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STATE OF CALIFORNIA CALIF. ENERGY COMMISSION
ENERGY RESOURCES CONSERVATION MAY 14 1985
AND DEVELOPMENT COMMISSION RECEIVED IN DOCKETS

BUSINESS MEETING

1516 NINTH STREET
1st FLOOR HEARING ROOM
SACRAMENTO, CALIFORNIA

WEDNESDAY, APRIL 17, 1985
10:10 A.M.

Reported by: Dawn Lofton

COMMISSIONERS PRESENT

1 Charles R. Imbrecht, Chairman
2
3 Barbara Crowley, Vice Chair
4
5 Geoffrey D. Commons, Commissioner
6
7 Warren D. Noteware, Commissioner

EX OFFICIO

8 Bill Foley

PUBLIC ADVISER'S OFFICE

9 Ernesto Perez

STAFF PRESENT

10
11 Randall Ward, Executive Director
12
13 William Chamberlain, General Counsel
14
15 Steve Cohn, Staff Counsel
16
17 Bill Pennington
18
19 Ted Rauh
20
21 Christopher W. Elms
22
23 Marc Jacobson
24
25 Michael Sloss
Lorri Gervais, Secretary

OTHERS PRESENT

Richard Soehren, Department of Water Resources
Vladislav Bevc, California Public Utilities Commission
Patricia Fleming, San Diego Gas & Electric Company
Tomi Stickels, San Diego Gas & Electric Company
Dale Cochran, San Diego Gas & Electric Company

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P R O C E E D I N G S

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3 CHAIRMAN IMBRECHT: This meeting will now
4 come to order, and I would ask you all to please rise.
5 Commissioner Commons, would you like to lead the pledge
6 of allegiance?

7 -- FLAG SALUTE --

8 CHAIRMAN IMBRECHT: Commissioner Gandara is
9 away on Commission business today. He will not be
10 joining us, and the remainder of the Commission is
11 present.

12 At the request of the Load Management
13 Committee, Item #1 will be delayed until approximately
14 11 o'clock this morning. They are modifying their
15 recommended order, and they will be prepared by that
16 point in time. So we will move on to Item #2 to begin
17 the meeting today, which is Commission Consideration
18 and Possible Adoption of an Order Instituting
19 Rulemaking to Revise Section 1403, Title 20 of the
20 California Administrative Code of the Administrative
21 Regulations of the Energy Conservation Standards for
22 new buildings. This will consider the appropriateness
23 to require licensed professionals to signed compliance
24 documents and other mechanisms to insure compliance
25 with the standards. Mr. Ward.

1 EXECUTIVE DIRECTOR WARD: Thank you, Mr.
2 Chairman. Good morning. I believe the General
3 Counsel's office is prepared to give you a description
4 of this petition.

5 MR. CHAMBERLAIN: Yes, Mr. Chairman, this is
6 not really a petition. This is simply a follow-up on a
7 petition that you granted, I believe, at your last
8 business meeting. At that time, you granted the
9 petition and directed the staff to prepare an order
10 instituting rulemaking, which has been prepared. Mr.
11 Chandley would normally have been here. I believe he's
12 tied up on a telephone call right now. But we do not
13 anticipate that this should be controversial. This
14 simply allows the rulemaking process to begin.

15 CHAIRMAN IMBRECHT: Alright. Questions or
16 comments? Is there any member of the public that would
17 like to address the Commission on this matter? I
18 thought you wanted to be recognized, Commissioner.
19 Alright, fine. If there is no one who wishes to be
20 heard on this matter, do I hear a motion?

21 COMMISSIONER NOTEWARE: Mr. Chairman, I move
22 for adoption of the order.

23 CHAIRMAN IMBRECHT: Thank you. Is there a
24 second? It's moved by Commissioner Noteware; seconded
25 by Commissioner Commons. Is there objection to a

1 unanimous roll call? Hearing none, ayes: 4; noes:
2 none. The motion is carried and the order is adopted.

3 The third item before us today is Commission
4 Consideration and the Possible Acceptance of Petitions
5 to Initiate Rulemaking Hearings to revise sections 1604
6 (F), and 1606(c)(7)(f) of Title 20 of the California
7 Administrative Code regarding plumbing fittings.
8 Sounds like an interesting subject. The petitioners,
9 the City of San Jose and the East Bay Municipal
10 Utilities District propose to revise the Appliance
11 Standards to prohibit easily removable water flow
12 control inserts in low-flow shower heads. Mr. Ward.

13 EXECUTIVE DIRECTOR WARD: Thank you, Mr.
14 Chairman. Mike Martin of the Conservation Division is
15 prepared to outline this petition.

16 MR. MARTIN.: Good morning, Commissioners.
17 We've recently finished a testing program on plumbing
18 fittings, and a number of enforcement problems have
19 come up. One of these enforcement problems is the use
20 of a removable insert for obtaining the flow rates on
21 showerheads. We have petitions from one gentleman
22 whose main interest is the reduction of the use of
23 water; another whose main interest is the reduction of
24 building of sewage treatment plants. I'm aware of no
25 opposition on the subject. We have somebody from the

1 Department of Water Resources, who I think support it.
2 And I would recommend that you approve the order
3 instituting hearings so that we can get dialogue
4 started on this subject. I can answer questions, if
5 you wish.

6 CHAIRMAN IMBRECHT: Any questions or comments
7 to the Commission? I guess I'd have to question
8 whether and where this would be contemplated within our
9 work plan; and, frankly, the significance of the issue.
10 Do we have anything to suggest that there is widespread
11 removal of the inserts?

12 MR. MARTIN: We have the...

13 CHAIRMAN IMBRECHT: Is there a commensurate
14 energy savings that's going to justify the kind of
15 staff allocation when we have a variety of other
16 commitments within the Conservation Division that are
17 competing for resources?

18 MR. MARTIN: I think Mr. Pennington... Oh
19 well, you've gone so fast that the people who were
20 going to back us up on that question are not here.
21 There is no suggestion that this should take any
22 priority over the current heat pump or refrigerator
23 activities. We're looking towards starting this
24 after the June 30th deadline.

25 As far as the need is concerned, the report

1 from our contractor indicates that the absence of these
2 flow restrictors is the cause of failure in a high
3 proportion of what is being provided to us. I know Mr.
4 Pennington was going to suggest that we approve this,
5 and that when we look at the work plan for this coming
6 fiscal year, that we set priorities for it.

7 EXECUTIVE DIRECTOR WARD: Mr. Chairman, it's
8 my understanding that the savings, the result in energy
9 savings aside from the water issue, is very
10 significant; and this is one of the most cost-effective
11 programs that the Commission does have. Part of the
12 problem, as I understand it, with the devices is that
13 the washer that's inserted into the device is really
14 kind of an aberration because the showerhead itself was
15 not made to have that washer put in. There are a
16 number of low-flow showerheads that are made to be low-
17 flow, that do not have a separate device that is
18 necessitated to make the thing work in that fashion.
19 And so, what's occurring is they just simply are not a
20 well-operated device, given this aberration. That's my
21 general understanding. The resource issue, I don't
22 consider it to be that significant; but it would
23 certainly be evaluated with all other petitions as we
24 go through the allocation process after the first of
25 July. And again, it's unfortunate...

1 CHAIRMAN IMBRECHT: Yes, but once it's
2 accepted that's, in essence, drives an allocation, even
3 if....

4 EXECUTIVE DIRECTOR WARD: That's correct.

5 CHAIRMAN IMBRECHT: My problem is dealing
6 with petitions in a disjointed fashion without looking
7 at them from an overall resource allocation priority
8 basis. And I guess I'm looking for a little more
9 demonstration that this is a genuine problem, and that
10 this is an added level or layer of regulation that is
11 going to provide beneficial results for the people of
12 the state and not work an undue hardship upon those
13 that are affected by it.

14 EXECUTIVE DIRECTOR WARD: Certainly, I
15 understand and I'm sympathetic to that as well. Maybe
16 what we could do is wait until Mr. Pennington is
17 available to talk about the specific resources that are
18 necessary to carry out an order instituting hearings on
19 this issue.

20 CHAIRMAN IMBRECHT: He's just arrived.

21 VICE CHAIR CROWLEY: May I ask a question?

22 CHAIRMAN IMBRECHT: Certainly.

23 VICE CHAIR CROWLEY: My question would be
24 that I understand that the petitioners claim that a
25 large percentage of the showerheads meet state

1 requirements only by means of an insert, and a
2 significant number of showerhead installers and users
3 remove these inserts. It's not clear to me why it
4 wouldn't be possible for the local entity to make a
5 modification of an ordinance of theirs that would deal
6 with this problem, rather than have us go into a large
7 activity about it.

8 EXECUTIVE DIRECTOR WARD: Well, I think that
9 it might be appropriate for Mr. Pennington to give you
10 some indication of our regulatory responsibility and
11 some of the past history. That might be helpful.

12 MR. PENNINGTON: If I could, I think the
13 problem is pervasive. I think it exists statewide. I
14 don't think that it's a problem that's associated with
15 the individual, local jurisdiction. So I think it's
16 appropriate for us to consider the concern ourselves
17 and try to deal with it. That would be my response to
18 that.

19 CHAIRMAN IMBRECHT: I guess what I'm looking
20 for is, do we have any evidence that that quote is a
21 significant number? I notice that both of these
22 petitions are essentially identical on their face.
23 There is no documentation evidence, whatever, even
24 statements from building inspectors that a significant
25 number of showerhead installers, that's suggesting that

1 a significant number of the coming contractors, I
2 presume, of the state are intentionally violating the
3 law; and that users themselves of any of these low-flow
4 inserts, that's defeating the objective of the energy
5 and water conservation.

6 MR. PENNINGTON: Well, I don't think they're
7 really violating the law. The law says that you have
8 to have the showerhead, the faucet, tested to comply
9 with our standards. The standards don't say that you
10 have the insert installed in conjunction with that
11 showerhead when it's being installed, and that's a
12 deficiency. The inserts, in some models anyway, are
13 packaged sometimes with either very little instruction
14 or maybe not even any instruction about them having to
15 be installed.

16 We've gotten comments from Teledyne Lars,
17 who's a major manufacturer of showerheads, who is
18 concerned about their competitors, some of them just
19 providing these inserts; whereas they go to some length
20 to try to make sure that their devices are going to
21 save the energy savings that the standards intended.

22 I've also been contacted by the Calwood
23 Advisory Committee, who has indicated some concern
24 about the standards not achieving their intent and
25 their willingness and interest to participate in a

1 discussion on this.

2 MR. MARTIN: Mr. Chairman, maybe it would
3 also be of help if I were to read the observations and
4 recommendations from our testing contractor, who
5 reports that most of the plumbing fixtures that failed
6 lacked flow restrictors. Most of the plumbing fixtures
7 have the flow restrictors have the flow restrictors in
8 separate packages. And then he lists some companies
9 that are exceptions to this. Twenty-six of the 117
10 tested plumbing fittings failed to meet the CEC
11 requirements, which represent a 22.2 percent rate.
12 Most of the failed plumbing fittings were imported
13 plumbing fittings, and he has reported that particular
14 problem. But just how many get removed or not included
15 when they are installed, I don't have first-hand data
16 on.

17 CHAIRMAN IMBRECHT: He's attributing the
18 failure of the plumbing fitting to the removal of the
19 low-flow insert?

20 MR. MARTIN: He, in his case, was testing
21 showerheads; and some of them, like this one, had a
22 package with a separate flow restrictor in it which the
23 petitioner is suggesting frequently does not get
24 installed. But quite a number of them did not have
25 these flow restrictors at all when they were shipped

1 in.

2 CHAIRMAN IMBRECHT: Well, in that case the
3 item doesn't comply with the existing regulations,
4 right? It should not be sold, and it's a matter of
5 enforcement.

6 MR. MARTIN: That's true. The whole question
7 is a matter of enforcement, yes.

8 MR. PENNINGTON: I think there's a range of
9 problems here, somewhat related to whether or not the
10 standards require manufacturers to make available a
11 product that will achieve the energy savings and water
12 savings that were intended. And there are some other
13 issues with manufacturers who are not even meeting the
14 regulations as they exist. We're trying to follow up
15 on those.

16 CHAIRMAN IMBRECHT: What legal requirements
17 do we have in terms of acting on a petition of this
18 nature? Do we have any time constraints under which we
19 must render a decision?

20 MR. CHAMBERLAIN: We need to act within thirty
21 days of the filing of the petition. I believe the
22 first petition was filed on March 20, so actually this
23 is our last opportunity to act on this petition within
24 the time required by the government code.

25 CHAIRMAN IMBRECHT: What happens if we do not

1 act?

2 MR. CHAMBERLAIN: Well, nothing happens,
3 although we will have violated that 30-day requirement.
4 There...

5 CHAIRMAN IMBRECHT: I'm not advocating that.
6 I just want to understand the implication.

7 MR. CHAMBERLAIN: Yeah, I mean someone could
8 presumably bring a writ of mandate requiring us to act.

9 CHAIRMAN IMBRECHT: I guess what I'm asking
10 is that was there a realistic manner in which we could,
11 in essence, hold this petition and others of its nature
12 in abeyance until we make some of these work plan,
13 resource allocation decisions and look at them from
14 that perspective.

15 MR. CHAMBERLAIN: We could ask the
16 petitioners if they would be willing to waive the
17 time. But we didn't anticipate that that would be an
18 issue.

19 CHAIRMAN IMBRECHT: Commissioner Commons.

20 COMMISSIONER COMMONS: I'd like to follow
21 your line of questioning, if I may, for a moment.
22 Could you give me an indication of what you estimate
23 the amount of resources in terms of our staff, if we
24 were to adopt this petition; and second, could you give
25 us an indication as to the amount of savings of gas and

1 water that are at stake?

2 MR. PENNINGTON: Yes. On the latter, first,
3 the issue memo that was written indicated that there
4 was 1.5 million barrels of oil is the potential savings
5 of the standards; and the water savings, is listed
6 there, too, at 2,000 gallons of hot water per year. I
7 know the...

8 COMMISSIONER COMMONS: That's per two
9 thousand gallons in total? That sounds like nothing.

10 MR. PENNINGTON: Yeah, this is per
11 individual household.

12 COMMISSIONER COMMONS: Oh, Okay.

13 MR. PENNINGTON: I know in terms of the
14 water savings, which clearly is not our intent here,
15 but there is a concern on the part of water resources
16 planners, about making the standards effective. In
17 terms of the resources, I don't perceive this to be an
18 analytical issue. I don't perceive us to have a need
19 to get into any lengthy technical work to...

20 COMMISSIONER COMMONS: Is this more or less
21 than one person month (let me be specific)?

22 MR. PENNINGTON: Okay, well I perceive this
23 as being important for us to work through with whoever
24 the participants are in the proceeding solutions to this
25 problem so that we can get the energy savings that was

1 intended. I see it as a real practical discussion
2 about what's feasible in showerheads. And so I...

3 COMMISSIONER COMMONS: Yeah, but what is the
4 person month requirement?

5 MR. PENNINGTON: I think that this
6 proceeding would take maybe four or five months, and
7 maybe between a quarter and a half person year,
8 something like that. I don't see it as a full-time
9 job, by any means.

10 The other thing I would say in terms of
11 the resource aspect, is that we've accepted a number of
12 different petitions with the expectation that they
13 would come up in a work plan process, and we would
14 decide priorities and timing in that work plan process.
15 The granting of a petition doesn't commit us to a
16 particular time schedule or resource commitment at the
17 granting point.

