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

**CALIF. ENERGY COMMISSION
JUN 14 1985
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BUSINESS MEETING

**1516 NINTH STREET
1st FLOOR HEARING ROOM
SACRAMENTO, CALIFORNIA**

WEDNESDAY, MAY 29, 1985

10:20 A.M.

Reported by:

Dawn Lofton

COMMISSIONERS PRESENT

Charles R. Imbrecht, Chairman

Barbara Crowley, Vice Chair

Arturo Gandara, Commissioner

Geoffrey D. Commons, Commissioner

EX OFFICIO

Bill Foley

PUBLIC ADVISER'S OFFICE

Ernesto Perez

STAFF PRESENT

Randall Ward, Executive Director

William Chamberlain, General Counsel

Bill Pennington

Ted Rauh

Karen Griffin

Dennis Eoff

Manuel Alvarez

Chris Ellison

Bob Therkelson

Wendell Bakken

Lorri Gervais, Secretary

OTHERS PRESENT

Marshall Hunt, Davis Energy Group

John E. Coleman, Sta Tech

Bob Ladine

Bob Lucas, Carrier Corporation

Thomas H. Willoughby, Pacific Gas & Electric Company

Jan Schori, Attorney, Sacramento Municipal Utility

District (CCPA No.1)

Steven Geringer, Attorney, California Farm Bureau

Federation

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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 the
4 meeting to order. I'll ask everyone to please rise for
5 the flag salute. Commissioner Commons, would you lead
6 us in the flag salute, please?

7 (FLAG SALUTE)

8 CHAIRMAN IMBRECHT: Good morning. Let me
9 repeat my invitation. Due to the configuration of the
10 room for the International Roundtable which we've been
11 hosting, we don't have our ordinary amount of public
12 seating. If any of you would like to take a seat at
13 the table, please feel free to do so. It's only
14 because of the difficulty of re-arranging the room that
15 we've left it configured in this fashion.

16 Commissioner Noteware is absent today because
17 he's carrying out another public responsibility. I
18 understand he's been called to jury duty in the city of
19 Stockton, so is absent for that reason. And
20 Commissioner Gandara, I'm sure, will be joining us in
21 just a moment.

22 Items #1 and 3 have been removed from the
23 agenda. Item #1, at the request of the Petitioner, and
24 Item #3 at my own request because we're not quite
25 prepared to bring forward for ratification the final

1 rendition of the '85 Energy Plan. That will be at the
2 next business meeting, and it's just about finished,
3 and we will distribute it to members of the Commission,
4 either by the end of this week or the first of next
5 week.

6 The first Item to be taken...

7 COMMISSIONER COMMONS: Point of personal
8 privilege.

9 CHAIRMAN IMBRECHT: State your point.

10 COMMISSIONER COMMONS: I wanted to apologize
11 to the Commission for comments that I made at the last
12 business meeting. I do not think that it's appropriate
13 for Commissioners to engage in personalities, and I did
14 so; and, I want to apologize to the Commission.

15 CHAIRMAN IMBRECHT: Thank you, Commissioner
16 Commons. I think we all appreciate that response. I
17 certainly accept that apology, and the spirit in which
18 it's given. Thank you very much.

19 COMMISSIONER COMMONS: Point of information.

20 CHAIRMAN IMBRECHT: State your point.

21 COMMISSIONER COMMONS: There were two items
22 that are not on the agenda that I believe had been
23 timely submitted for this agenda. I'd like to have an
24 understanding or clarification as to why they are not
25 on the agenda. I'm referring to one -- an item

1 concerning TASC0, which I will get into at somewhat
2 greater depth at the time of Committee reports;
3 although I've been told that I'm not allowed to discuss
4 or ask for policy reviews, since it's not properly
5 agendized. The other item was concerning the
6 application of the ER 4 to some of the siting cases,
7 and the fact that that item is not placed on the agenda
8 may jeopardize meeting our one-year statutory deadline.
9 Both of these items, it's my understanding, were timely
10 provided to the Executive Office, although one may have
11 required an addendum to the agenda. As you know, we
12 had a Thursday hearing, which is unusual for the
13 Commission at the last business meeting. I'd like to
14 find out just why they are not on the agenda.

15 CHAIRMAN IMBRECHT: Okay. Let me just slide
16 in and respond briefly, and then I'll ask Mr. Ward to
17 respond as well. As you know, the long-established
18 procedure is that the agenda must be approved by the
19 Chairman at the close of business on Thursday. Neither
20 of those items were brought to my attention by either
21 your office or by the Executive Office. I first became
22 aware that you had made an effort, as I understood it,
23 some time on Friday to add an agenda item. And I first
24 learned about that a week ago Monday. I instructed my
25 staff to inquire of the General Counsel's Office

1 whether or not it was possible to comply with the
2 statutory noticing requirements, and was informed that
3 it was not. So, on that basis, we made a decision that
4 there was nothing that could be done at that juncture.

5 COMMISSIONER COMMONS: This is concerning the
6 adding of the item of the ER. As you know, normally
7 our business meetings are completed on Wednesday, and
8 we had the unusual circumstance that this business
9 meeting was completed on Thursday, which made it
10 difficult to meet the Thursday deadline. In fact, I
11 left before the meeting was officially over, since we
12 were still in Executive Session, and I left.

13 CHAIRMAN IMBRECHT: Alright. I understand
14 that, but that doesn't change the law with respect to
15 our noticing for a subsequent business meeting. After
16 you left, I reviewed the agenda before I left the
17 Commission on that Thursday evening and approved it at
18 that point in time. Whether that other business
19 meeting had been to continue or not seems to me to be
20 largely irrelevant as to the issue of whether or not
21 notice had been appropriately provided to my office
22 within our long-established procedures for appropriate
23 approval of the agenda.

24 All of that notwithstanding, as I indicated
25 to you, I first became aware of this the following

1 Monday and...

2 COMMISSIONER COMMONS: Well, that's the thing
3 I would like because I called the Assistant Executive
4 Director on Friday before 9 o'clock and I know you were
5 in on Friday. And so, it's not a question as to
6 whether or not you got it timely. But the question was
7 why it didn't get to you on Friday so it could have
8 been added; because I know that you would not want to
9 see our cases delayed either.

10 CHAIRMAN IMBRECHT: Mr. Ward.

11 COMMISSIONER COMMONS: And there's no reason
12 that we would not have this item on the agenda.

13 EXECUTIVE DIRECTOR WARD: Well, I'm
14 peripherally familiar with this, Mr. Chairman. It was
15 my Deputy Executive Director that handled it. It's my
16 understanding -- and certainly the rationale behind
17 having these done behind by close of business on
18 Wednesday -- in this case, it would have been Thursday--
19 --is that there is a fairly significant mechanical
20 process that can be subject to delay based on the Data
21 Center being up or down, getting the information over
22 in the proper mailing list to the Department of General
23 Services. And given our noticing requirements, that
24 was the rationale behind the Commission setting those
25 deadlines initially.

1 It is also my understanding that on Friday,
2 to have this had been to be included in our original
3 scheduled agenda, would have required ordering up
4 additional mailing lists and would have necessitated a
5 delay that may have risked the full agenda being out in
6 proper time. We then pursued the issue of doing an
7 addendum to this agenda and, I believe the Chairman has
8 correctly indicated the result of that based on a
9 communication from the General Counsel's Office.

10 COMMISSIONER COMMONS: Mr. Ward, an addendum
11 certainly could have been sent out Friday and at least
12 it would have it would have been appropriate to have
13 apprised the Chairman on Friday, so the Chairman would
14 have had the opportunity to make a decision as to
15 whether or not this item was appropriate for an
16 addendum. By holding the item in the Executive Office
17 until Monday so he was not apprised of this, we
18 essentially foreclosed the Chairman and thus the
19 Commission having the opportunity to hear this matter
20 today.

21 EXECUTIVE DIRECTOR WARD: Well, I'll allow
22 Mr. Smith to comment on that. I know that he did
23 vigorously pursue the opportunity for you to get an
24 addendum to this agenda, and...

25 CHAIRMAN IMBRECHT: Commissioner Commons,

1 there seems to be a dispute as to the time on this.
2 But, frankly, it seems to me that this is not a good
3 use of time for a public hearing. And, I'm sure this
4 can be worked out. The fact-of-the-matter is,
5 unfortunately, it did not or was not appropriately
6 noticed and, therefore, we cannot consider it today.
7 But it will be on the next business meeting agenda.

8 COMMISSIONER COMMONS: Alright, which could
9 cause a delay in one of our siting cases beyond the
10 statutory deadline. And, I think that is significant
11 in itself.

12 The second Item that is not on the calendar,
13 and my understanding was brought timely before the
14 Executive Office also is going to have a significant
15 effect on a case that has previously been decided by
16 the Commission. I think these are the things that are
17 important enough that the full Commission be aware of
18 them. And that is the TASCOS application.

19 EXECUTIVE DIRECTOR WARD: Commissioner, on
20 the second Item that you're referring to, there was an
21 error by staff in not getting this on the agenda. I
22 understand that that error is not causing any
23 irreversible damage to TASCOS at this point. I will
24 comment that staff worked long and hard at the bequest
25 of TASCOS to try to reconcile some of the concerns with

1 regard to some changes in their small power plant
2 exemption and worked very hard and diligent to do that.
3 And there was always a question of whether it was going
4 to be able to be heard on the 29th, based on the
5 ability of staff to do its work anyway. But I do
6 apologize; it should have been agendized, but I don't
7 believe there's been any irreversible damage as a
8 result of it waiting until the next business meeting.

9 CHAIRMAN IMBRECHT: Okay. Let's move on to
10 the substantive aspects of our meeting today. The
11 first item that we'll take up is Item #2, which the
12 Commission Consideration and Possible Approval of a
13 calculation method to demonstrate compliance with the
14 Residential Building Standards for zonally controlled
15 heating and air-conditioning systems. The proposed
16 calculation method is the result of staff workshops,
17 Commission decisions made in June of 1984, petitions
18 from Williams Furnace and Daiken Heat Pump companies,
19 and input from manufacturers of zonally controlled HVAC
20 systems and radiant heating. I think also represents
21 an illustration of the substantial patience that one
22 member of the public has demonstrated in dealing with
23 the Commission on this issue. Commissioner Commons.

24 COMMISSIONER COMMONS: Yes, Mr. Chairman,
25 neither Commissioner Noteware or myself have had an

1 opportunity to review this item. The staff did
2 approach me today in terms of having meetings.
3 Commissioner Noteware, as you know, has not been at the
4 Commission. He has been having an awful lot of
5 meetings; and the two of us have not yet had an
6 opportunity to sit down.

7 I do not feel that with the people that are
8 here that we should not take the testimony on it. I
9 would like the courtesy of the Commission after we've
10 taken the testimony, for Commissioner Noteware to
11 review it. The changes that are proposed are fairly
12 substantial. This is an area that I've been in general
13 support; but oftentimes, I think, we have taken too
14 much time at the Commission when we've not had
15 Committees carefully review work and, that's the way
16 you make mistakes.

17 CHAIRMAN IMBRECHT: Well, I appreciate that.
18 But I get a little frustrated, Commissioner Commons, in
19 constantly delaying decision-making at the Commission.
20 And while I generally, in the viewpoint that we ought
21 to accommodate those types of requests from members of
22 the Commission, I would like to suggest that we listen
23 to the testimony and decide whether or not there is any
24 outstanding controversy associated with this. If there
25 is none, it would be my general inclination that we go

1 ahead and make a decision today, as I believe it is an
2 appropriate circumstance when we have noticed items and
3 there is an opportunity to prepare well in-advance of a
4 public hearing. I have not had any indication from
5 Commissioner Noteware that he would prefer that we put
6 this over. Why don't we see what the sense of the
7 testimony is and the sense of the Commission, and then
8 determine whether or not it would be appropriate to
9 hold the decision.

10 COMMISSIONER COMMONS: I have no objection to
11 that.

12 CHAIRMAN IMBRECHT: Alright. Mr. Ward.

13 EXECUTIVE DIRECTOR WARD: Thank you, Mr.
14 Chairman. I might add that it's my understanding that
15 the request as it was made to staff back in June of '84
16 was that this matter be brought back before the full
17 Commission as opposed to any specific Policy Committee.
18 So staff has attempted to brief Commissioners prior to
19 this, all Commissioners, prior to this business
20 meeting. Mr. Pennington from the Conservation Division
21 will discuss the specific aspects of what staff has
22 done here.

23 MR. PENNINGTON: Thank you. In June 1984,
24 and in conjunction with a Commission decision not to
25 grant an exemption from the Automatic Setback

1 Thermostat requirement for two different kinds of
2 zonally controlled systems, the Commission directed
3 staff to investigate the possibility of creating a
4 calculation method that would allow credit for the
5 zonal benefits of zonal systems for showing compliance
6 with the performance aspects of the Residential
7 Building Standards.

8 Staff has completed that investigation and is
9 recommending today Commission approval of that
10 calculation method. During the past several months,
11 the staff has been working with the building industry
12 to establish that calculation method. The intent of
13 this work has been to develop a method that would
14 address a whole variety of different kinds of zonally
15 controlled systems; and there are several. There's one
16 system which is typically known as a multi-zone system,
17 which is basically a central system that has a series
18 of dampers that are thermostatically controlled to shut
19 off particular rooms in the building. There are other
20 systems that have separate conditioning equipment
21 within the zones of the building such as: radiant
22 heaters, zonally-controlled heat pumps, gas wall
23 furnaces, and electric resistance heaters.

24 The staff has undergone an analysis of the
25 basic underlying assumptions that were used for

1 establishing the Residential Building Standards, and
2 looked into how those assumptions ought to be changed
3 to apportion the internal loads in the building, and to
4 set up an operating schedule that would be consistent
5 with those assumptions that would give us an indication
6 of when particular zones within the building were
7 occupied, what the loads were in those buildings.

8 Basically, we have come up with revised
9 modeling assumptions that can be usable with approved
10 calculation methods (CALPASS, MICROPASS) for use in
11 analyzing zonal systems. We've also looked at the
12 impact of what is the potential energy savings or the
13 likely energy savings due to these measures by running
14 those assumptions. We've worked out a criteria for
15 determining when a particular system would be eligible
16 for taking this credit, and what kinds of capabilities
17 should that system have.

18 Much of the analytical work here has been
19 done by the Davis Energy Group under contract to the
20 Carrier Corporation, who have a multi-zone system which
21 they are anxious to see recognized in the compliance
22 process.

23 The analysis has been done under staff's
24 direction. We've held two different workshops on the
25 matter -- one in January and one just a couple of weeks

1 ago to review an original proposal and a modified
2 proposal in response to comments received at the
3 January workshop.

4 We've just recently, in the last day or so,
5 received some final comment from both of the key multi-
6 zone manufacturers, and have worked out with them an
7 errata which I handed out before the hearing began that
8 would be minor modification of the criteria that would
9 be used for multi-zone systems.

10 We have, in general, reached consensus with
11 the industry on this approach. There have been a
12 couple of key areas of some controversy. First off,
13 the calculation method that we are proposing
14 acknowledges two zones and sets up a system for showing
15 compliance credit for two separate zones within a
16 residence. Clearly, some zonal systems are set up for
17 more than two zones. And if those systems are operated
18 optimally, then there could be potential energy savings
19 beyond what we've estimated for more than two zone
20 systems. However, we investigated what the impact would
21 be of a third zone if you separated, for example, a
22 children's sleeping area from a parents' sleeping area.
23 In setting up these assumptions, using the established
24 assumptions that we worked with off the original
25 building standards, those assumptions indicated that

1 there would not be a significant impact of going to a
2 third zone. There would, on the other hand, be
3 compliance difficulties or enforcement difficulties
4 associated with trying to delineate clearly what that
5 third zone would be and keeping track of a different
6 operating schedule for that zone, and keeping track of
7 a different allocation of internal loads for that third
8 zone. And it was our judgement that the energy savings
9 predicted for this would not be worth the minimal
10 energy impact and the complexity of going to more than
11 two zones.

12 We did leave it open with the participants in
13 the proceeding, that if there was a different way of
14 dividing up the building that seemed reasonable, and if
15 that could be justified that that could be clearly
16 defined for compliance and enforcement purposes; that
17 staff would be willing to entertain the possibility of
18 some third zone in the future. But at this point,
19 we're recommending going forward with two zones only.

20 The other issue here is back in September of
21 1983, shortly after the Building Standards went into
22 effect, the staff authorized one particular
23 manufacturer to use a set of assumptions for zonal
24 control for compliance purposes. The intent of that
25 authorization was to provide an expedient way for that

1 system to get compliance credit; and, it was really in
2 the effort of trying to make the standards as workable
3 as possible immediately after they went into effect.

4 We have reviewed the assumptions that were
5 authorized for that individual manufacturer during the
6 course of this study, and have determined that there
7 are some inconsistencies with the assumptions that were
8 authorized in that letter that we don't think are
9 reasonable to continue. They end up giving more credit
10 than what staff believes is appropriate for the system.
11 And so we have notified that particular manufacturer
12 that the authorization in that letter would terminate
13 as of June 1 of this year with the expectation that the
14 Commission would adopt an approved calculation method,
15 and that that approved calculation method would be
16 available to that manufacturer and competing
17 manufacturers to use as of that time.

18 At this point, we would recommend that that
19 conclusion of staff be adopted by the Commission.
20 That, basically, this calculation method go into effect
21 immediately and that the previously authorized
22 assumptions be terminated with the adoption of these
23 new procedures. Those are the comments I wish to make.

24 CHAIRMAN IMBRECHT: Alright, fine. Questions
25 to Mr. Pennington? Commissioner Commons.

1 COMMISSIONER COMMONS: Mr. Pennington, does
2 the efficiency of the air-conditioning equipment have
3 an impact on the amount of savings?

4 MR. PENNINGTON: The efficiency of the air
5 conditioner is taken into account separately and gets
6 credit thorough currently established procedures for
7 getting that credit.

8 COMMISSIONER COMMONS: Well, I note here in
9 your summary is that an average of 10.9 percent energy
10 savings across all climate zones. What is the
11 efficiency level of air conditioners assumed to arrive
12 at that conclusion?

13 MR. PENNINGTON: An 8.0, which is consistent
14 with the requirements of the standards, the minimum
15 efficiency standards for appliances.

16 COMMISSIONER COMMONS: What would be the
17 impact on the numbers that you've used if you used the
18 adopted air conditioning standards of the Commission
19 last December?

20 MR. PENNINGTON: I believe the credit would
21 be similar.

22 COMMISSIONER COMMONS: Have you made an
23 analysis to ascertain whether that would be the case or
24 not?

25 MR. PENNINGTON: No. However, the efficiency

1 here is going to work pretty much independent of the
2 zoning. It might make a minor difference of a few
3 percent one way or the other, but it's not going to be
4 significant impact.

5 COMMISSIONER COMMONS: What is the
6 relationship? We have some air conditioners that are
7 very, very efficient and others that just meet the
8 standards. How does your calculation method take into
9 account the overall efficiency of the air conditioning
10 unit which is a variable, depending upon the package
11 that is put into the house?

12 MR. PENNINGTON: Currently existing
13 techniques for incorporating the efficiency in the
14 standards take the efficiency into account directly.
15 That already exists, and the point system that exists
16 in use of CALPASS or MICROPASS. So that's already
17 taken care of by the standards themselves.

18 COMMISSIONER COMMONS: Oftentimes, when you
19 put two variables together, you don't end up with a
20 simple equation which is what you have shown here.
21 What I'm trying to find out of this is a dynamic
22 relationship, and so that the equation will vary
23 according to the efficiency of the heating and the
24 cooling units or if the equation is only correct at the
25 initial assumptions.

1 MR. PENNINGTON: Well, the modelling
2 assumptions that are used here divide the building up
3 into zones and allocate the internal loads that exist
4 in the building into those zones. They also set up a
5 different operating schedule. Those modelling
6 assumptions will be used in running CALPASS or running
7 MICROPASS. Also, the input of the efficiency of the
8 equipment will be used in that modelling. So, there
9 will be an interactive modelling within MICROPASS or
10 CALPASS that considers both the efficiency and the
11 zonal differentiation here.

12 COMMISSIONER COMMONS: Alright. But, you're
13 showing here a credit that is based on one set of
14 calculations. When I was looking at the material from
15 LBL, and this is what raises the question, in that they
16 showed that the less efficient the home, the greater
17 the savings, and that that relates to the level of
18 insulation and suggests that the savings may not be
19 constant, depending upon how tight the house is and how
20 efficient the equipment that is being used in that the
21 simple calculation method may not actually represent
22 the variety of packages that would be put forth.

23 MR. PENNINGTON: The modelling assumptions
24 will be used within the computer program to look at a
25 range of different situations. Those computer programs

1 take into account climate zone impacts; they take into
2 account the characteristics of the building itself, the
3 efficiency of the equipment, the types of conservation
4 features that are in the house. All of that is done
5 within the computer program that the Commission has
6 authorized to be used, both CALPASS and MICROPASS. So
7 that's a dynamic calculation.

