these microwave sensors would be continuously emitting,
24 that is, to be able to sense whether somebody is in or
25 out of the room, versus the situation of a microwave that

1 is on for selected periods of time.

2 So, with the sense that we don't know what the
3 cumulative effects of low level microwave radiation might
4 be, why not just set that standard in such a standard
5 if it permits a device, but no greater than that.

6 COMMISSIONER SCHWEICKART: Commissioner Gandara,
7 it would help me in following this if you would specifically
8 refer to a page or a line or a paragraph.

9 COMMISSIONER GANDARA: If you would go to page 2
10 of express terms, proposed amendments and issue of statement
11 of reasons, and Item C2. If you have found that page,
12 it current says: Does not emit radiation in excess of
13 1mW per square centimeter.

14 Now, then if you would also now turn to page 15
15 of the -- I guess this must be page 15 of the initial
16 study. And page 15 indicates, in the third paragraph
17 from the top, that a member of EPA staff recently published
18 a review article recommending exposure limit of approximately
19 .2 mW per square centimeter for the frequency range of
20 30 to 300 MHz and the following paragraph indicates that
21 for this device, the power density that is typical is
22 .1mW, and the maximum is .15mW, and on table 2, the World
23 Health Organization indicates a range in standards and
24 guidance for exposure to microwave radiation.

25 Now, what I am proposing here, what I'm saying

1 is that the decision by the Committee would not be affected,
2 nor would it affect this particular device or devices
3 that would emit in this power density range, but that
4 as currently proposed, it would permit devices, or would
5 permit a level of seven times, almost seven times what
6 that which this device has.

7 So, from my point of view, I would say let's
8 err on the side of having as low a contribution to the
9 cumulative microwave radiation surrounding us and let's
10 set that at .2, rather than 1.0.

11 COMMISSIONER SCHWEICKART: My only question
12 at this point. I certainly have no substantive argument
13 with it. My only question, I gather -- I think would
14 be in terms of legally whether there is any or would be
15 any effect of such a modification this time.

16 MR. BLEES: Well, one effect would be we would
17 have to put out 15-day language.

18 COMMISSIONER CROWLEY: I didn't understand what
19 you said.

20 MR. BLEES: I'm sorry. In order to adopt the
21 change that Commissioner Gandara is proposing, the Commission
22 could not take final action on this item today, but would
23 have to publish the proposed regulations again with the
24 change suggested by Commissioner Gandara and at least
25 15 days in advance of the time that you did take final action.

1 COMMISSIONER CROWLEY: You did say originally
2 we could not act on this today, is that correct?

3 MR. BLEES: If you --

4 COMMISSIONER CROWLEY: Accept the modification--

5 MR. BLEES: --accept Commissioner Gandara's
6 modification. Actually, you could act on that part of
7 what's before you today that deals with flow restrictors
8 in public lavatories, but you could not act on the microwave
9 issue.

10 CHAIRMAN IMBRECHT: I believe there's a gentleman
11 in the audience that wishes to testify on this matter.
12 If you would like to come forward and state your name
13 for the record, please.

14 MR. CLEANO: My name is Mike Cleano. I work
15 for Rigell Systems. We manufacture these -- would potentially
16 manufacture these items. If you read a little bit further
17 on page 2 there, under the express terms of the proposed
18 amendments, it says: Does not emit radiation in excess
19 of 1mW per square centimeter, measured at no more than
20 5 centimeters on the emission surface of the device.

21 That's a very key thing, because 5 centimeters
22 is slightly less than two and a half inches, very close
23 to these little devices, which are going to be mounted
24 up in the corners of the rooms, above the ceiling tiles
25 and so forth.

1 Further on it's recommended that there be a
2 caution on the devices that says that cautions that they
3 be monitored at least 12 inches away from any occupants
4 in the room.

5 Your reference on page 15, back here, does not
6 talk about how far away from people this radiation is.

7 On page 17 is a little graph that shows the
8 effect of that. It drops off markedly if you move as
9 far away as six inches, or a foot away. We're still well,
10 well within the emissions guidelines. I mean it's orders
11 of magnitude difference when you drop out --

12 COMMISSIONER GANDARA: I understand all of that.
13 I understand all of that, you know, I guess my question
14 is do you object to that being .2 rather than 1, and if
15 so, why, if your product would be--

16 MR. CLEANO: Okay, at this point, the only reason
17 I object to that is because we've been trying to get this
18 thing in since 1983 and now if we don't get it in this
19 month, it won't get in 1985's building code at all, so
20 we're into '86--

21 COMMISSIONER GANDARA: It'll get in this month.
22 We have a 15-day notice. So, if that's your only objection,
23 there's -- you know, it can be overcome.

24 MR. CLEANO: As long as it still reads .5cm
25 away and so on, and none of the other parameters are changed,

1 I guess we don't have any other objection beyond that.

2 But, you have to realize that we're still way,
3 far, far below any emission requirements at all--

4 COMMISSIONER GANDARA: I understand that, and
5 I did--

6 MR. CLEANO: -- and you're --

7 COMMISSIONER GANDARA: I understand that and
8 I understand the chart and understand all that. All I'm
9 saying is that things would be unaffected here and that
10 we would just have, you know, whatever -- we would have
11 a lower background microwave radiation. Now, granted
12 even though it drops off tremendously, if we change that
13 from 1 to .2, you know, it'll be even lower. And that's --

14 MR. CLEANO: Well, that's true, but then we've
15 cut back on the microwave ovens and all the other things
16 out there that are emitting ten times or a hundred times
17 as much.

18 COMMISSIONER GANDARA: Maybe we should, as a --

19 MR. CLEANO: Yes.

20 CHAIRMAN IMBRECHT: Okay, Commissioner Commons.

21 COMMISSIONER COMMONS: Just a procedural comment,
22 Mr. Chairman. We do have a special briefing for the
23 Commission, so we have a business meeting on two weeks
24 from Thursday, which would be within that 15-day period,
25 and I would think you'd have the authority, as Chairman,

1 if you wanted to, to incorporate that on that day and
2 accomplish his objective if the Commission so wanted to
3 accept that amendment.

4 COMMISSIONER CROWLEY: Two weeks from tomorrow?

5 COMMISSIONER COMMONS: Yes, that would make
6 15 days, rather than putting it to September.

7 MR. CLEANO: Could I have some clarification
8 on what we're dropping it to now? We're dropping it to .2?
9 From 1 to .2 mW per square centimeter?

10 COMMISSIONER GANDARA: That would be my proposed
11 amendment.

12 CHAIRMAN IMBRECHT: That would be duly noticed
13 and subject to discussion and any objection you care to
14 render at the next business meeting.

15 I think Commissioner Commons is accurate in
16 suggesting we can notice it for two weeks from--

17 MR. CLEANO: I'll have to go back to our engineers,
18 I guess, and see if that's workable. These are very pre-
19 liminary studies that came up with the .1 to .15. So,
20 I'm not absolutely certain that's --

21 CHAIRMAN IMBRECHT: All right, then, without
22 objection I'm going to suggest that we bifurcate these
23 issues and deal with the question of temperature and flow
24 of hot water in lavatories and public restrooms, and I'll
25 direct you, Mr. Smith, to see to it that the second portion

1 of this item is calendared for that session two weeks
2 from tomorrow.

3 DEPUTY DIRECTOR SMITH: Yes, we'll do that.

4 CHAIRMAN IMBRECHT: All right, fine.

5 MR. BLEES: Four weeks from today. It's --

6 CHAIRMAN IMBRECHT: No, no, no, no. We have
7 a business meeting for discussion purposes and we're not
8 going to take ordinary business items, but this one we'll
9 make an exception.

10 COMMISSIONER CROWLEY: That's the 16th.

11 MR. BLEES: Well, I think, -- is it two weeks
12 from today?

13 CHAIRMAN IMBRECHT: No, from tomorrow.

14 COMMISSIONER CROWLEY: From tomorrow.

15 MR. BLEES: Excuse me.

16 COMMISSIONER SCHWEICKART: Mr. Blees, does that
17 permit time to refile with OAL and whatever else has to
18 be done?

19 MR. BLEES: I'm not sure that it can be, but
20 we will certainly try.

21 MR. CHANDLEY: We don't have to refile with
22 OAL. All we have to do is make available the actual text,
23 as it is revised, and it has to be made available to the
24 public 15 days in advance of the adoption date. So, provided
25 we crank it out this afternoon and make it available tomorrow,

1 we just slip in, sort of.

2 CHAIRMAN IMBRECHT: Okay. All right, fine.

3 Commissioner Schweickart moves and Commissioner
4 Crowley seconds that second portion of their motion regarding
5 occupancy sensors be deleted from the motion.

6 COMMISSIONER SCHWEICKART: Well, --

7 CHAIRMAN IMBRECHT: Without objection that will
8 be the order, therefore the motion, as now before us,
9 is an adoption of the new regulations for nonresidential
10 standards relative to flow and temperature of hot water
11 in lavatories and public facilities.

12 Does anyone wish to be heard on that item?

13 Is there objection to unanimous roll call?

14 Hearing none, ayes five, noes none. The new
15 regulations for flow and temperature of hot water in lava-
16 tories and public facilities, restrooms, has been adopted.

17 Okay, the next item on the Commission agenda--
18 are we ready for SCE yet?

19 COMMISSIONER COMMONS: I have a note that they're
20 ready, but I don't have a copy and none of the Commissioners
21 have a copy--

22 CHAIRMAN IMBRECHT: And I don't see any of the
23 SCE people.

24 COMMISSIONER COMMONS: I would like to give
25 the courtesy to the other Commissioners, the opportunity

1 to read it. So maybe we'll do it at our executive session
2 or something.

3 CHAIRMAN IMBRECHT: Well, we've got another
4 long item ahead of us, so let's get started on that.

5 Item 5 is Commission consideration and possible
6 acceptance of two petitions for rulemaking filed by
7 Mr. Robert Ladine of R.C. Systems seeking amendment of
8 the energy efficiency standards for new buildings.

9 The first petition requests a change in
10 § 2-5351(c)(7) or for allowance of the residential building
11 standards the use of radiant heating systems and also
12 reference and inclusion of radiant heating systems in
13 the alternative component packages.

14 The second petition requests a similar change
15 in the nonresidential building standards.

16 Commissioner Schweickart, Presiding Member
17 of this will present the Committee's recommendation.

18 COMMISSIONER SCHWEICKART: Mr. Chairman, this
19 matter before us was brought before the Committee on sub-
20 mission of the petition by Mr. Ladine, and I would simply
21 introduce this issue by saying that this has a long and
22 not terribly rosy history to it which I'm sure Mr. Ladine
23 will concur in, in arriving at this point.

24 And I believe that the staff background informa-
25 tion gives a brief, but nevertheless broad background

1 on this matter and I will not go into that.

2 Nevertheless, there are issues before us relevant
3 to this matter which I would like to bring to the
4 Commission's attention and then propose a motion so that
5 the Commission has something from which to operate.

6 Let me say first that one thing which we have
7 had great difficulty in getting to in this matter over
8 the years has been, if you will, the substance of the
9 technology which is represented in the petition before
10 us by Mr. Ladine, and when I say getting to the substance
11 of it, what I mean by that is the analytic process by
12 which equitable treatment can be given to this and other
13 technologies with which it may, and at some point, will
14 presumably compete.

15 And it is, in fact, careful and deliberate
16 analysis with integrity which protects the citizens of
17 the state, various technologies which compete against
18 one another, and ultimately the whole integrity of the
19 regulatory process. And I state that because it is not
20 the desire for technology to be employed or its attractive-
21 ness from a number of different approaches or a number
22 of its characteristics, but rather it is the analytic
23 basis which allows the Commission to weigh the proper
24 weighting of -- and rating of various technologies which
25 will compete within the marketplace to provide, in this

1 instance, comfort within residential and nonresidential
2 dwellings.

3 And that has been the very difficult element
4 of this technology. At this point, I would personally
5 characterize the situation as being one of while under-
6 standing conceptually many of the attractive features
7 of radiant heating, of infrared radiant heating, not just
8 the particular technology which Mr. Ladine, or at least
9 the particular brand or manufacturer which Mr. Ladine
10 represents, but generically, this type of heating methodology,
11 that while this heating concept has many attractive features
12 to it, and in all likelihood is effective and competitive
13 in the sense of cost effectiveness and energy consumption
14 with other technologies in certain applications, we have
15 to date no method by which to analyze, in fact, or discrimi-
16 nate, in fact, its efficacy in one versus another situation,
17 or no basis on which today to rate quantitatively this
18 technology versus some other in any particular application.

