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STATE OF CALIFORNIA  
ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

BUSINESS MEETING

1516 NINTH STREET  
First Floor Conference Room  
Sacramento, California

WEDNESDAY, JULY 10, 1985

10:00 O'Clock A.M.

Reported by:

Madonna M. Kushen

COMMISSIONERS PRESENT

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

STAFF PRESENT

- Randy Ward
- Greg Newhouse
- Bob Therkelson
- William Chamberlain
- Dan Fong
- Leon Vann
- Bill Foley
- Chris Ellison

PUBLIC ADVISOR

- Ernesto Perez

ALSO PRESENT

- Mike Gardner, Southern California Edison
- Michael R. Eaton, Independent Power Corporation
- Dian M. Gruenerich, Pacific Thermanetics
- Michael Gersick, Grattan-Gersick-Karp

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P R O C E E D I N G S

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3 PRESIDING MEMBER CROWLEY: Good morning. I would  
4 like to call to order the Wednesday, July 10th meeting of  
5 the California Energy Commission and ask that you rise for  
6 the flag salute.

7 Commissioner Gandara, will you lead the flag  
8 salute, please.

9 (Whereupon, Commissioner Gandara led the reciting  
10 of the Pledge of Allegiance.)

11 Item 1 on our agenda is Commission consideration  
12 and possible acceptance of the Watson Cogeneration Project,  
13 Committee recommendations regarding a request for exemption  
14 for the CEC notice for intention process and concerning  
15 the adequacy of the data submitted in the application for  
16 certification.

17 Greg Newhouse, are you -- or --

18 MR. WARD: Yes. thank you, Commissioner Crowley.  
19 You received a letter from my office indicating that the  
20 date adequacy was reasonable and sufficient to begin the  
21 process yesterday afternoon, I believe. I apologize for  
22 the lateness of that request. We received additional data  
23 as late as Friday, and the staff was still at it through  
24 Monday.

25 If you have any questions, Greg Newhouse and

1 Bob Therkelson from the siting division are prepared to  
2 answer those.

3 MR. THERKELSON: One thing to add on Item 1 is  
4 there is two components of that item, and the first component  
5 is, when they filed, being a 385-megawatt cogeneration  
6 project, they have also requested an exemption from the  
7 notice -- the Commission's Notice of Intention regulation.

8 Commission staff has reviewed their application  
9 and their request for that exemption. There has also been  
10 a committee hearing with the Presiding Member, Commissioner  
11 Noteware, presiding over that hearing.

12 The committee has made a recommendation on that  
13 item. Basically what has been found is that there are no  
14 other feasible sites, and it's simply a finding reagrding  
15 feasible sites in terms of the cogeneration project, that  
16 if the Commission agrees they may then be exempted from  
17 the Notice of Intention process and begin the application  
18 for certification process.

19 According to our regulations, the Commission must  
20 make a ruling on this item first before making a ruling on  
21 the staff's recommendation regarding data adequacy.

22 PRESIDING MEMBER CROWLEY: Did you have any  
23 comments, Commissioner Noteware?

24 COMMISSIONER NOTEWARE: No, Madam Chairman. At  
25 the hearing there was no opposition. I am wondering if

1 the applicatnt is here today and wishes to address this.

2 MR. DERNBOCK: My name is Richard Dernbock, and  
3 I am from Atlantic-Richfield. I'm the ventures manager  
4 for the project.

5 I would just like to say that we worked very  
6 diligently over the last six months to put together the  
7 application for certification for this project, and have  
8 been working we feel treated very openly and in a very pro-  
9 fessional way by the staff.

10 We do feel that the data that we have put together  
11 is such that it should be deemed adequate for the applica-  
12 tion for certification, and if you so deem it that way we  
13 look forward to working with you over the next year in  
14 evaluating the permittability of this project.

15 COMMISSIONER NOTEWARE: Since this is a double-  
16 barreled item here on our agenda, I suppose we should take  
17 them one at a time.

18 PRESIDING MEMBER CROWLEY: I think that would  
19 be appropriate.

20 COMMISSIONER NOTEWARE: All right. Then I would  
21 move for approval of the request for exemption of the notice  
22 of intention, if that is the appropriate motion to --

23 PRESIDING MEMBER CROWLEY: There is a motion for  
24 request for exemption for the NOI. Is there a second?

25 Commissioner Commons seconds the motion.

1 Is there any discussion under the question?

2 Is there any objection to a unanimous roll call?

3 There being none -- yes, Commissioner.

4 COMMISSIONER GANDARA: I haven't been here for  
5 this discussion, so I'm going to abstain from it.

6 PRESIDING MEMBER CROWLEY: You would choose to  
7 abstain. Then there being no objection to the roll call,  
8 may I specify that the vote would be three in favor of the  
9 motion, and one abstention by Commissioner Gandara.

10 COMMISSIONER GANDARA: And Commissioner Imbrecht  
11 absent.

12 PRESIDING MEMBER CROWLEY: Yes, and Commissioner  
13 Imbrecht is absent.

14 Then the second matter.

15 COMMISSIONER NOTEWARE: Yes. I would move for  
16 acceptance of the application for certification, the data  
17 adequacy of --

18 PRESIDING MEMBER CROWLEY: Based on adequate data,  
19 of course.

20 COMMISSIONER NOTEWARE: Based on adequate data;  
21 right.

22 PRESIDING MEMBER CROWLEY: Is there a second to  
23 that motion? Commissioner Commons?

24 Is there any discussion under the question?  
25 Commissioner Commons.

1           COMMISSIONER COMMONS: Mr. Ward said he delivered  
2 something, and I don't have a copy of it.

3           MR. WARD: I think, Commissioner Commons, you'll  
4 find it's very consistent with other letters on data  
5 adequacy that you've received.

6           COMMISSIONER COMMONS: Well, Mr. Ward, if the  
7 letter states that it substantially complies with it, are  
8 there -- is there any data that you feel that you will be  
9 needing within the case that you have not yet received?  
10 Are there any -- were there any outstanding data issues,  
11 as far as you were concerned?

12           MR. WARD: What we try to do is maintain some  
13 consistency with all data adequacy requests so that when  
14 you're faced with passing judgment on -- ultimately on data  
15 adequacy, that you are doing so in a consistent manner  
16 with other cases that have been before you.

17           I would say that this is extremely consistent  
18 with any other cases before you. There's obviously addi-  
19 tional data that's going to be needed, as I indicated on  
20 the -- on the letter. However, none of that is relevant,  
21 at least as far as staff is concerned, to beginning the  
22 process and determine the -- determining whether the data  
23 is substantially adequate to begin that process.

24           COMMISSIONER COMMONS: Is there any information  
25 that you foresee that may be needed which could result

1 in an inability of the Commission to complete the case  
2 within the 12-month period?

3 MR. WARD: Not to my knowledge at this point in  
4 time, Commissioner.

5 PRESIDING MEMBER CROWLEY: Any further questions  
6 regarding the motion?

7 COMMISSIONER GANDARA: I have one question. I  
8 guess I have a -- in my package I have a June 28th letter  
9 that indicates that there is a data insufficiency at that  
10 point in time, and there is an attached list of the incom-  
11 plete sections, and in today's package I guess what I have  
12 is a letter in which a recommendation for the acceptance  
13 is noted, but I don't have any information that indicates  
14 what information of that which was previously deficient  
15 has now been submitted and that which hasn't.

16 Is there -- is there an updated list like this  
17 that says what has been submitted and what hasn't been  
18 submitted, what's outstanding?

19 MR. THERKELSON: They have -- the applicant has  
20 supplied to us a revised addendum which responded to all  
21 the data that we requested in this previous letter that  
22 was sent out by the Executive Director.

23 COMMISSIONER GANDARA: So that essentially all  
24 these boxes have been checked off, they've submitted all  
25 the data that you indicated was deficient.

1 MR. THERKELSON: All these boxes have been checked  
2 off, yes.

3 PRESIDING MEMBER CROWLEY: Any further questions  
4 under the question?

5 Is there any objection to a unanimous roll call  
6 vote among the members present on this matter?

7 COMMISSIONER GANDARA: Again, I am not as familiar  
8 with the cases.

9 PRESIDING MEMBER CROWLEY: Is there any objection  
10 to recording that three of the members present voted "Aye,"  
11 and Commisisoner Gandara abstained, and Commissioner  
12 Imbrecht was not present?

13 On Item -- is there anything further on this  
14 item that you want to bring to our attention?

15 COMMISSIONER NOTEWARE: No. I have no questions.

16 PRESIDING MEMBER CROWLEY: On Item 2, Mr. Ward,  
17 I would like to inquire if you would like to defer this  
18 item until the possible expected arrival of Commissioner  
19 Imbrecht. What is your pleasure?

20 MR. WARD: Yes. My understanding is that he's  
21 planning on being here shortly this morning, and had asked  
22 that this item be deferred until he could be here to have  
23 the benefit of hearing any -- the staff's presentation and  
24 any questions.

25 PRESIDING MEMBER CROWLEY: All right. Let's move

1 to Item 3, then, which is a contract for \$150,000 with  
2 Finley, Kumble, Wagner, Heine, Underberg, Manley & Casey.  
3 This is for legal services related to out-of-state power  
4 issues and proceedings before federal agencies, including,  
5 but limited to, the Bonneville Power --

6 MR. CHAMBERLAIN: That should be "but not limited  
7 to..."

8 PRESIDING MEMBER CROWLEY: -- the Bonneville Power  
9 Administration and the FERC.

10 Mr. Chamberlain.

11 MR. CHAMBERLAIN: Yes. Thank you, Madam  
12 Chairman.

13 This contract is an extension of the current rela-  
14 tionship that we have with Finley-Kumble. I believe you  
15 are all aware of the litigation that they have been assist-  
16 ing us with with respect to the Bonneville Power  
17 Administration Intertie Access Policy. That is anticipated  
18 to be the bulk of the work that we would be having under  
19 this contract, but in addition there is \$50,000 to carry  
20 over some additional work that was being done under a  
21 general category, or the Intergovernmental Relations  
22 Committee may want to take up different ways of using that  
23 money.

24 The matter has been discussed with the  
25 Intergovernmental Relations Committee, and they have

1 approved the contract.

2 PRESIDING MEMBER CROWLEY: Is there any question  
3 of Mr. Chamberlain at this time?

4 Is there a motion regarding this matter?  
5 Commissioner Commons.

6 COMMISSIONER COMMONS: I would like to move Items  
7 3 and 4.

8 PRESIDING MEMBER CROWLEY: Okay. Is there a  
9 second to the motion to approve Items 3 and 4?

10 COMMISSIONER NOTEWARE: I'll second it.

11 PRESIDING MEMBER CROWLEY: Is there any discus-  
12 sion under the question?

13 Did you have any comment on Item 4 that you  
14 wished to make?

15 MR. CHAMBERLAIN: No. I think it's very much  
16 related

17 PRESIDING MEMBER CROWLEY: Okay. Is there any  
18 objection to a unanimous roll call on these two items?

19 COMMISSIONER NOTEWARE: None.

20 PRESIDING MEMBER CROWLEY: Hearing none, then  
21 if the -- it will be recorded that Commissioner Imbrecht  
22 was absent, but the four members present...

23 Item 5, which is a another contract for \$50,000,  
24 with 13 local government methanol fleets to ensure more  
25 active and accurate driveability data is gathered and

1 submitted to the CEC in return for reimbursement of  
2 methanol fuel differential costs, is our Item 5 on the  
3 business agenda. Peter Ward is the contact.

4 MR. FONG: I apologize. Peter Ward is being  
5 substituted by me. My name is Dan Fong. I'm the transpor-  
6 tation program manager of the synthetic fuels office.

7 MR. WARD: Commissioner, it's my understanding  
8 that, due to some problems with the primary contractor,  
9 that I thik all commissioners are generally familiar with,  
10 we are achieving a certain amount of data from the local  
11 governments, via the card readers and computer information,  
12 that we can evaluate, mileage, service, and those kinds  
13 of things, related to the methanol fleet.

14 This is simply -- the contract here is simply  
15 to pay, as agreed to with the local governments that we  
16 originally provided the vehicles to to pay the marginal  
17 fuel cost differential, but tied to that is the requirement  
18 that they then provide the computerized information to the  
19 Energy Commission that we can use for our evaluation in  
20 the context of this project.

21 PRESIDING MEMBER CROWLEY: Any questions regard-  
22 ing the contract?

23 COMMISSIONER GANDARA: Mr. Fong, how long has  
24 this program been in place?

25 MR. FONG: It initiated in the summer of 1983,

1 about June, when the cars were first placed in service.

2 COMMISSIONER GANDARA: And when is it that we  
3 became aware that these participants were not reporting  
4 the correct data?

5 MR. FONG: The data was being reported to us by  
6 Redwood Oil Company, and in most cases was very accurate.  
7 However, roughly two to three months after the program began  
8 we noticed in reviewing the data that some cars were achiev-  
9 ing substantially higher fuel economy than other cars,  
10 since we didn't look accurate, and so at that time we began  
11 to question the information being provided to us by  
12 Redwood.

13 And then we went directly to the fleet operators  
14 to determine if their employees were accurately punching  
15 in the information into these card reader machines. In  
16 some cases they were not, in some cases, because of -- they  
17 simply were under a time constraint, they felt that they  
18 could just punch in any kind of information to gain access  
19 to the fuel.

20 And so we knew that, early on, that some of the  
21 data was coming to us improperly.

22 COMMISSIONER GANDARA: Well, why didn't we do  
23 something about it then?

24 MR. FONG: Well, we have taken some steps to  
25 insure that the information was coming to us more accurately.

1 but that in many cases the local governments are under a  
2 severe funding constraint, and usually the information-  
3 gathering end of their -- their responsibility falls a  
4 little short of what we expect. They are doing their best  
5 to coach their employees to provide the information, but  
6 if -- it's still susceptible to people who feel that, you  
7 know, one car is not really going to make a big impact on  
8 the overall data, but when you get a lot of people doing  
9 that then it does hurt us.

10 COMMISSIONER GANDARA: Were we paying the fuel  
11 differential cost then?

12 MR. FONG: Yes. At that time we -- well,  
13 initially we promised the local governments that the  
14 Energy Commission felt that within a two- to three-year  
15 time frame back in 1982 that the cost of the methanol would  
16 reach a competitive situation with unleaded gasoline and,  
17 therefore, they wouldn't be exposed to a cost differential  
18 beyond 1985.

19 However, that situation has changed substantially,  
20 and so to insure that they were not exposed to any added  
21 costs back in 1982, the Energy Commission promised to cover  
22 this fuel differential for that short period of time.

23 COMMISSIONER GANDARA: What's the difference in  
24 the incentive? If we were paying the fuel differential  
25 then and they didn't report this data correctly, and now

1 we say we are going to continue to pay the fuel differen-  
2 tial --

3 MR. FONG: Well, we had a contract manager --

4 COMMISSIONER GANDARA: -- pay through the data  
5 what --

6 MR. FONG: -- through Redwood Oil Company who  
7 was given the primary responsibility for collecting that  
8 information in an automated fashion. Now, that contract  
9 terminated in May of this year, and so there's no direct  
10 link between the Energy Commission and that contractor,  
11 and so we no longer can obtain that information, and now  
12 we're placing the burden on the fleet operators to actu-  
13 ally make the added effort to insure that we do get that  
14 information.

