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STATE OF CALIFORNIA

ENERGY RESOURCES CONSERVATION

AND DEVELOPMENT COMMISSION

CALIF. ENERGY COMMISSION
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BUSINESS MEETING

1516 NINTH STREET

FIRST FLOOR HEARING ROOM

SACRAMENTO, CALIFORNIA

WEDNESDAY, JUNE 12, 1985

10:30 AM

REPORTED BY: DAWN LOFTON

PAPERWORKS
1330 Broadway, Suite 809
Oakland, California 94612
415/763-9164

1 **COMMISSIONERS PRESENT**

2 Charles R. Imbrecht, Chairman

3 Barbara Crowley, Vice Chair

4 Geoffrey D. Commons, Commissioner

5 Warren D. Noteware, Commissioner

6

7 **EX-OFFICIOS PRESENT**

8 William Foley

9

10 **PUBLIC ADVISER'S OFFICE**

11 Ernesto Perez

12

13 **STAFF PRESENT**

14 Randall Ward, Executive Director

15 William Chamberlain, Staff Counsel

16 Gary Fay, Staff Counsel

17 Roslyn Sylvester, Staff Counsel

18 Garret Shean, Hearing Advisor

19 Bob Therkelson

20 Terry O'Brien

21 Virginia Coe

22 B.B. Blevins

23 Manuel Alvarez

24 Chris Ellison

25

1 **OTHERS PRESENT**

2 Terry Stringer, Toscogen, Inc.

3 Duane Bordvick, Tosco Corporation

4 Linda Agerter, Attorney, Pacific Gas and Electric Company

5 Hamilton Hess, Friends of Cobb Mountain

6 Michael Remy, Attorney for Friends of Cobb Mountain

7 Steve Luske, County of Lake, Planning Department

8 James C. Gross, VV&J Coleman Partnership

9 Rita Singer, Attorney, Department of Water Resources

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1 **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. Commissioner Gandara will be absent
5 today. He is on vacation. I'd like to begin the
6 meeting by asking Commissioner Noteware to lead us in
7 the flag salute. Would you all please rise?

8 (FLAG SALUTE)

9 Let me just call to the attention of members
10 of the Commission: Items 11, 15, 16, and 17 are
11 standard renewal contracts. And, if you could take a
12 look at those, we might be able to dispose of those
13 after we take up the first or second item, and also,
14 free some of our staff so that they can go back to
15 their pursuits elsewhere in the building. So, I'm
16 going to ask, after we conclude the first item or two,
17 whether or not any member of the Commission has
18 objection. Perhaps, we can dispose of those quickly.
19 Commissioner Commons.

20 COMMISSIONER COMMONS: Mr. Chairman, would it
21 be inappropriate to move the four contracts?

22 CHAIRMAN IMBRECHT: I would certainly accept
23 such a motion.

24 COMMISSIONER COMMONS: I so move.

25

CHAIRMAN IMBRECHT: Seconded by Commissioner Crowley. I think we've all had a chance to review and briefed on these items. Does anyone wish to be heard? Let me, for the record, just state that Item 11 is a contract for $61,303.00 with the State Building Standards Commission to provide standard services including the review and approval of proposed building standards, filing of those standards with the Secretary of State, and qualifications of the State Building Code.

Item 15 is a contract for $10,000 with the Franchise Tax Board for supplemental data entry services. The contractor would enter data from the Energy Commission input documents according to prescribed formats. The data would be recorded on magnetic tape, etc. This has to do with tax credits.

Item 16: A contract for $6,000 with Online Computer Library Center to provide the Energy Commission State Energy Library with access to an online shared computerized cataloguing system.

Item 17 is our standard contract with Teale Data Center. In this case for $400,000 for an electronic data processing services in 86/86 fiscal year.

Does anyone wish to be heard on any of these items? Alright. We have a motion before us. Is there objection to unanimous roll call? Hearing none. Ayes: 4; Nos: none. I am also informed we might be able.... We already took care of 11, Commissioner Commons; but, Commissioner Commons is also prepared to offer a motion on Items 10 and 12.

COMMISSIONER COMMONS: The Buildings Committee has reviewed both those contracts; and, I'm prepared to move 10 and 12.

CHAIRMAN IMBRECHT: Alright. We'll accept that motion. Is there a second?

COMMISSIONER NOTEWARE: I'll second it.

CHAIRMAN IMBRECHT: Seconded by Commissioner Noteware. Item 10 is a contract for $92,000 with the California Building Officials Organization to provide funding for our telephone information network. This is to provide timely response to inquiries from around the State relative to our various building standards.

Item 12 is a contract.... This is a mistake in the printed agenda. It's actually for $50,000 with the Berkeley Solar Group to obtain updated versions of DOE 2.1 on the Energy Commission's Data General computer. These are basically computer simulations

and, again, deal with our building and appliance efficiency programs.

Does anyone wish to be heard on Items 10 or 12? Hearing none. It's been moved and seconded. Is there objection to unanimous roll call? Hearing none: Ayes: 4; Nos: none. I think we've set a record for the disposing of six items before the Energy Commission. Thank you Commissioner Commons.

Now, we'll turn to the first item on the agenda which is Commission consideration and possible approval of a modification to the Tosco Small Power Plant Exemption decision. This modification includes a net capacity increase of 5.8 MW, the addition of an aluminum, I believe, sludge drying unit and a change in ownership versus the original filed application. This petition is based on changed conditions since the original decision was made on information which was not available at that time. Mr. Ward.

MR. WARD: Yes. Mr. Chairman, as you'll recall, you were briefed on this at the last Business Meeting. And, I think, it was primarily an information briefing to allow Commissioners to ask any questions they had or concerns of both the applicant and staff. I'm prepared to answer any additional questions you have. We have.... The applicant, I believe, is here,

as well as the representative from the Siting Environmental Division. So, I'm not going to offer any additional presentation unless you have any questions.

CHAIRMAN IMBRECHT: Why don't we ask the Applicant to come forward. Sir, would you please identify yourself for the record and state your position?

MR. STRINGER: Yes. I'm Terry Stringer, President of Toscogen, Inc., a wholly-owned subsidiary of Tosco Corporation, with its main charter being to get this cogeneration plant built at the Avon Refinery.

MR. BORDVICK: My name is Duane Bordvick. I'm Manager of Environmental Affairs at Tosco's Avon Refinery.

CHAIRMAN IMBRECHT: Would you like to offer a brief explanation of your petition?

MR. STRINGER: Alright. I'd be happy to. First, I appreciate the opportunity to be present and address this group. Before I get too far into any presentation, I would like to thank and compliment the staff for the fine job they did under a lot of pressure from us to move along as quickly as they could on this. We have been under a severe time constraint. And, the staff is most cooperative and we think very professional in their project. Since the Commission

presumably has had a chance to review the Staff Report, which I think lays out all of the issues very succinctly, I will be very brief.

As background, back in November of 1983, Tosco received a small power plant exemption to build an 87.6 megawatt cogeneration plant at its Avon Refinery near Martinez in Contra Costa County. Upon receiving that small power plant exemption and other critical permits, we proceeded to try to arrange financing of the project. Due to downturn, in general, refining industry profitability, and specifically and particularly, Tosco's financial situation, we ran into substantial problems and had to step back and re-think how we're going to do this.

We came to the conclusion that the only way we're going to get this plant built would be to have some other company who had a stronger balance sheet build, own and operate this plant, with Tosco continuing to have a strong contractual relationship with the project. That, and other requirements to ensure that the project could be financed, caused us to make engineering and design changes to the project which led us into having to go back and insure that all of our major permits were still valid given the new configuration and design of the plant.

The primary changes that we made were an addition of a 30 MW extraction steam turbine as opposed to the original plan of about 11.5 MW condensing turbine. And, secondly, the addition of a Carver-Greenfield sludge drying unit to dry alum sludge for the Contra Costa Water District. Both of these provisions are basically in the design to give comfort to the financiers of this project that, in the event (and we would say, the unlikely event) that Avon Refinery would ever shut down and not be able to buy the steam and electricity from this cogeneration facility, that it would still remain a qualified facility through its processing alum sludge for the Contra Costa Water District. And, it would still be economically viable. The other changes that we made to the project are basically minor engineering changes as I would categorize them.

Current status of this project is that all permits, except the small power plant exemption, have been revalidated with the new design. The financing is expected to close this month. And we are, in fact, under construction already with this project, relying somewhat on a review of the Staff Report and the Commissioners' feeling last time we were up here in Sacramento that it appeared that we would probably get

a favorable reaction to our small power plant exemption.

If anyone has any questions, I'd be happy to answer them.

CHAIRMAN IMBRECHT: Questions from members of the Commission? For the record the staff recommends adoption of the petition. Does anyone else wish to be heard on this matter? What's the pleasure of the Commission? Commissioner Commons.

COMMISSIONER COMMONS: So move.

CHAIRMAN IMBRECHT: Moved by Commissioner Commons.

COMMISSIONER NOTEWARE: I'll second it.

CHAIRMAN IMBRECHT: Seconded by Commissioner Noteware that the petition be granted. Is there objection to unanimous roll call? Hearing none: ayes: 4; nos: none. Congratulations. Why, we're setting a new air of cordiality.

Item 2 is Commission consideration and possible approval of an order instituting hearings regarding the Geothermal Grant and Loan Program. These hearings will precede the adoption by the Commission of regulations implementing, interpreting and making specific the Geothermal Grant and Loan Program

1 established under Public Resources Code sections 3800
2 et seq. through 3826. Mr. Ward.
3 MR. WARD: Yes. Mr. Chairman, I believe the
4 General Counsel's Office is prepared to brief you on
5 this issue. It's an issue that was raised during the
6 Loans and Grants Committee proceeding in association
7 with the GRDA grant proposals last time. And, there
8 was some discussion about this, I think, at the time of
9 the adoption of those proposals.
10 CHAIRMAN IMBRECHT: Ms. Sylvester.
11 MS. SYLVESTER: Thank you, Mr. Chairman. At
12 the request of the Loans/Grants Economic Impacts
13 Committee, I've prepared an Order to commence the
14 proceedings for rulemaking regarding the Geothermal
15 Grant and Loan Program managed by the Development
16 Division. The proposed Order has been reviewed by the
17 Committee, the Development Division and our legal
18 office. And, we are presenting it today for
19 consideration and approval by the full Committee.
20 As a matter of background, the Commission
21 receives 50% of the revenues collected from federal
22 leases in the State. These funds are deposited into a
23 special account--the Geothermal Resources Development
24 Account (known to us as GRDA) for local use. Since
25 passage of the Assembly Bill 1905, 30% of the deposit

of funds are distributed to local jurisdictions from the GRDA Account. As required by law, the Commission has been distributing these funds as grants to local jurisdictions for geothermal planning, development and mitigation activities. This has been done through the Geothermal Resource Grant Program adopted by the Commission.

Recent legislation, however, requires the Commission to distribute these funds as grants or loaned. The Committee recommends development and adoption of regulations to administer what will be called the Geothermal Resources Grant and Loan Program. The target date for applying these regulations is for the fiscal year 86/87. And, your approval today will commence this process. Now, my understanding is that if you have further questions they might be addressed to the Development Division.

CHAIRMAN IMBRECHT: Alright, fine. Are there questions from the Commission? Commissioner Commons.

COMMISSIONER COMMONS: Yes. Two comments, Mr. Chairman. First, I think it's important that there be some consistency in terms of the allocation process on the GRDA funds and the Naylor funds. That doesn't mean it has to be exactly the same; but, I think the two should.... Since they're both loan and grant

1 programs, there should be some attempt to have some
2 consistency between them.
3 Second is, I've been concerned on the loans
4 and grant programs on the geothermal that when we're
5 not on the construction projects, when we're on the
6 planning or the data gathering, that there be adequate
7 leverage of the State dollars on these projects. I
8 recognize here that payback criteria do not always work
9 because you're doing a planning job and it's difficult
10 to estimate whether or not the project will go forward.
11 But, when we have projects where we're funding more
12 than 50%, I have varied questions. I'd like to request
13 that our office, when we come up with a criteria, have
14 an opportunity at least to present some of our
15 viewpoints.
16 When we go into construction on the
17 geothermal demonstration projects, there, I think,
18 payback, as well as leverage, becomes very critical.
19 And, I think it's very important that where we have
20 competing dollars, or limited dollars for the project,
21 that we utilize our dollars on those projects that have
22 the most reasonable paybacks unless there's a very
23 strong R&D element within the demonstration project.
24 CHAIRMAN IMBRECHT: I guess it would be to me
25 to respond. The R&D Committee has not yet considered

1 in depth the various merits or the approach that we
2 might take for loans and grants. We will be doing that
3 in the next couple of days, actually, beginning those
4 discussions. I would just note that there are some
5 distinctions between the GRDA Account and the Naylor
6 monies in this context.
7 GRDA also carrys with it a component that has
8 an implication of dealing with local impacts of
9 geothermal developments. That, obviously, is not part
10 and parcel of the RD&D Program as conceptualized by the
11 legislature, but, really is intended to be far more in
12 the way of research and demonstration. While, under
13 GRDA, it is possible to extend funds for, in essence,
14 R&D within the geothermal context. I think that there
15 remains a bifurcation of intention in terms of how
16 those funds might be expended. In that context and
17 just balancing all those considerations, I just wanted
18 to note that and suggest to you that I think that
19 interplay needs to be taken into consideration as well.
20 And, that's why I don't think it would be necessarily
21 appropriate to have a mirror image approach to to
22 Naylor.
23 COMMISSIONER COMMONS: No, I agree with you.
24 That's why I didn't use the word 'identical,' but,
25 'consistent;' because, there clearly are differences in

terms of the goals and objectives of the programs. But, we shouldn't have a strong emphasis, for example, on payback in the one program and no emphasis in another program. There should be....

CHAIRMAN IMBRECHT: It's also not clear to me, at this point, in terms of whether or not we need adopted regulations, or, whether, in fact, guidelines that establish those same points might be more appropriate to ensure that we have adequate flexibility in administering those funds. But, I'll discuss that with you. Alright fine. Anyone else wish to be heard on this item? Questions from members of the Commission. What's the pleasure of the Commission?

VICE CHAIR CROWLEY: Mr. Chairman, I would move approval of the Order instituting hearings.

CHAIRMAN IMBRECHT: Do I hear a second?

COMMISSIONER NOTEWARE: I'll second it.

CHAIRMAN IMBRECHT: I'll give it to Commissioner Commons this time. Moved by Commissioner Crowley, seconded by Commissioner Commons that the Order be adopted. Is there objection to unanimous roll call? Hearing none, ayes: 4; nos: none. The Order is adopted as presented.

The third item to come before the Commission today is policy discussion of issues relating to the

appropriate methodology for performing demand conformance analysis for projects under the 1983 Biennial Report. The issues that Commissioner Commons asked to be discussed would be question of fuel displacement, committed resources, fourth quarter and subsequent data on qualifying facilities, and an update of projects that have been committed. Commissioner Commons, what's your pleasure on this item?

COMMISSIONER COMMONS: Mr. Chairman, yesterday we closed the dockets on CCPA. And at the time we put this item, it was not clear if we were going to receive adequate information in order to timely process the case. We did put forth a memo to the Commissioners that raised some of the issues concerning how you could assess projects under ER IV. As, I think we're all aware in the Commission, we only have two projects that are going to be evaluated under ER IV where esentially....

CHAIRMAN IMBRECHT: That are still pending.

COMMISSIONER COMMONS: ...that are still pending. And, we're essentially going to be spending the bulk of the effort of the Commission's siting processes on ER V methodology.

Also, we were here last night and have completed the Presiding Member's Report on CCPA. And,

1 in order to timely here this case two weeks from
2 tomorrow, any direction that I were to receive today
3 from the Commission, essentially, could not be put into
4 that case since it's written and would just result in a
5 delay of the case. So, unless other members of the
6 Commission have any questions on the memo that I put
7 forward, I have no reason to pursue this item at this
8 time.
9 CHAIRMAN IMBRECHT: Okay. Questions? I
10 think we've all stated and have had ample opportunity
11 for a variety of discussions about the merits, etc.
12 And, I would just note that the language was adopted in
13 the context of ER V. And BR V clearly called out the
14 appropriateness as confirmed by our General Counsel's
15 Office utilizing ER IV methodology if our ability to
16 complete consideration of a pending siting case were
17 jeopardized in terms of the statutory time
18 requirements. It's my understanding that that is
19 reflected in the Presiding Member's proposed decision
20 in Geysers 21. And, I suspect that that will be an
21 issue that we'll take up in considering your Presiding
22 Member's case on CCPA. With that, hearing none, then I
23 guess we'll simply defer any further action on Item 3,
24 since I think the issues are largely moot at this point
25

in time. Without objection that will be the order of the Chair.

The next item to come before the Commission is consideration and possible adoption of the Committee's proposed decision in the Pacific Gas and Electric Company's Geysers Unit 21 Application for Certification. Commissioner Crowley is the Presiding Member; and, I'll call upon you to begin your presentation.

VICE CHAIR CROWLEY: Thank you Mr. Chairman. To begin the presentation, I would like first off to take an opportunity to thank my Second Member, Commissioner Gandara, for his thoughtful and helpful comments on the proceeding and to thank the Hearing Advisor, Garret Shean, for his dedicated work in putting this together. One of the things that struck me as we dealt with the applicant and intervenors and staff during this proceeding was the reason and helpful way all of the parties worked toward getting to the goals they chose. I believe that it was an excellent example of reasonable people reasonably disagreeing. They were--all parties--were extremely helpful; and, I am very grateful to them for all of the work they did toward putting this finally together.

1 The decision.... I don't know how you
2 procedurally want to proceed. I would suggest maybe
3 that, perhaps, if I move that this application be
4 certified and then we proceed to discussion under that.
5 CHAIRMAN IMBRECHT: That would be fine.
6 VICE CHAIR CROWLEY: I would be happy to do
7 that.
8 CHAIRMAN IMBRECHT: We can entertain a motion
9 at this point in time. Moved by Commissioner Crowley
10 that the AFC be approved for Geysers 21 pursuant to the
11 proposed Presiding Member's decision. Is there a
12 second?
13 COMMISSIONER NOTEWARE: I'll second it.
14 VICE CHAIR CROWLEY: Mr. Chairman. The
15 decision would include the matter that is in our agenda
16 including errata and would it be the entire matter.
17 CHAIRMAN IMBRECHT: Yes. That motion will
18 reflect the errata documents which have been delivered
19 to each of us that provide technical changes, etc. to
20 the decisions. It's been properly moved and seconded
21 by Commissioner Crowley and Commissioner Noteware on
22 the items before us. Do you wish to ask your Hearing
23 Advisor, at this point, to make a presentation? Or, do
24 you want to proceed?
25

1 VICE CHAIR CROWLEY: If I may, I'd like to
2 call upon my Hearing Advisor, Garret Shean, to make our
3 presentation.
4 CHAIRMAN IMBRECHT: Mr. Shean.
5 MR. SHEAN: Members of the Commission, if I
6 may make just the following statement and then,
7 perhaps, we can hear from the parties, since, I think,
8 it might be more informative for you if I attempt to
9 address their comments. But, let me just say that the
10 process in which we are today involved, represents the
11 Committee's final version of its Presiding Member's
12 Report and proposed decision. And in the errata that
13 we have supplied today, we have attempted to take into
14 account the comments which have been filed with the
15 Commission for today's meeting. And, in large measure,
16 we feel that we have addressed the concerns of PGandE,
17 staff, the public agencies involved, and, to the extent
18 we could, the intervenors in the proceeding.
19 I do want to make one suggested change. On
20 Page 90, Line 9, we changed the submission date for
21 certain information from December 10th to March 1.
22 And, I think for.... This is really very minor. In
23 order to put the submission of that information on the
24 schedule of the periodically-filed Compliance Reports,
25 it would be to change December 10, instead of to March

1st to the Quarterly Compliance Report to be filed in the late Fall or Winter. And, since that's not a very substantive matter, I just let that go at that.

CHAIRMAN IMBRECHT: For technical purposes, is there objection to the makers of the motion to including that change within the context of your motion?

VICE CHAIR CROWLEY: No.

CHAIRMAN IMBRECHT: Okay. Hearing none, that is incorporated as an anticipated amendment by Commissioners Crowley and Noteware. Okay, anything further Mr. Shean?

MR. SHEAN: No, I think it would be more helpful to the Commission if we just stand aside and allow all the other parties to come forward and raise any matter with you and then return to address that.

CHAIRMAN IMBRECHT: Alright. First, I'd like to invite representatives of the applicant, Pacific Gas and Electric Company, to come forward.

MS. AGERTER: Good morning. My name is Linda Agerter and I represent PGandE. At this point in time, PGandE has no further comments on the proposed decision. We had submitted certain comments, in writing; they were minor. And, I think our concerns were taken care of. I do want to thank the Committee

1 for its extremely hard work and devoted attention to
2 not only PGandE concerns, but, to all the concerns by
3 all the many intervenors that were expressed in this
4 proceedings. I think that since PGandE doesn't have
5 any direct comments, I'd like simply to request the
6 chance to respond to comments that other intervenors
7 may have.
8 CHAIRMAN IMBRECHT: Fine. You do recommend
9 adoption of the proposed decision?
10 MS. AGERTER: We certainly recommend adoption
11 of the decision.
12 CHAIRMAN IMBRECHT: It's important that it's
13 clearly stated on the record. Thank you.
14 Next, I'd like to invite Mr. Hamilton Hess or
15 Mr. Michael Remy representing the Friends of Cobb
16 Mountain.
17 MR. WARD: Mr. Chairman. Staff also does
18 have a comment to make. And, it may be appropriate....
19 CHAIRMAN IMBRECHT: I'm sorry. Excuse me.
20 Excuse me Mr. Ward, my mistake. Let me invite staff
21 comment.
22 MR. WARD: I'd like Bob Therkelsen and Terry
23 O'Brien to come forward. We have one asepct of
24 environmental mitigation that we don't feel was
25

adequately addressed by the Committee that we'd like to comment on.

MR. O'BRIEN: Staff would like to raise one point that it was....

CHAIRMAN IMBRECHT: Would you identify yourself for the record please.

MR. O'BRIEN: My name is Terry O'Brien, Project Manager for Geysers 21 for the CEC staff.

Staff filed written comments on the proposed decision. And, staff would like to ask for inclusion under Biological Resources and Water Quality that the decision support a cooperative regional equatic monitoring program. We would like to see long-term annual monitoring at the mouths at High Valley Creek and Alder Creek for the life of the facility to pick up, not only potential impacts from this power plant, but also from the Union geothermal steam field and also from other geothermal development in the area. Staff believes that this is very important to be able to look at and monitor the long-term impacts, cumulative impacts in the area.

CHAIRMAN IMBRECHT: Let me inquire. What other facilities would be contributing to that runoff?

MR. O'BRIEN: DWR Bottlerock Facility is in the same drainage area, the High Valley Creek Drainage Area.

CHAIRMAN IMBRECHT: Would you anticipate that PGandE would bear the full expense of this requirement, or, that it be shared by contributing parties?

MR. O'BRIEN: In our written comments, we indicate that if DWR is doing monitoring, that PGandE is not expected to duplicate any monitoring that DWR is doing. It's our understanding that Department of Water Resources is currently monitoring at those stations for Water Quality. And, I also believe benthics.

CHAIRMAN IMBRECHT: Just from the perspective of equity, it would seem to me that neither facility bear the entire financial liability of such requirement. But, from an equity standpoint, I know they they share it. I'm not sure how exactly that might be structure in the course of this decision. But, at least, that would be my own personal perspective. Anything else you wish to add?

MR. THERKELSEN: Bob Therkelsen, Siting Office Manager. No. That summarizes, basically, our only comment. Our other comments have been incorporated into proposed decision. We, too,

appreciate the efforts the Committee has gone to throughout this whole proceeding.

CHAIRMAN IMBRECHT: Thank you. We'll ask the Committee and the Hearing Advisor to respond at a later time.

COMMISSIONER NOTEWARE: Mr Chairman?

CHAIRMAN IMBRECHT: Yes, Commissioner Noteware.

COMMISSIONER NOTEWARE: Yes, I do have some questions. Did you have any input from the Department of Fish and Game or the Regional Water Board on your thoughts here?

MR. O'BRIEN: Yes. Our staff was in contact, I believe, with both of those agencies throughout the process.

COMMISSIONER NOTEWARE: Do they recommend this Equatic Monitoring Program?

MR. THERKELSEN: We have worked with both of those agencies throughout our work in the Geysers area. My understanding.... We have to get the specific technical staff who have that communication; but, my understanding is that, yes, they do support that. They've participated with us throughout developing the whole Regional Monitoring Program. And, this is just one aspect of that program.

1 COMMISSIONER NOTEWARE: I see. Thank you.
2 MR. FAY: Mr. Chairman. If I could just
3 briefly give a very short background sketch of this.
4 CHAIRMAN IMBRECHT: Your name for the record
5 please. I'm trying to assist our Reporter. Thank you.
6 MR. FAY: Gary Fay, Legal Counsel to the
7 Staff. As the Commissioners know, the ARM Program was
8 in place up in the Geysers to monitor regional water
9 quality conditions in the Geysers. And, that was in
10 place for two years. It was to be a long range
11 analysis of water quality conditions. Unfortunately,
12 the program only lasted two years.
13 The Counties up there (Sonoma and Lake
14 County) were very supportive of the ARM Program and are
15 supportive of continued regional water monitoring up
16 there and have encouraged that throughout this case.
17 DWR does participate in that type of monitoring now, as
18 this Commission required it to do in the Bottlerock
19 decision. But, their requirement was limited to water
20 quality and benthics, as Mr. O'Brien indicated. Thus,
21 it does not pick up effects on fish or sediments.
22 And, sediments are important because if the
23 sediments fill the gravels, the fish eggs can't be well
24 established; and, the fish won't continue to reproduce.
25

So, we have tried to find an equitable way to require PGandE to pick up these two factors--the fish and sediment monitoring. And yet, not require them to duplicate that which DWR is already doing.

It's been very awkward because our approach would be to have one set of monitoring done for all of these things and the cost shared by Union Oil, PGandE and DWR. PGandE is not interested in that approach; so, we've recommeded that they monitor for the things that DWR is not monitoring. But, the staff does feel strongly that two stations (one at the bottom of High Valley Creek and one at the bottom of Alder Creek) should be monitored annually for the life of the project so that we have baseline data against which all of our every five year monitoring can be examined. Without the baseline data, just too much time can pass before we know whether we have a problem or not.

CHAIRMAN IMBRECHT: Okay. Thank you very much. Next, I'd like to call upon Mr. Hess or Mr. Remy representing Friends of Cobb Mountain.

MR. HESS: Thank you Mr. Chairman, members of the Commission. Hamilton Hess, speaking on behalf of Friends of Cobb Mountain. I would like to say, first of all, immediately, regarding our support for the proposal for water quality monitoring which staff has

1 just made, this is a proposal which is completely in
2 accord with the Regional Water Quality Monitoring
3 Program on an ongoing basis that we have been calling
4 for in these proceedings. And, we believe it to be
5 absolutely necessary in the region of Unit 21, not only
6 because of the impact of Unit 21 itself on water
7 quality, but, because of the impact of the supply field
8 and, of course, the impact of the other geothermal
9 development operations in the area. And, we would
10 support, indeed, and urge and request a regional
11 program funded cooperatively and maintained
12 cooperatively by the various developers. And, we
13 support the staff program just proposed.
14 Friends of Cobb Mountain has been an active
15 participant in these proceedings from the very
16 beginning. We were, in fact, involved with the issues
17 of 21 before the proceedings began, alerting the
18 Commission and Staff to our urgent concerns as
19 residents in the neighborhood of the proposed power
20 plant site. We pointed out that Unit 21 would be in a
21 different situation from all other previous units in
22 the Geysers field. It would be in full visual and
23 audial exposure to a large number of homes in a
24 residential community of approximately 2,000 people.
25

1 And, it would be at the head of one of the major water
2 sheds in Lake County.
3 We asked and we have asked throughout the
4 proceedings that these matters be taken into full
5 consideration in the design and the mitigation of Unit
6 21. We called for new approaches--radically new
7 approaches that would reduce the incompatability of
8 conventional geothermal power plant design and
9 operation with residents and recreation. During these
10 proceedings we asked for a serious exploration of the
11 concept of wellhead generation as an alternative, or,
12 at least as an alternative to be considered to the
13 large single power plant facility. None of this has
14 come to past. And, to say the least, we are
15 disappointed; because, we had hoped that some new
16 concepts might really create a situation where
17 electrical geothermal operations could be truly
18 compatible with residents and recreation.
19 We believe that the Unit 21 Committee has
20 worked hard and conscientiously within the framework of
21 the conventional approach to power plant siting and
22 design. But, we do believe that that conventional
23 approach has its limitations, as far as achieving the
24 goals which we believe to be necessary. We're
25 appreciative of the consideration which the Committee

1 has shown to us as intervenors and their personal
2 helpfulness and interest in our concerns along the way.
3
4 Friends of Cobb Mountain has repeatedly
5 stated that we are not opposed to the project in
6 itself. But we have stated, for the project to be
7 acceptable to us, appropriate mitigations must be
8 provided to eliminate or to reduce to acceptable levels
9 the impacts of the project on our environment and our
10 living conditions. This acceptable level has not yet
11 been reached. Therefore, we cannot, at this point,
12 support the project or lend our, in anyway, our
13 approval.
14 At the present time we have two contiuing
15 areas of concern--as areas of concern. First, the
16 failure of these proceedings, as we view them, to
17 satisfy the requirements of the California
18 Environmental Quality Act. And, secondly, the lack of
19 certain specific mitigations and monitoring plans which
20 we believe are necessary to overcome or to prevent
21 significant impacts.
22 At the conclusion of my statement I will ask
23 our attorney, Mr. Michael Remy, to deal more fully with
24 the CEQA and related issues. But, I would, here,
25 mention to CEQA flaws which we have repeatedly pointed

1 out within these proceedings. First, a failure within
2 the proceedings to assess impacts and to provide
3 mitigations for two project alterations which have
4 arisen late in the proceedings -- namely, the terraced
5 berm, as proposed by the applicant which remains as a
6 feasible mitigation for visual and audial impacts of
7 the project, and, the changed sedimentation pond system
8 at the foot of the east field which has not been
9 subjected to a specific environmental analysis on its
10 own within the proceedings.
11 The second CEQA issue that I would like to
12 point out at this time, is the deferral of applicant's
13 submission of several mitigation plans until after
14 certification, for example, the Biological Monitoring
15 and Mitigation Implementation Plan, the Three Noise
16 Mitigation Plans, and the Lighting Plan, all of which
17 are required to be submitted after certification.
18 This, in our view, deprives intervenors and the public
19 of an opportunity to comment on proposed mitigations
20 and involves a "trust us" approach, which we believe to
21 be contrary to the intent of CEQA. We believe that
22 these deficiencies must be repaired before the project
23 is certified, that a failure to remedy them could
24 render the license defective.
25

We believe that the mandated responsibility of the California Environmental Quality Act for the protection of the natural environment requires an ongoing program of monitoring for cumulative environmental damage in the Geyers region. This, of course, would include noise impacts, visual impacts, and other parameters that have a particular effect upon the public. We focus here, perhaps, even more strongly, on the cumulative impact on biological communities and associations resulting from geothermal development which has already become significant, particularly, relating to equatic echoe systems, the permanent removal of vegetation cover, vegetation stress from cooling tower emissions, and consequent impact on animal species.