8 LBL found when they ran a similar computer
9 program, DOE-II, that the potential benefit associated
10 with zonal control is somewhat dependent on the
11 tightness of the house and on the climate. And so, if
12 you have a reduction in the insulation in the house,
13 the zonal control will essentially have more energy
14 there that potentially can be saved by doing the zonal
15 control. So, the potential impact in less efficient
16 houses is more for zonal control than in tighter
17 houses. The basic analysis here was done with a house
18 that meets, in all respects, the building standards.

19 COMMISSIONER COMMONS: What you have put
20 forth though seems to suggest, for example, on the
21 twenty-fourth hour in the living zone what we're
22 adopting is a 0.0235 credit, rather than a dynamic or a
23 variable as you were saying in your discussion. I'm
24 looking at page 2 of 3.

25 CHAIRMAN IMBRECHT: Alright. Anything

1 further?

2 COMMISSIONER COMMONS: I've just asked him a
3 question.

4 CHAIRMAN IMBRECHT: Oh, I'm sorry. Pardon
5 me.

6 MR. PENNINGTON: Okay, you're talking about
7 the twenty-fourth hour of the day?

8 COMMISSIONER COMMONS: Yes. Your answer to
9 the question seemed to be that the models would show
10 that this is a dynamic relationship, but the write-up
11 seems to suggest we're adopting a fixed relationship.

12 MR. PENNINGTON: Okay. In Item 8, on page 2
13 of your handout in the attachment, there is a
14 description of how the load would be allocated between
15 zones, based on the assumptions that are within the
16 Residential Building Standards' modelling. Basically,
17 the Residential Building Standards fixes the internal
18 loads, and fixes the schedule, and requires all people
19 using the computer program to use those fixed schedules
20 and fixed loads for determining compliance with the
21 standards.

22 Now what this is doing here for zonal systems
23 is it is going back and reviewing those fixed
24 assumptions that were made, assuming that there was
25 only one zone in the building and allocating those

1 loads to two zones. We split the building into living
2 and sleeping. And so, particularly on hour twenty-
3 four, it is saying that 0.0235 times the total load in
4 the building is the load that you will find in the
5 twenty-fourth hour in the living zone. That comes
6 directly out of the basic assumptions that were used
7 for developing the standards. All we're doing is
8 disaggregating what previously was for the whole
9 building into two separate zones, based on the
10 configuration of the house and the underlying
11 assumptions that were used back in 1979.

12 COMMISSIONER GANDARA: Mr. Chairman, point of
13 order.

14 CHAIRMAN IMBRECHT: Yes. State your point.

15 COMMISSIONER GANDARA: My apologies to
16 Commissioner Commons here, but I was about to suggest
17 that, you know, it has been established earlier that
18 the Committee, at least the part of the Committee that
19 was present, was uncomfortable with proceeding with
20 this item to final action, given that the Committee had
21 not been involved. It seems to me that many of the
22 questions that are being asked are good questions.
23 They're the kind of questions that you have at
24 Committee hearings, a forum for which a lot of this
25 could be scrubbed. We could come back to the

1 Commission with a Committee recommendation, and perhaps
2 spend less time.

3 I would suggest that perhaps a more efficient
4 way of progressing is to just receive the public
5 comment and refer this item to Committee. I note your
6 concern over not delaying decisions. At the same time,
7 this is precisely why I think it's useful to have
8 Committees go through these things. I show great
9 deference to Committees once they come up with a
10 recommendation. I frankly don't want to get into this
11 level of detail right now.

12 CHAIRMAN IMBRECHT: Alright. Well, that
13 obviously suggests a sentiment that there are not a
14 majority of the Commission. Let's prepare to take
15 action on this so it will operate on that basis, then.
16 I do apologize. I have to say very candidly, when we
17 get things on the agenda, it seems to me that there is
18 an obligation of members of the Commission to focus on
19 these things and be prepared when we come to the
20 meetings, particularly, when we have members of the
21 general public that are then in attendance and have
22 appeared as well.

23 In any case, all that notwithstanding, I
24 understand that some of the Commissioners are not going
25 to apply it. I'm going to ask Commissioner Commons to

1 hold any further questions he has for the staff and to
2 certainly be prepared with a Committee recommendation
3 for our next meeting. We'll take public testimony.

4 Mr. Ward.

5 EXECUTIVE DIRECTOR WARD: Yeah, Mr. Chairman,
6 it's my understanding that typically these calculation
7 methods are not handled by Committee workshops per se;
8 that the Committee is briefed, but it's the staff that
9 conducts the workshops, which is exactly what's
10 occurred here. I don't have any problem with us
11 spending more time briefing, specifically Commissioner
12 Commons, and Noteware and any other Commissioners that
13 have remaining questions and concerns. I certainly
14 appreciate Commissioner Gandara's concern about the
15 technical issues and some of the questions that are
16 being raised at this point. But, I would respectfully
17 request that we not focus this in the form of a
18 Committee workshop on the issue.

19 CHAIRMAN IMBRECHT: I would frankly agree
20 with that as well. My personal viewpoint is that
21 Commissioners that want further briefings either
22 request those and be prepared to offer their
23 recommendations and conclusions to the Commission at
24 our next business meeting. It would be my intention
25 that we re-notice this item for a decision at that

1 point in time. We do have several individuals that
2 want to testify. Why don't we take that testimony and
3 move forward. Mr. Marshall Hunt?

4 EXECUTIVE DIRECTOR WARD: Mr. Chairman, I
5 might also mention that I believe that the June 12th
6 business meeting is an extremely lengthy business
7 meeting, a number of items are on the calendar already.

8 CHAIRMAN IMBRECHT: The votes speak. I like
9 to think I can count, and it's obvious to me that there
10 are not three votes.

11 EXECUTIVE DIRECTOR WARD: I well understand.

12 CHAIRMAN IMBRECHT: Yes.

13 MR. HUNT: Thank you. My name is Marshall
14 Hunt. I'm with Davis Energy Group. We did the
15 technical analysis on this project. I'd like to say
16 that a lot of effort on all parties, many of whom are
17 here this morning, have been putting on this issue.
18 This has been going on for a year plus for many of us.
19 And I feel that what we have here is an excellent
20 product, and I want to salute the staff for being
21 excellent in the way they've handled the matter. We've
22 worked out a lot of very detailed technical issues,
23 many of which I had hoped that most people in the world
24 wouldn't have to be burdened with. Quite frankly,
25 they're minor nuances of things, and we've checked them

1 out, and we've been cross-examined, and we've had
2 extensive workshops.

3 So I would urge that we move today,
4 particularly because as Mr. Pennington mentioned, we do
5 have this deadline coming up of June 1st. That is an
6 important issue, I should think; and I believe that the
7 marketplace would be well-served and better ordered by
8 the adoption of these highly-technical calculation
9 procedures which have been carefully reviewed. I'd
10 like to further add that we are in support of the
11 errata sheet. It helps to further define things, and
12 there's two minor modifications that I would suggest we
13 make.

14 First, on the bottom of the errata sheet,
15 Item 5, we're reading "that where necessary controlling
16 dampers". That's next to the last line on the page.
17 We should change that to "necessary controls for
18 efficient, safe and quiet operation". This is a very
19 minor change that allows for future technology to be
20 put in place. None of us here can predict what might
21 happen in the future. Things that we do if dampers
22 might be done with other kinds of controls, high-tech
23 solid state controls that are coming on-line. So, we
24 want to make sure that we have technically open
25 language throughout the proposal, particularly so there

1 is no proprietary language in this as there is now; and
2 that there is no intent to cut off anyone, but rather
3 to set the rules of the game up so the marketplace can
4 respond.

5 The second and last item would be that on
6 Item 4, paragraph E4, in the second sentence, we now
7 had no significant amounts of priors to be discharged.
8 We don't have a clear understanding of the definitions
9 significant. And in paragraph E2 in this report, the
10 word "measurable" was used, and that was worked out in
11 workshops; so that if we said no measurable amount of
12 supplier is to be discharged, that would be an
13 acceptable and, I think, better language.

14 So once again, in closing, we're in full
15 support of the staff, and we would like to see things
16 move; and we would think that it might be a significant
17 hardship on the marketplace to further delay past what
18 we had now.

19 CHAIRMAN IMBRECHT: Alright, thank you.
20 Questions for Mr. Hunt? Commissioner Gandara.

21 COMMISSIONER GANDARA: One question. You
22 mentioned a June 1st date. Somehow, in the wealth of
23 the technical detail here, I missed that. What's
24 significant about June 1st?

25 MR. HUNT: The second item -- Mr. Pennington

1 mentioned two areas of controversy. First, was that
2 the two zones versus more zones. The second in which
3 the September 2, 1983 letter to one of the
4 manufacturers.

5 COMMISSIONER GANDARA: I missed that, I'm
6 sorry. Could you speak more loudly? I don't think the
7 microphone...is this on?

8 MR. HUNT: Maybe I'll let Bill handle that,
9 because ...

10 MR. PENNINGTON: Yeah, as I said before.
11 There was a letter sent out to one of the manufacturers
12 back in September 1983, which gave that manufacturer
13 authorization to use essentially zonal modeling
14 assumptions, which are in compliance with the building
15 standards, and through this--to the course of this
16 investigation, we have determined that those
17 assumptions provide excess credit, in our judgment, for
18 those systems. We have notified the manufacturer that
19 that authorization will terminate as of January 2nd.

20 MR. HUNT: June 1st.

21 MR. PENNINGTON: June 1st, I'm sorry.

22 COMMISSIONER GANDARA: What was the basis for
23 that letter or that authorization?

24 MR. PENNINGTON: There was an analyses done
25 back in 1983 that tried to essentially do what we have

1 been working on for the last several months and have
2 made some judgments on that, and that was the basis for
3 the letter.

4 COMMISSIONER GANDARA: Well, I understand
5 that. But, did the Commission approve this?

6 MR. PENNINGTON: At that point, this was a
7 matter that the staff had the authority to authorize
8 calculation methods. There was a letter from staff.

9 COMMISSIONER GANDARA: Okay. If the staff
10 had the authority to authorize the calculation methods
11 then and sent the letter out, why are we dealing with
12 this today? Why don't you send another letter out?

13 MR. PENNINGTON: As of January 1st, the
14 authority moved from the staff to the full Commission.
15 Also, we think that there should be somewhat different
16 assumptions than the original letter.

17 COMMISSIONER GANDARA: Okay. What was the
18 basis for this movement in authority? Was there some
19 legislation?

20 MR. PENNINGTON: That was part of the
21 regulations. The regulations were changed, I believe
22 in conjunction with the adoption of the Office
23 Standards that moved the authority from staff to the
24 Commission.

25 COMMISSIONER GANDARA: Alright. So, the

1 change in the Office Building Standards is also
2 applicable to the Residential Building Standards?

3 MR. PENNINGTON: These were Title 20
4 Standards Requirements that addressed the approval of
5 all compliance methods.

6 COMMISSIONER GANDARA: Thank you.

7 CHAIRMAN IMBRECHT: Alright, thank you.
8 Further questions? Alright, thank you. Commissioner
9 Gandara, I'll also propose another resolution. Perhaps
10 this and I will call it in just a moment. But, let's
11 call now Mr. John Coleman, representing Sta Tech
12 International.

13 MR. COLEMAN: Mr. Chairman and Commissioners.
14 I am President of Sta Tech International as of three
15 months ago, and I am the other company that is being
16 referred to here. So, just for clarification, when the
17 two companies have been referred to, it has Carrier
18 Corporation and Sta Tech International. Sta Tech, by
19 the way, is also marketed by Carrier Corporation. So
20 they are basically doing the same thing, only in a
21 different method. The reason we asked to speak today
22 is because Sta Tech's been involved with the staff,
23 basically, since the inception of the idea of zonal
24 control. Our company markets a zone control system
25 that began in 1981 in prototyping and design. We have

1 worked, both with the Davis Energy Group, as a
2 consultant to us in the beginning and eventually with
3 Mr. Gene Millett, who is a former Committee member of
4 the staff.

5 Our concern, at this point--the letter that
6 is being referred to, by the way, is a letter that was
7 addressed to Sta Tech International. It was only
8 addressed to us based on submissions that we made for
9 modelling compliance methods that would apply to zone
10 control, not necessarily specifically to our product.
11 That letter that was sent to Sta Tech was also usable
12 by anyone else marketing a zone control system, to
13 comply with those performance methods that were
14 outlined.

15 The deadline that's been placed on it as June
16 1st--first of all, I would like to ask for an
17 extension. If a decision is not reached on this issue,
18 that that letter be extended. It would be a tremendous
19 injustice to what's being done currently in energy
20 saving devises, to shut that off and not allow that to
21 continue until something better comes along. Our
22 indications in research that we're doing right now
23 indicate that the current standards that are going to
24 be enacted for what's been presented by staff here, are
25 going to actually be better than those that were in

1 that September 2nd letter. It would actually help our
2 product to even comply better. So, we don't have a
3 concern in that sense.

4 We do have a concern in that there are a
5 couple of issues which Mr. Marshall Hunt brought up.
6 Paragraph E5 on the Errata Sheet here that requests the
7 approval and addition to this report of bypassing to
8 return air systems. My only concern with that is, like
9 I say, we've worked with staff for a couple of years
10 now, and I've never seen any evidence that would show
11 that that type of system is an energy efficient system.
12 If in fact it is, that's fine, too. I would hate to
13 see something adopted without the same detailed
14 scrutiny that all previous zone control modellings have
15 been placed under. So for that reason, and like I say,
16 I'm probably one of the ones that's most affected by
17 this, right now, because I am doing designs to that
18 September 2nd letter, and June 1st is upon me. It's
19 going to cause me a tremendous amount of problems in my
20 business, if, in fact, this isn't in place or the other
21 letter extended. But, I'm concerned enough about the
22 issues here and our companies' invested efforts,
23 continually. I'm going to ask that the Commission send
24 this back to staff for further consideration. Thank
25 you for your time.

1 CHAIRMAN IMBRECHT: Okay. Let me see if we
2 can't try to resolve this matter. Commissioner
3 Commons, Commissioner Gandara called to my attention,
4 and I think his point's well taken, that the initial
5 workshop was conducted with former Commissioner
6 Schweickart presiding. I think that it certainly would
7 have been appropriate for a member of the Committee to
8 have been involved in the second workshop as well. I
9 think your point on that is well taken. I think that
10 is inferentially the point you are trying to raise.
11 All of that notwithstanding, however, it does seem
12 somewhat apparent that there is a necessity or a need
13 to elude to a decision today. It also does not appear
14 to me at least that there is any substantial
15 controversy associated with this. I guess I would like
16 to urge a reconsideration as to request for further
17 delay on this, to see whether or not the Commission
18 might be able to respond to this matter now, but with
19 the full understanding that in the future, these
20 matters will be handled as I earlier outlined.

21 COMMISSIONER COMMONS: Well, two comments.
22 One is I was proceeding under that initially, and was
23 asking questions because I was attempting to go along
24 with what your request was. So, I was trying to
25 honestly do that which you had requested.

1 CHAIRMAN IMBRECHT: Commissioner Gandara's
2 -- there's a limit as to how much detail we should get
3 into here, as well.

4 COMMISSIONER COMMONS: The other

5 CHAIRMAN IMBRECHT: It's great being
6 Chairman, sometimes.

7 COMMISSIONER COMMONS: Why don't we go on and
8 hear the testimony and come back to your question?

9 CHAIRMAN IMBRECHT: Alright, fine. Mr.
10 Ladine.

11 MR. LADINE: Thank you. Mr. Chairman,
12 Commissioners. One of the difficulties that the staff
13 has had in addressing the issue is that limited access
14 to modifying the computer models to accommodate for
15 potential or multiple zone situations. Basically, they
16 are limited in adjusting, first of all, assumed air
17 temperatures. Also associated with that is the concept
18 of set-back -- which is the second limitation to their
19 analysis. Both of these limit the end results
20 considerably. I might point out that the U.S.
21 Department of Energy has adopted a set as opposed to a
22 set-back concept.

23 Secondly, the set-back concept is subject to
24 some analysis when associated with the mass
25 relationship when those temperature are set-back.

1 Further analysis should be forthcoming on that. There
2 are other analyses that were done, and I noticed
3 Commissioner Commons' reference to a percentage. The
4 staff originally made analysis on the DOE-IIA Program.
5 This was about four years ago, I believe. The results
6 of that analysis took in several zones. It's also the
7 DOE-IIA Program is what Lawrence Berkeley Labs uses for
8 analysis, as well as the Department of Energy. I might
9 also add, consistent with that, that there is empirical
10 data and other analyses that are commonly used by
11 industry in a percentage basis. It would be more
12 appropriate to translate these for the Commission's
13 understanding and appreciation into what these
14 percentages, if any, amount to.

15 For example, the percentages that are listed
16 in your staff report are the sums of the heating and
17 cooling. As it turns out, some 90 to 100 percent of
18 those percentages are exclusively directed toward the
19 cooling savings. In many and several zones, there is
20 actually considered a negative percentage savings for
21 zoning on the heating side. We find that either
22 profound or ironic, and suggest perhaps introducing a
23 whole house light switch with the reasoning that comes
24 out of the calculations on a limited sense.

25 We have a last comment, it's procedural. We

1 understood this began in Committee. As a result, a lot
2 of the submittals we'd hoped would come to the
3 Commissioners is not available for their analysis and
4 consideration. We find that the industries who have
5 made this analysis are basically central systems with
6 modifications, who are directly interested in the
7 cooling credits, which are evident. We find that the
8 issue itself would be more appropriately directed
9 towards this savings on the absence of appreciation for
10 the savings on the heating side. Unless there are any
11 questions, that's the only comments I have.

11 CHAIRMAN IMBRECHT: Commissioner Commons?

12 COMMISSIONER COMMONS: Bob, are you
13 suggesting that although it's important that we
14 recognize and do something in this area that the
15 adoption of this particular set of calculations might
16 create favoritism for certain types of businesses vis-a-
17 vis other types of businesses in the marketing and
18 distribution of these products?

19 MR. LADINE: I believe so.

20 COMMISSIONER COMMONS: Thank you.

21 CHAIRMAN IMBRECHT: Thank you, very much.
22 Anyone else who wishes to be heard on this matter? Oh,
23 I'm sorry. Excuse me, Mr. Lucas?

24 MR. LUCAS: My name is Bob Lucas,
25

1 representing Carrier Corporation. Considerable effort
2 has gone into the development of this methodology and
3 Carrier has been working very closely with the staff
4 throughout the course of this proceeding, developing
5 the material to this point in time. Carrier would like
6 to see the Commission act today to adopt this
7 methodology. To forestall the situation of finding
8 yourself in the situation of extending the staff-
9 authorized methodology beyond June 1. Carrier's
10 concern is that not only is that staff-approved
11 methodology that's supposed to terminate on June 1,
12 inappropriate, yielding too high a credit. But, also
13 that is is not being applied correctly in all
14 instances. I would think everyone would benefit by the
15 termination of that methodology, as soon as possible.
16 Of course, one method of doing that would be positive
17 Commission action on this item today.

18 Just for clarification, an item was mentioned
19 earlier that Sta Tech is marketed through Carrier
20 Corporation. You should be aware that that is not an
21 accurate statement. Carrier does not market Sta Tech
22 equipment. Some of the independent distributors which
23 handle Carrier equipment may use Sta Tech, but it is
24 not associated with Carrier Corporation. Thank you.

25 CHAIRMAN IMBRECHT: Alright, fine. Thank you

1 very much. Does anyone else wish to be heard on this
2 matter? Commissioner Crowley?

3 VICE-CHAIR CROWLEY: Mr. Pennington, I have a
4 question. Are Mr. Hunt's comments on your Errata Sheet
5 using different language in E4 and E5? Those are
6 comments that are acceptable...

7 MR. PENNINGTON: Those are acceptable
8 comments.

9 VICE-CHAIR CROWLEY: Acceptable to the staff?

10 MR. PENNINGTON: Yes.

11 VICE-CHAIR CROWLEY: Thank you.

12 CHAIRMAN IMBRECHT: Alright, fine.
13 Commissioner Gandara?

14 COMMISSIONER GANDARA: Mr. Chairman, I might
15 suggest something here. We've heard all the testimony,
16 both staff and the various parties who are here. Since
17 the time I made my last suggestion, I've had additional
18 clarification on the significance of June 1st-June 2nd.
19 In addition to that, I sort of feel that though the
20 issues are sort of technical, there seem to be some
21 that feel that the staff didn't do enough in one area
22 and some that did too much. So, perhaps we have that
23 aristotelian means

24 CHAIRMAN IMBRECHT: Symbiatic...

25 (LAUGHTER)

1 COMMISSIONER GANDARA: Somewhere--in any
2 case, I also, as I mentioned earlier, in many cases
3 like this that show considerable deference to the
4 technical expertise of Committees. Commissioner
5 Noteware, who is presiding, is not here. I would not
6 wish to presume, by his absence, that he doesn't object
7 or that he would. So the only thing that we have left
8 is a second member of the Committee, and I think
9 deference is given to him, as well. Since, he
10 certainly has the responsibility in that area. I did
11 note, by reading

12 COMMISSIONER COMMONS: Excuse me, I'm the
13 Presiding Member on this Committee.

14 COMMISSIONER GANDARA: I'm sorry,
15 Commissioner Commons. I was not aware of that. I
16 thought--there was a merger of Committees that I
17 haven't been able to keep up with, apparently. Well,
18 that accentuates the case here that, in fact,
19 Commissioner Commons is a Presiding Member. I did
20 notice that the first workshop was presided over by the
21 previous Presiding Member in this area, and the second
22 one didn't. I think that was an oversight by staff.
23 At the same time, I don't think we can sort of continue
24 to just overlook that oversight, nor should we burden
25 the affected industry by that oversight.