19 That situation is currently in the process
20 of being remedied and that's a little bit like the government
21 saying, "We're here to help you." And Mr. Ladine has
22 played that game for quite awhile, as have many people,
23 all of us in the room, probably. Nevertheless, as a result
24 of workshops held in February of this year on this subject,
25 for the first time, to my knowledge, an analytic methodology

1 is in development at the moment. That proceeding is under-
2 way. It is contained within the work plans of the staff.
3 And it will reach or should reach fruition within a period
4 of about six months at which time the Commission will
5 be presented a calculation methodology for certification.

6 Let me let that statement stand for a moment,
7 by way of introduction, and let me introduce one other:

8 Another issue fundamental to the technology
9 which we are dealing with here in this petition is --
10 and the ability of the technology, certainly not the neces-
11 sity of its use in this mode, but the amenability of the
12 technology to be used in a zonal controlled situation,
13 that is, again the particular technology Mr. Ladine is
14 presenting is electrically driven and can therefore be
15 switched on and off in various elements of a dwelling
16 or a nonresidential building and not necessarily have the
17 whole structure on at one time.

18 Therefore, an element of the potential energy
19 benefits of this technology and, I should say, other zonal
20 technologies, other nonducted systems, ductless systems,
21 including, for that matter, electric resistance heating,
22 is wrapped up in the concept of zonal control and regulation.

23 This has been identified by the Commission
24 and the staff directed to conduct workshops and to develop,
25 analyze and develop regulatory methods for handling zonal

1 control given the emerging control technologies and smart
2 thermostats, et cetera, and electronic control techniques,
3 and systems which are amenable to zonal application.

4 Clearly, there are potential energy savings
5 there and there are, at the same time, many open issues.

6 That activity was directed on the part of the
7 staff by the Commission in dealing recently with the Daikin
8 heat pump petition and the Williams furnace petition,
9 both of which, again, are zonal applications of heating
10 and cooling systems -- or heating systems.

11 With these two things in mind, then, I am recom-
12 mending that it is frankly inappropriate notwithstanding
13 the end appropriateness of this petition. That it is
14 inappropriate for the Commission to deal with this at
15 this time.

16 While, at the same time, I believe that the
17 activity is clearly underway and that the petition will
18 be ripe at the time at which those activities which are
19 underway are concluded.

20 Now, let me make the motion and then explain
21 what my position is, and I think -- I would like the
22 Commission to pay close attention because this is -- I
23 want to state it very carefully what the basis of my recom-
24 mendation is.

25 I therefore move to deny the petition without

1 prejudice and to direct the staff to develop, within six
2 months from today, an analytical methodology for evaluating
3 the performance of radiant heating systems. Upon certifica-
4 tion of this methodology by the Energy Commission, the
5 Commission will, on its own motion, move this petition
6 at its February 6, 1985, business meeting.

7 Now, I say this because I believe that the
8 granting or denial of a petition which comes before the
9 Commission is not just a ministerial act, which says if
10 it is signed and if it is submitted or whatever, that
11 necessarily the Commission accepts it. In other words,
12 I believe that there is a front-end test which a Commission
13 must apply.

14 In this instance, my own position on this reflects
15 the fact that in spite of our desire in this instance,
16 we have no mechanism for moving ahead on this petition
17 if we were to accept it. And I am not referring, as we
18 took recent action in the past, to the fact that we don't
19 have adequate staff time to deal with it. That is also
20 the case, but that's a separate issue.

21 In those cases, the petition was meritorious,
22 there were mechanisms for handling it, but we didn't have
23 the staff time available and so we accepted the petition,
24 but we have not acted on them, in terms of an OIH being
25 adopted and a hearing process initiated.

1 In this instance, what I'm saying is that the
2 methodology for handling the petition which is brought
3 before us by Mr. Ladine does not now exist. It is in
4 the process of being developed; it will exist in six months;
5 and there are clearly issues within that and Mr. Ladine
6 may not agree with the analytic methodology which ends
7 up being developed, but at least there is a methodology.

8 At the current time there is no mechanism for
9 the staff or the Commission, for that matter, to equitably
10 deal with this technology vis-a-vis other technologies.

11 So, that to bring the petition in at this time,
12 without there existing or being submitted by Mr. Ladine,
13 a method by which it can be equitably and legally treated,
14 is, in my mind, inappropriate.

15 Nevertheless, when that methodology is developed,
16 I believe it is incumbent on the Commission to bring this
17 matter immediately before the full body for approval and
18 adoption and moving ahead with the substance of Mr. Ladine's
19 petition and I fully support that.

20 Now, I will say, at the outset, that on seeking
21 advice from legal counsel here as to the basis for which
22 the Commission accepts or rejects a petition, that there
23 is no legal direction provided. That the Commission has
24 broad powers on which to base its decision of whether
25 or not to accept a petition. And my own position on this,

1 and what I'm recommending to the Commission is based on
2 the fact that if we accept it, we quite literally are
3 dead-in-the-water. We cannot move forward at the current
4 time, if we accepted it. Therefore, my sense is that
5 the Commission should not be accepting petitions which
6 fundamentally there is no method for dealing with. That
7 must be provided either by the petitioner or by some other
8 process; that other process is now in the works. When
9 that reaches conclusion, I believe we should move on this
10 matter.

11 That said, I would turn it back to the Chair
12 and invite Petitioner's --

13 Yes, I'm sorry, I did move.

14 CHAIRMAN IMBRECHT: Yes, there's a motion before
15 us and I believe here seconded by Commissioner Crowley,
16 would you restate the motion--

17 COMMISSIONER SCHWEICKART: Yes.

18 CHAIRMAN IMBRECHT: Just so we've got it clearly.

19 COMMISSIONER SCHWEICKART: I move that the
20 Commission deny this petition without prejudice and direct
21 staff to develop within six months from today an analytic
22 methodology for evaluating the performance of radiant
23 heating systems. Upon certification of this methodology
24 by the Energy Commission, the Commission will, on its
25 own motion, at that time, move this petition at its

1 February 6, 1985, business meeting.

2 What I'm saying, in other words, is that we
3 are taking the action now to bring it before us on
4 February 6, 1985, which is subsequent to the time at which
5 we are directing the staff to --

6 CHAIRMAN IMBRECHT: --that we certify the
7 methodology, though?

8 COMMISSIONER SCHWEICKART: That's correct, but
9 that the staff will bring that methodology to us for certi-
10 fication in six months.

11 CHAIRMAN IMBRECHT: The motion is properly before
12 us. Mr. Ladine? I know you've been very patient. Welcome.

13 MR. LADINE: Thank you, Mr. Chairman, Commissioners.
14 I appreciate the opportunity to address this body in regards
15 to the two petitions and other items that are before you
16 today.

17 I would like to start by perhaps identifying
18 an alternate course in proceedings, under which the first
19 petition was originally introduced, and that is emergency
20 basis.

21 We were given indications that there were certain
22 criteria for consideration under that ruling, and we
23 would like to propose it as such, since that's how the
24 first petition was originally submitted.

25 CHAIRMAN IMBRECHT: Mr. Chandley, do you want

1 to comment on that?

2 MR. CHANDLEY: Well, I don't believe we have
3 before us a request for an emergency action. At any rate,
4 if that's what Mr. Ladine wishes to pursue, I doubt very
5 seriously whether the Commission can make a finding of emer-
6 gency. It would be necessary to adopt an emergency standard.
7 Even more, I seriously doubt whether the Building Standards
8 Commission would concur in that finding of emergency,
9 and without their concurrence by a two-thirds majority
10 that emergency standard simply could not go into effect.

11 MR. LADINE: Apparently the determination was
12 made at the point of submittal of the petition that it
13 did not qualify for emergency consideration. Since then
14 we've had some additional information on what the criteria
15 is. Apparently it relegates the responsibility back to
16 Building Standards Commission. One of the exceptions
17 to that criterion is a standard that did not originally
18 proceed through the Building Standards review process,
19 which happens to be the case on the residential petition.

20 Basically, I mentioned that as the petition
21 was originally submitted, it was on emergency basis. We
22 understood this was how it was submitted, yet, without --
23 I would like a little more elaboration, perhaps from General
24 Counsel, on why that criterion was not responded to, or
25 how it was found to be not within the statutes of that

1 emergency guidelines.

2 MR. CHANDLEY: You know, I think there may
3 be some confusion. Initially, the petitions that you
4 filed did not request emergency relief, as I read them.
5 Much less do they lay out a basis on which emergency relief
6 could be granted. So, I don't think we have before us
7 a request to take emergency action.

8 MR. LADINE: Was it not under the understanding
9 between you and the Public Adviser's Office that that
10 first petition was submitted on an emergency basis? Was
11 not that issue discussed?

12 MR. CHANDLEY: Well, there may have been some
13 discussion about the Commission acting on your petition
14 within 30 days, which was the normal course for dealing
15 with all petitions. But, that does not transform it into
16 quote, "an emergency petition", or an emergency adoption
17 of a new regulation. And I think there may be some confusion
18 on that part.

19 MR. LADINE: Well, in our discussions with
20 the Public Adviser, --

21 COMMISSIONER GANDARA: Excuse me, may I interrupt
22 here. My understanding of our rules and regulations,
23 there is no such thing as an emergency petition. There
24 are petitions, petitions have to be ruled on within 30
25 days. There could be a petition that requests emergency

1 relief, that is an emergency regulation of some type which
2 then has to, you know, basically the petition has to be
3 accepted by the Commission and then proceed along that
4 basis.

5 Now, Mr. Ladine, are you saying that you submitted
6 an emergency petition or you submitted a petition for
7 emergency relief?

8 MR. LADINE: In discussions with the Public
9 Adviser's Office, we asked what recourses to have our
10 issues addressed by this Commission. Anything that may
11 expedite it to assure that we would have our petitions
12 heard.

13 COMMISSIONER GANDARA: All petitions have to
14 be returned within 30 days, that's my understanding of
15 the regulations. All petitions have to have a recommendation
16 before the Commission within 30 days. It depends on the
17 filing date whether you can turn that around with business
18 meeting dates, whether that can occur faster than 30 days,
19 but most of the time it's within 30 days. It's an expedited
20 process. We need to clarify here what it is that we're
21 talking about so that we don't waste any time.

22 Now, if the question is that in your petition
23 you were requesting an emergency relief or an emergency
24 regulation, that's a different matter. It still gets
25 processed in and expedited in the same 30-day period,

1 but then we're dealing more with the merits of your petition
2 rather than the characterization of your petition.

3 MR. LADINE: The definition as handed down
4 to us through the Public Adviser's Office was that an
5 emergency petition basically had two criteria, and that
6 was one of economic harm and the other risk to health
7 and safety.

8 It was on those bases that we submitted that
9 petition, under those assumptions, and requested that
10 it be given such treatment, if there were a special treatment
11 under that --

12 COMMISSIONER GANDARA: Let me then just say
13 that on the basis of what you've said that you'd have
14 characterized the relief you were requesting so, you know,
15 again perhaps we can just get to your comments on the
16 merits of your petition. And rather than this exchange
17 of what who was told by what, or whatever, you know, I'm
18 not sure that that leads us anywhere.

19 MR. PEREZ: Let me throw in some statements
20 on behalf of the Public Adviser's Office. I believe that
21 the direction we provided to Mr. Ladine was that he ought
22 to pursue a declaration by the California Energy Commission
23 on whether or not his request for an amendment to the
24 building standards regulations met the criteria enumerated
25 in §11346.1 of the government code, because, if, in fact,

1 he was successful with that step, then under §18937 of
2 the building standards code, they would have the power
3 to act within 30 days on his request.

4 That's the procedure and it does not go to
5 the substance of the petition.

6 COMMISSIONER GANDARA: You made reference to
7 the first government code provision. What is that?

8 MR. PEREZ: Well, §11346.1 of the government
9 code outlines provisions whereby agencies can make a
10 declaration or finding of an emergency, necessity for
11 regulatory change, when there is a need for an immediate
12 preservation of the peace, health and safety, or general
13 welfare --

14 COMMISSIONER GANDARA: Okay, I understand that.

15 MR. PEREZ: -- et cetera, et cetera.

16 COMMISSIONER GANDARA: So, that is the relief
17 that's being requested, not--

18 MR. PEREZ: Yes, a declaration as to whether
19 or not his request meets that definition.

20 COMMISSIONER GANDARA: I understand. Mr. Chandley's
21 comments from ten minutes ago is exactly where we are.
22 That it's a petition. The petition asks for emergency
23 relief in the form of an emergency regulation or emergency
24 action, that would then be sent to the Building Standards
25 Commission.

