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**STATE OF CALIFORNIA  
ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION**

**CALIF. ENERGY COMMISSION**

**JUN 5 1985**

**RECEIVED IN DOCKETS**

**BUSINESS MEETING**

**1516 NINTH STREET  
FIRST FLOOR HEARING ROOM  
SACRAMENTO, CALIFORNIA**

**WEDNESDAY, MAY 15, 1985**

**10:17 AM**

**REPORTED BY:**

**DAWN LOFTON**

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**COMMISSIONERS PRESENT**

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

**EX-OFFICIOS PRESENT**

William Foley  
Gordon F. Snow

**PUBLIC ADVISER'S OFFICE**

Ernesto Perez  
Gary Heath

**STAFF PRESENT**

Randall Ward, Executive Director  
William Chamberlain, Staff Counsel  
Steve Cohn, Staff Counsel  
Daniel H. Nix  
Michael D. Berk, Attorney, McKenna, Conner & Cuneo  
Attorneys at Law  
Michael Gardner, Southern California Edison  
Allan J. Thompson, Gilroy Foods  
Robert Kraemer, Gilroy Foods

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OTHERS PRESENT

Jeff Ayers, Southern California Edison  
Steven Geringer, Attorney, California Farm Bureau  
Federation  
Beatrice Cooley, Friends of the River

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P R O C E E D I N G S

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3 CHAIRMAN IMBRECHT: Alright, we'll call this  
4 morning's meeting to order; and if I might, ask Dr.  
5 Snow, on behalf of Secretary Van Vleck, if'll he'll  
6 please rise and lead us in the flag salute. And I  
7 think he has a brief statement he would like to make.

8 (FLAG SALUTE)

9 CHAIRMAN IMBRECHT: Thank you. Dr. Snow.

10 DR. SNOW: Mr. Chairman and members, I regret  
11 to inform you that the Secretary is unable to appear  
12 here this morning as advertised. Late last night we  
13 got a call from the Legislature demanding his presence  
14 in one of the Budget Committees at 8:00 this morning;  
15 then, they changed it to 9. And at 10:00, I got a call  
16 that said he would be unavoidably delayed here. I  
17 don't expect him to be able to make it; because, the  
18 rest of the day is jumbled just like this morning was.  
19 So, for what it's worth, I'll certainly be here to take  
20 any messages back to him or to answer any questions  
21 that we may be able to answer.

22 CHAIRMAN IMBRECHT: Fine. We understand and  
23 certainly will re-extend the invitation at a later time  
24 because we have some other matters that relate to this  
25 and will still be before the Commission. Having been

1 on that same kind of call in the last few days on  
2 behalf of our Commission Zone Budgets, I fully  
3 understand since Mr. Ward and myself and others from  
4 our staff were in attendance late yesterday for our  
5 Ways and Means Subcommittee. And, later in today's  
6 hearing, I'll be giving a briefing from the Budget  
7 Committee's perspective about what has happened  
8 relative to the budget which has generally been, I  
9 think, overall positive--in fact, extremely positive.

10 In any case, I'd like to offer one  
11 housekeeping item, Item No. 1 has been removed from the  
12 agenda at the request of Mr. Pennington. And, it shall  
13 be off calendar. And in addition, Items No. 2 and 3,  
14 at the request the affected parties, will be taken up  
15 after our luncheon recess since I understand they had  
16 travel conflicts in terms of being able to be present  
17 this morning.

18 In order to turn to the major items that are  
19 on our agenda today, not to downplay the importance of  
20 some of the others, that obviously the possible  
21 adoption of the Draft Final Electricity Report and of  
22 the 1985 Energy Plan which is the Fifth Biennial Report  
23 of the Commission are the two largest items on our  
24 agenda. And, in order to facilitate that discussion,  
25 as I indicated in the memorandum to members of the

1 Commission, we'll turn to Item No. 10 to begin today's  
2 hearing.

3 COMMISSIONER GANDARA: Mr. Chairman?

4 CHAIRMAN IMBRECHT: Yes, Commissioner  
5 Gandara.

6 COMMISSIONER GANDARA: Mr. Chairman, since I  
7 understood that the principal reason for scheduling  
8 Items 10 and 11 out of order was for the attendance of  
9 the Secretary and, not to mention, of course, Dr.  
10 Snow's attendance, but since, apparently, that is not  
11 going to occur today, would there be any problem with  
12 us taking the agenda in order?

13 CHAIRMAN IMBRECHT: Well, it's still my  
14 preference to try to move along this.... I think that  
15 we certainly don't know what level of discussion may be  
16 involved here. And, my general judgement is it would  
17 be better to try turn what promises or potentially  
18 could be a more lengthy discussion of some of other  
19 items. First, I think some of the other matters that  
20 are not of interest to many of the people that are in  
21 attendance today might facilitate. It'd be more  
22 convenient for them so that they don't have to sit  
23 through that....

24 COMMISSIONER COMMONS: Point of information.

25

1 CHAIRMAN IMBRECHT: ...anticipation of the  
2 last two items. Commissioner Commons.

3 COMMISSIONER COMMONS: Our Executive Director  
4 mentioned to me this morning that No. 5 was also not  
5 going be considered today.

6 CHAIRMAN IMBRECHT: That is right.

7 MR. WARD: That's correct, Mr. Chairman. I'm  
8 sorry I overlooked that. Let me also indicate that  
9 that has been removed from the agenda.

10 MR. PEREZ: Mr. Chairman?

11 COMMISSIONER GANDARA: Mr. Chairman, again, I  
12 don't want to persist. But, as usual with these  
13 proceedings, I arrived at my office this morning and a  
14 number additional erratas and addendums and documents  
15 under BR/ER were handed to me; and, I have not had an  
16 opportunity to review them fully. I was hoping that if  
17 the necessity were not there to move Items 10 and 11  
18 right away, that we could proceed with the other items  
19 and perhaps take up that item after lunch. At least,  
20 it would be affording the opportunity over the lunch  
21 period to review those documents.

22 CHAIRMAN IMBRECHT: Well, I'll obviously  
23 respond to the will of the Commission. But, I just  
24 would represent to you that those documents do not  
25 reflect any substantive changes in any sense. They are

1 indeed errata and do not reflect any changes. And the  
2 reflection of some of the closing points were raised in  
3 the hearings over the last week to two weeks. And, I  
4 honestly believe and I think that we undoubtedly would  
5 have that same representation from staff or from staff  
6 counsel if there are no new issues raised by those  
7 documents.

8           COMMISSIONER GANDARA: Mr. Chairman, in the  
9 proposed order there is a new addition having to do  
10 with.... And, again, I haven't had time to read it;  
11 but, it does seem to me to be a major new element. It  
12 hasn't been discussed before, which is having to do  
13 with 1983 Biennial Report Need Assessment that the  
14 Committee or Commission could use that unless the  
15 applicant Commission agreed, essentially, in the  
16 proceeding. That seems to be totally new. I don't  
17 want to persist on. It's just my desire to hold this  
18 over. I just haven't had a chance to read it.

19           CHAIRMAN IMBRECHT: Well, that item has been  
20 discussed. And, it was actually a reflection of  
21 recommendations from a number of parties over the  
22 course the hearing and represented an attempt to  
23 respond to concerns that have been expressed. I do  
24 believe it has been subject to previous discussion.  
25 Yes, sir?

1 MR. BERK: Mr. Chairman, just for the record,  
2 I represent the moving party on the....

3 CHAIRMAN IMBRECHT: Would you please come  
4 forward microphone, if you would, please?

5 MR. BERK: My name is Michael Berk; and, I  
6 represent the moving party on the Petition for  
7 Reconsideration, which is No. 2 on the Agenda. And we  
8 did not make any application to move that matter back  
9 in the agenda; and, I have not been contacted by any  
10 other party with respect to that. Although, of course,  
11 we are subject to whatever calendaring....

12 CHAIRMAN IMBRECHT: Let me just.... I was  
13 informed of that this morning. Let me just review the  
14 notes I have on this. I'm informed by my Special  
15 Advisor that our office was contacted this morning by  
16 other parties interested in that matter and indicated  
17 that they could not all be present until the luncheon  
18 recess. And so, I was merely reflecting in a  
19 ministerial fashion that information that had been  
20 conveyed to us. I'm sorry that I can't really offer  
21 you any elucidation beyond that.

22 MR. BERK: We are prepared to proceed at this  
23 time. Shall I come back after our lunch?

24 CHAIRMAN IMBRECHT: Well, I think since we  
25 did indicate to those that did contact us that we would

1 try to accommodate their schedule as we typically do  
2 under these circumstances. I think that will be most  
3 appropriate. I hope we haven't inconvenienced you in  
4 the process; but, we try to balance these things out  
5 for the interest of other parties as well.

6 MR. BERK: So shall I assume it will be taken  
7 up...?

8 CHAIRMAN IMBRECHT: Yes.

9 MR. BERK: Okay. Thank you.

10 MR. PEREZ: Mr. Chairman?

11 CHAIRMAN IMBRECHT: Yes.

12 MR. PEREZ: On the issue of the materials to  
13 be considered by the full Commission today for  
14 consideration and adoption of Biennial Report, I do  
15 want the full Commission to aware of the fact that the  
16 recommendation of my office, that the backup materials  
17 being presented for those items were adequately  
18 distributed to the public. However, those documents  
19 were specifically identified by my office in a memo  
20 dated May 10 to you as including the staff Draft  
21 California Energy Plan, errata sheets (containing  
22 revised tables), and proposed recommendations for the  
23 May 7, 1985 hearing.

24 I specifically stated in that memo that I  
25 would recommend additional comment opportunity for the

1 general public, if materials other than those described  
2 in the May 10 memo were considered for action. So, I  
3 will reserve my opinion to the full Commission and  
4 recommendation therewith on the adequacy of public  
5 noticing until I hear the Commission's discussion on  
6 those items.

7 CHAIRMAN IMBRECHT: Alright, that's fine.  
8 Okay, with that, I think we will turn to...unless I  
9 hear reflection from members of the Commission that  
10 would join Commissioner Gandara's request, it would be  
11 my intention to turn to Item 10. Alright, hearing  
12 none, we'll then turn to Item 10, which is Commission  
13 hearing and possible approval of an order adopting the  
14 Draft Final Electricity Report and Chapter 3.1 of the  
15 Staff Draft 1985 California Energy Plan as amended or  
16 revised by the Biennial Report Committee as the Final  
17 Electricity Report required by Public Resources Code  
18 Section 25308, and turn, first, to Commissioner  
19 Commons.

20 COMMISSIONER GANDARA: Point of information,  
21 Mr. Chairman.

22 CHAIRMAN IMBRECHT: Commissioner Gandara.

23 COMMISSIONER GANDARA: Again, with reference  
24 to Chapter 3.1 of the Staff Draft to the California  
25 Energy Plan, my point of information is related to that

1 portion as well to Item 11 which I'm due to take up  
2 afterwards. But it's the same point. And that is, do  
3 we have the relevant document that the Commission is  
4 considering before; because, what I have is the Draft  
5 to the California State Energy Plan and a memo from the  
6 Committee, dated May 10, which indicates that the  
7 Committee's recommending to the Commission the staff  
8 Draft. And yet, my office was expecting a revised  
9 California State Plan. As of last Thursday, we had not  
10 received it. But, I am informed that the Committee is  
11 in possession of a revised California State Energy  
12 Plan. And, is that going to be distributed to the  
13 Commissioners? Do we have the proper documents before  
14 us?

15 CHAIRMAN IMBRECHT: You have the proper  
16 document before us. As have been the case in the past,  
17 after adoption by the Commission of the Biennial  
18 Report, there then is further editing for, in essence,  
19 the production of the glossy reiteration of the  
20 Biennial Report. And it would be our intention, as I  
21 was going to indicate and this is probably the  
22 appropriate time to do it, that document would be  
23 returned to the Commission for ratification of  
24 consistency with the document that is before us for  
25 adoption today. And, the only distinction between the

1 two is that one would represent a...I'm trying to think  
2 of the proper way. I don't want to suggest an edited  
3 version, but rather a version that reflects appropriate  
4 prose and readability for the general public.

5 And, the issue that would be before us at  
6 that time, is whether, in fact, that document  
7 accurately reflects and is completely consistent with  
8 the Biennial Report that is before us for adoption  
9 today. And, that would be the sole thrust of  
10 consideration at that point and time.

11 The Draft that we had before as a Committee  
12 or that had been submitted by our Contractor of the  
13 Committee, at this juncture, was not ready to put  
14 forward as representing a clean document. But it is my  
15 understanding that this has been standard practice in  
16 the past. In fact, in the past, it is my understanding  
17 that that kind reiteration has not even been brought to  
18 the Commission for ratification, but actually, has been  
19 handled by the Presiding Member's office. And that  
20 would not be our intention in this instance.

21 COMMISSIONER GANDARA: Let me clarify what  
22 the practice has been; because, in fact, it is  
23 different from that which you outlined. In the past,  
24 the documents that have been before the Commission for  
25 adoption has, in fact, been the last available draft,

1 the last available document. There has never been, at  
2 the Commission, an additional draft pending or  
3 available, and having some other document before the  
4 Commission. In addition to that, the kind of changes  
5 that are made or have been made in the past, to a  
6 document the Commission has adopted have been only with  
7 respect to those changes that were made at the time of  
8 the Commission hearing and/or conforming changes, for  
9 example, with respect to numbers and graphs and so  
10 forth.

11 I mention that because I notice that the  
12 language has been so important with respect to the  
13 Biennial Report that the Commission has always wanted  
14 to have before us that which is closest to being...the  
15 document that was to be published. If there is an  
16 existing draft of this document, however, of course,  
17 poor shape it can be, then nonetheless, that seems to  
18 me that that should be the document that should be  
19 before us. And that, in any case, that is the working  
20 document which we could be making comments and/or  
21 modifications thereto. So if that is the case, I would  
22 then essentially raise a point of order as to whether  
23 we have the relevant document before us.

24 CHAIRMAN IMBRECHT: Mr. Cohn?  
25

1 MR. COHN: Yes, Mr. Chairman, with respect to  
2 the Electricity Report which is Item 10 that we are  
3 discussing at the moment, the intent of the Order which  
4 has been distributed to the Commissioners two weeks ago  
5 and with minor revisions today, is to adopt actually  
6 the Chapter 3.1 of the existing Draft along with the  
7 errata that has been attached as part of the  
8 Electricity Report rather than some future iteration of  
9 that.

10 So, your points, with respect to the Biennial  
11 Report being revised, would not be true with respect to  
12 the Electricity Report. There be will, following this  
13 meeting, assuming there is adoption, a final editing to  
14 be sure that we have all the typographical corrections  
15 and conforming corrections made to the Electricity  
16 Report. But, there would be no major rewrite of the  
17 Electricity Report, including Chapter 3.1.

18 COMMISSIONER GANDARA: Well, again, at least  
19 the Order that I have says Chapter 3.1, 1985 California  
20 Energy Plan. I guess what I'm saying is that if  
21 Commission could find anything done to that, I would at  
22 least like to determine whether there is a Chapter 3.1  
23 in the California Energy Plan.

24 MR. COHN: What is referred to there is this  
25 document, the staff draft as amended by the errata that

1 have been handed out today rather than some future  
2 version. So, perhaps it will be more clear...

3 COMMISSIONER GANDARA: Well then, we can  
4 correct this particular problem, doesn't solve it; but  
5 we can take up Item 11. But, we can correct it for  
6 this problem making reference to Chapter 3.1 of the  
7 docketed material, dated April 11, 1985, and then if we  
8 forego, at least, any further procedural impediments in  
9 this regard and reserve that issue to Item 11.

10 CHAIRMAN IMBRECHT: Still, why don't you  
11 advise, if you think that's necessary later in the  
12 proceeding.

13 MR. COHN: Well, perhaps we could add the  
14 words "staff draft" or something to that effect. And,  
15 when we get ready to adopt the Order I'll try to have  
16 some language ready to be sure of the intent there.

17 CHAIRMAN IMBRECHT: Alright fine. And, in  
18 the meantime, I would appreciate some view by staff of  
19 what the representations were made to me as to the  
20 manner in which the final report has been handled in  
21 the past. In any case, I just wanted to emphasize that  
22 the draft you are talking about actually does not  
23 reflect the Committee position.

24 And, what the Committee is proposing is the  
25 document that is before and the only anticipation in

1 terms returning to the Commission for ratification  
2 would be in terms of readability of that document. I  
3 thing that's probably the word that I was searching for  
4 earlier as opposed to editing readability as the  
5 intent. And as I indicated, it has been represented to  
6 me that previous Commission practice has involved that  
7 same kind of process without the ratification stuff  
8 which I had asked for as a further assurance from the  
9 members of the Commission that there were no changes or  
10 nuances in the past that do not reflect that which has  
11 been adopted by the Commission.

12 Okay, with that I'll call on Commissioner  
13 Commons.

14 COMMISSIONER COMMONS: Mr. Chairman, before  
15 we enter into the discussion, would it be appropriate  
16 to put a motion on the floor?

17 CHAIRMAN IMBRECHT: I believe so.

18 COMMISSIONER COMMONS: Alright. In looking  
19 at the draft Order that you have in front of you, there  
20 would be one change to that order. On the third  
21 paragraph, the order says: "...authorizes the  
22 Chairman...." And, that's per our discussions  
23 yesterday. That should be the "...Fifth Biennial  
24 Report Committee..." in Paragraph 3. With that one  
25 change, I would like to move that the Commission adopt

1 the Final Electricity Report and Chapter 3.1 of the  
2 Staff Draft of the 1985 California Energy Plan. And,  
3 that includes both the.... That includes the following  
4 items: the Electricity Report with the corrections,  
5 the errata sheet that we have distributed, Appendix 5.3  
6 on Preferred Resources, and Appendices, Volume 1 and  
7 Volume 2.

8 CHAIRMAN IMBRECHT: That's fine. I will  
9 second that motion; and, just indicate that the minor  
10 change mentioned was also a reflection of previous  
11 orders in this regard as my understanding that  
12 Chairman's office in the past has in consultation with  
13 the General Counsel's Office has the authority to do  
14 this. And, I fully believe that it's more appropriate  
15 for that to be handled by the Committee with  
16 jurisdiction rather than my office individually. I  
17 believe this Order was prepared consistent with  
18 previous practice and discussion with Commissioner  
19 Commons. I agreed with him that it was more  
20 appropriate for the Committee to handle that  
21 responsibility. The motion is properly before us.  
22 Commissioner Gandara.

23 COMMISSIONER GANDARA: Just to provide you  
24 some information, Mr. Chairman. I have no comment one  
25 way or the other on the proposed modification by

1 Commissioner Commons. In the past, just so the  
2 judgment is not left that the Commission has adopted a  
3 document with changes to be made and has, in fact,  
4 delegated that -- and I don't have any further  
5 involvement with it -- in the past a camera-ready copy  
6 had been sent to all the Commissioners and reviewed by  
7 the Commissioner's offices before the final publication  
8 has been done. That is the practice that was followed  
9 with respect to BR IV I am familiar with. So that in  
10 fact, in the past there has been that involvement while  
11 you may call it ratification or something else, the  
12 final camera-ready copy was approved by all  
13 Commissioners before it was sent to publication.

14 CHAIRMAN IMBRECHT: That's certainly is  
15 consistent with my intent and would anticipate that  
16 that would be the.... I'd make that complete  
17 representation. We will follow that same practice this  
18 time. Commissioner Crowley?

19 VICE CHAIR CROWLEY: I have an item that  
20 confuses me in this regard. And I don't.... I will  
21 have to have someone explain Paragraph 3 vis-a-vis Part  
22 5 to me. You have the Intergovernmental Relations  
23 Committees' involvement. And then, in the first page  
24 with the new amendment, you have Report Committees'  
25 involvement; and, I don't understand who does what.

1           CHAIRMAN IMBRECHT: Alright fine. What this  
2 indicates is that if you read paragraph, it will then  
3 read' "Commission hereby authorizes the Biennial Report  
4 Committee with assistance in the Office of the General  
5 Counsel, to public and distribute the aforementioned  
6 documents as the final Electricity Report, including  
7 making necessary editorial and typographical changes to  
8 conform to this Order."

9           Part 5 indicates the Intergovernmental  
10 Relations Committee would have jurisdiction over the  
11 appropriate distribution of that document, conveyance  
12 of it to members of the Legislature and other affected  
13 parties.

14           VICE CHAIR CROWLEY: I would have assumed  
15 that the Pargaraph 3 would have...'publishing' and  
16 'distributing' would have been the same thing, but  
17 perhaps not.

18           CHAIRMAN IMBRECHT: Well, publishing and  
19 distributing, I think actually, let me restate that  
20 further, it says: "...to effectively communicate and  
21 implement the findings, conclusions, decisions,  
22 recommendation." And, those are basically the outreach  
23 efforts necessary to interact with other agencies that  
24 are affected by the recommendations that are contained  
25

1 within the report. I don't, frankly, see them as  
2 contradictory.

3 VICE CHAIR CROWLEY: Whatever you say.

4 COMMISSIONER GANDARA: If I might make a  
5 suggestion, Mr. Chairman. I think that this could be  
6 clarified if the two words "and implement" were  
7 omitted. Because, practically speaking, what that  
8 does is conflict...the Intergovernmental Relations  
9 Committee...the assignment of communicating,  
10 distributing, and interacting with other agencies.  
11 What confuses it is the "and implement" because,  
12 frankly, a lot of the recommendations there are to  
13 implemented through act of the full Commission. It  
14 could be implemented by other state agencies. In a  
15 practical manner, the Committee can't implement the  
16 Committee's recommendation.

17 CHAIRMAN IMBRECHT: I'm not adversed to that  
18 change. I think it is a bit of semantical argument.

19 COMMISSIONER NOTEWARE: As a Presiding Member  
20 of that Committee, I would like to see that "and  
21 implement" out of there also.

22 CHAIRMAN IMBRECHT: Alright, fine. We'll  
23 take that as a friendly suggestion. I assume  
24 Commissioner Commons will agree to that modification of  
25 this motion. I will second it.

1           So, now we have before the Order as drafted  
2 with the two minor changes reflected that the Biennial  
3 Report Committee will handle publication as well as  
4 editorial and typographical changes. And the Biennial  
5 Report...the Intergovernmental Relations Committee will  
6 handle distribution and affected communication of the  
7 recommendations throughout to State service and other  
8 parties. Commissioner Commons.

9           COMMISSIONER COMMONS: Before you go to  
10 general public comment, Mr. Chairman, I would like to  
11 go over....

12           CHAIRMAN IMBRECHT: Yes. I was about to call  
13 upon you right now for your general comments.

14           COMMISSIONER COMMONS: ...to make a, I think  
15 a few procedural comments. One issue that had been  
16 discussed extensively in the hearings towards the end  
17 was: What is the appropriate procedure for handling  
18 siting cases that are currently before the Commission.  
19 And, there had been discussion that possibly due to  
20 equity reasons we should allow those cases to be heard  
21 under BR IV.

22           It was my viewpoint that the appropriate  
23 procedure for handling this type of issue is to go back  
24 to the law that created this Commission (the Warren-  
25 Alquist) and to review that law. And, the procedure

1 that ought to followed is the procedure of the Warren-  
2 Alquist Act. The Warren-Alquist Act makes it very  
3 clear that the Electricity Report that is outstanding  
4 is the basis under which a case ought to be sited. And  
5 so, if we were to adopt this Order today, then in any  
6 siting cases that would come up in the future, then the  
7 ER V would take precedence.

8           However, there is another provision of the  
9 Warren-Alquist Act which states that this Commission  
10 shall complete an AFC within a 12-month period. And,  
11 if there had been an extension of time, for example,  
12 mutually agreed by the applicant and by the Commission,  
13 it might have been 13 months. And that time cannot be  
14 extended without the agreement of both the applicant  
15 and the Commission.

16           It is my viewpoint and I believe the Legal  
17 Office confirms, that that would take precedence here  
18 since it is so specific over which BR would take  
19 precedence. And so, therefore, we have in the document  
20 the statement that this report would be the report that  
21 would be followed, unless in following the ER, it would  
22 result in the extension of time. Or the extension of  
23 time would be determined by the presiding member of the  
24 specific siting committee. And, if the presiding  
25 member were to find that, in using the procedures that

1 are outlined in here that it would result in extension  
2 of time, ER IV would prevail unless the applicant and  
3 the Commission were both to agree to an extension of  
4 time. I think the law in this case is being  
5 appropriately followed. And, it's also my belief that  
6 that is an equitable way that it ought to be done.

7 The other item I think it....

8 COMMISSIONER GANDARA: Mr. Chairman, I have a  
9 question. May I ask whether Mr. Commons would prefer  
10 that I hold my questions until the end of his preparatory  
11 comments or should I ask it now?

12 COMMISSIONER COMMONS: That's fine right now.

13 COMMISSIONER GANDARA: Okay. With respect to  
14 the phrase that says: "The Commission will apply the  
15 1983 Biennial Report Need Assessment." It seems to me  
16 that reference is unclear; in the 1983 Biennial  
17 Report's Need Assessment, there are two new components--  
18 there's capacity need and energy need that are, in  
19 fact, stated at the time of adoption.

20 Now if I were to read this that what would be  
21 used in those cases would be that need assessment, that  
22 would in fact be different on the need assessment that  
23 is used on the siting cases that are before us;  
24 because, that need assessment is the one that has been  
25 updated by resources likely to available so that in

1 contract in the demand forecast the need assessment is  
2 not stagnant. It is one that changes. So it is not  
3 quite clear to me what it is that you are referring to  
4 be used with respect to 1983 Biennial Report.

5 COMMISSIONER COMMONS: What we're referring  
6 to in terms of the 1983 Report is the whole process  
7 that is outlined as to how you conduct a siting case  
8 which would include--if part of that process there is  
9 to be an update of information based on changes or  
10 circumstances--and that is included as part of the  
11 procedures of that document and that would be  
12 incorporated. So, we're saying here that whatever the  
13 appropriate procedures for siting a case under BR IV  
14 were, those would be the procedures that would be used  
15 on any case that would be decided under BR IV after the  
16 date of the adoption of this proceeding if the  
17 presiding member and then the applicant, and the  
18 Commission did not agree to have such an extension.

19 CHAIRMAN IMBRECHT: Mr. Cohn, I believe, also  
20 had a comment on that.

21 MR. COHN: Commissioner Commons adequately  
22 covered it.

23 COMMISSIONER GANDARA: Well, it raises  
24 additional questions now with your explanation that, if  
25 that is what you intend the '83 need assessment and

1 even the updated need assessments, because of resources  
2 likely to be made available, the need is the difference  
3 between that which is forecasted and that is likely to  
4 be available. So in essence, that is dependent upon  
5 very critical variables which is the demand forecast.  
6 And, if you are making reference to that, then to some  
7 extent you are also making reference to dependents on  
8 the forecast in that document and now you run into a  
9 legal problem in that by statute we are required, in  
10 fact, use in a need determination, the latest adopted  
11 forecast, which was adopted a couple of weeks ago. So,  
12 how do you deal with that?

13           COMMISSIONER COMMONS: Alright, what I'm  
14 saying is that the latest adopted forecast.... If in  
15 applying the latest adopted forecast, it would result  
16 in a delay of a case that is currently before the  
17 Commission, and either the applicant or the Commission  
18 were unwilling to grant such a delay that that  
19 provision of the Warren-Alquist Act would take  
20 precedence and the case would be decided upon the  
21 demand forecast and the siting procedures that are  
22 outlined in the 1983 Biennial Report which includes the  
23 Electricity Report.  
24  
25

1           COMMISSIONER GANDARA: You can't do that. We  
2 can't, by policy, override the statute. The statute  
3 says use the last adopted forecast.

4           COMMISSIONER COMMONS: The statute also states  
5 that this Commission must complete a case within 12  
6 months unless the applicant and the Commission were to  
7 grant an extension. Where you have a situation of a  
8 case that could be coming before the Commission the  
9 same day or in a two-week or very short period,  
10 following the adoption of a forecast, it is very  
11 possible to integrate and incorporate that forecast  
12 (which would require the reopening of the hearings)  
13 would in fact, in essence, delay that siting case. And  
14 the Warren-Alquist Act is very specific in that we are  
15 not allowed to delay a siting case without the joint  
16 approval of an applicant and of the Commission.

17           COMMISSIONER GANDARA: One last comment,  
18 then. The Warren-Alquist Act also is very clear. It  
19 says that you use the last adopted forecast. So what  
20 you are telling me is that, basically, you're proposing  
21 a policy that might create problems. If it creates  
22 problems, then we are not to chose between two courses  
23 of the Act which aren't consistent or would be made  
24 inconsistent by the application of the policy and that  
25 you are deciding to put a preference over one portion

1 of the Act over the other portion of the Act. I don't  
2 know that we can do that. But, I would say that a way  
3 to avoid this problem is to avoid what causes it to  
4 begin with, which would be siting policy. I know  
5 that's a problem and I don't want to raise that and  
6 create a discussion. All I'm calling to attention  
7 right here is that a proposal here called for a policy  
8 override of the statute. I don't think that that is  
9 legal.

10 COMMISSIONER COMMONS: No matter which way  
11 wer were to proceed....

12 CHAIRMAN IMBRECHT: Excuse me Commissioner  
13 Commons. I just think it's important to indicate that  
14 that has been subjected to legal opinion by the General  
15 Counsel's office. I think that the appropriate  
16 discussion would be to ask General Counsel's office for  
17 their explanation of their conclusions that were then  
18 reflected in the Committee recommendations.

19 Mr. COHN: I think that any case you have a  
20 dispute certainly reasonable people can differ; and,  
21 I'm not going to say that there aren't other  
22 alternative interpretations. But, bascially the  
23 opinion that I gave the Committee is consistent with  
24 what Commissioner Commons has stated and that is, where  
25 you have two statutory provisions which, if applied

1 together, would create a result that is impossible. In  
2 other words, they are inconsistent. Then, you have to  
3 do your best to harmonize those two provisions.

4 And in doing so, you want to ensure that  
5 we're still meeting the intent of the Act. And I think  
6 that what the Committee has proposed here is basically  
7 a recognition that, should you attempt to apply a new  
8 report at the 11th hour in a proceeding that has  
9 already gone through practically the entire phase of  
10 siting except final adoption, that it would not be  
11 appropriate to at that point delay the proceedings to  
12 bring in the new report. You could have a situation--  
13 --an extreme situation--where you essentially held the  
14 decision hostage while waiting for a new report to come  
15 out.

16 So, we have advised the Committee that this  
17 kind of clause would be appropriate and, I would add  
18 further that the suggestion that you made that we would  
19 apply only the demand forecast. But the rest of the  
20 need assessment from BR IV, I think, would be a  
21 tortured reading of the Act in that, the Act  
22 contemplates an integrated need assessment which  
23 integrates the demand and the supply decisions. And I  
24 think that what we want to do is have a situation where  
25 the entire Biennial Report for demand and supply

1 decisions are applied, or the entire Electricity Report  
2 5 decisions are applied. And, we don't want to have a  
3 situation where we would apply one or the  
4 other...excuse me, one part from one and one part from  
5 the other.

6 So in conclusion, it appears to me that this  
7 clause that's contained for interested members of the  
8 public who are wondering in ordering Paragraph 1, Page  
9 2 of the revised Order.

10 COMMISSIONER GANDARA: I don't want to carry  
11 this any further, but let me say that constitutes  
12 torture to me. Frankly, what I'm hearing is that if  
13 the lack of harmony in the statute is created by  
14 policy, then one harmonizes by choosing one other other  
15 action that doesn't really make a lot of sense to me  
16 and I don't want to carry it further. If the  
17 Commission wishes to rely on counsel's opinion then  
18 that's fine. In such situations that I've always  
19 indicated before, I pay by bar association dues, my  
20 opinion is as good as counsel's, and my judgments. The  
21 Commission is certainly free to follow whoever's  
22 opinion they would like.

23 CHAIRMAN IMBRECHT: Well, I think there are  
24 three of us on the Commission that also pay their bar  
25 association dues. And I was very interested the

1 General Counsel's interpretation of this prior to  
2 agreeing to put it forward as a Committee  
3 recommendation. I might say that the Counsel's  
4 interpretation is consistent with my recollection of  
5 conflicts in law, studies that I undertook and that  
6 this indeed reflects an appropriate resolution of two  
7 provision of the statute that in certain applications  
8 indeed can create a conflict.

9 COMMISSIONER GANDARA: But, the conflict's  
10 being created by policy not by another statute.

11 CHAIRMAN IMBRECHT: Well, I guess I would  
12 have to fundamentally disagree, Commissioner Gandara,  
13 and I guess that....

14 COMMISSIONER GANDARA: I would just say that  
15 comment that what we established here is certainly  
16 payment of bar association dues....

17 MR. PEREZ: Excuse me. Excuse me,  
18 Commissioner.

19 COMMISSIONER GANDARA: ...does not confer  
20 with them, it just remains to decide where that  
21 judgment falls.

22 CHAIRMAN IMBRECHT: I have discovered very  
23 few discussions amongst attorneys that generally  
24 produce 100% agreement. And I will add another legal  
25 opinion, I assume.

1 MR. PEREZ: No, I'm going to clarify one  
2 thing. I guess I'm the only attorney sitting here  
3 who's going to admit that the people of California pay  
4 my bar dues.