Unit 21 will inevitably add to these impacts on a cumulative basis. We believe that it is incumbent on the Commission, in fullfillment of its responsibility to the environment, to include among the licensing conditions, requirements for the applicant's participation in and partial funding of a program of ongoing cumulative impact studies and mitigation in the Geysers region in relation to these parameters of impact which I have mentioned.

1 We recently submitted to the applicant, at
2 their request, a list of outstanding major issues
3 relating to mitigation. For various reasons, no
4 opportunity has been achieved for discussing these
5 issues with the applicant. And, we present these
6 issues and mitigation needs to you, Commissioners, here
7 at this time requesting that they be included in the
8 decision.
9 First of all, water source for project
10 construction. It was agreed among the parties during
11 the evidentiary hearings on an informal, verbal basis
12 without written stipulation that the first and
13 preferred source for construction water would be
14 groundwater wells on the leasehold. In accordance with
15 the conditions of the steamfield use permit issued by
16 the County of Lake to the steam developer, Union Oil
17 Company. This agreement is not clearly reflected in
18 the proposed decision, although the drilling of ground
19 water wells is mentioned as one option.
20 We believe that it should be required that
21 groundwater resource are to be diligently explored as
22 the first option. We live in a very water-short area.
23 This current season already shows signs in the Alder-
24 Kelsy Creek Water Shed from which appropriated water
25 would undoubtedly be taken, shows signs of being as

1 character of the region within which we will co-
2 inhabit, so to speak, with Unit 21. Therefore, best
3 available control technology will encourage the even
4 further reduction of noise levels. And, that's
5 particularly important at night.
6 Secondly, we believe that a reasonable noise
7 standard must be set for the site preparation phase of
8 the project. No standard for noise levels has been set
9 for the site preparation phase by the proposed
10 decision.
11 Thirdly, under Noise, we believe that it is
12 fair to the public and fair to the applicant to require
13 the monitoring of noise levels onsite by strip chart
14 recording during site preparation, during the
15 construction and during the first 90 days of operation.
16 In this way, it will be immediately known when noise is
17 a disturbing element in the living environment, whether
18 or not it is Unit 21 operations that are causing it.
19 And, appropriate actions to mitigate can be taken
20 accordingly.
21 In the area of Water Quality, we have
22 consistently asked in these proceedings for a 'no
23 discharge' operation, inclusive of rain water
24 discharge. It has been argued, on the other hand, that
25 dilution may be the solution and that rain water

water-short as was the drought year in 1976. We believe that our water shed can spare no water, certainly not enough for site preparation and construction needs.

And, secondly, we strongly disfavor the trucking of water option because of the additional traffic--heavy, noisy truck traffic that this would involve within the Cobb Valley Basin which for all noise reasons and purposes is like the inside of a banjo in which reverberation is not attenuted as it is frequently expected to be.

Regarding the issue of noise, we request that best available control technology (frequently known under the acronym of BACT) must be specified for all noise mitigation measures. Best available control technology requirements will encourage and facilitate the reduction of noise to the lowest possible levels. We are aware of, and grateful for, the 50 decibel limit imposed in the proposed decision which we understand to be 50 dBA L_{dn}, which means a 40 decibel penalty at night. I'm sorry, a 10 decibel penalty at night, bringing the night sound levels down to 40 decibels.

But, we live in a quiet rural mountain region in which, again, noise is frequently not attenuated by distance as expected because of the bowl-shaped

1 flushed out into the creek in stormy periods will be
2 sufficiently diluted that no one will be hurt. We're
3 doubtful of this. Records from the files of the
4 Northcoast Regional Water Quality Control Board (which
5 we have submitted to the record) show that some rain
6 water discharges from the presently operating Geysers
7 Units have been toxic. Dilution or no dilution, we,
8 the many of us who are either sometime or necessarily
9 full-time drinkers of that water, want to drink water
10 in which unknown quantities of toxic materials are
11 being discharged deliberately. We believe that site
12 design and operational policy on the part of Pacific
13 Gas and Electric Company can resolve this problem with,
14 if necessary, plant shut-down in heavy storm periods to
15 allow the reinjection system to be utilized only for
16 rain water injection without having its usual burden of
17 geothermal condensy.
18 Secondly, under Water Quality: We have
19 consistently requested continuous water quality
20 monitoring for the life of the project in accordance
21 with the specifications of the County of Lake, who we
22 believe and have proposed to be the appropriate agency
23 to maintain and to operate the monitoring program.
24 Continuous water quality monitoring for the life of the
25 project is necessary for early warning in the event of

1 undetected spills. The proposed decision has included
2 continuous water quality monitoring. We do understand
3 that the applicant is still opposed to this; and, we
4 are not certain of its possible outcome as a proposed
5 decision measure. And we, again, urge that continuous
6 water quality monitoring for our protection, that the
7 consumers of this water be included within the proposed
8 decision as a requirement and in accordance with the
9 specifications of the County of Lake.
10 Thirdly, under Water Quality, we request life-
11 of-the-project, periodic water quality monitoring for a
12 broad spectrum of constituents to detect and to protect
13 water users from gradual long-term water quality
14 degradation. There are many possible leakage points in
15 the Unit 21 operation, power plant and supply field.
16 Chronic leakage could well, and may well, gradually
17 contaminate our streams, our water supply. And, we
18 need to have means of knowing whether or not that is
19 happening for the life of the project. We are not
20 calling for a requirement that Pacific Gas and Electric
21 Company be required to foot the entire bill. There are
22 other operators in the area, inclusive of the
23 steamfield operator. This, indeed, should be a
24 cooperative project. And, if the staff-proposed
25 project of today is implemented and is maintained for

1 the life of the project on a periodic basis, annually,
2 perhaps, our concerns in this area would be satisfied.
3 Toxic materials haulage is a matter of
4 serious concern for us. Truck spills, truck accidents,
5 hauling chemicals, or wastes to and from the Geysers
6 have, as we are all aware, become increasing in
7 incidents. There have been truck spills, of course,
8 within the Geysers field, which are well known. Our
9 water shed is too sensitive and too fragile to run the
10 risk of truck haulage spills contaminating it. And, we
11 have called, in our closing statement, for a list of
12 five or six measures to be taken to ensure against
13 spillage from trucks by leakage or by accident.
14 Included among these are the inspection of
15 hauling vehicles before and as they leave the plant
16 site and, that inspection log the name of the
17 inspector, the name of the driver of the truck, to know
18 that we have safe drivers and safe trucks. We have
19 called for a pilot car to go in front of the hauling
20 vehicle as it proceeds outward through the Geysers
21 field, or, as it proceeds inward through the Geysers
22 field to Unit 21 from the gate. The proposed decision
23 calls for a catchment basin outside the gate or gates
24 of the Geysers field on routes used by haulers to and
25 from Unit 21. This, we believe, to be a significant

1 measure; but, we do not believe that it is sufficient.
2 It doesn't stop leakage along the way; and, it doesn't
3 stop possible spills.
4 Regarding the berm proposal for visual and
5 audial mitigation, the Unit 21 Committee, thoughtfully,
6 resourcefully, proposed the construction of a 50 foot
7 earth and berm to mitigate the significant visual
8 impact of Unit 21 for resident viewers to the East.
9 The Committee Plans A and B (so-called) were
10 successively declared infeasible. The applicant's
11 terraced berm plan, we have regarded as an improvement
12 on the Committee proposals in various ways. And, it has
13 not been declared infeasible. Friends of Cobb Mountain
14 are attracted to this mitigation for visual impact and
15 for noise--the mitigations which this plan would
16 provide. But the berm fill itself is capable of
17 causing far reaching impacts that have yet to be
18 analyzed. We believe that ths analysis must be
19 undertaken prior to a final determination regarding
20 this proposed mitigation and prior certification,
21 namely in the next 15 minutes, perhaps.
22 Lighting: The proposed decision specifies
23 most of the lighting performance standards requested by
24 Friends of Cobb Mountain. But, two important criteria
25 which we have consistently set forth in the record

1 remain. First of all, two or more lighting circuits to
2 be employed, one for a normal operation and one or
3 more, as might be necessary, for emergency and
4 inspection lighting. The lighting problem of Unit 21,
5 we believe, to be a very significant one for us--the
6 residents in a mountain area in which we value our
7 night time darkness, the glory of our star light and
8 the undisturbed visual character at night (which is our
9 environment). Therefore, lighting mitigation is
10 extremely important to us. And to whatever degree it
11 can be reduced, still meeting OSHA requirements, that
12 we request.
13 The second lighting criterion which we would
14 request is that plant yard perimeter lighting should be
15 inside and below the yard fence, rather than being on
16 poles higher than the yard fence, which we understand
17 to be presently proposed which would cause reflective
18 glare which we would like to have avoided. In the
19 question of lighting, we request that the Commission
20 retains jurisdiction, and, that possible problems with
21 regard to lighting exposure or glare may thereby be
22 treated and eliminated subsequent to certification.
23 Those are the specific comments and requests
24 that we would offer at this time. I would gladly
25

1 entertain questions from any member of the Commission
2 who have questions.
3 CHAIRMAN IMBRECHT: I have one or two. First
4 of all, do you have those comments? Are they
5 summarized in any written form? I've tried to take
6 some notes on some specific items, but, I....
7 MR. HESS: Mr. Chairman, I regret that they
8 are not succinctly summarized in written form, other
9 than in the form in which we submitted them to the
10 applicant about three or four weeks ago. I do have
11 that. I had hoped to accomplish that succinct summary
12 last night, but, ran out of steam about 12:30 this
13 morning, 12:30 a.m. and didn't get it done.
14 CHAIRMAN IMBRECHT: The last point on that-
15 -the question of lighting. I noticed that one of the
16 requirements in the proposed restrictions suggest that
17 light will not shine directly upward or outward from
18 the power plant area which would seem to take into
19 consideration your concern relative to light, poor
20 light, etc., they are not quite with the degree of
21 specificity that you're suggesting.
22 MR. HESS: The degree of specificity is added
23 to gain additional insurance that, particularly, glare
24 lighting will not intrude on the viewscape.
25

1 CHAIRMAN IMBRECHT: It does appear to me that
2 the recommendation is that the Commission does retain
3 jurisdiction, etc., for approval of specific plans.
4 And, it would be my expectation that this language will
5 undoubtedly encompass the concern that you expressed.
6 I wanted to clarify that particular point. And, I
7 think it's important for us to say these things on the
8 record so that our staff understands clearly what our
9 intention is by virtue of approving this language that
10 would be our contemplation of those considerations be a
11 part of their review and verification process.
12 MR. HESS: Would you like me to submit to you
13 the summarized form that I do have with me of these
14 requested additional mitigations. It basically covers
15 what I've said.
16 CHAIRMAN IMBRECHT: Yeah, I think that would
17 be helpful. It just would assist me in, perhaps,
18 laying down a check list, if you will, in terms of
19 discussing this with some of the other parties that
20 will be testifying.
21 MR. HESS: Alright. I'll get it to you, get
22 it done within a few minutes.
23 CHAIRMAN IMBRECHT: Does that conclude your
24 statement?
25 MR. HESS: Yes, it concludes mine. But, may

1 I now call Mr. Remy?

2 CHAIRMAN IMBRECHT: Certainly. May I just

3 inquire, are there other questions of Mr. Hess? Mr.

4 Remy.

5 MR. REMY: My name is Michael Remy from the

6 law firm of Remy and Thomas. Mr. Hess has given you a

7 litany of the needed mitigation measures. I would

8 like, at this point, to underscore for the Commission

9 what we consider to be the obligations under the

10 California Environmental Quality Act. And, in so

11 doing, would like to urge the Commission to request of

12 the applicant an extension of the necessary time to

13 come in full compliance with the requirements of the

14 California Environmental Quality Act. And, I will

15 elaborate a little bit further why I believe that at

16 present we do not have, in fact, a substantive and

17 procedural compliance with the California Environmental

18 Quality Act.

19 First, let me say that the primary obligation

20 under the California Environmental Quality Act, after

21 the preparation of an environmental document such as

22 the functional equivalent, is to mitigate to the extent

23 feasible, all identified significant impacts, or,

24 potential significant impacts. We believe the record

25 before you shows that that obligatory stuff has not yet

1 been accomplished. If identified impacts are not
2 mitigatible, the Commission does have the option to
3 adopt findings of overriding consideration.
4 However, we would urge that there is a basic
5 flaw and defect in the procedure right now. In that,
6 the statutes pertaining to siting, Public Resources
7 Code 25500.1, requires that a needs assessment be made
8 on the basis of the most recent forecast of Statewide
9 and service area electric power demands. But, in
10 addition, Public Resources Code Section 25305(e) and
11 25523(f), as well as 25309(b), all indicate that the
12 forecasting involves the balancing by the Commission of
13 various factors including the protection of
14 environmental quality.
15 Therefore, we would suggest that the ability
16 of the Commission to override and to accept the
17 occurrence of significant affects on the environment,
18 on the basis of overriding considerations, cannot be
19 made unless a needs determination has, in fact, been
20 made with ER V. Therefore, we would suggest that the
21 applicant be requested, at this point, to grant the
22 necessary extention to permit the Commission to come in
23 substantive compliance and procedural compliance with
24 the mandates of the California Environmental Quality
25 Act, as well as, with the requirements of making the

1 determinations under the most recently adopted fore-
2 cast. Unless such is done, we would caution that the
3 proceeding is fatally flawed.
4 CHAIRMAN IMBRECHT: Questions for Mr. Remy?
5 Commissioner Commons.
6 COMMISSIONER COMMONS: I guess I'd like to
7 have our General Counsel's opinion on the statement
8 that has been made.
9 CHAIRMAN IMBRECHT: Mr. Fay, you want to
10 speak for Mr. Chamberlain?
11 MR. CHAMBERLAIN: May I have a moment, Mr.
12 Chairman.
13 PUBLIC ADVISER PEREZ: Excuse me. Mr.
14 Chairman. On the basis of recently articulated deline-
15 ations in office responsibilities and authorities with-
16 in the General Counsel's Office, can I have some clari-
17 fication as to the legal opinion you're requesting at
18 this point? Is it of your General Counsel as legal
19 counsel to the full Commission? Or, is it of the staff
20 as an independent party in this adjudicatory
21 proceeding?
22 CHAIRMAN IMBRECHT: That's a fair question.
23 And, actually, the question was to Commissioner
24 Commons', although he can place it through the Chair.
25 But, what is your intention?

1 COMMISSIONER COMMONS: I'll place it to the
2 Chair.
3 CHAIRMAN IMBRECHT: Fine. Now,you didn't
4 indicate to me which question you want to place. Do
5 you want to place the question to the Counsel to the
6 staff or to the General Counsel?
7 COMMISSIONER COMMONS: I think I'd be asking
8 on behalf of ourselves as Commissioners. So, it would
9 be to the General Counsel as to ourselves.
10 CHAIRMAN IMBRECHT: Mr. Chamberlain, the
11 essence of the questions comes down to the efficacy of
12 the advice that was rendered to the Commission
13 approximately a month ago relative to the decision of
14 the Commission in the adoption of ER V, BR V as to
15 whether, in fact, there would be...whether we have the
16 discretion to utilize either the forecast in ER IV
17 versus ER V if utililization of the latter would result
18 in non-compliance with the statutory time consider-
19 ations for consideration of an AFC Application.
20 MR. CHAMBERLAIN: Yes. And, at that time,
21 Mr. Cohn advised you that it was a matter of
22 interpretation (which I agree with), that we had two
23 statutes that posed potential conflicting results, and
24 that, the proper way to attempt to interpret those
25 statutes was to try to avoid those conflicting results.

1 And, I believe, that he was correct in advising you
2 that the interpretation that he gave, that is, that we
3 could avoid those conflicting results by interpreting
4 the provisions relating to the most recent forecast in
5 a flexible way so that if the application of the most
6 recent forecast in a very short timeframe would delay a
7 case, that the statute would allow you to continue to
8 rely upon the previous forecast, at least, for that
9 particular case. If the record had closed, if the
10 final documents were already out, that the Legislature
11 must have recognized that these cases proceed in a
12 logical progression of evidentiary steps and that due
13 process requires that, at some point, the record close.
14 And that, of course, that assumes that the record to
15 that date has been adequate under the forecast that has
16 existed up to that time.
17 CHAIRMAN IMBRECHT: Okay. Commissioner
18 Commons does that answer your question?
19 COMMISSIONER COMMONS: Nods -- Yes.
20 CHAIRMAN IMBRECHT: I would agree with that
21 interpretation. Commissioner Noteware.
22 COMMISSIONER NOTEWARE: Mr. Chairman, I, too,
23 have a question for our Legal Counsel. Some of these
24 environmental constraints that were suggested involve a
25 certain amount of policing, if you will. For instance,

1 water quality monitoring and toxic material: if
2 there's problems there, there are governmental agencies
3 equipped to handle them. But, some of the others, for
4 instance, the noise standards and the lighting, for
5 instance, if the decibel level would be established in
6 our Order and it would be exceeded, who would the
7 people complain to? And who you enforce it? If this
8 involves a sheriff or some local agency, do we have it
9 in our authority, actually, to involve them?
10 MR. CHAMBERLAIN: I believe that the
11 Commission has an extensive procedure for complaints
12 regarding violations of certifications.
13 There are sections of our regulations that
14 allow persons to come back and complain to the
15 Commission that the conditions of a permit are beig
16 violated. And, we have a compliance staff that
17 analyzes that and, in fact, a Committee of the
18 Commission that deals initially with those kinds of
19 matters and attempts to insure that the applicant does
20 indeed comply with the terms of the permit.
21 Now, if there is an ambiguity in the permit,
22 (which occasionally occurs), parties come back in and
23 may complaint that they believe that the permit is
24 being violated. Then, that Committee will bring to the
25 Commission, normally, a recommedation on how to

1 properly interpret the permit and then how to resolve
2 the matter, either requiring the applicant to do
3 something more or indicating that the applicant's
4 actions are proper.
5 In terms of enforcement, ultimately the
6 Commission could go to the courts to require
7 enforcement through an injunction, if that were ever
8 necessary. It has not been necessary to date.
9 COMMISSIONER NOTEWARE: I see. Then, we are
10 equipped to respond to complaints like that?
11 MR. CHAMBERLAIN: Yes.
12 CHAIRMAN IMBRECHT: As I understad it, and
13 let me ask if this is an accurate interpretation. We
14 retain jurisdiction relative to the requirements that
15 we establish in terms of running an AFC.
16 MR. CHAMBERLAIN: That's correct.
17 CHAIRMAN IMBRECHT: And, so we have all the
18 appropriate remedies under law, including
19 representatives from the Attorney General's Office as
20 well as our own independent ability to prosecute a
21 case. Is that an accurate statement?
22 MR. CHAMBERLAIN: Yes.
23 CHAIRMAN IMBRECHT: Fine.
24 COMMISSIONER NOTEWARE: I see. Thank you.
25

1 CHAIRMAN IMBRECHT: I just wanted to add a
2 bit to the conclusion we've reached relative to the
3 adoption of ER V/BR V. It is my understanding from my
4 legal training that, in fact, we do have the discretion
5 when interpreting two statutes that appear to conflict
6 with one another to offer interpretation that reflects
7 the most logical interpretation and, also, reflects our
8 understanding of what the legislation direction was to
9 the Commission.
10 It appears, at least from my perspective,
11 clear that one of the principle premises behind the
12 Warren-Alquist Act and the establishment of the Energy
13 Commission as a one-stop siting authority, with plenary
14 jurisdiction, was to insure that decisions on matters
15 of this type be rendered in a timely fashion with
16 specific requirements established as to the extent of
17 time that is granted to us. Now, I'm well aware of
18 interpretations that are advisory and that there is no
19 prescriptive impacts upon us. I happen to believe,
20 however, that when the Legislature and the Govenor of
21 the State enact a statute that establishes clear
22 timeframes for consideration of a case that, there must
23 be dramatic overriding considerations for us to violate
24 those directions.
25

1 And, as I say, that decision is consistent
2 with interpretation of Counsel and the decision the
3 Commission rendered on these items approximately one
4 month ago. In essence, it seems to me we would reach
5 an illogical conclusion if we were to suggest that if,
6 for example, a subsequent Electricity Report were
7 subject to consideration and adoption in a week or two
8 weeks or in this case, approximately 30 days prior to
9 the conclusion of a twelve-month process that that, in
10 fact, should override the principle direction of the
11 Commission in terms of our siting authority to render a
12 decision within a statutorily prescribed period of
13 time.
14 Okay, further questions from members of the
15 Commission. Alright, thank you very much. I will be
16 returning to some of the items that you raised, Mr.
17 Hess, when we listen to some of the other witnesses.
18 Alright, next, I'd like to invite Mr. Jim Gross
19 representing the Coleman Partnership, if he would come
20 forward please.
21 MR. GROSS: Mr. Chairman, members of the
22 Commission. My name is James C. Gross and I do
23 represent VV&J Coleman Partnership. I have a brief
24 letter that I would like to read into the record
25 relative to VV&J Coleman Partnership's negotiations

1 with PGandE for an easement for building a sediment
2 pond at a disposal site to serve the Geysers 21 pro-
3 ject. Before reading that, however, we do want to make
4 clear that the Partnership is supportive of geothermal
5 energy and of the Geysers 21 project. Its main concern
6 has been, throughout, that there would be no
7 interference or adverse affects on the existing
8 certified Bottlerock Project.
9 Dear Commissioners: This letter is to
10 advise you of the status of negotiations
11 between VV&J Coleman Partnership and PGandE
12 concerning the granting of an easement on the
13 Coleman property to PGandE for use as a dis-
14 posal site for the Geysers Unit 21 project.
15 As you are aware, for the last 18 months
16 PGandE has been seeking an option for an
17 easement from the Partnership. The
18 Partnership has proceeded cautiously, due to
19 its concerns that placement of the disposal
20 site on the Francisco leasehold, the
21 Partnership's property, might impede full
22 development of the Bottlerock Project. In
23 addition, the Partnership wanted written
24 assurances that PGandE would indemnify the
25 Partnership for any loss, damage, or claim

1 against the Partnership resulting from
2 PGandE's presence on the Francisco leasehold.
3 Finally, the Partnership wanted to be
4 adequately compensated for both the option,
5 the easement itself, and, certain other
6 matters relative to the easement.
7 Over the last year and a half, and,
8 particularly the last 45 days, the
9 Partnership has been actively discussing
10 these concerns with PGandE. None of these
11 three issues have been completely resolved as
12 of this date. It is unclear whether these
13 matters will be resolved, although the
14 Partnership remains optimistic.
15 Consequently, the possibility of
16 litigation over this issue remains. PGandE
17 filed a complaint in eminent domain in Lake
18 County earlier this year. An exparte Order
19 of Possession has been issued by the Lake
20 County Superior Court allowing PGandE to take
21 possession of the relevant portion of the
22 Francisco leasehold upon receipt of
23 certification from the California Energy
24 Commission. The Partnership must submit an
25 answer to this complaint by the end of June.

1 Should negotiations of PGandE prove
2 unsuccessful within the next few weeks, the
3 Coleman Partnership intends to vigorously
4 defend its rights before the Lake County
5 Superior Court.
6 It is not the Partnership's intention to
7 delay the Geysers 21 project, but, rather the
8 three concerns mentioned at the beginning of
9 ths letter be protected. Namely, that the
10 exisiting Bottlerock Project be allowed full
11 development, that PGandE indemnify the
12 Partnership for any potential damages, and,
13 that there be adequate compensation.
14 VV&J Coleman Partnership believes that
15 these three issues can be resolved and
16 welcomes any assistance from the Energy
17 Commission in finalizing this matter.
18 CHAIRMAN IMBRECHT: Alright. Thank you.
19 Questions?
20 MR. GROSS: Thank you.
21 CHAIRMAN IMBRECHT: Seems to me you have
22 appropriate remedies at your disposal that you've
23 clearly outlined for us to deal with those matters that
24 seem largely contractual, in issue. Thank you very
25 much.

1 MR. GROSS: Thank you for your time.

2 CHAIRMAN IMBRECHT: Alright. Next, Mr. Steve
3 Luske representing the Lake County Planning Department.

4 MR. LUSKE: Thank you Mr. Chairman. My name
5 is Steve Luske with the County of Lake Planning
6 Department. I'd like to briefly address three topics.
7 These are the need for the project, continuous water
8 quality monitoring and the pro rata reimbursement to
9 DWR for their work on Bottlerock Road.

10 First of all, with regard to the need for the
11 project, we'd like to go on record supporting the need
12 for this plant. We feel it's important that the
13 resource be developed and that its economic benefits be
14 accrued by the people, or to the people of Lake County.
15 And, furthermore, we feel that the plant should be
16 evaluated under the rules it came in under originally.

17 With regard to water quality monitoring,
18 before I get into continuous water quality monitoring,
19 I would like to say that we support the CEC staff's
20 recommendations on a regional equatic monitoring
21 program. Now, specifically, with regard to contiuous
22 water quality monitoring, we'd like to thank the
23 Commission, first of all, for considering Lake County's
24 concerns and for your proposed decision requiring
25 continuous water quality monitoring.

We met with Mr. Zene Bohr of your staff yesterday to discuss his concerns with regard to continuous monitoring. And, we are not in agreement with Mr. Bohr, that, first of all, both CEC staff and Lake County staff should be directly involved in and have approval authority over the final design and construction of the monitoring stations.

In addition, we also now are in agreement with Mr. Bohr and your staff that the station should be operated and maintained by Lake County. We currently have a chemist working for us half-time. But, what we would be requesting is that after construction we would require that PGandE pick up only the other half of our chemist's salary and that they pay 4% of the cost of the equipment per year for maintenance and pay for equipment replacement costs as the equipment were to wear out. The salary would come to roughly $15,000 per year. That's for the other half of our chemist's salary to make that per full-time.

A good example of the need for County and staff control over the design of the project, a good example of our need for that control, is PGandE's proposal to use only one station and pipe the water to it from both up and down stream. It is obvious to anyone with experience in water quality monitoring, as

your staff has and as I have, that that is not a possibility.

Our major parameters that we're measuring is specific conductance or electrical conductivity. For every one degree centigrade increase in temperature, there's a 2½% increase in conductivity and vice versa. Every time the temperature goes down, there's a decrease in that. To pipe the water to a single station would immediately result in large errors in the measurement of that parameter--either up or down depending on the temperature of the air, or of the temperature of the pipeline as the sun were to hit it. So, it simply couldn't work.

In addition to that, the other parameter we're trying to measure continuously is turbidity or end sediment in the water. And, to pipe this water a great distance to the plant would result in a great number of complications. What we want is the simpliest system possible. We want to monitor right at these sites as proposed by the County earlier. One station up stream and one station down stream.

