

STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

CALIF. ENERGY COMMISSION

OCT 7 1985

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BUSINESS MEETING

1516 Ninth Street
First Floor Hearing Room
Sacramento, California

Wednesday, October 2, 1985

10:00 O'Clock A.M.

Reported by:

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COMMISSIONERS PRESENT

Charles R. Imbrecht, Chairman
Barbara Crowley
Geoffrey D. Commons
Arturo Gandara
Warren D. Noteware

PUBLIC ADVISER

Ernesto Perez

STAFF PRESENT

Randall M. Ward, Executive Director
Bill Foley
Bill Chamberlain
Greg Newhouse
Valerie Hall
Gary Fay
Ross Deter
Susan Bakker
Lorri Gervais, Secretary

ALSO PRESENT

Edmond R. Western, Sun Exploration and Production Company
Robert N. Levine, Southern Sierra Energy Company
Mike Gardner, Midway-Sunset Cogeneration
Jack Mason, ARCO
Michael Gersick, Grattan-Gersick-Karp

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P R O C E E D I N G S

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3 CHAIRMAN IMBRECHT: We'll come to order. I
4 understand Commissioner Gandara is on his way, and I think
5 perhaps we can dispense with a couple of items. I would
6 like to ask you all to rise and please join Commisioner
7 Commons in the Pledge of Allegiance.

8 COMMISSIONER COMMONS AND AUDIENCE: I pledge
9 allegiance to the Flag of the United States of America and
10 to the republic for which it stands. One nation, under
11 God, indivisible, with liberty and justice for all.

12 CHAIRMAN IMBRECHT: Okay. Thank you.

13 No one's asked for the delay in getting started.
14 While our agenda appears short on its surface, I believe
15 that we have reason to expect sort of a protracted meeting
16 today, and so we should turn immediately to Item 1.

17 I should just indicate that we will interrupt
18 our proceedings shortly after half past the hour for a
19 special presentation, and return to the consideration
20 of Item No. 1.

21 Item 1 is consideration and possible acceptance
22 of the -- excuse me. I should also announce that in
23 deference to one of the members of the Commission's sche-
24 dule, we will also recess at 11:30 for Executive Session
25 today, and stand in recess until the conclusion of the

1 noon luncheon recess at 1:30, and with that we'll turn
2 to Item No. 1, which is Commission Consideration and
3 Possible Acceptance of the Midway-Sunset Cogeneration
4 Project Application for Certification.

5 The application was submitted by the Sun
6 Cogeneration Company and Southern Sierra Energy Company.
7 The applicants propose to construct cogeneration facili-
8 ties at oil recovery operations in Kern County approxi-
9 mately 40 miles southwest of Bakersfield. The proposed
10 project will produce steam for the thermally-enhanced oil
11 recovery operations while generating electricity for sale
12 to Southern California Edison Company.

13 The facility will generate approximately 225
14 megawatts of electricity.

15 Mr. Ward.

16 EXECUTIVE DIRECTOR WARD: Yes. Thank you,
17 Mr. Chairman. First of all, let me apologize for the late
18 receipt of my letter to you I believe dated the last day
19 of September, which was Monday, late Monday afternoon,
20 which indicated that the data was insufficient at this
21 point in time for us to recommend to you that it was sub-
22 stantially complete to begin the AFC process.

23 There are a number of reasons for that, much
24 of which relate to the Commission calendar. Had we
25 scheduled it for the subsequent business meeting to today,

1 we would have missed the 45-day time period. As a result
2 of scheduling it for today's hearing, it caused the staff
3 to have to work in a fairly serious time frame, in some-
4 thing less than 30 days, which is their typical course
5 or opportunity to review these documents.

6 With that, I will let Greg Newhouse and Valerie
7 Hall of the Siting Division go over the data adequacy
8 questions.

9 MR. NEWHOUSE: Thank you. As we mentioned in
10 the letter to yourselves that we were still looking at
11 some supplements, one that was filed the day of the data
12 adequacy workshop, I might note that, although we had had
13 no contact with the applicant at that point, they felt
14 it advisable to file information on that date.

15 Also, on the 24th of September additional infor-
16 mation was filed by the applicant in response to a number
17 of comments at our data adequacy workshop.

18 What I would like to do for you, then, is to
19 go through the letter to you from the Executive Director
20 indicating on which pages we now have found some of the
21 things we noted before as inadequate to be adequate.

22 The first page I would like you to turn to is
23 page No. 2. This is the area called Plant Electrical.
24 Items 2 through 6 are now considered adequate, based on
25 the 9-24 submittal.

1 Item 1 is not considered adequate as the appli-
2 cant has indicated this data will not be provided until
3 October 18th.

4 Turning to page 3, based on a review of their
5 9-20 and 9-24 submittals, the entire area of transmission
6 line safety and nuisance is now adequate.

7 Turning to page 7, the area of civil engineering,
8 the second point, which refers to a brief description of
9 the applicant's legal interest, is now found to be adequate,
10 based on the 9-24 submittal.

11 Turning to page 10, the area of cultural resources,
12 the first point where we note that there needs to be an
13 archaeological/historical field survey of the gas, water,
14 steam and transmission line right-of-way, it is now adequate
15 for the areas of gas, water and steam rights-of-way.

16 The second point there, which is contact with
17 the Native American Heritage Commission, has now been
18 accomplished and is found adequate.

19 Turning to page 11, in the area of land use,
20 based on the 9-24 submittal, all of those areas have been
21 found to be adequate.

22 On page 12, transmission system evaluation, the
23 first item, subcomponent A, total number of towers/poles,
24 is now adequate.

25 We also have some items in the area of structural

1 engineering which, because of the changes, we would like
2 to give you some, the matrix that we prepare for data
3 adequacy right now. While Valerie Hall is having that
4 passed out, we would like to note that some of the main
5 concerns that staff has with the document is that it appears
6 to us to be in a more conceptual than preliminary design
7 phase, which has been extremely difficult for us to evalu-
8 ate the data to find it adequate.

9 Although there were options for pre-filing work-
10 shops, this particular applicant has turned such workshops
11 down.

12 I'll have Valerie Hall --

13 EXECUTIVE DIRECTOR WARD: I think it might be
14 important to mention that there was a workshop I believe
15 on the 18th or 19th, or during that week, and there was
16 additional information provided by the Applicant at that
17 time, and subsequent to that time is my understanding,
18 largely which represent the changes you are seeing before
19 you today.

20 MR. NEWHOUSE: That's correct.

21 Now, Valerie Hall will review the structural
22 engineering changes.

23 MS. HALL: You now have before you a copy of
24 the new structural information. If you will go to page
25 -- the fifth sheet of the packet is marked on the top as

1 being page 2 of 7. It may be a little confusing.

2 You will find that what this is is a reprint
3 of the structural engineering information that is presented
4 in the original letter of recommendation dated the 30th.
5 What this does is, it now has a -- in handwritten notes,
6 some crossing-out of information that it was inadequate,
7 and it now is adequate, per the supplement of September
8 24th.

9 You will notice that on that first page that
10 it -- in the top right-hand corner, it is noted as page
11 2 of 7, that it is now -- Item No. 1, the pipe racks, is
12 now adequate. That's been crossed out.

13 Item No. 2, it says all structures and equipment,
14 that has been modified to say that equipment except CTG
15 and HRSG, those are now the only items that are inadequate
16 in that area.

17 I think rather than going through this page by
18 page, you'll find that it is extremely lengthy, that you
19 will find, as you leaf through it, that there are a number
20 of areas which have now been made adequate per the supple-
21 ment of September 24th.

22 Overall, the area does remain inadequate, however,
23 but there has been much effort made to -- to clear some
24 of the items. Staff has reviewed the supplement, and has
25 seen these items are now adequate, individual items are

1 adequate. The overall structural area does remain inade-
2 quate.

3 COMMISSIONER COMMONS: Excuse me. Does this
4 replace what we have in our binder, or is this a supplement
5 to it? I'm a little confused.

6 MS. HALL: What you have in your binder in that
7 particular area was based upon the review of the AFC alone.
8 What you currently have in your hand is our revision of
9 that work, based upon the supplement of September 24th.

10 COMMISSIONER COMMONS: All right. So this
11 replaces what's in my binder.

12 MS. HALL: Correct.

13 COMMISSIONER COMMONS: Just on structural engi-
14 neering.

15 MS. HALL: That's right.

16 MR. NEWHOUSE: That basically is staff's presen-
17 tation this morning.

18 CHAIRMAN IMBRECHT: All right. Fine. Are there
19 questions from members of the Commission?

20 Commissioner Gandara.

21 COMMISSIONER GANDARA: The bottom line is that
22 the staff is indicating that the application is inadequate
23 and, therefore, not recommending acceptance. Is that it?

24 EXECUTIVE DIRECTOR WARD: That's correct, even
25 in light of the changes before you today.

1 COMMISSIONER GANDARA: Okay. Thank you.

2 CHAIRMAN IMBRECHT: I take it all the pages which
3 you skipped remain, in your view, data inadequacies.

4 MR. NEWHOUSE: Yes, I did.

5 CHAIRMAN IMBRECHT: All right. Fine. Further
6 questions?

7 I suspect we may want to recall. In that case,
8 thank you for your presentation.

9 I'll ask applicant to please come forward and --

10 COMMISSIONER GANDARA: May I --

11 CHAIRMAN IMBRECHT: Sure. Commissioner Gandara.

12 COMMISSIONER GANDARA: Mr. Chairman, if I might
13 make a comment at this point in time, I -- I guess what
14 we're going by is the statute, which is Section 25522,
15 that indicates that the Commission shall determine within
16 45 days after receipt of the application whether the appli-
17 cation is complete, you know, this -- it appears that the
18 applicant is prepared to take a substantial amount of time
19 to take issue with the staff recommendation here and with
20 the areas in which there is indicated data inadequacy.

21 And I guess what I'm raising at this point in
22 time, without any prejudice or -- to the applicant, is
23 simply whether the Commission is really best off not taking
24 up everybody's time with this.

25 It seems to me, at least from my point of view,

1 the following has occurred. One is that if we are
2 required to render a decision within 45 days, we have little
3 choice but to render a negative one right now, and that
4 though we do have the discretion to in fact accept the
5 AFC, I raise the following problem.

6 I, for one, am not in the habit of reading the
7 AFCs as soon as they are dropped on my desk, and for that
8 reason I -- I don't think that I'm adequately prepared
9 to even make a decision with respect to the applicant's
10 allegations here.

11 I received the information dated September 30th,
12 which is Monday, I guess. I have a hearing on Tuesday on
13 another case. Simply, you know, when the issue is joined
14 that late before a Commission hearing, I just do not have
15 the time to pull out that AFC and to be able to look at
16 the statements by the staff and/or the counter-statements
17 to be made by the applicant.

18 Now, I say that without any fear of being accused
19 of not doing my duty, but simply because it is not just
20 reasonable for anybody to expect that we're going to come
21 before a business meeting and try to make a determination
22 as to whether this list is adequate or not, so that I
23 frankly feel comfortable with accepting the staff recommen-
24 dation.

25 And I have no problem with listening to the

1 applicant, but I really don't feel that I am adequately
2 prepared to delve into this issue at this level.

3 I would propose that we can put off the decision
4 till the next business meeting.

5 EXECUTIVE DIRECTOR WARD: I --

6 COMMISSIONER GANDARA: If there is a desire or
7 a need to render a decision within 45 days, I would say
8 that we certainly accord enough deference to the recommen-
9 dation by the staff, and let's proceed with the rest of
10 our business meeting.

11 EXECUTIVE DIRECTOR WARD: Commissioner, I might
12 have some additional help for you. I -- I, too, was very
13 concerned about my own opportunity to review, given the
14 time constraint, and the incremental submittals of infor-
15 mation that staff is doing their best to try to review
16 from the applicant during the course of this process.

17 There is a question that should probably be
18 appropriately addressed to General Counsel, that additional
19 submittals or addendums to the original AFC could, from
20 my perspective at least, raise a question of whether in
21 fact the 45-day review was a legitimate time frame, and
22 I think that's the point you're raising, and it's very
23 well taken.

24 CHAIRMAN IMBRECHT: Those are without question
25 legitimate points. At the same time, this was calendared

1 pursuant to our historical or accepted approach, our prece-
2 dential approach. It seems to me that while I understand
3 everything Commissioner Gandara is saying, as well as the
4 position of staff, that, at least from my perspective,
5 there is a little due process consideration, and I think
6 at a minimum we ought to allow the applicant to be heard,
7 at least to respond to the points just raised, and I think
8 that my guess is there will probably be an introductory
9 kind of approach to this, which will then allow us to
10 approach the threshold question of whether we want to go
11 into a point-by-point and specific review of the areas
12 of dispute or not.

13 But I would just note that in the past, when
14 the staff's recommendation has been to the contrary, we
15 afford affected parties the right to be heard on their
16 recommendation, and it seems to me that we can't simply
17 operate in a fashion that when there is a denial, and that's
18 the recommendation of staff, that we automatically accept
19 that, where that's not the case with respect to the recom-
20 mendation for acceptance.

21 In any case, it would be my view from a disparate
22 standpoint, that we at least ought to afford them the oppor-
23 tunity to be heard with an initial and overview statement
24 as to their perspective about the proceeding.

25 COMMISSIONER GANDARA: Mr. Chairman, if I might,

1 I don't disagree with you. I don't wish to be misinter-
2 preted to indicate that the applicant should not make a
3 statement.