1 So, I would suggest that perhaps Commissioner
2 Commons might be able to pursue some of his questions
3 off-line. Perhaps over the lunch hour and give us some
4 time to reflect on this, on the necessity of moving
5 now. I think we can still have the opportunity to act
6 on it today if everybody feels comfortable with that.
7 I feel somewhat regretful that I interrupted his
8 questions, because much earlier I, of course, was not
9 as aware of the importance of June 2nd. So, I think
10 that would provide kind of a comfortable opportunity
11 for the staff, accordingly, meet with Commissioner
12 Commons and answer his questions as Presiding Member,
13 and then maybe we can take action in the afternoon.

14 CHAIRMAN IMBRECHT: Commissioner Commons?

15 COMMISSIONER COMMONS: Thank you for your
16 consideration. I would like to suggest an alternative
17 course. The only urgency I've heard is this letter
18 that staff apparently had sent out which we have been
19 operating under for a year and a half. They are
20 suggesting terminating this letter as of June 1st. I
21 see no reason why, if it's been out for a year and a
22 half, we shouldn't allow that letter to stay in effect
23 for an additional 12 days to the next business meeting.
24 Then, there is no urgency of our taking an action on
25 this today versus two weeks from now. There have been

1 some issued raised and I would prefer to look at it.

2 CHAIRMAN IMBRECHT: Mr. Ward?

3 EXECUTIVE DIRECTOR WARD: Yes, Mr. Chairman.

4 I suspect that if that is the action of the Commission,
5 you are going to have an equal display from the people
6 here that are representing their interests on what the
7 extension of that letter would mean, as well.

8 CHAIRMAN IMBRECHT: Well, I think the
9 appropriate way to handle this is let's ask for a
10 motion. We will put it before us and see if there is
11 any further public comment and move to a decision.
12 Commissioner Commons, I assume you want to offer that
13 in the form of a motion. Accurate?

14 COMMISSIONER COMMONS: I am not prepared, at
15 this time to make any motion, Mr. Chairman.

16 COMMISSIONER GANDARA: Well, Mr. Chairman,
17 let me make a motion.

18 CHAIRMAN IMBRECHT: Commissioner Gandara?

19 COMMISSIONER GANDARA: I would move we
20 postpone the decision on this until after lunch. Let's
21 take it up after lunch.

22 VICE-CHAIR CROWLEY: I would second the
23 motion.

24 CHAIRMAN IMBRECHT: We don't need a motion on
25 that.

1 VICE-CHAIR CROWLEY: Okay.

2 CHAIRMAN IMBRECHT: Alright, we'll return to
3 this item when we re-convene after our luncheon recess.
4 I apologize for any inconvenience that may cause to
5 those of you that are present on it.

6 We will then turn to Item #4 which is a
7 Contract for \$105,000 with the California State
8 University faculty and students for monitoring and
9 training new schools' and hospitals' grantees in order
10 to improve program operations and reporting performance
11 in assessing energy savings. Mr. Ward?

12 EXECUTIVE DIRECTOR WARD: Yes, thank you, Mr.
13 Chairman. I believe the Loans and Grants Committee is
14 familiar with this contract. It's designed to do some
15 monitoring and compliance work that, given the
16 available staff resources, we have been unable to do
17 today. If you have any questions on it, Karen Griffin
18 and Wendall Bakken from the Conservation Division, are
19 available.

20 CHAIRMAN IMBRECHT: Commissioner Commons?

21 COMMISSIONER COMMONS: On the item that we
22 are putting over, if staff and those parties that are
23 interested in those items, I will be available at lunch
24 to try to understand the nature of the proposal. Thank
25 you.

1 CHAIRMAN IMBRECHT: Alright, fine. Are there
2 questions of Mr. Bakken?

3 COMMISSIONER COMMONS: Is this on the Energy
4 Bank?

5 CHAIRMAN IMBRECHT: No, this is on the CSU
6 School and Hospital Grantee Program. Alright, what's
7 the pleasure of the Commission?

8 COMMISSIONER GANDARA: Mr. Chairman, the
9 collective members of the Loans and Grants Committee is
10 that we don't really remember this item. However,
11 having consulted briefly, we don't have any problems
12 with it. So, I would move the item.

13 VICE-CHAIR CROWLEY: I second the motion.

14 CHAIRMAN IMBRECHT: Alright, moved by
15 Commissioner Gandara, seconded by Commissioner Crowley.
16 Does anyone wish to be heard on this item? Is there
17 objection to unanimous roll call? Hearing none, ayes:
18 4; noes: none. The contract is approved.

19 The next item before is a Contract for
20 \$45,000 with Price Waterhouse to prepare a financial
21 analysis of the major oil companies' operations in
22 California. This information will be used by the
23 Commission to respond to the mandates of the Petroleum
24 Information Reporting Act. Commissioner Gandara, are
25 you familiar with this item?

1 COMMISSIONER GANDARA: Yes, I am. Mr. Dennis
2 Eoff and Mr. John Roser will provide the Commission
3 some background information. It is my understanding
4 that all Commissioner's offices have been briefed or
5 have been approached to be brief.

6 MR. EOFF: That's correct.

7 CHAIRMAN IMBRECHT: Alright, fine. Are there
8 questions on this item? Care to offer a motion?

9 COMMISSIONER GANDARA: If there are no
10 questions, then I would move the item, Mr. Chairman.

11 CHAIRMAN IMBRECHT: Okay. Moved by
12 Commissioner Gandara and I will second it, as the other
13 member of the relevant Committee. Does anyone else
14 wish to be heard on this item? Okay. Is there
15 objection to unanimous roll call? Hearing none, ayes:
16 4; noes: none. The motion is carried.

17 The next item before us is Contract
18 Augmentation. I think just before I announce this, is
19 it my understanding that this is for \$75,000 or
20 \$100,000?

21 MR. CHAMBERLAIN: For \$75,000, Mr. Chairman.

22 CHAIRMAN IMBRECHT: Alright fine, despite
23 what's here. Contract Augmentation with Finley,
24 Kumble, Wagner, Heing, Underberg, Manley and Casey to
25 augment their contract by \$75,000 additional funds

1 would be allocated to attorneys' fees and expert
2 witness fees for the Northwest Power legal work
3 (Category A in the original contract). Just to simply
4 put this before us, I will move. Commissioner Gandara,
5 if you will second, then we will turn to your concerns.
6 Seconded by Commissioner Gandara. The item is properly
7 before us. Commissioner Gandara?

8 COMMISSIONER GANDARA: Mr. Chairman. I would
9 just think that the Commission would be accorded
10 greater flexibility here if we were to allocate the
11 \$75,000 -- \$50,000 to Paragraph 4A--Task 4A, and
12 \$25,000 to Paragraph 4B, with the kind of flexibility
13 we've shown here.

14 CHAIRMAN IMBRECHT: But, yet I'm saying the
15 management of this fee be handled in the same fashion
16 as joint consultation.

17 COMMISSIONER GANDARA: Yes.

18 CHAIRMAN IMBRECHT: That's acceptable to me.
19 Anyone else wish to be heard on this item? I've got it
20 worked out, Mr. Chamberlain. Anyone wish to be heard
21 on this item? Alright, is there objection to unanimous
22 roll call? Hearing none, ayes: 4; noes: none.
23 Contract Augmentation is approved.

24 Next item is Commission Consideration and
25 possible adoption of Committee recommendations on the

1 award of Federal Solar Energy and Energy Conservation
2 Bank funds. Mr. Ward?

3 EXECUTIVE DIRECTOR WARD: Yes, Mr. Chairman.
4 This is the item that was put over at the preceding
5 business meeting. I believe the Loans and Grants
6 Committee is still in support of the item as scheduled
7 here and has been briefed. There was a change in the
8 rankings and the structure of the rankings, although
9 the number of projects and specific projects haven't
10 changed.

11 CHAIRMAN IMBRECHT: Alright, fine. Is the
12 Loans and Grants Committee prepared to move this item?

13 COMMISSIONER GANDARA: Yes, Mr. Chairman.
14 Just to refresh the Commission's memory a bit

15 CHAIRMAN IMBRECHT: Just let me get that
16 before us. Moved by Commissioner Gandara, seconded by
17 Commissioner Crowley. It says the proposed awards be
18 adopted.

19 COMMISSIONER GANDARA: As this item was
20 before us last time and I think Commissioner Commons
21 called to the Committee's and the Commission's
22 attention, a problem with the criteria. The Committee
23 appreciates the fact that, indeed, he thought that too.
24 The staff, I think, very willingly and reworked the
25 numbers. I'm informed that all the projects were

1 proposed, remained unaffected, though some might have
2 been changed in terms of priority. But, I think
3 everything remains pretty much the same. So, it is
4 essentially the same item, but for that reranking.

5 CHAIRMAN IMBRECHT: Alright, fine,
6 Commissioner Commons?

7 COMMISSIONER COMMONS: Yes, I'm concerned
8 about the payback period. For projects from 0-3.75
9 years, we're allocating 20 points, and for projects of
10 7.6 to 11.25 years were allocating 10 points. Most
11 people in making investments and conservation saving
12 measures, look at, as very good projects, those that
13 payback in one year as acceptable projects that payback
14 in two years, and marginal when they are three years or
15 longer. In here, we are at 3.75 years in awarding
16 maximum credit in terms of payback. We go all the way
17 out to 7.6 to 11.25 years, and we are still allocating
18 10 points. I think the scale that is being used here
19 is way over generous and is not taking into
20 consideration what the realities are in terms of
21 funding in the private sector and conservation, and as
22 resulting in a misallocation of resources.

23 I'm even more concerned when I look at how
24 poor the scores are of many of the projects that are
25 being recommended. We have, of the 15 projects that

1 are being recommended, a majority of them scored less
2 than 70 points, and that includes the very generous
3 ratings that we're using on paybacks. There is no one
4 I know that is looking at funding projects that have
5 ten years and still we're granting 10 points in terms
6 of payback for those type of projects. So, I do not
7 think this is a good allocation of our resources here,
8 at least for those projects that have the longer
9 paybacks. I'd like to be shown as in opposition to
10 some of these projects.

11 COMMISSIONER GANDARA: Okay, let me ask a
12 question of staff, Mr. Chairman. Mr. Rauh, Ms. Griffin
13 or Mr. Alvarez, whoever is the possessor of the
14 appropriate information -- it's my understanding that
15 with respect to this particular issue that this is
16 something that has remained essentially unchanged,
17 following the workshops. So, to some extent, this is
18 not the same issue that was raised last time. Am I
19 correct or incorrect on that?

20 MS. GRIFFIN: I'm sorry, I don't understand
21 as being different from the issue that was raised last
22 time.

23 COMMISSIONER GANDARA: Well, the issue
24 Commissioner Commons raised last business meeting.

25 MS. GRIFFIN: The simple fee, say giving 30

1 points to simple payback and 20 points to energy
2 savings. Those things have been unchanged since the
3 Committee decision, after the workshops which we had
4 setting up what the (INAUDIBLE) would be. We made a
5 proposal to the Committee; the Committee made the
6 changes.

7 COMMISSIONER GANDARA: Right, we had the
8 workshops in Southern California, in Northern
9 California. We announced the criteria and that has
10 been more than six or seven months ago, I believe.

11 MS. GRIFFIN: Yes sir. The workshops were a
12 year ago, and the announcement was made in August of
13 '84 what the criteria would be, and they have not
14 changed since then. The Commission has already made
15 one award using this criteria in the same cycle.

16 COMMISSIONER GANDARA: Okay. In light of
17 that, Commissioner Commons, at least that's my
18 recollection. That there were several Committee
19 workshops. There were, in addition to that, previous
20 grants made under these criteria. You may have
21 objected to those at that time, but I believe that what
22 we indicated, we sort of changed the criteria according
23 to the changes in the Solar Energy Bank and the
24 opportunities that we have. I would suggest that we
25 proceed with this, since this has been sort of the

1 longstanding and announced direction, in that if are to
2 change them, that we change them for the next cycle, if
3 there is a next cycle with the Solar Energy Bank.

4 MS. GRIFFIN: We 'll be getting money for at
5 least one more cycle.

6 COMMISSIONER GANDARA: Okay.

7 CHAIRMAN IMBRECHT: Commissioner Commons?
8 When you had these workshops, was it
9 announced that would receive 10 points credit with
10 projects with a payback of 7.6 to 11.25 years, or did
11 you only announce that payback would receive 30 points
12 and energy savings would receive 20, and the allocation
13 is something that has been done by staff subsequent to
14 the workshops?

15 MS. GRIFFIN: The precise allocation was done
16 subsequent. We had originally proposed, for example,
17 that solar domestic hot water not be an allowed item,
18 because it typically a longer payback. That item was
19 specifically brought up as, even though it had a longer
20 payback, there were other economic and environmental
21 and social benefits which the public wanted and which
22 the Committee agreed, were desirable to allow into the
23 program. So, we felt that we did have guidance that
24 longer term projects were, as long as they were cost-
25 effective over their useful life, which is the bank's

1 requirement, were in the interest of the Committee in
2 the public's direction.

3 COMMISSIONER COMMONS: Commissioner Gandara,
4 I believe that these numbers did not exist when I went
5 and discussed this with staff at the end of the last
6 business meeting. I asked what the criteria was for
7 payback and there were none. So, these have been
8 developed by staff, subsequent to the time of the
9 recommendations. So I think the issue which is
10 properly before us and was not relied upon by the
11 applicants as to these very high point scores for
12 projects that have long-term payoffs. Now, if the
13 Committee or the staff were to say that there were
14 certain types of solar projects that we want to give
15 extra credit for, in terms of the points, I could
16 understand that. But

17 COMMISSIONER GANDARA: But, Commissioner
18 Commons, were not these changes made in response to the
19 issue that you raised, that if they, in fact, are
20 different from the last business meeting? I don't
21 know, but assuming that that's correct, are they not,
22 as a consequence of the issue that you raise, and
23 therefore, in response to your concerns?

24 COMMISSIONER COMMONS: Yes. But, I'm saying
25 it is not something that was used in the workshops or

1 relied upon by any of the applicants in putting forth
2 their scores as to how they would be weighted. I am
3 saying that the staff is now suggesting to the
4 Commission that we utilize the ratings that they are
5 putting forth here. This is new, for the first time
6 before this Commission. Never relied upon by anyone.
7 It is my belief that the awards are way too generous in
8 terms of the points for paybacks that are inconsistent
9 with what we are doing on all of the programs in the
10 Commission.

11 MR. RAUH: If I might add a little
12 clarification. The staff has applied this kind of
13 gradation in payback for this program in the two
14 awards. But, it was not written down in a structured
15 fashion. The Selection Committee had met and discussed
16 the importance of payback and it used this kind of
17 judgmental gradation. It's also consistent with the
18 basic breakdown used in the Schools and Hospitals
19 Program. But, because it was not formally structured
20 in a fashion you see here, we felt it necessary to do
21 so when Commissioner Commons raised those questions, as
22 a result of the last business meeting.

23 Therefore, we have presented it now in the
24 structured approach. The Selection Committee re-met,
25 basically ratifying their original judgment. But, some

1 of the judgment, by applying it in this structured
2 approach, did cause a slight change to rating.
3 However, all the projects were still recommended as
4 originally recommended to the Committee -- only minor
5 changes in their order, between projects, resulted in
6 applying this specificity.

7 COMMISSIONER COMMONS: Mr. Rauh, why are the
8 scores so low on this program? With over half the
9 project scoring less than 70, those are not comparable
10 to some of the very good scores that we've been
11 receiving on other programs. Is it that the scores are
12 tougher or is it the projects that we are receiving is
13 not as good?

14 MS. GRIFFIN: One of the characteristics of
15 this program is that there is a great diversity of the
16 kinds of applicants. For example, leverage is a big
17 key one here. If you are going to be serving a very
18 low-income project, the bank allows a 1:1, which is
19 that 50 percent of the money may be provided in a
20 direct grant to a tenant. So, you are going to have a
21 low leverage score, 5 points, and a high need score.
22 So, a project which is serving the most deserving
23 population of low income multi-family tenant, can only
24 max out at 80 points.

25 Conversely, a project which is serving high

1 income multi-family, putting in a very long payback
2 project, might be coming up with 25 points of leverage
3 because the owner of the building, and this is the case
4 in some of the direct projects, they would be getting
5 relatively small subsidy from us, so that they would
6 get a very high leverage score and a low need score.
7 It's almost impossible to max out on leverage and need
8 at the same time. It's generally a direct trade.

9 COMMISSIONER GANDARA: Let me put the thing
10 in a bit broader perspective, kind of a macro look. I
11 think your points are well taken and on the other hand,
12 I also have some concerns of whether the level of
13 precision and the work that would be required to, it
14 would, in fact, be that fruitful.

15 The Solar Energy Bank Program, has been a
16 program that has been beset with considerable
17 uncertainty. This was a program that was targeted for
18 extension. This was a program that required some
19 potential or threats of litigation to get the funds
20 released. The major issues that were before the
21 Committee and face the Commission and the staff that's
22 here, was not the level of reordering what criteria and
23 what percentage allocation to be given to this and to
24 that. The whole issue was that under the new Solar
25 Energy Bank Regulations, there were categories of

1 applicants that would be made eligible, and some of
2 those were quite confusing. The difficulty was, in
3 fact, trying to find, in some areas, eligible
4 applicants.

5 For example, I recall one of the directions
6 and one of the big issues was the issue of the Non-
7 Profit Agricultural. So, the staff spent a
8 considerable amount of time in trying to figure what
9 Non-Profit Agricultural happened to be, provided for
10 that category, and had no applications in that area.
11 So, that the major emphasis the Commission undertook
12 was changes with respect to sort of the overall program
13 design, where the cities would find this useful to
14 them. Sometimes the cities didn't find these funds
15 particularly appealing, because of the small amount of
16 funds that were available for the kinds of problems
17 they had to go through. Then, there were always issues
18 of whether there would be a direct program from the
19 Commission on whether we would use other parties.

20 So, as you have the request before you, what
21 you also have is a request for conditional approval of
22 projects that might become eligible should other top-
23 ranked projects decide to reject the funds or not to
24 participate. This, again, has been part of the history
25 of this particular program. Not so much engendered by

1 us or uncertainty by us, but engendered by the
2 uncertainty in the Federal Program. So, when you kind
3 of look at the big picture, what we have here is
4 basically a program that has notwithstanding the
5 considerable uncertainty engendered by the primary
6 source of funds and the change in regulations there,
7 that we have managed to keep alive, and I believe in a
8 fairly decent way.

9 I believe in the recent evaluation or site
10 visit that we had by the Solar Energy Bank people,
11 that, in fact, were quite pleased with what California
12 was doing. So, that when you look at it that way, I
13 think that the guideline that the Committee looked at
14 was more in terms of program emphasis, and if there are
15 details to be worked out there, well so much the
16 better, or so much the worse in the eyes of some. I
17 don't think that in the big scheme of things,
18 allocations are so deviant from a logical point of view
19 that could be used with some discretion. It can also
20 be changed the next time around. I'd be reluctant to
21 get into programmatic changes at this point.

22 MS. GRIFFIN: In midstream.

23 CHAIRMAN IMBRECHT: Okay. Let's move to a
24 decision, Commissioner Commons. You get one final shot
25 at this. Let's take a vote.

1 COMMISSIONER COMMONS: Well, clearly, the
2 project that scores the highest is the Sacramento
3 Housing Authority Project, with a score of 85 compared
4 to some projects. Eight of the projects that scored
5 less than 70, and that project has a 2.1 year payback,
6 compared to many of the projects that are six, seven
7 and longer. The leverage is 2.8:1. I can't understand
8 why the staff recommendation is cutting back on the
9 project that looks clearly the best under all criteria
10 when we have other projects that scored relatively high
11 with seven year paybacks and are getting 15 points, so
12 they'd barely pass 70. Here, you have a real good
13 project and we're cutting them by \$360,000. If we have
14 one project that's really good, or five projects that
15 are really good, why are we not funding those? These
16 marginal projects--they just don't win in this round of
17 awards, and they can be recommended for conditional
18 approval.

19 COMMISSIONER GANDARA: Okay, Commissioner
20 Commons. Which project would you like, specifically,
21 defunded in lieu of what other project?