18 COMMISSIONER COMMONS: Mr. Chairman, I think
19 I have a solution. I think what we should do is grant
20 the petition, direct a committee not to proceed on the
21 petition other than maybe having one inforatory
22 workshop to have an understanding as to the nature of
23 the issues and the amount of energy savings that are at
24 stake; and bring it back to the Commission at the time
25 that we do the work plan and then make a decision as to

1 how we proceed and the allocation of resources at that
2 time.

3 CHAIRMAN IMBRECHT: That's generally
4 acceptable. Let me just ask, Mr. Chamberlain, if we
5 accept the petition, then what are our other legal
6 obligations?

7 MR. CHAMBERLAIN: I would say, I mean there
8 is nothing specified in the statute that provides any
9 deadline for...

10 CHAIRMAN IMBRECHT: Is there a minimum?

11 MR. CHAMBERLAIN: I would have to say that
12 the Commission would have to do something within a
13 reasonable timeframe. I don't know that you could go
14 for five years, having accepted the petition and not do
15 anything. But, I think that what Commissioner Commons
16 outlines is reasonable.

17 CHAIRMAN IMBRECHT: I just want to serve
18 notice on some of these things. We have a lot of
19 obligations here at the Energy Commission. We have
20 constrained resources in some areas of our operations.
21 I think that it's fundamentally important that we do a
22 better job than we have in the past and I'll take my
23 share of the responsibility for this in terms of
24 genuinely weighing the benefits of a variety of
25 responsibilities we have and appropriately allocating

1 staff. I am not overwhelmingly persuaded that a case
2 has been made that there is a problem here that
3 necessitates a response. I guess I will support the
4 petition, but I'm going to express skepticism that I am
5 not going to support a substantial allocation of
6 resources on this issue until there's some
7 demonstration that there's a real live problem that's
8 resulting in real demonstrable energy losses.
9 Commissioner Noteware.

10 COMMISSIONER NOTEWARE: Mr. Chairman, if we
11 accept the petition -- perhaps I should ask our General
12 Counsel. If we were to accept this petition, then
13 would it not be appropriate to approach the Department
14 of Water Resources with their conservation programs?
15 It strikes me that the potential savings of 2,000
16 gallons per household per year is a very significant
17 amount of water and that their concern should be at
18 least equally as great as our own. And perhaps our
19 sister agency, the DWR could shoulder the major portion
20 of the load or, proceeding with this.

21 MR. CHAMBERLAIN: We might very well be able
22 to get some assistance there.

23 COMMISSIONER NOTEWARE: I would think we
24 should at least attempt to.

25 CHAIRMAN IMBRECHT: It would be interesting

1 certainly to hear their views as to whether they think
2 this is a problem as well.

3 COMMISSIONER NOTEWARE: As a matter of
4 fact....

5 CHAIRMAN IMBRECHT: The 2,000 gallons is
6 premised on enormous loss if there is, in essence,
7 widespread non-compliance with the 1977 regulations.
8 That's the issue, it seems to me. Is there widespread
9 non-compliance or is it relative different?

10 MR. MARTIN: Mr. Chairman, we do have a
11 gentleman from Water Resources, our sister agency.

12 CHAIRMAN IMBRECHT: Alright, I'd be delighted
13 to hear more.

14 MR. SOEHREN: My name is Richard Soehren, and
15 I'm with the Office of Water Conservation in the
16 Department of Water Resources. You raise a good
17 question -- how extensive is the problem, and it's very
18 difficult to know. We can't go out and ask someone
19 "are you violating state regulations, and pulling out a
20 shower flow restrictor?" Many agencies, including the
21 two that have petitioned you, have expressed concern to
22 us that restrictors that are easily removable and
23 sometimes not even present in the packaging with the
24 shower head are a problem. And we're very concerned
25 about the possible excessive water use from violations

1 of the Commission's regulations. We would certainly be
2 willing to assist your staff in looking into this
3 problem.

4 CHAIRMAN IMBRECHT: Okay, anyone else that
5 wishes to be heard on this matter? What's the desire
6 of the Commission? Do I hear a motion?

7 COMMISSIONER NOTEWARE: Mr. Chairman, I move
8 for acceptance of the petition.

9 CHAIRMAN IMBRECHT: Do I hear a second?
10 Commissioner Commons, Commissioner Noteware has a
11 motion before us to accept the petition.

12 COMMISSIONER COMMONS: Second it.

13 CHAIRMAN IMBRECHT: Seconded by Commissioner
14 Commons. Is there objection to a unanimous roll call?
15 Hearing none, ayes: 4; noes: none, with the conditions
16 and provisos that provide Commissioner Commons
17 stipulated perspective. Alright, the petition is
18 accepted. Are we prepared to go forward on Item #1?

19 COMMISSIONER COMMONS: San Diego just arrived
20 and I'd like to give each of the Commissioners the
21 Draft Final Order so they'd have it in front of them.

22 CHAIRMAN IMBRECHT: Alright, Consent
23 Calendar. Is there objection to the one? I will move
24 consent. Is there a second? Seconded by Commissioner

25

1 Crowley. The Consent Calendar is approved. Is there
2 anyone that wishes to be heard on Item #4 - Commission
3 Consideration of Possible Certification of Solar Water
4 Heating Programs Solargy -F and F-Chart 3 and 5 series
5 for compliance with Title 24, part 2, Chapter 2-53,
6 Section 2-5351? Is there objection to a unanimous roll
7 call? Hearing none, ayes: 4; noes: none. The consent
8 calendar is approved.

9 Is there objection to the minutes as
10 presented to the Commission? Corrections or additions?

11 COMMISSIONER COMMONS: One comment.

12 CHAIRMAN IMBRECHT: Commissioner Commons.

13 COMMISSIONER COMMONS: I'll just note for
14 future agendas, we still have the second position on
15 Irwindale to fill which was not filled at that meeting
16 and probably should be put on the agenda.

17 CHAIRMAN IMBRECHT: We'll take care of it at
18 the next Commission meeting. Alright, hearing no
19 objection to the minutes, they will be approved as
20 presented to the Commissioner.

21 Are there Policy Committee Reports?

22 Commissioner Crowley.

23 VICE CHAIR CROWLEY: Mr. Chairman, we have
24 for your considerion, a Legislative Committee Report
25 dealing with comments and recommendations on assortment

1 of bills. I would appreciate an opportunity to present
2 them one at a time, if I may.

3 CHAIRMAN IMBRECHT: Certainly.

4 VICE CHAIR CROWLEY: The first bill in your
5 packet is AB 432 -- it has to do with Salt and Sea
6 Regional Land Use and the designation of OPR as the
7 lead agency for developing and implementing a resource
8 management program for the salt and sea area. Our
9 concern about this was that development felt by
10 restructuring consideration of the area delayed
11 geothermal development and our position from the
12 Committee is we oppose this measure. I'm wondering
13 what the pleasure of the Commission is on AB 432?

14 CHAIRMAN IMBRECHT: The reasons for
15 opposition being?

16 VICE CHAIR CROWLEY: One of my concerns is
17 that OPR taking a lead position, is it is an
18 interference with existing government mechanisms and we
19 were concerned about the funding level. The
20 Development Division is concerned that a geothermal
21 development may be delayed due to the postponement of
22 land use decisions by local or other regulatory boards
23 and commissions, while the study is in progress.

24 CHAIRMAN IMBRECHT: Commissioner Commons?

25 COMMISSIONER COMMONS: Could you give more

1 information as to what are the existing governmental
2 mechanisms, what is the delay mechanism that you were
3 referring to? I need to have more detail to have an
4 understanding of the Committee's position.

5 VICE CHAIR CROWLEY: The delay mechanism
6 would simply be that it restructures developing and
7 implementing a coordinated resource management program
8 so that in effect would simply be a time-consuming
9 situation. It isn't structured exactly; it is simply;
10 pragmatically they would be re-working this entire
11 thing and may well have the consideration of geothermal
12 activity up in the air until OPR works through the
13 whole process itself.

14 COMMISSIONER COMMONS: My understanding is
15 that we have two major projects that are demonstration
16 projects and no subsequent projects are going to be
17 built or funded until we get the results of these
18 projects. That's very different from where we are in
19 the Geysers. Has there been anyone or have we gotten
20 any communication from anyone to suggest that their
21 projects might be held up or that there is a problem
22 associated with this?

23 VICE CHAIR CROWLEY: Chris, what is your
24 information at OGA regarding this matter?

25 MR. ELMS: The only light that I can shed on

1 that issue is that our office has received a call from
2 SOHIO which apparently has a large acreage in the salt
3 and sea area, that they are hoping to use for
4 geothermal development, and they are very much
5 concerned about the delay issue. Aside from that, I'm
6 not sure.

7 COMMISSIONER COMMONS: Wasn't it San Diego
8 Gas & Electric who would be one of the primary buyers
9 of electricity and they've also been very active with
10 the Heber Project. Have they indicated their opinions
11 to the Committee, or have we sought out their opinion?

12 VICE CHAIR CROWLEY: The Committee discussed
13 this at its one meeting and I was not aware of our
14 seeking that opinion out. Has OG ever received any
15 comment from...?

16 MR. CHAMBERLAIN: No, I haven't.

17 CHAIRMAN IMBRECHT: Let me suggest to the
18 Committee, it might be appropriate on this one to take
19 an approach in a letter to the author, as well as to
20 OPR until we learn the extent to which this bill is
21 perhaps sponsored by this agency, or a response to a
22 request of a legislator involved. This strikes me as a
23 local issue, perhaps, that before we wade into it with
24 a definite opposition position, we might want to, in
25 essence, send a letter that expresses caution and

1 concerns about a variety of concerns and issues
2 including the potential impact upon existing planned
3 energy developments and ask them some assurances if
4 that's not their intention, that that could be
5 accommodated with a bill, expressing concerns about the
6 adequacy of the funding level, whether in fact a
7 comprehensive plan can be accomplished with those
8 dollars and provide a useful document, et cetera
9 -- those kinds of things and, in essence, suggest that
10 we'd like to work with the author until we get a better
11 sense. That doesn't mean we can't take an opposition
12 position at a later date. But, let's find out what
13 their true intentions are.

14 COMMISSIONER COMMONS: Fine. I would also
15 encourage the Committee to solicit the viewpoints of
16 the two utilities that are most likely users.

17 CHAIRMAN IMBRECHT: I agree with that, or the
18 staff at OGA, certainly. So, I would suggest neutral,
19 but watch-with-caution type of position.

20 COMMISSIONER COMMONS: Rather than take a
21 neutral position, I like your instructions....

22 CHAIRMAN IMBRECHT: We're not taking
23 Commission at this point in time, with that direction
24 presented. Alright, 897.

25 VICE CHAIR CROWLEY: 897 is a bill that was

1 intended to deal with the wind tax credit situation and
2 the Committee looked at the bill and had some
3 suggestions to offer and took a position of oppose,
4 unless amended to deal with these. The abuse of tax
5 credits, we suggested that the retroactivity til
6 January 1, 1985, providing for a recapture of tax
7 credits which we thought was an appropriate thing at
8 the state level be included, and delete the provision
9 which would eliminate the tax credit retroactively to
10 January 1 because we felt this administratively was a
11 very difficult and somewhat inappropriate, and
12 preferred to provide instead a reasonable phase out of
13 the tax credit for wind systems. So, our recommendation
14 was to oppose unless amended involving these items I
15 just mentioned.

16 CHAIRMAN IMBRECHT: Alright, fine. Is there
17 discussion? Commissioner Commons.

18 COMMISSIONER COMMONS: I think, as you know
19 Mr. Chairman, I've been very concerned on the fiscal
20 impacts of tax credits. I've also, with you, been a
21 supporter that we look at the R&D programs and we've
22 supported the Rosenthal-Naylor bill to try to have
23 funding. One of the problems I'd have with the bill
24 is, I'm not sure we should take a disjointed effort on
25 tax credits by looking at wind and isolation, all the

1 tax credit issues. I think it's time this Commission
2 take a look at the full tax credit issue and update our
3 position. I'm not sure we want to do it by taking one
4 technology in isolation from the others.

5 CHAIRMAN IMBRECHT: I's my perspective that
6 each of these recommendations from Commissioner Crowley
7 are consistent with previous Commission position and
8 direction on the tax credits. I think that was also
9 the position generally embraced by then Commissioner
10 Schweickart as well, in terms of both the rampdown as
11 well as attempting to rectify some of these
12 acknowledged, although not widespread abuses.

13 COMMISSIONER COMMONS: Alright.

14 CHAIRMAN IMBRECHT: So, it seems to me it
15 would not be unreasonable to express these points to
16 Mr. Floyd, and at the same time I'm open to a
17 discussion about a more comprehensive review of the
18 position on this issue.

19 COMMISSIONER COMMONS: Generally, we have
20 asked for amendments. The way we've stated it that we
21 support, provided amendment rather than oppose unless
22 amended. That has been the normal.

23 CHAIRMAN IMBRECHT: I would say it depends on
24 the general leaning of the bill. You're right. We've
25 done that on some occasions, and we've also opposed

1 unless amended. I guess I weigh that in terms of
2 whether I would lean towards a general support of the
3 concepts of the bill; or lean against it. In this
4 instance, since the bill calls for retroactive
5 elimination of the tax credits, I have to lean more
6 than 50 percent in opposition of the bill. I
7 personally think the way to express it is opposed,
8 unless amended since that represents not only tax
9 inequity, but also a substantially chilling effect, I
10 would presume, on the ability of projects that are,
11 perhaps, today very close to a culmination, even
12 subjected to that kind of uncertainty in terms of their
13 financial support. This is the kind of thing that
14 sends a message to the investment community in New
15 York, et cetera, like a telegraph.

16 COMMISSIONER COMMONS: There are those
17 issues. Do we know who is supporting or opposing the
18 bill?

19 CHAIRMAN IMBRECHT: I would guess this is
20 probably an individual bill of Mr. Floyd's that
21 represents his own perspective. I would rather not
22 offer any further public characterizations. Perhaps
23 during the course of this report, I think Commissioner
24 Crowley will be reporting that Mr. Floyd carried and
25 was dealt with in the relevant Committee -- that bill

1 which would have eliminated the surcharge that funds
2 the ERPA account.

3 COMMISSIONER COMMONS: I think one thing we
4 should probably do is include the report that we did on
5 this issue last year in terms of sending communication
6 to Mr. Floyd. We've been early-on addressing this
7 issue, so we've had similar concerns, but the concerns
8 you've expressed in terms of financial impact of
9 projects that are already underway in the tailpipe that
10 this may not be the best process. We've already tried
11 to take an approach, and we're concerned.

12 CHAIRMAN IMBRECHT: Alright. With those
13 provisos, is there objection to the Committee
14 recommendation? Hearing none? AB 1287.

15 VICE CHAIR CROWLEY: AB 1287 deals with a
16 conservation retrofit program. The bill has been heard
17 in Assembly Natural Resources, and it passed 8 to 3
18 that Committee yesterday. It is our feeling on the
19 bill that we should be neutral and the reasoning is
20 that these devices they're speaking of offer immediate
21 energy savings in a short payback period; however, we
22 do not believe at the Committee level that a mandatory
23 retrofit program is needed at this time. We also feels
24 that it clouds somewhat our voluntary home labelling
25 approach and these are also water-related devices. We

1 feel DWR would be the appropriate agency to administer
2 this bill. They have indeed started an effort in this
3 direction, having water conservation kits that are
4 available to the public for distribution. The other
5 thing is that I have a concern and need guidance in how
6 this deals with the OIR that we just talked about. But
7 then standing along as a bill, then our organization
8 was neutral and this would be a ratification of our
9 position.