4 All I'm indicating is that I think the Commission
5 also has the discretion to reasonably set time limits on
6 what we are about to do today --

7 COMMISSIONER GANDARA: I would -- I would agree
8 with that.

9 COMMISSIONER GANDARA: -- given what we can
10 reasonably expect that we can do.

11 CHAIRMAN IMBRECHT: I would suggest that that
12 might be an issue that we could ask the applicant to address
13 initially --

14 EXECUTIVE DIRECTOR WARD: Well, I think, yeah,
15 you may want --

16 CHAIRMAN IMBRECHT: -- and then we may want to
17 return to that question.

18 EXECUTIVE DIRECTOR WARD: You may want to have
19 the applicant indicate whether they want it carried over
20 to the subsequent business meeting, and that would elimi-
21 nate a significant amount of this today.

22 COMMISSIONER GANDARA: That was my sole intent.
23 That if the applicant were to consider the discussion that
24 we've had, we might in fact deal with that.

25 CHAIRMAN IMBRECHT: May I ask you to yield the

1 witness table, and perhaps we can get on with this.

2 MR. GARDNER: Thank you, Mr. Chairman. Good
3 morning, Commissioners. Mike Gardner representing the
4 Midway-Sunset Cogeneration Project.

5 I think I would like to start by responding to
6 the comments between the Chairman and Commissioner Gandara.
7 We would very much like the opportunity to comment to you
8 on the specifics of staff's list of inadequacies. In our
9 view, the filing is not inadequate. It is a legally-
10 complete document and can and should be accepted by this
11 Commission, and the process should begin.

12 As far as putting it over to a subsequent busi-
13 ness meeting for a final action, that's something I think
14 is -- is open to discussion, and if it's useful I think
15 we would probably agree to that.

16 Mr. Chairman, you had mentioned needing --

17 CHAIRMAN IMBRECHT: In lieu of a denial.

18 MR. GARDNER: Well, hopefully, you would --

19 CHAIRMAN IMBRECHT: Well, that's the other option,
20 obviously.

21 MR. GARDNER: -- not render a denial without
22 at least hearing us first. Our underlying position is --

23 CHAIRMAN IMBRECHT: I'm not suggesting that was
24 my intention in the slightest.

25 MR. GARDNER: I didn't think it was.

1 CHAIRMAN IMBRECHT: I'm just simply trying to --

2 MR. GARDNER: Our underlying position is that
3 if the Commission does deny the application, we as the
4 applicant are -- are due a list from the Commission of
5 those things that you feel are inadequate. It is supposed
6 to be the Commission's list of inadequacies, not staff's
7 list.

8 That certainly doesn't mean you cannot adopt
9 as your own staff's list in whole or in part, but I do
10 think you -- you should at least hear our comments on that,
11 because we do differ with staff as to whether in fact these
12 things are legally inadequate.

13 Mr. Chairman, you had mentioned a -- a desire
14 to stop at half past the hour for a special presentation.
15 If that was half past this hour --

16 CHAIRMAN IMBRECHT: Perhaps this would be a good
17 time --

18 MR. GARDNER: Yes. I was going to suggest this
19 might be --

20 CHAIRMAN IMBRECHT: -- to take just a very brief
21 break, so we don't interrupt too many other schedules,
22 and I would just like to briefly interrupt this item to
23 indicate that unfortunately -- and I take responsibility
24 for it personally -- at the Tenth Anniversary Celebration
25 of the Commission we neglected to honor, as we did the

1 remainder of our employees that have been with the
2 Commission for ten years, four individuals, and that's
3 an oversight that I wanted to correct in a public fashion,
4 with the consent and concurrence of my colleagues.

5 One of those individuals, Mr. Clare Poe, is as
6 I understand not with -- or here at the Commission today
7 and is unable to attend this proceeding, but in any case
8 I would like to ask my two ranking colleagues to join in
9 making a presentation to each of these, on behalf of the
10 full Commission, and I would first ask Vice-Chair Crowley
11 if she would make a brief presenttion for us.

12 COMMISSIONER CROWLEY: Thank you, Mr. Chairman.

13 It's very much to my pleasure to make the follow-
14 ing presentation. Mr. Zene Bohrer has been on our staff
15 for ten years, and I have had the pleasure of having the
16 benefit of his advice and assistance in working on
17 Geysers 21, so I'm aware of his sizeable contribution to
18 the Commission, and I would like at this time to present
19 him with our letter and with our seal, and thank him indeed
20 for his many years of help with the Commission.

21 (Applause.)

22 COMMISSIONER CROWLEY: Thank you so much.

23 MR. BOHRER: Thank you.

24 CHAIRMAN IMBRECHT: I should just indicate as
25 well that, as is the case with respect to the other new

1 seals of the Commission, there is a resolution and frame
2 that goes with it, but it will be presented to each of
3 the recipients as soon as they arrive.

4 Commissioner Gandara, will you do so.

5 COMMISSIONER GANDARA: Yes.

6 CHAIRMAN IMBRECHT: Do those honors.

7 COMMISSIONER GANDARA: Mr. Gary Occhiuzzo. Gary.
8 Congratulations to you.

9 (Applause.)

10 COMMISSIONER GANDARA: I'll repeat my stale joke
11 of then which was ten be wise, eighty be wise.

12 CHAIRMAN IMBRECHT: And Sherry Stoner. I don't
13 see Sherry here, but she's such an integral part of our
14 institution, I hope that we'll have a chance to call her
15 over before today's proceedings are over.

16 In any case, Mr. Gardner, would you like to
17 continue with your presentation, and thank you for your
18 courtesy in the interruption.

19 MR. GARDNER: Okay. I think probably the most
20 expeditious way to approach this is to take the staff's
21 letter recommending nonacceptance and have us address in
22 order the points that where there is still a difference
23 of opinion, and I guess that would begin with the page
24 immediately following the Executive Director's letter,
25 at page 1 of his attachment.

1 Okay. The requirement of your regulations
2 applicable to this issue is found in, as cited by staff,
3 Appendix B, subpart F.1.a. and b.

4 What that requires is a discussion of the anti-
5 cipated service life and degree of reliability anticipated
6 to be achieved by the proposed facilities based on a con-
7 sideration of, a., expected annual and lifetime capacity
8 factors and, b., design criteria proposed for critical
9 systems and components.

10 We believe that we have provided a discussion
11 that does address those -- those issues. We have provided
12 reference to EPRI studies as requested by the staff. Those
13 studies indicate a combustion turbine generator availa-
14 bility of 96.6 percent.

15 We also discussed redundancy and availability
16 of other major equipment components.

17 In summary, we think that we have adequately
18 addressed this issue. If there are further questions,
19 we believe that they could be readily dealt with during
20 the discovery phase of the proceeding.

21 Some of the types of things that it would appear
22 that staff would like to have in areas such as this simply
23 don't exist because facilities of this precise type are
24 relatively new. This project is very similar to the Kern
25 River project, which this Commission has certified is now

1 operating, or has just begun operation this year, there
2 is not a long historical record that anyone can look at
3 and pull the kind of documentation into a filing that staff
4 is asking for.

5 You can look at some of the individual components.
6 We think we've done that.

7 Staff's second point is essentially a seismic
8 analysis. We have committed to having that completed and
9 in staff's hands on November 8th of this year. That's
10 well within the early part of the discovery period, and
11 we believe gives staff plenty of time to -- to analyze
12 that issue.

13 This is not, I don't think by anybody's judgment,
14 a reliability-critical facility. If the facility fails
15 to operate due to a seismic event, it is not going to
16 impact Southern California Edison Company's ability to
17 serve their customers.

18 There is no ratepayer risk involved in this,
19 or no ratepayer dollars behind the project. The ratepayers
20 only pay for the energy and capacity that is actually
21 delivered by the project, so we don't see a need to have
22 that level of data specifically in the filing itself, and
23 frankly, I don't think that your regulations would read
24 in a way that specifically would require that.

25 COMMISSIONER COMMONS: Excuse me. Mr. Chairman?

1 CHAIRMAN IMBRECHT: Commissioner Commons, before
2 I -- are you interested in pursuing this?

3 COMMISSIONER COMMONS: I'm asking -- I want to
4 ask a point of procedure.

5 CHAIRMAN IMBRECHT: Fine. I was just involved
6 in that kind of a discussion myself. Go ahead, now. State
7 your point.

8 COMMISSIONER COMMONS: There's two ways we could
9 do this. We could look at each point as it comes up, or
10 we could hold. One of the problems I have in holding is
11 that --

12 CHAIRMAN IMBRECHT: It's going to get lost. It's
13 going to be confusing.

14 COMMISSIONER COMMONS: It's going to get lost
15 and confusing.

16 On the other hand, if we're not going to move
17 forward today, I don't want to take the time of the
18 Commission to discuss each point, and so I'm in a quandry,
19 and I wanted to throw it to you.

20 CHAIRMAN IMBRECHT: Let me thank you. I was
21 anticipating the ball, and let me suggest the following
22 procedure.

23 I sense that there are probably several levels
24 of issues that are involved here, some which from your
25 perspective are fundamental issues, and others which

1 perhaps more go to technical interpretations, reasonable-
2 ness of time considerations, et cetera.

3 It would seem to me that the fundamental issues
4 are the ones that are more likely than not to be the
5 cricable upon which a decision to proceed or not would
6 be based. At the same time, I also agree with Commissioner
7 Commons that if we're going to go through this point by
8 point, we probably ought to ask for a point, counterpoint
9 in essence, and let the staff give their perspective on
10 each of the issues as we proceed through them.

11 In any case, I was wondering if it might be
12 possible for you, rather than to begin going through this
13 lengthy document, to focus on what you consider to be your
14 key points. Let's see if we can join the issue on those.
15 If we're capable of resolving those, then I would suggest
16 that if it's all of us, to take the time to look at the
17 further detail as well.

18 MR. GARDNER: Okay. I --

19 CHAIRMAN IMBRECHT: If not, then I think that
20 dictates the alternate course of action.

21 MR. GARDNER: I think that's -- that's a good
22 approach.

23 I would say there are four key issues involved
24 in staff's feeling that the document is inadequate, and
25 let me start with probably the easiest.

1 Staff feels that the power purchase contract
2 between the applicant and Southern California Edison
3 Company must be provided as part of the original filing
4 for the filing to be data-adequate. We agree on -- or
5 disagree on two primary grounds. One, we question whether
6 the -- the contract needs to be provided in whole into
7 the docket at all in these sorts of proceedings, but under-
8 lying that is we feel that if the Commission does believe
9 that the -- the contract is necessary and must be made
10 available, the contract does exist, it can be produced
11 certainly within 24 hours.

12 If the Commission were to rule that in fact the
13 contract has to be made available, under what other --
14 I'm sorry, whatever terms and conditions, for purposes
15 of this discussion we would simply argue that it is not
16 a matter of data adequacy. The contract does exist, it
17 can be made available if that is the direction of the
18 Commission. It should not be a data adequacy issue.

19 I think probably the second issue would be some
20 of the environmental studies that staff suggests must be
21 in the original filing, in two primary areas, I believe,
22 the first being biological resources, the second cultural
23 resources.

24 The staff has indicated that they believe we
25 need essentially full 100 percent on-the-ground surveys

1 of all components of the project in the original document.
2 We have provided in the original document that type of
3 coverage for the plant site itself, and some of the
4 ancillary facilities.

5 The transmission line, for example, we have not
6 provided as yet a hundred percent on-the-ground environ-
7 mental data, and we frankly don't think that it is reason-
8 able to expect that now because, really, what everybody
9 is interested in is protecting the sensitive plant and
10 animal species that are out there in the field that could
11 be affected by the project.

12 To do that, of course, you need to know where
13 they are located, but what we were dealing with primarily
14 in this part of the world, in the way of species of con-
15 cern, are animal species more than plant species, and the
16 animals that are involved are ones that move around. They
17 all are either burrowing animals, or borrow other animals
18 burrows. We're dealing with lizard, a kangaroo rat, a
19 ground squirrel, and the kit fox.

20 If we know today where the burrows of those --
21 those animals are, that doesn't do us a lot of good if
22 what we want to do is to protect their burrows, denning
23 sites, nesting sites, at the time of construction. What
24 you really need to do know is, just prior to construction,
25 has some one of those species come along and dug a new

1 burrow?

2 A really more appropriate way we feel of dealing
3 with the issue is, as we have done, identify what the
4 species of concern are at this phase in the process. For
5 those parts of the project where you cannot easily change
6 the location of -- of a portion of the project, such as
7 a transmission tower, do the hundred-percent surveys. We
8 have done that.

9 We will be doing during the course of the pro-
10 ceeding the hundred-percent, on-the-ground surveys for
11 the remainder of the facilities. We would use that data
12 in picking where a transmission tower or an access would
13 go to avoid the sensitive species.

14 We would then go back, just prior to construc-
15 tion, to insure that in fact we don't have the kit fox
16 burrow that wasn't there previously, and it just happens
17 to be right where we had planned to put a transmission
18 tower.

19 So it's really a matter of efficiency is -- is
20 the difference that we have with staff. Staff feels we
21 need to do a full survey before we even come in the door.
22 You then would have to go back just prior to construction
23 to see if there are essentially relocations of these
24 animals.

25 We think it is more appropriate to do a single

1 survey during the course of the proceeding with a spot
2 check just prior to construction.