22 COMMISSIONER COMMONS: My recommendation
23 would be to fund the Sacramento Housing Authority
24 Project to their limit and not from the projects that
25 have poor scores.

1 COMMISSIONER GANDARA: Like what projects,
2 for example?

3 COMMISSIONER COMMONS: Well, I would prefer
4 not to fund those projects that have payback periods of
5 six years and longer, or follow the staff ranking and
6 not fund those projects with under 70, if we run out of
7 funds.

8 COMMISSIONER GANDARA: Okay, like
9 California...

10 COMMISSIONER COMMONS: If we have a really
11 good project here, that to me--why we should be cutting
12 that project back, I can't understand.

13 COMMISSIONER GANDARA: I'm asking for
14 specifics. I mean what county or what project would
15 you not fund? Because I'm trying to respond to your
16 questions and it would help me if I would know what
17 project specifically it is.

18 COMMISSIONER COMMONS: Well, I would not fund
19 those projects that have over a six year payback or
20 under 70 points in score.

21 COMMISSIONER GANDARA: Okay, which ones are
22 those?

23 COMMISSIONER COMMONS: Those projects under
24 70 would be 8 thru 15, and those projects with over six
25 years that are recommended for funding, are shown in

1 the adjoining tables. Why are we funding projects at
2 six and seven years' payback, when we have a very good
3 one in two years?

4 COMMISSIONER GANDARA: Commissioner Commons.
5 I am just trying to get what specific projects. I'm
6 looking at a sheet here that has the project, the
7 funding awarded, funding requested, measures and so
8 forth.

9 CHAIRMAN IMBRECHT: Perhaps I can answer your
10 question. The City of Anaheim -- he would defund the
11 City of Anaheim, Trinity Apartment I, Trinity Apartment
12 II, Glenmore Green I & II, Traveler's Hotel, Jones
13 Building, and the City of Dunsmuir.

14 COMMISSIONER COMMONS: I would put all of
15 those funds into Sacramento.

16 COMMISSIONER GANDARA: Okay. Would you tell
17 me where those are located? Okay? I mean I want to
18 know where those are located, what cities?

19 MS. GRIFFIN: Fresno, I think.

20 MR. ALVAREZ: Calaveras County?

21 MS. GRIFFIN: No. Anaheim, Trinity &
22 Glenmore?

23 MR. ALVAREZ: Trinity and Glenmore are in
24 Alameda County, and so are the--Trinity Apartments and
25 Glenmore are in Alameda County. Travelers and Jones

1 are in the City of Vallejo.

2 COMMISSIONER GANDARA: Let me be very
3 specific.

4 MS. GRIFFIN: If I could respond to why

5 COMMISSIONER GANDARA: No, no. The reason I
6 asked for that is because the staff was given other
7 directions by the Committee as well to, in fact, to try
8 and achieve a geographical diversity. They were given
9 the direction to try and bring new entrants into the
10 system because we have gone to the well, quite often,
11 with respect to some particular locations and areas.
12 It was my suspicion that, in fact, these projects
13 reflected that direction by the Committee. I still
14 feel quite strongly that we need to give a little bit
15 of consideration to rural areas, to new entrants who
16 have not participated before. Because I think, simply,
17 that we need to get them on-stream to be thinking about
18 it before we can get projects that are super-
19 competitive with the ones that have done this two or
20 three times and been quite successful. So

21 CHAIRMAN IMBRECHT: I think that the points
22 have been well made. We have a motion before us. I am
23 about to move to a vote unless anyone wishes to be
24 heard on this item. Hearing no one. If you want to
25 offer a substitute motion, now is the time.

1 COMMISSIONER COMMONS: I haven't heard a
2 motion yet, or is the motion on the

3 CHAIRMAN IMBRECHT: It was moved that we
4 adopt the recommendation.

5 COMMISSIONER COMMONS: Okay.

6 CHAIRMAN IMBRECHT: This is a Committee
7 recommendation so

8 COMMISSIONER COMMONS: I'll make a motion
9 that those projects over \$25,000, so that the very
10 small projects are not penalized, that have payback
11 periods in excess of six years, not be funded, and that
12 those funds be utilized to fund the Sacramento Housing
13 Authority.

14 CHAIRMAN IMBRECHT: Alright, is there a
15 second? Alright, hearing none, the motion dies for the
16 lack of a second. Now then, we are going to move to a
17 vote on the main motion before us. Is there objection
18 to unanimous roll call?

19 COMMISSIONER COMMONS: Yeah, I'd like to be
20 registered as

21 CHAIRMAN IMBRECHT: Alright, would the
22 secretary please call the roll?

23 MS. GERVAIS: Commissioner Commons?

24 COMMISSIONER COMMONS: No.

25 MS. GERVAIS: Commissioner Gandara?

1 COMMISSIONER GANDARA: Aye.

2 MS. GERVAIS: Vice Chair Crowley?

3 VICE CHAIR CROWLEY: Aye.

4 MS. GERVAIS: Chairman Imbrecht?

5 CHAIRMAN IMBRECHT: Aye.

6

7 CHAIRMAN IMBRECHT: Ayes: 3, Noes: 1. The
8 motion is carried.

9 Alright, next we'll turn to approval of the
10 minutes, as prepared. Is there objection to the
11 minutes? Hearing none, the minutes are approved, as
12 prepared.

13 Next, we will turn to Commission Policy
14 Committee Reports. Vice Chair Crowley, on behalf of
15 the Legislative Committee.

16 VICE CHAIR CROWLEY: The Committee met and
17 offers the following recommendations for this business
18 meeting. The first item was AB1593 (Sher) - Use of
19 Alternative Energy Resources by State Prisons. The
20 recommendation was Support with Amendments.

21 COMMISSIONER COMMONS: My briefing book has
22 no legislative packet.

23 VICE CHAIR CROWLEY: Mr. Ellison, can you
24 offer a resolution to that dilemma?

25 MR. ELLISON: Can you repeat the dilemma?

1 VICE CHAIR CROWLEY: Commissioner Commons
2 doesn't have a briefing packet.

3 COMMISSIONER COMMONS: I have it.

4 VICE CHAIR CROWLEY: Okay. The first bill,
5 AB1593 (Sher).

6 CHAIRMAN IMBRECHT: Let me just indicate that
7 basically is a requirement that alternative energy
8 systems be analyzed for utilization in the State Prison
9 Construction Program. We are generally in support.
10 However, I would just like to raise the question of
11 what impact, if any, this will have on the timing of
12 the construction program?

13 MR. ELLISON: Mr. Chairman, the bill as it's
14 currently drafted includes an amendment, which provided
15 that the study mandated by the bill shall not delay the
16 construction of any of the prisons in the state.

17 CHAIRMAN IMBRECHT: Well, with that
18 understanding, because while it certainly is important
19 that these institutions be designed state-of-the-art,
20 having dealt personally with some of the prison issues
21 a few years back, the overcrowding conditions are
22 extreme. While I certainly want to see good energy
23 systems in those, I also am concerned about the basic
24 inhumanity that's going on, right now, within our State
25 Prison System. I think that's an even more overriding

1 consideration. It's essential that those prisons be
2 completed and made available for occupancy, as
3 expeditiously as possible. Let me just ask one final
4 question. While this study would be done by the
5 Department of General Services--is that correct? Is
6 there any consultation at all from the Energy
7 Commission in this?

8 MR. ELLISON: As the bill is currently
9 drafted, no.

10 CHAIRMAN IMBRECHT: Well, I would like to
11 just suggest for the Commission's consideration, that
12 perhaps we could extend an offer to the Department of
13 General Services. I don't think we ought to suggest an
14 amendment, but extend an offer to them that we are
15 available to the system to cooperate to ensure that
16 there is no delay. Is there objection to acceptance to
17 the Committee's recommendation? Alright, hearing none,
18 ayes: 4; noes: none. The next item.

19 VICE CHAIR CROWLEY: The next item is AB1823,
20 which deals with PUC Ex Parte Rules. Our concern in
21 the matter is that we are involved in some of the
22 proceedings at the PUC. This was felt by the OGA and
23 by staff to be inappropriate bill for the purposes of
24 dealing with communication among people at the PUC.

25 CHAIRMAN IMBRECHT: However, the Committee-

1 -can I get a Committee recommendation?

2 VICE CHAIR CROWLEY: Well, the Committee
3 recommendation, at this meeting, was to support this.
4 It's so listed as to support it, and I would appreciate
5

6 CHAIRMAN IMBRECHT: Well, I was represented
7 by staff at that, and as far as trying to signal to you
8 a moment ago, I have to take a different viewpoint on
9 this

10 VICE CHAIR CROWLEY: I appreciate that, and
11 when your staff

12 CHAIRMAN IMBRECHT: for a variety of
13 reasons.

14 VICE CHAIR CROWLEY: is present, it's
15 understood that your staff doesn't

16 CHAIRMAN IMBRECHT: I understand.

17 VICE CHAIR CROWLEY: state your
18 position.

19 CHAIRMAN IMBRECHT: Let me explain. I would
20 urge that we not take a position on this bill, that we
21 be neutral for a variety of reasons. First off, I
22 think that this is the essence of the type of issue
23 where I don't believe we ought to be intruding in the
24 PUC's business, in essence. I think that this does
25 not, in a profound sense, directly effect the Energy

1 Commission. I think that we ought to defer to the
2 perspective and position of the members of the Public
3 Utilities Commission, some of whom have spoken to me
4 about this privately and have expressed extreme
5 reservations about it. Also, the manner in which it is
6 being presented. I note with both some interest and
7 humor that the organization, Toward Utility Rate
8 Normalization (TURN) is also in opposition to this
9 bill. I am generally inclined to go with "solely" on
10 this one.

11 (LAUGHTER)

12 COMMISSIONER GANDARA: It's no cost to the
13 CEC, that's why I added it.

14 CHAIRMAN IMBRECHT: I guess the other point
15 that I would just raise. I think it is highly
16 impractical frankly, to guess that there can be
17 absolutely no communication. I think we sometimes just
18 very much hinder our ability to render rationale
19 judgments in the public process. I don't think there
20 has been any case demonstrated that there has been any
21 abuse of public processes of the Public Utilities
22 Commission. I do think that there should be a clear
23 distinction drawn between, I think, the analogy and the
24 staff analysis that our siting process versus what goes
25 on at the PUC is not totally consistent. I think to

1 the extent you are talking about, the type of quasi-
2 judicial proceeding associated with the acceptance of
3 an application for construction is a little bit
4 different from some of the normal rulemaking
5 proceedings, etc., that take place at the PUC. I note
6 that we are not constrained in that same fashion,
7 except for those types of proceedings, as well. In any
8 case, that's my judgment as a Commissioner -- ought to
9 be neutral, and that's what I urge.

10 VICE CHAIR CROWLEY: I would defer to that.
11 At these Committee meetings, often these things are
12 things that have happened in the past or have dealings
13 with areas that I am not familiar with, and this is one
14 that I would happy to defer to that.

15 CHAIRMAN IMBRECHT: Commissioner Commons?

16 COMMISSIONER COMMONS: I think these matters
17 are generally best left to each Commission to establish
18 their own rules and procedures. I think this
19 particular bill covers all proceedings. It does not
20 attempt to distinguish between various types of
21 proceedings. It would preclude, for example, our
22 Commissioner from this Commission, having discussions
23 with Commissioners from the Public Utilities
24 Commission. I generally feel that procedure for
25 Commissions, unless there are instances of abuse that

1 have been identified so that there is a problem that
2 the Commission is not correcting or properly developed
3 by that Commission for itself. In this case, I do not
4 know of any evidence of abuse or reason for the bill.
5 Unless the Public Utilities Commission was coming forth
6 to us and requesting us to support the bill, I would
7 tend to oppose.

8 CHAIRMAN IMBRECHT: Oppose or neutral?

9 COMMISSIONER COMMONS: Oppose.

10 CHAIRMAN IMBRECHT: Just straight oppose.

11 Either one is acceptable to me. Does anyone else wish
12 to be heard on this item?

13 MR. ELLISON: Mr. Chairman, I would only add
14 the following clarification of the staff position on
15 this, which is to support the measure in concept.
16 There are a number of details of the bill which we
17 would also have trouble with. But the concept of an Ex
18 Parte rule similar to that which is, in effect, here at
19 the Energy Commission, which we think works well here,
20 we would support.

21 CHAIRMAN IMBRECHT: Okay, well. Committee
22 recommendation, at this point, is a neutral position.
23 If anyone wants to put forward a motion for opposition
24 or support, do so. Otherwise, that will be the
25 Commission's position. Do I hear any objection?

1 Alright, direction is that the Energy Commission is
2 neutral on AB 1823. Next item, please.

3 VICE CHAIR CROWLEY: AB 2518 is Diesel
4 Vehicle Emissions Bill, and deals with imposing a fee
5 upon diesel vehicles. There is some cloudiness about
6 studies to reduce emissions, and so we would support
7 this. At least, the Committee would support this, if
8 they would clarify the amendment. We would require AB
9 consultation with the CEC or approved alternative fuel
10 project, and if the bill contained language clarifying
11 alternative fuel projects, which are eligible for
12 funding. Chris, do you have any comments on this
13 further?

14 MR. ELLISON: Well, I would add that the
15 major effect of the bill is to impose a \$25 fee upon
16 heavy duty diesel vehicles. There is currently a \$25
17 fee for the cost of the smog check for non-diesel
18 vehicles in California. There is no such fee, at the
19 moment, for heavy duty diesel vehicles. Not because
20 they don't contribute substantially to air pollution
21 but because the smog check is not effective for those
22 vehicles. The proposal in this bill is to, on equity
23 grounds, imposed the same fee on non-diesel vehicles-
24 -on diesel, heavy duty diesel vehicles is currently in
25 effect for other vehicles, and to use that money for

1 air pollution research, as well as alternative fuel
2 research. The bill, in an earlier version, explicitly
3 called out alternative fuel research. The sponsor of
4 the bill, the author and everybody that I've talked to
5 agrees that that would be an appropriate use of the
6 funds. Still, we are recommending a support position
7 for the bill, provided that the Commission has a role
8 in consulting with the ARB on alternative fuel
9 projects, and that the bill specifically calls out that
10 alternative fuel projects are eligible for funding.

11 CHAIRMAN IMBRECHT: Let me understand that
12 this would go into some type of a special fund, and ARB
13 would be given discretion as to expenditures?

14 MR. ELLISON: That's correct.

15 CHAIRMAN IMBRECHT: Wouldn't it require
16 legislation oversight, et cetera?

17 MR. ELLISON: It would be subject to any
18 other fee collected under the State Highway Account,
19 State Transportation Fund, Mr. Chairman.

20 CHAIRMAN IMBRECHT: I see.

21 MR. ELLISON: So, I suspect it would be
22 subject to an annual appropriation. There's nothing in
23 the bill that talks about continuous appropriation. It
24 would be constrained by our implementation of the
25 Constitution, as well. It requires that for

1 street/road purposes or environmental mitigation, which
2 I don't think would constrain the amendment that the
3 Committee has proposed.

4 CHAIRMAN IMBRECHT: Let me understand, as
5 well. In terms of smog checks, I wasn't aware that
6 there was a \$25 flat fee.

7 MR. ELLISON: I think it's up to a maximum of
8 \$25.

9 CHAIRMAN IMBRECHT: That's right, that's
10 right. I guess I would just express some concern. I
11 just had my own car done down south, and I think I only
12 paid \$15 or \$16.

13 COMMISSIONER GANDARA: That's a different
14 thing; that's a different item. I have become very
15 expert in this subject since I had to go to the DMV to
16 register my car. I was acquainted with their new
17 procedures and spent a lot of time talking to lay
18 experts in line. I would suggest that we should, to
19 meet the intent of what's suggested here, the dollar
20 figure ought to be not \$25, but \$65.

21 CHAIRMAN IMBRECHT: \$65?

22 COMMISSIONER GANDARA: Yes, because this is a
23 following. Most smog checks will cost you about \$15.
24 That's if your car checks out okay, it will cost you
25 \$15.

1 CHAIRMAN IMBRECHT: That's right.

2 COMMISSIONER GANDARA: However, among the lay
3 experts in line, the following guidelines are given:
4 if you wish to get your smog certificate, under the law
5 I believe, that if your car does not comply, you are
6 required to expend up to \$50 to correct it. Beyond
7 that, you don't. If you prove that you have expended
8 at least \$50, then you can have a non-complying car.
9 So in essence what has happened is, again the lay
10 experts informed me, that the thing to do is not to
11 tune up your car before you go in for the smog check,
12 but in fact take it in, however it is, so that the \$50
13 is actually applied toward your tune-up. If it checks
14 out, fine. If it doesn't, fine. But, at least your
15 \$50 has been expended for a useful purpose. So, what
16 then happens is that you are basically paying a \$65
17 fine. \$15 of which goes to the guy who checks out the
18 smog thing and \$50 to whoever the mechanic is who fixes
19 it. So, that in fact

20 CHAIRMAN IMBRECHT: Yeah, but you are getting
21

22 COMMISSIONER GANDARA: the system

23 CHAIRMAN IMBRECHT: value for that \$50.
24 You are getting more than that. It improves your
25 mileage and all

1 VICE CHAIR CROWLEY: But you need it anyway.

2 CHAIRMAN IMBRECHT: There are other
3 considerations.

4 COMMISSIONER GANDARA: Okay, that's true,
5 because you can't buy a catalytic converter for \$50.
6 It would cost you at least \$300. But, in any case, the
7 whole idea is that you are buying--there are lots of
8 non-compliance cars that will cost you \$65 to have a
9 non-complying car in California. So, the great
10 question is if you are going to have a non-complying
11 car, why not just pay the \$50 to DMV anyway. So, we
12 have a \$65 exemption for smog non-compliance.

13 VICE CHAIR CROWLEY: Non-compliance?

14 COMMISSIONER GANDARA: So, I think that the
15 appropriate dollar value here is \$65.

16 (LAUGHTER)

17 CHAIRMAN IMBRECHT: I don't think that this
18 is really an area within our jurisdiction, and I would
19 probably take issue with that analysis a little bit. I
20 paid \$15 because my car was in good shape.

21 VICE CHAIR CROWLEY: But, you paid the \$50
22 previously to have the tune-up.

23 CHAIRMAN IMBRECHT: Well, I just made my--I
24 just keep my car in good shape. That's all there is to
25 it. I was pleasantly surprised. I have to admit I

1 thought I might need a tune-up, but that turned out not
2 to be the case.

3 EXECUTIVE DIRECTOR WARD: It was a diesel,
4 Mr. Chairman?

5 CHAIRMAN IMBRECHT: What I would like to
6 suggest here is that I am intrigued about the fund of
7 this nature.

8 VICE CHAIR CROWLEY: Well, this goes to the
9 Air Pollution Control Fund.

10 CHAIRMAN IMBRECHT: I don't think we ought to
11 suggest \$65, personally; and I'm not sure \$25 is right.
12 But, I would also like to suggest that there be a fund
13 that would basically allow appropriate agencies to
14 -- and I don't know how exactly to structure this. Mr.
15 Ward has had some expertise in dealing with these
16 things. Maybe he can work with Mr. Ellison on this.
17 But, basically in essence, if other agencies were to
18 make an appeal to the Department of Finance or
19 appropriate allocations out of this fund.

20 EXECUTIVE DIRECTOR WARD: I had another point
21 of inquiry here, and I don't know if any of us

22 CHAIRMAN IMBRECHT: That ought to be
23 possible, it seems to me.

24 EXECUTIVE DIRECTOR WARD: I don't know that
25 any of us can answer it, but I was under the impression

1 that light-duty diesel vehicles were going to be no
2 longer available for sale in California, anyway, by
3 virtue of not meeting

4 CHAIRMAN IMBRECHT: These are heavy duty.

5 EXECUTIVE DIRECTOR WARD: They are all heavy
6 duty? Excuse me.

7 CHAIRMAN IMBRECHT: Let me suggest this. Why
8 don't we suggest amendments that carry out that general
9 intent that I just stated. Mr. Ellison, I think Mr.
10 Ward, in his previous life, was pretty good at fund
11 issues. I'll let it go at that.

12 COMMISSIONER GANDARA: Just a last comment,
13 Mr. Chairman. If it is heavy duty and diesel vehicles,
14 and I think you are missing a great opportunity to go
15 after a \$65 fee and that would up the Peugeot-diesel,
16 Mercedes-Benz diesel market out there.

17 CHAIRMAN IMBRECHT: Well, we are not deciding
18 on this bill

19 COMMISSIONER GANDARA: \$65 is just a lunch at
20 Joe (INAUDIBLE).

21 CHAIRMAN IMBRECHT: Okay, I think you've got
22 your direction on that. The last bill is SB1083.

23 VICE CHAIR CROWLEY: SB 1083, the Boatwright
24 Bill, is a Biomass Tax Exemption Bill, which we have
25 appended a support position. This is an extension of

1 an existing exemption, if these materials are simply
2 left as waste, then there is no taxing of them anyway.
3 So, the point is to make something productive out of
4 them.