15 COMMISSIONER GANDARA: Why is it we have to  
16 pay them a subsidy? Why is it we have to continue this  
17 fuel differential subsidy? I don't understand why it  
18 is that the fact that we have paid them that subsidy for  
19 three years, you know, doesn't require some corresponding  
20 obligation on their part to report this data.

21 MR. FONG: True. I think, though, that they  
22 feel that it is an added burden to them to devote time  
23 to see that the information is collected, that it is cor-  
24 rect, and then to send it to us, and that it's only fair  
25 that that added responsibility be reimbursed in the form

1 of this fuel differential payment.

2           COMMISSIONER GANDARA: Why is that only fair?  
3 I guess I -- I'm trying to understand why there is a need  
4 for a continuing subsidy of a fuel in which we can already  
5 expect that the gap between the actual worth of the fuel  
6 and the price of its alternative, which is gasoline, is  
7 going to continue to expand, I'm trying to understand what  
8 the policy basis is for continuing this subsidized program.

9           MR. FONG: Because we feel that the information  
10 that we get from the fleet operators is worth the added  
11 fuel differential costs. We use that information to diag-  
12 nose potential problems with the fleet.

13           It's important that we on a real-time basis know  
14 how the cars are doing, what type of fuel economy they  
15 are achieving, what sort of usage they are being used in,  
16 and what sort of driveability problems they are experienc-  
17 ing, so that if there is hardware problems with the car,  
18 we can anticipate it and prevent it from really causing  
19 a serious problem in the fleet, and there are still some  
20 developmental problems that we need to address. There  
21 is engine technology that needs to be refined, and that  
22 information that we receive from them on a monthly basis  
23 really goes toward that goal.

24           COMMISSIONER GANDARA: Well, we insist on cost-  
25 sharing in the conservation programs in local governments

1 we usually -- I know that it's at least a one-to-one cost-  
2 sharing in many areas, and I know that there's been  
3 expressions of concern by members of the Commission that  
4 that leveraged at three-to-one, four-to-one. I don't see  
5 why it is that we have to pay the entire differential cost  
6 of the fuel, why we have to pay the entire fuel subsidy.  
7 They have a fleet, they have an interest in continuing  
8 it. Why don't they come up with a -- with 50 percent of  
9 the costs?

10 MR. FONG: They are contributing their share  
11 in the operation of the vehicles. One of the added main-  
12 tenance items is that we are having the car's lubrication  
13 system changed more frequently, and that cost is being  
14 absorbed by these fleet operators.

15 COMMISSIONER GANDARA: But they are getting the  
16 benefit of running the car, too, so, I mean that's -- where  
17 there's an added cost there's an added benefit. In this  
18 area I guess I'm -- there's a benefit to them for our proces-  
19 sing the data. I don't understand why we are not insist-  
20 ing that they pay half the subsidy.

21 MR. WARD: Well, Commissioner, I think generally  
22 there is a host of burdens that these operators are bear-  
23 ing operating these fleets. It's to a great extent a  
24 research and development program, as you are well aware.  
25 There's been difficulties over and above those that would

1 been encountered had they bought regular gasoline-operated  
2 vehicles, and I think the point Dan is making is that they  
3 are in fact incurring and absorbing a certain portion of  
4 that cost, and the good-faith agreement on our part was  
5 to provide the fuel differential.

6 I think in terms of drawing an analogy between  
7 these and some of the conservation programs, conservation  
8 programs have a payback that ultimately is going to result  
9 in positive economics for the local government, as opposed  
10 to an RND program like this that is really designed to  
11 benefit the State of California as a whole, in terms of --

12 COMMISSIONER GANDARA: That's another good argu-  
13 ment why maybe we should use these funds for conservation  
14 programs, but in any case my concern happens to be that  
15 we have in fact -- are insisting on cost-sharing and lever-  
16 aging our funds with respect to local governments and other  
17 programs, and that, secondly, with respect to tax credits  
18 and other areas, solar wind, and so forth, we have accepted  
19 the idea that we are going to gradually decrease those  
20 over time, so we are weaning away the participants from  
21 the subsidies, both from the State and from the Commission,  
22 and I don't understand why in this case we continue to  
23 sort of look at this program as if somehow it should  
24 uncritically be continued.

25 So I -- I suppose I'm really making my argument

1 with the Commission here. I don't think there's any more  
2 to be gained by it, but when it's appropriate I will move  
3 that in fact we insist on a one-to-one cost-sharing on  
4 the subsidy, and that we reduce this amount to 25 K.

5 PRESIDING MEMBER CROWLEY: May we hold that for  
6 further discussion? And is there any further discussion  
7 on this -- questions on this?

8 MR. WARD: Well, I would like to make one general  
9 comment that is related to the budget process on the  
10 methanol program. As you are aware, we had some difficulty  
11 with the methanol program during the budget process, and  
12 ultimately the Commission did go forward both with the  
13 administration and with the Legislature and advocated that  
14 this program be continued at the level proposed by the  
15 Governor's budget, which was reduced in terms of the number  
16 of fueling stations, but still maintained the technical  
17 support and the other costs attributable to the -- to the  
18 program.

19 That was I think a very difficult, long and  
20 protracted discussion between both the Administration and  
21 the Legislature, and I would be extremely concerned about  
22 the Commission taking any action that would somehow evi-  
23 dence that we are not still supporting the program, as  
24 it appeared we were during the budget process in the  
25 Legislature.

1           PRESIDING MEMBER CROWLEY: I think you are pos-  
2 sibly not differentiating between support for the project  
3 and support for prudent implementation.

4           MR. WARD: Well, I guess my concern,  
5 Commissioner, is that it was I think generally agreed to,  
6 and, Dan, if I'm not characterizing this correctly feel  
7 free to correct me, but that we would pay the marginal  
8 fuel differential on this, and I -- I think the differences  
9 that I view are the potential incentives to the local  
10 governments that are operating this fleet that are bearing  
11 a host of burdents in terms of operating something that  
12 is not, that is still subject to various technical diffi-  
13 culties, that this is a small amount in terms of the  
14 state's contribution to act as an incentive for their con-  
15 tinued operation and reciprocal good faith, I guess, in  
16 providing the information we need to see the program come  
17 to a conclusion in terms of ultimate evaluation.

18           PRESIDING MEMBER CROWLEY: I would have a ques-  
19 tion. Apparently there has been a problem about correct  
20 odometer readings, and data. I can't find how this con-  
21 tract insures that.

22           MR. FONG: Well, we won't be reimbursing these  
23 local governments, if we feel that the data being sub-  
24 mitted to us is not accurate. I mean that's the leverage  
25 that we have through this contract, is that if they really

1 feel that they need this fuel differential. Then they  
2 are going to have to insure that their employees provide  
3 the correct information, and the -- the leverage that we  
4 have really will be in that we have the right to refuse  
5 to pay that differential if we feel that the information  
6 being provided to us is not accurate.

7 PRESIDING MEMBER CROWLEY: Are there any other  
8 questions regarding this matter?

9 Did you have a comment?

10 MR. CHAMBERLAIN: Yes. Commissioner, in that  
11 regard, perhaps in response to a question I believe that  
12 Commissioner Gandara raised, I think if the -- if the staff  
13 had been more clairvoyant when the program was put together  
14 and had realized that the persons who would be punching  
15 in these numbers might get impatient and put in all zeros  
16 instead of accurate data, instead of going over and looking  
17 at the odometer and putting in the right data, they might  
18 have put this kind of a condition into the original con-  
19 tract.

20 We didn't think of that, and so basically what  
21 they are proposing is that, in addition to providing some  
22 additional incentive for the local governments to stay  
23 in the program and not convert the cars over from methanol  
24 to a different kind of fuel, we will now create an incen-  
25 tive for them to insure that we get the accurate data.

1           PRESIDING MEMBER CROWLEY: Is there any other  
2 discussion? Commissioner Gandara?

3           COMMISSIONER GANDARA: No. I will wait for the  
4 motion.

5           PRESIDING MEMBER CROWLEY: Okay. Then hearing  
6 no other discussion, then your motion.

7           COMMISSIONER GANDARA: Madam Chair, I would like  
8 to move that, with respect to this contract, that we place  
9 a condition on it that the Emergency Commission will not sub-  
10 sidize more than half of the fuel differential. However,  
11 that the amount that be made available for these purposes  
12 be the same as is indicated here, which is \$50,000.

13           In other words, I'm just trying to make the point  
14 that we should not subsidize more than half of the fuel  
15 differential cost, and again it -- it's not an issue of  
16 clairvoyance, because I have long been concerned that this  
17 program has been uncritically reviewed, and that back when  
18 the Redwood Oil contract was proposed I raised serious  
19 questions about the contractor that we were proposing the  
20 contract with, and all those concerns have come to pass,  
21 but in any case my current motion is that the amount of  
22 \$50,000 be made available for the purposes indicated by  
23 staff, but that the differential reimbursement to the par-  
24 ticipants not be more than 50 percent of the fuel cost  
25 differential.

1           PRESIDING MEMBER CROWLEY: Is there a second  
2 to the motion? Commissioner?

3           COMMISSIONER COMMONS: I would second it.

4           PRESIDING MEMBER CROWLEY: Commissioner Commons  
5 seconded it. Is there any discussion under the question?

6           COMMISSIONER COMMONS: I --

7           PRESIDING MEMBER CROWLEY: Commissioner Commons.

8           COMMISSIONER COMMONS: It's been -- it's consis-  
9 tent with what my position on the Commission has been,  
10 is that I've said always -- I think there's two things  
11 when we're expending funds that I think are critical. One  
12 is what is the payback we receive on the funds and, second,  
13 what is the leverage, and the best way we can assure that  
14 someone is interested in projects that we're involved with  
15 is that they are willing to share some of the investment  
16 with ourselves.

17           And I have taken that position consistently,  
18 and this would be in accord, and methanol, as to the same  
19 approach I've asked on other loans and grant programs,  
20 and so I would support that.

21           PRESIDING MEMBER CROWLEY: Mr. Ward, did you  
22 have any comment on this matter?

23           MR. WARD: Well, I -- I guess the -- there's  
24 two things that are really missing here. I think there's  
25 some uncertainty, at least with regard to the program,

1 as to whether we might lose some of the local government  
2 operators as a result of not paying the differential that  
3 we have proposed here.

4 But, secondly, I think in responding to  
5 Commissioner Commons' concern, which is a fair concern  
6 and directly relates to Commissioner Gandara's remarks,  
7 is I would like to see maybe an accounting of what the  
8 local governments are actually absorbing as a result of  
9 this demonstration project, and we don't have that before  
10 us so we can see what fact there is in terms of cost-  
11 sharing, and I'm not sure that Dan or Leon can respond  
12 off the cuff to those costs precisely, and maybe we ought  
13 to put it over for two weeks and come back with that kind  
14 of accounting, if you think it would make a difference.

15 MR. FONG: I think at some time prior to our  
16 submittal of the proposed 1985-86 budget we did do a survey  
17 of some of the major fleets, local government fleets, to  
18 try to determine from them what they felt was the added  
19 cost in operating the vehicles, the fact that because our  
20 fuel stations were not in all areas where they -- they  
21 had a need to provide service, therefore they had to sub-  
22 stitute other vehicles, et cetera, and in looking at the  
23 information that was provided to us by those local fleets  
24 it was approximately a 50-50 type of added cost in that  
25 they were paying roughly equal to the fuel differential

1 in their added costs to actually keep these cars in opera-  
2 tion in terms of their entire fleet service that they pro-  
3 vide for their local governments.

4 And we felt at that time that the information  
5 being provided to us was reasonable. We felt that the  
6 added burden of using the cars was being shared on an equal  
7 basis.

8 And another point to bring out I think is one  
9 of the real goals of the program was to achieve essentially  
10 50 or 60 thousand miles of service within the five-year  
11 period, and that's because we need that high mileage accumu-  
12 lation arealy to finalize conclusions regarding the dura-  
13 bility of these engines in this kind of operating environ-  
14 ment.

15 If the local governments feel that it's a true  
16 added burden to them they will simply use these cars in  
17 a lower mileage situation because it's an added cost to  
18 them, and that prevents us from really achieving the high  
19 mileage type numbers that we feel is necessary to make  
20 conclusions about the durability of these engines and the  
21 reliability of these cars.

22 MR. VANN: One last point. The fleet program  
23 cannot be truly compared to any of the other loans and  
24 grants programs in the Commission, not just the Development  
25 Division. This is really an R&D effort. It is not a

1 precommercialization effort, if you will, comparable to  
2 a biomass power plant where there is a definite revenue  
3 stream created by development of the equipment. There  
4 is no revenue stream created for the local government here,  
5 and there is no benefit for them to operate the vehicles.

6           These vehicles, when the program started,  
7 replaced gasoline vehicles that were in their fleets. Now,  
8 if we assume that the number of vehicles in their fleets  
9 was based on a need at the local level, these vehicles  
10 when they went down it required someone to rent an addi-  
11 tional vehicle for their respective staffs to get around.  
12 It's not a luxury item, an add-on item.

13           And the same goes for the vehicles that are in  
14 the State fleet. These replaced the vehicles down at LAX.  
15 They were all methanol. They had no other option on rent-  
16 ing a car, so it's really not the same as another loans  
17 and grants program. This is more an R&D effort and, you  
18 know, as we've stated before, there have been development  
19 problems on the -- on the program.

20           COMMISSIONER NOTEWARE: Madam Chairman --

21           PRESIDING MEMBER CROWLEY: Commissioner Noteware.

22           COMMISSIONER NOTEWARE: I would like to ask  
23 Mr. Ward about a prior commitment that was made. I feel  
24 that we have actually a commitment here to fund the dif-  
25 ferential, and I'm wondering, was that a part of a contract

1 with these various governments?

2 MR. WARD: I would ask either Dan or Loen to  
3 comment on the technical aspects of that, but I think it  
4 was generally always envisioned to be a five-year program  
5 that would produce a certain number of miles.

6 There are, as I indicated. a host of burdens  
7 on these operators, as Leon indicated as well, and we're  
8 trying to achieve some incentive here, and the marginal  
9 fuel cost is just one of those incentives.

10 I'll let Dan comment on this specific question.

11 MR. FONG: There is not a formal agreement with  
12 each local government that we would pay the field differen-  
13 tial. However, when we did approach them in 1982 for the  
14 possible purchase of the cars, we basically explained to  
15 them that this was our commitment through a contract with  
16 Redwood Oil Company.

17 That is we instructed Redwood to account for  
18 the fuel differential. Redwood would simply invoice the  
19 fleets for only the gasoline equivalent cost to operate  
20 these cars. They would directly invoice the Energy  
21 Commission for that fuel differential.

22 So early in the program, when the contract was  
23 in existence, the fleet operators only saw invoices for  
24 just the gasoline cost of operating the vehicles. They  
25 never saw the fuel differential invoice or cost in that

1 respect, but they were told that they would only have to  
2 pay for the gasoline invoice that they would receive.

3 MR. WARD: I guess my final comment to  
4 Commissioner Gandara, in an attempt to put the icing on  
5 the cake in terms of advocacy here, is that we are going  
6 to do our utmost to provide the most recent and updated  
7 information on the program's success for the Biennial Fuels  
8 Report. In that context, this statistical information  
9 may be extremely relevant.

10 COMMISSIONER GANDARA: I doubt it, but in any  
11 case, as we sit here, I'm recalling more and more of the  
12 original Redwood Oil contract, and I do recall there was  
13 a line item there for a fuel differential cost.