Finally, with regard to my third subject, that's the pro rata reimbursement to DWR for their work on Bottlerock Road. In Part R-56 of the PMR, PGandE was required to complete good faith negotiations with

1 DWR for reimbursement within a year. That was in the
2 PMR. In the proposed decision, PGandE is required to
3 enter negotiations only if they decide to use
4 Bottlerock Road for heavy truck traffic. And, that's
5 Section R-56, Page 135.
6 We believe that it would be very difficult,
7 if not impossible, to ascertain at a later date of
8 whether PGandE is using Bottlerock Road and to what
9 extent they're using it for heavy truck traffic. And,
10 that, we also believe that their use of of the road is
11 inevitable for truck traffic. What we would like to
12 see is the Commission to return to the wording in the
13 PMR regarding this subject.
14 Finally, in listening to the Friends of Cobb
15 Mountain speak earlier, I would like to note that we
16 agree with two of their points in particular. These
17 would be the use of wells for construction water,
18 rather than surface water. And, we would like to see,
19 and hope to get, the zero discharge requirement on the
20 plant. In other words, not allowing rain water
21 discharge into the creeks.
22 Unless there are questions from the
23 Commission, that's the extent of my comments.
24 CHAIRMAN IMBRECHT: Questions? I do have a
25 question; I'm just trying to phrase it. What income

1 impact does Lake County anticipate on property taxes on
2 this plant?
3 MR. LUSKE: I have to apologize in that I'm
4 not prepared to give to a direct answer to that.
5 CHAIRMAN IMBRECHT: Can anyone answer for me
6 what the total construction cost...total cost of the
7 plant is expected to date, roughly? Mr. Shean can you
8 answer that? What's the anticipated cost of the plant?
9 MR. SHEAN: $200 million to $210, somewhere
10 in that range.
11 CHAIRMAN IMBRECHT: So, you would be assessed
12 at 1% of that plus the property value, etc.? In the
13 context of what you're requesting, in terms of
14 reimbursement, I guess the question I would pose is:
15 Will Lake County not, in fact, receive substantial
16 revenues as a result of the construction of this
17 facility throughout the life of the facility?
18 MR. SHEAN: Mr. Chairman, we've covered that.
19 I'll refer to Page 128 of the Socioeconomics section,
20 bottom of the page. The sentence: "At the time of the
21 completion of Unit 21, Lake County will receive
22 approximately $1,210,000 annually in property tax
23 revenue from Unit 21 power plant."
24 CHAIRMAN IMBRECHT: Do you expect that your
25

1 costs associated with service requirements, etc., from
2 this plant are going to exceed a $1.2 million annually?
3 MR. LUSKE: Certainly not, Mr. Chairman. Our
4 revenues go into our general fund; and, that money is
5 farmed out as the Board sees fit for various
6 departments, for their needs. This is a specific
7 requirement as part of the permit for a specific
8 project. It is a matter of policy, at least with Lake
9 County, that the projects pay for their own monitoring
10 and enforcement requirements. That's where we would be
11 coming from on this. Once the plant was built, we
12 would be asking for half the salary for our chemist, as
13 I said and for....
14 CHAIRMAN IMBRECHT: Who pays for water
15 quality monitoring for a farm in Lake County?
16 MR. LUSKE: I'm sorry.
17 CHAIRMAN IMBRECHT: Who pays for water
18 monitoring for a well on a farm in Lake County.
19 MR. LUSKE: For geothermal wells?
20 CHAIRMAN IMBRECHT: No, just on a farm.
21 MR. LUSKE: Oh, on a farm.
22 CHAIRMAN IMBRECHT: An agricultural
23 installation.
24 MR. LUSKE: It would be the applicant for
25 permit or the farmer, if you needed that.

1 CHAIRMAN IMBRECHT: My general knowledge is
2 that prevailing practice throughout most of California,
3 that's why people pay property taxes for a variety of
4 general services that are provided. It is that it
5 seems to me that when, in fact, you are anticipating a
6 substantial amount of revenue flow (and I fully
7 recognize the difficulties since we are an agency, as
8 well, that has to deal with the budget process within
9 the state government), but it seems to me that you have
10 a pretty clear case set out as to why you should be
11 allocated a portion of that $1.2 million to carry out
12 compliance and testing associated with the impact of
13 that plant. So, this is probably going to leave a
14 substantial net for the Board of Supervisors to divide
15 up other general requirements of the people of Lake
16 County.
17 MR. LUSKE: The precedent in the County, for
18 example, with our Air Pollution Control District is
19 that monitoring and other compliance required for a
20 project is paid for by the Applicant. And we have
21 followed the same procedure in planning in the other
22 various departments, that monitoring for a specific
23 project is paid for by that specific project, that it
24 not come out of our general fund--the costs for that.
25 CHAIRMAN IMBRECHT: Okay. Well....

1 MR. LUSKE: Perhaps, I'm misunderstanding
2 your question.
3 CHAIRMAN IMBRECHT: I think I have generally
4 indicated my inclination on that issue by virtue of the
5 question. I'll just leave it at that. Anything
6 further? Thank you very much.
7 MR. LUSKE: Thank you.
8 CHAIRMAN IMBRECHT: You're quite welcome.
9 Now, does anyone else wish to be heard on the
10 application pending before us. Yes, ma'am, please come
11 forward and identify yourself for the record.
12 MS. SINGER: My name is Rita Singer; and, I
13 am an attorney for the Department of Water Resources.
14 I would like to support the position of the staff and
15 its recommendation for a Regional Aquatic Monitoring
16 Program. And I would like to support the last
17 speaker's proposal regarding the pro rata reimbursement
18 to the Department of Water Resources for its road
19 construction. We had previously presented our
20 viewpoint on both these matters; and, our support goes
21 to the statements that have been previously been made.
22 CHAIRMAN IMBRECHT: Questions? Thank you
23 very much. Alright, since we're at 12:00 and I would
24 guess that the applicant probably is going to take a
25 reasonable period of time to respond to some of these

items. I would like to suggest to the members of the Commission that we take our luncheon recess at this point, at which time then we will recall the counsel for Pacific Gas and Electric, as well as Hearing Advisor to Commissioner Crowley, for appropriate responses to the issues raised and then, bring this matter to the consideration of the Commission for a decision. Without objections, we will stand to recess until 1:30.

(Whereupon the morning session of the Business Meeting of the California Energy Resources Conservation and Development Commission was adjourned for a luncheon recess at 12:00 PM.)

--oOo--

1 **AFTERNOON SESSION**

2 --oOo--

3 CHAIRMAN IMBRECHT: Okay, let's call the
4 meeting back to order. Before we take the applicant's
5 and the Committee's response, there is one other item
6 that I wanted just to state clearly for the record so
7 this could be understood.

8 Commissioner Gandara, of course, is not with
9 us today because he is on vacation, has raised a
10 concern about one portion of the dispute. And, I would
11 ask that in a context of a response from both Applicant
12 and from Hearing Advisor, that you might want to
13 address his concern. I am going to do my very best,
14 judiciously and accurately, to state his perspective.
15 Commissioner Gandara, as the Second Member of the
16 Committee, concurs with the recommendation of the
17 Committee, concurs with the conclusions that are
18 represented in the Presiding Member's Report relative
19 to need as enunciated under ER IV. It is his view,
20 however, that the treatment of ER V on Pages 20 through
21 24 of the proposed decision, is unnecessary to be
22 included. And, it's his view that the decision is
23 completely justifiable and is grouted in terms of the
24 record based upon the ER IV need determination.
25

1 He would, in the event that the Commission
2 decides to adopt the Presiding Member's Report as
3 presented relative to those four pages, ask that a
4 dissent on that issue alone be filed as a part of the
5 docket. In the event that we chose to delete those
6 four pages, then he'd not ask that that dissent be
7 filed.
8 I think that the essence of the arguments
9 that he makes in his dissent, as he represented to me
10 in a conversation this morning, as well as in the draft
11 that I have before me, I suggest that his feeling is
12 that the record was not fully developed relative to the
13 need determination on ER V and that that language would
14 be superflous to the findings of the Committee.
15 Let me see if I am leaving anything out here.
16 I think that is an accurate statement of his position.
17 I will withhold my own judgment on that pending
18 response from applicant and from the area advisor
19 representing the Committee.
20 PUBLIC ADVISER PEREZ: Chairman Imbrecht, I
21 defer to your personal communications with Commissioner
22 Gandara. But for clarification, your characterization
23 does not seem to be consistent with the last line of
24 his dissenting opinion.
25

1 CHAIRMAN IMBRECHT: I appreciate that;
2 although, I did speak to him this morning. The reason
3 we were late in beginning the meeting was in reference
4 to that personal conversation. I think I'm accurately
5 representing his position; and, I also believe that's
6 consistent with what I am told by his own staff, as
7 well.
8 PUBLIC ADVISER PEREZ: I defer. I just
9 wanted to point that out.
10 CHAIRMAN IMBRECHT: So, I wanted to clarify
11 that; because, I had the same concern, Mr. Perez,
12 relative to the last sentence of the dissent that you
13 wish to file. He indicated to me that he did not wish
14 it filed in the event that those four pages were
15 deleted and stressed to me that he was in concurrence
16 with the conclusion and with the body decision, but for
17 those four pages.
18 PUBLIC ADVISER PEREZ: Thank you.
19 CHAIRMAN IMBRECHT: Okay, with that, I'd like
20 to ask the applicant to respond to the issues raised by
21 the other parties to the proceeding, then we will also
22 call upon Mr. Shean on behalf of the Committee.
23 MS. AGERTER: Linda Agerter representing
24 PGandE. With respect to Commissioner Gandara's
25 dissenting opinion, PGandE agrees that the proposed

1 decision is certainly adequate without the ER V
2 discussion; but, we feel that discussion is appropriate
3 and helpful to the decision. I think that it does
4 provide, as stated in the decision, that the finding of
5 need for Unit 21 is not some procedural fluke. But
6 that, based on the evidence in the record, it is likely
7 that Unit 21 will become needed under ER V, as well as
8 under ER IV. So, I think that that portion of the
9 proposed decision is very helpful for those reasons, to
10 provide reassurance to the public, as well as to the
11 applicant.
12 In terms of their being some question as to
13 the evidentiary basis for the ER V analysis, I think
14 you can draw an analogy to the use of prior testimony.
15 Testimony -- prior testimony (and that isn't even
16 really what we are talking about here), but prior
17 testimony is usable in a subsequent proceeding if the
18 interested parties have had a right and an opportunity
19 to cross-examine that evidence, with an interest and
20 motive similar to what exists to the subsequent
21 hearing.
22 I think the evidence about economics and
23 environmental impacts of Unit 21 was subject to cross-
24 examination by all interested parties who would have
25 had the same motive to cross-examine and present

1 evidence as for directly under ER V. Certainly
2 environmental, as well as the economics, were contested
3 issues; and, people had ample opportunity to present
4 evidence to rebut that testimony.
5 Also, under BR IV, the second part of the
6 need test, assuming a plant cannot meet the need tests
7 strictly to achieve the one-third oil and gas
8 displacement, specifically requires analysis of the
9 economic and environmental benefits of the project. I
10 think, in large part, the ER V need test expands on
11 that; but, many of the basic issues would be the same.
12 So, I think there is no problem with the evidence on
13 which that discussion of ER V is based.
14 CHAIRMAN IMBRECHT: I think his basic
15 perspective.... And, I offer furher clarification to
16 make sure that I am precisely and accurately stating
17 his position. It's his view that the applicable test
18 under ER/BR V would be the 4B Test. And it's his view
19 that the burden rests with the applicant in that
20 instance and that the Applicant, in his view, did not
21 come forward with sufficient presentation to satisfy
22 the 4B Test. That's why he wished to dissent on that
23 point.
24 MS. AGERTER: Well, certainly, we didn't come
25 forward with evidence, specifically in ER 5 tests,

1 since it was not an issue during any of the hearings.
2 But, I would submit that the evidence which we did
3 present on the economic and environmental impacts of
4 Unit 21 is useful in the ER 5 analysis. Although,
5 certainly, as the decision recognizes and as PGandE
6 witnesses testify, you would have to submit a good deal
7 of additional evidence to carry an ER 5 burden. The
8 evidence that is in the record is useful towards, I
9 think, meeting that burden of proof under ER 5.
10 CHAIRMAN IMBRECHT: I want to also
11 invite...and I recognize that there is a slight problem
12 in that Commissioner Gandara's adviser, during the
13 pendency of these proceedings has now left that
14 position; but he did indicate to me, and Ms. Coe is in
15 the best position to comment on this. If there is any
16 consideration that I am inaccurately stating
17 Commissioner Gandara's position, I would invite
18 appropriate comment on that. I think that.... I took
19 notes during my conversation; I am quite confident that
20 I have accurately state it. Okay, with that, I will
21 ask you to.... And Ms. Coe, if you care to comment,
22 obviously, we'd invite that.
23 MS. COE: I'm Gigi Coe, Commissioner
24 Gandara's former advisor. I came in just as you were
25

1 beginning your presentation; and, I do believe you
2 accurately summarizing his point of view.
3 CHAIRMAN IMBRECHT: Alright, thank you.
4 Okay, now, if you will offer any comments or responses
5 you care to to any points that have been raised.
6 MS. AGERTA: As to the main issues?
7 CHAIRMAN IMBRECHT: Yes.
8 MS. AGERTA: Okay. I'd like.... First, I
9 think I'd generally like to approach our response by
10 going sort of in the order in which those comments were
11 represented this morning.
12 So, with respect to the staff's comments,
13 which were, of course, picked up by other people, as to
14 regional water quality monitoring. I am, frankly,
15 somewhat puzzled by the thrust of these comments, since
16 I think that it's quite evident that the proposed
17 decision already requires PGandE to implement a
18 regional water quality monitoring program. PGandE is
19 required by the proposed decision to undertake life-of-
20 the-plant water quality monitoring for 15 stations on
21 the Alder and High Valley Creeks, which are the creeks
22 which will be affected by the Unit 21 power plant.
23 This is in contrast to DWR's monitoring which
24 is for only four stations. Essentially, what PGandE
25 tried to do in designing the water quality monitoring

1 system it testified to (and I think in large part, is
2 reflected in the proposed decision) is to formulate a
3 program that would be complimentary to DWR's program,
4 as opposed to duplicate it. Thus, if you put DWR's
5 program together and the program that PGandE is
6 required to undertake, you will end up with a water
7 quality monitoring program.
8 I should also point out that Union Oil
9 Company is required by its separate permit (Steamfield
10 Permit) from Lake County to formulate a water quality
11 monitoring program. We are attempting to do the two
12 programs together so that the steamfield and the plant
13 program will be submitted to the CEC and to Lake County
14 for review. So, Lake County will be able to review
15 Union's plan and approve it.
16 I think what the dispute boils down to on
17 this water quality monitoring, is how often PGandE's
18 going to monitor fish and sediments at two stations at
19 the mouths of High Valley and Alder Creek; and, that's
20 it. The staff has recommended that we monitor fish and
21 sediments at those two mouth-of-the-creek stations,
22 annually, until it's demonstrated that there are no
23 impacts. By contrast, the proposed decision requires
24 us to monitor those two perimeters, at those two
25 locations, I think, annually, during construction, and

1 for several years after the power plant becomes an
2 operation and then, after a certain point every five
3 years. That is the essence of the dispute.
4 We presented evidence that the downstream
5 stations, such as this would be, at the mouth of the
6 plant, are going to be poor indicators of the actual
7 impact of Unit 21 on the water shed, than the upstreams
8 station would be. So, I think there is ample evidence
9 in the record to support the Committee's resolution of
10 the dispute between staff and PGandE on the frequency
11 of monitoring these two parameters at these two
12 locations.
13 I'd like to turn now to Mr. Hess' comments.
14 Mr. Hess stated a desire for consideration of wellhead
15 generation as an alternative to the Unit 21 central
16 power plant. This is certainly an issue that was
17 raised during Unit 21 proceedings, at great length.
18 We've had two workshops on the question of using
19 wellhead generators, which would essentially be 10 to
20 12 MW, if I remember correctly -- little power plants
21 at a cluster of well heads instead of a large central
22 plant. We submitted an extensive report by a
23 consultant, addressing the subject. The conclusions
24 reached were that the system of wellhead generators, in
25 lieu of a central power plant would be twice as

1 expensive, and have at least equal, if not greater,
2 environmental impacts, than our proposed Unit 21.
3 Mr. Hess is also concerned that there are
4 both substantive and procedural violations of CEQA in
5 the proposed decision, and has requested, on behalf of
6 Friends of Cobb Mountain, that PGandE agree to a
7 continuance of the decision on that basis. Well,
8 PGandE totally disagrees that there are any violations
9 of CEQA in this decision; and, we will not agree to the
10 continuance. Specifially, he said that the terraced
11 berm and the altered sedimentation pond had not been
12 thoroughly examined. I think it has been explained
13 today that the terraced berm plan was developed by
14 PGandE as an alternative to the Committee's suggested
15 east fill plan--50 foot berm plan that we used to
16 mitigate certain visual impacts of the power plant.
17 We did not, at any point, advocate the
18 adoption of either the terraced berm plan or the plan
19 proposed by the Committee. We did, however, present a
20 great deal of evidence as to the effects of both plans
21 -- both economic and extensive environmental evidence.
22 The proposed decision rejects both plans, does not
23 require us to vote either plan. And, I think,
24 ironically, the evidence finally submitted by both
25 PGandE and staff, agreed that the visual impacts would

1 be worsened by the adoption of either the terraced berm
2 plan or the east fill plan. But, in the course of
3 these hearings, of which there were two days worth of
4 hearings, there was abundant evidence submitted.
5 Similarly, with the altered sedimentation
6 pond, we regard that as a minor project change; and, on
7 March 11, 1985, we presented evidence as to the impacts
8 of this alteration. I think it was shown at that time
9 that there would be no siginificant impacts to that
10 alteration. I think we even submitted a sketch or map
11 of what that alteration would look like.
12 The third point that Mr. Hess raises as to
13 being a CEQA violation, is the deferral of submision of
14 implementation plans required in the decision until
15 after certification. Well, I think here, the important
16 point is that these plans are implementation plans.
17 They are designed to implement the mitigation and
18 monitoring measures required by the proposed decision.
19 That decision sets out the standards and the monitoring
20 and mitigation required. The implementation plan
21 simply provides detail of actually how that is going to
22 go into effect. I don't think that, in any way, can be
23 construed as a CEQA violation.
24 Further, the friends of Cobb Mountain, will
25 have an abundant chance to review these implementation

1 plans, as will other intervenors through the CEC's
2 compliance program. And, if they have an ultimate
3 disagreement, they can bring it to this Commission and
4 I suppose, eventually, to a court, should they be
5 dissatisfied. I also believe that the use of these
6 implementation plans, as a check on the actual
7 enforcement of the CEC decision, is common practice in
8 the CEC to these siting cases. And I think the Lake
9 County steamfield permit makes even greater use of the
10 implementation plans in sharing its enforcement.
11 Mr. Hess also stated that PGandE has not been
12 required to do enough with regard to cumulative
13 environmental damage. Well, I guess I would submit
14 that the proposed decision requires a number of
15 different plans and programs of PGandE to monitor for
16 any cumulative environmental impacts. We will be
17 taking aerial photos of the site location. We
18 undertake a vegetation stress study. We participate in
19 GAMP, which is the air quality managing program. As I
20 stated before, I regard the water quality monitoring
21 program as certainly a regional program; and, it's
22 design is to pick up cumulative impacts. So, I think
23 we are doing a number of things to guard for cumulative
24 environmental impacts.
25

1 As to the water source for the project
2 construction, Mr. Hess expressed a preference for use
3 of ground water as a first option. His recollection of
4 the agreements reached differs with my recollection.
5 The agreement reached, I believe, was faithfully
6 reflected in the proposed decision. That requirement
7 is, essentially, identical to a requirement in Union's
8 use permit for steamfield before Union or PGandE can
9 make use of surface waters, i.e., Alder or High Valley
10 Creek. There has to be some demonstration there is no
11 ground water; and, that's it.
12 As to noise, the level that PGandE is
13 required to meet for unit, 50 dBA L_{dn} is lower than the
14 noise requirement for any other...the Geysers Power
15 Plant. He was concerned about our ability to comply
16 with that requirement. We are taking an abundance of
17 steps to ensure that we will, indeed, comply with that.
18 These were thoroughly analyzed by staff, by the Lake
19 County Noise Control Officer, as well as by PGandE. He
20 mentioned that there would be no attenuation in Cob
21 Valley. But, I believe that of the testimony experts
22 was to the contrary that there will be the normal
23 attenuation, if any, noise impacts from the power
24 plant. He is correct that there is no precise noise
25 standard for the site preparation case. That is

1 because it is impossible for Unit 21 to comply with the
2 50 dBA limit during site preparation.
3 Instead, though, we are required to,
4 esentially, install BACT noise abatement on the
5 equipment that we will be using. We have to submit a
6 construction noise mitigation plan, which we will be
7 doing shortly. We will be submitting a noise complaint
8 plan, in the event there is concern that we are not
9 meeting standards or just simply being too noisy. I
10 think, importantly, we have, for the purposes of
11 reducing noise from this plant, agreed to limit our
12 site preparation activities, essentially to a 7 a.m. to
13 7 p.m. schedule. This will make it extremely difficult
14 for us to complete site preparation this summer, as our
15 schedule would require. But we have certainly agree to
16 this. I think it will do a lot to reduce their
17 concerns.
18 There's been repeated requests that Unit 21
19 be a no-discharge operation. Well that, essentially,
20 has been our goal. Unit 21 will have, for the first
21 time, a gravity feed pipelines that can transport waste
22 water from Unit 21 to Union for reinjection. So, you
23 don't have to worry about pumps breaking down. It's
24 going to have nine times the capacity of the existing
25 Geysers Power Plants to reinject rain water to send it

1 to Union for reinjection. So, I think we are taking
2 every step possible to ensure that this is a no-
3 discharge operation. But, there can be no guarantees,
4 but that is certainly our goal.
5 The continuous water quality monitor has been
6 a source of great dispute in this case. PGandE
7 presented testimony to the effect that the continuous
8 monitor would probably be unnecesary, very expensive
9 and of questionable feasibility. Staff also opposed
10 its implementation. Nonetheless, in the proposed
11 decision, that has been a requirements, and we will do
12 our best to live with it and to implement the best
13 possible water quality...continuous water quality
14 system. The decision, I think, fairly gives us three
15 years. It has a three-year period in which we
16 implement and run the monitor and then reassess its
17 feasibility. But, I think, and also you should know,
18 that there is only one other continuous water quality
19 monitor at the Geysers; and, this was one used for the
20 Occidental Power Plant. It ran for only one year. I
21 don't think it showed a single spill and was finally
22 removed because it just wasn't workable.
23 So, PGandE, essentially, regards this
24 requirement as an experiment; and, we want as much
25 flexibility as we can to implement a viable system.

1 And I think that's what the proposed decision gives us.
2 We will certainly consider the comments of Lake County
3 and the comments of Friends of Cobb Mountain in
4 formulating the design of that system. But, the
5 details of what Lake County is now offering, simply
6 were not addressed during the hearings. And, there is
7 no evidence to support the details that they are now
8 asserting on what the continuous water quality monitor
9 would look like.
10 So, I don't think it would be proper in its
11 decision to mandate that we adopt what Lake County is
12 now recommending, so we have no chance to contest it.
13 Lake County will, in any event, have an opportunity to
14 review the plan we come up with, as it will, I believe,
15 Fish and Game and the Regional Water Quality Control
16 Board. That's part of the decision. So, I think that,
17 as corrected, the proposed decision does give us a
18 chance to install a livable continuous water quality
19 program that will do the job that you want to have it
20 do.
21 There was also concern expressed for hauling
22 toxic material. The proposed decision has a number of
23 requirements directed to ensuring that the disposal of
24 toxic materials is done in as safe a way as possible.
25 We have to dispose and certify sites, use certified

1 haulers. In our testimony, we stated that the guards
2 at the gates check the trucks to ensure they are not
3 leaking as they leave the Geysers area. We have been
4 required to build sumps at the gates to contain leaking
5 trucks. And we are also required by the proposed
6 decision to submit a waste disposal plan showing routes
7 and sites that all the intervenors will have a chance
8 to review.
9 As to the lighting plan, I think the proposed
10 decision sets out very clearly the goals that our
11 lighting plan must meet, which is to reduce the light
12 emitted from the power plant to the minimum consistent
13 with OSHA requirements. I think there is sufficient
14 guidance in that decision and sufficient checks to
15 ensure that we meet those goals.
16 As to the comments of the Coleman
17 Partnership, I think, briefly, the only issue in
18 dispute between the Colemans and PGandE is the question
19 of money. PGandE has the power of eminent domain; and,
20 we have, as Mr. Gross stated, filed a complaint. I
21 think it will be appropriate to let the courts resolve
22 the question of how much money the Colemans are due if
23 agreement cannot be reached. Indeed, I'm not sure that
24 the Commission has jurisdiction to settle that kind of
25 money question.

1 I think the only other remaining issue that I
2 recall being raised was the DWR Bottlerock Road pro
3 rata reimbursement, that's contained in the requirement
4 that's not contained in the proposed decision.
5 Essentially, the proposed decision requirement
6 accurately states a stipulation reached between staff
7 and PGandE during the hearings. PGandE will reimburse
8 DWR if we use Bottlerock Road for heavy truck traffic,
9 which would cause the impacts. In contrast to DWR,
10 PGandE has alternative routes which we can use to reach
11 Unit 21 and avoid any impact to Bottlerock Road. The
12 only statements that I've heard to suggest this is not
13 a fair requirement is that it's unenforceable. Well,
14 we intend to enforce it. We won't make it a contract
15 requirement. And staff, itself, submitted testimony
16 that, in their belief, it would be an enforceable
17 requirement.
18 Thank you. If you have any questions....
19 COMMISSIONER COMMONS: Point of information,
20 Mr. Chairman.
21 CHAIRMAN IMBRECHT: Yes, Commissioner
22 Commons.
23 COMMISSIONER COMMONS: Mr. Chamberlain, are
24 we able to rely on any of the testimony or information
25 we are hearing today, in terms of rendering a decision?

1 MR. CHAMBERLAIN: Yes.

2 COMMISSIONER COMMONS: In the siting cases,
3 all witnesses are normally sworn in. Is there a
4 distinction between testimony we are hearing today that
5 is not sworn in and testimony that we receive in the
6 cases which is sworn in?

7 MR. CHAMBERLAIN: Well, the requirement for
8 swearing witnesses in is one of.... It's a technical
9 requirement that we do follow. It is not required of
10 administrative agencies. The purpose is to ensure that
11 the witness understands that this is a serious
12 proceeding in which he should give the best possible
13 and most accurate testimony that he can possibly give.

14 The most important requirement, however, is
15 that the witness be available to be cross-examined if
16 some party contends that there is some inaccuracy in
17 their testimony. Much of the answer to your question,
18 really, would probably go to the purpose for which you
19 would intend to use the testimony. Whether it was to
20 support a finding that was not otherwise supported in
21 the record or whether it would simply to corroborate
22 other evidence that was already in the record.

23 CHAIRMAN IMBRECHT: If I might just interject
24 for a moment, Commissioner Commons. It seems to me
25 that the characterization that would be appropriate for

1 that which has been presented to the Commission today
2 has been comments in the form of argument, as opposed
3 to evidentiary testimony. What I heard from the
4 representative of PGandE was basically arguments on the
5 points made by the other parties, which I also would
6 perceive to be argument. I have not heard to date
7 today in the effort to offer evidentiary testimony.
8 COMMISSIONER COMMONS: I am about to embark
9 on evidentiary testimony. And, that's why I was
10 raising the point of information. This is the first
11 opportunity I, as a member of the Commission, have had
12 in this proceeding to ask evidentiary-type questions.
13 Not being a party and not being a member of the
14 Committee, this is my sole and only opportunity to ask
15 questions concerning evidence within the proceeding.
16 And so, I thought the first thing I ought to do was to
17 find out whether the witnesses have to be sworn in, and
18 secondly, to inquire as to whether they need to be
19 qualified as expert witnesses in order to provide the
20 testimony.
21 CHAIRMAN IMBRECHT: Well, I guess the
22 question would be of whether, in fact, the expert
23 witnesses were presented in an evidentiary proceeding
24 before the Committee are actually even present, for
25 purposes of questions you care to offer. I would

1 guess--I don't know this to be the fact--but I would
2 guess that not all the witnesses, either by applicant,
3 staff or other parties in the proceeding are present
4 for today's hearing.
5 COMMISSIONER COMMONS: Well, in order for the
6 Commission to render a decision on this case, I believe
7 all Commissioners have a right to ask questions, be
8 they evidentiary in nature. And, this is our first and
9 only opportunity to do so, if you are not a member of
10 the Committee.
11 MR. CHAMBERLAIN: Commissioner Commons, I'm
12 not sure that that's actually accurate. I don't know of
13 anything that prevents a non-member of the Committee
14 from showing up at evidentiary hearings, if he or she
15 wishes to, and asking whatever questions he or she
16 wishes to ask. But, needless to say, the Commission
17 could permit your question if the witnesses are
18 present. It's just that the witnesses are not present;
19 this is the first time that you've notified anyone that
20 you wanted to ask those questions.
21 COMMISSIONER COMMONS: I do believe I have
22 notified parties and the only issues I have are
23 concerning the question of need within the case. And
24 I've raised this and I believe the applicant is aware
25 that I have issues of concern. I think all members of

1 the Commission are aware that I have issues and
2 concerns in this area. And it's not a secret that one
3 member of the Committee has already dissented on this
4 particular siting case on the question of Need
5 Conformance.
6 CHAIRMAN IMBRECHT: That's not an accurate
7 statement. The statement that is accurate is that
8 Commissioner Gandara wishes to dissent if Pages 20
9 through 24 relevant to the discussion to CFM-5 or ER V
10 are included. Absent that, he is in concurrence with
11 the decision.
12 COMMISSIONER COMMMONS: Okay.
13 CHAIRMAN IMBRECHT: Alright? It's important
14 that we have that very clearly stated. It's his
15 viewpoint that the discussion relative to ER V is
16 superfluous and that the record is inadequate to
17 support the discussion of ER V. He does believe,
18 however, that the record is adequate to support a
19 finding of need with respect to ER IV. And that's the
20 limitation of his dissent.
21 COMMISSIONER COMMONS: Alright, well, let
22 me.... Excuse me. I was going beyond this point of
23 which I had asked for the floor, which is point of
24 information. So, excuse me.
25 CHAIRMAN IMBRECHT: Mr. Shean

1 MR. SHEAN: Mr. Chairman, if I may refer the
2 Commission to its own regulations, Section 1754(b). In
3 the second sentence it states, "the Commission shall
4 not consider new or additional evidence at the hearing
5 under this section (and that section refers to hearings
6 on a proposed decision), unless due process requires or
7 unless the Commission adopts a motion to re-open the
8 evidentiary record. In such case, the Commission shall
9 afford such notice to the parties as is fair and
10 reasonable under the circumstances." I have been in
11 charge of noticing every aspect of the proceeding that
12 we have here today, both in terms of the Agenda and, in
13 fact, a separate notice to all parties. And, I have
14 not been involved in the filing and service of any
15 notice which would have put any of the parties or other
16 persons interested in this proceeding on notice as to
17 the taking of new or additional evidence with regard to
18 any matter.
19 CHAIRMAN IMBRECHT: I would just note for....
20 I appreciate your calling that section to our
21 attention; because, I also note that Subsection A of
22 the same section also indicates (this is titled
23 Hearings on Proposed Decision, Subsection A) "Hearings
24 on the proposed decision shall be held before the full
25 Commission no sooner than 15 days and no later than 30