5 (LAUGHTER)

6 But, what I do want to say on this point is that my  
7 recollection....

8 CHAIRMAN IMBRECHT: I think all of us  
9 could.... I think I could avail myself with that;  
10 because, I'm the attorney member of the Commission.  
11 But....

12 MR. PEREZ: My recollection -- and I'm  
13 raising this with Commissioner Crowley -- is that your  
14 Committee and the Geysers 21 proceedings did, in fact,  
15 request a specific a General Counsel's opinion on the  
16 question of the application of the need test to your  
17 AFC. Is that recollection correct? And I was  
18 wondering perhaps that would assist the full  
19 Commission, depending upon what the General Counsel  
20 concluded in that opinion. It dealt specifically with  
21 with a siting case. It addressed specifically the  
22 question of how to apply the most recently adopted  
23 forecast and perhaps Mr. Chamberlain could share it  
24 with the public today.

25

1 MR. CHAMBERLAIN: It's been a little while  
2 since I read that opinion in detail. But, I do recall  
3 that it is consistent with the advise given to you by  
4 Mr. Cohn. I think the concept here is that when you  
5 look at this statute as a whole, the statute says that  
6 the need determination is to be made based on the most  
7 recent report. That's correct.

8 But, the Legislature must have known when it  
9 made that statement that the siting cases have to be  
10 conducted in a way in which all of the evidentiary  
11 hearings can have been completed--the Presiding  
12 Member's Report out for comment. And the only thing  
13 left to be done is the final recommendation of the  
14 Committee and adoption by the Commission. And the  
15 deadline for a siting case could be coming up within a  
16 very short time after adoption of a new integrated need  
17 assessment. And I don't believe that the Legislature  
18 intended to require the Commission to modify its  
19 integrated need assessment to basically sculpture it in  
20 a way that would take care of these kinds of problems,  
21 but rather to allow it to do the best job that it could  
22 and still, though, to decide its cases in accordance  
23 with the evidentiary hearings and the evidentiary  
24 record that's been created in those cases. And, I  
25

1 think that was basically the thrust of the Geysers 21  
2 Order.

3           CHAIRMAN IMBRECHT: I just...and while it's  
4 always difficult to offer Legislative intent  
5 interpretations, I'll just note what irrelavent  
6 amendments have occurred in the Warren-Alquist Act  
7 since its original adoption by the Legislature. It  
8 seems to me, in a number of areas, have tended to  
9 reiterate the Legislature's concern about the  
10 Commission completing its siting proceedings in a  
11 timely fashion. In fact, some of those subsequent  
12 reiterations have actually shortened timeframes and so  
13 forth for various types of proceedings for us which I  
14 read to suggest that there is a strong concern that the  
15 Commission, indeed, provide a timely decision-making  
16 process for consideration for these kinds of siting  
17 applications.

18           COMMISSIONER GANDARA: Could I ask the  
19 General Counsel to make available to us before we  
20 dispose of this matter, the opinion that he prepared on  
21 behalf of the Committee so that, at least, I could  
22 ascertain for my own judgment, whether it's consistent  
23 or inconsistent with the advise being given to us right  
24 now.

25

1 MR. CHAMBERLAIN: Actually, I think if I  
2 recall correctly, the document in Geysers 21 was  
3 prepared by the Hearing Officer and was a Committee  
4 Order. Then, there was a request by the CCPA Committee  
5 to prepare a General Counsel's Opinion which I did  
6 prepare and which I believe was consistent with the  
7 Geysers 21 Order. I can provide both of those  
8 documents to you, if you wish.

9 CHAIRMAN IMBRECHT: Commissioner Crowley.

10 VICE CHAIR CROWLEY: We, as well, asked for  
11 an opinion for Geysers 21, as I recall. I could be  
12 wrong, but, however.

13 CHAIRMAN IMBRECHT: Well, seems to me that it  
14 might be useful if we could try to, now, turn to  
15 substantive discussion of all these items, since we  
16 always seem to consume a lot time in procedural  
17 discussions. Commissioner Commons.

18 COMMISSIONER COMMONS: Okay, assuming that  
19 the Commission takes an action on the Electricity  
20 Report, and specifically the siting policy, if it's  
21 alright with the rest of the Commission, my intent  
22 would be that the Siting Policy Committee would conduct  
23 one and probably two workshops in the northern part of  
24 the State and in the southern part of the State to the  
25 through some mock-up examples of a case or cases and go

1 through how an applicant would come in a present  
2 testimony on the need conformance aspects of the siting  
3 case.

4 I think it would be helpful both to  
5 applicants and the staff in terms of identifying any  
6 problem areas and trying assist those whose parties are  
7 gonna be coming before the Commission as to how to  
8 prepare their submittals so that we can have expedited  
9 proceeding under the policy.

10 Then going to the substance, I think the main  
11 comments, I would like to make, Mr. Chairman, concern  
12 Appendix 5.3 which has been appended. As many of you  
13 are aware, in all of the public hearings, there have  
14 been significant request that the Committee and, thus,  
15 the Commission describe the basis and rationale in  
16 terms of how we have allocated the preferred resources,  
17 those that are being reserved. And it is the purpose  
18 of Appendix 5.3 not to...in the Biennial Report which  
19 we are incorporating that section, the methodology used  
20 to determine what ought to go in the boxes as detailed.  
21 What 5.3 does, is it chose the rationale of the  
22 Committee and, if adopted by the Commission, of the  
23 Commission in terms of how we do that. I would like to  
24 spend about five minutes going over it.

25

1           The first is that the Commission would be  
2 giving the largest reserve preference to cogeneration  
3 projects. And that would be approximately 900 MW; and,  
4 that would be in two components. The first would be  
5 for those small projects of under 5 MW. We would be  
6 allocating 250 MW. These are very important projects  
7 to our manufacturing community. It's very important  
8 for the overall economic health of the State that these  
9 type of cogeneration projects have the strong  
10 endorsement in support of our Commission.

11           The Commission is also reserving 650 MW for  
12 other cogeneration projects. And within this, the  
13 Commission is stating that they're going to have a  
14 preference for those cogeneration projects which are  
15 significantly more efficient than the minimum level  
16 necessary to qualify under PURPA and in which the  
17 ratepayers are protected from the risk of increased oil  
18 and natural gas prices.

19           The purpose of adding that is that we have a  
20 potential probably of 5,000 megawatts of projects or  
21 more of cogeneration; and, there is an attempt here to  
22 show where we have a preference for cogeneration  
23 projects. And those are two of the criteria. The  
24 Chairman has correctly identified that the  
25 Commission's, actually, largest allocation in terms of

1 resources is not for cogeneration but is for  
2 conservation which is 1,380 MW. But, for generating  
3 facilities, the cogeneration would be the largest.

4 The second of the generating resources, the  
5 second largest allocation is to geothermal. And this  
6 appendix describes how we have very strong support for  
7 the dry vapor steam resources from the Geysers. And  
8 that is despite the fact that Northern California does  
9 not appear to need baseload facilities. And we go into  
10 fairly great detail as to why we think those resources  
11 are important and should be incorporated in the Twelve  
12 Year Plan and why we want to see the steam resources  
13 developed in the Geysers area.

14 At the same time we are including within the  
15 geothermal, we're including the liquid resources that  
16 are primarily in the Salton Sea. We recognize that in  
17 the next two-year period that a significant amount of  
18 the reserve component that we have identified will not  
19 be developed and that we will not receive AFCs. But  
20 we're talking about a resource here of some 7,000 MW.  
21 And, over the long run this resource, particularly in  
22 the southern portion of the State represents one of our  
23 greatest potential areas for reducing our dependence on  
24 oil and gas in the south. And, we are very hopeful  
25 that this will be a very cost effective resource to

1 add. And so we have taken and used the reserve  
2 preference to incorporate both the dry and the liquid  
3 geothermal resources.

4 I'm not going to run through all of them.  
5 I'll just take, I think, some of the significant. On  
6 the AC and DC lineup grades, the...I think the  
7 Commission is taking what I would characterize as a  
8 prudent and conservative viewpoint. And what we are  
9 doing is, we're identifying a reserve for 650 MW. And  
10 this is based on the expectation that the investor-  
11 owned utilities' share will be for firm capacity  
12 contracts and that the other participants in the  
13 projects will not have firm capacity contracts. So,  
14 the number that we have arrived at here of 650 is based  
15 on the investor utilities' expectations of having firm  
16 capacity contracts.

17 CHAIRMAN IMBRECHT: Let me offer a slight  
18 modification to that expectation that the other parties  
19 may not necessarily have firm capacity contracts to  
20 justify their participation in the line. I think that  
21 some of them certainly desire to have firm capacity  
22 contracts. And, I wouldn't want to leave the  
23 implication that we would think that that was  
24 inappropriate for them.

25

1           COMMISSIONER COMMONS: That's correct. And  
2 the Appendix states that there would be an adjustment  
3 if the number goes up or down in terms of actual  
4 contracts that are entered into.

5           CHAIRMAN IMBRECHT: That is consistent with  
6 testimony we've had from some of the public  
7 participants in these projects that suggest that firm  
8 capacity alone would not be necessary to justify their  
9 continued participation.

10          COMMISSIONER COMMONS: The Commission also  
11 identifies the biomass and MSW projects as ones which  
12 we are reserving and the wind and the solar.

13          Moving to the hydroelectric, the Commission  
14 is taking the position that in terms of reserve need  
15 the small hydroelectric projects of under 30 MW would  
16 be for retrofit projects. For run-of-the-river  
17 projects, the Commission is only saying here that we're  
18 not calling out a reservation in terms of a preference  
19 for these projects and that these projects would heard  
20 like other projects under the unspecified reserve need  
21 or other test by the Commission. We are not  
22 considering them as ones that we're calling out a  
23 specific reservation for.

24          The Commission is also allocating a very  
25 significant number, close to 1,700 MW, to unspecified

1 reserve need in order to ensure flexibility in the  
2 siting process. It is not the intent of the  
3 Commission to allocate all of the needed resources to  
4 specific areas. And so, we're leaving this portion  
5 unallocated.

6 We show the approximate amount of energy that  
7 is going to be required of 28,000 GWh. The Oil and Gas  
8 Displacement Policy is such that it is our hope that we  
9 can actually displace more oil and gas. And that the  
10 siting policy is set up so that, if we get good  
11 projects that come before us, we can actually achieve  
12 more than that. So the 28,235 GW does not establish a  
13 maximum; it establishes what is our minimum goal in  
14 terms of fuel displacement.

15 Clearly if we start going down too low in  
16 terms of oil and gas, that also has an important  
17 element of our overall diversity and that that could  
18 become an issue. But the 28,000 does not represent a  
19 cap; it represents the minimum that we're trying to  
20 seek. It also.... We're saying at the same time the  
21 Commission recognizes that both the preferred resource  
22 concept as modified from previous reports of the  
23 Commission has been extended here and so has the policy  
24 in terms of the siting policies.

25

1           And so we're encouraging that the ER VI  
2 Committee review how the various tests and conditions  
3 are working and to make recommendations in subsequent  
4 Electricity Reports as to how remove some of the bumps  
5 that are likely to appear anytime that you make some  
6 changes. And so we encourage the ER VI Committee to  
7 follow and to see if we can improve on this in the next  
8 cycle. That, Mr. Chairman, concludes my comments.

9           CHAIRMAN IMBRECHT: Thank you, Commissioner  
10 Commons. Mr. Ward, do I understand the staff wish to  
11 make a presentation at this point and time?

12           MR. WARD: It's entirely up to you, Mr.  
13 Chairman. We're prepared to make a presentation on the  
14 Biennial Report and summarize the recommendation, if  
15 that's the will of the Commission.

16           CHAIRMAN IMBRECHT: We'll turn to that after  
17 we've completed this consideration.

18           MR. WARD: I don't think we have anything  
19 further to add to Mr. Commons' elaboration on  
20 Electricity Report.

21           CHAIRMAN IMBRECHT: Alright. With that we'll  
22 turn to public testimony, if there are no questions of  
23 Commission Commons, members of the Commission.  
24 Commission Gandara?

25

1           COMMISSIONER GANDARA: I have no questions of  
2 Mr. Commons. I just have a comment to make that I wish  
3 that parties who are going to comment might address and  
4 that is to declare my intention. As you know, I have  
5 been concerned about the schedule and the ability to be  
6 able to absorb and understand some of these changes.  
7 So, I intend to move that the Commission finalize its  
8 actions today with respect to these documents that, in  
9 fact, they produce a final set of documents.

10           I think we have that that for the Electricity  
11 Report--the changes. They are incorporated; but,  
12 probably you have a far greater changes with respect to  
13 the Biennial Report and that there's still this element-  
14 -uncertain element--of this Draft ER that is in  
15 existence and that I intend to ask the Committee to  
16 consider--the Commission to consider--in fact, putting  
17 this decision on a different track. And that is, after  
18 finalization of these documents, to distribute to  
19 interested parties, to hold at least another hearing to  
20 receive a final set of comments those final documents,  
21 and that you ask the Committee and Commissioners to  
22 refrain as much as possible from making any additional  
23 changes to that so that we can receive comments on that  
24 and that we, perhaps, move to adopt the documents  
25 around June 10, June 12th. That's the soonest that I

1 can contemplate, given that we were provided reasonable  
2 opportunity then for some adequate processing and  
3 consideration of these documents.

4 I realize that's a different schedule than  
5 what we have here; but, we have now been holding  
6 hearings since April 29th with the expectation that every  
7 one of those hearings we're going to adopt something.  
8 And, because it was with that expectation of adopting  
9 something the basic issues have never really been fully  
10 addressed and it's more have been the nature of the  
11 very specific changes that have come before us.

12 Again, perhaps, the Commission does not share  
13 my view. But, since it is my attempt to move that, I  
14 would appreciate any public comment to, perhaps, also  
15 address the issue of whether they feel there will be a  
16 benefit to such a modification in the schedule.

17 CHAIRMAN IMBRECHT: That's fine. I just  
18 would note that we are already past the statutory  
19 deadline for adoption of the Biennial Report. And, I  
20 think that assumes consideration of the Electricity  
21 Report, as well. And those extensions were  
22 contemplated and discussed, negotiated, etc.

23 In reference to your expressed concerns  
24 earlier, I ask that. I feel, frankly, that  
25 accommodations have already been made as to your

1 concerns about sufficient time. And I also believe  
2 that substantial efforts have been made to provide  
3 opportunities for discussion on these issues which, in  
4 most instances, have not been taken advantage of which  
5 make it difficult for me to understand the rationale  
6 for further extension, particularly one of the duration  
7 that you are suggesting.

8 In any case, parties are certainly invited to  
9 respond to Commissioner Gandara's request. First, I  
10 would like to call Mr. Mike Gardner, representing  
11 Southern California Edison.

12 MR. GARDNER: Thank you, Mr. Chairman,  
13 Commissioners. Mike Gardner, representing Southern  
14 California Edison. I'd like to keep my comments very  
15 brief this morning.

16 First I would like to thank the Committee and  
17 the Staff for all the time that they've put in on this  
18 fairly mammoth project. I think people have been  
19 generally very receptive to the comments and concerns  
20 of all of the parties. I think there has been a  
21 genuine effort to attempt to accommodate everybody's  
22 concerns and address them. By and large, all of our  
23 concerns have been addressed. We appreciate that very  
24 much.

25

1           We have one remaining concern which is,  
2 really, how the reserve need process will work in the  
3 future. I've read the language that was recently added  
4 explaining how the process is intended to work. I  
5 think the one caution that I would like to leave you  
6 with is don't assume that the proper thing to do is to  
7 take the reserve need or box concept and make it more  
8 complex and, perhaps, a finer level of detail as we go  
9 into the future.

10           There are a wide range of possibilities for  
11 what may be appropriate next time around or two or  
12 three iterations down the road, ranging all the way  
13 from a much higher level of detail to much less detail.  
14 And, I would just caution the Commission, let's not  
15 assume now what is appropriate for the future. Let's  
16 see how this works and go forward from there.

17           With respect to Commissioner's Gandara's  
18 request on a reaction to potentially delaying final  
19 adoption, we would leave that at the discretion of the  
20 Commission. We would object to a delay nor would we  
21 ask for one. I think in seeking perfection, you can  
22 always use more time; but, balancing--there are other  
23 things to do with that time. So from our viewpoint,  
24 that is really a Commission's discretion. And we will  
25 go along with whatever the Commission would like to do.

1           CHAIRMAN IMBRECHT: Thank you. I just offer  
2 a couple of responses to that. I think it is.... I  
3 certainly have tried to and I know Commissioner Commons  
4 has in the multitude of hearings we have held through  
5 the ER and BR process from one end of the State to the  
6 other, to emphasize the fact that this approach to  
7 dealing with the dilemma facing the State as to far  
8 more energy resources being available than that which  
9 we believe, ultimately, will be needed over the  
10 forecast period, that we are not attempting in this  
11 iteration or this evolution of Commission policy  
12 (assuming it's adopted) to circumscribe our discretion  
13 to the point that we are dealing with an inflexible  
14 process.

15           We see.... I certainly see this next 15 or  
16 16 months before the ER/BR VI efforts will be nearing  
17 conclusion as a transition period. And, one of the  
18 reasons that we have attempted to build substantial  
19 flexibility into the reserve need concept is to ensure  
20 that we don't have such a level of detail as you  
21 suggested, that we find ourselves substantially  
22 constrained in terms of carrying our public  
23 responsibilities.

24           We have also included in the Appendix a very  
25 clear statement that we anticipate this policy to be

1 fully re-examined in the context ER/BR VI hearings and  
2 public review and, in essence, to critique it and  
3 improve it, reject it or whatever might be the  
4 appropriate discretionary decision of the Commission at  
5 that point and time.

6 I don't think that any of us, as we move into  
7 this, suggest that it is a perfect iteration of or  
8 response to the problem involved. And yet, the  
9 question that I have to return to repeatedly is, in  
10 fact, the alternative which is contention of the status  
11 quo and, in essence, a filling of all need based  
12 exclusively upon a first come/first serve application  
13 process--genuinely, one that best serves the short- and  
14 long-range interests of the people of the States.

15 My general conclusion in joining with the  
16 Committee recommendation to bring this proposal forward  
17 as that is not the case. And, that's why we are  
18 attempting to provide, in essence, a tool in a  
19 transition to try to see how we can better resolve some  
20 of dilemmas and ensure that the long held policy of  
21 this Commission and, in turn, adopted through the  
22 appropriate mechanisms by the State that we seek to  
23 substantially diversify the resource mix upon which we  
24 rely in California that, in fact, that diversification  
25 occurs and that we pay more than simply lip service to

1 a policy which, I believe, there is consensus on as to  
2 its positive impacts in terms of serving the people of  
3 California.

4 I have my own concerns that, absent some  
5 effort to try to gain control of what has been  
6 occurring and that, in essence, we will not be pursuing  
7 diversification. And, in fact, we may find ourselves  
8 with a system that is heading towards a level of  
9 imbalance and not unlike that which affected the State  
10 in the '70s and resulted in the substantial rate  
11 increases that all of our citizens had to deal with in  
12 all of our industrial and commercial sectors as well.

13 MR. GARDNER: We certainly understand, Mr.  
14 Chairman. And as we've indicated during course of the  
15 proceeding, we do not think it appropriate to fill the  
16 entire twelve years worth of need during the life of  
17 this Biennial Report. We do understand why you are  
18 doing what you're doing. Thank you.

19 CHAIRMAN IMBRECHT: Thank you. Further  
20 comments or questions for Mr. Gardner? Thank you, Mr.  
21 Gardner.

22 It's a little unclear to me from the other  
23 card I have whether individuals wish to actually  
24 comment on the motion that is before us. I have three  
25 other cards -- Mr. Heath, maybe you can help me here

1 -- that to indicate that they want to discuss Item 11.  
2 But I'm not sure that there was clear understanding on  
3 that. Here is an Item 10: Mr. Geringer, representing  
4 the California Farm Bureau Federation. Maybe I can  
5 just ask Mr. Thompson, Mr. Kraemer and Ms. Cooley if  
6 they can indicate to me whether or not they wish to  
7 discuss the Biennial Report or the Electricity Report.

8 MR. THOMPSON: My name is Allen Thompson, Mr.  
9 Commissioner, representing Gilroy Foods. We wish to  
10 take a couple of minutes and discuss the suggestions of  
11 Commissioner Gandara's and Commissioner Commons' on the  
12 Electricity Report.

13 CHAIRMAN IMBRECHT: Alright fine. You're  
14 next, in that case. Mr. Thompson, please come forward.

15 MR. THOMPSON: Thank you very much for giving  
16 me the opportunity to make some of the views of Gilroy  
17 Foods known. Gilroy foods may occupy a somewhat unique  
18 place in front of this Commission right now as, I  
19 believe, it is the application that is furthest along  
20 in the pipeline, if you will. It's a 120 MW  
21 cogeneration facility that will be located in Gilroy,  
22 California.

23 The Commission accepted the AFC of Gilroy  
24 Foods some eight months ago. And prior to that time  
25 and since that time, we have been struggling with the

1 need issue as it relates to the Gilroy Foods facility.  
2 I might add that the facility actually began  
3 preparation within Gilroy Foods--the planning  
4 functions, the engineering functions--back in 1982.  
5 And to date, Gilroy Foods have spent some 1.8 million  
6 dollars on the certification effort on the engineering  
7 required for that effort as well as the permitting  
8 effort.

9           When Gilroy Foods submitted the AFC, the need  
10 analysis was based upon the 1983 Electricity Report.  
11 We had some questions regarding the implementations and  
12 the proper interpretation of that report. For example,  
13 my reading of the '83 report made it unclear to me how  
14 the Fuel Displacement Policy was to be interpreted vis-  
15 a-vis utilities or cogeneration facilities.

16           My reading of the Report indicated to me that  
17 the '83 Report contemplated that the Fuel Displacement  
18 Policy would apply to utilities. But, it was unclear  
19 whether or not it would apply to cogeneration  
20 facilities. In the portions of the '83 report where  
21 the Fuel Displacement Policy is discussed, there are  
22 numerous statements made that cogeneration was to be  
23 encouraged by the Commission at the same spot. And I  
24 thought, given those apparent inconsistencies and how  
25 it later developed, my reading was that the Fuel

1 Displacement Policy applied to utilities and not the  
2 cogenerators.

3           Having been brought up short by the Geysers  
4 21 Report that came out earlier this year, we began to  
5 scramble and reassess the need for the facility given  
6 the guidance that was in the Geysers 21 Reports. We  
7 presented further evidence in front of our Committee  
8 which consist of Commissioner Gandara and Commissioner  
9 Crowley and I think made a decent case that that  
10 facility is needed. We are now faced with four months  
11 before the 12-month statutory deadline and are looking  
12 at some concentrated work following this Commission's  
13 actions today.

14           We are not hesitant about going forward and  
15 doing the work and evaluating the need for the facility  
16 under the to-be-voted-out Electricity Report. But I  
17 would like to offer a little caution, if you will, for  
18 a facility such as Gilroy Foods, who find themselves  
19 with heavy expenditures and whose project was planned  
20 and documentation submitted under what I think we would  
21 all admit was a different energy scenaro even a year  
22 and half or two years ago.

23           We are attempting to, and I think we will,  
24 show that the project will be needed under both the  
25 1983 and 1985 Electricity Reports. But, again, I would

1 hope that the Commission uses its discretion and views  
2 the applications that come before you in the short  
3 term, those of us that are in the pipeline with the  
4 special circumstances of those projects in mind.

5 With regard to the suggestion by Commissioner  
6 Gandara, I'm hesitant to oppose it knowing that he's  
7 our Presiding Commissioner. But, I believe that for  
8 project we can do the analysis that I think is  
9 necessary in the short amount of time to go forward. I  
10 realize that I'm suggesting somewhat for...making a  
11 plea for flexibility that I believe that the Commission  
12 has in evaluating projects, at the same time is  
13 requesting a set of rules which applicants such as  
14 Giliroy Foods can follow.

15 Finally, Commissioner Commons made the  
16 suggestion that projects be evaluated on efficiencies  
17 which may be greater than statutory efficiencies, at  
18 least I think that was the jest of the Commissioner's  
19 remarks. And, I would only say that there are a number  
20 of ways to look the efficiency of a particular project  
21 and plant. In Gilroy Foods' situation, we would view  
22 efficiency as one that contemplates the efficiencies that  
23 are inherent in the industrial process that will be  
24 covered by the cogeneration facility as well as the  
25 electric side of that equation.

1 Mr. Commission, that is all I have I thank  
2 you for your time.

3 CHAIRMAN IMBRECHT: Alright. thank you.  
4 Questions.

5 COMMISSIONER GANDARA: Yes.

6 CHAIRMAN IMBRECHT: Commissioner Gandara.

7 COMMISSIONER GANDARA: I have just one  
8 comment. Let me assure, you Mr. Thompson, there are no  
9 consequences to the free expression of your ideas. I'm  
10 a strong believer in the pure form of the first  
11 amendment and that, frankly, is an economic  
12 marketplace. I believe it was Holmes who once said  
13 that the public light discussion is the best  
14 disinfectant for bad idea.

15 MR. THOMPSON: Thank you very much, Mr.  
16 Commissioner. I never doubted it for a minute.

17 (LAUGHTER)

18 MR. COHN: I trust that applies to you  
19 Hearing Officer, as well.

20 (LAUGHTER)

21 COMMISSIONER COMMONS: There are exceptions.

22 COMMISSIONER GANDARA: It applies to hearing  
23 officers.

24 CHAIRMAN IMBRECHT: Okay, I think it should  
25 be obvious. Actually, there are several other projects

1 that substantially further along the pipeline then even  
2 Gilroy. And as evidenced from our discussion earlier,  
3 that's something that we have attempted to be sensitive  
4 to. Okay, does Mr. Kraemer wish to comment  
5 further....

6 MR. KRAEMER: No Sir, I'll....

7 CHAIRMAN IMBRECHT: ...on behalf of Gilroy?  
8 Thank you. Alright. Next, Mr. Jeff Ayers representing  
9 Southern California Gas Company.

10 MR. AYERS: Thank you, Chairman. My name is  
11 Jeff Ayers, representing the Southern California Gas  
12 Company. I'd just like to make a brief statement  
13 regarding the ER and BR process.

14 The Southern California Gas Company has  
15 conceptual concerns about the Energy Commission's many  
16 unclarified gas displacement recommendations, such as  
17 what is now the BR V Committee's Recommendation 8,  
18 which urges the Energy Commission to "...continue to  
19 facilitate development of California's indigenous and  
20 renewable energy technologies." Though, perhaps,  
21 desirable to a degree, this recommendation is  
22 representative of the potentially costly actions the  
23 Commission espouses without apparent support of the  
24 economic analyses necessary to assure the least cost  
25 resource plan for California utility ratepayers.

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1 Likewise we would concur with the California Public  
2 Utilities Commission concerns with the Energy  
3 Commission's proposed siting approach which  
4 incorporates predetermined reserve need categories  
5 something along with what Edison has already spoken to.

6 Absent a long range integrated cost benefit  
7 study, the many options available for the future  
8 resource mix of California, there is little assurance  
9 that the reserve need categories and level selected are  
10 in the best interest of California's combined electri-  
11 city and natural gas ratepayers. We, unfortunately,  
12 were not able to get a copy of volume 2. I would have  
13 to assume that appendix 4.5 is in that volume. We  
14 haven't had a chance to study that appendix which is  
15 said to provide the summary of the methods and analyses  
16 used to to derive these reseve needs.

17 That's one of the problems we have. And, as  
18 long as I'm at this point, I might go to Commissioner  
19 Gandara's recommendation. The Gas Company certainly  
20 would not oppose that recommendation; we could  
21 certainly use the additional time to review the  
22 documents. However, we don't have a strong stance in  
23 support of the recommednation either.

24 Going on. By encouraging new diversified  
25 electricity resources, without a careful cost benefit

1 analysis, the Commission may increase both electricity  
2 rates and natural gas rates. We see no indication that  
3 these inter-utility price and risk concerns were  
4 evaluated when the reserve need categories were  
5 determined.

6           However, it appears that the California  
7 Energy Commission staff is already aware of the need to  
8 give special consideration to the economics of further  
9 gas displacement. The staff's document titled "The  
10 Need Increment Policy and Siting Implementation,"  
11 prepared for the March 7th BR V hearing, recommended on  
12 Page 14 that "An economic test needs to be designed for  
13 those facilities which would further displace oil and  
14 gas usage in existing utility facilities." The  
15 Southern California Gas agrees that such an economic  
16 test is needed.

17           Anticipating the development of this economic  
18 test, SoCalGas recommends that an addition condition be  
19 added to each of the Commission's need test, in Section  
20 5.3 of the Electricity Report. Our recommended  
21 language, and it's short here, is as follow: "The  
22 proposed facility must be in the economic best interest  
23 of the service area's combined electricity and natural  
24 gas utility ratepayers as determined by the Commission.  
25 A standard economic test will be developed for this

1 determination. Such an addition does not require an  
2 alteration to the reserve need categories or amounts at  
3 this time. Nor does it require a new gas displacement  
4 policy, if the Commission wishes to defer  
5 reconsideration of these issues for another planning  
6 cycle. However, it assures that gas displacement will  
7 be pursued only if it can be done to the economic  
8 advantage of all utility ratepayers."

9 To reflect the intent of this change in the  
10 proposed Energy Plan, we recommend that the last  
11 paragraph on Page 3.7 be changed to read as follows:  
12 "There are other factors which must be considered in  
13 addition to load growth in determining the need for  
14 additional energy supplies and at tenant facility.  
15 These factors are retirements, reserve margins,  
16 contract changes, and a strategic need to increase the  
17 diversity of their resource mix and reduce the  
18 dependence on oil and natural gas for electric  
19 production. Where it is to the economic advantage of  
20 all utility ratepayers."

21 Thank you.

22 CHAIRMAN IMBRECHT: Thank you, I got a couple  
23 of comments. But, I will let Commissioner Commons lead  
24 off.

25

1           COMMISSIONER COMMONS: I just have one short  
2 comment, Jeff. The tests are actually broader than  
3 what you are suggesting. We recognize that there are  
4 many needs to construct new facilities and that there  
5 are many considerations--not just the electricity  
6 ratepayer and as you're suggesting the natural gas  
7 ratepayer--who, as far as we're concerned, I pay both  
8 bills; and, they are equally important. But, actually,  
9 the test go broader. We're looking at MSW projects  
10 where we have to take into consideration the landfill  
11 cost, the whole toxic waste problems that could be  
12 associated.

13           There are companies that are coming before us  
14 where they need to have project sited in order to  
15 comply with air pollution plans within their specific  
16 air pollution districts. The test, as you read, it  
17 could preclude this Commission from siting some  
18 facilities that would be in the economic interest of  
19 this State that they be constructed. And, that's why I  
20 could not support, what I would consider, the  
21 restrictive language.

22           I think you're intent in terms of making sure  
23 that in the process that we look not just at the  
24 electricity ratepayer, that we look at all utility  
25 ratepayers. That is incorporated in terms of how we're

1 looking at this. But the language that you would be  
2 proposing would be restrictive. And, that's why I  
3 could not support the specific language that you're  
4 suggesting.

5 MR. AYERS: There's no intent, I assure you  
6 Commissioner Commons, to be restricted in any way.  
7 What we want to do is to be as flexible and as broad  
8 (if I can put it that way) as possible and to assure  
9 that this economic analysis is done for all future  
10 siting of whatever facilities. But that natural gas  
11 (and we've said this before) is evaluated on this level  
12 playing field, if you will. It is give the like  
13 consideration to MSW or whatever type of siting that  
14 you may be involved in.

15 COMMISSIONER COMMONS: We have the balance of  
16 the five tests of Warren-Alquist, I would incorporate  
17 that the natural gas ratepayer is part of that just  
18 like the electricity ratepayer is. It's my belief that  
19 the jest of your comment is incorporated in terms of how  
20 the tests are being applied.

21 MR. AYERS: Thank you.

22 CHAIRMAN IMBRECHT: I just want to followup  
23 on a couple of those points since your comment  
24 reflected sort of a broad application, both in terms of  
25 a recommendation that will be before us later in terms

1 of the Biennial Report and also in terms of Gas/Oil  
2 Displacement Policy. Let me offer a couple responses.

3 First, you, I know, are aware that one of the  
4 obligations of this Commission is to look at the long  
5 range interests of the ratepayer. Or I should say, let  
6 me put it, rather than the ratepayer the citizen of the  
7 State and there does not seem to be substantial dis-  
8 agreement with forecast as to natural gas supplies that  
9 suggest that while we, in fact, do have a substantial  
10 surplus of natural gas supplies that are currently  
11 available; and, that by the mid '90s there is a  
12 reasonable likelihood that there will no long be the  
13 case. And that, I think, is an important consideration  
14 in terms of continuing to pursue a policy of  
15 diversification to ensure that, indeed, our ratepayers  
16 are insulated from the kind of rate shocks that have  
17 been occasioned in the last 10 years or so.

18 In addition, as Commissioner Commons briefly  
19 touched on, our statute calls out a series of tests  
20 beyond a simple economic test. If it were a simple  
21 economic test, there might be a different conclusion.  
22 But, we are also asked to look at resources; and, I  
23 might add that we specifically, in our orders in terms  
24 of developing reserve need concept and all the  
25 testimony that was taken from many hearings on this, we

1 specifically asked for testimony by fuel or technology  
2 resource that would relate to the five areas that the  
3 statute requires us to consider including public health  
4 and welfare and economic development of the State,  
5 cost, reliability or strategic considerations, and  
6 finally, enviromental benefits.