10 CHAIRMAN IMBRECHT: Commissioner Commons.

11 COMMISSIONER COMMONS: I have a biforcated
12 viewpoint on this one. On the water closet, I think is
13 what I call energy efficiency. There is no impact in
14 terms of the lifestyle of someone in terms of having
15 these types of devices and that's straight energy
16 savings into the payback periods, there's an issue. On
17 the low-flow water shower, I think there is an impact
18 in terms of lifestyle. Some people like to take showers
19 with a heavy flow, and I don't think we're in a
20 situation in the state where someone wants to either
21 have their thermostat at 65 for cooling, or wants to
22 have a heavy water shower that we should mandate it.
23 So, my position would be neutral on the showerheads, I
24 would oppose on the water closets. Also, the
25 installation costs. The shower devices, some of the

1 older shower heads are quite expensive to replace,
2 while with the water closet, the devices are not
3 expensive and are very easy to install. So, I would
4 have an oppose on one and support on the other.

5 CHAIRMAN IMBRECHT: I would recommend to
6 oppose this bill for a variety of reasons and would
7 pick up, to some extent, on the reasoning and argument
8 that you offered, Commissioner Commons. I agree with
9 you on the question of the shower heads; the next issue
10 is what enforcement mechanism is appropriate to
11 demonstrate that there is compliance at time of sale,
12 that a brick has, in essence, been put into the tank
13 and whether that enforcement mechanism would be
14 justifiably complicated enough to justify....

15 COMMISSIONER COMMONS: In other words, a
16 carrot approach and a policy statement might be better
17 than a bill.

18 CHAIRMAN IMBRECHT: My feeling is that this
19 is the kind of thing where you do your best to inform
20 the general public and the consequences of their
21 actions. And you also give some people some reasonable
22 freedom to operate within the society.

23 Secondly, I am informed that there's today 70
24 percent penetration of these devices within the
25 marketplace, absent mandatory regulation. If we were

1 going to pursue the concept of mandatory retrofit of
2 title and resale energy devices, and include a broader
3 range and scale of devices that cumulatively have
4 significant and demonstrable impact and conservation, I
5 would be more than inclined to understand the
6 justification for the necessary enforcement that would
7 be required for this kind of program. I also am
8 skeptical about us mandating a water closet device. I
9 think this is a DWR issue, if there's the regulation
10 within this area. Finally, I think that this would be a
11 difficult one to defend in many quarters from a public
12 perception standpoint, in terms of regulation gone
13 amuck. So, I'm inclined to oppose this bill. Does
14 anyone else wish to be heard? Commissioner Noteware, I
15 know you've got a water orientation. Perhaps you see
16 this differently.

17 COMMISSIONER NOTEWARE: Yes, I can't help
18 thinking the concept of this is good, both from the
19 standpoint of energy and water. I favor our neutral
20 position rather than an opposed because of the
21 potential savings. I would much prefer to see it
22 administered by the Department of Water Resources,
23 rather than the Energy Commission. That's my only
24 problem with the bill.

25 VICE CHAIR CROWLEY: Well our neutrality was

1 that it was an energy saving activity and we didn't
2 really want to oppose something of that type, but we
3 were not interested in supporting something we felt was
4 in DWR's court, so we were neutral.

5 COMMISSIONER COMMONS: Why don't we just pass
6 the bill over to DWR and not take a position?

7 CHAIRMAN IMBRECHT: Let's understand what the
8 bill does, Commissioner Commons. The bill mandates the
9 Energy Commission to adopt regulations which require
10 the installation of these devices at time of resale and
11 gives us the responsibility to administer. Now we can
12 certainly suggest to the author that this might be more
13 appropriately handled by another agency, but that might
14 be one way to handle it as well.

15 COMMISSIONER COMMONS: Well, you know I like
16 energy savings, but I like imposition on the public
17 even less, so I would tend to be closer to your
18 ballpark on this.

19 VICE CHAIR CROWLEY: The impact was brought
20 up on the home labeling program. The fact that we are
21 attempting through voluntary means to achieve these
22 goals, through a home labeling approach, and the
23 possibility that the fact that this was a mandatory
24 situation, might be potentially confusing and we were
25 hoping that we could avoid that confusion.

1 CHAIRMAN IMBRECHT: I understand that
2 concern. I wouldn't say that's one that's significant
3 from my perspective. As I say, the prospect of
4 enforcement of mandatory retrofit at the time of resale
5 carries with an implications of either allegations of
6 substantial abuse and demands for additional burdens
7 on....actually at this point and time, aside from
8 imposing in essence liability on the Seller for failure
9 to install, I'm not personally aware of any existing
10 mechanism by which there is enforcement of kinds of
11 requirements at time of resale.

12 COMMISSIONER COMMONS: Couldn't we take a
13 position of? I'm sorry.

14 COMMISSIONER NOTEWARE: I was just going to
15 suggest that this would be parallel to the termite
16 inspection that when a deed is made, the seller signs
17 off that there has been a retrofit of this installation.

18 CHAIRMAN IMBRECHT: The Seller presents a
19 certificate from the people that provide the termite
20 inspection, I believe.

21 COMMISSIONER NOTEWARE: That's true, but I'm
22 suggesting that....

23 CHAIRMAN IMBRECHT: So, it would just be an
24 affirmation by the....

25 COMMISSIONER NOTEWARE: In this case it would

1 an affirmation that the Seller would sign off and show
2 an...

3 CHAIRMAN IMBRECHT: That would in essence as
4 I say, impose liability. Thank you, let's not spend
5 excessive amounts of time on this. Sounds to me like
6 we got a bit of a stalemate on this. I guess I would
7 be willing to go neutral and extreme skepticism
8 included in the letter as perhaps one way out of this
9 box. Commissioner Commons.

10 COMMISSIONER COMMONS: I think what we are
11 trying say is that we support the concept of
12 encouraging people to do this and we can write a very
13 positive letter in terms of what we are doing and we
14 will take a reading from the Legislature that we hear
15 you, and that we will encourage it and talk about the
16 70 percent penetration, but say at the same time we
17 don't think this is an area that due to possible
18 infringement on individuals and also the cost of
19 implementing it, that it would justify it as a
20 mandatory standard and, which is I think essentially
21 the position you are taking.

22 CHAIRMAN IMBRECHT: Well, that will be
23 acceptable to me whether it is to Commissioner
24 Noteware, Commissioner Crowley is open. It' really up
25 to the presiding member of the Committee to offer his

1 motions, so...

2 VICE CHAIR CROWLEY: I would accept that
3 modification and offer the motion in that form.

4 CHAIRMAN IMBRECHT: So the bottom line is
5 that we would ...

6 VICE CHAIR CROWLEY: We are neutral on the
7 bill, but is that what I understood you...

8 CHAIRMAN IMBRECHT: I don't think that's what
9 he said.

10 VICE CHAIR CROWLEY: Okay, then I
11 misunderstood. I understood you to say that you would
12 go along with the neutral on the bill with a letter
13 saying that we do support the concept but it is not an
14 area that justifies because of cost and infringement on
15 people's life style be mandatory...

16 CHAIRMAN IMBRECHT: To me that translates
17 into opposition.

18 COMMISSIONER COMMONS: We can say it that
19 way. It will get us more votes.

20 VICE CHAIR CROWLEY: Well, if I
21 misrepresented it, I would appreciate...

22 COMMISSIONER COMMONS: I think it puts the
23 message across and so that's satisfactory because so
24 long as we stayed in there that we're not in support of
25 the mandatory aspect and we are neutral on the bill,

1 then I think we have four votes.

2 VICE CHAIR CROWLEY: So moved.

3 CHAIRMAN IMBRECHT: It seems to me that's
4 internally inconsistent position, but perhaps we'll
5 have some further discussions about this as time goes
6 on.

7 VICE CHAIR CROWLEY: Okay, whatever.

8 CHAIRMAN IMBRECHT: That's acceptable to me
9 for the time being. Alright 1960.

10 VICE CHAIR CROWLEY: Okay, 1960 has been
11 amended and the amendments are those that I'm lost, but
12 anyway, were those that reflect our concerns on the
13 bill. The author has agreed to accept our amendment
14 that this measure does not relate to the California
15 Energy Commission share of the monies and only reflect
16 a change in position on the County's percentage.

17 CHAIRMAN IMBRECHT: The author has accepted
18 our suggested amendments?

19 VICE CHAIR CROWLEY: That's correct.

20 CHAIRMAN IMBRECHT: Okay, under the
21 circumstances I would be supportive. Further
22 discussion? That's what you're recommending I take it?

23 VICE CHAIR CROWLEY: Yes.

24 CHAIRMAN IMBRECHT: Okay. Is there objection
25 to that recommendation? Okay, hearing none, let's

1 approve of four aye votes. Next.

2 VICE CHAIR CROWLEY: Then we have a Bill 2147
3 which deals with the rating system, home labeling and
4 Chris, can I get your comments on this bill? This is a
5 bill we support, however, we're kind of confused about
6 what's going on.

7 CHAIRMAN IMBRECHT: Have you heard anything
8 from the author why this Bill is introduced?

9 EXECUTIVE DIRECTOR WARD: Mr. Chairman, this
10 was a result of a discussion that Mr. Rauh and I had
11 with Assemblymen Bater who is charged with carrying the
12 Republican caucus' housing package, he was primarily
13 concerned about problems associated with the
14 residential building standards. We were able to tell
15 him that we thought the waters had much tempered over
16 the last 18 or 24 months on that. He asked us what else
17 we were doing, we talked about the home labeling system
18 and we told him at some point we might want to be
19 coming forward with legislation to deal with some
20 aspect of the home labeling program. We didn't
21 recommend that he carry legislation on that, he
22 obviously selected from a number of the things that we
23 talked about during the course of the discussion to
24 introduce a bill. The bill right now is a spot bill,
25 discussions with the author's office now, it's my

1 recommendation and I believe his consultant's
2 recommendation that it be a two year bill to await the
3 outcome of our final demonstrations of home labeling
4 programs.

5 CHAIRMAN IMBRECHT: Then there's no necessity
6 to take a position at this point and time?

7 EXECUTIVE DIRECTOR WARD: I don't believe
8 there is.

9 CHAIRMAN IMBRECHT: Alright, fine.

10 VICE CHAIR CROWLEY: 2443 Appliance Standards
11 enforcement is carried of....sponsored by the same
12 group and this bill will be amended by the author to
13 meet some of the same problems that the Craven Bill is
14 dealing with. Chris, did you have a comment on this
15 bill?

16 MR. ELMS: Well, I think you summarized the
17 situation. I spoke with the consultant and also in
18 talking with Ted Rauh, they were apparently confused
19 about which code section to amend. They were
20 apparently from the beginning trying to get at the
21 problem of what they perceived as a lack of resources
22 for our building standards certification compliance
23 options, and they simply put in this one line bill and
24 now that I think they are beginning to be on the right
25 track, they've indicated that at some future date
either before the Bill comes up in its first Committee

1 or when it moves over the Senate side that they will be
2 amending the bill and will be working with us. Is that
3 correct?

4 MR. RAUH: That's correct.

5 VICE CHAIR CROWLEY: So actually what we
6 talked about at the Legislative Policy Committee is not
7 what the author thinks he's doing? Is that right?

8 MR. RAUH: That's correct. The author was
9 intending to address the problem identified in SB1094
10 and the author...at least the consultants now in
11 several important entities over there are aware of the
12 Commission's interest in that issue and that we do have
13 the authority in the appliance area now. As Chris has
14 indicated, from all indications from talking with them
15 are that these amendments will be made and I've
16 indicated that assuming you take a position as the
17 Committee's recommending the Craven Bill, that I would
18 deliver that analysis to the Committee consultants this
19 afternoon so that they can begin the effort to modify
20 this bill to reflect the Commission's position.

21 VICE CHAIR CROWLEY: You're saying that our
22 position on 1094?

23 MR. RAUH: On 1094.

24 CHAIRMAN IMBRECHT: It would be the same or
25 substantially same as the Craven Bill. Fine.

1 VICE CHAIR CROWLEY: Okay, then the new
2 recommendation from staff on this 2443 would be? No
3 position until we see.

4 CHAIRMAN IMBRECHT: Support of an amendment
5 to reflect the following concern. I think what you've
6 got here are two members that are attempting to assist
7 us. I think they want to be helpful and that's
8 something I think, that we ought to be grateful for and
9 sensitive to, and work with them. These are welcomed
10 developments for the Commission, it seems to me; and we
11 ought to foster that kind of support.

12 VICE CHAIR CROWLEY: So, it is support if
13 amended, would be your staff recommendation?

14 MR. RAUH: Yes, I think that's appropriate.

15 CHAIRMAN IMBRECHT: Commissioner Commons.

16 COMMISSIONER COMMONS: The only thing I'd
17 want us to be cautious of is that it authorizes us; not
18 requires us so that we don't get into a funding issue
19 that we don't have budget dollars.

20 VICE CHAIR CROWLEY: Okay, we looked at
21 Senate Bill 545 which is a bill introduced by Senator
22 Alquist, that deals with changes in the authority to
23 adopt the appliance standards. The Committee felt that
24 we are in opposition to this. One of the things was
25 the limited time in which AB 191 has been active. We

1 felt it was too soon to make changes, and we feel it is
2 a severe limitation on our jurisdiction to adopt cost-
3 effective standards, and oppose this.

4 CHAIRMAN IMBRECHT: Commissioner Commons.

5 COMMISSIONER COMMONS: In the staff write-up,
6 I think we forgot to identify one of the major
7 provisions, is that no standard adopted by the
8 Commission could obsolesce any appliance. Essentially,
9 that was the AHAM position that we could pass standards
10 that are non-retrogressive. The Commission has never
11 passed a standard that does not, in fact, eliminate the
12 so-called gas-guzzlers. And that's the reason you have
13 a standard, to at least have some minimum level of
14 efficiency. Other than that, I support the Committee's
15 position. But I think that one item should also be
16 called out in the analysis and the letter.

17 VICE CHAIR CROWLEY: That no standard adopted
18 could make obsolete?

19 COMMISSIONER COMMONS: Well, they have a
20 criteria there that says that no standard could
21 obsolete any appliance. So, if you have a refrigerator
22 today at 1400 KWh and as the poorest one on the market,
23 you could not adopt a standard that would eliminate
24 that model, even though it's the least efficient
25 refrigerator in existence.

1 CHAIRMAN IMBRECHT: There was during the
2 discussion, despite the difference of the opinion that
3 exists on the Commission as to the approach taken on
4 the new appliance standards. My recollection was there
5 was complete unanimity as to that particular point. And
6 further, that there was no opposition from the industry
7 that that was an unreasonable point. All of the various
8 proposals that were under active discussion until the
9 time that the standards were adopted, carried with them
10 some form of provision that would, in fact, eliminate
11 the gas-guzzler as a way of expressing it. I think
12 that's probably as accurate as any and that was
13 explicitly accepted by the industry as reasonable and
14 acceptable.

15 In any case, that in and of itself, would be
16 a problem for me as well. I think that I have an
17 understanding of what the author is attempting to
18 achieve with the bill and, frankly, it is relative
19 consistent with the position that I, and at least one-
20 half of the Commissioner Crowley took on this issue. I
21 am open to further discussions on those points. But,
22 at this juncture until I either see a bill in a
23 substantially amended fashion, or some clear
24 representations as to what the intentions are, I would
25 support the Committee's recommendation. I think we

1 should also inquire here whether anyone wishes to be
2 heard on this item before the Commission takes action
3 or a position on this. Does anyone wish to be heard?
4 Commissioner Commons.