1 MR. PEREZ: Right.

2 COMMISSIONER GANDARA: So, that's where we are.

3 COMMISSIONER SCHWEICKART: May I point out that
4 while that may well have been the intention, that the
5 petition signed by Mr. Ladine, makes no such reference.
6 I certainly have no problem in dealing with it as if it
7 did. But, the fact of the matter is that nowhere within
8 it does it give any indication that the matter, if accepted
9 by the Commission as a duly filed petition, an accepted
10 petition, will be dealt with in terms of emergency relief.

11 Now, I simply identify this for the Commission,
12 whether at this point, additional wording should be appended
13 in some appropriate place, if that's Mr. Ladine's desire,
14 I certainly leave it to the Commission. But, the document
15 before us makes no such reference.

16 COMMISSIONER GANDARA: Let me do the following:
17 I think, for the purposes of today's discussion, we don't
18 need to get into that. It seems to us that there is a
19 petition before us. It has come back to us within the
20 requisite time. What is before us are three possible
21 actions: The rejection of the petition, acceptance of
22 the petition, -- well, within the acceptance of the petition
23 there are two ways it can be processed: One, that we
24 embark on a rulemaking -- an order requesting rulemaking,
25 or an emergency rule, at this point in time.

1 But, be that as it may, Mr. Ladine, would you
2 like to address your petition from the point of view of
3 the Committee's recommendation as to deny the petition
4 without prejudice, to direct the staff to develop the
5 calculation methodology, and to return that next February?

6 Now, I'd like for you to address the issue
7 of whether you object to the Committee's recommendations
8 and if you do, in what form or fashion. Or, more directly,
9 what it is that you want that the Commission action should
10 be today. Okay?

11 MR. LADINE: I appreciate that. And we would
12 like to respond to the petition as -- or to the Committee's
13 report as it was stated, objecting to procedures and follow-
14 up that was laid out.

15 Perhaps I'd best respond to the analytical
16 process in the time frame associated with it.

17 The analytical process is described as primarily
18 a theoretical evaluation of some of the parameters that
19 are manifested in the resulting budgets. This has been
20 something we've tried to contribute to over the years
21 and been commented that we have not submitted material
22 in keeping, in step, or in the vernacular of the current
23 standards.

24 We have an historical analysis of our type
25 of equipment; in fact, it dates back over 40 years this

1 type of equipment's been available; it's been analyzed
2 and scrutinized and monitored and metered and in this
3 case we're talking about empirical data, we're talking
4 about historical analysis as done by NIMA and done by
5 ASHRAE and done by utilities to identify seasonal performance
6 efficiency of our type of equipment. These are the contribu-
7 tions we've tried to insert over a period of years and
8 apparently since our variables aren't in step or aren't
9 in the vernacular or are not calculable, here again, we hear
10 we want to make some more theoretical analysis of our
11 equipment.

12 Right now it's simply confined to a variation
13 in air temperature and some appreciate and due consideration
14 for zonal aspects.

15 Sometime ago we were afforded the opportunity
16 to get the assistance from the Public Adviser to address
17 through a petition this Commission, and I went through
18 the standards looking for what I guess what you would
19 refer to as a handle.

20 As it turns out, the handle we've selected
21 here is both in the -- initially with the residential
22 and also with the nonresidential standards, when in reality,
23 our issue is one of appliance efficiency standards.

24 This is the issue to which we were first brought
25 back in '76, asked to explain the relationship of our

1 equipment to such things as life cycle costing, performance
2 efficiencies and the distinctions between that and equipment
3 efficiencies.

4 In fact, we were asked by the staff at that
5 time to perhaps we could propose and come up with some
6 testing parameters that might be appropriate for evaluating
7 the seasonal performance efficiency of our type of equipment.

8 The Federal Energy Policy Conservation Act
9 that directed the Bureau of Standards to come up with
10 testing procedures for all major energy-consuming appliances,
11 they were basically able to do that for all appliances
12 except for heating equipment. There was a gap, which
13 still exists between equipment efficiencies, systems effi-
14 ciencies and the dynamic performance efficiencies.

15 The theory extends all the way from the equipment
16 efficiencies through the system efficiencies and through
17 the structural efficiencies, with, I think, as we can
18 adequately point out, some major deficiencies throughout
19 the process.

20 We identify that we have a challenge and a
21 difficulty in quantifying our equipment. We've had that
22 problem. In fact, I speak in terms of "we" as with the
23 staff. We've tried to contribute and work through the
24 process. We've had some difficulty finding a seat, sometimes,
25 but the only real way we've been able to contribute to

1 this process is perhaps through the verification process.
2 That subject's been brought up repeatedly by other industry
3 people in defending their own equipment against some modifica-
4 tions to their seasonal efficiency analysis.

5 It's been brought up by the building industry
6 as some question about the appropriateness of some of
7 the budget impacts on some of the building modifications.
8 It's something we certainly have responded to and tried
9 to address, not only on the legislative side, which has
10 raised the issue and hoped to have seen some verification
11 in monitoring and metering, but we have identified a Bureau
12 of Standards test, whose rationale might be appropriate
13 for addressing this issue and filling that gap that will
14 exist even after six months of some more theoretical and
15 analytical work.

16 I think there are some 20 different theoretical
17 assumptions that we would like to have analyzed, and it's
18 already been admitted that it's beyond the capability
19 of this staff to model these points.

20 Therefore, the original intent of our emergency
21 petition was to get something from this Commission. I
22 don't know what your authorities and what your capabilities
23 of acting swiftly and expeditiously on situations such
24 as ours, but I would like to identify some of the condi-
25 tions under which we felt should be discussed, which are

1 not only the economic harm, but some of the health and
2 safety aspects of proceedings, development of standards,
3 manifestations in structures, petitions by building depart-
4 ments and counties and concern for health and safety,
5 and we would like to have opportunity to, if so deemed
6 relevant, to contribute to those things, to emphasize
7 the urgency of having our situation resolved.

8 We feel we have a product that we'd be glad
9 to put up in comparison and under any performance, reasonable
10 performance analysis against any other type of system.

11 We'd like to see that analysis include some
12 costs that are relevant to the consumer, dealing with
13 rates and realistic approach in consumptions. We'd like
14 to see relief from these restrictive standards that have
15 precluded us from participating in the marketplace. We'd
16 like to see perhaps an exemption allowing us to compete
17 on an equal basis if and when and until some calculation
18 methods come to say something other than the fact that
19 we have one of, if not, the highest performance efficient
20 heating system available.

21 It's clear and understood that our equipment
22 addresses comfort more directly than any other type of
23 heating equipment. We contribute to eliminating discomfort
24 better than any other type of heating equipment.

25 We'll put fewer Btus into a room than any other

1 type of heating equipment. We will create, or I should
2 say, we do not create the unhealthy environment, we
3 contribute to a healthier environment by not lowering
4 humidity levels, which not only affect comfort, but have
5 a healthful implication. The efficiencies are something,
6 that granted, it's subject to debate, even though we do
7 have references which hopefully you've all received last
8 week, that come from a variety of sources, that attest
9 to the fact that radiant heating is a viable heat source
10 for supplemental heat.

11 We'd like to be able to participate in the
12 passive solar design concepts; we do not want to participate
13 in a hermetically sealed building. We think that infiltra-
14 tion variables and pressures and vacuums and things of
15 those natures will show that we don't need to have an
16 air-tight house to be energy efficient.

17 The standards under which we are now supposedly
18 given an opportunity to comply under did not follow due
19 procedure, in having been reviewed by the Building Standards
20 Commission. I was assured by Mr. Schweickart, General
21 Counsel's office, by the staff that the development of
22 the residential package under which we are assigned would
23 not only get full Commission review, but would then proceed
24 to the Building Standards Commission. The Building Standards
25 Commission, in accepting the residential standards, made

1 a specific amendment that they wanted to look at these
2 packages.

3 It turns out the day before they were to go
4 to the Building Standards Commission, Mr. Geesman authorized
5 that package, and in doing so, took it out of the full
6 Commission review, didn't give us the opportunity to address
7 the full Commission on this issue, took it out of the
8 Building Standards Commission review, which they had made
9 specific amendment that they wanted to look at it, as
10 we had made contributing testimony to that fact, that
11 there were standards embodied in that package.

12 We inquired as to the new Executive Director
13 who replaced Mr. Geesman if he had that authority, to
14 authorize an alternate component package, that may offer
15 us an avenue to find some reasonable form of compliance.
16 He advised me that General Counsel said no, he did not
17 have that authority. It led to me inquire is did Mr. Geesman
18 have that authority when he authorized them, and it still
19 has left certain things unclear.

20 At this point in time we're not even eligible
21 for the point system, which I understood if we were made
22 to some specific reference, that the point punishment
23 that we'd have to live under would be equally as prohibitive
24 as the only compliance package that we have.

25 I would say that until the California Energy

1 Commission, the United States Department of Energy, or
2 the Federal Bureau of Standards is able to come up with
3 a test procedure as outlined in the Federal Energy Policy
4 Conservation Act, Part B, that gives our equipment the
5 opportunity to be performance rated, that we should not
6 have to live under any undue restrictions. We open ourselves
7 up for scrutiny and analysis. We'd be glad to participate
8 and contribute to the theoretical and analytical work,
9 which already has progressed; in fact, the results of
10 the workshop we had, though it's an inelegant means of
11 quantifying our equipment, would serve as an interim form
12 of compliance. In fact, the staff, sometime ago, recommended
13 that radiant heating be given a five-degree temperature
14 consideration on a performance basis.

15 That would be acceptable to us, but primarily
16 we're looking for some exemption to allow us to continue
17 in business which, if we don't have some quick response, --

18 Unless, you have any other questions-- have
19 some continued comments later on.

20 COMMISSIONER GANDARA: Are there any questions
21 for Mr. Ladine?

22 (No response.)

23 COMMISSIONER GANDARA: Since there are no questions
24 for Mr. Ladine, are there other parties who wish to be
25 heard on this matter?

1 MR. PEREZ: One addition, if I sense that the
2 Commission is going towards a decision, and that is con-
3 sistent with Commissioner Schweickart's proposal as to
4 how to address the long-range concern of Mr. Ladine, you
5 might want to consider the procedure of an informational
6 hearing which is also an appropriate process under our
7 rulemaking regulations. That's other than a rulemaking
8 proceeding, but it establishes a docket proceeding which
9 your staff work can be recorded, give Mr. Ladine a track
10 to know what is going on at the Commission level, and
11 allow your staff to bring back to you a cohesive report
12 in terms of what they do between now and February, when
13 you might contemplate a rulemaking petition on this matter.

14 COMMISSIONER GANDARA: Thank you, Mr. Perez.
15 Does staff wish -- I'm sorry, is there somebody else who
16 wishes to be heard in this matter?

17 MS. BATTISON: Yes.

18 COMMISSIONER GANDARA: Please come up and identify
19 yourself for the record.

20 MS. BATTISON: My name is Dana Battison and
21 I work with Efficient Electrical Products in Hayward.

22 We distribute a couple of different radiant
23 heat products and I had understood from Mr. Schweickart
24 that in February the radiant heating issue, as a whole,
25 will be addressed in a rulemaking, some kind of decision

1 will be made on what will be done about the whole issue,
2 is that correct?

3 COMMISSIONER SCHWEICKART: May I try to get
4 some clarification on that? Mr. Chandley, the nature
5 by which the Commission, pursuant to anticipated action
6 by OAL, will adopt certified calculation methods is or
7 is not a rulemaking?

8 MR. CHANDLEY: It is not a rulemaking. You
9 have incorporated in the current set of standards a specific
10 authorization for the Commission to adopt additional packages,
11 not through rulemaking, but by administrative action short
12 of that, so you have the --

13 COMMISSIONER SCHWEICKART: Then, again, for
14 clarification again, since Mr. Ladine raised it, that
15 previous -- that authority to adopt packages previously
16 rested with the Executive Director and now reverts to
17 the Commission, is that correct? Would you clarify that
18 just so that we have that on the record?

19 MR. CHANDLEY: Under the original residential
20 building standards adopted in 1981, and the accompanying
21 administrative regulations, there was a provision in the
22 administrative regulations which authorized the Executive
23 Director to certify additional packages, that is additional
24 ways to meet these standards.