5 CHAIRMAN IMBRECHT: Okay, is there an
6 objection to the Committee recommendation?

7 COMMISSIONER COMMONS: I have one question.
8 Under the existing law, it mentions the use of steel
9 gas produced in the refining process from purchased
10 crude oil, which is also exempt. Would this continue
11 that position, and what is the basis of that?

12 MR. ELLISON: Commissioner Commons, my
13 understanding of the bill is that it extends all of the
14 existing exemption, including that one, indefinitely.

15 COMMISSIONER COMMONS: Could someone explain
16 to me why we would be having that exemption?

17 CHAIRMAN IMBRECHT: It's sponsored by mainly
18 oil companies. I have no idea.

19 VICE CHAIR CROWLEY: Well, my

20 COMMISSIONER COMMONS: Unless there is a
21 justification or a basis for something

22 CHAIRMAN IMBRECHT: I'll tell you one other
23 thing. My outstanding viewpoint

24 VICE CHAIR CROWLEY: Well, my

25 CHAIRMAN IMBRECHT: I'm sorry, pardon me.

1 VICE CHAIR CROWLEY: Go ahead.

2 CHAIRMAN IMBRECHT: A long-standing viewpoint
3 of mine in terms of tax exemptions, they ought to be
4 periodically reconsidered, and I didn't realize this
5 was an open-ended extension. It seems to me we ought
6 to suggest it ought to be extended, perhaps, for
7 another five-year period or something of that nature.
8 But, our tax codes are riddled with exemptions and
9 frequently they don't get adequate review and
10 reconsideration. I would be inclined to support the
11 extension.

12 VICE CHAIR CROWLEY: So you....

13 CHAIRMAN IMBRECHT: this for an
14 extension ... It sums up for maybe five years or
15 something of that nature.

16 VICE CHAIR CROWLEY: It was our understanding
17 that this was flared off and not captured, and that it
18 was an effort to make a use of it, and that the
19 exemption worked to that end. That's why it seemed
20 appropriate to be included as that.

21 CHAIRMAN IMBRECHT: I see. Sure.

22 VICE CHAIR CROWLEY:appropriate to
23 include that.

24 CHAIRMAN IMBRECHT: They would clear it
25 unless--if they had to pay tax on it, then they would

1 clear it.

2 VICE CHAIR CROWLEY: Yeah, if they

3 COMMISSIONER COMMONS: You mean they would
4 flare it because of the sales tax?

5 VICE CHAIR CROWLEY: No, they do flare it
6 because it's of no value, apparently, and if they did
7 something with it, it would be taxed. So, they simply
8 flare it. But, if they can do something with is and
9 not pay the tax, apparently then it would be more apt
10 to have something productive done with it.

11 COMMISSIONER COMMONS: Do we have any
12 information to show that 6 percent sales tax is
13 actually resulting in that?

14 VICE CHAIR CROWLEY: Well, actually, we found
15 that 5.847 did, but

16 COMMISSIONER COMMONS: Can you

17 VICE CHAIR CROWLEY: No, sir, I don't have
18 any idea whether the break is 6 or 5.8.7 or 6.039.

19 COMMISSIONER COMMONS: Don't we have air
20 pollution rules relating to whether or not you can
21 flare gas?

22 VICE CHAIR CROWLEY: We didn't get into that.

23 CHAIRMAN IMBRECHT: I'm sorry. Okay, let me
24 just. Commissioner Gandara.

25 COMMISSIONER GANDARA: Yeah, I don't support

1 this, Mr. Chairman. This is an exemption from sales
2 and use tax. Sales tax is progressive tax. Actually,
3 the progressive tax, I'm sorry. I have a concern about
4 the equity aspects of this. When I see something that
5 is relatively a minor incentive, it seems to me that
6 it's specifically targeted.

7 CHAIRMAN IMBRECHT: Do you want to oppose or
8 go neutral on it? I, frankly, don't consider this to
9 be a major issue.

10 COMMISSIONER GANDARA: Well, I'd be neutral.
11 I don't care to get too involved.

12 CHAIRMAN IMBRECHT: Alright, fine. Is there
13 objection to neutral? Hearing none. This is not one
14 we are going to play with, alright?

15 VICE CHAIR CROWLEY: Fine.

16 CHAIRMAN IMBRECHT: I think that completes
17 the Legislative Committee Report. I understand, then-
18 -let me just indicate that in response to requests from
19 the PVA Bills, that OGA is prepared to bring some of
20 those to us for the next business meeting. Is that
21 correct?

22 MR. ELLISON: That's correct.

23 CHAIRMAN IMBRECHT: Alright. They have been
24 working expeditiously on that. Alright, let me just
25 make a brief report on developments relative to

1 MR. THERKELSEN: No. Basically, we support
2 what Commissioner Commons has said. The matter is of
3 some importance and we are anticipating a decision at
4 the next business meeting. If there were any questions
5 that you had or anything--information we could provide,
6 we are prepared to give that information today. TOSCA
7 is present here, if you have any questions of them. We
8 will be prepared for a full discussion next time.

9 CHAIRMAN IMBRECHT: I have been briefed on
10 this and I am personally, generally, familiar with it,
11 and am inclined to agree with Commissioner Commons'
12 recommendation. I guess the only question I would have
13 for the representatives of TOSCO is, if you feel
14 genuinely that there is jeopardy by us not acting
15 today, whether or not there is any other approach that
16 we might take. I am not aware of any, frankly, but
17

18 MR. THERKELSON: (INAUDIBLE).

19 CHAIRMAN IMBRECHT: Alright, fine. So, that
20 will be notice for the next meeting and we will try to
21 deal with it expeditiously. Further Committee Reports?
22 Commissioner Gandara?

23 COMMISSIONER GANDARA: Just a brief mention,
24 Mr. Chairman, on behalf of the Fuel's Committee. I
25 returned from the third of the PADD V Conferences that

1 Northwest Intertie. I received, late yesterday
2 afternoon, a copy of a letter from Secretary Herrington
3 to Senator Hatfield that indicated that the parties
4 have now agreed to the modifications and Memorandum of
5 Understanding as originally signed. The secretary was
6 recommending to the senator that the memorandum of
7 understanding be included within the DOE Appropriations
8 Bill, if I recall correctly. I understand that
9 Congressman Fasio has offered the appropriate language,
10 and I will be distributing to the Commissioners'
11 offices, a copy of that letter and other supporting
12 documents. So, in any case, we are continuing to make
13 progress on that piece of (INAUDIBLE). That's all that
14 I've got in the way of Committee Reports. Are there
15 other Committee Reports today? Commissioner Commons?

16 COMMISSIONER COMMONS: On the Siting
17 Committee, although the Committee has not met on the
18 matter concerning TOSCO. Their authorization from EPA
19 to construct a facility that we gave an exemption for
20 some six months ago, expires on June 1st. They have
21 rearranged financing and have made some technical
22 improvements to the project. Some of those changes
23 will need to be brought before this Commission for
24 ratification. I have reviewed the changes. There is
25 no significant change in the size of the project.

1 There is no change in terms of the air pollution
2 impacts. The project actually has become a more
3 efficient project and has some potentials in working in
4 terms of using cogeneration for sludge removal under
5 certain circumstances.

6 I will be at the next Commission meeting
7 recommending this to the full Commission, and it is my
8 hope that the fact that it has not been able to be
9 brought forth before the full Commission today, will
10 not jeopardize, in any way, the project. The problem
11 that they have is they have to initiate construction
12 prior to June 1st. What they have done is come before
13 our staff and this Commission, in good faith,
14 recognizing that there are going to be proposing these
15 changes. They were concerned about initiating
16 construction so that they could keep their EPA
17 authorization. I think the matter is primarily a
18 technical matter and one that the Commission can
19 support, but I think we are precluded from giving any
20 policy direction because it has not been properly
21 noticed. But, I did want to bring it to the attention
22 of the full Commission.

23 CHAIRMAN IMBRECHT: It appears to me that
24 staff would prefer to discuss that. Do you want to add
25 anything to Commissioner Commons' presentation?

1 we have been holding over the past year and a half.
2 I'd like to just inform the Committee that it is an
3 initial investment in sponsoring the first PADD V
4 Conference has proven out to be quite a useful one. As
5 a result of that first PADD V Conference, the State of
6 Nevada was encouraged to review their Emergency Plan
7 and they now have an emergency plan with a set aside
8 that parallels our.

9 In addition to that, the State of Oregon
10 reviewed their Emergency Plan and discovered they
11 didn't have that component, as well, and they now have
12 a set aside proposed. The State of Washington has
13 also, though they did have a very comprehensive plan,
14 again now, have revised their set aside program to
15 again parallel California's. In their particulars,
16 they vary slightly by different allocations that
17 reflect the particular elements of their own state. I
18 am pleased to say that, at least one of the things that
19 we had hoped to accomplish was to achieve some degree
20 of coordination in this sort of regional planning. I
21 think it's proven to be quite effective.

22 In addition to that the states, as a whole,
23 are most appreciative really of the time that the
24 Commission has spent in providing them with briefings
25 and information. Not just in the first initial

1 meeting, but subsequent to that. So, that I think it's
2 been a considerable benefit and we've gotten a lot of
3 goodwill with respect to the PADD V districts. In
4 addition to that, it is a unique example of interstate
5 cooperation of any of the PADD V districts. The
6 Department of Energy has noted this. The cooperation
7 that we had with the industry here in developing our
8 plan has continued there. Again, I just note for the
9 Commission that the Commission as a whole, is to
10 complimented, I think, on the supportive actions that
11 it took with respect to that initial PADD V Conference.

12 CHAIRMAN IMBRECHT: I think that you ought to
13 be complimented as well for your leadership in this
14 entire effort. I appreciate you raising that because
15 it also reminded me that I should briefly report on
16 Western Interstate Energy Board's Annual Meeting.

17 I will indicate to you that I have been
18 informed of those developments at that meeting by some
19 of the people that have participated with you. They
20 similarly expressed a very, very strong appreciation
21 for the role of the Commission and the state in dealing
22 with those issues. I will just indicate that, while I
23 don't sit on -- we don't directly--since this is a
24 gubernatorial appointment, but I thought you might be
25 made aware of a few developments. In my absence, since

1 I had to leave early to attend another commitment, I
2 was elected Vice-Chairman of Western Interstate Energy
3 Board, which was the only position I was willing to
4 accept. I only did so because it then puts me on the
5 Executive Committee to control the expenditure of
6 funds.

7 In addition, the Western Sun which had been a
8 moribund institution for some time, and was sitting on
9 top of some remaining funds, which were frankly, in my
10 judgment, being used in a substantially inappropriate
11 fashion -- basically, as a travel account for
12 representatives from a few states, with absolutely no
13 effort to use those funds for direct energy-related
14 purposes, has now been dissolved. The bulk of those
15 funds have been transferred to the Western Interstate
16 Energy Board.

17 As a result of recommendations made by the
18 Northwest Power Planning Council, which was also in
19 attendance at that meeting, it is my expectation that a
20 substantial portion of those funds will be allocated
21 for a interstate study of surplus quantities of energy
22 -- both from the northwest and southwest available in
23 the context of our overall effort for increased
24 interstate sales, and also an examination of related
25 issues, in terms of transmission and reliability. That

1 complements quite nicely some of the budget allocations
2 we have for similar examinations. It was the general
3 consensus of the members of the Western Interstate
4 Energy Board that a study conducted on an independent
5 basis with a variety of states participating, both
6 financially, in terms of oversight of that operation
7 would add substantial credibility to the ultimate
8 results of any such evaluation.

9 So, it is my expectation that I will be
10 returning to you, at some point in the not-too-distant
11 future, with a recommendation of a portion of the funds
12 that we had intended to commit, in terms of an entirely
13 individual study, to be used in a joint interstate
14 effort that will entail the financial commitments of
15 the Northwest Power Planning Council and a variety of
16 our neighboring states here in the western portion of
17 the country. Beyond that, there were no particular
18 developments, other than the fact that apparently every
19 other state that sits on WEIB has been experiencing
20 substantial reductions in the funding for their energy
21 programs which, obviously, is somewhat in contrast to
22 the circumstances that we've enjoyed here in the state
23 in the last year or so. Anyway, most of them are
24 somewht envious, but that's all I have to say.

25 Commissioner Commons?

1 COMMISSIONER COMMONS: I have a point of
2 information, if we've finished with Committee Reports.

3 CHAIRMAN IMBRECHT: We have finished with
4 Committee Reports and we will turn to our luncheon
5 recess. But, ago ahead, state your point.

6 COMMISSIONER COMMONS: We have two siting
7 cases that are coming before the Commission in the next
8 month. The difference in their schedule in terms of
9 -- in the next month, I think.

10 CHAIRMAN IMBRECHT: Three -- GPPL, also.

11 COMMISSIONER COMMONS: Okay. Two power plant
12 siting cases, where there are the issues of Need
13 Conformance. The difference in the dates is only about
14 three days in terms of when the one year is over, and
15 my point of inquiry is, when we are looking at the
16 numbers, depending on which way you look at the
17 numbers, there are different scenarios where you could
18 find need for no project, you can find need for both
19 projects, you can find need for one project.

20 Would it be appropriate where these two
21 projects, both of them being geothermal, with only
22 three days difference -- that, at least for the Need
23 Conformance element of the two cases that we
24 consolidate and have one hearing on need, which would
25 be at the next Business Meeting?

1 CHAIRMAN IMBRECHT: Well, I am not prepared
2 to answer that question at this point in time. I
3 understand you've raised that issue. I frankly
4 anticipate a need for substantial briefings. I need to
5 understand the ramifications better, and I would like
6 to suggest that we take that under advisement, and urge
7 that each of the members of the Commission become
8 familiar with the issues associated therewith. I think
9 that's best done in private conversation with you and
10 the staff and so forth.

11 COMMISSIONER COMMONS: The reason I raise it
12 is I believe it has to--if we were to decide to do the
13 Need Conformance element to the two cases, it would
14 have to be properly noticed. One of the concerns I
15 would have. Well, there are many concerns and many
16 issues related to it. But, one of the concerns I would
17 have is the difference of three days should not affect
18 whether or not a project is sited by the Commission.

19 VICE CHAIR CROWLEY: What two projects are
20 coming that close together?

21 COMMISSIONER COMMONS: Geysers 21 and CCPA.

22 VICE CHAIR CROWLEY: Geysers 21 is June 12.

23 COMMISSIONER COMMONS: CCPA is June 26th.

24 VICE CHAIR CROWLEY: You lost me on the three
25 days.

1 COMMISSIONER COMMONS: Well, when you go back
2 and you look at the calendar as to when they are
3 supposed to be heard when the 12 months is up, it's not
4 a two-week differential, it turns out to be only three
5 or four days.

6 VICE CHAIR CROWLEY: Ours was the 10th.
7 We've discussed that during our procedure and we had
8 conceded two days because there was no Business
9 Meeting the week before the day of the 10th. There was
10 one within two days after the day of the 10th and we
11 were conceded the 12th, because of that configuration.

12 CHAIRMAN IMBRECHT: Because it was acceptable
13 to the Applicant?

14 VICE CHAIR CROWLEY: Yes.

15 CHAIRMAN IMBRECHT: That's right.

16 COMMISSIONER COMMONS: Even it were a
17 difference of two weeks or a month when you have
18 projects this close together of the same type, I think
19 the question is, and that's why I raise it as a point
20 of information, as to what the wishes of the Commission
21 are in terms of the need allocation element.

22 VICE CHAIR CROWLEY: I would say that our
23 proposed decision has been put out. It would seem to
24 me that this is a matter that should be discussed with
25 the participants, and because our proposed decision is

1 out, our docket is closed on the matter. We are
2 preparing to proceed for a Commission consideration on
3 thoe 12th, and have asked to be on the Agenda for that
4 date.

5 CHAIRMAN IMBRECHT: Fine, then, that's taken
6 care of. Mr. Willoughby, did you want to be heard on
7 this?

8 MR. WILLOUGHBY: Mr. Chairman, my name is Tom
9 Willoughby, representing PGandE. Under this matter of
10 information, the Commission should be aware that PGandE
11 is strongly opposed to any type of joint determination
12 of need in reopening both cases together, so that there
13 would be some kind of joint determination of need. If
14 the Commission proposes to go ahead and examine whether
15 or not this course of action should be taken, we would
16 appreciate an ample opportunity to state our position,
17 at that time. But, in order that the Commission should
18 be fully informed of PGandE's position, we would like
19 to go ahead on the 12th with the--as Commissioner
20 Crowley has stated, with the proposed decision and to
21 discuss whatever issues are raised in connection with
22 that specific decision. We would not like the issue to
23 be clouded or mudied by combining it with any other
24 proceceding.

25 CHAIRMAN IMBRECHT: Alright. Commissioner

1 Gandara?

2 COMMISSIONER GANDARA: Mr. Chairman. You
3 may recall that about a month ago, I raised the issue
4 of the possibility of a generic proceeding on Need, and
5 it was raised within the context of the uncertain
6 effects of changes in Siting Policy. I mentioned, at
7 that time, that we had Gilroy, Crockett, CCPA, Geysers
8 21, and I believe we have now an IBM SPPE. I don't
9 know whether there was a small power plant exemption,
10 but in any case, we

11 COMMISSIONER COMMONS: Plas Cerito?

12 COMMISSIONER GANDARA: Plas Cerito? In the
13 same service area, in addition to GPPL. Now, GPPL may
14 be sufficiently distinct, but all the other ones are
15 basically power plant applications. Now, we have a
16 revision with respect to TOSCO. So, in essence, what
17 we have here is determinations all within the same
18 utility area. They are fairly closely spaced, and
19 certainly not within three days, but I think fairly
20 closely spaced so that actually similar policies might
21 be applicable to all of them.

22 We have noted, at least in the Gilroy case,
23 as well as had been noted in the Geysers 21 case, the
24 uncertainty by the possibility of holding hearings pre-
25 and post- that decision. Nonetheless, it does seem to

1 me that what the Commission might want to consider,
2 notwithstanding the concerns that have been expressed
3 by Mr. Willoughby, as would probably be similar
4 concerns to most the applicants, with respect to what
5 is best for the Commission in terms of saving a
6 considerable amount of time having some clearly set
7 policy and frankly, taking advantage of the opportunity
8 to give some guidance to the individual Committees with
9 respect to how to proceed on these need determinations.
10 Since the Commission's decision on the Siting Policy,
11 there have been several workshops on need with respect
12 to Gilroy. Since they are staff workshops, I don't
13 have a direct information, but at least my staff which
14 has been in attendance, and it indicates considerable
15 confusion on the part of staff as to the application of
16 the Need Policy -- confusion by the Applicant and as an
17 expectation that the Committee is going to clarify
18 that. Well, as you know, I have difficulty clarifying
19 that because I didn't quite understand it myself.

20 So, I would appreciate guidance from the
21 Commission, and perhaps such guidance will be
22 forthcoming in a generic type hearing. Now, there's
23 something provided in that that Commissioner Commons
24 suggested, and I don't know what the timeframe and
25 scope would be of all this. But, again, I do note that

1 I did raise the possibility and concern sometime ago,
2 and now the subject is upon us. We do need to still
3 get this clarification in some way.

4 CHAIRMAN IMBRECHT: Mr. Chamberlain?

5 MR. CHAMBERLAIN: Yes, Mr. Chairman. Just
6 for the Commission's information, hopefully, to aid
7 your discussion. There is a regulation dealing with
8 sort of thing in our Siting regulations -- Section
9 1719, which I will just read for you. It says that
10 "upon motion of a member of a Committee or of any
11 party, and for good cause shown, the Commission may
12 order the consolidation of part or all of any notice or
13 application proceeding with any other notice or
14 application proceeding, or the severance of part of any
15 notice or application proceeding if reasonably
16 necessary to ensure the complete fair or timely
17 consideration of any siting proposal." It then goes on
18 to specify, however, that "a decision on any siting and
19 related facility shall not be delayed by reason of
20 consolidation or severance, unless agreed to by the
21 Applicant."

22 CHAIRMAN IMBRECHT: Thank you, that was
23 helpful. Commissioner Commons?

24 COMMISSIONER COMMONS: First, I want to make
25 it clear that I am not requesting that the Need

1 proceedings be reopened. What I was referring to was
2 what Mr. Chamberlain was discussing, was that the
3 hearing that we have on the 12th include the Need
4 Conformance for both of the projects at the same time,
5 before the Commissions. Second is, I think it should
6 be noticed that the Applicant made the request to the
7 Committee in a hearing that we had yesterday, that they
8 requested that I make this request or raise the
9 question with the full Commission. So, that when I
10 raise this as a point

11 CHAIRMAN IMBRECHT: I guess I am a little
12 unclear because with respect to Geysers 21, as
13 Commissioner Crowley indicated, the record is closed.
14 Unless the full Commission chose to accept additional
15 testimony in the issue of Need, what we basically have
16 before us on the 12th is the Committee's recommendation
17 relative to that case. As by contrast, I understand,
18 that with respect to CCPA, you have not, as yet,
19 completed your Need hearings. Is that accurate?