1 days after publication and distribution of the proposed
2 decision. The hearings shall be conducted for the
3 purpose of considering final oral and written
4 statements of the parties and final comments and
5 recommendations from interested agencies and members of
6 the public." It goes on to say, in fact, it's apparent
7 that we have not even completely complied with this and
8 I regret that I have not exercised this. "The Chairman
9 may (I should say "may require") that certain
10 statements by parties and other persons be submitted in
11 writing in advance of the hearings. The Commission
12 shall not consider (as you indicated) new or additional
13 evidence at the hearings under this section unless due
14 process requires or unless the Commission adopts a
15 motion to open the evidentiary record, and in which
16 case we shall afford appropriate notice, etc."
17 I would suggest, Commissioner Commons, the
18 extent that you wish to pursue a broadening of the
19 evidentiary record, that it's basically up to you to
20 convince the majority of the Commission that such a
21 motion would be appropriate, in which case, obviously,
22 we would not be able to complete consideration on this
23 decision today.
24
25

1 COMMISSIONER COMMONS: Alright, well, then
2 may I proceed with the question since I am finished
3 with my point of information?
4 CHAIRMAN IMBRECHT: Okay, I think you've got
5 an accurate....
6 COMMISSIONER COMMONS: What I will try to do
7 is to take into context trying to understand
8 information in the derivation or the back-up of
9 information that has been presented within the case, as
10 distinct from the taking of new testimony that is not
11 found in the case. When PGandE originally submitted
12 this project, was BR V scheduled to be completed by
13 December 31, 1984?
14 MS. AGERTER: I don't recall.
15 COMMISSIONER COMMONS: Could someone
16 else...Mr. Chamberlain?
17 CHAIRMAN IMBRECHT: What was the question,
18 please?
19 COMMISSIONER COMMONS: When the application
20 was originally submitted, it is my belief that BR IV
21 was scheduled to be completed by December....
22 CHAIRMAN IMBRECHT: BR V.
23 COMMISSIONER COMMONS: BR V was scheduled to
24 be completed by December 31, and that the Applicant in
25 submitting this case, at the time of the submittal

1 would have expected that this case would have been
2 decided under ER V, and was only later in the year that
3 there was a bill passed, 1549, which subsequently
4 changed the dates under which this BR V was completed.
5 CHAIRMAN IMBRECHT: Well that legislation was
6 passed and signed by Governor no later than September
7 30, 1984. I think it was sometime before that that it
8 was actually signed and became law.
9 COMMISSIONER COMMONS: I believe this
10 application was submitted originally to this Commission
11 in February of 1984.
12 CHAIRMAN IMBRECHT: It was not accepted,
13 however; and, the the clock does not begun to run until
14 there's acceptance of the application, as we know what
15 the criteria of that is, until June; so, the pendency
16 is basically a year.
17 COMMISSIONER COMMONS: But at the time that
18 the Applicant submitted the application to the
19 Commission, their expectation would have been -- and
20 that's what I'm trying to ascertain -- that this would
21 have actually been decided under BR V.
22 CHAIRMAN IMBRECHT: That might have been the
23 case. I guess the question I would ask, though, is how
24 the applicant or the staff, for that matter, would
25 complete an evaluation under ER/BR V, when, in fact,

1 the law was changed and the deadline for that changed
2 by about four months, roughly.
3 COMMISSIONER COMMONS: Well, I'm just trying
4 to....
5 CHAIRMAN IMBRECHT: Okay. Well, go ahead.
6 Ask your question. That's fine.
7 COMMISSIONER COMMONS: The law was not
8 apparently changed on 1549 on the date of the
9 application until somewhere in September. I believe
10 your application had originally been filed in February
11 of 1984, and was accepted by this Commission in June of
12 1984. So, was it the company's expectation when you
13 submitted this application, that you would, in fact,
14 have a final decision based on ER V or under ER IV?
15 MS. AGERTER: First, let me say that I
16 believe the application was submitted in April--April
17 5, 1984. I think it's been a question, current this
18 Spring, as to how one decides which BR is applicable
19 whenever it, essentially, changes in mid-course. We
20 certainly had no clear understanding of how the
21 Commission would ultimately decide how that change was
22 to occur. We also, as I remember.... Part of the
23 information we were required to supplement the original
24 AFC with was additional information to comply with BR
25 IV. So, I cannot say that the applicant had an

1 expectation that this case would be decided under BR V,
2 certainly not.
3 COMMISSIONER COMMONS: Well, there has been
4 an issue raised that there was an equity situation
5 where the change from BR IV to BR V would be unfair to
6 the applicant to shift from BR IV to BR V. What I'm
7 trying to establish is that at the time you were
8 putting together the application at the time that you
9 submitted this application, the law in California was
10 that BR V was to be adopted by December 31 and that
11 this case would not have gone before the Commission
12 until April of the following year. So, at the the time
13 you submitted the application, it had to have been your
14 intent for it to have been decided under BR V.
15 MS. AGERTER: No. And as.... Excuse me.
16 COMMISSIONER COMMONS: You had no reason to
17 believe that the law was, in fact, going to change.
18 MS. AGERTER: Well, as I was trying to say
19 earlier, even if the change between BR IV and BR V was
20 forseeable, it's not clear--the law is not clear on how
21 that change is actually to be applied to a specific
22 siting case. And there was, as I recall, considerable
23 discussin in the context of ER V as to how that change
24 was to be affected. So, I think it's fair to state
25 that at the time this application was filed, PGandE

1 could not foresee that ER V or BR V would be applied to
2 its application. It just simply wasn't clear how the
3 Commission would resolve that problem.
4 CHAIRMAN IMBRECHT: When was SB 1549 filed in
5 the Legislator? Does anyone know? It's part of our
6 legislative package. I believe it was filed early in
7 1984 and was pending as an officially adopted position
8 of the Commission throughout the course of the
9 calendar.
10 MR. WARD: Mr. Chairman, I guess I would
11 raise a question of when an applicant comes in here, I
12 suspect they are more concerned about a timely process
13 than they are some of our....
14 CHAIRMAN IMBRECEHT: I'm not sure all of this
15 is relevant; but, I just want to point that out as
16 well. The question of speculation as to perceptions or
17 that sort of thing, I would just suggest to you,
18 Commissioner Commons, the fact that it was pending. It
19 represented, I believe, a unanimous position of the
20 Commission that we make those changes.
21 COMMISSIONER COMMONS: I believe we agreed on
22 the....
23 CHAIRMAN IMBRECHT: It also suggests pretty
24 clearly that even had the law, as you obviously
25 suggest, that the law was different at the time that

1 the application was filed, doesn't seem unreasonable to
2 me that the party reflecting upon the position of the
3 Commission the fact there was little, if any
4 opposition. It only came from, as I recall, from few
5 elements of the natural gas utility community, as to
6 the merits of changing the schedule on 1549. There was
7 a reasonable expectation that that bill, at least as it
8 related to the electrical community, was likely to be
9 successful.
10 COMMISSIONER COMMONS: Of course, the
11 discussions that you and Commissioner Gandara played,
12 one of the last outstanding issues and one that wasn't
13 really resolved until the summer were the actual dates
14 in terms of when these reports would come in. And that
15 was something that came up very late and was not really
16 an issue and the Commission took a position.
17 All I'm trying to do is say that at the time
18 that the aplicant came into the proceeding, it was
19 clearly an issue as to whether or not this would be
20 under ER IV/ER V. And I think anyone going forward on
21 a power plant would have taken that into consideration
22 that there was an error of uncertainty; and, there is
23 not an equity issue involved as to whether or not this
24 particular application would have come under ER IV/ER
25 V.

1 The issue that we later came to address is
2 that we didn't want to see a delay in this case by
3 aplying ER V as a separate issue. And, as you know,
4 I'm the one who came forward with a concept and put
5 forth to the Commission to allow ER IV to take place,
6 if there were, in fact, to be a delay.
7 Alright. Under ER IV, one of the tests, and
8 the Committee believe found, that it was impossible for
9 PGandE to have complied with ER V. In order to pass ER
10 V, though, in all cases, a project that comes before
11 the Commission would have had to have come at a
12 threshold cost that was less than that established
13 under BR V. If a project was not less than the
14 threshold cost under BR V, then that project could not
15 be sited under BR V. And I'm not clear from the
16 Presiding Member's Report whether or not, and there is
17 a large discussion as to the application of BR V in the
18 Presiding Member's Report. And I am not clear as to
19 whether or not in the record, whether PGandE has
20 demonstrated or shown that it would or would not have
21 passed the threshold cost test.
22 MR. SHEAN: Mr. Chairman and Commissioner
23 Commons, I'd like just to get a point of clarification
24 for the commencement of the discussion. And, I believe
25 you are referring to Test 3 applicable to utilities;

1 and, I just want to test my recollection of that as to
2 whether or not that is threshold or avoided costs in
3 the disjunctive....
4 COMMISSIONER COMMONS: It's threshold or
5 avoided costs. I believe in the record, the Applicant
6 said to make an ascertainment of the avoided costs
7 would take a significant amount of time and they could
8 not do that without a delay to the case. However,
9 there isn't such a statement as to the threshold cost
10 which, I believe, you have the cost to the applicant on
11 the record, and we have the threshold cost within BR V
12 on the record. So, the question I want to ask is:
13 Does this, in fact, pass the threshold test of ER V?
14 CHAIRMAN IMBRECHT: Commissioner Commons, I
15 would like to understand the point of your inquiry,
16 where we are headed with this discussion?
17 COMMISSIONER COMMONS: Under BR V, a utility
18 project has to have a cost lower than the appropriate
19 threshold cost in BR V. If it does not have a cost
20 lower than that under all the tests, that project would
21 fail. We have the costs of the project in the record
22 and we have the threshold cost established by the
23 Commission, and I want to....
24 CHAIRMAN IMBRECHT: My question, though, is
25 since the proposed decision is not based upon ER/BR V,

1 but is based upon ER/BR IV, what is the premise behind
2 your question?
3 COMMISSIONER COMMONS: Alright. The
4 Commission's direction....
5 CHAIRMAN IMBRECHT: Unless....
6 COMMISSIONER COMMONS: The Commission's
7 direction to the Committee were that if you cannot find
8 under BR V, that you may find under...you are to find
9 under ER IV, unless the applicant and the Commission
10 were to grant the time delay. But, you first have to
11 demonstrate that you cannot find under BR V.
12 CHAIRMAN IMBRECHT: Within the time....
13 COMMISSIONER COMMONS: ...within the
14 timeframe. Now, within the timeframe, there is no
15 information in the record that suggests that you cannot
16 ascertain whether or not this project costs are lower
17 than the threshold costs as established in BR V. In
18 fact, in the record, there are the costs of the project
19 and the threshold are shown in BR V. And, there's no
20 evidence in the record to say that would cause a time
21 delay to ascertain as to whether those costs are higher
22 or lower than the threshold costs.
23 CHAIRMAN IMBRECHT: The question and the test
24 in BR V as adopted, was not simply limited to the
25 question of threshold costs being subject to

1 determination within the statutorily granted period for
2 consideration of the case. But, rather was the
3 question of whether or not the entire need test and
4 record could be developed within that timeframe under
5 ER/BR V. I suspect that there were probably other sub-
6 issues relative to ER/BR V that may or may not have
7 been susceptible to resolution within the timeframe.
8 The question is whether or not the entire need
9 determination could have been not simply a sub-part of
10 it.
11 COMMISSIONER COMMONS: If you find that if
12 the proposed project had a threshold cost higher than
13 the threshold cost listed under BR V, then this
14 Commission would have been able to make a determination
15 based on BR V that there was no need for the project;
16 because, you always had to pass that test. And so, you
17 either had to demonstrate that you could make...you
18 could not complete that test within the timeframe. Or,
19 if you passed that test, then there were other tests
20 (and I think the record clearly shows it) that could
21 not be completed within that timeframe. So then, it
22 would have been appropriate to go to ER IV. I do not
23 see in the Presiding Member's Report, a statement that,
24 in fact, this project passed the threshold test. My
25 assumption or presumption is that it does; but, the

1 record is not clear on that matter, although the
2 information is within the record that would allow that
3 computation.
4 CHAIRMAN IMBRECHT: Mr. Shean.
5 MR. SHEAN: It is within the record. Let me
6 point out two things; and, we did it both on what we
7 understood the avoided costs and threshold costs. The
8 Finding No. 6, No. 1, if I can just read.... I beg
9 your pardon. Yeah, No. 1, is that the cost of this
10 geothermal generation (because we are referring to Unit
11 21) will always remain lower than the cost of
12 generation from qualified facilities, that being
13 avoided costs. As to the question of threshold costs,
14 the document, the Commission the Electricity Report,
15 Table V-1 on Page 95 for a Baseload shows power cost
16 thresholds, 7.9¢ per kWh in 1983 dollars. The AFC,
17 Page 10-3, Section 10.3, Cost of Power in the second
18 paragraph states, in the sentence approximately in the
19 middle, "This is equivalent to 48.0 mills per kWh in
20 cost in 1984 dollars." Now, we are dealing with
21 different dollars in that; but, the variations and the
22 numbers or the differential between the numbers is
23 significant. So, on that basis, that is what led,
24 among other factors, I must say, Commissioner Commons,
25

1 the Committee to conclude, as it did, with regard to
2 the discussion between Pages 20-24 relative to costs.
3 COMMISSIONER COMMONS: Then, it's appropriate
4 for us to say that one of the findings of the Committee
5 is that this cost does--this project does pass the
6 threshold and avoided cost tests of ER V and the
7 reasons for not doing this under ER V or for delay in
8 applying the other tests, but we do pass the costs
9 tests of ER V?
10 MR. SHEAN: I think it needs to be restated
11 -- the reason for the Committee's going into BR V. We
12 had a procedural devise by which the Commission had
13 determined that there would be no review under BR V,
14 even though that was the newly adopted forecast, but
15 that an Applicant could have his project reviewed under
16 BR IV. The Committee wanted to assure itself, first of
17 all, that the finding that it was making would not
18 result in a significant error in judgment, looked over
19 the wall, if you will, to see, based upon what we knew,
20 whether or not we could be comfortable with what we
21 were doing, to the extent that the Chairman had
22 referred to questions with regard to the extension of
23 time beyond the legal deadline for matters of
24 criticality that had a significant impact. This was
25 one of the things that we wanted to assure ourselves,

1 substantively, that we were not inviting the situation
2 in which we were making a significant error. And I
3 think that we found that based upon the extent of the
4 record that we had, we were comfortable with where we
5 were coming out in BR IV. At least we thought the
6 result would not be different in BR V.
7 COMMISSIONER COMMONS: I understand your
8 statement, but that's not the question that was asked.
9 MR. SHEAN: I'll be happy to respond to your
10 question, if you will restate it.
11 COMMISSIONER COMMONS: Did the Committee find
12 that the applicant's project passed the threshold cost
13 test of ER V?
14 MR. SHEAN: Not specifically.
15 COMMISSIONER COMMONS: Is there information
16 in the records to ascertain whether or not this project
17 passes the threshold cost test?
18 MR. SHEAN: The BR V is not in the record.
19 We have not taken notice of it. So, that information
20 is not specifically in the record; it is derived from
21 Table V-1. So, to that extent, the answer is no.
22 COMMISSIONER COMMONS: Point of information.
23 Mr. Chamberlain, I believe the Commission, in adopting
24 BR V, instructed the Committees to ascertain whether or
25 not they could complete the assessment of a project

1 using BR V. If a case did not pass the threshold cost
2 test, obviously it did not pass BR V. Does it have to
3 be in the record, BR V, to verify whether or not it
4 actually passed the threshold cost test or the
5 applicant would have to demonstrate that to make that
6 determination would cause a delay in the case? There
7 is no information in the record, here, suggesting that
8 determintion would cause a delay in the case; and so,
9 the information is either in BR V or in the record;
10 and, it's a simple calculation. It would take about
11 half an hour to conduct.
12 MR. CHAMBERLAIN: I think, based on what Mr.
13 Shean has pointed out in the record, that the finding
14 that you are suggesting could be made by the
15 Commission.
16 COMMISSIONER COMMONS: Alright....
17 CHAIRMAN IMBRECHT: Frankly, that was the
18 answer I was expecting from Mr. Shean, myself. I
19 would've guessed the same thing.
20 MR. SHEAN: I'm trying to give technical
21 legal advise. I agree, we have enough here to make the
22 findings.
23 COMMISSIONER COMMONS: One thing I would like
24 to say....
25

1 CHAIRMAN IMBRECHT: The question,
2 Commissioner Commons, would be.... I mean if you are
3 suggesting if that finding be added to the decision, it
4 seems to me that that....
5 COMMISSIONER COMMONS: That's what I'm
6 suggesting. I believe the answer is yes. But, I don't
7 think it's appropriate for me to make the finding on
8 it; because, I don't think the Commissioners are
9 supposed to make the finding.
10 CHAIRMAN IMBRECHT: To the contrary.
11 Commissioners are fully.... You have the ability to
12 suggest any additional finding or any additional
13 condition to be added to this decision. And that
14 clearly is within the regulations. And just as the
15 parties as sited in the section that Mr. Shean made
16 reference to, which I think ws 1754.... Was that 1754?
17 MR. SHEAN: Sub C, Mr. Chairman.
18 CHAIRMAN IMBRECHT: Yeah, well, it's not
19 1754. You mean....
20 MR. SHEAN: Yes, sir. It's Sub....
21 CHAIRMAN IMBRECHT: I'm sorry, I was way at
22 15....
23 MR. SHEAN: For the other member findings and
24 conclusions, it would be 1754(c).
25

1 CHAIRMAN IMBRECHT: "Any member may propose
2 an alternative position, including supporting findings
3 and conclusions."
4 COMMISSIONER COMMONS: When we go later on, I
5 would like to make such finding. I just want to make
6 sure that it's appropriate for us to make such a
7 finding that the evidence actually justifies it; and,
8 that's what I'm asking of staff. Mr. Shean, one thing
9 that I would like to have understood. Right now.... I
10 may have some questions for you later; but, I believe
11 right now, PGandE is before us. And what I'm trying to
12 do is ask them some questions, not yourself.
13 MR. SHEAN: I'll be happy to defer to them
14 and wait.
15 CHAIRMAN IMBRECHT: In the context of
16 commenting upon what was in the record, though, I think
17 the Hearing Advisor is probably the best person to
18 comment on the cumulative record that exists.
19 COMMISSIONER COMMONS: No problem. In the
20 record, PGandE testifies that this project would
21 displace oil and gas?
22 MS. AGERTER: There is testimony in the
23 record to that effect, yes.
24 COMMISSIONER COMMONS: Could you amplify as
25 to how it would displace oil and gas, if it's all oil

1 and gas that's going to be displaced or what is the
2 basis for your coming to that conclusion.
3 MS. AGERTER: I'm really not qualified to
4 amplify what's already in the record. I believe there
5 is a fair amount of cross-examination as to the basis
6 for our witness' conclusion that there would be oil and
7 gas displacement. It's all in the record. I believe
8 the hearing date is March 4, 1985.
9 COMMISSIONER COMMONS: March 4, 1985. Does
10 someone have available that transcript or that portion
11 of the record so I can...?
12 MR. SHEAN: It's right here, Commissioner
13 Commons.
14 COMMISSIONER COMMONS: Great. Could I see
15 that portion?
16 MR. SHEAN: Perhaps I'm overprepared.
17 COMMISSIONER COMMONS: Or I'm underprepared,
18 one or the other. You wouldn't know where it is, Mr.
19 Garret
20 COMMISSIONER COMMONS: Let me proceed with
21 my.... During the proceedings, did the applicant make
22 any statements as to the impact of either the siting or
23 the non-siting of this project of the third AC line or
24 whether it would have any impact?
25 MS. AGERTER: Not that I recall.

1 COMMISSIONER COMMONS: Alright, well, it
2 would be new testimony. I will hold off on that at
3 this time. Did the applicant ever discuss the inter-
4 relationship of the siting or the non-siting of this
5 project on the substantial number of contracts that
6 PGandE is entered into with third party contractors
7 during third, fourth and...quarters of last year and
8 the first quarter of this year?
9 MS. AGERTER: I'm sorry. Would you repeat
10 the times you are referring to.
11 COMMISSIONER COMMONS: PGandE, during the
12 third and fourth quarter of last year and the first
13 quarter of this year, has entered into a substantial
14 number of contracts with third party generators. Was
15 it discussed, in the record as to the impacts or
16 potential impact of the siting or non-siting of this
17 project, as to the contracts that you have already
18 signed with third party cogenerators?
19 MS. AGERTER: I believe that at the time of
20 the hearing, in preparation of the testimony, the only
21 data available was the Third Quarterly Report. So, to
22 that extent, the amount of qualified facilities shown
23 in the Third Quarterly Report was analyzed.
24 COMMISSIONER COMMONS: Alright. And at that
25 time, though, it was discussed as to the number of

1 those facilities that may or may not come on line. Was
2 it all of the contracts or some of the contracts that
3 would come on line?
4 MS. AGERTER: I'm sorry, I didn't catch your
5 question.
6 COMMISSIONER COMMONS: At that time,
7 concerning the third quarter data, there was discussion
8 as to the amount of those projects that may actually
9 occur.
10 MS. AGERTER: I believe staff witness Reid
11 presented testimony to that effect.
12 COMMISSIONER COMMONS: Alright. What would
13 be the impact of all of those contracts that you had
14 signed? What would be the impact on your need assess-
15 ment if all those contracts that you've entered into
16 were to actually come about? Would there still be the
17 same type of need for this project?
18 MS. AGERTER: All I can refer you back to,
19 Commissioner, is the record itself. There was
20 testimony, as I said, by Ms. Reid, making an estimate
21 of the likelihood of that capacity coming on line. I
22 believe our witness also spoke to the uncertainties
23 involved. And, I can only refer you back to the record.
24 COMMISSIONER COMMONS: The approach taken by
25 Ms. Reid, as you are aware, has never been taken before

1 in this Commission. And, the Commission is being asked
2 to assume that a large number of contracts that have
3 been entered into by PGandE where you are, in fact,
4 required to purchase the power, are projects that are
5 likely not to become available. That's clearly an
6 issue, whether significant amount of testimony within
7 the case. What I'm trying to understand is what is the
8 impact or the inter-relationship between the siting and
9 the non-siting of this project and your ability to live
10 up to your obligations to take power under contracts
11 that you have already signed.
12 MS. AGERTER: I'm not qualified to offer any
13 kind of opinion to such a matter. I can simply refer
14 you back to the record; and, that's all I can do.
15 COMMISSIONER COMMONS: Alright. Let me try
16 it this way. You say that the testimony of PGandE was
17 that this project would displace oil and gas. Would it
18 displace oil and gas if all the contracts that you have
19 signed, were in fact to come into place? Would there
20 be any oil and gas left to be displaced?
21 MS. AGERTER: I believe that's still a
22 technical question which I simply can't answer beyond
23 what's in the record.
24 COMMISSIONER COMMONS: What is the basis or
25 what is the assumption in terms of contracts that will

1 actually come into fruition behind the statement that
2 this project will actually displace oil and gas? The
3 applicant made a statement that this project will
4 displace oil and gas. That has to be based on a
5 premise of the number of contracts that you have signed
6 as to what amount of those contract would actually
7 occur.
8 MS. AGERTER: Again, that was analyzed by Ms.
9 Reid in specific numbers in her testimony.
10 COMMISSIONER COMMONS: But the Applicant is
11 the one in the record that made the statement that this
12 project would displace oil and gas, not Ms. Reid. And
13 there has to be a basis upon which you made that
14 statement. And I'm trying to understand the basis from
15 which you made that statement.
16 MS. AGETER: Sir, I'm just simply not
17 qualified to speak as to anything beyond what's in the
18 record and I would hate to mischaracterize the record.
19 And, I know we presented testimony, as well, as to the
20 uncertainties involved in QF development and our low-
21 cost dispatch schedule, in that we tried to dispatch
22 lower costs energy first.COMMISSIONER COMMONS: Does
23 PGandE have a witness here, today, that is qualified?
24
25

1 MS. AGETER: This hearing was not scheduled
2 as an evidentiary hearing, so I have no witness
3 prepared to testify today.
4 COMMISSIONER COMMONS: I believe the
5 questions I am so far asking (and I would like the
6 advice of counsel) are not of an evidentiary nature,
7 but are trying to get an understanding of evidence
8 that's already in the record of the foundation of that
9 evidence, rather than looking for new evidence.
10 MR. CHAMBERLAIN: Well, the establishment of
11 a particular foundation of a particular piece of
12 evidence or testimony is still of an evidentiary
13 nature. I mean, if a witness comes in and states his
14 expert opinion, a party has a right to cross-examine
15 him and probe the basis on which he's giving that
16 expert opinion. But, that's all a part of the evidence
17 in the record.
18 COMMISSIONER COMMONS: Alright. In the
19 record is.... Is it in the record of this case, the
20 fourth quarter data of Northern California?
21 MS. AGERTER: I do not believe there is
22 fourth quarter data.
23 COMMISSIONER COMMONS: In the record?
24 MS. AGERTER: In the record.
25

1 COMMISSIONER COMMONS: Alright, so Mr.
2 Chamberlain, if I wanted to ask questions pertaining to
3 fourth quarter data, it would require the re-opening of
4 the hearing, is that correct?
5 MR. CHAMBERLAIN: I believe that's correct,
6 yes.
7 COMMISSIONER COMMONS: Alright. Can we
8 ascertain whether or not that information is actually
9 in the record?
10 MS. AGERTER: It is not in the record, to my
11 recollection.
12 COMMISSIONER COMMONS: I'd like to ask the
13 Hearing Officer.
14 MR. SHEAN: It is not in the record.
15 COMMISSIONER COMMONS: Was there a request
16 that that information be put into the record?
17 MS. AGERTER: I do not recall any request by
18 any party.
19 MR. SHEAN: Alright, I think we should
20 explain where we were at the time of the hearing order.
21 And also, since you've raised an earlier matter, the
22 timing of SB 15....
23 COMMISSIONER COMMONS: Excuse me, I....
24 MR. SHEAN: I'm not going to make a real long
25 speech. But I want you to understand why there isn't

1 fourth quarter data and the Committee's rationale in
2 not seeking it. The simple answer is this. We did not
3 have it available at the time we conducted our
4 hearings, even though those hearings were about 30 days
5 later than they ought have been in the schedule. We
6 put out a hearing order which said in contemplation of
7 the possibility of moving from one ER to another BR, we
8 will not...we will take the data that we have and look
9 forward to the new BR, based upon the release dates
10 that were provide by the Committees. I think we had
11 every reason to faithfully rely upon those dates and
12 schedule our proceeding. At that point, to take fourth
13 quarter data in anticipation of BR V and ER V, would
14 have been an idle act which would have delayed the
15 proceeding with no benefit to the public, the
16 Commission or the applicant. So, we went.....
17 COMMISSIONER COMMONS: Excuse me, Mr. Garret,
18 I would.... If you would like to make a speech to the
19 Commission....
20 MR. SHEAN: If you want to understand why we
21 don't have fourth quarter, I'm trying to give you that
22 explanation, Commissioner.
23 COMMISSIONER COMMONS: That's not what I'm
24 asking. If you'd like to, when it's your turn, and you
25

1 would like to make a speech to the Commission, I think
2 it's certainly apropriate.
3 MR. SHEAN: Well, you now have an
4 understanding of why we don't have fourth quarter data.
5 COMMISSIONER COMMONS: But, that wasn't my
6 question. You have your turn to come before the
7 Commission and explain the Presiding Member's Report.
8 What I'd like to try to do is ask my questions and get
9 responses to them, rather than to do it the other way.
10 Is that alright?
11 MR. SHEAN: Certainly, I'll just allow the
12 record to reflect whatever the interrogatory was.
13 COMMISSIONER COMMONS: My question was there
14 a request that fourth quarter data be put into the
15 record in this case?
16 MR. SHEAN: No, for the reasons I just
17 stated.
18 COMMISSIONER COMMONS: There was no request,
19 by any party, for fourth quarter data to be included in
20 this case?
21 MR. SHEAN: If you are referring to Mr.
22 Geringer, you should ask him.
23 COMMISSIONER COMMONS: Mr. Chamberlain, how
24 do I find out if there was a request for data, there
25 have to have been a ruling as to whether or the data

1 was or was not in the case. How do I find out whether
2 or not there was a request for this data?
3 MR. CHAMBERLAIN: The only thing would be to
4 go back through the entire record, if the Presiding
5 Member or the Hearing Officer can't remember.
6 MR. SHEAN: Commissioner Commons, you now
7 have the transcript in which Mr. Geringer made his
8 statements relative to what he wanted for his client
9 with regard to third quarter, fourth quarter and BR V.
10 It's in front of you.
11 COMMISSIONER COMMONS: Well, I mean, I can
12 delay the proceeding and try to read this whole
13 transcript, or you can try to answer the question.
14 MR. SHEAN: I understand; and, we tried to
15 provide that to your office and did that earlier last
16 week. I'll be happy to attempt to find it for you, if
17 you wish me to.
18 COMMISSIONER COMMONS: Did a party request
19 that fourth quarter data be part of the record to this
20 case or not?
21 MR. SHEAN: If you will provide me with the
22 document, I will get the answer for you. On a basis,
23 Mr. Commons, the answer, I believe, is no. No party
24 made such a request.
25

1 COMMISSIONER COMMONS: Your steam contract,
2 is that part of the record in this proceeding?
3 MS. AGERTER: It was submitted, I believe,
4 during the steam resouce hearings.
5 COMMISSIONER COMMONS: Does it obligate you
6 to utilize the plant, full-time? Or, are you able to
7 operate it less than capacity?
8 MS. AGERTER: There's nothing in the contract
9 that puts a certain minimum operation number such as 50
10 percent on us. I believe we are under an obligation to
11 attempt to run it, as much as possible. I haven't
12 reviewed the contract recently; so, the best source
13 would be the contract, itself.
14 COMMISSIONER COMMONS: Alright, I will ask
15 staff counsel that some other time. Is the contract in
16 terms of the.... Are there escalation clauses in the
17 contract?
18 MS. AGERTER: As to the price of steam?
19 COMMISSIONER COMMONS: Yes.
20 MS. AGERTER: The steam price is based on a
21 combination. It's a formula of, I think, nuclear fuel
22 and the price of oil and gas. I believe it's a formula
23 based on that. But there's no, like, price index part
24 of it, but rather, a composite of PGandE fuel system.
25