3 The next area is the level of engineering design
4 that the staff believes is necessary to begin the process.
5 If you start going through the handout that was just given
6 to you today by the staff reducing their original request,
7 in our view many of the things they are asking for are
8 things that are not available until final design of the
9 project. They just -- things like that just simply do
10 not exist.

11 Well, rather than try to go through that point
12 by point, I think we'll just leave it there.

13 I would urge the Commission to perhaps try to
14 take some guidance from Commissioner Noteware when he has
15 had a chance to look at this, as he is the -- the engineer
16 member of the Commission, and has been a practicing
17 engineer.

18 We just don't regard this as the way projects
19 are engineered in terms of when you apply for your permits.
20 To provide the level of data staff is asking for requires
21 major capital expenditures to do engineering work before
22 you know whether or not you have a go-ahead to build your
23 project.

24 The last area is the level of information that
25 staff feels is necessary on effects of this project on

1 the receiving utility, Southern California Edison's, exist-
2 ing transmission system.

3 We have no dispute whatsoever with staff that
4 if interconnection of this project with the Edison system
5 requires physical modification of Southern California
6 Edison Company's existing transmission system, that you
7 are bound by the California Environmental Quality Act to
8 examine the environmental impacts of those changes in
9 Edison's system.

10 Where we do have a discrepancy is the level of
11 showing that such changes will not be required. In our
12 view, Edison does not have to modify its system. We have
13 specifically asked Southern California Edison to respond
14 to the questions that staff has asked.

15 We, as a qualifying facility, do not have the
16 data --

17 CHAIRMAN IMBRECHT: Do you talk to yourself,
18 or what?

19 COMMISSIONER CROWLEY: Yes. I can picture that.

20 MR. GARDNER: Yeah. As you know, I -- I also
21 represent Southern California Edison Company here before
22 you perhaps more often than I do qualifying facilities.

23 From Southern California Edison Company's per-
24 spective, we have difficulties with the level of informa-
25 tion staff is asking for, and we are trying now to set

1 up a meeting with staff. Staff is being cooperative. It's
2 just a matter of being able to coordinate people's sched-
3 ules. I do anticipate such a meeting happening in the
4 next week or so to talk about the level of information
5 staff is asking for, the timing of the information that
6 they would like to have, and see if between Edison Company,
7 who has the burden of trying to respond to these, and
8 staff can resolve that issue.

9 CHAIRMAN IMBRECHT: Since that is an issue which
10 we have visited in a couple of other cases, and since these
11 are issues that are likely to be visited in some cases
12 in future cases before us, I just want to pursue that last
13 one for a moment.

14 When you indicated that it was your conclusion
15 that you did not need upgrades to the Edison system to
16 accept this project, that was based upon some type of
17 study or evaluation by transmission system planners or
18 engineers at the Edison Company?

19 MR. GARDNER: Yes. At this stage we have some
20 preliminary indications from the Edison Company, we have
21 a commitment from the Edison Company to provide more
22 responses on -- on October 18th.

23 I think a major part of the reason that we feel
24 that way is we are proposing to interconnect with the
25 500 kv system, and 225 megawatts on a 500-kv system is a

1 rather small percentage. The system is rated at I believe
2 in excess of 2,000 megawatts.

3 There are times when that line could be loaded
4 to the 2,000 megawatts, and potentially this project could
5 have an effect on that, but the majority of the time that
6 line is not fully loaded, it is our understanding.

7 I think your staff and to some extent,
8 Mr. Chairman, your -- your own personal staff, have been
9 following that issue as it relates to the Pacific
10 Northwest. Again, we do anticipate a response from
11 Southern California Edison on October 18th, which we think
12 would -- would answer many of these questions, give some
13 indication of --

14 CHAIRMAN IMBRECHT: If I undersatnd correctly,
15 in essence what you're saying is that it's a matter of
16 standard or common practice and usage -- those words of
17 art, if you will -- in the transmission system planning
18 business that when you access this quantity of -- of capa-
19 city into a system with a much greater capacity that it's
20 not likely to cause significant problems.

21 MR. GARDNER: That's correct.

22 CHAIRMAN IMBRECHT: Is that --

23 MR. GARDNER: And we do anticipate firm state-
24 ments from Southern California Edison in the -- the rela-
25 tively near future, that we think will substantiate that.

1 The real issue we have with the staff is the
2 level of analysis that staff wants to go into, essentially
3 to determine for themselves whether the Edison Company
4 is right or not in saying that there would or would not
5 be modifications to their system required.

6 CHAIRMAN IMBRECHT: Is it typically the practice
7 of Edison, since this is at the same time a -- while insig-
8 nificant in the context, perhaps -- and I say that per-
9 haps 2,000-megawatt-capacity line, still, at the same time,
10 225 megawatts is a -- is a large facility, and a substan-
11 tial addition to your system.

12 Is that the kind of thing that typically is
13 brought before the WSCC for its consideration? Its
14 technical committees I'm referring to.

15 MR. GARDNER: Mr. Chairman, I do not believe
16 that it is, but I -- I'm not sure that's right. I don't
17 believe that it is. I don't have you a firm answer. I
18 can get you one, though.

19 CHAIRMAN IMBRECHT: Okay. All right. Other
20 questions?

21 Commissioner Commons.

22 COMMISSIONER COMMONS: Go ahead.

23 CHAIRMAN IMBRECHT: Commissioner Noteware.

24 COMMISSIONER NOTEWARE: Yes. I have two questions
25 for Mr. Gardner.

1 First, you have been through this procedure
2 before. Is this data request now worse than usual, say,
3 as compared to the Sycamore project and others?

4 MR. GARDNER: I -- I'm not sure that I would
5 characterize it as -- as worse. It is more detailed.
6 In my view, having run projects through this Commission
7 -- I'm sorry.

8 (Laughter.)

9 MR. GARDNER: Managed? How's that?

10 COMMISSIONER NOTEWARE: Maybe we both should
11 be more careful about our choice of words.

12 MR. GARDNER: Yes.

13 Going as far back as the second application for
14 certification this Commission approved, up to the present
15 time, I would say that staff is asking for more data in
16 the original filing now than I have ever seen them ask
17 for, with the possible exception of the South Belridge
18 project which was before you recently, where I think there
19 were some real similarities.

20 There are additions I believe to this list from
21 the South Belridge case. I don't believe staff asked for
22 the power purchase contract as a matter of data adequacy
23 in that case, although I would stand to be corrected if
24 staff believes differently.

25 I think in summary, Commissioner, we are seeing

1 a growth in the level of data staff is asking for over
2 time without a corresponding modification of the
3 Commission's regulations or the Warren-Alquist Act, which
4 would require that.

5 COMMISSIONER NOTEWARE: All right. My second
6 question, there was mention made that there was an offer
7 for workshops and they were turned down. I'm wondering
8 why.

9 MR. GARDNER: All right. I don't think that was
10 a fair representation. There was not, that I am aware
11 of, a particular offer of a workshop. The applicant is
12 aware that there is a procedure available for prefiling
13 reviews of documents with the applicant.

14 There are a couple of reasons I think that --
15 that we chose not to take advantage of that option. One
16 is, as you are aware, given the changes in the need analyses
17 that are dictated by the fifth Electricity Report, the
18 creation of the escrow account, there is something of a
19 horserace, I guess you'd say, among applicants to get into
20 the Energy Commission process.

21 Because of the openness of the Energy Commission
22 process, you come in for that sort of prefiling review
23 workshop. That is a publicly-noticed workshop. Other
24 potential applicants that you potentially are competing
25 with for a place in line could have gained an advantage

1 from that. That's one reason.

2 Another reason is -- I guess there's not a good
3 way to do this without being really blunt, but we do have
4 differences of opinion with the staff over what the regu-
5 lations require, and from a strategy standpoint we think
6 that staff puts themselves in a stronger position if they
7 can say, well, we told those dummies back in the pre-filing
8 review workshop this thing was necessary, and if we in
9 good faith disagree with that, it just makes it more diffi-
10 cult, I think, when we get here before the Commission,
11 so those -- those are our two primary reasons.

12 But to my knowledge, a workshop was not offered.
13 We are aware of the process, but I am not aware that one
14 was offered.

15 COMMISSIONER NOTEWARE: I see. I guess I should
16 comment to my fellow Commissioners that, since you put
17 me on the spot as being the engineer member who was probably
18 most familiar with the detail required, I did take it upon
19 myself to refer to Appendix B, and I -- I'm grateful to
20 staff for putting those references there, because I think
21 it was most helpful.

22 I feel that it's rather subjective to try to
23 determine the level of detail that's necessary, and I'm
24 certainly sympathetic with the staff in wanting to get
25 as much information as they can early on, but I also feel

1 that I'm quite sensitive to what might be considered
2 bureaucratic overkill, and in some instances -- for
3 instance, on page 6 of 7 here, this more recent one, the
4 plan and profile drawing showing location, site, depth,
5 and estimated loadings of foundations to be used for the
6 major power plant components and other structures, I --
7 I guess I should ask staff if that is not more appropri-
8 ately the type of thing that would be discovered in the
9 discovery phase.

10 CHAIRMAN IMBRECHT: Commissioner Noteware, may
11 I suggest -- and I want to indicate that I very much want
12 to hear your judgments on each of these items, and I --
13 my sense is that, in fairness to staff, we ought to give
14 them an opportunity to respond to these four points, and
15 then we can open up to a question on the specifics, if
16 that would be acceptable to you.

17 COMMISSIONER NOTEWARE: Fine.

18 CHAIRMAN IMBRECHT: If they have an overall view-
19 point as to these four crucial issues, or if they think
20 there are more that should be added to the list, we ought
21 to expand that discussion, it seems to me, and get into
22 the details.

23 So if that completes your presentation at this
24 juncture, I'll see if we can deal with these other thresh-
25 old issues.

1 MR. GARDNER: Thank you.

2 CHAIRMAN IMBRECHT: Mr. Ward --

3 COMMISSIONER COMMONS: Excuse me, Mr. Chairman.

4 CHAIRMAN IMBRECHT: Excuse me. Commissioner
5 Commons.

6 COMMISSIONER COMMONS: There may be some other
7 parties just on these four points that might testify before
8 staff.

9 CHAIRMAN IMBRECHT: All right.

10 COMMISSIONER COMMONS: So that they would rebut
11 everyone's point.

12 CHAIRMAN IMBRECHT: Well, I think we ought to
13 take staff, and then we'll turn to the other parties, since
14 it is really staff with the position that is being chal-
15 langed here. I think we ought to hear their perspective.

16 EXECUTIVE DIRECTOR WARD: I think, also,
17 Commissioner Commons, you're going to see much interest
18 on the request for the contract, and I think that is an
19 outgrowth, not necessarily of extrapolating into our regu-
20 lations something that isn't there. It's an outgrowth
21 of ER-5, and we all understand I think the intent of ER-5,
22 and to understand the terms and conditions under which
23 these plants are going to operate it's necessary that we
24 have that contract, if it is anything other than a standard-
25 offer contract, and most of them have individual nuances

1 of addendums to one of the various standard offers that
2 make it different, and we need those terms and conditions
3 to be able to determine issues such as efficiency, load
4 match, and et cetera, the issues that we have all been
5 familiar with and briefed on during the course of ER-5.

6 CHAIRMAN IMBRECHT: Okay. Did you want to make
7 a response on these four points, or --

8 EXECUTIVE DIRECTOR WARD: Yes, we'd -- I think
9 we can respond that. I'll ask Ross and Greg Newhouse
10 to -- to both come up, because I think some of the responses
11 are general just in terms of the total number of requests
12 and the length of the requests.

13 MR. NEWHOUSE: I think if I may, I'm talking
14 about the contract itself. One of the other things in
15 addition to it, Mr. Ward just said that staff is concerned
16 about the ability to have and present to the Commission
17 a case within the 12-month period of time.

18 On the Sycamore case, for example, that was
19 brought up, staff is still trying to get sufficient infor-
20 mation on the contract between the utility and the developer
21 to be able to come up with a need testing on it. We are
22 past the evidentiary proceedings, or in the middle of the
23 evidentiary proceedings, we still do not have sufficient
24 information to be able to come to conclusion on the need
25 area.

1 CHAIRMAN IMBRECHT: May I inquire, on that pro-
2 ceeding or not proceeding, have you petitioned the
3 Committee to issue an order to produce the contract?

4 MR. NEWHOUSE: We plan to do such within the
5 week. We have --

6 CHAIRMAN IMBRECHT: It seems to me that if I
7 was looking carefully, I understood the applicant in this
8 case to suggest that such a procedural device would produce
9 quick compliance.

10 MR. DETER: We have -- Susan Bakker is in the
11 audience, if we want to get into that in detail, but
12 generally the position in that case is, is that we've asked
13 the applicant for a copy of the contract. The applicant
14 has said that he doesn't want to give us a copy of the
15 contract because he believes it's confidential.

16 We have offered to use our confidential process
17 within the Commission that keeps data confidential, if
18 -- if that would satisfy their needs.

19 The applicant, as I understand it, has offered
20 to send the contract up to allow our staff to look at it
21 for one day, and I'm not sure if it's longer than that
22 or not.