7           While cost is indeed an important  
8 consideration and one that, I think, from many of our  
9 perspectives probably is at the top of that list, we  
10 cannot be blind to the other considerations which the  
11 Legislature, the Governor have enacted the law and  
12 required us to take a look at. So on the context of  
13 the balance of resource allocations, it reflects a  
14 mirroring of all of those concepts brought into that  
15 consideration. That's why I would also have a full  
16 concern that to rely simply upon a cost test would not,  
17 in my view, be consistent with the statutory direction  
18 that we have.

19           In addition that whole question of potential  
20 reduction in surplus natural gas supply, finally calls  
21 for some consideration to some of the strategic issues  
22 you mentioned. We called for the developement of  
23 indigenous resources; because, we are very concerned  
24 about the fact that, also, our forecast suggests that  
25 we will find ourselves in a more dependent situation

1 for import of petroleum products, for example, in the  
2 mid '90s than we currently find ourself in and, again,  
3 a return to some of the difficulties we faced in the  
4 last decade.

5           Lastly, I just would note to you that on the  
6 positive side from this Gas Company's perspective,  
7 there is another recommendation that relates to one of  
8 the, in fact, I believe the largest potential expanded  
9 market for natural gas and that is the development  
10 terciary enhanced oil recovery systems. So I would  
11 have to suggest to you in looking at opportunities for  
12 your company and how it relates to the overall State  
13 that, at least, from my perspective there, is a balance  
14 of considerations included within the cumulative  
15 documents.

16           Anything further? Okay. Thank you very  
17 much. Next, Mr. Steve Geringer, representing the  
18 California Farm Bureau Federation.

19           MR. GERINGER: For the record, my name is  
20 Steve Geringer, representing the California Farm Bureau  
21 Federation. Basically, I have a few different comments  
22 I'd like to raise. First, I'd like to point out that  
23 we fully understand the difficulty that Commission has  
24 have in compiling the information and preparing these  
25 documents. However, there is some grave concern on our

1 part as to the timeliness and, basically, the  
2 inavailability of people to examine the revisions that  
3 appear to happen day by day and fully digest them to  
4 make proper comment.

5 I received a memorandum yesterday; it was  
6 mailed out on the 10th. And when I came here this  
7 morning, it's been determined that things in that have  
8 already changed. I understand the difficulty this  
9 Commission has. This document is rapidly becoming one  
10 of the most incoherent documents I've ever tried to  
11 read. Basically, everytime I come here I carry home  
12 more paper, and I'm not sure if I'll even need  
13 electricity this Winter. I can probably just burn most  
14 of the documents I've thrown out that have been  
15 revised.

16 COMMISSIONER COMMONS: Is that a  
17 recommendation for no further changes?

18 MR. GERINGER: No, I think....

19 CHAIRMAN IMBRECHT: You'll be competing with  
20 some of the some of the Farm Bureau's member biomass  
21 projects.

22 MR. GERINGER: How true. First of all, I'd  
23 like to comment on the aspects of the proposed Order  
24 that some of the other parties have and was the concern  
25 of the some of the Commissioners.

1           Basically, in the proposed Order there is  
2 language as to looking towards either using BR IV or BR  
3 V. It is the Farm Bureau's position, based upon the  
4 Warren-Alquist Act, Section 25502, which relates to  
5 siting and also the sections 25308, which specify that  
6 you are to use the latest adopted forecast. At this  
7 time, we have an adopted forecast.

8           It is our belief that that language cannot be  
9 more specific than it is. Well, it is true that there  
10 is a requirement to finish a proceeding within twelve  
11 months; and that, in some ways, does pose a conflict.  
12 I believe the reasoning by the General Counsel's office  
13 in its interpretation causes many problems.

14           First of all, what happens in this proceeding  
15 is not new to people who are involved in other  
16 proceedings before this Commission. This analysis has  
17 been going on for as long as those other proceedings  
18 are going on. Therefore, it is not really an eleventh  
19 hour or a surprize; because there are true indications  
20 during the whole Siting Policy exactly what's happening  
21 in the energy picture and what's going to be developing  
22 in the future.

23           As to the conflict between the two apparent  
24 statutes which tend to be opposed: the twelve-month  
25 requirements and using the adopted Electric Report, I

1 must point out that there are other language in the  
2 Warren-Alquist Act which definitely would give more  
3 weight to using the adopted demand forecast. And those  
4 are your concern for the siting of plants, as the  
5 Chairman has just stated, other than just cost basis;  
6 but also because of environmental and for public health  
7 and safety and the public welfare. Those are concerns  
8 that also weigh to using the most adopted, most recent  
9 and, supposedly, the most accurate demand forecast and  
10 siting procedures.

11 Therefore, to allow an applicant to make  
12 their choice as to which proceeding they would like to  
13 go under actually allows the applicant total  
14 flexibility to come in under one procedure; and, as  
15 staff counsel has stated, I would say, conversely, hold  
16 a decision hostage by suspending or waiting on the  
17 proceeding until they can decide which of the Biennial  
18 Reports they would rather use--the one they're under or  
19 a future Biennial Report.

20 Those are basically the comments that I would  
21 like to address as to the proposed language and the  
22 proposed Order. I am totally against that. I believe  
23 your mandate is to use the most recent adopted demand  
24 forecast; and as such, that would be the one that you,  
25 hopefully, will be adopting in the near future.

1           Turning to a couple of other aspects, one  
2 would be what has now appeared in the Appendice Volume  
3 2, which has now become Section 5.3, Preferred  
4 Resources. In that section, there is, first of all,  
5 some aspects to the table on Page 5.3-2 which I would  
6 like to bring to your attention. As of the memo that I  
7 received from the Commission yesterday, there was a  
8 footnote to that table which has now been removed,  
9 which showed that for the unspecified box, that as to  
10 the unfilled reserve need, there was 1,669 MW, which  
11 would relate to, according to the memo, 5,300 GWh.  
12 That amount has now been removed and that footnote has  
13 been taken out. I have some question as to why that  
14 was done.

15           Secondly, the question would also be that the  
16 5,300 GWh appears to be an extremely low capacity  
17 factor for the unspecified box. Further, when one  
18 totals up the analysis as to the gigawatt hours that  
19 are required, according to either table in....

20           CHAIRMAN IMBRECHT: Excuse me. Aan I just  
21 interrupt you. You're losing me in terms of the 300 MW  
22 capacity. All of your points up until then.

23           MR. GERINGER: Yes, in the memo that was sent  
24 out, dated May 10th, there is a table 4-12, which under  
25 'Unspecified Need,' shows that unfilled reserve need,

1 there's 1,669 MW. It has a Footnote E. And, Footnote E  
2 says, "An associated energy amount of 5,300 GWh is  
3 reserved for unspecified, unfilled reserve need total."  
4 Based on that, I'm assuming, and maybe incorrectly,  
5 that the amount in relationship to the 1,669 MW would  
6 be that it is anticipated to only produce slightly or  
7 than 5,000 GWh.

8 CHAIRMAN IMBRECHT: I think a recalculation  
9 on number 6,340.... No, Im sorry.

10 COMMISSIONER COMMONS: Let me respond to the  
11 question.

12 CHAIRMAN IMBRECHT: Commissioner Commons, why  
13 don't you take it.

14 COMMISSIONER COMMONS: When the Chairman and  
15 myself went over the memo, we had not that footnote in  
16 front of us. And, I had never approved having an  
17 allocation of the gigawatt hours to the 'Unspecified.'  
18 Rather, the methodology that was used by the staff in  
19 making that computation was to use the capacity factors  
20 for each of the reserve needs, and then to make a  
21 calculation as to what that would result in.  
22 Presumably, that allocation would be at the maximum,  
23 based on utilizing all of those facilities at their  
24 capacity factors. That results in an under-allocation  
25 to 'Unspecified' in terms of gigawatt hours.

1           Rather, what is appropriate is that we have  
2 28,235 GWh as a minimum that is required. Now, there  
3 is nothing here that would prevent the Commission, in  
4 terms of approving projects, that might result in  
5 31,000 or 34,000 GWh, if it turned out that it was in  
6 the economic interests of the state to have that amount  
7 of gigawatt hours approved. Because, it may displace  
8 more expensive resources.

9           By putting the control as to the unspecified  
10 or to cogeneration or to any single element, we're not  
11 able to have the flexibility that the Commission is  
12 wishing in terms of looking at the specific projects.  
13 And so, it made a distortion of the unspecified. And  
14 so, it's my office's request; and, the Chairman's  
15 office concurred. In fact, it's always been the  
16 Chairman's office's position that we should not have a  
17 gigawatt hour attached to any sub-element within the  
18 table.

19           CHAIRMAN IMBRECHT: That is an accurate  
20 representation. I think that reflects the Commission's  
21 staff position.

22           MR. GERINGER: Now, if I can point out, using  
23 basically the numbers from the 'Unfilled Reserve Need  
24 (the megawatt listed under the appropriate boxes), when  
25 you would total up the total gigawatt hours associated

1 with each of those categories and you would exclude  
2 'Unspecified' and 'Imported Power' completely from the  
3 gigawatt analysis, you would find out that based upon  
4 what is here in the boxes left, as I say, 'Imported  
5 Power' and 'Unspecified', that the state only needs  
6 approximately 7,000 GWh total, additional. Those need  
7 to come from, or can come from either 'Unspecified' or  
8 from 'Imported power.'

9 Imported power, as defined in this same  
10 appendix, would be the firm capacity. And since it is  
11 firm capacity, I think it would reasonable to consider  
12 that some degree of this firm capacity of the 650 MW  
13 should also contribute gigawatt hours. In doing such,  
14 you're either at or extremely close to everything that  
15 you need for the entire state without ever getting into  
16 the box of unspecified.

17 I'd like to raise this simply for the  
18 Commission's notice. Because, not only are you  
19 potentially, by the allocations you have listed here  
20 for closing what could come in unspecified, you're  
21 talking about a number of cogeneration facilities--your  
22 number of approximately 2,000 MW. And, as we know from  
23 the evidence that's been presented, that between now  
24 likely-to-be-available and what is in the unfilled  
25 reserve need in the future, there is significantly

1 more, just in the PGandE service area, than 2,000 or  
2 potentially 2,000 MW cogeneration.

3 You may, through this policy, be foreclosing  
4 certain alternatives which may, and should be  
5 economically (and strictly economically) and  
6 potentially environmentally, more beneficial than the  
7 calculations that you have presently in your boxes.

8 CHAIRMAN IMBRECHT: Commissioner Commons.

9 COMMISSIONER COMMONS: Well, the fourth test  
10 is specifically drafted for that particular type of  
11 projects. When we show the 28,235 GWh in your rough  
12 estimate of 7,000, that is the minimum need of the  
13 state. The fourth test is, specifically, to allow for  
14 other projects which would have oil and gas or other  
15 type of resource displacement where it's in the  
16 economic and environmental interest of the state.

17 So the 28,235 does not represent a cap; it  
18 represents a minimum. And so, you're correct in your  
19 statement that we are not under a requirement, in order  
20 to meet the needs of the State, to site more facilities  
21 than are represented by that. And so, we do not get  
22 projects that are in the economic interest of the  
23 State. We don't have to site them. But, we have the  
24 ability, under the test as they are designed, to go  
25

1 beyond that goal and accomplish the objectives that you  
2 specified.

3 MR. GERINGER: The one problem I would raise,  
4 though, is, of course, if you have a remaining box (and  
5 whatever that box may be other than cogeneration) with  
6 an unfulfilled reserve need, if you stay tight to that  
7 requirement that there will be, for example, 650...or  
8 excuse me, in biomass 350--if you're saying that no  
9 matter what, even though we have cogeneration projects  
10 that could come on and use that part of that 350, we're  
11 simply going to save that 350 category for biomass,  
12 whether biomass comes on or not. To that degree, you  
13 may be causing a detriment not only to the rate payers  
14 in the area, but also to economics of the entire state.

15 COMMISSIONER COMMONS: Well, Test 3  
16 specifically allows you to displace. But, even if you  
17 decided not to displace, Test 4 allows you to site  
18 facilities where it's in the economic and environmental  
19 interest of the state. The other conditions of the  
20 siting process are, of course, incorporated.

21 MR. GERINGER: Leaving for last, our most  
22 major concern, and that would be in the Appendix,  
23 Volume 2, Page 5.3-3, speaks to how you develop the  
24 analysis for the 850 unfilled reserve need for  
25 geothermal. In geothermal there's a number of problems

1 at this time from the situation of the additional need  
2 required in different planning areas of the State.

3 As your own document states, it appears that  
4 in the northern planning area, there appears to be no  
5 more need for baseload facilities, at least at this  
6 time. We have a tremendous problem with Paragraph No.  
7 2 and No. 3 of this Appendix, on Page 5.3-3, in that we  
8 believe that there was never anything established in  
9 the record during these proceedings to allow for such a  
10 recommendation and finding.

11 First of all, No. 1 also gives us some  
12 problems, in that, well, it states geothermal energy  
13 normally displaces oil and gas. We believe that for  
14 siting and also analysis purposes, it should be more of  
15 a certainty that the geothermal which would be sited  
16 would actually displace oil and gas. I have heard some  
17 comments from the Committee earlier that the siting of  
18 geothermal would be fine as long as it displaces oil  
19 and gas somewhere in the State. Our position would be  
20 more restricted than that, that it would be necessary  
21 that if you're going to use an oil and gas displacement  
22 test, you should displace oil and gas in your same  
23 service area. If you want to build to your service  
24 area, you must comply with your service area.

25

1 Paragraph 2 goes on to, at least in my mind,  
2 be a contradiction with other aspects of this Biennial  
3 Report and Electric Report, in that it appears that  
4 it's this Commission's belief that additional  
5 geothermal baseload plants could be used for capacity  
6 to have exchanges with the Northwest. On the one hand,  
7 I find it interesting. We say that we're not going to  
8 consider anything from the Northwest and that it's not  
9 really available; and, we're considering only 650 of  
10 even firm capacity. However, in Paragraph 2, we're  
11 saying that we're going to exchange and send power back  
12 to the Northwest.

13 To me, first of all, it's a major  
14 contradiction. I believe it's a problem that the  
15 people of the areas that will be affected by this  
16 transport of power should be fully apprised of this  
17 type of change in policy or addition of policy, that  
18 they fully be aware that possibly geothermal sites that  
19 are going to be sited in their areas may not even be  
20 used for electricity within any service area within the  
21 state.

22 The Paragraph 3....

23 CHAIRMAN IMBRECHT: Well, I just would note  
24 for you that that's the case in terms of exchange  
25 agreements with respect to any generation facility that

1 exist in California today. And those exchanges have  
2 been ongoing utility practice in order to match the  
3 seasonal peak contrast between one region and another.  
4 I can't give you a time period, but for many, many  
5 years.

6 MR. GERINGER: I would agree with that. Of  
7 course, this language here....

8 CHAIRMAN IMBRECHT: That comment is no  
9 different with respect to geothermal than it is with  
10 respect to any other new facility which we might  
11 provide, basically.

12 MR. GERINGER: I would agree with that point,  
13 except the aspect here is this is the background....  
14 My understanding as to your determination of how many  
15 megawatts should go into the specific box here, would  
16 be geothermal. If part of what we're doing is using a  
17 finite resource and using additional megawatts in a  
18 certain box for it for generation for its use other  
19 than in California, that may be a consideration that  
20 the Commission would like to closely evaluate.

21 Alright, we also have problems with Paragraph  
22 No. 3, which states, "The Commission recognizes  
23 legitimate preference of utilities to serve their own  
24 customer needs, particularly when inter-utility  
25 purchases would result in higher customer costs."

1 This, I believe, flies exactly in the face of what the  
2 Chairman said earlier is that one thing that we look  
3 at, or we don't look at one aspect, and that aspect  
4 being cost.

5           There are other criteria we must look at, and  
6 that is the public health, welfare, and also the  
7 environment. Cost should not be the only thing we look  
8 at. And when we do look at cost, even in connection  
9 with other criteria, the question should be not only  
10 what will be the cost to the immediate service area or  
11 ratepayers, but also to the ratepayers of the entire  
12 State. In other words, there are larger areas that  
13 must be considered when you look at siting proposals,  
14 especially when you build to a particular utility's  
15 need.

16           In doing so, in giving preference to build to  
17 particular utility's needs, there is a problem that  
18 develops in that, if that utility is within a planning  
19 area, that you can develop not only an excess now for  
20 the present utility who is building a facility, but  
21 also exaggerate the excess for the particular planning  
22 area. That would not prove beneficial to a large  
23 degree of the California ratepayers.

24           Those are basically our comments on the  
25 Report. Again, I would put forth as some other people

1 did that I believe that there have been significant  
2 changes; and, I have some difficulty in the amount of  
3 time that's being allowed to even review the documents,  
4 let alone track down the different aspects that keep  
5 moving from spot to spot or new ones that are  
6 appearing. While our comments have been on some  
7 aspects that we've just recently received as of  
8 yesterday, we, too, would encourage and prefer a slight  
9 additional time of even a day to review what now  
10 appears to be the composite document that this  
11 Commission is now proposing to adopt.

12 If you have any questions, I'd be happy to  
13 answer them. Thank you for your time.

14 CHAIRMAN IMBRECHT: Alright. Thank you. The  
15 last card I have is from Beatrice Cooley, representing  
16 the Friends of the River.

17 MS. COOLEY: Thank you, Mr. Imbrecht. I'm  
18 Beatrice Cooley from Friends of the River. And, I'm  
19 here to read comments prepared by Betty Andrews, who is  
20 unable to be here.

21 "We greatly appreciate the consideration that  
22 the Commission has given to hydroelectric projects--the  
23 issues in its BR V proceeding. I'm sorry that I could  
24 not be present in person today at this adoption  
25 hearing. However, our understanding of what the

1 Commission staff has proposed to include in the final  
2 BR V gives us great cause for concern.

3 In trying to elucidate the policy on  
4 hydroelectric projects, the staff have developed  
5 wording to replace the second paragraph on Page 3-18,  
6 which further obscures the issue.

7 While maintaining the Commission's expressed  
8 preference for small hydroelectric projects at existing  
9 facilities, the proposed language states that the  
10 Commission did not intend by that preference to  
11 preclude the approval by other state agencies of run-of-  
12 the-river projects as long as CEQA and water rights  
13 requirements have been met.

14 A statement then follows which declares that  
15 this policy should not be construed as an endorsement  
16 of these types of projects (The emphasis is added.)  
17 absent compliance with the conditions set forth above.

18 Our concerns with the proposed language are  
19 twofold. First, and most importantly, the reference to  
20 these types of projects is completely ambiguous and  
21 should be clarified by replacing "these projects" with  
22 "run-of-the-river projects." Secondly, CEQA  
23 requirements are thought by many to be entirely  
24 procedural rather than substantive.  
25

1           The Commission should site environmental  
2 quality objectives, such as projects which have no  
3 significant adverse environmental impact, rather than  
4 referring to projects which meet the procedural  
5 requirements of CEQA.

6           We urge the Commission to make these small  
7 changes in the Biennial Report prior to its adoption,  
8 in order to achieve your stated purposes clarifying the  
9 Commission's hydroelectric policy.

10           Thank you for the opportunity to comment."

11           CHAIRMAN IMBRECHT: Okay.

12           COMMISSIONER COMMONS: I have just....

13           CHAIRMAN IMBRECHT: Commissioner Commons.

14           COMMISSIONER COMMONS: When you're saying  
15 318, that's in the BR not the ER? Is that correct?

16           MS. COOLEY: I believe that's right.

17           COMMISSIONER COMMONS: Okay, so your comments  
18 are essentially addressed to the BR?

19           MS. COOLEY: Yes.

20           COMMISSIONER COMMONS: Thank you.

21           CHAIRMAN IMBRECHT: It's been conformed, I  
22 think, in both documents. I guess it's hard for me  
23 track your concern. I think a lot of other people  
24 probably take issue with the characterization of CEQA  
25 as purely procedural. Certainly, the other people that

1 are on the proponent's side of the various projects see  
2 it as requiring very substantive environmental  
3 requirements to be met. And, basically, CEQA  
4 represents the legal test in California as to whether  
5 or not, in fact, there are environmental considerations  
6 that exceed that which is beyond the interest of the  
7 public in California.

8 We, I think, have gone a step further in  
9 terms of your directions, by also making it quite clear  
10 that in terms of the reserve need associated with  
11 hydro, that that is restricted to retrofit projects of  
12 existing empoundments and water facilities and so  
13 forth, and that the run-of-the-river projects would  
14 have to compete against specified need areas. I guess  
15 I would have to say my general feeling is that we've  
16 been pretty strong in expressing our preference for  
17 those type of retrofit projects.

18 At the same time, it seems to me that where a  
19 project has met all applicable environmental and  
20 riparian right water issue legal considerations, that  
21 for us to, in essence, to then further say that for  
22 some other unspecified or somewhat vague considerations  
23 those projects are, in essence, precluded from  
24 development, goes beyond a reasonable balance in terms  
25 of such a policy. I think that the direction of the

1 Commission and the leaning of the Commission is pretty  
2 clear.

3 And finally, the last statement about the  
4 fact that that should not be inferred by any other  
5 agency, regulatory agency, etc., as representing  
6 endorsement, was a direct attempt to respond to  
7 concerns expressed by your group in previous hearings  
8 that somehow the earlier enunciations of small  
9 hydroelectric policy by the Commission had been  
10 misinterpreted and had actually been used to justify  
11 such run-of-the-river projects and regulatory  
12 proceedings. That was another attempt, frankly, to  
13 respond to earlier expressed concerns of the Friends.

14 MS. COOLEY: While I hesitate to speak for  
15 Betty, I believe that the intent here was merely to  
16 clear up what appears to be a paragraph which could be  
17 misconstrued in the future. And we felt that if one  
18 substituted run-of-the-river for these projects that it  
19 would clear up both what the Commission intended and  
20 what we would like to see in the policy.

21 CHAIRMAN IMBRECHT: I see. You're simply  
22 asking for that individual change of run-of-the-river  
23 versus these projects?

24 MS. COOLEY: I believe that was the intent.  
25

1           CHAIRMAN IMBRECHT: So your concern is that  
2 the relating back clauses aren't clear? I don't really  
3 consider that to be a substantive change. That might  
4 be something we could....

5           MS. COOLEY: I know. We didn't feel that  
6 either of our comments were substantive.

7           CHAIRMAN IMBRECHT: That might be something  
8 we could handle in terms of conforming language. And  
9 we'll take that under consideration.

10          COMMISSIONER NOTEWARE: Mr. Chairman.

11          CHAIRMAN IMBRECHT: Yes, Commissioner.

12          COMMISSIONER NOTEWARE: I would like to  
13 recommend that we do accept the recommendation.

14          CHAIRMAN IMBRECHT: Alright. Is there any  
15 objection from the Commission to accepting that  
16 recommendation?

17          COMMISSIONER GANDARA: Point of  
18 clarification. This is for the BR?

19          CHAIRMAN IMBRECHT: It's actually a statement  
20 found in both documents, I believe.

21          COMMISSIONER GANDARA: I see.

22          COMMISSIONER COMMONS: Appendix 5 of the ER.

23          COMMISSIONER GANDARA: For the moment, then,  
24 we're referring this change in the ER?  
25

1           CHAIRMAN IMBRECHT: ER. But I think that the  
2 expectation would be to make the two documents  
3 consistent.

4           COMMISSIONER GANDARA: Which of the two BRs  
5 would it be consistent with? The BR before us; and  
6 therefore, one that's...?

7           CHAIRMAN IMBRECHT: BR before us. Pardon me?

8           COMMISSIONER GANDARA: BR before us or the  
9 one that's going to come out?

10          CHAIRMAN IMBRECHT: Both.

11          COMMISSIONER GANDARA: So, it's likely that  
12 in the paragraph that she talked about would also be in  
13 total in this revised version?

14          CHAIRMAN IMBRECHT: Yes. Hearing no  
15 objection, I think we'll reflect that appropriately.  
16 Okay, thank you. That completes the list I have of  
17 individuals that expressed the desire to testify. Is  
18 there anyone else who wishes to be heard on the matter  
19 pending before the Commission? Alright then, we'll  
20 close the record on that. A motion is properly before  
21 us. What is the desire of the Commission, further  
22 discussion?

23          COMMISSIONER GANDARA: You can't close the  
24 record before the discussion, but....

25

1           CHAIRMAN IMBRECHT: Well, in terms of the  
2 Commission and public comments for the record.  
3 Commissioner Gandara.

4           COMMISSIONER GANDARA: Well, Mr. Chairman, as  
5 I indicated earlier, I would like to move to a  
6 substitute motion along the lines of what I indicated  
7 to you earlier. From my point of view, at best, you  
8 know, I would have to remain neutral on or abstain from  
9 voting on this; because, I really have not had  
10 sufficient time to review the documents that have been  
11 added to, already, a lot of documents that have been  
12 delivered to my office today and in the past several  
13 days. So, at best, you know, I would have to abstain.  
14 At worst, you know, it would seem to me that the  
15 Commission is going to proceed, nonetheless, that I  
16 would not be supportive of the policies. So, I think  
17 this is an appropriate time to move for my amendment,  
18 my substitute motion, rather. And, I would do so.

19           CHAIRMAN IMBRECHT: It certainly is.

20           COMMISSIONER GANDARA: I would move that we,  
21 again, modify the schedule for consideration of these  
22 two documents that we finalize these two documents  
23 today and issue them as one final set of documents at  
24 hearing held to between now and the end of June and the  
25 adoption hearing to be held around June 10 for both

1 documents.

2 CHAIRMAN IMBRECHT: Alright, a motion is  
3 before us. Is there a second?

4 COMMISSIONER NOTEWARE: I'll second it for  
5 purposes of discussion.

6 CHAIRMAN IMBRECHT: Alright. A motion is  
7 properly before us. Commissioner Commons.

8 COMMISSIONER COMMONS: One of the problems  
9 that we've had is I think what Steve Geringer and  
10 yourself are saying is, if we hold a public hearing and  
11 we were to follow your procedure, the Committee has  
12 listened to everytime that there were comments and has  
13 normally made a change. So, we'd have another change;  
14 and then, the same motion would be appropriate the next  
15 time, because there would be additional changes. And,  
16 I am sure, during the course of the next year and a  
17 half that all members of this Commission will have  
18 changes that they would like to see made. I think the  
19 appropriate way to do that is, every two years we go  
20 through a Biennial Report process; and, we make the  
21 changes at that time.

22 We've gone through three iterations on the  
23 Electricity Report which have been available to the  
24 public. Each time we've gone out and we've had  
25 hearings up and down the state, a lot of constructive

1 changes have been recommended. They've been  
2 incorporated. We've tried to respond as quickly as  
3 possible. Poor Tom Kelly's staff, I think, has spent  
4 the last four weekends at the Commission trying to turn  
5 out documents and get those changes before us.

6 The only item that is at all different from  
7 where we were two or three weeks ago was the one table  
8 that the Committee had never put forward as a Committee  
9 table. At the request of all the parties that have  
10 addressed us, we have given an explanation or  
11 justification as to the actions that we've recommended.  
12 I see no substantive changes that have occurred since  
13 the time that the full Commission has heard this, other  
14 than taking into consideration the public comments that  
15 have come before us.

16 CHAIRMAN IMBRECHT: I guess I would have to  
17 second that judgement. And, I just would also reflect  
18 upon the fact that both of these documents are, in  
19 essence, companion pieces; and, we are directed by the  
20 statute to have delivered them to the Governor on May  
21 1st, and it is now May 15th. That extension that has  
22 occurred was a reflection of earlier expressed concerns  
23 about this and direct discussions in order to afford us  
24 additional time, and his willingness to grant that  
25 additional time I would agree with Commissioner

1 Commons. There have been no substantive changes that  
2 I'm aware of; and while all things could, perhaps, be  
3 purer, it's a little difficult for me to see what  
4 additional thing is to be served.

5 I might say, finally, that had I heard the  
6 deep expressions of concern today, my judgment might be  
7 different. But I have not heard that; and, what we  
8 have heard in the way of testimony today has been  
9 consistent with that which we've heard in the last  
10 several weeks from the principal interested parties.

11 COMMISSIONER GANDARA: If I might just comment  
12 on the Committee's comments before the rest of the  
13 Commissioner who might commit themselves to it. I'd  
14 like an opportunity to do so. I realize that I made  
15 the motion.

16 CHAIRMAN IMBRECHT: Well, I don't think  
17 Commissioner Crowley wants..... Commissioner Crowley.

18 COMMISSIONER GANDARA: Can I do that?

19 VICE CHAIR CROWLEY: Surely.

20 COMMISSIONER GANDARA: The problem that I  
21 have is that in addressing, first, what Commissioner  
22 Commons indicated, what would I contemplate, and would  
23 we have another hearing between now and then? That  
24 mean would that we would have any changes then by June  
25 10. In a sense, what he is saying, you know, would be

1 the most hopeful of my expectations; that between now  
2 and then the Committee would, in fact, then consider  
3 the most problematic part of these documents to the  
4 Siting Policy.

5 So, yes, to the best of all possible worlds,  
6 I would hope that that would occur. However, the  
7 reason that indicates that the delay should be about a  
8 month's duration, and that the hearing should be held  
9 probably no later than the end of May, beginning of  
10 June, is that the Committee met before at least 10 or  
11 12 working days to affect that change.

12 What is absent here, and let me tell you what  
13 it is...what my point of view is. While the Committee  
14 may feel that, in fact, that the documents here aren't  
15 finalized for some time, I would have to say that there  
16 is a second point of view, that that is not the case.  
17 It is true that there have been various drafts of the  
18 Electricity Reports. Those drafts have had fluctuating  
19 policies.

20 I don't clearly separate the ER and the BR;  
21 because the BR incorporates.... In fact, the BR  
22 incorporates many aspects of the ER. With respect to  
23 Siting Policy, a very crucial table, Table 4-12 as it's  
24 been referred to, has, in fact, been modified many  
25 times. In fact....

1           CHAIRMAN IMBRECHT: I thought it had been  
2 modified once.

3           COMMISSIONER GANDARA: There have been many  
4 proposals, if I might continue, Mr. Chairman. In fact,  
5 up until the time that I received a memo on May 10th  
6 (which, actually, the memo says May 10th, I received it  
7 May 11th), up until that time, the Committee had not  
8 recommended a Biennial Report to the Commission. What  
9 has been before the Commission has been, essentially, a  
10 staff draft.

11           So, that is the first time that, in fact, the  
12 Committee actually made a recommendation. Prior to  
13 that time, previous hearing held on that, the two  
14 Committee members were not in agreement. So, it has,  
15 in fact, been quite difficult to ascertain what the  
16 situation would be. The Committee has not delivered to  
17 the Commission prior to May 11th, what its  
18 recommendations were with respect to the Biennial  
19 Report and the most crucial policies, the Siting  
20 Policy.

21           Since that time, there have been additional  
22 changes. I have tried quite hard and I believe people  
23 have been responsive trying to address my concerns.  
24 But, at the same time, we have even more documents.  
25 Now, I do not wish to prolong this. I certainly have

1 other and better things to do, as many of the people  
2 who testified indicated. But, I would hope that what  
3 this provides is the thing that we have not had thus  
4 far, which is that thoughtful, reflective opportunity  
5 for Commissioners to engage in discussion and debate as  
6 to what it is that they are most comfortable with for  
7 us to fully consider the comments that have been  
8 provided even as late as today and the many expressions  
9 of concern.

10 In addition to that, I would hope that we  
11 could come up with the document that, in fact, could  
12 have a complete consensus. I, however do not believe  
13 that we should continue prolonging it simply for the  
14 purpose of delaying its issuance. I certainly do not  
15 believe in that. Unless the majority of the Commission  
16 is ready to move ahead, fine. However, I do believe  
17 that it is my obligation to, at least, provide an  
18 opportunity for us to put forth as good as a document  
19 as we possibly could. We have.... I didn't have a  
20 real problem with the issue of another document  
21 floating around the time before. And I think that that  
22 would provide us an opportunity to have that document  
23 which I think is the appropriate document that should  
24 before the Commission.

25

1           In addition to that, I also take very  
2 seriously the responsibility of the statutory deadline  
3 of May 1st. I certainly feel that we should deliver  
4 these documents as timely as possible. I do not  
5 believe that the Legislature or the Governor are  
6 holding their breath to receive and read the Biennial  
7 Report and the Electricity Report. And, frankly, I  
8 believe that they prefer a more finished document than  
9 the document that we have.

10           Certainly, I do think that there is a lot to  
11 gain, very little to lose and that it is not an  
12 unreasonable request. I appreciate the fact that  
13 Committee has accorded some flexibility to free the  
14 schedule. To some extent, it could be characterized as  
15 flexibility accorded to my request. In another respect  
16 it could simply be a recognition of the problems that  
17 were inherent to the documents; and that, in any case,  
18 the Committee was not ready to proceed with an adoption  
19 at that point in time.