20 COMMISSIONER COMMONS: That's correct. My
21 understanding is if a docket is closed, that when it
22 comes before the Commission, that any and all questions
23 and information can be asked.

24 CHAIRMAN IMBRECHT: No, I understand. But,
25 if this juncture, from a procedural standpoint, there

1 is no intention to hold additional hearings on need
2 relative to Geysers 21. Now, obviously, if a majority
3 of the members of the Commission see fit to do so, that
4 would occur. But at this juncture, from a procedural
5 standpoint, what we expect to have on the 12th is the
6 Committee's recommendation, which will then be subject
7 to consideration and voting it up or down.

8 COMMISSIONER COMMONS: The docket on CCPA
9 will have been closed prior to the time of the next
10 Business Meeting.

11 CHAIRMAN IMBRECHT: Well, if that's the case,
12 then it seems to me that arguments for consolidation
13 are slight. Let me suggest a way to handle it. You've
14 raised it as a point of information.

15 COMMISSIONER COMMONS: That's correct.

16 CHAIRMAN IMBRECHT: I would like to suggest
17 that we have some clear conversation about it. You
18 obviously have the right to request that such an item
19 be noticed on the agenda for the next Business Meeting.
20 As we learned from this morning, you know that the
21 rules are that you must have that to me by the close of
22 business tomorrow. I'll give you a chance to persuade
23 me on it, and I'd like to know what the staff's
24 position is, but I frankly don't think it's terribly
25 productive to extend this conversation

1 COMMISSIONER COMMONS: I have not yet said I
2 recommend it. I raised it as a point of information as
3 to what the full Commission's full point is. I do not
4 have a position yet.

5 CHAIRMAN IMBRECHT: I guess I would say that
6 I am generally reluctant to think in terms of
7 consolidation at this stage of these proceedings. But,
8 I will keep an open mind and if there are proponents
9 that want to try to make that case, let them try to do
10 so.

11 COMMISSIONER COMMONS: Alright, then, I have
12 one question under this further.

13 CHAIRMAN IMBRECHT: Okay.

14 COMMISSIONER COMMONS: If I were to want to
15 make a motion, what is the appropriate procedure. Is
16 it to put it on the agenda for next week or is it ripe,
17 and are we allowed to do it this week?

18 MR. CHAMBERLAIN: I'm sorry, I missed the
19 question in the midst of all that.

20 CHAIRMAN IMBRECHT: I think I'm going to try
21 to...I think that the appropriate way--that regulation
22 you just read to us, Mr. Chamberlain, does that require
23 notice?

24 MR. CHAMBERLAIN: It requires a motion by a
25 member of the Committee or party.

1 COMMISSIONER COMMONS: Could that motion be
2 made today?

3 MR. CHAMBERLAIN: It could be. I believe the
4 appropriate thing would be to docket such a motion,
5 however, to make it in writing and docketed, so that it
6 can be noticed to all parties affected.

7 COMMISSIONER COMMONS: Okay, I would not
8 question that. I would accept that

9 CHAIRMAN IMBRECHT: Let's just say that it's
10 just a simple matter of fairness. Obviously, the
11 parties here are not prepared to respond to that motion
12 today. I mean, Mr. Willoughby happens to be here, but
13 I'm sure that there are other interested parties, as
14 well. I would strongly resist going to a decision on
15 that today.

16 COMMISSIONER COMMONS: I would concur.

17 CHAIRMAN IMBRECHT: Alright, okay. That
18 completes Committee Reports, Information, etc. Let me
19 just ask, Mr. Perez, is Ms. Schori present?

20 PUBLIC ADVISER PEREZ: No. She plans to
21 attend and participate during the Public Comment period
22 following.

23 CHAIRMAN IMBRECHT: In the afternoon session?

24 PUBLIC ADVISER PEREZ: Yes.

25 CHAIRMAN IMBRECHT: Alright, fine. We will

1 then stand in recess until 2:00 p.m. I know
2 Commissioner Commons needs to spend some time on that
3 other item, and I want to make sure he has enough time.
4 See you back at 2:00 p.m.

5 (Thereupon the morning session of the
6 business meeting of the California Energy Resources
7 Conservation Resources and Development Commission was
8 adjourned for a luncheon recess at 12:30 p.m.)

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AFTERNOON SESSION

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2 CHAIRMAN IMBRECHT: Okay, let's call the
3 meeting back to order. I understand from Commissioner
4 Commons, although he's obviously not present at this
5 juncture, that he's now no longer expressing concern
6 about allowing Item #2 to go forward. Although I think
7 it probably would be better if we waited until he
8 arrives. So, let me suggest as well, I understand that
9 Ms. Schori, representing Sacramento Municipal Utility
10 District, under Item #12, wanted to make a presentation
11 on behalf of her employer and a CCPA Project. Ms.
12 Schori?

13 MS. SCHORI: My name is Jan Schori. I am the
14 attorney for CCPA No. 1, which is a Joint Powers
15 Agency, comprised of the Sacramento Municipal Utility
16 District, the Modesto Irrigation District, and the City
17 of Santa Clara. CCPA No.1 currently has before the
18 Commission, in a licensing proceeding, the Coldwater
19 Creek Geothermal Power Plant Project. We have
20 confronted, in the last month or so, a number of very
21 critical issues in the case, and it is CCPA 1's desire
22 to bring to the attention of the full Commission, some
23 public comments on the status of that case.

24 I have prepared a written document, a letter
25 to the Commissioners, to briefly summarize the position

1 if I can take this opportunity to briefly summarize the
2 points that are made in the letter. Commissioner
3 Commons has announced his intent to present the final
4 decision for Commission consideration at the June 26th
5 Business Meeting. In order to meet that date, he must
6 issue his proposed decision no later than June 11th.

7 From CCPA 1's perspective, there are three
8 issues which may jeopardize the Commission's ability to
9 render a final decision in the case by June 26th. The
10 first issue is the question of conformity with the BR
11 IV Demand Forecast. The Commission staff has presented
12 testimony in the CCPA proceeding with respect to BR IV
13 conformity. Similar testimony was presented in the
14 Unit 21 case. It is our understanding that in the Unit
15 21 case, the testimony of the staff on need has been
16 accepted. However, in the CCPA case, the Presiding
17 Member has indicated that that testimony is
18 insufficient to support a finding of need.

19 It is critical from CCPA 1's perspective that
20 the Commission make its need determination on both
21 cases consistently and equitably. The second issue is
22 that which relates to the ER V Demand Conformity
23 question. Both the staff and the Applicant in the CCPA
24 case have presented to the Committee testimony with
25 respect to the inability of those parties to make or to

1 present evidence under ER V within the timeframe
2 remaining for a decision on the case. Apparently, the
3 Committee, at yesterday's hearing, accepted that
4 position on behalf of both the staff and the Applicant.
5 Nonetheless, the Committee has determined that one of
6 the intervenors in the case, the California Farm Bureau
7 Federation, will be allowed to go forward with
8 testimony under ER V. From CCPA 1's perspective, this
9 places our agency in a very difficult position, because
10 we have testified that we will be unable to present
11 testimony establishing the need for the project, within
12 the timeframe that is allowed. Namely, by June 10th,
13 which is the date scheduled for continuation of the
14 hearing.

15 On the other hand, we are being forced to
16 allow one of the intervenors who made an offer of
17 proof, indicating that his testimony will be that the
18 project is not needed, that party will be allowed to go
19 forward and put that evidence on the record. We will
20 not have an adequate time to prepare our case to refute
21 that. We are being forced to choose between agreeing
22 to a delay in the case in order to present testimony to
23 refute the expected testimony of the Farm Bureau, or
24 alternatively, to waive our due process rights to
25 prepare an adequate defense and an adequate

1 presentation of the evidence in favor of the need for
2 the case under ER V.

3 Commissioner, the Presiding Member yesterday,
4 further announced that if necessary, it would be his
5 intent to hold open the June 10th hearing over to June
6 11th and June 12th. We must have a final decision
7 issued in the case no later than June 11th, and we
8 think that the intent to hold open the hearings for two
9 additional days will negate the Committee's ability to
10 issue a timely decision.

11 The last point that I would like to raise is
12 the transmission issue. The Presiding Member has
13 announced his intent to issue a final determination
14 that firm life-time transmission for the Coldwater
15 Creek Project will be required before the project is
16 allowed to commence construction. It is our position
17 that that requirement violates the adopted Commission
18 policy with respect to transmission, and that it is not
19 supported by law or regulation, and that in this
20 particular case, it is unnecessary and inequitable.

21 The point of raising these issues before the
22 Committee today in the nature of Public Comment, is
23 primarily to indicate that from our perspective, due to
24 the significance of these issues, we do not believe
25 that it is adequate that there will be an adequate

1 opportunity for all parties to present their position
2 on these issues, as well as for the Commission to
3 consider the viewpoint of the Presiding Member, if the
4 only opportunity that the Commission has to consider
5 these issues is that of the June 26th Business Meeting
6 with a regularly scheduled agenda item.

7 At this point, I would be happy to answer any
8 question, if there are any. But, our principal concern
9 is whether or not, in light of these issues, which are
10 very significant, it is sufficient to have this
11 scheduled for discussion on the 26th.

12 CHAIRMAN IMBRECHT: Let me just make a couple
13 of clarification points before we go on. Apparently,
14 some other people wish to offer comments, as well.
15 What do you mean by firm lifeline transmission?

16 MS. SCHORI: Lifetime transmission.

17 CHAIRMAN IMBRECHT: Lifetime, alright.

18 MS. SCHORI: Commissioner Commons, and please
19 correct me if I am misstating the ruling that was made
20 at the hearing on the 21st. But, Commissioner Commons
21 has advised us that it is his intent, to issue in his
22 final decision, a determination on transmission
23 indicating that in order for us to commence
24 construction, we must prove that we have firm 30-year
25 or life of the plant transmission, and that that will

1 either be established by either proving that the GPPL
2 AFC has been approved or that we have alternatively a
3 30 year firm transmission agreement from PGandE. Those
4 are the, as I understand them, and correct me If I am
5 wrong, that is what I understood the Committee's ruling
6 of the May 21st hearing to contemplate.

7 We do believe that that is a very significant
8 ruling and a significant change in policy on the
9 Commission's part, should it be adopted. The staff and
10 the Applicant have come--have presented to the
11 Committee a stipulated proposal for addressing the
12 transmission uncertainties. We, and I assume the
13 staff, would like the opportunity to present our
14 respective viewpoints on this issue to the full
15 Commission, at a time when it would be appropriate to
16 consider that.

17 CHAIRMAN IMBRECHT: Alright, before we go any
18 further, let me ask a couple of other questions. Mr.
19 Chamberlain, what's from a procedural standpoint, what
20 are our options at this juncture, in the event that the
21 Commission wishes to offer any advise on this matter?

22 MR. CHAMBERLAIN: Well, you obviously cannot
23 take any action today because nothing has been noticed,
24 even for discussion. I believe all that you could do
25 is to take note of the information that's been

1 presented to you. If there was a request under the
2 regulations or a request to have something put on the
3 agenda for the next meeting, you could probably
4 accommodate that. But, I had not heard that request
5 made, at this point.

6 CHAIRMAN IMBRECHT: Alright, fine. Let's
7 take the remainder of the Public Comment on this same
8 issue and then we will see what we need to do at that
9 point. Mr. Willoughby, representing Pacific Gas and
10 Electric Company.

11 MR. WILLOUGHBY: Thank you, Mr. Chairman. I
12 want to refer back to this morning's discussion just
13 before lunchtime, where Commissioner Commons indicated
14 that he was contemplating noticing for the May 12th
15 meeting. A motion to have a joint need determination
16 for PGandE's Geysers 21 case and the CCPA case.
17 Commissioner Commons, please correct me. I don't want
18 to misrepresent your position, but my understanding is
19 that one of the reasons that you raised this, and put
20 it forward for discussion was your feeling that at
21 yesterday's pre-hearing conference in the CCPA
22 proceeding, that the Applicant had requested this type
23 of joint need determination. I believe that that was
24 one significant reason that you gave for thinking about
25 putting it on the Agenda for the meeting of the 12th.

1 My recollection was somewhat to the contrary.
2 I didn't recall that the Applicant had made such a
3 request, and inasmuch as Ms. Schori is here to correct
4 or to clarify the record, I would like, if I could
5 through the Chair, to ask her to simply comment on that
6 single question, as to whether the Applicant in the
7 CCPA case does, in fact, want a consolidated need
8 inquiry to take place on the 12th or not. Would that
9 be appropriate, Mr. Chairman?

10 CHAIRMAN IMBRECHT: I think that would be
11 appropriate.

12 MS. SCHORI: Perhaps, I could offer some
13 clarification on that issue. We have not made a motion
14 to consolidate the two cases with respect to the need
15 issue. Our principal concern has been to resolve the
16 inconsistency or what appears to us to be an
17 inconsistency between the approach being taken by the
18 Committee on the Unit 21 case, and the approach being
19 taken by the Committee on th Coldwater Creeek case. We
20 are extremely concerned over the fact that there is
21 only one Business Meeting, namely the June 12th
22 Business Meeting, in between today and the date of
23 that, that our case is scheduled for final decision.

24 I would note that I do not know--it is my
25 personal judgment that we would not oppose a motion or

1 an effort to consolidate if that was the wish of the
2 Commission. We are not, however, requesting that. Our
3 motion yesterday was addressed to the fact that that
4 was the only publicly noticed Business Meeting or
5 regular meeting of the Commission that was available
6 for us to bring this issue before the full Commission
7 for discussion, prior to our scheduled adoption date of
8 June 26th.

9 Now, I have been advised that the Commission
10 does have procedures for calling special Board Meetings
11 or special Commission Meetings, as well, but

12 CHAIRMAN IMBRECHT: Yes, it may be called at
13 the discretion of the Chair

14 MS. SCHORI: Those are basically--to clarify
15 our position yesterday.

16 CHAIRMAN IMBRECHT: Alright, fine. I would
17 take that under

18 MS. SCHORI: We were not making a motion to
19 consolidate

20 CHAIRMAN IMBRECHT:advisement, I would
21 just note that my recollection of the regulation which
22 Mr. Chamberlain quoted to us this morning, suggests
23 that, in essence, PGandE as the Applicant in the
24 Geysers 21 case, in essence, is the controlling posture
25 here, since their refusal to acquiesce to consolidation

1 on the grounds that it would result in a delay in the
2 final determination in their case, as I recall, would
3 be deposite based upon the regulation he sited. Could
4 you recall for me, Mr. Chamberlain, which regulation
5 that was?

6 MR. CHAMBERLAIN: Yes, that's Section 1719,
7 and I would say that it would be deposite if you
8 concluded that the decision would be delayed by the
9 consolidation.

10 CHAIRMAN IMBRECHT: I understand that as a
11 condition precedent, but I was trying to recall--1719.

12 COMMISSIONER COMMONS: I don't believe there
13 ws any suggestion, Mr. Chairman, if we were to move to
14 consolidate that there would be any delay in the
15 proceedings.

16 VICE CHAIR CROWLEY: May I ask you a
17 question?

18 CHAIRMAN IMBRECHT: It's a little hard for me
19 to understand how that would be the case. Commissioner
20 Crowley?

21 VICE CHAIR CROWLEY: I have a couple of
22 questions partly because the Commissioner presiding on
23 CCPA has never approached me with any suggestion that
24 the two cases be consolidated. I'm wondering if there
25 is anything, perhaps, Mr. Chamberlain can help -- if

1 there is anything to indicate, anywhere that this has
2 to be acquiesced to by both or whether some one
3 Presiding Member can make the decision without
4 consultation, with the Presiding Member of the other
5 case?

6 MR. CHAMBERLAIN: Well, any member of a
7 Committee can make the motion. It has to be acquiesced
8 to by a majority of the Commission.

9 CHAIRMAN IMBRECHT: Alright, let's just read
10 it very clearly. I think this regulation is clear on
11 its face. It says, "Upon motion of a member of a
12 Committee or of any party and for good cause shown, the
13 Commission may order the consolidation or part or all
14 of any notice or application proceeding with any other
15 notice or application proceeding for the severance of
16 part of any notice, ramification or proceeding, if
17 reasonably necessary to ensure the complete fair or
18 timely consideration of any siting proposal."
19 Subsection B then goes on to say, "A decision on any
20 site and related facility shall not be delayed by
21 reason of consolidation or severance, unless agreed to
22 by the Applicant." That's why it would appear to me,
23 in essence, PGandE is in the controlling posture on
24 this, in that it is hard for me to understand how a
25 consolidation of the two cases would still result in a

1 decision in the Geysers 21 case within the statutory
2 deadline. Commissioner Gandara and then Commissioner
3 Commons.

4 COMMISSIONER GANDARA: Again, I think the
5 language of the regulation is unfortunate. I think it
6 frankly tries to parallel the language of the statute
7 that says that there is a time definite by which the
8 Commission is instructed to render a decision. The
9 question is what happens if it doesn't render a
10 decision by that time? Now, notwithstanding the
11 Subsection B, 1719, the reality of it is that no one
12 can compel a decision from us. Certainly, it's
13 worthwhile to target and to make those decisions in a
14 timely fashion as possible. But, at the same time, if
15 we don't make a decision, it doesn't mean that by
16 default, the Applicant gets the application. So, from
17 a practical point of view, this is an example of
18 regulations that state intent, but frankly don't give
19 much guidance as to really who is in control of what,
20 because it does seem to me if the choice is of not
21 deciding anything, or of giving some indication tht a
22 decision will be made through a certain process at some
23 point in time, then the applicants really don't have
24 much choice. I'm not saying that to disregard the
25 applicants' interest, or to disregard the statutory

1 direction or the intent of the regulation. All I'm
2 saying is that it really is a strange regulation. No
3 one can compel a decision from us.

4 CHAIRMAN IMBRECHT: Well, I appreciate the
5 legal point you are making. I guess I would render a
6 somewhat different conclusion, though, in the context
7 of would it be compelling or not. I personally feel
8 quite strongly that we have a legal obligation to
9 comply with the statute. I have been aware for the two
10 years that I have served on the Commission, as to the
11 practical effect of what you are explaining. That
12 certainly is real and obviously there is a substantial
13 ability for the majority of the Commission to in
14 essence leverage an applicant in the stipulating to the
15 time extension, if they obviously feel that the
16 alternative is a negative result, relative to their
17 position. It is my personal feeling, however, that I
18 will not personally participate in anything of that
19 nature, unless there is very good cause shown to
20 demonstrate why that is the only rational approach. I
21 would want that to be very firmly established in the
22 record before we start establishing a precedent of
23 operating in that fashion. Commissioner Commons?

24 COMMISSIONER COMMONS: Yes, Mr. Chairman. I
25 would agree with your last statement that we should not

1 delay cases unless there is a very strong showing of a
2 lack of due process or strong reason as to why. I
3 would like to ask Mr. Chamberlain a question. Let us
4 just say that, and this is hypothetical, that there
5 were a motion to consolidate the need aspect of the two
6 cases and the Commission were to adopt that
7 consolidation. Could it, at that time, since the
8 docket would be closed on both cases, that the
9 consolidation would only impact the consideration by
10 the Commission of the need determination for the two
11 projects? So, that would be done simultaneously before
12 the Commission at the next scheduled Business Meeting.
13 So, in effect, there would be no delay, there would be
14 no reopening of the dockets, no further hearings.
15 Unless for some reason the Commission, which it has a
16 right to do, if we consolidate or not, directed the
17 Committee to conduct further hearings?

18 MR. CHAMBERLAIN: Could I just have a moment
19 to confer with Mr. Perez?

20 CHAIRMAN IMBRECHT: I'm sorry, Commissioner.
21 In the meantime, I didn't understand the question that
22 you were putting to Mr. Chamberlain.

23 COMMISSIONER COMMONS: The way I raised the
24 issue this morning was not with the intent of having
25 Geysers 21 not heard and decided upon, in its entirety,

1 at the next Business Meeting. I was trying to raise
2 the issue as to whether or not, at the same Business
3 Meeting, we do the Need Conformance element of CCPA and
4 we consolidate and have the hearing before the
5 Commission of the Need Conformance element of the two
6 cases at the same time. So, that there would be no
7 further Committee hearings, no further workshops, no
8 further docket information. It would only be a
9 consolidation in the purposes of the presentation of
10 the information of the two cases before the Commission.
11 I don't want to go into the issues as to why because I
12

13 CHAIRMAN IMBRECHT: I guess all I would ask,
14 though, as playing the devil's advocate on that, you
15 seem to operate from, at least I am inferring some
16 presumption that there would be a Need hearing before
17 the full Commission. I would only contemplate that to
18 be the case if the majority of the Commission, for some
19 reason, felt that the Committee's proposed decision was
20 inadequate relative to that issue and, therefore,
21 wanted additional testimony or evidence presented.
22 Short of that, the posture of which these are typically
23 brought to the Commission is a recommendation by the
24 Committee, a presentation by the Presiding Member of
25 the Committee and only if that presentation, in

1 essence, is either rejected or felt to be somehow
2 incomplete do you go into the individual nuances of the
3 decision, or to the extent that other individuals or
4 parties wish to attempt to persuade the Commission to
5 go beyond the proposed decision of the Presiding
6 Member.