23 Our experience in reviewing the contract on the
24 Gilroy case took one staff person basically two weeks
25 going through the contract, phoning up a number of

1 individuals in the PUC, and the people who put together
2 the contract in PGandE, and basically . . . needs access to
3 that contract in detail in order to do his analysis, and
4 we don't think that one day for us to review the contract
5 is sufficient for us to do our analysis, and that's the
6 reason why we think that we need to either have the con-
7 tract, or we need to have a clear representation by the
8 applicant that -- that he has given us all the terms and
9 conditions of the contract.

10 EXECUTIVE DIRECTOR WARD: It protects the applicant
11 as well, because potentially we may apply terms and condi-
12 tions to the AFC, and it's our interpretation of that con-
13 tract, and theirs, in the similar communication, on what's
14 actually there that's going to apply those terms and con-
15 ditions, so that if the contract is different, then it's
16 going to cause a problem.

17 CHAIRMAN IMBRECHT: Okay. Who would like to
18 give us an overall presentation on these four points, and
19 if you want to add anything to the list --

20 MR. NEWHOUSE: Okay. My first response is in
21 terms of the contract. The second point that Mr. Gardner
22 made was in terms of the cultural resources and biological
23 studies.

24 Again, it's our concern in presenting the infor-
25 mation to the Commission and being able to analyze the

1 case, that we need to know at the beginning of the pro-
2 ceeding what the existing conditions are in order to be
3 able to do an impact assessment and an assessment of miti-
4 gation.

5 What we see in the applicant's submittal in this
6 case is that they would not be providing us the biological
7 studies until approximately June of 1986. If there were
8 significant issues that had to be resolved at that time,
9 we could be talking about new transmission lines or new
10 substation sites, extremely -- approximately nine months
11 into the proceeding. We did not feel that that was appro-
12 priate, and that we felt the information should be pro-
13 vided up front in looking at those two areas.

14 In terms of the third point that Mr. Gardner
15 made was the level of engineering design. What we've seen
16 in the information presented so far is that the applicant
17 tends to talk about conceptual things or typical items
18 that could be either a part of the facility itself, or
19 a way in which they might design something.

20 What we are concerned with is to begin an AFC.
21 We want to see at least preliminary design that has been
22 consistent on the cases that we've come to you in the past
23 in asking for preliminary design. We feel that that should
24 be presented in this case as well.

25 And finally, in terms of the transmission line

1 system, we have some concerns in that area as to whether
2 or not the applicant is sure that they wish to go ahead
3 with the proposal that they have.

4 They have talked about providing additional data
5 roughly the 18th of October from Southern California
6 Edison substantiating certain proposals that they make.
7 In their first supplement which they filed on the 20th,
8 there was a note from Southern California Edison that they
9 were also looking at possible links to the PGandE system,
10 which could be a completely different approach.

11 In their submittal on 9-24, they said, no, we're
12 not going to go to the PGandE system, and if we did we
13 would agree that that would be data adequacy all over again,
14 essentially.

15 We're saying that what it appears to us is again,
16 is that the applicant is trying to come in too soon, they
17 -- they are talking about providing information in the
18 middle of October, they are talking about providing infor-
19 mation early November, and they are talking about providing
20 some information in June of next year.

21 We don't believe that we can tell you we can
22 process the case in meeting the legal deadlines with that
23 type of submittal.

24 CHAIRMAN IMBRECHT: I guess one of the questions
25 I would ask, though, at the same time, are you contending

1 in essence that from the moment that an application is
2 accepted that the entire body of data which has been sub-
3 mitted begin simultaneous analysis, that each and every
4 one of these questions are being examined on a simultaneous
5 basis by staff?

6 MR. DETER: Yes. That's -- our analysis starts
7 in those areas. Most of these -- obviously all of these
8 analyses require different expertise. The biologists start
9 working on their biology, they start doing their discovery
10 process, which means they take a look at stuff, they look
11 at the data in the area, and they start asking some addi-
12 tional information for discovery, and so they do start
13 the analysis at the time that we receive this data, and
14 that also obviously would be true for the transmission
15 systems, and that's a very complicated and complex area.

16 CHAIRMAN IMBRECHT: Commissioner Noteware, you
17 had some questions for staff?

18 MR. DETER: Before -- before I have any specific
19 questions --

20 CHAIRMAN IMBRECHT: On the engineering issue?

21 MR. DETER:... -- there's a -- there's a couple of
22 other points I'd like to clarify and follow up on what
23 Greg said on summary here.

24 In engineering design, I want to make it clear
25 that what we're looking for in engineering design detail

1 is the criteria for design in preliminary design. We're
2 not looking for final design, as I believe was alleged
3 by the applicant here.

4 Secondly, you asked Mr. Gardner whether or not
5 this data request was worse than usual, or whether or not
6 we asked for more data than usual. I have given my staff
7 two directions in doing data adequacy reviews for all these
8 cases coming in. One, specifically, that they be con-
9 sistent with previous cases, on what we've done on previous
10 cases. If they're -- if they're not consistent, then I
11 need to know why, and if we were wrong in previous cases,
12 then we will change, and we will ask what we think is cor-
13 rect now.

14 But I want to know whether or not we're consis-
15 tent in -- with other previous cases, and, secondly, we
16 go through this in fine-tooth detail to make sure that
17 everything we request is specifically required by the
18 regulations.

19 One of the reasons why we didn't get this --
20 our recommendation to you on Friday was that in our final
21 review we found a number of items we thought went beyond
22 what the regulations require, so we used the regulations
23 very explicitly to identify what we think is needed.

24 Thirdly, he said that to his knowledge there
25 wasn't any offer for pre-filing. I've been told by my

1 staff that there were some specific offers to the applicant
2 in this case, as in all cases, to sit down with the --
3 the applicant before they come in with their filing to
4 tell them what we hope to see and expect to see as a part
5 of their filing, so I just wanted to clarify a couple of
6 items.

7 COMMISSIONER NOTEWARE: I got my questions
8 answered.

9 CHAIRMAN IMBRECHT: Thank you.
10 Commissioner Gandara.

11 COMMISSIONER GANDARA: Yes. I had a few ques-
12 tions. I wanted to give some symmetry to the questioning.
13 Mr. Gardner indicated that he has run through or managed
14 several cases through the staff. From the staff point
15 of view, is Mr. Gardner being more difficult than usual
16 in this application?

17 (Laughter.)

18 MR. GARDNER: I don't think you can ask
19 Mr. Newhouse that. He wasn't there then.

20 COMMISSIONER COMMONS: What does a "no" mean?

21 COMMISSIONER GANDARA: Well, let's let that one
22 sit there.

23 The question I had for you I think you addressed
24 partially, Mr. Deter, but I'd like to ask it in a slightly
25 different way since I think it may be in the minds of the

1 Commissioners, and in the thrust of Mr. Gardner's comments
2 I think also went in a slightly different direction, and
3 that is there's been a substantial Commission discussion
4 on the standard of review, whether that should be sub-
5 stantial compliance or completeness, and so forth, and
6 at least -- I don't want to replay that particular issue,
7 but my question to you is whether the standard of review
8 has changed or not, there was an implication that it had,
9 or whether it's still substantial compliance.

10 MR. DETER: No. It has not changed at all. As
11 a matter of fact, we began developing what we are defining
12 and have proposed to the Commission as what we defined as
13 substantial review about two years ago, and we came out
14 with I think a fairly clear articulation as a result of
15 the Irwindale and the Crockett cases at the beginning of
16 this year because there was some difficult data discussions
17 on that, as you will remember.

18 So I don't believe that our standard has changed.
19 Our standard is still the same. It has to be required by
20 the regulations to be considered to be -- to be required
21 as a part of the thing, but we still are using those three
22 other items.

23 Can -- is the data there that will allow us to
24 come to a decision within a 12-month time frame, is it
25 a significant issue, and one other one which I can't

1 remember off the top of my head, but that -- I need a copy
2 of the regulations that we just submitted to you, but that
3 -- that's the same standard that we have been using, and
4 it hasn't changed.

5 COMMISSIONER GANDARA: Thank you.

6 CHAIRMAN IMBRECHT: Thank you. Further ques-
7 tions?

8 Mr. Gardner, I -- one of your arguments at the
9 end left me a little puzzled. You said the second reason
10 that you were opposing this was, as I listen carefully,
11 in essence you were suggesting that -- that the staff be
12 -- be given a tactical advantage as opposed to in essence,
13 depriving them of a tactical advantage, and I think the
14 natural conclusion of what you said is that by -- if we
15 were to accept the staff's recommendation here, we would be
16 denying them the tactical advantage later in the proceeding
17 where they could say you've done these, you should have
18 given us the stuff at the beginning, to paraphrase, as
19 I recall.

20 MR. GARDNER: Okay. That --

21 CHAIRMAN IMBRECHT: If it truly is --

22 MR. GARDNER: That remark was --

23 CHAIRMAN IMBRECHT: -- is to the detriment of
24 the staff right now, I would think that that --

25 MR. GARDNER: No. That remark was made in --

1 in reference to not -- our choice not to take advantage
2 of the existence of a prefiling review mechanism.

3 CHAIRMAN IMBRECHT: I see.

4 MR. GARDNER: We don't believe that there are
5 any issues in the case that, if you were to accept the fil-
6 ing today, would prevent the Commission making a legally-
7 supportable and fully-adequate decision 12 months from
8 today.

9 MR. DETER: If we believed that, we would have
10 made a recommendation to you to accept the application.
11 Obviously we don't believe it, so that's the crux of the
12 issue here.

13 CHAIRMAN IMBRECHT: I understand. Okay. Thank
14 you.

15 I don't have other cards, but I do have another
16 filing, at least one, on some issues raised here. Do any
17 other parties wish to address the Commission on any of
18 these points before us?

19 Yes, sir. Please come forward and identify your-
20 self for the record.

21 MR. MASON: Good morning. My name is Jack Mason.
22 I'm the Manager of Regulatory Compliance for the ARCO
23 Petroleum Products Company.

24 We have an application on file in front of the
25 Commission for the ARCO-Watson Cogeneration Project.

1 Mr. Gardner expressed some level of frustration
2 in having to deal with Edison on some of the transmission
3 line questions and the detail of information that was
4 requested, and frustration of the fact that it was diffi-
5 cult to force Edison to do something they might not other-
6 wise want to provide.

7 Well, you can imagine the frustration of an
8 applicant like ARCO. We have been asked a level of trans-
9 mission line questions that is, you know, incredible in
10 the amount of detail on the transmission line questions,
11 things like, you know, loading on each individual component
12 of the transmission system for full load, 80 percent load,
13 light load, and then turn around and do the same thing
14 for the N minus one case.

15 I've worked with transmission planners on and
16 off during my nine years with a Pacific Northwest utility,
17 and I know that there would be literally man months of
18 work involved in cracking that kind of information out,
19 and thousands of dollars worth of computer time. It's
20 a -- a lot of information, and the real frustrating thing,
21 from our perspective, is that it can only come from one
22 source, only one -- there's only one source of the level
23 of data that's necessary to generate that kind of informa-
24 tion.

25 That's from the Edison system, and if a project

1 for which they are a participant of is expressing a level
2 of frustration, I -- I can understand Edison's point of
3 view. There's a lot of work, and the question is is it
4 really needed.

5 And, of course, what's frustrating to us is that
6 it's something that is completely out of our hands. We
7 are concerned that ultimately there may be information
8 that the staff requires that we plain cannot get because
9 Edison can't, won't provide it, and so I wanted to limit
10 my comments to that area as one of the four points that
11 Mr. Gardner brought up.

12 CHAIRMAN IMBRECHT: Thank you.

13 Are there questions?

14 COMMISSIONER NOTEWARE: Yes.

15 CHAIRMAN IMBRECHT: Commissioner Noteware.

16 COMMISSIONER NOTEWARE: Mr. Mason, the information
17 that you referred to, is that requested as a part of the
18 AFC procedure, or was it requested of -- of your company
19 prior to their acceptance of the application?

20 MR. MASON: There was a great level of detail
21 that was reuested prior to acceptance, and we provided
22 as much information as we could provide, and -- and as
23 Sierra has done, we have forwarded all of the data requests
24 on to Edison in -- you know, verbatim, and are hoping that
25 we get a response.

1 But we got some responses to some of the infor-
2 mation that we've provided during the adequacy phase of
3 our application, but there were certainly some things that
4 have been carried over.

5 COMMISSIONER COMMONS: Let me --

6 CHAIRMAN IMBRECHT: Do you want to respond to
7 that point?

8 COMMISSIONER COMMONS: -- follow up on Doug's
9 question.

10 CHAIRMAN IMBRECHT: Yeah, I'd like your response
11 on that, too, because I -- I don't know what the distances
12 are that we're talking about in terms of transmission lines
13 here, but I question whether it's the same level of detail
14 that might be necessary in a full-scale transmission project.

15 MR. NEWHOUSE: As project manager on that case
16 before the Commission, when we looked at data adequacy
17 on the ARCO-Watson project, they had essentially all the
18 information that we needed to go through and begin our
19 analysis, with the exception of some detail on transmission
20 system planning, and with the exception of some specifics
21 on the contract.

22 In those two areas, looking at substantial com-
23 pliance, we recommended that it be data adequate for the
24 beginning of the proceeding. In addition, they had indi-
25 cated in their filing that there would be specific time

1 lines in which Edison would respond, which were extremely
2 early in the case, that we felt we could go through that
3 proceeding and be responsive to the regulations and law
4 and to the Committee and Commission.

5 The difference being on this case is that there
6 are many items of information that the applicant is saying
7 will be provided sometime during the proceeding. It's not
8 just one, but it tends to be the preponderance of data
9 that we feel we still need to go through the case, which
10 is why we include this as being inadequate.