20           So again, as my request coincided with in  
21 essence, the need of the situation as well,  
22 nonetheless, I do recognize that perhaps in  
23 recognizing my particular concerns, that that might  
24 have been what may have tipped the balance in producing  
25 the small delay that did occur. In any case, I really

1 do feel that the situation is such that I believe we  
2 could profit...could all profit from, not just the  
3 delay, but the thoughtful reconsideration of some of  
4 the more problematical elements of it. If that is not  
5 to be the case, well then that's fine. But we can  
6 decide all of that today and probably will. But, I  
7 thought that it would be useful to provide that  
8 opportunity to the Commission.

9 COMMISSIONER COMMONS: Just want to correct  
10 one item of fact. The Committee agreed not to put out  
11 a table showing what our preferences were; because, it  
12 was the Committee's viewpoint that, until we held the  
13 Biennial Report hearings and we went throughout the  
14 State and discussed each of the individual resources  
15 and took the testimony from all of the different  
16 parties, that we would be prejudging and that we did  
17 not have the ability to come up with what was our own  
18 preferred resource allocation.

19 So rather, we asked the staff to come up with  
20 what they thought would be the appropriate preferred  
21 resource allocation. We published it as a staff  
22 allocation. And the Committee, until we concluded the  
23 hearings, never actually had any particular opinion as  
24 to what was the preferred allocation. And the only  
25 time that I've come out with a position as to what was

1 my own personal preference, was the time that I signed  
2 the document that was so distributed.

3 CHAIRMAN IMBRECHT: That reflects my....

4 COMMISSIONER GANDARA: Again, that's an  
5 affirmation of what I'm saying.

6 CHAIRMAN IMBRECHT: But there was only  
7 one.... There have only been two iterations of Table 4-  
8 12, one by the staff and then one ultimately by the  
9 Committee, not 'many' as was suggested in your  
10 comments. Okay. Commissioner Crowley.

11 COMMISSIONER GANDARA: There's at least  
12 another one, Mr. Chairman: the one that was modified,  
13 simply having to do with the decision made by the  
14 Commission the first adoption hearing. The Commission  
15 did modify that by, in fact, shifting some  
16 conservation.

17 COMMISSIONER COMMONS: It was a 30 MW change.  
18 Commissioner Crowley.

19 CHAIRMAN IMBRECHT: 30 MW. That's right. 30  
20 MW. I hardly see that as significant. Commissioner  
21 Crowley.

22 VICE CHAIR CROWLEY: Mr. Chairman, if I may,  
23 I must say that I have received many of these documents  
24 in this last...May 10th in succeeding days. And I  
25

1 would like to understand from Counsel if it is an  
2 obligation of ours to have a Committee document that  
3 should be set to a degree that it can be commented on  
4 by the public as part of our proceedings.

5 MR. COHN: Commissioner Crowley, this is not  
6 a rulemaking proceeding covered by the Administrative  
7 Procedure Act. So, we do not have the requirement that  
8 we would have in such a proceeding where you must give  
9 15 days notice of any change prior to adopting final  
10 language or 45-day notice prior to adopting substantive  
11 changes, as would be the case in a rulemaking  
12 proceeding.

13 I think the Legislature, in creating the  
14 hearing process for the Electricity Report and the  
15 Biennial Report, recognized in exempting us in a sense  
16 from that process, that that could result in inability  
17 to get documents out by the statutorily prescribed  
18 time. So, I think what you're really dealing with here  
19 is a judgment call as to what the Commission believes  
20 is appropriate in the sense of time being allotted to  
21 the public as well as to other Commissioners to reflect  
22 on what has been proposed by the Committee, rather than  
23 any kind of legal requirement.

24 VICE CHAIR CROWLEY: Given that we have  
25 finally, today, received what I assume (or hope I can

1     assume) to be a finalized document, it's not clear to  
2     me why it isn't a courtesy to colleagues to allow some  
3     time for the perusal of this. It also seems to me that  
4     it would be helpful now that we have--if we do indeed  
5     find out today that this is the final document--it  
6     would, it seem to me, be helpful to all of us to be  
7     able and to be assured that if there were comments,  
8     they would be comments on something that is set rather  
9     than a moving target. I, so far, have not seen anyone  
10    present a downside since, it seems clear to me that we  
11    are already over the statutory deadline. However, if  
12    doing it this way makes it even worse, then I suppose I  
13    would defer to that. But, I would like to have some  
14    comment on that aspect of it.

15           CHAIRMAN IMBRECHT: Well, if I might respond  
16    to that and a couple of other points in response to  
17    your expressed concerns. To begin with, any additional  
18    time that we take comes directly out of the statutory  
19    timeframe that's accorded to the Governor for  
20    consideration of these documents. And that time period  
21    has already been reduced by 17 days with his consent.  
22    And I might say.... Well, I'm reluctant to offer a  
23    characterization as to attitude on that; but, general  
24    feeling was that that was in response to our efforts to  
25

1 convey to him concerns that other members of the  
2 Commission had about adequate time.

3 In addition, we endeavored to consult with,  
4 and I don't want to put words in Mr. Perez' mouth or  
5 anything. But, I just want to note the memorandum that  
6 was addressed to us from his office on May 10th that he  
7 made reference to earlier that indicated as follows:

8 That his office had been informed that the  
9 Biennial Report Committee was adopting the Staff  
10 Draft California Energy Plan, distributing errata  
11 sheets containing revised tables, proposed  
12 recommendations for May 7, 1985 hearing. That  
13 his office believed this package had been  
14 reasonably available to the general public and  
15 may be presented to the full Commission for  
16 consideration at the May 15, 1985 Business  
17 Meeting. The caveat is, of course, should the  
18 Commission affect substantial changes? Public  
19 adviser will recommend additional comment  
20 opportunity for the general public.

21 I have....

22 PUBLIC ADVISER PEREZ: Mr Chairman, let me  
23 assist you in not putting words in my mouth and....

24 CHAIRMAN IMBRECHT: May I.... Before....  
25 I'll call on you in just a second, I just want to

1 finish my statement. The essence of that, from my  
2 perspective, would hinge -- and you're, obviously,  
3 entitled to comment on this, Mr. Perez -- would hinge  
4 on the consideration of whether or not substantial  
5 changes have been affected. I guess both Commissioner  
6 Commons and I would represent quite forcefully that  
7 there have been no substantial changes pursuant to this  
8 memorandum. I haven't heard comment or suggestion if  
9 that is the case. But if you have a different  
10 judgment.....

11 COMMISSIONER GANDARA: Point of information,  
12 Mr. Chairman. 2.309.2 gives the Governor 90 days from  
13 the receipt of the document to comment, not 90 days  
14 from May 1st. So the Governor's time is not being  
15 encroached by any delay of the document. It remains  
16 the same, 90 days from the receipt.

17 CHAIRMAN IMBRECHT: Alright. Viewpoint well  
18 taken.

19 PUBLIC ADVISER PEREZ: Mr. Chairman, I  
20 certainly would clarify for the full Commission that I  
21 do not recommend you considering very carefully or  
22 seriously a determination made by me on Friday.  
23 Because if I were asked today--which I think I should  
24 be asked--whether or not I regard the Commission's  
25 status as adequate for taking action today, I would

1 say, as Public Adviser, that I think it is unnecessary  
2 to ask whether or the public has had an adequate amount  
3 of time available to review the document when the most  
4 tenured member of the California Energy Commission,  
5 with past experience in the Biennial Report  
6 proceedings, is indicated on the public record that he  
7 feels he would like additional time to review the  
8 document. Certainly I would measure the need of the  
9 general public of California to examine the document as  
10 probably slower than that of an expert such as  
11 Commissioner Gandara.

12 CHAIRMAN IMBRECHT: Alright. Commissioner  
13 Commons.

14 COMMISSIONER COMMONS: Mr. Chairman, last  
15 week we had a hearing scheduled on the Report; and, we  
16 went to about 7:00 and there were still two witnesses  
17 that wished to testify. We only had I think about six  
18 or seven parites who came at that time. And we held  
19 the hearing over and went the full next day; and, I  
20 think we even had less than the six or seven persons  
21 that were testifying.

22 It is.... There are clearly some issues,  
23 that there are some viewpoints that are different among  
24 some of the parties. There are hundreds of issues that  
25 have been discussed and we have tried to resolve them

1 as best as possible. But in two days of hearings, we  
2 had the least attendance that we've had at any of the  
3 hearings; because, I think most of the parties feel  
4 that most of the issues have been resolved in the few  
5 areas that there are outstanding differences. At one  
6 point you have to arrive at a decision. My concern  
7 would be if we had a hearing, I'm not sure who would  
8 come.

9 CHAIRMAN IMBRECHT: I guess I have to say, as  
10 another person participating in all this, that we have  
11 bent over backwards to encourage participation of other  
12 members of the Commission at these hearings. And, I  
13 believe I have also extended multiple invitations and  
14 opportunities for private briefings and explanations,  
15 etc. of any of the points. I believe generally  
16 reflected, written comments we received from  
17 Commissioner Gandara as to the initial draft of the  
18 Electricity Report and the next iteration of that  
19 document.

20 I guess I would share the same general  
21 conclusion that I am at a loss at this juncture as to  
22 what further changes, other than the fact that it's  
23 quite clear that Commissioner Gandara has a fundamental  
24 disagreement. And it's hard for me to see, considering  
25 the opportunities that have been presented to date for

1 those discussions to occur that there is any likelihood  
2 that there will be a modification at least in our  
3 respective judgements on those issues.

4 COMMISSIONER GANDARA: One last comment, Mr.  
5 Chairman. I am not saying that there hasn't been an  
6 opportunity to review these documents. I don't think  
7 there's been a 'meaningful' opportunity. To give you  
8 an example, yes, there have been offers at various  
9 points and times. I've taken up as many as I can,  
10 given all the recommended changes. It's difficult, but  
11 I think as a good example, if you've seen the changes  
12 in, I guess, something called, I think it's something  
13 called Appendix 5.3 or something--starts with 5.3. The  
14 Executive Director did come to my office at about 9:30  
15 or 9:35 to see if I had additional information on that.  
16 But at that point in time it, frankly, was a choice  
17 between talking to him or talking to you; because, you  
18 came to my office at or about the same time.

19 And that's what I mean. Okay? Yes, those  
20 opportunities have been presented to me. People have  
21 been courteous and accorded. I have no negative  
22 denials in any way. I'm just saying that the rate of  
23 change in the regular information flow has been far  
24 greater than I believe that anybody who wishes to  
25 seriously peruse these documents can adequately absorb.

1                   CHAIRMAN IMBRECHT: Okay. My sense of that  
2 is a perception that is not met with the reality of the  
3 situation. I understand concerns were expressed in that  
4 respect. But when actually asked for specification as  
5 to those situations, it's been a constant loss of any  
6 direct response on particular points. And that's very  
7 difficult, it seems to me, for us to respond to under  
8 those circumstances. In any case Commissioner Noteware  
9 do you wish to be heard?

10                   COMMISSIONER NOTEWARE: I think there's been  
11 times when I have share Commissioner Gandara's...a  
12 desire to have more time to reflect on the proposed  
13 modifications that we've given. When they come around  
14 you usually have to consider: Is this really an  
15 improvement? Or: Who does it help? Who does it hurt?  
16 How will it affect what's going to happen?

17                   And yet, I can see that in its wisdom, the  
18 Warren-Alquist Act has provided for a kind of an  
19 ongoing procedure here, in that every two years we have  
20 another Biennial Report, another Electricity Report.  
21 And, I think that if we were to delay this and have  
22 another hearing, we probably wouldn't come up with any  
23 substantial suggestions for improvement. I'm anxious  
24 to have the most perfect document we can. But what's  
25 perfect to one person might not be perfect to another;

1 and, I tend to concur that a hearing probably wouldn't  
2 be that useful at this point.

3 CHAIRMAN IMBRECHT: Okay.

4 COMMISSIONER GANDARA: Might I suggest a  
5 modification to my amendment that we forego the hearing  
6 that I suggested and we just delay consideration of the  
7 Adoption Report, then, until around the 10th of June to  
8 finalize it and just calendar it for then?

9 CHAIRMAN IMBRECHT: A motion is before us.  
10 It's a question of how many times you want to make a  
11 moving target in terms of what your desires are, as  
12 well. There's a.... And, I have to say that I have a  
13 certain sense of frustration about this matter;  
14 because.... I guess my entire judgement about this  
15 would be entirely different if I heard expressions of  
16 concerns from the many, many parties that have spent  
17 the kind of time that Commissioner Commons and I have  
18 on this matter.

19 I have not heard those expressions; and,  
20 there have been direct invitations for people to offer  
21 those kinds of expressions. And even with that  
22 encouragement, they have not been forthcoming. And so,  
23 as a consequence of all that, I would just suggest to  
24 you that you have a document here that reflects careful  
25 balancing. Commissioner Noteware's correct. Changes

1 do have implications in terms of who might be helped  
2 or who might be hurt, etc.

3 The fact that you don't hear anyone  
4 expressing adamant concerns about being hurt, I think,  
5 is an illustration of the fact that we have tried  
6 mightily to balance those considerations and,  
7 hopefully, also produce an integrated document.

8 In any case, I think we ought to.... Do you  
9 want to offer another motion? It's your entitlement;  
10 but, I suggest we first deal with the one that's before  
11 us and then turn to any additional.

12 COMMISSIONER GANDARA: Well, since I'm  
13 hearing the concern from the seconder of my motion,  
14 that he didn't see utilities before a second hearing, I  
15 assume that to be the in-between hearing that I had  
16 mentioned prior to May 30th or June 1st. So, let me  
17 remove that aspect of my motion and just leave it that  
18 I withdraw my original motion and that I would move  
19 that we finalize these documents. The ER seems to be  
20 along the way to some finalization. The BR seems to be  
21 a bit further removed from that. But, then, we  
22 finalize them and then we issue them and we make them  
23 available for public comment, hold an adoption hearing  
24 around June 10th.

25

1 CHAIRMAN IMBRECHT: I thought you just said  
2 not another hearing and then...?

3 COMMISSIONER GANDARA: Because my previous  
4 recommendation had made reference to holding a hearing  
5 prior to May 1st...prior to June 1st. Commissioner  
6 Commons' concern seem to be that that would lead to  
7 even additional changes prior to June 10th. As I  
8 understood Commissioner Noteware, that he didn't see  
9 the utility of that particular hearing, so I'm omitting  
10 that. And just introducing a delay for consideration  
11 of those who will receive these documents and we would  
12 move for adoption on June 10th or thereabouts. I  
13 don't even know what date June 10th is, but sometime as  
14 soon as possible.

15 CHAIRMAN IMBRECHT: Alright is there a second  
16 on the motion? Hearing none, the motion dies for lack  
17 of a second and as a result, there's no motion for us.

18 COMMISSIONER GANDARA: Let me make one final  
19 stab at it, then. Why don't I move that we delay,  
20 then, for at least 15 days and around May 30th, June  
21 1st, that we schedule this for adoption again, but the  
22 intent being that we finalize these documents that we  
23 have before us soon as possible.

24 CHAIRMAN IMBRECHT: Is there a second?  
25 Hearing none, motion dies for lack of a second. I

1 think that this probably would be best served if we  
2 simply go to a vote on the main motion. Is there any  
3 further discussion?

4 COMMISSIONER GANDARA: I have a discussion,  
5 Mr. Chairman. As with the previous Commission action  
6 on the adoption of the forecast, as you may recall, I  
7 dissented from that; and, I indicated that I wished to  
8 have an opportunity to document that dissent. And the  
9 Commission accorded that.

10 I am a bit.... I have a bit of a problem here  
11 in that I don't quite see the distinction for purposes  
12 of my concern between the ER and the BR. So assuming  
13 that this vote on the delay is indicative of the...or  
14 test for what the Commission's going to do today on  
15 Items 10 and 11, I would indicate that I will vote  
16 against the motion and that I regret that I had hoped  
17 that it could be avoided but that I had prepared a  
18 dissent and it is my dissent. Anybody who wishes to  
19 join would be fine. I don't expect that; but, I  
20 certainly respect the sincerity of the Committee and  
21 the Commissioners who would vote with the majority.

22 If it's not to be with me, then in any case,  
23 I would like that the same accord and respect and  
24 conscious sincerity on my part be accorded to my views.  
25 And for that reason, I'm going to reserve discussion of

1 my concerns in Item 11; and, I anticipate that  
2 discussion simply by saying that since many of my  
3 concerns that are intertwined with respect to Item 10  
4 as well, that I would prefer that my views be, in fact,  
5 expressed through Item 11 and that document and that  
6 the absence of any discussion at that point in time on  
7 Item 10 not be seen as a foregoing of those concerns  
8 but rather when we get to Item 11, that my concerns be  
9 incorporated in Item 10, as well.

10 CHAIRMAN IMBRECHT: That's fine. I just want  
11 to offer one caution so there's no misapprehension  
12 here. I want to consider very carefully the  
13 implications. I believe, in every respect, that you  
14 should be accorded the opportunity to express your  
15 dissent. But, in terms of whether that.... I'm not  
16 sure if I understand the implication. If you're  
17 suggesting that that necessarily would be space, in  
18 essence, it would be taken out of the final printed  
19 document of the Biennial Report, that causes me some  
20 genuine concern. I believe that you ought to be  
21 afforded an equal dissemination opportunity and so  
22 forth; but, I also...

23 COMMISSIONER GANDARA: Now, Mr. Chairman I'm  
24 not suggesting a space be taken out of that document.  
25 I'm suggesting that space be added to that document as

1 have been accorded to previous Commissioners who have  
2 dissented that, in fact, that opportunity has been  
3 accorded to them. The document will be sent to the  
4 Governor and the Legislature. I believe that the  
5 Commission's views are to be sent to the Governor and  
6 Legislature, not just the majority of the Commission's  
7 views. A part of this Commission will dissent on that.

8 I believe the Governor and the Legislature  
9 are entitled to receive at the same time within the  
10 same document, bound, my particular views. I would  
11 like that respect to be accorded. And in any case, I  
12 have kept my comments to broad policy comments. I  
13 certainly could...have enough concerns that an analysis  
14 would perhaps (INAUDIBLE) of the document that you  
15 know, have before us. I do not intend to abuse the  
16 accordance of that privilege. I just want to be  
17 accorded that opportunity as is accorded, mainly to  
18 decisions of the administrative agencies. I think it  
19 is an important document; it's a State energy planning  
20 document. And for that reason I have spent time and  
21 effort in this. And, I clearly like that to be  
22 included.

23 CHAIRMAN IMBRECHT: I'll be quite candid with  
24 you. I would have appreciated having had an  
25 opportunity to review those specific comments. That

1 might have been an opportunity to further persuade us;  
2 because obviously....

3 COMMISSIONER GANDARA: My comments are,  
4 frankly, those have been made pretty much on the  
5 record. They're not substantially new. I regret your  
6 frustration. I know how you feel. That's the same  
7 frustration I was expressing earlier with respect to  
8 these documents. However, there is a problem here.

9 CHAIRMAN IMBRECHT: You had ours to consider,  
10 however late they may be.

11 COMMISSIONER GANDARA: I was prepared to  
12 enforce the situation by the appropriate consideration  
13 of the delay. I frankly do not see that it would have  
14 been appropriate to disseminate a minority view and  
15 raise all sorts of the problems had, in fact, you had  
16 been supportive of my particular proposal to our  
17 amendments. It hasn't, so, I am left with no recourse.

18 CHAIRMAN IMBRECHT: I guess I would disagree  
19 on that. It seems to me that had you disseminated for  
20 our, even, private reflection on those viewpoints....

21 COMMISSIONER GANDARA: I'll trade you for a  
22 copy of the Draft BR that is in your possession.

23 CHAIRMAN IMBRECHT: You.... There is no  
24 Draft BR in my possession; because, it does not reflect  
25 a Committee recommendation. And therefore, it is

1 neither by our staff nor by us and it is you're....

2 COMMISSIONER GANDARA: I understand that the  
3 copy's in your possession and Commissioner Commons'  
4 possession.

5 CHAIRMAN IMBRECHT: ...you're welcome to have  
6 it. I have no inclination in any sense to deprive you  
7 of that. If you want to see it, I can just tell you  
8 that I'm not ready to endorse it. I don't believe  
9 Commissioner Commons is as well. And, that's because  
10 we want to, I think, be very concerned. And this is  
11 obviously discussion for Item 11 that it, in fact,  
12 accurately reflects the adopted findings that we have  
13 proposed in the Biennial Report. And it is done in a  
14 fashion that is readable and presentable and will  
15 maximize our ability to communicate these  
16 recommendations to the public and the State.

17 As to question about the manner in which the  
18 dissent is distributed, I personally, at this juncture,  
19 want to withhold judgement on that until I understand  
20 the full implications of it. Other than to offer  
21 complete assurances that it would be distributed at the  
22 same time and to the full distribution list, etc. and  
23 will be fully called in any such distribution documents  
24 that such a dissent exists, etc. But, I'm not quite  
25 sure of the implications in terms of...nor the length

1 it in terms of what we have already budgeted for the  
2 preparation and dissemination of the Biennial Report.  
3 I think that's, frankly, a fair balance of your  
4 concerns. I hope you can see it as well.

5           Alright. There's no further discussion.  
6 Secretary will please call the roll?

7           MS. GERVAIS: Commissioner Commons.

8           COMMISSIONER COMMONS: Yes.

9           MS. GERVAIS: Commissioner Gandara

10          COMMISSIONER GANDARA: No.

11          MS. GERVAIS: Commissioner Noteware.

12          COMMISSIONER NOTEWARE: Yes.

13          MS. GERVAIS: Vice Chair Crowley.

14          VICE CHAIR CROWLEY: Yes.

15          MS. GERVAIS: Chairman Imbrecht.

16          CHAIRMAN IMBRECHT: Aye.

17                 Ayes: 4, Nos: 1. The 1985 or Fifth  
18 Electricity Report of the Commission and the relevant  
19 chapters of the Biennial Report have been adopted.

20                 We will stand in recess until 2:00 p.m. at  
21 which time we will return and take up Item 11. Thank  
22 you for your patience.

23                 Before we conclude, I just wanted to say that  
24 all those, staff that have give 110 percent in the last  
25 year and a half on this matter, speaking for myself,

1 and I'm sure for all the members of the Commission  
2 here, irrespective of our final judgments on this, are  
3 very, very appreciative of the response above and  
4 beyond the call of duty. Thank you.

5 EXECUTIVE DIRECTOR WARD: Thank you very  
6 much, Mr. Chairman. That's appreciated.

7 (Whereupon the morning session of the  
8 Business Meeting of the California Energy Resources  
9 Conservation and Development Commission was adjourned  
10 for a luncheon recess at 12:15 PM.)

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**AFTERNOON SESSION**

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2  
3 CHAIRMAN IMBRECHT: Alright. We'll call the  
4 meeting back to order. And, we will turn to Item 11  
5 very quickly. But, in order to accommodate a request  
6 that, I understand, there is no objection to and that  
7 is quickly taking up Item No. 4, which is the  
8 designation of a second Commission Committee member for  
9 the IBM cogeneration project small power plant  
10 exemption, which Commissioner Commons is the Presiding  
11 Member on. I would like to suggest, with the  
12 Commission's consideration, that Commissioner Noteware  
13 be appointed as the Second Member of that Committee.  
14 So, I will offer that as a motion and ask whether there  
15 is a second.

16 (LAUGHTER)

17 CHAIRMAN IMBRECHT: Obviously....

18 VICE CHAIR CROWLEY: I'll second it.

19 CHAIRMAN IMBRECHT: Seconded by Commissioner  
20 Crowley. I believe that's acceptable to Commissioner  
21 Noteware. Is there anyone who wishes to be heard on  
22 this item? Is there objection to a unanimous roll  
23 call? Hearing none, Ayes: 5, Nos: none. Commissioner  
24 Noteware is so designated.  
25

1           Now, we'll return to item number eleven,  
2           which is Commission consideration and possible adoption  
3           of the 1985 California Energy Plan, which is the fifth  
4           Biennial Report of the California Energy Commission  
5           pursuant to Public Resources Code, Section 25309, as  
6           recommended by the Biennial Report Committee. And, I  
7           would like to move the motion that is...pardon me, the  
8           order which is before us for proper consideration. Do  
9           I hear a second?

10           COMMISSIONER COMMONS: Second.

11           CHAIRMAN IMBRECHT: Seconded by Commissioner  
12           Commons. The item is now properly before us. I would  
13           like to just offer a couple of opening comments, and  
14           then, Mr. Nix, on behalf of staff who has overseen the  
15           preparation of the documents before us, will also  
16           provide us an overview and a summary of what has  
17           occurred vis-a-vis the draft recommendations and those  
18           that are now being presented by the Committee.

19           I would just like to note, for the record,  
20           that we held hearings not quite from one end of the  
21           state to another, in deference to Commissioner Crowley,  
22           who notes to me that there's about 300 miles of  
23           California north of Sacramento. But, I'd like to say  
24           that we held hearings from Sacramento, south,  
25

1 throughout the state in all of the major metropolitan  
2 areas of California.

3           There were fourteen individual hearings  
4 broken out by subject matter, by technology and by  
5 overall consideration of issues that would be under  
6 consideration in that Report.

7           I'm also informed by our staff, and I hope  
8 that this is an accurate representation, that we have  
9 had an excess of one thousand people in attendance or  
10 in participation at those various hearings, which is  
11 the largest public participation that has occurred in  
12 any of the Biennial Report proceedings.

13           We have testimony that numbers, I believe,  
14 around 1,100 pages. There have been 40 staff documents  
15 submitted, two hearings held in the San Francisco Bay  
16 Area, four in Southern California, one in the Central  
17 Valley, and seven here in Sacramento. And in addition,  
18 we have had on the average, I believe, there were 28  
19 people that have directly participated in each of those  
20 hearings in terms of public input and testimony.

21           We have endeavored to provide substantial  
22 effort on the part of the Commission with invitations  
23 extended to all members of the Commission, since we  
24 noticed each of these hearings, hence Commission  
25 meetings to encourage the members of the Commission to

1 participate and join with us in those hearings to cover  
2 in some depth and detail the variety of issues that the  
3 Biennial Report is designed to cover. And, it  
4 obviously reflects an overview of California's energy  
5 future in our three major sectors: petroleum, natural  
6 gas, and electricity.

7 In essence, that represents a summarizaioon  
8 of the findings that have occurred in those hearings as  
9 well as in other subsidiary proceedings of the  
10 California Energy Commission. As I'm sure many people  
11 are aware, this is the first, and, to some extent,  
12 partial implementation of SB 1549, which was the  
13 legislation passed last year and approved by the  
14 Governor, which restructured the reporting requirements  
15 of the Energy Commission, and, in essence, endeavoured  
16 to even out our workload, slightly expand our reporting  
17 requirements to ensure that each of the major sectors  
18 of energy consideration were indeed treated on an equal  
19 basis. That is a reference principally to the  
20 inclusion or addition of a conservation report also  
21 being submitted to the Legislature and the Governor,  
22 along with the existing reporting requirements which  
23 existed prior to SB 1549.

24 It is our anticipation that the Sixth  
25 Biennial Report will fully reflect the implementation

1 of 1549. I just might mention to you that quite a lot  
2 has occurred, as is obvious in the last two years.  
3 Some substantial changes in terms of the outlook for  
4 energy supply and demand for California, and at the  
5 same time some very clear warning signals of problems  
6 that we as a Commission and as a state have an  
7 obligation, in my judgement, to confront directly and  
8 hopefully in a persuasive fashion as well.

9 Also before us are a more limited number of  
10 recommendations than that which has been proposed in  
11 previous Biennial Reports, and that is an effort on the  
12 part of the Committee to more succinctly focus the  
13 consideration of the relevant policymakers on the  
14 principal issues that we consider to be important to be  
15 addressed in the next two years. That is not to  
16 suggest that the individual subsidiary reports do not  
17 carry their own set of recommendations; but, we hope  
18 tha they represent a more focused agenda and, indeed,  
19 one which is acceptable to implementation throughout  
20 the political process and by our sister agencies in  
21 California state government.

22 With that just very brief overview, I would  
23 like to ask Mr. Nix to come forward. Commissioner  
24 Commons, do you want to...?  
25

1           COMMISSIONER COMMONS: I just have two very  
2 short comments.

3           CHAIRMAN IMBRECHT: Fine. If you will. With  
4 that, then, I call upon Mr. Nix.

5           COMMISSIONER COMMONS: First is in the  
6 language on the resolution. I'd like to propose that  
7 we do it the same way we did on the ER, that it be the  
8 Committee.

9           CHAIRMAN IMBRECHT: I am in full accord with  
10 that. As the maker of the motion, will accept that as  
11 a friendly amendment.

12           COMMISSIONER COMMONS: And on the  
13 recommendations, I believe it's our understanding that  
14 one of the things we want to see done is after the  
15 Governor has reviewed the recommendations and for those  
16 recommendations that he approves, that we want to have,  
17 then, the respective policy committees of the.... Maybe  
18 it's better if you enumerate this.

19           CHAIRMAN IMBRECHT: That's fine. In full  
20 expectation in terms of the manner in which we have  
21 allocated responsibilities here at the Commission, the  
22 last adopted Committee order and appointment of various  
23 members of the Commission to preside over the different  
24 committees of the Commission, that each have  
25 jurisdiction for comment and assistance in the

1 specifics of implementation of the proposed  
2 recommendations that fall within the jurisdictional  
3 overview of the Committees which each member happens to  
4 sit. And then, in turn, to the extent as also  
5 illustrated in the ER order that those require ultimate  
6 outreach or discussions with other sister agencies,  
7 that those policy recommendations from the policy  
8 committees of the Commission then, in turn, be focused  
9 through the intergovernmental relations committee. And  
10 I just want to offer whatever assurances may be  
11 appropriate that, in fact, we think that's the  
12 appropriate manner for these recommendations to be  
13 carried forward.

14 COMMISSIONER COMMONS: And, they'd also be  
15 developed as part of our overall work plan, which would  
16 be developed this summer to be implemented with  
17 specific recommendations as when we adopt the work plan  
18 in the overall budget process.

19 CHAIRMAN IMBRECHT: That's correct. With  
20 that, I'd like to invite Mr. Nix to make his  
21 presentation.

22 MR. NIX: Thank you, Mr. Chairman. We'll  
23 make this a very brief overview; because, energy is a  
24 very large subject. We could spend another month  
25 discussing it, I'm sure.

1           Before beginning, I would like to note that  
2 the BR errata that were ditributed this morning largely  
3 are to assure conformance with the tables and charts in  
4 the staff draft Biennial Report with the final numbers  
5 from the Electricity Report so there are no substantial  
6 policy changes or shifts.

7           I think we'll all aware that the Biennial  
8 Report is the State's priniciple energy policy  
9 document. It has a rather broad scope; as you  
10 mentioned, it covers not only electricity but natural  
11 gas and transportation fuels, as well. The  
12 requirements of the document are quite extensive; but,  
13 in my view, there are four principal areas. 1) that it  
14 contain an overview of the statewide growth,  
15 development, and the energy needs necessary to fuel  
16 that growth and development, 2) that it contain an  
17 intergrated assessment of the need for new electricity  
18 resources, 3) that it contain an assessment of energy  
19 resources of whatever form available to satisjfy  
20 California's needs, and 4) that it provide  
21 recommendations to the Governor and Legislature for  
22 administrative and legislative actions where  
23 appropriate.

24           The document raises problems and issues in  
25 each one of the three principal energy areas that I've

1 mentioned. In the transportation sector, we find  
2 ourselves today, 13 years after the first Arab oil  
3 embargo, effectively, still, 100% dependent on  
4 petroleum for goods and people movement in California.  
5 The petroleum demand forecast contained in the staff  
6 draft Biennial Report point to the United States  
7 importing 50 percent or more of its oil by the early  
8 1990s. By that time, we believe that all the domestic  
9 U.S. oil production will be necessary just to fuel  
10 transportation. We see our dependence on petroleum as  
11 a critical issue facing not only California but the  
12 nation as well.

13           Because of the increasing importation of oil,  
14 we believe that petroleum costs are likely to increase  
15 in the long run, that any strategic policies that we  
16 adopt or recommend should reflect that fact. But, also  
17 transitioning transportation developing other forms of  
18 energy for use in transportation is a long-term  
19 undertaking. It is not something we accomplish in one  
20 week, one year. We would be lucky to accomplish  
21 significant penetration in a decade. But, if we are  
22 going to do something, we believe the time is now. It  
23 is time to continue the activities the Commission has  
24 had in developing alternative fuels, principally  
25 methanol.

1           In the area of natural gas, we believe there  
2 is, indeed, a need for additional supply sources in the  
3 early to mid 1990s. We believe that now is the time  
4 for the State's natural gas utilities to begin the  
5 orderly development of new supplies.

6           We also see the potential development of a  
7 major new market in California for thermally enhanced  
8 oil recovery. The way that natural gas might be  
9 provided to that market is very important to the  
10 traditional natural gas market. The form in which gas  
11 is delivered could have benefits or it could have  
12 disbenefits. We do not believe that we know enough  
13 about the various proposals at this time to set forth a  
14 specific recommendation; other than, we should give  
15 very particular attention to that issue in the  
16 forthcoming months and, in particular, in the Biennial  
17 Fuels Report.

18           As with petroleum, we believe the long-run  
19 trend for natural gas prices is likely to be upward.  
20 And for that reason, we believe the conservation and  
21 efficient use of these energy forms is a number one  
22 priority for California.