1 COMMISSIONER COMMONS: What I'm trying to
2 ascertain is if we site this facility, what is the risk
3 to ratepayers' in Northern California, future oil price
4 spikes. There is one thing as to geothermal facility,
5 using geothermal energy; but, if the project is totally
6 tied to oil or primarily tied to oil, there's not much
7 we are relief given to the ratepayers in the state if
8 the price contract is primarily tied to future oil
9 prices.
10 MS. AGERTER: I think if anything, it's
11 primarily dominated by the nuclear component; and of
12 course, at this point, that component is driving the
13 price of steam down.
14 COMMISSIONER COMMONS: I believe in the
15 report that you submitted evidence as to the revenue
16 requirements of PGandE, that they would be $50.2
17 million.
18 MS. AGERTER: No, I'm sorry, that $50....
19 Would you refer me to the exact citation?
20 COMMISSIONER COMMONS: One of the findings of
21 the Committee was that the annual net revenue
22 requirements on Page 18, would be $50.2 million
23 dollars, annually, less if we cited this power plant.
24
25

1 MS. AGERTER: "The development Unit 21 should
2 reduce PGandE's level annual net revenue requirements
3 by $50.2 million annually." Yes, I have the citation.
4 COMMISSIONER COMMONS: Is that based on the
5 Commission's adopted forecast in ER III? Or, is that
6 based on the PGandE resource plan?
7 MS. AGERTER: The background for that is
8 provided in the AFC, Section 10, and I think it's our
9 system power value.
10 COMMISSIONER COMMONS: Based on your system
11 power value, is that based on your forecast or the
12 Commission's forecast?
13 MS. AGERTER: I don't know precisely. I
14 think I just have to refer you back to the record
15 again. That would be the March 4th hearing and I think
16 Section 10 of the AFC.
17 COMMISSIONER COMMONS: Mr. Shean, would you
18 know the answer to that?
19 MR. SHEAN: Not off hand. And, I think the
20 other reference that ought to be made is to the data
21 responses, particularly, revised Data Response NO. 100
22 which we provided to your staff.
23 COMMISSIONER COMMONS: Yes. I believe Data
24 Response 100, revised response to Data Request 100,
25 and, I believe that that response refers to PGandE data

1 and is not calculated based on the ER IV Adopted Demand
2 Forecast. Point of information to our Legal Counsel.
3 Is it a question of the weight when an applicant
4 submits information that is inconsistent with the
5 adopted forecast or the information? Or, is it a
6 question as to whether that information is admissible?
7 MR. CHAMBERLAIN: I'm not sure if understand
8 your questions. What do you mean by 'inconsistent with
9 our adopted forecast?'
10 COMMISSIONER COMMONS: We go through a
11 proceeding where we are trying to site this power plant
12 based on need under the adopted ER IV. The utilities
13 submit their demand forecast; our staff submits a
14 demand forecast; and, this Commission adjudicates and
15 then adopts a demand forecast. If an applicant were to
16 later on come into a proceeding, and were to submit
17 testimony not based on the adopted demand forecast,
18 but, based on some other forecast which this Commission
19 rejected, is the question then.... That evidence: Is
20 it a question as to it being admissible at all, or what
21 weight we ought to place upon that testimony?
22 MR. CHAMBERLAIN: Well, I would think it
23 would go to the weight of the evidence. But, if it
24 were..... If there was a clear inconsistency.... I
25 mean, I suppose, it would really depend on the extent

1 to which that underlying assumption of a different
2 forecast might throw off the ultimate result in the
3 analysis.
4 COMMISSIONER COMMONS: In this Data Request
5 100, and there's not a page number on it for me to
6 refer you to, but, it would be on Page 4. In deriving
7 that $50.2 million dollars, it gives a benefit for
8 replacement capacity. Is that correct?
9 MS. AGERTER: I'm not familiar with that data
10 request. I can't respond. I don't have it in front of
11 me. It should speak for itself.
12 COMMISSIONER COMMONS: My understanding from
13 the Presiding Member's Report that, it was found by
14 staff, the applicant and the Committee that there was
15 no need for additional capacity in the Northern
16 California Planning Area. Is that correct?
17 MS. AGERTER: I'm not sure whether there was
18 any specific finding in the proposed decision to that
19 effect. There was a discussion of it. I can't recite
20 the outcome at this point.
21 COMMISSIONER COMMONS: On Page 13 it says,
22 "...staff concluded that PGandE needs 3,820 GWh hours
23 of energy in 1994 but does not need additional
24 capacity. Measured against the Commissions estimated
25

1 needed capacity and energy, the staff's conclusion was
2 that there was no need for net additional generation
3 facilities from a capacity purpose." PGandE, then,
4 argued that there could be need for capacity. And, I
5 don't believe that there was a finding showing that
6 there was any need for additional capacity in Northern
7 California. The only findings pertain to economics and
8 the need for additional energy. So, I do not believe
9 the proposed decision made any findings that any
10 additional capacity is needed in Northern California.
11 And I'm looking at Page 18 and Page 13. Is that
12 correct?
13 MS. AGERTER: The decision speaks for itself
14 as well. I mean believe you've correctly stated what's
15 in it. I'd have to read the thing now to state what
16 way or the other.
17 COMMISSIONER COMMONS: What I'm trying to
18 understand is, then, how you would compute as part of
19 the revenue savings of this project, benefits due to
20 capacity if, in fact, there was no need for capacity.
21 MS. AGERTER: This testimony was -- rather,
22 the data response -- it was submitted to staff and to
23 the other parties for review. I can't really add
24 anything at that point since I'm not qualified in the
25 area to speak as to its origins or propriety of its

1 conclusion. All I can say is that it was distributed
2 to all parties; all parties had a chance to comment and
3 refer you to proposed decision's findings.
4 COMMISSIONER COMMONS: Alright. Then, does
5 this $50.2 million include revenue savings due to
6 capacity as well as energy?
7 MS. AGERTER: Pardon me?
8 COMMISSIONER COMMONS: Does this $50.2
9 million annual savings include savings due to both
10 energy and capacity?
11 MS. AGERTER: I'm not qualified to provide a
12 breakdown of that.
13 COMMISSIONER COMMONS: I believe that's shown
14 in the Data Response 100 on that table that I gave to
15 you.
16 MS. AGERTER: That may or may not be. I
17 cannot speak to it personally.
18 COMMISSIONER COMMONS: Does PGandE have any
19 witness here that is able to not provide evidence, but
20 to explain and answer rather simple questions which are
21 being asked?
22 MS. AGERTER: We.... No, I don't think we
23 do. This was not noticed as an evidentiary proceeding;
24 and, we did not bring up witnesses.
25

1 COMMISSIONER COMMONS: I've heard rather
2 detailed responses to questions on evironmental as to
3 water quality and to other issues. But, on a rather
4 very important decision or issue in this case, it seems
5 highly unusual that on a major project that you would
6 have no one qualified to discuss the issues relating to
7 either the economic benefit of a project or the need
8 for that project.
9 MS. AGERTER: Well, I'm attempting to do in
10 this issue what I did in the other issue is just to
11 clean out parts of the record that would support our
12 position.
13 COMMISSIONER COMMONS: In the estimation of
14 the $50.2 million dollars, it shows that this has been
15 levelized. What does that mean?
16 MS. AGERTER: I can't provide you with the
17 definition of levelized. And I really feel this kind
18 of questioning of me is problematic since as I said
19 over and over and over, I'm not qualified to expand
20 upon what's already in the record of the proceedings on
21 this issue. I can only refer you back to what's in the
22 record. I just can't provide additional explanation or
23 data on what's already in the record.
24 CHAIRMAN IMBRECHT: Commissioner Commons, I
25 think it would be helpful to the rest of us if you

1 could give us some indication as you, entering the
2 discussion, where you're headed with these points if
3 you could suggest to us what point it is you're trying
4 to make with these questions so that it would be a
5 little easier for us to understand where you're headed
6 and determine whether or not it's a productive line of
7 pursuit.
8 COMMISSIONER COMMONS: Okay. I think that's
9 a fair question. Maybe I.... I didn't think it was
10 appropriate for me to lay out where I'm going since I
11 asking questions; but, since I'm asked I will gladly
12 respond. My concern in this case is that we used poor
13 procedures or poor process to come out with an outcome
14 that I think the Commission desires. We picked a
15 number like 33% oil and gas displacement; and, there's
16 no magic in 33% oil and gas displacement. We could
17 have as easily selected 32% or 31% or 34%. We make a
18 demand forecast that goes out 12 years; and, we all no
19 that 400 or 500 megawatts is a very easy error to make.
20 And to try to make a finding in a case like
21 this where the numbers come down to third and fourth
22 decimal places, to me, is not an appropriate way of
23 attempting to site or not site a power plant. What
24 that would lend you to do is to site power plants that
25 ought not to be sited and to fail to site power plants

1 that are to be sited. And I think what you're really
2 doing and the reason that we are Commissioners is that
3 our job is to go under and look at the actual facts in
4 a case and that the appropriate test under ER IV is to
5 ascertain whether or not a particular project provides
6 economic and environmental benefits. And so, you site
7 those projects that are good projects; and, you don't
8 site when you're going out to these decimal points,
9 projects that are poor projects.
10 I intend to bring out later that the staff's
11 arbitrary constraint and the bringing out of third
12 quarter data and failure to look at fourth quarter
13 data, even though they clearly had the capability to do
14 so, utilized a methodology that could cause this
15 Commission to make very serious errors in siting. And,
16 particularly, when the only need in a power plant in
17 Northern California is energy, you have two risks. You
18 have, one, the risk of oversiting power plants. It
19 would cause rates to go up. You have the second risk
20 of not siting enough plants; and, the danger there is
21 the lights go out. But there's no danger when you're
22 only need is for energy or the lights going out;
23 because you have adequate amount of power plants.
24 The only issue is: Do we displace a little
25 bit more oil or gas or not? And when you're getting

1 down to an issue as to should you displace more oil and
2 gas -- because there's no need for this power plant for
3 load growth or for capacity. It's only an issue as to:
4 Do we need this facility to displace oil and gas?
5 That's an economic question. And so, when you have
6 essentially an economic question, you don't take a very
7 stringent procedure which is what the staff did by
8 holding us to third quarter data and then making very
9 stringent assumptions as to those facilities that come
10 online, which would probably be appropriate if we were
11 talking about a need for capacity.
12 You should, essentially, look at this project
13 as to: Does it make sense from an economic and
14 environmental way? And the findings of this Commission
15 should be not on a two or three year old estimation
16 with old oil price forecasts, old demand numbers which
17 have clearly changed, but should get down to the gut
18 issue which is: Do Geysers plants make sense in
19 Northern California? Are they going to reduce the cost
20 to the ratepayers? Are we going to have environmental
21 benefits? And the finding of the Commission should be
22 on the basis of what's good for the State, not going
23 down to these third digits.
24 And what I'm trying to do is to lay a
25 foundation so that we don't use, I think, a poor

1 process which has been put forth by the staff in the
2 case and we make the finding for the facility that
3 clearly geothermal is less expensive than oil and gas
4 and that this is an efficient facility; it's being
5 built many times over; and it's going to be in the
6 interest of the ratepayers of the State that the
7 Committee has done an excellent job in attempting to
8 mitigate the environmental impacts, and that clearly
9 this facility is going to displace oil and gas in
10 Northern California, and that's going to provide
11 environmental benefits. And so, we don't use the poor
12 process in order to arrive at that. That's where I'm
13 trying to head.
14 CHAIRMAN IMBRECHT: Let me ask you. Are you
15 headed towards the same conclusion as the Committee?
16 COMMISSIONER COMMONS: I'm headed towards a
17 conclusion that I clearly, as you know, because I
18 argued very strongly when we had ER V that steam Geyser
19 plants should be given very strong preference in the
20 State, that they're one of the lowest cost facilities,
21 and that this is a very good facility.
22 CHAIRMAN IMBRECHT: Which is the reason that
23 I'm asking these questions, Commissioner Commons;
24 because, I guess what I'm trying to come down to is
25 this: Is it your inclination to concur in the decision

1 but concur with a different opinion than that rendered
2 by the Committee which is an entirely appropriate
3 course of action for you to take?
4 COMMISSIONER COMMONS: That's correct. My
5 intention today is to find that there's a need for this
6 power plant, not because of a need for energy, not for
7 a need for capacity, but because it's in the economic
8 and environmental interest of Northern California to
9 have this facility.
10 CHAIRMAN IMBRECHT: May I suggest to you that
11 the appropriate way for that to be handled is for you
12 to clearly express those views. And, I am quite
13 confident that the Commission would provide leave for
14 you to file a concurring opinion and express your
15 judgment as to how the ultimate decision should have
16 been reached, though you, in essense, agree with the
17 final conclusion.
18 Just as is the case in a multi-body court, I
19 know that in some of the most recent decisions of the
20 Supreme Court there were only two or three members of
21 the court that actually concurred entirely in the
22 decision rendered by the Justice who authored the
23 prevailing decision. But, in fact, a number of
24 Justices, including the Chief Justice filed
25 concurrences in the conclusion, but came to that

1 conclusion with a different logic or different chain of
2 reasoning.COMMISSIONER COMMONS: If it's the
3 Commissions.... If the Commission so indicates that
4 they would give me leave to file a subsequent
5 concurring position, I would have no further questions.
6 I was under the under-standing from legal counsel that
7 anything that I wished to do today had to be put on the
8 record today. But, I'm sure that the Commission has
9 the authority to grant me that extension; and so, I
10 would have no further questions if Commission would so
11 do so.
12 MR. CHAMBERLAIN: I certainly did not intend
13 to suggest that. In fact, I believe I said to you that
14 there is no statute or regulation that specifically
15 defines any time limit for that type of thing. And so,
16 I agree with you that it would be up to the Commission.
17 MS. AGERTER: If I may comment.
18 CHAIRMAN INBRECHT: Yes.
19 MS. AGERTER: PGandE's only concern is as to
20 the effective date of the decision. As we've expressed
21 a number of times in the course of this Unit 21
22 proceeding, we have a very very tight site preparation
23 schedule. And essentially, we need the final decision
24 from this Commission by the end of the week or our site
25

1 preparation schedule is likely to be substantially
2 delayed, perhaps as much as next year.
3 CHAIRMAN IMBRECHT: It would be my
4 inclination -- Mr. Chamberlain, correct me if I'm wrong
5 -- but, the decision of the Commission would be
6 rendered by virtue of the formal vote that's taken
7 relative to the fundamental conclusion as to whether or
8 not the AFC should granted or not. And if, in fact,
9 there is a majority of the Commission willing to
10 support the Presiding Member's decision or make other
11 appropriate -- and, there are a couple of other issues
12 I might say that I want to raise, as well -- but, make
13 other appropriate changes that that, in essense, would
14 reflect a final decision. But at the same time we
15 could provide leave for filing of additional concurring
16 and/or dissenting viewpoints. Is that...?
17 MR. CHAMBERLAIN: Well let me indicate first
18 of all that Section 1720 addresses the effective date
19 of the decision in the context of the possibility of
20 reconsideration. And, it says, "For purposes of
21 calculating the deadlines pursuant to Section 25530,
22 the date of of adoption shall be the date that a
23 written decision or order is docketed." Now, if the
24 proposed decision...if the Commission were to find that
25 the proposed decision could be docketed as the

1 decision, but still provide leave for individual
2 Commissioners to file a concurring opinion, I would
3 think that it would be within the Commission's
4 discretion to treat that proposed decision as, indeed,
5 the decision pursuant to Section 1720(a). However, I
6 would suggest that if any additional concurring
7 opinions are to be docketed, that the Commission set a
8 deadline so that if anyone wants to petition for
9 reconsideration they have the benefit of those as well.
10 MS. AGERTER: I think another change might
11 have to be made to the proposed order which is at Page
12 292 of the proposed decision.
13 CHAIRMAN IMBRECHT: The order could provide
14 an opportunity for filing a concurrence as it would
15 seem to be within the specified time period.
16 COMMISSIONER COMMONS: If my desire to file a
17 concurring opinion would result in a delay of a
18 project, I would not want to file such a concurring
19 opinion. If I can file the concurring opinion and not
20 delay the project, I would like to opportunity to do
21 so.
22 CHAIRMAN IMBRECHT: Alright fine. Well, let
23 me just suggest this. I think it's time to try to move
24 this along. Commissioner Commons, I think we
25

1 generally.... Because we've had your memorandums on
2 the third item that was on, as originally scheduled for
3 consideration by the Commission, the rest of us do have
4 a pretty clear idea of your perspective on this. I'm
5 not suggesting to you that there aren't some merits. I
6 understand your perspective. I also happen to believe,
7 personally though, with respect to the issue of need
8 that the Presiding Member's decision is completely
9 supported by the record, my review, my staff's
10 analaysis of it. And I'm prepared to go forward on
11 that basis, personally. I would like to suggest to the
12 remainder of the Commission and ask whether or not
13 there's objection to this that we suggest that the
14 order be appropriately amended to provide that
15 Commissioner Commons two weeks. Would that be an
16 adequate period?
17 COMMISSIONER COMMONS: I prefer 30 days,
18 since I don't think it has any legal impact as to when
19 it's completed.
20 CHAIRMAN IMBRECHT: Well, I don't believe it
21 would either, have any legal impacts since the majority
22 of the Commission would be adopting the Presiding
23 Member's Report. Commissioner.... Pardon me, Mr.
24 Chamberlain what's your...?
25

1 MR. CHAMBERLAIN: My only concern is that a
2 party that might wish to have a Petition for
3 Reconsideration....
4 CHAIRMAN IMBRECHT: What's the timeframe for
5 reconsideration?
6 MR. CHAMBERLAIN: He has 30 days.
7 CHAIRMAN IMBRECHT: Has 30 days. I'm going
8 to suggest two weeks, Commissioner Commons. That
9 provides an opportunity for any party wishing to file
10 for reconsideration--opportunity to be apprised that
11 there is.
12 COMMISSIONER COMMONS: That sounds fair.
13 CHAIRMAN IMBRECHT: I think it gives the
14 greatest weight to your views as well as other
15 circumstances. Mr. Ward, did you have anything you
16 wanted to add to this?
17 MR. WARD: Well I.... No. It sounds like
18 you've reached some tentative agreement here; but, I do
19 have to disagree with the Commissioner's character-
20 ization of the staff's work and its lack of support.
21 And I think that holds true for the Presiding Member's
22 Report, as well as the applicant. And, I would like to
23 enter for the record the memorandum that I sent to all
24 Commissioners as of yesterday afternoon for that
25 clarification.

1 CHAIRMAN IMBRECHT: Is there objection?
2 Hearing none that will be added to the docket, as well.
3 COMMISSIONER COMMONS: Then, Mr. Chairman,
4 could we add my memorandum to the docket, since he's
5 respsonding to the memorandum I wrote?
6 CHAIRMAN IMBRECHT: I have no objection to
7 that. Alright. Now then, did you have any other
8 points you wanted to raise outside the Need issues,
9 Commissioner Commons?
10 COMMISSIONER COMMONS: No. And, I think my
11 other comments, what I'll do is I'll take the leave of
12 the Commission and put them in writing rather than take
13 the time of the Commission today.
14 CHAIRMAN IMBRECHT: Alright fine. Now then,
15 I have a couple of questions I just wanted to touch on.
16 Could you restate for me because I, in the midst of all
17 this, I lost PGandE's position on the pro rata sharing
18 of road construction costs to DWR?
19 MS. AGERTER: Certainly. During the
20 evidentiary hearings PGandE and staff reached a
21 stipulation which is, essentially, contained now in the
22 proposed decision about the Bottlerock Road
23 reimbursement. Essentially, PGandE has an option of
24 routes to use to reach Unit 21, not just DWR
25 Bottlerock.

1 Consequently, if there's a way we can avoid
2 the use of Bottlerock Road, there's no need for us to
3 reimburse DWR for its cost in upgrading Bottlerock Road
4 to bear heavy truck traffic. And that's the essence of
5 the agreement reached and the requirement in the
6 proposed decision. If we use Bottlerock Road for heavy
7 truck traffic, we have to negotiate with DWR for
8 reimbursement. If we don't use Bottlerock Road for
9 heavy truck traffic, we're not impacting it; and,
10 there's no need for us to negotiate or reimburse DWR.
11 So that gives us the option.
12 I think the objections raised were largely as
13 to the enforceablility of such an agreement. And, as I
14 said before PGandE intends to enforce any ban we chose
15 to impose on heavy truck traffic travelling on
16 Bottlerock Road in lieu of reimbursement. We put those
17 conditions in our contracts with contractors, enforced
18 those contracts. And staff, itself testified on the
19 record that, in their opinion, the agreement would be
20 enforceable, that this restriction could be enforced.
21 CHAIRMAN IMBRECHT: I have to say, my general
22 inclination is, of course, related to the request of
23 sister agencies in the State of California. And I see
24 that also in the context of our obligation to be
25 concerned about the impact upon the cumulative tax

1 payers in the state, as well. I guess my inclination
2 is, perhaps, to go with the Presiding Member's
3 recommendation on this issue, but to provide some clear
4 direction to staff to ensure that those provisions are
5 very carefully monitored and that if, in fact, there
6 isn't a utilization of that road whatsoever that the
7 obligation to negotiate in good faith be scrupulously
8 attended to. And if I don't hear objection from the
9 other members of the Commission, I will offer that as
10 direction to the staff in my responsibilities as
11 Chairman of the Commission.
12 Second question is one that I think probably
13 is more appropriately directed to Mr. Shean; but, I
14 don't him present.
15 VICE CHAIR CROWLEY: He moved.
16 CHAIRMAN IMBRECHT: Oh, out of my eyesight,
17 that's all. Mr. Shean, can you explain to me your
18 perspective or the Committee's perspective relative to
19 the staff's recommendation regarding the monitoring of
20 water quality from the stream or river in question?
21 MR. SHEAN: As.... I think, if I may, I
22 would like to ask Mr. Fay whether or not, in his
23 reference to this as annual monitoring, the staff was
24 intending to change from the language appearing on Page
25 4 of its comments to "annual for the life of the

1 plant?" Or are you speaking in reference to your
2 suggestion on Page 4? I don't know whether they have
3 intended to change it; and, that would affect my
4 comment.
5 MR. FAY: What staff is advancing today is
6 exactly what we've placed on page 4. The first bullet
7 regarding, Biological Resources and Water Quality
8 Monitoring and the language (the underlined language)
9 is the exact language that we would advocate the
10 Committee adopt and the Commission adopt.
11 MR. SHEAN: Alright. With that
12 understanding, then, I have to confer in the
13 characterization that the sole question here is the
14 matter of frequency of sampling. The staff has
15 provided that monitoring is to be done annually until
16 data demonstrates impacts have been mitigated. And at
17 that time, an alternate monitoring schedule would be
18 developed between the Commission and PGandE. I think
19 what the Committee did -- and I think it has to be
20 noted that we have attempted to respond to the concerns
21 of Lake County and Friends of Cobb in the errata -- is
22 a combination of things. And if I may refer you to
23 Pages 83 and 84, you'll get a sense of the frequency of
24 the monitoring which the Committee has in mind. And
25 then, I think we'll show you that we're getting

1 comparable or even better coverage now that we take the
2 Friends of Cobb Mountain's comments into account in the
3 errata.
4 On Page 85 what we have...our new language is
5 "monitoring each year," which has the same affect of
6 "annually" through construction and then, for two years
7 of the first five years of the life of the facility.
8 And for the particular stations that we're talking
9 about, if you look on Page 84, there are actually five
10 of them that go all the way through decommissioning.
11 And.... I beg your pardon six.
12 And so that as to those, we are very parallel
13 to what the staff has suggested when you read it in
14 conjunction with the language in the errata that was
15 picked up based upon comments from the intervenors;
16 and, that language is as follows. It appears on, top
17 of the third page that, "PGandE shall monitor remedial
18 water quality or aquatic biology mitigation measures
19 until monitoring data is within normal ranges," which I
20 take to be comparable to the requirement that the staff
21 is suggesting, and that "the frequency of this
22 monitoring and sampling shall be agreed to by PGandE
23 and the PUC."
24 What we are attempting to do beyond the
25 staff's suggestion is to set the schedule up before the

1 full life of the facility at the five-year intervals
2 once we have No. 1 out of the initial monitoring that
3 we have, assure that there are no abnormal data which
4 show that they have not complied that the mitigation
5 measures are not working. Obviously, if that were
6 happening during this initial phase, the monitoring
7 would continue pursuant to the change that's in the
8 errata.
9 Then, assuming at the conclusion of that
10 period of monitoring, everything is within normal
11 ranges, we have the periodic monitoring which would
12 allow us to pick up if it were to occur, the blip that
13 goes outside the normal ranges. If that occurs, you
14 don't merely maintain the interval--five-year interval
15 monitoring. We go back to this remedial mitigation
16 monitoring which has built into it the flexibility to
17 be even more frequent than annual.
18 So, I think what we're trying to do, when we
19 look at the objectives of the monitoring program, is
20 to, first, determine the impacts of the facility; and,
21 that's what the CETA 5 will do. The affectiveness of
22 the mitigation and CETA 5 (and Operations 5 to 8 will
23 do that), and then take a long-term regional look at
24 what's going on (and tend to decommission will do
25 that). But, we have the built-in provision now based

1 upon the suggestion of Friends of Cobb and Lake County
2 that the remedial water quality monitoring and aquatic
3 biology monitoring is going to...we now have a specific
4 mechanism. And, I think that will, then, take care of
5 and have even greater flexibility than the programs
6 suggested by the staff for picking up the monitoring
7 for problems. If there're not problems, what we're
8 suggesting is that the monitoring be done at a
9 frequency that's not unreasonably burdensome but still
10 is sufficient to find long-term trends or specific
11 violations of the conditions of the decision.
12 CHAIRMAN IMBRECHT: Thank you. Mr. Fay would
13 you differentiate for me, then, what the staff's
14 recommendation is as distiguished from the Committee's
15 proposal with these changes?
16 MR. FAY: Yes. I would have to disagree with
17 Mr. Shean's characterization. I don't think it's soley
18 a question of the frequency of sampling. It's also
19 important as to the location of sampling. And what
20 staff is trying to establish by the two downstream
21 stations is regional monitoring, which is different
22 from the multiple stations that the Committee has
23 called for. Those are spread out along various points
24 downstream to the plant (at least two and in some cases
25 three different streams).

1 But, the two monitoring stations that staff
2 is asking for would be merely for collecting data for
3 that whole area that includes the Geyser 21 steamfield
4 and the DWR Bottlerock Plant and Geyesers 21 Plant.
5 It's a region in there containing High Valley and Alder
6 Creek. And both the County and the staff are
7 interested in watching, for the life of this plant,
8 what happens to that region. And, as I indicated
9 before to the Commission did require DWR to monitor on
10 a regional basis in that case decision.
11 The problem with the.... The concern with
12 the schedule, even with these modifications, is that as
13 to some matters it might be sporatic and fail to pick
14 up changes soon enough. So, we're really concerned
15 with not only frequency, but the location combination
16 as well. And, I guess I'd have to add that our feeling
17 is, only in this way, can we have a comprehensive
18 analysis of the impacts on water quality in that region
19 as it's defined by those two creeks and the plants that
20 I've listed.
21 MS. AGERTER: Commissioner, I think a
22 comparison of staff's comments about a specific station
23 that they want monitored and the monitoring table on
24 Page 84 of the proposed decision shows that, really,
25 we're talking essentially about the same station.