5 COMMISSIONER COMMONS: On the issue that you
6 raise concerning the two-step, clearly this bill would
7 un-do that which was done. And I think there would be
8 an issue as to this would be a direction for the
9 Commission on future actions, as to whether or not
10 there could be a two-tier process vis-a-vis do we undo
11 that which has been done?

12 CHAIRMAN IMBRECHT: It's a very good point
13 and, additionally, I attempted to express to the author
14 now under the given circumstances, there are also
15 substantial implications vis-a-vis the other major
16 technical work which we have nearly completed over the
17 last several months. I refer particularly to the
18 forecasts to the ER and BR. So, I would be further
19 persuaded as to the skepticism about this bill in terms
20 of the impact on the existing adopted standards, absent
21 some clear representation understanding, or something
22 perhaps substantially beyond that that provided us
23 guarantees that the savings that are built into the
24 forecast will, in fact, be quantifiable and achievable.

25 COMMISSIONER COMMONS: Let me continue for a

1 moment. I also think it would inhibit the ability of
2 the Commission to have a fleet average of that proviso.
3 I think, at least for a number of years, your
4 provision may prevail within the Commission, and it's
5 the type of issue that might be best handled within the
6 Commission itself, rather than being restricted so
7 narrowly that we would not have the flexibility of
8 working with an industry where it may come in and say
9 "this is what we actually prefer". This would put us
10 into a situation where we may find ourselves with small
11 businesses saying that "geez, we can't do this, but you
12 gave us some extra time." I think it inhibits the
13 ability of the Commission to solve a problem and it
14 would be on early restricted.

15 CHAIRMAN IMBRECHT: As you know, my position
16 is that I think we still have an obligation to still
17 try to resolve the perceived problems associated with
18 the standards that have been adopted for a wide variety
19 of reasons which I won't repeat here today, since I
20 think my position is reasonably well known on those
21 topics. Recognizing who the author of this legislation
22 is, and his relationship to this institution, et
23 cetera, it would be my suggestion that we express our
24 concerns and the particular points that have been
25 raised in this discussion, and at the same time express

1 a willingness to continue to work with the author and
2 better understand exactly what he is attempting to
3 achieve, something to that effect in any case.

4 COMMISSIONER NOTEWARE: So, it stays opposed?

5 CHAIRMAN IMBRECHT: Yes, I would still
6 suggest opposed, but I would suggest some willingness
7 to.....

8 COMMISSIONER COMMONS: Well, I'm sorry. I
9 really agree with the Committee's position. I've
10 talked to a number of legislators -- we did just last
11 year make a major change. And as you know, Mr.
12 Chairman, it was held for eleven months until we could
13 get a compromised bill. I do not think this is the
14 year to change.

15 CHAIRMAN IMBRECHT: What it boils down to,
16 Commissioner Commons, and I expressed this point of
17 view back in December, whether the action taken by the
18 Commission, whether we individually perceive it to be
19 consistent with what the Legislature intended in the
20 adoption of 191. I expressed then, and continue to do
21 full reservations as to whether or not the two-step
22 was, in fact, consistent with what I believe to have
23 been the implicit, if not totally explicit direction,
24 from that legislation.

25 COMMISSIONER COMMONS: Once you have the

1 ability to have a fleet average, which was very
2 specific in that legislation, clearly your permitting a
3 two-step issue. Now whether or not you want to have
4 the ability to have a fleet average, or two-step, that
5 is an issue where reasonable people can have a
6 different perspective. I don't think in terms of AB191
7 that that was an outstanding issue. I think it's an
8 issue where, again, people could disagree as to what we
9 should do. But, I feel very comfortable with the
10 position of the Committee, personally, with the two
11 added provisos on the obsolescence.

12 CHAIRMAN IMBRECHT: Okay. Further
13 discussion? Is there objection to the Committee
14 recommendation? Hearing none, it is approved as
15 presented. We have one or two more bills?

16 VICE CHAIR CROWLEY: SB 721. We're holding
17 for your consideration because it is due to be amended
18 and is not, at this time, in condition for us to look
19 at the new bill. So, we're weighing these amendments
20 and will bring it back to you.

21 COMMISSIONER COMMONS: Before you leave it,
22 when is it scheduled for hearing?

23 VICE CHAIR CROWLEY: Chris?

24 MR. ELMS: On the 30th.

25 COMMISSIONER COMMONS: That would mean the

1 hearing on the bill would come prior to the time the
2 Commission took a position. Since the other bills that
3 we're looking at do include amendments, I'd like to
4 look at the bill in its current form and discuss what
5 are the amendments that we would like. Otherwise,
6 we're going to miss the hearing.

7 CHAIRMAN IMBRECHT: I would indicate that I
8 have had informal conversations with the author of this
9 legislation last evening as well, and he indicated to
10 me, although I was not conversant as to what had been
11 included in this analysis -- that he was willing to
12 accept whatever amendments the Energy Commission might
13 propose on this issue, and reserve for the Commission
14 broad discretion in terms of whether or not intervenor
15 funding would be granted in individual cases. But
16 beyond that, I have no specifics on it.

17 VICE CHAIR CROWLEY: Okay.....

18 CHAIRMAN IMBRECHT: It seems to me this might
19 be the kind of topic where a brief discussion would be
20 useful, and then beyond that, we can attempt to develop
21 a position prior to the 30th by virtue of our more
22 informal process after we've had some consultation with
23 the Senator's office.

24 VICE CHAIR CROWLEY: And dealing with the
25 bill as it was available at the time of our meeting, we

1 had some problems with the structure of the bill, and
2 we supported it with amendments. The staff, the Public
3 Adviser's office, I believe, has sent comments and
4 possibly amendments to the bill to the author. Can you
5 go into that a little bit, Chris?

6 MR. ELMS: I don't have a copy of their
7 letter in front of me, but that is correct. The Public
8 Adviser's office has sent a letter of support and I
9 believe a suggested amendment as well.

10 VICE CHAIR CROWLEY: The comments that were
11 made during the meeting were that it restricts only the
12 rate cases and is too narrow, and deals with only a few
13 types of CEC proceedings. Also, the way it dealt with
14 how we would decide if certain intervenors were due to
15 receive funding, was difficult and we felt, structured
16 rather awkwardly. Then, I had a problem with the
17 concept in that it seems to me that the fact that we
18 have a Commission which is somewhat independent and has
19 been appointed by the Governor and has a public member
20 on the Commission, to some degree, it means the public
21 point of view is being heard. I felt that we were
22 meeting through that and our Public Adviser's office
23 the concerns that the bill dealt with. So, we have
24 different points of view being represented. I'm sorry,
25 I do not have the modifications that the Public

1 Adviser's office sent over, but I understood they were
2 accepted by the author.

3 CHAIRMAN IMBRECHT: Commissioner Commons.

4 COMMISSIONER COMMONS: Well, being the public
5 member, I could've also been the economist or any
6 number of the categories. I don't think that any of us
7 as Commissioners would feel, at any time, doing
8 otherwise than trying to represent the public's view.
9 My feeling is that as Commissioners, we are often
10 hearing both sides of a case, and we have to weigh the
11 evidence that's presented in the case. Who is the
12 public? I think our job is often to adjudicate that,
13 and I would not want to categorize myself as always
14 being on one side of the fence or other, but more in an
15 adjudicative fashion.

16 Concerning the bill itself, I'm concerned in
17 terms of scope, that it does not include the areas of
18 Appliance and Building Standards proceedings which I
19 think are very critical. Also, I believe that the
20 procedures in terms of how it is implemented -- the
21 funding mechanism, who is allocated the funds and all
22 those procedures, I think are best left to be
23 determined within the Commission. As time goes by, we
24 have a flexible method of modifying that to take into
25 account experience, and I see no reason why this

1 Commission is not capable of doing that. Rigidity in
2 these types of situations also result in a good idea
3 ending up being a poor idea. I have full confidence
4 that this Commission can implement this in a fair and
5 judicious manner.

6 I also think that it will go back to the
7 funding level which may vary from time to time and it
8 has to be integrated with the budget and that impacts
9 the implementation mechanism. So, I think integrating
10 it into the budget, having it available to the
11 Commission, then going through the normal process is
12 the best way to do it. But without having restrictions
13 and limiting us in terms of what types of proceedings
14 that we may wish to take advantage of it or not, and
15 essentially leaving it to this Commission to develop
16 its own guidelines and rules and procedures after
17 having an appropriate hearings process. That would
18 generally be my viewpoint in terms of the concept. The
19 concept, in general form, I would support, but I think
20 it needs to be flexibly administered and within hearing
21 order to be workable.

22 CHAIRMAN IMBRECHT: Does anyone else wish to
23 be heard? Any member of the public wish to address the
24 Commission on this item? What, then precisely is the
25 Committee's recommendation?

1 VICE CHAIR CROWLEY: Well....

2 MR. ELMS: If I could make a comment just for
3 a second. This analysis actually reflects the staff's
4 recommendation. As Commissioner Crowley will probably
5 recall, the Committee discussed this bill, but did not
6 really come to a recommendation because of the
7 understanding the bill would be amended later. So,
8 there wasn't a need at the time. So, I think you're
9 free agents at this point, as far as the Committee
10 recommendation.

11 VICE CHAIR CROWLEY: I understand that we
12 still haven't had the amendment sent to us.

13 EXECUTIVE DIRECTOR WARD: Frankly, I haven't
14 had the benefit of the Public Adviser's amendments as
15 well. And I'm curious how those are orchestrated into
16 the process. Has the Committee had a chance to see
17 those amendments?

18 CHAIRMAN IMBRECHT: That's a very good
19 question.

20 VICE CHAIR CROWLEY: I would like to have
21 some assistance with that. No, those were sent over
22 independently and we saw them as they had been sent.

23 EXECUTIVE DIRECTOR WARD: The only concern I
24 have is that we may be sending, based on the Chairman's
25 discussion with the author, some mixed direction over

1 there.

2 CHAIRMAN IMBRECHT: Absolutely. I can
3 certainly understand that and I'm certainly not aware
4 of any authorization of the the Public Adviser to have
5 independent dealings on behalf of his office or the
6 Commission to the Legislature.

7 EXECUTIVE DIRECTOR WARD: Well, it's
8 certainly not my attempt to criticize the Public
9 Adviser and he may have been asked specifically by the
10 author's office for some format or something like that,
11 which is entirely appropriate. But until we've got the
12 benefit of doing that, I think it's probably difficult
13 for the staff to get a specific assessment.

14 CHAIRMAN IMBRECHT: I'd like to know the
15 circumstances in greater detail. Let me express a few
16 concerns. First off, the obvious question is where
17 does the money come from? And are we, in essence,
18 imposing a further burden upon the electric ratepayers
19 of the state to provide intervenor funding? Those
20 circumstances as a contested proceeding, the way the
21 intervenor works the PUC, as I understand it, the
22 utility is ultimately assessed fees by the intervenor
23 funding. Is that not accurate?

24 EX OFFICIO FOLEY: Yes, that's correct, Mr.
25 Chairman.

1 CHAIRMAN IMBRECHT: My question would be, if
2 for example, let's use the Appliance Standards issue as
3 an illustration. Is someone suggesting that we assess,
4 in essence, the appliance industry which obviously was
5 a reluctant participant at best in those proceedings?
6 Or would that come out of the general funding base for
7 the Energy Commission? Or are we assessing the NRDC as
8 the petitioner, as indicated in this analysis, several
9 of the public groups indicated that they would
10 participate to a greater extent in those appliance
11 proceedings. I guess I would raise the obvious
12 question about where is the equity as to who pays for
13 that participation.

14 VICE CHAIR CROWLEY: Well, that was not
15 spoken to because the bill only deals with rate cases.

16 CHAIRMAN IMBRECHT: I can understand certain
17 circumstances where this might be appropriate. But I
18 am a little skeptical as to the funding source, and I
19 am also skeptical to creating an expectation because I
20 frankly believe that our proceedings are substantially
21 different in tone and tenor than those at the PUC in
22 this context. I don't know who might speak to that.
23 Mr. Perez?

24 PUBLIC ADVISER PEREZ: Yes, Chairman Imbrect.
25 I do want to separate the two issues. I apologize for

1 being outside the room. I was under the impression
2 that 721 was going to come up at the next business
3 meeting, but perhaps I could give a little chronology
4 that addresses both points. As to the first point
5 which I heard over my squawk-box regarding the
6 Chairman's concern for the Public Adviser, expressing
7 his position directly to the Legislature, on almost no
8 occasion in my entire term of office have I acceded or
9 intentionally violated Commission procedure. I was not
10 under the impression that I was doing so this time in
11 communicating directly with the author of the bill. I
12 did try to avoid any impact in terms of surprise by
13 providing a copy of my proposed amendment to Senator
14 Rosenthal's legislation last Friday at the Legislative
15 Committee of the Commission. Copies were cc'd to
16 yourself, to Commissioner Crowley, and the text was
17 delivered to all parties who were present there at the
18 Legislative Committee meeting.

19 As to the substance of the proposal, it's my
20 understanding that Senator Rosenthal is currently
21 positively disposed toward the proposals that I made
22 individually. I clarified in my communication with him
23 that it was my understanding, as of last Friday, that
24 the Commission had not formally reached a position on
25 his legislation. I clarified that with him when I

1 communicated it by letter. His chief consultant
2 informed me late yesterday afternoon that he would be
3 contacting the Chairman and the Vice Chair to discuss
4 his consideration, my proposal, which he led me to
5 believe he was favorably impressed with. I would like
6 to speak a bit about its merits since you've raised
7 very significant questions.

8 CHAIRMAN IMBRECHT: Let me address this. I
9 was left with the impression after my conversation with
10 him last night that he was under the impression that
11 whatever had been submitted, I guess it is the
12 amendments that had been submitted by your office
13 -- that that represented what the Commission was asking
14 him to do with the bill.

15 PUBLIC ADVISER PEREZ: I can....

16 CHAIRMAN IMBRECHT: I detected from that
17 conversation that, assuming as you've indicated, that
18 he was operating under a misperception.

19 PUBLIC ADVISER PEREZ: Yes, I can only
20 apologize for that confusion, and hope....

21 CHAIRMAN IMBRECHT: I would just indicate
22 that I wasn't aware of what we had been requesting of
23 him and that I would look into it.

24 PUBLIC ADVISER PEREZ: I think you will agree
25 with me that in the first paragraph of my communication

1 to him, I expressly stated that it was my understanding
2 that the Commission had not yet reached a position on
3 his legislation. So, I apologize for the confusion
4 that may have arisen, but it certainly wasn't worth
5 participation of myself in any way.

6 As to the merits of the proposal which I have
7 filed, what I attempted to do with that substitute
8 language was to present to the Legislature a question
9 on authorizing the Energy Commission to reimburse
10 public participation on a "yes-no" basis. It was my
11 understanding from previous Energy Commission
12 discussions that the Chairman and other members of the
13 Commission were concerned as to the lack of statutory
14 authorization for proceeding into this area. The
15 attraction, I believe, of the proposal that I made is
16 that it leaves to the entire discretion of the
17 Executive Branch the process of answering very serious
18 questions as to whom is compensated, when are they to
19 be compensated, how much will they be compensated, and
20 from what fund will they be compensated? That is to
21 say, that with the substitute language proposed, the
22 Legislature would authorize the Energy Commission to
23 have this authority and it would be left to the
24 Commission via a rulemaking proceeding to fill in the
25 blanks as to all the the sensitive questions as I've

1 heard expressed by various Commissioners in the past.
2 It's a very simple substitute proposal. And I do
3 apologize for the confusion that seems to have arisen.