23           In the electricity area, we see changed  
24 circumstances: a stabilized demand for electricity,  
25 but rather than two years ago, wondering where supplies

1 would come from, at the present time wondering how to  
2 deal with an apparent excess of supply. The changing  
3 characteristics of the supply system, that is a shift  
4 from utility-proposed projects to third-party, non-  
5 utility projects, requires also changes in California's  
6 regulatory processes. We believe that the outlook for  
7 electricity prices is one of the stable prices through  
8 the 1990s.

9 The recommendations that we have provided in  
10 conjunction with the Committee focus on major energy  
11 issues. And, I believe there a change in approach from  
12 previous Biennial Reports. For those of you that may  
13 not be familiar with the last Biennial Report, there  
14 were some 34 recommendations that were very broad and  
15 sweeping. We believe that the ten that have been  
16 provided are a limited agenda which focus on serious  
17 problems, but which provide actions which we think can  
18 be accomplished over the next two-year time period.

19 The recommendations that we are setting up as  
20 the...well, that the Committee has set forth as the  
21 final recommendations, are similar to those that were  
22 provided earlier, except several have been combined;  
23 there has been some minor editing and rewording. The  
24 thrust of the recommendations is essentially the same.  
25

1           Mr. Chairman, that'll conclude my comments on  
2 the brief overview of the Energy Plan.

3           CHAIRMAN IMBRECHT: I think it might be  
4 appropriate as well to view the individual  
5 recommendations, if you are so inclined.

6           MR. NIX: The first recommendation focusses  
7 on reducing increases in peak electrical demand. We  
8 believe that to be (well, it is, in fact) the most  
9 expensive form of electrical power, which is provided.  
10 We believe that there are significant efficiency  
11 opportunities there. We believe that it's an area in  
12 which all ratepayers can benefit.

13           The second recommendation focusses on  
14 reducing energy costs...

15           CHAIRMAN IMBRECHT: Excuse me. Question from  
16 Commissioner Crowley.

17           VICE CHAIR CROWLEY: I have a question on No.  
18 1. It would seem to me that this is something that is  
19 already going on and being dealt with by the  
20 Commission. And I'm wondering, are these recom-  
21 mendations to include only new things that we want to  
22 take on? Or is this a reiteration of scenarios that  
23 we're already presently implementing to deal with some  
24 of the world's problems?

25

1 MR. NIX: Well, it does not recommend that  
2 the Commission stop where there are activities that are  
3 related to that recommendation. But, there are some  
4 new activities, so to speak, on the second page, if you  
5 examine the fourth bullet. It recommends that the  
6 Commission encourage thermal storage technology, the  
7 advanced load management (which we would believe to be  
8 an extension of the load management activities we have  
9 underway at the present time), and to focus that work  
10 through the Energy Technologies Research, Development  
11 and Demonstration Act.

12 VICE CHAIR CROWLEY: But this does also  
13 include, within it, things we are presently doing? So  
14 it is not a recommendation of something new entirely?

15 CHAIRMAN IMBRECHT: That's correct.

16 MR. NIX: No, it is not a new direction.

17 CHAIRMAN IMBRECHT: I think that strain runs  
18 throughout all of the recommendations. To some extent,  
19 it's a reiteration of the policy that's appropriate for  
20 us to continue to be involved in certain activities,  
21 and, perhaps, add additional emphasis to our current  
22 work.

23 VICE CHAIR CROWLEY: Thank you.

24 MR. NIX: I believe recomm.... Yes.

25

1                   COMMISSIONER GANDARA: I have a question,  
2 Dan.

3                   MR. NIX: Yes.

4                   COMMISSIONER GANDARA: I have one  
5 recommendation. Now, Mr. Nix, as you know the  
6 Commission prepared a fairly detailed plan called the  
7 Mello Report that addressed some of the issues that are  
8 contained in Recommendation 1 from both Load Management  
9 and Conservation in contrast to the recommendations  
10 contained in this document that was fairly specific  
11 about goals and timetables and so forth.

12                   Does Recommendation 1 basically restate those  
13 recommendations? Does it modify them; and, if so, how,  
14 how much, if I can ask?

15                   MR. NIX: Commissioner, I'm not familiar with  
16 the details of the Mello Report. But I think one of  
17 the problems with the recommendations in the Mello  
18 Report is that they have not been fully implemented,  
19 that the 20% energy reduction goal which was set forth  
20 in that document has not been achieved. This can be  
21 viewed, I believe, as a subset of those areas of  
22 activity.

23                   COMMISSIONER GANDARA: So, I guess I don't  
24 understand whether you're saying that the  
25 recommendations should be more explicit in either

1 reaffirming those or rejecting them or substituting  
2 this recommendation for that one. Where does that  
3 leave us, I mean in terms of, you know, when somebody  
4 asks what the Commission policy is? Do we look at  
5 Recommendation 1, or do we look at the Mello report?

6 CHAIRMAN IMBRECHT: I'll offer a suggestion  
7 on that. I think, Commissioner Gandara, the intention  
8 here is to provide more a generalized overview of some  
9 of the more key considerations for policymakers that  
10 are not as familiar with the nuances of the technical  
11 issues associated with some of these matters. There is  
12 no attempt to override any of the recommendations in  
13 the Mello Report but, in essence, to call forward in a,  
14 as I indicated, a more generalized perspective, some of  
15 the important directions that we need to take.

16 It's been my experience in a number of  
17 conversations with members of the Legislature that (let  
18 me choose my words very carefully here) there is a  
19 level of sophistication sometimes assumed in our more  
20 technical reports that is really not possible for  
21 people that have to be aware of the broadest range of  
22 public policy considerations.

23 What we have attempted to do with these  
24 recommendations is to provide an overview and  
25 premature, if you will, for more specific

1 recommendations to be followed in subsidiary technical  
2 reports, as I think tried to infer in my discussion  
3 about the impact of 1549.

4 We are endeavoring with this rendition of the  
5 Biennial Report to produce a document that is more  
6 readable and more understandable by nonenergy  
7 technocrats, if you will, I guess is the best way to  
8 describe it, or even those of us that sit in policy  
9 judgment on energy issues but, obviously, devote our  
10 entire working time to understanding the nuances of  
11 these issues. And it is our expectation that the  
12 subsidiary reports of the Commission, as enunciated in  
13 1549; and, obviously, the Mello Report, in essence,  
14 evolves into the Conservation Report, which I believe  
15 is due in October of this year, will be the form for  
16 which we provide the more detailed and specific  
17 recommendations.

18 It's my hope that this will be a document  
19 that will assist us in laying a foundation of political  
20 and informational support within the key policymaking  
21 areas. And that will be true in terms of adequate  
22 budgetary support for our programs, as well as adequate  
23 political support to ensure that other agencies that  
24 share with us jurisdiction implementation, that they  
25 are similarly given adequate direction. That's the

1 reason that we have attempted to make these more  
2 generalized in approach than some of the previous  
3 renditions of the Biennial Report.

4 COMMISSIONER GANDARA: Well then ask, since  
5 it's not your intent to overturn those policies, then,  
6 would it not be, then, helpful for the general reader  
7 to be informed if there is Mello Report, that the Mello  
8 Report recommendations are not being evaluated, but  
9 that, in fact, they're being heard for the Conservation  
10 Report?

11 CHAIRMAN IMBRECHT: I have no objection to  
12 that. I think that's appropriate.

13 COMMISSIONER GANDARA: Can we also do that  
14 with respect to...?

15 CHAIRMAN IMBRECHT: I would suggest that  
16 would be appropriate to each of these issues. As far as  
17 I'm aware (and you sometimes have a unique ability to  
18 call out some of these inconsistencies), but to the  
19 best of our information, bringing these recommendations  
20 forward, there is nothing here that is contradictory to  
21 the previously enunciated Commission policy. To the  
22 extent that that exists, I would welcome any  
23 suggestions. I might add that something we had  
24 expressly asked for in terms of comment in some of the  
25 earlier hearings on these matters.

1           COMMISSIONER GANDARA:   Okay, fine.  Well let  
2 me, then, just add that appropriate references should  
3 probably should be made to the Industrial Conservation  
4 Retrofit Study with respect to some of these bullets  
5 and as well as to the Lyons/White Paper at least with  
6 respect to some of the information programs and so  
7 forth.  I think it would helpful that at least for  
8 people who are receiving the document, if they be  
9 advised upon receipt that there is indeed a wealth of  
10 information that they can turn to at least that those  
11 particular elements are being recurrent.

12           COMMISSIONER COMMONS:  In the same respect,  
13 our cooperative programs between industry and the  
14 utilities that we've been supporting in the load  
15 management area, if were word add, probably should be  
16 called out.

17           CHAIRMAN IMBRECHT:  Because this is a  
18 transition implementation of 1549, not all of the  
19 subsidiary documents, obviously, have been adopted as  
20 part of this cycle.  But, the...  As I think you are  
21 fully aware, because you were a heavy participant in  
22 dicusssions on 1549, the entire intention has been to,  
23 in essence, institutionalized some of the less visible  
24 reporting requirements of the Commission and, in  
25 essence, structure them in a logical and...what's the

1 word I want to use...consistent or building block kind  
2 of approach. And, by the time we adopt the sixth  
3 Biennial Report, we will then have been through a cycle  
4 where we have a full set of subsidiary documents that  
5 are not unlike the first Biennial Report in a sense, in  
6 terms of providing a number of detailed appendices  
7 documents that are, in quite frank terms emulated, as  
8 I've told you on many occasions, after the work you did  
9 on the Contingency Plan that, in essence, had a  
10 succinct summary document and a number of appendices  
11 that dealt with the individual issues in great depth  
12 and detail. Number 2.

13 MR. NIX: I think the second recommendation  
14 can also be viewed as a...in the light, of extending  
15 present policies and activities. California, through  
16 its utilities, has long had audit programs oriented  
17 towards the commercial sector. The recommendation is  
18 suggesting that those audits be extended to a large  
19 portion of the commercial sector that are not covered  
20 within the scope of the present activities and....

21 CHAIRMAN IMBRECHT: Just let me add one final  
22 thing for Commissioner Gandara's purpose, as well...and  
23 Commissioner Crowley. One of the reasons we have, in  
24 essence, reiterated policy statements including some  
25 areas that obviously reflect or which have been the

1 subject of some controversy is to also signal quite  
2 clearly to the Legislature, to the Governor and to  
3 other policymakers, the consistent evolution of policy  
4 here at the Energy Commission, and that we are not, in  
5 essence....

6 I would hope that as a result of this  
7 document that the people understand that there  
8 continues to be a consensus here as to a number of  
9 items that -- I know we may differ in some of the  
10 specifics of that application, even the point of  
11 calling out the benefits of building standards and  
12 appliance standards and so forth -- I would hope that  
13 it me something that you would reflect upon as an  
14 effort on our part to demonstrate that, though the  
15 membership of the Commission may have changed, many, if  
16 not most, of the fundamental policy considerations  
17 reflect, in essence, an evolution as opposed to any  
18 radical departures from the foundation upon which we  
19 build. Now, to that.

20 MR. NIX: The third recommendation is  
21 directed towards reducing energy consumption within  
22 State government. I think the novel feature here would  
23 be to couple the budgeting process, basically through  
24 the control of the Department of Finance with energy  
25 reduction programs to be implemented through the

1 Department of General Services after a review of their  
2 feasibility through the Energy Commission.

3 VICE CHAIR CROWLEY: I have a question on  
4 that one.

5 CHAIRMAN IMBRECHT: Yes, Commissioner Crowley  
6 on that one.

7 VICE CHAIR CROWLEY: Is this in addition to  
8 the 20% that has previously been their goal at General  
9 Services through the previous executive order?

10 MR. NIX: Yes. One of the.... I think one  
11 of the difficulties with the previous order has been  
12 whether or not that goal has been reached....

13 VICE CHAIR CROWLEY: I understand, but I  
14 mean....

15 MR. NIX: ...or progress is being made.

16 VICE CHAIR CROWLEY: ...you're not backing  
17 down?

18 MR. NIX: No.

19 CHAIRMAN IMBRECHT: No. That's frankly an  
20 attempt to try to provide some mechanisms for and even  
21 more controlling directive as to the behavior of other  
22 agencies. I want to just signal that I think that  
23 there are some suggestions in the background statement  
24 here that I would like to see modified. The Department  
25 of General Services has submitted a letter that

1 expresses some concerns about some of the statements.  
2 I'd like to largely embrace those comments and suggest  
3 that it be appropriate for modifications to be made.

4 I think that, in essence, they agree with the  
5 thrust of the recommendation. And, I think that some  
6 of those statements about "Past efforts... (for  
7 example) in this area produce little results" perhaps  
8 should be modified to suggest that some State  
9 institutions have not been as responsible in dealing  
10 with previous executive orders than have others.

11 I did not.... I certainly did not, I don't  
12 think Commissioner Commons did, as well, intend this to  
13 in any way undercut the current efforts embodied in the  
14 Department of General Services to pursue these goals.  
15 And, I would urge that appropriate tone or  
16 modifications be made to the supporting statement.  
17 Commissioner Crowley.

18 VICE CHAIR CROWLEY: I have another question,  
19 if I may. We've had some comment circulated to us that  
20 had gone to the Committee by others on the issues of  
21 the recommendations. Have those already been  
22 considered by the Committee or are they...?

23 CHAIRMAN IMBRECHT: As far we know, all but  
24 the General Services one have been incorporated within  
25 what you have before you as we released last Thursday

1 or Friday, I guess it was. And, what we basically have  
2 here it is a consolidation and a finality of the  
3 recommendations that were issued on a draft basis  
4 several weeks ago.

5 And we have attempted to try to consolidate  
6 some of the recommendations that dealt with similar  
7 subject matters. Also in light of public testimony  
8 that we received in several hearing, have eliminated or  
9 modified other portions of the recommendations to  
10 reflect that. The General Services comment is the only  
11 one that I'm personally aware of that has come in  
12 subsequent to this Committee recommendation being  
13 publically distributed.

14 COMMISSIONER COMMONS: Do we have a proposed  
15 wording changed on three? Or are we expecting to?

16 EXECUTIVE DIRECTOR WARD: We do have an  
17 amended version on 3, but....

18 COMMISSIONER COMMONS: I talked with Mr.  
19 Grimes; and, he said that he and Mike Garland would get  
20 one over to your office.

21 EXECUTIVE DIRECTOR WARD: That's correct. We  
22 have it.

23 COMMISSIONER COMMONS: Good.

24 CHAIRMAN IMBRECHT: I spoke with Mr. Grimes  
25 as well about that.

1 VICE CHAIR CROWLEY: When will we see that?

2 CHAIRMAN IMBRECHT: Is that ready for  
3 distribution?

4 MR. WARD: I can get some copies made right  
5 now.

6 CHAIRMAN IMBRECHT: Fine. When we come back  
7 to that by the time we're finished with this. Okay.  
8 Please continue.

9 MR. NIX: No. 4 has a similar intent as does  
10 Recommendation 3, and that is to lower energy cost in  
11 California through a companion program to schools and  
12 hospital program, targeting local government.  
13 Demonstration programs have shown the potential for  
14 significant energy savings; yet, there are barriers.  
15 There seems to be an inability to transfer information  
16 about successful programs to other situations where  
17 those programs might be applied. This program would  
18 create a number of mechanisms to try to facilitate the  
19 energy savings.

20 VICE CHAIR CROWLEY: I have a question.

21 MR. NIX: Yes.

22 CHAIRMAN IMBRECHT: Commissioner Crowley.

23 VICE CHAIR CROWLEY: We have been dealing  
24 with a similar program in Loans and Grants. And, the  
25 biggest problem that we have encountered is the lack of

1 interest beyond a certain point, namely 'do it.' We  
2 get them interested through the let's-talk-about-it  
3 stage; and then, the active stage is less readily  
4 accepted. And I'm wondering, is this...? How does  
5 this fit in with our present program dealing with local  
6 government?

7 MR. NIX: It depends upon what the barriers  
8 are that you found in the 'do it' stage. This would  
9 create several funding mechanisms that might encourage  
10 people to really do it, so to speak, beyond just the  
11 talking stage.

12 CHAIRMAN IMBRECHT: What was the question?  
13 Maybe I can better....

14 VICE CHAIR CROWLEY: Well, we have a Loans  
15 and Grants Program where we deal with CSAC. And, we  
16 get these people to...where we do the exploration of  
17 what their energy alternatives are. And, we get to a  
18 certain stage and then they say, 'Gee, that's a great  
19 idea; but, we don't think we can do it.'

20 And, I mean, I am aware that anytime you  
21 offer someone money to do something, they are more  
22 eager to do it then if you don't. But, I'm wondering  
23 where this Recommendation 4 fits in the context of what  
24 we are already presently attempting with local  
25 government.

1           CHAIRMAN IMBRECHT: The distinction is what  
2 we do with local government right now. We, in essence,  
3 provide technical assistance in terms of those  
4 projects. But you're correct in identifying the fact  
5 that we are not able, as we are in the case of schools  
6 and hospitals, to provide loans and grants to assist  
7 them in financing the implementation of those projects.  
8 And, that's really where the distinction lies.

9           I have, now that we had substantial input in  
10 this in the course of our various hearings, that there  
11 are just as substantial energy conservation opportun-  
12 ities available, for example, in county jails and some  
13 other administrative buildings and so forth, the  
14 justification of limiting our ability to provide  
15 financial assistance only to schools and hospitals is,  
16 quite candidly, lost on me.

17           And, if our overall goal, both in terms of  
18 State government and in terms of local government, is  
19 to reduce our demand for energy consumption, then seems  
20 to me, we ought to provide opportunities that service  
21 the broad range of public facilities at both the state  
22 and local levels. The previous recommendation dealt  
23 with the State government issue which, obviously, is  
24 one that's a little more susceptible to direct control  
25 through budgetary process.

1           VICE CHAIR CROWLEY: It's just that I didn't  
2 see anything about funding in this on Recommendation 4,  
3 it being a grant or loan program. All I saw was...  
4 Okay, loan programs.

5           CHAIRMAN IMBRECHT: "...establishing a  
6 participation loan program, information, dissemination,  
7 and energy project monitoring activity." And frankly,  
8 this obviously represents the recommendation for  
9 additional financial assistance, that the Commission  
10 would then have jurisdiction to administer just as we  
11 do with the Loan and Grant Programs for schools and  
12 hospitals.

13           And, I am very conscience, I can assure you,  
14 in any of these recommendations where we are, in  
15 essence, making a recommendation that carries with it  
16 the requirment of additional financial resources. We  
17 have attempted to ensure that there is some recognition  
18 of the implications of this and that there is an  
19 inclination as well to be forthcoming with additional  
20 financial assistance for the Commission to provide such  
21 services. Commissioner Commons.

22           COMMISSIONER COMMONS: Commissioner Crowley,  
23 in terms of the appropriate level of funding and the  
24 guidelines for the program, it was our feeling that it  
25 be appropriate for Loans and Grants Committee to

1 actually come up with that. And then, it would be  
2 appropriate to submit that as part of our overall  
3 Budget or Legislative Program and that the Biennial  
4 Report Committee should not be used as the Committee to  
5 design the programs, but rather to recommend to the  
6 Commission the broad parameters. And then, the Policy  
7 Committees should be responsible in terms of how we  
8 should implement.

9 VICE CHAIR CROWLEY: Thank you.

10 COMMISSIONER GANDARA: My comments are  
11 slightly different. I don't have any problems with the  
12 broad concept of it. It's fine. I think it's the  
13 implementation.... That's where the rubber meets the  
14 road, so to speak. So at least, to my knowledge, there  
15 is no particular reason why we cannot have such a  
16 program. It's just a modification of the State SECP  
17 Plan. And at least it's been my understanding that a  
18 reluctance to....

19 At least at the rates we can offer money to  
20 the SECP Program are not particularly attractive to  
21 municipalities; because in fact, under their own  
22 financing, they might, in fact, find it cheaper to do  
23 so. This has been the problem with some with the other  
24 programs in this area.

25

1           So being that we have so many silver bullets  
2 to use with respect to recommendations, I really would  
3 ask whether this recommendation should receive such a  
4 high level of prominence given that it, in fact, can be  
5 so easily implementable by us by changing the SECP  
6 Plan. We're giving direction to ourselves that, in  
7 fact....

8           CHAIRMAN IMBRECHT: Well, to some extent.  
9 But, also there is an implication, I think, of  
10 additional funding and.... Well, I'm going to let that  
11 sit for the time being; and, maybe I can share  
12 something with you privately about that.

13           COMMISSIONER GANDARA: Okay. Again, as I  
14 said before, I don't have any objection. It's just I'm  
15 more concerned about the fact that the current federal  
16 administration is proposing that the PBA funding which  
17 has been available for our essentially local government  
18 program, such as it has been, should be, in fact,  
19 withheld from the State instead used to substitute for  
20 the SECP funding. And in that sense, I'm not sure that  
21 there will be more funds available, perhaps even less.  
22 And, that's with contemplating a State-funded program,  
23 in which in this case, perhaps we ought to point that  
24 out to the Legislature that who's the interested leader  
25 at least with respect to the budget.

1 CHAIRMAN IMBRECHT: Okay. We can go on.

2 MR. NIX: Recommendation 5 is to focus on the  
3 consumer information programs to accelerate the  
4 introduction of energy efficient appliances and to  
5 stimulate purchase of energy efficient homes in  
6 California. We hope, through that mechanism, to reduce  
7 the residential energy consumption.

8 The Commission is also required under present  
9 statutes to provide recommendations to the Legislature  
10 as to whether or not the temporary compliance measures  
11 outlined in the Public Resources Code for compliance  
12 with the current Building Conservation Standards should  
13 be continued, modified or discontinued. This  
14 recommendation recognizes that mandate.

15 COMMISSIONER COMMONS: Mr. Nix, a slightly  
16 different interpretation is I think the language is  
17 very specific that the Commission should also continue  
18 to review and update residential, building and  
19 appliance standards. And, that is part of this  
20 recommendation.

21 MR. NIX: That is true.

22 CHAIRMAN IMBRECHT: Okay. Please continue.  
23 I'm sorry, anything further on that one?

24 MR. NIX: Recommendation 6 is that California  
25 and this Commission should intensify efforts to secure

1 cost effective supplies of electrical energy from both  
2 Pacific Northwest and Pacific Southwest. We believe,  
3 as do California's utilities, that there are  
4 potentially substantial amounts of supplies available  
5 from these regions and that we should undertake  
6 specific actions that are outlined in the backup to  
7 secure those supplies to the extent that they are cost  
8 effective.

9 Recommendation seven.....

10 COMMISSIONER GANDARA: Mr. Nix. I  
11 apologize. Can I return to Recommendation 5? I was in  
12 an essential conversation pertaining to that one. I  
13 guess what interested me in this one was the excess  
14 between residence sector and appliance standards in the  
15 appliance area. I certainly, again, given the broadest  
16 of recommendations, we're going to have some specific  
17 problems with that. It's more with respect to flushing  
18 out its full implication.

19 Since the home and appliance...the appliance  
20 and the residential home consumption is kind of  
21 addressed in the same recommendation. I am wondering  
22 whether there is any specific intent with respect to  
23 either the stats of the Committee as they develop this  
24 recommendation as to what the Commission will do with  
25 respect to at least what it calls for--increased

1 appliance sufficiency and, when it's within the home,  
2 in any case, since you have a budget...performance  
3 budget that it doesn't really...it's kind of like a  
4 zero/sun game there? It doesn't add, really, to the  
5 net energy savings if you have a more efficient air  
6 conditioner or central furnace budget performance  
7 approach because you can only consume so much per  
8 square foot.

9 And, essentially, what you know have is you  
10 have increased relation of the, perhaps, other  
11 conservation measures -- the insulation with the  
12 glazing or so forth. Does this recommendation  
13 contemplate that, as the increased efficiency of  
14 central appliances like that continues that, in fact,  
15 the residential standards would reflect that increased  
16 deficiency?

17 COMMISSIONER COMMONS: Let me respond on  
18 that. I think that's a policy question, Mr. Nix. The  
19 Committee did not discuss what are the specific changes  
20 that ought to be recommended. Rather, again, it's the  
21 viewpoint that the respective policy committee (in the  
22 case of appliance that would be the Appliance  
23 Committee) would, again, come back to the Commission as  
24 part of the overall work plan and would make  
25 recommendations to the Commission in terms of next

1 year's work plan as to what recommendations to  
2 implement this that they would suggest.

3 And the Committee never discussed as to:  
4 Should we look at this appliance? Or, that appliance?  
5 Or, what we ought to be doing in a particular area?  
6 Rather, it was the Committee's viewpoint that those are  
7 the decisions that should be left to the policy  
8 committees to make recommendations to the full  
9 Commission in terms of how we ought to implement.

10 The Committee does not feel that it had the  
11 authority from the Commission to establish the full  
12 policy of the Commission in all of these broad areas.  
13 Rather, we are setting overall goals and a tone for the  
14 Commission. And, it's the responsibility.... If we  
15 did that, you have work plan issues that you need to  
16 adjust in terms of how much we can accomplish. And, we  
17 were cautious in terms, I think, of trying to relate  
18 our role to the broader policy directions and let the  
19 policy committees do the specific.

20 CHAIRMAN IMBRECHT: For whatever it's worth,  
21 Commission Gandara, we have attempted not to be silent  
22 on any of the principle aspects of the Commission's  
23 jurisdiction. And, I think you can simply read the  
24 statement here in Recommendation 5 and recognize that  
25 that (as you and I have had some substantial

1 discussions and disagreements in some of the things in  
2 the past), I swallowed hard and tried to reflect what I  
3 had preceived to be your concerns and others of the  
4 Commissions

5 And, I think you find here endorsements of  
6 previous policy directions of the Commission that  
7 hardly represent, as I was trying to indicate in my  
8 overview comments, backing away from some of the  
9 principle directions the Commission has taken. I just  
10 urge for your personal consideration, the fact that  
11 that effort has been made in these recommendations.

12 COMMISSIONER GANDARA: I understand that,  
13 Mr. Chairman. I am not being critical of the  
14 recommendation. As I said before, I supported the  
15 opinions in its breadth and attempt. I was just  
16 interested whether there was anymore specific guidance  
17 in that. And I should have given the preparatory  
18 comments that we kind of expect that Committees will  
19 implement these recommendations or refine them, as  
20 Commissioner Commons indicated.

21 Right now, I should note that at least there  
22 is a crack in which this particular issue is going to  
23 fall; because, though he did mention the Appliance  
24 Standards Committee, I would have thought that, in  
25 fact, this would have been more appropriate for

1 the...whatever committee has it now, whether it's the  
2 Residential Buildings Standards or Buildings  
3 Conservation. But that, again, I think in the past,  
4 because buildings, as demonstrated in the appliance  
5 issue and appliances in the buildings issue, it never  
6 really has been addressed, and I thought that, maybe,  
7 this forum is the appropriate one for that, but I  
8 understand.

9 CHAIRMAN IMBRECHT: One final thing: to the  
10 extent that this offers an opportunity -- and I, again,  
11 want to choose my words carefully -- but this offers an  
12 opportunity to enjoy an empremature from the Chief  
13 Executive of the State for some of our programs, as  
14 well. I would hope you would reflect upon the  
15 importance of that in terms of a future direction of  
16 the Commission, as well. Okay. No. 6.

17 MR. NIX: Were there questions on 6?

18 CHAIRMAN IMBRECHT: If there are any, I would  
19 be happy to try to respond to them. Okay. No. 7.

20 MR. NIX: No. 7 reflects a circumstance that  
21 I noted in my opening comments that, we have seen a  
22 rather dramatic change in the character of our  
23 electricity supply, where once we were dealing with  
24 primarily utility proposed projects, now we're dealing  
25 largely with non-utility proposed projects.

1           We believe that there is a need to implement  
2 a reporting system to track and monitor the development  
3 of these diverse projects; because, they come before a  
4 host of regulatory agencies. There is no centralized  
5 method for keeping track of the development and the  
6 likely rate at which these supplies will materialize.

7           We believe that this reporting system is very  
8 important to be able to monitor the rate of development  
9 and if we perceive that there be a problem, to duly  
10 notify the Governor and Legislature for actions.

11           CHAIRMAN IMBRECHT: Let me just indicate, as  
12 well. This reflects a.... You may recall in the draft  
13 recommendation that there was also one that spoke about  
14 expanding the Commission's jurisdiction and the 20 MW.  
15 The Committee determined after testimony at the various  
16 hearings not to go forward with that recommendation to  
17 the full Commission; but, this recommendation is, I  
18 guess, viewed as a first-step resolution of that  
19 problem.

20           And I would personally urge that, based upon  
21 our experience, both with this and with the siting  
22 policy over the next year and a half that this issue be  
23 up for further consideration in the ER/BR VI process.  
24 Commissioner Commons.

25

1           COMMISSIONER COMMONS: I would just hope that  
2 the ER Committee is the one to work in terms of further  
3 developing this. This is an area that I have specific  
4 interest. Particularly the last sentence or the last  
5 two sentences.

6           CHAIRMAN IMBRECHT: Okay. No. 8.

7           MR. NIX: No. 8 continues the long-standing  
8 policy that the Energy Commission has had to develop  
9 California's indigenous resources. Here, the list  
10 includes geothermal, solar wind, biomass, small  
11 hydroelectric municipal solid waste to energy, and  
12 cogeneration.

13           The thrust of the recommendation is to  
14 continue that implementation through the Energy  
15 Technologies, Research, Development, and Demonstration  
16 Act.

17           CHAIRMAN IMBRECHT: Questions? Okay. No. 9.

18           MR. NIX: Recommendation 9, is that the State  
19 encourage expansion of thermally enhanced oil recovery  
20 and that each of the proposals, now before various  
21 regulatory bodies, to increase the use of natural gas  
22 for TEOR development be evaluated by the Energy  
23 Commission on the relative merit.

24           We believe that there can be potentially  
25 significant impacts in the traditional natural gas

1 market depending upon the nature and characteristics of  
2 the way the additional supplies...natural gas supplies  
3 might be delivered to the developing TEOR market. We  
4 believe this deserves very careful consideration, more  
5 so than the staff have been able to provide during the  
6 course of the Biennial Report proceeding, and strongly  
7 urge that this be reviewed in depth in the Biennial  
8 Fuels Report.

9           CHAIRMAN IMBRECHT: Just note, in terms of  
10 the implication of these proposed projects for the  
11 State, they have profound potential impact in all three  
12 of our major energy sectors. There appears to be,  
13 based upon a record developed in proceeding,  
14 approximately three times the available additional  
15 crude for recovery as a result of these projects where  
16 they brought to fruition than that which has been  
17 identified in our offshore resources.

18           The State is expending, obviously, a  
19 substantial amount of political energy -- and, I guess,  
20 that's probably the best way to describe it -- trying  
21 to wrestle with the conflicting needs of energy  
22 development and environmental considerations in terms  
23 of offshore developments. And yet, this onshore  
24 resource that is identified and represents a  
25 substantially greater volume of potential crude to

1 impact our domestic production is actually a  
2 substantially greater resource than that which is  
3 available at least at present terms versus offshore.

4 And so, in terms of near-term focus, and  
5 responding to one of key findings of the Biennial  
6 Report in terms of petroleum, that I think I made  
7 reference to this morning, that by 1991--though today,  
8 we are down to a one-third dependency situation for  
9 imported petroleum, we will be back at a 50 percent  
10 dependency situation. I might add that there is a  
11 recent Department of Interior Report out that reaches  
12 roughly that same conclusion; and that moreover, that  
13 by 1991, the transportation sector alone will consume  
14 all of our domestic production, that we, in fact, face  
15 some very real and near-term dilemmas in terms of  
16 petroleum.

17 It is, I think, very naive to suggest that  
18 the current pricing signals that some of our general  
19 population respond to, should be interpreted as  
20 suggesting that somehow we are in a safe situation, vis-  
21 a-vis petroleum and that the near-term implications are  
22 much more profound than, I think, much of the general  
23 public recognizes.

24 In addition, there are potentials for  
25 expanding transportation availability for natural gas

1 into California that may or may not be beneficial to  
2 our natural gas ratepayer. And moreover, the  
3 opportunity for cogeneration development related to  
4 these projects offers a substantial opportunity for  
5 electric generation that, in essence, marries, as I  
6 indicated earlier, all three of the major energy  
7 sectors that we have responsibility for reporting on in  
8 the Biennial Report process.

9 For all those reasons, I would just suggest  
10 that this issue in Recommendation 9 is really one of  
11 the very key ones. And, again, with the anticipated  
12 production of the Fuels Report later this year that  
13 that's the appropriate form for which we can provide a  
14 detailed analysis and recommendations for the State and  
15 for the Governor. It would be my expectation,  
16 considering the fact that there are now two, I believe,  
17 filed proposals before the Federal Energy Regulatory  
18 Commission for construction of new interstate pipelines  
19 and the anticipation the two additional applications we  
20 filed are, in essence, for competing proposals plus a  
21 perspective from both Pacific Gas and Electric and  
22 Southern California Gas that, in essence, calls into  
23 question the efficacy of those that the ultimate  
24 success or failure of those proposals before the  
25 Federal Energy Regulatory Commission will be highly

1 impacted by the recommendations of the State of  
2 California. And, as the consequence, that's why we  
3 have this recommendation here before you. Commissioner  
4 Gandara.