25 In 1983, early in 1983, the Commission adopted

1 an amendment to those regulations for reasons which had
2 absolutely nothing to do with Mr. Ladine, Radiant Systems,
3 or the electric packages, adopted an amendment to those
4 regulations which transferred that authority from the
5 Executive Director back to the full Commission, but still
6 acting administratively without the necessity of a rule-
7 making process. So, the original certification--

8 COMMISSIONER SCHWEICKART: So, the full Commission
9 was asked to certify packages, but it does not have the
10 formality of the rulemaking process, nevertheless, all
11 parties have full participation since it is a matter which
12 comes before the full Commission, I think that's --

13 MR. CHANDLEY: Right, in fact, --

14 COMMISSIONER SCHWEICKART: --doesn't have the
15 rigor or we said the formality of a rulemaking process.

16 MS. BATTISON: Okay, so in other words, there
17 is something, if the Commission decided at this point
18 that they were willing to make some kind of a concession
19 until the matter could be looked into in depth, you could
20 do that without going through the whole Public Standards
21 Commission, Building Standards Commission, and revising
22 the whole standards? Is that correct?

23 COMMISSIONER SCHWEICKART: Well, --

24 MS. BATTISON: Like if you decided to give
25 us -- to look at the radiant heating issue at this point

1 and --

2 COMMISSIONER SCHWEICKART: The problem--let
3 me say that the problem that I have, and I certainly don't
4 want to speak for the Commission, or for that matter,
5 the staff, the problem I have is that there is now no
6 basis on which I can say 50 square feet of this product
7 equals, you know, a 30,000 Btu updraft whachamacallit.
8 I mean there is absolutely no method, even inequitable
9 one, that I know of on which I can literally say what --
10 how one thing compares with another, in this climate zone,
11 under these conditions, et cetera, et cetera, et cetera.
12 The fundamental analytic methodology by which all other
13 systems which find their way into our regulations are
14 dealt with, and are dealt with equitably, at least as
15 the current state of knowledge of analytic techniques
16 evolves, does not exist for radiant heating and therefore,
17 there is no basis on which today I could grant anything
18 as much as I want to, I want to get Bob and you off my
19 back, all of us do. We'd love to see you in the marketplace,
20 but in a way which gives fair treatment not just to you,
21 but to all other parties.

22 At the moment there is no mechanism which allows
23 anyone to make that judgment, and what Mr. Ladine has
24 essentially asked us to do is to say in the absence of
25 such thing, until such thing exists, have no restrictions.

1 Well, I would suggest that that is a rather
2 fundamental issue of regulation and that kind of free-
3 for-all would bring in pyramids that people should wear
4 and lots of other things for handling comfort in the homes,
5 which would be even cheaper and more energy efficient
6 than your system. Don't think they would work as well
7 as your system, but it would be there.

8 So, clearly, that's not an option the Commission
9 can responsibly handle. What we must do to deal with
10 this technology as has been needed for years, is to develop
11 the basis on which we can actually say, this equals that.
12 Or is equivalent of that. On some basis which can be
13 openly reviewed by all kinds of experts, various technologies,
14 et cetera, and form the basis on which technical judgments
15 with integrity can be made.

16 That process was underway. I want to do every-
17 thing I can to expedite it, given the other priorities
18 of the Commission and the staffing we have, which is another
19 reality.

20 And get on with adopting packages, integrating
21 it into the point system, et cetera.

22 But, without that precondition of something
23 existing which we can literally use as a basis of calcu-
24 lation, I have no way to deal with it. That's my -- that's
25 where we are right now.

1 MS. BATTISON: Okay, well --

2 COMMISSIONER SCHWEICKART: If you have something
3 to help us, it would be great.

4 MS. BATTISON: The reason I asked that, if,
5 you know, what your authority was and what your intention
6 was is because I talked to Mr. Langley and Dave Ware this
7 morning of the Commission, and I gave to them a test deal-
8 ing at any point with ceiling rating systems that was
9 done, establishing what the temperature differences if
10 the radiant temperature in a room was increased, how much
11 the air temperature can be reduced to compensate for that
12 and what, separate from this petition, but along the same
13 lines, I do intend to put that together into a petition
14 and submit it to you with that as backup and other tests,
15 and that's why I wanted to ask if you would be open to,
16 if there was documentation, accepting that; if, as a stop-
17 gap measure, you would be willing to give us that low
18 air temperature, lower design temperature until all these
19 standards are made up, because until ASHRAE does make
20 up a manual for sizing radiant systems and/or grading
21 radiant systems, one against the other, I realize the
22 position. It is a different field, a difficult field,
23 one that nothing has been done in yet.

24 So, I just wanted to say that we do want to
25 petition with that, if there is the back-up material

1 to support it, would it be something that you would be
2 open to at this time?

3 MR. PENNINGTON: Staff would like to respond
4 to that.

5 COMMISSIONER SCHWEICKART: Okay, I'd like to
6 hear from the staff on it and also Mr. Chandley --the
7 question you're asking has a direct legal element to it,
8 that is, does the staff have authority to grant some kind
9 of interim standards absent, in fact, an accepted calculation
10 methodology. I frankly need some advice on that.

11 MR. PENNINGTON: It strikes me that what she
12 is talking about is extremely consistent with the work
13 that staff is undertaking right now and making progress
14 on and it seems to me that we need to get that information
15 into the process that staff is working on to develop those
16 thermostat settings for radiant heating that would be
17 appropriate for incorporation into the approved calculation
18 methodology.

19 I found Mr. Perez' recommendation to be interest-
20 ing and something that staff would support, the idea of
21 holding an informational hearing on basically the work
22 we've done up to this point, plus, perhaps, this additional
23 piece of information. I think that within -- holding
24 an informational hearing within 60 to 90 days would be
25 something that staff could integrate into their workplan

1 and we would support that idea.

2 COMMISSIONER SCHWEICKART: Also, I would say,
3 Ms. Battison, that clearly what you want is not to slow
4 down the process which is moving toward the development
5 of this analytic technique and it seems to me that your
6 information is appropriately integrated into that.

7 Mr. Pennington can confirm it, but I feel certain
8 that you're on the mailing list for those workshops and
9 I would hope that that's the appropriate place. It seems
10 to me, in a sense, that your petition would essentially
11 be asking us to do what that process is doing.

12 MR. LADINE: Excuse me. I appreciate having
13 moved up here from six months to perhaps 30 to 90 days,
14 and perhaps addressing--

15 CHAIRMAN IMBRECHT: Making progress.

16 MR. LADINE: We're making progress. I would
17 like to refer to a letter--

18 MR. PENNINGTON: I don't want any misunderstand-
19 ing to be made on that. I think the six-month time frame
20 is a reasonable time frame to get the issues resolved
21 through an approved calculation methodology. I think
22 that within 60 to 90 days we would be prepared to hold
23 a workshop based on the information that PGandE and commentary
24 that Berkeley Solar Group and Davis Energy Group and Intercom
25 are making on appropriate thermostat settings, but let's

1 don't move that three months ahead and say we're going
2 to be done, you know, in 90 days.

3 CHAIRMAN IMBRECHT: First off, I've listened
4 to the bulk of the testimony from my intercom in my office.
5 I apologize for having been away for a brief phone call.
6 I'm familiar with the course of the proceedings.

7 Again, I know this is not going to be all together
8 well received, but I'm going to play a little bit of a
9 role of devil's advocate for a moment and ask a couple
10 of questions of staff, as to distinctions between this
11 particular case and another one that I think we handled,
12 at least from my perspective, are somewhat analogous,
13 and I believe the name of the product -- maybe somebody
14 can help refresh me. It was a Japanese manufacturer--
15 Nippendenso spot air conditioner.

16 And my recollection of the action we took at
17 that time, and that was a petition for certification of
18 their product, and we, in effect, said that we don't have
19 methodology available currently to deal with that type
20 of product.

21 But, based upon an expectation that the cumulative
22 statewide energy impact from such products would be negligible
23 during the period that it would take us to develop an
24 appropriate analytical methodology to consider that particu-
25 lar product, that we, in effect, granted them an exemption,

1 or I don't recall the specific legal action we took, but
2 either an exemption or waiver of enforcement of the appliance
3 standards with respect to that product, pending resolution
4 of the issue.

5 I'd like to know, from the staff's perspective,
6 how Mr. Ladine's circumstance differs from the relief
7 we granted in the other petition.

8 MR. PENNINGTON: Okay, I'd like to take a shot
9 at that and I'm sure that perhaps we have a couple of
10 attorneys that might like to take a shot at that, also.

11 The authority for the appliance efficiency
12 standard is considerably different than the authority
13 for --

14 CHAIRMAN IMBRECHT: Is considerably what?

15 MR. PENNINGTON: Considerably different than
16 the authority the Commission has for building standards.

17 In the appliance efficiency standards, there's
18 a provision that we have to make an assessment of signifi-
19 cant energy consumption of an appliance.

20 CHAIRMAN IMBRECHT: Excuse me, hang on for just
21 a moment. I know that, but I want to get an answer to
22 my question. Can you back up just for a second. I was
23 distracted momentarily.

24 MR. PENNINGTON: Okay. We have to make a finding
25 of significant energy consumption of an appliance in

1 regulating that appliance and so the consideration of
2 the Nippendenso certification and the delay or the granting
3 of exemption for that period related to the fact that
4 we were required to make an assessment of statewide energy
5 impact under the appliance efficiency standards.

6 Another difference that I think exists here--

7 CHAIRMAN IMBRECHT: We're not required to make
8 such a finding in the case of building standards--

9 MR. PENNINGTON: That's correct, that's correct.

10 CHAIRMAN IMBRECHT: As a question of fairness
11 or equity, is there any argument from your perspective
12 as to why that distinction should not be one we should
13 still take into consideration?

14 MR. PENNINGTON: Yes, that was the thing I
15 was getting to next. There is a process for this equipment
16 to be used in complying with the standards, and, in fact,
17 in past judgments that the Commission has made in consider-
18 ing how to determine the energy impact of this equipment
19 for building standards, the conclusion was made that this
20 equipment is quite similar to other kinds of electric
21 heating equipment and based on that determination, the
22 alternative component packages for electric heating are
23 a possible, and given the data that we've seen thus far,
24 appropriate way for that equipment to comply with the
25 standards, so to say that there isn't an approach that

1 can be used is incorrect.

2 There's been quite a bit of debate about what
3 is the likely energy benefit if there is an energy benefit,
4 of this equipment over electric heating.

5 CHAIRMAN IMBRECHT: Let me phrase the question
6 slightly different perspective. What would be the likely
7 energy detriment in the event that we were to grant, in
8 effect, an exemption pending the resolution of this matter
9 that's currently underway by staff, that Commissioner
10 Schweickart's motion contemplates will be concluded within
11 six months?

12 MR. PENNINGTON: Well, if you assume--

13 CHAIRMAN IMBRECHT: I mean are we looking at
14 massive market penetration that's going to waste--

15 MR. PENNINGTON: No.

16 CHAIRMAN IMBRECHT: You know, I have to say,
17 I mean when I balance these things in terms of just common
18 sense, and we can get tied up in the procedural niceties
19 of all these distinctions between our statutes and so
20 forth, ad nauseam, sometimes, I have been repeatedly refer-
21 enced to horror stories about a variety of things that
22 people wanted us to regulate prior to my joining the
23 Commission and I -- tiki torches and other things, I recall
24 some of the stories that I've heard from various people,
25 and in every instance the judgment that was rendered,

1 whether the statute required it or not, I mean, came down
2 to the conclusion, well, is this genuinely an issue of
3 significance in perspective energy consumption in the
4 state.

5 Now, if we were being asked to grant an exemption
6 that was open-ended with respect to this product and similar
7 products, I would have a very different general call on
8 the matter, but if now reference we're going to resolve,
9 and we have a methodology being constructed under way
10 to resolve this issue, I think there's some equity and
11 fairness questions involved, as well.

12 I'd like to hear staff, and frankly, I invite
13 the Committee to address those.

14 COMMISSIONER SCHWEICKART: Mr. Chairman, before
15 staff comes back in, let me just point out something Bill
16 did not, and that is that there is a method for handling
17 exactly what you're suggesting here, which is, in fact,
18 underway and, in fact, I believe, the next -- the ball
19 is in Mr. Ladine's court, at least as I understand it.
20 That is we have a process of exceptional design in which
21 case a technology which does not have a mechanism for
22 handling and is not currently addressed in the standards
23 may be granted exceptional design.

24 That is underway in the case of something-Vista
25 Apartments, or pardon me, Bob, for not remembering the

1 correct title of the project, but in any case, it is under-
2 way right now with Mr. Ladine in apartments in Petaluma,
3 I believe.