14 In addition to that, there was another allocated  
15 item that I took exception to but which was approved. In  
16 any case there was a contingency fund, and the -- and it  
17 was a substantial contingency fund that, when I asked what  
18 that was for, the answer that was given at that point in  
19 time was that it was for the subsidy and fuel differential  
20 between the methanol and the gasoline, you know, should  
21 the price of gasoline continue to drop.

22 Okay. Now, I guess my question is what has hap-  
23 pened to that contingency fund.

24 MR. VANN: That -- those funds are part of these  
25 funds that we're talking about right now. When the

1 performance on the contract deteriorated, we truncated  
2 the building of additional fuel stations until the con-  
3 tract issue was resolved, and during the budget process  
4 what was included in the Commission's budget was that  
5 balance of funds that remained. It's not -- none of this  
6 is new money. This -- a good portion of this money would  
7 have gone to Redwood Oil Company had Redwood Oil Company  
8 completed all the terms and conditions of the contract,  
9 but when performance got bad we -- we stopped payment,  
10 so this -- this is part of those funds.

11 The total quantity I believe was \$573,000, or  
12 on that order of magnitude, and this is \$50,000 out of  
13 that pool of money.

14 PRESIDING MEMBER CROWLEY: Commissioner Gandara,  
15 would you be interested in having the information that  
16 Mr. Ward suggested they would make available, and be will-  
17 ing --

18 COMMISSIONER GANDARA: I have no objection to  
19 it. I leave it to the Commission. I mean my position  
20 will be the same in -- you know, when it comes around the  
21 next time as it is this time, so if the Commission just  
22 wishes to put it over till then it would be fine.

23 I should say, however, that in the past when  
24 we've gotten these estimates from the Development Division  
25 with respect to cost-sharing by participants in this area,

1 I have always seen, you know, the participants fall short  
2 of actual cash outlays, and what has usually been included  
3 as participant cost has been a cost accounting of either  
4 labor or -- or time or services, or something, that in  
5 fact is very difficult to document.

6           It's not quite clear to me that those represent  
7 real contributions that can be compared, so that what I  
8 would, you know, insist on next time is that if there is  
9 to be that kind of cost-sharing that we do the cost-sharing  
10 by item, by expense category, so that it would not obviate  
11 the need here to still try and do the cost-sharing and  
12 fuel differential.

13           I believe that it sends the appropriate market  
14 signal to the local governments that they are participa-  
15 ting in a program that if they wish to continue this pro-  
16 gram there is a subsidy involved. The subsidy is given  
17 by the State, that they should consider whether they wish  
18 to continue in a program where the original policy basis  
19 of syn fuels as a backstop to oil prices coming in the  
20 early '90s is still a viable policy reason for which we  
21 have this kind of program.

22           I don't believe it is, and I don't think we have  
23 reexamined the initial basis for why we've undertaken  
24 this program.

25           If it's an R&D program, and I believe the

1 Commission should be taking R&D programs only -- only in  
2 the expectation that there is a -- a real possibility the  
3 success of the so-called experiment will in fact be imple-  
4 mented by the marketplace. I don't think we have that  
5 here, so I have no objection to getting a fuller account-  
6 ing. I -- as I said before, you know, it's -- I don't  
7 think it changes the issue that we have before us today,  
8 however.

9 PRESIDING MEMBER CROWLEY: I see. Well, I think  
10 it would be appropriate to have that information. However,  
11 there is a motion before us. How would -- could --

12 COMMISSIONER GANDARA: If the Executive Director  
13 requests that this item be held over, I would concur with  
14 that. I don't have a problem with that.

15 MR. WARD: I am not making the request. I guess  
16 my request would be on the basis of how the votes are  
17 lining up. If that's something that would give us an addi-  
18 tional opportunity here to give information that might  
19 sway the Commission, then I would like to take advantage  
20 of that.

21 PRESIDING MEMBER CROWLEY: Well, it's going to  
22 be hard for us to take a straw vote so you'll know how  
23 to proceed, so why don't we just suggest that the Chair  
24 ask that this be held, and that you provide the informa-  
25 tion.

1 MR. WARD: Unless there's some reason that we  
2 need to --

3 PRESIDING MEMBER CROWLEY: Unless it matters  
4 to you who is going to vote which way.

5 MR. WARD: My only -- my only question to the  
6 Division would be that if there -- if there's any technical  
7 reason that we need to act today, one way or the other.  
8 And I'm hearing not, so that's fine.

9 PRESIDING MEMBER CROWLEY: If that's the case,  
10 then, with your concurrence, then we'll proceed and have  
11 this on our next week's -- the next meeting's agenda with  
12 the information.

13 MR. WARD: And we're going to provide some  
14 general information on the other kinds of cost burdens  
15 that are being absorbed by the local governments that are  
16 operating these fleets.

17 PRESIDING MEMBER CROWLEY: Well, and if there  
18 is possible some quantification of any kind --

19 MR. WARD: Sure. Exactly.

20 PRESIDING MEMBER CROWLEY: -- we'd appreciate  
21 it.

22 MR. WARD: Okay. Thank you.

23 PRESIDING MEMBER CROWLEY: Thank you.

24 COMMISSIONER GANDARA: I think it would be also  
25 appropriate if the Staff would reconsider whether in fact

1 they want to provide the fuel -- the entire fuel subsidy,  
2 so it would -- we want to leave it outside the realm of  
3 possibility the staff might change its mind in the next  
4 two weeks as well.

5 PRESIDING MEMBER CROWLEY: Yes. Don't feel  
6 locked into your present position.

7 Item 6 is the approval of the minutes, which  
8 are in the packet. What is the pleasure of the Commission  
9 on that?

10 Commissioner Commons.

11 COMMISSIONER COMMONS: Yes. Two comments on  
12 the minutes before there be a motion.

13 I believe the Commission allowed for concurring  
14 and dissenting opinions to be included, and --

15 PRESIDING MEMBER CROWLEY: Where are you, please?

16 COMMISSIONER COMMONS: On Item 4 in the minutes.  
17 The second was, was the vote unanimous on the project,  
18 and the third item was on the designation of the second  
19 member of the Placerita Committee.

20 The motion did not include that I remain as the  
21 Presiding Member. It was not even before us. It was just  
22 for the second member, and so I think that should be  
23 struck.

24 PRESIDING MEMBER CROWLEY: Are you --

25 COMMISSIONER COMMONS: That's on Item 5.

1 I believe there was a motion made by Chairman  
2 Imbrecht, which I seconded, to make you the Vice-Chair.  
3 You, as the Vice-Chair, the second member.

4 PRESIDING MEMBER CROWLEY: Um-hum.

5 COMMISSIONER COMMONS: The item has not been  
6 noticed as to whether or not there should be any change  
7 in the Presiding Member, and so that --

8 PRESIDING MEMBER CROWLEY: Yes.

9 COMMISSIONER COMMONS: That should be excluded.

10 PRESIDING MEMBER CROWLEY: Okay.

11 COMMISSIONER COMMONS: Minor technical.

12 PRESIDING MEMBER CROWLEY: That wasn't part of  
13 the motion that you're saying.

14 I'm sorry, back on 4, as I understand it, your  
15 question deals with the main motion vote, and Commissioner  
16 Gandara was absent. Is that your point, on whether that  
17 was a unanimous vote?

18 COMMISSIONER COMMONS: Okay. That's right. I  
19 had forgotten. Commissioner Gandara was not present, but  
20 we had allowed him to do the dissenting opinion if he so  
21 wished.

22 PRESIDING MEMBER CROWLEY: Yes. And that was  
23 dealt with, and --

24 COMMISSIONER COMMONS: I think the --

25 PRESIDING MEMBER CROWLEY: -- the problem that

1 you had was removed and, therefore, the main motion was  
2 on what was left of the --

3 COMMISSIONER COMMONS: Right. I think the  
4 Commission also --

5 COMMISSIONER GANDARA: I'm still trying to get  
6 a transcript of the previous meeting.

7 COMMISSIONER COMMONS: And I think the  
8 Commission --

9 PRESIDING MEMBER CROWLEY: Okay. But a vote  
10 was unanimous among the members present. However,  
11 Commissioner Gandara was not.

12 COMMISSIONER COMMONS: All right. I think the  
13 Commission, also, though, did allow me to write a separate  
14 concurring opinion, which is not --

15 PRESIDING MEMBER CROWLEY: That's correct, and --

16 COMMISSIONER COMMONS: Which is not stated here.

17 PRESIDING MEMBER CROWLEY: Okay. You're right.  
18 That is what was --

19 COMMISSIONER COMMONS: I was granted two weeks.

20 PRESIDING MEMBER CROWLEY: Granted. Right. Okay.  
21 And those corrections, then, you request be made, and then  
22 do you have a motion on --

23 COMMISSIONER COMMONS: So move with the correc-  
24 tions.

25 PRESIDING MEMBER CROWLEY: You move the minutes

1 as corrected. Is there a second?

2 COMMISSIONER NOTEWARE: Second.

3 PRESIDING MEMBER CROWLEY: Seconded by  
4 Commissioner Noteware. Any discussion under the question?  
5 Any objection to a unanimous roll call?

6 Hearing none, that would be appropriate.

7 Item 71 -- I'm lost here. Item 7. Policy  
8 Committee's report. Do any other policy committees have  
9 a report?

10 Intergovernmental Relations.

11 COMMISSIONER NOTEWARE: Okay. On intergovern-  
12 mental relations, the first item listed here under the  
13 Legislative Bill Analysis is in effect a United States  
14 Senate -- this is Senator Danforth's bill regarding the  
15 cafe credits for auto manufacturers.

16 We have been asked by the Senate Committee for  
17 input into this, and at Chairman Imbrecht's suggestion  
18 I have made an appointment tomorrow with Alan Zerenberg  
19 of the Governor's staff to get his opinion to make sure  
20 that we are well aware of what the Governor's feelings  
21 are about not only this bill about our proposed amendments,  
22 so --

23 COMMISSIONER COMMONS: Could you clarify that,  
24 Commissioner Noteware?

25 COMMISSIONER NOTEWARE: Okay. Mr. Imbrecht was

1 concerned that possibly our analysis of the bill and our  
2 proposed amendments here might not be totally in line with  
3 Governor Deukmejian's philosophy regarding the methanol,  
4 and the flexible-fuel vehicles.

5 So before we went ahead, I was quite anxious  
6 to know what the Governor's position on this would be.

7 COMMISSIONER COMMONS: And have you ascertained  
8 that?

9 COMMISSIONER NOTEWARE: No. I have a meeting  
10 tomorrow morning with Mr. Zerenberg to try to find out.

11 COMMISSIONER COMMONS: Is there a reason we have  
12 to do this bill today, or can it wait till the next busi-  
13 ness meeting?

14 COMMISSIONER NOTEWARE: Our input is requested  
15 by the time the Committee meets in Washington, which is  
16 the 17th. It's a week from today.

17 COMMISSIONER COMMONS: So do you want us to go  
18 forward, or do you want to wait till your meeting?

19 COMMISSIONER NOTEWARE: Well, I would like to  
20 get any opinions that we have here certainly today. I  
21 am --

22 PRESIDING MEMBER CROWLEY: Perhaps Mr. Ellison  
23 can give us the two -- a sense of the differential between  
24 the two positions, or if there is a difference.

25 COMMISSIONER NOTEWARE: Well, yeah. We don't

1 even know that there is a difference.

2 PRESIDING MEMBER CROWLEY: Okay.

3 COMMISSIONER GANDARA: Well, what difference  
4 does it make? I guess that's the problem I'm having here.  
5 I mean we're an independent technical Commission. We take  
6 the positions that we think are best.

7 Now, I don't have any objection to the idea of  
8 finding out, you know, how different people feel about  
9 it, but you almost make it sound as if somehow the posi-  
10 tion has to be the same, or that somehow that we have to  
11 pursue some approval of it in some way. It --

12 PRESIDING MEMBER CROWLEY: No, Mr. Gandara. Don't  
13 misunderstand. We're not -- we're not suggesting that  
14 our input has to agree with the Administration's, but --

15 COMMISSIONER GANDARA: Well, then, why don't  
16 we go ahead and take a position?

17 PRESIDING MEMBER CROWLEY: There's nothing to  
18 keep us from taking a position.

19 COMMISSIONER GANDARA: So are you recommending  
20 the position that we have here, then?

21 PRESIDING MEMBER CROWLEY: Yes, I am, with the  
22 two proposed amendments.

23 COMMISSIONER GANDARA: I have a question of  
24 OGA, then, if I may.

25 I read recently that the -- that the Department

1 of Transportation granted a delay with respect to the  
2 implementation of the CAFE standards to the auto industry.  
3 Now, as a result of that, is any of this relevant?

4 MR. ELLISON: Commissioner, what I am aware of  
5 is that the Environmental Protection Agency has changed  
6 the formula by which CAFE credits are calculated -- CAFE  
7 standards are calculated, and as a result of that change  
8 Ford and General Motors, which previously had failed to  
9 meet the standard, now meet the standard.

10 In effect, this removed some pressure which had  
11 been being placed on Congress to roll back the CAFE credit.  
12 This measure, proposed by Senator Danforth, raises a dif-  
13 ferent issue, the question of methanol credits under CAFE  
14 standards. It's related only in the sense that some  
15 people were proposing that this might be a compromise  
16 between the Ford and GM position that the credit ought  
17 to be rolled back entirely, and other people's position  
18 that it ought not to be and that Ford and GM ought to be  
19 fined, but they are really separate issues.

20 The only other thing that I would add is that  
21 the --this is the same issue essentially as SJR 28, which  
22 is a Resolution of the California Legislature urging  
23 Congress to give credit for methanol under the CAFE stan-  
24 dards. The Commission voted to support SJR 28 last month.

25 COMMISSIONER GANDARA: One additional question.

1 Why is the Senator from Missouri sponsoring this legisla-  
2 tion? What's the politics of this? Senator Danforth is  
3 -- I don't know of any large auto manufacturing plants  
4 in Missouri.

5 COMMISSIONER COMMONS: But he's a classmate of  
6 ours. That's probably why, Arturo.

7 MR. ELLISON: I don't think he's carrying the  
8 bill on behalf of the auto industry. I think he's more  
9 concerned with alternative fuels, and also contingency  
10 planning.

11 Now, we have heard that one of the things that  
12 Danforth is concerned about is that there be a methanol  
13 capability in case of an oil crisis.

14 COMMISSIONER COMMONS: There is a large automo-  
15 bile manufacturing facility in Kansas City. Also.

16 I think the Committee has gone in the direction  
17 consistent with what we had discussed previously. However,  
18 at the time that we had raised the issue, then, we had  
19 also raised the issue as to where this Commission is con-  
20 cerning the overall cafe level, and I had asked at that  
21 time that that item go back to the Intergovernmental  
22 Affairs Committee, and it came back to us.

23 And in the context of this bill, I think it's  
24 appropriate that that item also be addressed within our  
25 position.

1 I would have concern as reading the bill that  
2 we could both have a rollback and the CAFE standard adjust-  
3 ment and, you know, on the one hand our Commission has  
4 been supportive of use of methanol, both for the reasons  
5 that Senator Danforth has identified, and also for the  
6 reasons that we think it could have some beneficial air  
7 quality impacts in California.

8 But at the same time, if it's only used as a  
9 basis for avoiding having met the CAFE standards, and would  
10 actually result in opposite effects, then I think we have  
11 to be very cautious in terms of how we word our support.

12 It mentions here that one possibility would be  
13 for the Department of Transportation not to have the  
14 ability administratively to roll back the standard. I  
15 think we should take a position as part of this bill that  
16 we would not be supportive of a rollback of the standard,  
17 and that that issue is properly before us as part of this  
18 bill.