4 CHAIRMAN IMBRECHT: Commissioner Commons.

5 COMMISSIONER COMMONS: Mr. Foley, when the
6 utility pays their share of the proceedings, is that a
7 deductible cost for the utility, or is that paid out of
8 profits by the utility? In other words, are those
9 funds paid by the ratepayer of the utility, or are they
10 paid by the shareholders?

11 EX OFFICIO FOLEY: You're asking about
12 intervenor fees?

13 COMMISSIONER COMMONS: No, when a utility
14 includes in their bill, when they have a project or
15 program before you, and they go through a rate case,
16 and the utility is able to include in their billing the
17 fees you charge, is that bill paid by the ratepayer as
18 part of the rate base? Or is that paid by the
19 shareholders?

20 EX OFFICIO FOLEY: Generally speaking, it's
21 paid by the ratepayers. It's the cost of processing a
22 rate case that go into the Regulatory Expense Account
23 of the utility, an account in administrative and
24 general expenses. It's estimated for the test year,
25 which may be the next 12 calendar months, 1986, and

1 those estimated expenses are reviewed and there may be
2 disallowances or deductions made. But, generally
3 speaking, rate making proceeding costs are recoverable
4 expenses in rates.

5 COMMISSIONER COMMONS: Thank you.

6 CHAIRMAN IMBRECHT: Well, looking at your
7 amendment, it does retain...I see where it puts him in
8 the statute, appear to be complete discretion to the
9 Commission as to whether or not intervention funding
10 would be granted and under what circumstance it would
11 be granted. It certainly isn't a mandate. I see some
12 of the other kinds of issues for consideration for me.
13 If we say, in essence, that this is to be provided in
14 siting cases, are we dealing with the same equities
15 when we might be dealing with an independent power
16 producer versus a utility that's proposing construction
17 of the facility? Are those costs that we necessarily
18 want to build into independent power production and so
19 forth?

20 I really don't know the answers to all of
21 these things, but what I'm suggesting is a lot of
22 implications here and it's not quite as simple as a
23 case at the PUC where you have a clearly-defined
24 mechanism where these costs can be spread out.

25 Commissioner Commons.

1 COMMISSIONER COMMONS: Well, I share some of
2 your concerns and that's why my position would be that
3 how these should be used or developed should be the
4 discretion of the Commission, that the policy may
5 change from time to time. In one way, it's like our
6 contracting out some work. Sometimes we have gone out
7 -- we haven't called it intervenor funding -- but we
8 have contracted out to receive technical support. I,
9 myself, wouldn't know today as to how we ought to
10 utilize it; I think it's an issue that should
11 appropriately be discussed within a rulemaking
12 proceeding. And I think it also has to be integrated
13 into the budget process. If it mandated us to do it,
14 and if it mandated to us how it ought to be spent, I
15 would oppose. If it offers us an opportunity which we
16 can develop our own rules and guidelines for, and
17 integrate it within the budget process, to me that's
18 the difference of having an asset rather than a
19 liability.

20 CHAIRMAN IMBRECHT: My inclination is that
21 the language that has been presented by Mr. Perez will
22 be acceptable, frankly. Although I would not that
23 while there's indication that the Farm Bureau, and so
24 forth, may come in and support the legislation, it
25 would be hard for me to see how they would split this

1 definition.

2 PUBLIC ADVISER PEREZ: Without speaking for
3 the Farm Bureau, it's my impression that they're also
4 concerned for independent farmers who participate in
5 the Commission's proceedings who might be in the
6 situation of qualifying on a financial need basis.

7 CHAIRMAN IMBRECHT: Okay, is there further
8 discussion? Commissioner Crowley, what's your
9 inclination?

10 VICE CHAIR CROWLEY: Having said that we
11 would hold this until we saw all the amendments, I'm
12 really not sure we have. But at this level, what is
13 the pleasure of the group?

14 CHAIRMAN IMBRECHT: Why don't I suggest that
15 we communicate with the author's office and indicate
16 that we will support the Public Adviser's recommended
17 amendment to his legislation; that it be limited to the
18 amendment which has been provided by the Public
19 Adviser's office and under those circumstances, we
20 would support the legislation?

21 VICE CHAIR CROWLEY: If the amendments are
22 limited to this, yes then they do support. I think
23 that would be appropriate.

24 PUBLIC ADVISER PEREZ: That's my entire
25 position. You'll see no modifications from my office,

1 as a result of this.

2 CHAIRMAN IMBRECHT: Alright, is there
3 objection to that position? Alright, hearing none,
4 ayes: 4; noes: none. That is the Commission's
5 position. We have one final...

6 VICE CHAIR CROWLEY: Two final bills. One is
7 SB 1094 which is, as you see, a building standards
8 enforcement funding mechanism. The Committee ended up
9 with a support position with amendments, and we feel
10 it's appropriate that there be the funding by fee for
11 these procedures. The amendment is listed in your
12 packet, just above the recommendation, "we shall
13 establish a formal process for certification. It shall
14 provide adequate technical and public review, and we
15 will publish the results and we may charge and collect
16 a fee for this." Chris, did you have any additional
17 comments on this?

18 MR. ELMS: No.

19 VICE CHAIR CROWLEY: Commissioner Commons.

20 COMMISSIONER COMMONS: I feel more
21 comfortable with the bill without the bill. I have
22 some mixed sympathies. There're lots of people that
23 receive service from us and do not pay a fee. Here, I
24 think what we would be doing is taking one group which
25 is often the very small business person, who has come

1 up with an innovation and that one group would be
2 subject to fees and no one else is at this time,
3 subject to fees in coming before us. I understand that
4 there is much sympathy in the industry that sometimes
5 the questions that were raised here today as to whether
6 or not we have the staff ability to handle a particular
7 issue may mean that some petitions are not able to go
8 forward in the same orderly process. So, I have no
9 problem supporting the bill where parties can submit
10 and provide funds to us. But, I'm concerned that this
11 would be another barrier to the innovation of new
12 ideas, particular for the small businessman and it
13 would make it more expensive if we had the amendment.

14 In the future years, I think it would be nice
15 to see how this works, as Senator Craven has done. If
16 we found it was a financial hardship to the Commission
17 to process these petitions, maybe later years we could
18 take a second look at it. But I wouldn't want to go
19 all the way to the mandatory fee process and the
20 possible disadvantage to small businesses,
21 particularly, in terms of getting technical innovations
22 introduced.

23 VICE CHAIR CROWLEY: May we hear from
24 Conservation on this matter, Mr. Chairman?

25 CHAIRMAN IMBRECHT: It appears to me that

1 this amendment we certainly may, but may I just
2 inquire. Commissioner Commons, the way I read this,
3 this is also discretionary. It says the Commission may
4 charge and collect a reasonable fee. It's not a
5 mandate. Down to the second to the last sentence of
6 the proposed amendment.

7 COMMISSIONER COMMONS: Well, the fact that we
8 may charge a fee, then we would have to have a process
9 or procedure as part of that as to what are the
10 groundrules that we would be utilizing. Right now, we
11 don't even have QF's paying a fee to come into our
12 Siting Process. I think it's impacting, potentially,
13 particularly hard on those persons who are most
14 impacted by our standards, who are finding tremendous
15 problems to be able to innovate and put forth new
16 products, and, have the least ability to pay. And,
17 also may have the greatest benefit to people in
18 California, and it's just another burden. I think
19 Senator Craven has maybe taken a middle-of-the-road
20 position here, in terms of trying to help this
21 industry.

22 EXECUTIVE DIRECTOR WARD: Commissioner, maybe
23 Mr. Rauh could clarify this a little bit. But, it's my
24 understanding that the intent of this is not to
25 preclude the process, the on-going Certification

1 process we have. It's simply to give an individual
2 manufacturer or someone coming in with the technology
3 that wants to expedite their process, an ability to pay
4 for an independent certification.

5 COMMISSIONER COMMONS: Well, there's nothing
6 in the language that would be suggesting that the speed
7 process that we would take into consideration the
8 overall benefit of the product that is being submitted;
9 the impact on small business. I don't read any of the,
10 to me, it looks like we're just going to increase the
11 cost of putting forth technology. First, we put on a
12 standard that makes it difficult for someone. Now
13 we're going to put in a fee that's going to make it
14 more difficult for someone to introduce their product.
15 And, that's the way I read it.

16 EXECUTIVE DIRECTOR WARD: I think Mr. Rauh
17 should be given a chance to comment on that generally.

18 MR. RAUH: I think just to elaborate on what
19 Mr. Ward has indicated. We are certainly sensitive to
20 these issues. The Commission considers the impact on
21 small business when it establishes a standard. It
22 certainly considers the impact on business and on the
23 State in general when it receives petitions and takes
24 action on those petitions. As Mr. Ward indicated, this
25 provides the discretionary authority for you to apply

1 the same kind of criteria in both establishing the
2 ground rules for the acceptance of fees. It also
3 affords the industry the flexibility, through
4 regulation that you would set, which has flexibility,
5 and inables you to make changes as the industry and the
6 environment changes around the Commission's Standards
7 Program. I think we run into problems everytime we try
8 to write something into statute of any kind of specific
9 nature with respect to criteria because the industry is
10 changing, products are changing, the people who may be
11 proposing modifications or improvements to the
12 certification process will change over time.

13 We saw this approach giving the industry the
14 flexibility to provide the fees as warranted, to move
15 their product certification along and not take the
16 disadvantage route of, perhaps, having to wait for the
17 limited staff resource the Commission has. That also
18 means the Commission could direct the limited staff
19 resource it has to deal with other issues, or small
20 businesses, or those that you find not appropriate to
21 charge a fee to. And, this particular proposal gives
22 you the flexibility to make those decisions which, I
23 believe, the staff feels, is the appropriate place for
24 those decisions to be made.

25 COMMISSIONER COMMONS: Let me give you an

1 example. Let's say there's 10 or 15 businesses in the
2 State in a particular activity. There's no way for
3 this Commission to collect that fee from all 15 of
4 those businesses. And, so the one person who comes to
5 the door, the one who would have to be paying the cost.
6 The analogy is when you're doing land development and
7 you build a house, and you put in the electricity
8 lines, you have a way of recouping from other people
9 who put in houses between your piece of property and
10 the outlet. As they build their houses, they have to
11 pay back.

12 Here you have a situation that one person is
13 going to be having to pay the fee, and has no way of
14 recouping that fee when that standard is adopted and
15 other people go into that business. So, one person is
16 going to be paying the total cost. I was thinking
17 about the Radiant Heating Proceeding where we may have
18 spent three or four person months. That might have
19 been a \$10,000 cost to the applicant, if you were going
20 to recover the costs. If we do something in Radiant
21 Heating, we're not going to have just one individual
22 person in the State doing Radiant Heating, we may have
23 hundreds of people going into that business.

24 I would have to see what the maximum fees
25 are, how you schedule it to show that it's paid by the

1 persons who benefit from it. I think you're talking
2 about many, many, hundreds of small businesses often
3 benefitting from an action that this Commission takes.
4 And, yet, the fee is going to be born by one. I would
5 like, before I would want to accept this amendment, to
6 see the real impacts on small business and why it's
7 justified in the sense that we do it. I think what the
8 Senator is proposing does help solve the problem, and,
9 that if a later date we find that we're inundated, and
10 that it's becoming a cost and that there is some
11 mechanism, then maybe we should look at it. But, I
12 think it's not yet been thought through in terms of the
13 equity fairness and, particularly, the impacts on small
14 business and the authority to get innovative projects
15 through.

16 MR. PENNINGTON: I'd just like to comment
17 that this implementation approach that staff is
18 recommending is patterned after an approach for
19 evaluating building components by the International
20 Conference of Building Officials that's done
21 nationwide. They collect a standard fee, they go
22 through an evaluation process, they have a
23 documentation of conclusions process where the industry
24 is notified as to how particular new features, new
25 building components, can be used in complying with the

1 Uniform Building Code. And the process is noteworthy
2 in that it works extremely well.

3 The building industry finds that that process
4 gives good uniform information, a good objective
5 evaluation, the fees are reasonable, they're associated
6 directly with the evaluation, they benefit directly the
7 proponent of the product, and, the process comes highly
8 recommended to us. What we want to do is set up
9 something similar to that for evaluating energy
10 features for our standards. And, we've heard from
11 proponents of these energy features through, say that
12 they, right now, incur a great deal of cost for not
13 having these features as part of the compliance
14 options. And, they welcome the opportunity to pay a
15 fee to cover these costs.

16 I think there is an issue associated with
17 what do you do for small business, for people who
18 approach us who have a hardship. And, I think, under
19 that situation, we could establish procedures for
20 deciding whether or not one of those proponents who
21 comes to us and says there's a financial hardship
22 associated with that fee, we could waive the fee. And,
23 I think, as Mr. Rauh has suggested, most of these items
24 would be covered through a contractual technical
25 review. For those people who come to us who indicate a

1 hardship, we could set priority with staff resources
2 for dealing directly with that. Or, perhaps, we could
3 allocate a small amount of contract funds that would
4 cover precisely that subset of people that would come
5 to us. And, I really think this process can work quite
6 well. I hate to see any postponement of the idea.
7 And, I think that the Commission has the discretion to
8 establish procedures that would take care of the
9 concerns you have Commissioner Commons.

10 COMMISSIONER COMMONS: One last comment. I
11 think the administrative costs, setting up the
12 procedures, implementing the procedures, going over in
13 each case the equity and the fairness of who should be
14 paying the burdens, is probably going to equal or
15 exceed the total amount of fees that are collected,
16 unless the fees are excessive and actually make it
17 difficult for new products to come before the
18 Commission. I think the one area that I would probably
19 feel differently on is when a builder comes on with a
20 specific package for a specific housing development
21 which requires us to look at it individually where it
22 is not going to be something that a lot of people could
23 go into that business. That would be the only area
24 that I would see the exception. I don't want to, well.

25 CHAIRMAN IMBRECHT: Well, I guess I would

1 have to take exceptionally of this one and support the
2 staff position for the reasons stated. And which is
3 also the Committee's recommendation, if I understand it
4 correctly.

5 VICE-CHAIR CROWLEY: That is the Committee
6 recommendation. And, I would move that.

7 CHAIRMAN IMBRECHT: Alright, I'll second the
8 Committee recommendation. Is there further discussion?
9 Do you wish to be recorded as no on that, Commissioner
10 Commons?

11 COMMISSIONER COMMONS: I'd like to recorded
12 as supportive of the bill and in opposition to the
13 Amendment. I support the bill.

14 CHAIRMAN IMBRECHT: Okay. For the public
15 record we'll make that, appropriately note that. Is
16 there further opposition? Alright, then I'll suggest
17 that there are three (3) aye votes to support the
18 Committee's recommended position, and probably just
19 leave you as abstention. The Committee's position was
20 to support the bill with the recommended amendment.

21 COMMISSIONER COMMONS: I just want to be on
22 the record as supporting of the bill and in opposition
23 to the amendment.

24 CHAIRMAN IMBRECHT: Alright, fine. There's
25 three (3) to support the Committee's position.

1 VICE-CHAIR CROWLEY: If I may, I'd just
2 report on this final matter which was a bill by Mr.
3 Floyd to delete the surcharge from a special fund and
4 put it into the general fund. And, this went to
5 Assembly of Natural Resources and was not brought to a
6 vote. So, the bill is dead.

7 COMMISSIONER COMMONS: I don't have a copy of
8 that, I don't believe.

9 VICE-CHAIR CROWLEY: Can you tell me the
10 number of that bill? I'm sorry.

11 MR. ELMS: AB 949.

12 VICE-CHAIR CROWLEY: 949, thank you. And
13 that was dealt with last week at the Assembly of
14 Natural Resources. That is the completion of my
15 report.