11 CHAIRMAN IMBRECHT: So you're saying ARCO-Watson
12 provided a greater level of detail with respect to transmis-
13 sion system engineering --

14 MR. NEWHOUSE: With respect to all areas, other
15 than those two --

16 CHAIRMAN IMBRECHT: -- on-the-site resources --

17 MR. NEWHOUSE: -- that I just mentioned.

18 CHAIRMAN IMBRECHT: -- environmental, and cul-
19 tural, and so forth?

20 MR. NEWHOUSE: That's correct.

21 MR. MASON: I certainly wouldn't want to contrast
22 what we provided and what they are providing, because I
23 have no way of knowing, and I only wanted to make my com-
24 ments germane to, you know, what we're doing in our appli-
25 cation.

1 CHAIRMAN IMBRECHT: Commissioner Commons.

2 COMMISSIONER COMMONS: First a limited comment.
3 I think the staff has said that they use -- they enumerated
4 two out of their three criteria. I think the third one
5 was that the information that is missing is -- is needed
6 to help solve that substantive issue, and I think the ques-
7 tion that you're raising here would be appropriate to raise
8 before the Committee in the Watson case.

9 If there is some question as to does the infor-
10 mation that's being requested of you meet those three
11 criteria, then that information should not be -- should
12 not be requested, and I think that would be a grounds of
13 saying that's not a reasonable request, and would be
14 argued there.

15 CHAIRMAN IMBRECHT: Those three criteria, if
16 I understand correctly, are criteria applied to the ques-
17 tion of data adequacy. That doesn't necessarily suggest
18 that there aren't further areas of inquiry during the pen-
19 dency of a proceeding that would exceed the level of detail
20 that would be represented in that, if I understood -- if I
21 understand staff's approach to this correctly.

22 MR. NEWHOUSE: If I might, there is a provision
23 in the regulations that if an applicant believes that what
24 is being asked of them is onerous and -- or not responsive
25 to what needs to be done, they can challenge the data

1 request before the Committee.

2 COMMISSIONER COMMONS: I guess my -- I guess
3 my point is --

4 CHAIRMAN IMBRECHT: Yeah, the proceedings --

5 COMMISSIONER COMMONS: -- that issue should essen-
6 tially be brought before the Watson committee --

7 CHAIRMAN IMBRECHT: I understand.

8 COMMISSIONER COMMONS: -- and that's a --

9 CHAIRMAN IMBRECHT: But his point I think is
10 understandable in this context as well.

11 COMMISSIONER COMMONS: Yeah.

12 CHAIRMAN IMBRECHT: Commissioner Gandara.

13 MR. MASON: You're absolutely right, Commissioner
14 Commons, and -- but we just wanted to respond to the issue
15 of transmission detail information, and the inability of
16 the applicant to directly respond because it has to come
17 from a third party.

18 COMMISSIONER COMMONS: Yeah. It's a problem,
19 is what happens if there's information you need, and we
20 have -- I can think of another case and two other cases
21 where an applicant does not have some of the information
22 that's necessary to go forward, and what do you do in that.

23 MR. NEWHOUSE: To add one more point to your
24 comment, Mr. Chairman, the type of information we believe
25 we're asking for in the area of transmission system

1 planning, we believe should have already been done as part
2 of the interconnect study that most utilities do for all
3 people who -- all developers who are getting into their
4 system.

5 The PUC has a milestone procedure which requires
6 certain studies to be done in a certain set time frame.
7 We understand that these theoretically take place or are
8 initiated at the time the contract is signed between the
9 two entities, although I understand there have been some
10 discrepancies in that, but nonetheless we believe that
11 information should be available at the time in which an
12 applicant comes before the Commission.

13 CHAIRMAN IMBRECHT: Commissioner Gandara.

14 COMMISSIONER GANDARA: Just a question for the
15 staff.

16 Assuming that the application were to be accepted
17 in any case, and assuming that the terms and conditions
18 of the availability and review of the power purchase con-
19 tract was similar to what had been offered to you before,
20 which I think that will be available to you for a one-
21 day review, no copies made, and I think you fly down to
22 Bakersfield for it, or something, in any case, would the
23 staff -- you know, and there would be a committee that's
24 going to be hearing this item -- would the staff be able
25 to provide a recommendation to the Committee on the 3(a)

1 condition, which is that it meets the ratepayer test?

2 I guess that -- that's the big issue.

3 MR. DETER: The 3(a) -- oh, on the -- on the
4 contract.

5 COMMISSIONER GANDARA: Condition 3(a). Yes.
6 Certainly, because -- I'm not anticipating all the different
7 issues, but this application would have to meet that test,
8 among others.

9 MS. BAKKER: I think to be accurate for this
10 particular project, the issue is question -- or Condition
11 2(a), and it's a question of the ratepayer impacts, and
12 -- no, we could not.

13 I know from experience, I think you particularly
14 can recall in the Gilroy case that the person who analyzed
15 their special terms and conditions took two full weeks
16 of time to review and analyze, and spent a lot of that
17 time in front of both the agreement to amend the standard
18 offer contract, with a phone and a side, calling up indi-
19 viduals who were familiar with each type of contract, to
20 be able to interpret reasonably what the agreement to
21 amend the Gilroy contract meant and how it related to a
22 standard-offer contract.

23 I expect that that same level of effort is going
24 to be required of all nonstandard contracts, that at a
25 minimum they need to be compared to a standard-offer

1 contract, and that alone could mean a -- you know perhaps
2 as many as ten to 20 to 30 variables are -- are changed
3 between a standard-offer contract and a nonstandard con-
4 tract.

5 A considerable amount of professional judgment
6 is involved, and that alone I think would require a sig-
7 nificant amount of time on the staff's part.

8 I think just for another item of clarification,
9 we don't believe we can answer the question on load match
10 without the terms and conditions of the contract either,
11 so that it's not just the condition on the ratepayer impacts,
12 but also the condition on load match that we -- we require
13 the terms and conditions for --

14 COMMISSIONER GANDARA: So what you're telling
15 us is that the staff cannot provide evidence for the
16 Committee and the Commission's implementation of its latest
17 BR direction without this particular contract.

18 MS. BAKKER: That's right, and I think that one
19 of the questions you raised earlier that's quite legitimate
20 in this case is that we have, if I remember correctly,
21 three other projects in-house right now with nonstandard
22 offers in the Southern California Edison area, and that
23 the interpretations of the contract terms should be con-
24 sidered relative to each other, and the idea of the staff
25 making itself available to the contract rather than the

1 contract making itself available to staff is going to cer-
2 tainly complicate our ability to make any comparisons
3 between agreements, which I think is a valid consideration
4 and may well come to light in any one of the siting cases.

5 CHAIRMAN IMBRECHT: Well, there's -- there are
6 different issues involved here in terms of availability
7 and level thereof. I think that anyone would have to agree
8 that a lengthy document provided for one day is an unreason-
9 able period of time for the circumstances.

10 I think there is a legitimate issue relative
11 to whether the document -- the document needs to be
12 docketed in the proceeding or whether in fact it can be
13 reviewed by the Commission staff under the processes or
14 procedures that we've adopted in terms of other --

15 MS. BAKKER: I -- I see no reason to make any
16 issue of that myself, from my own experience.

17 CHAIRMAN IMBRECHT: In any case, my understanding
18 is that the way -- and maybe somebody can correct me, but
19 the way this list of data inadequacy is currently drafted,
20 were we to adopt it as the Commission's, then that impact
21 would be to require the filing of the contract in the public
22 docket.

23 Is that an accurate understanding? It is not.

24 MR. FAY: Mr. Chairman, I think it's reasonable
25 to assume that the provisions in the regulations on the

1 confidential handling of information included siting
2 cases as well, and they are inconsistent with an open sit-
3 ing process. That -- that would assume that the Committee
4 or the staff would handle those documents in camera, as
5 it were, and make a recommendation in such a way that did
6 not reveal the confidential information, and yet gave staff
7 the advantage of having all the information necessary to
8 do its analysis.

9 I think a fair reading of the situation is that,
10 at least looking at it in a generic sense without specific
11 facts before us, that the best way to proceed would be
12 to allow confidential handling of -- of information that
13 would be otherwise evidence in the case, and rely on staff
14 to offer testimony as -- with the ultimate analysis of
15 that information, and yet not have the basic facts.

16 CHAIRMAN IMBRECHT: I'll return to my question
17 of, as this is currently drafted, and were we to adopt
18 it as our own, what would be the practical effect of forc-
19 ing compliance with this list to trigger acceptance?

20 MR. FAY: In terms of the contract?

21 CHAIRMAN IMBRECHT: Yes. Would it be docketed
22 or not?

23 MR. DETER: Would it have to be docketed.

24 MR. FAY: It would not have to be docketed. I
25 think what would probably be appropriate is that once

1 staff received it we would docket a statement that said
2 it was received in the -- in the form requested, and that
3 matter has been satisfied.

4 MR. DETER: Incidentally, this is -- we have
5 treated data on geothermal wells and geothermal cases
6 similarly.

7 CHAIRMAN IMBRECHT: All right. Fine. Let me
8 just try to move this along for a moment, and I'll come
9 back in just a second, Commissioner Commons.

10 Can I get an indication of other parties that
11 wish to make a presentation on these or other issues?

12 Yes, Mr. Gersick.

13 With the leave of the Commission, I'm going to
14 suggest -- I think we may be near a resolution on this
15 entire matter. Maybe we ought to hear from Mr. Gersick
16 and see if that's possible to do before our recess for
17 Executive Session.

18 Mr. Gersick.

19 MR. GERSICK: Thank you, Mr. Chairman. Michael
20 Gersick, Grattan, Gersick, Karp.

21 I understand that you are looking forward to
22 an Executive Session and I will try and move quickly.

23 Except that it seems that the issue has evolved
24 somewhat from the way it was -- I presumed it would be
25 cast in the presentation of the staff's recommendations

1 of data inadequacy, I think that in the first place there
2 has been a -- some shift of the basis for the recommenda-
3 tion by staff that a contract, a power purchase contract,
4 be required as a condition.

5 In the original staff data worksheet provided
6 to the applicant and to members of the public last week,
7 certain sections of the siting regulations were cited,
8 and a section of the Public Resources Code in I presume
9 -- I can only presume that in the executive review of those
10 sections there was a determination that those citations
11 were in some respects deficient, and that the citations
12 that were used in the Executive Director's letter were
13 altered.

14 In any case, I think that I would like to ques-
15 tion whether there is in fact legal authority to compel
16 the presentation of a contract. We have begun to discuss
17 ways in which it might be finessed, we have begun to dis-
18 cuss ways in which the staff might be permitted to do what
19 they think they want to do within the context of the offer
20 made by this particular applicant.

21 I would only suggest to you that bad facts make
22 bad law. This is a very important precedential decision
23 I think that the Commission is about to make, and will
24 in some respects determine the way that this issue is
25 handled in the future, and you may not always have an

1 applicant who is prepared even to make the contract avail-
2 able for one day.

3 The question I think is, is there current legal
4 or statutory authority to compel delivery of a privately-
5 negotiated contract between a QF and the utility. I con-
6 tend that there is every reason to provide the information
7 that is clearly spelled out in Appendix B, no question
8 about that. I think there's a logic and a rationale for
9 it and, more importantly, I think that those issues have
10 stood the test of public discussion, public debate, and
11 acceptance and adoption by this Commission in a -- in a
12 prescribed process.

13 I think that when we get into the area of inter-
14 preting, or perhaps of staff interpeting what the best
15 way is for them to get that information, that we perhaps
16 are in a danger zone, and I'm concerned that if there is
17 an accommodation made in this case that we will no longer
18 be able to look to Appendix B as the definitive list of
19 what is required for data adequacy.

20 CHAIRMAN IMBRECHT: Commissioner Commons.

21 COMMISSIONER COMMONS: Mr. Gersick, I think what
22 the staff has said in their presentation today is the
23 information they are requesting is based on ER-5, and if
24 we were under ER-4 or possibly ER-6 that that information
25 may not be asked, so they are essentially looking at ER-5

1 as -- as the basis.

2 MR. GERSICK: Well, Commissioner, let's look
3 at ER-5. I think that the questions that need to be asked
4 are as follows.

5 Is the language that the staff I presume is refer-
6 ring to in ER-5 intended to become a condition of data
7 adequacy? The citation that I have presumed they are
8 referring to, and the one that I have included in my state-
9 ment, is one -- Mr. Chairman?

10 CHAIRMAN IMBRECHT: Go ahead. Well, I -- I think
11 maybe I can anticipate this. I just read the brief you
12 submitted to us in greater detail.

13 Let me just ask, is it your position that this
14 is not appropriate for data adequacy, but would you further
15 challenge the ability of a committee to order production
16 of the document during the pendency of the proceeding?

17 It seems to me that your argument here is limited
18 to the question of whether or not the ER-5 language which
19 you cite in Section 5.3, whether that expressly modifies
20 or attempted to modify the data adequacy sections of our
21 regulations, I.E., Appendix B, or -- and if that's the
22 limited point you're making, I think we could dispose of
23 this.

24 MR. GERSICK: I think that you --

25 CHAIRMAN IMBRECHT: Do you contest the ability

1 of a committee or the Commission to order the production
2 of such a document under any of the circumstances described
3 during the pendency of the proceeding?