19 The other area of concerned which I would like  
20 to have some discussion is I see that the Committee was  
21 concerned that the vehicles would actually be run on  
22 methanol rather than gasoline, and I'm not sure the two  
23 amendments accomplish the objective that the Committee  
24 set forth, and I would like to hear from the Committee  
25 as to how they feel those two amendments achieve the

1 objective that they have stated.

2 COMMISSIONER NOTEWARE: Okay. Yes. Let me try  
3 to answer that, Mr. Commons.

4 I think that until there's an infrastructure  
5 for motorists to obtain methanol wherever they might need  
6 it, it's not realistic to expect that a flexible-fuel  
7 vehicle will run on methanol, but if a car is designed,  
8 and if there are a hundred thousand of them out there that  
9 are designed to run more economically on methanol and to  
10 run actually better on methanol, then the incentive is  
11 there for the infrastructure to be developed.

12 That is what the purpose of the amendments is,  
13 so that the cars will actually function better and -- and  
14 cheaper.

15 COMMISSIONER COMMONS: Would you -- what if we  
16 were to have a third amendment, is that the credit would  
17 only be available to cars sold in states where there are  
18 methanol facilities?

19 COMMISSIONER NOTEWARE: I would like to see  
20 methanol facilities developed throughout the country to  
21 make this really workable.

22 COMMISSIONER COMMONS: Well, that would make  
23 the distinction between an automobile manufacturer selling  
24 a vehicle where there are no methanol facilities, and only  
25 designing the car in order to avoid the CAFE standard,

1 and having the -- having it -- the other aspect, then,  
2 would allow for those states like California, and other  
3 states that had fueling facilities, then the intent of  
4 the manufacturers would be assumed to encourage the use  
5 of the methanol because there were actually facilities  
6 that could be utilized.

7           COMMISSIONER NOTEWARE: Well, it's the old  
8 chicken and egg problem again. I like the idea of 100,000  
9 new cars throughout the country with the incentive for  
10 the infrastructure to be developed by -- by the profit  
11 motive, rather than having any more programs such as ours  
12 here that actually cost the taxpayers money.

13           COMMISSIONER COMMONS: Well, there is no -- the  
14 profit motive would still work, because the credit would  
15 only go to those cars in states where there are actually  
16 facilities, and so it would be up to the automobile manu-  
17 facturers and the petroleum industry to develop those  
18 facilities.

19           But why should we be giving credit for a methanol  
20 vehicle in a state where there are no fueling facilities?  
21 Clearly that car is not going to run on methanol. At the  
22 time that they put in those facilities, then it becomes  
23 eligible.

24           Now, if New York or Illinois, Missouri, put in  
25 facilities, it's eligible. If Texas does not, then a car

1 sold in Texas would not receive the credit. I think we  
2 have to be very cautious here in distinguishing between  
3 trying to -- if all one is doing is making a minor design  
4 on a car so that they could use methanol and there's no  
5 methanol, that's like that old damper vent situation that  
6 we had here before that there's no purpose in waht's been  
7 done other than a tax gimmick, and I don't think we want  
8 to be involved in a tax gimmick, which this could become.

9 MR. ELLISION: Commissioner Commons, if I might  
10 comment briefly, the staff's proposal with respect to the  
11 octane rating was intended in part to address the concern  
12 that you are expressing.

13 The staff was concerned that if you had a  
14 flexible fuel vehicle intended to run on unleaded regular  
15 gasoline of 87 octane, let's say, that there would be no  
16 incentive for an individual, even in a state where there  
17 was methanol available, to use methanol.

18 However, one of the arguments that Ford and GM  
19 have made with respect to rolling back the CAFE credit  
20 is that people are buying larger and larger cars with  
21 higher compression engines that most of the cars, if you  
22 will, are coming back.

23 Staff, therefore, felt that it was appropriate  
24 to say that you could get credit for methanol cars with  
25 -- that were designed to run on unleaded premium. The

1 most important point about that is that the economics of  
2 buying unleaded premium versus methanol favor methanol,  
3 and that we, therefore, think that it would provide an  
4 incentive for gas stations to provide methanol and for  
5 people to buy it.

6 In addition to that, we've proposed that there  
7 be this study to follow up to make sure that in fact people  
8 are running on methanol, and if, of course, the study were  
9 to come back showing that they were not, that would cer-  
10 tainly provide evidence which Congress could use to make  
11 an appropriate change.

12 CHAIRMAN IMBRECHT: Okay. Let me try to under-  
13 stand where people are. Commissioner Gandara, do you wish  
14 to summarize?

15 COMMISSIONER GANDARA: Yes. I have an alterna-  
16 tive. For myself, I would just as soon that we don't  
17 take a position on it. I -- for one, I think that, though  
18 it may be two different issues, that it does seem to be  
19 linked to the idea of do you somehow develop a device by  
20 which the effective CAFE standard is somehow changed or  
21 met or stays the same by -- by producing a slightly dif-  
22 ferent vehicle, and I frankly think it's unenforceable.  
23 I -- I see it more as simply an idea of how to get around  
24 the problem the manufacturers were facing, and I find it  
25 rather ironic that the whole problem is that the

1 manufacturers don't like a mandated, you know, high-  
2 efficiency small cars, because the market isn't there,  
3 and yet here we are proposing a -- a tax incentive or some  
4 kind -- not incentive, an incentive on the CAFE standard  
5 for a car for which the market isn't there either, and  
6 since it's unenforceable, it may not meet the objectives  
7 of, not so much what the CAFE standard is, but the idea  
8 that it's going to be making cars more efficient, and  
9 thereby displacing oil that we could use for other pur-  
10 poses.

11 So I don't see it as such a really big issue,  
12 and given the problems that I see in the enforcement, and  
13 that I frankly wouldn't like to sort of begin to see a  
14 lot of chipping away at this CAFE standard by all these  
15 other devices that I would just as soon that we didn't  
16 get any further involved in it.

17 For myself, I would -- I see no reason to oppose  
18 it. I see no reason to support it. I think we just ought  
19 to forget about it.

20 CHAIRMAN IMBRECHT: Okay. Do we have a motion  
21 before us at this point? Moved by Commissioner Gandara,  
22 and seconded by myself, as members of the Committee, since  
23 it's our report. The item is properly before us.

24 Does anyone else wish to be heard?

25 COMMISSIONER COMMONS: I'd like to make a --

1           CHAIRMAN IMBRECHT: Commissioner Commons, why  
2 don't you summarize your position for us, as well.

3           COMMISSIONER COMMONS: I'd want to -- well, I  
4 would like to add two amendments to it. One is that we  
5 oppose any rollback in the CAFE standard, and, second,  
6 that this be available only in those states where there  
7 are methanol fueling facilities available.

8           CHAIRMAN IMBRECHT: Let me understand that first  
9 one. You say opposing a rollback in the CAFE standard,  
10 and I'm not sure I understand the context of that state-  
11 ment.

12           COMMISSIONER COMMONS: All right. Well, the  
13 current CAFE standard is twenty -- I think it's 27 miles  
14 per gallon, and that we would go on record as in opposi-  
15 tion to reducing that to 26 or 25, or anything lower than  
16 what it is. They're going to get --

17           CHAIRMAN IMBRECHT: That's -- you know, these  
18 will be the issue of flexible fuel.

19           COMMISSIONER COMMONS: Well, no. One of the  
20 issues that is raised in the analysis here and has been  
21 discussed as part of this bill is this in effect has --  
22 this in effect does lower the miles per gallon, because  
23 the manufacturers can produce larger vehicles which are  
24 flexible, which will still operate on gas, and so they  
25 will be able to avoid during the fines. At the same time,

1 we accomplish our objectives.

2 It would be unreasonable to do that and roll  
3 back the standards, and it -- the issues in my mind are  
4 integrated and tied.

5 CHAIRMAN IMBRECHT: I'm still not following you.

6 COMMISSIONER NOTEWARE: I'm not sure I under-  
7 stand your proposed amendment, either, Mr. Commons. This  
8 is --

9 COMMISSIONER COMMONS: Yeah. I --

10 CHAIRMAN IMBRECHT: Run me through it again,  
11 will you, please?

12 COMMISSIONER COMMONS: All right.

13 CHAIRMAN IMBRECHT: The whole -- just summarize  
14 it. I mean in essence what we're saying here is that only  
15 allow that if it is in the context of where there's a  
16 clear economic incentive for the user of the vehicle to  
17 fuel the vehicle whenever possible with methanol as  
18 opposed to gasoline.

19 COMMISSIONER COMMONS: No, I'm -- the only thing  
20 I'm -- what I'm adding here is that we also send to  
21 Senator Danford the message we support the existing CAFE  
22 level and would not like to see that lowered.

23 At the same time, we are supporting the exemp-  
24 tion for the methanol vehicle and not calling that a lower-  
25 ing of the standard.

1           There's some talk of a rollback of the standards  
2 from 27 to 26 or 25.

3           CHAIRMAN IMBRECHT: Well, that doesn't really  
4 relate to the position on this legislation, per se, as  
5 opposed to this kind of a policy statement that we can  
6 include within any letter which we send.

7           COMMISSIONER COMMONS: Yes. Well, one of the  
8 statements in the analysis here is that there's been dis-  
9 cussion of an amendment to not allow the Department of  
10 Transportation administratively to roll back the CAFE stan-  
11 dard. I would support such an amendment.

12           CHAIRMAN IMBRECHT: I see. I would say I'm  
13 rather ambivalent on that, frankly. I don't think that  
14 -- well, from my perspective, at least, I wouldn't argue  
15 -- I wouldn't say that would be a test of whether or not  
16 we would support this legislation, but I don't have any  
17 objection to expressing that perspective in any communi-  
18 cation that went out as a consequence to this decision.

19           COMMISSIONER COMMONS: That's -- that would be  
20 the critical -- that's the most critical aspect to my view-  
21 point, and the second I think is --

22           CHAIRMAN IMBRECHT: Can we encompass that senti-  
23 ment in appropriate communication? I don't think we  
24 really need an amendment in that context, but we'll simply  
25 direct Mr. Ellison in the preparation of position papers.

1           COMMISSIONER COMMONS: Then the question would  
2 be as to the -- then the other amendment was to the availa-  
3 bility of fueling facilities. I guess that's the question.  
4 This is a tax gimmick, or is it a support for a methanol  
5 program?

6           COMMISSIONER NOTEWARE: I would like to argue  
7 that California has invested something like \$10 million  
8 or more in establishing a workable methanol program, and  
9 if other states aren't encouraged to do the same, our --  
10 what we have accomplished could very well just peter out,  
11 you know, until there comes another oil embargo or another  
12 crisis, which I feel is very predictable, that it's bound  
13 to happen that we are going to wish we had some alterna-  
14 tive fuel and fueling system in place.

15           I think we should do what we can to encourage  
16 other states to have methanol available and, as I see it,  
17 one way to do that would be to have a hundred thousand  
18 cars out there that will run better on methanol.

19           COMMISSIONER COMMONS: But the manufacturers  
20 and the oil companies don't have the incentive without  
21 that second amendment because they are getting their CAFE  
22 benefit, even if there is no methanol being used, but they  
23 are only going to get that credit if there are fueling  
24 facilities in a particular state. They are either going  
25 to have to target those states that have the facilities,

1 or encourage states to develop those facilities with the  
2 petroleum companies.

3 So, actually, this amendment would accomplish  
4 your objective because the automobile manufacturers just  
5 can't sell the vehicles and not encourage actively states  
6 to put in those fueling facilities, or the private sector  
7 to put in the fueling facilities.

8 They then really have the incentive to see that  
9 there are the fueling facilities so people make their own  
10 choice and the market makes the choice as to do the cars  
11 use the 91 octane or the methanol.

12 But it doesn't look good, I don't think, Doug,  
13 as -- let's say that they go sell 25,000 cars in New York,  
14 and there's not one methanol station available in New York.  
15 Now, that's a tax gimmick. Now, people have -- if New  
16 York has put out these stations and people choose to go to  
17 one station or another, well, that's what the flexible  
18 vehicle is all about, is people in the marketplace make  
19 the choice, but there's no choice if you can't buy the  
20 fuel.

21 COMMISSIONER NOTEWARE: If I bought one of those  
22 25,000 cars in New York and there was a Beacon station  
23 on the corner that had a methanol pump, I would go to that  
24 Beacon station and fuel up, if I could fuel up for less  
25 money than it would cost to get the -- the unloaded,

1 high-octane --

2 COMMISSIONER COMMONS: But what if there was  
3 no Beacon and no methanol available in the whole state,  
4 would you as a taxpayer want to see a credit given to  
5 people buying these cars in New York that could never use  
6 methanol?

7 COMMISSIONER NOTEWARE: I as a car owner would  
8 want to see the pumps installed.

9 CHAIRMAN IMBRECHT: Who is going to buy the car  
10 first, with no local fueling option?

11 COMMISSIONER COMMONS: Automobile manufacturers,  
12 like we found out refrigerator manufacturers, they are  
13 very good salesmen. They have an incentive to produce  
14 the car and --

15 CHAIRMAN IMBRECHT: He's a heck of a salesman  
16 if there's no fuel.

17 COMMISSIONER COMMONS: Well, but they are going  
18 to -- no, they are going to run on high-octane --

19 CHAIRMAN IMBRECHT: Okay.

20 COMMISSIONER COMMONS: -- high-octane premium  
21 fuel. and they are just going to sell the car for the  
22 standard.

23 CHAIRMAN IMBRECHT: Okay. Well, I think that  
24 the best way to handle that is for you to make your motion  
25 and we'll see if there's a second.

1           COMMISSIONER COMMONS: All right. Well, I would  
2 like to move that the credit only be available to any --  
3 to cars in the state that have methanol fueling facilities.

4           CHAIRMAN IMBRECHT: All right. Is there a  
5 second?

6           Hearing none, the motion dies for lack of a  
7 second. Is there further discussion on the main motion?

8           COMMISSIONER COMMONS: One last comment.

9           CHAIRMAN IMBRECHT: Commissioner Gandara.

10          COMMISSIONER COMMONS: Given that the Synafuels  
11 Corporation is dead if we have a disruption and another  
12 embargo that nobody is going to be fueling up on methanol  
13 because all the gas used right now to produce methanol  
14 is going to be used by power plants, and so all these  
15 people with methanol cars are going to basically not have  
16 or be burning gasoline.

17          The whole idea that methanol could be used in  
18 a contingency of that nature was that you were going to  
19 have Synfuels Corporation producing methanol in some way  
20 out of coal, not out of natural gas. This is where you  
21 are getting methanol right now.

22          So in the next disruption, in order to free up  
23 the oil for gasoline purposes, you are going to be burning  
24 natural gas in all the power plants that you can, and I'll  
25 bet you they are going to have higher priority than the

1 production of methanol.

2 So, again, I don't know where Mr. Danforth gets  
3 his contingency planning things, but I have never really  
4 heard of him being involved in this area, and it doesn't  
5 make sense from that point of view, either.

6 CHAIRMAN IMBRECHT: Well, I would just respond  
7 to that. I think that there is a substantial supply of  
8 methanol originating from natural gas that cannot be trans-  
9 ported to a typical market, both from the Persian Gulf  
10 area, and also from some of the Canadian fields, and also  
11 from some of the Canadian fields.