5 COMMISSIONER GANDARA: I just have one  
6 question for the Committee and/or Mr. Nix.

7 CHAIRMAN IMBRECHT: Commissioner Gandara.

8 COMMISSIONER GANDARA: Again, I.... With  
9 respect to the broadness of the recommendation, I don't  
10 have a lot of problems with it. I do sort of have a  
11 question as to, perhaps, an asymmetry. Look at the  
12 recommendation...the out-of-state bar recommenda-  
13 tion...whichever one that was. Recommendation 6,  
14 defined a very specific recommendation with respect to  
15 the expanded involvement in FERC proceedings and NBPA  
16 defined a fairly specific call for congressional  
17 oversight and in addition to that, clear expressions to  
18 the Department of Energy.

19 In a way the transmission line aspects of  
20 Recommendation 6 has its counterpart in the pipeline  
21 aspect of Recommendation 9. And as is noted by the  
22 last paragraph of the Recommendation, there clearly are  
23 considerable implications; and, I note that the  
24 pipeline proposals while, to date, have been FERC  
25 proposals, in earlier comments on the ER, it was noted

1 that to some extent Southern California Gas and  
2 Electricity Company could be comforted by some of the  
3 recommendations...the Recommendation 9. Yet, the  
4 participation in this is by Pacific Lighting.

5 The last paragraph here, I think,  
6 appropriately points out that the impact on ratepayers  
7 will probably be to the impact of the question of what  
8 the low will be for the Gas Company versus the Lighting  
9 Company--Pacific Lighting Company. I think all of  
10 those are appropriate issues to be dealt in the future.  
11 I don't think that they need to be decided now.  
12 However, I guess, what I'm asking is that, to some  
13 extent, these issues are going to be handled before  
14 FERC and so forth. And I just don't understand why  
15 there isn't the same level of recommendation and detail  
16 in this recommendation.

17 CHAIRMAN IMBRECHT: Well, a couple of  
18 reasons, Commissioner Gandara, partly because the level  
19 of discussion and sophistication on that issue has not  
20 met that which has occurred over the last couple of  
21 years on the transmission line. In addition, there is  
22 little contention relative to the transmission line  
23 that there is adequate carrying capacity for the  
24 electrical energy that is available from the region  
25 affected.

1           Whereas, with respect to the natural gas  
2 system, there are clear representations by both  
3 Southern California Gas and Pacific Gas and Electric's  
4 gas side that the existing transportation systems are,  
5 indeed, adequate to meet the needs of TEOR development.  
6 So, there is a, it seems to me, substantial factual  
7 difference, vis-a-vis the two issues, though I  
8 understand in your statement that, on the face of it,  
9 it might appear that there is some similarlarity.

10           Beyond that, it is really a reflection that  
11 we have a far more developed record consensus, etc.  
12 within the energy community in the State on one issue  
13 than the other. And recognizing quite candidly your  
14 involvement with the fuels issues in the past and your  
15 knowledge and sophistication on this and the fact that  
16 I'm joining you on that Committee they year, we thought  
17 that that would be an appropriate issue for focused  
18 attention in the Fuels Report that is due to be issued  
19 later this Fall.

20           We also, at the same time, felt that if we  
21 were silent on TEOR that we were largely ignoring one  
22 of the more dramatic developments that have occurred in  
23 the last 12 months vis-a-vis energy developments in  
24 California. And, I see part of the role of the  
25 Biennial Report as, in essence, alerting the policy and

1 decisionmakers of the State at the elected level, as to  
2 that which they can anticipate being 'front burner'  
3 topics in the coming two years. And, with all of that  
4 if we had ignored TEOR it seems to me that it would not  
5 be surprising if there would be response back to us a  
6 year from now as what in the world the Energy  
7 Commission was doing by being silent on this issue.

8           That's the--as I can best offer to you--the  
9 justification for the difference in the two opinions.  
10 I would not frankly be at all surprised if we  
11 ultimately recommend that we take a direct involvement  
12 in the FERC proceedings. But I personally did not feel  
13 at this juncture that we were clear enough in terms of  
14 understanding the likely impact that we should go quite  
15 that far in the recommendation. That's the  
16 justification, in any case. You want to go on to the  
17 next one?

18           MR. NIX: Recommendation 10, which is a call  
19 for a Blue Ribbon Task Force, recognizes the increasing  
20 complexity in both the sources of supply and the number  
21 of players in satisfying California's future energy  
22 needs. The 1984 review of participants -- the Touche  
23 Ross and Company Study -- pointed that there were 28  
24 separate State government agencies involved in various

25

1 of energy regulation. We could probably find an equal  
2 number of federal agencies that are also involved.

3 It is not clear that the present system is  
4 the most efficient system which one could conceive to  
5 regulate energy. We believe that a Committee composed  
6 of representatives knowledgeable about energy issues in  
7 California could best sort through this. That is the  
8 intent of the recommendation.

9 CHAIRMAN IMBRECHT: I also, for Mr. Foley's  
10 perspective, I hope our brethren at the PUC would  
11 reflect on the substantial change in tone in this  
12 statement versus that which was written for us in terms  
13 of a draft. We, as I have indicated, previously very  
14 much appreciated the attendance and personal comments  
15 of President Vial and have tried very hard to reflect  
16 upon that which he offered to us. And what I think we  
17 all feel strongly about is the far better working  
18 relationship between our two institutions than that  
19 which has previously existed. So we call that out.

20 I also want to just emphasize that this  
21 recommendation is not focused simply upon PUC/CEC  
22 relationships, but is designed to provide some  
23 mechanisms to take a look at the broad development,  
24 implementation and regulation of energy-related issues  
25 through State government. And the Touche Ross Study is

1 part of the docket and available for public review on  
2 that basis.

3           COMMISSIONER GANDARA: I only have one  
4 comment on this Mr. Chairman. I guess, citation of the  
5 Touche Ross study and their identification of 28  
6 government agencies or entities involved in this gives  
7 a suggestion of far greater fragmentation than may be  
8 the case.

9           I would note that, more specifically, the  
10 Touche Ross Study call for a review. And I,  
11 actually...if my recollection does serve me correctly  
12 or fully between the draft and the final report since  
13 there were two; but, at some point and time it called  
14 for the Director of Finance or somebody from the  
15 Governor's office chairing, such a review panel and  
16 call for members of the Legislature, as well, to sit on  
17 that.

18           It is unclear to me whether one is endorsing  
19 that particular recommendation or any different one.  
20 And then, secondly, I believe that there are many  
21 agencies within this 28, that in any case, listed by  
22 the Touche Ross Study, that are most unlikely to be  
23 real candidates for this review and/or are most  
24 unlikely to really keep in post the problem.

25

1 I would note that, for example, in that  
2 Report it's mentioned that some of the Attorney General  
3 responsibilities in that area (INAUDIBLE) and so forth.  
4 And, to some extent, there are certainly very many  
5 different functions: the OEO Programs on need, for  
6 example, are called out, the Department of Conversation  
7 oil and gas. And I would just wonder how practical the  
8 recommendation is in light of the result of the latest  
9 initiative in government reorganization on toxics and  
10 whether, in fact, this placed in context, which may not  
11 be one of the highest priorities since my last little  
12 news clip indicated that energy is not even the 20 top  
13 areas of concern to most Americans.

14 CHAIRMAN IMBRECHT: Well, I guess while that  
15 may be reflected in terms of public opinion polls, I  
16 think what we're trying to suggest is that's not an  
17 accurate reflection of the real issues that face us as  
18 a society and as I think are illustrated in terms of  
19 our findings.

20 It seems to me that one of our obligations  
21 here is to try to raise to appropriate level of  
22 discussion, those problems that may be three or four or  
23 five or six years out into the future, but represent  
24 real problems that we ought to be preparing for today,  
25

1 so we don't find ourselves in another crisis-oriented  
2 responsive situation as was the case in '74 and '79.

3 As to the question of reorganization of toxic  
4 waste, I would just note for you that perhaps had a  
5 foundation such as this been laid, prior to those plans  
6 being promulgated, that the relative success in terms  
7 of implementation might have been substantially  
8 different.

9 COMMISSIONER GANDARA: I was just pointing  
10 to that comment in the Recommendation (INAUDIBLE).

11 (LAUGHTER)..

12 CHAIRMAN IMBRECHT: I.... It's there in the  
13 record and will let it go at that. But, I think that  
14 it's fair to say that there are those that had some  
15 involvement with that issue that, perhaps, in  
16 retrospect might also see the wisdom of trying to lay  
17 this foundation. And that's what we are attempting to  
18 do and not suggest that something...all of the toxic  
19 waste reorganization in the manner in which it was  
20 promulgated be forthcoming in terms of energy policy,  
21 but a much more thoughtful process could be engaged in.

22 MR. WARD: A bit less toxic. I suspect  
23 also.... Let's say, it's my understanding, also, on  
24 the Touche Ross, in response to your first question,  
25 Commissioner Gandara, that the recommendations were not

1 included in that portion of the Report that was put  
2 into the docket. It was simply the broader text of the  
3 document.

4 CHAIRMAN IMBRECHT: That's right. Please go  
5 ahead.

6 MR. NIX: Well, I think the Chairman's  
7 comments on society not always focusing on real  
8 problems is a nice introduction to Recommendation 11.

9 We believe that the handwriting is on the  
10 wall, that the United States is headed for serious  
11 problems, given it's continued dependence on petroleum,  
12 in particular, in transportation. We know that  
13 introduction of non-petroleum fuels is a long-term  
14 undertaking. The recommendation is to continue the  
15 Commission's...actually to complete its existing  
16 programs on alternative transportation fuels, including  
17 development of methanol-fueled buses.

18 We believe that methonol represents a  
19 potential, viable, non-petroleum fuel, which can  
20 continue to allow California to use its existing  
21 transportation infrastructure. We believe that it will  
22 take a number of years to introduce a meaningful  
23 quantity of fuel and to use in the State and that the  
24 items delineated here can help California to achieve  
25 some diversity in its transportation fuels.

1           CHAIRMAN IMBRECHT: Okay. Questions?  
2 Commissioner Gandara.

3           COMMISSIONER GANDARA: Mr. Chairman, this is  
4 the only one which you will not be called upon to  
5 testify, I believe. While most of the other ones I  
6 have a problem with with respect to wanting greater  
7 specificity, and this is the only one with which I have  
8 a clear difference.

9           It does seem to me that this presents a most  
10 difficult choice for the Commission, that to some  
11 extent, we have invested a lot with respect to methanol  
12 programs, and that to the extent we have invested in  
13 it, I think the natural inclination is 'let's  
14 continue.' And that the conclusion, as the  
15 Recommendation indicates, at least from an economic  
16 point of view, expenditures to date and the commitment  
17 to date or some costs that, frankly, should not enter  
18 into our decision. Our decision should be more as what  
19 costs are being incurred by the continuation, what  
20 alternatives can be pursued.

21           And, it does seem to me that if any one area  
22 shows a change between the assumptions or the external  
23 circumstances initiated in this program and one that we  
24 currently find ourselves in is, in fact, the area of  
25 methanol. Much of the original basis for this was the

1 expectation of the increase of oil prices at rate of 6  
2 to 7 percent a year in expectation that that would  
3 bring as a result, a backstop to oil prices which would  
4 be the introduction of syn fuels in the early 1990s.  
5 Clearly, all that could dramatically change.

6 It does seem to me that, indeed, it is not  
7 clear to me that we can affect the market, here, either  
8 by a push program, which is a production or a pull  
9 program which would be fuel stations. And to use the  
10 words of Governor (INAUDIBLE) of New Hampshire would  
11 be, "child-screen thoroughly."

12 CHAIRMAN IMBRECT: To use....

13 COMMISSIONER GANDARA: It takes nine months  
14 to complete a baby and there's nothing you can do about  
15 that. And, you can't accelerate that; and, I think  
16 that at least in this area that's where I think we are.  
17 That's not to say we should not have an alternative  
18 fuels program. I find no addressing of other  
19 alternative since we are concerned about keeping up gas  
20 load. Compressed natural gas vehicles, certainly, is  
21 something that we have not fully considered. Maybe we  
22 have; maybe we rejected it. I'm not aware of any great  
23 discussions in that area.

24 The other concern that I would have is I  
25 don't think we need to abandon, essentially, work on

1 methanol. But, I do think that we, perhaps, should  
2 redirect it to an area that, I think, has been  
3 difficult which is in methanol refinery. I don't know  
4 if anybody disagrees with that. We had an unreceptive  
5 response, at times I think, from the utilities; and  
6 that's to be regreted. But, I think that, perhaps,  
7 given the view of the circumstances and different  
8 times, that might be a better investment for our  
9 methanol works. Again, I don't expect a change here; I  
10 just like to note that this one, I do read as  
11 difficult.

12 CHAIRMAN IMBRECHT: Okay. Well, I believe  
13 that the Biennial Report does suggest that there will  
14 be petroleum price increases beginning in the '90s that  
15 represent the kind of upward escalation, not perhaps  
16 the 7 percent annual range. I don't know, Mr. Nix, if  
17 you can refresh my memory; I've got that chart up in my  
18 office. But there is...we do predict a gradual  
19 increase in petroleum prices in the '90s because of the  
20 change in domestic versus foreign and because of  
21 increased growth in demand for petroleum products.

22 You're correct in suggesting that to some  
23 extent this reflects a reflection that we invested  
24 substantially in each program to date. And, if we are  
25 to see those through and see the evidence that has been

1 generated from that, it's important to complete those  
2 programs. But, it's also -- and I think you will see  
3 in this recommendation -- a very clear emphasis upon  
4 another benefit associated with methanol that I don't  
5 believe it's one of the motivating factors in terms of  
6 the initial implementation of this program, but which  
7 has become increasingly apparent during the course of  
8 that. And that, of course, are the environmental  
9 benefits, the air quality benefits which represent an  
10 economic benefit, if you will, in another sense.

11           And, again, because of the clear direction in  
12 our statute that we not only balance simple cost issues  
13 associated with energy supply but also a broader sense  
14 of social responsibility, that I feel strongly  
15 continues to be justification for involvement. I will  
16 also note clearly that there's not a call here for any  
17 type of dramatic expansion of the programs, but that we  
18 do complete that which is currently before us and  
19 ensure that the investment we've made of public funds  
20 to date is adequately and professionally seen through  
21 appropriate conclusion.

22           COMMISSIONER GANDARA:    Again, just a short  
23 response, Mr. Chairman.

24           CHAIRMAN IMBRECHT:    Sure.

25

1           COMMISSIONER GANDARA: It's may have been my  
2 too rapid reading of the Biennial Report or it may be  
3 the fact that, again, the particular supporting  
4 information is not there. But, it's my understanding  
5 with respect to air emissions, we were to take the air  
6 emissions comparison in the methanol car versus a  
7 conventional gasoline-fueled car that with respect to  
8 NO<sub>x</sub> you, really, would not see much of a benefit with  
9 respect to air quality. Whereas, my understanding is  
10 that the air quality stands to benefit substantially is  
11 from the burning of other fuels such as diesel fuel  
12 where, in fact, there we do stand to gain some  
13 benefits. And, I would think that probably would  
14 correspond to oil requirement with respect to  
15 utilities.

16           I, again, don't wish to continue this  
17 discussion or prolong it; but, it does seem to me that  
18 I did need to call out the particular elements at least  
19 with respect to air quality. I may be wrong; but, at  
20 least, in my review and research with respect to  
21 emissions contributions, there is very little  
22 distinction between gasoline-fueled and the methanol-  
23 fueled cars.

24           It may the heavy duty truck--diesel--that  
25 makes the difference; and, I don't know what

1 significant contribution that may be, but, when you  
2 look at methanol over requiring just one plant  
3 partially using that, it sort of overwhelms. Again,  
4 those are my comments.

5 CHAIRMAN IMBRECHT: Okay. Thank you, Mr.  
6 Nix. Mr. Heath do you have a list of those who might  
7 be inclined to testify here.

8 MR. HEATH: I believe that Mike Gardner was  
9 the only....

10 VICE CHAIR CROWLEY: Are we going to look at  
11 3?

12 CHAIRMAN IMBRECHT: Oh, I'm sorry.  
13 Commissioner Crowley.... Before I turn.... Excuse me,  
14 Mr. Heath. Before I turn to that, Commissioner Crowley  
15 reminded me that I think we've had distributed a  
16 revised version of Recommendation 3 to reflect the  
17 Department of General Services comments. I think each  
18 of you have that and ask if there are comments on that  
19 at this point and time? I would just suggest that in  
20 lieu of the Recommendation 3 you have before us, I  
21 think it is the intention of the Committee to sponsor  
22 this.

23 MR. WARD: Mr. Chairman, Mike Garland with  
24 the Department of General Services, unfortunately, had  
25 a meeting over in Legislature and had to leave.

1 Essentially, the changes in this really reflect their  
2 current administrative responsibility with regard to  
3 energy conservation in State facilities. And they are  
4 very supportive of this as modified.

5 CHAIRMAN IMBRECHT: Okay. Questions or  
6 comments? Alright. Fine. Now, Mr. Heath.

7 MR. HEATH: Mike Gardner was the only  
8 individual who had signed up to make any comments.  
9 But, he has withdrawn his request to present comments.  
10 No other people have come forward at this time.  
11 However, just about five minutes ago, we receive  
12 extensive comments from the National Resources Defense  
13 Council which they've asked me to read into the record,  
14 with your permission.

15 CHAIRMAN IMBRECHT: How extensive are they  
16 that you are going to read?

17 MR. HEATH: Six pages,

18 CHAIRMAN IMBRECHT: Six pages? Is it  
19 possible you might summarize those and we could simply  
20 add those to the records?

21 MR. HEATH: Five and one-quarter; I'll  
22 summarize for you.

23 CHAIRMAN IMBRECHT: Alright thank you. If  
24 they were appearing personally, we would not likely  
25 accord them to read the entire statement.

1 MR. HEATH: I've only had a chance to read  
2 this once myself. So, please bear with me for a few  
3 moments.

4 CHAIRMAN IMBRECHT: Alright.

5 MR. HEATH: First of all, when the Oil and  
6 Gas Use Policy... Once again, for the record these  
7 comments are being submitted by the Natural Resources  
8 Defense Council.

9 Oil and Gas Use Policy: The BR makes it  
10 fairly clear that one of the Commission's goal is to  
11 reduce the State's dependence on the use of oil and gas  
12 for electricity generation. Given the importance of  
13 this reduction of oil and gas usage is surprising that  
14 the Draft Biennial Report limits itself to cutting  
15 utility use of these fuels in attempting to reduce  
16 dependence.

17 The residential and commercial use of oil and  
18 gas accounted for 30 percent and more than 50 percent  
19 of oil and gas use respectively excluding  
20 transportation in California 1983. CEC reports have  
21 demonstrated large conservation potential in these  
22 sectors. A recent CEC staff report show the cost  
23 effective potential of 265 trillion Btus in natural gas  
24 saving from existing houses alone. There is no reason  
25 why reduction in these sector dependent should be any

1 less important than utilities used, rather the opposite  
2 is the case.

3 Residential and commercial use of oil and gas  
4 primarily space and water heating, constitute a  
5 relatively fixed demand on short term scale. In the  
6 event where it becomes desirable or necessary to curtail  
7 consumption drastically, e.g., in the event of an  
8 embargo or a large power site, these sectors are less  
9 able to respond in the utility sector.

10 Expansion of Conservation Programs: The list  
11 of identified programs on the Draft Electricity Report,  
12 Table 4-2, makes it appear that a significant amount of  
13 forecast demand be satisfied throughout conservation  
14 resources. However, there is no discussion of the  
15 extent to which these demand reductions approach the  
16 full cost effective conservation available to the  
17 State. Does the forecast represent a reasonable  
18 approach to at least cost energy system for California?  
19 Or, are there still major conservation opportunities to  
20 reduce utility bills for consumers? NRDC believes that  
21 there are large remaining low cost resources available  
22 and request that further discussion of these resources  
23 be included in the Biennial Report.

24 Tax Credits: The Commission should express  
25 its support for both state and national tax credits for

1 conservation and alternative energy development. Ample  
2 research on a policy rationale for tax credit has been  
3 performed over the years. And, basically, the Biennial  
4 Report should reflect such policy consideration.

5           Load Management: The Commission should  
6 support continuation and expansion of load management  
7 programs, including air conditioners, cycling swimming  
8 pool and thermal storage.

9           Utility-Sponsored Program: At the same time  
10 that the CEC is expanding on the critical need to save  
11 oil and gas in the Draft BR, several utilities in the  
12 State are proposing reduction or freezes in utility  
13 conservation-sponsored programs. There is little  
14 controversy over these programs' cost effectiveness.  
15 The issues are the need to conserve and the question of  
16 who pays for the programs. The CEC must develop firm  
17 policies concerning the expansion of utility programs  
18 to save gas, otherwise policies to reduce oil and gas  
19 used in the utility generation sector will be negated.

20           Transportation: There is no mention at all  
21 of conservation programs for transportation sector.  
22 The CEC should develop and detail programs to reduce  
23 energy consumption in the sector through the expansion  
24 of public transit and paratransit alternatives.  
25 Incentives or standards for increased efficiency and

1 further development of methanol fleet. In particular,  
2 the transit option has received far too little  
3 attention as the means to reducing gasoline demands and  
4 vulnerably to a shortage.

5           Lastly, Policy Considerations: The  
6 Commission should include in its recommendation the  
7 explicit support for the development of State energy  
8 policy on the basis of least cost planning. Least cost  
9 principles have provided the theoretical foundation for  
10 most of the Commission's action over the past decade.  
11 CEC's decisions on conservation programs, supply  
12 resource decision on the forecast have been justified  
13 on a least cost basis. Indeed, it is just common sense  
14 to assert that the State should rely on lower cost  
15 resources before resorting to more alternatives.  
16 Nowhere in the present Draft BR is this principal  
17 explicitly stated. The current BR should formally  
18 assert the Commission's committment to at least cost  
19 energy pattern. There is not a policy change, but  
20 rather a clear ascertainment of what has already become a  
21 cornerstone of the CEC policy: the maximum practical  
22 reduction to energy cost to Californians.

23           That concludes their comments.

24           CHAIRMAN IMBRECHT: Okay, thank you. Since  
25 there is no one to respond, I don't think there is

1 really a necessity to respond. I personally think that  
2 much of their comments are, in fact, reflected in both  
3 of the two documents. And, I think that, perhaps, a  
4 more detailed reading would demonstrate that to them.  
5 Commissioner Commons.

6 COMMISSIONER COMMONS: Well, certainly the  
7 theme of Electricity Report and the two documents have  
8 to be read in tandem, is cost containment. And, most  
9 of the recommendations that are being proposed in the  
10 BR rather than having one recommendation saying we  
11 believe in least cost energy policy, we've tried to  
12 look at those areas where we think there are  
13 opportunities for reducing cost and are proposing  
14 recommendations in that area. Almost all of the  
15 recommendations do address the cost issue.

16 The one area...most of the other recommen-  
17 dations, as the Chairman said, are incorporated  
18 therein. The only area that I think that they  
19 mentioned where we do not have a recommendation is in  
20 terms of the transportation. And, that is an  
21 omission...the recommendation on alternative fuel does  
22 not go to that this date should continue to support  
23 programs that are cost effective in the reduction of  
24 transportation. That's the only omission I see from  
25 the list that you read.

1 MR. HEATH: I think one other... If I could  
2 just bring there point to light is the tax credit issue  
3 where there appears to be a lack of discussion in that.

4 COMMISSIONER COMMONS: Well, this Commission  
5 has never adopted any study that has evaluated the tax  
6 credits, as far as I know.

7 There have been some staff work that has been  
8 done. But, I'm not aware of any report that has been  
9 given to this Commission for review as to the overall  
10 cost effectiveness of the tax credits. In fact, when  
11 we allocated the Committees, I don't think we even  
12 allocated tax credits to any of the Committees. So,  
13 you are correct that there isn't a statement. I  
14 personally have.... I may have some different  
15 viewpoints from what their statements are there as to  
16 the appropriate role. I've been supportative of the  
17 Naylor type of approach which we come out in favor in  
18 targeting monies in terms of the development of  
19 alternative energy resources through demonstration  
20 programs. You are correct that there is not a position  
21 there stated.

22 CHAIRMAN IMBRECHT: All I would say is that,  
23 though they participated in some of the proceedings on  
24 both of those matters, I don't recall them, in essence,  
25 suggesting these items for topics of consideration

1 during the pendency of the proceeding, which is  
2 obviously difficulty it would have been. It would have  
3 been a little more helpful if we had heard some of  
4 these things maybe five or six months ago so we could  
5 have clearly scheduled hearings on them.

6 I would agree with Commissioner Commons that  
7 the issue of transit was one that we did not deal with.  
8 About all that I would say is that in terms of the  
9 universe of energy issues, I'm fairly confident we've  
10 hit on a good 95 percent of them; and, I suppose there  
11 are probably a few others that have been missed as  
12 well. But, I hope we've focused on most of those which  
13 have importance for the people of the State.

14 COMMISSIONER COMMONS: Caltrans.... The  
15 Legislature, I think, has more and more made it except  
16 in the area of the alternative fuel. It's Caltrans'  
17 responsibilities and the Highway Commission's and  
18 Transportation Commission's responsibilities in this  
19 area. And we just don't have the resources in the  
20 transportation area other than doing our modelling. I  
21 feel that the world is going to believe this Commission  
22 in that area. But I would say that we have an  
23 omission here. I would have to agree with you.

24 MR. HEATH: Just on that one point. I think  
25 what many people have the perception of the State

1 Energy Plan is, in fact, to be 'the' State Energy Plan  
2 and not the California Energy Commission's Energy Plan.  
3 And that the Governor, when adopting this plan, in  
4 fact, is giving policy direction to all agencies that  
5 he has jurisdiction over as well as recommendations to  
6 the Legislature. So, I don't believe we should be  
7 looking at this or limiting it just to what the  
8 Commission can do; because, this is, in fact, the  
9 Governor's energy policy.

10 COMMISSIONER COMMONS: Well, Mr. Chairman, we  
11 possibly could add that we should support cost  
12 effective energy conservation in the transportation  
13 sector as well as complete its existing program on No.  
14 11. I would have not objection of having that.

15 CHAIRMAN IMBRECHT: I wouldn't have any  
16 objection to that. I don't know that it adds all that  
17 terrible much to it. But....

18 MR. NIX: An alternative might be simply to  
19 add text to the document that indicates that we do  
20 favor cost effective transportation energy programs.

21 VICE CHAIR CROWLEY: Can't argue with that.

22 CHAIRMAN IMBRECHT: Well, I favor apple pie,  
23 also.

24 MR. NIX: Excuse me, energy conservation  
25 programs. But, it is a fact that all of the urban

1 transit in California uses less than 3 percent of the  
2 transportation energy. So....

3 CHAIRMAN IMBRECHT: Those of us who have been  
4 involved with us this has been a very, very long  
5 process.

6 COMMISSIONER GANDARA: I don't want to  
7 complicate your long process; but, inclusion of such a  
8 bullet in Recommendation 11 or in the text is, in fact,  
9 inconsistent with bullet No. 4 which seems to review  
10 CAFE standards for major automotive manufacturers who  
11 operate on methanol to encourage methanol vehicle  
12 development I suppose that's the counterpart to the  
13 price subsidy, except this would be mileage exemption  
14 or waiver. Again since it doesn't appear I'm effecting  
15 Recommendation 11, in any case, I would just like to  
16 see consistency.

17 CHAIRMAN IMBRECHT: I think we'll just leave  
18 well enough alone. At least, that would be my  
19 recommendation. Alright does anyone else wish to be  
20 heard on the matter now pending before the Commission?

21 COMMISSIONER GANDARA: Mr. Chairman?

22 CHAIRMAN IMBRECHT: Alright that will close  
23 public comments and Commissioner Gandara.

24 COMMISSIONER GANDARA: I have bad news and  
25 good news. The bad news is that I have additional

1 comments. The good new is that I find myself in that  
2 sort of third or fourth stage that is described  
3 classically as the stages a person goes through when  
4 they are dying. The first one is sort of resistance to  
5 to idea. The second one is kind of why me and the  
6 third one is kind of 'why me?' And the third one is  
7 kind of an acceptance of it and mellowing how you deal  
8 with it, right. So, that's where I am.

9 CHAIRMAN IMBRECHT: A couple of years ago I  
10 had to go through a number of days like that.

11 (LAUGHTER).

12 COMMISSIONER GANDARA: The good news, then,  
13 is that part of it. The bad news is that I would like  
14 to take some time to go over some editorial comments.  
15 I will not deal with the policy, but more with  
16 editorial comments. And then, after that if there are  
17 any other comments by the Commission, we can turn to  
18 discussion; and I will, at least, go through, at least,  
19 my reasons for my disagreement with the report.

20 CHAIRMAN IMBRECHT: Fine.

21 COMMISSIONER GANDARA: So, we can turn to  
22 Page 1-1 in Section 1, Introduction and Overview.  
23 Second paragraph. The Staff Draft document of April  
24 11. The second paragraph, last paragraph in which  
25 indicates that, "The increase in the cost of

1 petroleum...was the principal reason for the tripling  
2 of electricity prices in the State." Again, I would  
3 think that that would have to be qualified. It's not  
4 the sole reason, I think, that, at least, one could  
5 consider the procurement policies to the utilities and,  
6 at least, ask the question of why (INAUDIBLE), when the  
7 utilities, in fact, have used to more favorably hold  
8 down the cost of the fuel, which, of course, effected  
9 the electricity prices?

10 And, Page 1-3, since you indicated that this  
11 is not a departure but a continuation and affirmation  
12 of many plans, it seems to me the second paragraph on 1-  
13 3 should indicate that the '85 California Energy Plan  
14 presents a continuation of a strategy. So, the word  
15 there should be 'continuation.'

16 Page 1-4 in the first bullet, "High oil  
17 prices increase oil supply by stimulating oil  
18 exploration and discouraging use." It's just an  
19 editorial problem here that I don't believe that use  
20 foregone increases the supply as much as makes whatever  
21 the (INAUDIBLE) will.

22 Second bullet: again, "Consumer reaction to  
23 higher oil prices... -- so forth, result in  
24 ...increased oil production." I believe the consumer  
25 reactions don't result in increased oil production.

1 Again, it may be a semantic thing. I think the other  
2 items here are correct.

3 1-5, middle bullet: "The U.S. and California  
4 will be...dependent on imported oil, the price which  
5 will be under our direct control." I don't have any  
6 problem with the factual assertion of that. But I  
7 think in context of the discussion, I think, it will be  
8 stated that it's not simply the level of imports that  
9 create a potential load growth problem in California  
10 but the level of stocks. And I think that will seem  
11 dramatically (INAUDIBLE) where, in fact, the production  
12 of supply was not dissimilar to previous disruptions.  
13 But, the fact that stocks were high, showed no affect.  
14 It certainly has implications for stocks and policy.

15 And Page 1-8, second to last sentence in the  
16 first paragraph: "More alarming from an economic  
17 development perspective...industrial rates in the same  
18 time period increased by 250 percent." Again, it's not  
19 really clear to me that there has been a causal  
20 relationship established between industrial electricity  
21 rates and economic development. I do believe,  
22 certainly, that there is a methodology about this whole  
23 aspect that I thought had been put to rest with our  
24 industrial electricity prices that would work and have  
25 previously, in fact also been done by the Office of

1 Economic Research at BT&H. But again that's my comment  
2 there.

3 Page 2-5, last two sentences, "The reasons  
4 for decreasing energy use are many." Price induced  
5 conservation is called out as one factor and in  
6 addition, etc. investment, so forth. I certainly think  
7 that there is a major omission here that should be  
8 included which have standards induced conservation has  
9 been principally responsible. And that, at least, was  
10 the result of the forecast, the results that I'm  
11 familiar with.

12 Page 2-12, first paragraph....

13 COMMISSIONER COMMONS: Excuse me, one second,  
14 Commissioner Gandara. Apparently the Chairman is  
15 accepting and....

16 CHAIRMAN IMBRECHT: No. I'm noting them all  
17 and I'm not going to offer a response now. In fact, I  
18 think there might a more....

19 COMMISSIONER COMMONS: I'd like if you could  
20 find a procedure whereby we can handle this so that we  
21 don't have to go through it....

22 CHAIRMAN IMBRECHT: ...every page. I tend to  
23 agree with that. Let me just... At least to this  
24 point, the comments you make tend to.... I don't  
25 really see them as contradictory to the points that are

1 here. They tend to be expansions on the point; and, I  
2 just would note for you that the Biennial Report is  
3 intended to be a summarization, if you will, of a broad  
4 range of energy issues. And, I think that almost every  
5 statement in here could be expanded on. But, that is  
6 precisely the point that I was trying to make earlier  
7 about the utilization of the subsidiary reports for  
8 that kind of what we'll detail.

9           Nonetheless, at least what you hit on so far  
10 are not points that I find any particular objection to  
11 including.... And, it seems to me there might....  
12 Since the order provides the Committee ability to....

13           COMMISSIONER GANDARA: I would have finished  
14 my comments within the time that both of you have....

15           CHAIRMAN IMBRECHT: Alright, fine.  
16 Sounds.... Well, look like we were going almost page  
17 by page.

18           COMMISSIONER GANDARA: 2-12, last paragraph,  
19 last sentence in that paragraph says Industrial  
20 Development: "The impact of these high costs may have  
21 contributed to the closure of some of the State's heavy  
22 industry, such as steel and automobile plants." I  
23 think, again, that's speculative and relates to problem  
24 I spoke about earlier.