4 MR. GERSICK: Well, let me answer in stages.
5 I think you well understand the first point that I was
6 making, that there is -- it would seem to me inappropriate
7 to attempt to amend the siting regs, Appendix B, by one
8 of six general rules that appear under a description of
9 the need test in the ER-5. Yes, I think as a matter of
10 data adequacy, you understand my point.

11 In terms of the second issue you raise, I don't
12 know that this is the forum to challenge a committee's
13 right to compel delivery of information. I think -- and
14 I hesitate to go much further than that, except to say
15 that I think that the Committee can certainly require the
16 information, and if the information is delivered incom-
17 pletely, not in a timely fashion, if the applicant is
18 deleterious in some respect, I think that as long as the
19 Committee feels that the information is required and the
20 staff does not get the information, then the staff has many
21 options before it to compel that information, and one of
22 them is the one you raised before.

23 And if that information is not provided in such
24 a way that permits the staff to perform their analysis,
25 then the applicant ought to bear the burden of that and

1 consequence. That to me is a different question than
2 whether or not the Committee can compel the contract,
3 because I think that it is always conceivable that a con-
4 tract will contain information that goes beyond the proper
5 purview of this staff and its responsibilities of analy-
6 sis. It is the information that I think the Committee
7 deserves.

8 CHAIRMAN IMBRECHT: Well, I think the Committee
9 could -- my personal reading is the Committee could compel
10 the contract either for its own review or for staff or
11 for the parties as well.

12 MR. GERSICK: Well, as I prefaced it, Mr. Chairman,
13 I was not here to challenge what a committee could do.
14 I was --

15 CHAIRMAN IMBRECHT: Yeah. Okay.

16 Commissioner Commons.

17 COMMISSIONER COMMONS: All right. When we talk
18 about, you know, the -- in the chambers, and if it's con-
19 fidential, I have had concerns there. I tend to agree
20 with you that you do not use an ER to change regulations.
21 That's why you have a regulatory siting committee, and
22 we sit down, and we go over what items we want to put
23 into regulations, and those items that should come out
24 through a committee hearing.

25 I also don't think, though, that we have even

1 the right to compel you to provide us the contract. If
2 you don't provide us the information, I think we have the
3 obligation, because you have the affirmative responsibility
4 of meeting the various tests to deny the application
5 because you have not met that affirmative duty, and that
6 is always the Commission's -- the Commission's option.

7 MR. GERSICK: I agree with that, Commissioner
8 Commons, and you raise one more interesting point. I think
9 if the staff were absolutely convinced that the production
10 of a contract was required to do its job, that the proper
11 time to raise that issue was in the process which we have
12 just completed in the review of the siting regulations.

13 There was -- there was a forum there which would
14 have been ideal for a proposed revision of what Appendix
15 B ought to contain.

16 COMMISSIONER COMMONS: Oh, no. That was not
17 the appropriate forum, because all those hearings were
18 conducted prior to the time of the adoption of ER-5, and
19 so the issues that are raised in ER-5 were not in the
20 Phase 1 items that came before the Commission on the siting
21 regulations.

22 MR. GERSICK: But I'm not sure that bears directly
23 on the point of whether the staff needs to have a contract
24 to do its job.

25 COMMISSIONER COMMONS: It's a separate issue

1 as to whether or not we should amend the regulations.

2 EXECUTIVE DIRECTOR WARD: I -- Commissioner,
3 for clarification, though, it is my understanding that
4 the regulations do use the BR, the most current BR as a
5 guiding influence for siting cases, and in that vein the
6 BR references the terms and conditions associated with
7 the operation of a power plant.

8 COMMISSIONER COMMONS: That -- that would be the
9 way I think you --

10 EXECUTIVE DIRECTOR WARD: And I believe that
11 was the -- the genesis of how that was included in ER-5.

12 COMMISSIONER COMMONS: All right. Well, that
13 would be the way the issue should be looked at from a legal
14 perspective. I do not believe that the ER-5 can change
15 the regulations. In fact, I'm sure it cannot.

16 MR. GERSICK: I have no doubt as to the source
17 of the issue, Commissioner Commons, but I think it's also
18 a fact that in the Warren-Alquist Act it states clearly
19 the BR should be viewed as the basis for legislative and
20 regulatory recommendations.

21 I think the presumption is that those sort of
22 recommendatory implementations should follow the policies
23 established in the BR, not that the BR should substitute
24 for them.

25 CHAIRMAN IMBRECHT: All right. Well, I don't

1 know if the Commission is prepared to dispose of this now
2 or not.

3 Commissioner Commons, what's your --

4 COMMISSIONER COMMONS: Well, I think we have
5 two choices, either it's to recess and go to Executive
6 Session and come back and go through every item, item by
7 item, because we've only I think allowed Mr. Gardner to
8 present the four fundamental items, but there is a list
9 of 30 or 40 items that it seems are still outstanding.

10 If -- and I also felt that Mr. Gardner was will-
11 ing to adhere to the request of Commissioner Gandara, and
12 that maybe the best procedure is to have the staff and
13 the applicant get together and have that workshop that
14 they didn't have, and then come back to us in two weeks
15 and see if we've narrowed the issues, but either course
16 is acceptable to me.

17 CHAIRMAN IMBRECHT: I will not --

18 COMMISSIONER GANDARA: Well, let me say that
19 I --

20 CHAIRMAN IMBRECHT: -- dispose of the issue of
21 whether in fact we are going to adopt the requirement for
22 disclosure of the public -- of the power purchase contract,
23 these other items, at this point in time.

24 COMMISSIONER COMMONS: That's correct.

25 CHAIRMAN IMBRECHT: Commissioner Gandara.

1 COMMISSIONER GANDARA: Yes. Let me say that
2 I understand your suggestion, Commissioner Commons, but
3 the -- I would like to remove myself from the citation,
4 because the whole purpose of my comment was in fact to
5 avoid having to spend two hours, and since we did spend
6 the two hours, I'm really ready to act, you know, and I
7 -- I don't think -- I think there are costs and benefits
8 to the choices that are made, and so I -- as long as they
9 are cost-less, we are going to wind up in the situation
10 that we wind up with today.

11 CHAIRMAN IMBRECHT: Well, if you want to speak
12 to the overall issue, we can go forth.

13 COMMISSIONER GANDARA: I would like to retire
14 to Executive Session, frankly --

15 CHAIRMAN IMBRECHT: All right. I think that
16 -- I --

17 COMMISSIONER GANDARA: -- because I think there's
18 also -- there's also a litigation item.

19 CHAIRMAN IMBRECHT: I think that it's going to
20 take some time for us to discuss this, and so I think we'd
21 best recess at this point, and we'll reconvene at 1:30.

22 (Whereupon, the morning session of a business
23 meeting before the California Energy Resources Conservation
24 and Development Commission was adjourned for lunch at
25 11:45 a.m.)

AFTERNOON SESSION

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3 CHAIRMAN IMBRECHT: Good afternoon, ladies and
4 gentlemen. We'll convene the meeting, and suggest that
5 we take care of some items further on our agenda and return
6 to Item 1 upon the return of two of our colleagues.

7 Item 5 is approval of the minutes.

8 COMMISSIONER NOTEWARE: Madam Chairman, I move
9 for approval.

10 COMMISSIONER CROWLEY: Is there a second?

11 Is there any objection to a unanimous roll call?

12 The minutes are approved. Item 5, with
13 Commissioner Gandara and Chairman Imbrecht not present.

14 Under Commission Policy Committees' Reports,
15 are there any such?

16 COMMISSIONER NOTEWARE: I have none.

17 COMMISSIONER CROWLEY: Thank you.

18 COMMISSIONER COMMONS: Oh, I have -- I have a
19 little one.

20 COMMISSIONER CROWLEY: Oh, okay. Commissioner
21 Commons.

22 COMMISSIONER COMMONS: At the last business meet-
23 ing we had the -- we brought forth a number of siting regu-
24 lations, and -- and changes, and you asked us to go back
25 and take a look at them, and what we're proposing to do

1 is, those that had been requested for 15-day change lan-
2 guage, then we'll bring them back at the next business
3 meeting, which would be the first time we could bring back
4 those with 15-day change languages, and I've requested
5 staff to get input from both parties that were here and
6 from other Commissioners' offices on some of the other
7 provisions, and we'll come back later on those.

8 And then on two items, one is the geothermal
9 and the other was the minimum -- is the definition of net
10 and gross. I've asked the staff to put forth another
11 proposal, and that those will probably require 45-day
12 language changes, but we'd like all offices to review those,
13 so they will not come back in one great big package.

14 COMMISSIONER CROWLEY: But they are all on the
15 progress.

16 COMMISSIONER COMMONS: They are all on the --
17 on the progress.

18 COMMISSIONER CROWLEY: Fine.

19 COMMISSIONER COMMONS: The other aspect is for
20 the quarterly view, the issue has been raised in terms
21 of the implementation of ER-5 that some of the regulations
22 may need to be updated to take into account ER-5. There
23 are a number of issues related to it, and that, rather
24 than doing some of the items that were, oh, I guess you
25 could say we'd held off because they were going to take

1 a lot of time, they required modification of the appendices,
2 that there are some policy-related issues that need to
3 be addressed that are more important, and this is something
4 that the Budget Committee may want to address in the
5 quarterly review.

6 The impact would be more on the assessments
7 division staff rather than the siting division staff,
8 because most of the problems are related to need, and this
9 is the area we're going to be dealing with.

10 COMMISSIONER CROWLEY: And that's in circulation
11 now.

12 COMMISSIONER COMMONS: We'll bring it to the
13 attention of that committee when you have your quarterly
14 review.

15 COMMISSIONER CROWLEY: Thank you.

16 The preliminary conservation report has been
17 issued. The Committee has a letter included with the staff
18 report, and it has been circulated to the Commissioners
19 and the appropriate people for public comment, and we
20 expect that on the business meeting of the 16th we will
21 have that as an agenda item.

22 COMMISSIONER COMMONS: I have one other little
23 one.

24 COMMISSIONER CROWLEY: Yes. Commissioner Commons.

25 COMMISSIONER COMMONS: It had been tentatively

1 identified for October 16th that we would have the building
2 standards on the retail buildings, and Doug and myself
3 had a hearing in Santa Monica I think a week ago Friday,
4 and we -- it looks like that we'll be bringing that the
5 second business meeting in November, rather than the second
6 business meeting in October before us. We feel we're
7 getting pretty close here.

8 COMMISSIONER CROWLEY: Thank you.

9 Any further comment under committee discussion?

10 Mr. Chamberlain, have you a General Counsel's
11 comment for us at this time?

12 MR. CHAMBERLAIN: I just have one item today,
13 and it's for closed session, which we could take up now,
14 or we could wait until the others come back.

15 COMMISSIONER CROWLEY: I think that would be
16 preferable. We'll do that. If you will be so kind as to
17 remind me, I'd be grateful.

18 Mr. Ward, the Executive Director's report --

19 EXECUTIVE DIRECTOR WARD: Yes.

20 COMMISSIONER CROWLEY: -- that you would have
21 to make today?

22 EXECUTIVE DIRECTOR WARD: Two issues. I have
23 one, also, that I would like to take to Executive Session
24 that involves the general counsel.

25 Secondly, this is related to Item No. 4 on the

1 agenda, the ER-5 siting policy implementation. Commissioners
2 will be -- individual Commissioners will be scheduled hope-
3 fully next week, maybe the latter part of this week as
4 well, for some briefings on the current status of that
5 implementation.

6 COMMISSIONER CROWLEY: Okay. Then that refers
7 to Item 4.

8 EXECUTIVE DIRECTOR WARD: That I can talk a little
9 bit more about when we get to Item 4.

10 COMMISSIONER CROWLEY: Okay. Let me make a note
11 at this time about the Executive Session, so that we
12 don't --

13 EXECUTIVE DIRECTOR WARD: Let's see. We are
14 also scheduled to meet with the Agency's Secretary of the
15 Department of Finance on our 1986-87 fiscal year budget
16 proposals.

17 COMMISSIONER CROWLEY: And that will be --

18 EXECUTIVE DIRECTOR WARD: The 24th, I believe.

19 COMMISSIONER CROWLEY: -- at the Director's
20 meeting on the 24th, or --

21 EXECUTIVE DIRECTOR WARD: No, it's a special --

22 COMMISSIONER CROWLEY: Or on the day of the
23 Director's meeting on the 24th.

24 EXECUTIVE DIRECTOR WARD: It's a special meeting.
25 Whether it's on the same day, it would simply just be a

1 coincidence.

2 COMMISSIONER CROWLEY: Oh, I see. Okay.

3 Well, I'm reluctant to bring the agenda items
4 that are listed, 1 through 4, back to the Commission --
5 or to the Commission without our other two members present,
6 and unless --

7 EXECUTIVE DIRECTOR WARD: Commissioner Crowley --

8 COMMISSIONER CROWLEY: Yes.

9 EXECUTIVE DIRECTOR WARD: We potentially have
10 a resolution on Issue No. 1 that the staff and the appli-
11 cant have discussed during the recess period.

12 COMMISSIONER CROWLEY: Break. Um-hum.

13 EXECUTIVE DIRECTOR WARD: If you'd like to have
14 that brought up, it might be appropriate.

15 COMMISSIONER CROWLEY: Let's return to Item 1,
16 then, and give us an idea of what you all developed during
17 the noon hour.