4 CHAIRMAN IMBRECHT: That would be a case-by-
5 case application process?

6 COMMISSIONER SCHWEICKART: That is a case-by-
7 case application process. It is built directly into our
8 regulations. It is well spelled out. We don't have to
9 worry about somebody deciding to take on the Commission
10 because somebody's cutting into their market. It's a
11 process which is there and that one is currently being
12 used and I presume is moving ahead successfully, again,
13 pending Mr. Ladine coming in with certain information
14 which is the next step in that process.

15 So, I would suggest that without, in any way,
16 risking being blocked by someone's offense at not follow-
17 ing due process, we have a mechanism for handling what
18 you're suggesting.

19 CHAIRMAN IMBRECHT: That's as to some specific
20 development projects. But, what if somebody comes in
21 off the street and wants to buy one of these products
22 retail?

23 COMMISSIONER SCHWEICKART: Well, there is nothing
24 which prevents anyone from buying this product from
25 Mr. Ladine. The place where the block comes is when someone

1 goes to build a building and takes it to the building
2 official, the building official has no mechanism for stamping
3 off or certifying those building plans.

4 That's the place where essentially the market
5 that Mr. Ladine and Ms. Battison seek is thwarted at the
6 moment.

7 MS. BATTISON: In reality, though, how can
8 we be an exceptional design at this point, because we
9 are considered an electric-resistant heater, therefore
10 we must meet the electric-resistance packages. How do
11 we determine what we're going to give us as far as elec-
12 trical -- you know, how can we say we're an exceptional
13 device, therefore we're equal with gas? Is that what
14 we're going to say?

15 I mean, what I'm saying is you can say you're
16 an exceptional device, that works great for a window.
17 Or that works great for a fan. But, how do you say a
18 heating system which determines how you build your struc-
19 ture, whether you put 10 percent glazing, 15, 16, how
20 can you say that that's an exceptional device?

21 MR. PENNINGTON: The way that -- I hope I can
22 respond to the question -- The way that the exceptional
23 design project that Mr. Ladine is approaching this, is
24 to argue that the current compliance approaches don't
25 take into account a full benefit of radiant heating systems.

1 And therefore, those compliance options are
2 inappropriate and this exceptional design process is a
3 way in which he can demonstrate through calculations first,
4 and we have a commitment on his part to have a monitoring
5 project to show in this one situation what are the impacts
6 of radiant heating compared to gas furnaces or other elec-
7 tric heating systems.

8 That's the way the exceptional design process
9 plays out with this piece of equipment.

10 MR. LADINE: It is generally understood and
11 accepted that there are no calculation techniques appropriate
12 for this. We have done computer analysis consistent with
13 what the staff has asked for on this exemption process.
14 The only holdup right now is the costs associated with
15 it, which we're not able to retrieve that information
16 at this point in time until we can come up with the money,
17 but the other element to this exemption process, there's
18 two points that are significant. One is that we're the
19 first ones to ever use this process; it's never been applied
20 before. It's been quoted we're a test case on this, which
21 puts a little more of a responsibility on our part and
22 it also makes staff a little more attentive to it on a
23 first time through, and we appreciate that and we hope
24 that the results of this modeling, which are consistent
25 with another element I'd like to bring up. The other

1 part of this demonstration project, as Bill mentioned,
2 as he referred to it, as a commitment to do some monitoring
3 and metering on this project.

4 One thing we offered up is this might be a
5 nice opportunity for which we've stated all along to do
6 a little analysis evaluation of our equipment on a relatively
7 repeatable controlled relationship, that is, there are
8 several repeatable apartment units, relatively identical,
9 that could serve as basecases for comparing to our equip-
10 ment against another piece of equipment, and one of the
11 interests the staff had was perhaps having several equipments
12 with different types of controls.

13 We wanted to see, as we've always used in-
14 line zone controls, the standards call for automatic night
15 setback. We've also identified there are different types
16 of central controls to enhance those zone controls, there's
17 motion sensors, there's occupancy sensors, and other things.

18 So, there is an obligation on our part to help
19 coordinate this program.

20 Well, needless to say, from what I understand,
21 the staff has done a little monitoring and metering to
22 the tune of a couple hundred thousand dollars on a project
23 or two and they said the results weren't worth anything.

24 Over 40 years we can identify several identical
25 apartment units taken out with our equipment in one, another

1 equipment in the other, done by engineers, done by utility
2 companies, done by universities, that reinforce and reiterate
3 the points that our equipment does have viable contributions
4 to conservation, and yet, throughout the time all this
5 has been invalidated. It's partial information. There's
6 a partiality from the utility company when they identify
7 a test procedure such as this; there's a partiality when
8 it's done by an engineer who's paid by a company such
9 as mine.

10 So, therefore, who are we left with to give
11 this project any validity? If the Commission's willing
12 to take the responsibility, if they can coerce, cajole
13 or entice someone like Lawrence Berkeley Labs or whoever
14 else, some university, to participate in something like
15 this, then we figure we could have a great contribution.

16 One thing is we've got to discuss the parameters.
17 We've got to discuss the equipment to monitor the performance,
18 and that's where our whole conversation starts. Are you
19 just going to measure air temperature or are you going
20 to read the radiant temperatures, --

21 COMMISSIONER GANDARA: If -- excuse me, Mr. Ladine,
22 if I might try to put this back on track. We, at the
23 time I started keeping count, we've spent at least 45
24 minutes on it, and probably more.

25 MR. LADINE: Try seven years.

1 COMMISSIONER GANDARA: You know, the situation
2 before us is the petition, itself, shall the Commission
3 accept it or not. I think to the extent that we are discuss-
4 ing another possible way to address some of the more imme-
5 diate concerns, it's useful for the Commission from the
6 point of view that the Commission would probably like
7 to be assured that they're not foreclosing any opportunities
8 of dealing with any immediate problems or issues that
9 you may have, as well as for the Commission to assure
10 itself that it's not, should it deny the petition, that
11 is go with the Committee recommendation here, it would
12 not be shutting the door, essentially, to the issues that
13 you've raised.

14 On the other hand, what we do have before us
15 is the petition, itself, not an exemption, not a research
16 design for this particular product.

17 So, with that, I would like to refocus back
18 to where we wer and that is how do we dispose of this
19 petition.

20 Staff has made some comments. We have a motion,
21 I believe, which was made and seconded before the
22 Commission. We are in a period of hearing from people
23 who had comments on that particular motion. You've provided
24 some comments and Ms. Battison has provided some comments,
25 staff has provided some comments, I have not heard clearly

1 from staff whether you are in support of the Committee's
2 petition?

3 MR. PENNINGTON: We are definitely in support
4 of the Committee's --

5 COMMISSIONER GANDARA: So, it is one and the
6 same.

7 What I'd like to do now is to see if there
8 are any other parties who wish to comment on the motion
9 before the Commission. So, are there any other parties,
10 other than Mr. Ladine and Ms. Battison?

11 Mr. Chandley?

12 MR. CHANDLEY: Yes, I'd like to make one other
13 suggestion. And I think it's necessary to do that in
14 order to clarify the exceptional design process. I think
15 there may be some misunderstanding about that in that
16 it has been described almost as though it were a process
17 for waiving the requirements of the standards.

18 It is, in fact, not a waiver of the standards.
19 It is not an exemption from the standards. It is a method
20 by which someone with a device that cannot -- whose energy
21 performance cannot be measured by an approved calculation
22 method, can come to the staff, ask that it be measured
23 by some other acceptable method, not yet certified by
24 the Commission, and have that energy performance declared
25 to be sufficient for purposes of meeting the standards.

1 I think the wording of that particular regulation
2 is very clear that you are meeting the standards when
3 you go through that process.

4 Now, in order for that to work and staff has
5 come to the, at least, preliminary conclusion, that they
6 could probably do this, they're going to have to come
7 up with at least some interim as yet not certified, calcula-
8 tion method in order to declare that he's met the exceptional
9 design requirements.

10 And I suspect we're a lot closer to that than,
11 and what might ultimately be a fully certified permanent
12 calculation method, which, as they suggest, will take
13 six months. I suspect that we are within weeks of that.

14 A draft of that has already gone out for comment.
15 So, what I think you have is that if you want to move
16 toward a process which has been used before, and that
17 is an interim process, there is a precedent available
18 to you, the Executive Director has, on a previous matter,
19 dealing with passive solar systems, certified on an interim
20 basis, a preliminary calculation method for solar -- passive
21 solar systems and has allowed people to use that pending
22 further investigation of its total accuracy and efficacy,
23 and it seems to me that if you were concerned about expediting
24 the process but also simultaneously concerned about not
25 wanting to make a premature commitment to a long-term

1 methodology which may prove to be wrong, that that interim
2 process should be looked at as one of the options you
3 have before you.

4 COMMISSIONER SCHWEICKART: Does the exceptional
5 design process not relate to a project? That is, is it
6 a generic decision, or is it one related to a specific
7 application to a specific project? My understanding was
8 more the latter, but --

9 MR. CHANDLEY: I think it can be both. Let
10 me just read the language to you. This is in §1403(j)
11 of the administrative regulations.

12 It says: When designs, materials, or devices
13 are proposed which cannot be adequately modeled by an
14 approved calculation method, an applicant..." -- and by
15 that they mean an applicant in front of a building department--
16 "...an applicant may be granted a building permit upon
17 approval by the Executive Director, based on a determination
18 of energy efficiency..." -- again, you need to have some
19 basis for doing that -- "...using an alternative evaluation
20 technique..." -- you need a process -- "...which demonstrates
21 compliance with the standards."

22 COMMISSIONER SCHWEICKART: But that, then, is
23 on the basis of an application before a building department?

24 MR. CHANDLEY: That's the context in which
25 it would arise, yes.

1 COMMISSIONER SCHWEICKART: Right, okay.

2 But, I think that clearly, if it applies to
3 one, would on other projects being developed, clearly
4 translate to any others during the interim period, so
5 I think the effect is to essentially handle what you're
6 looking for, Dana, provided we can get past that first
7 instance.

8 MS. BATTISON: Okay.

9 MR. PENNINGTON: Yes, staff would certainly
10 agree with that.

11 I think that's a correct interpretation.

12 COMMISSIONER GANDARA: Well, I'm glad we're
13 all much better informed now about the exemption, special
14 exemption process, special application. However, what
15 we do have before us, what has been noticed to the public
16 are two petitions, one having to do with residential building
17 standards, one having to do with nonresidential building
18 standards.

19 We do have a motion and we do have second and
20 I believe we have heard from everybody who wished to be
21 heard on the subject.

22 So, if that is the case, I would like to return
23 to the Commission deliberation and see if there are any
24 further Commissioner comments or questions before we --
25 before I call the question. Commissioner Commons?

1 COMMISSIONER COMMONS: I'm not going to support
2 the motion as presented for the following reasons: One,
3 although I agree with the Committee's recommendation that
4 the six-month process that they outlined appears to be
5 reasonable, I think the issue before us is a broader one
6 which was raised by Commissioner Schweickart.

7 I think the question is a due-process question
8 and where an agency establishes a regulation or is acting
9 in a regulatory fashion, it's a question as to who has
10 the burden or the obligation. My understanding of the
11 motion or the procedure is that essentially we're shifting
12 that burden to a petitioner where within the regulatory
13 process we do not have, at present, an adequate procedure
14 to handle the particular request of the petitioner.

15 In terms of the time element or the process
16 that's been suggested by the Committee of being able to
17 resolve the process, I certainly think a six-month period
18 is a reasonable period of time and apparently even within
19 that interim period, that there are capabilities of handling
20 situations that come up on a temporal basis.

21 I do not think the exemption process as has
22 been discussed is fair because this product is competing
23 out in the marketplace with other products and that if
24 we gave an outright exemption, that that would be giving
25 a competitive advantage without giving due process to

1 other people who are in the marketplace.

2 In terms of what would actually happen, is
3 if we were to grant the motion for the petitioner's request,
4 we are, in essence, shifting the burden to ourselves in
5 having established a docket and a procedure for addressing
6 it and we're saying yes, you have that -- you have presented
7 us with a problem and we have an obligation to fulfill
8 it. It is not substantially different or substantively
9 different in terms of how I think the process would unfold,
10 but bureaucratically I do not think it's fair, particularly
11 when we're talking about someone who has clearly shown
12 that he's been bureaucratized for a number of years, had
13 difficulty even getting before the Commission, that I
14 feel we have an obligation to work with a small business-
15 person and try to resolve the problems that in essence
16 we have created, but in a fair and due process manner,
17 and I think the process that the Committee has outlined
18 is a fair one and does meet the due process elements,
19 however, I do not think that we have the prerogative for --
20 that it's fair for us to say to the petitioner, we don't
21 accept your petition because we do not yet know how to
22 handle your petition.