1 Staff says they want to monitor, in addition,
2 Fish Stations Al-0.3 and Hi V-1.9. Those stations are
3 on Page 84 for those parameters. Staff says we're
4 suppose to also monitor Sediment Stations Al-0.1 and Hi
5 V-0.2. If you look at the Equatic Monitoring Table on
6 Page 84 of the proposed decision, you also find that
7 we're required to monitor for sediment at those two
8 stations.
9 Now, staff also says that they want us to
10 monitor for benthics, waterbugs at Al-0.1 and Hi V-0.2
11 and to monitor water quality at Stations Al-0.1 and Hi
12 V-0.2. Well, DWR, as testimony was presented during
13 the record showed, DWR is already monitoring those
14 parameters at those precise stations. And, the last
15 sentence of what staff wants as requirements states,
16 "PGandE will not be expected to duplicate any
17 monitoring being performed by DWR." So, in a sense,
18 they're cancelling out those two stations for water
19 quality and benthics, leaving us with the stations on
20 fish and sediment that we're already being required to
21 monitor on Page 84.
22 CHAIRMAN IMBRECHT: To me, if I were to air
23 some of the fundamental environmental issues I would
24 air on the side of caution when it comes to questions
25 of water and air. And, I guess I'm trying to

1 understand what would be the negative impact -- cost
2 consequences, perhaps, would be the best way for me to
3 phrase this -- if the additional requirements requested
4 by staff were were exceeded to by the Commission.
5 MS. AGERTER: Over the life of the....
6 CHAIRMAN IMBRECHT: Is this going to mean an
7 appreciable change in the burden placed upon the
8 applicant?
9 MS. AGERTER: Over the life of the project
10 monitoring these stations annually instead every five
11 years, you know, I can't speak for the figures off
12 hand, but it would not be insignificant. These costs
13 certainly add up.
14 MR. FAY: Mr. Chairman.
15 CHAIRMAN IMBRECHT: Mr. Fay.
16 MR. FAY: From the staff's point of view,
17 it's sort of arguing both sides. If the cost is
18 significant because there's so many additional
19 samplings, it would have to take place under our
20 scheme. Then one can't argue that the proposed
21 decision scheme already picks up virtually all of
22 those. If it does pick up virtually all of those
23 monitorings, then the additional burden on PGandE can't
24 possibly be significant.
25

1 MS. AGERTER: Well, I think the burden also
2 comes from lack of need. I think as Mr. Shean outlined
3 the proposed decision, it's a pretty good guarantee
4 that we'll only be monitoring those down there if we
5 need to. And that's the reason why we prefer what's
6 already in the proposed decision.
7 CHAIRMAN IMBRECHT: I translate all this, Mr.
8 Shean. What I basically get is annual monitoring for
9 the first ten years. Is that correct? Annually for
10 the first five years....
11 VICE CHAIR CROWLEY: ...for everybody.
12 MR. SHEAN: Yes. It's sort of a combination
13 where you get the construction period annually then....
14 CHAIRMAN IMBRECHT: ...operating period.
15 It's basically annually for the first ten years. Is
16 that...?
17 MR. SHEAN: It comes relatively close to
18 that. I think there are perhaps as many as three years
19 in the first ten that you don't sample, or two. If you
20 look at Operation 5 to 8 that would be in the sixth
21 year and annually for three years. So, that picks all
22 that up. So, I guess we're talking about one.
23 Perhaps, it's one in ten.
24 CHAIRMAN IMBRECHT: Well, the only
25 consideration from my perspective, it seems to me that

1 stream runoff and that type of thing also has a lot to
2 do with weather conditions and what precipitation
3 levels happen to be in a given year. And, you might
4 get a clean reading in a given year and then have an
5 entirely different precipitation conditions, runoff
6 etc., erosion, and all those kind of things.
7 MR. SHEAN: Well, let me suggest, if I may
8 then, that what we want to alter is on Page 85 C-5 so
9 that if you want to round out the....
10 CHAIRMAN IMBRECHT: What I would like to
11 suggest is basically annual monitoring for the first
12 ten years and then, in the event the Commission staff
13 feels it's justified that annual monitoring beyond
14 that, that that be embraced within the decision. Other
15 than that we would ratch it back to the level that
16 you've proposed.
17 MR. SHEAN: I think you should know that
18 there are.... In order to do the regional quality
19 monitoring versus the site specific, we're trying to
20 strike a balance in the legend between how that's done.
21 And if I might suggest, that the Operations 5 to 8....
22 If we change C-5 to have annually for construciton and
23 through the first five years of operation. and leave
24 Operations 5 to 8 that that ought to pick up the kind
25 of interest that has been expressed.

1 CHAIRMAN IMBRECHT: Commissioner Crowley,
2 would you accept that as a friendly suggestion?
3 VICE CHAIR CROWLEY: I would delete "and for
4 two years of the first," and just have it say, "through
5 the construction period and five years of commerical
6 operation."
7 CHAIRMAN IMBRECHT: Do you have objection to
8 that as the seconder of the motion?
9 COMMISSIONER NOTEWARE: That's alright. No.
10 CHAIRMAN IMBRECHT: Alright. Fine. we'll
11 compass that, then, in terms of the original motion.
12 Okay, does any other Commissioner have any further
13 questions?
14 MR. FAY: Excuse me, Mr. Chairman. Could you
15 outline, just to recap your motion?
16 CHAIRMAN IMBRECHT: I didn't offer a motion;
17 I offered a suggestion, which was accepted by the maker
18 of the motion. I just suggested, in essence, annual
19 monitoring for the first ten years. And then, as I
20 understand it -- if I'm misreading this, let me know
21 -- but, my understanding is that, then the Commission
22 staff still would have the ability to recommend to the
23 Commission more frequent monitoring if conditions
24 warrant it.
25

1 MR. FAY: And this is at the two...mouths of
2 the creek stations -- the High Valley Creek and Alder
3 Creek?
4 CHAIRMAN IMBRECHT: That would be correct. I
5 just want to encompass a long enough period of time
6 that it's likely that we will have experienced the
7 normal ebb and flow of precipitation levels and other
8 considerations that would affect runoff and that type
9 of thing.
10 VICE CHAIR CROWLEY: So this is for High V
11 0.2 and Al-0.3? Is that correct?
12 MS. AGERTER: Commissioner, these streams
13 have already been monitored. There's already data-
14 -background data--fair amount of it in fact; because we
15 have the two years of the ARM data, plus PGandE has
16 been doing other monitoring on these streams, for....
17 I'm not sure -- since 1975. So there's already a fair
18 amount of background data. You said earlier that C-5,
19 referring to changing it by having it State monitoring
20 each year through the construction period and stricking
21 for it two years and then going on, so that it would
22 read, "...to the construction period and the first five
23 years of commercial operation."
24 VICE CHAIR CROWLEY: That was what I
25 understood you to say. Is that accruate?

1 CHAIRMAN IMBRECHT: Net impact is ten years
2 of annual monitoring.
3 MR. SHEAN: It could be very close.
4 CHAIRMAN IMBRECHT: That's what that
5 translates to.
6 MR. SHEAN: The construction period is 3 to
7 3½ years. Perhaps as much as.... Although, they
8 expect to commence here in 1985 and be operative in
9 1988. So, that's approximately three years, assuming
10 no delays. So, it's on the order of eight years.
11 MS. AGERTER: And since we already have the
12 two years of ARM data, I mean, you've got at least ten
13 years. And, as I said before, since 1975 really worth
14 years worth of data on these streams.
15 MR. FAY: The staff would find that
16 acceptable.
17 CHAIRMAN IMBRECHT: Alright. Fine.Solomon
18 prevails. Alright. Any other Commissioners have any
19 other questions to pose to staff, the hearing advisor
20 or the applicant?
21 MR. FAY: Staff does. We would like to
22 commend the Committee for through a very long and
23 difficult case. In fact, considering the extent that
24 this case was focused merely on the plant and not on
25 attended transmission lines, this is definitely the

1 most complex geothermal case the Commission has seen,
2 in staff's view.
3 And, we would also like to thank the Air
4 Resources Board and the Lake County Air Pollution
5 Control Office for their cooperation in helping us work
6 through some of the difficult problems in this case.
7 And, we think that....
8 Well, staff and PGandE began this case very
9 far apart as some of the other parties did as well.
10 And, we think that, through the workshop process, we've
11 managed to reconcile many of our differences and really
12 come down to the decision with a great deal of
13 agreement, considering where we started.
14 So, I just wanted add our kudos to those that
15 already have been given and show our appreciation for
16 the help we've had.
17 CHAIRMAN IMBRECHT: Thank you very much. I
18 second all those comments, particularly with respect to
19 the Presiding Commissioner, Commissioner Crowley, and
20 her Hearing Officer, Mr. Shean, as well as staff and
21 all of those members.
22 Let me ask: I don't see it in my binder
23 here, is there an adoption order that has been prepared
24 for us? I just want to ensure that we've made
25

1 appropriate consideration for Commissioner's Commons'
2 point.
3 MR. SHEAN: There's no specific separate
4 order, Mr. Chairman, given where we understood where we
5 were at the time.
6 CHAIRMAN IMBRECHT: Alright. Fine. Well,
7 let me just offer direction. In preparation of the
8 order that Commission Commons be given leave to file a
9 concurring opinion, expressing his reasons for joining
10 in the judgment of the case, two weeks from date of
11 adoption. And we also inquire, we did have a response
12 relative to issues raised by Commissioner Gandara and
13 their sentiments to delete those four pages.
14 Commissioner Commons.
15 COMMISSIONER COMMONS: I've read
16 Commissioners Gandara's statement; and, in following, I
17 think the policy direction that the Commission
18 established when we put together ER V, we essentially
19 said that you either do this under ER V, if you can;
20 otherwise, you do in under ER IV. And, it would be my
21 personal belief it's not appropriate in the case to
22 make assessments under ER V. And so, I wouldn't want
23 to say that I would want to dissent if that were left
24 in. But, I think it's probably more appropriate for
25 the Commission not to include that.

1 CHAIRMAN IMBRECHT: My basic feeling -- I'll
2 just express on the record where I'm at on this thing.
3 It seems to me that findings were predicated upon
4 evaluation of need under ER IV. Whether you want to
5 view the statements between Pages 20 and 24 of ER V is
6 plussage or not, it seems to me is really more in the
7 eye of the beholder. I don't think that the decision
8 is founded on those issues. I would say, to some
9 extent, I see it as surplussage; but in any case, it
10 does also express a general viewpoint in the event that
11 there have been appropriate time and invitation to
12 consider this matter under ER V. The ultimate outcome
13 would likely be the same.
14 I would certainly suggest that in terms of
15 any review of the efficacy of this decision and that I
16 do not intend that there be any implication by my vote
17 that my decision's predicated upon evaluation of need
18 under ER V. I believe that the record is fully
19 adequate with respect to ER IV; and, that's the
20 foundation upon which I base that decision.
21 Let me just indicate as well that, if I don't
22 hear majority sentiment to delete those pages, that we
23 will, pursuant to my discussions with Commissioner
24 Gandara, file this as a part of the docket to express
25 his point of view. Again though, I believe, as Mr.

1 Perez suggested the last sentence of his statement
2 leaves one with a slightly different impression. I am
3 utterly confident, from my discussion with him, that
4 his intention is to concur in the decision but to
5 dissent with respect to the inclusion of those four
6 pages. I think we should make that as crystal clear on
7 the record as is possible.
8 Let me just suggest further that, if by any
9 stretch of the imagination I have misstated that, I am
10 going to ask leave of the Commission at a subsequent
11 date after Commissioner Gandara has had an opportunity
12 to review the record to make whatever correction he
13 believe is appropriate. I am quite confident that's an
14 accurate statement. Commissioner Commons.
15 COMMISSIONER COMMONS: Mr. Chairman, I think
16 procedurally you should not allow me leave to file
17 separate concurring opinion. You should allow all
18 Commissioners an equal right; and, I think that would
19 take care of Commissioner Gandara's....
20 CHAIRMAN IMBRECHT: But there is a
21 distinction in that Commission Gandara is not here
22 participating in the decision. That is the
23 distinction. I want to make it clear, this is part of
24 public record, etc.; but, he's not participating in the
25 decision. And, I think that, generally speaking, if we

1 were to use precedence adopted by (INAUDIBLE) court,
2 etc. the viewpoint would be that he has not
3 participated in the decision because he is not here to
4 cast a vote.
5 COMMISSIONER COMMONS: I see.
6 CHAIRMAN IMBRECHT: That's the distinction I
7 would draw; I'm not trying to close any option. We'll
8 certainly provide him whatever mechanisms appropriate
9 to express his point of view.
10 COMMISSIONER COMMONS: Alright. Then, I then
11 would like to follow up your discussion on Pages 20 to
12 24. Other parties are going to read this decision;
13 and, I don't anyone ought to take it as a precedenct
14 that the rather simplified analysis that's suggested
15 under BR V herein would be acceptable. But, I really
16 think it would be in the better practice of the
17 Commission, in reading the findings of the decision,
18 they in no way rely on any of the statements that are
19 on those pages. I really believe the decison is
20 stronger without it and would be better for the
21 Commission not to have those pages.
22 CHAIRMAN IMBRECHT: Commissioner Noteware.
23 COMMISSIONER NOTEWARE: Mr. Chairman, I feel
24 that the information that's contained on Pages 20
25 through 24 are not that important to the final

1 conclusion, that if we eliminate them we also eliminate
2 the dissenting opinion of Commissioner Gandara. And
3 while, by very careful reading of his dissention, you
4 can determine that he's not opposing it. Still, to me,
5 it clutters our total document to the extent that in
6 the future it would be cleaner without this dissenting
7 opinion riding along with it. I would prefer not to
8 have it in there.
9 CHAIRMAN IMBRECHT: Okay. Well then, I think
10 that the appropriate way to handle this is for someone
11 to pose motion.
12 VICE CHAIR CROWLEY: The motion's before
13 the...
14 CHAIRMAN IMBRECHT: Well, it would be an
15 amendment to the main motion to delete those four
16 pages.
17 VICE CHAIR CROWLEY: I'd like to.... May I
18 speak to why it was put in, from my point of view,
19 which is a not really a legal posture. My point of
20 view is that we had a case that came before us which
21 was in a transition to some degree between two BRs/ERs.
22 The substance of the matter was decided because of the
23 timing under BR IV. Then, at a later date, close to
24 the end of the one year, an new era came to us, which
25 was ER V.

1 It seemed to me that, as a lay person, if I
2 am doing something that continues in time, it is
3 appropriate to stop and take a look at a decision I am
4 making with a view to how it relates to the new era.
5 It is not often that ERs change their direction as
6 dramatically as this one. If you look at ER III and ER
7 IV, they are pretty much trending so that this fits in
8 as it was appropriately judged within the framework of
9 a series of past ERs. This is a new one. And it
10 seemed to me, prudent, to measure it against the new
11 direction the Commission was taking. And though there
12 was not time to do an analysis, and though it was not
13 appropriate to change direction for the whole process
14 at such a late date, it did seem to me appropriate to
15 take a look at this in the new context. And that is by
16 the language that you can see the way it's worded as to
17 introducing conformity to the new ER V. That is why we
18 did, so you don't end up with a project...you're not
19 working a project and then wondering is it totally out
20 of sync with the new world.
21 COMMISSIONER NOTEWARE: Yes, I understand
22 that. And, I certainly understand the reason for its
23 inclusion. But, I still feel that it would cleaner if
24 we didn't have the dissention and we can eliminate
25

1 having the dissention riding along with this document
2 if we eliminate those pages.
3 VICE CHAIR CROWLEY: Then, there is certain
4 legal basis for our inclusion of it. And, if I may, I
5 would like, if you would be interested, I can ask the
6 Hearing Advisor to discuss that, if that's appropriate?
7 CHAIRMAN IMBRECHT: Surely. Mr. Shean.
8 MR. SHEAN: I beg your pardon.
9 CHAIRMAN IMBRECHT: Would you address the
10 issue at hand.
11 VICE CHAIR CROWLEY: I spoke to, from my
12 perspective, why it was appropriate to speak to BR/ER V
13 at all. And, I'm wondering if you have any additional
14 comment as to our commenting on that in the Presiding
15 Member's Report.
16 MR. SHEAN: I think the only thing to add are
17 two things. With respect to the language of the
18 adoption order which puts the applicant to some degree
19 in control of the extension of the proceedings, in a
20 posture which could allow, in a situation which does
21 exist here, an unneeded facility under one BR to be
22 sited that we wanted to assure that, to the extent that
23 that might be problematic in the language of the
24 adoption order, that we had covered that in a somewhat
25 substantive manner.

1 The only other thing I can say that, to the
2 extent that our decision goes from this agency to the
3 Public Utilities Commission, which is itself now
4 looking at BR V, that for purposes of the application
5 by Pacific Gas and Electric Company for it's
6 Certificate of Public Convenience and Necessity, and
7 with the concept of convenience and necessity being
8 related to need for the facility (although not on the
9 basis of a forecast), that the Public Utilities
10 Commission to the extent that this may represent that
11 some of the thinking of the Energy Commission without
12 being the binding results, would in a very real sense
13 give them the benefit of that in their deliberations
14 with whatever weight they may choose to give it, rather
15 than nothing at all. That's it.
16 COMMISSIONER COMMONS: I would like to
17 respond legally.
18 CHAIRMAN IMBRECHT: Commissioner Commons.
19 COMMISSIONER COMMONS: Mr. Garret, I'm more
20 concerned in terms of submitting this to the Public
21 Utilities Commission with the first sentence, whereby
22 if someone were sitting at the Public Utilities
23 Commission, one of the findings they could make is the
24 Committee does not have sufficient information on the
25 record to establish conclusively that the project would

be needed. And, I think it's more appropriate that this document does not make that statement or come to that conclusion. Because, I think you actually cause a problem that doesn't exist without it.

MR. SHEAN: That's a matter for the Commission to weigh.

COMMISSIONER COMMONS: I think the critical part that's in the findings here, vis-a-vis the Public Utilities Commission, is the finding that the siting of this project is going to save the ratepayers of PGandE some $50 million a year. And, I think that's the critical finding is this document in terms of the Public Utilities Commission

MR. SHEAN: I merely telling you the basis upon which it was offered to the full Commission.

COMMISSIONER NOTEWARE: Mr. Chairman, to move this along, I move that we delete Pages 20 through 24 as suggested by....

CHAIRMAN IMBRECHT: Beginning on Page 20 with "Unit 21 in Relation to ER/BR V," I take it?

COMMISSIONER NOTEWARE: Yes. Definitely, not that paragraph at the top.

CHAIRMAN IMBRECHT: Okay. Fine. Is there a second?

1 COMMISSIONER COMMONS: Well, I think the
2 Presiding Member should have the opportunity to
3 determine if it's a friendly amendment.
4 VICE CHAIR CROWLEY: I don't know how to
5 speak to that. I assume it's a friendly amendment;
6 but, I don't chose to vote for it. And, I don't care
7 to have it my motion. But, other than that, I take it
8 as friendly.
9 (LAUGHTER)
10 CHAIRMAN IMBRECHT: Commissioner Commons.
11 COMMISSIONER COMMONS: I'll second it.
12 CHAIRMAN IMBRECHT: Alright. The proposed
13 amendment is properly before us. I have to say that I
14 think it's a very close call; but, I tend to subscribe
15 to Commissioner Noteware's reasoning, probably, the
16 thing that troubles me the most is the first sentence
17 in the so-called Conclusion on Page 24, that says, "The
18 Committee does not have sufficient information on the
19 record to establish conclusively that Unit 21 will be
20 deemed needed under a thorough ER V analysis." With
21 that, it seems to me, the rest of it is largely
22 (INAUDIBLE). And so, with that, I would like to
23 suggest please call the roll on the amendment to the
24 main motion.
25 MS. GERVAIS: Commissioner Commons.

1 COMMISSIONER COMMONS: Aye.
2 MS. GERVAIS: Commissioner Noteware
3 COMMISSIONER NOTEWARE: Aye.
4 MS. GERVAIS: Vice Chair Crowley.
5 VICE CHAIR CROWLEY: No.
6 MS. GERVAIS: Chairman Imbrecht.
7 CHAIRMAN IMBRECHT: Aye.
8 Ayes: 3, Nos: 1. Those Pages 20 through 24,
9 beginning with the title, "Unit 21 in Relation to ER/BR
10 V" are hereby deleted from the final decision of the
11 Commission. And with that, again, reserving leave for
12 Commissioner Gandara, in the event that I misstated his
13 position, I do not believe he wishes for his dissent
14 to, therefore, be filed in the docket and we will not,
15 therefore, do so. He did represent to me quite clearly
16 that he was in concurrence with the entire remaining
17 body of the decision.
18 Alright. Is there anything further to come
19 before the Commission on this matter? The motion's
20 properly before us, is there objection to unaminous
21 roll call.
22 MR. SHEAN: I would like to suggest that,
23 since this has been a pattern of conduct in the past on
24 siting cases that it be done by roll call.
25

CHAIRMAN IMBRECHT: Well, I, frankly, think that the record be quite as strong, but so to clean it up. Go ahead, Lorri, please call the roll.

MS. GERVAIS: Commissioner Commons.

COMMISSIONER COMMONS: Aye.

MS. GERVAIS: Commissioner Noteware

COMMISSIONER NOTEWARE: Aye.

MS. GERVAIS: Vice Chair Crowley.

VICE CHAIR CROWLEY: Aye.

MS. GERVAIS: Chairman Imbrecht.

CHAIRMAN IMBRECHT: Aye.

Ayes: 4, Nos: none. The AFC with the appropriate qualifications is thereby approved. And, again, on behalf of the full Commission I want to express warm congratulations to Commissioner Crowley for her excellent presiding over this entire matter.

VICE CHAIR CROWLEY: Thank you.

CHAIRMAN IMBRECHT: I just note for you, you come to the Commission after me and you beat me to the punch in getting a decision out; so.... I think you did an excellent job.

Okay.

PUBLIC ADVISER PEREZ: Chairman Imbrecht.

CHAIRMAN IMBRECHT: Moving right along. The next item come before us is....

1 PUBLIC ADVISER PEREZ: Chairman Imbrecht.
2 CHAIRMAN IMBRECHT: ...consideration of
3 possible designation of a second Commission Committee
4 member for the Placerita Small Power Plant Exemption.
5 PUBLIC ADVISER PEREZ: Excuse me. Chairman
6 Imbrect.
7 CHAIRMAN IMBRECHT: I would like to move....
8 PUBLIC ADVISER PEREZ: I'm sorry. I waited
9 until your decision was over so I could make a
10 recommendation to the Commission on procedure that
11 would not be construed as affecting your decision.
12 CHAIRMAN IMBRECHT: Excuse me. Could we
13 please have your attention? We still have an extensive
14 agenda; and, I would like to ask you to take your
15 conversations outside the room. And, you can all
16 congratulate yourselves outside. Thank you. Mr.
17 Perez.
18 PUBLIC ADVISER PEREZ: Yes. I would like to
19 state that I waited until the action was completed so I
20 could make a recommendation to the Commission regarding
21 procedure on both the siting cases as well as the
22 adoption hearing. Because, I have had an opportunity
23 to observe several difficulties. And, I would like to
24 offer this statement in a constructive fashion.
25

1 Due process, as a matter procedural equity,
2 supporting fairness, reasonableness, efficiency, and
3 accuracy is desired. However, due process, as a matter
4 of procedural law in licensing proceedings, does not
5 require that an executive branch agency dilute its
6 substantive statutory responsibilities to comply with a
7 procedural schedule. Often, confusion with these
8 statements arises because of the insistence on
9 procedural consistency that State courts impose on
10 govenrmental agencies. It should be noted, however,
11 that California courts routinely explain that their
12 procedural sensitivity is based on CEQA's emphatic
13 commitment to public access to all relevant information
14 describing major projects.
15 A quick summarization of the AVCO decision by
16 the General Counsel in the near future may enhance the
17 Commission's reaction to my distinction between due
18 process for applicants and due process for the public.
19 AVCO clearly points out that in California an applicant
20 has no protected vested rights until a license is
21 issued. In light of several proceedings, involving
22 significant public interest that will be before the
23 Commission over the next twelve months, I recommend
24 that the General Counsel be instructed to provide the
25 full Commission with such clarification.

CHAIRMAN IMBRECHT: I would like see us take that under advisement. I would like to better understand the point you're tryinig to raise, Mr. Perez; and, when we reconvene, I might offer that direction to Mr. Chamberlain. I don't fully understand the implciations. If I can try to just quickly handle Item 5; because Item 6 is gonna take us a little bit of time. And I think 7 will as well.

Item 5 is consideration of possible designation of a second member for the Placerita Small Power Plant Exemption. I would like to move that Commissioner Crowley.... I just would note for you that, originally, former Commissioner Schweickart was designated as the Second Member. Commissioner Commons is Presiding. I would like to move that Commissioner Crowley be designated as a the second member for that case. Do I hear a second?

COMMISSIONER COMMONS: I'll second.

CHAIRMAN IMBRECHT: Seconded by Commissioner Commons. Does anyone wish to be heard on this item? Is there objection to a unanimous roll call? Hearing none, ayes: 4; nos: none. Item 5 is disposed of. The motion is passed.

We will recovene in ten minutes promptly to pick up Item No. 6. Thank you.

(Whereupon the Business Meeting of the California Energy Resources Conservation and Development adjourned for a recess at 4:00 p.m.)

--oOo--

1 **LATE AFTERNOON SESSION**

2 --oOo--

3 CHAIRMAN IMBRECHT: Okay. We'll reconvene
4 the meeting. The next item to come before us
5 consideration and possible ratification of an order
6 issued by the Committee assigned to the Sixth
7 Electricity Report. The order grants various utilities
8 requests for extentions of time required to file
9 utility forecast of loads and resources with respect to
10 CFM-6. Mr. Noteware.

11 COMMISSIONER NOTEWARE: Yes, Mr. Chairman, on
12 this item: virtually every utility in the State of
13 California has requested an extention of time. We've
14 gone over it very carefully with Dr. McGowan, Dr. Jaske
15 and the ones who will be working of CFM-6 in setting up
16 their schedule. None of them have any problems with
17 reporting date extentions that are listed here.

18 There is one change that I want to point; and
19 that is, for Southern California Edison, their forecast
20 for the demand forms, we would like to change from
21 August 1st to August 15th. And that still would pose
22 no significant problems to our Committee. So with
23 that, I would move that we adopt this order granting
24 extention for the CFM reporting dates.
25

CHAIRMAN IMBRECHT: Alright. Can I take that as second by Commissioner Commons?

VICE CHAIR CROWLEY: Yes. I thought he was seconding it.

CHAIRMAN IMBRECHT: Oh. Pardon me. Commission Commons, do you wish to second this motion?

COMMISSIONER COMMONS: Yes.

CHAIRMAN IMBRECHT: Seconded by Commissioner Commons. Does anyone wish to be heard on this item? Is there an objection to the motion? Hearing none, ayes: 4; nos: none. The ratification is duly passed.

The next item to come before us is ratification of the 1985 Energy Plan Policy Summary Report, which is the text for the full-color 50-page version of the report which is to be distributed to the the Governor, the Legislature and the general public in July of this year or, hopefully, no later than August 1st, assuming we can move this today, by virtue of the difficulty of printing schedules would be at the State Printer's Office.

Before we move on to that item, I just want to take this opportunity to express publically my deep appreciation for the extraordinary work and committment that my Advisor, B.B. Blevins, has demonstrated on this item. I think that all of you know the dedication that

1 he has evidenced, not just since the time in my office,
2 but since he's been here with the Commission, which is
3 a long period of time. But this occasion and certainly
4 all of our efforts on both the Electricity Report and
5 the Biennial Report illustrate that dedication over and
6 over again. Final illustration of the fact is that, if
7 you want to talk about overtime, I think that he
8 arrived at the Commission around 8:00 a.m. yesterday
9 morning, and has been here continuously since that time
10 trying to resolve last minute consideration of that
11 drafting, etc. I think we owe him little comp time;
12 and, I certainly owe him obvious thanks about the
13 loyalty demonstrated by his representing this product.
14 MR. WARD: Mr. Chairman, I'd recommend that
15 he could take the rest of the afternoon off.
16 (LAUGHTER)
17 CHAIRMAN IMBRECHT: We'll see if we've go
18 four votes. In any case, I believe that most of the
19 concerns have been resolved. I do understand
20 Commissioner Commons.... Well, let me begin by
21 offering a motion that we ratify the document as before
22 us--get it properly before us--and ask whether there is
23 a second.
24 COMMISSIONER COMMONS: I'll second it.
25

1 CHAIRMAN IMBRECHT: Seconded by Commissioner
2 Commons. Alright. I believe that Commissioner Commons
3 does have a couple of, hopefully, minor outstanding
4 concerns. And, why don't we address them at this
5 point.
6 COMMISSIONER COMMONS: Alright on Page 9
7 -- this is really minor -- rather than saying one, two,
8 three, four. I would like it to be two dots, four
9 dots. We have not established preferences; and, the
10 whole concept of the reserve need was that there's an
11 integrated need and that....
12 CHAIRMAN IMBRECHT: I understand. I'm going
13 to accept that as a friendly....
14 VICE CHAIR CROWLEY: Bullets?
15 CHAIRMAN IMBRECHT: Bullet.
16 VICE CHAIR CROWLEY: Oh, okay.
17 CHAIRMAN IMBRECHT: I'm going to accept that
18 as.... I don't think there's anything in the text that
19 suggest that this represents a ranking of preference.
20 But I would agree with you that that would be a clear
21 illustration of that. And I will accept that as a
22 friendly suggestion and encompass that within my
23 motion. And, obviously, as the maker of the second in
24 your suggestion, I guess you will agree with that.
25 Okay.