18 MR. GARDNER: Thank you, Commissioner.

19 COMMISSIONER CROWLEY: Mr. Gardner.

20 MR. GARDNER: We have had, as Mr. Ward pointed
21 out, some discussion with staff over the lunch break.
22 Rather than inflict the Commission with a detailed discus-
23 sion of each of staff's items, we would like to suggest
24 that the Commission regard the application as having been
25 filed as of today.

1 There is a -- a document that was in fact docketed
2 today that could be the basis for calling today the --
3 the starting date. That would then restart the 45-day
4 clock, during which time we can have workshops with staff.
5 We anticipate being able to provide some additional infor-
6 mation that staff has asked for, and without addressing
7 the issue of specifically whether the regulations require
8 that or don't require that, we can just make the issue
9 moot.

10 We would then be back before the Commission for
11 your decision on adequacy at the business meeting of I
12 believe November 13th.

13 MR. FAY: Just a point of clarification. I think
14 Mr. Gardner means he would like it considered submitted
15 as of today --

16 MR. GARDNER: Yes. I'm sorry.

17 MR. FAY: -- since "filed" is a term of art that
18 -- that defines when the application is accepted as ade-
19 quate.

20 MR. GARDNER: That's correct.

21 COMMISSIONER COMMONS: Mike, let's say we accepted
22 the -- your data adequacy as of the 13th of November.
23 Would it back-date the start date to the last date that
24 you had submitted an item, or would it start no earlier
25 than the 13th?

1 MR. GARDNER: I wish it were the former, but
2 my reading of your regulations is that it would start on
3 the date that you took the vote, so it would be the 13th.

4 COMMISSIONER COMMONS: Well, let me ask this
5 to the staff, if I may.

6 MR. GARDNER: Oh, I'm sorry. I'm out of order.

7 CHAIRMAN IMBRECHT: Commissioner Commons.

8 COMMISSIONER COMMONS: Is there not a way that
9 we don't accept this, but it has come in today, and rather
10 than starting the 45-day clock, that the applicant and
11 the staff agree to give us a delay in case that the work-
12 shops and staff and the applicant are able to bring it back
13 the first meeting in November, rather than waiting till
14 the 13th, or in two meetings hence?

15 MR. DETER: It's my understanding, and I will
16 ask my legal counsel to correct me if I'm wrong, but that
17 the only way that that can operate is if the Commission
18 determines that the application is inadequate and will
19 not accept it.

20 In this situation, no determination is being
21 made by the Commission and the applicant is not asking
22 the Commission to make a determination. They are volun-
23 tarily withdrawing the filing and asking that it be resub-
24 mitted -- or withdrawing the submittal, and asking that
25 it be resubmitted as of today, which will start the clock

1 anew.

2 COMMISSIONER COMMONS: Well, isn't there a way
3 that if the staff and the applicant both agree to waive
4 the 45-day period you could hold your workshops, and we
5 don't have to wait 45 days to come back together? I mean
6 the --

7 COMMISSIONER CROWLEY: There's no requirement --

8 MR. GARDNER: Commissioner, I don't believe
9 there's a requirement that you spend the entire 45 days --

10 COMMISSIONER CROWLEY: No.

11 MR. DETER: There's not.

12 MR. GARDNER: If we were to reach agreement prior
13 to that, staff could make their recommendation to the
14 Commission in less than 30 days that is allowed them,
15 and then the Commission could take action on the staff
16 recommendation in less than the 15 days that is allowed
17 for that, and that's where the 45 days comes from.

18 MR. DETER: If we come to an agreement with the
19 applicant, we will bring it to the Commission at the first
20 available Commission business meeting.

21 COMMISSIONER COMMONS: Good. I just felt uncom-
22 fortable about holding this until November 13th.

23 MR. DETER: Well --

24 COMMISSIONER COMMONS: It doesn't seem like it
25 should take six weeks to --

1 COMMISSIONER CROWLEY: I understood that to be
2 a statement of the far end of the 45 days.

3 MR. DETER: Yes, that's correct, and both we
4 and the applicant initially judged it would probably take
5 that long, but if it takes less than that we would be happy
6 to bring it back to the business meeting before that time.

7 COMMISSIONER COMMONS: Well, let me ask a ques-
8 tion of procedure. If the applicant and the staff are
9 -- if you're making that request, does it require any action
10 on the -- on our part at all?

11 MR. GARDNER: I believe not, but I think you
12 should rely on your counsel.

13 COMMISSIONER CROWLEY: As I understand it, you
14 are suggesting that the application be regarded as sub-
15 mitted today.

16 MR. GARDNER: Yes.

17 COMMISSIONER CROWLEY: That we -- that would
18 then restart the clock for a maximum of 45 days, and that
19 the application will be submitted again to us for data
20 adequacy at the latest on the November 13th meeting.

21 MR. GARDNER: Correct.

22 COMMISSIONER CROWLEY: Is that correct?

23 MR. GARDNER: Yes.

24 COMMISSIONER CROWLEY: Would you care to comment
25 on that, Mr. Deter?

1 MR. DETER: We concur with that.

2 COMMISSIONER CROWLEY: You do concur with that.

3 MR. DETER: That's fine with us. Yes.

4 COMMISSIONER CROWLEY: Now, would you care to
5 run through it again?

6 (Laughter.)

7 CHAIRMAN IMBRECHT: We probably ought to wait
8 just a moment more for Commissioner Gandara as well, but...

9 COMMISSIONER COMMONS: Well, my understanding
10 then is there would be -- if the applicant makes that
11 request, there is no action required of us, and --

12 MR. CHAMBERLAIN: I believe that's correct. With
13 -- with that stipulation on the record, I believe essen-
14 tially you have nothing before you at this point.

15 COMMISSIONER CROWLEY: We have to wait till all
16 five of us are here before we can have nothing before us.

17 CHAIRMAN IMBRECHT: No, I think we can probably
18 proceed if there is an agreement, if someone would like
19 to restate briefly the stipulation.

20 MR. GARDNER: I will take a shot at it.

21 COMMISSIONER COMMONS: Mike, why don't you.

22 MR. GARDNER: The applicant is asking in effect
23 to withdraw its prior submittal of the application for
24 certification and have the Commission consider that the
25 filing was submitted today. In fact, there was docketed

1 this morning a response to comments from the local Air
2 Quality District, and so we would ask the Commission to
3 consider all the things that have thus far been docketed
4 in the proceeding as the application filed today, starting
5 a 45-day review clock as of today.

6 That would bring it back before the Commission
7 for a data adequacy determination not later than the
8 business meeting of November 13th. If we can reach agree-
9 ment between the applicant and the staff in less than that,
10 it would come before you at the appropriate business meet-
11 ing, so that -- that's a far-end date, not necessarily
12 a short-end date.

13 MR. DETER: We concur with that.

14 CHAIRMAN IMBRECHT: All right. Fine. If there
15 is no objection to that, that will dispose of the issue.

16 Commissioner Noteware.

17 COMMISSIONER NOTEWARE: Mr. Chairman, I would
18 like to possibly explore the down side of that. In the
19 event that during this intervening period an application
20 comes in that the staff feels is substantially complete,
21 would they have an argument then that we have perhaps set
22 a precedent for people to submit their applications just
23 to get onto the -- on the list ahead of somebody else,
24 and then possibly get out of line in this matter?

25 COMMISSIONER COMMONS: I don't think they'd be

1 on the list until we accepted them. It's the date that
2 -- it's either the date that we accepted, or the date that
3 we've accepted and they have complied with the items on
4 the Executive Director's list, so the action we take today
5 does not start them on the list -- does not start that
6 calendar.

7 MR. GARDNER: Commissioner Noteware, that would
8 be the applicant's view as well. The 12-month regulatory
9 clock would begin on the day that you vote that the appli-
10 cation is complete and accepted.

11 COMMISSIONER NOTEWARE: Okay.

12 MR. GARDNER: That would be November 13th or
13 potentially earlier if we reach agreement with staff.

14 CHAIRMAN IMBRECHT: Quite candidly, I'm a little
15 surprised the applicant would agree to this stipulation,
16 since this is more of an extension than I would have con-
17 templated they -- at least I thought from this morning's
18 conversation.

19 COMMISSIONER COMMONS: Well, we were discussing
20 it in your absence, and it's the hope that we can bring
21 this back --

22 CHAIRMAN IMBRECHT: At an earlier date.

23 COMMISSIONER CROWLEY: Sooner.

24 COMMISSIONER COMMONS: -- either the next business
25 meeting or the business meeting after, depending upon the

1 workshops.

2 CHAIRMAN IMBRECHT: All right. Fine.

3 COMMISSIONER COMMONS: That's the latest.

4 CHAIRMAN IMBRECHT: Okay. Well, I think we have
5 a stipulated agreement, and without further objection or
6 discussion that will be the order, and --

7 COMMISSIONER GANDARA: I would just like to make
8 a comment if I may.

9 CHAIRMAN IMBRECHT: Sure. Commissioner Gandara.

10 COMMISSIONER GANDARA: Okay. I don't have any
11 problems with what I've heard to be the -- the way we are
12 proceeding, but I would like to at least indicate that
13 from my point of view we have -- I've seen cases on
14 delayed incomplete PSAs and complete FSAs, split eviden-
15 tiary hearings, all these things, so that I think that
16 many times the Committees get frustrated with this, so
17 that from my point of view I sort of appreciate the up-
18 front work that the staff has made in identifying these
19 issues, because I really think that this is the time to
20 catch these things, before we accept the application,
21 rather than dealing with them after they are in-house.

22 So, again, I don't have any problems with the
23 stipulation. I would just like to say that from my point
24 of view I was -- I think it was good, and I don't think
25 it's a more rigorous review, I don't think it's a change

1 in the standard of review.

2 I do happen to think it's the appropriate func-
3 tion of the staff in -- in serving the Commission well.

4 CHAIRMAN IMBRECHT: Okay.

5 COMMISSIONER CROWLEY: Thank you.

6 CHAIRMAN IMBRECHT: I thank you very much.

7 All right. The disposal of Item No. 1 obviously
8 disposes of Item No. 2, and that will be recalendared at
9 the same time that Item 1 comes back to us for considera-
10 tion.

11 The third item before the Commission is nomina-
12 tion and election of a member as official director of the
13 State Assistance Fund for Energy, Business and Industrial
14 Development Corporation, and I guess that actually that
15 noticed item presupposes another event, which would be,
16 since our designation of a member serving on SAFE-BIDCO
17 I would character as, in essence, at the pleasure of the
18 Commission, without a finite term, and so I guess that
19 would presuppose the resignation from that position by
20 Commissioner Gandara, and that -- if that assumption is
21 correct, I would like to speak to it in a moment, but --

22 COMMISSIONER GANDARA: Okay. If I might, yes,
23 we calendared this item, and let me indicate that the
24 Commission currently does have a member of the Commission
25 serving on the SAFE-BIDCO board, and, Mr. Chairman,

1 you're correct that it does presuppose that there is a
2 vacancy there.

3 I have not formally resigned my position on that
4 board yet, because I did not wish for the Commission to
5 be unrepresented for any period of time, but it does pre-
6 suppose that I would do that, and I do that now, that if
7 the Commission would relieve me of the responsibility I
8 would appreciate it.

9 I have served on the board for two years. I
10 think it's a worthwhile organization, and it's very much
11 worthwhile serving on, and that from my point of view I
12 am simply inundated with siting cases, among many other
13 things, and I'm reviewing the priorities that I need to
14 place on my own activities, and that for this instance
15 I -- I decided that this is -- that with respect to SAFE-
16 BIDCO, that when I sought this position I was the
17 Presiding Member of the Loans and Grants Committee, and
18 I think it's very much related to that, and for that reason
19 I would also nominate Commissioner Crowley as the second
20 member of that committee to succeed me, and my resignation
21 has nothing to do with whether or not I feel it a worth-
22 while activity for me or not.

23 It just simply has to do with the priorities,
24 and that I think that it deserves the attention that per-
25 haps can be given by somebody new with some vigor and

1 enthusiasm as one always undertakes in these new activi-
2 ties.

3 CHAIRMAN IMBRECHT: Let me -- excuse me. I don't
4 mean to interrupt.

5 COMMISSIONER GANDARA: That's fine. I'm finished.

6 COMMISSIONER COMMONS: I'll second the motion.

7 CHAIRMAN IMBRECHT: I was going to exercise the
8 prerogative of the Chair to second it, and I'm going to
9 do that --

10 COMMISSIONER COMMONS: Oh. All right. I'll --

11 CHAIRMAN IMBRECHT: -- in any case in this
12 instance. I just wanted to note, and I assume that the
13 motion is -- encompasses both the resignation and the
14 nomination of Commissioner Crowley, and I wanted to take
15 the prerogative of seconding the motion, only because I
16 felt obliged to say that the Commission has been honored,
17 and I might say held to high esteem by the participation
18 of Commissioner Gandara on the board of SAFE-BIDCO. The
19 fact that he is the first representative of the Commission
20 serving on the board of directors to have been elected
21 chairman of the board of directors I think speaks for
22 itself.

23 He is, as I understand, nearing the conclusion
24 of that one-year term as chairman, and I want to express
25 thanks and appreciation for his service on the board,

1 and regret his decision to step down, and that has no
2 reflection whatsoever on the nomination of his successor,
3 but simply an indication of the fact that I think he
4 brought honor and distinction to the Commission by your
5 service on SAFE-BIDCO.