7 COMMISSIONER COMMONS: Alright, let me ask a
8 point of information of our legal counsel. Mr.
9 Chamberlain, my understanding is the Presiding Member's
10 Report coming before the Commission is no different in
11 terms of the types of discussion that occur by the
12 Commissioners than on any other Committee Report or any
13 other item that comes before the Commission. And that
14 any information, either part of the docket or
15 otherwise, can be raised as part of the hearing at the
16 time that the case is being deliberated upon by the
17 Commission.

18 MR. CHAMBERLAIN: Well, the Presiding
19 Members' Report is based on an evidentiary record and
20 that record is before the Commission. It's true that
21 the Commission could, theoretically, take evidence at
22 the hearing before the Commission if it determined
23 that, for one reason or another, it was appropriate to
24 take additional evidence. But, that would be an
25 unusual circumstance. I believe that kind of leads to

1 an answer to your first questions. It would be,
2 theoretically possible, for the Commission to hold a
3 consolidated need hearing on these two cases. But, in
4 order to do so, in order to achieve due process, you
5 would have to have the witnesses from each case on need
6 available to be cross-examined by parties from the
7 other case, who may not have had an opportunity to do
8 so during the Evidentiary Hearings.

9 COMMISSIONER COMMONS: Let me get a further
10 clarification on the first point that you answered. If
11 I were to want to raise a question on evidentiary
12 proceedings, if I wanted to raise an point of evidence,
13 would I have to have the approval of the Commission to
14 ask for or present additional testimony, or would it be
15 my matter of right to do so?

16 MR. CHAMBERLAIN: Commissioner Commons, I am
17 a little taken aback by that. Normally, each
18 Commissioner sits as a part of a quasi-judicial body
19 and hears evidence. It's normally not contemplated
20 that a Commissioner would give evidence in a case.

21 COMMISSIONER COMMONS: If I were to request a
22 party to present evidence. For example, if if wanted
23 to have submitted into evidence in Geysers 21, the CCPA
24 docket or vice-versa, would I have the ability to have
25 that done. The question has been raised of consistency

1 between the two cases and there may be differences in
2 terms of the information in the dockets of the two
3 cases.

4 MR. CHAMBERLAIN: Well, that would be up to
5 the Commission, but I would say that the Commission
6 would have to consider that the incorporation of a
7 large amount of material from one case into another,
8 might be objected to by parties who didn't have an
9 opportunity to respond or cross-examine the witnesses
10 involved.

11 CHAIRMAN IMBRECHT: Absolutely, and to me it
12 is obvious, on its face, as to the clear due process
13 and frailties of that kind of an approach. You would
14 have to provide an opportunity then, for full cross-
15 examination. That would mean adequate time, etc., to
16 review the record and all those other kinds of
17 considerations. I can't even imagine how something
18 like that could, as a practical matter work, much less
19 likely to be sustained by any Court in the review mode.

20 COMMISSIONER COMMONS: I want to be cautious
21 in terms of, as I had said earlier, I had attempted to
22 put this item on the agenda and had been cautioned by
23 counsel not to argue the pros and the cons, so I have
24 limited my discussion to points of information and
25 procedural inquiries. I do not intend to argue the

1 merit because I have been advised not to do so. But,
2 based on the procedural discussions I have heard so
3 far, I do request that we have on the agenda for next
4 week, a motion to consolidate in accord with 1719.
5 Second, I would also request that we have on the agenda
6 the Need Conformance element of CCPA.

7 MR. WILLOUGHBY: Mr. Chairman

8 CHAIRMAN IMBRECHT: As to the first request-
9 -Mr. Willoughby, I will turn to you in just one second.
10 As to the first request, obviously, that will be
11 accommodated. As to the second request, you're I guess
12 then, in essence, that your Committee will not be
13 hearing the issue of Need and will not be bringing a
14 proposed decision that is complete, in the sense that
15 it deals with the issue of Need to the Commission, that
16 you are asking in essence that the full Commission
17 recapture jurisdiction, if you will, on a significant
18 piece of the siting case?

19 COMMISSIONER COMMONS: Well, again, no. I am
20 saying is

21 CHAIRMAN IMBRECHT: My question is, are you
22 arguing merits? I'm trying to understand precisely
23 what it is you are asking for.

24 COMMISSIONER COMMONS: Okay, no. I am going
25 to say that the Committee will bring to the Commission

1 at the next Business Meeting, and so it will be part of
2 the agenda of the next Business Meeting, the Need
3 Conformance element and recommendation of the Committee
4 on CCPA.

5 MR. WILLOUGHBY: Mr. Chairman, I do have a
6 problem with that in that

7 CHAIRMAN IMBRECHT: Mr. Chamberlain and I do
8 too, but I'll let you

9 MR. WILLOUGHBY: The regulations require a 15
10 day period between the release of the Presiding
11 Member's Report and the ultimate decision by the
12 Commission. So, it seems impossible, at this point,
13 given that the next meeting is 14 days from now, but
14 Commissioner Commons could bring the matter to the
15 Commission for a decision on an issue as important as
16 Need.

17 COMMISSIONER COMMONS: When you say there is
18 a 15 day notice from the date of issuance, I believe
19 that is on the whole report. It doesn't refer to any
20 element of the report.

21 MR. CHAMBERLAIN: Well, I don't think we
22 could single out an element that is as important, in
23 terms of just whether the project goes forward or not,
24 make that fundamental decision and then rubber stamp it
25 at the following meeting.

1 COMMISSIONER COMMONS: Alright, then. I
2 would like--since that would affect both the
3 consolidation motion and the--because it might cause a
4 time delay, and it could affect whether or not we can
5 hear the need conformance element. I would like to
6 have a legal ruling, in writing, from legal counsel. I
7 think that's the appropriate way you said we should
8 handle this.

9 CHAIRMAN IMBRECHT: You are entitled to make
10 that request. I guess what I am trying to understand,
11 Commissioner Commons, is are you telling me your
12 Committee is not prepared to hear the issue of Need and
13 bring a proposed decision to us that deals with the
14 entire scope of the case?

15 COMMISSIONER COMMONS: No. I'm saying

16 COMMISSIONER GANDARA: Mr. Chamberlain says
17 he can't. That he doesn't have the Presiding Member's
18 Report out. Mr. Chamberlain says he can't.

19 CHAIRMAN IMBRECHT: No, no, no. I'm just--
20 -forget the question of the next Business Meeting. I'm
21 trying to understand what it is you want

22 COMMISSIONER COMMONS: No, no, no, no. We
23 will have on the 11th is the date that the Presiding
24 Member's Report is due on the CCPA. It will be a
25 Presiding Member's Report unless some circumstance

1 occurs that I am not now aware of, out on that date,
2 which would be timely for hearing on the 26th. The
3 Applicant has come before us and I think has said, for
4 consistency purposes, where we have two totally
5 separate records on two cases, both geothermal, and you
6 have Presiding Members' Reports that are using
7 different records and they are almost done at the same
8 time, that it is: 1) unfair to the Applicant who is
9 coming second, not to have their case heard at the same
10 time, and 2) if it's fair for either party to have
11 separate records on cases so similar, in nature, to be
12 used by the Commission for decision making. I will
13 raise, at the time that the Geysers 21 case comes, any
14 matters of evidence that have been submitted in one
15 case that have not been used in the other case, and
16 we'll prepare a report there. But, I'm more concerned
17 with the due process in the fairness to both
18 Applicants, that they be given equal and similar
19 treatment by the Commission. It's not as important, I
20 think, as to what the action of the Commission is, as
21 to the due process, so that the people are treated in
22 an equal and fair manner. I think this Commission, as
23 a deliberative body that properly votes, and it's the
24 vote of the Commission that decides the policy. But,
25 it would be inappropriate for the Commission in such a

1 short period of time to have such totally different
2 approaches or proposals brought before without the full
3 Commission being apprised of obvious use and they are
4 being treated in a consistent and similar fashion.
5 That was the plea that I heard from the Applicant on
6 CCPA, consistency and due process.

7 CHAIRMAN IMBRECHT: Ms. Schori? Mr.
8 Willoughby?

9 MS. SCHORI: Perhaps I can respond real
10 briefly here. Our principal concern, as I have
11 indicated, is that we think there are several
12 significant issues that are going to require
13 deliberation by the full Commission, in light of the
14 rulings that Commissioner Commons has announced that he
15 intends to make, and in light of the position that he
16 has taken with respect to the adequacy of the BR IV
17 testimony that is currently in the CCPA case.

18 Now, as I have indicated, we were not asking
19 for the Commission to make a determination and decision
20 or a consolidation or our case with the Unit 21 case on
21 the 12th. Our principle concern is that we do not
22 think it is going to allow sufficient time if the only
23 opportunity that the Commission has to consider these
24 recommendations from the Presiding Member, is if our
25 project is scheduled for discussion, only on the Agenda

1 of the 26th. We think the issues are going to take
2 some time to talk through. We certainly want to make a
3 presentation and are certain that there are other
4 parties to the cases, as well as the Presiding Member,
5 who will wish to present their viewpoints on the
6 issues.

7 So, from our perspective, it is critical that
8 the Presiding Member's Report be issued no later than
9 June 11th. We have some concern about whether or not
10 the Presiding Member will be able to do that, and that
11 the Commission itself, the full Commission, have an
12 adequate opportunity to discuss the issues that are
13 going to come before us in the context of the Coldwater
14 Creek case. It is not our goal or intent to delay the
15 Unit 21 proceeding or to consolidate our case with the
16 Unit 21 proceeding.

17 Nonetheless, as Commissioner Commons has
18 pointed out, the Unit 21 case, with respect to the
19 testimony that has been supplied by the staff under BR
20 IV has taken a different approach and reached a
21 different conclusion, than the Committee in our case.
22 That is certainly a relevant factor that should be
23 brought to the attention of the full Commission, which
24 was the purpose of my making this appearance today.

25 MR. WILLOUGHBY: Mr. Chairman, if I may

1 follow on with that.

2 CHAIRMAN IMBRECHT: Yes, Mr. Willoughby,
3 please.

4 MR. WILLOUGHBY: We are very concerned with
5 procedural due process issues, ourselves. I think much
6 of what Ms. Schori has said I find persuasive for
7 keeping these two proceedings separate. My only
8 purpose here today is to state, emphatically, for the
9 record, that we would like to keep these two
10 proceedings separate, and to resist any kind of a
11 motion to consolidate the two. The reason that I raise
12 the issue of due process in connection with the
13 possible consolidation, is that in the event that there
14 were some kind of consolidated need determination, we
15 simply have no indication as to what issues will be
16 covered for that presentation, what kind of expert
17 witness ought to be present. We have no way in which
18 to respond to a consolidated need determination that
19 might be taken up at the meeting on the 12th.

20 As I indicated this morning, we will be
21 prepared on the 12th to respond to any and all issues
22 that are raised by the proposed decision in the Geysers
23 21 case which was released publicly this morning. But,
24 it's really kind of whistling in the dark to try to
25 anticipate issues that might be raised or might not be

1 raised in a consolidated proceeding and have the
2 necessary expert witnesses available and prepared to
3 respond to these issues. And for that reason, I'll
4 just re-state that we think that any consolidation of
5 the two proposals would indeed be very destructive of
6 our due process rights.

7 CHAIRMAN IMBRECHT: Okay, I understand. Now,
8 let me just try to deal with this. We have one more
9 individual that wishes to testify and we'll take him in
10 just a second. To answer your questions, Ms. Schori, I
11 would just call to your attention Section 1203 of the
12 regulations which delineate the powers of the Chairman
13 of the Commission as well as Section 1102 which also
14 deals with scheduling meetings. I would note there
15 that it is expressly the power of the Chairman to set
16 the time and place of hearings, and also authority in
17 terms of scheduling, acquiring particular meetings and
18 so forth. I would be my intention, and I would
19 appreciate it if you and other parties -- and I would
20 just make this very clear at this point in time. We
21 will schedule some time appropriately within the next
22 few days to consider appropriate scheduling of hearings
23 to ensure that there's an adequate amount of time for
24 the full Commission to consider the CCPA matter before
25 before the conclusion of this month and within that

1 context, it would be my ...

2 COMMISSIONER COMMONS: This month.

3 CHAIRMAN IMBRECHT: I'm sorry. Excuse me.
4 June. I was looking progressively forward. And it
5 would be my intention to insure that there is adequate
6 time and if that means that we have to schedule 1 or
7 more additional days of hearings beyond a regular
8 noticed business meeting, that would be my intention to
9 accommodate the parties in that context. Now I would
10 just indicate as well, from a procedural standpoint, it
11 seems to me that the appropriate way for all of this to
12 be handled is for your case to proceed. This is my
13 judgement about how these matters could best be worked
14 out. The Geysers 21 case proceed on an independent
15 basis and the Presiding Member bring her proposed
16 decision to the Commission and then the Commission's
17 best judgement can decide whether that decision is
18 adequate or not and whether or not it wishes to ratify.
19 Similarly, with respect to the CCPA case -- the exact
20 same procedure proposed -- decision brought to the
21 Commission and then it becomes the property of the
22 Commission and the Commission will dispose of it and to
23 the extent that you are aggrieved or any other parties
24 aggrieved, by the proposed decision, and it's obviously
25 your right to raise those issues before the full

1 Commission. T then it becomes the judgement of the
2 majority of the Commission as to whether or not all or
3 a portion of that decision is ultimately adopted or
4 not. In terms of various proposed rulings of
5 Commissioner Commons, that you've called to our
6 attention, it would be my expectation that you move
7 forward with those proposed rulings and that you
8 continue to be aggrieved by the resulting outcome as a
9 consequence of those, that the appropriate way for you
10 to deal with is to raise them in your arguments before
11 the full Commission as to whether or not the decision
12 should be accepted or not. That would include, it
13 seems to me, each of the items that you have here.

14 Now, as I understand it, a record has already
15 been developed in the CCPA Case relative to ER IV. It
16 is certainly within the discretion of the presiding
17 member of a Siting Committee. If he wishes to expand
18 that record and consider information within the scope
19 of ER V, then it becomes a matter of the record being
20 complete with respect to both potential approaches and
21 therefore the record would be available for full
22 Commission to ultimately choose whichever course deems
23 to be appropriate. I think all of that insures that
24 your rights are protected does not trample upon the
25 discretion, presiding member case and also recognizes

1 that ultimately, that no individual member of the
2 Commission makes these decisions, but rather it is a
3 majority of the Commission who ultimately decides
4 whether or not any application's accepted or rejected.
5 Commissioner Commons. I hope that's an acceptable
6 resolution of this matter for you as well.

7 COMMISSIONER COMMONS: Well, I think I have
8 placed two items on the agenda.

9 CHAIRMAN IMBRECHT: I still am unclear as to
10 the second item. The first item I understand clearly
11 but I don't think that that's necessary for us to spend
12 any more time here in the Business Meeting.

13 COMMISSIONER COMMONS: The items are, I
14 assume, on the agenda and it merits...

15 CHAIRMAN IMBRECHT: Would you clarify for me
16 the second item again?

17 COMMISSIONER COMMONS: The second item here
18 is if the Commission were to not agree to consolidate,
19 and here is one -- that at the same hearing we hear and
20 take testimony and do whatever we are legally allowed
21 to do concerning CCPA on Need Conformance so that in
22 the event we have a situation transpire whereby there's
23 need for one and not both power plants, that the fact
24 that there are only a few days in separation between
25 the decision making, that the need decision takes into

1 consideration both cases, not just one. And it is
2 unfair to any applicant when you're in the same service
3 region like this for this Commission to use a first-in,
4 first-out basis for making a decision. Let me go
5 forward with what I want...

6 CHAIRMAN IMBRECHT: I still don't follow,
7 and I frankly don't understand what it is you're
8 requesting because I really think it is fundamentally
9 inappropriate and it's a very bad precedent to
10 establish that a Siting Committee, in essence can wash
11 its hands of one of the principal issues in the case
12 and suggest that the full Commission is going to take
13 that up. But, the proper way for that to be handled is
14 whether or not the parties wish to agree or disagree
15 with your proposed decision and raise it then to the...

16 COMMISSIONER COMMONS: Let me put it in
17 writing because I'm obviously not communicating well
18 and I think if I spend some time and put it in writing,
19 I'll take up less of the Commission's time and it will
20 be more understandable.

21 CHAIRMAN IMBRECHT: Okay. Well I just want
22 to make it clear that I'm making no commitment on that
23 until I understand what it is you're requesting and
24 also after consultation with General Counsel to ensure
25 that it is both legally appropriate and procedurally

1 appropriate as well.

2 COMMISSIONER COMMONS: Alright. The other
3 item I'd like to have placed on the agenda is a motion
4 to have the record on Need Conformance of CCPA included
5 within the docket of Geysers 21 and the record
6 concerning Need Conformance in Geysers 21 in the docket
7 of CCPA.

8 MR. CHAMBERLAIN: Commissioner Commons, that
9 motion, I suppose, can be made but as I indicated
10 before the Commission will have to consider whether
11 that wouldn't require the presence of the witnesses
12 involved in case any party objects or wishes to cross
13 examine those witnesses.

14 COMMISSIONER COMMONS: Point of information.
15 Is it an appropriate item to place on an agenda?

16 COMMISSIONER GANDARA: Mr. Chamberlain, may I
17 interject just a bit here? I certainly don't want to
18 get involved in this discussion because I think the
19 rest of the Commission can cast this problem with the
20 Siting thing.

21 CHAIRMAN IMBRECHT: Commissioner Commons is
22 entitled to put any item on the agenda that he wants to
23 put on the agenda. And we will certainly accomodate
24 that. But at the same time we're going to apply some
25 common sense in terms of how we operate this

1 Commission. I'm not going to sit still for debilatory
2 motions that simply complicate and unnecessarily raise
3 concerns for a variety of parties and so forth. And I
4 will do my best to work with you Commissioner Commons,
5 counselling to see this thing through in a logical
6 sense. And if you obviously insist upon putting it on
7 the agenda, we will put it on the agenda and then we'll
8 have to approach it from an adversarial standpoint once
9 we take it to the full Commission.

10 COMMISSIONER GANDARA: I want to finish my
11 comment.

12 CHAIRMAN IMBRECHT: Certainly. I'm sorry.

13 COMMISSIONER GANDARA: Excuse me. I haven't
14 spoken. I just just want to finish two comments that I
15 think the Commission has received conflicting
16 information, and I think it ought to be aware, at least
17 of what historically has occurred. With respect to an
18 issue either being taken away from the Committee or the
19 Committee raising it to the full Commission for
20 resolution in the course of a proceeding, it's not
21 unusual. In fact, the staff has on its own motion
22 during the conduct of a proceeding raised issues before
23 the full Commission because it had disagreed with an
24 interim ruling by a Committee or presiding member. So
25 I would see it no different if a presiding member

1 wishes to raise an issue for guidance or a resolution
2 for the full Commission. That's one point.

3 It's not so much that the Committee's washing
4 its hands of an issue. It's taking advantage of the
5 same procedural rights that any party has. And I'm
6 sure that if Miss Schori had more time at her disposal
7 that her preference would have been to, in fact, appeal
8 whatever interim rulings that exist to the full
9 Commission.

10 The second point is that the Commission and
11 the Committees have conflicting advise from counsel and
12 hearing advisors on the issue if you take
13 administrative notice of evidence that has been
14 compiled in other proceedings. Mr. Chamberlain is
15 telling us today that he has a concern that there has
16 to be an opportunity to cross-examine material already
17 in evidence whereas before we've been told that since
18 the subject at the time of its admission that the
19 various parties had an opportunity to cross-examine
20 --that in fact, that opportunity was there. And that
21 that was done and so, therefore, we have recognized.
22 We have taken administrative notice of a number of
23 documents in various proceedings because they were
24 developed under some other proceeding and in fact I do
25 recall a number of instances like that. I do think

1 however, that the point that you make is legitimate.
2 But if there's going to be new evidence that it does
3 require sort of the proper notice and the opportunity
4 to cross-examine.

5 There's a distinction because it is unclear
6 to me what has been talked about here. Whether we are
7 talking about incorporating again by Administrative
8 Notice in some way, previously submitted evidence has
9 been subject to an opportunity to cross-examine, or
10 whether we're talking about new evidence. And I don't
11 consider it new evidence to recognize old evidence that
12 has already been submitted.