25

1           In fact, the steel plant that was closed had  
2 to do with Kaiser Steel and had to do with the fact  
3 that transportation charges were simply not  
4 competitive, that was thoroughly reviewed at the time  
5 of closure of that plant and with suggestions here, it  
6 was high energy costs. The automobile plant situation  
7 has to do with the major restructuring of that  
8 industry, as well. So, again, I find that speculative.

9           And, I believe my last comment here is 3-7.  
10 It makes the statement that--last sentence, "...amply  
11 energy supplies will exist, fuel robust economic  
12 growth," I think, makes the wrong suggestion in  
13 connection that consumption of fuel...fuels the  
14 economy. I think that a more accurate reflection to  
15 energy supply will exist if demanded robust economic  
16 growth.

17           That, I believe.... Oh, let me see, 3-19,  
18 factual one needs to ascertained. That bottom  
19 paragraph it says: "The heavy oil deposits are located  
20 in Northern California, an area which does not have a  
21 need for additional baseload electricity resources."  
22 And that's, again, discussion on wheeling. I was  
23 confused about that. Because, at least, it's my  
24 understanding that heavy oil deposits in Kern County  
25 are principally in the SD territory.

1           CHAIRMAN IMBRECHT: I think if you look at  
2 the errata, that's changed to Central California.

3           COMMISSIONER GANDARA: Okay. Central  
4 California. Then, I don't have any additional  
5 editorial comments.

6           CHAIRMAN IMBRECHT: I just.... I'm going to  
7 have to note, this document's been out since April 9th;  
8 and, that's what we've been trying to accommodate. And  
9 all the various errata which you have objected to on  
10 occasion, these are the very kinds of nuance and  
11 semantic emphasis changes. And had any of these been  
12 provided to us earlier, we would certainly have bent  
13 over backwards to accommodate them in the errata sheets  
14 that have been provided as we have for comments from  
15 other Commimssioners' offices as well as members of the  
16 general public.

17           What I would just suggest to you is, I  
18 believe the Order does provide the Committee sufficient  
19 discretion in terms of coming back for ratification on  
20 a document for final printing that will allow us,  
21 perhaps, to accommodate some of these changes as long  
22 as they do not represent substantive changes. Because  
23 it is, as I indicated earlier, intention to bring back.

24           Again, I did check in terms of past practices  
25 and it's, again, my understanding that this, in fact,

1 has been done in the past, but without the ratification  
2 step which I'm proposing to provide adequate assurances  
3 and guarantees to other members of the Commission that  
4 there are not games played or no modifications made  
5 beyond that which is formally adopted here today.

6 So with your leave in discretion, we'll  
7 attempt to accommodate those suggestions and any others  
8 that you might care to offer to us in our last  
9 deliberations on this entire work product.

10 Commissioner Commons.

11 COMMISSIONER COMMONS: Of the ones you  
12 mentioned Commissioner Gandara, I had no objection  
13 except I don't agree with you on a policy basis on the  
14 industrial electricity prices. That was the only one I  
15 did not concur with.

16 CHAIRMAN IMBRECHT: Alright. Further  
17 discussion.

18 COMMISSIONER GANDARA: Is this my floor  
19 again? Okay. Well, again, in continuation of my third  
20 stage of development here in this hearing process, as I  
21 indicated to you earlier, I do have at least my own  
22 views which I would like to be expressed since I do,  
23 fundamentally, disagree. I have here a draft that does  
24 have some editing problems; I'll correct it as I go  
25 along.

1           CHAIRMAN IMBRECHT: I do appreciate that  
2 there are problems sometimes associated with the these  
3 things. I hope you do.

4           COMMISSIONER GANDARA: There is a copy for  
5 the Public Adviser and one for the dockets. I would  
6 recommend the following: That you either go back  
7 on...set yourself on cruise control and listen to me.  
8 Or, if you don't want to do that, you can read this.  
9 It's really going to be the same thing; or if you want  
10 to turn me off, okay. I am not raising any dramatic  
11 viewpoints. I am just cataloguing or compiling, in my  
12 sense of fashion, the objections that I have raised  
13 throughout this process, okay? So there are no  
14 dramatic, new revelations here. At least, I don't  
15 believe that that is the case.

16           Again, I was very impressed by the opening  
17 comment that you made about how many people had  
18 attended these hearings and so forth. I, frankly,  
19 thought, given the number of impromptu hearings that  
20 seemed to have been held or continued, that I thought  
21 it was rather small. But, nonetheless, it is an  
22 impressive number. And I am reminded, in that regard,  
23 of the debates between Steven Douglass and Abraham  
24 Lincoln when they were caught up in their Senate race;  
25 and Mr. Steven Douglass, Jr., who came out with the

1 fact that he was a very well-educated man in contrast  
2 to his self-educated opponent; and, that he generally  
3 opened up with that kind of comment. I think Mr.  
4 Lincoln at one point got tired of it and his response  
5 was that he had never known anybody that went to the  
6 fountain of knowledge so often and came up so dry. I  
7 certainly don't think the Committee came up dry, but it  
8 certainly came up in a different direction.

9           Again, as I indicated to you before, I have  
10 no personal animosity toward the Commission's work. I  
11 can appreciate the difficulty of the developments of  
12 the ER and BR. And I have no personal differences with  
13 the members of the Committee or the members of the  
14 Commission who would, in fact, quote what the  
15 Committee's view. It's just that in the same kind of  
16 manner I have just a basic disagreement, an honest  
17 disagreement; and in which at least I'd be more  
18 (INAUDIBLE) myself expressing that disagreement than  
19 not.

20           In any case, the introduction of my  
21 particular document, I should say that there should be  
22 copies for the public on the outside table if you think  
23 anybody is interested. I think you can sit and wait.  
24 Really, it's not different that what I'm going to say.  
25

1           But, in essence, during the past several  
2 weeks I've devoted considerable time and effort. And,  
3 I do appreciate the complexity of the process. I did  
4 want to note that throughout my comments that my  
5 comments should be simply a part of both the  
6 Electricity Report and the Energy Plan. I don't  
7 see.... I see them intergrally related. And that,  
8 notwithstanding the statutory changes which you  
9 referred to earlier, and which I've also supported and  
10 I appreciate your personal involvement in that that  
11 made those possible, that placed these two documents in  
12 separate production paths, I still believe that they're  
13 inextricably linked, and they fulfill a common purpose.

14           The first item of objection that I have, and  
15 I won't dwell on it longer, since I discussed it  
16 earlier, is with respect to procedure. I have other  
17 procedural matters, mainly, what I consider to be the  
18 lack of opportunity for meaningful review and comment.  
19 I, again, restate that the changes have been very fast.  
20 They have been numerous, and I don't feel that I can  
21 add an adequate time for you to sit down and involve  
22 myself with this. I feel that I have spent as much  
23 time as just about anybody outside the Committee's  
24 hearing time. At the same time, I thought I've been  
25 very diligent in attending Committee meetings, staff

1 briefings, having discussions with Commissioners; and I  
2 should note that with respect to the BR, I have had a  
3 number of conversations with Commissioner Commons  
4 regarding the BR. In fact, the most recent, several  
5 days ago. So, I have not been reticent in expressing  
6 my views; nor have I been withholding any of the  
7 comments that you are about to hear, in fact, I'm going  
8 to have them made in the public record.

9           The Committee deciding policy in the  
10 implementation criteria have been especially difficult  
11 items. And, to me I just feel that there's required  
12 more time before we can fully appreciate the  
13 consequences of that. I do believe that the proposed  
14 policy is not an evolution. I do believe that it's  
15 radically different from established procedure. And I  
16 do believe that it is very complex. In fact, to pose  
17 an analogy I might make to this, in my mind, is that of  
18 modern algebra in the (INAUDIBLE) theory, when you can  
19 actually make up a set of operators instead of symbols  
20 and, in fact, wind up with a consistent overall policy,  
21 but, perhaps, not even find some attachment to it and  
22 some relationship to it with respect to a real problem.

23           Again, I do believe that the issue  
24 procedurally has been made difficult by the fact of the  
25 separation of recommendations and kind of a piecemeal

1 or incremental approach that has lost an ability to, in  
2 fact, deal with whole documents. I have already  
3 commented on my concern that, in fact, this Commission  
4 received those recommendations after other agencies  
5 and/or individuals. To me, the planning and  
6 forecasting elements were designed to encourage  
7 interested parties to participate in policy  
8 formulation; and while the procedures followed by the  
9 Committee may be within the minimum requirements of the  
10 law, I certainly feel that there...at least, the spirit  
11 is not as fully present as it has been in the past.  
12 And I feel that the Commission has not been timely  
13 apprised and afforded an opportunity to constructively  
14 reflect the issues.

15           This morning we went over the uncertainty  
16 over the Energy Plan's final format. And, I should  
17 note here that somebody probably has my copy which has  
18 penciled changes that I was going to go through. Does  
19 anybody have a copy that has blue ink on it?

20           VICE CHAIR CROWLEY: What is it a copy of?

21           COMMISSIONER GANDARA: Of this item that  
22 I'm....

23           COMMISSIONER COMMONS: LADWT.

24           VICE CHAIR CROWLEY: Oh. W.C. has your copy.  
25

1                   COMMISSIONER GANDARA: I'll trade you. These  
2 are minor, typographical changes, as Commissioner  
3 Commons likes to say.

4                   MR. BYRD: That looks like the only....  
5 Maybe it's the wrong one.

6                   COMMISSIONER GANDARA: No, this is the  
7 correct one. You can take this one. And, I should  
8 note that that first change, where I'm at, is that at  
9 least the uncertainty of the Energy Plan's final  
10 format; I had started out saying it has been rumored  
11 that (strike that, because it was confirmed this  
12 morning that the Committee is directing the rewriting  
13 of the Energy Plan in corporate report format). Again,  
14 it is my view that that is the document that should be  
15 before us. I have already discussed that; I won't say  
16 more on that.

17                   Moving to substantive issues, general  
18 comments on the Energy Plan, as was stated earlier by  
19 the comments here, this is titled the 1985 California  
20 Energy Plan. Yet from my point of view, it's really  
21 more an energy almanac. It provides a history of the  
22 state's energy situation and a status report of the  
23 current situation. While I fully appreciate that maybe  
24 policies here have not been, should I say, changed? It  
25 still falls far short to me of a comprehensive

1 statement of what energy initiatives this state should  
2 pursue and why.

3 It misses some significant opportunities.  
4 For example, it was mentioned that, in fact, the  
5 inclusion of the TEOR was such an oppoprtnunity.  
6 However, to me, for example, the most significant  
7 energy issue facing the state of California for the  
8 rest of the century is offshore oil development. And I  
9 did not see any comments with respect to that  
10 particular issue in the Energy Plan.

11 There is, then, exception to this sort of  
12 approach, which has been a relatively narrow subject.  
13 There is power plant Siting Policy, and here the  
14 initiative is to meet a significant scope. The result,  
15 I think, is a bit of an unbalanced document that  
16 focused a lot of energy and effort on that ten percent  
17 of the energy supply instead of California, the  
18 electricity sector.

19 It then seems to me that there are subject  
20 headings that match some of the requirements in  
21 sections 25309. But it's the lack of detail, the lack  
22 of analytical content, and the persistent focus on  
23 history and the current status. The document is not  
24 unusual for long-range planning that is was intended to  
25 be. What, also, they tried imagine was the idea if

1 there are problems now, we can correct it as we go  
2 along or we can correct it at the next cycle. It seems  
3 to me that if we anticipate something like that, that  
4 perhaps we ought not undertake it. I think the  
5 stability for the industry that we regulate, is  
6 certainly most important. Perhaps, it is one of the  
7 highest priorities, I think, that often indicates this  
8 industry.

9           It does seem to me that the recommendations,  
10 while, as I indicated before, I have no strong  
11 objections to them. And, the principle reason is  
12 because they're fairly broad; and, I would put in one  
13 category or both, their goals without an implementation  
14 strategy. And, in many respects, at least, until there  
15 was a supplement, there were unrelated to concerns  
16 expressed in the record of the Biennial Report that has  
17 been noted by comments here before. And it, in fact,  
18 does not address one of the principle criticisms that  
19 recommendations be fairly specific and implementable in  
20 nature.

21           It really does not spell out who should do  
22 what, by when, directions for us, directions for CPUC,  
23 directions for other agencies, directions for federal  
24 legislative action, directions for state legislative  
25 action. But, there are consequences and so forth. To

1 me, the recommendations, therefore, are less useful  
2 than they would otherwise be.

3 With respect to the Energy Plan's content, I  
4 believe that the few policy changes are in the wrong  
5 direction. I will discuss, at least, the problems that  
6 I have. The Siting Policy's a culmination of number of  
7 assumptions embodied in the Electricity Report. The  
8 Siting Policy offers a solution to problems identified  
9 in the Electricity Report; yet, the need is created by  
10 assumptions used in the report. Because, I believe  
11 that these assumptions are flawed. I don't feel that  
12 the Electricity Report or the Biennial Report correctly  
13 identifies the problems facing California. Nor do I  
14 agree that the Siting Policy responds to real  
15 challenges facing each Commissioner when they review a  
16 siting case.

17 First, there're the assumptions related to  
18 supply plan. First among these assumptions is that  
19 there is an oversupply of electricity resources  
20 primarily from qualifying facilities; but, the Report  
21 does not analyze the forces that contributed to the  
22 number of qualifying contracts signed in California and  
23 the likelihood that the contracts will come online.  
24 The "gold rush" contracts oversupply was principally  
25 brought about by regulatory uncertainties at the PUC

1 over the existence of the term of life or the standards  
2 for long-term contracts.

3           The recent preliminary indications from the  
4 CPUC's Milestone Policy indicate a 37% drop in  
5 anticipated projects for failing to meet the simplest  
6 of criteria. I think as things move even more it will  
7 drop. The suspension of Standard Offer 4 means no  
8 further contracts will be signed. There is a bubble.  
9 There is that...one would ask if there is this  
10 oversupply, is it temporary in nature? In any case, it  
11 does seem to me that the solution to this is to set  
12 avoided cost at a level that reflects the value of QF  
13 power to the ratepayer and let the market forces  
14 regulate supply. I am far less concerned about the  
15 market clearing mechanisms when there's an oversupply  
16 as I would be when, in fact, the circumstances would be  
17 otherwise.

18           Most of the projects, in any case, could  
19 create the perceived oversupply and never come before  
20 us for review. That was recognized in the Report.  
21 And, it was a result that led to a recommendation that  
22 we increase our jurisdiction. But, it wasn't quite  
23 clear what the recommendation was. At one point, the  
24 suggestion was that we increase our jurisdiction to as  
25 low as 20 or 30 MW. At another point, it simply said

1 that we should require demand conformance down to the  
2 20 or 30 MW level. In any case, the proposed.... The  
3 modification now is that we drop that recommendation  
4 and, in fact, these projects will continue not to come  
5 before us for review. So, in any case, the proposed  
6 siting policy doesn't represent a significant  
7 improvement in accounting for their existence that make  
8 the need determination for ensuring diversity of  
9 supply.

10 It does seem to me, however, that if the  
11 concerns for diversity of supply is, in fact, these 50  
12 MW or less, non-utility energy sources, that most  
13 contribute to diversity of supply, while the larger  
14 projects are predominantly cogeneration applications.  
15 It seems to me that the best way to maintain diversity  
16 among these smaller projects is to keep them free of  
17 regulatory impediments. The market would, in fact,  
18 sort those out fairly efficiently. My concern is that  
19 increased regulatory oversight would most likely shift  
20 these sources to capacity levels to avoid jurisdiction  
21 of 20 to 50 MW range; because, developers do wish to  
22 avoid the bureaucratic entanglement of our siting  
23 process. The regulatory pursuit of these sources is  
24 unlikely to be an effective remedy. Again, the market  
25

1 will balance diversity, supply and demand if regulatory  
2 impediments are removed.

3 In addition, applications coming before the  
4 Commission for licensing are not, in fact, diverse, so  
5 from the point of policy, the Energy Commission will  
6 have difficulty "maintaining diversity" among them. I  
7 already mentioned the cogeneration is the single  
8 predominant technology represented in applications  
9 coming before the Energy Commission or anticipated in  
10 the future. The largest of these are associated with  
11 thermally enhanced oil recovery. Juxtaposed to this is  
12 a recommendation to encourage TEOR which does ignore  
13 the fact that most TEOR will have cogeneration  
14 associated with it, which, to some extent, creates  
15 problems with the predominance of gas-based  
16 cogeneration in future utility supply plans. We now  
17 have a problem with lack of guidance in dealing with  
18 cogeneration/fuel displacement issue. And I'm not  
19 clear how this would assist Commissioners in addressing  
20 this problem.

21 In addition to that, the proposed Siting  
22 Policy does creates a series of tests of what I would  
23 consider, administratively, burdensome. It would  
24 increase the cost to applicants without assuring  
25 greater certainty to the outcome. The proposed Siting

1 PoliyC is an effort to simply and add greater certainty  
2 to the process. But, if our current experience with  
3 some applications is any indication, the serious  
4 applicant will challenge the policy, its derivation,  
5 the numbers on which it is based, and staff's overall  
6 need determination. This, again, is costly and does  
7 not reduce the difficulty of the decisions faced by  
8 staff or Commissioners in siting plants.

9 Then, the continual changes in the numbers  
10 behind the Siting Policy does not instill confidence  
11 that they are fully thought out and the product of  
12 extensive and rigorous review. Now, we discussed a  
13 little bit earlier; and, there is some disagreement as  
14 to how often these have been changed. There is not a  
15 lot of discussion; but, there are derivations. In any  
16 case, Table 4-12 does present a bit of a concern as to  
17 the analytical strengths behind it.

18 There are, in another category, assumptions  
19 relating to what I call the 'inflation of identified  
20 need.' There have been incremental decisions in the  
21 Electricity Report that the cumulative effect is to  
22 imply greater need than may actually be the case. They  
23 effect the Siting Policy, again, on the resource side  
24 by virtue of creating greater need.

25

1           The first issue, again, is conservation  
2 reasonably expected to occur. I don't want to visit  
3 that subject again. We discussed it during the  
4 adoption; but again, the splitting of the non-  
5 residential building standards into the unconditional  
6 RETO and conditional RETO really is not a illogical  
7 when, in fact, the implementation of the second tier is  
8 conditioned upon...the first tier is conditioned upon  
9 the adoption of the second tier. So, they either both  
10 belong in or they both belong out--the reasonably  
11 expected to occur. And, in this case, by the  
12 Committee's definition of unconditional.

13           Further, to me, this treatment of splitting  
14 up this RETO into conditional and unconditional was,  
15 again, not fully clear. It isn't clear what reserve  
16 need is to mean in conservation. In any case, I sought  
17 that out. I've never been really able to get an  
18 understanding of that. I still, you know, as late as  
19 this morning, did not really have an absolute response  
20 to my concerns there.

21           The other problem that I have with respect to  
22 conservation policy is by the way it has been placed on  
23 the supply side implicitly forces power plant  
24 applicants under a particular circumstance to compete  
25 against conservation determining need, while the

1 statute prohibits such action. Clearly if, in fact,  
2 they do not result in that competition, then the  
3 reserve need is meaningless--one or the other. In any  
4 case, it's not an adequate outcome. The delegation or  
5 reservation of reserve need for so many programs in  
6 conservation that are expected to be the result of PUC  
7 action, basically delegates authority for conservation  
8 planning at that PUC with no guidance from the Energy  
9 Commission.

10 On reserve margins, the Electricity Report  
11 does admit a deficiency in the reserve margin analysis,  
12 while simultaneously recommending higher reserve  
13 margins. The reserve margin in the Report have, as  
14 their only basis, an apparent increasing rate of forced  
15 outages. To me, the examination of the issue is,  
16 however, inadequate. And, no mention is made of what  
17 action should be taken to reduce forced outages.  
18 Previous Commission policies on power pooling seem to  
19 be abandoned in favor on increasing capacity. No  
20 evidence is present that relates forced outages to  
21 operating margins, which in any case would be the real  
22 cost.

23 With respect of power plant retirement,  
24 again, I don't want to belabor that point again. We  
25 discussed it before. But, the retirement criterion in

1 40 years results in expected retirement level of twice  
2 the number the utilities plans predict. Whereas, the  
3 45 year criterion more closely approximates what they  
4 have proposed in their plans. The full analysis of the  
5 basis for this change is not fully articulated in  
6 either the Energy Plan or the Electricity Report. And,  
7 nonetheless, even if one is to believe that, it's  
8 unrealistic to assume that no power plants will be  
9 refurbished even though the Report states that the need  
10 created by the shift in retirement policy should be  
11 partly met through refurbishment.

12 In conclusion, fellow Commissioners, my  
13 dissent is based on a fundamental disagreement with the  
14 procedures, scope and policy content of the '85  
15 Electricity and Biennial Reports.

16 The Plan is not a plan, but a selective  
17 review of the State's past and present energy  
18 situation. It provides virtually no policy guidance to  
19 either the Governor or the Legislature.

20 To me, the proposed Siting Policy is a  
21 microregulatory approach that moves too far in the  
22 direction of State intervention in resource planning.  
23 It anticipates analytical precision that is not  
24 possible in a regulatory agency and, in particular, in  
25 a regulatory agency that has seen a continued exodus of

1 its analytical skills. It ignores the potential of  
2 market forces in balancing supply options and raises  
3 the costs of processing siting cases while providing  
4 questionable benefits. I see it as another fix to a  
5 perceived problem whose origins were a previous  
6 regulatory fix.

7           And, intended or not, the result of decisions  
8 made in the Electricity Report has been to increase  
9 anticipated need, with little discussion of why  
10 existing policies are no longer valid given current  
11 circumstances. My point is not to resist policy  
12 changes, but to support policy evolutions with rigorous  
13 analysis. The justifications for these policy changes  
14 fail to convince me, or are lacking in the Report. The  
15 broad regulatory guidelines which we have used to date  
16 are being replaced with overly prescriptive formulae  
17 that are unlikely to work and which will probably be  
18 abandoned in the next Biennial Report. Neither the  
19 State of California, the Energy Commission or the  
20 industry it regulates is well served by the prospect of  
21 such dramatic regulatory swings.

22           And, my comments were prepared before I  
23 received the changes today. But, I should note that  
24 there are two additional changes that I will just  
25 comment on now. And, that is is that we have a plan

1 here that has, in addition to some of the problems I've  
2 raised, if it to be adopted, at least so many notches  
3 in it, that we raise the opposite question of, in fact,  
4 is there any teeth behind it. First, there is the  
5 proposed amendment to the order which we discussed  
6 earlier this morning which kind of creates a choice  
7 option of using the 1983 Biennial Report or the 1985  
8 Biennial Report. I don't have it before me. But, in  
9 any case, we discussed it. And, it does seem to me  
10 that we discussed, as well, the legal problems with  
11 that. Although, we all apparently disagree with that  
12 or disagree with each other.

13 In addition to that, it escapes me, but, it  
14 wasn't quite clear to me where the appendix belong to.  
15 But, apparently, it does.... This is the appendix for  
16 preferred resources; and, there is an element there  
17 that says, last paragraph, "The Commission's reserving  
18 650 MW for other cogeneration projects. Projects are  
19 generally those that will provide significant economic  
20 and environmental benefit, for example, air pollution  
21 reduction in the South Coast Air Basin, recovery of all  
22 resources in Kern County, etc. etc." So, one of the  
23 things that is occurring here is, in my view, why if,  
24 in fact, there are these problems here, why am I the  
25 only one to see them?

1 Well, one, I may, in fact, be wrong. Another  
2 may be that the interest at stake may not be high  
3 enough to justify any continuation of further  
4 involvement. And, the last one is, maybe, that these  
5 policies may, in fact, not affect a lot of changes.  
6 And, with respect to the changes that we proposed this  
7 morning, we see an exemption here, essentially, as  
8 Commissioner Schweickart used to say, there's a big  
9 element roaming around the room and we're not  
10 acknowledging it. The first change this morning is an  
11 essential grandfathering of cases that are before the  
12 Commission that's been labeled 'equity problem.'

13 The second change that, I guess, I just  
14 referred to is an essential grandfathering of  
15 applications with respect to cogeneration and for TEOR.  
16 Now, I'm not prejudging those issues. Perhaps, they're  
17 correct; perhaps, they're incorrect. But, with respect  
18 to a lot of issues that are held open with respect to  
19 recommendations, there are some very specific  
20 consequences here. And, there are -- at least for  
21 people who have to work with these -- there'd be some  
22 specific consequences that will take place if this is  
23 used as a siting policy.

24 There is an additional change which I did not  
25 find interesting. And, with all the seriousness that I

1 have presented this and I, no doubt, have antagonized  
2 somebody; because, when I did the Electricity Report  
3 and the Biennial Report, I was very much committed and  
4 waited until I could understand fully the feelings to  
5 it and the feelings to it, after having putting so much  
6 work having criticisms made of it.

7           Nonetheless, as even Commissioner Imbrecht  
8 has had times when he's disagreed that he's sort of  
9 feels an obligation, nonetheless, to state his views as  
10 he sees them at the time of the Commission decision.  
11 But, to.... In any case, there is this additional  
12 change on 53-6 that is almost an expectation or a  
13 Commission statement that, perhaps, this policy might  
14 not work. And, if it might not work, then it's almost  
15 requested at this point in time the BR VI Committee  
16 review how the various tests and conditions are working  
17 and now to address the corrections of the perceived  
18 problem in BR VI.

19           And, while I come to disagree with the  
20 seriousness or the intent on that, in my own esquirial  
21 here, visions cross my mind and may, perhaps, not be  
22 totally rational. And the vision that crosses my mind  
23 here was kind of being in line at Disneyland, being  
24 invited to board the boat for adventureland. And, I  
25 really don't think that this is the time to embark on

1 adventures that.... It may not be clear where we're  
2 going, what the consequences may be.

3           So, again, I'm not going to belabor. But, I  
4 have very many specific comments. I chose, instead, to  
5 restate those items that I've already stated. There're  
6 no great new revelations here. I elected them all. My  
7 recommendation is that.... My expectation is that, in  
8 fact, I might be the only one who holds these views in  
9 public. I think there are many people who may hold  
10 them in private. But, nonetheless, we do have a public  
11 record that does seem to be absent a lot of expressions  
12 of concerns, as the Chairman has noted.

13           I would only address one final issue. How  
14 would I like my comments distributed? I, in fact,  
15 addressed that issue earlier. I would like my comments  
16 bound into the Biennial Report, since it basically  
17 addresses the issues that I feel are most important.  
18 Some concerns have been expressed as to whether the  
19 budget could allow that. I note that with great sense  
20 of appreciation for accomplishment that, through the  
21 effectiveness of our Chairman, our budget has gone,  
22 during his tenure, from \$19 million to closing the year  
23 with, perhaps, \$43, \$48 million. And, perhaps, I  
24 think, now out of the Senate, to \$53 million. So, I

25

1 would note that in this large budget that some monies  
2 could be found for the publication of my views.

3 In addition to that, that's the next year's  
4 budget. I should note that my office was asked  
5 recently if I would like a silk plant. I would forego  
6 the silk plant if they would go toward the publication  
7 process of my views. The issue, since I will  
8 anticipate it, I will address. I mentioned that there  
9 is precedent for the binding of the dissenting of  
10 minority views and that basically finds itself in the  
11 first Biennial Report. For those of you whose memories  
12 don't stretch as far, there were seven documents in the  
13 first Biennial Report.

14 COMMISSIONER COMMONS: There were seven  
15 dissents?

16 CHAIRMAN IMBRECHT: No. I'll take care of  
17 that in just a sec.

18 COMMISSIONER GANDARA: There were two  
19 dissents to the major California Energy Strategy Policy  
20 Overview. There was one dissent on the Power Plant  
21 Siting and one dissent in the Fossil Fuels  
22 Siting...Fossil Fuels area. And, with respect to a  
23 summary of all of these that was produced, those  
24 dissents were not incorporated. However, to me, the  
25

1 equivalent of what I am requesting is, in fact, in  
2 precedent in the other seven documents.

3           For example, if you look at the Volume 1 and  
4 the other volumes that are related, it is a fact those  
5 volumes which were forwarded to the Governor and the  
6 Legislature in their letter of transmittal clearly  
7 indicating who supported and who dissented from the  
8 particular views. Most of these, the date is not  
9 clear. From the letter of transmittal, the date is  
10 clear and the date of the dissents. And, the  
11 dissents.... It appears that these items were adopted  
12 along around March of that year. The summary which was  
13 produced from that is, in fact...does not include the  
14 dissents; but, it is also not the document that was  
15 intended for the Governor or the Legislature. It is the  
16 letter of transmittal in the front that is directed to  
17 the reader. And, it says: "This summary abstracts the  
18 key findings of policy recommendations, and so forth."  
19 And so, it is clear to me -- at least, I have no  
20 objection if the majority of the Commission wishes to  
21 produce an additional document for reader, that is  
22 different from that which, I understand, is in  
23 preparation for that which you're voting upon, which is  
24 the report that goes to the Legislature and the  
25 Governor that that's the one that I wish to have my

1 dissent noticed and sent to and bound with. And, I  
2 should not that the quality of document, the quality of  
3 material, quality of papers is all the same and not  
4 distinguishable from the majority of the Report.

5 I would have an objection to a separate  
6 minority report. My objection would be that that  
7 essentially does not give me the...what I mentioned  
8 earlier is, at least, my preference for the exercise of  
9 the First Amendment rights. I don't think I can  
10 practically speak.... And, that really is not  
11 involving the point of view of the right of such. But,  
12 from a practical perspective, I do believe that  
13 consignment of my views to a separate document would,  
14 frankly, ensure their much more limited distribution.  
15 I would, in fact, mean that it would be unlikely that  
16 in future years when there is a request made for the  
17 Biennial Report that, in fact, that document would also  
18 be produced in the same volumes and quantities, same  
19 appealing format. And, therefore, as a result, these  
20 particular views would not be known.

21 Again, I have no objection to any additional  
22 documents being produced. There is a summary of the  
23 Biennial Report. But, at least, that which is being  
24 sent in as polished a format as possible to the  
25

1 Governor and Legislature, should include my comments in  
2 bound form.

3 CHAIRMAN IMBRECHT: Okay. May I take a first  
4 response, Commissioner Noteware? Obviously, some of  
5 those comments were directed to me; I should respond,  
6 initially. And, I am not going to go point by point;  
7 because, as you pointed out so frequently, it is  
8 sometimes difficult to respond to any document when  
9 it's delivered to you late. And, this is not that it's  
10 late; but, arrived at the same time it was being  
11 presented to us.

12 And I would just note for the record,  
13 specifically, when a member of a deliberative body like  
14 this or a court like a similar situation, where there  
15 are dissenting views, typically, I think it's a matter  
16 of courtesy. They like the document which is being  
17 commented upon circulated to the other members of the  
18 Commission, likewise as a courtesy for comment and  
19 review and provide adequate preparation time to  
20 respond.

21 This one item in terms of a TEOR statement  
22 you made, I think there is substantial evidence in the  
23 record that suggest that, in fact, the potential TEOR  
24 development is not necessarily going to include with it  
25 cogeneration development. In fact, the petroleum

1 companies operating in California expressed an  
2 intention to go forward with or without cogeneration;  
3 although, their desire is cogeneration for the obvious  
4 economic benefits associated therewith, that they see  
5 those projects standing on their own. And I would urge  
6 you to take a look at the record on that basis.

7 A couple of other things I think have to be  
8 mentioned. The.... I note that when you agree with  
9 the utilities' position, you believe we ought to adopt  
10 the utilities' position vis-a-vis retirements; but, you  
11 disagree with the utilities' position, of course then,  
12 ought to take the alternative position. And, it seems  
13 a little difficult to me to accept a situation where  
14 it's half one and half the other.

15 We have not, in terms of response to any  
16 parties here, been slaves to a utility position or an  
17 independent energy producer position, etc. I think  
18 that it's fair to say we probably step on a number of  
19 toes in the course of this discussion; but, I think  
20 that's one of our obligations in terms of trying to  
21 render independent judgments.

22 In terms of the specificity of recommen-  
23 dations, I particularly find your comments ironic. I  
24 would just note that the recommendations that were  
25 included in the last Petroleum Report, which you are

1 the Presiding Member over, includes such recommen-  
2 dations as, "California should examine ways to further  
3 support cost effective environmentally sound thermally  
4 enhanced oil recovery." That doesn't sound to specific  
5 to me. Or, "The Legislature should evaluate the  
6 advantages and disadvantages of various options for  
7 future State involvment in offshore oil and gas  
8 development matters including establishment of  
9 consolidated permitting process that our State  
10 authority and not yet done so." Or, "The California  
11 Energy Commission should evaluate whether to support or  
12 to oppose the current federal crude oil export  
13 prohibition and provide recommendations to Governor and  
14 the Legislature on what position to adopt." Seems hard  
15 for me to distinguish that recommendation from those  
16 which you called out as being insufficiently precise or  
17 detailed versus that say which you brought before  
18 Commmission about a year and a half ago. Or,  
19 "California should concentrate its efforts to reduce  
20 dependence of petroleum fuels in the transportation  
21 sector. Or, "The Legislature should evaluate the need  
22 for State policies on independant refiners, etc., etc."  
23 And, I think that the APR was frankly replete  
24 with those type of recommendations. And my own  
25 judgment is that, frankly, there is more specificity in

1 recommendations have been forward here in terms of the  
2 Biennial Report with far more supporting explanation  
3 than that which is encompassed in that report. So, in  
4 terms of precedent and approach to how these matters  
5 have been handled by the Commission in the past, it's  
6 hard for me to see much of a departure here.