6 Commissioner Commons.

7 COMMISSIONER COMMONS: Yes. Arturo, when does
8 your term as president expire?

9 COMMISSIONER GANDARA: My term as president
10 expires on the election of a new officer -- not the presi-
11 dent, the chairman of the board, rather.

12 COMMISSIONER COMMONS: When is --

13 CHAIRMAN IMBRECHT: Chairman of the board.
14 Mr. Browley is president, I believe.

15 COMMISSIONER COMMONS: When would that normally
16 expire?

17 COMMISSIONER GANDARA: That is scheduled to
18 expire normally, under the bylaws, in the second-to-the-
19 last quarter of the year, which would have been at the
20 last board meeting. Okay.

21 However, the board did not act to choose any
22 officers at all. There were some contemplations of some
23 changes in the amendments, and some reorganization, and
24 part of my -- the timeliness of -- the timing of my request
25 is related to the fact that this provides a natural point

1 of transition.

2 COMMISSIONER COMMONS: That's what I was trying
3 to ascertain. If it was going to be the first meeting
4 in November, I was going to suggest that we make this
5 transition the first meeting in November, but you're saying
6 this is the appropriate time.

7 COMMISSIONER GANDARA: No. It's an appropriate
8 time. The board is currently in the process of electing
9 a new chair and soliciting the interest of members of the
10 board.

11 CHAIRMAN IMBRECHT: Is there further discussion?
12 Does anyone wish to be heard on this item?
13 Is there objection to a unanimous roll call?
14 Hearing none, "Aye's" five, "No's" none.
15 Commissioner Crowley, congratulations.

16 COMMISSIONER CROWLEY: I thank you.

17 CHAIRMAN IMBRECHT: Commissioner Gandara, con-
18 gratulations as well.

19 COMMISSIONER GANDARA: Thank you.

20 CHAIRMAN IMBRECHT: Item No. 4 is Commission
21 consideration and possible direction to the 1986 Draft
22 Electricity Report Committee to oversee staff implementa-
23 tion of the 1985 Electricity Report.

24 I'm not sure who is appropriate to recognize
25 on this item. I think that Commissioner Commons

1 initiated this item.

2 COMMISSIONER NOTEWARE: Yes.

3 COMMISSIONER COMMONS: Well, it has come to our
4 attention that there's a number of activities related to
5 CFM-5 that are -- that are outstanding, and it didn't seem
6 appropriate in reading the committee order that the CFM-5
7 activity should continue under the CFM-5 committee.

8 It's my personal viewpoint that once the
9 Commission adopts the CFM or the ER in this instance, that
10 the functions of that committee cease, and that was my
11 understanding of the reading of the committee order.

12 It also seems to me to make much more sense that
13 in the overseeing of the implementation of ER-5 that it's
14 appropriate that the ER-6 committee does that, because
15 it's only through the experience garnered under ER-5 that
16 I think the committee can best understand some of the
17 recommendations to make to improve on that in ER-6.

18 And so it just seemed to make sense that that
19 would be the appropriate location for this to go.

20 The other possibility was to have no committee
21 responsible, and it's been clear in the Commission when
22 we assign responsibility to a committee that someone takes
23 a look at it and we do something, while we put it to all
24 persons, or there's no responsibility. All of us are so
25 busy that no one really takes a look at it.

1 And the other advantage, of course, of having
2 it in a committee is that it allows all Commissioners'
3 offices through advisers or Commisioners to look at it,
4 but I think the primary reason is that ER-6 is really
5 going to have to depend upon learning from the experi-
6 ences of ER-5, and so that implementation and the follow-
7 ing of that is most appropriate to be done through that
8 committee.

9 EXECUTIVE DIRECTOR WARD: Mr. Chairman --

10 CHAIRMAN IMBRECHT: Okay. Mr. Ward.

11 EXECUTIVE DIRECTOR WARD: If I can interject
12 here, as I indicated at the Executive Director's report,
13 we have a status report that we are going to be presenting
14 to all Commissioners individually, and in the context of
15 that report we separate the issues that I think Commissioner
16 Commons rightly says should be learned experience evolving
17 from ER-5 to ER-6.

18 Some of those issues, efficiency, ratepayer
19 protection, we can deal with to some degree in the short
20 term, but we are going to have to make plans in ER-6, and
21 even subsequent ERs, for work that is going to need to
22 take place to deal with them in a little more detailed
23 way.

24 So what I would frankly recommend, I had been
25 previously directed to deal with this to the Commission

1 as a whole, and talk to individual commissioners about
2 the various incremental issues in implementing ER-5, and
3 we did that through the escrow account process.

4 I would like your feedback as to how well you
5 think that would work. We talked to the Commissioners
6 -- most Commissioners at least once, some in -- in some
7 cases twice, on escrow account.

8 This is -- the status report is the whole --
9 is a potpourri of all the issues, LTBA, efficiency, rate-
10 payer protection, all the issues that came out of the ER-5
11 that we are all familiar with and have some -- some frus-
12 tration with dealing with.

13 And so you're getting the benefit of what the
14 staff's thinking to date has been. We may have some
15 recommended course of action there, but it's not in con-
16 crete, so that's what I want to do is be able to chat with
17 you, get your ideas, and then I would think at a subsequent
18 busi ss meeting you would be in a better position to
19 decide how the issue ought to be divided in terms of ER-6
20 and dealing with some of the short-term issues in terms
21 of the Commission as a whole.

22 CHAIRMAN IMBRECHT: Would you be in a position
23 to offer a definitive recommendation on that in the next
24 business meeting?

25 EXECUTIVE DIRECTOR WARD: A definitive

1 recommendation on --

2 CHAIRMAN IMBRECHT: As to which --

3 EXECUTIVE DIRECTOR WARD: Yes.

4 CHAIRMAN IMBRECHT: As to which issues should
5 be dealt with --

6 EXECUTIVE DIRECTOR WARD: Should be longer-term
7 and short-term?

8 CHAIRMAN IMBRECHT: -- near-term, and by the
9 full Commission to avoid the time considerations of taking
10 it to a committee --

11 EXECUTIVE DIRECTOR WARD: I can -- I can
12 actually --

13 CHAIRMAN IMBRECHT: -- as opposed to those which
14 are in fact transitional?

15 EXECUTIVE DIRECTOR WARD: I can actually -- could
16 do that now, although I don't think that you have had
17 adequate time to discuss it, and what I'd like to do is
18 be able to bring some of the people that have been working
19 on this in to talk to you and your staff and give you the
20 best thoughts that we've had to date, and hear what your
21 thoughts are as well.

22 COMMISSIONER CROWLEY: Before the next --

23 EXECUTIVE DIRECTOR WARD: Before the next busi-
24 ness meeting.

25 COMMISSIONER CROWLEY: -- business meeting.

1 EXECUTIVE DIRECTOR WARD: But I can -- you know,
2 I --

3 COMMISSIONER CROWLEY: Yes.

4 EXECUTIVE DIRECTOR WARD: You know, I am pre-
5 pared, if you, you know, want a briefing today, on a segre-
6 gation of the short- and long-term issues, and I can do
7 that. I just think you'd be reacting a little bit cold.

8 CHAIRMAN IMBRECHT: Okay. Commissioner Commons.

9 COMMISSIONER COMMONS: I --

10 COMMISSIONER GANDARA: Could I ask a question
11 first?

12 CHAIRMAN IMBRECHT: Commissioner Gandara. Sure.

13 COMMISSIONER GANDARA: Am I missing something,
14 or is there -- somehow all this is very cryptic to me.
15 I don't know exactly what's -- what's happening. Is there
16 something that should be done that's not being done, or
17 is this -- I mean I --

18 COMMISSIONER COMMONS: Well --

19 CHAIRMAN IMBRECHT: Well, Commissioner Commons
20 knows the item, so I guess the --

21 COMMISSIONER COMMONS: Well, there's a --

22 CHAIRMAN IMBRECHT: I'm not going to say the
23 burden is on you, but --

24 COMMISSIONER GANDARA: Well, I'm confused why
25 Commissioner Commons is doing that. John Wilson is on

1 there, but --

2 COMMISSIONER COMMONS: There's a -- there's a
3 lot of -- there's a lot of items under ER-5 that issues
4 of interpretation as to how is this working, efficiency,
5 where we're at on different things. There's a -- we had
6 a whole briefing last week at the ER-5 Committee on just
7 one item relating to --

8 CHAIRMAN IMBRECHT: ER-6.

9 COMMISSIONER COMMONS: -- an ER-6 Committee,
10 relating to the cogeneration efficiencies, and it's very
11 difficult when you look at ER-6 to separate out ER-5.
12 You are essentially looking at the two items together.

13 I think what Randy is talking about is not incon-
14 sistent with what -- what this is. We just have -- the
15 staff has no one really to go to except going right now
16 to all five Commissioners on anything relating to ER-5.
17 At the same time, we've got this order that we've given
18 to Randy where we want to get back to the full Commission
19 and get moving on certain other items.

20 I don't see there is an inconsistency in that.

21 EXECUTIVE DIRECTOR WARD: Well --

22 COMMISSIONER COMMONS: We just -- when we --
23 when put out the Committee order there was an ambiguity
24 as to how do you implement ER-5, because there's really
25 no committee that --

1 CHAIRMAN IMBRECHT: Well, the distinction is,
2 I think that there are some items --

3 COMMISSIONER COMMONS: -- that's given the
4 responsibility.

5 CHAIRMAN IMBRECHT: -- that the staff is pre-
6 pared to bring back to the full Commission, as I understand,
7 at the next meeting.

8 EXECUTIVE DIRECTOR WARD: That -- well, that's
9 correct.

10 CHAIRMAN IMBRECHT: And -- and I think we are
11 all --

12 EXECUTIVE DIRECTOR WARD: And we are also going
13 to be dealing with some of these issues in a discussion
14 with the full Commission, incrementally, such as LTBA,
15 what is doable, and you'll be hearing from the applicants
16 and other interested parties, much as we did in escrow,
17 so those kinds of things will be part of the briefing that
18 you're going to be getting during the course of the next
19 week.

20 CHAIRMAN IMBRECHT: Commissioner Crowley.

21 COMMISSIONER CROWLEY: Mr. Chairman, it seems
22 to me that Randy is proceeding under the direction he was
23 given by the Committee as a whole -- as a committee of
24 the whole Commission, and I feel it would be appropriate
25 for us at least to go this next step and see how this sorts,

1 and have his presentation, and then if there are certain
2 aspects of it that we feel should be more carefully
3 scrutinized by a subcommittee, then we could make that
4 decision at that time.

5 But I think it would be at this time perhaps
6 more in line with what we gave him as direction before
7 to have him proceed.

8 CHAIRMAN IMBRECHT: I -- personally I would agree
9 with that perspective. I think that one of the obligations
10 we have as a Commission is we expect clear signals to us,
11 and I think we need to give clear signals collectively
12 in turn to the staff.

13 And I hate to see us producing anything that
14 can be suggested as a zig-zag path, if you will, on dealing
15 with these issues.

16 I would like to urge that same consideration,
17 and suggest that we renote this item for the next busi-
18 ness meeting and do it in the context that allows us to
19 adopt in whole or in part in essence those issues which
20 the Executive Director and the staff present to us as being
21 capable and ripe for resolution by the full Commission,
22 and those which have a longer term consideration time
23 frame, I think the appropriate place for them to be reposi-
24 ted is in the ER-6 Committee.

25 COMMISSIONER COMMONS: Well, maybe what we should

1 do, Mr. Chairman, is to try and make this more specific,
2 and I'll work with Randy and see if we can come up with
3 more specific delegations, and those things that we should
4 do as a whole, and those things that we should do as a
5 committee, which maybe are longer-term in nature, and then,
6 of course, after the discussion, we'll have a right to
7 modify that if it so suits the Commission.

8 CHAIRMAN IMBRECHT: Well, let's do that, and
9 we'll renote this item for the next business meeting.

10 COMMISSIONER COMMONS: Doug, do you have any
11 problem with holding that two weeks?

12 COMMISSIONER NOTEWARE: No, I think it's a good
13 idea.

14 CHAIRMAN IMBRECHT: Commissioner Crowley.

15 COMMISSIONER CROWLEY: I would think that same
16 technique would be applicable to all five of us, that you
17 would be discussing --

18 CHAIRMAN IMBRECHT: Yes.

19 COMMISSIONER CROWLEY: As you indicated, you
20 would be discussing this with all five of us.

21 EXECUTIVE DIRECTOR WARD: Oh, exactly. That's
22 -- that's the plan, is to do that.

23 COMMISSIONER CROWLEY: Um-hum.

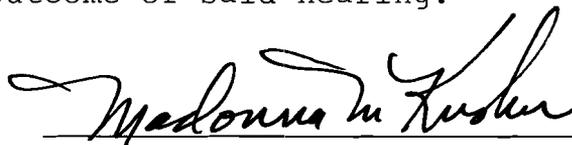
24 CHAIRMAN IMBRECHT: Okay. Item 4 is disposed
25 of, renoted for the next business meeting.

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REPORTER'S CERTIFICATE

THIS IS TO CERTIFY THAT I, Madonna M. Kushen, Reporter, have duly reported the foregoing proceedings which were had and taken in Sacramento, California, on Wednesday, the 2nd day of October 1985, and that the foregoing pages constitute a true, complete and accurate transcription of the aforementioned proceedings.

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



Reporter

Dated this 4th day of October 1985.