1 COMMISSIONER COMMONS: The second is that
2 I've gone through the ER including the Appendices, and
3 went through the BR, went through all of the drafts of
4 the ER and the BR. And on Page 39, I could not find
5 any reference to the Gold Rush as so written.
6 Not being facetious, I think we're talking
7 about a document that has enormous significance to the
8 people of California and the preface and the
9 recommendations. And, I can understand the desire to
10 do this. I just don't think this is the appropriate
11 document to have those paragraphs. I don't think it
12 buys us anything; and, I think there might be some
13 people who would feel it's a little cavalier. And, I
14 just think this report, now, as it's been re-written,
15 it really helps demonstrate and keep aware, the people
16 of California, the things that have been done that are
17 positive and things that need to be done. And, this
18 does not, I think, add to the creditability of this
19 Commission and the things that we've been trying to do.
20 CHAIRMAN IMBRECHT: Let me just briefly
21 respond. I guess it really comes down, probably, more
22 to stylistic considerations than anything else.
23 Obviously, this does not represent a substantive
24 portion of the Report. I guess it's no secret that
25 occasionally like a little rhetorical flourish. And it

1 is in that context that I personally like this as a
2 nice rhetorical means of summarizing and leaving us
3 with an optimistic approach to the future, after we've
4 delineated a series of problems and challenges that
5 faces the State and the energy field. My general
6 inclination would be to leave it in. But I, obviously,
7 will be responsive to the inclinations to the remainder
8 of the Commission.
9 COMMISSIONER COMMONS: Well, Mr. Chairman, I
10 would not.... You, I think, have shown, since you've
11 been on the Commission, a lot of good judgment in areas
12 where we're dealing with the public. And, I think
13 you've had more experience then I have. I think it's
14 appropriate for me to bring forth the viewpoint; I
15 would not offer it as an amendment unless it was
16 considered a friendly amendment. All I can do is to
17 state what my opinion is; but, I think sometime we have
18 to recognize that each of us have certain talents.
19 And, I think you have a better ability than myself
20 sometimes to judge how something gets marketed. You're
21 going to be the one that's going to take this on the
22 road, not myself. I think it's appropriate for me to
23 raise the issue and if it's not friendly, I will not
24 offer it as an amendment.
25

1 CHAIRMAN IMBRECHT: Does anyone else want to
2 comment on that?
3 VICE CHAIR CROWLEY: Yeah. I like it. I
4 would repunctuate it; but, I like it.
5 (LAUGHTER)
6 CHAIRMAN IMBRECHT: We'll let you. Well, If
7 you recall, in the original adoption order of the
8 Biennial Report, the Committee is given some leave to
9 handle those kinds of considerations. And I want to
10 invite any gramatical suggestions, etc. that you care
11 to offer to it. We will certainly take them into
12 consideration.
13 VICE CHAIR CROWLEY: I did my all with
14 criteria/criterion; I....
15 CHAIRMAN IMBRECHT: My understanding, as
16 well, is that we need to get this document over to the
17 State Printer so they can start typesetting it. But,
18 that still gives us the opportunity to make some
19 further grammatical and rhetorical changes, if
20 necessary, when we get the bluelines back from the
21 State Printer's Office. And, I think that's probably
22 -- Mr. Blevins, about three weeks out? Is that what
23 it...?
24 MR. BLEVINS: Four to five weeks.
25

1 CHAIRMAN IMBRECHT: Four to five weeks to
2 typeset. I'm not going to make a comment about the
3 private sector versus the public sector.
4 COMMISSIONER COMMONS: I do note that there
5 are three Commissioners here from Stanford; and, I
6 wondered if we could make any positive statements
7 concerning cardinals within the section?
8 CHAIRMAN IMBRECHT: I'm going to take that as
9 a retorical question. Okay. Any further comments?
10 Commissioner Noteware.
11 COMMISSIONER NOTEWARE: Well, it strikes me
12 that it really isn't very dignified. It would make a
13 fantastic speech; but, I too defer to your concept of
14 public reception of this. And, I'll let it go at that.
15 CHAIRMAN IMBRECHT: Okay. Well, perhaps, we
16 can look for some other ways to modify this. We'll go
17 with it for now and I'll be susceptible to your
18 recommendations on this.
19 Alright. Does anyone else wish to be heard
20 on this item? Just want to stress, the whole point of
21 this is that...and what we've tried to bend over
22 backwards is to ensure that all of the substances in
23 the Biennial Report is accurately reflected here. This
24 document is utterly consistent on all substantive
25

1 matters with the longer adopted document, that that is
2 the whole purpose behind it.
3 And I believe, in the past, this is not even
4 typically been brought back to Commission; but, as I
5 represented when we adopted the Biennial Report, that
6 we would bring it back to the Commission for
7 ratification if anyone had found any discrepancies.
8 We've had this, I believe, before you for your
9 consideration for approximately one week which beats
10 some of our previous timing considerations in terms of
11 allowing opportunity for review. And as I indicated,
12 we have tried very hard to respond to some of the
13 concerns. And, I want to thank Commissioner Commons.
14 You did raise some very good points that have been
15 responded to in the subsequent rendition of this.
16 COMMISSIONER COMMONS: I have one last
17 comment.
18 CHAIRMAN IMBRECHT: Commissioner Commons.
19 COMMISSIONER COMMONS: It's not a change
20 that's to be made; but, I think one of the items that
21 comes out in reading the document is that I think that
22 it's really important that the Fuels Policy Committee
23 in their Fuels Policy Report take a hard look at to
24 where we're going in terms of transportation in the
25 post-1985 period. I don't think it's appropriate to

1 change this; because, it's not in the BR. But, I think
2 it's appropriate within that Report for the Commission
3 through the Committee to address the issue.
4 CHAIRMAN IMBRECHT: I agree with you
5 completely. And, of course, Commissioner Gandara is
6 not present; but, I am the other member of that
7 Committee. And, I will certainly forward that
8 recommendation on to the Committee. Let me just
9 mention just one other thing, and this is something
10 that I am utterly negligent in not even raising this
11 with Mr. Blevins or staff in dealing with this. But,
12 Mr. Bothwell our Contractor on this, sometime back
13 suggested to me that rather than titling the plan 'The
14 1985 California Energy Plan,' we might care to title it
15 'The 1985-2005 California Energy Plan,' since that
16 better reflects the full period that we are addressing
17 with this Report.
18 COMMISSIONER COMMONS: 2004.
19 COMMISSIONER NOTEWARE: It loses something.
20 VICE CHAIR CROWLEY: Yeah. I vote no on that
21 one.
22 CHAIRMAN IMBRECHT: Alright. Okay fine. I
23 won't change our original.... Alright. No one else
24 wish to be heard on this item. Is that correct?
25 Alright. So with that, is there objection to unanimous

1 roll call? Hearing none, ayes: 4; nos: none. The
2 Report is ratified as consistent with the adopted Fifth
3 Biennial Report of the California Energy Commission.
4 And, again, thanks to Mr. Blevens and Mr. Bothwell and
5 all the other staff that have worked so hard on this.
6 I really hope that everybody's going be very proud of
7 this document when it comes out. I think that we have
8 few other very unique things that we're going to
9 incorporate in terms of the manner in which it's
10 published and, I hope, that will produce a document
11 that will provide far greater public penetration in
12 terms of the public's consciousness. And, what we're
13 saying here, it has been the case in the past.
14 Before going on, I want to turn to the
15 suggestion offered by Mr. Perez, prior to our recess.
16 I have discussed the matter with him and understand his
17 point. And I would like the discretion of the
18 Commission to direct Mr. Chamberlain to offer on an
19 attorney/client basis an evaluation of the AVCO
20 decision before the members of the Commission. And I
21 would suggest you consult with Mr. Perez as to the
22 points that he was raising by that. I think it does
23 raise some....
24 MR. WARD: Staff would support that, as well.
25

1 CHAIRMAN IMBRECHT: ...some important
2 considerations we ought to be cognizant of as we move
3 into this very high profile period of siting cases
4 before the Energy Commission.
5 COMMISSIONER COMMONS: I avoided, Mr.
6 Chairman, trying to raise some of those issues and put
7 them to the Commission today, as I think you note by
8 not making motions and ratifications. And I think the
9 proper way is, rather than doing it here, is to....
10 CHAIRMAN IMBRECHT: It is even conceivable
11 this could encompass potential litigation. It might be
12 something that would be susceptable to discussion....
13 COMMISSIONER COMMONS: I prefer, rather than
14 to put motions at this time before the Commission today
15 which could raise issues, is that we do it the way
16 you're suggesting.
17 CHAIRMAN IMBRECHT: Okay. The harmony and
18 accord is quite breathtaking. Moving on to Item No. 8.
19 Commission consideration of possible decision regarding
20 the home rating tool for the three pilot projects in
21 the Home Rating and Labeling Demonstration Program.
22 Provide a presentation by our staff on the production
23 of these tools and the implementation of the Home
24 Rating and Labeling Program by the Commission. I
25 believe that members of the Commission have been

1 briefed or at least been afforded an opportunity for
2 briefing on this.
3 COMMISSIONER COMMONS: Is there any action
4 that's required to be taken on this item?
5 MR. WARD: The request is that we approve the
6 use of the tool as outlined in the backup package here
7 to be used as the tool in the Home Labeling
8 Demonstration Project.
9 VICE CHAIR CROWLEY: As I understand, Mr.
10 Chairman, the former Presiding Member of the
11 Conservation Committee had questions regarding the
12 tool, comparing it to residential building compliance
13 methods. And this is an evaluation that succeeds upon
14 that question and answers it. And it's now before us
15 and has taken some considerable time to evaluate. So,
16 that is why we are here.
17 CHAIRMAN IMBRECHT: Let me just ask in
18 deference to the staff. Are there any members of the
19 Commission that have concerns about the requested
20 action.
21 COMMISSIONER COMMONS: I have a fifteen
22 second comment and, otherwise, no concerns.
23 CHAIRMAN IMBRECHT: Alright. Commissioner
24 Commons.
25

1 COMMISSIONER COMMONS: I think the tool is
2 appropriate for the purposes identified. It is not
3 appropriate to use as a substitute when we're
4 evaluating the Building Standards and whether or not a
5 building complies.
6 CHAIRMAN IMBRECHT: Alright. And, I think
7 that was the original....
8 VICE CHAIR CROWLEY: That was the point
9 there.
10 MR. WARD: I believe that's articulated on
11 Page 4 of the backup package that you have here, as
12 well.
13 COMMISSIONER COMMONS: And I think it's
14 articulated. I just think it's important to be put on
15 the record.
16 CHAIRMAN IMBRECHT: No. I understand that
17 and I would just say, that in terms of prospective
18 circumstances, I agree with you completely. In our
19 current context, I think we need to see how it operates
20 and so forth. I just want to stress that it continues
21 to be my personal intention and desire that we look for
22 methods to make a complaince with the standards, as
23 well, as easy as possible. Because, I personally
24 believe that that will ensure the maximum level of
25 compliance. And, to the extent that that might

1 ultimately encompass some evolution of this tool or
2 others like it, I just suggest that that's a future
3 issue for consideration by the Commission.
4 COMMISSIONER COMMONS: I would be willing to
5 so move the item from the Buildings Committee.
6 CHAIRMAN IMBRECHT: Alright. Move by
7 Commissioner Commons.
8 COMMISSIONER NOTEWARE: I second.
9 CHAIRMAN IMBRECHT: Second by Commissioner
10 Noteware. Mr. Alvarez, you've been very persuasive.
11 Is there anything you would like to add?
12 MR. ALVAREZ: No, nothing whatsoever.
13 CHAIRMAN IMBRECHT: He's a good trial
14 advocate. Alright. Does anyone else wish to be heard
15 on this item? I note you weren't able to get the slide
16 rule back from the printer to show us today.
17 MR. ALVAREZ: No. Actually the slide rule is
18 in Los Angeles right now with the manufacturer.
19 CHAIRMAN IMBRECHT: Alright. Is there
20 objection to unanimous roll call? Hearing none, ayes:
21 4; nos: none. The tool is approved for utilization in
22 the Home Rating and Labeling Demonstration Program.
23 Next item to come before us is an amendment
24 to the contract with Lawrence Berkeley Lab for $75,000
25 to provide a report of the technical assumptions used

1 to develop the rating tool and evaluate the
2 implementation of the thrree demonstration projects
3 connected by the Cities of Roseville and Pasadena and
4 the County of Marin.
5 Commissioner Commons you wish to offer a
6 similar motion with respect to this item, since it's
7 companion?
8 COMMISSIONER COMMONS: So moved.
9 CHAIRMAN IMBRECHT: Moved by Commissioner
10 Commons. Seconded by Commissioner Noteware. Does
11 anyone wish to be heard on this item? Is there
12 objection to unanimous roll call? Hearing none, ayes:
13 4; nos: none. The amendments to the contract is
14 approved.
15 Next item to come before us is Item 13 which
16 is amendment to contract with Envirosphere to augment
17 the existing contract by $1,155,000 million to provide
18 technical assistance required to meet peak work load
19 requirements related to the review of power plant
20 projects. This amount is for the second-year funding
21 for the period of July 1 1985 through June 30, 1986 (I
22 think is what this Notice should read). This contract
23 is funded from the 84/5....
24 MR. THERKELSEN: 85/6
25

1 CHAIRMAN IMBRECHT: That' right. That's just
2 what I was about to say. I didn't think it was from
3 84/5. ...85/6 fiscal year budget. Again, I believe
4 that there's been opportunity for all members of the
5 Commission to be briefed, certainly an issue we have
6 visted on several occasions. This is basically, simply
7 an extention of where we were at for the current fiscal
8 year. I would note to you, we've only expended about
9 25% of that which we proofed this fiscal year, largely
10 because of the start-up problems associated with
11 litigation in terms of the implementations of the
12 contracts. Does any one which to heard on this item?
13 Okay. What's the pleasure of the Commission?
14 COMMISSIONER COMMONS: I'll wait for there to
15 be a motion.
16 CHAIRMAN IMBRECHT: I will move; Commissioner
17 Crowley will second approval of the contract.
18 Commissioner Commons.
19 COMMISSIONER COMMONS: Yes. I have two
20 issues concerning this. We've been allocated, I
21 believe, $1.4 million. And, I think it's clear that,
22 in the next year in the siting cases we're going to
23 have significant more litigation within the issues as
24 to the need assessment. And we are on a very short
25 time schedule as to the production of ER VI because of

1549. In going over and looking at the Assessments Division in the office, we do not have the resources available, in my belief, to both complete ER VI, which I have no reason to believe it's gonna be significantly easier then ER V, particularly given the very tightly constrained schedule. And we just now have granted an extention to the utilities which is going to even make it tigher. And then to divert the resources to try to do a need assessment.

And, we've allocated around $400,000 as not being any case, and I think it's important that we hold aside from this $1.4 million, some funds if we need them in order to help us in terms of the need assessments that we're going to be doing, either technical backup or wherever. Butm I'm very concerned that we're not going to be able to complete our cases or we're going to lose on ER VI because of the real problem that we face here. This is the only source of money that I see available to possibly help solve the problem.

CHAIRMAN IMBRECHT: Commissioner Commons, let me just note for you, that in actuality we've had a total of $2.7 million allocated, $2.7+ allocated for these purposes. I've already been in discussions with the Department of Finance. In essence, we had $1.3

1 million and change for the current fiscal year and $1.4
2 million, even, for the 85/6 fiscal year.
3 There is a complete understanding with them
4 that the total allocation to us is $2.7 million. From
5 a mechanical standpoint it's not clear whether it's
6 possible to carry the 84/5 funds over or, in fact,
7 whether it will require a deficiency appropriation in
8 the next few months. In any case, it is my
9 understanding that Finance is prepared to support us on
10 that. What we are simply doing today is approving a
11 contract the funds out of the total which are currently
12 available (I've talked with Mr. Bon, I might add, on
13 this matter) so we can get moving on the siting
14 contract. But, I just want to assure you that there
15 are additional funds that will, in all great
16 likelihood, be available to us to deal with these
17 issues.
18 They fully recognize that our difficulties
19 with the Department of Personnel Administration and,
20 then subsequently, in the litigation on this matter,
21 deprive us, despite our best efforts of an ability to
22 expend the funds within this or commit them within this
23 fiscal year.
24 COMMISSIONER COMMONS: Alright, then let me
25 move to the second issue.

1 CHAIRMAN IMBRECHT: I think we can address
2 that; and, I'll take that as a matter for the Budget
3 Committee to handle, if that's an acceptable.....
4 COMMISSIONER COMMONS: Alright. The
5 second is that when we win on the basis of these funds,
6 it was looked at as temporary. And, I think all of
7 recognize that on permanent jobs it is substantially
8 less expensive for this Commission to do our own work
9 than to contract it out in the siting area.
10 CHAIRMAN IMBRECHT: About 19% less.
11 COMMISSIONER COMMONS: ...and that it is
12 appropriate for us to do that. And this has always
13 been put forth to us that this was a temporary element;
14 and, I want to make sure in supporting this, it is not
15 the intention of this Commission to next fiscal year to
16 continue to do this. Because, then what we would be
17 doing is taking a temporary issue and continuing it one
18 year after another, after another.
19 CHAIRMAN IMBRECHT: As an illustration of our
20 good faith on this item, I was going to mention this in
21 my Budget Committee Report: the Conference Committee
22 dealing with our budget this year did adopt language
23 that was negotiated between us and the State Employees'
24 Association which require....
25

1 MR. WARD: Mr. Chairman, I believe they did
2 not.
3 CHAIRMAN IMBRECHT: No, they did, Mr. Ward.
4 Yes they did; they went back and reopened it, adopted
5 language that requires the Legislative Analyst to
6 evaluate the continued work load of the Commission in
7 the Spring of 1986 (I believe around the end of March)
8 to report to the Legislature on this item. As a
9 result, the State Employees' Association dropped their
10 objection to this funding allocation for the 85/6
11 fiscal year. And, I just would suggest that that is an
12 illustration of our good faith relative to the points
13 that you're raising as well.
14 COMMISSIONER COMMONS: Alright well, I think
15 the procedure ought to be is -- and it looks like
16 that's consistent with what the Siting Division is
17 intending. Their suggesting that the Watson case would
18 be include, which I believe we have an AFC inhouse;
19 although, it has not yet come before the Commission....
20 CHAIRMAN IMBRECHT: Next Business Meeting.
21 COMMISSIONER COMMONS: ...but, it will be
22 before the Commission at the next Business Meeting.
23 And, I'd like to suggest in terms of policy guidance
24 that other than for small power plant exemptions, that
25 these funds not be utilized for subsequent projects

1 that cannot be completed within that timeframe.
2 Clearly the SPPEs that are coming in during the rest of
3 this calendar year can, in fact, be completed within
4 the fiscal year. And the Watson case would be
5 consistent with that. But, we don't want to start
6 projects that come in in September, October, November,
7 which clearly can't be done in this fiscal. Because,
8 that would not be within the intent of what we're
9 trying to do.
10 CHAIRMAN IMBRECHT: I guess I would resist
11 that on these grounds. I don't believe it would be
12 inconsistent with the intent that I have expressed. If
13 we find ourselves in a position where it might be
14 necessary to continue this practice for, perhaps, one-
15 quarter of the subsequent fiscal year in order to wind
16 up cases that are pending based upon filing dates that
17 slightly overlap fiscal years. But, in any case, that
18 would be a judgment for the Department, first for the
19 Commission in terms of what we put forward in the way
20 of our BCP's this fall, during the preparation of 86/7
21 fiscal year budget, subsequently by the Department of
22 Finance and by the Legislature.
23 COMMISSIONER COMMONS: I have no strong
24 feeling if it's a cutoff as June 30th or August 30th.
25 But, we should not assign projects after a certain

1 period of time to it; and, we should have, as part of
2 our adoptions, you know, making it clear that this was
3 temporary and that's it's not going to be an ongoing.
4 I don't think the particular month is important; I
5 think it's important that we make it clear what our
6 intent is.
7 CHAIRMAN IMBRECHT: I guess I'd have to say I
8 would be more inclined to evaluate that as we go along.
9 I don't want to adopt any policy today that would tie
10 our hands at a subsequent point and have to be
11 unraveled at that juncture. But, obviously, before we
12 make those commitments, you'll have a chance to raise
13 it again on a case-by-case basis.
14 COMMISSIONER COMMONS: Are you saying that
15 everytime that we're going to allocate the funds from
16 this contract, it comes back to the Commission?
17 CHAIRMAN IMBRECHT: No. I'm not saying that.
18 But I think that there needs to be some reasonable
19 flexibility in management....
20 COMMISSIONER COMMONS: Well then, how would I
21 have a....
22 CHAIRMAN IMBRECHT: Your Advisor should
23 advise the Budget Committee; and, if you have a concern
24 about this, as we progress through the fiscal year, I'd
25 suggest that would be the appropriate forum. And then,

1 subsequently, if you disagree with the decision or
2 recommendation to the Budget Committee, you take it to
3 the full Commission, which we all know you have the
4 ability to do.
5 COMMISSIONER COMMONS: But, I think this is a
6 policy issue that's appropriate to be brought before
7 the Commission today at the time that we're deciding on
8 this. And the question is: Are we looking at this as
9 a temporary item? Or, are we looking at it in some
10 other way? I'm suggesting I'm flexible in terms of
11 when you think we should halt; and, you're suggesting
12 one more quarter....
13 CHAIRMAN IMBRECHT: I just don't know at this
14 juncture, Commissioner Commons. I just don't want to
15 see us unduly tie our hands; but, I also am indicating
16 to you what are intention was from the beginning. All
17 of these allocation have been predicated upon our
18 forecasted workload requirements. At the same time,
19 you know as well as I do that all the...you know, we
20 don't decide our own budget. And, if we were in a
21 position to do that, I would be much more amenable to
22 offering you the kind of more concrete assurances that
23 you seem to be requesting. But asbsent that power, I
24 think it would be....
25

1 COMMISSIONER COMMONS: Let me suggest to you
2 the alternative strategy, which I think is more in line
3 with your own concept. If this Commission goes on
4 record as to what our intent is, we always have the
5 ability, if it turns out that we are not successful in
6 terms of our budget, bringing the item back to the
7 Commission and requesting an extension. Rather than
8 putting the burden on myself, that way, we have made
9 our intention clear that we are looking at this as a
10 temporary position; but, we always have the flexibility
11 if things do not go the direction that we are seeking
12 of coming back to the Commission saying, 'This is
13 the.... We just don't have a choice; and, we have to
14 go that way.' And, that's the way I voted before when
15 it was presented to us that way; and, I would vote that
16 way again. But, I think we should make our intention
17 clear in terms of what we think is appropriate.
18 CHAIRMAN IMBRECHT: We've each stated our
19 position; I'll have to ask what's the pleasure of the
20 remainder of the Commission.
21 VICE CHAIR CROWLEY: I believe that the
22 assessment is made by siting and that their proposing a
23 contract at this time, indicates to me that they see an
24 unusual workload in the next year. And, I don't think
25 it would be appropriate to somehow structure it so that

1 they wouldn't have the flexibility down the road about
2 this decision-making or offering suggestions for how it
3 should be handled. So, I would not want to limit the
4 motion.
5 CHAIRMAN IMBRECHT: Okay. I think that's
6 dispositive of issue at this juncture.
7 COMMISSIONER COMMONS: Well....
8 CHAIRMAN IMBRECHT: It's not dispositive of
9 permanently, Commissioner Commons. And, I don't want
10 you to think that you've lost on this forever and ever
11 or anything like that. At this juncture, I'm not
12 willing to tie our hands further or tie the hands of
13 our staff. But, I think we need to monitor it closely;
14 and, it might be appropriate to take that position at a
15 later point in the course of the 85/6 fiscal year. We
16 haven't even gotten to July 1st, for Goodness sakes.
17 So, I just ask you to bear with us on that.
18 Let me ask: Does anyone else which to be
19 heard on the matter of this contract? Are you prepared
20 to support it? Or, should we wait for Commissioner
21 Noteware?
22 COMMISSIONER COMMONS: I'm thinking; I'm
23 torn. Let me ask one further question. Is it.... Do
24 you agree with the intention that I'm stating that
25 we're not looking at this as other than...?

1 CHAIRMAN IMBRECHT: I have stated that in
2 numerous public forums and before the Legislature, as
3 well. And that is exactly my intention; but, it's real
4 hard for me to protect what all the extraneous, outside
5 circumstances are going to be. And as I said, if we
6 have the ability to make allocations under the OPR
7 Account, I would be viewing this from an entirely
8 different perspective. Absent that ability, I have to
9 deal with the realities under the which we have to try
10 to manage the Commission.
11 COMMISSIONER COMMONS: Alright. But, it
12 would require an unusual circumstance for us not to
13 look at this in that nature; and I guess, I would
14 always have the right, you're saying, to bring it back
15 to the full Commission.
16 CHAIRMAN IMBRECHT: That's right. Of course.
17 COMMISSIONER COMMONS: Okay, I'll willing to
18 vote yes.
19 CHAIRMAN IMBRECHT: Alright. Fine. Is there
20 objection to unanimous roll call? Hearing none, ayes:
21 3; nos: none. The motion is carried. The contract is
22 adopted.
23 The next item before is us is an amendment to
24 our existing contract for the Trustees of the
25 California State University System for $145,000 to

1 provide techinical assistance to meet the power plant
2 siting peak workload. This is a companion piece to the
3 other motion. I will move; Commissioner Crowley
4 seconds that we adopt the amendment to the contract. I
5 think it's the same issue, Commissioner Commons. I
6 might ask if there's objection to unanimous roll call?
7 Hearing none, ayes 3; nos: none. The amendment to the
8 contract is approved.
9 Is there objection to approval of the minutes
10 as presented?
11 COMMISSIONER COMMONS: I have read them; I
12 have no objections.
13 CHAIRMAN IMBRECHT: Okay, objections?
14 Hearing none, the minutes are approved as presented to
15 the Commission. Policy Commmittee Reports.
16 Legislation first.
17 VICE CHAIR CROWLEY: Legislation: In your
18 packet, the Legislative item is preceeded by a
19 discussion of PVEA Legislation. And, there are several
20 bills that deal with this. I'm going to go through
21 them in the method...in the order they're in in the
22 packet, which means the first two are reversed.
23 The first one in the packet is the Biomass
24 Fuels Bill. This is a part of the omnibus, so to
25 speak, AB 694 and was formerly AB 1288, authored by

1 Hannigan. It deals with biomass fuels; and, we have no
2 recommendation from the Committee. However, the staff
3 recommendation was neutral. It would require CEC to
4 establish a grant program for a liquid fuels. There
5 was a problem that involved the fact that it was
6 ethanol as well, or was ethanol. And so, I
7 believed.... I did not come forward with a position;
8 because, I believe we need to have a little more
9 clarification as to our policy regarding fuel.
10 However, the OGA recommendation was neutral.
11 The bill does respond to the criticisms previous
12 legislation by providing incentive for increased in-
13 state production of biomass fuels; but, it does include
14 ethanol. It is a severely limited incentive program;
15 and, Development Division indicates that ethanol
16 production would require continous subsidies and, in
17 effect, means that this probably not an economically,
18 appropriate thing. It is not going to lead to ethanol
19 being independently available. And methanol from
20 biomass is also a very expensive process.
21 CHAIRMAN IMBRECHT: Commissioner Commons.
22 COMMISSIONER COMMONS: I'd like to move that
23 we oppose for the reasons stated by Commissioner
24 Crowley.
25

1 CHAIRMAN IMBRECHT: I'll accept that. Okay,
2 hearing no objection. Do we have anybody here from
3 staff to report on this?
4 VICE CHAIR CROWLEY: I might say that Chris
5 Ellison is over on another tax credit at the Capitol.
6 CHAIRMAN IMBRECHT: Alright. Well, we'll
7 just note it as opposed; and, basically it won't site
8 cost considerations, etc.
9 VICE CHAIR CROWLEY: Okay. The second part
10 of the same larger bill is formerly AB 1385, which was
11 Hayden's Bill. It has been included in the Hauser
12 Bill. It would establish at the CEC and Energy
13 Conservation Program for local government to assist
14 them in undertaking a combined audit and installation
15 effort. This is also know as the Santa Monica RCS
16 Bill. We support this with some modification. And,
17 the modification dealt with the fact that we felt it
18 should be amended to remove the provision barring the
19 use of PVEA funds for installation and purchase of
20 devices. And also, that the funds shall be put in a
21 new account rather than in the...anyway, the ETRD&D
22 (The Naylor Bill Fund). Then we had a couple of
23 other....
24 CHAIRMAN IMBRECHT: This would put the money
25 in the Naylor Account.

1 VICE CHAIR CROWLEY: Well, apparently, it
2 would package it all into one account; and, we didn't
3 think that was appropriate.
4 CHAIRMAN IMBRECHT: You're absolutely
5 correct.
6 COMMISSIONER COMMONS: I have just one
7 question on this.
8 CHAIRMAN IMBRECHT: Two.... Alright.
9 Commissioner Commons.
10 COMMISSIONER COMMONS: Go ahead Mr. Chairman.
11 CHAIRMAN IMBRECHT: Two statements. One, the
12 question of barring the use of PVEA for installation of
13 devices, that's actually, I think, a federal
14 regulation.... Oh, Chris. Alright.
15 VICE CHAIR CROWLEY: Just in the nick of
16 time, he materializes.
17 CHAIRMAN IMBRECHT: I was looking down. I
18 believe that that a federal restriction. I just
19 recently had some correspondence from Washington. If
20 Mr. Rauh were present, he might be able to fill me in
21 on this a little bit more, refresh my recollection.
22 But, we did petition for a change in the federal
23 regulations that the PVA allocations had been
24 predicated upon, as well, dealing with SECP funds that
25 restrict the ability to use those monies for hardware

1 purchase; and that petition was denied. My guess is,
2 this bill is probably drafted in an attempt to be
3 consistent with federal regulations. And so, I don't
4 think that even if the provision and bill were removed,
5 that that would necessarily free (INAUDIBLE) purpose.
6 VICE CHAIR CROWLEY: Then, there are a couple
7 of other problems, like there's no administrative....
8 CHAIRMAN IMBRECHT: One thing I would just
9 like to suggest also, in the context of any of these
10 bills we might choose to support, I would strongly
11 recommend that the caveat that was suggested by Mr.
12 Ellison (that is at the bottom of the first page of his
13 memorandum) be boiler plate in any statement that we
14 send over relative to PVA Bills. And I would, also
15 even further, suggest that there be some additional
16 boiler plate drafted that basically reflects that this
17 position is predicated upon an assumption that PVA
18 would be available. And, in that in the event that it
19 is not available, we would reserve the right to
20 reevaluate our position of this Legislation.
21 VICE CHAIR CROWLEY: You're talking about the
22 "language?"
23 CHAIRMAN IMBRECHT: Yes. That's right. I
24 would addend it with the essence of the thought that I
25 just suggested.