7 In terms of 'putting teeth into our  
8 recommendations,' the last Biennial Reports have talk  
9 about a preferred resource mix. And frequently, there  
10 is a discussion about the no teeth to implement that.  
11 Well, I admit to you that Energy Commission does not  
12 have the full and comprehensive jurisdiction to provide  
13 complete teeth; but, at least there is some effort to  
14 provide teeth in terms of this Report which is  
15 substantially beyond, seems to me, any effort in that  
16 direction encompassed in previous Biennial Reports.

17 In the context of how this document fits with  
18 the other subsidiary documents, I would just note for  
19 you that the Siting Policy was adopted along with the  
20 ER is because under the terms of 1549 that is, in fact,  
21 the operative document that will affect siting. It  
22 seems to me the Biennial Report has evolved (and, I  
23 think that's a proper use of the word) into, in  
24 essence, that which you characterize as the summary--if  
25 we were to use as any kind of precedent--the first

1 Biennial Report. And, in fact, that obviously  
2 represented one of the guidelines, if you will, or one  
3 of the suggested approaches that we had under  
4 dicussion, both in the way in which the contingency  
5 planning report as well as the first Biennial Report  
6 was reflected in the adoption of 1549.

7 I would also note, as you have called out,  
8 that not only is there is no reference to dissents in  
9 the parent document in that first Biennial Report,  
10 there is not even a reference to the fact that such  
11 dissents even exist. We certainly can't find it  
12 anywhere, whether it be in the index, or the summary or  
13 in the...any footnote or any reference whatsoever.  
14 And, as I indicated to you earlier, at a minimum, it  
15 would be my intention to make that very clear in any  
16 parent documents. But I also think that an  
17 interpretation of the Commission's policy, I think,  
18 appropriately would be that what a majority of the  
19 Commission has to say. And that's not in any way to  
20 suggest that there's effort to deprive you of complete,  
21 equal and adequate distribution of any comments you  
22 might have.

23 I would also note that also to follow the  
24 precedent, that the dissents that you made reference  
25 to, also carried with them a detailed rebuttal--point

1 by point rebuttal--by the Presiding Members of the  
2 Committees which were, in essence, having their work  
3 critiqued. And, I would assume that you would accept  
4 that same kind of precedent.

5 Finally, I would presume that perhaps some of  
6 the comments in your dissent might be those that you  
7 would, perhaps, want to modify since it's clear that  
8 some of your concerns had been anticipated, despite the  
9 fact that we had not seen your dissent or had any  
10 exposure to it. So, by virtue of some of the earlier  
11 comments, procedurally, etc., and as well as reference  
12 to days of the week and that type of thing, which I  
13 would suspect in terms of the retrospective reading  
14 would not provide much use to the reader.

15 And finally, in terms of process and  
16 procedure, I think that there are factual errors in  
17 your representations as to when the documents were  
18 available and reiterations of them and type of thing.  
19 And, I personally would hope that you would take that  
20 into consideration as well if you consider any  
21 amendments to your dissent. At the same, I fully  
22 respect and I also hold no animosity. And as I have  
23 made repeated statements in the past, I have great  
24 respect for not only your knowledge of these issues,  
25 but your analytical capabilities. And, it's one of the

1 reasons that I had some regret that we have not had  
2 more input from you during the pendency of these  
3 proceedings so we could better reflect some of those  
4 viewpoints.

5 I think you are a foundational and very  
6 valuable member of this Commission and I always listen  
7 very carefully to the points that you raise. And, I  
8 take, with great seriousness, those which you brought  
9 to our attention here. The only reason for the  
10 inclusion of the statement about a review, although  
11 it's obvious on its face that the next ER/BR cycle  
12 would, in fact, review this, was to provide further  
13 reassurance to people that, as I've indicated earlier  
14 that this, in essence, is an embryonic enunciation of  
15 policy relative to siting that is designed to simplify  
16 the process.

17 I also think that your conclusions that it  
18 would be more expensive, are fundamentally unsupported  
19 by anything in the record. There was never any  
20 testimony; and, I attended the hearings. And, I  
21 followed it with some detail. There was never a  
22 suggestion from any quarter that that would be the  
23 case. And so, it seems to me that your conclusion in  
24 that respect is speculative at best.

25

1           And, one of the purposes of calling out the  
2 fact that there would reevaluation in the next ER/BR  
3 process is to provide, hopefully, adequate assurances  
4 to the affected parties that this is not something that  
5 is an attempt to chisel in finality into stone. But,  
6 it is a situation where we very much want to learn from  
7 the experiences of implementation and ensure that the  
8 manner in which they are implemented are as  
9 fundamentally fair as possible.

10           Last point I just wanted to make is the  
11 question about the so-called equity clause. I think  
12 that any representation that somehow that effects a  
13 predominant amount of our current caseload is also an  
14 accurate reflection of the facts. I think that the  
15 likelihood is that that might have some pendency in two  
16 proceedings--at the outside, perhaps, four proceedings  
17 on another, at least, ten siting proceedings, perhaps a  
18 few more--already pending here at the Commission and  
19 many more are expected to be filed within the next few  
20 months. So, any representation of that is a notch (I  
21 think is the characterization) that represents an  
22 escape from the implications of this for the future, I  
23 think is also not supported by the actual facts and  
24 anticipated workload we have before us.

25

1           And yet, with all that, I do respect the  
2 seriousness of your comments. And, I offer you my  
3 personal pledge that in the context of our efforts to  
4 implement these policies in as fair a fashion as  
5 possible that we will also try to take in to  
6 consideration those comments. I think that's probably  
7 the best place to leave it. Commissioner Commons.

8           COMMISSIONER COMMONS: Mr. Chairman, in  
9 looking at your comments, Commissioner Gandara, most of  
10 them, other than the procedural issue and the very  
11 short set of comments on the Biennial Report, really  
12 address the Electricity Report. And my concern with  
13 your request is somewhat different than the Chairman's  
14 is.

15           The siting policies, reserve margins and many  
16 of the issues that you discussed are not brought out in  
17 the Biennial Report. And, I think it would be very  
18 confusing to a reader of the Biennial Report to have  
19 comments on items that really are not within that  
20 Report, addressed. I, however, feel that you have a  
21 right.... You know, there is two ways of dissenting in  
22 the Commission. And one way is to abstain or vote  
23 against and another is when you feel strongly. And I  
24 have to take the position that you feel strongly;  
25 because, you put it into writing. And, that these are

1 issues. And this does represent a significant change,  
2 that you're essentially saying to the Commission, 'I  
3 hear what you've done; I have some questions; let's  
4 track this; next time we have the ER let's look at the  
5 issues I've raised vis-a-vis the position that the  
6 Commission took. And I don't object; and, I would  
7 support your request.

8           But, I would only support it in the context  
9 of the Electricity Report. Because, that's where I  
10 think your comments are addressed to, in essence. I  
11 look at the Biennial Report where we adopt a policy  
12 position. And, let say I'm not in agreement with the  
13 position on No. 7; then.... This is like how we vote  
14 on Legislation. Here we, essentially, say on the  
15 recommendation, it's the majority viewpoint of  
16 Commission that this is the general policy viewpoint of  
17 the Commission. And, we don't have on our Legislative  
18 policies, a majority and minority report.

19           If I'm a minority person, I have a right to  
20 express by own independent viewpoint. And, if I wish  
21 to I could send a letter out. And I look at the  
22 Biennial Report in terms....more in that framework. I  
23 think the Electricity Report--it's a different  
24 audience; it's people coming before the Commission;  
25 it's very technical. It's very, very important to the

1 community that deals with us. I think they can handle  
2 the issues that you've raised. I think it's  
3 appropriate to do; and, I would support you. But, my  
4 support would be within the context of the Electricity  
5 Report and also with the opportunity since you raise  
6 issues, I think it wouldn't be appropriate or where  
7 appropriate to also rebut them.

8 CHAIRMAN IMBRECHT: I generally think that's  
9 more consistent with the approach taken in the first  
10 BR. But, I would also just offer one other thing. I'm  
11 not prepared at this point and time for the considera-  
12 tions I expressed this morning to give to you an iron  
13 clad commitment today in this forum as to the  
14 appropriate way. But, I will give you a personal  
15 pledge that I will work with you to ensure that to the  
16 ensure that to the maximum extent possible, you're  
17 satisfied that your views are accorded the same kind of  
18 full distribution, explanation, presentation, etc.

19 But, I would have to share some of those  
20 concerns in terms of the limited pages and manner in  
21 which we have outlined our efforts to try to present  
22 the Biennial Report in a readable fashion, etc., at the  
23 same time, making it clear that I would also go well  
24 beyond that which was done in the first report, and  
25 that is call out clearly in that document that there

1 has, in fact, been a dissent. And, I would suggest  
2 that we make it clear to our document distribution  
3 operation that any request for any of these documents  
4 carry with it and automatically be included any  
5 dissenting document.

6 It also seems to me, upon reflection, you  
7 might want to bifurcate some of your comments as it  
8 relates to ER versus BR. I'm not trying to offer that  
9 as a suggestion to you right now; I just urge you to  
10 maybe think about that a little bit and see if we can't  
11 work this out in an acceptable fashion. But, one,  
12 noticing everyone that the dissent exists and,  
13 secondly, making sure that all of the mandatory  
14 distribution occurs that that goes with it and any  
15 request for distribution, that that also goes with it,  
16 as well.

17 COMMISSIONER COMMONS: Could we ask that the  
18 two of you between now and the next business meeting  
19 see if you can work out a mutually acceptable agreement  
20 and that we have this on the agenda. And I'll make a  
21 decision.... We don't need to decide today on how we  
22 distribute the report; it's not an issue before us  
23 today. We are not going to be distributing the Report  
24 for -- what -- at least a month or six weeks?  
25

1           CHAIRMAN IMBRECHT: One other thing that I  
2 just want also clear up for the record, is terms of  
3 response to Commissioner Crowley's question earlier on  
4 the Electricity Report, other implication had we  
5 decided to move down the path of delay at this point  
6 and time is that one of the whole premises upon the  
7 restructuring of the dates was also an effort to try to  
8 maximize public dissemination of these issues. I sense  
9 that there is a fair amount in the Reports that you do  
10 agree with as well.

11           And, that whole timetable was designed to  
12 ensure that the final professionally produced document  
13 in readable fashion, etc. be available at the time that  
14 the Legislature reconvenes in August, so that we can  
15 ensure that there is adequate attention to it at that  
16 time, rather than having to release like the last time  
17 around, the middle of summer and, secondly, that it  
18 provides a foundation, hopefully, for an interim  
19 Committee hearings by the relevant Committees of the  
20 Legislature that we have responsibility of recommending  
21 these recommendations.

22           That's how we came up with the timeframe  
23 involved by basically looking at that as an ultimate  
24 goal for maximizing that kind of Legislative  
25 participation and in essence counting backwards. And

1 we are already under extremely tight production  
2 schedule because of the constraints of the State's  
3 printing office. And, I know that you haven't gone  
4 through those difficulties in the past and appreciate  
5 how difficult it is to get timely response from these  
6 agencies as well. I just wanted to mention that as a  
7 further explanation for the need to come to some  
8 conclusion on some of these points. I'm sorry,  
9 Commissioner Noteware.

10 COMMISSIONER NOTEWARE: Yes, Mr. Chairman, my  
11 question was just to Commissioner Gandara. It is not  
12 clear to me, Commissioner, what exactly you would like  
13 to see in the ER. Is the verbatim copy that you have  
14 given us here? Or, is it your specific, more  
15 substantive issues?

16 COMMISSIONER GANDARA: What I would like to  
17 be included is, essentially, the copy that you have  
18 before you. I do agree with some of the suggestions  
19 that have been made that, there may be a be a need for  
20 some editorial changes, given some of the errata that  
21 was submitted this morning, as well as some of  
22 the...which I didn't have at the time this was written,  
23 as well as some of the comments later on. In any case,  
24 I would prefer to make those editorial changes rather  
25 than the BR editor.

1           CHAIRMAN IMBRECHT: Rest assured. Don't  
2 worry.

3           COMMISSIONER GANDARA: That is my intent.

4           COMMISSIONER NOTEWARE: Yes. It strikes me  
5 that some of what's in here is really inappropriate at  
6 this point.

7           COMMISSIONER GANDARA: And so, in any case, I  
8 think that Commissioner Imbrecht is correct that to  
9 some extent that for it to be read effectively that, it  
10 should be, essentially, those comments that stand  
11 independent of some time aspect. But, in any case, I  
12 would reserve the right for that editorial aspect to be  
13 mine. I would prefer that it be.... And, with respect  
14 to the comments on the Biennial Report.... Because,  
15 again, to me, the Biennial Report is a culmination of  
16 the policy.

17           While Commissioner Commons' comments are  
18 correct, I did not really wish to forego, at least, my  
19 concern with respect to the BR. Although, as I said  
20 before, that...and, as Commissioner Imbrecht indicated,  
21 given the level of generality on some of these things,  
22 I'm not in disagreement with many things.

23           There, the issue is more of the level of  
24 specificity. So, that is what my intent was. And,  
25 again, it does seem to me that a majority of the

1 Commission rules, as I've indicated. And, whatever  
2 precedent a dissent before, can be changed by a vote.  
3 And, clearly, the Commission doesn't wish to support  
4 what I wish to do. And, I certainly would look for the  
5 most available remedy. It is a matter of law what I'm  
6 entitled to; but, I do note that it is not unusual for  
7 major decisions of the PUC, major decisions of the  
8 State Water Resource Board (of which you were a  
9 member), decisions of the Nuclear Regulatory  
10 Commission, FERC.

11 All these particular agencies do seem to  
12 provide the opportunity to provide dissent to be used.  
13 I would even note that, if a distinction is to be made  
14 between a quasi-adjudicatory or a quasi-legislative  
15 proceeding, which I'm sure would be made sooner or  
16 later, I would note that, in any case, you could even  
17 look at the promise of the issue with respect to the  
18 Kissenger Commission where the minority conferring the  
19 dissenting views of members of that commission were  
20 also included with the principal document.

21 Now, certainly, I don't think there's  
22 anything unusual. I think the most unusual departure  
23 would be not to accord the dissenting minority the  
24 expression of his views where he feels they are most  
25

1 effective and would, in fact, ensure a reading at the  
2 same time that the majority reads.

3 CHAIRMAN IMBRECHT: Well, I am not  
4 foreclosing. But I would accept that position. But, I  
5 have also said to you, very clearly, I want to try to  
6 understand the implications, what it does to the rest  
7 of our page content. And, while I appreciate your  
8 viewpoint, I also have to say in all sincerity that  
9 miling a single dissent, in essence, to dictate the  
10 manner in which this dissent made also could, in  
11 essence, represent...and I'm not.... I don't want to  
12 take this statement beyond. But I'm just saying this  
13 also represents, to some extent, a tyranny of the  
14 minority, as well in terms of forcing things on the  
15 majority.

16 There is a delicate balance here. I'm going  
17 to be very sensitive of your concerns, Commissioner  
18 Gandara. And, obviously, there will be plenty of  
19 opportunity to return to this issue; and, let me see if  
20 we can't work something out that you will find  
21 acceptable. You're not in agreement, obviously. You  
22 retain the right to raise that and let's see if you  
23 can't generate support from the remainder of the  
24 Commisioner. Appreciate your discussion.

25 Okay, anything further.

1                   COMMISSIONER GANDARA:  If there are not  
2 comments, Mr. Chairman, I would like an opportunity to  
3 comment on your comments.  Because you did raise an  
4 issue that was not in my original comment that would  
5 confine it only to that.

6                   CHAIRMAN IMBRECHT:  Alright.

7                   COMMISSIONER GANDARA:  You, I think....  It's  
8 not clear, exactly, how or why it's relevant.  But, you  
9 did raise the issue of the (INAUDIBLE) Report; so, I  
10 did wish to address that particular element.  And, I  
11 should note there that the circumstances have, in fact,  
12 been quite different than I....  Clearly, you have been  
13 a major participant in both of those reports with  
14 respect to the first report that was produced when you  
15 were at the Commission.  You may recall that you  
16 evolved the publication of that report being that there  
17 were some concerns that you had with respect to  
18 coordination of other agencies.

19                   With respect to the second document--the  
20 second APR--and I don't know whether you were reading  
21 from that one or the other one.  I would also like to  
22 recall that the Office of Secretary of Environmental  
23 Affairs received a copy of that annual APR Report.  I  
24 did; or the Committee did.  It was sent over there;  
25 and, it is not clear to me at whose direction.  So

1 then, for the preparation of both of those reports, the  
2 Committee was operating under the agreed scrutiny and  
3 at least a clear direction. And, you were a member--at  
4 least for the first Fuels Fossil Committee on the first  
5 report. And, it was surprising to me; because, in  
6 fact, a member of your immediate staff (your special  
7 advisor then) had been a full participant in decisions  
8 of that Committee.

9 So, to that extent, I with no doubt, have a  
10 terrific degree of desire to get far, far more specific  
11 with respect to the APR. Since you raise the issue, I  
12 presume, then, that you would have no objection with  
13 that level of specificity with respect to the upcoming  
14 Biennial and Fuels Reports. And, I do note that....

15 CHAIRMAN IMBRECHT: I'm not inferring  
16 anything. All I was trying to do was draw contrast and  
17 suggest that you are attempting to hold us to a  
18 standard that had not been applied in previous public  
19 expression to the Commission.

20 COMMISSIONER GANDARA: What I am responding  
21 to is that the rounding off at the edges for that  
22 particular standard was not my own, but rather, yours.  
23 And that, in this particular instance, it is not I who  
24 is rounding off the...setting the standard for the  
25

1 particular document. Again, since it was raised, I  
2 just wanted to respond to that.

3 CHAIRMAN IMBRECHT: Alright, we have  
4 different recollection of those events. That's what it  
5 boils down to. I have absolutely no idea what you are  
6 referring to in terms of me holding a publication or  
7 any reference to dissemination to the Secretary of  
8 Environmental Affairs. Because, I frankly have no idea  
9 what you're referring to.

10 COMMISSIONER GANDARA: I will refresh your  
11 memory later, as well as the other Commissioners.

12 CHAIRMAN IBRECHT: Alright. Fine. Okay.  
13 Anything further? Sounds to me that we are prepared to  
14 go to a vote. Without objection, I'll ask the  
15 secretary to please call the roll.

16 MS. GERVAIS: Commissioner Commons.

17 COMMISSIONER COMMONS: Aye.

18 MS. GERVAIS: Commissioner Gandara.

19 COMMISSIONER GANDARA: No.

20 MS. GERVAIS: Commissioner Noteware.

21 COMMISSIONER NOTEWARE: Aye.

22 MS. GERVAIS: Vice Chair Crowley.

23 VICE CHAIR CROWLEY: Aye.

24 MS. GERVAIS: Chairman Imbrecht.

25

1           CHAIRMAN IMBRECHT: Aye. Ayes: four; Nos:  
2 one. The 1985 California Energy Plan/Biennial Report V  
3 is adopted.

4           And I would like to just reiterate the  
5 comments that I offered a moment ago. And I'm sure,  
6 again, irrespective of viewpoints we all bring to the  
7 final conclusion of this effort that every member of  
8 the Commission expressly is appreciative, not only of  
9 the tremendous effort expended by our staff, the  
10 countless late nights and weekend work, but I might say  
11 as well, the contributions and participation of all the  
12 affected parties that have been with the process as  
13 well.

14           It has been a traveling roadshow to some  
15 extent, throughout the State. And a lot time and a lot  
16 of effort has been expended. I hope that the  
17 conclusions of the majority are ultimately upheld in  
18 terms of judgment over the course of the next year and  
19 a half. But I do want to express that appreciation  
20 very much; and, I know it's been a tough effort. Thank  
21 you.

22           Alright. Commissioner Commons.

23           COMMISSIONER COMMONS: Point of information.  
24 When you noticed this meeting, I believe you noticed it  
25 as a two-day session. I will have to say, personally,

1 I have tried to follow all the conversations that have  
2 gone on today. And there are some serious other issues  
3 that are before us on the agenda; and, I'm worn out!

4 I'm not sure I could give fair treatment or  
5 accord to the different issues that are before us. And  
6 we, essentially, have a whole Business Meeting before  
7 us. And, I don't want to try to rush through some of  
8 the issues; and, I would prefer, personally, as a point  
9 of personal privilege, that.... I think we did very  
10 well to get an ER and a BR adopted in the frame of  
11 reference that we did in one day; and, we should enjoy  
12 ourselves and come back and do our Business Meeting  
13 tomorrow.

14 VICE CHAIR CROWLEY: Mr. Chairman, I cannot  
15 see how we can complete this agenda today. And, it  
16 would seem to me that Commissioner Commons' comments  
17 are appropriate.

18 MR. WARD: Mr. Chairman, if I might. I'm not  
19 sure this is a solution; but, we did, in attempt try to  
20 reduce the size of this agenda, those items that hadn't  
21 been before the Commission before, hadn't been subject  
22 to policy Committees scrutiny and also, whereas  
23 Commissioner had a problem we tried to pull it off the  
24 agenda, unless there was some overwhelming reason that  
25 it still had to be on the agenda. So, I believe in the

1 letter that went out with the package, we indicated  
2 that, by virtue of the Biennial Report and the ER being  
3 on that, if we had any problems we wanted to hear from  
4 your offices. Your advisors were informed as well.  
5 So, I have a, tempered suspicion there may be less  
6 problems with the items on this agenda if, in fact,  
7 that letter was taken to heart than, typically, we see.

8           CHAIRMAN IMBRECHT: If I might just try to  
9 respond to that. I would like to try to distinguish a  
10 couple of these issues. I do think some of them even  
11 conceivably could be put over. But, I appreciate your  
12 comments; and, if that's your desire, then we'll go in  
13 that direction.

14           But, I also just would note that it seems to  
15 me that there is one significant substantive issue here  
16 that has, in essence, brought the attendance of people  
17 from other places in the State. And, I would just like  
18 to urge that, as a matter of courtesy to them, I think  
19 that we might be able to deal with this in a half hour  
20 or forty five minutes. And I'm referring,  
21 particularly, to Item No. 2, that it might be  
22 appropriate if I could get your attention for a bit  
23 longer to try to take that item up.

24           VICE CHAIR CROWLEY: I have no problem to  
25 that. However, past performance led me to my comments;

1 and, I am afraid that you will find that you are too  
2 sanguine about this. However, I will defer to your  
3 goodwill.

4 COMMISSIONER COMMONS: Could you ask, Mr.  
5 Chairman, how many people are here out of town on that  
6 issue?

7 CHAIRMAN IMBRECHT: Alright. Maybe I can get  
8 an indication. I think there's some others that are  
9 outside the room actually and....

10 MR. BERK: May I be heard.

11 CHAIRMAN IBRECHT: Certainly.

12 MR. BERK: I'm Michael Berk. I represent the  
13 Moving Party. I would rather come back then incur the  
14 animosity of the Commission by making the extended  
15 agrument that I have been working up all day. I wrote  
16 additional notes for the first three hours and started  
17 crossing out for the last three.

18 CHAIRMAN IMBRECHT: Alright, I think we can  
19 accommodate that. Also, it seems to me there might be  
20 a couple of items here that we can move through quite  
21 quickly.

22 MR. WARD: Item 7 and 8, I suspect, could be  
23 inferred to be consent issues. Six, as well.

24 CHAIRMAN IMBRECHT: Let me ask you. Can we  
25 try to stay through 5:30? Is that reasonable?

1 VICE CHAIR CROWLEY: Oh, yeah. That's fine.

2 CHAIRMAN IMBRECHT: If I could even get to to  
3 6:00, I think we can move through these quickly. Let  
4 me just try to use a little discretion to the Chair,  
5 take up a couple of items here. Let's....

6 COMMISSIONER COMMONS: We haven't discussed  
7 Item 3; so I have no idea what they're proposing.

8 CHAIRMAN IMBRECHT: Alright. We'll stop on  
9 that. I'll just let that one go. Let's go quickly to  
10 item No. 6.

11 VICE CHAIR CROWLEY: That's been removed

12 CHAIRMAN IMBRECHT: No that was five. VICE

13 CHAIR CROWLEY: I beg your pardon. I removed the wrong  
14 one. Sorry.

15 CHAIRMAN IMBRECHT: That a contract for  
16 \$46,250 with B.R. Laboratories to provide laboratory  
17 testing of residential refrigerator/freezers to  
18 determine whether they comply with the Appliance  
19 Efficiency Standards.

20 MR. WARD: Yes, Mr. Chairman, it's my  
21 understanding this has been through the Policy  
22 Committee.

23 CHAIRMAN IMBRECHT: Let me just ask. Is  
24 there any member of the Commission that has concern  
25 about this item? Alright. Do I hear a motion.

1 COMMISSIONER NOTEWARE: I'll move.

2 CHAIRMAN IMBRECHT: Moved by Commissioner  
3 Noteware. Seconded by myself. The item's before us.  
4 Does anyone wish to be heard on this item? Is there  
5 objection to unanimous roll call? Hearing none, ayes:  
6 five; nos: none. The motion is carried.

7 Next, Item 7: Commission consideration and  
8 possible approval of supplemental hearing reporter  
9 services contract. Does any member of the Commission  
10 have concern about this item?

11 MR. WARD: Commissioner, this is,  
12 essentially, as a result of BR and ER hearings. We  
13 have expended all of our contract money. And to handle  
14 the remaining siting cases and business meeting for the  
15 remainder of the year, we're contracting with two  
16 previous firms that we have used up to a 10,000  
17 ceiling, currently, over and above the existing  
18 contract that we have.

19 COMMISSIONER COMMONS: We're talking number  
20 of dollars, \$20,000 max?

21 MR. WARD: It's 30K; and, it's divided. And  
22 I'm not sure exactly what the division is. I think  
23 it's 17 and 20, or it's 37K. I think it's 17 and 20,  
24 something in that vicinity.

25

1 CHAIRMAN IMBRECHT: I think it pretty  
2 procedural. Do I hear a motion on this?

3 EXECUTIVE DIRECTOR WARD: It is 20 and 17.

4 COMMISSIONER NOTEWARE: Okay. I move for a  
5 second.

6 CHAIRMAN IMBRECHT: Moved by Commissioner  
7 Noteware, seconded by Commissioner Gandara. Is there  
8 objection to unanimous roll call? Hearing none, ayes:  
9 5; nos: none.

10 Next is a no cost time extension to previous  
11 contract with CSAC to provide additional time to  
12 complete Phase II of the contract Work Statement  
13 whereby they provide technical and financial service to  
14 local government in developing alternative energy  
15 projects. Any member of the Commission have problems  
16 with this? Okay, moved by Commissioner Crowley,  
17 seconded by Commissioner Commons.

18 VICE CHAIR CROWLEY: That's the Loans and  
19 Grants.

20 CHAIRMAN IMBRECHT: Oh, I'm sorry. Excuse  
21 me. Moved by Commissioner Gandara, seconded by  
22 Commissioner Crowley. Anyone wish to be heard on this  
23 item? Is there objection to unanimous roll call?  
24 Hearing none; ayes: 5; nos: none. Motion is adopted.  
25

1           Item 8 is Commission consideration and  
2 possible adoption of Committee recommendation on the  
3 award of Federal Solar Energy and Energy Conservation  
4 Bank funds. Is there a Commission concern on this  
5 item?

6           COMMISSIONER GANDARA: Yes.

7           CHAIRMAN IMBRECHT: If I here a Commission  
8 conern, we will put the item over. I'm just trying to  
9 clean the agenda up. Alright? We'll put it over.  
10 That will take care of it; and, we'll take the rest of  
11 the items....

12           MR. WARD: Okay. Let's see. Well, let's....  
13 Mr. Chairman, Items 17 and 18, my understanding is  
14 that.... And my recollection is that Commissioner  
15 Commons is now okay on Items 17 and 18. They've been  
16 discussed with him. And, if that's an unfair  
17 characterization, then correct Commissioner. But, you  
18 were the only one who raised an issue with regard to  
19 these two contracts.

20           CHAIRMAN IMBRECHT: Is there concern on  
21 these?

22           COMMISSIONER COMMONS: On.... This is the  
23 one item that was put over in the Legislature, it's my  
24 understanding.

25           CHAIRMAN IMBRECHT: No.

1 EXECUTIVE DIRECTOR WARD: No. No. This is  
2 current year budget; and, I believe the discussion  
3 related to some concerns you had at the last Business  
4 Meeting. And, frankly, I can't remember exactly what  
5 the articulation is....

6 COMMISSIONER GANDARA: I can refresh  
7 Commissioner Commons on these.

8 COMMISSIONER COMMONS: I've gone over....  
9 I'm....

10 CHAIRMAN IMBRECHT: Are you okay?

11 COMMISSIONER COMMONS: Well I want to make a  
12 30 seconds statement.

13 CHAIRMAN IMBRECHT: Then, I'm going to put it  
14 over. Okay. Is that true of 18, as well?

15 COMMISSIONER COMMONS: They're integrated.

16 CHAIRMAN IMBRECHT: Integrated? Alright.  
17 Fine. Let's put it over. I just want to indicate to  
18 the members of the Commission, I do have a conflict  
19 tomorrow morning which based upon my understanding  
20 that we were going to be able to move forward today.  
21 It may be a problem. I will try to resolve that and  
22 communicate with you first thing in the morning. I,  
23 perhaps, may have to be absent for a portion of the  
24 Business Meeting; but I'll return in the afternoon.

25

1           In any case, I'm just gonna give you a ten  
2 seconds Budget Committee Report, which I think may end  
3 us on a happy note. The Energy Commission has less at  
4 risk in the Budget Conference Committee than any time  
5 in history. And the Senate has approved every request  
6 that we have submitted for a total of about \$54.6 or 7  
7 million. And, in the Assembly we have about \$179,000  
8 at risk out of \$54.6 million budget. Those are the  
9 only two conference items that we have to deal with in  
10 the Conference Committee. I might indicate to you as  
11 well that that represents the high water mark in the  
12 Commission budgets, the previous high being around \$51  
13 million, about 2½ years ago.

14           And, I think that.... I hope that everyone  
15 view it as a reflection of the effective way that we've  
16 been working together in the last year. And, I think  
17 that's reflected in the response that we've been  
18 receiving from the members of the Legislature, in both  
19 parties and both houses.

20           And I also want to thank the excellent  
21 support we've had from our administrative services  
22 staff and members of the executive office that have  
23 assisted my office in dealing with the budget matters  
24 before Finance in the Legislature.

25

1 VICE CHAIR CROWLEY: When will you have  
2 resolved the (INAUDIBLE) issue? Tommorrow?

3 CHAIRMAN IMBRECHT: I'm not exactly sure.  
4 But, I think it's probably a little after 2:00. I had  
5 agreed to attend a thing with Dave Kennedy, Director of  
6 Department of Water Resources. Would you prefer we set  
7 an afternoon time on this?

8 VICE CHAIR CROWLEY: Well, I believe people  
9 on the Commission cancelled things; because, we were  
10 told it was a three-day meeting.

11 CHAIRMAN IMBRECHT: I'll try to cancel, only  
12 because....

13 COMMISSIONER COMMONS: I believe we cancelled  
14 a hearing.

15 CHAIRMAN IMBRECHT: It appeared to me we had  
16 a representation that we could forward with this today.  
17 But, I'll try to deal with that; and, I certainly won't  
18 inconvenience anyone. If I have to get out of it....

19 VICE CHAIR CROWLEY: Well, it kind of got  
20 structured that way; and so we all sort of dealt with  
21 doing it that way.

22 CHAIRMAN IMBRECHT: I understand.

23 MR. WARD: Mr. Chairman, one other item of a  
24 high note. I understand that the Commission has been  
25 successful in it's appeal to the State Personnel Board

1 regarding the personal and special advisor issue. And,  
2 I don't have all the details on that; but, I thought  
3 you would be interested in hearing it.

4 CHAIRMAN IMBRECHT: Well, what do you know!  
5 Okay. With that, we'll stand a recess. I'll advise  
6 everyone's office, if you're going to be here for  
7 another half hour, certainly within that time period.

8 VICE CHAIR CROWLEY: What about our people  
9 who will be here for an item? What will we tell them?

10 COMMISSIONER COMMONS: I think we just have  
11 to schedule for 10:00.

12 CHAIRMAN IMBRECHT: Schedule it for 10:00.  
13 And, I may have to absent for a small portion of that;  
14 but, I can be back and participate. We stand a recess  
15 until 10:00.

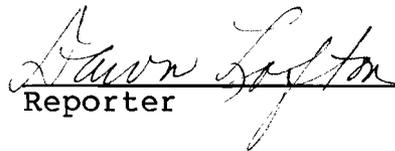
16 (Whereupon the Business Meeting of the  
17 California Energy Resources Conservation and  
18 Development Commission was recessed at 5:15 PM.)  
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**REPORTER'S CERTIFICATE**

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, May 15, 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 Business Meeting, nor in any way interested in the outcome of said Business Meeting.

  
Reporter

Dated this 4th day of June, 1985.