23 And, so, I would support the process or the
24 procedure that is outlined by the Committee in terms of
25 how we proceed, but I would also support the acceptance

1 of the petition for the reasons that I've stated.

2 COMMISSIONER GANDARA: Okay, any other Commissioner
3 wish to make a comment? Commissioner Schweickart?

4 COMMISSIONER SCHWEICKART: Yes. I'd like to
5 join the issue with Commissioner Commons in a moment,
6 but let me first respond to suggestion made by the Public
7 Adviser and supported by staff and I think by Mr. Ladine,
8 as well, and that is to amend the motion to include a
9 sentence that would say the Building Conservation
10 Committee will hold at least one informational hearing
11 on the development of an approved calculation method within
12 the next 90 days.

13 That would simply add that hearing on the part
14 of the Committee to the ongoing process for public review.

15 COMMISSIONER CROWLEY: Is that an amendment
16 to your --

17 COMMISSIONER SCHWEICKART: That's an amendment
18 to my motion and --

19 COMMISSIONER CROWLEY: I would second that,
20 and I would have a question under the question of the
21 amendment.

22 My question is if that were to happen and there
23 was a hearing and developed a methodology for being able
24 to deal with this matter, then there would be no reason
25 that I can see, and I believe I'm correct in this, that

1 you would bring forward the methodology and the calculations
2 ahead of a schedule if it were at all possible, is that
3 correct?

4 MR. PENNINGTON: If it were at all possible,
5 right.

6 COMMISSIONER CROWLEY: Would this include the
7 potential of certifying a preliminary calculation if you
8 felt such a thing were available to staff?

9 MR. PENNINGTON: Yes, I think if we reached
10 concurrence as a result of that workshop on approved calcu-
11 lation method, there'd be no reason for us not to bring
12 that forward.

13 COMMISSIONER CROWLEY: And it would also have
14 the advantage of, as Mr. Perez indicated, putting together
15 a body of data that would be docketed, that would be avail-
16 able for your calculations and for your use?

17 MR. PENNINGTON: Yes.

18 COMMISSIONER CROWLEY: Thank you.

19 COMMISSIONER GANDARA: Commissioner Schweickart,
20 do you -- have proposed an amended--

21 COMMISSIONER SCHWEICKART: Yes.

22 COMMISSIONER GANDARA: It's been seconded. You
23 wish to continue --

24 COMMISSIONER SCHWEICKART: Yes, Commissioner
25 Commons raises, or re-raises what I stated at the outset,

1 that I think that there is here for the Commission, a
2 specific decision which has essentially nothing to do,
3 really with Mr. Ladine or this petition, but which deals
4 with the issue in general of the handling of petitions.

5 And, it is whether or not the acceptance or
6 the granting of a petition is, in fact, purely a ministerial
7 act. That is, is it dated, signed, and whatever other
8 technical administrative things may be literally in the
9 regulations, or is the Commission, in fact, to apply some
10 other standard and what I have suggested is one which
11 simply says that in granting a petition, it is clearly
12 the clearly the intent of the Commission to move ahead
13 at whatever -- recognizing whatever limitations of staff
14 resource and other priorities may exist, but nevertheless,
15 to move ahead with the adoption of an order instituting
16 rulemaking and a proceeding which leads to the rejection
17 or incorporation of the substance of the petition in what-
18 ever rules are addressed within the petition for rulemaking.

19 What I am suggesting in this instance is that
20 that possibility does not currently exist and I would
21 consider that, frankly, to be the minimum necessity. There
22 may be others that other people would have, but I would
23 certainly, for myself, consider that to be the minimum
24 necessity. Otherwise, the granting of a petition frankly
25 becomes an open sham. We would be granting a petition

1 and quite literally not only not doing anything on it,
2 but not being able to do anything on it, except by antici-
3 pating the successful outcome of some other process, so
4 that my feeling here is that while I, in fact, support
5 as soon as possible dealing substantively with the petition
6 and to be frank about it, more appropriately with the
7 fundamental issue, namely an incorporation of this
8 technology into the point system in an equitable way and
9 calculation methods, et cetera, which is frankly more
10 appropriate than the petition and more important to the
11 industry, that that necessitates something which does
12 not now exist, and the granting a petition is, in fact,
13 a false act since there is no ability for the Commission
14 to subsequently act on the petition.

15 Secondly, I reject, Commissioner Commons, and
16 I believe that there is no precedent for the criteria
17 which you suggest, namely that there is some obligation
18 intrinsic to the Energy Commission to develop methodologies
19 for handling of a new technology which someone may concoct
20 out in the open public.

21 Quite literally, if I came forward to the
22 Commission with a petition to incorporate into the building
23 standards people in the houses wearing pyramids as they
24 enter into the door to provide them comfort, to be frank
25 about it, that's a petition. And I'll sign it and I'll

1 date it and I'll do all the other administerial things
2 and I would suggest that that is not something which the
3 Commission either has a burden to try and develop an
4 analytic method for, to weigh appropriately, or for that
5 matter, to grant.

6 So, while not in any way equating that to make
7 a ridiculously clear case, I find this idea that the
8 Commission somehow has an open-ended obligation to accept
9 the burden of carrying, in fact, all of the analytic method-
10 ology for some technology forward is totally fallacious.

11 COMMISSIONER GANDARA: If I could interrupt
12 here. What we have is a motion, an amendment to the motion,
13 we -- it appears to me that the major issue is on the
14 main motion, not on the amendment to the motion. Can
15 we proceed and --

16 COMMISSIONER CROWLEY: I would call for the
17 question.

18 COMMISSIONER GANDARA: --on the amendment. Is
19 there any objection to unanimous roll call on the amendment,
20 which I won't restate precisely, but which was the incorpora-
21 tion of the workshop within 90 days, is that correct?

22 COMMISSIONER SCHWEICKART: Yes.

23 MR. LADINE: Is that public--

24 COMMISSIONER GANDARA: Any objection to that?
25 If not, then that is adopted unanimously.

1 The main motion before us now is the original
2 motion made by Commissioner Schweickart, seconded by
3 Commissioner Crowley, which again, I won't restate fully,
4 but in essence rejects the petition, both petitions without
5 prejudice. I take it your motion encompasses both posi-
6 tions, is that correct?

7 COMMISSIONER CROWLEY: Both --

8 MR. LADINE: Excuse me, Mr. Gandara, is there
9 room for public comment in regard to the question on the
10 amendment?

11 There's a letter I'd like to submit in regard
12 to that very question that was to the amendment.

13 COMMISSIONER GANDARA: The amendment has been
14 incorporated into the main motion right now, so it's behind
15 us--

16 MR. LADINE: If there is room for public comment--

17 COMMISSIONER GANDARA: It's behind us, but we
18 can -- the point is now do you have an objection to that
19 amendment?

20 MR. LADINE: I have a relevant contribution
21 to it that may illuminate the time references.

22 COMMISSIONER GANDARA: Well, I guess--

23 MR. LADINE: It's very relevant to the subject
24 of the --

25 COMMISSIONER GANDARA: Just hold on. You don't

1 have an objection to it, then?

2 MR. LADINE: Yes, I'd like to see -- we're
3 going to talk about 90 days, is that correct?

4 COMMISSIONER GANDARA: Yes, within 90 days.

5 MR. LADINE: I'd like to see that time shortened.

6 COMMISSIONER GANDARA: Okay, well --

7 MR. LADINE: To a 30-day period. And the justifi-
8 cation is in relationship to this submittal I'd like to
9 make.

10 COMMISSIONER GANDARA: Okay, just hold on just
11 a minute.

12 I'm sorry, Commissioner Crowley, you were about
13 to ask a question?

14 COMMISSIONER CROWLEY: Mike, I was simply going
15 to comment that I don't think 30 days is precluded by
16 a within-90-days amendment.

17 COMMISSIONER GANDARA: Okay. That is correct,
18 thank you for the clarification.

19 So, it appears to me that what you -- what
20 we have now here is a possibility of holding a workshop
21 anytime between whenever this meeting ends and within
22 90 days.

23 So, again, in the interests of expediting this
24 and I don't think that if there are serious concerns as
25 to it has to be held sometime before a certain date and

1 all that, I think they can be raised appropriately with
2 the Committee. I think that you don't have, nor anybody
3 here has any objection to the workshop, per se, which
4 was the main element of that motion. What we have before
5 us is the main motion, itself, now, and what I'd like
6 to focus on, if there's any further Commissioner deliberation
7 on this issue?

8 (No response.)

9 COMMISSIONER GANDARA: Okay, just a comment
10 on my own part that I happen to feel that though
11 Commissioner Schweickart seems to indicate quite often
12 that he's not an attorney, I think he's just trying to
13 reserve any possible slur on his character, however, he
14 made a very good case for the issue of rightness, which
15 is one of many issues that has to do with whether an
16 adjudicatory body would accept a case, and basically I
17 find the argument he makes a sensible one, that is, that
18 though there may be some merit to the issue, at some,
19 you know, I'm not speaking to any particular issue, but
20 that if it's not, you know, right, if the timing isn't
21 correct for it, and that is a sufficient basis for not
22 accepting a petition or a particular grievance so that
23 I share that viewpoint.

24 With that, if there's no further discussion
25 on the main motion, which has been amended to incorporate

1 the workshop, I'd like to call the question.

2 If not, then is there any objection to the
3 main motion?

4 Okay, so would you please call the roll?

5 SECRETARY GERVAIS: Commissioner Commons?

6 COMMISSIONER COMMONS: No.

7 SECRETARY GERVAIS: Commissioner Crowley?

8 COMMISSIONER CROWLEY: Aye.

9 SECRETARY GERVAIS: Commissioner Schweickart?

10 COMMISSIONER SCHWEICKART: Aye.

11 SECRETARY GERVAIS: Commissioner Gandara?

12 COMMISSIONER GANDARA: Aye.

13 Both petitions were noticed and before us, have
14 been rejected, denied without prejudice. The elements
15 of the motions incorporate the Commission's direction
16 to the staff in this matter.

17 If we could move on, now, to the next item.

18 MR. LADINE: I would like to make one closing
19 comment, I'd be remiss in not doing it.

20 COMMISSIONER GANDARA: Mr. Ladine, --

21 COMMISSIONER COMMONS: Public comment period.

22 MR. LADINE: Beg your pardon?

23 COMMISSIONER GANDARA: Mr. Ladine, --

24 COMMISSIONER COMMONS: Public comment period, yes.

25 COMMISSIONER GANDARA: --if you could wait for

1 public comment period, I think we've disposed of this
2 item here.

3 MR. LADINE: Okay, I'll present it at -- time
4 here. I would like to submit, which I have done unoffi-
5 cially, it's a letter from Ted Rauh dated November 3rd,
6 in regard to the Committee workshop.

7 COMMISSIONER GANDARA: Is that public comment?

8 MR. LADINE: No.

9 COMMISSIONER GANDARA: Okay.

10 MR. LADINE: Want me to make a brief comment?
11 It's just -- it's an important health and safety issue
12 that I think deserves--

13 COMMISSIONER GANDARA: Mr. Ladine, I would beg
14 your indulgence, please. The Commission would like to
15 move on to other business. I think we've been quite fair.
16 There is a period and provision for public comment which
17 I think frankly you can take advantage of, although to
18 some extent, at the same time, I think we've had an oppor-
19 tunity to hear the issues. I would ask you that you let
20 us go on with the rest of our business and then we'll
21 come back to that.

22 MR. LADINE: All right.

23 COMMISSIONER GANDARA: Okay, with respect to
24 the letter that you seem to indicate you wish to be taken
25 as a submission as part of this record, please give it

1 to the secretary; that will be so taken. Basically, the
2 contents of the letter are such that you seem to feel
3 that it's highly relevant to the timing of the workshop,
4 correct?

5 MR. LADINE: Correct.

6 COMMISSIONER GANDARA: Yes, if we will move
7 on to Item No. 6, the Commission consideration and possible
8 designation of a Commission Committee to preside over
9 the Crockett Application for Certification. This is an
10 application for certification that was filed with the
11 Commission July 16, 1984. My understanding is that the
12 Siting Procedures Committee has a recommendation for the
13 Commission. Commissioner Commons?