12 This in essence is the method by which natural  
13 gas is converted to a -- as opposed to being flared, con-  
14 verted to a usable fuel and then transported in the market-  
15 place. I think the assumption in your statement would  
16 be that all natural gas that is used for methanol produc-  
17 tion has a ready delivery mechanism that would in fact  
18 create the conditions that you've described. I'm not sure  
19 that's an accurate statement.

20 COMMISSIONER COMMONS: If we are not going to  
21 get oil from the Persian Gulf companies, we are not going  
22 to get natural gas that's been converted to methanol,  
23 either.

24 CHAIRMAN IMBRECHT: Perhaps, but not necessarily.  
25 Commissioner Commons.

1           COMMISSIONER COMMONS: I would like to move to  
2 amend the motion that included in our letter would be  
3 opposition to a rollback of the miles per gallon portion  
4 of the CAFE standard.

5           CHAIRMAN IMBRECHT: In the context of what we  
6 discussed earlier.

7           COMMISSIONER COMMONS: Yes.

8           CHAIRMAN IMBRECHT: Well, I'm not sure that that  
9 requires amendment. I mean I would be happy to offer that  
10 as direction to Mr. Ellison if you would feel more comfor-  
11 table with the contents of the -- it's not a suggested  
12 amendment to the bill per se, but in terms of the tone  
13 of what we communicate.

14          COMMISSIONER COMMONS: That's correct.

15          CHAIRMAN IMBRECHT: I, with Commissioner  
16 Noteware's second, suggest we simply offer that as a direc-  
17 tion to Mr. Ellison, if that would be satisfactory to you.

18          COMMISSIONER COMMONS: All right, if the letter  
19 would be that way.

20          CHAIRMAN IMBRECHT: All right.

21          COMMISSIONER COMMONS: I'm not going to support  
22 the bill, but I'll support that concept.

23          CHAIRMAN IMBRECHT: Okay. Does anyone else wish  
24 to be heard on this item?

25          Okay. Lorri, would you please call the roll.

1 MS. GERVAIS: Commissioner Commons?

2 COMMISSIONER COMMONS: No.

3 MS. GERVAIS: Commissioner Gandara?

4 COMMISSIONER GANDARA: No.

5 MS. GERVAIS: Commissioner Noteware?

6 COMMISSIONER NOTEWARE: Aye.

7 MS. GERVAIS: Commissioner Crowley?

8 PRESIDING MEMBER CROWLEY: Aye.

9 MS. GERVAIS: Chairman Imbrecht?

10 CHAIRMAN IMBRECHT: Aye. Ayes, three. No's,  
11 two. We support with appropriate amendments, along with  
12 the caveat suggested by Commissioner Commons, as approved.

13 Anything further?

14 COMMISSIONER GANDARA: I should add that the  
15 bill analysis was quite good.

16 CHAIRMAN IMBRECHT: Very good. We've been get-  
17 ting excellent work out of the OJA office.

18 All right. I believe the next item then to  
19 come before the Commission is Item No. 2, which is an  
20 informational presentation by the Commission staff on a  
21 method to implement the escrow provision adopted in the  
22 Commission's 1985 Electricity Report and possible  
23 Commission direction.

24 Mr. Ward.

25 MR. WARD: Thank you, Mr. Chairman. The siting

1 division has distributed to commissioners, and I believe  
2 it's also available to the audience, a proposed method-  
3 ology for establishing the escrow account. At this time  
4 I will ask Bob Therkelson from the siting division to give  
5 you a summary of that.

6 MR. THERKELSON: I've been asked to give you  
7 an informational presentation on the question of the  
8 escrow accounts, the role of the committee and the role  
9 of the staff, in establishing those accounts.

10 First of all, the current Electricity Report,  
11 in Section 5.1 of Appendix 2, requires that for each AFC  
12 and small power plant exemption the assigned committee  
13 do two things. The first one is to hold a hearing within  
14 90 days of the acceptance of the document to determine  
15 the appropriate need category for that project, to deter-  
16 mine the appropriate need test for that project, and iden-  
17 tify whether there is sufficient unfilled reserve need  
18 in that category.

19 Secondly, the committee has to go before the  
20 Commission within 120 days and present its recommendations  
21 with respect to those three items.

22 We propose that during those -- that 90-day  
23 process, that 90-day hearing, that the staff will review  
24 the applicant's proposal to determine if its resource type,  
25 for example cogeneration, biomass or geothermal, is indeed

1 as described in the application, our review would not be  
2 limited just to looking at the proposal, but it would  
3 indeed do an independent analysis to verify the claims  
4 of the applicant that, for example, it is cogeneration,  
5 that its generating capacity is X-number of megawatts.

6 For example, on the cogeneration, we would look  
7 at the cogeneration definition under Public Resources Code  
8 Section 25134 to insure that it does comply with that  
9 definition.

10 Secondly, during the process, we would review  
11 their proposal, as I said, to look at the generating capa-  
12 city. That determination would be based upon -- or the  
13 capacity determination would be based upon the maximum  
14 net design capacity of the facility under design ambient  
15 conditions. That's consistent with the definition that  
16 has been discussed during the siting procedures, citing  
17 regulation procedures currently before the Commission.

18 Thirdly, the staff would review and determine  
19 the order date, the place in line, if you will, of that  
20 project. For AFCs, that order date would be based upon  
21 the date they were deemed data-adequate. For small power  
22 plant exemptions, since we do not have a data adequacy  
23 test for those, staff would pick the date that the project  
24 was filed if the filing contained sufficient information  
25 for the staff to do an initial study and to do the need

1 analysis and make the required findings.

2 If sufficient information is not contained in  
3 the filing to do those tests and make those findings, then  
4 the data that that sufficient information is provided would  
5 be the order date.

6 With that information, the information on the  
7 type of resource, the type of technology, the capacity  
8 and the order date, staff would evaluate the current status  
9 of the escrow account, and right now in the memo that was  
10 presented to you it's listed in Table 1, is the current  
11 status of the escrow account. That is taking out TOSCO,  
12 the small power plant exemption modification that was  
13 approved by the Commission a few weeks ago.

14 Anyway, with that, the staff would recommend  
15 to the committee which energy resource category is appro-  
16 priate, again cogeneration, geothermal, whatever, and if  
17 there is an adequate unfilled reserve need for that cate-  
18 gory.

19 If there is, then the specified reserve need  
20 test would be used for that project. The specified reserve  
21 need test is identified in Section 5.3.1 of the Electricity  
22 Report.

23 If there is not an adequate unfilled reserve  
24 need, then staff will determine if there is an adequate  
25 unfilled reserve need in the unspecified category. In

1 other words, for example, if a cogeneration project comes  
2 in and there is no longer any unfilled reserve need for  
3 cogeneration projects, then we would look at it to see  
4 if there is any remaining need under the unspecified  
5 column, the last item listed in Table No. 1.

6 If there is, then the unspecified reserve need  
7 test, identified in Section 5.3.2 of the Electricity Report,  
8 would be the one recommended for that project.

9 Subsequently, if that also is filled up, then  
10 the applicant has two options. They may go to the reserve  
11 need displacement test or the system need displacement  
12 test, both of which are identified also in the Electricity  
13 Report.

14 During those hearings, or that hearing, the  
15 applicant and any intervenors would have an opportunity  
16 to present their arguments on the resource type of the  
17 facility, the generating capacity, the order date, the  
18 place in line, if you will, and the appropriate need test.  
19 Okay. That's the staff's function during that hearing  
20 and the recommendation they make to the committee.

21 The staff also has a responsibility to maintain  
22 the escrow account, the reserve need for each type of  
23 resource category, based upon the allocations to the  
24 accounts made by the Commission during the hearings that  
25 I previously described, and on final decisions, on AFCs,

1 and small power plant exemptions.

2 We are also responsible to provide quarterly  
3 updates on the reserve need for each category, including  
4 the LTBA allocations, the amount that is in escrow, and  
5 any remaining unfilled reserve need.

6 After the escrow hearings are held, then the  
7 committee would go forward with need hearings on that  
8 specific project using the appropriate need test. Staff  
9 and the applicant, and again any intervenors, would be  
10 allowed to make their presentations based upon the merits  
11 of that case and the particular need tests appropriate.

12 In putting forward this -- this methodology,  
13 we have identified several remaining questions that need  
14 to be resolved. One of the first questions we identified  
15 is the question of suspensions. Right now the Electricity  
16 Report does state that any suspension by an applicant of  
17 a project for more than six months is grounds for the appli-  
18 cant to lose his place in line, lose his place in the  
19 escrow account.

20 There are questions about what happens if that  
21 suspension is less than six months and takes place before  
22 the escrow hearing is even heard, what implications does  
23 that have.

24 Another question is if a project is given a place  
25 in the escrow account, for example in a reserve need

1 category, any suspense for more than six months, for some  
2 reason withdraws the project, or is found to be not needed  
3 and then subsequently not certified, who has the right  
4 for that now-available unfilled reserve need, and what  
5 happens if the person that had the first right, if you  
6 will, to that unfilled reserve need has already been not  
7 certified because they were subject to a more stringent  
8 need test.

9           What if the other project has completed hearings  
10 under a more stringent need test and now is required to  
11 participate in hearings under the less stringent need  
12 test? Isn't additional time required or is allowed to  
13 that person above the legislative 12-month time frame?

14           Number three, how will the information that is  
15 updated in LTBA be used and be evaluated under the  
16 unfilled reserve need allocations, and how are changes  
17 made by the ER-6 affected in there, and how do they affect  
18 the order of the projects and the applicable need test?

19           And number four is a question about timing. If,  
20 for example, you have two projects that come in one after  
21 another, but the committees hold their hearings out of  
22 order, if you will, the committee on the second project  
23 holds its escrow hearing and makes its recommendation to  
24 the full Commission before that of the project that was  
25 actually filed first, what does that do to the order?

1 How does that affect that order at all?

2 Those are some of the questions, and you have  
3 outlined very briefly for you the methodology that we  
4 recommend using in all of the cases, consistently in all  
5 of the cases and, like I said, some of the questions that  
6 are being still left and need to be answered, we are work-  
7 ing to resolve those issues and look forward to any direc-  
8 tions, comments, questions that you have to help us in  
9 that resolution.

10 CHAIRMAN IMBRECHT: Commissioner Commons.

11 COMMISSIONER COMMONS: I would like to understand  
12 the context and terms of which this item is on the agenda.  
13 Is this for a discussion item today, or is this an action  
14 item?

15 CHAIRMAN IMBRECHT: Well, it's noticed as a dis-  
16 cussion item or an informational presentation. There is  
17 a caveat in the agenda notice that suggests that the  
18 Commission could provide the direction of the staff. I  
19 think that would be appropriate if there were substantial  
20 objection, but I think more than anything it's also an  
21 effort to try to elicit some public response to the method-  
22 odology employed.

23 My personal judgment is that it would probably  
24 be premature to lock ourselves into a hard position on  
25 this, because I want to insure that we do have an adequate

1 opportunity for the public, and affected parties, with  
2 a variety of projects that are pending or are likely to  
3 be pending before us, have an opportunity to comment on  
4 this.

5 COMMISSIONER COMMONS: All right. Then before  
6 you go to the public comment, since this is a discussion  
7 item, I would like the opportunity to present a different  
8 interpretation, which would then allow the public to com-  
9 ment on both interpretations, so they don't have to come  
10 back twice.

11 CHAIRMAN IMBRECHT: Commissioner Crowley.

12 PRESIDING MEMBER CROWLEY: It seems to me there  
13 is a natural division of the problem dealing with those  
14 applications which have already been accepted, and those  
15 which will happen in the future and have not been accepted,  
16 and I'm wondering if it wouldn't be appropriate to divide  
17 the discussion into those two parts of the problem.

18 CHAIRMAN IMBRECHT: Well, I have no objection  
19 to that.

20 PRESIDING MEMBER CROWLEY: The -- I have a ques-  
21 tion if I may, and that involves the Footnote 1 on Table  
22 1, reflecting TOSCO SPPE Modification Decision, and reduc-  
23 ing the megawattage available in the reserved category  
24 by the amount of the TOSCO project.

25 When was that decision to accept the TOSCO

1 modification made?

2 MR. THERKELSON: That decision was ratified by  
3 the Commission at the first business meeting in June. I  
4 don't recall what date that was. It was the first.

5 PRESIDING MEMBER CROWLEY: Okay. Then my ques-  
6 tion would be why would it receive the status of being  
7 -- of having the amount reduced for it, when indeed there  
8 were other projects that had been filed earlier? Why would  
9 not all of those reduce the amount available?

10 MR. THERKELSON: The TOSCO small power plant  
11 exemption was originally granted by the Commission back  
12 in 1983, at -- I believe it was 87 megawatts. Since that  
13 time they had made some minor modifications to the project,  
14 and we deemed it did not substantially increase the capa-  
15 city of that project.

16 As a result of that, because they were waiting  
17 for these modifications and for various permits, they were  
18 originally not included in the LTBA numbers. When they  
19 came before us and got that modification granted, they  
20 then became LTBA, and changed the number then.

21 PRESIDING MEMBER CROWLEY: And you didn't take  
22 the 87 and a half, or whatever it was, and add that to  
23 the LTBA, and then just do the 1.5 out of the 900 or the  
24 650.

25 MR. THERKELSON: No, because it was not included

1 in the LTBA originally. It was then taken out of the un-  
2 filled reserve need.

3 PRESIDING MEMBER CROWLEY: Thank you.

4 CHAIRMAN IMBRECHT: Okay. Other comments or  
5 questions from members of the Commission?

6 All right. Commissioner Commons, do you want  
7 to make your presentation?

8 COMMISSIONER COMMONS: All right. I think the  
9 staff has not properly understood the Electricity Report,  
10 either the body of the report or the appendices to the  
11 report, as to the escrow account and to the hearings as  
12 to which need test.

13 The escrow account is, in my viewpoint, estab-  
14 lished on a first-in and first-out basis, and that that  
15 is essentially a ministerial act, and it would operate  
16 as follows.

17 An applicant comes before this Commission, and  
18 at the time that they receive acceptance by this  
19 Commission of data adequacy, that the date to which that  
20 applied, which may be earlier than the date that this  
21 Commission actually acts on that proceeding, that would  
22 be the time stamped in, and the Executive Director would  
23 ministerially deduct from the particular account that  
24 application, and that application, then, would be in that  
25 order.

1           If a box were filled up, it would be on the wait-  
2 ing list.

3           Then the second question that comes up is what  
4 is -- which is the appropriate box that a particular  
5 project comes -- comes under. That is a Commission deci-  
6 sion, not a ministerial decision, and there is no issue  
7 except for cases where there have been suspensions, and  
8 some of the technical issues I think that the staff cor-  
9 rectly says we need some guidance on, but it's in the  
10 cogeneration area that the issue occurs.

11           And the Commission states in Appendix 5.3 that  
12 we prefer projects which are significantly more efficient  
13 than the minimum level necessary to qualify under PURPA,  
14 and in which the ratepayers are protected from the risk  
15 of increased oil and natural gas prices.

16           Now, those are two items that are to be heard  
17 and evidence taken at the hearings by the Committee, and  
18 come back to the Commission. Now, it's very specific here  
19 that we state "prefer." The Commission is free to dis-  
20 regard that if in a particular project that the Commission  
21 finds that even though neither of those two conditions  
22 are met, that they still want to grant reserve status need  
23 to that project, the Commission may do so. This is not  
24 a test, it's not a rule.