1 VICE CHAIR CROWLEY: Then, what is the sense
2 on this particular bill about the amendment and our
3 final...?
4 CHAIRMAN IMBRECHT: In terms of putting it in
5 a new account, I absolutely agree that that would be
6 appropriate. I don't think it should be in the Naylor
7 Account.
8 VICE CHAIR CROWLEY: We need administrative
9 resources for administration.
10 CHAIRMAN IMBRECHT: Haven't we recently
11 approved some funds to do...? This is the Santa Monica
12 model, I guess?
13 VICE CHAIR CROWLEY: Yes, it is.
14 CHAIRMAN IMBRECHT: Didn't we approve some
15 funds or do something like this? I'm sure we did. Our
16 recent...Conservation...Loan & Grants. Well....
17 Commissioner Commons.
18 COMMISSIONER COMMONS: In the discussion, our
19 office, as stated here, did spend some time on this
20 when we put forth the proposals on PVA. And that's
21 shown in terms of the energy savings in Proposal lg,
22 which, I think, gives a little greater flexibility in
23 terms of how the program would operate in the way that
24 the Santa Monica Plan did.
25

1 Some of the utilities could be excluded under
2 a narrow participation. Local government should the
3 right; and, I think the lg Proposal does have greater
4 flexibility in allowing different communities to go
5 forth with the same objective and gives more
6 flexibility in terms of how the program can be managed
7 and operated. And, I'm not sure that concept is
8 included within the proposed amendements that you're
9 suggesting. Maybe Chris Ellison could respond.
10 VICE CHAIR CROWLEY: I've lost lg. Where is
11 that?
12 COMMISSIONER COMMONS: Let's see if I can
13 find it. Under 'Cost,' there is Background 1, 2 and 3
14 -- 'Differences Between AB 1385 and CEC PVA Proposal
15 lg.'
16 VICE CHAIR CROWLEY: Oh, okay. I'm sorry.
17 Yeah. I do see.
18 COMMISSIONER COMMONS: I think the
19 flexibility that would be granted to this Commission in
20 terms of the administration of this would make this
21 more compatible both to the two communities, to the
22 utilities and to the people that we work with and would
23 not tie our hands in terms of how it had to be
24 implemented.
25

1 VICE CHAIR CROWLEY: So, you're suggesting
2 that we propose our language as a modification of this
3 particular proposal for our language?
4 COMMISSIONER COMMONS: I prefer, generally,
5 the 1g approach to the 1385 approach after our
6 experience of having worked with the utilities and RCS
7 and also in reviewing and assessing the RCS as was
8 implemented in Santa Monica, that it's best for this
9 Commission to have more flexibility than less
10 flexibility in trying to accomplish the objective.
11 VICE CHAIR CROWLEY: Yeah, I think the sense
12 of that is, then, we would modify this; but, I don't
13 know if those are so far reaching and it would still be
14 considered a support position.
15 COMMISSIONER COMMONS: I would think it would
16 still be support with amendments. I don't.... The
17 principle is still there; it's just a little more
18 flexibility. I think we'd also remove significant
19 utility objection by doing that.
20 VICE CHAIR CROWLEY: Do you have any
21 comments, Commissioner Noteware?
22 COMMISSIONER NOTEWARE: No.
23 VICE CHAIR CROWLEY: Is that the sense, then,
24 of the Commission that we support with amendments as
25 outlined in our 1g? Okay. Thank you.

1 MR. ELLISON: Let me get a clarification, if
2 I may? Are you talking about all of the amendments
3 that are set forth in proposal 1g? I understood you
4 were referring to only the specific one that's set
5 forth in Item D, 3D. Is that not correct?
6 COMMISSIONER COMMONS: I didn't hear your
7 last sentence.
8 MR. ELLISON: You wanted to conform the Bill
9 to what was discussed in the LBL Report in Item 1g.
10 The specific amendment that you wanted is the one
11 described as Item 3(d) to our analysis? Or, do you
12 want additional changes?
13 VICE CHAIR CROWLEY: Who pays the audit and
14 installation cost? Item 1g contemplates charging
15 consumer an at cost basis.
16 COMMISSIONER COMMONS: Well, I was
17 incorporating all of the items under 3 and adding those
18 with the items that Commission Crowley has already
19 identified in terms of which fund it could go into
20 -- the administrative items that already previously
21 identified.
22 VICE CHAIR CROWLEY: You're saying: Would
23 targeted program to low income neighborhoods
24 contemplate utilities and community groups could
25

1 operate? And all those things are how lg does it. Is
2 that...?
3 COMMISSIONER COMMONS: That's correct; and, I
4 think we should ascertain, before we do one, that it's
5 legal to do so.
6 VICE CHAIR CROWLEY: I understand. Yes.
7 MR. ELLISON: Okay. I understand the
8 proposal.
9 VICE CHAIR CROWLEY: Any other comments?
10 Commissioner Noteware? Okay, then, the sense of that
11 is it's support as amended per the comments of
12 Commissioner Commons.
13 Item 3 is SB 880, an omnibus local government
14 energy assistance bill. And, we.... As well, the
15 recommendation was support if amended. Do you want to
16 comment on that, Chris?
17 MR. ELLISON: No.
18 VICE CHAIR CROWLEY: No? Okay.
19 MR. ELLISON: I don't really have anything to
20 add. I would be happy to respond to questions.
21 VICE CHAIR CROWLEY: Then, it notes the
22 amendments would be extensive. There are great array
23 of existing CEC programs to aid local govenment. And,
24 it is difficult to make a case for creating such an all-
25 encompassing and ill-defined program. We felt SB 880

1 should be amended to provide a pool of funds to augment
2 existing programs, to provide funds for a local energy
3 management and to provide start-up funds for projects
4 where the applicants can show they are unable to
5 provide other funding sources.
6 It was, basically, our feeling that the Bill
7 just really overlapped a whole series of things that
8 were already in place. And, there were other fiscal
9 and technical amendments that needed to made, such as
10 those relating to Advisory Committee: should the
11 Advisory Committee advise the CEC or things like that?
12 Who do they mean by an Advisory Commitee?
13 COMMISSIONER COMMONS: Again, I think our
14 staff did a very good job when we developed a proposal
15 in putting together a government assistance program. I
16 think we should try to be consistent with what the
17 staff did in the developing of that proposal vis-a-vis
18 this bill.
19 VICE CHAIR CROWLEY: This is what we....
20 COMMISSIONER COMMONS: I think this is the
21 direction which is that you're going.
22 VICE CHAIR CROWLEY: It is. It's to try to
23 place these bills in the context of CEC policy and
24 direction; and so, our modifications...the
25

1 modifications that were proposed by OGA were in sync
2 with that concept.
3 COMMISSIONER COMMONS: That particular
4 allocation of funds did show up to be very cost
5 effective; however, if you were to take away some of
6 the elements that were in the staff proposal, it could
7 make it a good program, not as cost effective. I think
8 that's what you're addressing here.
9 VICE CHAIR CROWLEY: Indeed. So, in any
10 event, our position would be support and amend as we
11 outlined the SB 880.
12 SB 1145, the Mello Bill, was an agricultural
13 energy assistance bill that, also, we developed a
14 support position on. The demonstration of new
15 technologies and funding of ag energy conservation and
16 development projects are appropriate uses of PVEA funds
17 we believed. And the Bill, however, should be amended
18 to place the $5 million allocated for the Naylor fund
19 into a new account. Then, we made the amendment
20 regarding a deletion of mentioning ethanol as an
21 alternative--a specific alternative fuel--since we
22 believe it's an uneconomical one. And they had a typo;
23 and, we assumed they meant 'load management' rather
24 than 'loan management.' Although, I'm sure some
25 farmers could use that as well. And then, conservation

1 tillage technique, we felt there should be an addition
2 of that phase also on Page 3.
3 CHAIRMAN IMBRECHT: I'd, also, like to add
4 that. Again, I don't believe it's appropriate to
5 intermix these funds with the Naylor money.
6 VICE CHAIR CROWLEY: No. And we meant that
7 was our recommendation that that not be co-mingled.
8 CHAIRMAN IMBRECHT: Alright. That's
9 acceptable to me with those recommendations.
10 VICE CHAIR CROWLEY: Okay. Then, our final
11 bill is is SB 1147 which deals with methanol fuel and
12 is the Presley Bill. The recommendation is to support;
13 it is consistent with BR V Recommendation No. 11, that
14 the Energy Commission should complete it's existing
15 programs on alternative transportation fuels, including
16 development of methanol-fueled buses in urban areas and
17 research on passenger vehicles and heavy duty truck use
18 and methanol. So we felt that it was appropriate that
19 this be supported. Now, whether...what the sense is of
20 the Commission regarding $10 million for this....
21 CHAIRMAN IMBRECHT: I guess my only question
22 is in terms of being consistent with Recommendation 11
23 of the BR is that this is really an expansion rather
24 than completion of existing programs. And, I guess, my
25 general inclination would be to complete what we've

1 got, evaluate the results of those programs and then
2 look to additional expenditures. So, I'm not sure it
3 is entirely consistent with....
4 VICE CHAIR CROWLEY: Oh, I see. Well, I read
5 it, too, due to the completion. So....
6 CHAIRMAN IMBRECHT: We've got money to
7 complete all of our programs. All that was
8 appropriated in the budget this time around. All of
9 our existing programs are in tact and fully funded.
10 Commissioner Commons.
11 COMMISSIONER COMMONS: Well, I think if we're
12 not to get the PVEA funds, it would not be appropriate
13 for the State; and, that's why I supported the position
14 that you just enumerated. The question would be: If
15 we were to receive additional funds, depending upon the
16 size of those funds, if this would be an appropriate
17 extension. And, many of the bills that we're
18 discussing today, we're not recommending at this time
19 in the Commission that we expend those funds in that
20 area, since we don't have the funds in the State. The
21 question would be: If we suddenly received an
22 additional certain number of hundreds of millions of
23 dollars as to how to appropriately allocate them. And
24 I think this would be one of the elements that you'd
25 probably want to allocate to, not that we would make

1 this recommendation if we didn't have these funds that
2 we have not ascertained as to their availability.
3 I particularly like this one, in that, it
4 orients itself to the area of methanol that I most
5 strongly supported which is in the area of public and
6 private transit.
7 VICE CHAIR CROWLEY: And it does do Items a
8 and b that are in this -- our proposal or the Task
9 Force proposal for 49 and 50. So that, in any
10 event.... I'm particularly interested in hearing about
11 your opinion on this one; because, it is scheduled to
12 be heard tommorrow in Senate Appropriations as is the
13 Mello Bill, as is the Green Bill. And so, some sense
14 today would be appropriate.
15 MR. WARD: I might add on the Methanol Bill,
16 I think that with regard to PVA the fear that I have is
17 really based on the potential cutbacks to transit
18 subsidies throughout the country and that it would be
19 very easy to supplant this, not at the federal level
20 but the local level for just typical transit purchases
21 and to advocate the appropriate amendments to the
22 allocations of PVA to do that. And if we, somehow, are
23 able to get something in statute now that priortizes
24 these be for methanol, then it won't totally inhibit
25 them from changing it in the future. But, it certainly

1 sets forth a policy that, then, can be carried back to
2 Washington and any lobbying efforts that we or others
3 might be doing.
4 COMMISSIONER COMMONS: Mr. Chairman.
5 CHAIRMAN IMBRECHT: Yes.
6 COMMISSIONER COMMONS: What I think we should
7 do is support, but not include the statement that it's
8 consistent with the BR V recommendation, but support on
9 the merits on the Bill itself.
10 CHAIRMAN IMBRECHT: Well, I would agree with
11 that general conclusion. I'm not going to argue
12 strenuously one way or the other; I think I will
13 abstain on that. And whatever is the appropriate is
14 the appropriate inclination of the remainder of the
15 Commission is fine with me.
16 VICE CHAIR CROWLEY: Well, my motion would be
17 to support this. And if you would like to have that
18 comment that it's consistent with BR V in that....
19 COMMISSIONER COMMONS: I think it's better
20 for the Commission not to....
21 CHAIRMAN IMBRECHT: ...predicate it on....
22 COMMISSIONER COMMONS: ...not to predicate it
23 on that basis.
24 VICE CHAIR CROWLEY: Well anyway, I'd move to
25 a support position for that.

1 COMMISSIONER NOTEWARE: I definitely want to
2 support it.
3 CHAIRMAN IMBRECHT: Ayes: 3; nos: none.
4 VICE CHAIR CROWLEY: Okay. Thank you.
5 CHAIRMAN IMBRECHT: Okay. Now, Mr. Ellison.
6 MR. ELLISON: Mr. Chairman, as you know,
7 there's been a great deal of activity on the tax
8 credits. And, I'd like to take this opportunity to
9 brief the Commission.
10 CHAIRMAN IMBRECHT: Right. I was going to
11 ask you what happened this afternoon.
12 MR. ELLISON: The Senate Revenue and Taxation
13 Committee held a hearing this afternoon, at which time
14 the industry presented a proposal which I will outline
15 in a moment. The Committee is meeting again tommorrow
16 at 8:30 in the morning and seems to feel a great deal
17 of urgency in moving legislation to the Governor with
18 the budget. There's been some discussion of whether it
19 has to move this week as opposed to during the time
20 when the Governor would be reviewing the budget. And
21 Senator Garamendes who seems to be leading the charge
22 on this in that Committee suggested that leadership in
23 the Senate, at least on the democratic side, were very
24 interested in having the Bill presented to the Governor
25 contemporaneously with the presentation of the Budget

1 Bill. All of that suggest that, at least on the Senate
2 side, they're looking at enacting something in the next
3 day or two.
4 There are two vehicles, currently...two bills
5 currently before the Legislature--one in the Assembly
6 and one in Senate Revenue and Taxation. The Industry
7 Bill, which I referred to a moment ago is being
8 considered. It doesn't have a number at this point,
9 but being considered in Senate Rev and Taxation.
10 It would do the following things:
11 . It would require wind
12 installations that are purchased
13 and installed in the second half of
14 1985 to carry over in equal thirds.
15 . It cuts the residential
16 conservation credit to zero,
17 effective August 1st.
18 . It takes.... The Franchise
19 Tax Board has now estimated that
20 there is a $140 million of
21 carryover into 1985, the previous
22 number we had been working with was
23 $86 million, if you recall. The
24 industry proposer would take that
25 entire $140 million and defer it

1 into future years. There would be
2 no carryover. It would be carried
3 over in equal thirds beginning in
4 1986.
5 . The industry proposal also
6 would move multi-family dwellings
7 out of.... Well it, essentially,
8 would reduce the credit for multi-
9 family from 35% to 25% for solar as
10 well as for conservation. For
11 solar, it would take effect on
12 August 1st. Conservation Credit:
13 there's some uncertainity about it;
14 but, we believe that their proposal
15 is to take effect on January 1st.
16 To summarize the proposal....
17 COMMISSIONER COMMONS: I'm sorry, January 1st
18 for solar?
19 MR. ELLISON: January 1, 1986.
20 COMMISSIONER COMMONS: For solar?
21 MR. ELLISON: For the conservation multi-
22 family credit change. To summarize the bill, it defers
23 all previous carryover. It cuts the conservation
24 credit to zero, effective August 1st, requires wind to
25

1 carry over for the last half of this year, effecting
2 about half the wind installations in the State.
3 We estimate that enactment of that proposal
4 would reduce the cost of the credits in 1985 from $250
5 million, using Franchise Tax Board numbers to about
6 $135 million. In addition to the industry proposal,
7 the Committee expressed some interest in cutting
8 commerical conservation, along with residential
9 conservation. The feeling was that they didn't see a
10 reason to distinguish between the two. And, there was
11 some discussion of, perhaps, moving the cutback to the
12 end of the year when cutting both of them, rather than
13 cutting residential conservation next month and not
14 cutting commerical conservation at all.
15 In addition to that, there was a great deal
16 of discussion about what is being referred to as the
17 affirmative committment language, which I think you're
18 familiar with. It was a Hannigan Bill that the
19 Commission voted on about a month ago, that would allow
20 projects that missed the deadline but met certain
21 significant mildstones to claim the credit after it had
22 otherwise expired. And the staff position on the
23 current affirmative committment language in the
24 Industry Bill is that it's to broad and that it ought
25 to be narrowed to cover only some very...the very high-

1 tech technologies. The current proposal, the industry
2 has a two-year extention in there. And we would
3 propose something much further than that.
4 We met with Finance this morning on the Bill.
5 The attitude there seems to be that they believe the
6 industry has made a commendable effort to try to reach
7 the administration's goal of $125 million. They
8 haven't had much of an opportunity to review the bill;
9 and, I certainly wouldn't suggest that the
10 administration has a position on it. However, they did
11 seem to feel that the Bill went a long ways towards
12 meeting the finance fiscal goals that they're trying to
13 meet.
14 On the Assembly side, there is supposed to be
15 a hearing in the Assembly Revenue and Taxation
16 Committee tommorrow at some unspecified time, to
17 consider not only this industry proposal, but also a
18 proposal that was written by the Assembly Ways and
19 Means staff. We believe that that proposal, Assembly
20 Ways and Means Proposal, which is currently in Senate
21 Bill 125, Alquist, would result in cost this year of
22 $166 million.
23 In other words, it's more expensive than the
24 Industry Proposal. But, I hasten to add that it's more
25 expensive in spite of the fact that it makes deeper

1 cuts. It makes deeper cuts but it doesn't defer nearly
2 as much, especially a previous carryover. The Industry
3 Proposal defers all of that, as you recall. And that's
4 the reason why that in 1985, it results in a lower
5 figure.
6 COMMISSIONER COMMONS: Could you express what
7 the Alquist Proposal is?
8 MR. ELLISON: The Alquist Proposal is,
9 essentially, a 10% across-the-board cut in the
10 effective state credit for all technologies except for
11 residential conservation, which it cuts by only 5%.
12 It, then, restores those cuts in 1986; and, it's
13 purpose is to ramp the credits down, if you look at the
14 combined federal and state credit. The total federal
15 and state credit would, then, ramp down from it's
16 existing levels in fairly even stages.
17 The proposal treats carryover by allowing
18 people to have 50% of the credit that they've
19 previously claimed--credit to them in this tax year and
20 then 25% and 25%. It enacts a similar manadatory
21 carryover provision for wind, in the second half of the
22 year. It does not include.... When I say the second
23 half of the year for wind, it does not include a
24 purchased. And the significance of that is that it
25 would operate against any machine that had not been

1 installed by mid-year. We believe that, roughly, 80%
2 of the machines have not been installed by mid-year;
3 whereas, 50% of them have not been purchased by mid-
4 year. So, that's a significant difference between the
5 two bills; and, that was single word.
6 COMMISSIONER COMMONS: Would you say, if you
7 made that change, would it bring the $166 down?
8 CHAIRMAN IMBRECHT: No. It'd take it up.
9 COMMISSIONER COMMONS: Take it up. Okay.
10 MR. ELLISON: Yes. It would; it would take
11 it up. I can't tell you by how much; but, it would
12 take it up.
13 MR. WARD: I'm not sure, by virtue of the
14 fact that there're using an Alquist Bill as a vehicle
15 that's in the Assembly. And I'm not sure that it can
16 be supported by....
17 CHAIRMAN IMBRECHT: No. And that does not
18 reflect the Senator's position. It simply was a
19 vehicle he had, which he agreed to be used for
20 amendment purposes. But, my understanding is he is not
21 endorsed the....
22 MR. WARD: ...merits of the Bill.
23 CHAIRMAN IMBRECHT: ...and he's really more
24 a technical author right now than anything else. He's
25 certainly not the sponsor of it.

1 Irrespective of what you heard from Finance
2 today about a commendable effort by industry, I
3 continue to believe, as I've said from the very
4 beginning in these discussions, that a substantial
5 carryover in the future fiscal years as evidenced by
6 the industry, I do not believe is going to be viewed,
7 when it really comes down to push and shove. It's
8 going be viewed as meeting the ultimate goals of the
9 adminsitration. I think they are looking for a true
10 savings of $125 million if, in fact, that is not going
11 to be vetoed out of other portions of the budget bill,
12 rather than simply a paper savings in this fiscal year.
13 And I express great skepticism if that approach would
14 be accepted, frankly. Commissioner Commons.
15 COMMISSIONER COMMONS: I'd like to suggest an
16 approach here. I think the ramp down concept makes
17 sense. I think the deferral actually hurts a lot of
18 projects; and, it's an accounting mechanism and people
19 need that credit right up front. And what I would like
20 to suggest is an equal amount of ramp down across the
21 board which would achieve the $125 million saving.
22 Whether it's 10% or 12%, what that which is necessary
23 to achieve the $125 million and then applied equally
24 across the board.
25

1 MR. ELLISON: Well perhaps, I should offer a
2 little bit of analytic information. We having been
3 told by the Franchise Tax Board that there is now $140
4 million in previous carry over and not $86 million, and
5 having had them also, Finances urging change the wind
6 number so that the wind number is somewhat higher, we
7 can discuss that. But having incorporated the numbers
8 that Finance and Franchise Tax Board and ourselves are
9 all using now, and looking at some of the proposals, we
10 have reached the conclusion that.... Well, we ran the
11 following scenario. We cut the credits, effective
12 August 1st all of them to zero; we ended every credit.
13 CHAIRMAN IMBRECHT: The State credits?
14 MR. ELLISON: All the state credits to
15 nothing on August 1st. We took $86 million of the $140
16 as Finance has proposed and credited it to this year,
17 and gave the credits that have, essentially, already
18 been sold in the first half of this calendar year. We
19 didn't change those; so, there's no retroactivity.
20 And, we didn't meet the $125 million goal. We came in
21 at a $144. The point being, if you take the carryover
22 that's already been expended, you take the first half
23 of the year that's already passed, meeting the $125
24 million goal, without doing something retroactive, is
25 impossible.

1 COMMISSIONER COMMONS: The difference between
2 $125 and $144 million, if we have $140 million
3 available, that difference would not be unreasonable to
4 me.
5 MR. ELLISON: Well, let me remind you that
6 that proposal cut the credits to zero in every case. I
7 think there's a great.... Based on from what I saw and
8 Senate Rev and Taxation this afternoon, I think there's
9 an extremely strong likelihood that they will pass out
10 the Industry Proposal.
11 Remaining significant issues in that
12 Committee seem to be the affirmative committment
13 language. There's some discussion of including
14 Assemblyman Hannigan's proposal to not allow the
15 trading of credits between in-state and out-of-state
16 partners.
17 CHAIRMAN IMBRECHT: I was about to ask you
18 about that one and also the Recapture issue.
19 MR. ELLISON: That has been discussed. And,
20 I think that's a significant issue for the Committee.
21 The Recapture Proposal and the Manadatory Rate Basing
22 Proposal, which we raised, did not receive significant
23 discussion from the Committee.
24 COMMISSIONER COMMONS: I have to apologize.
25 I do have a flight.

1 CHAIRMAN IMBRECHT: Well, I'm not personally
2 inclined to endorse any of this proposal at this point
3 and time.
4 MR. WARD: I think, that's probably wise.
5 We've been pretty effective just being viewed as an
6 objective third party to this. And, I think we've had
7 a couple of our own policies percolate here -- the
8 Mandatory Rate Basing, being one, potential Wind Tax
9 Credits tied to our performance standard, being two.
10 It might be wise, Mr. Chairman, if you are available
11 tommorrow, to maybe try to spend a little time with a
12 couple to the Committee members.
13 CHAIRMAN IMBRECHT: Yeah, I may even try it
14 tonight. Actually, I'm supposed to be in San Francisco
15 tommorrow morning. But, I think that....
16 MR. WARD: I would have no problem....
17 CHAIRMAN IMBRECHT: Well, I will make an
18 effort to try to communicate personally with a couple
19 of Committee members and find out, frankly, the extent
20 to which they are misleading themselves about the
21 likelihood of those proposals being accepted. I know
22 what they ultimately want to achieve; and, I don't
23 think that any of those that are currently being
24 discussed are going to achieve that. I think they're
25 going to end up with.... Well, the zero sum game that

1 we talked about from the beginning, seems to me is
2 becoming an even greater likelihood of reality.
3 MR. WARD: Is it fair for us, me and Chris,
4 in terms of being able to represent the Commission's
5 interest that if we have an ability to interject the
6 Mandatory Rate Basing that I know it's been discussed
7 with all three of you? Or tieing the Wind Tax Credit
8 to our performance standard, that we could move to try
9 to do that?
10 CHAIRMAN IMBRECHT: I would certainly endorse
11 that. You know, it's interesting, I was reading
12 yesterday -- last evening, I guess, I should say
13 -- that article in the Wall Street Journal; and, I
14 noted that in Wisconsin, for example, the tax credits
15 are based upon a performance test today.
16 MR. WARD: You know, I'm a little bit
17 concerned because of what I just heard about our
18 mandatory performance requirements that only about 35%
19 of the industry has complied, after the major push by
20 the Wind Energy Association, the performance
21 requirements we have in Wind now. And that concerned
22 me a little bit; because, we got the regulation in
23 place. And if we're ever asked by the Legislature (and
24 it could be in the next week), it could be potentially
25

1 embarassing that we haven't got any teeth or haven't
2 attempted to think of a way to adequately enforce this.
3 CHAIRMAN IMBRECHT: What I would also like to
4 continue to suggest is that we endorse Recapture and
5 the Hannigan out-of-state provisions, as well.
6 Meanwhile, I'll try to get on the horn tonight; and,
7 I'll chat with you further about this. I'll be
8 available about noon tommorrow.
9 VICE CHAIR CROWLEY: When did we move from
10 voluntary to mandatory reporting?
11 MR. WARD: Well, it actually.... The
12 original order started out, I believe, to be voluntary.
13 VICE CHAIR CROWLEY: I remember that.
14 MR. WARD: And then, it subsequently changed
15 to mandatory; and, that was ratified by the Commission.
16 VICE CHAIR CROWLEY: Thank you. My question
17 was "when."
18 CHAIRMAN IMBRECHT: I'm going to suggest that
19 we try to....
20 MR. WARD: Last Spring, I believe.
21 VICE CHAIR CROWLEY: Thank you.
22 CHAIRMAN IMBRECHT: ...wind this meeting down
23 if there's not objection from members of the
24 Commission.
25

1 The only Committee Report I want to offer is
2 we (INAUDIBLE) $80,000.00 of our budget signed, sealed
3 and delivered. Everything's taken care in that
4 respect; and, I don't anticipate any problems in terms
5 of signature, etc. And, you'll get a memorandum from
6 me on that issue. Okay any other Policy Committe
7 Reports? Okay. Mr. Chamberlain.
8 MR. CHAMBERLAIN: Mr. Chairman, I just have a
9 brief item. The Office of Administrative Law is
10 considering regulations that implement their authority
11 to review informal rules. Since these could some
12 effect on the Commission, we are preparing some
13 comments which have to be submitted by next Monday. I
14 have a draft here that I can give to you. And then, if
15 anyone has any problem with them, they're not very
16 long.
17 CHAIRMAN IMBRECHT: I think that Commissioner
18 Noteware and I (INAUDIBLE). Okay. Mr. Ward, I don't
19 believe an Executive Session is going to be productive
20 today.
21 MR. WARD: I understand. I do have a couple
22 or three items to mention. First of all, most of you
23 are aware--I sent out a notice--that Virginia Coe has
24 now joined the Executive Office as Assistance Executive
25 Director. And, she'll be working with you in the

1 context of policy and strategic planning, which is
2 something that I look forward to having the capability
3 to do in my office; and, I think it will be extremely
4 helpful.
5 CHAIRMAN IMBRECHT: We all applaud that.
6 MR. WARD: Secondly, on Third Quarter Review,
7 we've put this off by virtue of extended Business
8 Meetings for some three Business Meetings now. The
9 only issue that's been brought to the Executive
10 Office's attention is the issue that Commission Commons
11 has raised to you. I'm still working with Commission
12 Commons and will continue to do so. I'm not sure that
13 we would resolve that today.
14 CHAIRMAN IMBRECHT: I issued a memorandum on
15 that, as well.
16 MR. WARD: On Third Quarter?
17 CHAIRMAN IMBRECHT: Nods -- Yes.
18 MR. WARD: Okay. So we'll deem the Third
19 Quarter as concluded, but for my working with
20 Commissioner Commons in continuing to try to resolve
21 our issue.
22 Budget Policy: I mentioned this some months
23 ago. In fact, I think it was prior to Commissioner
24 Noteware's appointment and didn't pursue it; and, it's
25 my responsiblity. I would like to request a Budget

1 Policy change with regard to items that are put on the
2 agenda for expenditures, contracts that are less than
3 $10,000.
4 My understanding is that policy was in place
5 much prior to my being here; and, still prior to my
6 being here, was lowered to $1,500. I think it would
7 save us a lot of time in terms of Business Meeting,
8 preparing agendas, staff time in Business Meetings, if
9 $10,000 was an effective line for me to bring things to
10 the agenda. What I would preceive occurring here is
11 that I would bring these to the Budget Committee; and,
12 if they had a specific Policy Committee relationship,
13 they would go to the Policy Committee prior to the
14 Budget Committee. So the Commission would still be
15 made aware of these contracts; it would simply resolve
16 some of the mechanical time constraints that we face in
17 the Business Meeting.
18 CHAIRMAN IMBRECHT: Mr. Chamberlain are we in
19 a position to make that change today?
20 MR. CHAMBERLAIN: I think you have to notice
21 that change on a subsequent Business Meeting.
22 MR. WARD: Are you sure? That's just
23 Commission policy in terms of directing the Executive
24 Director in how to coordinate fiscal affairs.
25

1 MR. CHAMBERLAIN: Well, I recall, the change
2 was made back in 1978 or '79 -- '78 I believe -- just
3 as I was coming to the Commission. And, I don't recall
4 the details of it; but, I thought it was in response to
5 a Legislative requirement in that particular budget
6 bill, because of some criticism the Commission had
7 received.
8 MR. WARD: At the time -- and this is my
9 recollection as well; because I was in the Legislature
10 -- there was some fairly significant criticism in the
11 late '70s about the contract procedures of the
12 Commission. That has since been resolved and resolved
13 to the extent that we now serve as a model for other
14 State agencies, as indicated by the Auditor General.
15 CHAIRMAN IMBRECHT: Let me try this. Let me
16 ask: Is objection.... If we are capable of making
17 that direction today, is there objection to Mr. Ward's
18 recommendation? We'll just make it a bit of a
19 (INAUDIBLE) decision. But, if we are capable of making
20 that direction, we will do so and ask Mr. Chamberlain
21 to review that and report to me as a matter of
22 communicating to the Commission on that.
23 Okay, anything further? We have a unique
24 opportunity here, friends. Alright. For matters of
25 the record, is there any public who wishes to comment?

1 Hearing none we stand in adjournment. Thank you very
2 much.
3 (Thereupon the Business Meeting of the
4 California Energy Resources Conservation and
5 Development Commission was adjourned at 5:40 PM.)
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1 **REPORTER'S CERTIFICATE**

2 THIS IS TO CERTIFY that I, Dawn Lofton,
3 Reporter, have duly reported the foregoing proceedings
4 which were had and taken in Sacramento, California, on
5 Wednesday, June 12, 1985, and that the foregoing pages
6 constitute a true, complete and accurate transcription
7 of the aforementioned proceedings.

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

11

12 Dawn Lofton
Reporter

13

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15 Dated this 21st day of June, 1985.

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