16 CHAIRMAN IMBRECHT: No motion was made on the
17 bill?

18 VICE-CHAIR CROWLEY: No motion was made on
19 the bill.

20 MR. ELMS: Excuse me. If I might for just a
21 second. If we could go back to AB 1960. That was the
22 bill where the author agreed in principle to accept our
23 amendment. Am I correct, you were saying that,
24 therefore, we ought to support that bill?

25 CHAIRMAN IMBRECHT: Is this the Ferguson

1 Bill?

2 MR. ELMS: No, this is the ...

3 VICE-CHAIR CROWLEY: Norman Waters Bill on
4 Geothermal Revenues.

5 MR. ELMS: No, this is the Norm Waters Bill.

6 CHAIRMAN IMBRECHT: Yes, support as requested
7 to the amendment.

8 MR. ELMS: Okay, that would mean that we
9 would, essentially, be supporting the idea of using
10 county-of-origin funds for other than geothermal
11 purposes. I guess what I'm trying to say is it might
12 be more appropriate to simply go neutral when they've
13 accepted the amendments. But, I just want to make sure
14 you understood that's what the ...

15 CHAIRMAN IMBRECHT: I think that would be a
16 better position.

17 VICE-CHAIR CROWLEY: I would prefer that.

18 CHAIRMAN IMBRECHT: I think you probably
19 should be neutral in that amendment, rather than
20 support the amendment.

21 MR. ELMS: Yeah, okay.

22 COMMISSIONER NOTEWARE: It would seem to me
23 that if we take ...

24 CHAIRMAN IMBRECHT: It ceases to be an issue.

25 VICE-CHAIR CROWLEY: An issue for us, right,

1 right.

2 COMMISSIONER NOTEWARE: Getting back to what
3 we discussed earlier, if our original position is
4 opposed unless amended. And, then if it's amended we
5 go neutral. If it's support if amended, then it's
6 amended, we go in support.

7 VICE-CHAIR CROWLEY: We oppose, unless
8 amended in this particular matter.

9 CHAIRMAN IMBRECHT: Fine.

10 COMMISSIONER NOTEWARE: And then if amended,
11 we're neutral.

12 CHAIRMAN IMBRECHT: With that clarification
13 that would be the direction staff has proposed.
14 Commissioner Commons.

15 COMMISSIONER COMMONS: Yes, there were a
16 number of other bills that have significant impact on
17 energy that haven't been brought before the Commission,
18 And, I understand, are coming to hearings, both at the
19 Assembly and Senate. And, some of the more significant
20 ones are those related to PURPA funding. And, I would
21 like to know what the Legislative Committee is doing
22 with those bills in terms of this Commission taking a
23 position on those.

24 VICE-CHAIR CROWLEY: Would you tell us please
25 where OGA is with regard to the PURPA bills?

1 MR. ELMS: Sure. Okay, I'm not sure which
2 bill number you specifically have in mind. I can tell
3 you that with this package today we have done analyses
4 and taken positions on virtually all of the bills that
5 were identified by our office as what we call Priority
6 One. We will be taking up additional bills. We've
7 identified about 150 bills this year that are worth
8 either analysis or tracking. Obviously, it's
9 impossible to take up all of them in time for the first
10 Policy Committee's. But, if you'll ...

11 COMMISSIONER COMMONS: Why don't I just make
12 a request to the Committee. If they could bring back
13 at the next Commission meeting, or prior to the time it
14 goes to Committee Hearings. I think that's the
15 appropriate way to say it -- recommended positions on
16 the PURPA related bills where I think we've developed a
17 fair amount of expertise.

18 CHAIRMAN IMBRECHT: Alright. Are there
19 further Committee reports? I think everyone is
20 generally familiar with where we stand on the ER and
21 BR. They will be before us for adoption on April 29th,
22 absent a direction from the Governor for conceivably
23 slight delay.

24 COMMISSIONER COMMONS: I think you should
25 mention about the forecast of coming earlier.

1 CHAIRMAN IMBRECHT: The forecast, I shall
2 also mention will be before the Commission for adoption
3 on April 24th. We extended that date to provide
4 additional period for public comment and review of the
5 draft documents that are out in public circulation
6 currently.

7 Alright, so, why don't we now return and
8 see if we can conclude Item #1 which is Commission
9 Hearing and Possible Adoption of the Energy Commission
10 decision regarding San Diego Gas & Electric's Company's
11 request to modify the Load Management Order imposed
12 upon them by the Commission and possible
13 recommendations to be presented to the Public Utilities
14 Commission regarding San Diego's Gas & Electric's other
15 load managemet programs.

16 COMMISSIONER COMMONS: Let me lead it off.

17 CHAIRMAN IMBRECHT: San Diego Gas &
18 Electric's requests that the order be modified such
19 that no new cyclers be installed in 1985, 1986, and
20 1987. In addition, staff's testimony recommends
21 funding levels for all San Diego's load management
22 programs for 1985 and 1986. Mr. Ward, do you want to
23 lead off for us?

24 COMMISSIONER COMMONS: Excuse me. Can I make
25 introductions please?

1 CHAIRMAN IMBRECHT: Sure. Commissioner
2 Commons.

3 COMMISSIONER COMMONS: I believe, the
4 Commission is aware that approximately a year and a
5 half ago, San Diego came before the Commission and
6 requested a fairly substantial increase in the
7 residential cycling portion of their load management
8 program. At that time, I personally raised concerns
9 that I had as to whether or not this was the most cost-
10 effective mechanism to meet the capacity needs of San
11 Diego Gas & Electric. I think that, as all of you are
12 aware, I've been very concerned with the potential for
13 us having to build peak power plants, and, the fact
14 that our growth factors have been dropping in the
15 utility, dropping in the State. It should be noted
16 that the load factor drop has been less in San Diego,
17 primarily because of the less saturation of that
18 utility service area by air conditioners than any other
19 utility in the State.

20 In terms of putting the load management
21 program in context of San Diego, I think there are
22 three important elements that need to be integrated.
23 One is in San Diego's Resource Plan, they show a
24 substantial dependence on imported power beyond the
25 period of 1996. The Electricity Report, the Draft

1 Final Electricity Report, and the staff position, is
2 that we are not able to call that these resources are
3 likely to be available at that time. The reason for it
4 is that the contracts expire and that the growth rates
5 in the southwest show that there would not be available
6 this imported energy at that period of time. And, it
7 would require utilities or third parties in the
8 southwest to construct new power plants that have not
9 yet been financed. We are not, at this time at least,
10 the Committee is not willing, at this time, to
11 recommend to the Commission that we assume that that
12 resource will be available.

13 The second major issue that revolves is that
14 the oil and gas facilities of San Diego, and San Diego
15 has less oil and gas displacement than any of the
16 utilities in the State, are aging very rapidly. And,
17 the Draft Final Electricity Report shows that we're
18 recommending a change, which I believe is also
19 supported by Tom Paige, the Chairman of San Diego Gas &
20 Electric, from 45 to 40 years. This is going to mean
21 that either these facilities are going to have to be
22 refurbished, or, they're going to have to be replaced.
23 It also removes a major asset in terms of having
24 peaking capacity available from these facilities as we
25 go into the 1990's.

1 Given those two broad policy concerns, this
2 would mean that load management becomes very critical,
3 in terms of not having to have San Diego embarked on a
4 major new building program primarily to serve their
5 peak resources. The Committee report directs San Diego
6 and encourages San Diego to move in some new directions
7 that are consistent with the directions being followed
8 by all of the utilities in the State of California.
9 These include: developing cooperative relationships
10 with the large and medium sized commercial and
11 industrial customers so that we are able to have both
12 emergency standby capability and also to have short-
13 term load drops as needed by San Diego Gas & Electric.

14 Second, we're encouraging them to work with
15 the other utilities in the State and with the Public
16 Utilities Commission in developing a standardized time
17 of use meter, and to have time of use rates, which we
18 see as a very effective mechanism to reducing peak. We
19 are also very encouraged with the development that they
20 have in their thermal storage program. Yet, we
21 recognize that the failure rate on a thermal storage
22 program is still very high, and that thermal storage,
23 at this time, can really only be considered a
24 demonstration technology and cannot displace or replace
25 the existing programs.

1 Also, most of the new programs that we're
2 looking at are in the commercial and industrial area.
3 The residential sector does take a major portion of the
4 peak capacity, or causes a major portion of the peak
5 capacity problem. As you'll hear in the Staff Report
6 that the staff has taken a middle position,
7 essentially, in terms of where we should be going with
8 the Residential Cycling Program. On the one hand, once
9 something has been constructed and put into use, the
10 residential cyclers, we don't want to discontinue them,
11 which would be a significant expense to the ratepayers
12 of San Diego.

13 On the other hand, we have reviewed the
14 petition of San Diego and see the major developments
15 they have in other areas. So we are not going to be
16 recommending that they have to install the additional
17 cyclers, which is a modification of previous Commission
18 position. The other area is the Committee is not going
19 to be recommending many study type programs. We are
20 concerned with the overall power costs of San Diego Gas
21 & Electric. And, in working with the Public Utilities
22 Commission staff, where we have worked in terms of the
23 recommendations that you will have are not only agreed
24 of our staff, of the Committee, but also with the
25 Public Utilities Commission staff.

1 We're encouraging programs that are primarily
2 hardware-oriented which can lead to reductions in
3 electricity costs for San Diego and are discouraging
4 programs that are study-oriented which have significant
5 benefits potentially to San Diego and many of them are
6 of great interest. We just do not feel of a high rates
7 in San Diego Gas & Electric, that we can afford to fund
8 those type of research-oriented programs in a
9 significant fashion. I don't want to go into the
10 details of the Committee recommendations.

11 What I'd like to do is turn it over to Randy
12 Ward and to the staff to go through the staff analysis
13 and what the recommendations are.

14 VICE-CHAIR CROWLEY: Do you want to proceed?

15 EXECUTIVE DIRECTOR WARD: Thank you
16 Commissioner. Yes. Commissioner Crowley, I think that
17 Commissioner Commons has stolen a substantial portion
18 of staff's thunder. And, without being redundant, I
19 would just ask Mark Jacobson if he has anything to add
20 to that?

21 MR. JACOBSON: Thank you very much. For the
22 record, my name is Marc Jacobson representing staff in
23 the matter of San Diego Gas & Electric Company's Load
24 Management Plan for 1985 and the 1986 Rate Case. With
25 me today is Vladislav Bevc from the CPUC staff who will

1 speak following me. I'd like to add a few more things
2 to the record.

3 First of all, this case is somewhat different
4 tha previous load management cases that have been
5 before the Commission in the past for three reasons.
6 Firstly, the Committee requested that the staff review
7 and make funding recommendations on San Diego's Gas &
8 Electric's entire load management budget request to the
9 PUC in the 1986 Rate Case and on their 1985 Program
10 Plan filed with the PUC on December 1, 1984. And, not
11 to restrict our analysis solely to programs under the
12 purview of the CUC load management standards, which are
13 namely residential central air conditioner and water
14 heater cycling.

15 Secondly, the Committee asked the staff to
16 strive to maintain and augment the excellent working
17 relationship with the PUC staff that was established
18 during the SCE Rate Case of last year. And, finally,
19 San Diego Gas & Electric filed a petition with the
20 Executive Director on January 22, 1985 requesting
21 modification of their Order that it is currently
22 affecting their Residential Load Management Program.
23 The petition requested that the requirement that SDG&E
24 install 8,000 new cyclers in 1985, and, 6,000 cyclers
25 in each in 1986 and 1987 be modified so that no new

1 cyclers need be installed beyond the current amount.
2 Staff mailed testimony to all parties on the SDG&E rate
3 case proof of service list on March 25th of this year
4 per the Committee Hearig Order.

5 The Commission has before it these issues:
6 1) Shall SDG&E's petition for Order modification be
7 granted? The modification would order that no new
8 cyclers be installed in 1985, 1986, or, 1987; 2) Shall
9 the existing \$21,350 cyclers be removed, or shall they
10 be used for further experiments and tests? And, in
11 addition, what kinds and levels of efforts should SDG&E
12 pursue in their overall 1985 and 1986 Load Management
13 Programs. I will address each issue in order.

14 As far as issue one goes, the staff
15 believes that the Commission as filed should be granted
16 to the extent that no new cyclers should be installed
17 above the current number and place, which represents
18 approximately 25% of the current stock. The short term
19 need for additional cyclers is not evident from a
20 resource planning perspective.

21 As for issue two, staff believes that the
22 existing cyclers should not be removed. SDG&E has been
23 successfull in marketing load management to
24 approximately 25 percent of the central air conditioner
25 owners in their service territory. In addition, the

1 data provided to us in the course of their program,
2 indicates that there is very high satisfaction rate
3 among their participants. Staff believes that these
4 long standing participants with the enthusiastic
5 supporters of higher cycling strategies, if San Diego
6 provides higher incentives, and, actively markets the
7 higher strategies. We have an opportunity here to test
8 the marketability of higher strategies that have been
9 demonstrated to be quite successful in other service
10 territories, and we should not forego that opportunity.
11 Nor, should we waste prematurely the 9.4 million
12 dollars that San Diego has already expended in this
13 program.

14 As Commissioner Commons pointed out
15 earlier, the Electricity Report indicates that San
16 Diego will have a long run resource planning need for
17 capacity additions and that they should not rely upon
18 out-of-state purchases and generic resources
19 exclusively as is indicated in their current Resource
20 Plan. That demand forecast, in addition, states: "...
21 that not only will the absolute number of air
22 conditioners grow rapidly over the forecast period in
23 the San Diego territory, but, that the percentage of
24 system peak represented by residential central air
25 conditioners will grow in that territory faster than

1 that of either PGandE or SCE." Now is the time to use
2 all available opportunities to examine the range of
3 load management techniques and a full-fledged test of
4 shedding should not be delayed.

5 The staff believes, therefore, that all
6 cyclers in the coolest climate zones, which is defined
7 as maritime, should be shifted to customers in the
8 hotter zones without reducing the total number of
9 installations. This will help to maximize the programs
10 load drop potential. San Diego should market shedding
11 to all participants with a goal of 8,000 sign ups in
12 1985 and a 50 percent conversion goal by the end of
13 1986. All participants not switching to shedding
14 should be converted to the 67 percent invariable
15 strategy.

16 Our first slide indicates the latest cost
17 benefit calculations by both San Diego and staff, which
18 clearly shows that the 67 percent variable and shedding
19 strategies are cost effective to all ratepayers. In
20 San Diego's Gas & Electric's 1985 Program Plan to the
21 CPUC submitted on December 1, 1984, San Diego requested
22 funding to maintain the current number of cyclers, and,
23 indicated their intention to offer shedding in the 67%
24 variable strategy as program options. Staff's proposal
25 is consistent with this request.

1 To get to the third issue, staff believes,
2 along with the CPUC staff that San Diego, as well as
3 all the utilities should pursue a full range of load
4 management options and techniques. This being the
5 case, staff has reviewed San Diego's entire Load
6 Management Budget Request for 1985 and 1986. As our
7 slides indicate, the staff and CPUC, our staff and the
8 CPUC staff have chosen and emphasized several programs
9 which offer the greatest potential for future load
10 management benefits. These are: thermal energy
11 storage; group load cooperatives; community energy
12 management; and, interruptible rates.

13 Staff has requested redirection of some
14 funding into those areas. The charts that are in the
15 overhead can be found in your binders on Pages 7, 8 and
16 10 of my testimony. There's an additional column up
17 there where the CPUC to illustrate the comparison
18 between the positions of the two staffs.