25           However, it is clearly an intent on the part

1 of the Commission, where we are going to have substantially  
2 more cogeneration projects than we have reserve need, is  
3 to try to make a distinction between those projects which  
4 are going to be economically beneficial to the ratepayers,  
5 and also are oriented to the more efficient use of our  
6 resources, is to -- unless there is a situation as to why  
7 we should not follow that preference, is in the alloca-  
8 tion of the reserve need those projects that are more  
9 efficient and do not pass on the cost are the ones that  
10 are more likely going to receive the reserve need treat-  
11 ment.

12           However, as to which projects are allocated that,  
13 that is a matter that the Commission makes a decision on  
14 at 120 days, and it is not a rule. The Commission and  
15 each Commissioner is free on each project to ascertain  
16 do I want to or do I not want to accept that project for  
17 reserve need, and so it would be heard on the merits, and  
18 so it's in this area that I do not agree with the staff  
19 that -- as to the criteria.

20           The hearings would also consider those two items,  
21 and it's a Commission decision at the 120 days as to which  
22 projects they wish to do this.

23           Now, I concur with Commissioner Crawley as to  
24 what the procedure ought to be in terms of those projects  
25 that are in-house and those projects that are going to

1 be coming in in the future, and I think the way that it  
2 would be best for us to handle that is for all of the proj-  
3 ects that are in-house, possibly excepting Watkinson's  
4 that came in so recently, is to have one hearing before  
5 the Commission on the projects and make a determination  
6 as to the order and to which ones we want to put into the  
7 reserve need, and handle them all in one day.

8           And then for those projects that come in at a  
9 subsequent time, would follow the 90- and 120-day calen-  
10 dar. I think this would guarantee consistency and would  
11 allow all projects in-house to be treated at the same  
12 time.

13           PRESIDING MEMBER CROWLEY: Can I ask him a  
14 question?

15           CHAIRMAN IMBRECHT: Commissioner Crowley.

16           PRESIDING MEMBER CROWLEY: I have some questions  
17 to understand your comments, and what I -- well, the first  
18 one would be if we had an escrow account that was first  
19 in, the project first in would be first in line. I don't  
20 understand what you mean by a waiting list.

21           COMMISSIONER COMMONS: All right. Let's say  
22 that -- let's take cogeneration. Let's say we have 650  
23 megawatts of a cogeneration, and then someone comes along  
24 with a 100-megawatt project, and they are the next ones.  
25 It may turn out that this Commission turns down a 150

1 megawatt project that's already in the hopper, and you  
2 would have to have an accord so that who would take that  
3 person's place, and that would be taken off the waiting  
4 list, the one that was first in would then go up the line  
5 and would take that person's place.

6 PRESIDING MEMBER CROWLEY: These are people --  
7 these are applications that are already in process?

8 COMMISSIONER COMMONS: That's correct.

9 PRESIDING MEMBER CROWLEY: Then it would seem  
10 to me there would need to be some evaluation made about  
11 whether you hold off on your needs test until the -- there  
12 is the off chance that Joe, who got in earlier, didn't  
13 get his hundred megawatts used, or whether you would move  
14 to an unallocated -- to a different category.

15 COMMISSIONER COMMONS: Well, that's one of the  
16 reasons why the preference concept, you get that decision  
17 essentially at 120 days, and so you're not holding a case  
18 for 365 days knowing how the Commission is going to treat  
19 the project.

20 PRESIDING MEMBER CROWLEY: And this would deal  
21 with those cases which are not yet at our door, basically.

22 COMMISSIONER COMMONS: That's correct.

23 PRESIDING MEMBER CROWLEY: Then the other ques-  
24 tion I would have is how can one decide whether a project  
25 is more efficient, given that we have PRC 25134 as a

1 benchmark, and given that you are only looking at one at  
2 a time. In other words, I can't understand the mechanics  
3 of how I -- my project may be more efficient than yours,  
4 but you are looking at yours separately and I'm looking  
5 at mine separately.

6 COMMISSIONER COMMONS: Well, I think it would  
7 be probably more appropriate for one of our engineers from  
8 the GTA office to discuss this, but essentially on -- on  
9 cogeneration projects the efficiencies can range anywhere  
10 from 45 percent to 70 or 80 percent --

11 PRESIDING MEMBER CROWLEY: Yes, I understand.

12 COMMISSIONER COMMONS: -- which is, depending  
13 upon the design, and what I would do is I would encourage  
14 the Executive Director to give us guidelines as to how  
15 they would look at what would be substantially more effici-  
16 ent. Is that 50 percent --

17 PRESIDING MEMBER CROWLEY: I think that's appro-  
18 priate.

19 COMMISSIONER COMMONS: -- or 55 percent --

20 PRESIDING MEMBER CROWLEY: Because right now  
21 we just have a compliance level, and it would seem to me  
22 that indeed that is something that would have to be made  
23 to a higher level of efficiency would be an appropriate  
24 benchmark that needed to be addressed.

25 COMMISSIONER COMMONS: I would encourage the

1 Executive Director to have staff both define thier view-  
2 point as to efficiency, and what this means in terms of  
3 the economics on cost. However, that would be what I would  
4 look at as a baseline or a guideline, and there are proj-  
5 ects that I could see that would come before us, even  
6 though they did not meet that guideline or baseline, that  
7 there would be reasons why we want to give reserve status  
8 to that project, and I think when Chairman Imbrecht and  
9 myself drafted this we discussed that and said these are  
10 not the only considerations as to whether or not a project  
11 should be granted reserve need.

12           They are important and we should look at them,  
13 but we were both unwilling to make them test, whereby you  
14 had to do that, because we wanted to allow parties to come  
15 before us, and there might be arguments or reasons why  
16 we shouldn't follow the preference.

17           As a general guideline, I support that, but as  
18 making it a rigid test, the language clearly does not make  
19 it a rigid test, and it is not a rigid test, but it's a  
20 preference.

21           PRESIDING MEMBER CROWLEY: Would you believe  
22 it would be appropriate to apply these higher thresholds  
23 to this group of applications that are in-house, or do  
24 you think that that sort of value judgment would have to  
25 be spelled out more closely and only be applicable for

1 future projects?

2 COMMISSIONER COMMONS: Well, okay. The projects  
3 that are in-house, I would -- I would probably make the  
4 distinction line as to those projects that had been  
5 approved prior to the date that we had adopted the -- the  
6 ER, and I think that would be an area that -- I don't  
7 actually have a viewpoint on that question. I think it's  
8 a good question.

9 I think those projects that would have come in  
10 after we adopted the ER would clearly have notice of what  
11 our intent is, and I think you have raised a legitimate  
12 question as to projects that had come in before we adopted  
13 the ER.

14 PRESIDING MEMBER CROWLEY: Would we have the  
15 question of -- I would have to ask staff this, and -- as  
16 well as Commissioner Commons.

17 Would we have the question regarding escrow  
18 account allocations to the project if we started right  
19 now and listed the cases as they came in, first Gilroy,  
20 then Sycamore, then Placerita, then Crockett, then IBM,  
21 then Spreckles, then Irwindale.

22 Would we have this question open for all of these  
23 cases, or would you see it more appropriate to discuss  
24 this by filling the reserve need box as time brought in  
25 applications, and then only dealing with the one that

1 started to overflow the reserve box, of those cases that  
2 we presently have.

3 COMMISSIONER COMMONS: That's a tough issue.  
4 I personally don't have a viewpoint on that one at this  
5 time, and that's -- I would like to hear the viewpoints  
6 of some of the people who have their cases before us as  
7 to the equity of that issue.

8 PRESIDING MEMBER CROWLEY: I believe that this  
9 is something that really has to be discussed and brought  
10 forth for discussion by the -- discussion by the parties.

11 MR. THERKELSON: If you simply look at the cases  
12 currently before us, without making any value judgments  
13 about their capacity or, indeed, what kind of resource  
14 they are, just take the applicant's statements and the  
15 applicant's application, we have exceeded the reserve need  
16 category for cogeneration.

17 PRESIDING MEMBER CROWLEY: Yes. In fact, we  
18 are about half again.

19 MR. THERKELSON: Right. Right.

20 PRESIDING MEMBER CROWLEY: Yes.

21 MR. THERKELSON: And one question I would have  
22 for Mr. Commons under his methodology, as I understood  
23 it, was when the applicant first comes in the only thing  
24 you do is take the applicant's word for how many megawatts  
25 he has. You don't determine whether he gets a slot in

1 the cogeneration box, if you will, until you've done a  
2 further analysis on does he meet certain efficiency require-  
3 ments, et cetera.

4           COMMISSIONER COMMONS: Well, no. When he would  
5 come in, you would then get that credit. At the time of  
6 the hearing before the Commission there may be an adjust-  
7 ment, either the megawatt is found not to be the same,  
8 or it's the inappropriate category, and what you would  
9 be doing is you would be correcting that initial escrow  
10 account, but that would be done in a rather, you know,  
11 reasonable fashion.

12           Under your procedure we would actually hold the  
13 whole thing open, not knowing an application that's already  
14 come in the door, it would not have already gone on to  
15 that escrow right away, and our intent in putting that  
16 escrow was that it's the date that the person gets accep-  
17 tance from this Commission, and then the date that that  
18 goes to which establishes that escrow account, and that  
19 was something to be done at that time.

20           Then if there's a correction to be made, either  
21 because the Commission makes a different judgment after  
22 the hearing that is held by the Committee, then what you  
23 do is you correct that escrow account and take that --

24           PRESIDING MEMBER CROWLEY: It's adjusted.

25           COMMISSIONER COMMONS: And adjust it in an

1 appropriate fashion.

2 MR. THERKELSON: To a degree, I --

3 COMMISSIONER COMMONS: But the -- when we held  
4 the hearings, people didn't want to -- they wanted to know  
5 where they stood in that line at the time we made the data  
6 acceptance, and we wanted to make that to occur as soon  
7 as possible. That doesn't mean after you hold the hear-  
8 ings that you won't make an adjustment, as Commissioner  
9 Crowley said.

10 PRESIDING MEMBER CROWLEY: Would it be appro-  
11 priate to hear testimony from the two categories of speak-  
12 ers, and I assume most of them would -- most would be  
13 speaking to those applicants already on file, and to divide  
14 the issue into those two areas of concern, and then after  
15 we hear the speakers, then make some sort of a plan for  
16 how to deal with the two categories.

17 CHAIRMAN IMBRECHT: I think that is appropriate,  
18 and actually those -- I reviewed the cards here, I think  
19 there was basically only one individual that was generally  
20 going to be talking in that context, but that will be fine.

21 I would invite comments both as to cases cur-  
22 rently in-house, those which are anticipated for filing  
23 in the future, as well as the differing approaches of  
24 Commissioner Commons versus staff, although I don't frankly  
25 think they are all that dramatically different, but --

1 and less than I had anticipated there would be, I might  
2 add.

3 All right. First, Mr. Gardner, representing  
4 Southern California Edison

5 MR. WARD: Commissioner, one point of clarifi-  
6 cation on one of the issues raised by Commissioner Commons.  
7 Section 5.3 of the Electricity Report, which deals with  
8 the policy issue for preference of more efficient cogenera-  
9 tion facilities, there's some question in staff's mind  
10 as to whether that section was developed in the Electricity  
11 Report to be used in concert with the escrow account.

12 My recollection was that it was not, and so I  
13 -- I think that's an important distinction to be made here  
14 in terms of our policy. It serves as guidance, but no  
15 more than that.

16 CHAIRMAN IMBRECHT: I frankly would agree with  
17 that recollection.

18 Mr. Gardner.

19 MR. GARDNER: Thank you, Mr. Chairman. Good  
20 morning, Commissioners.

21 Edison generally supports the staff's analysis.  
22 I did want to raise two points that I think are important  
23 for your consideration. One is we agree specifically with  
24 staff that the escrow date should be based on the accep-  
25 tance date. You don't want to get yourself in the

1 position of having grossly incomplete applications filed  
2 with the intention of holding a place, as you do spot bills  
3 in the Legislature.

4           And for projects that -- particularly for proj-  
5 ects that are presently before the Commission, I would urge  
6 the committees to hold their hearings, and the Commission  
7 to make their ultimate decision on the escrow account in  
8 the same order that the applications or small power plant  
9 exemptions were filed, and by filed, I guess I'm using  
10 the kind of new term "accepted."

11           So I would be glad to respond to any questions,  
12 but --

13           MR. THERKELSON: If I may make one other comment  
14 relative to SCE, on Table 2 the dates, they are all sup-  
15 posed to be 1985, not '95. That may be of some importance  
16 to SCE.

17           MR. GARDNER: Yeah. If I could put on my  
18 Sycamore hat for a second here, the acceptance date should  
19 be January 9, 1985. The third column over.

20           CHAIRMAN IMBRECHT: Okay. Fine. Well, I per-  
21 sonally agree with that, and I might say as well that I  
22 think that it's apparent with the competition for the need  
23 that is likely to occur or is occurring currently, that  
24 it is essential that we rigorously apply the question or  
25 the -- our discretion in terms of acceptance of an

1 application, that we insure that the applications are as  
2 complete as possible, and in fact are susceptible to con-  
3 clusion within the one-year statutory time period. I  
4 absolutely agree with that perspective.

5 MR. GARDNER: I would like to add one comment  
6 generally in support of --

7 CHAIRMAN IMBRECHT: I think, generally speaking,  
8 the Executive Director has been getting the message that  
9 we're inclined to look for a very rigorous --

10 MR. GARDNER: I certainly had that feeling when  
11 he was reviewing one that I had before him.

12 With respect to Commissioner Commons' comments  
13 on the desirability of more thermally-efficient facilities,  
14 Edison is supportive of the concept that we should try  
15 to encourage the more thermally-efficient projects and,  
16 to the extent that we can, try to avoid what have come  
17 to be called the PURPA machines, where you truly maximize  
18 electricity production way beyond what is necessary for  
19 the underlying thermal use.

20 I'm not sure how the Commission wants to try  
21 to implement that, but I think the overall concept of  
22 encouraging the more thermally-efficient projects is a  
23 good one. It is a much more efficient use of fuel overall,  
24 statewide.

25 CHAIRMAN IMBRECHT: All right. Fine.

1 MR. GARDNER: Thank you.

2 CHAIRMAN IMBRECHT: Thank you. I think that  
3 was obviously the intent that we have in enunciating those  
4 guidelines, which I think Commissioner Commons correctly  
5 stated them as being guidelines or preferences, but not  
6 hard and fast rules at the same time.

7 All right. Mr. Mike Eaton, representing the  
8 Independent Power Corporation.

9 MR. EATON: Thank you, Mr. Chairman and  
10 Commissioners. Mike Eaton representing Independent Power  
11 Corporation, an Oakland-based consulting firm representing  
12 clients across the spectrum of small power technologies.

13 I have comments today in two general areas. I  
14 hope you will take them as initial comments. Having  
15 received the staff memorandum just this morning, and having  
16 heard Commissioner Commons' variation just now, I am not  
17 prepared to respond formally or in detail to either.

18 I would like to make one comment at the outset  
19 that goes to the underlying question of where we are. The  
20 version of the Electricity Report now being distributed,  
21 Appendix 5.1, begins with the sentence, and this is repro-  
22 duced in this -- as an appendix to the staff memo:

23 "The following procedural guidelines are  
24 intended to illustrate how the Commission will  
25 implement the need test specified in Chapter 5."

1           The version of this appendix adopted by the  
2 Commission, and I'm reading from the version of the draft,  
3 Final Electricity Report, distributed May 15th, reads:

4           "The following procedural guidelines are  
5 intended to illustrate how the Commission could  
6 procedurally implement the need test specified  
7 in Chapter 5."