13 Another point is I think there's been
14 confusion about the closing of the record and the
15 closing of the docket. The docket is always there, the
16 docket doesn't close. The record does close to some
17 extent for administrative efficiency purposes. I think
18 there's a good purpose in that but I think we need to
19 keep all these things clear. I think that the best way
20 to handle this is that Commissioner Commons should
21 write up as many motions he wishes to put on the agenda
22 and I think within reasonable, and I think we're all
23 reasonable people, I hope we are that it doesn't get to
24 the point where it creates difficulties for
25 unnecessarily alarming parties and bringing all sorts

1 of people to the Commission if the Commission is not
2 likely to hear it in any case. But I think that the
3 proper point for discussion that when it's ripe is when
4 in fact these motions come before the Commission. And
5 if there's a first and a second and a desire by three
6 people to reopen records, to take into their hands
7 other cases and so forth, then that's the time to
8 discuss it. We're dealing with a lot of hypotheticals
9 here and I don't think we're getting anywhere.

10 MR. CHAMBERLAIN: Mr. Chairman.

11 CHAIRMAN IMBRECHT: Mr. Geringer wanted to
12 speak I believe. Yes, Mr. Chamberlain.

13 MR. CHAMBERLAIN: Mr. Chairman could I
14 clarify one point? If indeed there has been
15 inconsistent advice between myself and members of my
16 office, I will ferret that out in the next two weeks
17 and be able to clarify it for you. I'm not sure it
18 really has been consistent because I think often it
19 depends on the purpose for which information is being
20 brought into a record. It's being brought in to
21 substantiate or corroborate additional evidence.
22 That's one thing, but if it's being brought in to prove
23 a point that was not otherwise ever addressed in the
24 case that's a different point. But I will check that
25 out with my hearing officers.

1 COMMISSIONER GANDARA: That's a good point
2 and that reminds me of another one which is not
3 everything that's stated or that's in the docket is
4 evidence. And so that's nothing....

5 CHAIRMAN IMBRECHT: Except that the point you
6 were making about taking, in essence, a judicial or
7 administrative notice. I think that's true but it's
8 only when there's a complete union of the parties of
9 issue and that's the concern that I was trying to
10 express. Mr. Geringer.

11 MR. GERINGER: I'm Steve Geringer
12 representing the California Farm Bureau Federation.
13 Basically, my comments today were just going to go to
14 another issue and that would be transmission issues.
15 Just something I wanted to call to the attention of the
16 Commission for hopefully some policy decision or
17 hearing some day in the future. But after hearing the
18 presentations today, and as a person being blamed for a
19 lot of these problems, I thought it would be
20 appropriate to make a couple of comments.

21 First of all, the Farm Bureau is not
22 concerned with consistency between the two cases. It
23 is our position that the cases are separate and must be
24 decided separately. In Geysers 21 in which we were a
25 party, the question as to which Biennial or Electric

1 Report would be used was brought up in a recent hearing
2 in Middletown with the, what I classified at that
3 hearing as to Applicant making a self-serving statement
4 that they could not perform the analysis under ER V
5 within the timeframe and the staff making a statement
6 of inadequacy that they could not do it and the Farm
7 Bureau's position that analysis could be done under ER
8 V. We objected to going forth on BR IV. However, the
9 ruling has come down and that's the ruling in that
10 case.

11 Coldwater Creek is a different case. In
12 hearings yesterday, Farm Bureau's position as it was in
13 Geysers 21 that the analysis can be done under ER V and
14 in fact, based upon ER V, the policy decisions of this
15 Commission in docketing ER V as to service areas
16 transmission line siting and so forth, the Farm Bureau
17 made an offer of proof that it can show, and will
18 attempt to show in June 10th hearing that Coldwater
19 Creek facility is not needed under any test under BR V,
20 conclusively. Now whether we can reach that burden is
21 something that we must show on that date. But if we
22 can show that the Coldwater Creek would not qualify
23 under any of the different tests under ER V, then the
24 Committee would be able to make a decision within the
25 time frame under ER V. And according to the language

1 which adopted the ER, this Commission stated, and I'm
2 paraphrasing, that ER V was to be used unless it was
3 found that within the timeframe of attempting to use ER
4 V it was shown it could not be used and thus the
5 Committee would use BR IV unless the parties then
6 agreed to opt out and go back too ER V. So that's where
7 we sit in the Coldwater Creek position.

8 And let's also add one other thing is that,
9 the difference, there is an additional difference in
10 that once and if Geysers 21 is certified by this
11 Commission it then goes to another Commission. And I
12 can guarantee that the California Farm Bureau will be
13 at the PUC during those hearings. Coldwater Creek is a
14 different situation. We are at the final hearing.
15 This is it.

16 Lastly, and if I misstate Mr. Chamberlain's
17 statements yesterday as to his opinion, it is his
18 opinion yesterday during the Coldwater Creek hearings
19 that the 12 month requirements of terminating a case or
20 finding a decision is simply a directory requirement by
21 the statute and not mandatory. Thus as one of the
22 Commissioners has stated today that is simply, no one
23 can order or require this Commission to make a
24 decision. Those basically conclude my comments in
25 reference to the other statements that were made today.

1 The one point, and the reason why I really came today
2 is that I have been involved in a number of cases
3 before this Commission recently, and there is one issue
4 that is alarming to the Farm Bureau and which we see
5 arising time and time again and we would hope that the
6 Commission would confront this issue in the not-too-
7 distant future.

8 And that issue is the siting of generating
9 facilities without firm transmission for those
10 facilities. This is an issue that's been more or less
11 skirted for a number of years now. It keeps
12 reappearing and I'm afraid it will keep reappearing in
13 the future. And the examples I can give you is that
14 NCPA, constructed NCPA Unit #2 in the Geysers without
15 firm capacity and have complained about the problem
16 they were able to purchase into the PGandE system and
17 now have firm capacity. But based on their business
18 judgement and business risks, they decided that they
19 would go ahead onto a build that. After having
20 problems with Unit 2 they decided to build Unit 3 using
21 the same business judgement and risks. I have no
22 problem with that because that is a business judgement,
23 it's a risk you analyze, whether there will be
24 transmission there. Transmission was not there.
25 They're now complaining about that and that same issue

1 is now arising in another case, GPPL.

2 And in fact, according to the testimony of
3 Mr. Foss and GPPL, part of the reason and the basis of
4 why NCPA joined the other individuals, the other
5 entities in the GPPL case, is because of their need of
6 firm transmission for NCPA Unit #3. I see the same
7 issue developing in CCPA 1 and 2. The Commission is
8 now being forced with the question of whether they will
9 construct or allow to be constructed certify a facility
10 without firm transmission capacity. I'm not saying
11 that I'm asking this case to be held up on that issue.
12 I'm simply putting this forward because I believe this
13 is a very important issue to this Commission, a policy
14 decision that should come down from the Commission, and
15 one that I would hope you could address in some form of
16 hearings conducted, hopefully, on this Commission's own
17 motion at some time in the not-too-distant future. If
18 you have any questions, I'd be happy to answer any
19 questions for you. Thank you.

20 CHAIRMAN IMBRECHT: I really don't want to
21 comment since we all are involved in these cases and I
22 have some strong feelings about some of the points you
23 raise. I'll deal with that appropriately in my own
24 decision on GPPL. I think we've dealt with this matter
25 well enough and see if we can't complete the remainder

1 of this meeting.

2 Turning back to Item #2 which is again the
3 consideration of possible adoption of a calculation
4 method for zonally controlled HVAC systems.
5 Commissioner Commons, are you prepared to move forward
6 on this now?

7 COMMISSIONER COMMONS: Yes, Mr. Chairman I
8 met with a number of the different parties and the two
9 issues that I had concern -- one as to whether or not
10 the calculations are static or dynamic. The
11 calculations are dynamic and so it does take into
12 consideration all of the questions I would want to ask.
13 And second, as to whether or not this would have an
14 impact on small businesses or would have any unfair
15 competitive advantage to any companies. I have been
16 allayed on that in that there are a number of air
17 conditioning manufacturers that have competitive
18 equipment that there are. So I am prepared to move
19 forward on that item at this time.

20 CHAIRMAN IMBRECHT: So you're...Did we have a
21 motion on this?

22 COMMISSIONER GANDARA: No.

23 CHAIRMAN IMBRECHT: Moved by Commissioner
24 Commons, seconded by Commissioner Gandara that the new
25 compliance calculation method be adopted pursuant to

1 notice in Item #2. Anyone wish to be heard on this
2 further? Is there objection to unanimous roll call?
3 Hearing none, ayes: 4; noes: none. The motion is
4 carried. That is adopted. Alright, I'm sorry that is
5 with the Errata Sheet and make that quite clear. Yes
6 sir?

7 MR. HUNT: And with the two corrections?

8 CHAIRMAN IMBRECHT: And with the two
9 corrections noted that were accepted by staff. The
10 Errata Sheet as modified in this matter. Alright fine.
11 Mr. Chamberlain, General Counsel's Report.

12 MR. CHAMBERLAIN: Yes Mr. Chairman I have
13 distributed to the Commissioners two documents that
14 were filed in the Ninth Circuit Court of Appeal last
15 week. I simply draw them to your attention and in
16 particular, suggest, I know I've been handing you a lot
17 of material to read recently regarding the Intertie
18 Access Policy of Bonneville Power Administration. If
19 you haven't had a chance to read all of that material,
20 I believe the petition for rehearing and suggestion for
21 rehearing involved, filed in Department of Water and
22 Power versus Bonneville is a fairly concise, 15-page
23 document that I commend to your attention.

24 CHAIRMAN IMBRECHT: Mr. Ward.

25 EXECUTIVE DIRECTOR WARD: Yes, thank you Mr.

1 Chairman. Two items. First, on the Siting Policy as
2 set forth in BR V and ER V. We're currently working on
3 an interdivisional task force to try to resolve some of
4 the concerns and make the policy a little more
5 consistent, at least from a practical standpoint.
6 We'll keep you informed of how that's progressing.

7 Secondly, it came to my attention, I believe
8 late last week that the tax credit issue -- Energy
9 Conservation and Solar Tax Credit Issue -- was becoming
10 an item of debate in the Legislature. I was informed
11 of that I believe last Thursday, late afternoon that
12 there was a meeting to be conducted by a consultant
13 with the Assembly Ways and Means Committee and the
14 industry. I directed the Chief of Governmental Affairs
15 to attend the meeting simply to provide information and
16 be helpful, not to state any position of the Commission
17 either previous position or current position of the
18 Commission on any of the tax credit issues but more as
19 a information provider and information gatherer. Chris
20 Ellison can bring you up-to-date on that now. I think
21 some things have transpired during the course of the
22 week.

23 CHAIRMAN IMBRECHT: Yes, thank you. Mr.
24 Ellison.

25 MR. ELLISON: In the discussion with

1 Assemblyman Vasconcellos' staff the industry agreed to
2 submit a proposed reform of the tax credit, both solar
3 and conservation. They asked if our staff would do
4 some of the drafting for them. We have done some of
5 that. I want to make it very clear that in doing that
6 we simply provided technical help to their proposed
7 legislation. They have been entirely controlling as to
8 the policies that go in it and we have taken no
9 position on behalf of either the staff or the
10 Commission on the proposed bill. The proposed bill is
11 being submitted to Assemblyman Vasconcellos this
12 afternoon and I want to briefly summarize what it does
13 for your information.

14 The bill disengages the solar and
15 conservation tax credits from the equivalent Federal
16 tax credit. It provides for a mandatory carryover of
17 credits over \$1000. The carryover would be broken up
18 into thirds so that for credits over \$1000 you would
19 have to take a third of it this year, a third of it
20 next year, a third of it the following year. It would
21 also apply in subsequent years. The proposed
22 legislation would cut commercial wind systems from 25%
23 to 15% in 1986. The legislation would cut the
24 conservation credit from 35% to 20% commencing August
25 1st of this year.

1 It would extend the conservation credit for
2 some measures which currently expire at the end of this
3 calendar year to the end of next calendar year. It
4 would cut the residential solar tax credits ceiling
5 from \$3,000 to \$1000. And it would cut the residential
6 conservation tax credit ceiling from \$1500 to \$1000.
7 These are the major impacts of legislation. There are
8 a number of details that I haven't gotten into. The
9 industry calculates that this measure would cut the
10 total costs of the tax credits by \$146,000,000 and
11 spread those costs over four years rather than two.

12 CHAIRMAN IMBRECHT: I'm sorry, what was that
13 bottom line again please?

14 MR. ELLISON: Cut the cost of the tax credit
15 by a total of \$146,000,000. And spread the cost of the
16 tax credit over the next four fiscal years rather than
17 the next two.

18 COMMISSIONER COMMONS: What is the cost of
19 the tax credit?

20 MR. ELLISON: Finance calculates that the
21 cost of the tax credit is \$500 million over the next
22 two years. This proposed legislation using their
23 numbers, and using industry calculations of the effect
24 of their bill. I want to emphasize our staff has not
25 looked at these numbers. This is simply what they're

1 saying about the bill. That that would cut that from
2 \$500 million to \$374 million. No I'm sorry.

3 COMMISSIONER COMMONS: 354.

4 MR. ELLISON: \$354 and spread those costs
5 over four years rather than over two. So if you want,
6 I can give you the year-by-year impact.

7 CHAIRMAN IMBRECHT: Let me understand as
8 well. It is Assemblyman Vasconcellos' intent to carry
9 that in a separate legislation or to deal with it in
10 the Traylor bill to the budget?

11 MR. ELLISON: It's my understanding that he
12 would carry that as separate legislation. There has
13 been some discussion of using his budget bill as a
14 vehicle for that since the Senate Budget Bill is going
15 to be the budget bill this year. I want to emphasize
16 that this has been an extraordinarily fast moving issue.
17 It's being dealt with as part of the budget process.
18 And there has been some discussion of resolving the
19 issue, at least in terms of an agreement in Budget
20 Conference Committee. So it's conceivable that you
21 would see legislation on this moving in a very short
22 time.

23 CHAIRMAN IMBRECHT: This proposal is one
24 which the industry has supported?

25 MR. ELLISON: That's correct.

1 CHAIRMAN IMBRECHT: And has the Department of
2 Finance taken a position?

3 MR. ELLISON: It's my understanding that the
4 industry met with the Department of Finance this
5 morning. That they expressed a general support
6 position for the bill but that's informal, not formal.

7 CHAIRMAN IMBRECHT: Last evening, in an
8 informal conversation I had with Senator Alquist, he
9 suggested to me that the Senate had a different
10 perspective and was looking to make more substantial
11 reductions in terms of total cost in that which was
12 contemplated in this area. Are you aware of any
13 discussions on that?

14 MR. ELLISON: I'm aware of some. I'm not
15 going to represent that I'm aware of all of them. It's
16 my, first of all there is a bill my Senator Forant,
17 SB300 which takes \$125 million from the tax credit and
18 would use it for road maintenance. In addition to
19 that, I have heard that Senator Alquist is interested
20 in dealing with the issue in Budget Conference
21 Committee and that the proposal would be to cut
22 something like \$125 million out of the tax credits
23 there as well. So whether these two proposals are
24 being coordinated or not, I can't say.

25 CHAIRMAN IMBRECHT: I appreciate the

1 information very much. I'd like to suggest that you
2 try to contact Senator Alquist, the Finance staff as
3 well find out what their current thinking is on this.
4 It seems to me that the only manner which the
5 Commission is likely to be able to have any impact is
6 they require "lock-in holes" versus getting in any
7 Commission position. And these are obviously fairly
8 fluid times on the conference committee. As soon as
9 there seems to be any concrete proposals I would urge
10 that the be immediately transmitted to members of the
11 Commission, so we can formulate a position on it.

12 MR. ELLISON: It's my that as of about two
13 hours ago, there is a industry proposed bill in print
14 and we will be distributing that as soon as we get it.

15 CHAIRMAN IMBRECHT: Commissioner Gandara.

16 COMMISSIONER GANDARA: I'd just like to
17 comment that I've never fully understood why the
18 conservation credit doesn't include the film, the
19 window film which I think is quite effective in
20 reducing heat within the home. And then secondly, I've
21 never understood why it doesn't include heat pumps.
22 And in fact, I think that's a natural confusion because
23 one of our earlier publications that had a checklist
24 indicated what qualified for the Energy Conservation
25 credit included heat pumps. Until I inquired more

1 directly about it to deduct my heat pump and then I
2 found out that in fact that it wasn't included. But,
3 be that as it may, I just think oftentimes Energy
4 Conservation credits focus far too much on the envelope
5 of the home and not enough on the central energy
6 consuming systems such as heat pumps, furnaces and so
7 forth. You render technical assistance, I think that
8 you might want to re-examine those issues.

9 CHAIRMAN IMBRECHT: I would have no objection
10 to you raising that, although I just would note for you
11 that obviously, it would affect the calculations in
12 terms of total cost of the legislation. And my guess
13 is that it's going to be pretty tough to move new
14 concepts on it at this point in time. I have no
15 objection to raising that. Commissioner Commons.

16 COMMISSIONER COMMONS: Yes. Mr. Ward, on the
17 first issue I'd like discuss where we're proceeding
18 because we will be holding two hearings north and south
19 on the Siting Policy. The first item that you raised.

20
21 CHAIRMAN IMBRECHT: He'd like to discuss
22 that with you on a private basis. Alright fine that
23 completes the Executive Director's report? Is there
24 any further public comment under Item 12?

25 Alright, let me return briefly to Committee

1 Reports, then we'll recess for Executive Session. I
2 believe we have a couple of personnel matters. Mr.
3 Chamberlain, we don't have any litigation to discuss
4 today do we?

5 MR. CHAMBERLAIN: Nods "no".

6 CHAIRMAN IMBRECHT: Alright. I have
7 distributed to members of the Commission a copy of the
8 Senate Joint Resolution #28. And obviously this has
9 not gone through the Legislative Committee. It is a
10 Joint Resolution as opposed to legislation -- binding
11 would simply be an expression of desire from
12 Legislature to President, Vice President of the United
13 States, Secretary of Transportation, Administrator of
14 the Environmental Protection Agency, and to the members
15 of each House of Congress. And in essence, what's
16 being recommended is that incentive for the
17 introduction of methanol vehicles, there be appropriate
18 modification of cafoy standards. We did not bring this
19 to the Commission in the context of a recommendation
20 for final report, but I personally am in support of
21 this and just suggest to you. I would urge that we
22 adopt a support position on this Joint Resolution.
23 However, I have recognized that you haven't had
24 substantial amount of time to consider it. So, anyone
25 who cares to object, I wouldn't enforce it on that

1 basis. But I think there is timing considerations here
2 as I think this was due to be taken up very shortly.
3 Is that correct, Mr. Ellison? Commissioner Commons.

4 COMMISSIONER COMMONS: Yes. I think there
5 are two issues here that I'd like to raise. First,
6 this Commission has not taken a stand on the most
7 important issue relating to cafay and that's the, at
8 least the retention of the existing of the cafay
9 standards and I think that is a more important issue in
10 terms of the State. Where there's been, when we're
11 talking at the Federal level about the possibility of
12 there being a diminution of the cafay standard that we
13 should make it clear in terms of this Commission's
14 attitude that we support having no reduction in the
15 Cafay standard and that language should be added.

16 The second concern I have here is the portion
17 that says "or powered by either methanol or gasoline."
18 I'm concerned that that is open-ended and it doesn't
19 say this would essentially be looking at a flexible
20 fuel vehicle and as to whether or not that vehicle
21 would ever have to be operated on methanol and what is
22 the basis or the justification of that element.

23 I think to the extent that we're looking at
24 displacing oil or gas with methanol, that far I could
25 go. But when we're talking about, like providing a

1 credit when the car is still operated on gasoline and
2 would be using the methanol as a way of significantly
3 allowing the reduction of the Cafay standards, there I
4 would not be in support. I think this goes beyond the
5 statements adopted in the BR in terms of where it's
6 headed and I think the really important issue that this
7 Commission should address here -- we're talking to EPA
8 is that we should support the retention of the existing
9 cafay standard.

10 CHAIRMAN IMBRECHT: Commissioner Commons
11 that's really not an issue before us, especially
12 whether we're in support of this resolution or not. I
13 would like to suggest support with amendments. I think
14 your suggestion relative to flexible fuel issue and
15 whether or not in fact you're getting a true offset is
16 a valid one. Let me ask whether it would be acceptable
17 to suggest that Mr. Ellison convey that we would
18 support that type of modification. As to the question
19 of retention of cafay, that's a matter which
20 (INAUDIBLE).

21 COMMISSIONER COMMONS: Okay. I would have no
22 problems supporting this with that...

23 CHAIRMAN IMBRECHT: Alright, with that,
24 that's your direction. Okay. Alright we will now stand
25 in recess for Executive Session. Let's do it up in my

1 office. I think that would be more convenient.

2 (The Commission then retired into Executive
3 Session at 3:40 p.m. At the conclusion of the
4 Executive Session, the business meeting of the
5 California Energy Resources Conservation and
6 Development Commission was then adjourned.)

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REPORTER'S CERTIFICATE

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THIS IS TO CERTIFY that I, Dawn Lofton, Reporter, have duly reported the foregoing proceedings which were had and taken in Sacramento, California, on Wednesday, May 29, 1985, and the foregoing pages constitute a true, complete and accurate transcription of the aforementioned proceedings.

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


Reporter

Dated this 13th day of June, 1985.