19 I'd like to point out that there were two
20 slide mistakes. In my testimony there would be \$62,100
21 for the water heater timer in my testimony for our
22 position is down to zero is intended to be that amount.
23 And, the next number, \$478,200, it was typed as \$487.
24 That was a transposition of numbers. I would like to
25 point out, specifically, that the group load

1 cooperative and thermal energy storage budgets for 1985
2 were augmented in our request, and that the two staffs
3 also added \$50,000 for interruptible rate study.

4 In the 1986 budget, group load cooperatives
5 and community energy storage were augmented again. No
6 additional funds were provided for the interruptible
7 rates study because the rates should be in place by
8 1986. Staff also fully funded SDG&E's Aggressive
9 Thermal Energy Storage Program which offers substantial
10 potential for load shifting as discussed in the Draft
11 Final Electricity Report. SDG&E has proposed \$2.46
12 million in 1986 under the rubric of ancilliary
13 research. And, staff has recommended funding for those
14 research projects which appear to hold promise for
15 providing data that can be useful and developing a rate
16 driven load management programs.

17 To summarize, staff is requesting that the
18 Commission adopt the Order before you. And, that you
19 vote in favor of staff's proposed Order calling for
20 acceptance of San Diego's petition to halt further
21 installation to new cyclers, but, maintaining the
22 existing stock of cyclers. Further, that you vote in
23 favor of instituting a test of the marketability of
24 shedding with a goal of 8,000 in 1985 and 50%
25 conversion by 1986. That no customers shall remain on

1 50% strategy, but, shall be converted to the 67%
2 variable if they will not accept shedding, that cyclers
3 in the cooler zone be relocated without reducing the
4 total number of cyclers; and, that you confirm and
5 agree with San Diego's request that the Electric Water
6 Heater Program be terminated by the end of 1985.

7 The funding levels that we are asking for
8 approval of to go into the 1986 rate case specifically
9 would be \$1,562,763.00 for the Air Conditioning Program
10 and zero for the Water Heating Program. This is for
11 1986. And, we would also request that the Commission
12 concur with staff's additional funding recommendations
13 for San Diego's other load management programs, and
14 that you would authorize the staff in conjunction with
15 the General Counsel and the Presiding Committee to
16 intervene in the San Diego General Rate Case before the
17 PUC. Thank you very much. Vladislav Bevc is here from
18 CPUC. There are staff members from San Diego Gas &
19 Electric and, of course, we're available for any
20 questions.

21 VICE CHAIR CROWLEY: Did you wish to make a
22 presentation at this time, or are you here for
23 questions?

24 MR. BEVC: I would like to make a short
25 presentation.

1 VICE CHAIR CROWLEY: You may proceed.

2 MR. BEVC: I'm here on behalf of the staff of
3 the Energy Branch of the Evaluation and Compliance
4 Division of Public Utilities Commission. And, I would
5 like to comment, in addition to expressing support of
6 testimony by Energy Commission staff, on reallocation
7 of load management funds requested by San Diego Gas &
8 Electric Company from Public Utilities Commission.

9 The utility has by letter dated April 8,
10 1985, requested authorization from CPUC to spend
11 \$1,740,000 on thermal energy storage. And, \$619,000 on
12 studies for the small commercial demand project. These
13 two are the major items of load management projects.
14 The total funding for which was set by CPUC at
15 \$4,567,000 in 1985. The CPUC staff has studied and
16 evaluated a utility's proposal and conferred, on
17 numerous occasions, with the Energy Commission staff.
18 On March 21st, the two staffs agreed on a reasonable
19 and feasible expenditure levels for San Diego Gas &
20 Electric's load management activities. These are set
21 forth in the table appearing at the end of Marc
22 Jacobson's testimony. So, I won't project it here,
23 unless you want to put it on again.

24 MR. SLOSS: For 1986 again?

25 MR. BEVC: No, for 1985. Now, we are in

1 total agreement there. Based on this evaluation and
2 consultation, the CPUC staff does not recommend to the
3 utilities request be granted, namely on reallocation.
4 Instead, it recommends that thermal energy storage
5 program be funded at \$2,331,700, and that studies on
6 the small commercial demand project get \$28,000. Our
7 staff will make the same recommendation to the Public
8 Utilities Commission when it presents the utility's
9 request at the Commission's meeting on May 1st 1985.
10 The California Energy Commission, on 15th of June,
11 1983, in Docket 82-LMR-1, ordered San Diego Gas &
12 Electric Company to install up to 8,000 air conditioner
13 switches in 1985. The California Public Utilities
14 Commission, on December 20th, 1983 in Decision Number
15 83-12-065 authorized the funds necessary to implement
16 the Energy Commission Order.

17 Page 125 of the Decision provided that
18 unexpended funds be refunded to rate payers, order in
19 paragraph 5. The Public Utilities Commission also
20 stated its conservation and load management policy in
21 the same decision, section 15.1.10. Late in 1984, as
22 already mentioned, San Diego Gas & Electric stated its
23 Air Conditioning Cycling Program was not cost-effective
24 and decided it would not proceed with adding
25 installations in 1985. The Public Utilities Commission

1 staff's understanding of the PUC Load Management and
2 Conservation Policy is that the only acceptable
3 substitution to an operating hardware oriented program
4 is another program which will avoid the need for
5 additional future system generation capacity. The
6 Thermal Energy Storage Program effectively meets this
7 criterium, while the study proposed by the utility does
8 not. It is not clear from the utility's presentation
9 what decisions it would be able to make on the basis of
10 results obtained from the proposed study. Nor, do we
11 think that customers would receive reasonable benefits
12 from it. For this reasons, the Public Utilities
13 Commission staff concurs and supports the Energy
14 Commission's staff recommendations pending before you,
15 and respectively urges you to adopt the 1985 Load
16 Management Budget at the program funding levels
17 recommended and coordinated by our and your staffs.

18 For the existing installations of 21,000 air
19 conditioner cyclers now in place, we recommed that San
20 Diego Gas & Electric recruit 8,000 existing customers
21 to go their shedding strategy and determie how that
22 project performs. Thank you. That is my presentation.

23 CHAIRMAN IMBRECHT: Thank you. Are there
24 questions? Mr. Bevc, thank you very much.

25 MR. BEVC: Thank you.

1 CHAIRMAN IMBRECHT: Did you have something
2 you wanted to add?

3 MR. JACOBSON: No, I believe San Diego
4 wanted....

5 CHAIRMAN IMBRECHT: I was about to ask them
6 to come forward, actually. If you'd excuse yourselves
7 from the table, I'll ask San Diego Gas & Electric to
8 make their presentation. Members of the Commission,
9 since this is really our last substantive item of the
10 day, it seems to me that we ought to try to complete it
11 and avoid coming back this afternoon.

12 MS. FLEMING: Good afternoon, Mr. Chairman,
13 Commissioners. For the record, I'm Patricia Fleming
14 representing San Diego Gas & Electric. San Diego Gas &
15 Electric agrees with most of the staff's testimony. At
16 least 90%. For instance, we agree that the water
17 heater cyclers should be removed. We agree that there
18 should be no new cyclers in the residential or
19 commercial sectors. Where we do not agree is with the
20 proposal to test a shedding program of our residential
21 air conditioning customers. We take this stand because
22 we did a shedding test during the warmest days of 1984
23 and found it not to be a cost-effective action in our
24 efforts to reduce our load. This is our major issue
25 before you today. There are, however, a couple of

1 other issues I'd like to bring to your attention.

2 The first is the staff proposal to add a
3 million dollars for more thermal energy storage. We
4 are extremely enthusiastic about TES, but because of
5 the long lead time necessary to design and construct,
6 we are past the point of being able to fund additional
7 systems in 1985. It allotted, it is our belief we
8 would not be able to spend the money prudently.

9 The second concern we have is the staff's
10 recommendation to reduce our requested \$619,000 to only
11 \$28,000 for a small commercial load research program.
12 We would like a recommendation for the full \$619,000.
13 Although the small commercial customer represents about
14 12% of our customers in our service territory, they
15 account for 24% of our sales. We want to understand
16 better how these customers influence total system
17 demand.

18 Now, we have just, before the hearing, had a
19 chance to look at this proposed Order, and on brief
20 review, I find that, beginning on Page 14, there are a
21 couple of items I want to bring to your attention about
22 which we disagree. Item number 2 on Page 14 with the
23 recommendation to relocate the cyclers in the coastal
24 zones to the transitional zones, we have to say that we
25 disagree with that because we find it not to be cost-

1 effective proposal. And, at the moment there's only
2 800 cyclers in that coastal zone, maritime zone. I'm
3 saying the wrong thing. To move those from the
4 maritime to the coastal and transitional zone. Item
5 number 3, there are a couple of things we disagree
6 with. The proposal for a 67% variable in shedding
7 cycle we disagree with. And, we find that not to be
8 cost-effective. And, the 50% sign after shedding, of
9 course, you already know, we disagree with.

10 Another recommendation we need from this
11 Commission today is a recommendation on what to do with
12 the Commercial Peak Shift Program that we have. I've
13 tried to summarize for you our major concerns. Now,
14 I'd like to ask Mr. Tom Stickels who's sitting to my
15 left. He's our Load Management Supervisor, to give you
16 some further details about why we find the shed test to
17 not be cost-effective. And, I do want to at this time,
18 express my appreciation for giving us a little
19 additional time on the agenda today so we could make
20 that presentation. Following Mr. Stickels will be Mr.
21 Dale Kelly Cochran, our Senior Economic Analyst who
22 will show you our position on the cost-effectiveness
23 test. I'll start with Mr. Stickels.

24 MR. STICKELS: Thank you very much. We were
25 here approximately two years ago vigorously promoting

1 expansion of a very cost-effective program. During
2 those past two years, we have done a lot of studies
3 which have led us to the conclusion that this program
4 is not cost-effective. I'd like to, I have some slides
5 here, I'd like to have an opportunity to show you some
6 of these slides to give you an indication of where
7 we're coming from.

8 We have a very interesting situation in San
9 Diego in that the temperatures are not that warm.
10 Taking a look at the past summer, you can see that very
11 often temperatures did not exceed 85 and rarely
12 exceeded 90 degrees in San Diego. We have a very mild
13 climate. Taking a look, then, at the air conditioner
14 load, over the hundred hottest days of 1984, you can
15 say that very little air conditioning load occurs in
16 San Diego. We have an average connected load of around
17 $4\frac{1}{2}$ KW per air conditioner. And, yet, on the hottest
18 day, you can see, it's only around 2.8, indicating that
19 that air conditioner is only on approximately half of
20 the time on the hottest day in San Diego. And, after
21 the first two or three days, it's very easy to see that
22 the air conditioning drops off and our customers just
23 don't use much in the way of air conditioning.

24 This is one of the reasons why our summer and
25 winter peak is so very close to each other. Say, over

1 the last four years, we have not had very much
2 difference between a summer and winter peak. Now, if
3 you take that Delta between the summer and winter peak
4 and look at see what it looks like for the other
5 utilities in the State compared to San Diego, you can
6 easily see that we have the lowest temperance between
7 summer and winter among any of the utilities. Perhaps,
8 it helps to explain why direct load control on air
9 conditioners is found to be cost-effective in Southern
10 Cal Edison's situation.

11 Let's now take a look at the distribution of
12 the hundred hottest days over the last four years and
13 where they occurred. You can see, we have peak days in
14 January as well as November and December. In a
15 situation like this, we really can't get that much out
16 of air conditioning during this period of time right
17 here. As a matter of fact, when we took at look at
18 loss of load hours, the second and third highest loss
19 of load hours on our system are right here, which air
20 conditioning will not do a thing for. This is the
21 indication of loss of load hours projected over the
22 year. As I indicated on the last slide, April and May
23 are quite high, September is quite high. That's the
24 time air conditioning does not do much to reduce that
25 loss of load hour probability.

1 Let's now take a look at customer reaction.
2 We did, as indicated in our report, a test on shedding
3 during 1984. We also had some other cycling programs
4 in place. Take a look at the customer reaction. How
5 many customers communicated that they were uncomfortable
6 during the hot day survey. We actually go out during a
7 hot day and call these customers and have them quantify
8 for us how they feel, what their temperature is, that
9 sort of thing.

10 On a control group, there were 5% of the
11 customers put on two specific hot days in San Diego.
12 As I indicated, they were uncomfortable. Those
13 customers that were experiencing a shed, the first day
14 of the shed, 40% of the customers were uncomfortable.
15 The second day of the shed, 61% of those customers were
16 uncomfortable. We had a 50% cycling strategy in effect
17 last year. And, 10% of those customers were
18 uncomfortable. On 67% cycling strategies, we had very
19 close to 20% of those customers who were uncomfortable.
20 So, as you can see a tremendous between a shed strategy
21 and a cycle strategy, in terms of comfort for the
22 customer. This is not at all close to PGandE. As I
23 indicated that they experienced with their customers.

24 The group of customers that we put on the
25 shed had been with us for quite some time. We have

1 done end of season surveys with these customers over
2 the past four years. The first few years they were on
3 a 25% cycling strategy which we dropped because it was
4 not cost-effective after 1982. But, they basically
5 indicated that they were very happy with this program.
6 Obviously, we were not getting the load drop that we
7 thought. We put them on a 60% cycling strategy, in
8 1983, and they indicated, about 12% of them were
9 uncomfortable. Those very same people, in 1984, were
10 put on shed strategy. Forty percent of them indicated
11 that they were unhappy, dissatisfied with their comfort
12 level.

13 So, what's happening, the same people across
14 four years, as far as comfort levels are concerned.
15 Take a look at another interested statistic, as far as
16 our shed customers for 1984 were concerned. We got
17 reduction from those customers. But, interestingly
18 enough, the highest load reduction came from the
19 customers who dropped out first. We were left with
20 people who did not use their air conditioning that
21 much. That's 58% difference between the load drop of
22 customers that stayed in versus the customers who
23 dropped out.

24 The sixth slide shows the projected
25 penetration of air conditioning through 1994 for our

1 service territory and Pacific Gas & Electric's. You can
2 see, because of a mild climate, our forecast shows a
3 relatively insignificant additional penetration of air
4 conditioning in our service area. And, this last chart
5 here shows the growth of our households in the three
6 climate zones. As indicated earlier, that the maritime
7 certainly was not one that is cost-effective and when
8 we moved things out into the transitional area because
9 that's where the peak is. Unfortunately, that's not
10 where the growth is. The growth in our service
11 territory would be in the coastal area. The area the
12 closest to the ocean.

13 So, based on the information that I've shown
14 you here from the type of service schedule that we
15 have, the type of air conditioning loading that we have
16 and the reaction that we received from our customers
17 last year in shedding, we cannot support the need for
18 additional testing of shedding. And, we request
19 approval to remove all of the equipment that we
20 currently have installed starting in 1985. Now I would
21 like to have Dale Kelly Cochran address the economic
22 issues.

23 MR. COCHRAN: Thank you Tom. Well, I've
24 already discussed a number of issues, let's start with
25 the easiest one first. I think in both the PUC and CEC

1 staff report there is mention made of a smaller
2 commercial cycling program with recommendations in
3 there that if the program cannot be made to be cost-
4 effective, that the program should be terminated. I
5 don't believe in the Order we saw that there was any
6 mention made of commercial programs, in terms of what
7 sort of action should be taken. Our recommendation
8 would be to terminate that program for the reason that
9 it is not cost-effective.