8           I would offer you the advice that this is more  
9 than an editorial change, that in fact in the process of  
10 some editorial massage to the adopted draft, this appendix  
11 has undergone a major change of tone from something that  
12 I would have interpreted at the time as exemplary, thrown  
13 out for discussion. One possible way to do it to staff's  
14 memo, which, of course, interprets this as a Commission  
15 adoption of guidelines that require, and so on.

16           With that, the impact, of course, of that dif-  
17 ference in perspective, perception, is to question whether  
18 you are in fact in a ministerial situation of implementing  
19 something that you have adopted with full public comment,  
20 and so on, or whether you are in fact in a legislative  
21 situation of developing guidelines based on some concepts  
22 that were thrown out in the Electricity Report, but cer-  
23 tainly not adopted as requirements, as portrayed in the  
24 staff memo.

25           My second general class of comments concerns

1 issues that are not in the staff memo, and I think need  
2 to be addressed -- I think these issues need to be  
3 addressed in a broader context, going back to some of the  
4 basics, and let me just throw out some examples of things  
5 I'm concerned about.

6 First of all, the memo doesn't speak to the ques-  
7 tion of the LTBA amounts, how are they determined, how  
8 are they maintained, how often are they adjusted, what  
9 kinds of opportunities will there be for public scrutiny,  
10 input and, as necessary, challenge. I think that's a fun-  
11 damental issue for you to face.

12 The second basic question concerns the basic  
13 need for the CFM need numbers, how will they be integrated  
14 into the ongoing need increment escrow account, how often  
15 will they be updated, and what provisions will you make  
16 in your procedures for the integration of new information  
17 that may become available and have a significant impact  
18 on the need for a particular facility.

19 Finally, I think the question of service area  
20 disaggregation, which was skirted in the ER hearing process,  
21 is nonetheless critical. As adopted, the need increment  
22 numbers are supposedly service-area neutral. They are  
23 statewide numbers, but I find it very hard to believe that  
24 you can design a workable process, a process ultimately  
25 designed to determine whether Facility X should be sited

1 in Service Area Y without looking at a service area dis-  
2 aggregation of LTBA need, and so on.

3 Thank you.

4 CHAIRMAN IMBRECHT: Before you excuse yourself,  
5 I may follow that with a couple of questions. Even con-  
6 ceding for purposes of discussion the change in the  
7 language, which I was not familiar with, I might add that  
8 at the same time, what do you find objectionable in the  
9 appendix, whether it be "will" or "could," in terms of  
10 methodology?

11 MR. EATON: I guess what I find, I find not there  
12 enough information as to your proposed process to tell  
13 me whether in fact it will be workable and how it will  
14 work.

15 COMMISSIONER COMMONS: I'm sorry. I'm not  
16 familiar with the change he's discussing.

17 CHAIRMAN IMBRECHT: He's suggesting that -- and  
18 I said only for purposes of discussion, I frankly don't  
19 know whether any of the errata sheets that were before  
20 us at the time the ER was adopted had that change or not,  
21 but he indicated to us that the final draft of the ER said,  
22 as a preface to the 5.1 procedural guidelines, the state-  
23 ment, "The following procedural guidelines are intended  
24 to illustrate how the Commission could implement the need  
25 tests," whereas in the final published ER it says "will

1 implement the need test."

2 COMMISSIONER COMMONS: All right. That does  
3 not go to the preference appendix. That goes to the --

4 CHAIRMAN IMBRECHT: Well, that's right.

5 COMMISSIONER COMMONS: -- the appendix on the  
6 -- on the escrow.

7 CHAIRMAN IMBRECHT: 5.1.

8 Mr. Therkelson, do you want to comment on any  
9 of those?

10 MR. THERKELSON: I have no idea -- I don't know  
11 how that change occurred. The commonly one, the one that's  
12 available in publications, says "will."

13 CHAIRMAN IMBRECHT: We'll have to trace --

14 COMMISSIONER COMMONS: I believe the intent --  
15 Commissioner Crowley's office actually drafted that appen-  
16 dix, and I believe it was always the intent of the  
17 Commission to adopt the concept of the escrow, as was --

18 CHAIRMAN IMBRECHT: Well, there's no question  
19 about that.

20 COMMISSIONER COMMONS: -- was put forth that  
21 way, and there were issues that staff has brought out that  
22 -- in detail, how you handle suspensions, and some of  
23 these other issues that were not addressed in the appendix.  
24 but there was never any discussion that I'm aware of that  
25 this was not our intent to follow it.

1                   CHAIRMAN IMBRECHT: I guess what I'm looking  
2 for, Mr. Eaton, is to better understand what you would  
3 take issue. I guess your suggestion, you would like to  
4 review the staff proposal in some greater detail and pro-  
5 vide additional comments to us, I'm sure, so it is con-  
6 ceivable that your concerns may have been addressed.

7                   MR. EATON: We'll see.

8                   CHAIRMAN IMBRECHT: All right.

9                   Okay. Next -- thank you. And I apologize if  
10 I do injustice to this name, but I'll do my best from the  
11 card here, and I'm not sure if I'm calling a male or a  
12 female. Dian Grueneich.

13                  MS. GRUENEICH: "Di-ann Groo-nick."

14                  CHAIRMAN IMBRECHT: Pardon me?

15                  MS. GRUENEICH: Dian Grueneich.

16                  CHAIRMAN IMBRECHT: Thank you very much.

17                  MS. GRUENEICH: I realize it's difficult to pro-  
18 nounce from the spelling.

19                  Commissioners, my name is Dian Grueneich, and  
20 I am an attorney with the San Francisco law firm Heller,  
21 Ehrman, White & McAuliffe, and I am here on behalf of  
22 Pacific Thermanetics, who is the applicant for the  
23 Crockett Cogeneration Power Plant.

24                  I just have a few brief comments today. The  
25 first one goes to what Chairman Imbrecht has already

1 alluded to, and I think recognized, and that is the lack  
2 of notice and timing for both the applicants and the  
3 public to really respond to this item that, while it was  
4 put on the agenda as an informational item, most of us  
5 were just able to pick up the backup this morning, and  
6 we simply haven't had enough time to look at it, and I think  
7 we all recognize that this is something we want to,  
8 because of the importance of this issue, give enough people  
9 adequate time to look at it, and so I would just emphasize,  
10 both from the applicant's viewpoint and from the public's  
11 viewpoint, if we can try and have some of the staff posi-  
12 tion papers and that sort of thing, at least some time  
13 in advance of the hearings before the committees and the  
14 Commission, we will obviously be able to give a lot better  
15 response.

16           And, as a result, my comments today are just  
17 simply very general.

18           One concern that we do have is that, in terms  
19 of the Electricity Report and the guidelines that are  
20 set forth in there, that they are setting out certain  
21 criteria, as far as procedures; for instance, that there  
22 would be a hearing within 90 days before the committee;  
23 that there is a report to the full Commission within 120  
24 days, and we are concerned that you are starting to get  
25 into regulations, rather than just simply guidelines,

1 and when you look at the staff proposal today and what  
2 you're actually, the staff is starting to present some  
3 criteria that are going to be used in determining the need  
4 for a project. Again, you are starting to get into set-  
5 ting forth criteria that are going to be possibly used  
6 for every single AFC or SPPE that's before the Commission,  
7 and again this gets into the area of I think the Commission  
8 needs to take a serious look at whether you are starting  
9 to get into regulations, and whether you are giving ade-  
10 quate notice and opportunity for public comment.

11 We realize that it's difficult because you have  
12 -- you are in a situation where you have to make some deci-  
13 sions on these AFCs, and you are going to try and give,  
14 you know, guidelines to the public, but again we just wish  
15 to emphasize our concern that this is an area that be  
16 examined, as to make sure that the public gets some actual  
17 opportunity.

18 And if you are in the situation of setting up  
19 specific criteria such that you are in a regulatory mode,  
20 that in fact you are complying with any of the require-  
21 ments so that we don't run into a problem of decisions  
22 being made down the line which in fact may later be sub-  
23 ject to challenge by the public, or whoever.

24 The third area that I would look at is just  
25 generally with the staff report, and again I -- we have

1 just had this morning to take a look at it.

2 My concern is that for the first time again you  
3 are having articulation of what would be the criteria that  
4 are used, that there are three that are set forth. One  
5 is on the type of energy resources, the second is on the  
6 size of the facility, and the third is on the order of  
7 filing.

8 What I think again, what the applicant's per-  
9 spective is needed, and again -- and as well as the public,  
10 is some identification from the staff as to how those  
11 criteria would be used in the need decisions on the AFC.  
12 For instance, in the staff report it talks in terms of  
13 the size of the facility, but we don't have any identifi-  
14 cation as to how that criteria would actually be used in  
15 the need determination.

16 In other words, are we looking at a specific  
17 size of the project, that that will then allow a need  
18 determination to be made that is positive, or again. I --  
19 I would just emphasize that we would like to see from the  
20 staff, when they are setting up the criteria, some explana-  
21 tion of how that criteria will then actually be used in  
22 the process. That's not present in the current proposal.

23 The last area that I would like to just mention  
24 is the practical problems of what we're dealing with, and  
25 I think everybody is aware that right now, because we

1 don't have any general guidelines, each applicant is  
2 basically being forced to follow every single AFC and SPPE  
3 that's in-house to see how the need determinations are  
4 being made, and it's starting to get into a very difficult  
5 problem to be following each one, and Crockett is in the  
6 middle of the list, and I think especially for the projects  
7 that are further down, it's really very difficult for us  
8 to be keeping track of what are the workshops that are  
9 occurring, what are the hearings, when is the staff pro-  
10 posal coming out, that sort of thing.

11 And at this time we don't have a proposal,  
12 because we just have seen the agenda item. We haven't  
13 had a time to take a look at it, but we would like to again  
14 point out to the Commission our concern of how we are going  
15 to keep track of this, because I think, while the Commission  
16 will be holding some sort of a generic process to develop  
17 the guidelines, in fact some decisions are going to be  
18 made and set as precedent in the ongoing AFCs, and so it's  
19 going to require everybody to keep track of those, and  
20 that's our concern, that we are going to have two parallel  
21 proceedings going on, both of which are important, and  
22 I think probably have to occur, because you don't want  
23 to stop the projects that are in-house.

24 CHAIRMAN IMBRECHT: Well, let me offer a couple  
25 of responses to that, and I would ask Mr. Chamberlain to

1 to review this. The extent to which there is a preceden-  
2 tial nature associated with decisions made on those appli-  
3 cations in-house, however, I think I would probably draw  
4 some exception to, and that is by virtue of the fact that  
5 it seems to me that there is indeed a due-process considera-  
6 tion as to those projects that were filed prior to the  
7 adoption of the Electricity Report, as to whether in fact  
8 those applicants had adequate notice, et cetera, of these  
9 new procedures.

10 To that extent, it seems to me that there is  
11 justification to draw a distinction, and perhaps actually  
12 handle those projects in a different fashion than those  
13 which come in the future, and which in fact have been filed  
14 at the Commission and accepted by the Commission subsequent  
15 to the adoption of the Electricity Report.

16 All of that notwithstanding, it was our intention  
17 today by first noticing this item as an informational pre-  
18 sentation to indeed initiate the kinds of discussions and  
19 opportunities for the public to comment that you are sug-  
20 gesting are important, which I think all of us agree are  
21 indeed important. That's the reason that I expressed  
22 earlier my reluctanct to see us adopt any hard and fast  
23 or binding position today, and I guess I would suggest  
24 that we notice this item either at our next business meet-  
25 ing or perhaps two business meetings from now to insure

1 that the parties have had an adequate opportunity to review  
2 the staff recommended methodology, and offer any modifica-  
3 tions or suggestions they would care for us to consider.

4 MS. GRUENEICH: I think that's an excellent pro-  
5 posal, Mr. Chairman.

6 CHAIRMAN IMBRECHT: All right. Any further ques-  
7 tions or comments?

8 All right. Commissioner Commons.

9 COMMISSIONER COMMONS: I think the issue that  
10 she raises concerning what are guidelines and regulations  
11 is one that we should address either at the legal counsel  
12 or to the --

13 CHAIRMAN IMBRECHT: I just did that a moment  
14 ago.

15 COMMISSIONER COMMONS: Okay. That's a very impor-  
16 tant issue.

17 CHAIRMAN IMBRECHT: While you were -- while you  
18 were talking.

19 COMMISSIONER COMMONS: Okay.

20 CHAIRMAN IMBRECHT: Okay? Okay. Thank you.

21 Next, Michael Gersick.

22 MR. GERSICK: Thank you, Mr. Chairman, Members,  
23 my name is Michael Gersick. I am here today representing  
24 my own firm. I wanted to offer a couple of comments on  
25 this very important issue.

1 I wanted to make it clear that I was represent-  
2 ing my own firm here today because, although we have  
3 clients, in the interest of full disclosure, I must say  
4 we have clients who are not yet in-house, in the way that  
5 that phrase has been used, but it is not the interest --  
6 I'm not here as an advocate today on behalf of those  
7 clients, but, rather, as someone who wanted to offer some  
8 comments on the determination of policy.

9 Two general issues I think are worthy of com-  
10 ment. One is the question of how and whether the policy  
11 that is in the process of being determined here ought to  
12 be applied to those applications that have already  
13 arrived.

14 It seems to me that there is a very compelling  
15 argument in law and logic to the effect that all those  
16 applications to whom BR 5 and the Electricity Report that  
17 was part of BR 5 should apply, would be treated consis-  
18 tently, that is to say that whatever decisions are made  
19 as to the -- the mechanics of employing the escrow account  
20 ought to be applied in such a way as to affect those  
21 applications that were on file before the adoption of the  
22 report, but will be considered under the policy, the very  
23 important and fundamentally new policy that was adopted  
24 in the report. It seems to me to employ the reserve need  
25 concept differentially between those applications that

1 were here before a certain date and those applications  
2 that arrived after a certain date raises some very impor-  
3 tant questions of equity and due process.

4 Now, I also believe that there are equities to  
5 be -- to be concerned with and to be protected, that apply  
6 to those applications that are in-house, and I certainly  
7 think further that the order of their arrival and such  
8 issues as that must be observed and preserved.

9 I also think that if an application is to be  
10 considered under the basic reserve need concept that it  
11 should be considered in the same way that all other appli-  
12 cations are under that concept.

13 The second point that I wanted to raise is the  
14 one that Commissioner Commons alluded to in his -- in his  
15 initial comments. He used the term "first in and first  
16 out." It was my understanding, after participating as  
17 an observer in the BR and ER hearings, that it was pre-  
18 cisely to -- it was precisely to give the Commission  
19 another approach. It was precisely to remove the  
20 Commission from the obligation of viewing projects on a  
21 first-in, first-out basis, that the reserved need concept  
22 was in part intended to accomplish; that is, the assign-  
23 ment of certain numbers of megawatts to each technology  
24 was an effort to say, we, the Commission are guiding  
25 prospective applicants, project proponents to consider

1 development in these areas, and we don't want to feel  
2 obligated to develop all biomass if in fact all-biomass  
3 projects arrive first.