14 COMMISSIONER COMMONS: Chairman Imbrecht requested
15 the Committee to review this and the Committee discussed
16 with all Commissioners' offices the siting workload of
17 the respective Commission offices and the Committee would
18 like to recommend that Commissioner Gandara be the Presiding
19 Member on this, on C&H Sugar, and that Commissioner Commons
20 be the second member and it should be understood that
21 in Commissioner Gandara's accepting this, that he may,
22 at the same time, be the Presiding Member on a subsequent
23 proceeding that has not yet been filed with us on Gilroy,
24 and that is something that he'll report back to the Siting
25 Committee at the appropriate time, after it has been filed.

1 So, I'd like to move that Commission Gandara
2 be the Presiding Member and Commissioner Commons be the
3 second member on C&H Sugar AFC.

4 COMMISSIONER GANDARA: I hear a first and a
5 second. Is there any objection -- let me put it, any
6 Commissioner discussion on this item?

7 If there is no objection, the motion is adopted
8 unanimously.

9 Moving on to Item No. 1, the Commission recon-
10 sideration of the load management order and possible adoption
11 of a final order in the matter of Southern California
12 Edison's load management program. This initial order
13 was adopted by this Commission April 4, 1984.

14 Commissioner Commons.

15 COMMISSIONER COMMONS: The Commission direct
16 accepted Southern California Edison's petition for rehearing
17 of Commission Order No. 84-0404-11 and the Committee is
18 bringing back to the full Commission a modified order
19 in response to Southern California Edison's petition,
20 the Public Utilities Staff, the Commission Staff's recommenda-
21 tions to the Committee, and the Committee's concern concern-
22 ing paragraph No. 10, relating to R&D.

23 In reviewing Southern California Edison's petition,
24 the Committee has tried to take a broad look at the whole
25 area of residential load management in relationship to

1 the Commission-directed activity and the acceptance of
2 Southern California Edison's original load management
3 program.

4 There the important aspect of the Commission
5 decision was that what we were doing was tying in a load
6 management program to the resource plan of the utility,
7 in this case, Southern California Edison, and looking
8 towards achieving the 331 megaWatt load drop, which is
9 part of the Southern California Edison resource plan,
10 the purpose, of course, being to avoid having Southern
11 California Edison build peak power plants in the 1990s.

12 In looking at load management and the construction
13 of peak power plants, and we have looked at the cycling
14 program that is before us today, we have found that on
15 all the tests, and on the most stringent type of assumptions
16 that we could run, that we pass all of the various tests
17 of the joint CEC/PUC standard procedure, and we also pass
18 an all ratepayer test.

19 But, just by passing the tests and having the
20 cycling goals, that is not the total solution in terms
21 of how we try to meet the load management needs of Southern
22 California Edison, and for that matter, the state.

23 Now, the Commission has accepted earlier this
24 year a petition which is reviewing the air conditioning
25 standards for the State of California. Clearly, the amount

1 of air conditioning in residential homes has a significant
2 impact in terms of the load management or the peak on
3 part of the utilities.

4 The Commission has conducted, with the Public
5 Utilities, joint workshops concerning looking at the use
6 of incentives as one mechanism of trying to reduce some
7 of the peak power.

8 Both this Commission and the Public Utility
9 Commission in the Southern California Edison case have
10 discussed the concept of real time price within the very
11 narrow concern of the very short peaks that we have within
12 this state on load management.

13 In some states, like Texas, Florida, you have
14 very hot summers and you may have a peak period that runs
15 three, four, five months. In this state, our peak power
16 usage occurs during ten to 15 days and is both due to
17 weather conditions and forced outages, and it's the objec-
18 tive of this Commission not to have to build peak power
19 plants for such short-term use.

20 So, when we look at Edison's petition here,
21 what the Committee is trying to do is to address load
22 management within the broad context of trying to help
23 Edison achieve their 330 megaWatt reduction in peak power
24 from the residential sector. And we cannot separate this
25 from the proceeding that we have currently underway on

1 air conditioners, nor can we separate this from how we
2 price electricity during peak periods.

3 And with that, maybe we should, before we go
4 into the specific recommendations of the Committee, in
5 the order before us, which I think is outlined here, you
6 may want to open it up for public comment.

7 COMMISSIONER GANDARA: Okay, let me just ask
8 a question on procedure, or perhaps let me just go through
9 the history of this, and if I'm incorrect, I'd like to
10 be correct so that the full Commission understands where
11 we are.

12 Originally, the Commission adopted an order
13 on this matter in April and thereafter, SCE petitioned
14 for reconsideration around May, May 17th, I believe. That
15 item was put before the Commission agenda on June 20th.
16 The result of the Commission decision at that point in
17 time was to send it back to the Committee for further
18 consideration, is that correct?

19 And so now it is back before us with the final
20 Committee consideration or recommendation on this matter.

21 COMMISSIONER COMMONS: Would the Commission
22 like a short summary of what the recommendations of the
23 Committee are?

24 COMMISSIONER GANDARA: I believe it would be
25 helpful, at this point in time, to indeed have a, for the

1 Commission's benefit, a recitation of the differences
2 between that order, which it adopted, and that which it
3 is now proposing.

4 COMMISSIONER GANDARA: Mike Sloss, would you
5 like to give the summary from the staff's perspective?

6 MR. SLOSS: Mike Sloss from the Commission Staff.

7 A fundamental difference between the proposed
8 Committee order and the original Commission adopted order
9 has to do with, number one, the original order mandated
10 at least a 2 kW load drop per unit, per cycler unit. SCE
11 has petitioned that a 2kW should be a goal rather than
12 a mandate, and that request is reflected in the order.

13 Secondly, the incentives of the original order
14 were reduced to approximately \$30 a kW, I believe. SCE
15 has indicated they feel that that may be detrimental to
16 their existing marketing program. This proposed order
17 will allow them to continue their existing incentives,
18 their old incentives, not the \$30, through 1985. And
19 in the meantime to do studies that would relate to a deter-
20 mination of what incentive levels are most feasible in
21 their service territory, and report to this Commission
22 in November of 1985 with a recommendation of what they
23 would propose to do for 1986 and the years beyond with
24 regard to incentive.

25 There is a clarification in this order concerning

1 the R&D efforts of the company, Southern California Edison,
2 that provides for SCE to explore real time pricing, to
3 explore other mechanisms other than just DSS, othe than
4 just air conditioner cycling as a method of controlling
5 peak loads, methods of controlling peak loads.

6 The original order had the company installing
7 24,000 units; that has not changed. There is no effect
8 in here upon the number of units to be installed.

9 There's a general recognition, I believe, among
10 all of us, that with the 24,000 units to be installed,
11 that in the ultimate universe, will be approximately 75,000
12 units, that that represents a good sample for statistical
13 validation of their service area, and so there is no change
14 in here that affects the number of units.

15 That's a very quick summary, I think, of the
16 highlights of the proposed order. I'd be happy to try
17 to address other questions.

18 COMMISSIONER GANDARA: Thank you very much.
19 I think that's sufficient now. Where this whole process
20 starts is with the -- under our regulations is they report
21 from the Executive Director, and the Executive Director's
22 recommendations. Does the Executive Office have any comments
23 on the proposed resolution here, or am I to take the
24 Committee and the Executive Director -- the Executive
25 Office comments are one and the same, because I believe

1 when we started out in April, they were not.

2 MS. PRAUL: Well, I would just like to say that
3 we are aware of what the Commission's recommending at
4 this time, and the staff and the Executive Office are
5 willing to concur in it. That is in part based on the
6 fact that those issues which are in dispute at the moment
7 were raised by the Committee in its order, not in the
8 original Executive Director's Report.

9 If the Committee now wishes to bring those back
10 for your consideration, we're willing to concur in their
11 current recommendation.

12 COMMISSIONER GANDARA: Okay. I appreciate that.
13 Then, I guess I have one last procedural question, perhaps
14 I could address to counsel, or maybe to Committee, and
15 that is that where are we procedurally? We had a proposed
16 decision, we had a petition for reconsideration; it was
17 reconsidered, and now we have, after reconsideration,
18 anew decision -- is this the final thing we're going to
19 see on SCE load management?

20 MR. COHN: I certainly hope so.

21 (Laughter.)

22 COMMISSIONER GANDARA: Well, apart from our
23 wishes, I'd like to know where we are procedurally, whether --

24 COMMISSIONER SCHWEICKART: You voted for recon-
25 sideration.

1 MR. COHN: That's right.

2 COMMISSIONER GANDARA: Okay, I just want to
3 know whether I'll vote for reconsideration again next
4 month?

5 MR. COHN: Mike and I guarantee that no one
6 in this room, let alone people outside this room, will
7 not file yet another petition, but that's always possible,
8 given any Commission order, but I think that the Committee
9 has thoroughly gone over all issues relevant to this proceed-
10 ing and I think that a future petition for modification
11 would carry with it a very large burden to persuade the
12 full Commission, not just the Committee, to reopen this
13 proceeding.

14 Furthermore, let's keep in mind that we are
15 requesting from the Public Utilities Commission that this
16 order be officially noticed in their rate case proceeding.
17 The hearings in that proceeding have actually ended, I
18 believe. And, briefs are due on August 17th.

19 As it is, it will be a squeeze to insure that
20 this order is properly implemented at the Public Utilities
21 Commission and any further changes I would fear would
22 not be capable of implementation at the Public Utilities
23 Commission, so I would strongly urge the Commission to
24 take final action today.

25 COMMISSIONER GANDARA: Thank you very much,

1 Mr. Cohn. I'd like to hear now from the affected utility,
2 or I guess we can call you Petitioner, from the Petitioner.
3 It appears you've gotten your wish-list granted, Mr. Gardner.
4 Do you have any other comments?

5 MR. GARDNER: I don't really think so in any
6 detail, Mr. Chairman. I think that I can safely say that
7 this does -- that the Committee's recommendations do address
8 and grant the relief that we were seeking and we would
9 not intend to be back before this Commission asking for
10 any future modifications if the Committee's recommendations
11 are adopted.

12 COMMISSIONER GANDARA: Thank you. Is there
13 anybody else who wishes to be heard on this item?

14 Yes, sir.

15 MR. WEISMEHL: Commissioner, I'm Philip Weismehl
16 with the Public Utilities Commission Staff, and I would
17 just concur that we have reviewed what the Committee is
18 proposing to do and we do not have any difficulties with
19 the recommendations, and I'll also just offer for the
20 record, on behalf of the Public Utilities Commission Staff,
21 our appreciation to our counterparts, the California
22 Energy Commission, for their assistance and informing
23 us what has gone on as this proceeding has moved along,
24 and inviting us to be involved in this proceeding.

25 So, we have no problems with the recommendations

1 as they exist.

2 COMMISSIONER GANDARA: Thank you very much,
3 Mr. Weismehl, thank you for your comments regarding staff.

4 Are there any other Commissioner comments? I
5 would assume the item now is just before the Commission?

6 MR. COHN: Commissioner Gandara, let me just
7 state or propose before you a move to a motion that there
8 should be one change on page two of the Committee-proposed
9 modifications. At the top of the page, the second line,
10 the words, "large amounts of" should be deleted from the
11 recommendation. And, also I would request that you direct
12 General Counsel to make conforming changes in the proce-
13 dural background portion of the order, so that the revised
14 order will reflect the fact that we had this hearing today
15 and explain how the changes came about.

16 COMMISSIONER GANDARA: Okay, thank you.

17 COMMISSIONER SCHWEICKART: Could I ask another
18 ministerial question or editorial question?

19 COMMISSIONER GANDARA: Yes.

20 COMMISSIONER SCHWEICKART: The last work on
21 page one, number two, adding new finding 11, et cetera,
22 says, "avoiding peak power plants in the 1980s." Should
23 that be 1990s?

24 COMMISSIONER COMMONS: Yes.

25 COMMISSIONER SCHWEICKART: Okay. I would suggest

1 you make that --

2 COMMISSIONER GANDARA: Also, at least the copy
3 I have before us seems to have a change on page one and
4 page four.

5 On page one, the first paragraph, I have a pencil
6 change in -- above No. 9 to No. 10, in the sixth line,
7 and on page four, it's in the first line following paragraph
8 eight. Add new order in paragraph 10. Am I to assume
9 that's also--

10 MR. COHN: Right, that paragraph -- the 10
11 is the correct number, yes.

12 COMMISSIONER GANDARA: Okay. With that, I'd
13 be glad to entertain a motion. Commissioner Commons?

14 COMMISSIONER COMMONS: One of the reasons that
15 we've accepted the petition the Committee's recommending
16 on this, I think there are two aspects that should be
17 brought out. One is Southern California Edison's very
18 sincere and real effort in terms of trying to accomplish
19 load management and the fact that they have a major marketing
20 program underway and by this Commission adopting, and
21 if it so does, this petition, it will allow Southern California
22 Edison to proceed orderly in terms of accomplishing its
23 goals.