10 Currently, we use a 33% cycling strategy for
11 commercial customers. One of the suggestions made by
12 the staff was that perhaps if we tried a more severe
13 strategy that the program would improve in cost-
14 effectiveness. We have tried to simulate the affect of
15 a more severe strategy. A 50% cycling strategy. And,
16 this is what we get in terms of cost-effective results
17 if we were to do that. A number of things are
18 important to point out here. First of all, the amount
19 of KW reduction we would get by moving to this
20 strategy. At the 33% strategy, which we currently use,
21 the reduction would be on the order of $4\frac{1}{2}$ KW per
22 customer. By moving to this more severe strategy, we
23 capture a lot more air conditioning load. In fact, we
24 might almost double the KW reduction available.

25 I must say, at this point, well, at the 33%

1 point, a number of customers have expressed
2 dissatisfaction to us in terms of the comfort in their
3 buildings. The commercial customers are much more
4 concerned about comfort impacts than perhaps
5 residential users are because they are worried about
6 the impact on their clientele. And, certainly, a
7 doubling of the KW load would promote even more and
8 more discomfort.

9 At any rate, even running through with this
10 much more severe strategy, we see this program to be
11 cost-effective, or non cost-effective, excuse me, from
12 all points of view. For either non-participant and for
13 either installing new or maintaining existing cyclers.
14 So, based on these cost-effectiveness results, the
15 reactions that we have gotten from some of our existing
16 customers, and the fact that this program is so small,
17 I think we only have about 400 to 450 customers on it,
18 we would recommend that this program be terminated.
19 And, again, I don't think any direction is given in the
20 current proposed Order. Okay, so that would be the
21 easy one.

22 The harder one and the one that Tom spent
23 quite a bit of time discussing was the residential
24 program. One of the suggestions made by both staffs, I
25 believe, was that if we were to go to the 67% strategy

1 that this program would be cost-effective. In fact, I
2 think we're having a bit of a battle of the sides here.

3 Marc Jacobson earlier presented some results
4 indicating that he and SDG&E both agreed that the
5 program was cost-effective at that level, and, I would
6 say that we don't agree with that. That, depending on
7 what test you select as your criteria for judging the
8 cost effectiveness of these programs, and, depending on
9 what sort of impacts you consider, you get very
10 different results.

11 One of the things that we're all in agreement
12 on is the fact that it doesn't make any sense to
13 install new cyclers. I think, we're in agreement on
14 that with both the staffs. Where we disagree is what
15 should be done with the remaining cycles. I believe
16 that Marc showed this result: 1.52 for the 67%
17 strategy. Our feeling on cost-effectiveness is that
18 the test that we support is a non-participant test.
19 And, we feel that this test provides the best measure
20 of rate impacts to customers. Looking at the bottom
21 result, what should we focus on and what to do with the
22 new cyclers, we see that in both cases, with, and
23 without extremalities, it fails that test. It will
24 cause our rate payer rates to be higher than then would
25 otherwise be in the absence of the program.

1 The program does, however, (INAUDIBLE). But,
2 if you consider extremality, which I know Commissioner
3 Commons earlier mentioned some of his concerns about
4 comfort impacts on individuals. We've had a study done
5 for us by a consultant as part of the requirements of
6 the standard practice to try and assess the impact of
7 extremality to what they are included in the analysis.
8 We've done that here, and, under the capacity approval
9 that we feel most appropriate, it shows to be a very
10 marginal program. So, again, we feel that there
11 wouldn't be much prudence in going ahead with even a
12 67% test.

13 The area where we have the most disagreement
14 is in the area of shedding, which is essentially 100%
15 cycling strategy. And, I just want to make sure I get
16 the right slide here. I think this slide will also
17 point out some of our concerns about the all rate
18 incentives as a transfer, and, doesn't really consider
19 that a cost in the evaluation. So, what we show here
20 is that there is not difference in the societal test
21 whether you go from \$25.00 to \$50.00 or not. But,
22 obviously, somebody's paying for that incentive. And,
23 those are the non-participants. The very key reason
24 why we don't like the societal test, and even though
25 the PUC staff supports it, I think i the most recent

1 rate pay decision for SCE, they were concerned about
2 that particular issue as well. The test is not very
3 substantiated. So, based on these results we feel that
4 a shed test would not be in order and want to ask for
5 your approval to remove existing cycles. Thank you.

6 CHAIRMAN IMBRECHT: Alright, Anything
7 further? Does that complete your presentation? Are
8 there questions from members of the Commission?
9 Commissioner Commons.

10 COMMISSIONER COMMONS: Concerning the
11 incentives, this came up at the discussion that
12 Commissioner Noteware and myself attended at the Public
13 Utilities Commission. You'd essentially have, and this
14 Commission has been on record as supporting
15 Refrigerator and Air Conditioning incentive programs in
16 various appliance incentive programs as one way of
17 improving the efficiency of appliances. The discussion
18 was that you should look at the non-participant test in
19 terms of the totality of all the programs, recognizing
20 that obviously when you have a transfer payment on any
21 specific program, you may not pass the test, but you
22 have to look at the impact in terms of all the programs
23 to see if there is a fairness in it. Do you have any
24 comment as to should each program have to pass that
25 test; or do you look at it in terms of the totality of

1 all programs in the assessment?

2 MR. COCHRAN: Well, we're getting a little
3 bit ahead of our presentation here, and more into our
4 on-going rate case proceeding. One comment I would
5 make is that my intention in pointing out this problem
6 with incentives was the fact that the societal test
7 essentially ignored that. You got the same result
8 whether you paid one dollar in incentives, or a million
9 dollars in incentives. Obviously, that's not a very
10 discriminating test when that happens. With regard to
11 our overall policy, our primary criteria for cost-
12 effectiveness analysis is a non-participant test.
13 However, we do support some programs that fail that
14 test based on the fact that they provide customer
15 information or assistance. Certain audit programs we
16 support, certain call-in information programs, and
17 brochure programs.

18 CHAIRMAN IMBRECHT: Okay. Further
19 discussion? Thank you very much. Commissioner
20 Commons, do you have a recommendation for the
21 Commission?

22 COMMISSIONER COMMONS: I believe the
23 Committee has passed out an order. I think there was
24 one issue raised by San Diego Gas and Electric Company
25 which I'd like to have staff respond to in that there

1 is one area that's not covered.

2 CHAIRMAN IMBRECHT: Alright, ifne.

3 MR. JACOBSON: Thank you. I believe you're
4 referring to the commercial. The commercial peak shift
5 was not specifically sited in my testimony, essentially
6 because it is not under the purview of the Energy
7 Commission's Load Management Standards. It is
8 generally reviewed by the PUC and we concurred with the
9 PUC's staff recommendation that, in 1986, the San Diego
10 attempt to get people to go on a more stringent
11 strategy and if that indeed does not come to fruition,
12 they can discontinue the program. They were given the
13 money that they requested.

14 MR. SLOSS: And within the order, it does say
15 a proposed or proposed to say that the Commission does
16 agree with or concur in the staff's other
17 recommendations concerning conservation and load
18 management programs. So there is at least an explicit
19 illusion to the commercial peak shift in the order.

20 COMMISSIONER NOTEWARE: I'd like to ask
21 staff, after hearing Ms. Fleming's testimony that
22 they'd be unable to spend the total amount on thermal
23 energy storage, if you would recommend adjusting the
24 figures.

25 MR. JACOBSON: I think that the PUC staff and

1 ourselves feel that: 1) they should attempt to spend
2 the money; and 2) that there is a mechanism in the PUC
3 funding procedures whereby money allocated and unspent
4 is returned to the ratepayers. So it will not disappear
5 somewhere and be wasted if they cannot adequately spend
6 the money to the specifications of the rate case
7 decision, the money will be returned to ratepayers as
8 unspent funds.

9 COMMISSIONER NOTEWARE: Okay.

10 MR. COHN: Commissioner Noteware, I'd like to
11 make one other comment in this area if I may. I just
12 want to clearly distinguish for the Commission the
13 difference between our findings and ordering paragraphs
14 regarding residential peak shift programs and the other
15 load management programs. We have a specific
16 regulation that we're operating under with respect to
17 the residential air conditioner and water heater
18 cycling programs, which are referred to as "peak shift
19 programs" by the SDG&E. Therefore, those requirements
20 that we impose on SDG&E in this order are directly to
21 be implemented by the PUC in the rate case. This is to
22 be distinguished from our recommendations under Public
23 Resources Code Section 25403, where we make
24 recommendations to the PUC about load management and
25 other cost conservation programs, but the PUC exercises

1 its discretion on the basis of the record in particular
2 rate case proceedings as to whether or not they should
3 follow their recommendation.

4 The reason I bring this up is that the
5 commercial peak shift program, as well as thermal
6 energy storage, fall into the latter category. And,
7 therefore, before the PUC would approve any amount of
8 funding for those programs, it would have to go through
9 a full hearing process. I believe that will occur in
10 the next month or so in the SDG&E rate case. To the
11 extent that we want to pursue those recommendations
12 that would require our intervention and perhaps have a
13 witness be sponsored in those hearings.

14 CHAIRMAN IMBRECHT: Thank you. I understand
15 Mr. Ron Lavelle would like to address the Commission.
16 No? Mr. Tom Reed? No? Alright, what's the pleasure
17 of the Commission?

18 COMMISSIONER NOTEWARE: Well, Mr. Chairman, I
19 would move then that we adopt the staff's
20 recommendation.

21 CHAIRMAN IMBRECHT: Alright. It has been
22 properly moved. Is there a second?

23 COMMISSIONER COMMONS: I second it for
24 discussion purposes.

25 CHAIRMAN IMBRECHT: The motion is properly

1 before us.

2 COMMISSIONER COMMONS: I believe the order we
3 have before us has one or two modifications to the
4 staff's recommendation where we deleted two study
5 contracts and added....

6 CHAIRMAN IMBRECHT: Does the current order
7 reflect staff's position, or is that a Committee
8 position?

9 COMMISSIONER COMMONS: A slight modification,
10 I believe.

11 CHAIRMAN IMBRECHT: Committee or staff that
12 you wish to move?

13 COMMISSIONER NOTEWARE: The Committee.

14 CHAIRMAN IMBRECHT: Alright. Without
15 objection, Commissioner Noteware will modify his motion
16 and Commissioner Commons will continue to second. That
17 is the motion now before us. Is there further
18 discussion? Okay. Is there objection to a unanimous
19 roll call? Hearing none, ayes: four; noes: none. The
20 order, as modified, is adopted. I think we remain
21 sensitive to San Diego's concerns and welcome further
22 input to the extent that you find this response
23 inadequate.

24 MR. COHN: Chairman Imbrecht, with your
25 permission I will make a few editorial type corrections

1 to the order before you.... Do you wish to have those
2 made on the record now, or do you think that can fall
3 within your...?

4 CHAIRMAN IMBRECHT: How lengthy are they, and
5 are they entirely editorial/typographical type
6 corrections?

7 MR. COHN: Editorial, not all typographical.
8 They're all rather brief. Perhaps I should....

9 CHAIRMAN IMBRECHT: I think you'd better do
10 it quickly on the record.

11 MR. COHN: Okay, thank you. These are in the
12 nature of making the order more clearly reflect what's
13 happening at the hearing today. First of all, on Page
14 3, the last line, I would add a clause after the
15 reference to 84.1215, add a clause "SDG&E's
16 presentation at the April 17th hearing," to make it
17 clear that the Commission also considered that. The
18 next change would be on Page 10, at the end of the
19 first paragraph, I would add the following sentence:
20 "In addition, the PUC staff submitted a prepared
21 statement at the Commission hearing on April 17, 1985."
22 Also on that page, based on the presentation that was
23 made today by the PUC staff, the table for the 1985
24 Budget Recommendations should delet the PUC staff
25 recommendation and have that joint with the CEC staff

1 so that we have the one column for CEC and PUC staffs,
2 and the fourth line item for thermal energy storage
3 should read "2,331,700" rather than 952. The bottom
4 line should read, "\$4,566,900." The next change would
5 be on Page 11, just a typo there. The letter "S"
6 should be added on to the word "staff" in the first
7 table. Next change is Page 16 -- there is a typo on
8 the recommendation, paragraph #1. That should be
9 conjunction with an "N" between the "U" and "C" on the
10 fourth line down. The comma after General Counsel's
11 office should be deleted and a comma inserted after the
12 word "Committee" on the next line. Finally, on Page
13 17, in order to clarify the decision that is referenced
14 in that paragraph, insert before the word "SCE's load
15 management program", insert "the CEC's decision
16 regarding". And then cross out the word "decision"
17 after program so that the entire sentence beginning on
18 the previous page would read "The intent of this
19 program is to complement a similar recommendation in
20 the CEC decision regarding SCE's load management
21 program, dated August 6, 1984, and not to duplicate
22 efforts by other utilities in this area." Those were
23 the only changes that I would recommend to the order.

24 CHAIRMAN IMBRECHT: Okay. Commissioner
25 Noteware moves, Commissioner Commons seconds that the

1 changes as enunciated by staff counsel are reflected in
2 the motion and ratification of the order. Is there
3 objection to that motion? Hearing none, ayes: 4; noes:
4 none. Ratification is adopted. I hope that was
5 understandable to everyone. Thank you very much. That
6 concludes the consideration of Item #1. Is there a
7 General Counsel's report?

8 MR. CHAMBERLAIN: No, Mr. Chairman.

9 CHAIRMAN IMBRECHT: Thank you. Executive
10 Director?

11 EXECUTIVE DIRECTOR WARD: Alright, thank you,
12 Mr. Chairman. I just would like to mention that it's my
13 understanding that the Deficiency Bill that included
14 our deficiency appropriation, passed out of the
15 Assembly Ways and Means with no problems, at least
16 relative to the Energy Commission this morning.

17 CHAIRMAN IMBRECHT: Alright, thank you very
18 much. Commissioner Commons.

19 COMMISSIONER COMMONS: Yes, I believe the
20 Executive Director was to come back to us concerning
21 the staffing on the load management. This morning, I
22 received, on behalf of the Executive Director, that it
23 was offered to me yesterday, not this morning. But I
24 was not available -- a plan to try to resolve the
25 problems in the load management area. We essentially

1 have no persons allocated to work full-time on load
2 management. I have reviewed the plan; I do not find it
3 acceptable. Rather than taking the Commission's time
4 today, what I'm going to request is this is now six
5 months that we've been going through this. This is the
6 first time we've had a plan.

7 I'd like to ask the Budget and Administrative
8 Committees review it. If we are to successfully take
9 on our responsibility in load management, where we have
10 substantial responsibility, it is going to require that
11 this Commission have competent and adequate staff.

12 CHAIRMAN IMBRECHT: I will accept that
13 direction as Presiding Member and we will schedule a
14 hearing and ask that your position be represented, as
15 well as staff's at that hearing and the Budget
16 Committee will return to the Commission with a
17 recommendation.

18 COMMISSIONER COMMONS: Thank you.

19 CHAIRMAN IMBRECHT: Is there any member of
20 the public that wishes to address the Commission on any
21 item before us or within our jurisdiction? Alright,
22 hearing none, we stand in adjournment. We will hold
23 the Executive Session until the next Commission
24 meeting. Alright, we stand adjourned.

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(Thereupon the business meeting of the
California Energy Resources Conservation and
Development Commission was adjourned at 12:54 p.m.)

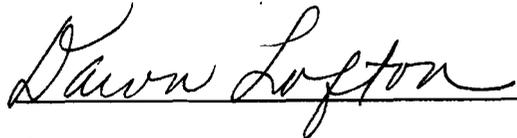
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REPORTER'S CERTIFICATE

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THIS IS TO CERTIFY that I, Dawn Lofton, Reporter, have duly reported the foregoing proceedings which were had and taken in Sacramento, California, on Wednesday, April 17, 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 13th day of May, 1985.

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