4           And I think that in part the procedure that was  
5 expounded in the Electricity Report does that, but there  
6 is a gap. It seems to me that it has been successful  
7 in doing that in their allocation of resources to various  
8 technologies, and that it has further insisted that the  
9 criteria used in the allocation of megawatts among the  
10 resources be applied after the specified reserve need has  
11 been exceeded, but that during that initial phase there  
12 is no requirement that certain criteria be met, and I think  
13 that what that creates is a possibility that the  
14 Commission is putting itself in the position of having --  
15 perhaps, of having to approve arguably poorer projects  
16 early on, and then having to reject arguably better pro-  
17 jects later on, and that I think does an injustice to all  
18 the work the Commission has gone through in the adoption  
19 of the whole concept, and also a disservice to the rate-  
20 payers of California.

21           So I just would urge the Commission to hew to  
22 the line and to observe the objectives and motivations  
23 that I think drove the entire BR-ER process, and to be  
24 consistent in their adoption of the methodology that will  
25 be the practical means by which that policy is implemented.

1 Thank you.

2 CHAIRMAN IMBRECHT: Questions, Commissioner  
3 Commons?

4 All right. Does anyone else wish to be heard  
5 on this item at this point in time?

6 If not, I am going to offer a couple of sugges-  
7 tions and see if this won't move this along. First, I  
8 would like to suggest that before offering this as direc-  
9 tion to Mr. Ward, I'll open it for discussion amongst the  
10 members of the Commission.

11 I suggest that we notice this item again for  
12 the next business meeting for action at that point in time.  
13 Further, that we suggest that all staff -- the staff paper  
14 that has been distributed today be distributed on a wider  
15 basis to affected parties during that interim period, and  
16 I guess that would include parties to the existing pro-  
17 ceedings, as well as those which we anticipate to be filed.  
18 I think that would probably be appropriate, based upon  
19 the survey that is conducted by the Siting and Environmental  
20 Division on a quarterly basis.

21 I guess, as well, we should probably -- and I  
22 would ask Mr. Perez's consultation and assistance in terms  
23 of any additional interest groups, et cetera, that you  
24 think would be appropriate that we include in that notice.  
25 I want to insure that we do get this out on as wide a basis

1 as possible.

2 I think we should also try to invite any writ-  
3 ten comments from those parties, let's say, perhaps 48  
4 hours in advance of the business meeting would be accep-  
5 table. Does that sound reasonable, members of the  
6 Commission?

7 Commissioner Commons. Oh, I'm sorry. Go ahead,  
8 and then I want to add one addendum to it.

9 COMMISSIONER COMMONS: Go ahead.

10 CHAIRMAN IMBRECHT: Then Commissioner Crowley  
11 suggested as well that we ask staff if they have any  
12 addendums to their suggestions to draw the clear distinc-  
13 tion between in-house versus those that are anticipated  
14 filings. You might want to expound on that, Commissioner  
15 Crowley.

16 PRESIDING MEMBER CROWLEY: Yes. The first thing  
17 I would like to ask counsel is we have a notice of hearing  
18 for Placerita, which is to be held within the context of  
19 a project that is already aboard that we need to ascertain  
20 the allocation for.

21 Is it permissible to notice this and the sense  
22 of it for those other projects, or is that inappropriate,  
23 for those other projects which must be dealt with, which  
24 are presently in-house?

25 MR. CHAMBERLAIN: I'm sorry. I'm not familiar

1 with the notice that you're referring to. You're saying  
2 that --

3 PRESIDING MEMBER CROWLEY: It's the notice of  
4 hearings regarding the allocation to need category, and  
5 my question --

6 MR. CHAMBERLAIN: Is that on for the next busi-  
7 ness meeting, or --

8 PRESIDING MEMBER CROWLEY: It is a committee  
9 hearing for Thursday, July 25th, in the Placerita  
10 Cogeneration Project hearings context, and my question  
11 is is it appropriate to notice this document in order that  
12 other people who have other projects which they are deal-  
13 ing with may have some sense of symmetry for the process.

14 MR. CHAMBERLAIN: I would think so.

15 PRESIDING MEMBER CROWLEY: Okay. I would --  
16 I would like to do that, because I think the document has  
17 merit, the proceedings will be fairly prompt, and all --  
18 dealt with fairly promptly, and also I think it might be  
19 appropriate that there be some symmetry to these. Then  
20 I would appreciate having staff get back to us in two  
21 weeks with some sense of how to deal with the project  
22 in-house, and then further, in a divided but symmetrical  
23 discussion, I would like to have the staff also deal with  
24 those projects that we will see in the future, and give  
25 us some sense, based on the comments we had today, and

1 their analysis as to how we should proceed with those  
2 matters.

3 MR. CHAMBERLAIN: Okay. I --

4 PRESIDING MEMBER CROWLEY: If anything needs  
5 to --

6 MR. CHAMBERLAIN: I'd like to get a little --  
7 yeah, a little bit of clarification. First of all, the  
8 staff has been at this for a couple of weeks now in terms  
9 of trying to respond to the -- the item on the agenda to  
10 set forth a methodology that we could have for discussion  
11 purposes, but frankly, I mean, there are a number of ques-  
12 tions related to this issue that we've heard today, and  
13 probably others that we haven't heard, that we would like  
14 to hear as staff, so I'm not sure that the 48-hour list  
15 of questions, unless it's something that the Commission  
16 then wants to look at, is going to give the staff a chance  
17 to incorporate some of those questions and the thought  
18 processes.

19 If the Commission would like to do that, then  
20 I would suggest 30 days.

21 The second part of my question is, if any orders  
22 are going to be going out in the interim, those orders  
23 really differ with some of the arguments today that we  
24 heard for consistency and precedent, and I sense that's  
25 what the Commission is trying to do here within the next

1 couple of weeks has come up with something that is system-  
2 matic, ask the legal questions, the administrative ques-  
3 tions, and come up with something that does establish some  
4 consistency for the applicants.

5 If any orders go out in the interim, I sense  
6 we might be violating that.

7 PRESIDING MEMBER CROWLEY: Well, that was my  
8 objective, and --

9 MR. CHAMBERLAIN: That was the point you were  
10 making.

11 PRESIDING MEMBER CROWLEY: -- and I asked that  
12 this might be noticed for the use of those other projects  
13 in-house who intended to have an allocation to need hear-  
14 ing as -- to give them some sense of an appropriate docu-  
15 ment, and --

16 CHAIRMAN IMBRECHT: You're saying use this one  
17 as a consistent document for all the in-house?

18 PRESIDING MEMBER CROWLEY: Yes.

19 CHAIRMAN IMBRECHT: That sounds like something  
20 -- let me just ask, Mr. Ward, from a timing standpoint,  
21 if we do delay final action on this for 30 days, does that  
22 cause any problems?

23 MR. WARD: I don't think so. My sense from the  
24 Commissioners is they are generally concerned about the  
25 process, and that the process be thoughtful and fair to

1 all the applicants more so than what it means to violating  
2 any specific time frame.

3 CHAIRMAN IMBRECHT: Commissioner Commons.

4 COMMISSIONER COMMONS: Yes. I will not be at  
5 the first business meeting in August, but I really think  
6 that the procedure under which we are going to operate  
7 is not that complicated, and it's something that we can  
8 resolve between now and the next two weeks and give ade-  
9 quate hering.

10 We are going to at the same time, then, no matter  
11 what we decide, the committees are going to still have  
12 to hold hearings before we make the allocations, and my  
13 suggestion to you, Mr. Chairman, would be that August is  
14 a very difficult month, and we have some ten different  
15 applicants, and it might cause a lot of inconvenience to  
16 hold a Commission hearing on the -- all the projects in  
17 August, and my suggestion would be we adopt the procedure  
18 at the next business meeting, give the committees the  
19 month of August to make their recommendations to the  
20 Commission, and then at the first business meeting in  
21 September, or a special day in September, if you feel that  
22 that is necessary, but very, very early in the month, that  
23 we then hold a decision-making for the reserve need for  
24 all of the projects that are already in-house.

25 CHAIRMAN IMBRECHT: I would say I am generally

1 in agreement with that, but I want to reserve judgment  
2 as to whether or not we take final action two weeks from  
3 now.

4 I think we should notice it as such, but based  
5 on the tenor of the discussion and whether or not there  
6 is in essence a developed concensus at that point, we can  
7 go forward and take action, so be it. If -- if there is  
8 substantial problems, then I think we should make it clear  
9 that we would hold off for another two weeks and try to  
10 incorporate public comments in any final adoption.

11 MR. WARD: I think -- I think, frankly,  
12 Mr. Chairman, that you are going to see a number of options  
13 facing the Commission of either/or, and you may not have  
14 time to ponder those, given the two-week time frame, so  
15 I think that's an appropriate course of action.

16 PRESIDING MEMBER CROWLEY: And this was an effort  
17 to give some symmetry to these hearings, and use this as  
18 a guideline to proceed so we don't get too scattered.

19 CHAIRMAN IMBRECHT: All right. In the interim,  
20 then, we would suggest to our various siting committees  
21 they use this draft Placerita order as a guideline.

22 PRESIDING MEMBER CROWLEY: Yes.

23 COMMISSIONER COMMONS: And I would encourage  
24 -- we are going to be -- it would follow the next business  
25 meeting, which was carefully done, so that in case the

1 Commission does have different direction at the next busi-  
2 ness meeting, this would be the Thursday following it that  
3 anyone who would like to attend that, we are going to do  
4 IBM in the afternoon and Placerita in the morning, and  
5 it would give an opportunity to anyone who would like to  
6 come and participate to do so.

7 CHAIRMAN IMBRECHT: Okay. I think that takes  
8 care of the item for now, and I think -- do you have  
9 additional questions, or --

10 MR. WARD: Let me raise a couple of questions  
11 here, and this is I think part and parcel of the reason  
12 the staff would like to see us hold off on any orders,  
13 at least in the short-term, until we have something that  
14 the Commission can embrace, issues relative to efficiency,  
15 others associated particularly with cogeneration.

16 We don't have an ability right now, given the  
17 vague framework of guidelines, to be able to address those  
18 issues with any pronouncement of policy from this  
19 Commission as a guideline, and I think it might be worthy  
20 of some discussion before we decide to go forward on some  
21 of these -- these orders in the next couple of weeks.

22 PRESIDING MEMBER CROWLEY: You're saying hold  
23 the hearing --

24 MR. WARD: I think it -- at this point I'm  
25 getting some concern expressed to me, and I'll have to

1 ask for some help, about going through any of these initial  
2 processes prior to us receiving any specific direction,  
3 policy direction from the Commission.

4 COMMISSIONER COMMONS: Well, in terms of the  
5 -- the only two issues that are raised would be the --  
6 how one should treat the preference issue, and essentially  
7 what we need from the different parties are their -- are  
8 their contract, and that's related to when we complete  
9 the hearings on the 90-day period, and if you follow the  
10 suggestion I'm making, we would not be coming back,  
11 because I'm very sensitive to the issue that you are rais-  
12 ing.

13 We really wouldn't be coming back to that issue  
14 until early September, which would give staff the rest  
15 of July and all of August to arrive at a position on that.  
16 It's -- what we are trying to do is to at least let the  
17 applicants know procedurally where we are going to be going,  
18 and then during the months of July and August hold those  
19 hearings, and that would give you roughly 60 days, 45 to  
20 60 days in order to go through what you have to do there.

21 MR. WARD: I appreciate what you're saying, but  
22 I guess the -- you know, there may be some policy direction  
23 from the Commission that requires, you know, specific  
24 information one way or the other that may change.

25 CHAIRMAN IMBRECHT: Let's compromise with

1 Commissioner Commons that we hold off on issuing any orders,  
2 at least until the next business meeting.

3 COMMISSIONER COMMONS: No problem.

4 CHAIRMAN IMBRECHT: I think that's what we should  
5 do, I guess.

6 MR. WARD: Okay. I think that would be helpful.

7 CHAIRMAN IMBRECHT: And then we'll be in a  
8 position to evaluate this more clearly. All right.

9 Anything further on this item?

10 All right. That will complete it. I believe  
11 that completes our agenda. Let me ask the members of the  
12 Commission. Obviously you dealt with a few items in my  
13 absence. With your consent, I would like to be added as  
14 an "Aye" vote on Items 3 and 4, and Item 1, as well. Is  
15 there objection?

16 All right. Without objection, Imbrecht "Aye"  
17 on acceptance of the Watson Cogeneration Project; Imbrecht  
18 "Aye" on the Finley-Kumble contract; Imbrecht, "Aye" on  
19 the JVS Energy Expert Witness Contract.

20 Let me just make one brief -- in the context  
21 of the committee report a week ago Monday, there was a  
22 meeting of various parties in California that are parti-  
23 cipants in the Northwest Intertie discussions, and then  
24 that was followed subsequently by a meeting with Peter  
25 Johnson, the administrator of the Bonneville Power

1 Administration in Portland a week ago yesterday, and just  
2 a notice to you, and we'll try to get a memorandum out  
3 to you with some additional details, but it appears that  
4 the project is moving forward at this juncture, that the  
5 legislation pending in Congress, while having a few con-  
6 cerns, concerns of the time period associated with FERC  
7 review of the project that was insisted upon by the House  
8 of Representatives, also appears to be moving forward,  
9 and likely action will take place mid-August of mid-  
10 September.

11 Simultaneous with that, the interconnection dis-  
12 cussions are now being initiated between the Northwest  
13 and California, and there has been a suggestion which we  
14 will soon be communicating to the various parties in  
15 California that we attempt to try to resolve some of the  
16 other outstanding issues in the context of the question  
17 of adequate price assurances, that will insure the whole  
18 project go forward.

19 Basically, at this juncture, the time frame sug-  
20 gests, unless there are problems that develop, that the  
21 initial capital commitments will occur sometime in the  
22 early period of 1987, which is consistent with the initial  
23 time table that we enunciated about a year ago.

24 I believe we have Executive Session today; is  
25 that correct? And, let's see, Mr. Chamberlain, do you

1 have --

2 MR. CHAMBERLAIN: Yes. I have one brief liti-  
3 gation item for Executive Session, also.

4 CHAIRMAN IMBRECHT: For Executive Session, no  
5 public --

6 MR. CHAMBERLAIN: Right.

7 CHAIRMAN IMBRECHT: Mr. Ward, do you have any  
8 reports for us?

9 MR. WARD: One quick thing. It's my understand-  
10 ing that the Energy Commissiun and the Department --  
11 the California Department of Transportation, are jointly  
12 going to receive the 1985 Transportation-Energy  
13 Conservation Award from the Institute of Transportation  
14 Engineers, and this is going to be done -- presented at  
15 their August 20th business meeting, annual business meet-  
16 ing in New Orleans, and it relates to our traffic signali-  
17 zation program.

18 PRESIDING MEMBER CROWLEY: All right. That will  
19 be very delightful temperatures, I'm sure.

20 All right. So does any member of the public  
21 wish to address the Commission?

22 All right. Hearing none, we stand in recess  
23 for the Executive Session. I think we'll do it right here  
24 in the small conference room immediately, and then try  
25 to conclude as quickly as possible, and give Commissioner

1 Noteware a little time to collect himself.

2 (Thereupon, the Business Meeting before the  
3 California Energy Resrouces Conservation and Development  
4 Commission was adjourned at 12:30 p.m.)

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## REPORTER'S CERTIFICATE

THIS IS TO CERTIFY that I, Madonna M. Kushen, Reporter, have duly reported the foregoing proceedings which were held and taken in Sacramento, California, on Wednesday, the 10th day of July 1985, and that the foregoing pages constitute a true, complete and accurate transcription of the aforementioned proceedings.

I further certify that I am not of counsel or attorney for any of the parties to the said hearing or in any way interested in the outcome of said hearing.



Madonna M. Kushen, Reporter