24 One of the real problems that is addressed by
25 this petition is that it results in a substantially higher

1 incentive level than otherwise would have occurred and
2 one of the reasons that is is that the way we charge for
3 peak power on the tail block rate is somewhere between
4 8 and 10 cents per kW. People go out and buy air condi-
5 tioners, they make their decision to purchase based on
6 that cost.

7 The real cost, if you were to put in that cost --
8 the peak power, is substantially higher, maybe two or
9 three times that amount.

10 People who are using their air conditioners
11 were paying the actual price that it's costing the ratepayer,
12 then you would find that the market would end up buying
13 more efficient air conditioners, and they would also be
14 using them in a more efficient manner.

15 This has been one of the major problems that
16 Southern California Edison has had difficulty in terms
17 of trying to have a cost-effective program, which this
18 one is, and that the Commission, in terms of looking at
19 the standard levels of air conditioners is facing, is
20 that we're having to overcome this hurdle when we are
21 not really taking into account at these very sharp peaks,
22 the true cost of energy to the ratepayer.

23 And if it's appropriate now, I'd like to so
24 move that the Committee-proposed modifications to Order
25 No. 84-0404-11 with those changes or corrections mentioned

1 by Commissioners Schweickart and yourself, Mr. Gandara,
2 and also the additional change, the addition, correction
3 that was announced by legal counsel, Steve Cohn.

4 COMMISSIONER GANDARA: Do I hear a second?
5 Commissioner Schweickart seconds.

6 Is there any objection to unanimous roll call?

7 If not, then the motion is adopted.

8 We can move on to Item No. 7.

9 MR. GARDNER: Mr. Chairman, thank you very much
10 and I particularly would like to thank the Committee for
11 its hard work in this and its willingness to re-look at
12 the issues.

13 COMMISSIONER GANDARA: Thank you very much,
14 Mr. Gardner.

15 MR. GARDNER: Thank you.

16 COMMISSIONER GANDARA: Item No. 7 is the
17 Commission consideration and possible adoption of a resolu-
18 tion to cosponsor the West Coast Energy Management Congress.
19 Mr. Rauh, it seems to me a pro forma item.

20 MR. RAUH: Yes, I had understood that this was
21 going to be put back on the consent calendar.

22 COMMISSIONER GANDARA: Consent calendar, yes.
23 Well, since it is before us now, I would so move the adop-
24 tion of the resolution. Is there a second? Commissioner
25 Commons seconds. Is there any objection to unanimous

1 roll call? If not, going once, twice, thrice -- the motion
2 is adopted. We are hereby cosponsors.

3 MR. RAUH: Thank you.

4 COMMISSIONER GANDARA: Thank you, Mr. Rauh,
5 very persuasive and impressive testimony.

6 (Laughter.)

7 COMMISSIONER GANDARA: Item No. 8. Approval
8 of the Minutes. Do we have any minutes to approve? Yes,
9 we do. Has anybody read them?

10 COMMISSIONER SCHWEICKART: The issue is do we
11 approve them or not.

12 COMMISSIONER GANDARA: Do I hear a motion for
13 approval of the minutes?

14 COMMISSIONER SCHWEICKART: Moved.

15 COMMISSIONER GANDARA: Commissioner Schweickart
16 moves approval. Commissioner Crowley seconds. Unanimous
17 roll call for approval of the minutes. So indicated.

18 We are in Item No. 9, Commission Policy
19 Committee's Report. Is there any Committee that wishes
20 to give a report to the Commission?

21 I will not take up the Commission's time with
22 oral reports, since we are pressed for time, however,
23 I do have written Committee reports for the Commission
24 to read in their leisure time, if I can find them here.

25 We have a report from the Fuels Planning Committee

1 and a report from the Loan and Grants Committee.

2 If there are any comments or questions upon
3 your perusal of these reports, then, please raise them.

4 I take it there are no other Committee reports?

5 COMMISSIONER COMMONS: I have one question.

6 COMMISSIONER GANDARA: Commissioner Commons.

7 COMMISSIONER COMMONS: Would someone bring me
8 up to date on the status of revision of the dates on the
9 BR, is that 1549 or 1519?

10 COMMISSIONER GANDARA: Oh, you mean the Senate
11 Bill 1549?

12 COMMISSIONER COMMONS: Yes.

13 COMMISSIONER GANDARA: I will bring you up to
14 date as of 1:30 this afternoon, then I will ask Ms. Praul
15 to bring us up to date since then.

16 Briefly, the issue had arisen in 1549 of what
17 the appropriate stage would be with respect to the Biennial
18 Report adoption and the Electricity Report adoption. The
19 original legislation that we sponsored indicated that
20 the Electricity Report would be adopted in June of 1985.
21 That's correct.

22 The Biennial Report was scheduled to be adopted
23 one year after that, in June of '86.

24 There were some issues that were raised by the
25 Oversight Committee shortly, or during the time of the

1 hearing and that issue was a concern over the wide separation
2 between the time of the issuance of the Electricity Report
3 and the Biennial Report, or the adoption. And that was
4 resolved in the following manner: That while the final
5 Electricity Report was to be published and issued in June
6 of '85, as we had originally contemplated, that it would
7 be available -- it would be published, made available,
8 circulated, and that the Commission would hold at least
9 one or more public hearings during that six-month period
10 and then in December of 1985, it would be adopted. The
11 concern one was that the adoption date of the Electricity
12 Report be a bit closer to the Biennial Report date.

13 Since that time there have been some concerns
14 raised with respect to having what appeared to be an 18-
15 month period between the initiation of the process and
16 the adoption of a forecast, and that concern was expressed
17 principally by one utility.

18 My understanding, as of 1:30 this afternoon,
19 is that that has been resolved in the following way: That
20 in the June Electricity Report, that is June 1985, the
21 final report will be published, will be made available and
22 at the time that the Commission makes it available for
23 public dissemination, it would adopt its electricity forecast.

24 The legislation now is amended to include a
25 provision that the Commission shall hold one or more public

1 hearings between June and September when the final
2 Electricity Report will be adopted. The distinction here
3 is that in June it is the forecast only which will be
4 adopted, and in September it is the whole report which
5 will be adopted.

6 The intent is not to -- the intent is to put
7 some finality to the Electricity forecast. You should
8 recall that under original legislation that there is a
9 preliminary report that is issued in March. So, therefore,
10 it will be both the staff forecast and the utility forecast
11 and the comments and supporting documentation available
12 as of March, because of the preliminary report. You will
13 have that three-month period before you adopt the forecast
14 in June, and then between June and September, there will
15 be an opportunity to bring the Electricity Report in conformance
16 with that adopted forecast.

17 COMMISSIONER COMMONS: Is this '85 or '86?

18 COMMISSIONER GANDARA: '85.

19 MS. PRAUL: We're speaking of an idealized process
20 which would actually begin in '86 for then the '87 BR
21 which will remain in May. Next year it's the odd year
22 just because -- and we are still getting out this year's --

23 COMMISSIONER GANDARA: I stand corrected. I've
24 focused more on the months than I have on the years.

25 MS. PRAUL: Yes, it's really -- it's the odd year

1 issue. We're the --

2 COMMISSIONER GANDARA: Okay, fine.

3 COMMISSIONER COMMONS: So, it is, though, June
4 '85, September '85?

5 MS. PRAUL: No, the Electricity Report will
6 be in the even years and the BR will be in the odd years.

7 COMMISSIONER COMMONS: So, we're talking June '86--

8 MS. PRAUL: With the exception of the fact that
9 next year we do have an Electricity Report in an odd year
10 because it's late.

11 COMMISSIONER COMMONS: That's the one we're
12 doing now?

13 MS. PRAUL: Right.

14 COMMISSIONER COMMONS: The next one will then
15 be June '86, September '86?

16 MS. PRAUL: Right.

17 COMMISSIONER GANDARA: Is that where it's at?

18 MS. PRAUL: Well, at the time I came down here
19 at 3:30, that was where it was. And Luree is addressing
20 this with the Committee consultant right this afternoon,
21 so, my understanding is, based on your discussions yesterday
22 with Gene, that that is where it is.

23 And I would say that the utility is very pleased
24 with the outcome.

25 COMMISSIONER GANDARA: Thank you. Any other

1 questions?

2 If not, then we can move on to Item No. 10,
3 General Counsel's report.

4 MR. CHANDLEY: We have nothing for open session.

5 COMMISSIONER GANDARA: Okay.

6 We have Item No. 11, Executive Director's report.

7 MS. PRAUL: We have no major items. We have
8 a new assistant Executive Director who started today.
9 I think we would leave it to the next business meeting
10 for when Randy is here to officially introduce him. His
11 name is Don Wallace.

12 COMMISSIONER GANDARA: Commissioner Commons?

13 COMMISSIONER COMMONS: Yes. In the monthly
14 reports that we receive, I did not receive a copy of the
15 Executive Director's monthly report for that office and
16 the law offices.

17 MS. PRAUL: I will seek those out and see that
18 you get them. I don't know why that was the case.

19 COMMISSIONER COMMONS: I received the various
20 divisions' reports, but not the Executive Director's monthly
21 report.

22 MS. PRAUL: I'm not familiar with when we routinely
23 give them to you or what they contain, but I will follow
24 up on it and get back to you.

25 COMMISSIONER COMMONS: Because I would like to

1 make sure that we receive those on the same monthly basis
2 that we receive the division reports.

3 COMMISSIONER GANDARA: Okay. Any other questions
4 of the Executive Director's office?

5 If not, then we can move on to Public Comment,
6 Item No. 12. Is there any member of the public who wishes
7 to comment on any item other than those that were before
8 us today?

9 Mr. Ladine, if you're listening?

10 If not, then we are finished with public comment
11 and I understand we will be recessing to Executive Session
12 at this point in time for consideration of personnel and/or
13 possible litigation issues.

14 CHAIRMAN IMBRECHT: Can I just inquire briefly
15 as to the disposition of Item 5.

16 COMMISSIONER GANDARA: Item 5, on both petitioners,
17 were denied without prejudice. There was a modification
18 of the order proposed by the Committee, which was accepted
19 by all parties present. And that was that a public work-
20 shop on the --

21 COMMISSIONER SCHWEICKART: Informational hearings.

22 COMMISSIONER GANDARA: I'm sorry -- informational
23 hearings on the calculation methodology, I believe, detailed
24 within 90 days and other than that, the Commission accepted
25 the original motion as proposed by the Committee, which

1 was essentially to deny the petitions without prejudice
2 pending the resolution around February.

3 CHAIRMAN IMBRECHT: And the assignment on committees
4 for C&H were as per to submit yourself as presiding and--

5 COMMISSIONER GANDARA: I've accepted the
6 Committee's recommendation, presiding, Commissioner Commons
7 as second -- interest in Gilroy--

8 CHAIRMAN IMBRECHT: --when we come to that.

9 COMMISSIONER GANDARA: And I'll return the favor
10 sometime soon.

11 (Laughter.)

12 CHAIRMAN IMBRECHT: And, let's see, and as to
13 cosponsoring the --

14 COMMISSIONER GANDARA: It was approved.

15 CHAIRMAN IMBRECHT: Okay. If I may ask, without
16 objection, to be added as an aye vote on Items 1, 6, and 7.

17 COMMISSIONER GANDARA: I have no objection.

18 CHAIRMAN IMBRECHT: Okay.

19 COMMISSIONER CROWLEY: I didn't hear your --

20 CHAIRMAN IMBRECHT: I'm asking, without objection,
21 I'm asking to be added as one aye vote on Items 1, 6,
22 and 7.

23 We'll recess for Executive Session and the meeting
24 will stand adjourned at the conclusion of the Executive
25 Session.

(Whereupon, at 4:25 p.m., the business meeting of
the California Energy Resources Conservation and Development
Commission was adjourned.)

REPORTER'S CERTIFICATE

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4 THIS IS TO CERTIFY that I, Patricia Petrilla,
5 Reorter, have duly reported the foregoing proceedings
6 which were held and taken in Sacramento, California, on
7 Wednesday, August 1, 1984, and that the foregoing pages
8 constitute a true, complete and accurate transcription
9 of the aforementioned proceedings.

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

13
14 Patricia A. Petrilla

15 Reporter
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